

12-20-12 Moreland

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MORELAND COMMISSION

ON UTILITY STORM
PREPARATION AND RESPONSE

RE: LIPA & NATIONAL GRID

REGINA CALCATERRA
Executive Director

225 East View Drive
Central Islip, New York

December 20, 2012

6:27 p.m.

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

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

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3 MEMBERS OF THE COMMISSION:

4 REGINA CALCATERRA

5 Executive Director

6 BENJAMIN LAWSKY, Co-Chair,

7 Superintendent of Financial Services, State of New York

8 ROBERT ABRAMS, Co-Chair, former Attorney General of the State of

9 New York

10 PETER BRADFORD, former Chairman, New York State Public Service

11 Commission

12 DAN TISHMAN, Vice Chairman, AEOCOM Technology Corp.

13 KATHLEEN RICE, Nassau County District Attorney

14 REVEREND FLOYD FLAKE, Greater Allen AME Cathedral (not present)

15 JOANNE MAHONEY, County Executive of Onondaga County

16 TONY COLLINS, President, Clarkson University

17 MARK GREEN, former Public Advocate, City of New York

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1 LIST OF PANEL

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3 BRUCE GERMANO, V.P., Customer Services, LIPA

4 NICHOLAS LIZANICH,

5 V.P., Transmission & Distribution Operations, LIPA

6 MICHAEL HERVEY, COO, LIPA

7 THOMAS KING, US President, National Grid

8 JOHN BRUCKNER, LIPA President & Incident Commander,

9 National Grid

10 THOMAS BEISNER, Director, Electrical Service and

11 Command Center, National Grid

12 MARY GENOY, V.P., Customer Services, National Grid

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1 CO-CHAIR ABRAMS: My name is Robert Abrams, I'm the
2 former Attorney General of the State of New York and Co-Chair of
3 this Moreland Commission. Seated to my right is Ben Lawsky, the
4 Superintendent of the Division of Financial Services of the
5 State of New York, and Co-Chair of the Commission.

6 Both of us -- actually, all at the dais want to thank Touro
7 Law School for its very generous hospitality for allowing us to
8 come here tonight and to have this important gathering.

9 Let me at the outset indicate the Commissioners who are
10 here. We have Kathleen Rice, our distinguished District
11 Attorney of Nassau County; Tony Collins, the President of
12 Clarkson University in upstate New York; we have Peter Bradford,
13 professor of law and the former chairman of The Public Service
14 Commission here in the State of New York; Joanie Mahoney, who is
15 the County Executive of Onondaga County, a very important county
16 in our state in upstate New York where Syracuse is located; Mark
17 Green, the former Consumer Affairs Commissioner of the City of
18 New York and Public Advocate in the City of New York; and Dan
19 Tishman, who is the CEO of Tishman Construction.

20 On November 13, the Governor of New York, Andrew Cuomo,
21 signed an Executive Order establishing a Commission under the
22 Moreland Act, which is Section 6 of the New York State Executive
23 Law, with the mandate to investigate the response, preparation
24 and management of New York's power/utility companies with
25 respect to several major storms impacting New York State over

1 the past several years.

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

7 The first objective has been assigned to a policy
8 subcommittee chaired by Commissioner Peter Bradford. Members of
9 that committee are Commissioners John Dyson, Tony Collins and
10 Dan Tishman. It is charged with examining the functions of the
11 various energy agencies in the state, and determining if the
12 public would be better served if they were reorganized or
13 streamlined.

14 The committee will also be examining the monopoly-type
15 structure of the investor-owned utilities, and whether there
16 should be reforms going forward to ensure that consumers are
17 adequately served. It will also be examining LIPA to determine
18 whether there should be structural changes to its organization
19 and operation.

20 The second objective has been assigned to an investigatory
21 subcommittee. It is being chaired by the District Attorney of
22 Nassau County, Kathleen Rice. Members of that committee are
23 Reverend Floyd Flake, Joanie Mahoney and Mark Green. It is
24 investigating the emergency preparedness and storm response of
25 the utilities in all of the recent storms.

1 This Commission has benefitted from the experience and
2 extraordinary effort of District Attorney Rice, and owes her a
3 deep debt of gratitude for spending an enormous amount of time
4 in spearheading this inquiry. The District Attorney will be
5 leading the questioning of our panel of witnesses from LIPA and
6 National Grid this evening.

7 The Commission has held two previous hearings, one in
8 Manhattan and one in Nassau County, where members of the public
9 were invited to testify. Two additional hearings are scheduled
10 for the public to provide testimony. On Wednesday, December 26,
11 at 6:00 p.m., at the Jewish Community Center at Staten Island,
12 at 1297 Arthur Kill Road, there will be a public hearing where
13 members of the public are invited to come in and give us their
14 views, and on the following day on Thursday, December 27, at
15 Challenge Preparatory Charter School at 365 Beach 56th Street,
16 Rockaway, Queens, there will be a second hearing.

17 The people of New York have suffered devastating losses as
18 a result of Superstorm Sandy, dozens of lives have been lost,
19 billions of dollars of damage has been sustained, homes have
20 been ravaged, hospitals evacuated, subways and railroad service
21 suspended, sewage treatment plans disabled, food and fuel
22 distribution severely affected, and families and personal lives
23 have suffered severe emotional and financial set backs.

24 The public is entitled to a thorough investigation and
25 analysis with accountability for any negligence or wrongdoing.

1 My Co-Chair Ben Lawskey will now make a statement.

2 CO-CHAIRMAN LAWSKY: Thank you Chairman Abrams, and I do
3 want to acknowledge all of your hard work in this matter so far,
4 and I thank you for that, and I want to thank all the members of
5 the Commission, including our Executive Director Regina
6 Calcaterra and her staff, who have been working day and night,
7 and most of all, I do want to also echo what Chairman Abrams
8 just said, DA Rice has done just an incredible job getting ready
9 for this hearing and leading our investigation subcommittee, and
10 she is truly just a great public servant. She has a day job,
11 but she has just done wonderful work for the Commission, and I
12 think we're all thankful to her for her leadership.

13 The hearings we've been conducting in this matter are
14 obviously incredibly important. So many people have suffered
15 because of Storm Sandy, and so many people are still suffering
16 as we sit here even tonight. Our focus on utilities, in my
17 opinion, is utterly vital, how did the utilities prepare and how
18 did they respond. Our power system in particular was described
19 at our first hearing by one expert witness as really the glue by
20 which all the other systems are bound, and whether its hospitals
21 or whether its our water systems or any other of the vital
22 systems you need after a catastrophe, the power system is really
23 the glue that holds them all together, so it's just vitally
24 important that we examine what went wrong. And clearly
25 something went tragically wrong in New York and on Long Island

1 and elsewhere in terms of our power system after the storm.

2 It appears, and we're not done with our investigation, but
3 it appears so far, in short, to have been just an epic failure,
4 and the failures were widespread ranging from technological and
5 systems inadequacies, to inattention over the years, to storm
6 hardening, to what can only be described as just colossal
7 communications failures. People were literally and figuratively
8 left in the dark for days and days and weeks and weeks.

9 New Yorkers deserve answers as to how this happened, why it
10 happened, who is accountable for it, and how we can prevent it
11 going forward, and we are tasked by the Governor with getting
12 those answers, and we will get those answers.

13 The truly scary thing that I have found thus far in our
14 initial investigation is a lot of the things that went wrong
15 have been discussed for years and years and years in report
16 after report after report, and we are all human and we all make
17 mistakes, and companies make mistakes all the time, but to make
18 those mistakes time after time, when you've been warned about
19 them and knew they were a problem and didn't fix those problems,
20 is truly a scary thing, and to me, raises the real question of
21 whether structural changes are needed.

22 So I look forward to the hearing and hearing from the
23 witnesses and learning from the witnesses, and again, just thank
24 you, Chairman Abrams, for your leadership.

25 CO-CHAIRMAN ABRAMS: Thank you. The Commission has been

1 so well served by someone who quickly stepped into the breach
2 when the Governor made his announcement, Regina Calcaterra, she
3 is the Chief Deputy County Attorney -- not county attorney,
4 County Supervisor and County Executive in Nassau County.
5 Suffolk County, the county that we're in at this very moment,
6 and we all appreciate her hard work and her effort, and I'm
7 going to turn over the proceeding to Regina Calcaterra.

8 MS. CALCATERRA: Great. Thank you so much. And mixing
9 up Suffolk and Nassau County is something that we're all used
10 to, because we really don't think of ourselves as separate
11 counties, since we're one region down here.

12 What I'd like to do is actually give you a little bit of
13 history about why it is that we're having this hearing -- this
14 specific hearing tonight, and explain why also we invited the
15 witnesses before us as well. So the mission of the Moreland
16 Commission on utility storm preparation and response is to
17 investigate the emergency preparedness and the storm response of
18 utilities for a variety of different storms, and those storms
19 including Irene, Sandy, Lee, and an ice storm in December 2008.

20 But as has been very publicly stated, it is the Governor's
21 plan to closely examine the LIPA structure, and is looking to
22 make some changes at LIPA as well, so it's imperative that we
23 actually have a hearing with LIPA and National Grid now rather
24 than later.

25 However, once the new year comes, we will be holding

1 similar hearings like this hearing around the state. We have
2 had the opportunity to get public comment. We will continue to
3 get public comment. But it's also important that we speak with
4 the other utility providers and to discuss what their response
5 was to those storms as well. So we will be having those in
6 January, but right now, because of the timing of this, it's
7 important that we bring National Grid and LIPA before us.

8 And the objective of this hearing is to gather critical
9 information that will assist the Commission in meeting the
10 mandate that was set forth in the Governor's Executive Order
11 that actually created the Moreland Commission, and it's very
12 important that the Commission's witnesses are able to answer the
13 questions that are asked, and the best way to ensure for the
14 Commissioners to hear the answers, is that we are all free of
15 interruption as we go through this hearing tonight. So we do
16 look forward to cooperation of all those in the room in
17 assisting us hearing the answers to the critical questions that
18 we're actually asking.

19 As you're going to learn tonight, LIPA has a very unique
20 structure where they own the distribution and transmission
21 lines, and they also own their substations, but then they
22 contract that service out to National Grid. So in order for the
23 Commission to ascertain the information that we're looking for,
24 it's best for us not only to have asked LIPA to appear before
25 us, but also the leaders of National Grid as well, so we can

1 discuss the recent storm, and also discuss the structure that
2 we're going to closely examine this evening.

3 So now what I'd like to do is also tell you why it is that
4 we invited the witnesses here. One of the things that we're
5 going to be doing, what's important is to look at storm
6 preparedness and emergency response, and also, take a look at
7 past practices of storm preparedness and emergency response and
8 compare it to the recent storm with Sandy.

9 So having the leadership of both entities of Michael
10 Hervey, who's the COO of LIPA, and also Tom King, who's the US
11 President of National Grid, is very important. And National
12 Grid is set up where it has a UK/US president, and it also has a
13 US president for the northeastern territories that it covers,
14 and I believe it also has a regional president that includes
15 Massachusetts, it has a New York president, and it has
16 essentially a LIPA/National Grid Long Island president. So we
17 thought that it's appropriate that we invite Tom King, who's the
18 US president, but that we also invite John Bruckner, who is
19 essentially the National Grid president overseeing LIPA as well.
20 So that kind of covers as far as the leadership of those two
21 entities.

22 Another aspect of our investigation has to do with
23 basically the transmission of electricity, and how it happens,
24 and how we can make it better, especially in storm-related
25 incidents. So that's why it was important also to bring John

1 Bruckner, Thomas Beisner and Nicholas Lizanich before us,
2 because their responsibility also covers the transmission and
3 distribution of electricity, both for LIPA and National Grid.

4 We also want to address emergency preparedness and those
5 who managed the command center, and by way of our investigation,
6 we understand that Michael Hervey had a leadership position in
7 the command center, as did John Bruckner, so having the two of
8 them here also helps us get information related to the command
9 center.

10 And then the final issue that was imperative and that
11 everyone is aware of, there were communication challenges right
12 after the storm as far as when we were going to get the
13 emergency -- that electricity was going to be up and running,
14 and so we wanted to also examine communication, and the way the
15 communication works at LIPA/National Grid, and what the
16 challenges were to get the appropriate messages out to the
17 possible public, so they knew when their electricity was on. So
18 the two people who were in charge of communications and customer
19 relations for both National Grid and LIPA and here, and that's
20 Bruce Germano and Mary Genoy. So that is why our Panel is
21 constructed the way it is, because we thought by inviting all of
22 these seven witnesses here who gladly joined us this evening,
23 we'd be able to do our best to closely examine this as much as
24 possible.

25 So now what I'd like to do is start the formal part of this

1 Commission hearing this evening, and in doing so, I'm going to
2 ask all the parties to please stand up and raise your right
3 hand. Thank you. And after I say the oath, just afterwards,
4 answer the way you prefer to answer, not that -- you know.

5 Do you swear or affirm that the testimony you are about to
6 give to this Moreland Commission is the truth, the whole truth
7 and nothing but the truth?

8 MR. GERMANO: Yes.

9 MR. LIZANICH: Yes.

10 MR. HERVEY: Yes.

11 MR. KING: Yes.

12 MR. BRUCKNER: Yes.

13 MR. BEISNER: Yes.

14 MS. GENOY: Yes.

15 MS. CALCATERRA: Thank you. You may be seated. Now
16 we'll turn the hearing over to the first set of questions that
17 are going to be put forth by Nassau County District Attorney
18 Kathleen Rice.

19 MS. RICE: Thank you Regina. Just to give a little
20 background as to what steps the investigative subcommittee that
21 I am chairing has taken over the past month or so that we have
22 been in existence, we have subpoenaed seven utilities involved
23 in responses to the recent storms, including LIPA and National
24 Grid, the Commission staff has reviewed thousands of documents
25 and is waiting to receive additional productions from the

1 utilities.

2 Over 20 interviews were conducted at the Commission's
3 offices with witnesses from LIPA, National Grid, local
4 municipalities and others involved in the restoration process.
5 We also spoke to elected officials and people in various levels
6 of seniority within National Grid and LIPA, including the LIPA
7 manager for customer service, the senior coordinator of
8 emergency planning, National Grid employees included the
9 director of transmissions, operations and compliance, the
10 division manager for western Suffolk in the department of
11 electric service, the executive advisor to the president, and
12 again, one of the LIPA employees that we spoke to is the
13 executive director of governmental and community relations. So
14 it was a wide ranging set of interviews that was conducted.

15 We also received public comments and testimony during two
16 days of public hearings and on our moreland.gov website. We
17 also sent informational requests to critical infrastructure
18 customers and out of state utilities that provided mutual aid
19 crews. To date, the staff received replies from over 15
20 entities, including utilities, mass transportation, fuel
21 terminals and telecommunications companies.

22 So at this point, what I'd like to do is just get right
23 into the inquiry, and I think it goes without saying that one
24 thing that we know that occurred during the course of Sandy, and
25 certainly we've seen played out in the other storms that Long

1 Island and other areas of New York have been subjected to, and
2 that is understanding exactly who is in charge. And I'm not
3 talking about blue sky conditions, because people don't pay
4 attention when everything's going well. It's really during more
5 emergency situations like we just recently had with Sandy.

6 So I'd like to start with just looking at the Management
7 Service Agreement that exists between LIPA and National Grid.
8 So I'm going to start my questions with you, Mr. Hervey, if you
9 would be so kind. There is a Management Service Agreement that
10 exists between LIPA and National Grid that is set to expire on
11 December 31 of 2013, we can talk later about where it's going
12 after that, but that MSA includes meeting guidelines that are
13 agreed upon between LIPA and what was then Keyspan and is now
14 National Grid, and they are protocols for market identity and
15 brand identification, but one of the most significant things
16 that appears in the MSA is in Appendix 13, which speaks to their
17 purpose, and I'm going to take a quote directly from it, it says
18 "It is important that customers of each entity clearly
19 understand or have the opportunity to clearly understand the
20 nature of the primary services and products provided to them by
21 each entity." I'm sure everyone on this Panel is aware of that
22 excerpt, but it makes it clear that one of the top priorities is
23 to ensure that the customer understands who their service
24 provider is, so in the event that they have a problem, they know
25 who to take that problem to.

1 Now there are certain aspects, Mr. Hervey, of the MSA that
2 speak specifically to what powers and oversight LIPA is going to
3 maintain as it relates to this Management Service Agreement. I'm
4 sure I'm telling you everything you already know, but I just
5 want to point out a couple of things. It talks about how all
6 media communications pertaining to LIPA's electric business is
7 going to be handled by LIPA's office of communications, and that
8 every National Grid employee is to portray him or herself as a
9 LIPA representative. There shall be -- LIPA's going to be
10 solely responsible for discussions related to meeting any
11 responsibility having to do with the supply of electricity at
12 any and all public events, including speaking engagements
13 involving solely LIPA's electric business. They will be
14 identified as LIPA events without any reference to National
15 Grid, and so on and so on.

16 And so what we see, Mr. Hervey, is a real intent on the
17 part of LIPA to maintain a level of branding identity that at
18 least to the public says that LIPA is the primary source of
19 their service. Would you agree with that, Mr. Hervey?

20 MR. HERVEY: I think the effort there stems from the 2005
21 revision of the MSA, which at that time recognized that our
22 customer base between the gas company, at that time Keyspan, and
23 LIPA didn't identify the two different service providers. So we
24 went to great efforts to make sure that we were able to -- that
25 our customers would be able to know who the two service

1 providers are for those two types of services.

2 MS. RICE: And you wanted them to know that that was
3 LIPA?

4 MR. HERVEY: We wanted them to separate LIPA from the
5 Keyspan brand at the time.

6 MS. RICE: Okay. And so as part of that, you insisted
7 that all of the trucks, all of the hard hats, whatever anyone
8 wore, it was all branded LIPA, there was no National Grid
9 branding as it is to this Management Service Agreement. There
10 was a desire to make it all LIPA, identified as LIPA, is that
11 true?

12 MR. HERVEY: That's not entirely correct.

13 MS. RICE: Well, in terms of to the public, when the
14 trucks that were going to be LIPA trucks, LIPA hard hats, people
15 were to identify themselves as LIPA employees, I mean, that's
16 just in all these sections that I read. Would you agree that I
17 was reading from the MSA?

18 MR. HERVEY: You are. But, again, the assumption you
19 make is not entirely correct, because the contract also accounts
20 for co-branded facilities, and also then identifies clearly that
21 the generating plants in another separate agreement are still
22 branded under the owner of the --

23 MS. RICE: I'm talking about this agreement, and I'm
24 reading it, and I can continue to read, but I think time is
25 better spent going on to another topic. But clearly there was a

1 need for LIPA, a desire for LIPA to engage in brand identity,
2 and in fact, over the years, I'm sure you would agree with me on
3 this, Mr. Hervey, because you entered into these contracts, you
4 hired PR consultants to work on brand identity. Would you
5 agree, you just engaged in a new -- engaged a new PR firm, you
6 used to use Zimmerman Edelman, for purposes of branding; would
7 that be correct?

8 MR. HERVEY: Not really.

9 MS. RICE: Well, not PR, but it was branding --

10 MR. HERVEY: Well, no PR firms. That particular firm was
11 hired for purposes of placing ads and creating material for ads.

12 MS. RICE: And they were hired by LIPA?

13 MR. HERVEY: Right.

14 MS. RICE: So let me just go through the MSA and specific
15 portions of the MSA that talks about what National Grid's
16 responsibility is going to be, and Mr. Bruckner, if you have
17 anything to add, I can direct some questions to you as well.
18 But National Grid shall perform normal and customary customer
19 services, including customer or account service and maintenance,
20 service restorations, account inquiry work, customer assistance,
21 they shall maintain at all times customer service and/or payment
22 offices within Nassau and Suffolk and Far Rockaway, they shall
23 maintain the transmission distribution system, they'll be
24 responsible for all electric transmissions, distributions, and
25 mode serving activities for the safe and reliable operation of

1 the T & D system, they're going to be responsible for the
2 day-to-day operation, emergency repairs, emergency preparedness
3 and planning, it goes on and on.

4 Mr. Bruckner, that lays out in this MSA exactly what the
5 responsibilities and duties are of National Grid under this
6 Management Service Agreement, would you agree with that, that
7 that's correct language?

8 MR. BRUCKNER: I would agree with that.

9 MS. RICE: Okay. So what we have here, gentlemen, is
10 a -- it seems to me what is the source of a lot of public
11 confusion in terms of who the person is that's responsible for
12 overseeing or providing the service to the customer, and we can
13 get into some levels of what oversight responsibilities LIPA
14 maintains as the owner of the T & D system, which you would
15 agree, Mr. Hervey, that LIPA actually owns all of the assets,
16 correct?

17 MR. HERVEY: All of the transmission and distribution
18 assets. That's correct.

19 MS. RICE: And distribution assets. And you manage, you
20 contract out for the management of those assets, correct?

21 MR. HERVEY: That's correct.

22 MS. RICE: So as the owner -- this is further in the
23 MSA -- as the owner of the T & D system, LIPA retains the
24 ultimate authority and control over the assets and operations of
25 the T & D system, and the right to direct the manager, National

1 Grid, in connection with the performance of that, the right to
2 determine customer and public communications policy, the right
3 to oversee and audit the manager's operation and performance, on
4 and on.

5 Again, this real dichotomy situation where LIPA is the name
6 out there and retains a lot of the oversight, but the day-to-day
7 management, Mr. Bruckner, you would agree, is the sole
8 responsibility of National Grid; is that correct?

9 MR. BRUCKNER: Management under the direction of LIPA.
10 Yes.

11 MS. RICE: Under the direction of LIPA. Right. So would
12 it be fair, would you two gentlemen agree with me that that
13 causes some level of concern, especially in an emergency type
14 situation where people need to talk to someone, who they can
15 talk to to actually get the lights back on, would you agree that
16 the portions of the MSA that I just read have an inherent
17 dichotomy built into it in terms of who is responsible for what,
18 Mr. Hervey?

19 MR. HERVEY: Well, there are two things that I'd just
20 like to comment on, and one is, of course, the provisions you
21 just read are meant to try to clear up that misunderstanding as
22 its existed over time, and secondly, the contracts going forward
23 in the next relationship beyond its expiration of this contract,
24 go a step forward in clearing up that confusion. So we
25 understand the issue, but also, we've taken every effort to try

1 to clear up that issue.

2 MS. RICE: Well, I'm glad that you brought that up,
3 because I was going to ask you if you thought that this was a
4 Management Service Agreement that worked in terms of ensuring
5 that the customer knows who their service provider is, why was
6 it that in the contract going forward, that actually was taken
7 out. So I'm glad that you pointed that out, and I would assume
8 that that indicates that there is some level of a desire to
9 clear that up for the customer, who is the ultimate person --
10 their opinion matters the most. Do they feel that they're
11 getting service they need, and when they have a problem, do they
12 know who to go to. So I think that that's very interesting,
13 that going forward in the new MSA with PSE & G, that that has
14 been taken out.

15 So let me just go into three areas that I think are areas
16 that -- focusing on Sandy, are areas that I think that most of
17 us will agree, and certainly in the public's eye, were areas
18 where service -- that the services that were provided were not
19 optimal. And I want to talk about the communications policy.

20 So under the terms of the MSA, Mr. Hervey, would you agree
21 that National Grid is prohibited from communicating with certain
22 LIPA constituencies, specifically government, media and customer
23 relations? Would you agree that LIPA retains the powers over
24 those communications in the MSA?

25 MR. HERVEY: Yes.

1 MS. RICE: Okay. And, however, National Grid provides
2 services and interfaces with customers under blue sky conditions
3 in terms of having the oversight over the customer service
4 department, correct, Mr. Bruckner? I mean, you run a customer
5 service department, it has upwards of 300 people in the customer
6 service department?

7 MR. BRUCKNER: So we have the oversight of managing that
8 workforce, and the communication strategy is LIPA-directed
9 strategy as to what those communications will be.

10 MS. RICE: Okay. So under blue sky conditions, I guess
11 you would agree that this restriction in terms of not allowing
12 National Grid to have any public voice, but for every public
13 statement to come through LIPA, under blue sky conditions, I
14 think we can agree that there would not be a perceived problem
15 there. However, under gray sky conditions, this shared
16 management is where we have the problems, because one of the
17 significant failures, at least as it relates to Superstorm
18 Sandy, and going back as far as other storms that were noted in
19 the Navigant report that was -- that you asked Navigant to do
20 for you on your behalf, Mr. Hervey, and then the DPS report in
21 2010 showed that in previous storms, there was serious lack of
22 communication to the customers.

23 So in that June 2012, the New York State Department of
24 Public Services in its report outlined LIPA's performance during
25 Hurricane Irene, warned against this type of communication

1 practice, specifically stating that LIPA's requirement to review
2 and approve all messages actually hindered effective
3 communications. Do you recall that that was the finding in that
4 Department of Public Service report?

5 MR. HERVEY: That was the finding. I have to say that we
6 found -- we found that that finding, that we disagreed with it.
7 And nevertheless, we did take substantial action after the
8 report to address that issue and to make sure that anything that
9 needed to be approved or pre-approved had a very streamlined
10 process, and that that had been addressed for Sandy.

11 MS. RICE: All right. Well, we're going to get into
12 that, because in that same report, the DPS report, they stated
13 that LIPA's requirement to approve all communications with
14 customers, government officials and media, created a bottleneck
15 through which all communications must pass.

16 Now during Sandy, I just want to see if I can get your
17 agreement with me that this is how things worked, Mr. Hervey,
18 and correct me if I'm wrong, during Sandy, it appears that the
19 information flowed as follows: National Grid field workers would
20 do an assessment of condition on the transmission and
21 distribution network. They filled out the paper tickets, the
22 RP5s as to the damage. They brought them to the substation. At
23 the substation, a National Grid employee would input the tickets
24 into a computer terminal, which then could be read by division
25 managers and National Grid operation staff; am I correct up to

1 this point, Mr. Hervey?

2 MR. HERVEY: That would be the procedure that they
3 followed. Yes.

4 MS. RICE: And estimated times for repair, otherwise
5 known as ETRs, were formulated at the substation level; is that
6 correct? Because that's where all the information was, correct?

7 MR. HERVEY: You're asking me if that's the procedure or
8 if that's what happened?

9 MS. RICE: I'm asking you if that's the procedure and
10 what happened during Sandy.

11 MR. HERVEY: That is the procedure. And I think as we
12 talk through this, we can see how that -- with the volume of
13 work that was done, how that worked or didn't work. But that is
14 the procedure.

15 MS. RICE: So I'm just going to continue through and you
16 tell me if I'm correct. The information was updated on the
17 website once a day, correct?

18 MR. HERVEY: The information on the website is normally
19 updated every 15 minutes through the process, and we adapted the
20 process through Sandy in order -- to a once a day update.

21 MS. RICE: Once a day. Okay. So that was correct, once
22 a day. The information was reported to National Grid and LIPA
23 senior management twice daily via morning and afternoon
24 conference calls, would that be correct?

25 MR. HERVEY: There are both operations conference calls

1 and communications conference calls between the two companies.

2 MS. RICE: Okay. National Grid would disseminate talking
3 points via email blast to both National Grid and LIPA customer
4 service, and in order to convert the internal information into
5 external communications, LIPA management needed to approve that
6 communication. So by the time the information got through that
7 filter, would you agree that sometimes that information was
8 already stale at that point?

9 MR. HERVEY: Not at all. Absolutely not.

10 MS. RICE: Not at all. After all those layers, the
11 information was not stale?

12 MR. HERVEY: Everybody in the room is sitting in the same
13 room, literally beside each other, and able to pass a paper to
14 paper in the communications command center, which was a revised
15 process since Sandy -- excuse me, since Irene, that was meant to
16 streamline all of that. So as I indicated, that process of once
17 the information is available, creating the messaging to go out
18 across all the channels, and that's everything from social media
19 to telephone to the call center to the website, what was revised
20 after Irene is the fact that all of those people sat literally
21 beside each other and were able to pass information from place
22 to place. So we had a very concentrated process and streamlined
23 process for moving that through.

24 Ultimately, there were more than one LIPA people who could
25 do -- approve anything that needed to be approved, but it was

1 essentially a collaborative process.

2 MS. RICE: But we get back to the information actually.
3 LIPA representatives who were at the emergency command centers
4 were unable to provide information on request, rather they first
5 had to consult with a lot of off-site personnel which greatly
6 impacted the municipal operational coordination. Would you
7 agree that because the information had to come from other
8 sources, that slowed down the ability to get that information
9 out?

10 MR. HERVEY: I don't understand the question.

11 MS. RICE: Well, because the information was coming out
12 of the substation, which is the hub of where everything was
13 going, and they sent the crews out from there who had to go into
14 the field and determine where the damages were, bring that
15 information back, you still -- the people out in the field don't
16 go out with computers, right? They go out with paper maps and
17 they go out with the paper tickets, correct? Still with Sandy?

18 MR. HERVEY: The people in the field and the substations,
19 which are the remote offices, have computers there. As you
20 indicated in the process that I verified for you, the
21 information's entered into the computer at that location, and
22 then, of course, the computer system summarizes that up.

23 MS. RICE: Right. I'm talking about the people who go
24 out in the field from the substation to actually do the damage
25 assessment. They don't go out into the field with computers,

1 correct?

2 MR. HERVEY: So they go out and they have a standard form
3 that they fill out, and then they bring that back to the
4 substation to be entered into the computer.

5 MS. RICE: Right. So let's just talk about that process.
6 So they go out with a paper map and the tickets that are
7 supposed to mark exactly where the damage is and the extent of
8 the damage, right? There is no way for them to communicate what
9 they're seeing out in the field until they come back to the
10 substation, correct, under that framework?

11 MR. HERVEY: That's correct.

12 MS. RICE: Okay. Now -- and then when it comes back to
13 the substation, it actually has to be input into the computer so
14 that people at headquarters actually have access to it, correct?

15 MR. HERVEY: That's right.

16 MS. RICE: Okay. So this is the process I'm talking
17 about. Now are you aware that, just for instance, the Town of
18 Hempstead Building Department has little computers that they
19 send all their inspectors out into the field with, and they can
20 input the information directly into a computer that is put into
21 the system immediately, and there is no -- I mean, it's done in
22 realtime. That is not -- none of your people who are going out
23 into the field and doing this damage assessment had that
24 technological ability, did they?

25 MR. HERVEY: Well, first of all, the LIPA people don't do

1 those investigations.

2 MS. RICE: Whether it was National Grid or LIPA, they
3 don't have that technology, yes or no?

4 MR. HERVEY: They do not have that technology. What they
5 have is, as you said, an established process by which they take
6 the information down on the tickets. They bring those in to
7 central --

8 MS. RICE: Paper maps and paper tickets. Okay.

9 MR. HERVEY: And our next step is, as you probably have
10 found from your investigation, in our replacement of the Outage
11 Management System, a next phase, not the next phase but a next
12 phase of implementing that new Outage Management System over the
13 next year is to put that field capability in. That capability
14 is not without its own warts, because often times that relies on
15 the cellular system.

16 MS. RICE: Well, let's not even talk about the warts that
17 a system has since it's not even employed here yet. But is that
18 the system that was supposed to actually be -- we were supposed
19 to have transitioned or LIPA was supposed to have transitioned
20 in, I think earlier either in September or October before
21 Superstorm Sandy in this framework, it was supposed to be done
22 by then?

23 MR. HERVEY: There's no such system that was due in that
24 time period. The time periods that the new system was talked
25 about was between the end of this year and the middle of next

1 year.

2 MS. RICE: You're talking about --

3 MR. HERVEY: The new Outage Management System.

4 MS. RICE: Outage Management System. Okay. Now the new
5 Outage Management System was actually something that had been
6 recommended in the 2006 Navigant report that was commissioned by
7 LIPA, correct? They actually said that that system had to
8 change; is that correct?

9 MR. HERVEY: Absolutely not.

10 MS. RICE: They didn't talk about having to update the
11 Outage Management System in the 2006 report?

12 MR. HERVEY: No. They didn't say that that system had to
13 change. What the report indicated is that the system should be
14 considered for retirement, for change, and the issue was the
15 functionality of the system. I believe the report indicated the
16 functionality of the system was adequate, and subsequent looks
17 at the system indicate that it was adequate.

18 But the concern at the time was that it was coming to end
19 of life from a support standpoint. In other words, it's a
20 computer language on a mainframe computer that over time would
21 come out of support and not be supported. So the concerns in
22 2006 were not the functionality concern. The concerns were end
23 of life support issue for the computer system.

24 MS. RICE: So in 2010, in the DPS report, they talked
25 about needing to update the Outage Management System, correct?

1 MR. HERVEY: And we agreed at that point that the
2 available Outage Management Systems out on the market had
3 probably passed up the functionality that was available on the
4 legacy system. So in 2009 into '10, LIPA negotiated to take
5 over ownership of that system. In 2010 into '11, we began to
6 look at pilots for that system, pilots for replacement of that
7 system, and immediately after Sandy, we moved from the pilot
8 stage into the implementation stage.

9 MS. RICE: So that pilot to implementation stage took two
10 years is what you're saying?

11 MR. HERVEY: To look at all the systems from the market,
12 to go through the process of looking to choose a correct system,
13 does take a very large amount of time. Yes.

14 MS. RICE: And this is something that you know -- you've
15 known for longer than two years? You knew this system was
16 outdated well before 2010, even though you say that in 2006 that
17 was --

18 MR. HERVEY: The functionality of the system has been
19 adequate. Finally in Irene, with the very large -- at that time
20 the largest outage -- set out of outages that the system had
21 ever seen, then we looked at it and said look, we need to go to
22 a more modern technology at this point.

23 But the system was adequate. I know National Grid looked
24 at the system several times. Determined that the operation of
25 it was adequate. And again, we're managing the end of life for

1 that system from a standpoint of the support for the system.

2 MS. RICE: Well, I think the public might have a
3 disagreement with you about the adequacy of that system, but
4 we'll leave it up to the public to decide that. Now the
5 communications policy is actually different from the customer
6 service function within LIPA, and I'd like to direct these
7 questions to you, Mr. Germano, as the head of customer service.
8 This is your bailiwick here.

9 So the MSA specifically says that it's up to the manager to
10 perform normal and customary customer services, including but
11 not limited to the account service, maintenance, service
12 restorations, account inquiry, customer assistance, credit and
13 collection services, manager shall maintain at all times the
14 customer service office, they'll maintain the toll-free
15 emergency phone number. So basically it's up to -- LIPA agreed
16 that it's going to be up to National Grid to maintain a customer
17 service center, it was going to be staffed by about 300 people,
18 and all of the numbers posted were referred to that call center;
19 is that correct, Mr. Germano?

20 MR. GERMANO: Yes. That's correct.

21 MS. RICE: And now despite the MSA that puts most of
22 the customer service responsibility in the hands of National
23 Grid, LIPA still maintains its own customer service department,
24 which correct me if I'm wrong, I believe is presently staffed by
25 two representatives, one manager, a director, and a vice

1 president, you. At the present time there are five people in
2 the customer -- on a blue sky day, five people?

3 MR. GERMANO: Yeah. What I want to suggest to you,
4 though, is you're looking at it as a customer service function.
5 It's more an appeal function.

6 MS. RICE: No. We're going to go through that. We're
7 going to go through that. But this is what the customer service
8 department is within LIPA, those five people, correct?

9 MR. GERMANO: That's correct.

10 MS. RICE: Okay. Now it seems that, and correct me if
11 I'm wrong, again, the function of the LIPA customer service is
12 primarily to handle what's called "escalated complaints" that
13 are referred to LIPA by National Grid. So the original call
14 will come in to National Grid. If they can't satisfy the
15 customer, the customer says "I want to speak to someone else,"
16 that call is considered an escalated complaint, and that will
17 then be transferred to LIPA's customer service center, correct,
18 as --

19 MR. GERMANO: That's correct.

20 MS. RICE: -- an escalated complaint? Okay. And one of
21 the two people who are there will handle that call. See if they
22 can satisfy the person. The likelihood is that they're not
23 going to be able to because they don't have any more information
24 than the National Grid customer service person does, correct?
25 National Grid puts all the information into the computer. LIPA

1 people have access to that computer but cannot put any
2 information in. So whatever National Grid knows is what LIPA
3 knows, and whatever LIPA knows is what National Grid knows; is
4 that correct?

5 MR. GERMANO: I think the point that is also important
6 here is it's an independent look at the information that
7 National Grid provides.

8 MS. RICE: No question. And so your people look at it.
9 They try to fix it. If they can't, they can't give the customer
10 satisfaction, they then channel the call back to National Grid's
11 customer satisfaction department; is that correct?

12 MR. GERMANO: That's the appeal group. Yes.

13 MS. RICE: Okay. So that's how it goes. So correct me
14 if I'm wrong, it seems to me that LIPA's customer service
15 representatives are the middle person, the middle man if you
16 will between National Grid and National Grid?

17 MR. GERMANO: But I think, Ms. Rice --

18 MS. RICE: Is that correct?

19 MR. GERMANO: I think, Ms. Rice, the point you also have
20 to consider is the fact they have an independent view and look
21 at what the information is.

22 MS. RICE: No question.

23 MR. GERMANO: And they don't necessarily always agree
24 with what National Grid has decided in particular cases.

25 MS. RICE: I'm sure there are times when maybe the LIPA

1 representative might be able to give satisfaction to a person,
2 but I'm talking about in a regular setting, this is how it goes,
3 National Grid to LIPA, LIPA back to National Grid, correct?

4 MR. GERMANO: Correct.

5 MS. RICE: Okay. Now after Irene, it's my understanding
6 that there were three policy decisions that were made. One was
7 to -- and I believe these were made by you, but correct me if
8 I'm wrong, Mr. Germano, I don't want to put words in your mouth,
9 one of the changes was to reroute all calls to LIPA customer
10 service -- their customer service direct number, to National
11 Grid's customer service, to have those calls, any calls that
12 would come into LIPA to go directly to National Grid, is that
13 one of the changes?

14 MS. JACOBS: No. That is not a change in terms of normal
15 day-to-day blue sky.

16 MS. RICE: I'm talking Sandy. During Sandy. In the
17 event of an emergency, that this is one of those changes. That
18 instead of having calls come to that LIPA center, your center,
19 those calls are going to be automatically rerouted to National
20 Grid, not under a blue sky setting; is that correct?

21 MR. GERMANO: I think the point here, Ms. Rice, is that
22 it's not -- it's physically going to the call center that
23 National Grid has, but the LIPA personnel was moved to the call
24 center.

25 MS. RICE: We're going to get there. We're going to get

1 there. I'm just asking you about that.

2 MR. GERMANO: Yes.

3 MS. RICE: So that was a change you instituted. Okay.
4 So also to cease direct forwarding of escalated complaints, the
5 National Grid customer service would bundle the complaints and
6 then send a periodic email, right? Is that correct?

7 MR. GERMANO: That's correct.

8 MS. RICE: Okay. And there was also a plan to train as
9 many as 40 contingent LIPA staff to handle LIPA customer service
10 during an emergency; is that correct?

11 MR. GERMANO: I don't have the knowledge of the number,
12 but there was supplemental staff that we were putting on board
13 to make sure that if we had to handle calls and complaints, we
14 had staff to support it.

15 MS. RICE: Okay. Well, just so you know, we got that
16 number from the customer -- your customer service manager, who
17 said that that's what she was told, that there were going to be
18 up to 40 additional people available.

19 MR. GERMANO: That would probably be representative of
20 what was the staff that was at LIPA's headquarters in the event
21 we needed to have capability to handle large volumes of calls.

22 MS. RICE: Okay. So let's talk about that. So instead
23 of going to the LIPA call center, the LIPA employees were
24 directed, when Sandy occurred, to actually sit with National
25 Grid in their call center; is that correct?

1 MR. GERMANO: They sat in a separate space at the call
2 center. Yes.

3 MS. RICE: At the same call center.

4 MR. GERMANO: At the same call center.

5 MS. RICE: And they had access to the same information?

6 MR. GERMANO: That's correct.

7 MS. RICE: Okay. And actually, the only number of people
8 that the customer service manager was able to access, in
9 addition to the people that she had, were about either between
10 five and eight additional personnel during the Sandy recovery
11 operations, which actually comes out to between 12 and 20
12 percent of the planned amount, if you go with that number of 40;
13 is that correct?

14 MR. GERMANO: If you went with that 40. That's correct.

15 MS. RICE: Okay. But, again, it made very little
16 difference since the LIPA customer service received identical
17 information as the National Grid customer service during the
18 storm, since all information flowed from daily emails from
19 National Grid; is that correct?

20 MR. GERMANO: The daily emails and the information during
21 Sandy flowed from the command center that we were all
22 cohabitating, whether it be LIPA and/or National Grid.

23 MS. RICE: Okay. So that's the system as it existed, the
24 purpose of the LIPA customer service. So now let's get to
25 emergency planning, because I think that we can all agree that

1 one of the biggest failures was the lack of preparation for the
2 flooding that everyone knew was very likely to occur because of
3 the situation that Long Island is in, and I guess what I'd like
4 to do is direct these questions to you, Mr. Lizanich, and
5 obviously there might be some spillover to you, Mr. Bruckner, as
6 well.

7 So the emergency planning, under the terms of the MSA,
8 National Grid -- let me stop there. The MSA between National
9 Grid and LIPA actually does not address storm events, except in
10 the context of financial responsibility. Specifically, that
11 LIPA is financially responsible for all operations under a storm
12 event; is that correct, Mr. Lizanich?

13 MR. LIZANICH: That's correct.

14 MS. RICE: Okay. And so there -- so LIPA has their SERPs
15 and National Grid has their ERIPs, those are their emergency
16 plans that each party has, correct? Yours are the SERPs, known
17 as SERPs?

18 MR. LIZANICH: That is correct.

19 MS. RICE: Okay. And that's the Storm and Emergency
20 Response Policy. And then National Grid has their Emergency
21 Response Implementation Plans, which are known as ERIPs. So
22 they're separate plans. And they -- so let's talk about the
23 ERIPs specifically address three functional areas; operations,
24 communications, and logistics support, would that be correct?

25 MR. BRUCKNER: Yes, Ms. Rice, but I would like to correct

1 one of your previous statements about the ERIPs. The ERIPs --
2 the ERIPs that you referred to as being National Grid's ERIPs
3 and the SERPs being LIPA's SERPs, the ERIPs are also LIPA --

4 MS. RICE: Approved by LIPA.

5 MR. BRUCKNER: No. They're LIPA procedures. They're not
6 just approved, but they are LIPA procedures.

7 MS. RICE: Okay. That's fine. Now, so there are a
8 number of -- I don't know if you're going to agree with this,
9 Mr. Lizanich, but it seems that there are a number of
10 shortcomings in the SERP. They specifically don't identify
11 LIPA's key decisions, including the approval of supplemental
12 crews for storm emergency. These are, instead, addressed in
13 National Grid's ERIPs that are approved by LIPA; is that
14 correct? You approve the ERIPs?

15 MR. LIZANICH: The ERIPs are developed in cooperation with
16 National Grid. We do review those ERIPs. We do integrate
17 ourselves with them at incident command process as well.

18 MS. RICE: Okay. And basically these two reports are
19 meant to detail what the response is going to be from both
20 National Grid and LIPA in the event of an emergency; is that
21 correct?

22 MR. HERVEY: If I might, If I might on that. The SERP --
23 to clear this up, the SERP is the LIPA headquarters procedure
24 for the headquarters team at LIPA. The ERIP is the response, is
25 the emergency response LIPA procedure. So it doesn't need to

1 exist in one -- in both procedures.

2 MS. RICE: No. I'm grateful that you pointed that out,
3 Mr. Hervey, because it actually is important for the public to
4 understand that LIPA doesn't have any technical field operation.
5 So that your SERP can't really relate to or talk about what's
6 going to be done in the field, since you don't have the ability
7 to actually be in the field. That obviously is a job for
8 National Grid. That's true.

9 Now there was, in the DPS report, a recommendation that the
10 SERP and the ERIP procedure should be merged into a common
11 document that would specifically address LIPA's role in
12 relations to National Grid during emergency events, and also
13 said that these reports should not be kept on a computer, they
14 should be paper, because in the event of an emergency, you might
15 not be able to access them.

16 But it appears that in neither one of those reports or in
17 those documents, was there a plan to deal with reenergizing
18 areas that were subject to flooding. So would you agree that
19 neither one of those documents talked about the process of
20 reenergizing in the event of flooding where you had to turn
21 power off?

22 MR. HERVEY: The requirements for reenergizing would be
23 under LIPA's requirements for service, also called a Red Book
24 procedure.

25 MS. RICE: Other than that one reference in the Red Book

1 that actually says on all fire and flood damaged homes, it will
2 be necessary to obtain an electrical inspection certificate from
3 an approved inspection agency and provide it to LIPA before
4 reconnection, that is the one reference that is made in the LIPA
5 Red Book regarding flooding and the need for electrical
6 inspections, would you agree, Mr. Hervey?

7 MR. HERVEY: That's right.

8 MS. RICE: Okay. So let me just point out what I see as
9 two inherent problems with that. It makes no mention of what an
10 approved inspection agency is, number one, and nor does it make
11 any mention of which entity at LIPA is specifically supposed to
12 receive the certificate. We can talk about that in a minute.

13 MR. HERVEY: So I'll just clear those two things up for
14 you.

15 MS. RICE: No. Let me just --

16 MR. HERVEY: Sure.

17 MS. RICE: Those are two, you know, shortcomings. So
18 obviously we know that the service area of National Grid and
19 LIPA is an island. There is an inherent flooding risk that has
20 been witnessed several times over the past few years. In fact,
21 the National Weather Service in the days leading up to Hurricane
22 Sandy, accurately it turned out, predicted a large storm surge,
23 and as early as October 25 of 2012, LIPA advises customers that
24 it was preparing for flooding, would you agree with that,
25 Mr. Hervey, you were integral in getting that message out to the

1 general public, correct?

2 MR. HERVEY: That's correct. We advised customers at
3 that time on the first instance to prepare for a multi-day
4 event. The second instance to prepare for a seven to 10 days of
5 electric outage.

6 MS. RICE: Power outages. Okay. But would you agree
7 with me, Mr. Hervey, that flooding was only discussed as far as
8 de-energizing specific areas, those areas being mandatory
9 evacuation zones and substations, areas like Fire Island where
10 people were knowing that there was going to be, because of this
11 surge, very likely going to be a mandatory evacuation that was
12 going to result in you having to de-energize that entire area;
13 is that correct? So you were aware of that likelihood and
14 possibility, correct?

15 MR. HERVEY: Well, we're aware of it because we're working
16 with the county OEMs and the deenergization or the evacuation
17 process and the treatment of flooded areas is essentially a
18 municipal function. Just as you indicated coming back to the
19 previous point when you asked what is an approved inspector, the
20 inspector is approved by the municipality. The inspections
21 process is essentially a codes process and essentially a
22 municipal process. And that's why when you go and look at the
23 customer side of the meter, LIPA provides power up to the meter.
24 Once you go to the customer side of the meter and every piece of
25 equipment inside the house, that is a codes issue and that's a

1 municipal issue.

2 MS. RICE: But, Mr. Hervey, as the head of LIPA, you felt
3 it incumbent upon yourself to warn people that there was likely
4 going to be flooding, and as a result of that, extended periods
5 of power outages, correct?

6 MR. HERVEY: Exactly. Because of --

7 MS. RICE: Because the customer relies on LIPA to give
8 them the information that they need to take whatever necessary
9 steps they need to take, correct?

10 MR. HERVEY: And, therefore, customers should have been
11 able to take the precautions to allow for a seven to 10 day
12 outage from the hurricane, and then look at what they needed to
13 do to prepare for that.

14 MS. RICE: Okay. So let's take a look at how long it
15 took for LIPA to prepare a plan for dealing with potential flood
16 damage. Working hand in hand, or attempting to, with local
17 governments and municipalities. So would you agree that the
18 lack of a plan for reenergizing and the electrical inspections
19 was recognized by you in fact as early as October 29, on the day
20 that Sandy hit, you had a conversation with people, including
21 Tracy Burgess-Levy and other people, on a what I believe was
22 either an in-person meeting or a conference call, where you
23 talked about the likelihood that there was going to be
24 significant flooding, and therefore, it was going to necessitate
25 electrical inspections, is that correct, that was the first time

1 that you spoke about that?

2 MR. HERVEY: In the municipal call, as I recall, I spoke
3 about --

4 MS. RICE: Well, the municipal call came on November 2.

5 MR. HERVEY: Well, actually, on that date that you
6 mentioned, I believe it was also mentioned on the municipal
7 call.

8 MS. RICE: Prior to the storm.

9 MR. HERVEY: And we discussed with the -- on the date of
10 the storm, the 29th, we discussed with the municipalities the
11 need to coordinate with them on inspection process. And it
12 turns out as a result, we ended up with several inspection
13 processes, and our concern, from our point of view, is we didn't
14 know the various different processes that the different
15 municipalities would use to address that. And we tried to start
16 to coordinate between the municipalities to get to some
17 semblance of common practice.

18 MS. RICE: So, Mr. Hervey, let me ask you, I know that
19 you do -- you're aware of what's called the tabletop drill?

20 MR. HERVEY: Yes.

21 MS. RICE: And LIPA actually does tabletop drills once or
22 twice a year, depending on what they think the need is, where
23 you actually sit down and you enact a hurricane, level
24 hurricane, hurricane 1, hurricane 2, whatever storm it is that
25 you're going to act as if it's going on, and what are we going

1 to do in this situation, and at those meetings, you have
2 National Grid and you have your employees, and you invite
3 municipalities, you invite critical infrastructure members to
4 come and take -- well, actually, not take part, to watch it and
5 to see. So there is an understanding on your part that on blue
6 sky days, when you do things like tabletop drills, it's
7 important for you to bring as many invested people, like
8 municipalities, elected officials, municipal workers, critical
9 care facility people to come in to be a part of this discussion,
10 so that when that gray sky day happens, there is a plan put in
11 place. Would you agree that that's one of the purposes of the
12 tabletop drills?

13 MR. HERVEY: Certainly. And so that we at least know
14 each others plans at that point, too.

15 MS. RICE: Okay. And on -- would you -- there was never
16 a tabletop drill where reenergizing was spoken about, you know
17 that, correct? Would you agree with that?

18 MR. HERVEY: I wouldn't be able to say "never." I
19 wouldn't --

20 MS. RICE: Well, in the year leading up to Sandy --

21 MR. HERVEY: I will say that we had --

22 MS. RICE: If I can just tell you, there was no one, no
23 one that we spoke to who said that they heard any conversation
24 about reenergizing and the process of the electrical inspection
25 at those drills, okay? So are you going to dispute that?

1 MR. HERVEY: No. What I wanted to say on it is that with
2 all those agencies there, over all those different tabletops, no
3 agency, municipality, each of which was invited, ever came to us
4 and said "hold it, we don't understand the process there."

5 MS. RICE: But you didn't explain the --

6 MR. HERVEY: Even though the process is clearly known by
7 the municipalities, then the process is the same on a gray sky
8 day as it is on a blue sky day --

9 MS. RICE: So your answer, Mr. Hervey, is that this is
10 all the municipalities' fault. So you have no responsibility in
11 terms of giving as much information as possible, being the
12 power -- the face of energy and power to the consumer, to
13 municipalities, you're saying that the responsibility was the
14 municipalities to ask the question?

15 MR. HERVEY: Code enforcement is the municipalities. Now
16 in the areas where we had the municipalities took that up, New
17 York City and the City of Long Beach --

18 MS. RICE: We're going to get there.

19 MR. HERVEY: -- it worked well in both of those areas
20 where the municipalities took that up and worked with them.

21 MS. RICE: We're going to get there. So on November 2
22 there's a municipal call. LIPA acknowledged that it had not
23 come up with a procedure to address inspections and restorations
24 of homes and businesses in flooded areas. In a November 5, 2012
25 press release, LIPA advised flooded customers that inspections

1 would need to occur before power could be restored.

2 In a November 11 press release, LIPA advised customers that
3 they must personally obtain a certificate from a licensed
4 electrician. That is the sequence of communication. Now can
5 you -- would you agree with that? I mean, these are your press
6 releases. These are the dates. We're talking about November
7 11, 13 days after the storm, is the first time that LIPA tells
8 their customers that they must personally obtain a certificate
9 from a licensed electrician. Would you agree with that?

10 MR. HERVEY: In some of the areas, that may have been the
11 sequence of events.

12 MS. RICE: But, Mr. Hervey, this is a press release that
13 was authorized by you, approved by you --

14 MR. HERVEY: In much more detail. There was much more
15 detail behind it. But let me go through a --

16 MS. RICE: But the message in it, are you saying that
17 that was not the message in it?

18 MR. HERVEY: Let me go through a time line with you.

19 MS. RICE: Mr. Hervey, we have time constraints here. I
20 just went through a time line, and I'm asking you to tell me if
21 those are correct quotes from the press releases that you had,
22 yes or no?

23 MR. HERVEY: They may well be.

24 MS. RICE: Okay. So now, Mr. Bruckner, I'd like to go to
25 you. National Grid, under the MSA, was contractually obligated

1 to provide emergency planning, would you say that that's a
2 correct statement?

3 MR. BRUCKNER: We provide emergency plans to IBS.

4 MS. RICE: Okay. Now to that end, National Grid, about
5 six months prior to Sandy, hired a senior coordinator by the
6 name of Bob Iberger, or I should say you hired Bob Iberger and
7 he was given the title of senior coordinator, and there were two
8 other coordinators in that emergency management department,
9 would you agree with that? Were you the one who hired
10 Mr. Iberger?

11 MR. BRUCKNER: No, ma'am, I was not.

12 MS. RICE: Okay. But he came in as a senior coordinator,
13 correct?

14 MR. BRUCKNER: I'd have to check what the title actually
15 is, but he did come into the organization.

16 MS. RICE: I'm sorry?

17 MR. BRUCKNER: I'd have to check on the actual title, but
18 I do know he came into the organization as a manager in that
19 organization.

20 MS. RICE: Okay. Now you put him to work -- well, he was
21 put on right away, he was put to work, and in fact, what he did
22 was develop a plan for, among other things, coordinating with
23 municipalities regarding debris removal from streets, including
24 trees and wires. I mean, this is really important work. And he
25 had a very lengthy history with the police department, fire

1 department. He was well-versed and very skilled.

2 Now the plan that he prepared was done, was completed by
3 the time that Sandy came, however, had not yet been approved.
4 It had to go through an approval process; is that correct?

5 MR. BRUCKNER: No, that is not correct, ma'am.

6 MS. RICE: Well, that's what he told us.

7 MR. BRUCKNER: Mr. Iberger was not responsible for
8 putting that plan together. One of my directors, one of my
9 directors was responsible for putting that plan together from
10 the lessons learned coming out of Hurricane Irene.

11 MS. RICE: Okay. Well, that's news to Mr. Iberger,
12 because he actually told us that that's what he did, but be that
13 as it may, he did hold the title of senior coordinator for
14 emergency planning; is that correct?

15 MR. BRUCKNER: Again, I'd have to check on the actual
16 title, but he is in that group of emergency planning. And he
17 did not and was not responsible for putting together the
18 procedure. He was not the responsible person for that.

19 MS. RICE: Are you going to be able to confirm whether he
20 had the title of senior coordinator or not? You have to check?

21 MR. BRUCKNER: Yes. I'd have to check on that title.

22 MS. RICE: Okay. So let me just tell you, that's what he
23 told us that his title was.

24 MR. BRUCKNER: Okay.

25 MS. RICE: So he had no -- that was the title for --

1 well, I guess this is a silly question since you don't even know
2 if that's his title, so I'll move on. So during the course of
3 the storm, we understand that Mr. Iberger, a very highly
4 qualified individual, was actually put in a Suffolk County OEM
5 as an information coordinator; is that true? Were you aware of
6 that?

7 MR. BRUCKNER: I believe he was put into the OEM.

8 MS. RICE: Okay. And the other two coordinators that
9 worked in the emergency planning with him were at the National
10 Grid headquarters; is that correct?

11 MR. BRUCKNER: I believe we did have coordinators there
12 as well.

13 MS. RICE: Okay. So as a result of Mr. Iberger being
14 transferred to or told to report to the Suffolk County OEM as an
15 information coordinator, I guess it's clear and obvious to say
16 that he had no role of implementing the plans that he was at
17 least a part of if he did not prepare that --

18 MR. BRUCKNER: No. I wouldn't agree with that. So
19 you're talking about several different issues, so let me talk
20 about the --

21 MS. RICE: Let me just ask you this, was he in the field
22 or was he assigned to the Suffolk County OEM?

23 MR. BRUCKNER: He was assigned to the Suffolk County OEM.

24 MS. RICE: Okay. So he did not have -- he was not out in
25 the field actually implementing any of the debris removal plan

1 or anything else that he may have taken part in during the six
2 months that he had been employed by National Grid.

3 MR. BRUCKNER: He would not be assigned to or participate
4 in any of the field activities of the wire down and debris
5 removal working with the municipalities. That is a field job to
6 be performed by a qualified high voltage lineman, which we
7 assigned to those organizations.

8 MS. RICE: Were you aware that county officials were very
9 frustrated because Mr. Iberger actually, as an information
10 coordinator, did not have any information to impart to the
11 people in the OEM in this emergency situation?

12 MR. BRUCKNER: I am not aware that they were frustrated
13 with him and that he had no information. I don't agree that he
14 had no information. There was information that was provided to
15 those positions as well.

16 MS. RICE: Okay. Well, the fact that -- well, I'm going
17 to ask you in a minute what information was given to him, but
18 the fact that both Mr. Iberger and people who were in the OEM
19 say that he had very little information, is that convincing to
20 you? That he did not have -- I'm not sure what information
21 you're talking about him having, but he himself said that he was
22 not out in the field, and he just could sit there and just wait
23 for him to get information from outside sources.

24 MR. BRUCKNER: Yes. I would not agree with that. I --
25 Mr. Iberger or the people that we have located at those

1 locations are provided talking points that come out of the
2 operational meetings that we spoke about earlier, and those
3 talking points and updates are provided to them to share at
4 those OEMs.

5 MS. RICE: So the information that he was given consisted
6 of talking points?

7 MR. BRUCKNER: Summaries of the updates that are provided
8 at the operational meetings twice a day.

9 MS. RICE: Okay. So let's go to the issues of storm
10 hardening. So in a blue sky situation, Mr. Bruckner, I'll
11 direct the questions to you, Section 4.3 of the MSA governs
12 National Grid's responsibility to repair the T & D system, the
13 transmission and distribution system, and it further defines
14 repair as those non-routine, nonrepetitive activities required
15 for operational continuity, safety and performance, generally
16 due to failure or to avert a failure of the T & D system or any
17 of its components.

18 Now also part of the MSA is the word "performance metrics"
19 as an enforcement mechanism of LIPA's general oversight of
20 National Grid as the manager of the T & D system. So National
21 Grid could be assessed performance penalties for failure to meet
22 or sustain any of those metrics that I talked about in terms of
23 those performance metrics. Were you aware of that?

24 MR. BRUCKNER: Ma'am, I'm not sure what the performance
25 metrics that you're mentioning specifically are. There is an

1 appendix that cites the performance metrics.

2 MS. RICE: That's all I'm talking about. I'm not talking
3 about the specificity of it. Just that there were performance
4 metrics built into the MSA.

5 MR. BRUCKNER: There are performance metrics that are
6 built into the MSA.

7 MS. RICE: Now during a force majeure event, National
8 Grid -- this is part of the MSA as well -- these are gray sky
9 situations, National Grid shall be relieved of its obligation to
10 comply with a performance metric, and such noncompliance shall
11 not constitute an event of default to the extent and for any
12 period during which the operation of the T & D system is
13 affected. Would that be correct? So during -- there is no
14 performance metric that applies during a gray sky storm event,
15 would you agree that that's what the MSA says?

16 MR. BRUCKNER: No. I believe it says that there's the
17 opportunity to declare the force majeure event, not that it's --
18 I don't believe and I'd have to check --

19 MS. RICE: Well --

20 MR. BRUCKNER: But I believe that if it is declared --

21 MS. RICE: Right. A storm event --

22 MR. BRUCKNER: Well, it doesn't say that a storm event
23 is. It says that one can be declared a force majeure.

24 MS. RICE: Right. And in the event that it is declared
25 to be such, the performance metrics go out the window and they

1 don't apply, because there's an emergency situation. It is not
2 a blue sky day. Would you agree that that's the point of that?

3 MR. BRUCKNER: The performance metrics do not relate to a
4 storm of the significance of Sandy.

5 MS. RICE: Thank you. That's exactly what I just said.
6 So you were agreeing with me, that performance metrics are
7 suspended during an emergency storm event?

8 MR. BRUCKNER: Yeah. They may be. We have to -- that's
9 an issue that we discussed with LIPA. We provide a declaration
10 of force majeure and they respond to that.

11 MS. RICE: Okay. And as part of that, when they declare
12 that, you no longer have any performance metrics, so you're not
13 going to -- you can't be penalized, correct?

14 MR. BRUCKNER: The performance during that storm would not
15 count towards that metrics.

16 MS. RICE: Okay. And also, there is also a provision --
17 Mr. Beisner, if I can just have Mr. Bruckner's attention I would
18 be grateful -- there is also a provision that allows, in an
19 emergency situation, for the manager to be reimbursed as a pass
20 through expenditure for costs incurred by the manager in
21 connection with the storm then. Are you aware of that provision
22 in the MSA?

23 MR. BRUCKNER: The ability to pass through cost during a
24 storm is because the cost for a storm are not --

25 MS. RICE: I'm not asking for an explanation why. I'm

1 just asking you if that is true. If during a storm event, the
2 manager -- this is in the MSA -- the manager, National Grid,
3 shall be re -- I'm reading directly from MSA Section 6.4 -- the
4 manager, National Grid, shall be reimbursed as a pass through
5 expenditure for costs incurred by the manager in connection with
6 a storm event, would you agree that that provision is contained
7 in the MSA?

8 MR. BRUCKNER: I would agree that there is a pass through
9 cost in the MSA for storms, because the cost of storms are not
10 included in our fee.

11 MS. RICE: Okay. So basically under those two
12 provisions, there really is no motive for National Grid to do
13 anything above and beyond just the basic what they have to do.
14 They can't be held financially responsible. The performance
15 metrics go out the window. Whatever costs they incur are passed
16 through to LIPA. Would you agree?

17 MR. BRUCKNER: No. I think the -- I would not agree with
18 that statement. The costs that are passed through to LIPA have
19 to be appropriate costs, and they are audited both by National
20 Grid and LIPA, and the costs that are passed through are those
21 costs that are found to be appropriate costs.

22 MS. RICE: But with those two provisions, would you agree
23 that there could be the possibility that National Grid does not
24 have the incentive to actually adequately prepare, because none
25 of the responsibility is going to fall on them, period? It's

1 built into the MSA.

2 MR. BRUCKNER: No. I don't agree with that. In the
3 MSA --

4 MS. RICE: We can agree to disagree.

5 MR. BRUCKNER: Well, in the MSA, we are also held to a
6 prudent utility practice standard.

7 MS. RICE: We can agree to disagree.

8 MR. BRUCKNER: So in addition to the cost, we also are
9 accountable to a prudent utility practice standard.

10 MS. RICE: So let's talk about the Navigant Consulting
11 report that was -- I guess this goes back to you, Mr. Hervey?
12 Okay. In July 2006, Navigant Consulting issued a report to
13 LIPA. It analyzed the initiatives to focus on enhancing the
14 durability of LIPA's T & D system to withstand a severe storm.
15 They recommended some capital infrastructure improvements,
16 including reconfiguring substations to avoid equipment damage
17 during flooding, right? That was one? It was on page 13,
18 correct?

19 MR. HERVEY: That's correct.

20 MS. RICE: By the way, we had flooding at how many
21 substations?

22 MR. HERVEY: Eight substations.

23 MS. RICE: Eight substations were completely flooded.

24 MR. HERVEY: Just to correct a word that you said,
25 recommended. This report was really a list of all of the

1 things that could be done. It was a recommendation that we
2 examine those, further examine those and do those. It wasn't a
3 report that says these are the types of things you have to do.

4 MS. RICE: Mr. Hervey, everyone in this room understands
5 that Navigant was not in a position to tell LIPA what to do.
6 That LIPA saw fit to pay them an enormous amount of money to
7 give them advice and counsel. Are you telling this Commission
8 that you did not take that, after spending taxpayer dollars to
9 hire them to do just that?

10 MR. HERVEY: First of all, there were no taxpayer dollars
11 involved with this.

12 MS. RICE: Who paid the money?

13 MR. HERVEY: LIPA's source of funds come from our
14 customers.

15 MS. RICE: The customers. The ratepayer. I'm sorry. I
16 misspoke. I meant the ratepayer.

17 MR. HERVEY: So what we did --

18 MS. RICE: As if that's any better. I'm sorry.

19 MR. HERVEY: From the very heavy gulf states' hurricane
20 season in 2004 and 2005, we took a proactive step of saying what
21 could we do, and we believe this was the first in the northeast,
22 to ask a nationally recognized consultant what are the types of
23 things that we can do to better prepare the system.

24 That report was the result of that request, and it is
25 essentially a list of the types of work that we could do, and as

1 you've read it, you notice that they're listed in various levels
2 of impact that they could have and possible costs that they
3 might have.

4 MS. RICE: Okay.

5 MR. HERVEY: So we looked at that report, and then looked
6 at the possible projects that we could do over a period of time
7 that would address some of those issues.

8 MS. RICE: So do you think that it was incumbent upon
9 you, after spending ratepayer/customer money -- how much did
10 this report cost by the way?

11 MR. HERVEY: It was in a manner of a few hundred thousand
12 dollars I believe. It was a relatively modest consulting
13 engagement.

14 MS. RICE: Okay. So let me just go on. Some of the
15 other thoughts, ideas, I won't use the word "recommendation"
16 that they made, hardening substation control houses and outdoor
17 control equipment to withstand high winds, rain and flooding,
18 protecting distribution equipment and structures from being
19 displaced or damaged by a storm surge in low lying areas, and in
20 fact, upgrade the Outage Management System. So those were
21 all -- were any of those done before Sandy?

22 MR. HERVEY: Yes.

23 MS. RICE: Which ones?

24 MR. HERVEY: The whole program is about 25 percent
25 complete. Ultimately, we landed on about a 25 year program,

1 half a billion dollar expenditure.

2 MS. RICE: I hate to interrupt you, but I will. Was this
3 the announcement that you made in June of 2007 that you were
4 going to be -- that LIPA was going to be proceeding with a storm
5 hardening program which was to be -- is this the \$500 million 20
6 year program?

7 MR. HERVEY: That sounds right. I don't recall the date,
8 but that sounds correct.

9 MS. RICE: And that was meant to reduce the amount of
10 damage that can be inflicted upon Long Island's electric T & D
11 system by severe storms, such as hurricanes and tropical storms,
12 which I think is a great idea, and I'm sure the customer does
13 too.

14 Now, by the way, the release specifically also stated that
15 that hardening program was in addition to its normal annual
16 capital expenditures. So I'll tell you that the Moreland staff
17 analysis of LIPA's storm hardening allocation appears to show
18 that LIPA has fallen well below the promise of \$25,000,000 per
19 year. In fact, in 2007, the allocation was 4.7 million, 18
20 percent of what it should have been, 2008 it was 11.3, 2009 it
21 was 13.3, 2010 it was 7.3, and 2011 it was 7.5. Varies
22 everywhere from 44 percent, 53 percent, 29 percent, 30 percent
23 below what it should have been.

24 MR. HERVEY: I believe that analysis indicates a basic
25 misunderstanding of the budgeting program, and is incorrect.

1 MS. RICE: Well, we're just going by what you said in
2 your 2007 statement, which was we're going to engage in this
3 process. We're going to invest \$25,000,000 a year. This is the
4 long term. This is massive storm hardening.

5 MR. HERVEY: Yes. And we've invested --

6 MS. RICE: So we're using your numbers.

7 MR. HERVEY: We've invested at least \$25,000,000 a year.
8 And the number that I'm questioning is you're probably picking
9 up off our annual capital budget a line item that says storm
10 hardening, which is a type of project that only -- that the only
11 reason for the project is to do storm hardening. But as part of
12 the process, we also changed many of our design criteria.

13 For example, you mentioned elevating substation equipment.
14 So these days when we do a substation, do work in a substation
15 in a flooded zone, as part of that work, we elevate the
16 substation equipment. That adds additional cost to that project
17 that it wouldn't otherwise cost, and that is additional storm
18 hardening dollars that are spent, but they are inside of a
19 different budget.

20 So when you go back and look at the various budgets and
21 various projects inside of the budgets, that one line item
22 called storm hardening is definitely not the only place where we
23 spend storm hardening dollars.

24 MS. RICE: Okay.

25 MR. HERVEY: And when we've gone back, for example, in

1 the next year, we estimate we have \$35,000,000 in capital and
2 storm hardening, although the budget line item only says 3 point
3 something million.

4 MS. RICE: So let me just say, maybe I should have said
5 this at the outset, the point of this Commission is not to
6 reiterate what was said in 2006 or 2010. This is not going to
7 be the third time you're going to hear you really need to make
8 these improvements. So understand that that's not the point of
9 this Commission.

10 MR. HERVEY: I understand. But --

11 MS. RICE: But what I'd like to do is talk about some
12 comments, actually, from one in March of 2012 from Mr. Lizanich
13 actually, who stated that Hurricane Irene quote "Revealed
14 numerous shortfalls in the existing OMS system," and that was
15 followed up by you, Mr. Hervey, a comment by you in November of
16 2012 where you stated, talking about -- this is what you stated,
17 quote, "It is a huge computer system. After Irene, we
18 immediately accelerated that process of upgrading, and even at
19 that, it is still an 18 month to two year process. We would
20 have liked to have had it up and running for now, but it's just
21 such a large magnitude computer system, that it takes that
22 long."

23 So now LIPA, upon the DPS review, provided a time line for
24 the initial OMS implementation time frame, and it starts with
25 the development beginning in January 2011, and in a blue sky

1 world, production, ultimate transition in August, between August
2 and October of 2012, which we know did not happen, and
3 production ultimately being completed between November and
4 December of 2012. So that was the time table that you in fact
5 set, Mr. Hervey.

6 MR. HERVEY: That was an initial conceptual time table.

7 MS. RICE: That was the time table you set, and the
8 consumer has a right to rely on that actually. Let me just talk
9 briefly about after action reports. You know, a lot of you have
10 made mention of lessons learned, and I think it's -- all of you
11 would agree that it's both LIPA's practice and National Grid's
12 practice to engage in a level of Monday morning quarterbacking.
13 Let's see what we could have done better. Let's get everyone's
14 lessons learned memo in, after action report so we can make sure
15 this never happens again.

16 Has anyone on this panel asked for an after action report
17 from anyone who reports to any of you?

18 MR. HERVEY: On this incident?

19 MS. RICE: Yes.

20 MR. HERVEY: It's a matter of course that we would do an
21 after action report.

22 MS. RICE: No. No. That's not what I asked. I asked
23 has anyone on this panel actually asked anyone who works under
24 you to prepare a lessons learned after action report?

25 MR. HERVEY: Yes. Nick has requested that from National

1 Grid.

2 MS. RICE: Okay. Just news flash to you, no one that we
3 spoke to employed by either National Grid or LIPA told us that
4 they were asked. Now, maybe you did. Was this done within the
5 last week? But up until -- every single witness we spoke to
6 said that they had not been asked that.

7 MR. HERVEY: We will point out we're not done with the
8 storm event yet, though.

9 MS. RICE: Okay.

10 MR. HERVEY: And it wouldn't be time for it at this point.
11 This is not the appropriate time for it.

12 MS. RICE: Okay. But let me just say that time is of the
13 essence. We are coming into winter season, okay? So I think to
14 say that this is not the time to learn, I think is not a really
15 wise thing to me. I just have a quick question for --

16 MR. HERVEY: There is an established procedure, an after
17 action report procedure that follows -- that governs after
18 action reports and root cause failure analysis. It would be
19 done as a normal course of business without a request.

20 MS. RICE: Okay. Mr. King, I have a couple of questions
21 for you. National Grid is --

22 MR. BRUCKNER: Ms. Rice, can I please answer that question
23 as well?

24 MS. RICE: What question?

25 MR. BRUCKNER: You asked about --

1 MS. RICE: After action reports?

2 MR. BRUCKNER: You asked, you made a statement with
3 respect to the employees that work for National Grid were not
4 asked to perform --

5 MS. RICE: The ones we spoke to. That's correct.

6 MR. BRUCKNER: The ones that you spoke to. I do know the
7 ones that you spoke to do know that we are to perform an after
8 action review, and they know that they would be taking part in
9 it, and I know they would not be taking part in it until the
10 restoration was complete, because they continue to focus on
11 restoration efforts that are ongoing, as well as repairs that
12 continue to be made and decisions on repairs to be made to the
13 system. So we embark upon an after action review at the
14 conclusion. And that has been talked about at my staff meetings
15 as well consistently since the -- midway through the storm as a
16 practice.

17 MS. RICE: Dually noted. I'm just telling you what your
18 employees told us. Mr. King, National Grid is present in
19 Massachusetts, New Hampshire, Rhode Island and New York, on top
20 of your international business of this UK based corporation. In
21 fact, it's true that 50 percent of your business is done in the
22 US; is that correct?

23 MR. KING: It's about 40 percent.

24 MS. RICE: 40 percent? Okay. So you would agree with me
25 that you were notified on or about December 28 of 2011 that you

1 lost the bid to manage the power system for LIPA effective
2 January 1 of 2014, correct?

3 MR. KING: You're referring to the Massachusetts action?

4 MS. RICE: No. Here in New York.

5 MR. KING: In New York. Could you please rephrase the
6 question?

7 MS. RICE: I was asking if you were notified on or about
8 December 28 of 20 -- well, we can talk about them. I'm sure
9 there are members of the panel of the Commission here will have
10 questions about that, but you were notified, isn't it true, I
11 assume, and tell me if I'm wrong, that on or about December 28,
12 that you lost -- of 2011, that you lost the bid to manage the
13 power system for LIPA effective January 1, 2014?

14 MR. KING: That's correct.

15 MS. RICE: Okay. And while it's likely that the line
16 workers will be retained in whatever new entity is created, it's
17 more than likely that senior management will be replaced. Would
18 you agree with that?

19 MR. KING: I think that's going to depend on the new
20 entity that's doing the contract, will make a determination of
21 who they would like to hire and transition with.

22 MS. RICE: So tell me, did National Grid withdraw at all
23 from their New York operations from that date on, knowing that
24 you had a date certain that you would no longer be here?

25 MR. KING: Absolutely not. We have significant

1 operations, both gas, our commitment contractually to LIPA --

2 MS. RICE: I know about the gas.

3 MR. KING: -- as well as upstate. We are fully committed
4 to New York.

5 MS. RICE: Okay. So my question is, how hard are you
6 pushing for a five year say storm hardening plan when you know
7 you're only going to be here for the next year?

8 MR. KING: The storm hardening plan, emergency response,
9 all that activity is something that we do as a matter of course.
10 We push hard on it across the board. Again, it'll come back to
11 the contractual relationship between National Grid and LIPA on
12 how they want it to push over the next 12 months.

13 MS. RICE: Okay. Great. Thank you.

14 MS. CALCATERRA: Now we're going to open up questions to
15 the other Commissioners. Yes. Peter Bradford.

16 MR. BRADFORD: I have -- as long as you have the
17 microphone, Mr. King, I have a couple of questions for you, and
18 then once answered, I'd like to pursue further with the National
19 Grid side of the table. Does National Grid have a management
20 contractual arrangement like this, like the one you have with
21 LIPA anywhere else in the US?

22 MR. KING: Anywhere in the US as far as managing a third
23 party's transmission and distribution system?

24 MR. BRADFORD: Yes.

25 MR. KING: We do not. This was part of the service and

1 the obligations we took on as part of the merger with Keyspan.

2 MR. BRADFORD: How about elsewhere in the world?

3 MR. KING: There are joint ventures and management
4 contracts elsewhere in the world. Yes. It would be within the
5 United Kingdom. But to this scale, no.

6 MR. BRADFORD: Thanks. I'd like to ask a little more
7 about the Navigant report, but I'd like to ask it of the
8 National Grid folks. It was done, of course, as a report to
9 LIPA, but was it then presented to you for your assessment and
10 reaction in any way, back in the 2006-7 time frame?

11 MR. BRUCKNER: So I'll answer that question. The report
12 recently was brought back to our attention, and I don't recall
13 seeing that report in 2006 or when it was issued. When it was
14 recently brought back up, I did ask my staff who is here as
15 well, and they had no recollection and no record of receiving
16 that report at that time, of the Navigant report. So that's
17 where we are.

18 MR. BRADFORD: I guess I'm surprised. In that case, let
19 me turn to the LIPA side of the table. You've got all the
20 expertise that National Grid brings. You've got them operating
21 your system. You've got a Navigant report that proposed quite a
22 number of initiatives and says in quite a number of them that
23 they would not only benefit emergency response, but benefit
24 system operation generally. Why wouldn't you have asked
25 National Grid for their assessment of it?

1 MR. HERVEY: Well, I think John answered the question very
2 accurately and very precisely. As we went back and looked at
3 that, we did find -- and keep in mind that's quite a number of
4 years ago -- that there were some, at that point in time,
5 Keyspan people that were involved, National Grid people that
6 were involved that are no longer with the company. So we did,
7 in fact, as part it, Navigant did poll and have brainstorming
8 sessions with some National Grid folks at the time.

9 I think the important thing, though, is that through the
10 capital budgeting process and the standards that were developed
11 and the designs that were put in place, that the results of the
12 report were implemented through the capital project that LIPA
13 approves and that National Grid implements. So the important
14 thing is the results of the report were implemented.

15 MR. BRADFORD: Okay. So here's what I had hoped to get a
16 feel for by understanding how the Navigant report was handled,
17 but let me ask it in a different way, then. To the extent that
18 National Grid was concerned about any aspects of emergency
19 response, or for that matter, any aspect of system operations
20 that was going to require significant expenditures of money,
21 give me a feel for how you would go about interacting with LIPA
22 with regard to those concerns? Would you make capital
23 expenditure recommendations?

24 MR. BRUCKNER: Are you referring to storm hardening
25 specifically in the --

1 MR. BRADFORD: Well, I mean, storm hardening is the area
2 we're concerned about, so sure. Let's talk about -- I thought
3 we could do it through the vehicle of the Navigant report, but
4 apparently that's not going to work.

5 MR. BRUCKNER: So as the annual capital budget is
6 proposed, and we do propose or recommend the budget to LIPA, it
7 does include areas where LIPA does have a category for storm
8 hardening. So our engineering organization does recommend
9 projects along the lines of storm hardening, whether it's
10 reinforcing poles that have, you know, smart type of
11 technologies on it so that they can have the withstand of a
12 major hurricane, and you know, road crossings, areas that LIPA
13 has agreed or categories that LIPA has agreed are concerns with
14 respect to storm hardening. So whether it's road crossings with
15 transmission lines or, you know, reinforced poles or stronger
16 poles to withstand that would have important equipment on it.
17 Not a regular distribution pole, but a pole that has an
18 expensive piece of smart grid technology on it.

19 So we would make those type of recommendations in line with
20 the categories of storm hardening that they have in their
21 budget.

22 MR. BRADFORD: Okay. And for any of you on that side of
23 the table, can you give me any specific examples of
24 recommendations like that that LIPA rejected?

25 MR. BRUCKNER: I cannot think of a recommendation along

1 the lines of storm hardening that LIPA had rejected. I would go
2 back to Mike Hervey's comment about elevating substations in the
3 flood zone areas and we did have a project where we went into a
4 substation, and it was a new piece of equipment that was going
5 to be put in there, and it was recommended that it be put in in
6 an elevated fashion as a new piece of equipment in line with the
7 new specification around storm hardening. And that was
8 approved. So that's the only one else. I can't think of any
9 other one that was not approved.

10 MR. BRADFORD: How about you two haven't had a chance to
11 talk all evening, let me give you an opportunity now.

12 MR. BEISNER: No.

13 MS. GENOY: No.

14 MR. BRADFORD: What about the OMS, were your people
15 concerned about its potential shortcomings? Forgetting the
16 Navigant report now, what was the sense within National Grid
17 about that system?

18 MR. BRUCKNER: The OMS system, as Mr. Hervey indicated,
19 did perform. A decision whether or not --

20 MR. BRADFORD: I'm sorry, did perform?

21 MR. BRUCKNER: Did perform.

22 MR. BRADFORD: When?

23 MR. BRUCKNER: Well, it has performed historically well.
24 So as to a recommendation to replace the OMS system, again, that
25 was a -- that's an investment decision that LIPA needs to make.

1 I will say that in -- and I don't have the exact time
2 frame, but 2006, 2007 time frame, National Grid did go out with
3 an RFP for an OMS system across their networks in New York and
4 New England to replace those OMS systems, and asked LIPA to
5 participate in that RFP as well, which they did. And at the
6 selection phase of that RFP, LIPA did decide to go in a
7 different direction, and Mr. Hervey spoke about the product that
8 they were going to. They did not go with the same product that
9 National Grid went to.

10 MR. BRADFORD: And what product did they go with in 2006
11 and 7? I had understood that decision was --

12 MR. BRUCKNER: Again, the time line was around -- I'd
13 have to check the actual time line where we actually went out
14 with an RFP. We did go out with an RFP to replace the OMS
15 systems in our National Grid footprint. LIPA did participate in
16 the development of that RFP. And again, subject to check on the
17 time frame, I don't recall the exact time frame. 2006, 2007
18 perhaps. But I would have to check.

19 By the time the RFP process was finalized and selection of
20 a vendor was selected, it was certainly later than that. And
21 LIPA did, again, as Mr. Hervey indicated, go in a direction with
22 a different product, but did move towards a pilot program to
23 replace their old OMS with a new system.

24 MR. BRADFORD: Mr. Hervey, now let me ask you a question
25 just to clarify for myself something you said earlier. If I

1 understood you correctly, you said along about 2009 LIPA took
2 ownership of the OMS system?

3 MR. HERVEY: That's right.

4 MR. BRADFORD: Who did you take ownership from?

5 MR. HERVEY: From National Grid. Several of the -- going
6 back to the MSA, you'll see these as assets that National Grid,
7 Keyspan before that, retained ownership of in the original
8 transaction, and the Outage Management System was one of those.
9 So we were able to negotiate I believe in 2010, as a result of a
10 2009 issue, that we would take over ownership of that. And at
11 that point, we felt then we had the clear right to go ahead and
12 to begin replacing that system once we had ownership of it.

13 MR. BRADFORD: Is it still the case that National Grid
14 owns some of the assets on Long Island, but LIPA owns others?

15 MR. HERVEY: There are certain critical infrastructure,
16 -- excuse me, there is certain infrastructure in computer
17 systems, in buildings, etcetera that National Grid owns. Those
18 are part of the issue of what we're transferring over and have
19 negotiated with National Grid to take over going forward with
20 the new service provider. But I think between the companies,
21 we've been clear all along who owns what, and you know, it's
22 just part of the contract that we work under that some of the --
23 some of the facilities, for example, buildings are still owned
24 by National Grid.

25 MR. BRADFORD: Right. But before you took ownership in

1 2009 of the OMS system, it would have been National Grid's
2 asset, and so it would have been National Grid's decision as to
3 whether to -- investment in it would have been investment in an
4 asset of National Grid's, not an asset of LIPA's? No?

5 MR. BRUCKNER: No. I believe -- and again, subject to
6 check, I'd have to reconfirm -- in the MSA with respect to those
7 investments, I believe the investments at that time, the capital
8 investments or investments that were made in the OMS system
9 would be made by LIPA. But I would have to check.

10 MR. BRADFORD: But even if they were made by LIPA, it was
11 your asset?

12 MR. BRUCKNER: Again, I would have to check on the time
13 frame of that.

14 MR. BRADFORD: Just one last question. Mr. Germano, with
15 regard to the customer complaint process, if at the end of the
16 process of going from National Grid to you and back to National
17 Grid the customer is still dissatisfied, is there anywhere else
18 they can go?

19 MR. GERMANO: Well, in the process that we have right now
20 within the tariff, there's an appeal process that bypasses me
21 and goes to the chief operating officer for consideration. But
22 subsequent to that, you have the process with the Consumer
23 Protection Board, so there's an outside agency where complaints
24 can go to.

25 MR. BRADFORD: And is the customer routinely notified of

1 that possibility say in a bill insert or anything?

2 MR. GERMANO: It's on our website. And in the future,
3 when we put out the rights and responsibilities going forward,
4 we will be putting that in there.

5 MR. BRADFORD: Yeah. I'll tell you why I ask, is I've
6 just been told that the Public Service Commission, during this
7 last storm, got 5,000 customer complaints from Long Island, and
8 of course, they have no jurisdiction over complaints like that.
9 So apparently a lot of customers didn't know that there was an
10 appeal route to the Consumer Protection Board.

11 MR. GERMANO: Yes. I think part of that is legacy.
12 Obviously from the history of LILCO and then Keyspan and then so
13 on, customers are just used to the fact that they have the right
14 to appeal to the PSC. But during the preparations for the
15 storm, we did reach out to both the Public Service Commission
16 staff and the Consumer Protection Board to really try to make
17 sure that we had that collaboration in terms of passing any of
18 the complaints that go up to the PSC, directly to the staff that
19 LIPA has in dealing with those issues, as well as with the
20 Consumer Protection Board. But the vast majority of the
21 complaints did come from the Public Service Commission. I'm not
22 aware of any that might have come from the Consumer Protection
23 Board.

24 MR. BRADFORD: Thank you.

25 MS. CALCATERRA: Chairman.

1 CO-CHAIRMAN ABRAMS: Mr. Hervey, this Commission has been
2 asked to make some potential recommendations to the Governor
3 and/or the Legislature about structural changes in LIPA. Let me
4 ask you directly, do you think there should be any changes in
5 the current arrangement?

6 MR. HERVEY: Well, I think it's clear that we do. We've
7 begun to make those changes. The form of the contract that we
8 put out in 2009 and '10, recognizing in 2013, the end of 2014 --
9 excuse me, the end of 2013 the contract with National Grid would
10 end, the form of contract was significantly different than the
11 contracts that we previously had. And I think that contract
12 recognized that even though National Grid's a phenomenal company
13 and is a good utility on its own right, that we needed to look
14 at a different contractual arrangement going forward if we were
15 going to continue this public/private partnership arrangement.

16 So we have recognized that. We've managed within the
17 constraints of the contract so far. But we recognize there are
18 improvements to be made going forward, and we've put those
19 improvements in place.

20 CO-CHAIRMAN ABRAMS: That's the contract. What about the
21 structure?

22 MR. HERVEY: The structure's fine.

23 CO-CHAIRMAN ABRAMS: It's fine? Having LIPA with 100
24 employees with its -- District Attorney Rice talked about the
25 branding, with all the folks going out there saying we're LIPA,

1 but under the contract you have somebody else who's totally
2 responsible. Commissioner Bradford just said that 5,000
3 complaints go to the Public Service Commission. You would keep
4 the exact same structure?

5 MR. HERVEY: So the issue is there, and the answer is it
6 could work and it could under the right contract. The structure
7 that we have is -- and you asked Mr. King some of these
8 questions and he got at that -- is this is a structure that is
9 used in fact in some other areas of the world. It's not at all
10 common in the US, but it is a structure that can work.

11 CO-CHAIRMAN ABRAMS: Can work. Might work. Do you have
12 any ideas for any structural change?

13 MR. HERVEY: Yes.

14 CO-CHAIRMAN ABRAMS: What I'm hearing from you is that so
15 far, other than the strength in contract that you talked about,
16 you haven't answered to me structural changes from the existing
17 structure?

18 MR. HERVEY: In 2010, we commissioned a strategic review
19 that looked at a range of structural changes from what we called
20 at that time full municipalization, bringing all the employees
21 in under a LIPA umbrella as a true, fully integrated, public
22 power utility, a continuing ongoing public/private partnership,
23 and also privatization of the utility. Putting it back to an
24 investor-owned utility.

25 At the end of the day the analysis that was done says any

1 of those can work, any of those processes can work. The
2 downside of a privatization scenario was that it caused rate
3 increase, dramatic rate increase because of the loss of the
4 public authority's ability not to pay federal taxes, not to have
5 lower cost money. So even as LIPA was created in 1998 and rates
6 dropped at that point by about 20 percent, the study that was
7 done in 2010 indicated that a privatization scenario would raise
8 rates by about 20 percent going back to investor-owned utility.

9 At the same time, a full municipalization model was
10 examined, along with the public/private partnership. Both of
11 those were deemed to be about equal in their effectiveness.
12 Some with some pluses and some with some minuses in them. And
13 ultimately, though, the business risk, meaning the risk of
14 service and business disruption, was higher in transitioning to
15 a full municipalization. So since they were about equal in cost
16 and about equal in service level, we decided -- we recommended,
17 and the board accepted, that going to a future public/private
18 partnership with a modified contract scenario would be the
19 safest for our customers from a transition standpoint, and be
20 the lowest cost alternative at the same time.

21 CO-CHAIRMAN ABRAMS: Okay. Can you answer my question?
22 Do you recommend any structural changes in LIPA?

23 MR. HERVEY: Absolutely. I just indicated --

24 CO-CHAIRMAN ABRAMS: No. No. You told me a study in
25 2010 and various options and it ultimately consummated in

1 recommendations for a change and altered contract. I'm asking
2 you whether you see any structural changes in the existing
3 structural operations of LIPA?

4 MR. HERVEY: It may be desired. There are many different
5 structures that could work.

6 CO-CHAIRMAN ABRAMS: Do you have any recommendations to
7 us for any changes in the structure of LIPA?

8 MR. HERVEY: I would recommend that going forward, that
9 the utility implement the plan that's put in place to transition
10 to the new contract.

11 CO-CHAIRMAN ABRAMS: Mr. King, how about you?

12 MR. KING: I haven't studied it, so I don't have a
13 specific recommendation. I think it's something the state needs
14 to look at to determine how best it wants to structure the
15 authorities that it has certainly jurisdiction over. I would
16 encourage --

17 CO-CHAIRMAN ABRAMS: The state, you know, we've been
18 asked to do that. I'm asking you whether you have any
19 recommendations for any new structure, any changes in the
20 current structure?

21 MR. KING: I don't -- I have not studied it. I don't
22 have a specific recommendation. What I would encourage that --

23 CO-CHAIRMAN ABRAMS: So Mr. Hervey and Mr. King, who have
24 been operating as high level executives under the structure,
25 with all the reports of the disaster and the confusion with

1 local communities and the people about communication, service,
2 10,000 employees coming in from all over the country, reports to
3 us that they're sitting idly without appropriate management
4 going on, no recommendations to this Commission about structural
5 change from the existing situation.

6 MR. KING: Mr. Chairman, if you allow me, this is a very
7 complex structure. It's a very complex issue. It's not
8 something I can answer in one sentence. The thing I would ask
9 the Commission to focus on is what's the best economic impact
10 for the people of Long Island, and let's put a structure
11 together for the people of Long Island that makes the most
12 economic sense.

13 CO-CHAIRMAN ABRAMS: So neither of you have any
14 recommendations to us tonight about structural changes?

15 MR. KING: I do not, sir.

16 MR. HERVEY: I don't either.

17 MS. CALCATERRA: Mark Green.

18 MR. GREEN: I'd like to follow up with what the Attorney
19 General asked and what the District Attorney asked by going to
20 Mr. King. You were asked, in effect, whether you lost
21 motivation to harden facilities or continue capital investment
22 when you discovered that you would not continue with the
23 contract in 2014. You said no. Why not? That is, if I rent a
24 car or I own a car, I treat it differently not because I'm a bad
25 person as a renter or an owner, I have a different economic

1 incentive. So, again, this is not white hat, black hat. It's
2 why wouldn't you say "hey, I'm not going to be around, so I want
3 to take a short horizon rather than a long horizon"?

4 MR. KING: No. And I can let you follow up. This is a
5 very, very important issue for us. We have a significant gas
6 business on Long Island and we have a significant operation
7 across New York. How we show up and perform is very important
8 to us all the way through the end of this contract.

9 So that's why. That's what drives us from a motivation
10 standpoint, is we're present, and we intend to be present in New
11 York and show up as well.

12 MR. GREEN: Did you want to answer that, Mr. Bruckner?

13 MR. BRUCKNER: No. That's exactly the point I was going
14 to make. The only other clarification I wanted to make was the
15 concept that why National Grid wouldn't invest in storm
16 hardening, because capital investments are LIPA's assets.
17 That's the only other clarification I wanted to make.

18 MR. GREEN: Mr. Hervey, you referred to the 2010 study on
19 municipalization versus privatization and the comparative
20 economic benefits. I assume that study is not public? Is that
21 just a private study that you commissioned?

22 MR. HERVEY: I would have to check. I believe it's
23 essentially public.

24 MR. GREEN: I'd very much appreciate as one commissioner
25 whether it is public, or a summary at least, and whether we

1 could see that. Because that is among the issues that we're
2 looking at.

3 MR. HERVEY: If I could, may I take a moment to clarify
4 with counsel?

5 MR. GREEN: Please. Sure. Take a moment.

6 MR. HERVEY: Yes, those are public, they're on our
7 website, and I believe we've produced them to you.

8 MR. GREEN: Very good. Thank you. I look forward to
9 taking a look at that. You were speaking about the comparative
10 economic pluses and minuses, municipalization, privatization,
11 cost of money, and some were close economically. Could I ask
12 you a version of the question I just asked Mr. King about
13 noneconomic motivation, that is, storm preparedness and
14 emergency response, two of the issues that this panel is
15 quite -- we're not uninterested in the economics. Of course
16 they're related. So going to Bob Abrams' question, could you --
17 and I understand why you wouldn't want to propose a policy
18 change given your, you know, your situation, that's a
19 legislative and gubernatorial function, could you compare a
20 municipal model and a private model when it comes to pre, during
21 and post Sandy, there were failures. We don't know whether they
22 were individual failings or structural failings, but while I am
23 not -- I've never been a utilities regulator, I have been a
24 consumer regulator, and I'm interested in the division,
25 management and ownership and how that affects private business'

1 performance in the marketplace.

2 So could you address what you think went wrong in a before,
3 during and after Sandy version of what Bob Abrams asked, and
4 then whether a different structure could have responded
5 differently than the model that you say is not frequent in
6 America? Doesn't mean it's bad, but it means it's unusual.

7 MR. HERVEY: So let me just talk about the performance
8 overall relative to that, and you used the word "fail" that I
9 certainly would not buy into that scenario, that there's a fail
10 here. But we did tell our customers seven to 10 days
11 expectation before the storm as it was forecasted, and that was
12 when only one storm was forecasted and not the second storm that
13 was on top of it, that it in fact extended the restoration time.
14 We were on a path for restoration in approximately a seven to 10
15 day period before the second storm.

16 That seven to 10 days is important, because that comes from
17 experience that we not only have on our first system, but from
18 experience that we see on systems up and down the east coast
19 that are affected by storms, whether that's public power,
20 municipal type system or whether that's investor owned, the
21 typical response that we see from the Florida to the Carolinas
22 into Maryland is that a hurricane of this type will cause damage
23 that will take that long to repair.

24 So from the standpoint of repair, whether it's public power
25 or whether it's investor-owned utilities, we all use essentially

1 the same work methods, we all use essentially the same
2 processes, and in this case, we had the advantage of as public
3 power, as a municipal, with National Grid as an investor-owned
4 utility, we had the advantage of actually drawing from both sets
5 of pools of labor when we bought off Island crews in. We had
6 the advantage, a very unique advantage here bringing both public
7 power entities in to help us and investor-owned utilities to
8 help us.

9 So in my opinion, from looking at the utilities, and having
10 worked both in public power and investor owned, the
11 methodologies that we used for storm preparation and restoration
12 are very, very similar and indistinguishable from each other.

13 MR. GREEN: About 75 percent of power in this country is
14 investor owned, 25 percent municipal. You had discussed, again,
15 the competing economics of the two, and that a certain version
16 of privatization could lead to a 20 percent increase to your
17 ratepayers. What would be the impact of municipalization on
18 ratepayers? Because, of course, then you're less attuned to or
19 anxious about shareholders.

20 MR. HERVEY: So we essentially as we are have the
21 advantages of the municipalization from a financial standpoint.
22 Our debt is financed with tax exempt debt. We don't pay federal
23 taxes. What is different on Long Island that's not normal for
24 public power is we also pay local tax. Most public power does
25 not pay local property taxes. We pay almost \$600 million a year

1 in local taxes. So that is one thing that is different.

2 But the full municipalization model that we spoke about
3 would be bringing all the employees over to be employees of
4 LIPA. The study indicated, and I believe this to be true, that
5 that was essentially the same cost as the model that we operate
6 under now. But it also indicated that the disruption of trying
7 to invent all these computer systems, as an example, over the
8 transition period of trying to bring the employees over and into
9 the state systems, to the state pension systems, the state
10 benefit systems, those were complexities that made that
11 transition complex and troublesome from a standpoint of business
12 continuity.

13 MR. GREEN: In terms of change in the computer systems,
14 I'm not a computer expert, but why not? On the way here I took
15 the LIRR. Sat next to a lovely woman whose brother-in-law
16 happens to work at LIPA. I didn't ask her name because I didn't
17 want to create a family problem. I said, "I may be with
18 Mr. Hervey and others tonight, what would you like to ask him?"
19 And she said, "Well, on the LIRR, they give us an option as a
20 rider to give them our cell number, so if there's a delay or a
21 breakdown or a problem, they text us. I opted for that and it's
22 been enormously helpful." Now --

23 MR. HERVEY: That is a fantastic example and we have
24 exactly that same service. On a day like today, a customer can
25 sign up for our text service, get that information. If you have

1 an outage, you'll get a text back. That is very straight
2 forward. We have exactly that --

3 MR. GREEN: And obviously during Sandy.

4 MR. HERVEY: Now the difference is, and very good
5 example, I appreciate you bringing it up, the difference here is
6 that when the LIRR had to take their facilities out of service
7 because of Sandy, they did not text anybody and say three weeks
8 from today we'll have that train back up and running on
9 schedule, because it's a magnitude -- it's a disaster of a
10 different magnitude. That's a very similar situation to what we
11 had. On a sunny day like this or even normal storms like we're
12 likely to have overnight, we can tell customers within a matter
13 of hours on when their power will be back on, and we can use the
14 text or the web or the telephone to do that, any number of
15 paths.

16 But on the magnitude of disaster such as Sandy, just like
17 the railroad was not able to tell when that railroad would come
18 back on, or the tunnel system was not able to say when are the
19 tunnels going to be pumped, we could not give that precise --

20 MR. GREEN: If I can just follow up, though. When you're
21 dealing with the LIRR and one tunnel and one track, that's a big
22 issue when it may come back on line. With a million and one
23 customers, each one is in a different community and street, and
24 so isn't it not parallel, because you could tell a particular
25 street, "it's likely you'll be up in a day or a week and you do

1 or don't need a licensed electrician to fill out a form before
2 we re-power," because there was obvious confusion about that.
3 So your analogy to the two is interesting because both of our --

4 MR. HERVEY: And I believe your follow-up example
5 demonstrates the complexity, how much more complex the electric
6 system is.

7 MR. GREEN: Yes.

8 MR. HERVEY: Of 1.1 million customers versus three or
9 four train lines.

10 MR. BRADFORD: Right. Okay. Thank you.

11 MS. MAHONEY: I just have a couple brief questions. One
12 is -- thank you, Mark. The prudent utility standard that you
13 were referring to, is that a Public Service Commission or a
14 license? Where does that term come from?

15 MR. BRUCKNER: Ms. Rice referenced the MSA before, and
16 the prudent utility practice standard is included in the MSA as
17 a standard, a standard of care that we're required to or
18 contractually obligated to abide by.

19 MS. MAHONEY: That isn't absolved during this force
20 majeure the way the performance metrics are? Is that what you
21 were --

22 MR. BRUCKNER: That is what I was referring to, that it is
23 not absolved during an emergency.

24 MS. MAHONEY: Is that just something that's in this
25 contract, or is that a standard that you're held to for a

1 license or through the Public Service Commission?

2 MR. BRUCKNER: I would have to check. I'm not aware of
3 that.

4 MS. MAHONEY: Okay. And then I had another question
5 about you mentioned two municipalities, one was New York City
6 and I don't remember the second, where this -- it went more
7 smoothly with the need for a licensed electrician to sign off
8 before power could be restored. What was the difference in the
9 municipality? Was there a waiver of the codes during the
10 process? Why did it work better in some municipalities than
11 others?

12 MR. HERVEY: The two areas as I mentioned were the area of
13 New York City that we serve and the City of Long Beach, and it
14 turned out the City of Long Beach process sort of spread to the
15 rest of Long Beach Barrier Island to the two small communities
16 there. But the difference was that the municipal government
17 took up the responsibility of the coding issue and informing us
18 of whether or not certain areas could be energized or not and
19 they were safe to energize or not.

20 Above and beyond that, even -- no matter where we were, New
21 York City, Long Beach, Nassau County, Suffolk County, once a
22 home or business was identified as flooded, at that point they
23 had to have an inspection certificate, and the various
24 communities handled that differently. That's up to their
25 individual method of how they do that.

1 That's one of the issues that I flagged early on and quoted
2 in the newspaper very accurately that I believe there needs to
3 be a multi-agency regional plan for this type of problem. In
4 fact, I recently had a conversation with people at the
5 Department of Energy and suggested to them that this actually
6 should be a coastal plan everywhere up and down the east coast
7 so there's one common plan of how to do it.

8 MS. MAHONEY: Okay. Thanks.

9 MS. CALCATERRA: Mr. Tishman.

10 MR. TISHMAN: Thanks. I'm particularly fascinated, as I
11 think as the other Commissioners are, on the relationship
12 between the two entities, and so I have a few questions
13 regarding that, and perhaps, Mr. Hervey, King and Bruckner, you
14 can all chime in. I think, Mr. King, you said that there was --
15 that this type of contract or owner or contract or subcontract
16 relationship is something that you frequently are engaged in in
17 Europe, but this is unique for you in the United States, and
18 then I also heard I think that this type of relationship is, in
19 fact, fairly unique in the United States.

20 I'm wondering, is it unique -- is it entirely unique
21 relative to National Grid and LIPA, or are there other examples
22 where a utility subcontracts essentially everything out other
23 than its executive team to a vendor here in the United States?

24 MR. KING: Yeah. Commissioner, I think from a US
25 standpoint, this type of relationship is one of only a handful.

1 It is -- it is unique. Then when you take the example that I
2 was referring to in the UK for example, the Scottish
3 transmission system is not owned by National Grid, but we
4 operate it as part of the overall National Electric Transmission
5 System. So those are just examples that I would say it's a
6 transmission only, it's not the distribution, so you don't have
7 a lot of the, you know, the millions of customer issues,
8 etcetera. That's what I meant by it's not at this magnitude.
9 But we are not the owner, we are the operator of the entire
10 National Transmission System within the United Kingdom.

11 MR. TISHMAN: So following on that question, is it
12 reasonable to say that the reason it is unique as compared to
13 Europe or your other assignments, that the magnitude of this --
14 the size of the system here perhaps is not as conducive, you
15 know, going all the way to the customer as it would be in a
16 smaller situation or where the vendor had less responsibility?

17 MR. KING: I'm not aware of the details of each of the
18 arrangements that may be out there nationally. I do think that
19 this -- the particular size and the relationship between
20 National Grid or the successor of National Grid and LIPA is one
21 of the more unique relationships in the country.

22 MR. TISHMAN: So I guess I have, Mr. Hervey, the same
23 question, in thinking about how this very large and important
24 relationship is set up, have you studied other similar
25 relationships here in the United States?

1 MR. HERVEY: We have looked at similar ones, and just to
2 pull back, we talked about it being unique and it certainly is,
3 but it's unique for a reason, and the reason was the original
4 1998 transaction, that was a way for the state to take over the
5 investor-owned utility, but yet still use the institutional
6 knowledge of the investor-owned utility. So to take advantage
7 of both the state utility and the investor-owned utility.

8 The other thing that's important to note in the
9 relationship we have is that LIPA is not only the asset owner,
10 but it's largely the regulator, and that comes out in many
11 things such as what Mr. Germano spoke about, the appeals
12 process. That process really replaces the process that the PSC
13 for the investor-owned utilities conducts. So it actually
14 mirrors that process.

15 But to answer your question a little better, there are
16 utilities, a few, that outsource a large portion of their
17 operation, but none that I'm aware of that outsource it to the
18 extent that we do. They went from the other direction.
19 Generally they went from, in one case I'm aware of, of
20 municipal, that began to outsource more and more, and it's gone
21 down the outsourcing track to a larger degree over time, and the
22 other case a very large investor-owned utility that has gone
23 down the outsourced path over time. Again, coming from a
24 typical fully integrated utility, and has become more and more
25 outsourced over time. So the others in the US that I'm aware of

1 are actually coming from the other direction of moving more
2 towards our model over time.

3 MR. TISHMAN: So I guess, Mr. King, we've acknowledged or
4 you've acknowledged that this relationship for you as a
5 contractor is coming to an end. To the best of your ability, if
6 you could answer, would this be a relationship that you would
7 enter into again here in the United States?

8 MR. KING: The National Grid/LIPA type of relationship?

9 MR. TISHMAN: Yes.

10 MR. KING: It would all depend on a whole host of issues
11 within the commercial transaction.

12 MR. TISHMAN: So, you know, we've heard a lot about -- I
13 mean, I have all the faith that the guys out on the lines
14 repairing things, high voltage people were probably doing
15 everything that they knew how to do and that this was really
16 primarily a communications -- we believe there were some
17 significant management communications issues that transpired
18 during the storm.

19 It's interesting because, you know, it's clear to me that
20 from the testimony, that LIPA, essentially through the MSA,
21 creates sort of the working environment in which National Grid
22 operates. It's not entirely clear to me what the information
23 flow in terms of structuring what was the MSA says is backwards
24 from National Grid, and the reason I'm interested in this is it
25 seems that National Grid, both here in the United States, is

1 very, very major player in the utility business, probably has
2 much more experience than most players in the world, manages
3 huge grids, but I think, Mr. Bruckner, you clarified to us
4 earlier when you said -- when we were talking about the SERPs
5 and you said, in fact, it wasn't your SERP, it was LIPA's SERP.

6 And so the question is, what is the mechanism in the
7 relationship if you are to disagree with LIPA relative to
8 something that they are constructing that requires you to
9 operate in a certain way, either because you don't believe it's
10 best practices or not an intelligent way to do business as a
11 utility, to react back to them and to either refuse to act in a
12 certain way or get them to amend their process?

13 MR. BRUCKNER: Sir, with respect to investment decisions,
14 when investment decisions are made, we do collaborate with LIPA.
15 We put together an investment plan or a capital work plan based
16 on the system load or load projections, operational experiences
17 that we've occurred on the system, maintenance, LIPA's own
18 planning criteria as far as what equipment needs to be replaced
19 and/or the rating of that equipment. We put that together, we
20 meet with LIPA, and we use LIPA's scoring system to determine
21 the value or the risk assessment of that investment.

22 At times, if we have a score, a disagreement on a capital
23 investment project, the two teams collaborate. We identify what
24 the risk is, whether it's an investment that LIPA feels that the
25 risk profile for that investment supercedes that of another

1 project, we go through that process with them collaboratively,
2 and ultimately -- it's LIPA's asset, and ultimately, we do share
3 with them concerns if they exist, but ultimately, they make the
4 investment decision. It's their asset.

5 MR. TISHMAN: Beyond the investment decisions, are there
6 other -- when LIPA is putting together their hardening or their
7 emergency response procedures, are you part of that process?

8 MR. BRUCKNER: Yes, we are.

9 MR. TISHMAN: And are they consistent with ones you have
10 elsewhere in your company's operating?

11 MR. BRUCKNER: So we do participate in the development of
12 those processes, and as we talked about earlier, lessons
13 learned, and we collaborate with LIPA on the after action
14 reviews that are performed to identify those lessons learned.
15 Those lessons learned continue to be reviewed with LIPA. In the
16 case of Irene, we review them with LIPA and then LIPA determines
17 the priority of which lessons learned will be implemented, and
18 then we do collaborate on the implementation of those practices.

19 MR. TISHMAN: Just the last question. We were talking
20 about a \$500 billion investment in storm preparedness and
21 hardening. That came significantly -- the decision to do that
22 came significantly after you were already engaged in the
23 contract. What are the provisions in your contract to implement
24 those? I'm assuming that LIPA comes up with the dollar amount
25 and the direction, but your responsible for the implementation

1 of the entire spend. Is that done within your contract? Is
2 that an amendment to your contract? Do you have economic
3 incentive to either do it or disincentive to do it?

4 MR. BRUCKNER: No. When the projects are approved in the
5 case of a storm hardening project, in the contract we do have
6 the responsibility of if it's a construction project, of
7 performing that construction service, and as far as incentives
8 or disincentives, there are no incentives to doing that project
9 or any of those capital projects. The costs are passed through
10 to the extent that they are appropriate and audited costs.

11 MR. HERVEY: I would just remind you, John, there is the
12 work plan completion metric which is a penalty if the work plan
13 is not completed. So if the work plan that is agreed upon is
14 not completed at the end of the year, then there is a penalty
15 for not performing that.

16 MR. TISHMAN: Thank you.

17 MR. GREEN: I just had a PS. It's not a long question.
18 Mr. Hervey, neither you nor I were aware that the 2010
19 management study of different systems was on the website and
20 available. Could you or counsel later just direct us to it,
21 because we'd like to see it, and if somehow it isn't, make it
22 available in the morning.

23 MR. HERVEY: Absolutely.

24 MR. GREEN: Thank you very much.

25 MS. CALCATERRA: Mr. Collins.

1 MR. COLLINS: Thank you. Mr. Hervey, earlier on you
2 talked about damage assessment, all the way back about two hours
3 ago, and your folks go into the field and they carry paper with
4 them, and there was a recommendation from Navigant that you take
5 that into the high tech world, and you chose not to, and you
6 defended that because you said it was still functional
7 carrying -- using paper; is that correct?

8 MR. HERVEY: That's correct. But I also said that that
9 process has its own set of warts.

10 MR. COLLINS: But you defended the paper by saying it's
11 still functional, in other words it still worked?

12 MR. HERVEY: The tablet PC version of that is just a
13 modern version of a piece of paper.

14 MR. COLLINS: Well, let me get to that then. Thank you.
15 It would be a lot quicker if you had a tablet version and you
16 could send that back to substations and headquarters, and the
17 information could be assimilated a lot quicker, right? So it's
18 not just a simple tablet version.

19 MR. HERVEY: There really is no completely integrated of
20 publicly available, market available system that does all of
21 that adequately at this point in time. We've been looking at
22 those systems over time. The system that we're implementing has
23 that capability. We haven't seen it function yet. But the fact
24 of the matter is that that fully integrated end-to-end
25 technology for electric utilities and for this magnitude of

1 problem, as far as I know, does not completely exist.

2 MR. COLLINS: Well, let's assume that it was an
3 improvement in time of a damage assessment in getting that
4 information back to the people that need the information, the
5 customers. So when you decided the time line for expending the
6 resources to put that system in, did you consider the customer
7 and the communication aspect, that it would improve
8 communications? Were you just looking for technical thinking
9 through the technical solutions when you made investments or
10 were you considering the customers?

11 MR. HERVEY: No. We were absolutely considering the
12 customers. But we also had to acknowledge the complexity of the
13 task at hand. We had to implement -- begin to implement an
14 underlying IT architecture, a data architecture and data
15 structure, and we began that several years ago. Then we had to
16 layer on top of that the new Outage Management System, which we
17 took in a very deliberate way, because of the complexities that
18 you can see and the importance of having the system, we went
19 about that in a pilot mode, in beginning to start the pilot
20 mode. Then we said we accelerated past the pilot mode into the
21 full implementation mode. That system needs to be in place, and
22 then once that system's in place as a follow on step, the field
23 remote computing, as a follow on step, the field remote
24 computing can be put in place. So there's a deliberate step by
25 step action. Going to the last step of putting tablets out in

1 the field doesn't get the problem solved. All the in between
2 stuff has to be addressed first.

3 MR. COLLINS: Can I address the same question, then, to
4 Mr. Bruckner, do you think that if an effort had been made to
5 implement it on a more rapid time line, that you would have had
6 better eventual communication in this case to the customer?
7 Could it have been accelerated, from your perspective, from your
8 knowledge?

9 MR. BRUCKNER: "Better information." I need to
10 understand what you mean by "better information." Would it get
11 the lights on faster? No. Would it provide --

12 MR. COLLINS: No. One of the issues we're dealing with
13 here is the customer knowing what's going on. Not turning the
14 lights on necessarily. In fact, if they knew that it was going
15 to be three weeks, you might have more satisfied customers. So
16 it's a question of getting information to them from damage
17 assessment, how quickly can you get that information to the
18 customer.

19 MR. BRUCKNER: The availability of that technology does
20 not exist, but if it did exist and you were able to bring back
21 the damage assessment, it would provide visibility to where the
22 damage was. It wouldn't give an indication necessarily of how
23 soon it could be restored, but it could give visibility to where
24 the damage was.

25 MR. COLLINS: You couldn't make a better estimate if you

1 had more information?

2 MR. BRUCKNER: No, I couldn't say that we could give a
3 better estimate. You're talking about a storm on the magnitude
4 of this. The number of damage locations would be so -- are just
5 so significant, I don't believe it would give you a better idea
6 of the time frame that that restoration would be completed.

7 MR. COLLINS: Thank you.

8 MS. CALCATERRA: Mr. King, I saw that you were raising
9 your finger. Did you want to follow up?

10 MR. KING: Yeah. Thank you. Commissioner Collins, I
11 think early into this, and only time will tell how successful
12 the information is, but for the National Grid, because we have
13 the ability to test it on the National Grid utilities across
14 other areas other than the Island, we did order 100 tablets to
15 test tracking the damage assessment. I haven't seen the data
16 come back, but it'll be a good test for us whether that kind of
17 technology will work.

18 MS. CALCATERRA: Just as a follow-up question. You are
19 the national US president for National Grid? I mean US
20 President for National Grid?

21 MR. KING: That's correct.

22 MS. CALCATERRA: In your experience, is there any system
23 under your jurisdiction as the national president, better than
24 the existing 25 year old OMS system that LIPA's presently using?

25 MR. KING: You know, I think what you would find within

1 the industry, there's all kind of vintages, this is not unique
2 to the vintage that the LIPA system has. There is more current
3 technology that many utilities are implementing. We are in the
4 process of changing ours also, and it's a multi-year process.
5 So we do know that as from really a vintage issue and keeping up
6 with technology, once you implement -- we have two legacy
7 systems, one that came from National Grid and one that came from
8 Keyspan. We are in the process of building new architecture and
9 designing and putting in new systems that will --

10 MS. CALCATERRA: How long ago did you begin that?

11 MR. KING: We have begun it. We started two years ago on
12 the National Grid aspects and --

13 MS. CALCATERRA: National Grid US?

14 MR. KING: Yes.

15 MS. CALCATERRA: What about National Grid US/UK? I'm
16 sure that you speak daily to Mr. Steve Holiday who's the
17 president of UK/US, what type of technology do they have over in
18 the UK that is better than the LIPA OMS system?

19 MR. KING: I'm pretty familiar with it because I sit on
20 the board of the parent, so I know exactly what both countries
21 are doing. The business within the UK is primarily
22 transmission, high wire. It doesn't have the customers on the
23 electric side that we do here in the US. So there's different
24 issues that we're dealing with the same systems. And they have
25 a gas distribution business. The UK is probably a year or two

1 ahead of us in making the transition to a new platform.

2 MS. CALCATERRA: Did you ever have discussions with
3 Mr. Hervey about them installing the better system than OMS
4 based upon your experience and what you're doing here in
5 National Grid US and what the UK's doing that is one to two
6 years ahead of us?

7 MR. KING: I personally have not had those discussions
8 with Mr. Hervey.

9 MS. CALCATERRA: Mr. Bruckner, did you have discussions
10 with Mr. Hervey about the OMS system that LIPA has, and if you
11 knew by way of your experience being the president of
12 LIPA/National Grid Long Island in your relationship with
13 Mr. King, and assuming you had some interaction with
14 Mr. Holiday, the president of the UK/US National Grid, have you
15 ever had discussions with Mr. Hervey or anyone else at LIPA that
16 there are other systems out there that would provide better
17 technology than the 25 year old OMS system that LIPA presently
18 has?

19 MR. BRUCKNER: So I wouldn't say that we've had
20 conversations that there are better technology, that there's a
21 better technology than the existing OMS. As I indicated
22 earlier, when we embarked upon the RFP for replacement of the
23 OMS system in the National Grid footprint, we did have LIPA
24 participate in that. They did an evaluation of that RFP and
25 decided to go in a different direction from an architecture

1 standpoint. So when we went through an OMS process for an RFP,
2 shortly thereafter LIPA went through a process as well, and Mike
3 had indicated that they decided to go with a product, a
4 different product.

5 MS. CALCATERRA: The Vantage report, Mr. Beisner, did you
6 ever know about the Vantage report, because earlier Mr. Bruckner
7 said he did not? Did you know about the 2006 Vantage report?

8 MR. BEISNER: I think you might be confusing the Vantage
9 and the Navigant report.

10 MS. CALCATERRA: Navigant. The Navigant report.
11 Correct.

12 MR. BEISNER: No.

13 MS. CALCATERRA: Did you know about the 2006 Navigant
14 report? No?

15 MR. BEISNER: I knew there was a report, but I did not see
16 it.

17 MS. CALCATERRA: You knew there was a Navigant report
18 that was done in 2006 that analyzed the infrastructure of LIPA?

19 MR. BEISNER: I recall that there was a Navigant report.
20 I do not know if I knew in '06, but I've heard talk about a
21 Navigant report.

22 MS. CALCATERRA: What do you see as your responsibility
23 at National Grid?

24 MR. BEISNER: My responsibility? I oversee the
25 distribution control centers and I have the first responders any

1 time there's an issue on the system, and I also have the
2 emergency preparedness.

3 MS. CALCATERRA: So if part of your responsibility is
4 overseeing the transmission system and you knew about a report,
5 you never asked for a copy of the report?

6 MR. BEISNER: I am not responsible for transmission.

7 MS. CALCATERRA: This clearly is what the other
8 commissioners had raised before, that this structure does not
9 work, because if there was a report that was done in 2006 by
10 LIPA that clearly -- and I'll walk you through some of the
11 things that before you said that it actually didn't say that it
12 did say. This report was done in 2006. You knew about it, but
13 those who you're contracting with who actually I provide the
14 service and work in the substations and deal with the
15 transmission lines, didn't know about it, and when they found
16 out about it, weren't given it or didn't even ask for it. That
17 disconnect between the two entities is clearly problematic for
18 Long Island ratepayers and Long Island customers.

19 But this is what the Navigant report did say very clearly,
20 even though before, Mr. Hervey, you said that it really -- that
21 when Navigant took a look at this, they didn't say that there's
22 really anything wrong with it and that you should get rid of it,
23 but this is what it said, that there has to be an upgrade on the
24 Outage Management System because it gives inefficient damage
25 assessment and a storm management tool. It's inefficient. And

1 this system is called CARES ironically. And the CARES system is
2 not linked to any GIS, which is a Geospatial Information System.
3 So it certainly doesn't give any information about specifically
4 where the outages are.

5 And it doesn't have any customer association or switching
6 order management, and specifically it says the CARES is not used
7 during major storm restorations. CARES is the Outage Management
8 System for LIPA. According to Navigant, CARES is not used
9 during major storm restoration. So what is used during major
10 storm restorations?

11 MR. HERVEY: The normal day-to-day CARES is not used for
12 major restorations, but there are modules in it that are. So
13 that statement is not entirely correct.

14 MS. CALCATERRA: The Navigant statement that you paid
15 several hundred thousand dollars, which really wasn't a lot of
16 money, is not entirely correct?

17 MR. HERVEY: Correct. As I --

18 MS. CALCATERRA: Don't you see a draft of this report and
19 ask them to go back and change it then?

20 MR. HERVEY: As I indicated, there are modules in CARES
21 that are used to perform restoration and even more so over time.
22 And as you indicated, there it's an efficiency issue, it's not a
23 capability issue. By the way, the link to geospatial means that
24 it doesn't go to an outside mapping product. It does not mean,
25 as you said, that it does not know about damage locations and

1 their location.

2 MS. CALCATERRA: And in this report also it said, which
3 is what Navigant said, it recommended -- it said that there are
4 up to 20 LIPA substations in low lying coastal areas that may
5 experience flooding associated with a severe storm, and while it
6 is unlikely that all of these substations will flood during a
7 single storm, many will see flooding depending on the strength
8 and location of the storm surge.

9 So Navigant recommended that LIPA raise equipment
10 foundations to avoid the flooding, secure equipment structures,
11 and rebuild the substations with flood resistant design.

12 MR. HERVEY: And we've been doing that as I indicated in
13 conjunction with other work that's gone on, we've been doing
14 that. We took the additional steps in the interim because these
15 are all very large expenditure type items, and again, it's a 20
16 year program that will be implemented over time, that we
17 implemented mitigation means in many of those substations,
18 meaning knowing the elevations of them and being able to sandbag
19 then according to the forecast.

20 MS. CALCATERRA: But they didn't work for Sandy.
21 Whatever it was that you said that you're doing did not work for
22 Sandy. Did not work this time around.

23 MR. HERVEY: It did work for Irene, and I'll just point
24 out that in Sandy --

25 MS. CALCATERRA: Irene was not like Sandy. Sandy was a

1 lot worse, and so this flooding that this report said was going
2 to happen to these substations, that was not procured. That was
3 not taken care of. If they weren't raised enough or they
4 weren't moved far away from the flooded area enough where they
5 were going to be subjected to flooding.

6 MR. HERVEY: The issue with sanding was, in fact, the
7 substations in question were sandbagged and they were sandbagged
8 to the forecasted surge, but that the surge on the third tidal
9 cycle was much higher than any forecast had imagined. The other
10 issue, the other thing that was implemented --

11 MS. CALCATERRA: Mr. Hervey, the National Weather Service
12 came to both EOCs, the Nassau County EOC and the Suffolk County
13 EOC, they're called the emergency operation centers. For the
14 first time in the history of the Suffolk County EOC there was a
15 representative there from the National Weather Service. They
16 kept telling everyone in that EOC there was going to be death
17 and devastation. Those are the two words they used. And they
18 warned us, warned us about the storm surge and how high it was
19 going to be, and we knew about the tidal rise, and we knew about
20 how it was lining up with -- the full moon cycle coincided with
21 this.

22 So it was very clear days leading up to the storm what we
23 needed to do to harden what we needed to harden, and there was
24 nothing that was done by LIPA to harden the substations in
25 compliance with this Navigant report.

1 MR. HERVEY: I don't agree. All of the steps for that
2 forecast were in fact taken, and if you would like, Mr. Lizanich
3 here can speak about the details of the steps that were taken
4 relative to --

5 MS. CALCATERRA: No. I want to go back to the storm
6 hardening. Apparently the PSC, which is the state Public
7 Service Commission, did a report on LIPA in this past July, June
8 or July of 2012, and it did a report and took a look at what
9 LIPA's response to Irene was. And in that particular report,
10 you had worked with Vantage, which I had mentioned before, you
11 had hired a firm named Vantage that helped you respond to the
12 Public Service Commission's report that they were doing, and for
13 a little background, you're not regulated by the PSC. The PSC
14 regulates privately-owned utilities. It does not regulate LIPA.
15 LIPA is self-regulated. You and PSC entered into an MOA so they
16 could come in and they could actually do this examination of
17 what LIPA did with Irene. So it's not something that is
18 normally done.

19 So then you, according to this PSC report, hired a firm to
20 serve as a go between to provide -- to compile your data and
21 share that data with the PSC, and that firm is named Vantage.

22 MR. HERVEY: Not entirely correct by the way.

23 MS. CALCATERRA: Well, Vantage did a review and gave this
24 review to the PSC. And on the second to last page of a 109 page
25 report that the PSC did, Vantage actually lists out what they

1 deem to be your storm hardening budget profile. And I
2 understand that earlier you told DA Rice that maybe we're
3 looking at your capital budget differently and we're looking at
4 storm hardening initiatives, but the firm that you hired
5 actually provided data to the PSC which basically said that from
6 2006 to 2010, your annual average that was budgeted in your
7 budget was only 13.2 million, not the 25 million that was said
8 back in 2007 when you -- when LIPA had said that you're going to
9 be dedicating \$500,000,000 over 20 years, and then again that
10 July 2007 press release said you will be paying out \$25,000,000.

11 So according to this information, you budgeted 13.2
12 million, but you actually only paid out 12.5 million average.
13 So that information that you gave earlier is correct, based upon
14 someone that you hired to liaison between the PSC. So some of
15 the --

16 MR. HERVEY: May I explain?

17 MS. CALCATERRA: -- storm hardening initiatives that you
18 are saying didn't happen.

19 MR. HERVEY: That's not right. I do not agree with that
20 at all.

21 MS. CALCATERRA: And what do you define as a storm
22 hardening initiative?

23 MR. HERVEY: So let me just straighten out the record on
24 a few of the statements that were just made.

25 MS. CALCATERRA: Well, what do you define as a storm

1 hardening initiative?

2 MR. HERVEY: I would like to go back and just the few
3 things you said --

4 MS. CALCATERRA: I know, but what are examples of storm
5 hardening initiatives?

6 MR. HERVEY: For example, raising equipment. Putting up
7 equipment that is higher wind withstand rating. Increasing the
8 foundation design to withstand additional wind in substations.
9 Moving and increasing the size of distribution poles that have
10 smart grid equipment on them. Certain amount of undergrounding
11 is done to avoid -- to replace overhead.

12 MS. CALCATERRA: Can you explain the undergrounding?

13 MR. HERVEY: Sure. Rather than installing an overhead
14 line, to install an underground line that will not be so
15 susceptible to wind damage.

16 MS. CALCATERRA: What other type of undergrounding would
17 you deem to be storm hardening?

18 MR. HERVEY: Well, we may -- some undergrounding we do as
19 a matter of course adds a storm hardening element, but there are
20 occasions, for example, during the course of this, we've
21 undergrounded several transmission lines rather than put
22 overhead transmission lines, and that undergrounding is a storm
23 hardening function.

24 MS. CALCATERRA: Any other undergrounding at all that
25 would be deemed storm hardening, besides what you said?

1 MR. HERVEY: That in itself are 10s of millions of
2 dollars of undergrounding that's been done in storm hardening,
3 as part of the storm hardening program. We've also -- for
4 example, every new substation has a new higher wind design, so
5 every new substation or if we replace a portion of a substation,
6 that those insulators, that structure in the station --

7 MS. CALCATERRA: Actually, is a cable replacement
8 underwater, under the ground, under the water, is that deemed to
9 be storm hardening?

10 MR. HERVEY: The overhead portion of it in the case of --
11 there's a great example, a Captree distribution line --
12 transmission line over to Fire Island. We replaced that line
13 and we replaced the overhead portion that's on the mainland, we
14 storm hardened that overhead portion of that line.

15 MS. CALCATERRA: The overheard portion was what was storm
16 hardening?

17 MR. HERVEY: That's right.

18 MS. CALCATERRA: What you should take a look at as your
19 capital budget where that -- the cable that went underground I
20 believe was \$17,000,000, and 95 percent of it was deemed to be
21 storm hardening, not what was overground. Not what was
22 aboveground. So some things in your capital budget, where
23 whoever it was that did your budget, allocated things to storm
24 hardening to get to that \$25,000,000, that weren't directly
25 seemed to be what storm hardening actually is and didn't move

1 towards the direction of the storm hardening that we needed to
2 do.

3 MR. HERVEY: Again, I think there's a basic
4 misunderstanding --

5 MS. CALCATERRA: I don't think there's a
6 misunderstanding, but I am going to switch this over to Mr.
7 Lawsky who does have some questions, and we have follow-up
8 questions.

9 CO-CHAIRMAN LAWSKY: Thank you. I think my questions are
10 pretty easy. On mutual aid, something we haven't talked about
11 much today, and I think this is a National Grid question, but I
12 would turn it over to anyone who wants to answer it, we've heard
13 a fair amount of testimony in previous hearings and privately
14 that there was this exponential increase in individuals coming
15 into the state to deal with the storm, and my question is -- to
16 help you through the mutual aid program, and they were coming
17 from Canada, they were coming from out west, they were coming
18 from down south, a lot of people who didn't know their way
19 around New York at all, and my question is, was there a plan in
20 general, a management plan to deal with this influx of new
21 individuals?

22 It's a much different operation when you have to manage 100
23 people than when you have to manage 4,000 people. And so I
24 guess my initial question is, was there a plan, a management
25 plan to deal with that exponential growth in people on the

1 lines?

2 MR. BRUCKNER: Yes, there was. There was a plan. I'll
3 go through not only the process that we followed to bring those
4 crews in, but also the decentralized nature of our restoration
5 plan. I'll talk to that, how that also helps to manage those
6 resources. So, you know, we bring the resources in in order to
7 address the significance of the storm. So, you know, based on
8 the forecast that's projected for the storm and the impact and
9 the probability, we do meet with LIPA. We review their process
10 or their procedure for how to determine what the level of
11 resources will be required. Again, it's predicated on the
12 significance of the storm. We talked about a tropical storm or
13 cat 1, cat 2, so forth, and also the probability of being hit by
14 that storm.

15 LIPA then utilized in their resource curve if you will,
16 LIPA then approves bringing those crews onto the property. We
17 have a management staff. All of our employees, you know, the
18 verbiage we use is wear two hats, right? So all of the Long
19 Island based employees and downstate employees have a storm
20 assignment, as well as a normal day assignment.

21 To process those crews, we train those individuals to do --
22 to set up a processing center for all those crews to come in.
23 We have a management staff that then goes through a safety
24 briefing with those crews so that they understand some of the
25 specifics about the Long Island system or LIPA's system.

1 CO-CHAIRMAN LAWSKY: I'm sorry, because I just don't want
2 to keep us here all night. I think I'm asking something a
3 little different, which is the only reason why I stopped you.
4 I'm asking in general, was there -- the idea of a big storm
5 happening on Long Island, you would agree with me is entirely
6 predictable, correct?

7 MR. BRUCKNER: I think in the case of Sandy, it's
8 unpredictable.

9 CO-CHAIRMAN LAWSKY: Fine. But a storm of significance
10 is predictable, it's happened many years, fair enough?

11 MR. BRUCKNER: We've had major storms on Long Island.
12 Yes.

13 CO-CHAIRMAN LAWSKY: Fine. If that is a predictable
14 event, that you'd have a major storm on Long Island, then I'd
15 assume as a company, you know that you're going to have
16 potentially an influx of a lot of new people from out of state
17 to help you get the lines restored; is that fair to say?

18 MR. BRUCKNER: That's correct.

19 CO-CHAIRMAN LAWSKY: And I'm asking, was there a plan in
20 general for dealing with how you as a company were going to
21 manage this influx of employees?

22 MR. BRUCKNER: Yes.

23 CO-CHAIRMAN LAWSKY: Who was going to be in charge?

24 MR. BRUCKNER: Yes.

25 CO-CHAIRMAN LAWSKY: How were they going to communicate?

1 Where were they going to sleep? Did you have that worked out
2 ahead of this storm?

3 MR. BRUCKNER: Yes, we did.

4 CO-CHAIRMAN LAWSKY: And if you did, then based on what
5 the testimony I've heard, and you can feel free to refute this,
6 what went wrong with that plan?

7 MR. BRUCKNER: Well, the plan was a success. The plan is
8 a scalable plan. We did bring on resources, you know, as you
9 had mentioned, a significant number of resources. When they
10 come on to the Island, we decentralize our operations. So when
11 you talk about the blue sky day and we have a supervisory staff
12 that reports to centralized areas. When we have a storm, we
13 take those centralized areas. We decentralize. I think
14 Ms. Rice mentioned substations before. We decentralize and
15 operate out of 80 substations. There's management in those
16 substations so that when we allocate the crews to those
17 substations, they're also provided a crew guide to show them,
18 you know, to give them directions as to where to go.

19 CO-CHAIRMAN LAWSKY: So let me --

20 MR. BRUCKNER: They come with their own supervision.
21 Please let me finish. They come with their own supervision,
22 those crews, and then they're managed as far as where they're
23 assigned to to perform that work by those substations. So we do
24 increase the level of management staff significantly to manage
25 those resource.

1 As far as logistics, as those commitments are made from off
2 Island crews, when they commit that they are coming, then we
3 sign up for the lodging that would be required, whether it's
4 hotels or what type of lodging that we will have, and we also
5 have materials that are provided to them when they come on to
6 the property, we provide them the materials that they'll need to
7 make the repairs on the LIPA system.

8 CO-CHAIRMAN LAWSKY: Fair enough. Do you run, at some
9 point during the blue sky days, sort of a tabletop exercise
10 where you figure out who's going to be in charge? And do you
11 scale to a certain amount? In other words, do you say okay,
12 let's run a tabletop exercise where how would we operate if all
13 of a sudden we needed 4,000 -- I don't know what the number is,
14 but whatever number you predict for a bad storm, do you have
15 sort of an exercise you do to make sure you can actually do
16 this?

17 MR. BRUCKNER: Yes, we do.

18 CO-CHAIRMAN LAWSKY: When was that done most recently?

19 MR. BRUCKNER: I'd have to -- subject to check. But the
20 hurricane drill I believe is -- do you know the month? In June
21 or July?

22 MR. BEISNER: The hurricane drill for leadership is in
23 July. And through the year, we exercise all the people, drill
24 all the people, train all the people who are out in the
25 substations.

1 CO-CHAIRMAN LAWSKY: And so for each crew that came in,
2 you're saying that there was someone assigned to them from
3 National Grid who was their counterpoint?

4 MR. BEISNER: Yeah. Let me just jump in here. Okay. So
5 John spoke about decentralizing down to around 80 substations.
6 The substations have a designated leader known as a SAC, so that
7 substation area coordinator is assigned to that substation on a
8 permanent basis, okay? So the leaders of those substations
9 become familiar with the substation, the service territory that
10 it encompasses and that is their sub. So when we go to a major
11 event and we open up substations, the leadership is already set.

12 CO-CHAIRMAN LAWSKY: So how many people did you have
13 working for you in the aftermath of Sandy, let's say within that
14 week after Storm Sandy, how many people were working at these
15 substations?

16 MR. BEISNER: What would you define as "people"? What do
17 you mean? Field workers? Office workers?

18 CO-CHAIRMAN LAWSKY: I'm sorry, people that had come in
19 from out of state to help you through the mutual aid.

20 MR. BEISNER: It's subject to check. It was a few
21 thousand at that point.

22 CO-CHAIRMAN LAWSKY: And how many do you normally have?

23 MR. BEISNER: On a normal blue sky day?

24 CO-CHAIRMAN LAWSKY: Yeah.

25 MR. BEISNER: There's about 300 high voltage linemen on

1 the property, we have about 150 contractors, and then we have
2 had about 100 underground splicers. So whatever that adds up
3 to, 4 or 500 people. That's on a normal day.

4 CO-CHAIRMAN LAWSKY: And how did you arrange for where
5 these new 3,000, 4,000, whatever the number is, let's stipulate
6 whatever it might be, how did you arrange for how they were
7 going to be housed, where they were going to be fed, how they
8 would know where they were going?

9 MR. BEISNER: We have a significant logistics
10 organization that we pull together, and when we spoke before
11 about the LIPA ERIPs, there's a whole set of ERIPs that have a
12 checklist and policies and procedures on how to handle the
13 logistics area. So we pulled together there's probably about
14 20, 25 people that are assigned to that function, and it's their
15 second hat, as John said before, and they will be responsible
16 for lodging, for food, for coming up with material lay down
17 areas, fueling. All the needs of the crews are taken care of by
18 the logistics organization.

19 CO-CHAIRMAN LAWSKY: Then how do you explain the
20 testimony we keep getting as a body that there were crews all
21 over Long Island who didn't have a place to sleep? They were
22 sleeping in their trucks. They didn't know where they were
23 going because they didn't have maps and didn't know who they
24 reported to, and they often were just left sitting waiting to
25 get assignments for where to go? And look, it's fair to say

1 this was a huge storm. We had a huge influx of people. It was
2 very hard to manage. I get that. But I feel like there's a --
3 we're not connecting when you're describing your procedures that
4 were in place and then what we're hearing was happening on the
5 ground, and I'm trying to wed those.

6 MR. BRUCKNER: So let me address that. With respect to
7 sleeping in trucks, we've heard that. We've heard that in the
8 papers. We're reading about that. The fact of the matter is
9 this, we had at any one time, or at the peak of the storm I
10 should say, over 13,000 personnel that needed beds, and for the
11 entire event, as a result of the ramp up -- and again, we don't
12 make the commitments on bedding and hotels until the commitment
13 of the off Island resource is made. We're not going to make it
14 before we know that the people are coming. So as the people are
15 coming, we do ramp up.

16 We had a significant ramp up in the first several days of
17 the storm that required some of the linemen from off Long Island
18 to stay in the cab of their trucks. It happened on two nights.
19 That was a result of the extensive amount of hotel space that
20 was occupied because of some of the devastation of Sandy
21 throughout Long Island, and also, the ability to ramp up some of
22 the base camps that we set up with sleeping. So the influx on
23 manpower on two of the nights required some of the linemen to
24 sleep in their truck. Not going to deny that.

25 Totally not a precedent setting situation when you think

1 about the significant events throughout the United States and
2 the storm chasers or the linemen that go from storm to storm,
3 it's certainly something that happens. It's unfortunate, but
4 even in the event when they did not have a bed on those two
5 nights early on in the storm, they did have a staging area to be
6 assigned to, they were provided shower facilities, sanitary
7 facilities, we provided food for them, and fuel as well at those
8 facilities, as well as laundry services.

9 CO-CHAIRMAN ABRAMS: Another follow up on this point to
10 try to get it a little more precise. Did you have a pre-storm
11 plan as to the maximum number of people you could efficiently
12 manage to assist you?

13 MR. BRUCKNER: Sir, we had -- we certainly had a
14 pre-storm plan, and I would say the manner in which it was
15 executed proved that the number of resources that we brought on
16 were efficiently managed.

17 CO-CHAIRMAN ABRAMS: Did you have a plan that had a
18 number attached to the plan that would be the maximum number of
19 people that you could effectively and efficiently manage?

20 MR. BRUCKNER: Again, decentralization of this plan and
21 the utilization of this plan makes it scalable, so if we needed
22 more people and we needed to manage them efficiently, the
23 ability was there to continue to bring on people.

24 CO-CHAIRMAN ABRAMS: How many additional people came in?
25 We heard in the last hearing there were 10,000. Is that

1 exaggerated? Is that accurate?

2 MR. BRUCKNER: 10,000 linemen is not accurate, but 10,000
3 field force personnel, tree and line and so forth is a number
4 I'd have to check it, but it sounds in the area.

5 CO-CHAIRMAN ABRAMS: And could you efficiently manage
6 10,000 additional people coming in to Long Island?

7 MR. BRUCKNER: I would have to -- we'd have to make that
8 assessment. We didn't need those additional 10,000 people that
9 you're referring to, making it 20,000.

10 CO-CHAIRMAN ABRAMS: If you didn't need the 10,000 -- if
11 you did not need the 10,000, why did you call? They didn't come
12 on their own. They came at your request.

13 MR. BEISNER: Let me just clarify the question for John.
14 Are you asking about the original 10,000 or an additional
15 10,000?

16 CO-CHAIRMAN ABRAMS: The additional people.

17 MR. BEISNER: No. We didn't have an additional 10,000.
18 10,000 was the number. That was the ceiling.

19 CO-CHAIRMAN ABRAMS: How many linemen do you normally
20 have servicing Long Island?

21 MR. BEISNER: 4 to 500. The number I gave you before.

22 CO-CHAIRMAN ABRAMS: 4 to 500. How many linemen came
23 from out of the territory, out of your employ to help you during
24 this storm crisis?

25 MR. BEISNER: About 6,000.

1 CO-CHAIRMAN ABRAMS: I thought it was 10,000?

2 MR. BRUCKNER: Linemen, sir. You asked about linemen
3 versus total field personnel. I had indicated that total field
4 personnel was about 10,000.

5 CO-CHAIRMAN ABRAMS: 6,000. Did you have a plan to
6 effectively manage 6,000?

7 MR. BRUCKNER: Yes.

8 CO-CHAIRMAN ABRAMS: You did?

9 MR. BRUCKNER: Yes.

10 CO-CHAIRMAN ABRAMS: Do you think, in fact, they were
11 effectively managed?

12 MR. BRUCKNER: Yes, I do.

13 CO-CHAIRMAN ABRAMS: You do?

14 MR. BRUCKNER: Yes, I do.

15 CO-CHAIRMAN ABRAMS: So the reports that we have gotten
16 of trucks lined up with men in them, sitting idly in those
17 trucks while restoration is supposed to be taking place, those
18 reports are inaccurate?

19 MR. BRUCKNER: I can't speak to a specific example that,
20 you know, an example that you're giving, but what I can tell you
21 is that the crews that we had assigned here were effectively
22 utilized.

23 Now as to a report where a truck may be idle, there are
24 many reasons why a truck may be idle. And while it's
25 disappointing to customers as well as us to see a truck idle, I

1 recognize there are reasons why that may be the case. That crew
2 could be waiting for a specialized piece of equipment to enable
3 them to do the job more safely. That crew could be waiting for
4 wire or a work area to be made safe by somebody else
5 de-energizing the line and taking time to do that, and you know,
6 quite frankly, that crew could be -- could have just finished a
7 major restoration project taking several hours of hard work and
8 needed to take a coffee break.

9 So there's many reasons why a truck could be idle. And
10 many of those reasons wouldn't be known to the public who had
11 made, you know, that made statements such as that. But to
12 answer your question, sir, we did efficiently utilize the crews,
13 and we did have a process to process those crews efficiently and
14 safely.

15 CO-CHAIRMAN ABRAMS: Does anyone other than you believe
16 it was done efficiently?

17 MR. KING: I do.

18 MR. BEISNER: Yes, I do.

19 CO-CHAIRMAN ABRAMS: The two of you?

20 MR. KING: Yes.

21 MR. BEISNER: Yes.

22 CO-CHAIRMAN ABRAMS: All right. Okay.

23 MS. RICE: Mr. Bruckner, I just want to put the question
24 to you that Mr. Abrams asked of Mr. King and Mr. Hervey. As
25 your corporation, it is transitioning out of this area, do you

1 have any parting opinion as to this type of model, any feeling
2 that it could be done better either way?

3 MR. BRUCKNER: Again, not being involved with all the
4 assessment that was done or has taken place up to this time, I
5 do not.

6 MS. RICE: No. I'm talking about your opinion. You
7 are -- you run -- you are the president of LIPA Long Island
8 National Grid. You run this whole geographic area. You
9 understand the relationship -- no one understands it better than
10 you I would think, the relationship between National Grid and
11 LIPA. Do you have any opinion as to this type of model that
12 exists between National Grid and LIPA?

13 MR. BRUCKNER: The model that we currently operate, I
14 believe that we are managing effectively in that model, and I
15 don't have any recommendation as to where that model should go.

16 CO-CHAIRMAN ABRAMS: So Ms. District Attorney, the three
17 officials feel that the model is great, it's hunky-dory, it's
18 perfect. There are no recommendations that they're offering to
19 us as to any possible structural change.

20 MS. CALCATERRA: Mr. Lawsky.

21 CO-CHAIRMAN LAWSKY: Changing topic areas a little, but I
22 think related in terms of plans in place, did you have a plan in
23 place prior to the storm to deal with mass inspections that
24 would be necessary to restore power in the flood zones?

25 MR. BRUCKNER: I believe Mr. Hervey answered that

1 question. The plan that National Grid had was upon being
2 notified of the safe premise to be energized, we would have a
3 resource and we did have resources available to energize those
4 areas.

5 CO-CHAIRMAN LAWSKY: I'm sorry, I'm not as steeped in the
6 utility speak as you all. Can you do that a little slower and
7 in --

8 MR. BRUCKNER: So you asked if we have plans to
9 reenergize areas and in specifically flooded areas.

10 CO-CHAIRMAN LAWSKY: I asked if you had a plan in place
11 to deal with mass inspections which would be necessary to
12 reenergize?

13 MR. BRUCKNER: No, we do not.

14 CO-CHAIRMAN LAWSKY: Why not?

15 MR. BRUCKNER: We do not perform inspections on the
16 customer's facilities.

17 CO-CHAIRMAN LAWSKY: I don't mean you have to perform the
18 inspections. I mean do you have a plan in place to figure out
19 who's going to do those inspections, when they're going to do
20 those inspections, how they're going to do those inspections,
21 and how they're going to -- you're then going to reenergize the
22 system?

23 MR. BRUCKNER: No, we do not have a plan for those
24 inspections and how they're going to be done.

25 CO-CHAIRMAN LAWSKY: And why? Do you think that's a LIPA

1 problem, not a National Grid problem?

2 MR. BEISNER: John, let me jump in here for a second.

3 CO-CHAIRMAN LAWSKY: Yeah. Any of you can answer it. I
4 don't care.

5 MR. BEISNER: I'm just going to bring you guys back to
6 the night of the storm, the 29th, that Monday, okay? We did
7 experience severe flooding along the south shore, as we all
8 know. In the evening we received a number of phone calls from
9 local fire departments and county EOCs asking us to de-energize
10 portions of the territory that were flooded for safety reasons
11 and safety perspective. So we did go ahead and de-energize
12 those areas. So we were asked by the jurisdiction in charge to
13 shut the power down, which we did.

14 So our plan would be to return service, turn the power back
15 on when the municipalities who have the authorization tell us
16 that those homes and structures are safe to receive power.

17 CO-CHAIRMAN LAWSKY: Okay. Treat me like a seven year
18 old. As I understand it, then, it's not your problem, you're
19 saying the municipalities have to give you the go ahead, and if
20 the municipalities are going to require an inspection, that's on
21 them to figure out, or LIPA, but you don't have a plan in place
22 to figure out how those mass inspections are going to take place
23 to allow you to flip the switch back on?

24 MR. BEISNER: You know, no, I didn't say that. What I
25 said was we had a plan to energize these homes and structures,

1 once we were told they were safe by the authority.

2 CO-CHAIRMAN LAWSKY: Okay. I think we agree. I think we
3 agree.

4 MR. HERVEY: And then to add to that, lacking that
5 multi-agency plan that existed, we actually stepped in, and
6 that's the evidence, you see that of what we put out, we stepped
7 in to create that capability to do that. So lacking what was
8 not -- it was clear to us was not on the ground at the time, we
9 stepped in and created that on the fly.

10 CO-CHAIRMAN LAWSKY: My notes say it took seven days to
11 finalize a plan and for a coordinator to be assigned, which
12 would have been the Wednesday after Election Day. Do you know
13 if that's true?

14 MR. HERVEY: I don't think that that's true, and the
15 schedule was certainly different for different areas. Some of
16 the areas were up and running and going much quicker than seven
17 days out. I can't imagine that there were parts in Nassau
18 County where the sequence hadn't gotten to them yet, except for
19 the seventh day or so.

20 CO-CHAIRMAN LAWSKY: Would you say it's true that in that
21 interim period, LIPA and National Grid were -- this is from
22 testimony that we've had from others -- were preoccupied with
23 your potential legal liability rather than figuring out how to
24 get the system back on?

25 MR. HERVEY: Not at all. Our sole -- we were asked in a

1 few occasions to do something that we thought was unsafe from a
2 standpoint of damage, property damage and life to health. Our
3 concern throughout our restoration, National Grid's concern
4 throughout the restoration was safety for the employees and for
5 the customers. And when asked to do something that we felt was
6 unsafe, we pushed back and said, "We feel that's unsafe. We
7 feel that we should not be doing that particular activity you're
8 asking us to do."

9 CO-CHAIRMAN LAWSKY: In the hurricane drill that you did
10 in the summer after Irene in 2012, isn't it true that LIPA and
11 National Grid did not train for or drill in any way for a
12 scenario involving flood inspections for the purpose of
13 re-energization?

14 MR. HERVEY: It is true, but that's because in that
15 particular year -- each year we have a focus of the hurricane
16 drill, and the focus was not in field operations for the 2012
17 drill.

18 CO-CHAIRMAN LAWSKY: In prior years had you done that?

19 MR. HERVEY: In prior years we had discussed surge-effects
20 and outages coming from the surge. But, again, the plan would
21 have been to wait for the proper authority to give us approval
22 to come back and restore those areas.

23 CO-CHAIRMAN LAWSKY: Okay.

24 MS. CALCATERRA: I want to go back to the ERIP. The ERIP
25 that National Grid uses, that is also partnered up with LIPA's

1 SERP, what category hurricane is that ERIP equipped for?

2 MR. HERVEY: The selection matrix, and those can go up to
3 a category 3 hurricane.

4 MS. CALCATERRA: National Grid, we understand National
5 Grid covers parts of Massachusetts, and the Attorney General in
6 the State of Massachusetts began an investigation, and in July,
7 this past July she issued a report that was pretty damning of
8 National Grid, and she also recommended that they pay a \$16
9 million fine for their failure to provide the services that they
10 needed to in the Hurricane Irene storm which was then followed
11 by an ice storm.

12 Some of those issues that she raised was that there was
13 very poor communication, customers didn't know when they were
14 going to be restored, and the list kind of continues. But one
15 of the primary things that was brought up in that investigation
16 was that that hurricane that -- when Hurricane Irene landed in
17 Massachusetts, it ended up landing at about a category 4 or 5
18 and that National Grid was only ready for a 3.

19 So she issued this report that was part of the
20 investigation, and then last week, last Thursday I believe, the
21 Massachusetts Department of -- their equivalent of the
22 Department of Public Commission disregarded the appeal that was
23 made by National Grid, and actually upped the fine for about
24 \$18,000,000.

25 During this process of this investigation that was began by

1 the Attorney General right after Hurricane Irene, which started,
2 you know, back in 2011, and there was the issue of the ERIP that
3 was utilized by National Grid, that it wasn't equipped for a
4 hurricane of that standard, was there any time that you had
5 communicated -- and I'm speaking this to Mr. King, because I'm
6 sure that you were involved in this, that you had communicated
7 the ERIP that was only prepared for a category 3, that it should
8 maybe be heightened so every opportunity that was made tonight
9 to say that you were not prepared for this type of storm, that
10 this storm was damaging, who knew that this would happen, those
11 are the similar excuses that were basically put into this
12 Massachusetts report as well.

13 Was there any recommendation from National Grid, in your
14 experience in Massachusetts, made to LIPA that you should
15 reassess the ERIP and upgrade it so it can withstand a category
16 5 or, you know, it can address storm surges similar to what we
17 had here?

18 MR. KING: That was a long list of facts, and there are a
19 lot of facts listed in that statement that aren't correct. For
20 instance, that it hit a category 4 or 5, and I think it was
21 quite a bit lower than that.

22 MS. CALCATERRA: According to the report, you had planned
23 for a 3 and it was, when it hit landfall, it hit at a 4 or 5. I
24 have the page of the report that it says it in.

25 MR. KING: That's not a correct fact, but I want to get

1 to your --

2 MS. CALCATERRA: You're disputing the fact that's in
3 here?

4 MR. KING: No. I'm disputing the 4 or 5. There's never
5 been a 4 or 5 since I've been there that has hit at that level
6 within Massachusetts. So that's the piece that is on -- the
7 ERIP is their plan, and we have emergency response plans that we
8 have on file within Massachusetts. This entire issue is still
9 under litigation and I'm not going to comment on that current
10 litigation that's pending.

11 MS. CALCATERRA: So you will not comment on the fact that
12 you're going through an experience where you actually had an
13 ERIP that's being questioned as far as the quality of the ERIP
14 and how it can actually be applied to certain types of
15 hurricanes, that your ERIP is not pliable enough to deal with
16 the storm that hit. So you can't comment to say that there was
17 any communication between you and LIPA that maybe they should
18 reassess their ERIP/SERP because theirs is only a category 3,
19 and even though Hurricane Sandy we knew was much lower, it's
20 questionable whether it was a category 1 or not, but what
21 actually affected us was a lot worse than that. There was no
22 communication between the two of you on it?

23 MR. KING: I'm not aware of any communication between the
24 two.

25 MR. HERVEY: If I might. I would also have to ask you to

1 go back and look at the numbers, but a category 3 is a very
2 unlikely event on Long Island. A category 4 certainly is an
3 extremely unlikely event on Long Island. So the reason that our
4 procedures go up to category 3, and there have been no -- to my
5 knowledge, there have been no category 3s in the northeast for
6 many, many years. Decades. I'm no expert --

7 MS. CALCATERRA: We understand that. Because in the LIPA
8 report that was put out in July 2012, the excuse that your staff
9 kept coming up with with Irene was that you were never prepared
10 because you never expected something like this to happen. At a
11 certain point, we have to start expecting it to happen and start
12 planning for it to happen.

13 MR. HERVEY: Well, we have a plan. As I indicated, we
14 can go up to a category 3 with the existing plan, and of course,
15 then the plan is scalable beyond that. But we go to a category
16 3 because a category 3 is on the outer bounds of what's possible
17 on Long Island.

18 MS. CALCATERRA: So as far as Superstorm Sandy, Hurricane
19 Sandy, would you say that that was a category 3?

20 MR. HERVEY: I'd say it's the damage equivalent, when we
21 look at damage, and we can go back and look through history.
22 For example, the storm that everybody remembers on Long Island,
23 Hurricane Gloria, which was a category 1, cost about 6,000
24 damaged locations on Long Island. Irene, which was a tropical
25 storm but much broader in breath, cost about 18,000 damaged

1 locations on Long Island, and Sandy caused about over 40,000
2 damaged locations on Long Island.

3 From an impact -- we can sort of put away the categories.
4 From an impact, that tells me it's somewhere between a 1 and a 2
5 impact, because of its long duration, a very long duration
6 versus a hurricane that just comes and goes and goes through,
7 this was a multi-day event.

8 MS. CALCATERRA: So do you think that the SERP that you
9 had and the ERIP that National Grid had was satisfactory to
10 respond to Sandy?

11 MR. HERVEY: It clearly was. Yes.

12 MS. CALCATERRA: It clearly was. Okay. I'm going to
13 actually read, because I do want to clarify this. This is on
14 page two of the Massachusetts AG report that you may just want
15 to take a look at. "Ultimately, while the company often points
16 out that both Tropical Irene and the October snowstorm were
17 unique level 5 storms," it says it in here, "the company is
18 still required to prepare for its events as it has not
19 experienced," and what is states in that report over and over
20 again is that at a certain point, if you're providing a public
21 service and you're addressing public health issues with
22 electricity, when do you -- when do you start stepping up and
23 taking responsibility for preparing for things? And that's what
24 is said with this report.

25 So the concern that there wasn't any -- with your

1 experience, whether you're admitting liability or not, and I
2 understand it's still contested, based on your experience there,
3 the fact that there was no information sharing, again, just
4 highlights the challenge of the structures between the two of
5 you. But I now actually want to go to Mr. Germano.

6 MR. KING: Can I address that?

7 MS. CALCATERRA: No. I just want to pivot to
8 Mr. Germano. Mr. Germano, priority clients, level 5 --

9 MR. KING: Can I -- this is important. That the level is
10 Massachusetts' level of emergency response. It's not a category
11 for a hurricane.

12 MS. CALCATERRA: Okay. All right. Then let me restate
13 what I said. So it was a level 3 that you had prepared for in
14 Massachusetts, and it was a level 5 storm. Not category, it was
15 level. So it's the same scenario, the same hypothetical. You
16 put in -- you just take out the word "category" and replace it
17 with "level."

18 But I'm saying the same thing. Is that at a certain point,
19 you have to put together an ERIP and a SERP for storms that are
20 a higher level or higher category than we've ever experienced
21 before, and that's what was stated in that report. So, you
22 know, and the fact that there was no communication between the
23 two is challenging, but I do want to talk about priority clients
24 with Mr. Germano.

25 MR. KING: There's an important clarification on do we

1 prepare. Yes, we prepare for storms. And since those two
2 storms, we have further enhanced our emergency response above
3 and beyond those two storms, and we've just proved the
4 capability to restore with Sandy up in Massachusetts and upstate
5 New York. So I would argue that we are --

6 MS. CALCATERRA: Where you own the assets.

7 MR. KING: But your point to me was we're not changing
8 and we're not enhancing preparedness. Yes, we are.

9 MS. CALCATERRA: Understood. Mr. Germano, when we had a
10 public hearing a few weeks ago or about maybe I think it was
11 December 11, we actually had the president from Long Island Rail
12 Road show. And because we want to start talking to entities
13 that are deemed to be critical infrastructure like mass
14 transportation, fuel infrastructure, hospitals, because we want
15 to understand the interaction between the utilities and this
16 critical infrastructure, so we're addressing it in future storms
17 as well.

18 And what the president of Long Island Rail Road Helena
19 Williams, said is that she had actually entered into an
20 agreement with LIPA several years ago to make them a priority
21 customer. I know there's another term for it, but it actually
22 set up a process that Long Island Rail Road would follow in the
23 case of an emergency and where they lose power with LIPA, and
24 they would actually get a point of contact, and they said that
25 you were the point of contact. And it worked seamlessly,

1 according to Helena Williams, the relationship that she had with
2 you and that she had with the Long Island Rail Road to kind of
3 get them up and running.

4 What other clients or customers of LIPA fall into that
5 category that you have a contract like that with?

6 MR. GERMANO: Well, I would not suggest that there's a
7 contract directly. I think the issue is that --

8 MS. CALCATERRA: An agreement?

9 MR. GERMANO: We just have a relationship. We have major
10 account executives that deal with all our large customers. When
11 we go into a situation like these types of storms, our focus is
12 on all the critical facilities. And so those critical
13 facilities would be focused on the hospitals, be focused on the
14 nursing homes, and we made sure we got every nursing home that's
15 on Long Island. Schools. Pumping in water stations. The Long
16 Island Rail Road was one. Those are examples of them.

17 And our teams work with them, and have a constant dialogue
18 with them, and understand what their needs are and how we can
19 prioritize restoration with them.

20 MS. CALCATERRA: How many account executives do you have
21 in a crisis situation?

22 MR. GERMANO: I don't have an exact number. I'm going to
23 say somewhere around six or seven. Somewhere in that range.

24 MS. CALCATERRA: Have you ever been asked by anyone who
25 operates a fuel terminal or a fuel pipeline to provide them an

1 account executive?

2 MR. GERMANO: No. The account executive program was not
3 set up from the perspective per se of the storm, although it
4 becomes a very critical part, and I'll explain what has happened
5 over time. Originally, it was looked at as how large that
6 customer is to LIPA if you will.

7 MS. CALCATERRA: "How large" you mean how much --

8 MR. GERMANO: How much consumption it has, how big a
9 company it is and so on.

10 MS. CALCATERRA: Understood. But not based upon the
11 critical service that they provide?

12 MR. GERMANO: Not initially, okay? But as we have
13 evolved over time in terms of responding to some of these
14 storms, the focus has become more and more on these critical
15 facilities and the critical customers that are associated with
16 them. So we have spent a lot of time working with them.
17 Schools became a huge priority for us, and obviously hospitals
18 and nursing homes.

19 MS. CALCATERRA: Mr. Germano, I understand that you're
20 resigning from LIPA, but I just want to just mention that we did
21 reach out to a variety of different entities that were deemed to
22 be critical infrastructure, in addition to the fuel terminals
23 and fuel pipelines, and none of them had an account executive.
24 And I understand because they were not large customers, that
25 falls into your definition. So whoever it is that you're going

1 to be transitioning into your position who works with these
2 account executives, you need to consider not just looking at the
3 amount of that someone's a ratepayer or their consumption to
4 LIPA, but also what their need is, because the fact that many of
5 our terminals, not just necessarily one in Holtsville here on
6 Long Island, but other ones in Inwood and many others, didn't
7 have a representative, didn't have an account executive, and the
8 fact that they were challenged with power caused some of the
9 crippling that Long Island had dealt with after that. So we do
10 hope that you consider it.

11 But now I just want to actually go back to Mr. Iberger and
12 something that was said earlier. Mr. Bruckner, you said that
13 Mr. Iberger was given talking points when he was in the EOC.
14 What were the talking points that he was given?

15 MR. BRUCKNER: They were summations of the information
16 that was provided at the operating meetings.

17 MS. CALCATERRA: And so his role was to communicate those
18 talking points to whom?

19 MR. BRUCKNER: At his contacts at the EOC.

20 MS. CALCATERRA: Okay. Have you ever been to an EOC
21 during the height of the storm or shortly thereafter?

22 MR. BRUCKNER: For Hurricane Sandy?

23 MS. CALCATERRA: Yes.

24 MR. BRUCKNER: No. But for other events, significant
25 events, yes.

1 MS. CALCATERRA: Mr. Iberger really did express to us in
2 his testimony that he was basically serving as a spokesperson,
3 and that he was just repeating what he was told and he didn't
4 have any decision-making ability, and it was very difficult for
5 him to try to contact people to give answers to the EOCs, and
6 occasionally he went over to the Nassau EOC. Ms. Genoy, did you
7 work to develop his talking points?

8 MS. GENOY: Yes. He had talking points on a daily basis.

9 MS. CALCATERRA: And what were these talking points?

10 MS. GENOY: These talking points were updates from the
11 storm meeting that John is referring to, update on outages, crew
12 locations, storm prep before the meeting, outage -- restoration
13 status updates.

14 MS. CALCATERRA: Okay. In an EOC, it's very interactive.
15 It's not just as if someone sits there and repeats what it is
16 that they're being told by those who develop the talking points.
17 I'll explain to you who's in an EOC. In the Suffolk EOC was the
18 United States Coast Guard, the National Guard, the state DEC,
19 Red Cross, the state police department, the Suffolk County
20 Police Department, FEMA, Department of Health Services,
21 Department of Social Services, FRES, the Suffolk County Water
22 Authority, and the reason why -- and the list can go on and on
23 and on -- and the reason why -- oh, and the Medical Reserve
24 Corps. The reason why they're there is because it's an
25 emergency and it's interactive, so all the calls are coming

1 through there and the response is going to be there.

2 So Mr. Iberger actually sat between the US National Guard
3 and the US Coast Guard at the Suffolk EOC. Having talking
4 points is not helpful. It's supposed to be interactive. You're
5 supposed to have someone there who has some level of authority,
6 and according to the interviews that we had with the emergency
7 managers of both Suffolk and Nassau County, they said that in
8 the past, they have asked for National Grid to provide them with
9 people who have professional experience in emergency management
10 and have decision-making authority or who can actually get
11 answers, and according to Mr. Iberger, he wasn't able to do any
12 of those, and that's not what an EOC means. Did you realize
13 that?

14 MR. BRUCKNER: You want to take it?

15 MR. BEISNER: Yeah. I would like to point out that Bob
16 Iberger has been with us for about eight months, a new employee,
17 and his role in the EOC in Suffolk County, there was two other
18 individuals who were with him at the time, so there was three
19 people during the day in the EOC in Suffolk County, and there
20 was one person at night.

21 MS. CALCATERRA: I understand that. But the EOC in
22 Suffolk County was operable full time around the clock for 16
23 days, and for those 16 days, whether it was Mr. Iberger or
24 anybody else, none of them had decision-making authority, and it
25 was an emergency operation center. None of them could get

1 answers for information that was needed.

2 MR. BRUCKNER: With respect to decision-making authority,
3 again, the -- I'm not sure what decision-making authority you're
4 referring to, whether it was the assignment of crews, but if it
5 was a critical situation that needed to be addressed, the
6 representatives that we had at the EOCs are to communicate back
7 to our communications coordination center back in our operations
8 center in Hicksville and we would have assigned the proper
9 response to those requests.

10 MS. CALCATERRA: Understood. But he said that he wasn't
11 able to properly communicate the needs of the Suffolk and Nassau
12 EOCs. So that's a communication link that definitely does need
13 to be addressed.

14 MR. BRUCKNER: Okay.

15 MR. HERVEY: And if I might, I might also mention, I had
16 several conversations through the storms with the commissioners
17 in both county EOCs, and I had not heard that concern with
18 direct communications on a frequent basis with the commissioner.

19 MS. CALCATERRA: Because they were very frustrated with
20 him and they weren't able to get in touch with leadership. So
21 now you're hearing it, you'll probably hear it maybe --

22 MR. HERVEY: The commissioner has my direct cell phone
23 number, and I did not hear that information from the
24 commissioner.

25 MS. CALCATERRA: Okay. But it was stated to us in

1 interviews. Mr. Lawsky.

2 CO-CHAIRMAN LAWSKY: Just three quick ones I hope,
3 because I know it's getting late. These are going to be
4 somewhat theoretical questions, so bear with me. When you --
5 after prior storms when you gathered your lessons learned and
6 then did what you were going to do with those lessons learned,
7 my question for you is this, assume the hypothetical that either
8 National Grid or LIPA were not to implement certain lessons
9 learned. What would be the consequences to your business and
10 business relationship here in New York if you chose not to fully
11 implement what you learned from your lessons learned? Is that
12 clear? I can do it again.

13 MR. BRUCKNER: It's not very clear at all.

14 CO-CHAIRMAN LAWSKY: It does not sound clear at all?

15 MR. BRUCKNER: No. I said it's not clear at all. I'm
16 not sure what --

17 CO-CHAIRMAN LAWSKY: You want me to clarify that?

18 MR. BRUCKNER: Yes, I do.

19 CO-CHAIRMAN LAWSKY: In other words, if you don't
20 implement lessons learned, are there any consequences to you as
21 a business?

22 MR. BRUCKNER: Well, our performance. Absolutely.
23 Again, depending on what the situation was, it could impact our
24 performance on a storm.

25 CO-CHAIRMAN LAWSKY: In a future storm?

1 MR. BRUCKNER: Well, if it's a lessons learned, it would
2 be implemented in a future storm.

3 CO-CHAIRMAN LAWSKY: And if you didn't -- no. Often
4 lessons learned are some -- you often learn a lot of lessons
5 that, as far as I can tell, relate to preparation for a storm,
6 so it's before any storm occurs. But if you were not to
7 adequately implement or learn the lessons that you're supposed
8 to learn from the lessons learned, are there consequences to you
9 as a business, given the relationship you have right now between
10 LIPA and National Grid? And I would ask it of both of you. In
11 other words, let me just be very frank, when I read a lot of the
12 materials we've been reading and have taken the testimony we've
13 taken, it seems like repeatedly, storm after storm after storm,
14 there have been certain lessons that are very clear, that those
15 lessons have not been learned, but there has been no
16 consequence. It's okay to make a mistake once, but when you
17 continue not to implement those lessons learned, I'm trying to
18 get at why this could be, and I know it's a somewhat unfair
19 question because I'm asking you to grant my hypothetical that
20 the lessons were not learned in some cases, but my question for
21 you is, as a business, were there any consequences if you were
22 not to implement, react to those lessons learned?

23 MR. HERVEY: I think I'm at a bit of a loss because I'm
24 not aware of any significant lessons learned that has not been
25 implemented.

1 CO-CHAIRMAN LAWSKY: Fine. I understand that's your
2 opinion. That's not a lot of other people's opinion. That's
3 why my question was, if you hypothetically take my hypothetical
4 that there is a lesson let's say from Irene and you don't react
5 to it in the year before Sandy, what are the consequences to
6 LIPA? If you were to say you know what, I don't care, I don't
7 want to spend that money, I don't want to do it, what would be
8 the consequence for LIPA?

9 MR. HERVEY: We won't make that improvement.

10 CO-CHAIRMAN LAWSKY: And what -- right. So there's no
11 incentive, as far as I can tell, for you to really have to make
12 that improvement.

13 MR. HERVEY: Well, there's certainly no financial
14 incentive to do that, but there's a customer satisfaction
15 incentive, and customer satisfaction is one of our core values.
16 And so, you know, we strive -- the reason we go through a
17 lessons learned process, which is not mandated, it's a process
18 that we voluntarily go through, is to be able to become better.
19 And this is not a process for just electric utilities.
20 Utilities across the board use this process. Fire departments,
21 police departments, the military uses this lessons learned
22 process, and we go through that process in order to improve each
23 and every time. And so we have the desire there to do that.
24 And then at the end of the day, we have this list of activities
25 we can perform to improve these lessons learned we can

1 implement.

2 And I think you'll see from an Irene to Sandy time line,
3 those were prioritized, put in buckets of category one, two and
4 three. The ones and twos were significantly implemented, and
5 then you look at some that you choose not to, that you look at
6 it from a cost benefit type of standpoint or any other, you
7 know, if was it real or not, and you look and you take an
8 evaluation of that.

9 But it is -- but at the end of day, the issue there is we
10 go through the process deliberately, so that the next time you
11 have a significant event, and Irene was at that time the largest
12 event in the past 20 some years, and clearly now Sandy is the
13 largest event ever on the system, there will be lessons learned.
14 There's no doubt about it.

15 CO-CHAIRMAN LAWSKY: This is truly I think a simple
16 question. Would you agree with me that if you hear the day
17 before a storm a weather prediction that the storm is going to
18 be -- and just take my scale -- scale of one to 10, the storm
19 will be anywhere from a seven to a 10, that you would prepare
20 for a 10 and hope for a seven; is that fair?

21 MR. HERVEY: Yes. Absolutely.

22 CO-CHAIRMAN LAWSKY: National Grid also? You're nodding?

23 MR. KING: Yes.

24 CO-CHAIRMAN LAWSKY: Okay. Last question. In the days
25 after the storm I was traveling a lot on Long Island, and I'll

1 just give you one example. I got a call from a family in
2 Bellmore where the husband of the family had to be on oxygen all
3 the time, and because the power had been out, couldn't run the
4 oxygen, needed to have a generator, and so he was running the
5 generator all day long, and then the generator would run out of
6 gas and he would have to walk to the gas station, take the
7 oxygen off, and then come back home, put the oxygen -- fuel up
8 the generator, put the oxygen back on and continue to hope and
9 pray his power would come on.

10 We got that call, and the question we got from them was
11 only, all we want to know is when is our power going to come
12 back on? We can -- we understand, we live on Long Island, the
13 power goes out when there's a big storm. We get that. But what
14 is so hard for us to decide how to deal with our problem and
15 somewhat life-threatening problem potentially, was we don't know
16 if it's one week, two weeks, three weeks, four weeks. And we
17 heard this over and over and over again on Long Island as we
18 were traveling after the storm, and I know the Governor heard it
19 a ton also.

20 And my question for you is, and I think it's a question
21 Long Islanders want answered, what do you say to all those
22 people now, what do you say to all the Long Islanders who still
23 want to know why couldn't I get an answer for when my power was
24 going to come back on?

25 MR. HERVEY: Well, I think there are a couple of things

1 there. One is we told customers what to expect. We told
2 customers to expect seven to 10 days before the second storm,
3 and then in the second storm, then we added that and told
4 customers what to expect if their power was still out as far as
5 length of time.

6 Now for a specific customer on a specific issue, I think
7 we've discussed that early on this evening, that that is
8 something that from a technology standpoint, from a logistics
9 standpoint, when the damage is ongoing, the damage -- the length
10 of time of the job to restore that customer is unknown until a
11 crew is there, the number of crews that are available are
12 ramping up and changing over time, and there may be a multitude
13 of jobs that have to be done ahead of that job, that all of
14 those things come together and say we cannot tell a customer
15 specifically what's going to happen.

16 So later in the storm we were able to tell customers if
17 you're in this village, you're 85 percent -- your village is
18 done 85 percent complete today, it'll be 90 percent tomorrow, 95
19 the next day, 99 the next day. We're able to give that type of
20 thing on village by village later in the storm. We would have
21 been able to give that detailed information much earlier, except
22 for the second storm.

23 But getting down to, there is -- and you will see this in
24 utility after utility after utility, getting down to specific
25 customer you're going to be on a specific day is just not

1 something that is going to be accurate, even if we give a
2 number.

3 CO-CHAIRMAN LAWSKY: I don't know if you want to take a
4 shot at that.

5 MR. BRUCKNER: No. I would agree with it. I would
6 agree.

7 CO-CHAIRMAN ABRAMS: You know, I want to -- on this
8 point, Mark Green, Commissioner Green gave a vignette about what
9 happened to him tonight sitting next to a woman on the Long
10 Island Rail Road coming out here. I want to share a vignette
11 what happened to me while waiting for an elevator to take me
12 down from my office building to go to the Long Island Rail Road.

13 So one of my partners came to me and said, "I know you're
14 involved at this Moreland Commission stuff. I want to tell you
15 what happened with me. I live in Manhasset. Day 11 with no
16 power outage. We get a communication that you're not going to
17 have power for another five days, and four hours later the power
18 came on." So it's this communication issue.

19 At our hearing in Long Island last week, we heard the two
20 county executives of Nassau and Suffolk speak extensively about
21 the misinformation, the lack of information, and the whole
22 communication business. So we keep hearing from you idealized
23 notions about near perfection in your performance, but we all
24 get information, Commissioner Lawskey himself out there on behalf
25 of the Governor in Long Island talking to people, all of us get

1 these kinds of communication, and you know, there's a
2 disconnect.

3 MR. HERVEY: There is a -- I agree there's a disconnect
4 between what customers think is possible and expect and what
5 we're able to deliver. There's certainly a disconnect there.

6 MS. MAHONEY: Can I just add, I had one of those same
7 stories, and you might be -- it might shed a little light too.
8 It's not just from the customer's perspective, but I heard from
9 a man who was an electrician who was one of the supplemental
10 people that was brought to help after the storm, and he said
11 that he actually spent three full days without any assignment
12 for what he was supposed to do, and at some point he took off
13 the safety gear that indicated what his job was because the
14 people in the neighborhood that were so upset with them that
15 they were there and they weren't doing anything. But there
16 wasn't an assignment that was given.

17 And I know these kinds of things are anecdotes, but just as
18 Bob said and Mark said, we've been hearing this enough that
19 there's enough of a pattern to at least suggest that maybe you
20 could come up with some suggestions for us about how the
21 structure could change, so that these kinds of things -- you
22 know, I mean, we've all heard over and over when people know
23 you're part of the Moreland Commission, they want you to know
24 their story. There's no reason to doubt that these stories are
25 true. And they're all anecdotes, but the total becomes

1 compelling at some point.

2 MR. GREEN: By the way, the late Senator Daniel Patrick
3 Moynihan once said "the plural of anecdote is data." So we
4 acknowledge this is not scientific, what we just said in the
5 last two minutes, but please let me turn back to --

6 MS. CALCATERRA: Mr. Bradford.

7 MR. HERVEY: My strong recommendation on the flooded
8 zones, and I've said this publicly before, and I continue to
9 believe it, my strong recommendation is that there be a
10 mandatory coastal plan involving all agencies, and it be as
11 quickly as possible before the next event, that all of the
12 municipal agencies and LIPA and any other agency involved get
13 together and have one cohesive plan. My very strong
14 recommendation that that is very important.

15 MS. CALCATERRA: Thank you. Mr. Bradford.

16 MR. BRADFORD: Thanks. I have two questions. Mr. King,
17 in the earlier discussion of this model, the management contract
18 model, we agreed that you didn't have any of this needless, did
19 have some elsewhere in the world, got me thinking, all the times
20 I've seen this arrangement elsewhere in the world, it's been a
21 second choice. That is, it's not what people actually like to
22 have, they'd like to be able to privatize or they'd like to have
23 a healthy government-owned system, and the management contract
24 arrangements are basically a way of getting there, because
25 either no one will buy the system in the shape it's in, or the

1 existing government entity has shown that it can't run it. But
2 it's never the system of choice. And I wondered if that was
3 consistent with your experience with it as well?

4 MR. KING: Well, I'm going to speak directly from an
5 asset owner, you know, where you've got complete ownership and
6 accountability and your brand is certainly in front of the
7 customers, that puts you in complete control from delivery,
8 accountability and meeting the customer's expectation. Any time
9 you break that down, you certainly run into an issue.

10 MR. BRADFORD: Sounds like you just changed your answer
11 to Mr. Abrams' question.

12 MR. KING: This is -- if you don't mind, if I can finish,
13 because it's actually important, because it goes to your
14 question.

15 MR. BRADFORD: Fair enough. But it does sound like an
16 actual recommendation.

17 MR. KING: I think when you step back and you look at the
18 history of LIPA, how it was formed, you know, the decades plus
19 that it's been in place, etcetera, it's got a completely
20 different history, and how you take that and move it into the
21 future is something that, as I think everyone's commented on,
22 it's been studied, it's been looked at, I have not studied it, I
23 have never looked at it because it was never seen as an option,
24 and we participated in the RFP, and went through that process
25 with it.

1 I don't think you can look at it and say why can't it be
2 like an investor-owned utility, because its got such a different
3 history, and how you unwind that history and think about going
4 forward is very, very complex. So it's night and day. That's
5 why I don't really have the suggestion. And I know I'm
6 frustrating the other responses, but it's not as simple. It's a
7 very complex issue.

8 MR. BRADFORD: And I think I didn't make my question
9 clear. It really was just whether you knew of situations where
10 this model elsewhere in the world was really the approach of
11 choice, because in my own experience in eight or 10 other
12 countries, it's always seen as a transitional condition either
13 to get to privatization or to get to a more healthy government
14 ownership.

15 MR. KING: And the example that I gave you in Scotland is
16 one that is working extremely working well. And we're
17 operating, but we don't own the assets.

18 MR. BRADFORD: And so that one they intend to stay with
19 that. Okay. Thanks. Now the other question I have, I just
20 want to clear up something that's been puzzling me ever since
21 the questions I asked before, and it has to do with the Navigant
22 study and whether or not it was shown to National Grid in 2006
23 and 7. Mr. Bruckner, you said no. Mr. Hervey, you said
24 actually it was to some employees. And I guess I'm --

25 MR. BRUCKNER: Excuse me, sir, I did say that I don't

1 recall seeing it, and when I -- recently when it was brought to
2 my attention over the last several days, I had inquired to my
3 staff if they had ever seen it and they had not seen it.

4 MR. BRADFORD: Right. But, Mr. Hervey, you said that, in
5 fact, it was shown to some folks.

6 MR. HERVEY: That's right. It was shown to people who
7 are no longer there, as we went back and looked over some notes.
8 But, again, what's important is that the results of that,
9 whether those are the same people who we're dealing with today
10 or not over a long period of time, what's important is the
11 design changes were made, the programs were put in place, the
12 budgets are in place to implement the plan that was put in place
13 back then. So, you know, that obviously all didn't happen in a
14 vacuum. So the issue is we don't have all the same people in
15 place as we did then at National Grid.

16 MR. BRADFORD: And I understand this in terms of the
17 system. I'm trying to understand it more in terms of the
18 interaction of the two entities. Mr. Bruckner, you were there
19 during this time period, 2006-7?

20 MR. BRUCKNER: Yes, I was.

21 MR. BRADFORD: So these folks who are no longer there,
22 apparently didn't share whatever their reactions were with you,
23 they just passed them back to LIPA.

24 MR. BRUCKNER: Yeah. So I think Mr. Hervey did explain
25 it that while I may not have seen the report, there have been

1 changes to the specifications that had been made on LIPA
2 specifications, and in fact, integrated into a capital work
3 plan. The philosophies, as I understand Mike is saying, is that
4 those philosophies and those investment decisions, those storm
5 hardening projects have been built into the budge since then.

6 But, you know, I have not, and as I indicated earlier, I
7 don't recall having seen that study and the genesis of why those
8 projects were initiated. But I am aware, my team is aware of
9 storm hardening initiatives being taken on by LIPA.

10 MR. BRADFORD: And at least as to the OMS, it was your
11 asset at that time?

12 MR. BRUCKNER: Again, I'd have to check as to the
13 ownership issue at the time frame. I mentioned earlier in the
14 '07 or so time frame, again, subject to check, when we went out
15 with an RFP, I'd have to check the time frame of that, of when
16 we went out with an RFP and National Grid to replace those OMS
17 assets, whether or not the CARES system was LIPA's or not.

18 MR. BRADFORD: But, Mr. Hervey, you did say you took it
19 over in '09?

20 MR. HERVEY: I believe it was 2010.

21 MR. BRADFORD: 2010. Okay.

22 MS. CALCATERRA: Mr. Tishman.

23 MR. LIZANICH: Just as an added piece of information on
24 the storm hardening, according to the Navigant information that
25 we have, there was roughly 25 things that they had identified.

1 All but six of those are either completed or in progress. So
2 there is a very close working relationship between the knowledge
3 that Grid has about what storm hardening features LIPA is
4 interested in, and the work we have accomplished to this point
5 in time. So it's not like this is an unknown to anybody. We
6 have a pretty strong understanding of why those six initiatives
7 hadn't been started yet, and why the other 18 or 19 are in the
8 progress. I just thought I'd offer that up.

9 MS. CALCATERRA: Mr. Tishman.

10 MR. TISHMAN: I think this is a question for Mr. Hervey.
11 Going back to a discussion we had quite a while earlier, I'm
12 still puzzled by this new budget that was announced in 2006
13 relative to storm hardening for \$500,000,000, and it's clear to
14 me that we have, you know, there's a wide delta between what our
15 research has shown has been spent and what was budgeted and what
16 you said has been spent, and there are probably many, many
17 definitional issues in there that we don't understand or that
18 we're just never going to agree to. But my question is
19 something else.

20 You mentioned a few minutes ago a cost benefit analysis,
21 and those of us who run large businesses and have significant
22 amount invested in capital constantly do analysis of risk and
23 reward, and there's just something in your plan that seems
24 extremely strange to me, and that's that if you've experienced
25 numbers of significant storms, and we have a -- perhaps we all

1 define significant storms, but in the last few years we've had
2 Irene and there's been Gloria and there's been ice storms and
3 there's been regional examples of other devastating storms that
4 National Grid has gone through. It seems to me whatever way you
5 cut it, that a \$500,000,000 investment sounds like a really good
6 investment, but to spread it out over 20 years seems like not a
7 particularly intelligent way to protect yourself and the public,
8 the ratepayers. If you're acknowledging that -- and in the cost
9 benefit, my assumption is that when one of these storms hits,
10 that your damage is significantly more than \$25,000,000, and
11 perhaps significantly more than the \$500,000,000 in any one
12 event.

13 So I'm really wondering why there wasn't a decision made,
14 given perhaps a different concept of frequency of storms, to
15 accelerate that significantly to perhaps prevent the damage and
16 reduce your -- just reduce your losses?

17 MR. HERVEY: It's a great question, and I'll go back to
18 2006 time frame and the time line that I indicated of why we did
19 this study. And at the time, I believe we thought, and I still
20 do believe at the time, it was the only -- we were the only
21 utility in the northeast that was doing -- that was implementing
22 a storm hardening program. In fact, as I recall, there were
23 records -- there are records there of some discussion publicly
24 of whether it was even necessary to do storm hardening or not,
25 since other utilities in New York State were not starting down a

1 storm hardening path.

2 So we developed a significant -- very significant, half a
3 billion dollars is certainly a significant program over a
4 20-year period, and all of these capital expenditures have to be
5 taken into account along with the rate impact.

6 So we balanced rate impact, in this case that half a
7 billion dollars would equate to about a 6/10th of a percent
8 increase in rates with the benefit that we could get taking the
9 highest value storm hardening and doing it first.

10 So the result, as an example, is the most storm hardened
11 distribution assets that we had for Irene, as far as we know,
12 were not damaged. So it was successful to the extent that it
13 was implemented. But all of our capital decisions have to be
14 taken into account with rate impact. And so it's a balance that
15 we do.

16 MR. TISHMAN: Do you ever -- I mean, I'm not sure this is
17 the way utilities operate, but do you think if you went -- I
18 mean, I don't know if you actually went to the ratepayers with
19 the notion of perhaps accelerating that expenditure, but if you
20 had under the we're going to make your system more reliable,
21 more robust, do you think ratepayers might have accepted that?

22 MR. HERVEY: I don't know if specifically that. But I do
23 know that our ratepayers on Long Island are very, very sensitive
24 to rate impacts of even a fraction of a percent. And so, you
25 know, ultimately this was deliberated, and that size a program

1 was a good balance between being a leader in the area at the
2 time, and also balancing rate impact over a long period of time.

3 MS. CALCATERRA: Thank you. DA Rice.

4 MS. RICE: Mr. Hervey, I wonder if the seven of you right
5 here were to engage in the exercise that you call lessons
6 learned, it seems pretty clear to me given the answers that all
7 of you have given, that you would leave that meeting slapping
8 each other on the back and saying job well done. My question
9 is, if and when you engage in the after action report, the
10 lessons learned with the people underneath all of you, and in
11 fact they don't have that same reaction, are you going to listen
12 to that?

13 MR. HERVEY: The answer is absolutely. And I also just
14 have to back up. We as leadership go through this process
15 deliberately because it's the way that we improve over time, and
16 we believe in it. It's a very effective way to improve time
17 after time after time. And it is absolutely true that we will
18 find many, many lessons learned out of this, the biggest event
19 we've ever encountered, and we expect to find lessons learned.

20 MS. RICE: Mr. Hervey, it's been over a month and none of
21 you here can give even one example of something that could have
22 been done better. So I think what you're saying lacks
23 credibility.

24 MR. HERVEY: Well, from Irene we published a 109 page
25 report from our lessons learned.

1 MS. RICE: No one here on this panel can say one thing
2 that could have been done better, right? Am I missing
3 something?

4 MR. HERVEY: Well, it's jumping the gun on the process.
5 It is a very elaborate process --

6 MS. RICE: Mr. Hervey, it's been a month. You have heard
7 reports. You've read newspapers. You've spoken to people. I
8 assume you've spoken to people working with LIPA, people within
9 National Grid. You've heard us tell you what people have come
10 in and told us, and none of you have been able to give even one
11 example. I guess it's really a rhetorical question. I wonder
12 about the efficacy and the values of this lesson learned process
13 if I can't get one of you to say one thing that you would have
14 done differently or better.

15 MR. LIZANICH: I guess I'd like to comment to that. One
16 of the dangers that we would have as leaders of telling staff
17 what we think needs to be better would be we would squelch the
18 creativity of staff. So by us coming to them and saying "here's
19 the three things that we think are the most critical things we
20 have to work on going forward," that would be something we could
21 do, but then what we would also miss is the knowledge and the
22 experience of the people that were on the ground, boots on the
23 ground, people that were working in the areas where they do --
24 I'm sure there are plenty of ideas and opportunities that will
25 come out of Sandy, but for us to sit here and tell staff here's

1 the things that are most important to us would definitely put
2 them in a position where they'll take our word as gospel and not
3 necessarily even offer to us the opportunities and the ideas
4 that we value, because they know it better than we do, because
5 they're on the ground, they're in the streets, they're behind
6 the desk, behind the terminals doing the work.

7 MS. RICE: Mr. Lizanich, that is one of the most
8 unbelievable statements I have ever heard in my life, and I
9 think that if you were to tell people who lost their life, who
10 lost loved ones, who don't have a home anymore, who don't have a
11 business anymore that squelching the creativity of someone who
12 works for LIPA takes paramount importance to their life and
13 their livelihood, I wouldn't say that outside of the confines of
14 this room if I were you.

15 MR. LIZANICH: With all due respect, the context is not
16 diminishing the importance of this. The point is, there is the
17 right time for us to have those discussions. As John had
18 indicated earlier, we have people still involved in restoration.
19 We haven't gotten to that point in the process to begin to do
20 this effectively so that we can achieve improvements in process.

21 MS. RICE: And that is not an answer that's going to
22 satisfy people the next time a storm hits.

23 MR. HERVEY: And so I have offered a very strong
24 suggestion, a very strong recommendation of opportunity for
25 improvement, and that's that there be a mandate, and I will

1 suggest from the state level, to have a regional multi-agency
2 task force and plan around the coastal flooding issue.

3 MS. RICE: Mr. Hervey, you could have made that
4 recommendation any time in the 30 some odd years you have been
5 involved on Long Island. So to come -- for that to be the one
6 recommendation that you come up with, when you could have done
7 that at any time, knowing that Long Island, as an island, is
8 subject to the surge and floods that we saw in Sandy, strains
9 credulity as well.

10 MS. CALCATERRA: Any other questions by the
11 Commissioners? Well, I'd like to thank the witnesses for
12 appearing this evening, and I'd like to thank the audience for
13 also appearing and making this as expedited as possible.

14 MR. HERVEY: If you don't mind, I'd like to make a
15 statement.

16 MS. CALCATERRA: Yes. As long as it's a brief statement.

17 MR. HERVEY: Thank you. And I believe the companies are
18 also submitting some written statements too.

19 MS. CALCATERRA: Yes. And I just want to clarify for the
20 record that when parties are subpoenaed in a public hearing,
21 they have a right to make -- they have the right to submit a
22 statement, and that statement can be submitted at the end of a
23 hearing or they can do it in writing, and some of the parties
24 here have submitted it to us in writing, but Mr. Hervey's going
25 to read his statement.

1 MR. HERVEY: Thank you. And I will make it a brief
2 statement. It's important, because of the nature of this, that
3 I just let you know that as the chief operating officer of the
4 Long Island Power Authority, I certainly recognize the
5 disruption of our daily lives, and that breeds frustration, even
6 when it's brought about by a storm of such unimaginable
7 magnitude.

8 In the aftermath of Superstorm Sandy, the safety of our
9 customers and the dedicated workers who restored power to our
10 region was paramount. I am proud to say that the power was
11 restored without the loss of life or serious injury. It is my
12 sincere hope that as we deal with the forces of nature of
13 increasing frequency and unpredictability, the assessment of
14 this event is less about blame and more about the honest
15 evaluation of how to move forward to improve our system for
16 future storms.

17 Now incorporated in my written comments are several items
18 that I'll just very briefly go through. First of all, we all
19 know this was an unprecedented series of storms. Superstorm
20 Sandy takes our attention, but from an electrical system
21 standpoint, it cannot at all be underestimated the impact of the
22 second storm, which was a nor'easter accompanied by a blizzard.
23 That extended our outage time by many days, and both of those
24 storms together far exceeded any of the weather forecasts and
25 the damage of forecasts that were out there.

1 It was two to three times larger than any storm in modern
2 Long Island history. There were over 40,000 damaged locations
3 compared to Irene with 18,000 and Gloria with 6,000. From a
4 storm hardening standpoint, LIPA puts a tremendous amount of
5 money into the capital program, and that's the capital program
6 that builds up and restores the system and manages the assets
7 itself, and it's over \$3.3 billion in capital investments in the
8 T & D system and IT infrastructure during LIPA's existence, and
9 we've talked about the \$500,000,000, half a billion dollar
10 20-year investment for storm hardening that's in place.

11 There are many, many improvements since Irene. We have put
12 in an ability to call customers to advise on preparation and
13 restoration. As far as we know, we just did -- certainly the
14 first time we've done it and certainly a very rare thing in
15 utilities in the area. We revamped the communication command
16 center to maximize coordination and access. We tested
17 procedures with routine drills between Irene and Sandy, multiple
18 times in some cases. Conducted municipal calls, a new
19 enhancement that seemed to be received pretty well by
20 municipalities. We conducted those through the whole event and
21 ahead of the event twice a day.

22 We had a public awareness campaign all spring and summer
23 with municipal officials to let them know what to prepare for
24 and expect for an event such as this. We've talked a lot about
25 this estimated time of restoration, the ability to give

1 customers specific information. I think you've heard about
2 that, but the one thing you should know is that even that
3 ability not to be able to give us ETRs was -- did not affect, in
4 my opinion, did not affect the restoration time per se. It did
5 not slow down the restoration.

6 Following, from a standpoint of response and restoration,
7 we followed detailed plans that were in place ahead of time.
8 They were rehearsed. They were trained. They were very similar
9 to what other utilities had. Our plans, in fact, are modeled
10 after many of the southern states that see these types of storms
11 on a regular basis.

12 We adhered -- as two organizations together, we adhered to
13 those emergency plans. One of the facts that's lost is we
14 restored power to 85 percent of our customers in the first seven
15 days. That's a very important statistic to remember. 85
16 percent of our customers had their power restored inside of
17 seven days.

18 Ramped up and managed thousands of off island linemen and
19 emergency response personnel. That's a tremendous logistics
20 operation on its own. And coordinated -- we had additional
21 challenges here. We just spoke about the fuel, the liquid fuel
22 supply which was a challenge during the event. We had other
23 challenges such as the presidential election that became a
24 priority for us in making sure we had polling places.

25 So just in conclusion of those brief comments, I would ask

1 that the written statement that I provided be made a part of the
2 record of these proceedings. And thank you all for your service
3 in these commissions. I thank you very much.

4 MS. CALCATERRA: Brief statement?

5 MR. BRUCKNER: I have a brief statement as well.

6 MS. CALCATERRA: Yes.

7 MR. BRUCKNER: Thank you. I have a brief statement I
8 want to close with. However, for entry into the record, I, too,
9 want to submit a written statement.

10 Co-Chairman Abrams and Lawsky, distinguished members of the
11 Moreland Commission, and all others in attendance, thank you
12 again for inviting us to attend this evening. It was truly a
13 difficult and challenging time for the residents of Long Island,
14 and I am overwhelmed by the sense of community exhibited by
15 those that came together to help neighbors during the time of
16 need.

17 I'd like to reiterate my sympathies for the many people,
18 many of whom are friends, families and neighbors of mine who
19 lost their lives, personal belongings, their homes and were
20 separated from their families due to Superstorm Sandy and the
21 ensuing nor'easter that devastated Long Island and impacted more
22 than 10 million customers along the US east coast.

23 I would like to recognize the efforts of those employees
24 from National Grid and LIPA who exhibited great resolve during
25 the restoration, remaining focused and dedicated to the

1 monumental task before them, even while suffering their own
2 personal losses to their homes, property and families.

3 In just three days from the storm's passing, nearly 440,000
4 customer outages were restored, and restoration efforts across
5 the system continued to steadily progress. Within a week, over
6 85 percent of the customer outages were restored, and LIPA was
7 well on its way to meet its target of 90 percent of those
8 customers outside the hardest hit areas by Wednesday, November
9 7.

10 On that day, however, mother nature delivered the
11 nor'easter that produced high winds, rains and accumulation of
12 snow, and more importantly, an additional 123,000 customer
13 outages, while necessitating that crews be temporarily taken out
14 of the field and forced to stand down due to concerns for
15 safety. Even with the set back, progress continued. By
16 Tuesday, November 13, 99 percent of the customers had been
17 restored, and early the next day, all customers who could safely
18 accept power had been restored. Overall, in just two weeks,
19 over 1.2 million customer outages attributed to the "1-2 punch"
20 of Superstorm Sandy and the nor'easter had been restored. A
21 formidable accomplishment given the severe damages sustained.

22 I cannot say enough about the commitment of all our
23 employees and our great relationship we share with IBEW 1049 and
24 its leadership and the partnership with the Long Island Power
25 Authority. Working together, while capitalizing on the support

1 from NYPA and the New York State Department of Public Service,
2 we were able to safely address the effects of the most
3 devastating storm to ever hit Long Island. Thank you.

4 MR. GERMANO: Ms. Calcaterra, if I could just say, we had
5 submitted a request to put in comments, and I will be doing so.
6 I don't have them here tonight, but we will be doing so.

7 MS. CALCATERRA: You can do that through our legal team,
8 or also through our website as well. But thank you very much.
9 And thank you very much for appearing here this evening.

10 MR. LIZANICH: Likewise on his comment, I'll submit mine
11 as well. I will be submitting one as well.

12 MS. CALCATERRA: We look forward to receiving them, and
13 thank you again for all appearing.

14 CO-CHAIRMAN ABRAMS: This hearing is closed.

15 (TIME NOTED: 9:57 P.M.)

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CERTIFICATION

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

THAT the foregoing is a true and
accurate transcript of my stenographic
notes.

IN WITNESS WHEREOF, I have
hereunto set my hand this 31st day of
December, 2012.

Edward Leto



EDWARD LETO