MORELAND COMMISSION

ON UTILITY STORM PREPARATION AND RESPONSE

REGINA CALCATERRA

Executive Director

90 Church Street

15th Floor

New York, New York

December 6, 2012

6:27 p.m.

PRECISE COURT REPORTING
(516) 747-9393 (718) 343-7227 (212) 581-2570

A P P E A R A N C E S:

MEMBERS OF THE COMMISSION:
REGINA CALCATERRA
Executive Director
BENJAMIN LAWSKY, Co-Chair,
Superintendent of Financial Services, State of New York
ROBERT ABRAMS, Co-Chair, former Attorney General of the State of New York
PETER BRADFORD, former Chairman, New York State Public Service Commission
DAN TISHMAN, Vice Chairman, AEOCOM Technology Corp.
KATHLEEN RICE, Nassau County District Attorney
REVEREND FLLOYD FLAKE, Greater Allen AME Cathedral
JOANE MAHONEY, County Executive of Onondaga County
TONY COLLINS, President, Clarkson University
MARK GREEN, former Public Advocate, City of New York

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CO-CHAIR ABRAMS: I'd like to welcome everybody on behalf of the -- I'm Bob Abrams, former Attorney General of the State of New York, Co-Chair of this Moreland Commission, together with Ben Lawsky, the Superintendent of Financial Services of the State, and we're flanked by fellow commissioners, who I will introduce in a few moments.

I'd like to initially thank the Lighthouse International who has graciously hosted us for this meeting, public hearing, and we're very, very appreciative for their welcome.

On November 12 Governor Andrew Cuomo established a commission under the Moreland Act, which is Section 6 of the New York State Executive Law, to, among other things, investigate the response, preparation, and management of New York's power utility companies, with respect to several major storms impacting the State over the past several years.

The Commission has been charged with two related objectives: First, to formulate recommendations about how to best reform the current utility oversight structure in New York; and, secondly, to investigate the New York utilities' response to the catastrophic storms that recently struck our state.

The first objective has been assigned to a policy subcommittee. The subcommittee is chaired by Commissioner Bradford, who will be joined in the deliberations of that committee by Commissioners Dyson, Collins, and Tishman. The

policy committee is charged with examining the functions of the various energy agencies in the state and determining if the public would be better served if they were reorganized or streamlined. The committee will also be examining the monopoly-type structure of investor-owned utilities and whether or not there should be reforms going forward so that those companies can better serve consumers. It will also be examining LIPA, to determine whether or not there should be structural changes in its organization and operation.

The committee has been charged with some quick responsibility, to begin work immediately, and plans on providing recommendations to the governor within a short period of time.

The second objective has been assigned to the investigatory subcommittee; it is being chaired by the Nassau County District Attorney, Kathleen Rice, who will be joined by Commissioners Flake, Mahoney, and Green. The investigatory subcommittee will specifically be investigating the emergency preparedness and storm response of the utilities in the recent storms. This committee has also already begun functioning, and the district attorney will provide us with insight in a few moments about the progress thus far.

The commission has staff, very capable and energetic staff, working to support each of the subcommittees in its responsibilities and objectives. We have a mix of talented

professionals with experience in law, energy policy, finance, and public policy, who are all working very, very hard, diligently, in coordination with members of the commission.

The commission expects to have some preliminary findings as well as recommendations to the governor by the end of the year, and will continue its work into the New Year, until the governor determines that its objectives are met.

We will be holding additional public hearings in the coming weeks. The next hearing will take place this coming Tuesday, December 11, at 6:00 p.m. at SUNY, SUNY College of Old Westbury out in Long Island. The public will have another opportunity to speak at that hearing. The following week, on December 20, we will have another hearing on Long Island in which the commissioners will be given an opportunity to ask questions of LIPA and National Grid about their response to Hurricane Sandy.

It is now my privilege to have my co-chair of the commission, Superintendent Lawsky, to make some remarks as well.

CO-CHAIR LAWSKY: Thank you, Chairman Abrams. And thank you to everybody who is here tonight. Thank you to all the commissioners for taking the time to attend, and especially to our executive director, Regina Calcaterra, and her staff. They've been working incredibly hard already these first couple of weeks of the commission. We really appreciate it as commissioners. You're doing just a wonderful service for the

state.

It's good to be here with all of you tonight because the work of this commission, the investigation we're conducting is incredibly important to New Yorkers. The human and economic toll that Storm Sandy had on our state has been immense and the devastation has just been profound. As we survey what went wrong in the preparation for and response to the storm, the role played by the utility companies is central.

Our mission in grappling with what went wrong is on the one hand complex, but on the other hand it can be broken down and simplified. I view it really with three basic overarching questions: What went wrong? How and why did it go wrong? How do we fix it?

Now, as we answer those basic questions we will need to look at many areas, ranging from technology -- is our grid sufficient -- to corporate structures and incentives, to communication failures, to the alphabet soup of agencies that regulate energy in New York, and even to the mundane things, like why didn't anyone cut the trees that were near the power lines and do we have enough electricians licensed in this state for when we try to turn the power back on after a storm.

Now, how the utilities responded or failed to respond to the storms deserves an investigation that is aggressive, thoughtful, and fair. It is an investigation that we need to carry out in an efficient and speedy but at the same time not

hurried manner. Most of all, it's an investigation that we need to carry out that puts the consumer, the everyday New Yorkers who suffered from this storm, first.

Again, New Yorkers suffered incredibly in this storm, and many are still suffering as we sit here right now tonight. And they deserve answers. It's our job to get those answers and to shine a bright light on the failures that occurred and to make recommendations for how to fix those failures.

I look forward to hearing from our witnesses tonight, I look forward to hearing questions from our fellow commissioners, and from hearing anyone in the public who has things they'd like to be heard on tonight. Thank you.

CO-CHAIR ABRAMS: Thank you very much. We'll now hear some brief remarks from the two chairs of our subcommittee, the first, the policy, the committee, which is chaired by Professor Peter Bradford, who is a former chairman of the New York State Public Service Commission.

MR. BRADFORD: Thank you. You've already indicated the scope of the policy subcommittee's work, let me just say we've done our meetings on those topics, that is the LIPA structure, agency overlap, emergency planning. We've had briefings on the history, the shortcomings, and begun to take a look at some of the alternative remedies and we'll be focusing intensely on each of those subjects in the weeks ahead, in preparation of an interim report.

CO-CHAIR ABRAMS: And the chair of our other subcommittee, the investigatory subcommittee, is the distinguished Nassau County District Attorney, Kathleen Rice.

MS. RICE: Thank you, Chairman Abrams.

Like New York City and other places downstate, my community on Long Island was hit very hard by Sandy. I agreed to serve on this commission for one very simple reason: To hold people and systems accountable for what happened before and after the storm, and to ensure that the utility failures that left so many New York residents vulnerable will never happen again.

Our task is to find out what did and, even more importantly, what did not work in the utilities' response to the recent storms, beginning with Hurricane Sandy.

As you know, issued subpoenas to major utilities that were involved in the response to Hurricanes Sandy and Irene and Tropical Storm Lee. We are working with the utilities to ensure that they provide the information that we requested. The commission staff will be reviewing and analyzing this information and providing relevant conclusions to the commission.

We also reached out to other stakeholders affects by the utilities' response to the storms, including the MTA, the Port Authority, and other critical infrastructure customers.

We are confident that these avenues of investigation

will provide us with a complete picture of what transpired in the lead-up and aftermath of each of these storms, and we anticipate that the utilities will cooperate with the commission towards reaching the same goal.

Thank you.

CO-CHAIR ABRAMS: Thank you.

Ben Lawsky and I are grateful that the Governor appointed such a diverse and talented group of individuals to serve as commissioners on this Moreland Commission. We thank them for their willingness to step forward. They've already committed enormous amounts of their time. And, over the ensuing months, will be devoting considerable further time and attention to the issues that confront us.

I'd like to now have you meet each of them and have them say a few brief words.

First commissioner to speak will be Dan Tishman, the Vice Chairman of AEOCOM Technology Corporation and the Chairman and CEO of Tishman Construction Corporation.

MR. TISHMAN: Thank you, Chairman Abrahams.

Again, my name is Dan Tishman. Good evening. I'm in the real estate and construction industry. My family has been in business in New York for 115 years. I grew up walking constructions sites with my father, including the World Trade Center, which we originally built and which we are rebuilding today. I'm also the owner of Tishman Hotel & Realty, which owns

large convention and business hotels around the country, including significant real estate holdings here in New York City.

I've long been a passionate component of modern, efficient, and appropriate infrastructure, not just including roads and bridges but also the electrical system.

Because of the different hats I wear and because of my ties my family and I have with businesses in New York City and State, I am deeply committed to making sure that New York is able to come back from storms like Sandy quickly and efficiently -- as quickly and efficiently as possible, and to make sure that we've made the right decisions in the recovery process.

I am pleased to be part of the Commission, and believe that our findings will ultimately result in a better, safer New York.

CO-CHAIR ABRAMS: Thank you.

I'd like to introduce you now to Floyd Flake, Reverend Floyd Flake, former member of Congress and the senior pastor of the Greater Allen AME Cathedral.

REVEREND FLAKE: Thank you, Bob.

I accepted the invitation to join the committee because I am not convinced that there was necessary pre-preparation on the part of those who have responsibility.

We understand that when there is a hurricane we don't

know which the way the winds are blowing, what things might happen, but we ought to be more prepared than we were, in terms of what happened during the course of this event.

I think the pathological, psychological impact on the life of people will not receded immediately. It will take a great deal of time because resources have been somewhat slow and coming in many communities, and I don't think that is reflective of the amount of money that people pay in their taxes, to have a sense that there will be a response when there is an emergency. In so many cases there were not responses on the parts of the agencies and the entities that were responsible, and I do believe that it is important for us, as a committee, to try to assure that in the future -- and there probably will be hurricanes in the future -- there will be better preparation and then there will be better post response that will allow people to have an opportunity to know and feel that they are being served in the manner that they should be.

CO-CHAIR ABRAMS: Thank you very much.

As we all know, the storms in recent years not only affected downstate but upstate as well. And our next two commissioners are from upstate New York. We are very gratified to have the services and the insight of Joanie Mahoney, who is the County Executive of Onondaga County, where Syracuse is located.

COMMISSIONER MAHONEY: Thanks, Bob.

I agreed to participate in the Moreland Commission for two primary reasons, first and foremost is the reaction of the governor, himself. The governor is deeply concerned about what happened and how well prepared New Yorkers are going forward. We're asked to do a lot of things. We don't all necessarily have the time to answer all of the calls. But the governor's call, in this case, and his own personal work on this has really inspired I think a lot of us to get in and do what we can. The second is we have an opportunity right now to change things. It's difficult to get peoples' attention sometimes, unless there's a crisis. Sandy provided, unfortunately, a perfect illustration for people about why we need to do things differently. And there is an unbelievable staff of people that have been brought together to educate all of us on the policies that are currently in place and the behaviors that those policies are driving, and if we want things to be different, what the policies should look like, if we want that behavior to be different in the future. So, all of the pieces have come together. And I think you will see some real change as a result of the work that this commission is doing. And I appreciate the opportunity to participate myself.

Thank you.

CO-CHAIR ABRAMS: Thank you.

We'll now hear from Tony Collins, who is the president of Clarkson University.

COMMISSION COLLINS: Thank you, Bob.

Good evening, everybody. I will mention that I've been at Clarkson University for a little over 30 years, and I say that because you may pick up an accent and wonder how long I've been in the country. It does not come from northern New York. And this is my tenth year as president.

Clarkson, many of you may know, is strongly a technical university. Over half of our undergraduates and graduate students are engineering, have engineering as their background. So I'm interested from -- I also serve on a number of boards that are around energy, alternative energy, solar energy, Syracuse Center for Excellence in Energy and the Environment, a number of boards. I've just come off about five years of being the vice chair or the chair of the Council of Independent Colleges and Universities, which represents 120 private universities in New York State. In that role, interface, I do a lot with higher education. And I would hope to take the lessons that we learn out of this commission and how we carry those forward in the educational process so that we build a workforce that can be better prepared and interact together and from an even stronger technical background to avoid what we hear and what we learn from you were the issues and problems in our response. More importantly, looking forward, how do we get to a point where we can respond better.

So, higher education, the technical side, I'd like to

carry that message forward into the workforce of the future.

CO-CHAIR ABRAMS: Thank you.

We're also benefitting, very significantly, from the experience of Mark Green, who those of you who live in New York City know served with such distinction as the former public advocate in the City of New York.

COMMISSIONER GREEN: Chairman Abrahams, Superintendent Lawsky, and fellow commissioners, I really want to thank you and, of course, Governor Cuomo, for including me in this very important public assignment.

I have a geographical interest. I grew up as a boy on Long Island. I now live with my family south of 39th Street. I actually began my career with a heavy British accent, but over time I learned the ways and now can pass with the best of you.

I'm also very interested in public regulation and public accountability. Through the prism of end use consumers, I mean why else do we have government and public agencies but to serve voters and consumers in the marketplace in their communities. And so I have been a regulator, in two offices as Bob implied, and I brought to those offices two ethics, which I hope to apply to our investigation and policy recommendations. One is the cliché the best time to repair a roof is when the sun is shining. You can't always anticipate or deter Mother Nature. And you must respond to exigencies, weather or otherwise. You certainly have to play an in between so you can think ahead

calmly and deliberately.

Second, it's ideal to build a guardrail at the top of a cliff rather than have ambulances below. If you can figure out how to both anticipate and mitigate public calamities, we're all the better. Hence my interest in and eagerness to serve in this Moreland Utilities Commission; you figure out the acronym.

CO-CHAIR ABRAMS: The governor gave us a very strong mandate and heavy set of responsibilities and a very tough timetable. So this commission had to get off the ground running very quickly. We are fortunate to have had the benefit of the Chief Deputy Suffolk County Executive, who is on leave, to come and act as the executive director of the Moreland Commission. And I'd like to now introduce Regina Calcaterra.

EXECUTIVE DIRECTOR CALCATERRA: Thank you.

The governor charged the Moreland Commission with two primary objectives: One of them is to examine and address the possible realignment of the various different states agencies that provide the various different state utility agencies and energy agencies in an effort to provide more efficient energy and more reliable energy to all New Yorkers. That's one focus.

The other focus is that the Moreland Commission is also charged with examining emergency preparedness and storm response of the utilities, as well. And he had asked that the examination for this occur for three recent storms: For Irene, Sandy, and Lee. So we are asking the speakers who have come

before us this evening to focus your comments on those two areas. So if you're going to be contributing tonight and speaking before the panel, we would like you to focus your comments on suggestions on how it is that we should consider, when we think about realigning the state energy agencies, or comments related to the emergency preparedness and storm response of the utilities.

What we try to do is we try to make this as open as possible. Because of schedules, you may not have an opportunity to speak right away. So we also have three stenographers that are outside in a room that's in the back. So if you don't have time to wait to get through the time in your schedule to speak or by the time you signed in, when we're about to call your name, you have an opportunity still to submit testimony. So, first you can go to the room that's in the back -- and you will be directed there -- and you can meet with one of the stenographers who will take your oral testimony and put it in the record. That's one option. The other option is you can stay and wait for your opportunity to speak.

The third is that we actually now have a website up at moreland.ny.gov, and on that website there is an opportunity for New Yorkers to provide comments to the Moreland Commission. You will see that that button is there, as well.

So those are three opportunities that are afforded to you.

When you do come up and speak, because we anticipate that there will be quite a bit of speakers this evening, we are going to be limiting the speaking opportunities to two minutes each.

We also wanted to know that just in case some individuals who wanted to testify also are in need of services, that the Governor's office has set up services outside from the Department of Financial Services. And in the Department of Financial Services is what was formerly known as the State Insurance Agency. So if there are needs of individuals in the audience related to either insurance for their homes or their interest in speaking to FEMA representatives, both of those tables are set up outside with the appropriate representatives, and you can go outside and speak with them.

This evening, actually, we are very fortunate where we have been able to identify a handful of speakers who really do have expertise in one of the two areas or both areas that the commission is charged with. We are asking them to come up and speak first because what they're going to be doing is helping us lay a foundation for the pathway that the Moreland Commission has to go down in order for us to address both charges that the Governor has charged the Moreland Commission with.

The first speaker this evening is a gentleman named Richard Sedano. So, I'd like Richard to come up and take a seat before the commission. And Richard, I don't know if in your

comments -- you have a brief bio. But I just wanted you to give two lines about your background so that audience has it, just in case you didn't provide it.

Richard Sedano is the principal and director of U.S. Programs for something called the Regulatory Assistance Project. Basically, what this group does, the Regulatory Assistance Project, is take a look at energy providers around -- you know, in all 50 states and assist them in potentially restructuring them and giving them recommendations. And he has this position based on his experience as being the Commissioner of the Vermont Department of Public Service.

We thank you for coming here and visiting us this evening, and we really do look forward to your testimony tonight.

MR. SEDANO: Thank you. Good evening, Commissioners. I'm very glad to be here and have a chance to help you.

My organization does help states in a situation where some difficult policy issue is before them. There are not always quite so many people involved, but they are always very complicated issues. So the staff has given me some guidance on what I should talk with you about in the brief time that I have, and of course there will be time for some questions.

Utility regulation is a matter of balancing and protecting the interests of the many important elements that are involved. The utility is important, the consumers are

important, and there are many other interests involved. And, so regulation is a crucible to valuate different arguments and come to some conclusions.

Very often in that situation there is inability to see far ahead, because we are focused on the things in front of us, the things that we are dealing with right now, the urgent matters, and so projecting out is sometimes complicated. I think of this sometimes as a difference between reactive regulation and proactive regulation. And I think it's a common matter among the public service commissions around the United States that most are reactive, some are proactive. In my own experience in Vermont, I think we self described ourselves as proactive and try to accomplish things in the midst of dealing with the people's business. But this is a choice, and part of the choice is how the Public Service Commission is charged, how the appointments are made, and what the political environment around the Commission is.

It's important that a public service commission be independent. But that doesn't necessarily mean that the public service commission is insulated completely from the matters of importance going on around it. And I'll say a little bit more about that.

The Public Service Commission is an entity that deals with utility monopolies. Monopolies are entities that provide a service in a way such that really competition isn't useful.

Distribution lines are clearly a monopoly service.

Some of the things that utility may do, you might argue whether it's a monopoly service or not, and so we developed a way of doing things, a custom, and then ask that the commission oversee those things that we ask the utilities to do in an effective way. That oversight needs to demand accountability. Accountability was used by one of you already. Accountability is critical. Sometimes accountability is difficult to get when utilities make money based on the amount of money they invest in the company -- this is a technical term called rate base. They make money based on the amount of their rate base or how much they've invested as distinct from their performance. It's typical in the United States to focus on rate base to decide how much money utilities will earn for their shareholders. It's not very typical, although it is done in some places, to at least put some of that based on performance. That is another choice you can make.

So accountability should be around things like reliability, service, emergency preparedness certainly can be that, as well as various mandates about renewable energy, energy efficiency and many other things.

The franchise is a sacred thing for the public. In my experience in Vermont, we had one utility which violated the trust of the public to such a degree that the Public Service Board there decided that that utility no longer earned the right

to be a franchise utility, and actually met the test to have that franchise revoked. Now, in that particular case the board also said the cost of actually revoking the franchise would be so great that it would be best, especially because of the pleas of the company involved, to put them on probation. Probation is the word that was used. That company eventually sold, got the message, and is no longer serving in Vermont, so the transition was smooth. There ought to always be the opportunity for accountability, and really a commission has to have that in order to be effective.

So, thinking about the design of a public service commission and its charge, of course its powers flow from the statutes. Sometimes statutes are very general and leave a lot to the commission to implement, and that's appropriate in many cases. Sometimes, as I mentioned, commissions can be reactive. When you combine some circumstances, you might determine that the actions of the commission are really not fulfilling the direction that the public wants, that the political body politic wants. At times like that, even though the commission may have the authority to do something, it may not be unless it is directed more explicitly. So we see, very often working with state legislatures, amendments to statutes that don't actually give new powers to the commission but clarify direction for the commission, and that's certainly something that is a worthy thing for legislatures to do. When doing that, the more

specific you get, you can edge into trouble. You may want to do one thing today but there might be a different consequence or a different set of technologies in the future. So general statutes are robust over time but sometimes unsatisfying. In revising statutes, if you choose to get into that, striking the balance and being very skillful about what the directions should be, if you choose to add some, is an important part of that job.

The Governor. In my view, it's very important in the design of a public service commission for the governor's interests to be enabled to be heard. Without that, the commission is really in -- lacks a frame of reference for the world in which its decisions are going to operate. Some governors don't care one thing about the utility commission, they have other priorities. But if the governor does care about the public service commission and what it does, there needs to be a way for that to be communicated.

Now, I mentioned at the beginning of my remarks that it's important for public service commissions to be independent. It is an interesting challenge then to find a way for the commission to hear evidence, make independent decisions, and yet have an awareness of the political world around them. Yet, really that's what we all, in decision-making roles, do all the time. And so this isn't an impossible task. It does have to be managed with some delicacy.

In Massachusetts and Connecticut, the current

governors sitting there have reorganized state government there so that the public service commission is not an independent agency. It sits within a larger agency, an energy and environment agency. I've talked to commissioners in both of those states; they're long time acquaintances professionally and even friends. They say, well, yes, we feel independent but we also feel connected to what's going on around us. We know what's going on around us. So that's a very tangible way of doing that.

In some other states, the public service commission chair is a member of the governor's cabinet. So even in a situation where there is independence, there is also, again, connectedness.

And I think that finding a way to have the public service commission be connected while doing the important work that they need to do in the crucible of the hearing room is the balance that I think many states are trying to strike now with governors who are interested in these topics.

It's also useful, I think, to think about forums that are not just about hearings. Hearings -- I'm sure we'll have an interesting conversation in a few minutes, but it will still be very brief and we won't get a chance to maybe talk at length. Workshops and other kinds of approaches, getting out of the state capital and into other parts of the state, as many of you represent, is a useful way of breaking out of the insularity

that plagues many public service commissions around the United States, and interestingly has a spark of innovation. By getting out of the office, it helps be more innovative. If that's something that you want to see happen, that's one way to think about it.

Ultimately, leadership and coherence -- when I make presentations I very often talk about how important leadership and coherence of policy is. In New York State there are many agencies that deal with energy, and you're familiar with them and you will learn a lot more. I won't have time to go into much detail in those.

Focusing on a simple thing like energy efficiency or combined heat and power for industrial customers that make their own electricity, there are many entities in New York that are involved in these matters. I think having some effort at coordinating them is a good thing. I think that to the extent that they are coordinated, you can create opportunities. To the extent that they are in competition, they can actually break down the opportunities that that will be a problem.

I think with that, I've rushed through a number of thoughts for you. We could probably talk at length about many of these things. So I'm just going to stop.

Commissioner Collins, I'll just tell you I'm an engineer, myself, and try to take an analytical view and not just be dogmatic about anything. So I've tried to look at your

situation with that frame of mind that I learned at Stuyvesant High School.

So, thank you very much.

EXECUTIVE DIRECTOR CALCATERRA: Any questions from the commissioners?

COMMISSIONER BRADFORD: So, first, I'd actually acknowledge we've known each other for about 15 years.

MR. SEDANO: At least.

COMMISSIONER BRADFORD: We don't call each other commissioner.

There are three areas I'd like to probe a bit. And I'd be just as happy if you wanted to comment in a day or two on a reflection about anything you feel you can add this evening would be great, as well.

The first is inevitably we're going to be considering alternative frameworks for LIPA going forward, the Long Island Power Authority. One of the issues, one of the possibilities that we suggest is that it should be regulated by the public service commission. So the topic that I'm wrestling with is to -- knowing the regulatory assistance projects proclivity for best practices. Anything you can tell us about best practices, when it comes to have state utility regulatory bodies regulate public as distinguished from private utilities? It's a different animal.

Do you want me to give you the other two now or do you

want to take that one?

MR. SEDANO: Okay.

COMMISSIONER BRADFORD: The second one is the interplay between performance based regulation and emergency preparedness, that is is emergency preparedness particular vulnerable of slipping through the cracks under PPR frameworks?

The third is the other prong of our charge from the governor. I know you're familiar with the way New York imposes charges for renewables, energy efficiency, NYSERDA BSE interplay. You have the experience with a difference model in Vermont with an efficiency utility but also with the way that issue is handled around the country. So again, best practices in charging for and administering efficiency and renewable programs.

MR. SEDANO: Okay. Very often in the United States publicly owned utilities, municipals, co-ops, and LIPA is a cousin of those, are independently regulated. So the citizens who are responsible, typically elected people are responsible for those entities. They have mixed success around the United States. In some cases the people who are involved have been watching these entities for years and it's part of the blood, sweat, and tears of the community so it works really well. In some places the people involved don't know that much. They come into it for other reasons. They happen to find themselves in the situation of governing a fairly complicated organization.

And in those kinds of situations, the organization can run away from the oversight. Maybe nothing bad will happen, hopefully, but maybe something bad will happen on their watch.

I think in the case of LIPA, I don't know a great deal about the governance. It does seem that there has been -- that the board of LIPA has not focused in the professional way that one might have hoped in some areas. So this is, I think, something you're going to have to understand. But there's no general rule about this.

I will say that in my own personal experience in Vermont, we regulated all of the utilities -- municipals, co-ops, and investor-owned companies. Sometimes they chaffed at that. But the fact was that it actually provided a comfort. At one point, one of the co-cops, because of excessive nuclear investments to an amazing extent, had to go bankrupt. While they were going bankrupt, they were very mad at me for sort of forcing this to happen. Afterwards, they were very grateful because our insistence that there be some accountability that they were unwilling to impose on themselves was going to save their customers a lot of money. So I can't tell you the answer, but I can certainly give you that kind of guidance.

Performance based regulation I think has a lot to offer under all circumstances. Emergency preparedness is often lost in the conversation about what the performance is. As you said, it's nice to do these things when the sun is shining, not

just when it's raining. Emergency preparedness is very often low on the agenda.

Again, my own personal experience, I was part of the emergency response organization in Vermont. We did drills at the emergency center from time to time on energy emergencies. Fuel shortages, electric problems, nuclear problems, all of these things were something that we trained on. It's not just about making sure the utilities are ready, although you can use performance regulation to motivate them in that way if you choose to. It's really, I think, about a culture of the public service entities -- state, local, federal, and the important private companies -- coming together. I think there's a leadership aspect from government on that. And I think that's the critical thing in emergency preparedness, is ultimately the civil authorities need to lead that.

As for the way mandates for efficiency and renewables, your questions really focused on efficiency in states work and how efficiency should be administered.

There is a range, again, around the United States. There is no one answer. I've actually written a paper on this. The paper concludes there's no right answer for this. But in many places there is a right answer for that place. Trying to find the right answer for that place is part of the challenge of the officials in that place.

In Vermont, as Peter mentioned, during the 90's when I

was in government we decided that the utilities were not going to be the viable way to deliver energy efficiency and we created a statewide entity to do that. Vermont had, at that time, 24 individual utilities; none of them -- maybe one of them -- only one of them distinguishing itself as doing what was expected. So creating one entity, which required the assistance of the legislature to amend the statute to allow us to do that, has worked fabulously well in the 13 years that have elapsed since then. It was right for us then and continues to be right for Vermont.

You now have NYSRDA, the utilities, and NYPA all doing energy efficiency in their various ways.

In some states there are multiple administrators; the government doing something, the utilities doing something. But in all of those other cases -- I'll just use a metaphor -- they're staying in their lanes, they're staying onside. The government has a specific mission and the utilities have a specific mission, and they are not in conflict, they are complimenting each other and they're allowed to jointly plan for serving the public and not for trying to be the one to get the assignment as opposed to the other one getting the assignment. So in that way New York is unusual, having a system, having an environment for energy efficiency.

My own view -- I think I'll dare call myself an expert -- is that it is all about customers; I think

Commissioner Green is right. Especially with energy efficiency, which is the thing that perhaps -- we ask the customers to be very active. There's no energy efficiency unless the customer says yes. And so we ask the customer to be very active. And if we confuse the customer, we reduce the chance that the customer will say yes. And so I think we should make it easy for customers when we think about how we design our energy efficiency infrastructure.

COMMISSIONER BRADFORD: Thank you.

EXECUTIVE DIRECTOR CALCATERRA: Co-Chair Lawsky.

CO-CHAIR LAWSKY: I was struck when you mentioned what happened in Vermont, when the poor performing company was basically told your franchise is at risk.

MR. SEDANO: Yes.

CO-CHAIR LAWSKY: We have a governor who has spent a lot of time talking about people's awards should be based on performance; government should operate that way, utilities should operate that way. I wonder if you can give us an assessment of whether you think that utilities in New York are operating under an assumption that their franchises are untouchable. If that's the case, whether there's really not the type of accountability we would way and thus not the type of storm preparation, storm response, because they view themselves as untouchables. I guess the subsequent question to that is are there other things we can be doing as a state to either -- I

think what you did in Vermont not only affected that company but created probably huge deterrents, for lack of a better word, with all the other companies who said, geeze, I don't want my franchise --

MR. SEDANO: They probably noticed, yes.

CO-CHAIR LAWSKY: Disappearing. Should we have a system where we let the companies know every two years we're going to look at the poorest performer and the poorest performer there are going to be consequences for, and that then creates an upward pressure for better performance. Or are there other things we can do to create more competition for franchises so we don't have this potentially unaccountable body or company that has just run amuck.

MR. SEDANO: I hope you heard part of the story where the authority chose not to actually revoke because of all of the disruption and costs that would accompany that, despite overwhelming evidence that it was justified.

CO-CHAIR LAWSKY: But then I heard you just say it was then eventually --

MR. SEDANO: Well, they moved on on their own. I think sometimes organically that that's an evolution not a cataclysm. I think there's some lesson in that, too.

I think that a utility that is in -- first of all, you asked me about New York utilities. I don't think I really understand New York utilities close enough, well enough. I will

say I spent two hours in a van last night with a Con Edison employee who is involved in energy efficiency and thought that he was very inspired. I'm familiar with some of his coworkers and think actually that they do a lot of good work avoiding capital investments in the City by using demand response in energy efficiency to avoid them. And so if you did into some of the things that some of your utilities are doing, you might find some real gems. I think this particular aspect of Con Edison is not an entity that is thinking that they have a perpetual franchise so they can do what they want. They're trying to do the right thing. They understand how much it costs to buy electricity in New York City and they're trying to do something about that.

So, I guess the -- I'll simply conclude that if there is one thing that people want from the utility system it's a stable -- it's like the Empire, you don't really want to notice them, right? You just want it to just sort of happen. Part of stability, I think, is not necessarily making it a practice to call people out just because you feel you need to from time to time. If you're thinking that way, you're in a bad place. You want to try to steer the utility sector here, in New York, to a place where you're not really thinking about that. You're thinking our companies are responsible. There are some things around the edges. But, for the most part, we're happy with them.

There are places in the United States where utilities don't have a perpetual franchise. Chicago and Commonwealth, Edison is a place like that. Illinois is a younger state, a younger para-sector than New York, and so compared to the institutions and laws here. Their communities granted franchises, and from time to time those franchises come up for review. For the most part, these are non-events. There have been occasions in Chicago where there have been events and where basically -- I don't know that there was really any real chance of there being a change in the franchise holder. It provided an opportunity for conversation and to make expectations clear from the community to the utility. And I think finding some ways to make expectations from the community clear to the utility, whether it's a routine approach or something more urgent, that's a good thing, to have that dialogue. I mentioned in my remarks to have forums, ways of engaging that are outside of some of the more legalistic ways I think are good.

EXECUTIVE DIRECTOR CALCATERRA: Chairman Abrams.

CO-CHAIR ABRAMS: Yes. You testified that in your State of Vermont there were 24 separate companies.

MR. SEDANO: Yes.

CO-CHAIR ABRAMS: And then they got merged into a single entity.

MR. SEDANO: I didn't exactly say that.

CO-CHAIR ABRAMS: Okay.

MR. SEDANO: Should I clarify?

CO-CHAIR ABRAMS: Please.

MR. SEDANO: So the 24 companies, a couple of them actually have merged, but I think there are 22 now. But the energy efficiency function that was in each one of them --

CO-CHAIR ABRAMS: Right.

MR. SEDANO: Has been removed and that has been merged into one entity. So the 22 companies continue to exist. They are separate managements and all of that. But there is one energy efficiency provider across the state.

CO-CHAIR ABRAMS: Obviously, the size, there's a huge differential in size. Vermont -- wonderful state, but it's a smaller state.

MR. SEDANO: Indeed.

CO-CHAIR ABRAMS: New York is a large state geographically and by way of population. Do you think that kind of structure would apply as well to a larger state like New York?

MR. SEDANO: At one time NYSRDA and NYPA were doing energy efficiency and the utilities were not. During the recent years the utilities were brought back into it. From a distance I wondered if one of the reasons for that was a worry that NYSRDA could just get too large. That the $150 million that NYSRDA was spending -- if New York was going to spend at the rate that some of the leading states would be spending, that

would be a billion dollars collected from consumer and run through a single authority. That's an interesting governance issue in and of itself. So perhaps the response is let's diversify, and that may have merit. As I pointed out, that has created some confusion, I think, on the customer's side.

I don't think I have an answer for you; I have considerations for you to think about.

EXECUTIVE DIRECTOR CALCATERRA: Anymore questions from the commissioners?

COMMISSIONER GREEN: Yes. I found your testimony very expert and helpful.

MR. SEDANO: Thank you.

COMMISSIONER GREEN: You commented that you had done a paper about it. Could you e-mail it to Regina for her to distribute it?

MR. SEDANO: I certainly will.

COMMISSIONER GREEN: Thank you.

EXECUTIVE DIRECTOR CALCATERRA: Thank you very much, Mr. Sedano, for traveling here and for sharing your expertise with us.

MR. SEDANO: Very glad to help.

EXECUTIVE DIRECTOR CALCATERRA: It is truly appreciated.

This evening we're also joined by State Senator Michael Gianaris. Senator Gianaris, please come up.

I just want to remind the speakers that we want them to focus on one of two areas, not both. One is the charge that the commission was given to focus on looking at the potential realignments of energy agencies in the state, also the issue of monopolies, as well, your recommendations for addressing that. In addition, the other charge is to provide us commentary on the emergency preparedness and storm response of utilities.

Senator Gianaris.

SENATOR GIANARSI: Thank you, Ms. Calcaterra. Thank you to all the commissioners, many of whom I've known for years, some others just by reputation. But it's an honor to be here with you and have the opportunity to testify.

Listening not only to the questioning of the previous witness but also just reading the reports and the governor's statements about this whole discussion sounds sadly familiar to those of us from western Queens. And I applaud the governor for bringing the amount of attention to this that he has. And I'm sure the results of this commissioner will be fruitful for the people of the state.

Some of you may remember, we had an outage in Western Queens six years ago that lasted for ten days. A lot of the problems we suffered through are very similar, some identical to those being suffered by those trying to recover in the aftermath of the super storm several weeks ago.

As a result of that, I was, at that time, a member of

the Assembly, and I was put in charge of a task force, by Speaker Silver at the time, to ask a lot of the same questions that this commission is asking. We produced an extensive report, in consultation with our task force members, who included many industry experts, which I have forwarded to Ms. Calcaterra and I have left copies at the desk for all the commissioners. I would encourage you all, if you find it helpful to look at some of the suggestions we had made at the time. Unfortunately, very few of them were implemented. But we have a governor now who seems much more interested in bringing results to this issue this time. I am hopeful that by resubmitting our recommendations that it may get a little farther down the road. I'll touch on just a few of them.

There are several dozen recommendations -- there's a lot for you to pour over, if you get the chance -- one of which is the question of the moment, which is the franchise of the utilities. We asked that same exact question at the time, because we were started to learn as we looked into this that utilities are granted their franchise, and essentially it is never looked at again. It's an indefinite authority that they have to have this monopoly. The only review of their performance exists in the context of rate cases. Having followed several of them over time now, it seems to me that the back and forth that occurs over rate cases ends up with a negotiated solution where the utility comes in, asks for more

than it actually expects to get, the PSC widdles them down to some reasonable number, and there's very little actual accountability for the performance of the utilities.

We had recommended at the time, which provoked outrage among the utilities in the State, that the franchise be reviewed every ten years. I know Chairman Lawsky was talking about every two years. I would advocate shorter than ten, certainly. But at the time it seemed a radical concept that even a ten year suggestion provoked serious concern from the industry.

I think they are good people that run these utilities, and they, in many cases, have the best interests of the people of the New York at heart. The system in which they operate is relevant to their performance. There is a structural problem any time you grant this much authority that is largely unchecked to an entity like that, that has public service and public protection as the goal of its services.

I think structurally, whether we want to criticize the individuals or not, structurally there needs to be a solution whereby the state and the public have a role to play in reviewing the performance and passing judgment on it. We often hear from their utilities, in their defense, that their shareholders would be affected by the things we do, and that they are just a company that responds to their shareholders. But most companies that have shareholders are not monopolies that are granted by the state in a way that they are never

reviewed and there are no consequences for their actions, essentially.

So I would certainly recommend, and the report recommended, that, in fact, a period review of the franchise is conducted, and I think it's certainly feasible for that to be part of the solution, in terms of improving the performance or utilities.

A related point, in terms of bringing accountability and consequences was also suggested in the report, and that is financial penalties for lack of performance. There is no reason why we can't have performance metrics set forth for these utilities to meet, and if they come in below those metrics, there should be financial penalties that, importantly, are not permitted to be passed on to the ratepayers, because obviously that would defeat the purpose. But if these companies want to operate as all companies do, then there should be financial consequences for their performance. If they do well, they should be rewarded. If they do poorly, they should be penalized. I think that's another suggestion that I would make.

Two last things I'll mention. I know you have others testifying, as well.

We also looked at not just the regulated but the regulator. And I think the Public Service Commission would benefit as well from some changes. And one of the things that's been on the table -- I carried a bill for many years about it --

is requiring that a member of the PSC be a consumer advocate and have that particular role be specific. We had quoted FDR in the report. I just wanted to read you the statement because I think in some ways they have drifted from this. This is when he was governor of the state.

FDR said, The Public Service Commission has a definitely delegated authority and duty to act as an agent as the public themselves; that it is not a mere arbitrator as between the people and the public utilities, but was created for the purpose of seeing that the utilities do two things: First, give adequate service to the people; second, charge reasonable rates. In performing this function, the PSC must act as an agent of the public. And I think sometimes they lose sight of that charge. One way to deal with that is making sure that a member of the commission, him or herself, be charged specifically with advocating for consumers and for the public as part of their charge.

The last thing I wanted to mention, because I've now studied and suffered through a number of outages, and this relates to -- I think there would be a benefit for the Public Service Commission to get engaged with the utilities in setting specific guidelines for decision making on shutting down networks. And there's a long history to this, dating back to 1999 when there was an outage in Washington Heights and Inwood that lasted 19 hours. A 19 hour outage may seem quaint what

we're dealing with these days. But at the time is was a very big deal, and there was a lot of criticism for Con Edison for how they handled it. I would argue partially misplaced. Because what they did, as I understand it, in that outage, is the network was getting overheated -- and this relates to underground networks more so than any overhead systems. But they made a decision to shut down the network to keep it from failing. Then the network was down 19 hours. They conducted whatever repairs they needed, and they turned it back on. There was substantial criticism for that decision at the time because people had to be nearly 24 hours without power.

We saw, in Western Queens, the consequences of reacting poorly to that decision, because we faced the opposite situation. The network was failing, and I believe, in part, because of the criticism that came seven years earlier in Washington Heights, they tried like heck to keep the system running to prevent it from failing at all, and of course the consequences or the damage when it happened was far greater and then it lasted much longer. We would have been very happy to have a 19 hour outage in 2006, suffer a bit, and then be back on our feet. But because they tried as much as they could to keep it going, the consequences were far more severe. And I believe what happened in lower Manhattan is a repeat of that poor decision making. I think when there was a knowledge that things were getting bad and that they were not prepared to handle it,

we could have probably saved several days of power being out if the system was shut down earlier, before the explosion occurred, and any necessary repairs were made. It would have been a shorter duration. I think there is some confusion that could use some guidance from regulators, on the part of these utilities, as to how they should be making these decisions, in terms of keeping networks running or shutting them down.

Like I said, there are several more recommendations in this report. I passed them on to you, who are the authorities now on this issue. I hope you take them into account. But I didn't want the opportunity pass without lending you whatever wisdom I have from our experience in Queens.

Thank you.

EXECUTIVE DIRECTOR CALCATERRA: Sir, thank you for sharing your wisdom with us. And I will certainly also share it with all the commissioners here, as well.

SENATOR GIANARIS: Thank you.

EXECUTIVE DIRECTOR CALCATERRA: Thank you for appearing before us this evening.

SENATOR GIANARIS: Thank you.

EXECUTIVE DIRECTOR CALCATERRA: Our next speaker just wears a multitude of hats, but it all seems to combine with emergency preparedness and public health. And he is Mr. Irwin Redlener.

Mr. Redlener is director of the National Center for

Disaster Preparedness at Columbia. He also is the President and Co-Found of the Children's Health Fund. And the Children's Health Fund is a philanthropic initiative created to develop health care programs in some FORD: The nation's most medically underserved urban and rural communities. And he is also one of ten members of the congressionally established National Commission on Children and Disasters. So he has decades of expertise in dealing with disasters and disaster preparedness. And we are looking forward to his knowledge and wisdom. And thank you so much for sharing it with us this evening.

DR. REDLENER: Thank you. It's a pleasure to be here. Thanks to the Commission for inviting me. I was invited I think a full two hours ago. So I'm not exactly sure what you wanted me to tell you about. But my plan was to spend a few minutes just talking about the consequences of the state of preparedness and the failures of the infrastructure, particularly around the power systems. And in order to do that, I'm going to just discuss some of the context from my perspective, as somebody who was on the front lines but also involved in disaster planning, generally.

Clearly, Hurricane Sandy left a devastating wake of destruction throughout a very wide swath of the northeast. Communities were ravaged. Many lives were lost and turned upside down. Families who were living ordinary lives across the socioeconomic spectrum found themselves without homes and

1 displaced for the foreseeable future.
2 New York, of course along with New Jersey, was
3 particularly hard hit. And besides the well publicized
4 residential damage in State Island, Long Island, Rockaways, and
5 elsewhere, the storm did other serious damage throughout the
6 vital infrastructure and supports systems and supply chains, the
7 result of which was continuous disruption and dangerous
8 conditions for millions of New Yorkers.
9 As a physician and a public health professional, I was
10 especially concerned about the impact of Sandy on the lives and
11 safety of New Yorkers who found themselves in harm's way.
12 Initially, concerns for, primarily about the direct impact of
13 the severe winds, obviously, and the flooding. But the key
14 questions were were people out of harm's way when harm was at
15 our doorstep? Were they safely sheltered? Were EMS and other
16 emergency responder services able to meet the acute needs of
17 people during and immediately after the storm made landfall.
18 And while we're worrying about that, the City's hospitals and
19 health care system generally, the health care facilities were
20 experiencing a major crisis of unprecedented proportions here in
21 New York.
22 Not part of the mandated evacuation of Zone A,
23 hospitals and nursing homes and other similar facilities in the
24 designated flood zones had the options of either evacuating or
25 sheltering in place. And having these options was, in

1 principle, appropriate, because final decisions were made by the
2 facilities, themselves, and high level state and city health
3 officials. Among a host of factors and considerations in the
4 decision-making process for the hospitals were two particular
5 factors I just want to note here, because I think it's relevant
6 to what we're talking about.
7 The first thing is that we know that evacuation of
8 patients from hospitals is absolutely fraught with danger. Mass
9 transfer of critically ill patients even before the disaster
10 strikes is, itself, a dangerous situation that puts people's
11 lives at substantial risk.
12 The second factor is that moving residents of nursing
13 homes and assisted living facilities to distant facilities away
14 from the expected flood zones has been shown to present
15 significant risks to people already frail and vulnerable.
16 Studies from previous disasters, including Katrina, have
17 demonstrated high fatality rates among such individuals, not
18 necessarily immediately during the transfer but actually within
19 three or four months of the transfer, of the movement of these
20 patients out of these facilities. The fatality rates actually
21 rise very high, compared to just having them remained where they
22 were.
23 So these two factors were among the considerations on
24 the table when hospital and government made the stay or go
25 decisions as the storm was bearing down on New York.

1 But unfortunately a number of nursing homes in or near
2 the flood zone found themselves in trouble as infrastructure
3 function began to fail -- and this included power,
4 transportation systems, and communication systems. Prior
5 planning for disaster resiliency also proved inadequate as
6 workers could not get to the facilities, and backup generators
7 did not function, and supplies could not be delivered.
8 Meanwhile, two major hospitals in New York City, which we are
9 all acutely aware of, that were in the flood risk zone, the NYU
10 Langone Medical Center and Bellevue Hospital, took on
11 significant water during the storm surge. And although backup
12 power generators had been relocated previously to safe heights
13 in high floors or on the roofs of the hospitals, the fuel pumps
14 and electrical switching systems were disabled by the flooding
15 because they were in the lower floors or in the basement, so the
16 hospitals became dark and powerless.
17 In NYU on the night of the storm and then at Bellevue
18 a couple of days later, hospital workers and city workers, and
19 National Guard troops, ambulance drivers, and others, through
20 unbelievable ingenuity and heroism, under very perilous
21 conditions, managed to evacuate, in total, more than 1,000
22 patients to other facilities that were remaining functional
23 throughout the disaster.
24 But following that initial acute crisis, new troubles
25 because to arise and multiply. So just in terms of health and

1 public health issues, I want to give you a flavor of what we
2 faced immediately after and what we're continuing to face now.
3 I want to put the context of what needs to happen with the power
4 utilities, in terms of the human realities here and why it is so
5 critical that the work of this commission and whatever else has
6 to happen takes place rapidly and effectively. So here's what
7 we're facing.
8 First of all, there was the danger of failed sewage
9 treatment plants and the possibility of contaminated water. The
10 possibility of overflows from toxic dump sites, including
11 Gowanus; although it got an initial okay, green light from EPA,
12 I think previous experience wants us to continue to monitor
13 whether or not toxins from the superfund site at Gowanus had
14 actually been released into the surrounding communities.
15 There has been the onset of massive, and getting
16 larger, health endangering mold overgrowth in homes, apartments,
17 and buildings that had been soaked by rain or floods.
18 Acute medical problems arose when individuals needing
19 medications or medical device support were unable to secure
20 these vital needs.
21 Communication and medical records issues that left
22 many transferred hospital and nursing home patients in
23 facilities that they had been moved to, who had no idea of the
24 medical history or vital treatment information that was
25 essential to maintaining their treatments.

There was loss of health care continuity when the hospitals that closed had their outpatient departments, community clinics, and other related doctors' offices also close so that outpatient management of people with chronic illness could not happen.

Severe overcrowding, which continues to this day, of the non-storm damaged hospitals that needed to surge accommodating the shutdowns of NYU and Bellevue is a problem that we're looking at today and will be for the foreseeable future.

Health and hospital workers were unable to get to work because of transportation shutdowns, bridge and tunnel closings, and severe fuel shortages.

Frail elderly and people with disabilities were stranded in apartments without access to medical attention or even basic food and water when prolonged power failures left lights and elevators nonfunctioning.

Prolonged cold exposures for stranded individuals and families were a problem when the heating systems failed.

Injuries to people trying to recover personal items or make repairs to their homes has already begun, and we'll see a lot more of that in the weeks and months coming.

And then there was psychological trauma for displaced and isolated people under inadequate shelter conditions or left stranded in buildings. And further psychological trauma for

1 family members unable to get information as to the whereabouts
2 of loved ones transported to distant facilities, and that went
3 on for an excruciatingly long period of time. It's a very long
4 list.
5 I want to say a couple of comments in closing about
6 the power system issues. I also want to state, in spite of what
7 I just said, Hurricane Sandy was, indeed, a massive storm,
8 something we refer to as a mega disaster. It was set by any
9 definition of that word. So no disaster of this scale and scope
10 could ever be perfectly planned for. And every situation like
11 this is -- whether it's Katrina, the attacks of 9-11, the Gulf
12 oil spill, whatever it might be -- by nature, these disasters
13 are filled with unpredictability and uncertainty. Massive loss
14 or damage of property and unfortunately loss of life is almost
15 inevitable in these kinds of circumstances.
16 The question now is pretty straightforward in my mind,
17 and that is how much of the loss in Hurricane Sandy could have
18 been prevented. How could planning and resiliency been better
19 conceived and response better implemented to reduce the damage
20 throughout the region and the risk to our citizens? All of
21 these questions and many more I know will be investigated in due
22 course, and hopefully answers will emerge that will make us
23 better prepared for coping with inevitable future disasters
24 coming our way. And we won't be perfect, ever. But the one
25 takeaway that I want to say, and it may be painfully obviously

to some of you, is that the safety of citizens and our ability to protect and treat people who are affected by disasters depends entirely on functioning interdependent systems that we call infrastructure. So a patient with heart disease or a kid with acute asthma, or one frail elderly grandma living on a high floor in a housing project in Far Rockaway who, after a disaster requires medical treatment or food and water or heating, is dependent on functioning systems. People's lives and well people depend on damaged systems being restored rapidly and effectively. The doctor and the nurse for the hospital need to get to work, and the aid worker needs to visit the stranded individual and the person with chronic illness needs the prescription filled by medications that are available and accessible. For these things to happen on an individual or micro level means that the systems that we're talking about -- the power systems and the other vital functions -- need to be working on a macro level.

Supply chains for medicines and food depend on availability of transportation, of fuel, and of intact river crossings. And essential workers can't get to work if they can't get gas and the public transportation system is shut down. Perhaps most important of all is the need for power. Reliable, resilient, redundant power systems providing electricity maybe considered the most important need of infrastructure functionality in the immediate aftermath of a major disaster.

It's the glue that all the other systems depend upon -- food, safe water, medication supply chains, communication systems, the pumping of gasoline, and the functioning of hospitals all need electricity and they need it right now. They especially need it, obviously in a blackout that's not accompanied by another major disaster, we may have a little time. But in a disaster, we need it literally right now.

So the fragility of our electrical and power systems and the extraordinary long time it takes to restore power are not in the category of acceptable loss or damage for our City or for our region.

So, I'm not portraying myself as an expert in the details of a functioning power systems or restoration or regulations thereof. But after blackouts and disasters in the past and our acute awareness of what could and does happen in large scale disasters, I have been very, very surprised and, I must say, dismayed that this great 21st Century city of ours and its surrounding region were so ill-equipped to protect and repair its vital power system. Because at the end of the day, the failure of this system and other systems put our citizens at great and continued risk. It seems to me that we could and should do better than this because lives depend on it.

Thank you.

EXECUTIVE DIRECTOR CALCATERRA: Thank you, Dr. Redlener.

Are there any questions from the commission?

COMMISSIONER MAHONEY: Was that really just two hours of preparation?

DR. REDLENER. Yeah. And I have copies of this. If anybody would be interested, I would be happy to share them.

COMMISSIONER MAHONEY: I would.

DR. REDLENER: Okay.

EXECUTIVE DIRECTOR CALCATERRA: Thank you so much.

Any questions?

(No verbal response.)

Thank you, Dr. Redlener.

DR. REDLENER: Thank you.

EXECUTIVE DIRECTOR CALCATERRA: We really appreciate your taking the time and coming here this evening.

DR. REDLENER: Sure.

EXECUTIVE DIRECTOR CALCATERRA: Our next speaker will be Dan Kartzman. Dan is the President of Powersmith Home Energy Solutions. He is also the Co-Chair of Efficiency First New York. Mr. Kartzman is a small business owner that participates in the state's various energy efficiency programs administered by LIPA, the utilities, NYSERDA, and Department of Public Service, which is what works for our commission. He also is co-chair of a trade association of energy efficient companies. And we understand that you're going to speaking to us about what you have dealt with as far as the overlapping role of the

agencies on energy efficiency programs, which goes right to the heart of the commission's charge. So, thank you.

MR. KARTZMAN: My pleasure. Thank you for the opportunity to speak and represent the residential energy efficiency industry.

As you just said, I'm the owner and President of Powersmith Home Energy Solutions. Powersmith focuses on delivering energy efficiency projects to residential homes, via a comprehensive whole home approach focused on educating homeowners and leveraging, financing products so the savings from the construction project that we do pays for the work on a monthly basis.

We're a relatively new breed of contractor. What we basically do is we combine multiple trades -- weatherization, like carpentry, insulation, in our particular case, plumbing, mechanical work, we combine that with something called building science, which is applied physics in the built environment. We also use data and simulation to understand where you're losing energy, and doing this for residential homes, not just huge commercial buildings and things like that. And we take diagnostics to put a number to how leaky your house is and things like that to get a sense of your overall energy load.

Every house is unique, or at least becomes so over time. And our job is to look at that house, look at what's going on in there, and find the best possible solution for those

homeowners in three areas: One, so they can be as healthy as possible, mold doesn't just come after storms, a lot of people live with it all the time and don't realize it, be as comfortable as possible. It doesn't matter how nice your house is, you got that room that just won't keep heat or gets too hot in the summer, we track that down from a multi-trade approach. And, ultimately safety. When you start messing around with people's homes and how air flows through your house, and you have things that combust and create carbon monoxide, that's a very serious situation, and we have to check on that and make sure that everything works.

It's an established fact that the cheapest source of energy is that which you never use, and only efficiency accomplishes that. Requiring less power, in general, reduces strain on the grid, which helps reliability and affordability. And that's pretty much the area that I'm going to look into now, really focusing on the programs and our interaction over the last three years in the programs, being one of the leading contractors in the state.

On one hand we are an example of what's possible from a strong program that serves the needs of the program recipients, while making the program accessible to the contractors. We're coming up, in a couple of weeks, on our third birthday at Powersmith. And we are proud to say that we now employ over 35 people. We've done over 500 retrofits.

We've saved our clients, on average, 25 to 50 percent on their energy usage. It's a real difference.

I wish I could say we did it on our own, but we didn't. We opened up in the Town of Babylon. Our success is in large part thanks to the Long Island Green Homes Program, that was originated by current Suffolk County Supervisor Steve Bellone. It was developed and implemented by one of the thought leaders in the industry on a national level, who is the current Suffolk County Commissioner of Labor, Sammy Chu, and continued by the current Town of Babylon Supervisor, Rich Schaeffer.

I'm also here in my capacity as the state coordinator of our trade association, which is Efficiency First New York.

New York is a recognized leader in residential energy efficiency. In 2012 we came in at number three behind Massachusetts and California in the American Council for an Energy Efficient Economy annual ranking.

Resident energy efficiency programs in particular, since the creation of home performance by NYSERDA ten years ago, we have long been the leader in the residential energy efficiency space, as well.

From a policy perspective, we recognize this, we commit tremendous resources to this area, and we've embraced it in really nation leading legislation like Green Jobs, Green New York Act or On-Bill Financing via Power New York.

The challenge is what comes to us on the ground in the

form of energy efficiency programs does not have the impact it could and rightfully should have.

As proud as I am of the amounts of projects and energy efficiency we've delivered to New Yorkers both for Powersmith and the residential energy efficiency industry as a whole, the fact is in the same amount of time we could easily have doubled, tripled or, even in some cases, quadrupled our reach and effectiveness. The challenge is really in the execution.

The energy efficiency industry's growth has been stunted significantly by the existing labyrinth of regulatory bodies, state agencies and authorities, and quasi-governmental bodies which have contributed to the current utility system.

In the aftermath of Sandy -- this has prevented New Yorkers from realizing all of the possible benefits, unfortunately, of a robust energy efficiency industry.

In the aftermath of Sandy, as the power came back on and we started to receive calls from our customers who were overjoyed. Those calls came in as little as three days after the storm and as long as 15, in some cases. So these were people without a power for a long time. And they were ecstatic because their house kept heat or they had some little form of heater and that heat stayed in the house because their home is weatherized, insulated, and this stuff works. That was really gratifying. And that's one aspect that's not totally directly related here, but it's important to think about it. That does

help in cases of crisis or storms or natural disasters.

Another thing that energy efficiency does over the long term, especially in the summer with the cooling strain that it puts on the system, is it reduces the strain on the grid and keeps the system from failing during periods of peak time. That also ultimately not only lowers the cost of energy, but keeps us from having to find more generation, which is the real big cost.

Energy efficiency, in general, it means that, again, less energy needs to be generated as a whole. People's hard earned money gets spent on their energy bills. Efficiency is the or certainly a critical component to make that energy efficiency possible.

There are several unintended consequences of our current utility system that put a limit on the residential energy efficiency industry. One key component is a cost effectiveness test which is supposed to do one specific thing, ensure its programs are cost effective for the ratepayer. However, what we're seeing now is with rising energy costs and finite energy sources, there are so many other benefits, like I listed above, to residential energy efficiency, that this is creating an environment which is holding back the industry, the programs it's evaluating, and overall hurting all New Yorkers, including ratepayers.

Furthermore, the plethora of agencies, authorities, and utilities all having a hand in overlapping programs in the

same areas has created a level of inefficiency. Imagine the results and added costs of three different entities in the same geographical area with the ultimate goal of making homes energy efficient. Now imagine the added cost of designing, implementing, administering, quality controlling, and verifying the savings of each program. We're not talking about a few thousand dollars here. We're talking about millions that should have been used to deliver energy efficiency to homes, not run overlapping programs trying to meet the same objective or similar objectives. This happens all over our state.

Personally, we lived this last year at Powersmith in Long Island where National Grid, LIPA, and NYSERDA all had programs running concurrently. To access all the rebates and financing, we literally had to do more than one energy audit on the same house at different times. That went on for months. It was nuts. We had to have customers sign multiple forms for the same purpose. We even had to enter the same data. We take about 100 data points. It takes a good half hour to 60 minutes to enter that data. It's a necessary part of the program. When you have to put it in the same piece of software, the same data three different times because different programs are running it and they have issues connecting with that data in 2011, 2012, it gets hard to stomach after a while and certainly hard to run a business that's required to do that.

In this realm, our customers thought we were crazy for

having them sign all these forms and they got annoyed at the process, which makes it harder to build on the momentum of residential energy efficiency. This added considerable overhead, made it really hard to grow our business or maintain it as successful.

The projects that ultimately qualified for all three programs ended up taking as many hours in administrative work as it did in the actual construction. This does not work economically for most businesses. It particularly is a killer for small business, which is a majority or our membership. You have to understand the average project size is $8,000. When we were done getting through all the work of administering the program and getting people the rebates -- because as a business we can't not get people everything available, it wouldn't be the right thing to do and you wouldn't be in business for very long. There was a stack of paper an inch thick. You lose money, very clearly, on this job -- on these jobs, but you can't not do it. It's a very tough position to be in, and it puts a lot of people out of business, unfortunately, and has.

What's important to know is in many instances, but not all, the overlap of statewide programs and utility programs end up significantly reducing the effectiveness of both programs, in terms of energy, in terms of energy savings gained. This is the case when, like I spoke before, the same geographical area -- when homeowners in the same geographical area have to choose one

program over the other because they come from the same funding source. This puts the programs -- the program is supposed to accomplish the same objective for the same people in direct competition and makes very little practical sense.

There is no question that the whole house approach, based on building science, which is applied physics in the built environment and begins with an energy audit, is ultimately better for the homeowner and the goal of completing as many cost effective residential energy efficient projects as possible. This approach is called home performance.

When you are doing weatherization, insulation and mechanical system work on any level, even just one of them, it is critical that health and safety protocols are followed. For this reason, the rigor of getting into programs like NYSERDA's, of training, certification, entry, the project approval process, the simulation, to make sure we're going to save the money that we say we're going to save, gathering all the data, testing in to make sure that we know exactly what's happening in the house, doing the work, testing out to show to the customer and to the program that we did, in fact, achieve what we said we were going to achieve and have data to verify that, and the process on the back end is extremely important.

Unfortunately for us, in our industry, and this is the great challenge for us over the next few years and decades is most homeowners have never heard of home performance. So, when

the home is cold, they call their plumber or their HVAC guy. They call what they know. In rare cases they know enough to call their insulation guy, but even then that doesn't happen too often.

The statewide home performance process that we use is thorough, is done correctly. But what it also does is our membership has more -- it creates more overhead for the contractors in our membership and their businesses. In some cases, it makes it that they have to compete against utility programs. The reason for this is many utility company's rebate programs, whereas NYSERDA is very stringent and thorough, a lot of these programs only require receipts and an insurance certificate for participation, relatively simple. There's no quality assurance. There's no load calculations. There's no data in. There's no data on the back. There's nothing there to really ensure any real net gain for efficiency.

For example, in the Rochester area you can use either the NYSERDA home performance rebate or the utility rebate, but not both. This was never a huge problem because the NYSERDA rebate was worth a little bit more and, honestly, at the end of the day that's how most homeowners make their choice.

About two months ago the utility doubled the rebate, making it now worth more than NYSERDA's. What happened then is, in this case homeowners are encouraged to, by that process, if not directly, to go with the program that is less thorough and

ultimately has less energy efficiency opportunity than the comprehensive whole home approach.

What we do in home performance is about education. Once you understand how your house is operating from a building science perspective, you never go back. The truth is unless you're an engineer you most likely will not know this stuff until you are educated about it; that's what the audit process does. On the flip side, no homeowner or anyone, for that matter, knows what they don't know. So the homeowner who uses the utility program may have been led to believe their home is now energy efficient because their contractor and their utility said so. Their utility said so in the form of backing the rebate, saying this is okay. This may be a customer who now never comes back to comprehensive approach because they make their own judgments, but are ultimately operating on assumptions that are misinformed, that they have done everything they can do to their home when they barely scratched the surface. One of the speakers earlier made the point that nothing, at least in the residential sector, nothing happens if you cannot engage the consumer.

Furthermore, with their contractor, people are inclined to believe their contractor, and that's because that's the expert that they called in, that they need to call in. But if a contractor has not gone through proper building science training, it does not matter how long they've been in their

field, they will not understand these concepts, and as a result misinform homeowners who believe them because they, in turn, don't know that home performance exists.

Energy has historically been relatively cheap and people are not educated in this work so these kinds of problems continue. A majority of contractors, when you get into where a lot of the utility rebates are, which are mechanical equipment, there is a common practice in HVAC and in plumbing where you put in equipment that is oversized because you don't want to get called back for the equipment not working. Let's face it, nobody's calling you back because your heat is too hot. Although this is common, the practice is inefficient and needs to be incentivized to end. Finally, we're at a point where on the back end of that people are noticing the costs of energy and looking for answers. The problem is you get your brand new boiler and it's way oversized, a year later you sort of realize, hey, maybe this isn't right. This is a six, seven, $8,000 investment to change it. It's just not something that you're going to be able to do.

I think what we really have to do at this point is to ask ourselves is the answer incentivizing, you know, these oversized high efficiency mechanical -- this oversized, high efficiency mechanical equipment that maybe saves, in reality, ten percent of energy because it's more straightforward from the program perspective, or should it be to encourage the home

performance model that can cut energy usage by 30 to 60 percent per home.

Since it takes more time and, therefore, costs to do this more comprehensive model of home performance, shouldn't these programs make it more economical for contractors who take the time to do it properly? Shouldn't the program's job be to position what's in the interest for all New Yorkers in the long term by designing programs that support the approach that makes the most gains for New Yorkers as a whole? Isn't the program's role to leverage rebates and financing to make that call a no brainer for each and every New York homeowner so this approach spreads like wildfire? If this is incentivized the right way, organized to be cost effective and streamlined to prevent programs with similar objectives from getting in each other's way, the results can be beyond anyone's wildest dreams.

It is vitally important to understand utility program rebates are not always in the way. A great example is LIPA, who runs a local program specific to local needs that are complimentary to NYSERDA's home performance programs. What LIPA really cares about is demand side reduction. Therefore, they have different requirements for qualifying for the program, use a different source of money to pay for it, and are able to be complimentary. This is a key reason why Long Island has become a leader in residential energy efficiency projects in the state, on pace to represent a third of total NYSERDA projects this

year.

Local program and local control makes sense when the needs of the area and the conditions of the area vary in a significant way from the rest of the state. For example, the difference in regional cost of energy is a key that has far reaching effects for energy efficiency programs that need to be cost effective. When you're looking at this statewide, that needs to be considered. However, in these situations where there are local programs, which there shouldn't always be, but, when appropriate, should be, those programs should be additional and they should be complimentary. Plus, to make the best possible programs on the ground for the state and each region, we must focus on the commonalities of the program in order to streamline them.

In conclusion, the amount of work myself and a few other dedicated contractors have had to put in as business owners to corral these programs to even talk to each other has been immense. Efficiency First New York takes over a third of my time, time I'm not spending working on my business, getting more residential energy efficiency projects done. We did this and put in this time as an industry and myself because we had to do this in order to survive. The idea of entering triple data entry and some of the other examples I've given today, it's not sustainable and it had to stop or my people were going to lose jobs.

It just seems off to me that the private sector has had to spend significant time bringing various entities of the government together who are working to achieve similar goals.

A few people in particular have been critical to getting us from the days of triple data entry problems of two years ago to where we are today, which is a continual challenge to streamline various programs. However, I would like to point out that we are extremely thankful for people like Jeff Pitkin, the treasurer of NYSERDA who has just been incredible in the process, and really forcing NYSERDA to go beyond their comfort zone and make this work for homeowners. He really gets the idea that this doesn't happen without the consumer, and he's helping to drive that organization to make it as friendly as possible.

I would also like to -- we'd like to thank Lisanne Altmann, the Director of Energy Efficiency Programs at LIPA. She is an example of the best thing that a local program. She immediately saw the value in reaching out to NYSERDA and streamlining these processes. She was onboard from day one and we absolutely treasure her. And, finally, Sammie Chu -- the original idea to the -- the Commissioner of Labor who was formerly with Long Island Green Homes Program in the Town of Babylon. The original idea to bring all these programs together and start this process that's now two and a half years in the making was his. It's gone such a long way. And it's got us on Long Island, night and day from what it used to be.

I thank the Commission for the opportunity to speak on behalf of the industry.

We are so close to establishing a system to make 30 percent to 60 percent energy reductions, via an energy efficiency construction projects a common occurrence for New York homes. This will save so much energy, while creating tens of thousands of jobs in the process. We have the workforce. We have much of the high level policy in place.

Lastly, don't let the beard fool you. I'm a member of the millennial generation, and there are differences of our generation. Going through this experience over the last few years and learning about the regulatory process, all the ins and outs, it's been puzzling to me why this is so hard. I understand that there are reasons; I've even learned many of them. It's sort of part of politics, sort of part of the world we live in.

All I've done -- this is relatively straightforward. It seems obvious that it would work. The way you make homes energy efficient in a macro way is because the work saves you money, you combine it with financing that over time, if I save you $100 a month, your job is --

EXECUTIVE DIRECTOR CALCATERRA: Mr. Kartzman, we want to make sure that the comments are focused on what the focus of the commission is. And you've been absolutely terrific in sharing with us what you see as the reality of the redundancies

of the program, so we do truly appreciate that.

Thank you very much for joining us this evening.

MR. KARTZMAN: Sure.

EXECUTIVE DIRECTOR CALCATERRA: We greatly appreciate it.

COMMISSIONER COLLINS: I have a question.

EXECUTIVE DIRECTOR CALCATERRA: Yes.

COMMISSIONER COLLINS: Just a clarification. It covers the competing programs between NYSERDA and the utilities. Did I hear you, very early on, mention that there are other agencies that are in the mix there that impede what you're trying to do?

MR. KARTZMAN: Yeah. A lot of it is in the background. Primarily, it comes down to NYSERDA and the utilities, but it all sort of flows from the PSC and staff. So while not direct, everyone sort of plays a role, and different folks and organizations look at different aspects of it.

COMMISSIONER COLLINS: I think more locally, from building inspectors to permits. Do they understand the process?

MR. KARTZMAN: It could be challenging. You have to teach one person at a time. The thing about this stuff is when you get it, you really get it and it sort of goes from there.

EXECUTIVE DIRECTOR CALCATERRA: Thank you very, very much.

MR. KARTZMAN: Sure.

EXECUTIVE DIRECTOR CALCATERRA: What we take away here is that there is clearly an overlap that negatively affects small business and also acts as a deterrent for consumer, as well as all the paperwork. So this was tremendously helpful.

Thank you so much.

MR. KARTZMAN: Thank you.

EXECUTIVE DIRECTOR CALCATERRA: We'd like to invite up next Chuck Bell.

Mr. Bell is Program Director for Consumer Union, which is an advocacy organization. And one of the things he's going to be focusing on this evening, we understand, is consumer related policy issues related to utilities. So thank you very much for joining us.

MR. BELL: Thank you.

I have a couple of brief comments about emergency response, and then most of my comments will be about alignment of the agencies.

I work at Consumers Union. We're the non-profit organization that publishes Consumer Reports, based on Yonkers.

One thing I think is a little bit of a bright spot is the deployment of new technologies to help consumers report their utility complaints. If you have an automated complaint reporting system that could be accessed for phone, mobile phone, and internet, it allows the consumers to quickly report service outages, if they still have access to one of those communication

mediums, and then also for the company to make an automated call back to tell you what to expect, to calibrate your expectations. And so, in the case of myself and my neighbors, a number of us were able to do this in this storm and get some pretty reliable information about when service would be restored. So I think that probably was not the case for everybody and probably for many consumers they called and they didn't get the information they needed, and they couldn't make a plan to get on with their lives because that information was not provided. So I think what you are doing to look into what happened, even on simple issues such as that, could be incredibly important, to characterize the experience of the over two million people who lost power and other utilities in the storm.

COMMISSIONER BRADFORD: Can I ask who your utility is?

MR. BELL: Con Ed. I live up in Westchester County.

Second thing would be consumers who have special needs -- and I think also, consumers who report their problems, we understand that we maybe in the queue. We understand that there may be emergency situations that come before fixing the power at our house, and that there maybe vulnerable populations that need help first.

We do have organizations in the Consumer community that work with seniors and people with disabilities who had a variety of concerns about the storm, including power failures at

hospitals like NYU, but also people with disabilities and seniors who were in New York City Housing Authority buildings without power, unable to get up and down the stairs, who need medicine, a variety of complex and interrelated things that come out of that. I think looking at the utility side of how well people with disabilities or with limited mobility were served is very important. In New York City, in particular, there were a number of shelters that were not accessible to people who had disabilities, so that's been noted by my colleagues.

A third thing is I feel, just generally speaking, that in an emergency the capacity of utilities to respond and provide good customer service comes down to the basic issue of having the people and the equipment to do the job. And so while multiplying the fore structure by borrowing workers from other states may help in a crisis, the problem could still be exacerbated in a massive regional storm, and it doesn't necessarily fix the service quality problems we have during normal weather conditions. And we, on the Consumer community, and that would include groups like AARP and NYPERG, we believe that we have service quality issues that are longstanding, with both electricity and telecom services, that have not received adequate attention from private utility managements or state regulators. And so, we would not be surprised that you would uncover a lot of problems, in terms of the capacity of these companies to make repairs or to respond to customers

appropriately.

In normal weather conditions, we have to respond -- the consumers experience lots of problems with utility service, but they tend to experience them in isolation, one household by one household, and it doesn't take on the configuration of this big, massive event. For example, we know we have one and a half million people in New York State with an energy affordability problem, that spend more than six percent of their income for energy. If we look at it, it's just 40 percent of those people in New York City, but it's really a statewide problem. All regions in the state are affected by energy affordability concerns.

A second thing is, a very serious thing is the high number of electricity and natural gas terminations that are experienced by families every year. A recent report by AARP that came out in 2011 is called the Quiet Blackout. And they found in that report that 335,000 people had energy service terminated, for either electricity and/or natural gas, in the course of that year, and that's an average of about 36 terminations an hour. So if we are here for two hours, 72 families affected by electricity terminations. And these issues have been brought to the attention of state regulators, and not always with a satisfactory response.

The main thing I wanted to emphasize in my remarks, I've been a consumer advocate in New York for about 20 years.

Since I've been in the state, I've been trying to ensure that consumers had a voice in utility policy making.

And as individual consumers, we are dispersed in the marketplace. And we don't have an easy way to pool our resources to hire analysts or attorneys and experts to represent our interests at the State Public Service Commission, or the FERC, or other state or federal agencies.

There's an enormous dispirit of resources between those available to individuals or consumers as a group and those available to utilities. Large utilities like Con Ed or National Grid, LIPA and Verizon, Cablevision, they have the ability to deploy hundreds of professional staff to advance their interest at regulatory agencies and their legislative bodies, including technical experts, attorneys, and media relations staff.

The other measures that we have, the sort of compensatory measures to ensure that consumers have a voice in utility policy making have to be robust, and it can be at several different levels. But I would point out that these can bring substantial pressure to bear on an executive branch, on the legislature, and if they have to go to court, they are much more lawyered up than the consumers are going to be. In fact, the one thing that they can agree on is that they would, you know, they would prefer that we don't have a huge voice in policy making. And so you see that play out that we have not had strong pro-consumer appointees at the Public Service

Commission, going back quite a number of years. So that would be one level in which we could ensure consumers have a strong voice.

But we also have state utility advocate agencies, like the Consumer Protection Board, for many years, which has now been reorganized into the Utility Intervention Unit at the Department of State.

At one time, when I moved to New York in 93/94, the CPB Utility Unit had 31 people working for them -- experts, analysts, and attorneys. In 2011, 2012, it had dwindled down to two, two people. I think maybe they have three or four this year. They are trying to build up their structure. But over many years, under many years of a philosophy of opposition to strong consumer representation, that function was allowed to dwindle away and also because of the fiscal pressures we've been facing since the recession.

We also have some capacity within the State Attorney General Office's, but relatively a small number of people, just one or two people working on utility issues. By contrast, in other states, many more people will be at a state agency working on utility issues, utility rate intervention, analyzing filings, making sure consumers are getting needed discounts. For example, the number of consumers who are getting lifeline discounts for telephone service has dropped precipitously over the last several years and nobody is really paying attention to

it. There are not many advocates jumping up and down for it.

In the non-profit sector, there again we've lost some critical capacity. For many years we had the Public Utility Law Project that was funded in part by the state legislature to provide a specific voice for low income consumers who are dealing with utility shutoffs and dealing with things like energy efficiency. And Jerry Norlander, who is the director of that agency, is the one who told me we should have the ability for consumers to buy energy efficiency on the same terms that they buy electricity. This program, the Green Jobs, Greet New York program gets one million retrofits to New York consumers so they can save money on their electric bill, have more money in their pocket to put back into the economy is a critically important program for consumers. But we ought to be rolling these things out much more quickly than we're doing. It's an opportunity to put people back to work, fixing up houses and having a much better outcome for consumers.

So, unfortunately PULP lost its funding several years ago, and so there is no sophisticated non-profit organization that is working in Albany to intervene and to make the case for ratepayers. A similar things we had in the 90's, the Citizens Utility Board, where 20,000 consumers banded together to fund their own rate intervention. Thanks to insert privileges and state mailings granted by Governor Mario Cuoumo. And when Governor Pataki was elected, he extinguished that program. The

one achievement of that program I'm aware of it that a Niagara Mohawk rate increase was vigorously opposed by the cub. They brought out over 1,000 people to hearings -- because consumers really would like to participate in issues about utility policy making -- and they were able to stop the rate increase in its entirety. So if there is no voice for consumers in these rates cases or in other forms of policy, such as energy efficiency, we're just not going to be getting the benefits that we need.

We've had other changes to utility regulation in New York State that have also hurt consumers. The PSC has been unwilling to issue tough fines for service quality problems. Recently, the PSC let Verizon out of 90 percent -- they redefined their service quality metric so that they didn't cover 90 percent of their customers, even though customer complaints were up by six fold. The PSC was not willing to discipline Verizon for many service quality violations.

Another challenge that we have is with respect to the ESCOs. The idea that we have given choice to consumers to choose their own electric supply company. A recent expose in The Syracuse Post found that while consumers were given subsidies to induce them to switch suppliers, 80 percent of the consumers or higher actually ended up paying rates after switching suppliers. And I can tell you as someone who studies this stuff, I can't make an informed decision looking at the information that's provided by the state and I wonder how anyone

can.

I think we have some longstanding issues that require redress. And I would say -- I personally would be interested in consolidation. As a consumer, what I have seen over time is our voice is the easiest voice to extinguish. Even if you have a staffed state utility watchdog, I think we also need independent watchdogs. I think it's good if the attorney general has a robust capacity in this area, and we have several non-profit watchdogs. It's all too easy for the utilities to go to Albany and bring political pressure to bear on an issue of tremendous importance for the people of New York State. If we have one and a half million households with an energy affordability problem, their interests have to be represented up in Albany. We also have an AARP survey that showed 41 percent of New Yorkers over age 50 report they have difficulty paying their electric bill each month, including 48 percent of African Americans and 56 percent of Hispanics over age 50.

So, I would be interested in working with you as you go forward, and to submit more information. My colleagues in Albany, the NYPERG and the Public Utility Law Project, and AARP would all be interested in participating in these proceedings. And we do urge you and encourage you to listen to the voices of consumers who had problems in the storm and who have problems every day paying their bill or getting reliable service.

EXECUTIVE DIRECTOR CALCATERRA: Thank you very, very

much, Mr. Bell. It was greatly appreciated.

MR. BELL: Thank you.

EXECUTIVE DIRECTOR CALCATERRA: Thank you very much for your testimony.

Our next speaker is Jonathon Schrag. Mr. Schrag, thank you for joining us this evening. We realized you signed up outside. So, can you just give a little bit of background about yourself?

MR. SCHRAG: Sure. Thank you. My name is Jonathan Schrag. I am a resident of lower Manhattan. I live on Chambers Street. I've worked on energy policy in the past, both as an administrator of the Regional Greenhouse Gas Initiative and I'm not a board member of the Northeast Clean Heat and Power Initiative. And I wanted to share with you just a little bit of my experience living in lower Manhattan throughout the storm, and also some thoughts and observations on the future, focused on energy and what the future of New York's energy could be.

We were out of power, my family and I, for four days in lower Manhattan and we count ourselves pretty lucky. My wife and I have had the benefit of going out, through her employer, to volunteer in Breezy Point, and so we know how relatively well lower Manhattan did, although the amount of critical infrastructure that is located in lower Manhattan, as opposed to residences, made those four days pretty important for the rest of New York State.

CO-CHAIR LAWSKY: You live in a high rise?

MR. SCHRAG: That's right.

CO-CHAIR LAWSKY: So you lost water?

MR. SCHRAG: We lost water. We did have gas. We walked our four year old and two year old down seven flights of stairs a couple of times a day. And our car was flooded out. We did not know what a 14 foot flood would be on Washington Street in Tribecca, and I saw what three feet of water on New York City streets looked like.

We did receive a phone call every day from Con Ed telling us what they were doing, and they told us then, Friday afternoon, that on Saturday morning we would have power back. We showed up at noon and, in fact, there was power back. Those daily updates were really important to us.

I would saw walking around the neighborhood on Monday before the storm, we saw the plywood that was put over critical infrastructure, with the foam sealant all around. We saw the Con 1Ed trucks following the storm on Wednesday, Thursday. So, from a resident's perspective, it did not appear to be a lack of micro preparedness on the scene in advance of the storm, nor did it appear to be a lack of responsiveness in the wake of the storm, in terms of numbers of crews that were out working, nor a lack of communication. Instead, it seemed to me that all New Yorkers grossly underestimated what the force of this storm would be, and that over years there had been an under investment

in an old way of providing power.

I reflected after the storm that the way I take photographs of my children, the way that I watch television, the way that I use the telephone have all changed dramatically in the last ten years. I've gotten enormous more consumer choice. I have to pay much less money for those services. And the way that electricity enters my home has not changed at all in the last 80 years. There is still a home, a distribution system, a substation, transmission lines, and generation. I've heard a lot of talk this evening about increasing the public scrutiny on utility companies, and perhaps looking the franchise would increase the teeth of the Public Service Commission. But I'm not sure that it would really change the business model. I'm not sure that it would open the kind of competition that we see from the likes of a Netflix or the likes of your cell phone provider to the old Ma Bell. And I wonder whether this commission wants to take this opportunity to step back, to go slow, and to think in those larger terms about what larger opportunities there are to really change the way consumers and utilities interact with each other.

And when I think about local control, the little bit that I know, I know that there are micro grades that are talked about in other jurisdictions with more advanced applications of information technology that allow islanding of particular places. I know there is distributed generation that individual

buildings can use. I think a pilot program that would place a fuel cell or some other generation technology on a rooftop that might allow buildings to survive would be crucial. I know that I west to the World Financial Center on Vesey Street on day two of the storm to power my cell phone, and that was an oasis of light for a community, much broader than the actual businesses that were located in it.

I look forward to sharing with you additional information about distributed generation and micro grids. And I congratulate you on the work.

EXECUTIVE DIRECTOR CALCATERRA: Thank you very much for joining us this evening.

Are there any members of the audience who haven't had an opportunity to sign up outside that are interested in speaking?

(No verbal response.)

Superintendent Lawsky, those are all of our speakers for this evening.

CO-CHAIR LAWSKY: Great. I guess we'll wind it up then.

I want to thank everyone for participating. A lot of interesting information came out. We look forward, to those who are interested, in hearing from you at our next hearing which is, I believe, Tuesday night in Long Island.

We are adjourned. Thank you.

(Whereupon, the Moreland Commission on Utility Storm Preparation and Response adjourned at 8:24 p.m.)

C E R T I F I C A T E

I, EDWARD LETO, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby state:

THAT I attended at the time and place above mentioned and took stenographic record of the proceedings in the above-entitled matter;

THAT the foregoing transcript is a true and accurate transcript of the same and the whole thereof, according to the best of my ability and belief.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of December, 2012.

EDWARD LETO