
Committee Meeting

of

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES COMMITTEE

*“Testimony concerning electric, gas, telephone,
water, and cable system reliability standards, the quality of service
provided to their customers, and related consumer protection issues”*

LOCATION: Committee Room 15
State House Annex
Trenton, New Jersey

DATE: February 9, 2004
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Wilfredo Caraballo, Chair
Assemblyman Peter C. Eagler, Vice Chair
Assemblyman Anthony Chiappone
Assemblyman Upendra J. Chivukula
Assemblyman Jeff Van Drew
Assemblyman Kirk W. Conover



ALSO PRESENT:

Edward P. Westreich
*Office of Legislative Services
Committee Aide*

John R. McCarvill
*Assembly Majority
Committee Aide*

Jerry Traino
*Assembly Republican
Committee Aide*

***Meeting Recorded and Transcribed by
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ASSEMBLYMAN WILFREDO CARABALLO (Chair): The Assembly Telecommunications and Utilities Committee will come to order.

Good morning, everyone.

The last week has been an interesting week, talking to people about this hearing. There's been some questions as to why we're meeting, what we're doing, what the endgame is all about, etc., etc. There have been a lot of rumors. So, before we move on, let me just give you some of my thoughts about what we're doing and how we're proceeding.

We are interested in making sure that we have in place systems of accountability that will ensure that the consumers of this state, at all levels, can feel comfortable that we have in place systems of reliability with respect to the infrastructure, the delivery, as well as the consumer issues that come up when individuals are dealing with particular companies. This is about accountability. And our goal is to try and put in place the best possible system that we can.

Now, when you speak about accountability, obviously, that triggers all kinds of ideas. And we all know that that's what's going to actually cause the greatest amount of discussion and concern -- the details of accountability.

In addition, when you talk about accountability, it means -- well, that means people are going to be required to do something, and what happens if they fail. Which means that that engenders in people's minds this whole idea of, "Oops another set of penalties, another set of something that is going to be used to hit us over our heads."

That's not our goal -- or let me put it to you this way, it's not my goal. I want accountability. Does that mean that there may have to come into place a system of penalties, as well, in order to ensure accountability?

Absolutely. I'd be a liar if I said otherwise. But I'm also hoping -- and I've had discussions to this end with others-- I'm also hoping that, as we build in this accountability system, and as we think in terms of penalties, that that may have to be levied if people don't do what they're supposed to do -- that perhaps we are -- we can be creative enough to also think in terms of incentives -- incentives that would give business folks, who, after all, have to account to their owners for the bottom line -- incentives that would not only want them to live up to their responsibilities, but also, perhaps, go beyond their responsibilities, because it would be a good thing for them, on a bottom-line basis, to go beyond those responsibilities.

So we're talking accountability, and we're trying to set up the best possible system of accountability that we can. This is our first crack. I know that folks-- There had been some draft of something that people had been discussing, all kinds of rumors that had gone on, but this is our first crack. It starts today. And to that end, let me assure you that the discussions that I've had with President Fox -- who's with us this morning -- have been geared towards ensuring that this is the beginning of a process; a process that we want to make sure everybody's part of, a process which has been slowed down a little bit so that we, in fact, give all of the players an opportunity to have some input; and a process which we believe will take almost a year, perhaps, to come to some resolution. We're not talking about trying to have a quick and dirty hearing here and a bill by next month so that everybody can scream. That's not what we're looking at. All right?

So with that, President Jeanne Fox, it is great to see you once again.

I've got to tell you, I've been on this Committee, what-- Oh, my god, this is my fifth term on this Committee. Last term, you actually came before this Committee -- I think it was three times. So this is about the fourth time. And in the six previous years, I may have seen the BPU president once. So I'm really happy to see that whenever we have asked for the BPU to be represented, you've taken it upon yourself to be the representative as much as possible, and I personally appreciate that.

So, on behalf of the Committee, thank you and good morning. And why don't you start us off?

J E A N N E M. F O X: Now, is this on (referring to PA microphone)?

ASSEMBLYMAN CARABALLO: Is the light on?

MS. FOX: Now it's on.

Well, we-- In Newark, at our offices, green is on, red is off.

ASSEMBLYMAN VAN DREW: That would make more sense.

Excuse me, Chairman. I'm sorry. (laughter)

MS. FOX: I told them to get the same system the Legislature had, but, oh well.

Good morning. I'm very happy to be with you, and I thank the Chairman for having me here, today.

This is an important topic, obviously, for all of us in the state and, I think, in the country.

As I think you know, the mission of the Board of Public Utilities hasn't changed much since 1911, when then-Governor Woodrow Wilson established it. We're hard at work providing safe, adequate, and proper service at reasonable rates to customers. That's our charge, our statutory charge. We

also believe in serving the public by enhancing the quality of life for all citizens in this state and performing our duties with integrity, efficiency, and responsiveness.

In the last two years, we've met challenges head on and had some success on our mission.

Based in part on legislation passed by you last year -- it was a Senate bill by Senator Codey -- we strengthened customer service for New Jersey's 2.5 million cable subscribers, ensuring uninterrupted service, prompt refunds when the company was at fault for outages, and service appointments that fall within a four-hour window. And I know that Assemblyman Van Drew is very interested in the cable industry, and I look forward to working with you on that again in the future.

Last year, also, there was a lot of discussion about the effects of deregulation of the electric industry, and we braced for the end of the Electric Discount and Energy Competition Act, or EDECA -- their transition period, which ended August of last year. And their rate caps came off.

One of the positive products of EDECA is that it enabled us to invest about \$125 million per year, on average, to promote energy efficiency and renewable energy in the state, which so far has saved New Jerseyans over \$2 billion in future energy costs.

We've established a strong, new Universal Service Fund. Again, the Universal Service Fund was mandated by EDECA. This is a landmark energy assistance program which helps low-income residents pay for vital gas and electric services. The AARP has called it the *best in the nation*. I'm talking the national AARP, as well as state, has called it the *best in the nation*.

We've expanded our Telephone Lifeline program, which helps low-income residents pay for basic telephone service. And it increased the benefit by almost 40 percent, nearly tripled the enrollment in that program, and at no State expense.

Actually, last Monday we started our Basic Generation Service auction. This is the auction for the four electric distribution companies for the customers that have not gone to a third-party supplier. That's most of the residential and a large majority of the business community. This auction started last Monday. It is actually still going on as we speak, which is good news, because the longer it goes, the cheaper the electricity will be for the next year. And this is the third year in a row we've been able to provide the benefits of wholesale competition to our electric companies' retail customers.

And when it comes to the safety of our citizens, the Board, obviously, sits squarely at the Domestic Preparedness Security Task Force and is very active in that effort.

Now, unfortunately, last year, New Jerseyans and the Board of Public Utilities had to endure a major event surrounding utility service and its reliability. This past summer, we had that July 4 weekend power outage down the shore. Luckily, it occurred on July 5, but that was a Sunday in the middle of our three-day weekend. And also the August 14 cascading blackout, which caused 50 million people to lose power in eight states, and in Canada. We had Hurricane Isabel and unexpected tornados the week after that.

Residents across the state witnessed the vulnerability and the strength of our utility infrastructure. When Hurricane Isabel was first poised to threaten the East Coast last September, Governor McGreevey convened a

meeting with top utility executives and emergency officials from the State to prepare emergency protocols. Utilities were ordered to review their equipment and create comprehensive contingency plans.

Specifically, Governor McGreevey and the Board asked them to test emergency equipment and generators beforehand; check the multi-platform communication systems, including the radios, landlines, and wireless; and to ensure that they had enough poles, wires, and transformers to supply their trucks and their crews.

For the 12-plus hours that Hurricane Isabel beset New Jersey, about 300,000 customers, at some point, were without electricity. Although customers were inconvenienced, thankfully -- I think due in large part to our proactive measures -- there were no major injuries or deaths.

But it's not only been Mother Nature with which we've had to be forced to contend, although she often has a hand in these outages. As we all know, Jersey Central Power and Light, JCP&L, one of the utilities that we regulate, has had some problems. Now, JCP&L has over 500,000 customers in each of the northern and central regions. The northern region generally includes Morris and Sussex counties, and a small portion of Union County. The central region includes basically Monmouth and Ocean counties, with a little here and there on the side.

Jersey Central, historically, has had reliability problems, with which their customers and the Board have been forced to contend. For example, in 1997, a series of snowstorms in the winter and thunderstorms in the summer affected thousands of customers. In '98, a strong line of Labor Day thunderstorms knocked out power to 85,000 customers, an additional 75,000

across the state with other utilities. And in '99, a stretch of hot weather over the July 4 weekend led to two transformer failures in Red Bank, which affected over 100,000 customers. After each of these events, the Board launched an investigation and ordered the company to improve their equipment, their processes, and their personnel.

And in 2001, Ohio-based FirstEnergy assumed ownership of JCP&L, purchasing it from General Public Utilities. But unfortunately, the track record didn't get much better.

Since the '01 merger with FirstEnergy, Jersey Central customers have experienced two major power outages. First in August '02, and then the July 4 weekend this past year, as well as numerous minor outages.

The '02 outage was caused by a severe thunderstorm. But our primary concern was the response time it took the company to restore power. One hundred and eighty thousand customers lost power during that storm, and over 40,000 customers were still without power three days later. Complete restoration took five days.

The last July 4 weekend, 40,000 JCP&L residential and business customers, along with tens of thousands of vacationers on the Seaside area barrier peninsula -- which is well over 100,000 people -- lost power, with some experiencing on and off service for up to four days.

The barrier peninsula -- actually it's connected at the top of Point Pleasant -- includes Seaside Park, Seaside Heights, Lavallette, Mantoloking, Ortley Beach, Normandy Beach, and also portions of Dover Township, and a little bit along the adjacent mainland -- were impacted.

The outage was caused by a series of subtransmission line failures, and the timing couldn't have been worse. If you recall, there was a rainy start to the summer, when it finally started. It was hampered by a national economic slowdown, so the businesses on the shore expected the holiday weekend to help them get back on their feet.

Within 48 hours after the blackout, Governor McGreevey had, at Drumthwacket, the Attorney General, the Ratepayer Advocate, and myself meeting with senior executives from Jersey Central and their parent company, FirstEnergy. And the COO, now the CEO, of FirstEnergy came as well.

This resulted in a firm commitment from FirstEnergy to the Governor to implement immediate measures ensuring the reliability of the distribution system for the remainder of the summer.

The meeting was followed by two formal Board hearings down in Seaside Heights, attended by FirstEnergy and JCP&L, to hear directly from those impacted by the outages. By Board order, Jersey Central took action, installing emergency generators and an additional temporary subtransmission line along the bridge to the peninsula.

The Governor, himself, held a meeting in Lavallette right after the outage to discuss the blackout with residences, business owners, and local officials. And thanks to the Governor's intervention, Jersey Central offered a special compensation package to address damage claims from those adversely affected.

By the end of '03, Jersey Central's Customer Compensation Fund had paid 93 percent of the residential claims and 62 percent of the business

claims. In total, 90 percent of all claims had been, so far, settled, for a total of \$1.8 million.

Since the July 4 weekend outage, we have been working closely with the company to develop a road map to improve the region's reliability. And at the Governor's request, we hired a Special Reliability Master, Patrick Downes, who had recently retired from PSE&G as Vice President, and who had worked in electric reliability issues for over 40 years. And we were very lucky and pleased to get him.

Mr. Downes was charged with overseeing a system-wide investigation and audit, which obviously included the shore region, primarily, initially, to ensure proper compliance with Board orders, as well as whatever standards should be in place.

We also asked Mr. Downes to make long-term recommendations on service improvements to upgrade Jersey Central's reliability for their entire system. His interim report was issued last December, and I think we gave John McCarvill a copy of that. That's available on our Web site, by the way, to the public.

The interim report has statewide recommendations which includes, in part: \$12 million investment to upgrade the system, an addition of one new subtransmission line and one upgraded line to the barrier peninsula, for a total of four subtransmission lines instead of the previous three. Thus, they will have two spare subtransmission lines instead of one that they had going into last summer. This will enable Jersey Central to meet summer peak needs, even with two lines out of service.

Decentralization of Jersey Central's dispatch office-- They had, up until this point, only one, which was in the Morristown area. They're now setting one up, as well, in Middletown. It will be set up by the end of March, and that will handle the central region. It makes a lot of sense to do that.

The company was also recommended -- and they've done all these things -- they're in the process of doing them -- put replacement cable for future repair of the underwater crossings. That has to be identified, stored, and available for repair within 48 hours of the outage, so that when one goes down, it can come back up again. And it takes a lot longer to repair the underground and, certainly, the underwater cables, than ones that are strung on poles.

The Special Reliability's final report is expected by the end of March or early April. That report will make recommendations for the shore region to be completed by Memorial Day weekend, as well as system-wide improvements to be implemented over time. In addition, we also commissioned Boothe Associates, which is an engineering consulting firm, to conduct their own assessment of the outage. And Pat Downes is working with Boothe very well.

That report will also come out next month, with specific recommendations for the Jersey Central system. And, obviously, the two -- Boothe and Pat Downes -- are working together.

I should note that in the wake of that July 4 weekend, Jersey Central has consistently complied with our recommendations and have been cooperating fully with us. And, thankfully, the rest of last year's summer passed without any major incidents, which I prayed for every night before I went to sleep. (laughter)

Please know that the Board is doing everything in our power to make sure the power is kept on this coming summer, not only down the shore, but throughout the state.

Now, as we all know, last summer -- July 4 weekend -- wasn't the only blackout that we experienced in New Jersey. Other customers in another location of the state -- thank God -- suffered an outage. On August 14, 50 million people in Canada, and from Cleveland to Manhattan, Toronto to North Jersey, had a major outage. This was a wake-up call that is desperately needed to get us into the 21st century for electric grid system.

The power outages plunged us in the darkness in '65 and in '77. And each time, the public and officials were told that investments were made to protect us from such blackouts occurring again, because of the new grid system. We need new ways of dealing with this.

Obviously, this summer's massive outage made those past promises ring hollow. So in response to the August 14 blackout, the United States, the Federal Government, and Canada formed a joint task force to study the causes for the power outage, also to recommend improvements to prevent that from happening again, at least at that magnitude.

You have to be aware that with nature, you're always going to have some outages. You try to prepare against that, plan for that, and look at all the contingencies, but also, then, get it up and running. There's two parts to this.

The task force had three working groups. The one that I served on was the Electric System Working Group. We've had-- In fact, to be here with you all, I am missing the meeting in Toronto to finalize the final draft document for the Electric System Working Group. And that's focused on transmission

infrastructure, and its workings, and its management, what happened. The interim report was, primarily, the work of that work group.

There's also a Nuclear Power Working Group. Commissioner Fred Butler served on that. And a Security Working Group, where Counterterrorism Director, Sid Casperson, served on that. They didn't have a lot of meetings. We had a lot of calls and a lot of meetings.

The Electric Work Group's interim report, which was really the task force's interim report, was released in November, and confirms what many had speculated about the causes of the blackouts. The major findings include: at about 3:05 in the afternoon, eastern standard time, FirstEnergy began experiencing, on their system in Ohio, some problems. And within an hour, that cascaded into the Northeast.

The system frequency, meaning the volume of electricity going over the wires, was not the cause of the outages first reported in the industry. However, once that cascade started rolling, large frequency swings -- amounts of electricity going on the wires -- became a principal means by which the blackout spread through a wide area.

The report also found that FirstEnergy committed many violations of the North American Electric Reliability Council's voluntary reliability standards. The blackout was caused by deficiencies in specific practices, equipment, and human decisions that fatefully coincided that afternoon.

The joint task force identified three major causes. FirstEnergy's internal control room procedures and protocols failed to adequately prepare them to identify and react to the emergency. One of their operators has been quoted as saying that they were blind in that control room.

Secondly, FirstEnergy failed to manage vegetation growth in its transmission rights-of-way. If you notice, with the big transmission lines, there's never any vegetation or trees underneath of them, and then there's a spread. There's a good reason. Anything touches those lines, you get a blackout. They did a bad job of tree trimming, and that was the common cause for three of the outages of the major transmission lines.

There was also a distinct failure by the interconnected grids -- specifically MISO, which is the Midwest Independent System Operator, and PJM West -- to provide diagnostic support.

Just to clarify, PJM West is a part of PJM, but not the part that we're in. PJM -- I call it *classic*, the original PJM -- which is our grid system, where they power-pull together -- which is the best system, by far, in the country -- serves New Jersey, Pennsylvania, Delaware, Maryland, part of Virginia, the District of Columbia. PJM West is also Ohio and West Virginia. They have a little bit -- not as good a system as we have, in my personal opinion -- especially after these reviews. And MISO, which is the Midwest -- they are forming an Independent System Operator group. They have actually legally set it up, but a lot of their procedures are not yet in place. So they're heading in the right direction, but, unfortunately, they haven't gotten there yet.

MISO and PJM West had some problems in their -- in the information they shared with the utilities, as well as with each other. So different utilities and grid organizations lacked joint procedures, and still do -- lack joint procedures and guidelines, and when and how to coordinate grid problems if they observe it in someone else's control area.

So, in short, there was a combination of insufficient regional oversight, a lack of real-time data and efficiencies in the grid maintenance and management that caused this outage.

The outage that quickly cascaded within minutes, and the system safeguards were unable to isolate it before millions of people were left without power. Once the cascading started, no human operator could have stopped it. The cascading did stop here, in New Jersey. And I'd like to think that our close coordination-- I've been asking this question, and we're still not quite sure what the answer is, but I expect we will know before the final report is out -- why it stopped here. I think that our close coordination with PJM, our regional transmission organization, and how it works with the utilities that are mandated -- certain standards to be a member of PJM -- has something to do with it stopping here, which saved, I think, the regions south of us.

I would also like to mention and commend the swift manner in which Public Service Electric and Gas and Rockland Electric quickly restored service within 24 hours to the over 800,000 customers in those places the power went out.

They obviously cooperated well and were constantly in communication with the Board staff, as well as the State Office of Emergency Management. So the process was extremely well-organized and ran quite smoothly, all things considered. And I think a lot of that also has to do with the coordination of the Domestic Preparedness Security Task Force, under the direction of the Attorney General and the interagency working groups that meet all the time.

Later this month, NERC -- which is, again, that voluntary reliability council that sets regulations -- board of directors is scheduled to meet. They will consider four strategic initiatives for immediate implementation to strengthen reliability. One of them includes auditing control areas and the reliability coordinators. The reliability coordinator could be just a utility, and in PJM it is PJM -- which is, again, a smart thing to do -- to ensure that their reliability procedures and protocols are in place and are good; improving the review process for monitoring control areas and the reliability coordinators to ensure that they are, in fact, complying with all NERC standards; and performing frequent vegetation management surveys to make sure the transmission owners are really managing their transmission rights-of-way; and then implementing a tracking system to ensure that the recommendations of NERC are handled.

As I think you are all well aware, there's a comprehensive Federal energy bill that's been pending in Congress for quite some time now, and we can't speculate as whether it will be ever passed or not. In my opinion, certain priorities of the bill are certainly not in the best interest of New Jersey or the country. However, the bill does have a reliability section, and the provisions in that are pretty good. They would require mandatory reliability standards for the electric industry, and would authorize FERC to hold the industry responsible for violations.

I note, at this time, that NERC standards are voluntary and not required to be followed by the utilities. Although, in PJM, if you're a member of our regional transmission organization, as a utility you have to follow PJM standards, which are NERC-based.

Some responsible members of Congress are attempting to pass the stand-alone reliability bill. It's getting quite a push. I do hope that they succeed.

In lieu of congressional action, FERC Chair, Pat Wood, has done legal research and is intending to use FERC's existing legal authority to somehow mandate reliability standards.

Once the joint task force's final report comes out -- which will probably be the middle of next month, but it might be after -- New Jersey BPU will use that, along with our consultant report, to determine how best to strengthen New Jersey's transmission system and distribution system.

Now, generally, FERC regulates transmission; we regulate distribution. But a lot -- there's an overlap. And we do have some ideas on how to do that.

Immediately following the August 14 blackout, the Governor issued a statement advocating three specific steps to address many of the problems that were later cited in the Task Force's interim report. First, mandatory transmission grid reliability standards need to be adopted. And I underline *mandatory*. Secondly, mandatory participation by all utilities in our regional transmission organization. And third, increase Federal funding for grid investment, with a focus on smart grid technologies that will eliminate much of the poor data and system response that helped lead to the August 14 blackout.

The analogy of our electric grid is that it operates like an old telephone network -- old telephone switchboard. Researchers, now, are hard at work developing 21st-century technology for the electric infrastructure that would function much more like an Internet. We're calling it the *smart grid*, and

there's a lot of things that are part of the smart grid. But it's digital sensors, computer modeling, real-time data -- which would, obviously, greatly improve and revolutionize our current system.

We're talking about a self-healing grid, where digital data, and computer systems, and monitors can identify where the problem is and, really, correct the problem automatically by routing power along other routes.

Experts suggest that a smart grid would be far more reliable, and its decentralized nature -- which makes decentralized energy generation more possible -- would make it less vulnerable to security threats and attack.

While both the Governor and I support new research and technology to ensure reliability, it should be based on what is necessary -- probably on a minimal basis -- what is the minimal necessary to meet the needs of the energy users. The question is: Do you really need a Cadillac or a Chevy?

This is a realistic, rational, and feasible way to approach upgrading our grid technology. We should also develop a renewed commitment to using distributed energy systems. These are smaller, cleaner, more decentralized power sources -- renewable energy, for instance solar or wind, are distributed generation. And distributed generation will help reduce a reliance on centralized powerplants, which can have security concerns and also pollution problems.

And at the Board, through our trendsetting Clean Energy Program, we're making certain that support exists for New Jersey residents and businesses to take advantage of renewable energy.

My experience over the last two years, along with the problems I have discussed, have lead me to the following conclusion: We must change how

the Board regulates the industry; we need to define exactly what it means to provide safe, adequate, and proper service.

Traditionally, as the Chair knows, our regulatory purview has primarily focused on rates. And at the Board, we're committed to shifting our sites from concerning ourselves mainly with rates -- which, obviously, will always be important -- to finding ways to be more socially responsible, and with more of an emphasis on ethics, customer service, and reliability. Corporate scandals like Enron and WorldCom, and our own problems sometimes with management at NUI, require the development of corporate governance standards to ensure proper behavior.

And we only need to look at recent statistics regarding customer complaints to realize that we have to work on customer satisfaction. From 1997 to '02, there were steady spikes in the number of service complaints to the Board, ranging across the utility sectors. In those years, electric complaints for service complaints increased by 54 percent; phone, by 74 percent; gas, by 143 percent; and water, by 150 percent. That's service complaints, that's not billing complaints or other type complaints. Cable complaints, which include all complaints -- including billing, service, etc. -- jumped 141 percent from '99 to '03.

The Governor has let it be known that his administration demands the very highest standards of consumer protections. To get a better handle of what should be expected from our utilities and our regulated services, the Board is hard at work, developing what we call a *report card*, which will help measure performance.

Last fall, we established four working groups -- which has representatives from the major utilities, telephone companies, the cable industry, and the Ratepayer Advocate -- to work with Board staff on this project.

The report card will provide indicators on consumer service and telephone system access, reliability and safety, pricing and financial information, and also overall consumer satisfaction.

The report card is being developed with three distinct audiences in mind. Obviously, first, the public consumers; secondly, the utilities; and third, the Board. For consumers, we'll have up-to-date, unbiased information on utility services and the ability to compare performance, such as outage reports, response times, and call centers. For utilities, it will help benchmark performance and identify whether improvements are needed. And for the Board, it will help us judge our own effectiveness and give us the chance to adjust policy as needed.

In conclusion, when the end goal was ensuring the reliability of our utilities and remaking our nation's grid, we can't afford to simply make it up as we go along. Patchwork solutions just won't cut it. Neither will a lack of cooperation. When it comes to reliability, we can't only concern ourselves with managing the consequences of service interruptions. We must also examine the root causes of outages, which will in turn help prevent or mitigate the fallout from future incidences. We also must bring researchers, government officials, and industries themselves together to develop solutions that will enhance the reliability of our infrastructure.

It is hearings like this that will keep the discussion moving forward in the days, months, and years to come. And the Board is committed, clearly,

to entering into this new era of regulation. We must be proactive in identifying root causes of problems and impacting the provision of safe, adequate, and proper service to New Jerseyans. I think we have always blazed a trail for around the country, and I think we are continuing to do that.

Again, I want to thank the Chair and the Committee for having me here today, and for listening to everybody that will follow me. On behalf of my fellow commissioners -- Fred Butler, Carol Murphy, Connie Hughes, and Jack Alter -- and our staff, we look forward to working with you in the future.

ASSEMBLYMAN CARABALLO: Thank you.

Let me-- Towards the end, here, in your presentation, you made a reference to a report card. This is about the seventh or eighth time, now, in the last week that I hear references to the report card. Who's covered by that report card -- what specific areas?

MS. FOX: Well, the directions we gave staff--
Red light (referring to PA microphone).

The directions that were given to staff last year were to work with all the industries that we regulate. So participating, at our request, are the electric and gas, water, the few sewer companies -- I don't really think they're showing up -- but sewer, telephone, and cable companies. And they broke out into work groups and have given recommendations. We now are going over -- staff and commissioners are going over what those recommendations are, and then we'll come up with the report card.

The way that we've been discussing with the utilities since last year, is that that would be "voluntary." I haven't--

Bharat Patel, who some of you might know -- who was the head of the division of energy, when there was a Department of Energy, who's with the board, who's our policy chief -- is heading up that effort, along with a team of staff.

ASSEMBLYMAN CARABALLO: You said -- you mentioned, I guess, just about everybody, but you said that the sewer folks are not.

MS. FOX: Well, we only regulate--

These go off too quick (referring to PA microphone).

We only regulate, I think, about 20 privately owned sewer companies. For the water industry, we regulate about half the water customers in the state. We don't regulate MUAs, or municipal water systems, unless they serve a large number of people outside. For instance, Trenton serves a large segment outside. We don't regulate within Trenton, but we regulate how Trenton deals with the customers in Ewing, and Hamilton, etc.

With sewer companies, most sewer systems are, really, municipal, or MUA. So we only regulate something like 20 or 25, basically, small, private sewer companies.

ASSEMBLYMAN CARABALLO: When you say you don't regulate, does that mean you have no say with respect to--

MS. FOX: Yes.

ASSEMBLYMAN CARABALLO: --consumer issues?

MS. FOX: Yes.

ASSEMBLYMAN CARABALLO: None?

MS. FOX: None.

ASSEMBLYMAN CARABALLO: Who do they go to?

MS. FOX: The large cities mostly have their own municipal water systems.

ASSEMBLYMAN CARABALLO: Who do they go to when--

MS. FOX: Their elected officials, I guess.

ASSEMBLYMAN CARABALLO: And that's it?

MS. FOX: It's legislative. (laughter)

ASSEMBLYMAN CARABALLO: Okay. And the report cards -- you said folks are, pretty much, on board with it?

MS. FOX: Some are on board, some of the industries are supportive, some of the industries aren't as supportive. We're trying to work out something that's reasonable. One of the questions is, do we let -- list all four electric distribution companies, all four of the gas companies -- well, Public Service in both -- all the telephones companies that serve, all the cable companies, and rate them? Some of the participants would like us to have the average of, say, the telephone or the cable industry so they all get a *B* or they all get a *C* together, instead of one getting an *A* and one getting a *C*. My personal preference -- I haven't talked to my fellow commissioners, though -- is that each one would get a separate score.

ASSEMBLYMAN CARABALLO: It wouldn't be much of a report card if everybody's getting the same grade.

MS. FOX: Yes, but when I was in elementary school, I, kind of, argued for that at one point. (laughter)

ASSEMBLYMAN CARABALLO: Your socialist days? Is that-- We all had those days. (laughter)

That's what the sixties and seventies were for, right, Jeanne?

Do you have a question?

Yes, Assemblyman Van Drew.

ASSEMBLYMAN VAN DREW: Yes, thank you.

I'd first like to commend President Fox for all the good work that she does. I know that I have pestered here repeatedly over a lot of issues relating to customer satisfaction and consumer services relating to the cable industry and other industries, as well. And you're doing a wonderful job for the residents of the State of New Jersey, number one.

Secondly, I had some further questions on the report card. I just want to -- because it sounds like an excellent idea to me. And I want to understand just a little bit more of what the endgame would be, or what the goal would be.

This would be an objective evaluation of the industries, of the utilities, and it would be a separate evaluation. To me, it would make more sense -- I just want to make sure I understood you right -- if it was a separate evaluation of the different companies, based upon their consumer services, as well as their reliability and other issues that are important.

MS. FOX: The prices and satisfaction.

ASSEMBLYMAN VAN DREW: So it would be a different evaluation for cable than gas, than electric. Is that correct?

MS. FOX: Yes. And the way the timetable is working, by -- the first report card could be issued, we think, by January of next year. It's been a very long process, because we want to get it right, and we want to try to bring the people in. And the committee has a lot of issues. But it really is when all

those issues -- where the utilities will be rated. And that will be available on our Web site, and released to the public.

ASSEMBLYMAN VAN DREW: And this could be done by regulation, or legislation, or both.

MS. FOX: Well, actually, the Board now has the authority to do this. My personal opinion is, I think we actually had the legal authority under the existing statute -- where we had very broad authority -- to actually do it mandatorily. At this point in time -- again, I haven't discussed it with my fellow commissioners -- the staff is working off of doing it voluntarily with the companies. But I think under our current authority, we could do it mandatorily.

We have very weak statutory authority on enforcement. Our statutes are, basically, archaic, except for slamming -- like telephone slamming or some of the cable -- newer cable laws. A lot of these date back 54 -- 89 years. So we could pull the franchise, I guess.

ASSEMBLYMAN VAN DREW: Do you see any significance to the deregulation of these industries and the lack of consumer confidence in certain areas? Anecdotally, it seems to me -- and I haven't looked at the numbers very recently, and I haven't seen the numbers that you have there -- but as deregulation has occurred, to some degree, confidence or consumer satisfaction in certain industries has diminished.

MS. FOX: Yes. We could have a long discussion about this. But deregulation -- what's been deregulated so far is, to a degree, electricity, when you're talking about your supply -- not your distribution, but your supply-- So you always had that -- PSE&G I have in New Brunswick -- but I could buy my own supply -- has been deregulated. But they have broken off. For instance,

Public Service -- the generating stations aren't part of the utility anymore. All of our electric utilities have gotten rid of their generating stations, and either a sister company -- like with PSE&G, PSEG Power -- or JCP&L actually sold their generating stations. And then they -- through this auction that's going on as we speak -- they put out to bid, for next June 1, for a year, the electricity for that.

So that-- It's been good, because I think we're literally getting the cheapest wholesale rates for that electricity supply. On the other hand, my personal feeling is, because of that competition in energy -- bottom line is always important in the business -- basis of a monopoly utility is, yeah they were, kind of -- my personal opinion again is -- maybe had padded, in the '80s and the '90s, some of their expenses, and they went through in the rates. And, again, the Assembly Chair knows better than I. As public advocate, he would be aware of that. So the purpose of dereg, to a large degree, was to have lower rates, because the monopoly status would not exist.

On the other hand, in the telephone industry, we started, somehow, having competition, which is not quite deregulation. But in the mid-'80s, when Ma Bell was broken up -- and has gone on -- and just recently, really, over the last couple of years, have gotten into competition for local service -- telephone service.

My personal feeling is -- and it's just my personal service -- feeling is -- and I think statistics show -- will justify, but we haven't merged together -- is that, in fact, competition could hurt service, because bottomline competition is -- you've got to make more money with less, whatever. So it's a balancing.

I really think we need a new era of regulation -- different way of regulating in a competitive era. If we regulate properly in a competitive area,

customers can keep their rates low. But customer service and reliability of service -- you really have to be much more on top of that than before. And I think we need to change some of what we do and how we do it to make sure that that competition doesn't hurt reliability and service quality.

ASSEMBLYMAN VAN DREW: I believe you're right.

May I ask one more question, Chairman?

ASSEMBLYMAN CARABALLO: Sure.

ASSEMBLYMAN VAN DREW: The power grid -- do we-- And this is something I know is hard to conceptualize, and I've read a little bit about it. Are you confident, now, nationally, and even in our northeast region here? Do we have-- Are we under control? Do we have a handle on it, or do we need to do a great deal more? And I know you alluded to some of that. It seems that, again, the technology is not up to where we should be and that we need to do a lot more. And do you see, in the near future, that this is going to happen? I know these are Federal questions, as well, but they're questions of concern, obviously, in New Jersey.

MS. FOX: New Jersey is very lucky -- and of course because New Jerseyans are very thoughtful, planning people -- we're part of the PJM grid system, and our utilities help set up PJM. PJM is, by far, the most reliable grid system in the country. It is the role model that is used nationwide.

The problem is, we lost electricity in August because MISO isn't up to par yet. They're just setting it up. The midwestern states understand that they need an independent system operator, or a regional transmission organization -- whatever you want to call it -- to help coordinate that electricity.

New England has their own regional transmission organization. New York stands on its own. And because PJM has requirements for utilities, or anybody who wants to sell electricity into that grid system, they have all kinds of requirements and all kinds of experts, and boards, and committees -- PJM has.

I think one of the reasons -- I think -- it stopped here is because of those requirements. The FERC -- Pat Wood of the FERC, and several of his fellow commissioners, wanted to basically extend that type of system -- regional transmission organizations -- to the rest of the country. Two years ago, he proposed it, and he got torn apart by the southeastern states, and some of the northwestern states. And Congress has, in this energy bill that, thank God, has not passed -- originally had a proposal that no RTOs could be set up.

Language has been, kind of -- you know how Congress can, kind of -- much better than you guys do -- play with language so both sides can read it their way. That's the way that's now in the current pending bill, but it's not good. I think that, clearly, what the Governor said right after the blackout is, you need mandatory regional transmission organizations.

There's all kinds of theories -- and maybe in private I'll tell you what my theories are about why FERC is not allowed to move ahead in that direction. But Congress has stopped them, and the White House backs up Congress at this point. So we have a problem. This could occur again. This problem could occur--

Now, people are being much more careful. FirstEnergy is much more on top of it. They fixed their problems -- I think they have -- in Ohio.

But around the country, you still have utilities who are not part of transmission organizations, and they do what they will.

ASSEMBLYMAN VAN DREW: And that problem could occur again in New Jersey, as well, because of that. Because as careful as we're being, our reliance upon that still creates vulnerability for us.

MS. FOX: Yes, I think it's less likely because of what happened. And, believe me, the utilities in the Midwest are much more careful now and are much more on top of it. But there aren't, still, any standards that are uniform. And we still have seams problems between the different -- between us and MISO.

Now, we've been working on it. The State's actually been participating with those two organizations to work out those problems when electricity goes from one region into the other. So the Northeast is much better off than other places.

ASSEMBLYMAN VAN DREW: Okay.

Thank you, Chairman.

It seems to me, at a time when we're spending billions of dollars in antiterrorism efforts, that this is something that needs to be addressed.

ASSEMBLYMAN CARABALLO: Assemblyman Chivukula.

ASSEMBLYMAN CHIVUKULA: Thank you, Mr. Chairman.

I just have a question regarding the report card.

Let's say, hypothetically, there is a report card that is existing today. What is the ability of that report card to anticipate problems of outages? Do you have some kind of a correlation that is being worked out in the report card?

MS. FOX: I think the report card is more an information-- Obviously, if somebody gets a *C* or a *D* in reliability, they know they have a problem. What we're also going to be working on-- When our reports come in on Jersey Central from Pat Downes and from Boothe Associates, we're going to be sitting down with the utilities, Ratepayer Advocate, and our staff, and those consultants and start working through what standards for the electric grid we need to have in place on a statewide basis. And then we'll probably have minimum reliability standards for the State. That's where we'll be heading late spring into the summer. That's our number one priority -- is reliability for the electric grid system.

The report card--

But that all was so complicated, it probably won't be shown in the report card except for a grade, like when we were in school, and we got a *B*. Well, there's a lot of underlying things to why a *B*, but you really don't have that in footnotes.

ASSEMBLYMAN CHIVUKULA: So, basically, even if you have a report card, that does not anticipate how -- what kind of problems that can happen and, somehow, correlating those problems.

MS. FOX: But we will work with-- That's why it's useful to us, the Board, because we'll work with the utility to improve -- when their plan-- It's good for the utility, because they'll have a benchmark knowing if they're getting better or not better. And it's good for the consumers, because they can compare how their current utility is compared to the last utility, or in, for instance, the competitive areas that they might want to switch.

ASSEMBLYMAN CHIVUKULA: Okay.

For example, if lightening strikes a subtransformer -- a transformer -- and the whole area gets knocked out. I mean, some kind of a disaster or contingency (indiscernible) plans -- those are all going to be reviewed in the report card?

MS. FOX: No, that wouldn't be in the report card.

ASSEMBLYMAN CHIVUKULA: Okay.

ASSEMBLYMAN CARABALLO: Thank you, Madam President. I'm looking out there, and I see--

Scott Weiner, do you remember when you used to have to come up here?

SCOTT WEINER: Indeed I do. I'm flashing back. (laughter)

ASSEMBLYMAN CARABALLO: I thought so.

Oh, sorry, one more question.

ASSEMBLYMAN EAGLER: I want to go back to the report card, as well. My question is, will the report card have teeth? Because if you don't get a passing grade, are we going to really watch it? And then what happens? Are we going to ground the electric company? We hope they're grounded.

MS. FOX: Detention.

ASSEMBLYMAN CHIVUKULA: If we ground them, we'll have a blackout, Vice Chair. (laughter)

MS. FOX: The way the report card works now, there is no enforcement mechanism. The Board could decide to do that under our current statutory authorities, I believe. However, we have very weak enforcement authorities in most areas. So there have been some discussions that we've had with some of the utilities. I think, after we get passed the reliability standards

for the electric system, that's our next step -- is to see if we want, kind of, enforcement in that mechanism. We had not anything in mind about enforcement for the report cards. We could do, by a Board order, if we wanted to, that you have to give us a stat so we could do a report card.

The violation of a Board order is \$100-a-day penalty. So there is some enforcement mechanism if we decided to make it mandatory -- you have to give us this data and this information. But it's \$100-a-day violation.

ASSEMBLYMAN CARABALLO: All right, thank you very much. We appreciate it.

The Ratepayer Advocate, Seema Singh.

Good morning.

SEEMA M. SINGH, ESQ.: Good morning.

ASSEMBLYMAN CARABALLO: I know that you and I, in particular, had hoped that by this time this year you would not be sitting here simply as the Ratepayer Advocate, but would also have been sitting here as the public advocate with, perhaps, a rate council division within that public advocate, with a lot more power than at present. But we shall see what happens this term, okay?

MS. SINGH: We still have hope, right?

ASSEMBLYMAN CARABALLO: Yes. Welcome.

MS. SINGH: Good morning, Chairman Caraballo and members of the Committee.

I'd like to introduce Andrew Dembia, my Assistant Director, who is here with me, as well.

Thank you for inviting me to speak on the state of utility reliability in New Jersey. We are here today to address a very crucial topic which affects the lives of every single resident and business of this state, the reliability of utility service in New Jersey.

As we have seen this past summer, regarding electric reliability, with the July 4 weekend power failure and the August 14 Northeast blackout, our reliance on electricity is vital in order to enable us to carry out our everyday lives.

Power failures come in many forms, through weather-related events such as hurricanes and ice storms, failures from poor maintenance of poles and wires, and failures from human error. No matter how the blackout occurred, one thing is clear. The 21st century customer demands nothing less than almost instantaneous power restoration.

While demanding quick restoration, customers do not want to hear the phrase *rate increase* to pay for systems upgrades and aggressive maintenance levels. Ratepayers believe they have been paying the utility companies over the years so that the transmission and distribution systems would be properly maintained. It is difficult for them to accept yet another rate hike to pay for these improvements that the utilities should have been doing in their normal course of business.

That is why there is an office of the Ratepayer Advocate, to give the ordinary consumer a voice in the rate-setting process. When a utility requests a rate hike before the BPU, the Ratepayer Advocate plays a vital role in protecting consumers. And that is exactly what we do every day -- challenge each and every utility company to justify and substantiate every penny they seek

to pass on to consumers. While we realize that some increases are justified, we need to balance those increases with the customer's ability to pay.

On the Federal level, while the energy bill is stalled in Congress, the Chairman of the Federal Energy Regulatory Commission, Pat Wood, has publicly stated that FERC will be creating a new reliability division, along with new mandatory reliability standards. Chairman Wood has been quoted to be "more than frustrated" to learn that many of the causes of the 2003 blackout were the same as earlier major blackouts in 1965, 1996, and 1997. Some of the major problems that caused the 2003 blackout, as well as earlier blackouts, were poor vegetation management and lack of communication among utilities.

While I am hopeful that FERC will adopt mandatory reliability standards with penalties, New Jersey should not idly sit by and wait for the Federal government to address this crucial area.

Just weeks prior to the August 14 Northeast blackout, our shore-area residents suffered a tremendous loss from the JCP&L power outage, which occurred over the July 4 holiday weekend. Unfortunately, it took an event of that magnitude to get everyone's attention.

Governor McGreevey took the lead and ordered the BPU to conduct an investigation. And I'm hopeful that the BPU's investigation will determine not only the cause of the blackout, but also whether ratepayer money has been properly spent to maintain the distribution systems.

The Ratepayer Advocate has consistently called for permanent performance standards with automatic penalties. If a company fails to live up to these standards, then it should be assessed automatic penalties out of

corporate profits. That means shareholders will pay for management's failure to deliver reliable service.

Rates are set to enable a utility to provide safe, proper, and reliable service. If a company does not adequately maintain and upgrade its systems, ratepayers are not getting the service they are paying for. Making shareholders shoulder responsibility for poor performance is the best way to ensure that utility service improves. Given the current state of our nation's transmission system, investment in smart grid technologies should also be explored.

Some have suggested that customers install rooftop solar panels or gas-fired micro-turbines to reduce our dependence on the electric transmission and distribution grid. But even with today's outstanding renewable energy rebate programs, many consumers still do not have the cash on hand to purchase this technology.

Under the leadership of Governor McGreevey and BPU President Jeanne Fox, New Jersey is becoming the national leader in promoting this technology. Over time, the price to implement these new, highly efficient, and environmentally sound technologies should drop. But unless this happens, however, then customers will still be dependent on the practices of the utility companies to ensure that their transmission and distribution are properly maintained to be able to deliver power in times of peak demand. That being said, we must all do everything in our power to urge consumers to conserve energy.

Conservation, in my opinion, can help prevent another blackout. Conservation provides a critical buffer between uninterrupted service and power outages during peak demand time. Conservation, however, does not mean you

have to sacrifice your lifestyle or your personal comfort. You don't have to sit in the dark, or shiver in the winter, or sweat in the summer. It does mean, however, that you have to make choices and take individual action.

My office took the initiative and held a conference last November to commence a comprehensive, statewide energy conservation crusade. In furtherance of this policy, I will go out to each county and town, where invited, to advocate energy conservation, as well as energy aggregation programs, to help consumers deal with the rising energy costs.

Conservation is also a very important concept when it comes to our state's water reservoirs and resources. As our recent experiences have shown, even a water-rich state like New Jersey is vulnerable to drought and water supply degradation. While we continue to explore ways to move water from areas with ample supply to areas suffering from shortages, there are limited opportunities for interconnections between different regions in our state. These are only some of the reasons why I support the Governor's clean water initiatives.

Another reason has to do with saving consumers money. The easiest and safest way for people to enjoy safe drinking water from their spigots at home is to keep the supplies -- groundwater, reservoirs, lakes, rivers, and streams -- free of contamination. Preventing overdevelopment and sprawl into the Highlands and Pinelands is an important tool in protecting our water supply.

I would also like to touch briefly upon another utility service that can be disrupted during a power failure: our telephone service. A telephone outage was realized by hundreds of residents during last summer's July 4 power outage. It was brought to my office's attention, during the public hearings held

in Seaside Heights, that many residents were without telephone service. Many landlines went dead, because apparently the battery-powered backup generators were not functioning properly. Also, cell phone service was disrupted due to the heavy volume of traffic, because people were without landlines and were stranded on the boardwalk, the beaches, and restaurants using their cell phones. Even those who had a cell phone could only use it for a limited amount of talking time, because once the battery ran out, there was no electricity to charge it up again.

As a result of these various utility outages, I would support legislation that would create performance standards for all utilities, with penalties.

Regarding cable TV service -- which many consider a lifeline service, especially the elderly and the homebound, as this is their only connection to the outside world for weather and news -- I am pleased to voice my support for many of the changes that the BPU has adopted that will ensure better accountability on the part of cable television operators in their provision of safe, adequate, and proper service to cable customers.

These new cable regulations place a strong emphasis on customer service concerns, and establish safeguards to protect consumers from unreasonable procedures by cable operators. The escalating price of cable services has been a huge concern for regulators and legislators alike. The legislators have responded to this concern by proposing several bills, including a measure by Assemblyman Van Drew, that are aimed -- increasing service quality and fostering competition among the cable companies.

In conclusion, I applaud the leadership efforts of Governor McGreevey, as well as Assemblyman Caraballo, Assemblyman Van Drew, and members of this Committee, and the entire Legislature, for working to bring choice, improved customer service, and reliability to New Jersey's utility consumers.

While I will be there every step of the way, aggressively advocating on behalf of the consumers of the State of New Jersey, I am embarking, also, on a statewide energy conservation campaign. And I ask that you join me in getting the word out to your residents and businesses to conserve, conserve, and conserve. Conservation may be what stands between us and the next major blackout.

To help you get the word out, my office has prepared the first Ratepayer Advocate Energy Conservation Handbook, which I believe you have before you. It is a simple-to-read, easy-to-use guide to help the average person conserve energy. These free handbooks are available on our Web site or by contacting our office.

And I once again repeat my offer to go out to your constituents, or to anywhere in the state, where invited, to talk on energy conservation or any other utility matter that is of interest.

I stand ready to work with you on crafting workable reliability standards with financial penalties, so that ratepayers get the service that they deserve.

Thank you.

ASSEMBLYMAN CARABALLO: Thank you.

Any questions?

Assemblyman Van Drew.

ASSEMBLYMAN VAN DREW: Thank you, Chairman.

Solar power, individual power production at the home site, actually-- I don't know a great deal about it, and I hear about it. And I know that it would help us conserve, and, as you stated so eloquently, less reliance up on the grid. Any sense of how realistic that really could be or would be, even within the next five to 10 years? Are we moving forward on that at all?

MS. SINGH: We are moving forward on it, Assemblyman, but it is going to take another five to 10 years before the average consumer could afford it.

ASSEMBLYMAN VAN DREW: Is that the time frame that you believe -- it would be in that time frame -- five to 10 years?

MS. SINGH: That's correct.

ASSEMBLYMAN VAN DREW: And more the solar or gas? What do you really see? Or both?

MS. SINGH: Solar.

ASSEMBLYMAN VAN DREW: Thank you.

ASSEMBLYMAN CARABALLO: Any other questions? (no response)

Thank you. We appreciate you coming down.

MS. SINGH: Thank you.

ASSEMBLYMAN CARABALLO: I'm sure we'll be contacting you as this process goes on, so we can get your input, as well.

MS. SINGH: Please do. And I'd like to come to your constituents, too, with our presentation.

ASSEMBLYMAN VAN DREW: Even down to Cape May?

MS. SINGH: Absolutely. (laughter) Why not?

ASSEMBLYMAN VAN DREW: The summer time, I know.

MS. SINGH: We are going to Woodbury next week. And then, I think, the following week, we are going to another place in South Jersey. We'd love to come to Cape May.

ASSEMBLYMAN CARABALLO: Cape May in the summer is wonderful.

ASSEMBLYMAN VAN DREW: That's when everybody wants to come down, Chairman.

ASSEMBLYMAN CARABALLO: I got numerous requests from folks who, for one reason or another, wanted to come up early.

I say this, because that's what happened earlier today, and I got some phone calls.

So being the politician that I am, I passed the task on to John, and said, "John, you determine the order." So here is the order.

First thing we're going to do is-- We have a couple of representatives from the water area. Anthony Harding, CEO, United Water; and Jim McManimon, Gloria Gledhill from New Jersey American Water. If you would come up--

What I'm trying to do is bring groups up at the same time. That does not mean that anyone speaks for anyone else, nor does anyone have to agree that someone will be their spokesperson. It just means that we can deal with one group at a time.

So, if you could, sit. Maybe we can get another chair here. Yes, get that over, maybe, a little bit. We've got a third microphone there.

Would you move over a little bit to your right here? There you go.

And we've got Jim fitting in there.

Okay. Good morning, Mr. Harding.

ANTHONY HARDING: Good morning, Mr. Chairman and members of the Committee.

Shall I start off?

ASSEMBLYMAN CARABALLO: Why don't you? Go ahead.

MR. HARDING: Okay, thanks.

My apologies, first. I haven't prepared a written paper for you to follow. I can, obviously, follow up in writing if you would so wish.

Firstly -- to say that I am the CEO of United Water. I've been in that position for the last seven months. You will have already by now detected a very strange accent. You will notice I'm not an American. I have spent most of my water engineering career in the United Kingdom. And as I say, I have been in United Water for seven months.

I'd very likely -- very quickly like to highlight four key areas of reliability, as I see those pertaining to the water industry. And then I would like to touch on some key areas that I think are important in assessing what levels of service -- reliability or, indeed, other levels of service -- things that we should consider as we set those and, particularly, as we measure; and then as we apply incentives or penalties.

So before I do that, I'd like to make a very, sort of, overall point -- somewhat conceptual, but, I think, exceedingly important.

Whenever we're looking at setting levels of performance in the water industry, I think that we, these days, need to take a slightly different view than the view that has been taken for a very long time, in my opinion. I have been in the water industry for 30 years.

I think, in the past, we have taken a very engineering-oriented view of the water industry. I have worked for engineers, and I'm an engineer, myself. I have worked for engineers who have had the attitude, "I'm the professional water engineer. There may be some consumers -- or there may be some customers out there, but I don't need to tell them anything. They don't need to ask me anything, because I'm the professional, I know best. And they're safe in my hands." And I think, in my experience, where we've really started to turn the corner in the water industry, is to, at least, try and see the business directly from the customer's point of view. We have been, I think, in the past, too much professional engineering stewards, if you like, of an engineering resource. And we need to look at the business from outside rather than purely inside. It might be a conceptual point, but it's very, very important, in terms of the things we're talking about today.

There are four aspects of reliability -- four key aspects of reliability for the water industry, as I see them. A number have been touched on already by previous speakers. The first, of course, is the adequacy of the basic product, of the yield of raw water resources that we have available to us. And we have to decide, in setting reliability standards, what level of drought contingency we design for. We cannot design for every single eventuality, and we have to decide what is a reasonable probability of drought against which to decide or design.

In terms of raw water availability, the previous speaker mentioned conservation, and I believe that the conservation efforts of the water company -- i.e., trying to work with customers on using water wisely, and giving advice to customers on conservation and using water wisely -- is as important as ensuring that we find new water resources. So the basic reliability of resources is the first point.

The second key point of reliability is how we, internally at the water company -- how we look after our machine, if you like. We have a network of water treatment plants, of pumping stations, of pipe networks, and we have to decide what operational methods and operational criteria we apply to looking after that machine.

The reliability depends, certainly, on capital investment levels. We need to decide how to renew and replace our capital assets. We have to make decisions about how to maintain our plant. And these days, as an example-- These days, in the water industry, we're moving away from merely following manufacturers' maintenance guidelines, for instance. We're moving much more now towards, what we call, *reliability-centered* maintenance. So we look at the maintenance of pieces of plant with the consequences of failure of that plant in mind.

So, as an example, we may have two very, very similar pumps, one pumping to a storage reservoir, another pump pumping directly to customers. And the consequences of failure of those two pieces of plant -- although very similar plants -- the consequences of failure would be very, very different. We are gearing up our maintenance and operational strategy much more towards

reliability-centered maintenance than merely following manufacturers' guidelines, for instance.

The other aspect of maintaining our plant, of course, is the amount of standby plant we have. In treatment plants, you have some very, very important pieces of plant, for instance chlorination equipment, to disinfect water. You have standby equipment, standby pumps, for when other pumps fail, etc. So there's a whole policy of duty and standby.

The other aspect, I think, is important, in terms of looking after our network, is the size and integration of the network. It's clear to me that smaller, discrete networks are inherently less reliable than larger networks where you have a number of water treatment plants, for instance, feeding into that zone, where the network itself is capable of being rerouted, etc., etc. A larger, more integrated system is, inherently, much more reliable, in my view.

And the other aspect, before moving on from that, is that the emergency preparedness of companies is paramount, in my view. We cannot leave emergency preparedness until the incident, itself. And we have to have proper emergency plans. We have to act out with the emergency services involved -- with all the services involved. We have to act out and prepare on a regular basis for the real event. So a certain aspect of reliability is very much within our control, in terms of investment of maintenance.

There is an aspect, though, in the water industry, and that is the obvious reliance we have on the electricity providers. And that is a very, very important fact for the water industry. We saw that in the blackout. We can, of course, mitigate that reliance, because we do, in fact, have key installations in the water network, key water treatment plant, key pumping stations. Of

course, we keep our own standby generation capability. But it would not be economically sensible for a water company to be able to provide 100 percent of its own generating capability. So there's a judgment to be made there -- what level of generation do we keep ourselves.

And the last aspect of reliability is, clearly, what steps do we take against security for vandalism or terrorism. How far do you go, basically? It's a key area for us, deciding on what systems to put in place to guard against vandalism and terrorism.

I think the key question in all those aspects of reliability -- there's a big question which comes to the floor, and I've just said it: How far do you go? The amount of expense that we put in, the capital and operating expense, against the level of service, is really a balance. And we can provide, and we should provide, a very, very high level of service and reliability. But on the other side of the equation is the acceptability and affordability of the customers' bills. At the end of the day, the customers -- consumers will pay for this. So where is the balance between a high level of service and the size of the bills?

And I think, in setting what should be the target levels of service -- in setting those, I believe there are a number of key considerations to take into account. Firstly, customer consultation is hugely important. I think, in the water industry, I'll admit it: We used to be arrogant in the past, and we would make all the decisions about what level of service we gave. "We know best, we're the experts." I don't think that is the case. I think in setting standards, we should be consulting with our customers and consumers, and asking them where they believe the balance lies between a level of service and the size of customers' bills at the end of the day.

Also, I believe that when we set standards -- when we're setting standards -- we should not be consumed by speed-of-response type standards. And in the U.K. some years ago, when we were drawing up the performance indicators for this, sort of, score card that we were hearing about earlier-- When we were drawing up those indicators of performance, I believe that we made a mistake in the U.K., and initially we chose levels of service indicators that merely concentrated on speed of response. For instance, how quickly do you answer the telephone. And we set a standard for -- so many percentage of calls have to be answered in 30 seconds, for instance. How quickly do you write to customers when they write to you? How quickly do you answer their letters of complaint?

And over the years, we broadened -- and I think this is extremely important -- we broadened the levels of indicators to not only address speed of response, but to address quality of response. Customers, when they write a letter of complaint to the company, I do not believe that they're waiting at their doormat two or three days later and looking at their watch, saying, "It's about time I had a reply now." What they want is a reply in a reasonable period of time, and they want the reply to be handled properly, and they want to be treated properly, and they want a good and professional solution. They want a quality response, as well as a timely response. So we should consult customers about what are meaningful indicators of performance for those.

Secondly, I would say we need very consistent measures of performance. If we are to compare the performance of United Water with the performance of American, or whatever, then I really believe that we need to have consistent measures. We need to decide what the right measures are for

reliability. For instance, against well water resources; for instance, how many people have been interrupted in supply for longer than certain periods, in the end. We need to choose measures like that, but they need to be consistent across all companies.

Not only that, I think the way in which we measure, then, those elements of performance -- i.e., the methodology that we apply to measuring those indicators -- again, has to be quite rigorous, because I've had examples in my past experience, where companies would report, on a scorecard type of basis -- They would report, on the face of it, the same measure, but underneath they would be measuring that in a different way. And I think regulators and customer representatives need to be clear that some companies are not fiddling the results, to be quite honest. There needs to be consistent and measurable methodologies.

And the other point -- and I'm getting very close to the end-- The other point I would make in setting standards is, that before we set arbitrary standards, we should know where we are now. I really think when we decide, firstly, on the actual measures of performance that we're going to put in place -- when we decide what those are, we should look at where we are now before we set standards, which may imply a significant increase in bills or whatever. Let's see where we are now. Let us look forward to what a reasonable improvement in those standards should be. Let us clearly assess the cost implications and the timing implications of getting to where we want to be. And I believe that in the water industry, from what I've seen here, we need to do a lot more measurement of where we are now before we go shooting for some arbitrary standard.

And in that regard, I have clearly seen in the past that we can reach a very, very high level of service, which may be well-acceptable. But to reach that other 1 percent extra, costs can increase exponentially. There is really a law of diminishing returns.

In the U.K., as an example, the water quality is very, very high, 99.8 percent compliant, or something. To get that extra 1 percent, or to get that extra naught .5 percent, the cost can be huge. So I think we have to bear in mind -- let's go for high levels of service, but not levels of service which cause exponential costs.

And in terms of setting penalties -- and this is my last sentence-- In terms of the possibility of setting penalties, and hopefully incentives, I would say this: That in my experience, comparative competition works. When you compare one company's performance against another, and you make a judgment on whether that is good performance worthy of incentives or bad performance worthy of penalties-- When you compare one company against another, that comparison works. No managing director, no CEO, wants to go into their -- wants to go to their following board meeting saying, "The regulators' league table has been published, and I'm sorry, Chairman, I am at the bottom of the league." No one wants to do that. And comparative competition, certainly in the U.K., made companies improve their performance. And over the years, they chipped up their performance, one against another.

And you can argue about whether the measures of performance are absolutely right. We can argue for a long time about those sorts of things. But the basis of comparative competition, one against another, really works, and it works for the customer's benefit at the end of the day.

ASSEMBLYMAN CARABALLO: Thank you.

Jim or Gloria.

GLORIA R. GLEDHILL: We're together.

JAMES P. McMANIMON: We're together. Today I'll speak, Mr. Chairman.

MS. GLEDHILL: Just one point. New Jersey American and Elizabethtown are together now. Just for anybody who's not aware, Elizabethtown is doing business as New Jersey American. So you may have seen us representing NJ American in E'town before. Now we're one happy family.
(laughter)

ASSEMBLYMAN CARABALLO: One happy family.

MR. McMANIMON: Yes, and we located the new offices in my backyard, so it's nice.

Mr. Chairman, thank you very much for allowing us to appear before you and the Committee members.

ASSEMBLYMAN CARABALLO: I think you're going to have to identify yourselves for the transcriber.

MR. McMANIMON: Yes, Jim McManimon, Director of Government Affairs for New Jersey American Water.

The discussion, that has been identified by some as the performance of standards utilities, is also known as the development of a report card of performance of public utilities. So you hear that term, again, Mr. Chairman.

We are pleased to participate in this discussion and appreciate your efforts to work with us in this area. New Jersey American Water believes that having standards of performance, and meeting or doing better than those

standards, is good for the customer and for our business. With this in mind, we ask that you consider the inclusion of all water systems for this discussion. That would include private, investor-owned companies, such as New Jersey American; municipal systems; utility authorities; and commissions.

I would suggest that the Committee look at the standards that some companies have agreed to with the New Jersey Board of Public Utilities, and are being held to, as a starting point of the review.

The Elizabethtown Water Company, for example, as part of the base-rate case in January 2002, agreed to seven performance standards and reporting measures. These are targets that we agreed to meet or do better than. And the targets have a revenue value that benefits a company when they are met and hurts the company when they are not.

Not all companies currently have the technology in place to track specific standards of performance. Regional companies, as well as national and international companies, would need time to develop the compatible technologies to provide the specific state-by-state information for tracking performance measures.

We would appreciate the opportunity to work with you and the State legislators as you continue to draft this legislation. And we are, as always, looking for better ways to provide reliable and quality service, and to make our customers happy, as well as yourselves.

I thank you very much for your time.

ASSEMBLYMAN CARABALLO: Jim, another, approximately, 75 privately owned water companies in the state-- How many other companies are there?

MR. McMANIMON: Going with the big names--

It doesn't want to stay on (referring to PA microphone).

ASSEMBLYMAN CARABALLO: Wait. How about now?

MR. McMANIMON: There we go.

Obviously, with New Jersey American Water -- in its company -- we serve about 25 percent of the population of the state, or 2 million. You have, obviously, United Water; you have Consumers' Water; you have Middlesex Water. After that, I'm not -- they get a little bit smaller, in terms of the number of people and the territories that they serve. You go to the big municipal systems. Our company, under a 20-year contract with the city of Elizabeth, we run the Elizabeth water system and waste water. And under a 20-year contract with the city of Edison, we run their water system, as well. So there are some big municipal systems that are part of public/private partnerships.

ASSEMBLYMAN CARABALLO: Okay. So that 75 figure, that I just threw out a little while ago, would include the municipal, as well?

MR. McMANIMON: No, I believe there's a lot more than that.

ASSEMBLYMAN CARABALLO: Okay. All right.

Thank you.

MR. McMANIMON: Thank you.

ASSEMBLYMAN CARABALLO: Thank you very much.

Who's next? Who do we have?

All right, telco-- We have Charlene Brown and Pat Boyle, from AT&T; Ellen Dotto, from Verizon; Tom Bailey, from Sprint.

Good morning. All right, who wants to start this off?

CHARLENE BROWN: Am I on (referring to PA microphone)?

ASSEMBLYMAN CARABALLO: Yes.

MS. BROWN: Okay.

I figured, in the interest of time, I would serve as Verizon's spokesperson. (laughter)

ELLEN M. DOTTO: Aren't you glad we're friends?

ASSEMBLYMAN VAN DREW: That's good.

ASSEMBLYMAN CARABALLO: This is your *amicus curiae*.
(laughter)

MS. BROWN: Good morning, Mr. Chairman and members of the Committee.

For those of you who are new, who don't know me, I'm Charlene Brown, and I'm the Government Affairs VP for AT&T. This is my colleague, Pat Boyle, who can answer the substantive questions on service reliability.

First of all, I'd like to say, whether it's network reliability or overall customer service reliability, we take this issue very seriously at AT&T. In fact, we have what I think is -- and what we believe to be -- one of the most sophisticated communications management systems in the world, and that's the Global Network Operation Center up in Bedminster. I would urge you to come and visit it to see how we manage telecommunications traffic throughout the world.

On the customer service reliability front, we believe we have a good story to tell. Just last year, AT&T has been sited for numerous awards. And we applaud both this Committee, and the BPU, for your desire to improve service quality and reliability.

We would be pleased to work with you, and we want to ensure that -- because we want to ensure that we deliver service quality, but at the same time we don't -- our customers -- we don't -- unintended consequences are not imposed through regulation that could cause harm or that strangles an emerging competitive phone market.

Let me explain. The communications network is the backbone of many of our emergency, financial, transportation, and other critical industries. Making too much network-performance detail publicly available, in an effort to provide data for consumer network reliability and safety, could unintentionally put this country's communications infrastructure at risk. AT&T already works with the Telecom-ISAC as part of the Department of Homeland Security, and provides them with the data needed, while remaining vigilant to protect our critical infrastructure.

And with that, I'd like to turn this over to Pat, my colleague, who can talk more on the service reliability.

PAT BOYLE: Good morning.

My name is Pat Boyle. I support consumer services for AT&T. And I'll just give a quick summary of my written statement and hit on the high points.

AT&T is a national, multiservice company, unlike some utilities that may be impacted by any legislation driven toward performance metrics. Quality -- we do quality checks on a regional and national basis. And it would be a major undertaking to change systems and processes to perform state-specific measurements. And that would, ultimately, be costly to consumers, as well.

In addition, AT&T is dependent upon the local -- incumbent local exchange company, Verizon. We purchase our network elements in order to provide local service to consumers in New Jersey. So we don't have control over some of the performance metrics that you may be looking for.

AT&T has been the recipient -- and has been recognized by such companies as J.D. Power and Associates, specifically for our customer service standards.

I agree with Charlene's statement earlier that some network reliability detail should not be made public, both from a security perspective, as well as from a competitive perspective.

J.D. Power and Associates had published a report last summer recognizing that competition results in improved customer care.

Local is in its infancy -- local competition is in its infancy in New Jersey. And AT&T is working, on a daily basis, with the Board of Public Utilities' staff on customer complaints, assigning highest priority to any alleged out-of-service complaints.

As far as penalties -- and another expression -- *teeth* -- that I've heard: As a competitive business in the State of New Jersey, the customer provides the ultimate penalty. Our customers have feet. If we provide poor service, they walk. And I think that's all the incentive we need.

Thank you.

MS. BROWN: We have copies of our written testimony and a press release that we'll give to John.

ASSEMBLYMAN CARABALLO: Ellen.

MS. DOTTO: Good morning, Mr. Chairman.

As you know, I'm Ellen Dotto. I'm the Vice President of State Government Affairs for Verizon New Jersey.

I'm here today to discuss Verizon New Jersey's system reliability standards, our retail quality of service standards, and the related consumer protection issues.

As this Committee is well aware, New Jersey consumers currently enjoy an increasing number of choices when it comes to their telecommunications options. Consumers can choose among telecommunications carriers. More than 170 carriers presently offer local services in New Jersey, and this number continues to increase. Even more offer long distance, and numerous wireless carriers are competing in our state. Indeed, New Jersey consumers are taking advantage of the vast number of choices in carriers. For example, it is common for customers to rely on one carrier for local service, another carrier for long distance, and yet another carrier for wireless service.

Likewise, New Jersey consumers can choose among a wide range of technological options to perform functions that were once filled by traditional telephony. For example, in addition to traditional dial-up Internet access, consumers can turn to broadband solutions such as DSL, cable modems, and satellite to meet their Internet access needs.

Current VoP, or Voice over Internet telephony technology, enables voice traffic to be carried by means other than the traditional landline telephone. And as with carrier choice, New Jersey consumers are taking advantage of these advanced telecommunications options as evidenced by the fact that a VoIP, or

Voice over Internet Provider, in New Jersey recently signed their 100,000th customer.

All of these telecommunications choices protect New Jersey consumers in a fundamental way. They allow consumers to choose. Consumers whose lifestyle, budget, or satisfaction change can switch carriers, add or delete services, or try out new technologies. And they can do this whenever they want, however they want, and at their own initiative. Customer retention is the superior measure of customer satisfaction.

Imposing additional service quality and reliability requirements will not add a further layer of protection to these already protected customers. Indeed, additional regulation will simply require telecommunications service providers to devote more time to managing a new regulatory quagmire, rather than to providing high-quality levels of customer service.

Presently, Verizon New Jersey and other carriers report reliability standards to the Federal Communications Commission, or the FCC, and to the New Jersey Board of Public Utilities, the BPU. These reporting requirements, including the reporting requirement for abnormal events, apply to all carriers operating in New Jersey. For example, if a service outage satisfies certain criteria, mainly 30,000 plus customers affected for 30 minutes or more, it must be reported, period. The consistency of existing FCC and BPU reliability reporting requirements lends credibility to the process of determining the security and reliability of the telecommunications network. Indeed, during the recent BPU report card initiative, certain carriers and the Ratepayer Advocate agreed that these existing reportable standards were the best indicators of reliability.

Additionally, Verizon New Jersey is subject to extensive service quality and reliability reporting requirements in the wholesale context, under the Telecom Act 271 regulatory regime. This regime already imposes self-executing penalties, in the form of bill credits, to wholesale customers, in a manner specifically approved by the FCC.

New Jersey consumers benefit from these existing reliability and service quality reporting requirements, which ensure that Verizon New Jersey has a secure and reliable telecommunications network and that it is fair to its competitors.

Not only is additional regulation unnecessary, it appears to challenge the preemptive nature of the FCC's regulatory powers. And as a practical matter, adding standards and reporting requirements that differ from the existing standards would so burden Verizon New Jersey, its primary focus would necessarily shift from service quality to managing duplicative, and possibly conflicting, standards.

I want to thank you for the opportunity to provide comments this morning. Verizon New Jersey is committed to system reliability, quality of service, and consumer protection. We look forward to working with the Committee on these issues.

And Mr. Chairman, there was a discussion before -- I believe it was the public advocate -- about a prior service outage. I have Doug Smith with me this morning, if you would like him to comment on that.

ASSEMBLYMAN CARABALLO: Not necessary.

MS. DOTTO: Okay.

THOMAS BAILEY: Good morning.

My name is Tom Bailey, with Sprint. I'm happy to be able to address you this morning. And I think, in the interest of time, I'm going to summarize, basically, what you've been given in writing. We agree with most of the other comments that were already stated here, and I will not repeat most of those.

Sprint is committed to quality customer service, as illustrated by the fact that we have reduced our commission complaints by 100 percent since the year 2000. And we believe that the regulatory compact between the regulatory agencies and the Board of Public Utilities, to date, has been adequate to provide and require mature, quality customer service and reliability.

Competition is prevalent throughout the telecommunications industry, maybe more at this point than any of the other industries. And competition itself will bolster quality service. As was mentioned here, customers who do not agree with the service they're getting, or don't like the service they're getting from another carrier, will change carriers. And they can do that today, in New Jersey, pretty frequently.

Sprint and the other utilities have worked voluntarily with the Board last fall, and we continue to work with them on their utility report card. We think that's a good way to determine what reliability and the quality of service that customers would be provided might be.

And lastly, we also agree with Verizon that adding another layer of standards to the Board will take away some of what their responsibilities are today. And today, more than maybe in years past, the telephone industry is making changes to try and compete with other carriers. And we need those changes and those issues addressed quickly. To take and add more to the Board

will take away from the time that they have to work on what we're currently working on.

Thank you very much for your time, and we can answer any questions or take any questions.

ASSEMBLYMAN CARABALLO: Yes, I'd like to make one comment. Let me assure you-- I can't imagine that there's any member of this Committee that believes that we should be enacting over-reaching, burdensome, and unnecessary service standards. I assure you that anything we do is going to be because we feel that, in fact, we are reaching as far as we should -- not overreaching -- that we are, in fact, burdening you in an appropriate manner, for the purposes of accountability. And I assure you that you will be given every opportunity to demonstrate why something may be an unnecessary service standard. And if, in fact, it is unnecessary, then it's got to be because you have been able to establish that something along those lines is already being done. And if it's being done, then all we're talking about is, maybe -- to use one of the terms that's used in your industry -- it's a question of switches. Maybe we just have to switch something to go one way, as opposed to go another way.

I've had a lot of talks over the last week with a lot of people, and I know that there is some concern about what's going to come up. I guarantee you, you will be given an opportunity to weigh in on whether anything we're doing is either unnecessary or overly burdensome. But our starting point is never that something we do is overly burdensome or unnecessary. We want to take it just to the right point. You may not be happy, but maybe, as I said to someone the other day, you may not be too unhappy either.

All right?

Anybody have a question or comment?

Assemblyman Chiappone.

ASSEMBLYMAN CHIAPPONE: Thank you, Mr. Chairman.

This is probably the most exciting area of utilities -- even though you're not really a utility -- in the state. I wish, as Cable TV Committee Chairman in my municipality, that we had this type of competition that exists among carriers. I think that, in itself, allows for progress and different innovations that we've seen.

At the same time, I do believe we need to lay a strong foundation in regards to ensuring that customer services are provided, customer notification in regard to packages. I would be curious to know, in regards to turnover, how many people go from one company to the other company because there might be some dissatisfaction. From the industry themselves, I'd like to know those numbers -- upon completion of a contract, how many people are actually lost to another carrier.

I think that we need to maintain a standard, because there are so many different types of services within the different carriers. I still think we need to establish a standard of service responsibilities.

In regards to cellular antenna placements, I think we need to have your industry comply more with municipalities, in regards to zoning and regards to the thoughtful placement of cellular antennas within municipalities, and not have them have to -- not have this adversarial position of going to court when you want to place your antennas in municipalities. I think there needs to be compromise, in the way that we've done in my municipality, that would save both your industry and municipalities money.

So I think there needs to be more discussion about the sensible placement of cellular antennas. I think there needs to be more responsibility and concern for customers, in regards to notification, itemization of the different packages, and disclosure of all the facets of a person's service contract, because it can be very complicated, especially when you do go from one service provider to another.

So while this is an exciting time and era for you as providers, it's also an uncomfortable time for customers who rely on the service, because they, all too often, don't have all the information needed to make a sensible decision on a contract that's good for them. And I think I'd be -- once again, I'd be very curious to see the turnover ratio in regard to customers, and who's fairing better than others.

Thank you, Mr. Chairman.

ASSEMBLYMAN CARABALLO: Thank you.

Assemblyman.

Got it (referring to PA microphone)?

ASSEMBLYMAN VAN DREW: Got it.

See, I have problems here, too.

Just a couple questions, based on your testimony. I can understand where you were concerned with network reliability -- some aspects of it being public for certain reasons. But that's certainly-- I don't think if we talk about a report card, or the idea of expressing some consumer satisfaction or dissatisfaction-- I don't think those concerns would be expressed, as far as how quickly a service call is taken care of, or how quickly a phone call is answered, or how quickly a problem is taken care. So I think that's one issue.

Secondly, also discussed -- and the question I had was, state-specific standards. I mean, the standards are not the same, though, am I correct, in every state? Even AT&T has to react differently in different states throughout the United States.

MS. BOYLE: Yes, there are state-specific standards, and we're complying with those in New Jersey, as they are currently written.

What I was talking about was, there's been reference to report cards, where you would do customer satisfaction surveys, which is different than the reporting requirement that's already in place. And we don't do customer satisfaction surveys on a state-specific basis. We poll customers who are subscribing to a particular service, or to a particular package, without regard to geographic area. And to have to start conducting those surveys on a state-specific basis is something new, and something new that would have to be put in place that we are currently not doing.

ASSEMBLYMAN VAN DREW: Mr. Chairman, if I could just follow up with one more question.

ASSEMBLYMAN CARABALLO: Absolutely.

ASSEMBLYMAN VAN DREW: I wanted to agree with Assemblyman Chiappone. I do agree. One of the difficulties with all that's happened -- and I think you probably know that -- is, for example, those who are senior citizens have a much more difficult time navigating all the changes that have occurred, and know which changes they should make, and what packages are the most fruitful for them, financially and fiscally. Whereas, you take those folks who are an awful lot younger-- And I know in my own household, it is always my son, who is 22 years old, who instantly tells me how

I've made all the wrong choices, and gets on the computer and shows me how I'm spending too much for long distance and too much for just about everything that I do. So I think that's a problem, and I think you bring out a good point. There are many who don't know how to navigate the system as well as they should.

Secondly, what is your perception-- We just heard from President Fox a little while ago that, in general, there seems to be decreased satisfaction. And that's anecdotally, or intuitively, what I feel, too, with certain aspects of customer service. Do you feel that that's accurate, or do you believe that's inaccurate?

MS. BOYLE: I'm not really sure if it's accurate. I know if it's a perception, it's something we have to deal with anyway. And I think it may be attributable to the fact that local competition is, in fact, in its infancy in New Jersey. And I think that, as everyone gets through the learning curve, consumers included -- and the carriers are responsible for that education, as well -- I think you will see a dramatic improvement, as we have on the long distance side.

ASSEMBLYMAN VAN DREW: Thank you.

ASSEMBLYMAN CARABALLO: Thank you.

Oh, sorry.

ASSEMBLYMAN CHIVUKULA: The concept of report cards should really help you, because when you are providing multiple services -- whether the voice lines -- you're providing DSL, you're providing IP phones, and all this stuff-- So if you have a report card that measures your performance, your quality and reliability in various areas, I think that should actually help you. So that way the customers' perception -- they look at a particular

company, a provider, and say, "Okay. They're bad," or, "They're not doing enough to have people happy. Maybe any one of the services-- Maybe one service is doing better than the other." So I think a report card should really help you.

MS. BROWN: I think what we're concerned about is, customers who don't understand may be comparing apples with oranges. So while we, on an individual -- would rather see it on an industry basis than on an individual basis in the results.

ASSEMBLYMAN CHIAPPONE: Mr. Chairman, one final point I would like to make is that one of the problems has to be on us. And that's in regards to -- anybody who opens up their cell phone bill can see a number of excessive charges and excise tax charges. And I think that, unlike when one goes to purchase a shirt and simply pays a sales tax, a \$39-per-month cell phone bill becomes a \$52-a-month cell phone bill.

So I think one of the things that we have to do and look at, as State legislators -- is say, "Where do we stop? Where do we draw the line, as far as adding additional excise taxes on telephone bills -- cellular telephone bills?"

ASSEMBLYMAN CARABALLO: Thank you.

All right, who do we have next?

All right, just one?

Okay. Karen Alexander, New Jersey Cable Telecommunications Association.

K A R E N D. A L E X A N D E R: Red is on, right (referring to PA microphone)?

ASSEMBLYMAN CARABALLO: Go ahead.

MS. ALEXANDER: Okay.

Good morning, Mr. Chairman, members of the Committee. Happy New Year. Glad to be back.

ASSEMBLYMAN CARABALLO: Hold on, hold on, hold on.

Folks, I know it's getting late, but could we--

Every speaker, every single one, deserves our complete attention, without exception.

Thank you.

MS. ALEXANDER: Thank you, Mr. Chairman. I'm fearful that they all think they've heard it before. (laughter)

First of all, let me say thank you very much for the opportunity to come and speak to the Committee. Those of you who have been on the Committee before, and those who are new to the Committee, we hope to have the opportunity to get to know you better, to learn what your concerns are about cable.

We extend an invitation to every member of this Committee to come and visit some of our facilities, including our customer service centers, in which some of the issues that you are hearing about today are addressed directly -- to visit, also, our headend facilities and our operation centers, where you can see, first hand, the kinds of things that we do to ensure network reliability and operability.

NJCTA, or the New Jersey Cable Telecommunications Association, is the voluntary trade association for five of the eight companies that provide cable TV service in New Jersey. Our members include Comcast, Cablevision, Time Warner, Service Electric Sparta, US Cable of Paramus-Hillsdale.

Combined, these companies provide cable television service to more than 96 percent of New Jersey's cable television subscribers. NJCTA members are proud of their record of reliability and the quality service they provide to their customers.

The BPU seeks to ensure that customers receive high levels of service quality and reliability from the entities it regulates. We understand that you have that desire, as well. We share that concern, and we have no quarrel whatsoever with that goal. Our customers deserve nothing less.

Every day, our companies strive to provide quality service. They can't afford to do otherwise. NJCTA member companies understand that good performance is an essential ingredient to customer retention and growth, especially in the increasingly competitive world of multichannel video service.

And let me speak for just a second to Assemblyman Chiappone's comment about the absence, or the perceived absence, of competition in cable. It is, indeed, true that you do not have the number of companies competing to provide multichannel video service as you do in the telephone arena. There are a couple of reasons for that. One, the telephone industry was originally a public utility into which there was a common carrier, regulatory scheme, rate of return regulation, and a historical legacy of regulation that is very different from what cable television faces.

Cable TV investment is 100 percent private. There is no government expenditure involved. And as a consequence of that, from a historical perspective -- where you may say, "Why can't other companies come in," it is strictly because of the economics of the situation. There is no such thing as an exclusive franchise in New Jersey or anywhere else in the country.

There are many communities in which a company that used to do business here had intended to provide competition, but for economic reasons and business decisions, they opted not to.

While there may not be a line competitor in every town, there is, indeed, an over-the-air competitor, and that is through your broadcast television stations. We also now have the luxury of satellite as a legitimate choice that many New Jersey consumers commit. So while we don't have four companies that we can point to, it is indeed the fact that people have a choice of multichannel video providers today.

As a result of this new competitive environment -- and note that our main competitor, the satellite dish industry, is not at all regulated -- the principal driver is performance. We can't afford to allow them to eat our lunch, so to speak.

As you know, cable is heavily regulated in New Jersey, and it's done that even though it's not an essential utility. Even though cable is not essential, in some areas, cable companies have had to meet standards that go beyond those that apply to companies that provide essential gas, electric, water, and telephone services.

Two that come to mind, for example, are appointment scheduling-- A comment was made earlier about new legislation, that was passed last year, that imposed a four-hour appointment window on cable companies. The truth is, since 1995, cable companies have been meeting that four-hour window voluntarily, and many of them have windows as small as two hours. There is no comparable requirement for a voluntary standard in any of the regulated utilities.

Keep in mind that one of the things that distinguishes cable from a public utility is not just the regulatory scheme, but that the loss of cable television service does not, in any way, leave people physically vulnerable to freezing or sweltering temperatures, unable to cook or refrigerate food, drink clean water and bathe, or call for assistance in an emergency.

Cable TV is a valuable source of information and entertainment, one that's increased greatly in popularity over the years, as the quality and the quantity of our services has increased. We are glad that people find value in cable, but the reality is, believe it or not, many people choose to live without cable, some even without television. This is, yet, another distinguishing factor between cable and the BPU-regulated utilities. None of us can find our way through life without light, without water, without heat.

We recognize that the public utility services are essential. And as a consequence, government has provided lifelines and safety and safety nets to ensure that those services are there. That is not the case with cable.

So even though those who choose not to have cable television service may be in the minority, the fact is, those New Jerseyans are able to lead perfectly happy and healthy lives. Not having cable TV does not deprive them of services that are essential to their safety, nor to their quality of life.

The distinction between cable and other services the BPU regulates is an important one, one that we hope the Committee will keep in mind if it considers service quality legislation in the future. In particular, we think it bears remembering in the context of any enforcement scheme that might accompany service quality legislation.

President Fox made reference earlier to not feeling that the BPU had adequate enforcement tools at its disposal. And I think it's a legitimate concern of a regulatory agency to want to make sure that it can do that, because not all companies will voluntarily step up and do the right thing. I think it would be helpful if the Committee would look at what the specific enforcement authorities are as you're considering performance standards and any enforcement mechanism that might go along with that.

The cable regulatory framework derives from the New Jersey Cable Television Act. And the Legislature was very specific to establish a different enforcement scheme for cable, recognizing that it is not an essential public utility.

Some of what has been talked about is to lump us in with the other utilities and to allow penalties that could go as high as \$100,000 per violation. We think, for a nonessential service, that goes way beyond what is necessary.

In the existing environment that we live in, however, even for minor violations with -- over a period of years, may have accumulated -- some of the cable operators in this state have paid penalties under settlement agreements in the \$300,000 to \$500,000 range. So it is not as though there are no teeth to the existing regulatory scheme.

Even though we feel that there are clear standards and a clear enforcement mechanism in place, we recognize the importance of service quality and reliability. And, consequently, our members have responded to President Fox's call to participate voluntarily in the report card initiative. In that initiative, the performance of BPU-regulated industries in the area of service quality, reliability, and customer satisfaction will be gauged and reported.

One of the concerns that we have expressed, as an industry, is to the extent that we compete directly with the satellite dish industry, who is totally unregulated. While we feel that it is critical that the BPU know how we perform, and all of the data we provide to them today allows for that, we are very concerned that in the attempt to have public disclosure, which we think is valuable, that information not be able to be used to our competitive disadvantage. So one of the issues that still concerns us in that report card initiative is the extent to which raw data can be misused by our competitors in the public arena.

We think that the report card initiative can produce some very valuable information, both for the BPU, and for this Committee, and the Legislature. We think that if you await that activity and see what the baseline is -- that is, how are the regulated industries performing today -- that may put you in a better situation to gauge what, in fact, is needed from the legislative arena going forward, if anything. My concern is that if you do not wait for that, there may not be a sound, factual basis upon which to judge the need or not for future legislation.

If a bill is introduced and considered, we hope that you will agree that cable is, and should be, regulated in a way that is proportionate to what it is, and not allow the long-standing distinction, that has existed in State and Federal law, to be swept away under the guise of consumer protection. Consumers who are dissatisfied with cable can and do walk away. That is the greatest penalty a cable operator can face.

Before I close, I'd like to make you aware of just some of the performance standards that apply to cable companies today, standards for

which BPU already has ample enforcement authority. Please keep in mind that under existing law, the BPU has reached settlement agreements, as I mentioned earlier, that have resulted in settlement amounts and penalties in the hundreds of thousands of dollars.

Just to give you an example of some of the things that are either reporting requirements or standards that the industry must meet: notification of rate changes and disputes; request for service -- there are limitations that are placed on whether or not a cable company can exclude certain people from getting cable television service. And where you may have a situation where a family member, for example, has been not responsible about keeping up their payment in the past, we now have a regulation that says that that relative within the same household cannot be denied service, even if we have reason to believe that they're simply putting another name on the bill.

The form of the bill-- Cable television bills are very detailed. They are even more so now. New bill itemization rules went into effect recently. Service call scheduling, as I mentioned earlier -- there's now a mandatory four-hour window. Prompt restoration standards: we must get out there and get service restored as quickly as possible. There are regulations affecting late fees and charges, permits, refusal to connect, the reason for discontinuing service, the return of deposits, where our offices are located and whether or not we have permission to close them or relocate them, the availability of records. We report on accidents or injury to personnel, on complaints; we report interruptions and outages; we provide outage credits for customers who experience those outages, now, under a new regulation, for three hours or less. There are a number of reports that we must file, including financial reports; telephone reports that

detail things such as the manufacturer of the system, how many lines are on the system, how many personnel are used to answer those phones, the speed with which the calls are answered. And on, and on, and on -- things which, I think, responsible companies absolutely have to have in place and that the Board absolutely has, and should, have the oversight on. Whether or not there is anyone that is in a better place to judge -- in the regulatory agency -- how many trunk lines is appropriate, given a particular base, I think is an open question.

Let me just harken back for a moment to a couple of things that were mentioned at the very beginning, and then I will close and be glad to take any questions.

People have asked me, "Why is it that cable, in some regards, seems to be more heavily regulated than some of the essential utilities?" And I think that -- and again I have no empirical data to support this -- but my theory is that it is because cable, unlike the other services, is something that we all feel very strongly about. If one subscribes to HBO, and is a fan of *The Sopranos*, when its second season didn't start because it took an 18-month hiatus, that upset folks.

When people would prefer to have five channels, instead of 45 channels, and have to pay for 45 channels, they are distressed by that, even though it would cost them more if we were able to offer them just the five channels.

We have favorite newscasters. We interact with television -- those of us who watch it, and those of us who subscribe to cable television -- every single day in many different ways. It reflects some of who we are in the choices that we make. We don't do that with our telephone service. We don't do that

with our electric service. We don't do that even with our water. It's there, we appreciate that it's there, we pay for it to be there, but there is no ongoing interaction as there is in the world of television. That causes people to pay attention to it in ways that you may not find in other regards. And that sometimes results in your telephones, and the BPU's telephones, ringing more often than they might about some other issues, either because of rates, or because of *The Sopranos* hiatus, any number of things that might come to the fore.

That doesn't mean you shouldn't be concerned. It means, however, that we would ask you to take those kinds of factors and differences into account as you're looking at service quality issues.

It is, indeed, the fact that when the electricity goes out, people can't watch TV. But sometimes they forget that they can't watch TV, and they would like to blame it on the cable company. But BPU's regulations recognize that it's not the cable companies' fault, but that's not always the case with the customer. And before the utility may get called, we'll get called. Fortunately, you can usually make the phone call, if you have a wireless phone, whether you have electricity or not.

The other issue I hope you'll focus on is that the legacy regulation of cable television is different, and it's different for a reason. It's not a public utility. It is not something that government has decided is an essential service. It is not something that is regulated through rate-of-return regulation as our public utilities. So some of the requirements that would be imposed on a rate-of-return regulated entity, the BPU can have oversight and make decisions

about whether or not the costs that they incur in complying with that can be charged to their customers. No such parallel exists in the world of cable.

So we hope that, as you are deliberating these issues, that you'll look closely at the report card initiative that the BPU has underway. We think there's some valuable information that will be coming forward there. We invite you to look more closely at the actual operations of the cable industry, and I would be glad to set up a tour for anyone or all of you, if you choose to do that.

Thank you, Mr. Chairman.

With that, I'll close.

ASSEMBLYMAN CARABALLO: Karen, let me ask you a couple questions.

When you say that cable is more regulated than any of the others, what you mean is relative to what the authority is? You believe there's too much regulation relative to the authority?

MS. ALEXANDER: No, I actually mean that in some areas, where BPU has authority to regulate -- for example, appointment schedules -- cable has had, before any of the utilities, a mandated, four-hour window. That was done, I think, largely because it was a hot potato for some. But the fact that we had been doing four-hour appointment windows for almost 10 years voluntarily didn't matter. So a new regulation was put into place requiring that.

Now, some of the companies go for two hours. You can't get a two-hour appointment window from your utility companies. And BPU could require that. They may be considering requiring that, but it's something that hit the boards long before, in the cable arena.

ASSEMBLYMAN CARABALLO: Okay, so you're getting at the fact that some things just stand out a little more.

MS. ALEXANDER: Sometimes life ain't fair.

ASSEMBLYMAN CARABALLO: Okay. (laughter) I got you.

What percentage of New Jersey homes are serviced -- or served -- by satellite? Do you know the percentage?

MS. ALEXANDER: We have a rough estimate that -- anywhere -- depending upon where in the state you're talking about -- between 10 to 15 percent of multichannel video subscribers get their service from the satellite dish industry.

ASSEMBLYMAN CARABALLO: Okay, 10 to 15 percent.

And how many-- What's the percentage of New Jersey homes that have cable?

MS. ALEXANDER: Well, we calculate that in terms of the numbers of homes passed. The vast majority of New Jerseyans' homes are passed by cable. There are 2.5 million people who choose to subscribe to the service.

ASSEMBLYMAN CARABALLO: Two and a half million choose to subscribe. All right, we have 9 million -- population -- I don't know how many homes that breaks down to, or apartments, or whatever. But that's a good chunk then, right?

MS. ALEXANDER: Yes.

ASSEMBLYMAN CARABALLO: Okay.

I actually understand some of the frustration that you, on occasion, reflect in the sense that here you are, you're competing against an entity -- or

your members are competing against an entity over which the Board can't direct policy. And I understand that.

It seems to me, though, that one of the things we should be doing is not necessarily say that we shouldn't make sure that what you do is what you should be doing, etc., etc., but I think we should be finding ways to try and get some control over the service aspects of any entity that does business in New Jersey.

Those of us who went to law school know that, early on, there's this thing called *jurisdiction* -- and how we get jurisdiction over someone. And the first step to jurisdiction, in many cases, is the fact that someone actually does business within your jurisdiction. So to the extent that we have satellite companies that have 10 to 15 percent, and maybe even more, depending on what we may find out--

I can tell you that I, for one, am very interested in pursuing trying to bring in these companies for the purposes of overseeing the quality of their service. It seems to me that the people of our state should be able to know what the kind of quality is that they get from satellite, versus what they get from cable.

We pay good money. We have close to 5,000 employees in cable. And I am very sensitive to the employee question in New Jersey. I don't know how many we have through satellite. So it's something that I care about. And I assure you, I've already had discussion with some folks on this. We're going to see what we can do about trying to see if we can supervise the service component of these providers.

MS. ALEXANDER: I think, on the customer end, it is irrelevant to the customer what the technology is. They want good service.

ASSEMBLYMAN CARABALLO: Yes.

Questions from anybody?

Assemblyman Van Drew.

ASSEMBLYMAN VAN DREW: It's good to see you again.

MS. ALEXANDER: Same here.

ASSEMBLYMAN VAN DREW: Two questions. One of them-- Well, actually one of them was a statement.

As far as the appointment scheduling, I think you bring out a point. I, personally, as you know, wrote part of that legislation. I would like to see that same sort of a window apply to other utilities, as well -- or to the utilities, as well. And I've made that clear.

Can you tell me -- just ballpark, and I won't hold you to it -- the percentage of customers in these different companies? I know Comcast is number one. But can you just give me, of your five companies, about what percentage?

MS. ALEXANDER: I'm not sure I can give you the percentage for each company, but I can give you approximate numbers of subscribers for each, and you can help me do the math.

ASSEMBLYMAN VAN DREW: Okay.

MS. ALEXANDER: There's 2.5 million subscribers. I believe Cablevision has about 900,000 of those.

And, Adam, please correct me if I'm wrong.

I think Comcast has about 1.3. And from there, the numbers fall off pretty sharply.

ASSEMBLYMAN CARABALLO: Fifty percent for one, 33 percent for another, more or less.

ASSEMBLYMAN VAN DREW: So the rest of the other three-- The rest of the market is split among just a couple hundred thousand -- 200,000 or 300,000.

MS. ALEXANDER: And the next largest company, then, would be Patriot Media, which serves the former RCN territories. And they have in the hundreds of thousands.

ASSEMBLYMAN VAN DREW: Thank you.

ASSEMBLYMAN CHIAPPONE: Thank you, Mr. Chairman.

First, I agree with the Chairman, that there needs to be a look at satellite dish providers to put them on equal footing -- to put cable on an equal footing with the dish networks.

At the same time, I do want to acknowledge the fact -- and it's a serious problem that exists -- and simply put, that cable carriers refuse to compete among each other. And I will tell you that in my own community -- where Comcast and Cablevision share Bayonne and Jersey City, where they border each other -- Comcast will not go directly across the street into Bayonne. Why, because there is an unwritten agreement that Comcast will not come into Cablevision, and Cablevision will not come into Comcast. Now, this is a serious issue that needs to be addressed -- the fact that cable companies simply will not compete, refuse to compete with each other.

Mr. Chairman, I think one of the directives we need to address is the fact that cable companies, in effect, are acting as monopolies, almost in violation of antitrust laws, in my opinion.

And if I sound too harsh, it is because I'm the one that people call up and ask the questions when their cable rates are increased, when packages are taken away. And I can tell you, without any doubt, that people would love to stay with cable, but the fact that satellite dish does so well is because cable drives them to dish.

I will tell you, in my community where we have a senior discount for PAAD -- people who are eligible for PAAD -- that, now, Cablevision, to discourage people from getting that senior discount, is requiring residents to get a notary-signed affidavit saying they are on PAAD each and every year. What this is happening -- what's happening -- what it's causing now, is that people are not getting the discount. This is an intentional policy of a company that is not showing the care it should to its customers.

So, Mr. Chairman and members of the Committee, if I seem harsh, I apologize. But to me, this is a real life problem here that I'm faced with, as a legislator, as Cable TV Committee Chairman in Bayonne. The day that Comcast tells me, "Yes, we will come directly across the street into Bayonne and start serving your community," the day that Cablevision tells me, "Yes, we will lay a simple line across the street into Jersey City and extend it to another community," that's the day that I'll believe that cable companies will accept competing with each other. This is an issue that I believe this Committee has to address.

And at the same time, I do see the problem where satellite dishes do have the upper hand. They aren't obligated to provide public access. They aren't obligated to provide many of the services that they do to communities, under franchise agreements.

I will say that many people can't walk from cable, as you say, because they live in apartment houses, or their landlords won't allow them to have dish. So cable is a necessity, in my community, for many people who can't afford to get out of their homes and recreate. Cable TV is an absolute necessity, and it should be treated as such.

So I think that one thing I would ask this Committee to do is to be very serious in addressing the issue of cable competition within our state.

With that, Mr. Chairman, I thank you.

ASSEMBLYMAN VAN DREW: I thought I was difficult.
(laughter)

MS. ALEXANDER: May I respond--

ASSEMBLYMAN CARABALLO: Absolutely.

MS. ALEXANDER: --to just portions of it?

First of all, I understand and appreciate your frustration. Two things to know: the BPU is undertaking, now, a study of competition, that was authorized by legislation, that was passed last year. And sometime, I think, in April or, perhaps, later, there will be a formal hearing and information released on the state of competition, specifically in New Jersey.

The issue of Comcast and Cablevision, specifically, I have to speak to just on the record. It would be illegal for those companies to have an agreement, written or otherwise, to not compete in your territories. And the

reason that I can tell you that it is not the case is, Bayonne, in particular, was one of the areas that RCN had looked to come in and compete in. RCN failed to do that for a whole host of reasons, none of which had anything to do with Comcast or Cablevision. They saw a viable market there. They knew the community wanted a competitor there. But for reasons that had nothing to do with the incumbent operator, they went away.

If it were the case that there was this collusion among cable companies, then it would be clearer in other ways. But the reality is that the economics are not there. If the economics were there, Time Warner, which is the second largest cable operator in the country, would have a larger footprint in New Jersey. Cox, which is the fourth largest cable company in the country, would have a footprint in New Jersey. They don't come here, because it takes a tremendous amount of capital to build the lines, even into an adjacent community. While Jersey City may be an adjacent community, to run those lines there, you have to assume a particular level of return -- of customers that you're going to be able to pull away from the incumbent. And if those numbers aren't there, the companies just will not come.

ASSEMBLYMAN CHIAPPONE: Through the Chair.

ASSEMBLYMAN CARABALLO: Yes.

ASSEMBLYMAN CHIAPPONE: I will tell you that in Bayonne, we have a nonexclusive franchise agreement, so we were willing to work with Comcast to have an agreement to service a part of Bayonne that was actually a part of Jersey City.

The two questions I had asked Comcast representatives were, number one, if this area that was now owned by Bayonne, but was actually a

part of Jersey City, were a new part, a new development to Comcast, would they be willing to extend their lines into it. The answer was, yes. I said, "Now, if I tell you that I'd like you to come across the street to many homes who would switch over to Comcast in a heartbeat, would you do that?" The answer was no. And the answer was -- the reply from an official from Comcast, told me directly, "Well, we have a gentleman's agreement. We won't go into Bayonne, they won't come into Jersey City."

So when I'm told directly by an official of Comcast that they have a gentleman's agreement, to me that spells collusion. And there's no other way to say that. That's collusion.

Mr. Chairman.

ASSEMBLYMAN CARABALLO: Okay.

Mr. Chivukula.

ASSEMBLYMAN CHIVUKULA: Yes, thank you, Mr. Chairman.

I don't know about Hudson County-- In Somerset County and Franklin Township, we have a franchise agreement with RCN, currently Patriot Media. And Cablevision did approach the township a few years ago. They wanted to put -- offer the cable television services. But the economics -- the economy went south, and the economics did not permit them to come in to us.

So this is the first time I'm hearing collusion.

Thank you.

ASSEMBLYMAN CARABALLO: Thank you.

Oh, I'm sorry, yes sir. Mr. Conover.

ASSEMBLYMAN CONOVER: I've been taking this all in, and, I guess, I can't take it any more. (laughter)

MS. ALEXANDER: Welcome to my world.

ASSEMBLYMAN CONOVER: I guess I labor under too many years of studying economics. But there's a couple of points I want to make before we jump all over the regulatory bandwagon.

I have seen very few markets-- It's not just me saying this. You can talk to people like Alan Greenspan and Milton Friedman, and other world-renown economists. There's very few markets that require more than three competitors to be economically effective.

Right now, let's just take television. You've got broadcast, you've got two satellite companies, and you've got your cable companies. I, for one, subscribe to both a satellite provider and a cable company. And the basic package rates are very similar. And it's very easy to say that may be collusion, but the fact remains -- and efficient markets, where there's effective competition -- whether they be retailers or suppliers of energy, or whatever product -- the prices are similar, because they compete against one another.

Another concept of economics that we always have to keep in mind-- All the consumers of a product do not have to be fully informed to participate in an effective market. All you need is 5 percent -- sometimes 3 percent -- what we call, in economics, *opinion leaders* or *decision makers*. That 3 or 5 percent change in our marketplace, to an individual firm in the market, is a tremendous change in their economics, the economics of the firm.

The discipline of the marketplace not only comes from consumers, but also comes from financial markets and other people who judge them as an effective company. So if companies are not providing efficient, effective service, they're judged by far more than just the consumers. They're judged by financial

markets, people that issue bonds, their stock price is affected. So there's a lot of measures of service reliability other than government. I think that's my main point.

And I'll just keep it short, because we've heard a lot of testimony here, today.

Thank you, Mr. Chairman.

ASSEMBLYMAN CARABALLO: All right.

Thank you, Karen.

MS. ALEXANDER: Thank you.

ASSEMBLYMAN CARABALLO: Next group is a big one.

Okay, this is-- Well, we'll bring both of them up together, anyway. Independent Energy Producers, Steven Gabel. Where's Steve? And Linda Kellner, from the New Jersey Natural Gas Company. You're not exactly related, but come on up.

Steve, how are you?

Steve, why don't you move over here? This way they can sit next to each other.

STEVEN GABEL: Oh.

ASSEMBLYMAN CHIVUKULA: Mr. Chairman, we need a bigger room. We've got so many standing.

ASSEMBLYMAN CARABALLO: Yes.

No, it's only on occasion.

MR. GABEL: Thank you, Chairman, for having me here today.

ASSEMBLYMAN CARABALLO: I'm sorry, you are with?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Natural gas.

ASSEMBLYMAN CARABALLO: Okay.

Go ahead, Steve.

MR. GABEL: My name is Steve Gabel. I'm here today on behalf of the Independent Energy Producers of New Jersey. I'm an energy consultant located up in Highland Park, New Jersey.

The Independent Energy Producers of New Jersey, or IEPNJ, is the trade association for the power generation industry in the State of New Jersey. Over 12,000 megawatts of power generation is represented by the trade association. And we played a role, over the last 10 years, with respect to most of the industry debates that have gone on in front of the Legislature and at the BPU.

I wanted to talk very briefly today about the role of the power generation industry in the discussions that you've been having today. Obviously, adequate amount of generation capacity is a key ingredient to making sure the lights stay on in the State of New Jersey.

But after deregulation in 1999, the generation industry has a very distinct and different role than, probably, all the other participants that you've heard in front of your Committee today. And that is that the independent generation industry -- independent power industry -- provides its power at wholesale to customers. Those customers, in turn -- and those customers will be power marketers or suppliers, who will buy the power in bulk and then resell it to the residential, commercial, and industrial customers in New Jersey.

As a result, the independent power industry does not serve, directly, any of your constituents. It serves at wholesale, and is governed by contracts

between themselves and their buyers. Their buyers are not residential, commercial, or industrial customers.

As a result, the reliability of this industry is governed -- not by rate-based rate-of-return regulation, not by activities that occurred primarily up in Newark at the Board of Public Utilities -- but is governed by contracts between themselves and their buyers who, as I said, are marketers or suppliers of electricity within the State of New Jersey.

So it's a contract-based form of regulation, as opposed to a rate-based rate-of-return form. And that type of contract relationship between a very sophisticated seller and a very sophisticated buyer governs the reliability of that product, which is bulk power sold at wholesale.

The generation industry has to operate under very strong contract terms between themselves and their buyers. They sell a commodity called *capacity* within their contracts. That commodity is, simply, the availability or ability to provide power during peak periods. They get paid for that. If they don't deliver that, they don't get paid. They also provide energy. If they don't deliver the energy under their contracts, they don't get paid. In many cases, if they don't deliver that energy, they not only don't get paid, but they have to pay their buyer for any replacement power costs that they ring up.

As a result, the generation industry has a very, very strong incentive to be reliable, to be available when their buyers need them, and the contracts reflect that. Those contracts are filed with the Federal Energy Regulatory Commission, which is the primary agency that has jurisdiction over that.

None of the reliability problems that have been talked about -- that Commissioner Fox talked about earlier -- of last summer, stemmed from

unavailability of generation capacity. These are issues that are being addressed now with the transmission and the distribution levels in the industry. Primarily, I think, the major goal should be greater coordination between the regional transmission providers so that interstate commerce and that highway of electricity trading can work in an efficient way and make sure that reliability is maintained.

But I did want to provide this background, at least, with respect to the structure of the power generation industry. And, hopefully, you'll come to the conclusion that that's a system, at least with respect to ensuring reliability -- is one that's working today.

Thank you.

ASSEMBLYMAN CARABALLO: Let me read between the lines, Steve.

Bottom line -- that as we are here speaking about reliability standards, and report cards, and every other thing that's come up -- what you're saying is that, because of where you are in this process, and because of the fact that, at least at your point in all of this, whatever we come up with -- with respect to reliability standards, and/or report cards, and anything else -- don't apply to you.

MR. GABEL: That's accurate.

ASSEMBLYMAN CARABALLO: Okay. I just wanted to make sure we all understood what your bottom line is.

Okay.

MR. GABEL: Thank you.

ASSEMBLYMAN CARABALLO: Thank you, Steve.

Linda, welcome.

L I N D A K E L L N E R: Good morning.

ASSEMBLYMAN CARABALLO: Good morning.

MS. KELLNER: I should say good afternoon at this point.

ASSEMBLYMAN CARABALLO: Uh oh, is it already?

MS. KELLNER: Yes.

ASSEMBLYMAN CARABALLO: Time goes by fast when you're -- or time goes by slow. It depends on your perspective.

MS. KELLNER: My name is Linda Kellner, and I am with New Jersey Natural Gas Company.

With me also, today, is Kevin Moss, who is our Senior Vice President of Regulatory Affairs; and his counterpart at South Jersey Gas Company, Mr. Sam Pignatelli.

I am pleased to appear before you today on behalf of the state's three independent natural gas utilities: Elizabethtown Gas Company, South Jersey Gas Company, and New Jersey Natural Gas Company. Together, we serve about 1 million gas customers throughout New Jersey.

New Jersey Natural Gas provides natural gas service to 450,000 customers in Monmouth and Ocean counties, and parts of Morris and Middlesex counties. We are the state's largest independent natural gas utility, and one of the fastest growing local distribution companies in the nation.

We appreciate the opportunity to share our views with you today regarding performance standards for regulated utilities, and we applaud the leadership of the Chairman for convening this hearing to address such an important topic that touches all residents and businesses of this state. We

believe that the establishment of performance standards for all regulated utilities will provide benefits to many stakeholders: customers, regulators, as well as to the industry itself.

As regulated natural gas utilities, our primary mission is to provide safe, reliable service at affordable prices to all of our customers. Because we provide a lifeline service -- keeping people warm in the winter -- it's absolutely critical that we maintain adequate supply, a sound infrastructure, and are able to be there when our customers need us. Providing safe, reliable, and affordable service should be transparent to all customers.

However, in the past couple of years, there have been a number of events that have raised the issue of reliability to the forefront, as well as caused policy makers to revisit what their respective roles should be in ensuring the provision of safe, reliable service.

I'm sure you all remember the California power crisis back in the summer of 2000 and beyond, where customers were forced to think about their energy services and, more specifically, to worry whether or not the power would be there when they went to turn on the lights.

Reliability hit home -- or the issue of reliability hit home here over this past July 4 weekend, when a number of our shore communities experienced a prolonged blackout, which was followed soon after by the August 14, more widespread, regional blackout.

Further increasing the customers' concerns and, perhaps, fueling the need for greater scrutiny over utility services, are the volatility in the natural gas market we're seeing today, regular reporting of a pending natural gas supply shortage, and corporate scandals among some of our energy giants in the

industry. These events have brought us here today, and we are all here today in an effort to be more proactive in responding to our customers, who are also your constituents. We very much have a shared interest in the outcome of these discussions.

Measuring performance is not new to any of us in the utility industry. For a very long time now, we've been providing information to the Board of Public Utilities regarding performance in varying areas. We also maintain our own internal performance measures. Our opinion is, what gets measured gets done. So an expansion of performance standards, as we see it, consistently applied to all regulated utilities could only serve to create opportunities for improvement and enhance our existing operations. This would lead to increased reliability, as well as improved customer services. Our customers' response to improved services -- that can only be good. Established performance measures will increase the public's awareness about utility performance, allow our customers to make informed decisions about their utility services, as well as give them up-to-date information about how we're doing. And also equally as important, it will ensure utilities are making the appropriate investments in the respective infrastructure to provide safe and reliable service.

And New Jersey Natural Gas customers recently validated this in a survey conducted by Wirthlin Worldwide on our behalf, in which they overwhelmingly told us they want to know more about how we're doing.

Established performance standards also will be of assistance to our regulators. It will give them baseline information from which to make sound policy decisions, and to develop programs and policies that continue to support the provision of safe, reliable utility service.

Previously, the Board has assessed our performance on a utility-by-utility basis, or through rule-making proceedings, as we saw most recently this past fall with the new customer service rules for the cable industry. They also have shown their concern, relative to customer service standards and reliability, in recent orders regarding mergers and acquisitions. The bottom line is, established performance measures will allow the Board to develop and enforce consistent policies.

While these standards will surely advance improvements in service reliability, it's also important to recognize the value of our employees and the role of technology in sustaining these improvements over the long term. The provision of safe, reliable service doesn't happen without our employees. It's the talent and ability of these folks that, essentially, allow us to deliver on this commitment. So we know it's important that we maintain a skilled workforce, that we ensure our employees have the training and the qualifications necessary to perform their jobs well. And part of this requires their having knowledge of, and access to, the most up-to-date technology. This means we need to continually invest in our workforce, as well as make investments in new and improved technologies. And we know technology can enhance system performance and operational safety.

New Jersey Natural's use of acoustic sensors, currently on a pilot basis, is just one example of how technology can ensure safe and reliable service. These sensors, essentially, detect the slightest impact to the pipeline on a real-time basis. To this end -- and we believe this would augment performance standards -- we would recommend the collaboration among the state's utilities on the development of innovative technologies.

I know we would welcome the opportunity to share our experiences with new technologies, and would love the opportunity to learn from others.

And for this, I would offer up New Jersey Natural's Chairman, Larry Downes, as he also serves as Chair for the Commission for Higher Education for the State, and could readily bring together both the higher ed community as well as the utility industry, to advance technology to further increase reliability.

Also, when we look at reliability and we consider it long-term, we need to take into consideration siting and permitting of new utility infrastructure. It's very important that utilities are able to locate new facilities if they're to meet the growing demand of customers. However, we recognize that that should not be done without thorough planning and the appropriate assessments, including environmental impact studies.

But as we look to models of performance standards, we realize that negative inducements -- and by that, I'm talking about fines and penalties -- may be necessary to ensure compliance with a minimum standard. And as a result of that -- obviously would improve overall performance and customer satisfaction.

It would be our recommendation that the stick not be the primary driver behind any performance standards. We think customers will be better served when utilities are encouraged to provide better-than-average service. Our preferred model would include the Board having the ability to approve positive performance incentive programs. And performance-based incentives, essentially, would encourage utilities to exceed an established minimum standard, as well as reward those companies already committed to and providing the highest

quality of service. This could only serve to further enhance customer satisfaction, as well as ensure the reliability and quality of utility services delivered to all of the residents of New Jersey.

These types of programs are not new to this industry. The Board of Public Utilities, as well as the Ratepayer Advocate, long ago saw their value by approving such purchasing and asset-management mechanisms as off-system sales and capacity relapse. New Jersey Natural's utilization of these tools has allowed us to bring back, from out-of-state, \$200 million in customer credits. And as a result of that, we have been able to reduce our customers' bills by 5 percent annually.

But as you look to craft standards, we do believe that they should be uniform for similar functions. And while we recognize that there are differences among utilities infrastructure -- and even some within the same industry -- there are also operations that are similar, for which established performance standards can be set. And many of those are currently under consideration through the BPU's report card initiative. And, again, I know you've heard about that quite a bit in the last couple of weeks. But some of those things currently being looked at are the operations of call centers, reportable outages, leak response time.

And we'd like to commend President Fox and the Ratepayer Advocate for leading this endeavor, again, to ensure the highest quality of utility service in the state. We also would respectfully recommend that any legislative initiative complement the on-going work of the Board, as well as the Ratepayer Advocate.

We'd like to applaud you for, once again, making New Jersey a leader in protecting its citizens. We want you to know that we are very committed to working with this Committee, with President Fox, the Ratepayer Advocate, as well as other stakeholders, in establishing performance standards to ensure reliability.

Chairman, we appreciate the opportunity -- for your creating this forum -- to begin the dialogue and for welcoming everyone's input. And we thank you for your attention.

I, or any of my colleagues here, would be happy to answer any questions you may have.

ASSEMBLYMAN CARABALLO: Thank you, Linda.

MS. KELLNER: Thank you.

ASSEMBLYMAN CARABALLO: Okay.

And now-- What's it called, the *electric slide* (laughter)? Is that the electric slide?

Come on up.

Good morning -- good afternoon, rather. I might say good evening soon, right? (laughter)

All right.

Welcome. Let's see, who do we have up here at this point? We have others as well, right, that are going to come up, or is this it? Is this the entire electric group? (affirmative responses) Oh, okay.

Introduce yourselves.

K E N N E T H P A R K E R: Ken Parker, Regional Vice President, for Conectiv.

FRED DeSANTI: Fred DeSanti, PSE&G.

ALAN M. FREEDMAN: Alan Freedman, Director of Public Affairs, Rockland Electric.

STEVE MORGAN: Steve Morgan, President, JCP&L.

ASSEMBLYMAN CARABALLO: Steve, why don't you-- Can you bring that chair over here, because there's another mike over here? If you pull that mike closer, you can--

There we go. All right?

Start again. I'm sorry, go ahead. I interrupted you as you were--

MR. MORGAN: Should I start? (affirmative response)

Thank you, Mr. Chairman and members of the Committee.

My name is Steve Morgan, President of Jersey Central Power and Light.

At JCP&L, we do recognize that electricity plays a very critical role in ensuring New Jersey's security and ongoing prosperity. And we are committed to providing our customers with reliable, safe, and affordable service.

In fact, since FirstEnergy, the parent of JCP&L, acquired the company a little more than two years ago, we have underscored that commitment with significant investments in accelerated reliability improvement projects.

ASSEMBLYMAN CARABALLO: I'm trying to get you a little more comfortable. That's all.

MR. MORGAN: We're fine. Thank you, Mr. Chairman.

And that work continues today.

You heard from President Fox about some of the work that is being undertaken as we speak, with regard to Jersey Central Power and Light's reliability improvement efforts down at the shore.

We believe that the New Jersey Board of Public Utilities has broad authority to enforce reliability standards that were adopted from recommendations back in the '90s. And, in fact, that effort is, really, a sign of that.

As you know, the BPU has reconvened the group to review these standards to determine what, if any, changes are necessary. And we've talked about the score card, so we don't need to talk about it any more. This is, by the way, an effort that JCP&L also supports.

We believe that the BPU also retains authority to take additional -- maybe somewhat larger or special -- steps. And as President Fox talked to you this morning, she talked to you about the role of the special reliability master that JCP&L is experiencing now. He was appointed to oversee our maintenance and performance standards, and make recommendations to the BPU on ways to enhance and ensure ongoing system reliability.

Recommendations, by the way, in his interim report which we endorse as a company and are at work, as we speak, putting into place. Through these actions, we believe the BPU is taking a long-term view of our company's operations and supporting our efforts to identify ways to improve service reliability into the future.

At the same time, we would support additional reliability standards adopted under the existing statutory authority of the BPU, provided they are developed and implemented in a manner that benefits customers across the

state. And by that, I really mean we think that those criteria for measuring performance need to be uniform and consistent across the industry, a concept you've heard many times this morning.

If reliability standards are based on accepted electric utility industry measures -- terms you've heard, I'm sure, before -- CAIDI, SAIFI, MAIFI, and similar terms -- then we think those metrics, with regard to these performance standards, must be calculated similarly. The definitions, therefore, need to be uniform and consistently applied.

For example, the definition of a momentary outage varies widely across this industry. It should be the same, as should be the definition, for example, of an excluded event.

And, again, you heard President Fox talk about the fact that there are going to be outages in our industry. We know that we are subject to a number of external factors that are beyond our control: hurricanes, tornados, weather-related events in particular. So we think that the definitions to exclude events really needs a very clear and unambiguous definition.

And in addition, we think that, as I think you heard the previous speaker testify, the calculation methodology, the systems must also be similar so that people are counting the same things -- that we don't make apples to oranges comparisons. And, in fact, as another speaker mentioned earlier, we think that those reports should be auditable, so that the underlying data itself does stand scrutiny.

In short, those reporting requirements need to be objective, not subjective. And while having said all that about consistency, again, they need to be somewhat flexible in understanding that this industry, unlike some, is

really at the vagaries of a number of things, not the least of which is Mother Nature.

Considering these variations-- So the standards need to be said in such a way that we acknowledge that this industry has grown up over 100 years -- very different, in terms of its topology, geography, customer density, system design, as well as those external weather-related factors.

With respect to consideration being given to fines for failure to meet mandatory standards, we believe that there might be better, more effective ways to promote reliability improvements. In fact, fines could be counterproductive, because they could cause a short-term focus on the system, as opposed to, maybe, a longer-term reliability focus. Having said that, we think that the money is better spent on investment in the infrastructure.

But in closing, I want to reiterate that this company, JCP&L, is firmly committed to reliability improvements in the State of New Jersey for our customer base, and that we support the work of the Board, as well as your Committee.

Thank you, Mr. Chairman.

ASSEMBLYMAN CARABALLO: Welcome to New Jersey.

MR. PARKER: Good morning, Chairman Caraballo and Committee members.

My name is Ken Parker, Vice President of the Atlantic Region for Conectiv. Thank you for the opportunity to appear before your Committee today.

In southern New Jersey, Conectiv provides safe and reliable electric service to over 500,000 customers, proudly served by 1,100 employees who live

right here in New Jersey. Conectiv works hard every day to ensure the highest level of reliability and to provide excellent customer service. We value satisfied customers. In fact, it is one of the key business metrics we use to gauge our performance. Improving customer service and reliability are our top priorities.

Since 2000, Conectiv has invested over \$80 million to improve reliability in New Jersey, and we believe the results are proving this was a prudent business decision. We will continue to invest in our infrastructure, because we know how vital it is to the quality of life of our customers, and how important it is to the businesses in our region. It is critical that we work with the Legislature to assure that we get full and timely recovery of the substantial investments we are making to provide high quality electric service to New Jersey residents and businesses.

While we at Conectiv feel good about our performance, we know our customers expect more from us. They need more information about outages on a more timely basis, in order to plan for their families and make better decisions for their businesses.

We are already looking at newly identified technology and infrastructure enhancements that could be implemented over the next several years. For example, we are considering options to install technology to remotely detect downed wires; expand the use of automated switches so that power can be restored without sending out a crew; and evaluate new devices that can provide real-time information on outages without having to depend on customers to call us to pinpoint individual outages. And the point there is that we're trying to be proactive.

Conectiv supports and welcomes fair and reasonable reliability and customer-service standards. This demonstrates our commitment to the 500,000 customers we serve in New Jersey.

Developing statewide standards has its challenges. It is not an easy task. The challenges are significant. Each utility is uniquely different. There are regional variations, differences in customer and regulatory expectations, as well as differences in cost and system flexibility. Importantly, meeting standards doesn't always guarantee quality. Events far beyond the control of utilities can occur and negatively impact customer satisfaction. And I believe President Fox spoke about that earlier.

Recently, we hired James Lee Witt, the former director of FEMA, to do an independent review, commissioned by our company, following Hurricane Isabel, confirming we are meeting industry standards. But we recognize our customers expect more. And we intend to use this report as a blueprint for positive change to benefit our customers.

In fact, some of the proposed recommendations are already in the process of being implemented. These include enhanced computer system to more effectively handle high volumes of data in emergencies, an improved process for estimating restoration times, a revised procedure for handling downed wires, a community outreach program to seek customer input on restoration priorities, and pilot programs to install new technology to improve reliability.

Mr. Chairman, improving customer service should be a common goal of all stakeholders, a goal that balances the benefits as well as the costs and risks associated with achieving that goal.

In closing, Conectiv supports fair and reasonable reliability and customer-service standards, and we will work towards continuous improvement. This will require that we continue to make substantial investments in our New Jersey service territory, and it is critical that we get full and timely recovery of those investments. I want to thank you for opportunity to be here.

And, Mr. Chairman, I feel the need to raise the issue today -- and in terms of when we talk about reliability-- And we're working closely with President Fox and the Board of Public Utilities. But tomorrow, in South Jersey, we'll be holding a hearing, which will be presided over by Chairman Butler, who will address our issue of trying to site a 47-mile transmission line from Egg Harbor Township -- Assemblyman Conover, which you're well aware of, and Assemblyman Van Drew -- all the way up to Oyster Creek. And when we talk about reliability, we have to also talk about having the infrastructure in place in order to have a reliable system.

So tomorrow we embark upon a project that we've been working for, for two-and-a-half years -- to site a line in New Jersey, to make sure that those customers in Atlantic and Ocean counties -- and the PJM -- everyone mentioned today-- We're on a journey tomorrow. But it's for two-and-a-half years, and we're finally there -- in a sense of getting the case heard.

We want to thank President Fox, like I said, and the Board for getting us to this point. We know it's not approved. We've got a long way to go, but I just want to emphasize to the Committee today that the need to site infrastructure in the State of New Jersey is a difficult task, and we've got to figure out ways that we can all work together -- government, the utility, along

with the communities and the various agencies, in order that we get infrastructures sited in a timely manner.

For us, what this means is, if we don't have this infrastructure in by next year, the issue of reliability comes to the forefront of all those citizens in Atlantic and Ocean counties.

But I feel like everybody's on the same page now, and we're going to work to make sure we provide reliable service to those people in that area. I just wanted to mention that, today, as part of the discussion.

ASSEMBLYMAN CARABALLO: Thank you.

Good afternoon.

MR. DeSANTI: Good afternoon. My name is Fred DeSanti. I'm Vice President of External Affairs for PSE&G. I appreciate the opportunity to share our views with you this morning -- or this afternoon now. And to prove it, I'm going to be brief, quick, and not cover ground that's already been trod.

It is also quite fitting that the Chairman has called this meeting today. And I'm, kind of, surprised that nobody's mentioned this, but today is the fifth anniversary of Governor Whitman signing of EDECA legislation. It was February 9, 1999. It seems like 2000 years ago.

Of course, it is very easy to come before you today and claim that all associates at PSE&G support the ideals of accountability, high standards of quality of service, safety, reliability, and low cost. This is what we all strive to do, and being held accountable for the results we achieve, or fail to achieve, is not something that we could or would ever oppose. We want to serve customers that feel that they are being treated very fairly and that the costs of our services reflect the value that they have come to expect.

I would also recognize the difficult times that President Fox, the commissioners, and the staff at the BPU are having, and have had, during these past, very turbulent years, in balancing the many interests and events that have shaped these past few years. The idea of regulating more prescriptively on a proactive basis, rather than reacting to events after the fact, has merit, and we understand that.

Now, it is one thing to say that everyone at PSE&G is pulling in the same direction to honor the principles of service, and quite another thing to prove it. So here is my challenge to you. We have 6,000 people floating around the state. Go up to any employee of PSE&G that you see reading meters, working on a line, constructing, or even answering your call for service, and ask them, what are the three most important goals of the company? Their response will be five words -- I promise you this -- safety, reliability, and low cost. The creation of a safe working environment for our employees and the public, creating the most reliable system attainable within the context of current rates, and all accomplished at the least possible cost, reflecting the resources required to achieve that level of service. It's really that simple, and it's my belief, and those that I work with, that these three relatively simple areas of accountability can drive many, if not all, measures of customer satisfaction. We are committed to that end, and have had some measure of success in achieving that.

So before going further, PSE&G pledges to work, now, together with this Committee and the BPU in developing a fair and balanced system of performance standards that will be meaningful to advancing the goals of service to our customers. At the same time, this work will help to educate customers

further, with respect to the resource requirements or costs of achieving varying levels of higher-quality service, so that the cost benefit balance is properly maintained in their minds.

Let's look, quickly, at some data over the past two years to begin our discussion. In the important area of electric system reliability, PSE&G and most utilities nationally measure performance in terms of three rather arcane measures: SAIDI, CAIDI, and MAIFI. Now it is not the time or place to develop a full discussion of these measures, and what they indicate, but generally our results over the past two years can be described as follows:

Last year, as an example, ignoring for the moment the out-of-state grid collapse blackout in August -- we're going to take that out of the equation -- about 37 percent of our customers saw no extended outages at all, and the remaining 63 percent were out of service only once, for a period of 79.2 minutes. All customers, on average, experienced a momentary loss of power one-and-a-half times during the year. These outages are defined as more than one second, but less than five minutes. In 2002, results were similar. About 20 percent of our customers saw no extended outages, and the remaining 81 percent were out only once, for an average period of about 101 minutes. In the context of the number of minutes per year, this means that an average, or typical, customer would be out of service -- again blending the two -- about 90 minutes out of a possible 525,960 minutes, which is less than .015 percent.

Those results were deemed the best for the entire mid-Atlantic region for two years running by PA Associates, which is a national industry consulting group, and are a statistic that we are justifiably proud. These are very positive results, and I am very happy to posit with you.

But in thinking about how those results were obtained, and how we might continue to maintain or even improve upon these service levels, requires we get to some of the critical areas of performance measurement that is going to make this whole area of investigation worthwhile but difficult.

Results, after all, are achieved not by wishing for them to occur, nor will they be achieved simply by financially penalizing companies that do not make the grade. Results are achieved by planning for them to occur through the judicious design, capital investment, and the appropriate deployment of human and financial resources available for the prevailing rates.

PSE&G's reliability is a reflection of just that: technical design, investment of capital and maintenance expenses, and the deployment of sufficient human resources to respond quickly and effectively. All of these are at a cost to consumers, and finding that balance between cost and expected reliability are truly in the eyes of the beholder, our customers. And we must have that balance right, for, in my 32 years with PSE&G, we have done some things well, and we have made many mistakes along the way. But no one, to my knowledge, has ever criticized PSE&G for its reliability.

Clearly, before we begin to develop appropriate standards for reliability, we need to fundamentally understand that cost-benefit relationship. Would customers be willing to pay an additional \$2.50 a month if that cost could reduce the average extended outage period from, say, 79.2 minutes to 60 minutes? While there is no science that will permit us to make this kind of bright-line analysis, we need to enter this debate understanding that higher reliability than that now achieved is related to higher capital investment and maintenance cost, not the fear or facing financial penalty or fines. If a utility

is marshaling its resources efficiently, and can reasonably prove it, then, I think, you simply can't come to a different conclusion.

Now, I've passed out the 13kV loop system, which I'd like to spend just a second to take a look at, because back in 1972, when I first started with the company, this was exactly the design that we had begun to deploy.

Circuits are, essentially, tied together through an open switch, and about 75 percent of our customers are in this kind of a loop scheme. This system senses loss of power. And automatically, through timing of relays and through the closing of switches, will actually sectionalize the fault and restore as many customers as possible.

So when this-- If you go to Page 3, you can see there's a Section 1 and 2. The tie recloser will close on a loss potential and bring back as many as half of those customers.

Now, if the Chairman will permit, I'll share with you a way to make some money and be the life of the party the next time you have one. In the unlikely event that you lose power, as you know, you should look at your watch, if you can see it in the dark, and start counting off 50 seconds. And at the end of 50 seconds, you can point up. And if the lights come on, you know that you're in Section 2, and the fault was in Section 1. Of course, if the lights don't come on, you can get a flashlight and tell everybody that they'll be out for about 79.2 minutes. (laughter) I've made a lot of money over the years doing this.

Naturally, this system design is more expensive to install and maintain than traditional radial circuits, but it does work well, and we have the

reliability statistics to prove it. So system design, capital investment, deployment of resources all work to create the results we desire to achieve.

One more issue regarding resources. At the first sign of serious weather, our colleagues in Canada, at Ontario Hydro, begin to pack up for a move south several days before the storm actually hits New Jersey, to make sure that the additional resources necessary are on hand and ready to go as soon as the storm has subsided. These mutual aid agreements are fairly common today, but they underscore the importance of moving human resources quickly to achieve high reliability at the lowest possible cost.

I have focused on reliability and, hopefully, have made some connection between results and customer investment. But, very quickly, I want to look at some of the broader issues of customer satisfaction and utility performance, because these issues become far more subjective, and open the door to the possible creation of dysfunctional consequences.

Two months ago, in December, Navigant Consulting prepared a comprehensive analysis of customer service quality and regulatory standards -- a copy of which I will provide you -- for the Center for the Advancement of Energy Markets.

Jamie Wimberly, President of the Center, said, "For one thing, we find that customers don't readily differentiate the quality of energy delivery, such as outage restoration, from how call centers handle their inquiries, and these are very different kinds of issues for the industry to manage. Moreover, regional variations, differences in customer and regulatory expectations, and cost issues all raise questions about how to standardize service quality. Our findings

illustrate the need for regulators and utilities to carefully define what they are trying to achieve for the customer, through customer service quality standards.”

Peter Shaw, who directs Navigant Consulting, followed that up with the statement: “We detect a troubling gap separating regulators from utilities and their customers on how to measure and standardize quality of customer care. For example,” he said, “regulators tend to focus on how much time it takes for a customer to reach someone in the utility’s call center as a key indicator of service quality. Yet customer research tends to show that the quality of the call is a far more important determination of customer satisfaction. So penalizing a utility for occasional noncompliance with answer call-time targets tends to send a message that utilities should focus on meeting speed targets over high-quality interactions.”

These are just some of the things that we’ve got to look at as we go forward.

The study also highlights a couple of gaps, which I just want to briefly address. One, the utilities generally believe that quality of service has risen over the past few years, and they point to their expanded service options, as well as customer satisfaction research, to support that belief. But in contrast, regulators generally view customer service quality as declining and tend to focus on utility cost-cutting practices as a possible contributor to lesser service.

Regulators, also, do not take into account the added cost to utilities in trying to meet higher performance targets. Again, this is a generalization from a study around the country.

Regulators tend to place high importance on customer complaints as an indicator of customer satisfaction. The utilities, on the other hand,

consider complaint rates as a limited and, even sometimes, misleading source of information regarding performance.

And, finally, utilities are concerned that inflexible performance standards ignore the dynamic nature of utility demands -- customer demands and operations. Regulators are generally satisfied that prescribed performance targets protect customers from utilities that otherwise may not focus on improving service quality.

I would, again, be pleased to provide you that research. It is a 60-page report. And if you give me an e-mail, I can probably save some trees.

Finally, a few specific cautionary observations, reflecting some of the dialogue that has occurred to date here in New Jersey: First, at a time when methods of the past have raised concerns that they have provided insufficient incentives to reinforce and secure the infrastructure, we must be careful not to respond only with legislation and regulation devoted to penalties and the potential for civil and class actions, which is something that we think is of great concern. The public policy debate in New Jersey has already begun to focus on how to encourage infrastructure investments and not simply upon symptomatic penalties and enforcement. These changes are best accomplished through significant dialogue and debate in a constructive environment. And we expect that that will occur.

Before concluding, I think it is necessary to posit one final point of data for your consideration. Ninety-seven percent of the time, we will fix, repair, or replace bulbs on municipal street lamps within four days. We are not always that good, and it took considerable effort to get to that level of

performance. We serve about 340 municipalities in New Jersey, and this statistic applies, on average, to all except one community.

Speaker Sires, as you know, is also the Mayor of West New York. (laughter) They have a considerably better repair record, and lights in West New York are out far less than in other municipalities. The reason for this, of course, has nothing to do with the fact that he is the Speaker, and that is his municipality, and he is getting special treatment. It has to do with the fact that the Mayor makes very careful observations, and is very willing to act to correct the situation himself. We lose a light, I get a call -- pole number and all -- and you better believe that someone's out there pretty quickly.

I appreciate the time the Committee has extended. And if the Chair wishes to, at the end, give any questions, I'd be happy to do that.

Thank you.

ASSEMBLYMAN CARABALLO: I've witnessed the moment he has seen it. (laughter)

MR. FREEDMAN: Thank you, Mr. Chairman.

My name is still Alan Freedman, Director of Public Affairs, at Rockland Electric Company. (laughter) I wish I could be as confident as Fred, as to what five words you would hear if you stopped anybody on the street and asked them an open-ended question.

I'm going to try to hit on four or five very quick points. I'm going to give you my testimony -- I think points that haven't, perhaps, been made.

First of all, on the report card, I think it's important that we note that the purpose of the report card should not be, necessarily, to compare utilities' performance, one against the other. To go back to that elementary

school analogy, the real value of the report card is to measure progress over time. And to the extent that it does that, and to the extent that we already do do that, I think it's a very useful tool, and we certainly support it.

The Ratepayer Advocate mentioned in her remarks that customers are demanding more and more, and probably would be willing not to pay for that, believing that rates are sufficiently high. I would point out that even if, at a level of 99.99 percent reliability, which is about as close to 100 percent reliability as one can get, the average person would still be out eight hours a year. Obviously, they are not. Our record is similar to what you heard at PSE&G.

It is that one one-hundredth of a percent, however, that is so incrementally expensive -- that to get somebody restored would require, practically, people on every street corner waiting for an event to happen. Now there's a lot of technology that's being introduced. We're very pleased with it. We're making great progress with it. And it's reducing that restoration and other kinds of times dramatically. But there is a very high cost to pay for that final increment to get close to the 100 percent.

Let me also make a point that we believe that any legislation should make explicitly clear that the Board should provide an equal and a symmetrical opportunity for reward and penalty to the fullest extent possible. That means that we need clear, well-defined, measurable, and uniform-targeted activities. And if we do, the potential for reward for having achieved superior performance -- like the potential for penalty for having performed substandard performance -- should be symmetrical in achievability and magnitude. There are standards, there are going to be standards set. We think utilities ought to be incented to

even exceed those standards, and can do so, and should be rewarded for having done so.

We believe, further, that damages and penalties -- to the extent the-- President Fox talked about not having the teeth to secure the kinds of penalties that are required, and we agree that they are not there. But we do believe that any damages and penalties should not be open-ended, and should not be defined in a manner that engenders due process concerns. Self-executing remedies that require no Board action, and administrative penalties that disallow settlement on a violator's economic benefits, really should not be part of this equation.

Instead, the legislation, if proposed in the past, should direct the Board to take into account the circumstances surrounding an alleged violation. We could not agree more that willful misconduct and bad-faith activities must be vigorously investigated and punished by the Board. Conversely, however, the absence of intent should be recognized as a mitigating circumstance, and the particular circumstances of individual regulated entities should be taken into account.

All violations are not created equal. Any legislation should not equate violation of an order with noncompliant service performance. For example, failure to answer a set percentage of calls within 30 seconds is not the same as a willful violation of a Board order, and ought to be treated differently.

Further, any legislation should protect the due process rights of regulated entities, particularly smaller utilities whose rights are jeopardized by some of the proposals that have been considered in proposed legislation. For example, in a draft form seen a bit earlier, a regulated entity is responsible for

the State's cost in investigating and enforcing an action, even if the regulated entity is, ultimately, determined to be not guilty of the violation. For many utilities, this is an onerous responsibility in cost and, clearly, prevents a utility, in some cases, from pursuing an appeal process if they had to pay, even if successful.

Finally, if third parties or other government entities have valid claims against a regulated utility, they can pursue them in the appropriate forms. We don't believe that the Board should be transformed into a torts claim court, with the ability to direct benefits to other government entities and third parties through settlement.

These points are elaborated on in the testimony that I'll hand out to you. If you have any questions, now or in the future, we'd be happy to work with you and answer them.

Once again, thank you for the opportunity to speak, and for the opportunity to work with you on legislation that, we think, is and should be meaningful. And we look forward to seeing its implementation.

Thank you.

ASSEMBLYMAN CARABALLO: Thank you.

All right. No questions?

Thank you very much. We appreciate it.

All right, we have one more witness.

Emily Rusch, New Jersey PIRG.

Good afternoon.

EMILY RUSCH: Hello, Mr. Chairman, Committee.

It's a pleasure to be here today.

My name is Emily Rusch, and I'm the Energy Advocate for New Jersey PIRG Citizen Lobby, a statewide group that works on environmental and consumer issues. And I just have three brief points to make on the issue of reliability.

First of all, I want to say that New Jersey PIRG Citizen Lobby strongly supports mandatory grid reliability standards, and I would be happy to work with any of the Committee members on this issue, as you move forward.

Secondly, I wanted to echo words by President Fox and by the Ratepayer Advocate, that clean, distributive generation, like wind and solar power, can provide an invaluable resource to increasing grid reliability. Clean on-site generation, as opposed to a large power plant located far away, is going to be more reliable, more efficient.

And in response to questions about cost, it's just a simple matter of the more we promote it, the cheaper it's becoming. And costs have decreased immensely. Certainly, here in New Jersey, there are a lot of companies that are taking advantage of rebates that we're offering. There are cities like Bayonne that are putting solar on their schools. And we can only do more. And there are just so many ways that we can continue to increase the use of clean, distributive generation. And I have a lot of ideas.

I can tell you, out in New Mexico, right now, the legislature is looking at putting solar panels on many of the state government buildings. Out in California, they're actually considering legislation to make sure that a percentage of new homes that are being built are actually solar-ready. So they'll be ready if the residential -- the resident would like to put solar panels on the roofs.

So those are some ideas out there. I'd certainly be happy to sit down and talk with you about more.

And then the final point I wanted to make is, that we can't overlook the value of energy efficiency, as well, in terms of increasing grid reliability, especially in times of high energy demands like in the July 4 weekend.

Thanks to minimum energy efficiency standards right now, the refrigerator that you buy in the store is one-fourth of the energy of a refrigerator you would buy back in the 1970s. That's just thanks to regulations that prohibit out-dated and wasteful technologies.

This doesn't just increase reliability, it also saves New Jersey homes and businesses money -- significant amounts of money on their electricity bills. And so there's currently legislation, that was introduced by Assemblywoman Watson Coleman, that sets efficiency standards for a number of new products, things like traffic lights, torchère lamps, that exit sign you see back there, or unit heaters. The bill would take the most wasteful products off the marketplace, thereby decreasing the strain on the electricity grid, saving consumers an estimated \$1.6 billion over the next 15 years, and decreasing our dependence on polluting power plants.

So I look forward to working with this Committee as you consider this legislation in the upcoming months.

So I just want to close by saying that I appreciate you looking at this issue of reliability, and I would encourage you not to wait for the Federal energy bill to move forward. The bill is bad for consumers, bad for the environment, bad for taxpayers, and we certainly-- There are a lot of groups down there working against it. I don't see it moving forward quickly.

So as you look forward -- look at reliability standards, or energy efficiency standards, I encourage you to move forward, ahead, because here in New Jersey, we know what's best for New Jersey.

Any questions? (no response)

ASSEMBLYMAN CARABALLO: Thank you.

Ladies and gentlemen, I'm sorry we've gone so long, but we wanted to make sure that everybody got a chance to be heard.

Meeting adjourned.

(MEETING CONCLUDED)