

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Regular Meeting of the Public Service Commission

THURSDAY, SEPTEMBER 19, 2013
10:30 a.m.

Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York

COMMISSIONERS:

AUDREY ZIBELMAN, Chair
DIANE X. BURMAN
GREGG C. SAYRE
PATRICIA L. ACAMPORA
GARRY BROWN

D I S C L A I M E R

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1 CHAIR AUDREY ZIBELMAN: I'd like to call the
2 meeting to order and before I--before I start, and I
3 promised everyone I wasn't going to do a bar mitzvah
4 speech but nonetheless this is my first meeting as
5 Chair of the Commission and I did want to take an
6 opportunity to make a couple comments.

7 One is I think New Yorkers have gotten a bad
8 rap. Over the last month during my accident recovery
9 I got notes and wishes from many of you, both folks
10 in the industry of course as well as staff and the
11 fellow commissioners. And if--you know, you have
12 Minnesota nice and southern hospitality but I think
13 New York warmth, you guys, really thank you very
14 much. It meant so much to both my family and me to
15 hear, you know, all your wishes.

16 I also want to take a couple minutes to
17 thank certainly Garry for a service to the Commission
18 and for his willingness to stay on as chair while I
19 wasn't able to take the position, to my fellow
20 commissioners who have really helped me make the
21 transition, and certainly to staff. That's been
22 tremendous. So, you know, thank you all. I can't
23 tell you as someone whose been here now I think six
24 weeks just how wonderful and how much I feel like I'm
25 a New Yorker. So I've even become a Yankee fan,

1 Giants. Who are the Eagles? I don't know.

2 [Laughter]

3 CHAIR ZIBELMAN: So thank you very much.

4 And, with that, let me--we'll move to the commission
5 agenda. So the first thing I'd like to do is we'll
6 move to the consent agenda but first, Secretary
7 Burgess, do we have any changes to the agenda?

8 SECRETARY BURGESS: There are no changes to
9 the agenda today.

10 CHAIR ZIBELMAN: Okay, thank you. So on the
11 consent agenda what I'd like to do before we consider
12 it is there's a couple comments I want to make and
13 certainly give the other commissioners an opportunity
14 to comment. We have certain items that actually I
15 want to note are not on the agenda but I think are
16 important for people to understand.

17 One is item 315, around the 315 area code
18 matter. With that I know there's been a lot of
19 concern and we've had a number of public hearings.
20 Just to be clear on that as understanding that the
21 North American Numbering Plan Administrator is going
22 to be issuing its semi-annual projection of area code
23 exhaust in October. And so we made the decision that
24 we're not going to act on that matter until we see
25 the outcome of that determination.

1 The other one is the--we issued an order
2 last week on February--on the 12th regarding the
3 Voice Link suspension of the Verizon proposed tariff
4 as there's been a lot of concern about that in terms
5 of the changing. We had the opportunity, Verizon--we
6 suspended the proposed tariff for 120 days and the
7 expiration of that time was coming upon us, so we
8 decided to extend the time. We think it's a very
9 important matter. It's obviously a matter that's
10 raised a great deal of concern. We wanted to have a
11 full opportunity to explore the--to explore the
12 change in the tariff and so we gave ourselves--and so
13 we used our discretion to extend that time and we'll
14 be considering that.

15 The other couple of pieces I wanted to note
16 is that we have a new item that we're considering on
17 the consent agenda and this is the settlement we had
18 with the--with Talisman, regarding Talisman gas
19 odorization. First, I want to note my appreciation
20 to staff and the company for reaching a settlement on
21 this important issue. This is about gas odorization,
22 public safety, and it's certainly a matter that has a
23 great deal of concern for the Commission and we--you
24 know, we're pleased that we have been able to resolve
25 it. We do know--are aware that there are some open

1 issues around odorization of gas moving into storage.
2 I'd like staff to continue to work on whether or not
3 we should be looking at rule changes in this area.

4 I also am aware that FERC regulates storage
5 and that we should be taking a look at what their
6 policies are so that we can proceed. Having
7 odorization is obviously critical. We've seen some
8 tragic issues and certainly we want--we don't want
9 anything to happen to New Yorkers around this. So I
10 would ask staff to proceed and maybe issue an order
11 and get back to the Commission on some
12 recommendations for further action.

13 The other item I want to note is good news,
14 is that today we are going to be issuing an order
15 around the refund for the Constellation settlement.
16 And it's not often that we get to refund money to
17 rate payers, so again appreciation to staff and the
18 companies for moving that forward. And I think it's
19 a nice outcome to be able to refund money to
20 customers.

21 And then the last item that is on the
22 consent agenda that I think is obvious--or two more
23 that are very important. One is that we are
24 approving the generic impact, environmental impact
25 statement as it relates to the Indian Point Power

1 Plant proposed retirement. This allows us to go
2 forward and consider the alternatives. Obviously for
3 the Commission this is quite a serious matter. We
4 want to make sure that we are in a position as a
5 state that the retirement of any power plant doesn't
6 compromise adequacy, reliability, and expense.
7 Having issued the retired--the generic impact--
8 environmental impact statement allows us now to move
9 forward to look at how we can proceed and make
10 certain that the needs of consumers are protected in
11 the best possible way, considering all factors. And
12 it's our intent to take up the substantive issues in
13 the October session.

14 The last thing is we are also approving an
15 Article 7 certificate and water quality certificate
16 to Niagara Mohawk Corporation. This I think is very
17 critical. As you know, over the last ten years the
18 industry has worried about infrastructure investment.
19 This is an area where we're seeing significant load
20 growth. I believe one of the lines that we're
21 looking at re-conductoring is 85-years-old. So this
22 is a great opportunity for us to move forward.

23 While perhaps not necessarily considered
24 part of the energy highway blueprint, I think it's
25 consistent with our intent to really look at the

1 infrastructure system in the state and make sure
2 we're meeting today's needs, and then ensuring that
3 moving forward we have a reliable backbone system.
4 So again appreciation of staff and the agencies that
5 were involved in that.

6 And one last item just for everyone's record
7 or information. Last week was Lifeline Awareness
8 Week. If you're not aware of it, the Lifeline
9 Telephone Program is a critical program. It allows
10 low income folks to have access to telephone service.
11 I really--this is more--I want to make sure we
12 provide recognition to Sandra and Doug Elfner, and
13 the outreach staff. I think they've done a terrific
14 job of getting the information out. Staff also does
15 a lot of work that goes unnoticed and I think this
16 was fantastic work on a very important program. So
17 thank you for doing that.

18 And, with that, let me turn it over to the
19 other commissioners before we vote, to see if there
20 is any comments, questions on the consent agenda.

21 COMMISSIONER DIANE X. BURMAN: Thank you.
22 First of all, I'm very happy that you're here and
23 that you are doing so well. So it's great that we
24 have a full Commission. On item number 164,
25 Talisman, I'm very happy that we are looking at this

1 and what's being done nationally, and that you've
2 directed staff to continue working on this issue and
3 odorization. And really very, very important that we
4 look at that and what we're doing in New York and
5 also make sure that nationally we remain a leader and
6 continue to work with others. I have a question on
7 Talisman and I think if counsel could explain the
8 next steps with the court proceeding.

9 MR. PETER MCGOWAN: Yes. There is--with
10 this settlement, there is and agreed among the
11 parties stipulation of discontinuance, which we would
12 hope to bring to the court today and hopefully the
13 court will be available to enter that right away so
14 that we can move to the remedial stage.

15 COMMISSIONER BURMAN: Okay, thank you. On
16 item 363, Constellation Energy, if counsel could just
17 explain to me Con Ed in its papers talked about an
18 independent separate item, a petition for a
19 rehearing. I just wanted to know what the status of
20 that petition was.

21 MR. MCGOWAN: That petition for a rehearing
22 is pending. Some aspects of that were referred to
23 the current pending rate case concerning allocation
24 issues. And it is my expectation that the rehearing
25 petition and issues surrounding that will be

1 presented to the Commission in December, along with
2 the rate case.

3 COMMISSIONER BURMAN: Okay. It's also my
4 understanding that this--the Constellation
5 recommendation and the refunds, we did put forward
6 this to FERC and they did approve it. So they are in
7 support as well on how we'd be distributing the
8 refunds. Is that correct?

9 MR. MCGOWAN: I assume so, given that they
10 approved it, yeah.

11 COMMISSIONER BURMAN: Great, thank you. On
12 item number 375, Champlain-Hudson Power, looking at
13 this, this is a petition for a rehearing. I wasn't a
14 commissioner at the time that the original petition
15 was looked at and right now the standard for us to
16 review this is on whether or not there is new or
17 different evidence, or legal authority. And, based
18 on what we're looking at, they did not present any
19 supporting evidence of new or different evidence or
20 any legal authority to support its claims. So we're
21 looking at that as the standard in the petition
22 rather than the merits of the original petition.
23 Okay. Thank you. That's all the comments or
24 questions I have.

25 CHAIR ZIBELMAN: Thank you, commissioner.

1 Any other commissioner's comments? Commissioner
2 Sayre?

3 COMMISSIONER GREGG C. SAYRE: I'd like to
4 echo Commissioner Burman's comments on odorization
5 and the Talisman settlement. I'm delighted that we
6 reached a settlement with Talisman and also delighted
7 that we are running a little ahead of FERC and the
8 other states in where we require odorization of gas.
9 And I think that's entirely appropriate and a good
10 thing for the safety of the people of New York.

11 CHAIR ZIBELMAN: Thank you. Further? No?
12 Commissioner Acampora? Okay, thank you. With that,
13 I'd like to get a motion to approve the consent
14 agenda.

15 COMMISSIONER SAYRE: So moved.

16 CHAIR ZIBELMAN: Second?

17 COMMISSIONER PATRICIA L. ACAMPORA: Second.

18 CHAIR ZIBELMAN: All in favor?

19 MULTIPLE VOICES: I.

20 CHAIR ZIBELMAN: Okay, thank you. Now, we
21 have one item on the regular agenda and I think that
22 this is our proceeding to--

23 MR. MCGOWAN: [Interposing] Excuse me.

24 CHAIR ZIBELMAN: Yeah.

25 MR. MCGOWAN: Just everybody is--we should

1 probably just take a vote on the consent agenda.

2 CHAIR ZIBELMAN: I think we did.

3 MR. MCGOWAN: Did you do that? All right.

4 All right.

5 CHAIR ZIBELMAN: It was quiet.

6 MR. MCGOWAN: Okay.

7 CHAIR ZIBELMAN: But it was there.

8 [Laughter]

9 MR. MCGOWAN: I didn't hear it.

10 CHAIR ZIBELMAN: We're efficient.

11 MR. MCGOWAN: Thank you.

12 [Laughter]

13 CHAIR ZIBELMAN: Good. I did get that one
14 in the Rules of Order. So next was item 301 which is
15 our proceeding to examine alternative current
16 transmission upgrades. And we have Raj Addepalli,
17 Diane Barney, and Liz Grisaru will be presenting
18 that. So I'll turn it over to our esteemed team.
19 Thank you, Raj.

20 MR. RAJ ADDEPALLI: Good morning, Chair
21 Zibelman. As I am the first staff member addressing
22 you, congratulations on your appointment and welcome
23 to the Commission. First, I will give you a little
24 bit of background because there are two new
25 commissioners since this case started last fall.

1 There's some history to this. I won't take up too
2 much time.

3 In the last number of years the New York
4 utilities collectively have been conducting studies
5 on the needs of the New York transmission system over
6 a long-term horizon, 20 years, as to what would be
7 needed from a reliability perspective, from an
8 economic perspective, and from how to accommodate
9 increasing wind generation resources. Collectively,
10 the utilities and the ISO have produced STARS study.
11 It's known as STARS. And in that study they've made
12 a number of recommendations for upgrading the
13 transmission system in New York. Separate and apart,
14 the New York ISO, Independent System Operator, has
15 been conducting studies on reliability needs,
16 economic planning needs on a ten-year horizon for the
17 last number of years.

18 I should note here that we have over two-
19 third of our customer load in downstate New York and
20 over half the generation resources in upstate New
21 York. And the Energy Highway Taskforce that was
22 created last year also sought input and received
23 comments from parties. Based on all these collective
24 inputs of different parties and stakeholders, the
25 goal of improving the backbone of the New York

1 transmission system has been in the customer interest
2 and in the public interest, broader public interest,
3 was endorsed in the energy highway blueprint and in
4 the Commission order that was issued last November.

5 There are numerous benefits for increasing
6 the backbone transmission system in New York;
7 increasing the transfer capability from upstate to
8 downstate including reducing the congestion on the
9 system; increasing the reliability and flexibly and
10 efficiency of the system; allowing more generation
11 resources including wind to be built upstate where
12 it's easier and cheaper to build and move the power
13 downstate allows for reduced emissions downstate and
14 also contributes to economic development. With all
15 these benefits, the Commission concluded in the last
16 November order it's prudent to move forward with
17 these upgrades.

18 The two innovative features of this that are
19 unique and new for New York is for the first time the
20 Commission proactively sought transmission proposals.
21 Typically we have been reactive. When utilities
22 propose transmission projects, we react to the
23 proposals, but here for the first time the Commission
24 proactively asked for proposals to be brought
25 forward.

1 Second, for the first time we are allowing
2 third parties to compete for building these projects
3 perhaps on a cost of service or some other cost
4 basis. This is new to New York and in the November
5 order the PSC asked the developers to file statements
6 of intent if they're interested in participating in
7 this process, to file them by late January to help us
8 scope the next steps and the future process. And six
9 developers, including some out of state entities,
10 have responded with 16 projects that they would like
11 us to consider.

12 Based on these responses, the Commission
13 adopted further processes in its April 2013 order and
14 it outlined a two-step process; that the developers
15 first are to meet the screening of the citing
16 criteria and then demonstrate capability with the
17 energy highway goals, and also that they should file
18 the preliminary filing for Article 7 by October 1.
19 And the April order also asked staff to propose
20 streamline procedures and also come up with cost
21 allocation, cost recovery, and risk sharing between
22 developers and customers.

23 Staff issued - - proposals on all of them
24 and held a technical conference with the parties, and
25 also received comments. What we are here today is to

1 bring your recommendations on the streamlining of the
2 procedures. We plan to bring recommendations on the
3 cost allocation recovery and risk sharing at a future
4 session. So to discuss the specific recommendations,
5 I'll turn it over to Liz Grisaro.

6 MS. ELIZABETH GRISARU: Thank you, Raj. As
7 the second staff member to address you, Chairman,
8 I'll say welcome to the Commission. And then quoting
9 a French king [speaking French], "After me, it's the
10 flood." As Raj said, we have put out a further
11 proposal for some regulations to govern this what
12 we've called this two-part assessment process. We
13 put those proposals out at the end of May. We've
14 received a number of very helpful comments from the
15 participating parties and of course as Raj said we
16 also have pending the issue of the cost allocation
17 mechanism.

18 So the primary issues, I'm going to review
19 briefly the primary issues that were raised on those
20 comments. We--as Raj said, we have the very
21 interesting circumstance where we have both incumbent
22 utility proposers and non-incumbent project
23 proposers. Those non-incumbents generally asked if
24 we couldn't reconfigure the process so that projects
25 could be selected earlier rather than submitting

1 first to the extended Article 7 siting review, which
2 of course entails a certain amount of expense. And
3 staff considered those proposals and what we're
4 recommending today in the draft order is that we
5 should actually structure this process to allow for
6 some early screening of the projects that come in on
7 October 1st.

8 We would like to grant--we expect there will
9 be an ALJ assigned to administer the process. We'd
10 like--the order would provide the ALJ with
11 substantial discretion to consider early screening
12 and provide three primary criteria to guide that
13 screen. And those are does the project increase
14 transfer capacity by the threshold thousand megawatt
15 amount. Is the project in the ISO study process and
16 can the project sponsor demonstrate substantial
17 experience in the construction and operation of these
18 kinds of facilities? So the order directs the ALJ to
19 undertake that review, to consider whether screening
20 is appropriate as soon as possible after the October
21 deadline for submissions.

22 We also, again in response to some of the
23 comments, thought that it might further streamline
24 the process and enable the Commission to get to final
25 decision points in the blueprint timeframes if the

1 ALJ also had the discretion to consider the relative
2 cost estimates or bids from the participating
3 developers at an appropriate point in the process.
4 That appropriate point is probably after the
5 Commission rules on the cost allocation mechanism and
6 the risk allocation mechanisms that will govern this
7 case. So we have drafted this order to give the ALJ
8 discretion once those decisions are announced to
9 consider again whether screening for cost would help
10 achieve the goals of the blueprint.

11 Another issue that was common to the non-
12 incumbent participants was the need for some--need
13 for access to utility controlled rights of way
14 because some of these projects share rights of way
15 with existing utility facilities, or would share
16 rights of way with existing utility facilities. Our
17 sister agency, the Department of Environmental
18 Conservation, also expressed concern about sharing of
19 access from the perspective of resource protection
20 and resource management. We have joked about trying
21 to avoid having 19 biologists chasing the same
22 salamander but it's actually quite a serious issue
23 and DEC gave us extensive comments on that.

24 So to address both the non-incumbents
25 concerns and DEC's concerns, the order requires the

1 utilities to provide access consistent with their
2 existing procedures for making access available to
3 third parties. And we've asked the TOs to file those
4 procedures with the ALJ by the October 1 date, and we
5 strongly encourage them to try to make arrangements
6 for access prior to that date.

7 We had some subsidiary requests and comments
8 that I'll just touch on briefly. Next year, one of
9 the non-incumbent participants had a concern about
10 managing local requirements and asked you to classify
11 their transmission facilities as public utility
12 facilities in order to meet certain local zoning
13 provisions. Your draft does not go so far as to do
14 that because it is probably not within your
15 jurisdiction to do that. However, we do provide or
16 confirm that once built these facilities will
17 constitute electric plant under the PSL and that may
18 help other parties if they need to take up this issue
19 with the localities.

20 We've also had some sort of miscellaneous
21 requests for clarifications. For example, there was
22 a comment that some of the filing requirements were
23 too burdensome with respect to those projects that
24 are subject to seek or are not in the Article--
25 wouldn't be in the Article 7 process. We responded

1 to those--to those comments and we are going to
2 allow--rather than requiring paper copies of
3 everything, we are going to have electronic links to
4 other documents and do things like that to sort of
5 streamline and facilitate their participation.

6 The last thing I want to mention is that
7 multiple interveners late in September, earlier in
8 September, filed a motion to stay all activities in
9 this proceeding and made some assertions about the
10 limits of the Commission's authority, the economic or
11 noneconomic nature of these upgrades, the scope of
12 the proceeding, and also argued that this proceeding
13 interferes with or bumps up against the NYISO's
14 existing planning processes and therefore we should
15 abandon it.

16 We, staff, recommend and the order is
17 drafted along these lines. You have considered these
18 issues several times in the course of this
19 proceeding. Nothing new has really been raised here.
20 And given the public policy needs and the blueprint
21 directive to help resolve this longstanding
22 congestion within a limited timeframe, we think there
23 is no reason here to delay further consideration of
24 the possible solutions. And that concludes my
25 remarks.

1 MS. DIANE BARNEY: All right. We're all
2 available if you have any questions.

3 Chair ZIBELMAN: Okay, all right. Well,
4 then let me turn it over to my fellow commissioners
5 and see if any questions.

6 COMMISSIONER BURMAN: I have a few
7 questions. First of all, it's clear to me that the
8 staff has really looked at all of the comments
9 received very carefully and have tried to, you know,
10 take those into account. So I think that's
11 commendable.

12 I think it's very good also that the focus
13 has been--you know, I think there were three things
14 that were talked about in terms of what has been
15 first, the first one being proactively New York
16 seeking proposals. The second being that allowing
17 third parties to compete to build projects, and the
18 third being seeking statement of intent to see who
19 will be in this.

20 The six developers that you talked about for
21 the 16 projects, is that the whole universe then,
22 that we're looking at 16 projects and six developers?

23 MS. GRISARU: Subject to Diane correcting
24 me, I believe that is the universe. Although there
25 is--and any developer who can meet the criteria that

1 the Commission has laid out for applications can
2 certainly show up.

3 COMMISSIONER BURMAN: Uh-huh. And then so
4 what's the deadline then for that showing up?

5 MS. GRISARU: That would be the October 1
6 deadline for the submission of initial application
7 materials. Sometimes those are referred to as the
8 Part A materials because that's how we designated
9 them or the Commission designated them in a prior
10 order.

11 COMMISSIONER BURMAN: Okay. So there's the
12 two step process, the Part A and then the Part B.
13 And so if--you know, I think it's important to have
14 such certainty in what the universe is, so we're
15 looking at the October 1st filing. And between now
16 and then where do people go if they're interested in
17 figuring out how to be a part of the first threshold
18 issue?

19 MS. GRISARU: Interested developers are
20 always welcome to reach out to us and to meet with
21 staff. And we've had those kinds of meetings with
22 developers throughout the course of this process
23 since the energy highway blueprint came out. And we--
24 -staff remains willing to help developers understand
25 what they need to do.

1 COMMISSIONER BURMAN: Okay. And then--

2 MS. BARNEY: [Interposing] If I could
3 supplement that? Back in the April order there was a
4 delineation exactly the type of information we are
5 looking for for the October 1 filings. And on DMM,
6 the agency's documentation management system, since
7 then we've put out a color coded map of what's
8 expected.

9 COMMISSIONER BURMAN: Okay.

10 MS. BARNEY: So either of those avenues or
11 contacting staff.

12 COMMISSIONER BURMAN: Okay. So it's fair to
13 say then that the April order is something that
14 people should be looking at in--and especially this
15 order as well, to then move forward for the October
16 1st but that October 1st deadline is significant.
17 And then looking at it--and it's very helpful I think
18 that we paid attention to the energy highway and the
19 timelines, and that we are looking at sort of
20 facilitating competition and trying to achieve the
21 objective of the energy highway blueprint, but that
22 this order also is trying to make sure that we're
23 following a certain significant process and a careful
24 and deliberate one that is utilizing the ALJ for that
25 focus.

1 It seems to be that there is--has been
2 throughout a significant interest in making sure that
3 people are aware of what should be doing, what they
4 should be doing, and us looking for their interest
5 and their intent. So that the ALJ really should be
6 very mindful of continuing that diligent and
7 deliberate process, and making sure that it continues
8 to be something that we're focused on, continuing
9 that streamlining and not sort of getting bogged down
10 and not having a never ending process. From October
11 1st then there will be a review of the fillings and
12 will there be a need for further information?

13 MS. GRISARU: Some of that we are
14 intentionally leaving to the ALJ in terms of looking
15 at what actually arrives. You know, we're trying to
16 design procedures that will work without 100%
17 certainty about exactly what projects will make that
18 deadline. However, the parties have a good idea, as
19 Diane said, of what they need to provide by October
20 1st.

21 And under the orders you've already--the
22 Commission has already issued, parties also
23 understand that if they are proposing an Article 7
24 project they have to complete those applications and
25 we have designated that Part B. And there is

1 specific things that have to be done and we've laid
2 those out in the prior orders and in the Article 7
3 regulations. And we're giving the ALJ discretion to
4 figure out, in consultation with the parties, a
5 reasonable schedule for going from Part A to the
6 submission of the Part B part of the application. So
7 that once all applications are completed hopefully on
8 the same deadline, and then the remainder of the
9 Article 7 process can then kick in. So but we've
10 left that to the--we've left the ALJ the job of
11 figuring out specifically the best way to get from A
12 to B.

13 COMMISSIONER BURMAN: Uh-huh.

14 MS. GRISARU: And then to pick up the rest
15 of the process.

16 COMMISSIONER BURMAN: And is there a process
17 for coming back to the Commission or weighing in if
18 it does before Part B or after Part B? I'm just
19 trying to understand the process.

20 MS. GRISARU: It depends what happens, but
21 there is always recourse to the Commission if there
22 is a determination taken by the ALJ that a party is
23 not happy about--

24 CHAIR ZIBELMAN: [Interposing] If I--

25 MS. GRISARU: [Interposing] Sorry.

1 CHAIR ZIBELMAN: So just to pick up on this.
2 I think from what I understand Commissioner Burman's
3 concern and would be all I think ours too, staff will
4 be watching the process and if in fact there is a
5 concern about undue delay we have the opportunity to
6 come weigh in and make certain that things are
7 completed on time. The idea here is to get to an
8 efficient closure and we'll be watching it to make
9 certain that that efficiency occurs. Is that
10 correct?

11 MS. GRISARU: Yes, and we staff are all very
12 mindful of that and we've designed the process we
13 think to give the ALJ the appropriate guidance on
14 keeping everybody to a timetable. That's part of the
15 point of the screening. If the ALJ thinks screening
16 is going to get us there better than not screening,
17 he or she will do that. So we think we've given the
18 ALJ the tools to keep this thing moving.

19 CHAIR ZIBELMAN: So and would it be possible
20 then once this turns over to the ALJ that this
21 Commission can get the ALJ's proposed schedule and
22 then we can monitor that?

23 MS. GRISARU: Oh, yes, absolutely.

24 CHAIR ZIBELMAN: Okay.

25 MS. GRISARU: Absolutely.

1 CHAIR ZIBELMAN: Thank you.

2 COMMISSIONER BURMAN: Okay. That would be
3 very helpful. And so, yes, that was my concern and
4 yes you answered it. So thank you.

5 MS. ELIZABETH LIEBSCHUTZ: Commissioner
6 Burman, if I can just clarify? I assume that the
7 ALJ's schedule would be embodied in a public ruling
8 that would be posted on the Commission's website and
9 available to the parties. And of course as a
10 courtesy the ALJ will be sure to alert commissioners
11 to that as well. And, as Ms. Grisaro explained,
12 there could be an opportunity for any aggrieved party
13 to appeal that to the Commission if there was a
14 concern about the schedule. I've certainly in my
15 past been reversed by the Commission even on
16 scheduling issues. So it does happen. So we'll
17 certainly make every effort to ensure that the
18 commissioners are aware of the status of the case at
19 all times.

20 COMMISSIONER BURMAN: Okay, that's great.
21 And then the additional information that folks may
22 need beyond after Part A, there will be a lot of
23 working with them and making sure that they
24 understand exactly--

25 MS. GRISARU: [Interposing] Yes.

1 COMMISSIONER BURMAN: --what it would take
2 to get so that they can move forward?

3 MS. GRISARU: Yes. The Part--the Part B
4 requirements have already been spelled out and staff
5 has had meetings with interested developers. Our
6 sister agency, DEC, has also initiated contacts with
7 developers to make sure they understand what their
8 requirements are going to be. So there is already--
9 has already been considerable dialogue and we expect
10 that to continue post October 1.

11 COMMISSIONER BURMAN: Okay. Thank you.
12 That's all the questions I have.

13 CHAIR ZIBELMAN: Any other questions or
14 comments fellow commissioners? Other commissioners?
15 Mr. Sayre?

16 COMMISSIONER SAYRE: I'd just like to
17 comment briefly that clearly the order in front of us
18 is the culmination of a tremendous amount of hard
19 work and careful thought by staff. I'd like to
20 commend staff and I'm very happy to support this
21 item. I see that there is a great deal of work ahead
22 on this item.

23 CHAIR ZIBELMAN: Thank you. Commissioner
24 Acampora? Brown?

25 COMMISSIONER ACAMPORA: I will. I too would

1 like to thank the staff. As Commissioner Sayre said,
2 a tremendous amount of effort and time was put into
3 this and we appreciate also the fact that we've been
4 kept apprised of this as it went along. The steps
5 were very important and I think in particular what I
6 really like is letting the ALJ have that kind of
7 discretion. I think it's really important so that
8 the process keeps moving. And, you know, you've
9 reiterated that, so I'm very happy to support this.

10 CHAIR ZIBELMAN: Commissioner Brown?

11 COMMISSIONER GARRY BROWN: I'll just note
12 that we didn't take the traditional route here. It
13 would have been easier to take the traditional route
14 and just have a proposal come in and react to it and
15 move forward, but that we're exploring some new
16 ground here which hopefully can result in better
17 projects, less risk to rate payers for cost overruns,
18 getting the most efficient projects.

19 So I think it's the right way to go but
20 we're operating without precedent here which over my
21 years here always puts in a little uncomfortable
22 spot. But, again, I think it's the right thing to do
23 and the right way to go. So thanks again for trying
24 to make this work. I know this is not a simple
25 process.

1 CHAIR ZIBELMAN: Thank you. And I'll--as
2 someone who is new so I can't take credit for all the
3 brilliance that went before this, but I think this is
4 terrific. You know, I kind of have the opportunity
5 to know across the country the idea of being able to
6 both get transmission built and do it with the
7 benefit of some competition so we all sharpen our
8 innovation and our thinking and the pencils is I
9 think a great outcome. In addition to thanking staff
10 for guiding through it and I think coming up with a
11 process that allows both incumbents and newcomers to
12 come in and do some early screening so that we're not
13 wasting people's money and time I think is a great,
14 great outcome.

15 I also want to note that actually New York
16 is setting a terrific example for the rest of the
17 country. Outside of New York, transmission owners,
18 incumbents usually are not so helpful, not so useful
19 in allowing for competition. And I actually think I--
20 --I think it's great that we're seeing the
21 opportunity, frankly, to have both incumbents and
22 newcomers come in so that the outcome really becomes
23 the best outcome for the state. And I think this
24 process will allow for both and I think--I think it's
25 terrific that we're moving in this direction. Yes,

1 Raj?

2 MR. ADDEPALLI: I just wanted to add that--
3 acknowledge the assistance that the New York ISO has
4 provided in providing technical assistance. And we
5 continue to look forward to them to provide a lot
6 more assistance that will be needed in evaluating
7 some of these proposals.

8 CHAIR ZIBELMAN: And I know they are
9 vigorously agreeing.

10 [Laughter]

11 CHAIR ZIBELMAN: So, well, great. With that
12 then let me take a vote. All those in favor of the
13 recommendation?

14 MULTIPLE VOICES: I.

15 CHAIR ZIBELMAN: Any opposed?

16 [Pause]

17 CHAIR ZIBELMAN: Counsel, did you hear that?

18 [Laughter]

19 MR. MCGOWAN: I, I.

20 CHAIR ZIBELMAN: Okay, great. Thank you.
21 Now, before we go, and Raj while we have you at the
22 table, one other item I do want to bring up. You
23 know, we obviously have two other repower--two other
24 petitions for repowering that are significant
25 petitions in front of the Commission. I think it

1 would be helpful if we just take a minute and if you
2 can provide us an update on both the Dunkirk and
3 Cayuga processes.

4 MR. ADDEPALLI: Will do. On the repowering,
5 if you recall, the Commission asked in January 2013
6 asked National Grid and New York State Electric and
7 Gas to study the alternatives between upgrading their
8 own transmission system to meet the reliability needs
9 long-term compared to the repowering at NRG's Dunkirk
10 unit and Cayuga Power Plant respectively. And in the
11 order the Commission first asked the utilities to
12 come up with the cost estimates for transmission
13 upgrades and file with the Commission. Then it asked
14 the utilities to seek bids, what out of market
15 payments might the generators need to finance and
16 support repowering at those sites.

17 And after conducting an analysis the
18 utilities filed a report in May of 2013 recommending
19 that transmission alternatives are cheaper compared
20 to a repowering and are less risky to rate payers.
21 Since then, we held public statement hearings in July
22 for both Dunkirk and Cayuga that were well attended.
23 And we have and continue to receive comments on these
24 proposals, numerous comments with divergent views.

25 Then I'll speak first on Dunkirk and then

1 I'll update you on the Cayuga status. In August both
2 National Grid and NRG filed updates to the proposals.
3 National Grid indicated in its filing with us that as
4 a result of their local transmission upgrade analysis
5 that they've done they have identified different load
6 increases and load patterns that would require them
7 to re-conduct one of the lines anyway and that would
8 sort of reduce the amount of dollars that would be
9 compared against repowering, and also that there may
10 be a lower need for the resource at that site. The
11 initials bids were for about 450 megawatts and the
12 updated study indicated much lower need at that site.

13 Second, during the heat wave in July there
14 were certain outages, transformer outages that
15 resulted ultimately in Niagara Generation Hydro and
16 imports from Canada to be backed down for certain
17 periods of time due to congestion. And NRG suggested
18 in its update that there is a value for Dunkirk being
19 there that would have relieved this congestion and
20 that should be accounted for.

21 In light of these two updated data points in
22 August, the Commission secretary issued a notice
23 asking National Grid to file a detailed study on its
24 load update and the transmission planning study, and
25 also asked staff to take the lead to work with the

1 interested parties to better understand and scope out
2 the value of the congestion and whether Dunkirk
3 staying there would help, and if so how.

4 And National Grid filed its study as
5 requested early September and staff is in the process
6 of conducting the study on the congestion issue in
7 the western New York in conjunction with the parties.
8 And again the ISO is helping with the--helping us do
9 the study technical analysis. So those results are
10 expected by the end of the month and staff will be
11 holding a technical conference to go through the
12 results and discuss the ramifications of those
13 results.

14 On the Cayuga front, we have pretty much all
15 the data that has been filed by NYSEG and filed by
16 Cayuga, and all the comments. There is one other
17 element in the Cayuga conversation that bears
18 mentioning here. Right now NYSEG has with Cayuga a
19 so-called reliability support service agreement for
20 one year calendar 2013. And until NYSEG can complete
21 its transmission reinforcements in 2017 they'll need
22 a resource there to address the reliability needs.
23 And NYSEG believes that would perhaps require Cayuga
24 or assess with Cayuga reliability support service
25 with Cayuga for another four years, '14, '15, '16,

1 and '17.

2 And then you have the repowering proposal.
3 So what we believe could be done is--first also the
4 Cayuga proposal we should note all the four proposals
5 that the generator filed for repowering all have one
6 comment feature, which is shift the risk of market--
7 both energy and capacity market risks to NYSEG rate
8 payers. So how do we move forward with this
9 information?

10 One pathway forward that we can see, staff
11 can see, is that there could be a solution that would
12 be in the interest of the ratepayers to bring about
13 overall lower net cost to ratepayers and still
14 accommodate repowering. And so we suggest some
15 guidelines for the parties to follow in having
16 further conversation, NYSEG and Cayuga, that the
17 solution that is adopted should meet the reliability
18 needs over a long horizon, long-term horizon, and the
19 rates for ratepayers had to be just and reasonable
20 and also the lowest net cost alternative. And it
21 should also consider other public policy factors that
22 the Commissioner had asked them to consider, economic
23 development and emissions. And, importantly, it
24 should minimize ratepayer risk.

25 So with these principles we believe the two

1 parties can work together over the next month and
2 come up with solutions that would meet the needs of
3 the reliability needs of the ratepayers and at the
4 lowest overall net cost. And staff is available to
5 facilitate a conversation if needed between the
6 parties and that's where we are. And there are a
7 couple of next steps that Liz can articulate.

8 MS. GRISARU: Yes, maybe only a--maybe
9 really only two. We've asked--as Raj said, we've
10 asked Cayuga and NYSEG to go to work and sharpen
11 their pencils and to try to develop a solution. We
12 have asked them to bring a proposal back to the
13 commission and our expectation is that you will act
14 on that proposal at the December session.

15 So the time is running. The RSS--the
16 current RSS contract needs to be renewed, if it's
17 going to be, for the beginning of 2014. So we want
18 to bring this back to you in December. And, as Raj
19 said, we have offered to assist the parties in their
20 discussions and, you know, we're ready to do that.

21 MR. ADDEPALLI: So that's the status of the
22 two repowering.

23 CHAIR ZIBELMAN: Am I on? Thank you. What
24 I said is I think it's great on Cayuga if we can get
25 to a solution that meets the needs, and I think it is

1 important to consider both the economic issues
2 directing economic impact for ratepayers, making sure
3 the risk follows those who can both handle the risk
4 best, but also taking a look at economic development
5 and other issues. So I think that's terrific.

6 What I'd like to do is direct the staff to
7 work with the parties so that we can get something
8 before us in October, so we can act in December. So
9 I would echo that and if we can make that more formal
10 that would be terrific. Counsel, I assume we can do
11 that with a letter or some form through the secretary
12 or treasurer?

13 MS. GRISARU: Yes, I think we definitely--we
14 have--we can convey that both informally and
15 formally.

16 CHAIR ZIBELMAN: Great, thank you. Anything
17 else on this matter? Okay. Secretary Burgess, do we
18 have any other matters before us today?

19 COMMISSIONER. BURGESS: There's nothing more
20 to be considered today.

21 CHAIR ZIBELMAN: Is it always this easy?

22 [Laughter]

23 COMMISSIONER BROWN: No, no, and no.

24 CHAIR ZIBELMAN: Thank you for this. Thank
25 you for this.

1

[Laughter]

2

CHAIR ZIBELMAN: With that, we'll close the

3

session.

4

[END OF HEARING]

C E R T I F I C A T E

I, Brandi Dean, certify that the foregoing transcript of proceedings in the Public Service Commission Meeting, Thursday, September 19, 2013, was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Signature:



Date: September 20, 2013

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