

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON ENVIRONMENTAL
PROTECTION

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Nov 25, 2019
Start: 1:02 p.m.
Recess: 2:03 p.m.

HELD AT: COMMITTEE ROOM - City Hall

B E F O R E: Costa G. Constantinides
Chairperson

COUNCIL MEMBERS: Costa G. Constantinides
Rafael L. Espinal, Jr.
Stephen T. Levin
Carlos Menchaca
Donovan J. Richards
Eric A. Ulrich
Kalman Yeger

A P P E A R A N C E S (CONTINUED)

Vincent Sapienza, P.E.
Commissioner
New York City Department of Environmental
Protection

Jane Gujana
Director of the Office of Energy
New York City Department of Environmental
Protection

Anthony Fiore
Deputy Commissioner
Energy Management
DCAS

Georgie Page
350 Brooklyn

John Sulaway
National Hydropower Association

1 COMMITTEE ON ENVIRONMENTAL PROTECTION 4
2 JOHN BIANDO: This is a microphone check.
3 Today's date is November 25, 2019, Committee on
4 Environmental Protection, being recorded by John
5 Biando, City Hall, Committee Room.

6 CHAIRPERSON CONSTANTINIDES: All right,
7 good afternoon. I am Costa Constantinides, chair of
8 the Environmental Protection Committee, and today
9 I'll be holding an oversight hearing on effectively
10 utilizing water resources for energy generation,
11 safety and conservation, and we'll hear four bills
12 related to water use. Water is essential to life on
13 earth. The interdependency of water and energy is
14 set to intensify in the coming years with significant
15 implications for both energy and water security.
16 Each resource faces rising demands and constraints in
17 many regions as a consequence of economic and
18 population growth and climate change. However, water
19 treatment and distribution is the source of
20 significant electricity consumption. Processing
21 potable water and waste water is extremely energy-
22 intensive, consuming approximately 4% of the United
23 States electricity production. The cost of pumping,
24 treating, and distributing water represents about
25 one-third of a water or waste water treatment

1 facility's operating budget. In New York City that
2 amounts to hundreds of millions of dollars a year
3 that are taxpayers fund. Water use does not only
4 require energy, it can simultaneously create energy.
5 While distributing water as a resource-intensive, you
6 generate water it is resource-intensive. You can
7 generate water energy in a manner that is
8 environmentally benign. Intro 419 focuses on energy
9 generation using water with the help of turbines
10 installed in existing water infrastructure. The most
11 promising potential small hydropower project sites
12 are connected to a water treatment plant that can be
13 retrofitted with hydro power turbine technology in
14 order to take advantage of opportunities created by
15 the Hydropower Regulatory Efficiency Act, HREA, of
16 2013. The New York City Department of Environmental
17 Protection's aging water infrastructure, distribution
18 infrastructure, continues to be a promising candidate
19 for energy recovery, now called a qualifying conduit
20 hydropower facility. This federal law eliminates
21 virtually oversight on the [inaudible] for sites that
22 have no environmental impact. This includes both
23 drinking and waste water pipelines as well as
24 industrial processing operations served by an agency,
25

1 such as large breweries or food processors. Using of
2 hydropower presents an opportunity we should not
3 ignore to increase our energy mix for renewable
4 energy strategies for [inaudible] operations and to
5 reduce greenhouse gas emissions. As important as
6 water is, it should never be wasted. Intro 417
7 addresses water waste. Although it is currently
8 illegal to waste water, property owners may ignore
9 leaks from the tap, particularly if they are being
10 billed on frontage as they are not paying the true
11 cost of the water. In order to preserve this
12 precious resource this Local Law would provide up to
13 \$1000 reward to any person who provides information
14 to the department that leads to tests and detection
15 of a leaking tap or service pipe. Water that is safe
16 to drink has always been a concern of the DEP, but as
17 [inaudible] clear that all department works, look at
18 capital projects it is critically important that the
19 water is safe. We want to make sure that we use
20 portable, use water hoses certified for potable water
21 such as the water hoses may contain elevated levels
22 of lead, bromide, antimony, and [inaudible]. Hoses
23 that were not manufactured for drinking water use
24 were also found to contain recycled PCVE waste, as
25

1 evidenced by the presence of flame retardants, lead,
2 and tin. These contaminants were not found in any
3 significant quality, quantities in the hoses that
4 were manufactured for the use with drinking water.
5 Intro 834, in relationship to the use of potable
6 water hoses and all Department of Environmental
7 Protection capital projects would require the use of
8 drinking water certified potable, ah, potable hoses
9 in all capital projects in order to assure that
10 pollutants do not enter drinking water during the
11 implementation of the capital projects. Finally, the
12 city has opportunities to generate renewable energy
13 that it has taken advantage of so far. There are
14 currently 930 acres of vacant public land across 1304
15 sites across the five boroughs that could be used to
16 generate renewable energy. A large fixed tilt
17 photovoltaic solar power plant that produces 1000
18 megawatt hours per year requires on average 2.8 acres
19 for the solar panels, while a single-axis
20 photovoltaic systems require an average of 2.9 acres
21 per 1000 megawatt hours. With almost a thousand
22 acres of public vacant land the opportunities to
23 generate renewable energy abound. Intro 1182 would
24 require a study and report identifying all vacant and
25

1 under-utilized municipally owned sites that could be
2 suitable for the development of renewable energy.

3 Such a report would contain an assessment of the
4 feasibility of renewable energy generation, including
5 a cost-benefit analysis of solar, wind energy

6 generation on such sites, such as the under-utilized
7 municipal-owned sites, closed and capped solid waste
8 landfills, and brown fields. If there are no

9 recommendations made with respect to the

10 opportunities to generate solar or wind energy from

11 vacant or under-utilized sites in New York City the

12 [inaudible] would be required to undertake another

13 study in three years. In addition, today we're going

14 to hear an oversight relating to conservation and on

15 the contract with American Water Resources. I will

16 say for the record that American Water Resources was

17 invited here today and chose not to testify in front

18 of this committee. I find that very unacceptable.

19 They have a contract with the City of New York. They

20 were supposed to be here. They should be answering

21 questions from this committee. More importantly,

22 they should be answering questions about their

23 practices relating to the people of the City of New

24 York. They have chosen not to do so and we will

25

1 continue to hold them accountable for what we feel
2 are significant issues with their contract. So let
3 the record be shown that we have invited them here
4 today and they have chosen not to testify, and as
5 committee chair I will continue to ask questions
6 relating to this contract and how they're under-
7 performing to the residents of the City of New York.
8 That said, I want to welcome our commissioner for DEP
9 and the great folks that are here from the Mayor's
10 Office. I look forward to hearing your testimony and
11 there are none of my colleagues here yet, but they're
12 on the way. They know we are here. So they'll make
13 it here. But I do want to thank our community
14 attorney, Samara Swanston, for all that she does, not
15 just on this hearing but all of our hearings. Thank
16 you, Samara, and Nadia Johnson and Ricky Charla as
17 well, our great policy analysts. Thank you all for
18 being great public servants and what you do every day
19 for the people of the City of New York and for this
20 committee. So, with that I will look forward to
21 hearing your treatment. OK, all right, so before,
22 I've been informed to do a little housekeeping. If
23 you are here for Government Operations you are not in
24 the right room. It has been moved to the 14th Floor,
25

1
2 across the street. So if you're here for that
3 hearing I'm not your guy. You should go over to the
4 14th Floor across the street. If you are here for
5 DEP, you're in the right room and if you'd like to
6 testify but you're figuring out how you want to do
7 that, you should fill out one of these cards because
8 if you want to testify and you don't fill this out I
9 will never know that you wanted to testify. So
10 let's, let's make sure we can get that done
11 correctly. Thank you very much. And with that,
12 Commissioner Sapienza, I look forward to hearing your
13 testimony.

14 UNIDENTIFIED: Can you please raise your
15 right hand? Do you swear or affirm to tell the
16 truth, the whole truth, and nothing but the truth
17 today? [pause]

18 COMMISSIONER SAPIENZA: Thank you, Chair
19 Constantinides and council staff. Thanks for the
20 opportunity to testify today. I'm Vincent Sapienza,
21 the consumer of the New York City Department of
22 Environmental Protection, DOEP. I'm joined here
23 today at the table by Jane Gujana, who is the DEP
24 director of the office of energy, and Anthony Fiore,
25 the deputy commissioner of energy management at

1 DCAS. We appreciate the importance of this hearing
2 topic, effectively utilizing water resources for
3 energy generation, safety, and conservation. As you
4 know, DEP owns and operates the country's largest
5 water and waste water utility, safely delivering more
6 than a billion gallons of clean drinking water every
7 day to about half of the population of New York State
8 and treating over 1.3 billion gallons of waste water
9 each day at our 14 waste water resource recovery
10 facilities. Our department's purpose is to keep all
11 New Yorkers healthy by providing clean drinking water
12 and safely processing waste water. We are dedicated
13 to water and energy conservation and are diligently
14 expanding our capacity to generate green energy.
15 Water conservation, or demand management, is a
16 critical program at DEP. Since 2013 DEP has achieved
17 savings of more than 10 million gallons per day. In
18 June 2018 DEP released the One Water NYC 2018 Water
19 Demand Management Plan, highlighting DEP success in
20 implementing water conservation projects across the
21 city and upstate with our wholesale utility partners.
22 Over the past six years DEP has implemented several
23 demand management initiatives, such as installing
24 efficient toilets and spray showers in city
25

1 properties and by offering discounts to residential
2 customers on new efficient toilets. We also launched
3 voluntary water challenges with hotels, restaurants,
4 hospitals, and universities, as well as at our own
5 waste water resource recovery facilities. Since the
6 release of the 2018 water demand management plan, DEP
7 has continued to build on past successes using
8 established partnerships to identify and implement
9 new conservation projects and to continue ongoing
10 programs to ensure that we reach our water
11 conservation goals. Not only does this program help
12 to optimize our water supply, it also reduces waste
13 water flows as well as the energy and greenhouse gas
14 emissions associated with pumping and treating water
15 and waste water. I'll speak a little bit now about
16 hydropower. Hydropower is an important piece of our
17 clean energy portfolio, which also supports economic
18 development in the host municipality and generates
19 revenue for New York City. In addition to the
20 upcoming Canonsville Hydropower plant, there are
21 already four hydropower plants in operation in our
22 water system, with a rated capacity of nearly 58
23 megawatts of total power. We are studying the
24 feasibility of building micro hydro systems at
25

1 appropriate locations. DEP is moving forward with
2 projects at two sites that were identified in the
3 2013 report entitled "Evaluation of Hydroelectric
4 Potential." The first site is the Croton Lake gate
5 house in Westchester County. We've received an Excel
6 grant from DCAS to assess the feasibility of
7 installing a small hydroelectric turbine at this
8 location. The second is the Catskill Delaware
9 interconnection shaft 4 in Ulster County. We are
10 advancing the design of turbine technology at this
11 site where water from the Delaware aqueduct can be
12 moved into the Catskill aqueduct. Our upstate water
13 supply is actually electricity-positive in that the
14 amount of hydroelectric power exceeds the amount of
15 electricity purchased from the grid for water supply
16 operations. The projects we are developing now will
17 further increase this positive balance. As we have
18 discussed at previous hearings, DEP is working at a
19 comprehensive energy and carbon neutrality plan. We
20 utilize traditional renewable systems, such as solar,
21 photovoltaic, hydroelectric, and wind. We are
22 currently exploring the feasibility of geothermal and
23 other zero emissions systems as well. The largest
24 solar installation on a city-owned property, 1.3
25

1 megawatts, is on a DEP waste water resource recovery
2 facility on Staten Island. We are currently working
3 with DCAS on a power purchase agreement to install
4 nearly 5 megawatts of solar canopies above the
5 process tanks of the Ward's Island waste water plant
6 and, if successful, plan to role out similar
7 installations across the remainder of our waste water
8 facilities going forward. We also have several small
9 and mid-size systems in Brooklyn and Staten Island
10 and are designing additional installations on an
11 ongoing basis. We have installed four small-scale
12 wind turbines in three boroughs, two in Queens, one
13 in Brooklyn, and one in Staten Island. We plan to
14 install more solar and more small-scale wind turbines
15 and are evaluating the feasibility of large-scale
16 turbines as well. One of our most valuable
17 strategies in achieve carbon and energy neutrality,
18 our goals, and power resiliency efforts, is the
19 utilization of biogas that we produce in the waste
20 water treatment process. Biogas, also called
21 digester gas, can be used to generate heat and
22 electricity. Our greatest opportunity to achieve
23 energy neutrality is to increase the generation and
24 use of this resource. Today we have achieved nearly
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1 30% beneficial use of our digester gas. That number
2 will jump to 60% with the upcoming completion of
3 three projects - Newtown Creek's gas conditioning
4 system, an energy efficiency retrofitted at Owl's
5 Head, and the North River cogeneration system. DEP
6 produces 3.6 billion cubic feet of biogas annually
7 and beneficially uses some of this gas to power, for
8 power and heating purposes on site at our waste water
9 resource recovery facilities. Since 2016 we have
10 been incorporating municipal food waste into the
11 digestion process to generate additional biogas and
12 are currently diverting over 150 tons per day of food
13 waste. I'm proud to say that DEP has the largest
14 post-consumer food waste codigestion system at a
15 waste water resource facility in North America, and
16 we have become a national leader in the area of food
17 waste energy. As we noted this past February, DEP
18 has partnered with National Grid to construct a
19 biogas conditioning system on site at the Newtown
20 Creek plant. This will send DEP's biogas into a
21 nearby natural gas pipeline to heat local residences
22 and businesses. While we continue to look for
23 opportunities to use traditional renewable energy
24 systems, one of our top priorities is increasing the
25

1 volume of biogas produced in our facilities and
2 beneficially using all of the gas to offset fossil
3 delivered systems. Just a little bit about the
4 proposed legislation before we take questions. I
5 just want to make some brief comments. On Intro 417,
6 which would institute a financial incentive to award
7 up to \$1000 to anyone who provides information to DEP
8 that leads to the test and detection of a leaking
9 tap. While we appreciate the council's recognition
10 that leaking taps are important, we do not believe
11 that this incentive program is necessary. We believe
12 the current system is sufficient. During the last
13 fiscal year more than 99% of the 3000 leaks on
14 private water services were called into the 311
15 complaint line, with DEP responding in an average of
16 12 hours. It is already in a property owner's
17 interest to promptly report such leaks to limit
18 damage to their assets. Intro 419 would require DEP
19 to undertake projects to undertake projects to
20 generate, capture, and utilize energy from the city's
21 water supply, waste water resource recovery
22 facilities, and natural bodies of water. This bill
23 would amend the 2012 law that led to the creation of
24 the evaluation of hydroelectric potential report to
25

1 require that similar reports be produced once every
2 10 years. DEP can have such an evaluation produced
3 every 10 years, but we should note that the
4 evaluations are not likely to change significantly
5 unless there are technological breakthroughs. Intro
6 834 would require DEP to use potable water hoses
7 during capital projects. We have verified that the
8 New York City Department of Design and Construction,
9 which manages the city's water main capital projects,
10 has implemented this policy in 2017. DEP follows
11 this procedure also for own repair projects on water
12 mains. DEP supports the policy's continuation.

14 Intro 1182 relates to the Department of Citywide
15 Administrative Services, or DCAS. The bill would
16 require the city to identify and report on vacant or
17 under-utilized municipal properties, including closed
18 and capped solid waste landfills and brown fields,
19 that would be suitable for renewable energy
20 generation. DCAS is supportive of conducting a study
21 that would elucidate city properties that may be able
22 to host renewable energy. The city owns
23 approximately 12,500 tax lots, of which 5900 are
24 classified as vacant by the Department of Finance
25 building classification system. Of these 5900, about

1 3000 have limited use for any purpose because they
2 compromise, comprise anterior or access lots that are
3 either extremely small or used as pedestrian
4 throughways. From the remaining 4800, about 2100 are
5 regulated as waterfront, wetland, or mapped streets.
6 DCAS believes that a comprehensive study will
7 illuminate which of the remaining 2700 vacant tax
8 lots are capable of hosting renewable energy
9 generation technology and will also help us to
10 determine which lots are truly in current and future
11 state of under-utilization. Being able to
12 distinguish those tax lots that are going to be used,
13 unused, or under-utilized for the indeterminate
14 future as compared to those that have some future
15 plan can help DCAS and other agencies focus their
16 efforts on developing in-city renewable energy
17 generation potential. We look forward to working
18 with the council on these bills and on our larger
19 efforts of increasing the share of clean, renewable
20 resources that power our city. Thank you for this
21 opportunity to testify on this important topic. My
22 colleagues and I are happy to answer any questions
23 that you have.
24

2 CHAIRPERSON CONSTANTINIDES: All right.

3 Thank you, Commissioner, for your testimony. Does
4 anybody else have any testimony as well? OK. So on
5 834 and 1182, correct me if I'm wrong, your testimony
6 indicates you're in favor of the bills? [pause] 834
7 and 1182, is that correct?

8 UNIDENTIFIED: [inaudible]

9 CHAIRPERSON CONSTANTINIDES: Great, so
10 I'm going to take yes for an answer and not ask you
11 any questions about those bills. So I'm going to
12 remove my questions for those 'cause we already have
13 an agreement. Let's talk a little bit about 419. I
14 think you might have brought this up already, but
15 has, is the department considering capturing heat
16 from waste before it's sent to the sewage treatment
17 plant?

18 COMMISSIONER SAPIENZA: I'll let Jane
19 Gujana speak about that.

20 CHAIRPERSON CONSTANTINIDES: Let me
21 welcome Council Member Donovan Richards from Queens,
22 former chair of this committee, and member currently
23 of the committee. Thank you for being here, Donovan.

24 JANE GUJANA: Good afternoon.
25

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2 CHAIRPERSON CONSTANTINIDES: Please go
3 ahead.

4 JANE GUJANA: Yes, that is something that
5 we're currently looking at. We're actually kicking
6 off an energy and carbon neutrality plan in January.
7 It's a three-year study and as part of that, as you
8 are aware, one of our, one NYC goals is to meet
9 energy neutrality in our waste plant treatment plans
10 and carbon neutrality for our entire agency and we
11 have accelerated our greenhouse gas reduction goals
12 by Local Law 97, and so as part of that we really
13 kind of need to find all the ways to recover
14 resources and recover energy within our system. And
15 so we are looking at different ways to recover
16 thermal energy from the waste water stream, both at
17 our facilities and then within the city itself. I
18 mean, there are some technical constraints that have
19 been identified, but then we are, we're also talking
20 to, this is being done in Washington, D.C. and it's
21 being done in Toronto. So it is something on our
22 agenda to look at and then we'll need to weigh that
23 with the reliability of the system.

24

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2 CHAIRPERSON CONSTANTINIDES: How many
3 sites would generate energy by discharging waste
4 water?

5 JANE GUJANA: I'm sorry, what is that?

6 CHAIRPERSON CONSTANTINIDES: I mean, how
7 many sites could generate energy by discharging waste
8 water?

9 JANE GUJANA: Oh, so is this about power
10 generation?

11 CHAIRPERSON CONSTANTINIDES: Yeah, Um-
12 hmm.

13 JANE GUJANA: [inaudible] generation. So
14 none of them currently generate electricity by
15 discharging water. There was a study that was
16 conducted in 2013 that evaluated turbines in the
17 outfalls, or in the, the kind of, the effluent weirs,
18 and so that is a potential area to generate
19 electricity and that's something that we are going to
20 be revisiting as part of the energy and carbon
21 neutrality plan.

22 CHAIRPERSON CONSTANTINIDES: So just to
23 ask, I mean, this is, you know, we've received a lot
24 of testimony in favor of this legislation. Is it

1 something you're willing to work with the council on
2 to see if we can get done?

3 UNIDENTIFIED: Absolutely.

4 CHAIRPERSON CONSTANTINIDES: Wonderful,
5 wonderful. So I'm going to take an answer, I'm going
6 to take yes for an answer on that as well, because it
7 looks we have a pretty good point of agreement. So
8 then I'm going to, oh, gee, I think he was conking
9 out on me. So I'm going to ask a little bit of
10 questions about the American Water Resources
11 contract. Actually, before I do that I'm going to
12 give, do you have any questions, Donovan, that you
13 want to ask?

14 COUNCIL MEMBER RICHARDS: Well, I'm happy
15 AWR finally signed me up, after I signed up over like
16 two years ago. I wonder if it was in the
17 anticipation of this hearing. Ah [laughs].

18 CHAIRPERSON CONSTANTINIDES: I have a
19 bunch of questions, so if you want to ask anything
20 about the bills I'm happy to let you go first 'cause
21 I don't want to hold you up. [laughs]

22 COUNCIL MEMBER RICHARDS: But, yeah,
23 yeah, um, I mean, I won't take much time, but just
24 wanted to know what does the oversight look like on
25

1
2 AWR, you know, what checks and balances are there,
3 certainly to make sure that they're doing what
4 they're supposed to do, and often our offices get
5 complaints from individuals who may have
6 spontaneously found out about a leak. Maybe their
7 water bill is a little higher and then they go to AWR
8 obviously to try to resolve the issue. So I just
9 wanted to know what timeframe should homeowners look
10 to sign up for AWR and if there's flexibility in the
11 process in them finding a leak to still sign up for
12 that program and to sort of have AWR there with the
13 issue still.

14 COMMISSIONER SAPIENZA: Thank you,
15 Council Member Richards. So just as a little bit of
16 a background and for many, many years we at DEP would
17 get calls from homeowners saying, hey, I have a water
18 leak, come and fix it, and I guess it wasn't common
19 knowledge among most property owners that the water
20 service lines and the sewer service lines that
21 connect city infrastructure to their buildings are
22 owned by them and need to be maintained by them, and
23 when there are problems it's incumbent upon them to
24 hire their own plumber to have it fixed. So one of
25 the things we started encouraging folks to do is that

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2 if they did have concern about a big expenditure when
3 they had a problem is to buy insurance, and there are
4 several insurers that are out there that provide this
5 service, AWR being one of them. Back in 2013 the New
6 York City Water Board entered into an agreement with
7 AWR where AWR could provide insurance to any property
8 owner in the city that wanted it and those property
9 owners would be allowed to pay for AWR through their
10 water bills. That was really just a convenience so
11 that folks can just pay one bill. You pay your water
12 and sewer rates and plus if wanted to pay the
13 insurance. Completely optional. You can use AWR,
14 you can use other insurers that are out there, but
15 that, that's been the agreement since 2014.

16 CHAIRPERSON CONSTANTINIDES: Council
17 Member, excuse me, just jump back in because I was
18 actually going to give you a chance to ask questions
19 about the bills before I went to the AWR stuff.

20 COUNCIL MEMBER RICHARDS: I have to step
21 out, so it's...

22 CHAIRPERSON CONSTANTINIDES: Oh, OK,
23 yeah, yeah.

24

25

1
2 COUNCIL MEMBER RICHARDS: But I just
3 wanted to get that. Thank you, thank you for your
4 time.

5 CHAIRPERSON CONSTANTINIDES: Yeah, no
6 problem, I didn't want to, I didn't want to jam you
7 up. I know you're busy. Ah, Council Member Espinal
8 is here as well, from Brooklyn. Thank you. If you
9 have another minute I'll absolutely let you ask
10 questions, Council Member Richards, on this topic.
11 But I wanted to jump back in here because I'm, I'm,
12 what and how many insurance claims have they denied
13 due to a pre-existing condition, because that is a
14 huge issue and I just heard Council Member Richards
15 nod in agreement. You know, how would one know that
16 they have a pre-existing condition? How do we then
17 deny someone for a pre-existing condition? I mean,
18 AWR seems to be the arbiter, you know, judge, jury,
19 and sort of executioner there.

20 COMMISSIONER SAPIENZA: So all of these
21 insurance providers, AWR and others, all have things
22 that they cover and things that they don't. It's in
23 the agreements that they provide to property owners
24 when they sign on. That's AWR's agreement. But it's
25 unfair, though, where we're sort of representing to

1
2 these homeowners that they should get this insurance
3 if they don't want to have to pay large out-of-pocket
4 expenses for updating their, their water line, and
5 then when it comes time to do it, you know, AWR comes
6 out and says well, actually what we meant was we'll
7 fix it if it's none of these, and this is lot of
8 stuff they're cramming on one page. I hope that
9 we're getting this for the, for people that are
10 watching at home. This is a lot of stuff that they
11 don't cover. I mean, I'm thinking maybe they should
12 actually list the things they do cover instead of
13 things they don't cover. It might be a shorter list.

14 DEPUTY COMMISSIONER FIORE: Mr. Chair, the
15 water board I think has been pretty clear with this
16 program that they don't endorse the insurer and that
17 folks should carefully read what's covered and not
18 covered because there are things that are not
19 covered.

20 CHAIRPERSON CONSTANTINIDES: How do they
21 know, though? That's the problem that I have. Its
22 like how would you know that you have any of these
23 conditions that would render your insurance possibly
24 void?

25

2 DEPUTY COMMISSIONER FIORE: These are
3 tough ones because it's buried infrastructure, both
4 the water...

5 CHAIRPERSON CONSTANTINIDES: Yeah.

6 DEPUTY COMMISSIONER FIORE: ...service and
7 the sewer service are underground and it's, it's
8 tough to know until they're dug up. But the majority
9 of claims that are called in, AWR's plumber repairs
10 them. There, there are some, as you said, types of
11 things that are not covered.

12 CHAIRPERSON CONSTANTINIDES: Do we have
13 any idea how many claims have been denied for a pre-
14 existing condition?

15 DEPUTY COMMISSIONER FIORE: I don't have
16 that with me, Mr. Chair, but we can provide it.

17 CHAIRPERSON CONSTANTINIDES: Do we have
18 any idea what is the basis for most of the denials
19 for their claims?

20 DEPUTY COMMISSIONER FIORE: We have that
21 as well and we'll provide that.

22 CHAIRPERSON CONSTANTINIDES: You can
23 provide it, OK. You know, to another percentage of
24 claims they deny, you do have that information, you
25 can get it back to me?

2 DEPUTY COMMISSIONER FIORE: Yeah, we'll
3 get that you, I don't think anybody [inaudible].

4 CHAIRPERSON CONSTANTINIDES: Do we know
5 how many people were aware that they had a pre-
6 existing condition before they showed up, before they
7 bought the insurance?

8 DEPUTY COMMISSIONER FIORE: We would
9 assume most people did not know that they had a pre-
10 existing condition, and it's usually, you know, the
11 plumber will come and dig the line and see that there
12 was some kind of a pre-existing condition. That
13 happens.

14 CHAIRPERSON CONSTANTINIDES: But who does
15 that? Is it, like what sort of quality control does
16 DEP do, because it's very easy for AWR to come out
17 and say yup, this is a pre-existing condition, but
18 how, what is sort of our role here to make sure that
19 they're being honest?

20 DEPUTY COMMISSIONER FIORE: So the
21 contract, AWR's contract is with the New York City
22 Water Board and they do have oversight. They get
23 regular reports from AWR just to make sure that
24 levels of service that, that AWR is attesting to are
25 being maintained, just to make sure that things are

1 consistent, and I know that the water board meets
2 regularly with AWR.

3
4 CHAIRPERSON CONSTANTINIDES: And they
5 found this to be fair, what's been going on?

6 DEPUTY COMMISSIONER FIORE: Again, you
7 know, there are several insurance providers on the
8 market in New York City and across the country and
9 this seems to be, you know, standards being met.

10 CHAIRPERSON CONSTANTINIDES: And are
11 they, I guess what I'm trying to sort of, are we
12 reevaluating them as a potential provider moving
13 forward?

14 DEPUTY COMMISSIONER FIORE: So their
15 contract ends in 2023, I think it is.

16 CHAIRPERSON CONSTANTINIDES: So three,
17 three years and some change away.

18 DEPUTY COMMISSIONER FIORE: Yeah. So,
19 again, at that time I think the water board would
20 probably rebid the contract and see who is interested
21 and [inaudible].

22 CHAIRPERSON CONSTANTINIDES: I know from
23 one of my own constituents, and I spoke to your
24 staff, who was very helpful, spoke to Mario Bruno,
25 and here's a homeowner who, you know, they said there

1 was an issue, they came out and flushed the line.
2 They didn't find anything the first time. They
3 didn't find anything the second time. I think the
4 third or the fourth time they came out, then they
5 said yeah, it's like pitched the wrong way or
6 something. I mean, I'm not an engineer by trade, I'm
7 a council member. Um, but they said, yeah, it's
8 pitched the wrong way and therefore that, you know,
9 that's a pre-existing condition, we don't fix that.
10 But after you fix it, don't worry, you can get
11 another insurance policy and we'll cover you. That
12 sounds like a lot of nonsense to me. [laughs]

14 DEPUTY COMMISSIONER FIORE: And not to
15 endorse what AWR's plumbers do, but, again, that's
16 standard language in all of the insurance
17 [inaudible].

18 CHAIRPERSON CONSTANTINIDES: Yeah, we, we
19 gotta, we gotta figure out a way to do better here.
20 I mean, you know, what are their performances in
21 other cities? Do we know sort of what their
22 evaluations have been elsewhere?

23 DEPUTY COMMISSIONER FIORE: I'll get that
24 information for you.

25

1 CHAIRPERSON CONSTANTINIDES: And, again,
2
3 this is, you know, you're unfortunately having to be
4 here to answer for them when they should be here. So
5 I will reiterate that will have a letter going out to
6 AWR. I will have a letter out to the water board. I
7 will have a letter out to you as well. I will cc
8 you on it so everyone feels included. Just letting
9 them know my, like vast displeasure with them not
10 being here today and answering, you know, answering
11 some of the questions that I've asked, that I've
12 asked of you today, and frankly, you know, here's
13 what they told my staff. We're not going to come and
14 testify today, but don't worry. If you send you
15 questions in writing we'll answer them for you.
16 That's, that's not how this works. Right, this is an
17 open forum, we have oversight, you come, right?

18 DEPUTY COMMISSIONER FIORE: Right.

19 CHAIRPERSON CONSTANTINIDES: So I, you
20 know, you're unfortunately bearing the brunt of this
21 entity that is not willing to answer some of the hard
22 questions. So we're going to have ask those hard
23 questions of them and, again, I have a homeowner who,
24 you know, the person in question was a war veteran,
25 served our country, he comes back and he owns a home

1
2 and like he's now dealing with this, and I don't feel
3 that, it's not right for anyone, I don't want to make
4 it like somehow it's more right for someone else than
5 for him, but, you know, there's, none of our families
6 in New York City should have to be dealing with any
7 of this silliness where they're, they're buying the
8 insurance thinking they're covered and then they're
9 not, and that's a real grievance for me. So I think
10 I'm going to let you guys off the hook, because I
11 don't think we could really, it's just, could you get
12 me all that information?

13 DEPUTY COMMISSIONER FIORE: We will.

14 CHAIRPERSON CONSTANTINIDES: OK,
15 fantastic. So with that, I look forward to working
16 with you on the bills we have in front of us that I
17 believe that we have agreements to find language that
18 we can move forward together on. I want to wish you
19 guys all a happy Thanksgiving. Please leave somebody
20 behind to hear the rest of the testimony, don't all
21 leave. I don't want to feel lonely, but leave me a
22 few people here that can hear the testimony of all
23 the good, you know, men and women in New York City
24 who have come to testify here today, and I look
25 forward to hearing you again soon. I think we have

1
2 another hearing back on December 11, which is going
3 to cover a opportunity for transforming Riker's
4 Island. So I look forward to having you guys back
5 here again and talking about that after the
6 Thanksgiving holiday. Thank you. [pause] So I only
7 have one person scheduled to testify, two, OK. All
8 right, so I've got John Sulaway from the National
9 Hydropower Association. I have Georgiana Alpage
10 Smith from 350 Brooklyn. You can all step forward.
11 [pause] Oh, hey, Kalman. How are you, brother? All
12 right. So I'm just going to recognize that Council
13 Member Kalman Yeger has joined us here today. Thank
14 you for being here as well. It is quite OK, quite
15 OK. We actually, this is our last panel, so you made
16 it just in time. All right, so I think we'll begin
17 right here on my left, we'll go from there.

18 GEORGIE PAGE: Thank you. Ah, good, good
19 afternoon. My name is Georgie Page and I am a member
20 of 350 Brooklyn, an all-volunteer community
21 organization working to address the climate crisis
22 and achieve climate justice through local action. We
23 promote the sustainable energy sector, oppose the
24 fossil fuel industry, and educate and activate our
25 community. 350 Brooklyn is a local affiliate of

1 350.org, a global grassroots organization. 350

2 Brooklyn supports Initiative 1182-2018 and we urge

3 the City Council to pass this bill. The bill would

4 require every three years the submission of a report

5 identifying all vacant and under-utilized municipally

6 owned sites that would be suitable for the

7 development of renewable energy, including an

8 assessment of the feasibility of renewable energy

9 generation on that location. We feel that such a

10 requirement is an important first step towards the

11 increasingly urgent task of building a sustainable,

12 local, and clean energy system, so desperately need,

13 in response to the climate crisis and the systematic

14 environmental injustices embedded into our current

15 energy system. While the broader environmental,

16 health, economic, and logistical rationales for

17 moving towards 100% renewable energy and away from

18 fossil fuels are well established, New York City has

19 additional imperatives. From an energy generation

20 perspective, there is a long-term need for solar and

21 other renewable energy generation if we are to meet

22 our CLCPA target of eliminating greenhouse gas

23 emissions by 2050. Continued fossil fuel emissions,

24 some of which are currently generated by power plants

1 throughout the city's low-income neighborhoods, will
2 increase adverse health effects among the general
3 population, but especially in communities that
4 already lack adequate resources. Moreover, we are in
5 agreement with the Sierra Club's Atlantic chapter and
6 in solidarity with Canada's indigenous communities
7 who have for decades suffered the impacts of
8 hydropower development. Imported hydropower is not a
9 clean or acceptable alternative to these dirty and
10 harmful sources of energy. An alternative to these
11 dirty power systems is more distributed renewal
12 solar, wind, and micro grid power sites. Such
13 projects have the potential to not only generate
14 energy, but generate jobs in 21st century industries.
15 Because of their distributed nature, community-level
16 renewable energy systems are also an important
17 building block for New York City's resilience, which
18 depends on developing diverse sources of energy. The
19 development of renewable energy generation facilities
20 in under-utilized municipal space is entirely aligned
21 with the OneNYC 2050 plan for sustainability and
22 resilience. And we feel this bill is the first
23 essential step to get us there. All it is lacking is
24 our commitment and an increased sense of urgency.
25

1
2 Though New York City has acknowledged our climate
3 emergency with a declaration, the symbolic gesture
4 alone, symbolic gestures alone are not enough. A
5 September 22 report by the UN Climate Action Summit
6 science advisory group has determined that there is
7 still a giant and glaring emissions gap. The gap is
8 the difference between where we are likely to be
9 based on our current targets and where we need to be.
10 The report warns that our current level of ambition
11 needs to be roughly tripled to align with the 2
12 design celsius limit and must be increased around
13 fivefold to align with the 1.5 design celsius limit.
14 We are leading, but we are still behind. We do have
15 great hopes for the framework provided in the CLCPA,
16 but the timeline gives the New York State Climate
17 Action Council two full years to create it. In the
18 meantime, there are some clear opportunities that we
19 cannot afford to lose. Bill 1182-2018 is one of
20 them. Thank you.

21 CHAIRPERSON CONSTANTINIDES: Thank you,
22 and believe me, we are, we agree with you, whether
23 it's the Climate Mobilization Act that we passed
24 earlier this year to reduce emissions from large
25 buildings, ah, looking for opportunities to transform

1
2 Riker's Island into a infrastructure and renewable
3 energy island, whether it's looking at battery
4 storage. We share your concern. We share the desire
5 to move quickly and, as you heard, the Mayor's Office
6 testified in favor of the bill. So we look forward
7 to negotiating this out and making this another
8 opportunity for us to generate renewable energy in
9 the City of New York that we so desperately need and
10 create those jobs. So thank you for being here
11 today, taking the time to fight on climate and to
12 have your voice heard and all of your organization,
13 thank you for being such a strong advocate.

14 GEORGIE PAGE: Thank you, and I just have
15 one question. There is going to be a renewable
16 Riker's hearing on, did you say, December 11?

17 CHAIRPERSON CONSTANTINIDES: December 11,
18 yeah.

19 GEORGIE PAGE: OK, thank you.

20 CHAIRPERSON CONSTANTINIDES: 1 o'clock in
21 the chambers.

22 GEORGIE PAGE: Thank you.

23 CHAIRPERSON CONSTANTINIDES: All right,
24 Mr. Sulaway.

25

1
2 JOHN SULAWAY: If I do this right. Good
3 afternoon, Chairman Constantinides.

4 CHAIRPERSON CONSTANTINIDES: Wait, before
5 I have you begin your testimony I do want to
6 recognize Council Member Andy Cohen. Did you want to
7 say anything on the record [inaudible] bills, and
8 also Council Member Steve Levin is here as well. I
9 apologize for that, sir.

10 COUNCIL MEMBER COHEN: I appreciate that,
11 Chair. I really just wanted to come up and thank you
12 for hearing Intro 1417. You'd be surprised,
13 actually, in the 11th Council District, we're home of
14 the Croton Filtration Plant. I have a significant
15 network of private stores and I've dealt with a
16 surprising number of water-related issues. I really
17 fought hard to try to get the daylighting of Tibbets
18 Brook and having the Van Cortlandt Lake get out of
19 our combined [source] system. So there's a number of
20 these issues that I've the opportunity to work on at
21 the council and obviously conservation plays such a
22 fundamental role, and I think Intro 417 just goes a
23 small way in sort of, instead of always finding, ah,
24 giving sort of an affirmative way of trying to
25 identify leaks and get them repaired, so.

1 Unfortunately, I was detained and I did not get to
2 hear what the [inaudible] had to say about the bill,
3 but I, I think it's a great idea, if I say so myself.
4 [laughs] Thank you.

5
6 CHAIRPERSON CONSTANTINIDES: Thank you
7 Council Member Cohen, and thank you for your great
8 work on protecting New York City's environment.
9 Thank you.

10 JOHN SULAWAY: Good afternoon.

11 CHAIRPERSON RODRIGUEZ: [inaudible] Mr.
12 Sulaway, my apologies.

13 JOHN SULAWAY: Not, not to worry.
14 Committee members, council, committee staff. My name
15 is John Sulaway and I am pleased to be here today to
16 discuss the Initiative 419-2018, a bill proposed by
17 the chairman to promote conduit power projects as
18 part of the city's municipal water supply and other
19 systems. To begin with, let me tell you a little bit
20 about myself. I've been 39 years, now 40 years, in
21 the energy sector with experience in energy,
22 transmission project development, licensing, and
23 environmental research. Most of the time I was with
24 the New York Power Authority. I retired from NYPA at
25 the end of 2014, serving at the time as the vice

1 president of project development, licensing, and
2 compliance. I now serve as a senior energy
3 regulatory advisor for Gomez and Sullivan Engineers,
4 a water resources and environmental science firm that
5 works in the hydropower sector in New York,
6 throughout the Northeast, and now actually through
7 the United States. I appear before you here today in
8 my capacity as a member of the board of directors of
9 the National Hydropower Association, NHA. NHA is a
10 national association dedicated to advancing United
11 States hydropower resources, including conventional
12 hydropower, pump storage, conduit power, and marine
13 energy. NHA represents more than 240 companies,
14 large 500 Fortune companies, and small mom and pop
15 family-owned businesses, including conduit power
16 project developers seeking to deploy the very
17 technology that this bill seeks to promote. My main
18 message to you in this is that conduit power
19 represents a largely untapped opportunity to add
20 clean, renewable generation to municipal water supply
21 systems and other conveyances in the furtherance of
22 climate goals and grid reliability objectives. These
23 projects, whether they're installed in water supply
24 pipes, waste water treatment systems, irrigation
25

1 canals, or others, can provide predictable and
2 reliable renewable power with almost no additional
3 impacts. In fact, adding new hydropower generating
4 equipment maximizes the public benefits of this
5 existing infrastructure. This point has been
6 recognized and exemplified in two federal pieces of
7 legislation, the Hydropower Regulatory Efficiency Act
8 of 2013 and then the America's Water Infrastructure
9 Act of 2018, which created a new hydropower category,
10 appropriately named qualifying conduit facilities.
11 This legislation allows for small- and medium-size
12 conduit hydroelectric projects that are less than 40
13 megawatts to receive full federal approval from the
14 Federal Energy Regulatory Committee, that's FERC,
15 there's a typo in there, in only 30 days. Congress
16 and FERC recognized the benign nature of these
17 projects in the environment in relationship to their
18 potential contributions across the United States to
19 reach our national energy goals. If you think it is
20 difficult to permit a project in New York City, you
21 should try permitting a hydropower project with the
22 FERC. It normally takes five to ten years, even for
23 an existing facility. This is a win-win for the
24 city. Renewable energy production increases, carbon
25

1
2 emissions are reduced, costs associated with water
3 delivery are offset. New distributed renewable
4 generation provides reliable and predictable power to
5 the local electrical grid. Diving a bit deeper into
6 the climate benefits of hydropower, I note that New
7 York City is committed to reducing its greenhouse
8 gases by 80% by 2050. Like other jurisdictions
9 seeking to reduce their carbon emissions profile, to
10 reach this level every kilowatt hour of renewable
11 generation is needed. That includes generation from
12 small distributed conduit hydropower projects. The
13 bill before you today provides another tool to attain
14 the city's ambitious and yet achievable admission
15 reduction targets. And as such the NHA is pleased to
16 support the bill and urges the council to move
17 expeditiously on its approval. I'd like to take a
18 quick moment to step back and review our state's
19 history utilizing its hydropower resources, as
20 promoting conduit hydropower opportunities builds off
21 of a long, proud hydropower tradition. Hydropower
22 has provided electricity to New York State since the
23 first generating facility opened up at Niagara Falls
24 more than 100 years ago. New York is the largest
25 hydroelectric power producer east of the Rockies and

1 in 2018 was the third-largest hydropower generating
2 state, representing 11% of the total US hydropower
3 generations. There is more than 300 hydroelectric
4 generating stations, as big as the Niagara project,
5 which is 2700 megawatts, to projects that are less
6 than a megawatt. They all connect to the state's
7 grid, meeting approximately 17% of the state's total
8 electricity. And it was some of these very hydro
9 projects, including the one at Niagara, that
10 following the massive 2003 August East Coast blackout
11 that served as the base for restoring power to
12 millions of Americans. This event demonstrated yet
13 again for policy makers and the public the
14 reliability benefits that hydropower provides to New
15 York and beyond. Hydropower is the foundation of the
16 state's and the city's renewable energy usage. Not
17 only is it a carbon-free resource itself, but
18 hydropower is a force multiplier as its grid services
19 also function to integrate greater amounts of
20 additional variable renewable generation. The path
21 to carbon-free flows through hydropower. Hydropower
22 compliments wind and solar. When the sun goes down
23 and the wind stops blowing hydropower keeps carbon-
24 free electricity flowing on the grid. The city has a
25

1 great opportunity to build off of this legacy by
2 supporting these new conduit power applications as
3 proposed in the bill. Potential opportunities. In
4 2012 a report that the commissioner cited, Gomez and
5 Sullivan engineers in association with Hands-On Hydro
6 and O'Brian and Gear conducted a study for New York
7 City Department of DEP to identify sites in DEP's
8 water and wastewater system with the greatest
9 hydroelectric potential. Thirty-six representative
10 sites were screened. Sites were evaluated based on
11 constructability, electrical demand, operability, and
12 economics factors. The top 12 sites were analyzed
13 further to match up the best turbine technologies to
14 site-specific characteristics. Six sites that
15 represented the best electrical generation potential
16 and different parts of the system were advanced
17 through the economic analysis. Two of the six sites
18 appeared to be economically feasible. I believe that
19 those are the two that commissioner mentioned in his
20 discussion, while two others had marginal economics.
21 It was recommended at that time that the DEP continue
22 to monitor the development of turbine technology and
23 their costs, along with market factors that may
24 influence the price of electricity in conjunction
25

1
2 with the environmental benefits that may be realized
3 from future development. The point of this and other
4 studies is to identify sites within the system that
5 can be developed and there are definitely sites that
6 can be developed. This bill provides the impetus to
7 take these studies and implement the best ideas.

8 Don't leave the studies on the shelf, so to speak.

9 The NHA supports the development of hydroelectric
10 potential of New York City's resources. The NHA also
11 recognizes the challenges of implementing new ideas
12 and taking risk, even with a reliable and proven
13 technology such as hydropower. The City of New York
14 might consider joining the expertise and the
15 experience of in-conduit hydropower developers and
16 vendors with the knowledge and expertise of the DEP
17 staff in a pilot project to develop the best sites.

18 The City of New York might issue a request for
19 proposals to develop the sites with the most
20 potential and to encourage the broadest range of
21 innovative hydropower technologies. Then the experts
22 at DEP could evaluate the merits of these proposals
23 and recommend the best for potential funding. The
24 lessons learned in a small group of pilot projects
25 could lead to a large-scale hydropower program and

1 significant benefits to the City of New York. In
2 conclusion, hydropower has been providing clean,
3 reliable, and low-cost power to New York families and
4 businesses for over a century. And these new small
5 conduit project opportunities are primed to add to
6 that contribution, while also play a new role in
7 meeting the city's climate policy objectives. I
8 thank the committee for providing me the opportunity
9 to highlight the benefits of the new conduit power
10 projects as part of the city's municipal water system
11 and other systems to share NHA's support for the
12 chairman's bill. I look forward to answer any
13 questions that you may have.

15 CHAIRPERSON CONSTANTINIDES: I definitely
16 appreciate you being here today to testify in favor
17 of our local opportunities for hydropower. I think
18 we need to have more opportunities locally to do
19 this, right? I mean, in-conduit, especially we have
20 all these water resources around us, why not take
21 advantage of what's local, correct?

22 JOHN SULAWAY: Absolutely true. And to,
23 you know, I recognize the job that the Commissioner
24 has got to protect the water supply. You know, the
25 thing about electricity and water, people only notice

1 when they flip the switch and something doesn't work.
2 So I understand the need for reliability. But allow
3 the developers come in propose innovative changes,
4 because the technologies are literally changing. The
5 study that was done in 2013 I'm sure is way out of
6 date at this point, right? So apply those new
7 technologies, challenge the private sector, use a
8 private-public partnership, but start small, because
9 when you start small you can figure out what works
10 and doesn't work and then you expand it to a broader
11 scale.
12

13 CHAIRPERSON CONSTANTINIDES: I think
14 that, you know, we should look for every opportunity
15 for renewable energy that's local, right?

16 JOHN SULAWAY: Absolutely.

17 CHAIRPERSON CONSTANTINIDES: That, you
18 know, creates jobs here that provides for a just
19 transition that allows us to reduce our carbone
20 footprint here in our own communities...

21 JOHN SULAWAY: Yup.

22 CHAIRPERSON CONSTANTINIDES: And I think
23 that's what this bill and 1182 seek to do. So I
24 thank you, both of you, for being here today and for
25 your good testimony and taking of time out of your

1
2 schedules to be here on a Monday afternoon before
3 Thanksgiving. So I want to thank you both for
4 spending time with us here today. And with that I'll
5 let this panel go. Seeing no one else who wants to
6 testify, again I want to thank, I want to thank
7 Samara Swanson, our council attorney, Nadia Johnson
8 and Ricky Cholla, our policy analysts for this
9 committee. Thank you all for doing such a great job
10 all the time. Jonathan Seltzer, our finance analyst,
11 and from my own team Nicholas Wizoski, my legislative
12 attorney. Wishing you all from my family to yours a
13 very happy Thanksgiving and look forward to moving on
14 these pieces of legislation to move New York City to
15 a greener, more sustainable place as we reduce our
16 carbon footprint in the way that desperately need to
17 act upon. So look forward to being back with you all
18 here in December. With that I will gavel this, and
19 Sergeant at Arms, thank you so much for your great
20 work here today, and with the that I'll gavel this
21 committee hearing closed. [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date November 30, 2019