

**FINAL RESOLUTION**  
(West Warwick Energy Storage 1 LLC Project)

A regular meeting of the Orange County Industrial Development Agency held on June 15, 2022 at 5:30 p.m. (local time) at the Orange County Government Center Community Room, 255 Main Street, Goshen, New York.

The meeting was called to order by <sup>Chairman</sup> Michael Torelli and upon the roll being duly called, the following members were:

**MEMBERS PRESENT:** Michael Torelli, Dean Tamburri, Vincent Odock, James Rinaldi, Susan Walski

**THE FOLLOWING PERSONS WERE ALSO PRESENT:** Bill Fioravanti, Kelly Reilly, Dennis Brady, Susan Katzoff, Esq., Russell Gaenzle, Esq., Conor Eckart, Doug Sansted, Becky Koze, Dan Spritzer, Jim Tarpy, Steve Esposito, Jonathan Gross, Jacqueline Bart, Sheldon Ginsberg, Brian Poitras  
The following Resolution was offered by Tamburri and seconded by Rinaldi:

**RESOLUTION AUTHORIZING THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO: (I) UNDERTAKE, ACQUIRE, CONSTRUCT, EQUIP AND COMPLETE A PROJECT; (II) APPOINT THE COMPANY AS ITS AGENT TO UNDERTAKE THE PROJECT (AS MORE FULLY DESCRIBED BELOW); (III) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAX AND REAL PROPERTY TAX; AND (IV) EXECUTE AND DELIVER CERTAIN DOCUMENTS IN CONJUNCTION WITH THE PROJECT**

**WHEREAS**, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 390 of the Laws of 1972 of the State of New York, as amended (hereinafter collectively called the "**Act**"), the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called the "**Agency**") was created with the authority and power and for the purpose of, among other things, acquiring, constructing, reconstructing and equipping manufacturing, warehousing, research, commercial, or industrial facilities as authorized by the Act; and

**WHEREAS**, West Warwick Energy Storage 1 LLC, a Delaware limited liability company, or an entity to be formed (collectively, the "**Company**"), has submitted an application (the "**Application**") to the Agency requesting the Agency's assistance with a certain project (the "**Project**"), consisting of: (A)(i) the acquisition of a (sub)leasehold interest in approximately 12,982.6 sq.ft of vacant land located at 63 County Highway 1, Warwick, New York (the "**Land**") which is a portion of a larger approximately 31.5 acre vacant parcel (bearing tax map no. 42-1-35.1); (ii) the construction of an approximate 10,000 sq.ft. 4MW/22.4MWh battery storage system, including an auxiliary switchboard and a metal enclosed switchgear located on the Land to service the local distribution grid, and provide improvements to the distribution systems' reliability and resiliency, as well as providing emission free energy to the residents of Orange County (collectively, the "**Facility**"); and (iii) the acquisition and installation in and on the Facility of furniture, fixtures and equipment (the "**Equipment**" and together with the Land and the Facility,

the "**Project Facility**"; (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and real property tax (collectively, the "**Financial Assistance**"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the acquisition of an interest in the Land and Facility by the Agency pursuant to a sublease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the (sub)sublease of the Project Facility back to the Company pursuant to a subleaseback agreement. The stored energy from the Project Facility will be utilized by Orange and Rockland Utilities, Inc.; and

**WHEREAS**, the Project, the first of its kind in Orange County, will provide improvements to the local distribution systems' reliability and resiliency which serves the residents of Orange County, as well as providing emission free energy to the residents; and

**WHEREAS**, the Land upon which the Project will be located is currently owned by the school district and is therefore off the tax rolls. The undertaking of the Project will return the Land to the tax rolls and result in increased revenue to the taxing jurisdictions; and

**WHEREAS**, the Project helps to further the State's initiatives relative to clean and renewable energy the goal being that 70 percent of its electricity will come from renewable energy sources by 2030; and

**WHEREAS**, pursuant to General Municipal Law Section 859-a, on March 7, 2022, at 1:00 p.m. (local time), the Agency held a public hearing, which was continued on June 7, 2022, at 12:00 p.m. (local time), electronically via Zoom with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "**Public Hearing**") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. Notice of the public hearing was published on February 23, 2022, in the Times Herald-Record, a newspaper of general circulation in the Town of Warwick and Orange County, New York and given to the chief executive officers of the affected tax jurisdictions by letters dated February 21, 2022. A copy of the minutes of the Public Hearing along with the Notice of Public Hearing are attached hereto as **Exhibit A**; and

**WHEREAS**, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "**SEQRA**"), the Agency is required to make a determination whether the "action" (as said quoted term is defined in SEQRA) to be taken by the Agency may have a "significant impact on the environment" (as said quoted term is utilized in SEQRA), and the agreement of the Agency to undertake the Project constitutes such an action; and

**WHEREAS**, by resolution adopted June 15, 2022 (the "**SEQRA Resolution**") the Agency, acting as "lead agency" (as such quoted term is defined under SEQRA), classified the Project as an "Unlisted" action (as such quoted term is defined under SEQRA), conducted an uncoordinated review of the Project and issued a "negative declaration" (as such quoted term is defined under SEQRA) with respect to the Project; and

**WHEREAS**, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance: (i) will induce the Company to develop the Project Facility in Orange County (the "**County**"); (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of New York State (the "**State**") to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act; and (iii) the Project will serve the purposes of the Act by advancing the economic welfare of the people of the State and the County and improve their standard of living; and

**WHEREAS**, subject to compliance with the terms hereof and the execution and delivery of the Lease Documents (as defined hereinbelow) by the Company, the Agency will: (i) designate the Company as its agent for the purpose of acquiring, constructing, equipping and completing the Project pursuant to a project agreement (the "**Project Agreement**"); (ii) acquire a subleasehold interest in the Project through the negotiation, execution and delivery of a sublease agreement (the "**Sublease Agreement**"), a sublease the Project back to the Company pursuant to a (sub)sublease agreement (the "**Subleaseback Agreement**"), acquire an interest in the equipment pursuant to a bill of sale from the Company (the "**Bill of Sale**"), obtain an environmental compliance and indemnification agreement from the Company (the "**Environmental Compliance and Indemnification Agreement**"), enter into a payment in lieu of tax agreement (the "**Tax Agreement**") containing the PILOT Schedule (as defined below) and enter and/o negotiate all other documents and certificates required by the Agency to confer the approved Financial Assistance (the "**Miscellaneous Documents**" and together with the Project Agreement, the Sublease Agreement, the Subleaseback Agreement, the Bill of Sale, the Environmental Compliance and Indemnification Agreement and the Tax Agreement, collectively, the "**Lease Documents**"); (iii) provide the Financial Assistance to the Company in the form of (a) State and local sales and use tax exemption for purchases and rentals of equipment related to the acquisition, construction, equipping and completion of the Project; and (b) a partial real property tax abatement through the Tax Agreement; and

**WHEREAS**, as part of the Financial Assistance, the Company is requesting the Agency consider a 15-year payment in lieu of tax schedule, as more fully described on **Exhibit "B"** attached hereto (the "**PILOT Schedule**"), which schedule deviates from the Agency's Uniform Tax Exemption Policy ("**UTEP**") with respect to the calculation of the exemption (the "**Deviation**"). The UTEP does not currently provide for a battery storage facility like the Project Facility. Under the current UTEP, the Project would be eligible for a fifteen (15) year PILOT term but with a different payment methodology that was not applicable to a battery storage facility. The Deviation comports with other payment in lieu of tax agreements awarded by other industrial development agencies in the State with respect to battery storage facilities similar to the Project and provides for a more favorable rate/MW than most of those undertaken; and

**WHEREAS**, by letter dated June 8, 2022, the Agency gave to the chief executive officers of the affected taxing jurisdictions notice pursuant to Section 874 of the Act of this meeting (the

“*Notice*”), at which the Agency would consider the Company’s request for a PILOT schedule which deviates from the UTEP; and

**WHEREAS**, the Lease Documents and related documents will be negotiated and presented to the Agency for execution and delivery subject to the approval of these resolutions.

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:**

**SECTION 1.** The Company presented the Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Application, at the public hearing and in other correspondence and/or documents, if any, submitted by the Company to the Agency, and based upon the Agency’s policies, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency has been vested with all powers and authority necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act and to take the actions contemplated herein. The foregoing recitals are incorporated herein by reference as if fully set forth; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing, equipping and completing the Project and to grant the Financial Assistance and the Agency hereby authorizes same in accordance with the terms hereof; and

(C) The action to be taken by the Agency will induce the Company to develop and operate the Project in the County and will help advance the policy of this State to protect and promote the health of the inhabitants of this state and to increase trade through promoting the development of renewable energy projects to support the State’s clean and renewable energy goals; and further the purposes the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research, renewable energy and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, automobile racing facilities, renewable energy projects and continuing care retirement communities and otherwise furthering the purposes of the Agency as set forth in the Act; and

(D) The Project will not result in the removal of a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company’s application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(F) The Project Facility constitutes a "project" within the meaning of the Act.

**SECTION 2.** Based upon representations and warranties made by the Company to the Agency, including but not limited to in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to New York State and local sales and use tax in an amount up to **\$7,549,630**, which result in New York State and local sales and use tax exemption benefits ("*Sales and Use Tax Exemption Benefits*") not to exceed **\$613,407.44**.

**SECTION 3.** Based upon the representations made by the Company to the Agency, and the reasons presented by the Company in support of its request for the PILOT Schedule, the Agency hereby approves and the (Vice) Chairman and Chief Operating Officer, acting individually, are each authorized to execute and deliver the Tax Agreement providing for the PILOT Schedule, which constitutes a deviation from the UTEP, as attached hereto as **Exhibit "B"**, all in such form and substance as shall be substantially the same as approved by the Agency for other similar transactions, and consistent with this Resolution.

**SECTION 4.** The Chairman, Vice Chairman, Chief Executive Officer and/or the Chief Operating Officer of the Agency, acting individually, are each hereby authorized and directed, on behalf of the Agency, to negotiate and execute the Lease Documents, in form and substance similar to other such agreements and documents used by the Agency for similar transactions, with changes in terms and form as shall be consistent with this Resolution and as the Chairman, Vice Chairman, Chief Executive Officer and/or the Chief Operating Officer shall approve; provided, however, the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project; and (D) and execute and deliver any such additional certificates, instruments, documents or affidavits, to pay any such other fees, charges and expenses, to make such other changes, omissions, insertions, revisions, or amendments to the documents referred to herein, as approved by the Chairman, Vice Chairman, Chief Executive Officer and/or the Chief Operating Officer, and to do and cause to be done any such other acts and things, as they determine, on advice of counsel to the Agency, may be necessary or desirable to consummate the transactions contemplated by this Resolution.

**SECTION 5.** Subject to the Company's execution, delivery and compliance of and with the Lease Documents (unless otherwise authorized by the Agency), the Agency hereby authorizes the Company to proceed with the acquisition, reconstruction, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, construct and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to a project operator, agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses (collectively, "*Additional Agents*") in accordance with the Lease Documents; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do

if acting in its own behalf; provided, however, the Company execute and deliver all Lease Documents and remit all amounts due thereunder to the Agency or its designees by June 15, 2023 (unless extended for good cause by the Agency).

**SECTION 6.** Pursuant to Section 875(3) of the New York General Municipal Law and the Agency's policies, which are all incorporated herein by reference, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any State and local Sales and Use Tax Exemption Benefits or other Financial Assistance in violation of the Act or the Agency's policies or in the event of a default under the Lease Documents. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any Sales and Use Tax Exemption Benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands; and with respect to all other Financial Assistance the Company shall agree to cooperate with the Agency in its efforts to recover or recapture any Financial Assistance in the event of a Default; and promptly pay over any such amounts to the Agency that the Agency demands.

**SECTION 7.** The Company shall provide, or cause its Additional Agents to provide, and the Agency shall maintain, records of the amount of State and local sales and use tax exemption benefits provided to the Project and the Company shall, and cause each Additional Agent, to make such records available to the State Commissioner of Taxation and Finance (the "**Commissioner**") upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company or Project's receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause its Additional Agents to make, all records and information regarding State and local sales and use tax exemption benefits realized by the Project available to the Agency or its designee upon request. for purposes of exemption from New York State (the "**State**") sales and use taxation as part of the Financial Assistance requested, "sales and use taxation" shall mean sales and compensating use taxes and fees imposed by article twenty-eight or twenty-eight-A of the New York State tax law but excluding such taxes imposed in a city by section eleven hundred seven or eleven hundred eight of such article twenty-eight.

**SECTION 8.** The obligation of the Agency to consummate any transaction contemplated herein or hereby is subject to and conditioned upon the Company's execution and delivery of the Lease Documents, all other documents set forth herein and the payment by the Company of all administrative, legal and other fees of the Agency.

**SECTION 9.** No covenant, stipulation, obligation or agreement contained in this resolution or any document referred to herein shall be deemed to be the covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity. Neither the members nor officers of the Agency, nor any person executing

any documents referred to above on behalf of the Agency, shall be liable thereon or be subject to any personal liability or accountability by reason of the execution or delivery thereof.

**SECTION 10.** Should the Agency's participation in the Project, or the appointments made in accordance herewith, be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursement of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under the Act to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

**SECTION 11.** Bousquet Holstein PLLC, as counsel to the Agency, is hereby authorized to work with the Company and others to prepare for submission to the Agency, all documents necessary to effect the grant of Financial Assistance and consummate the Lease Documents.

**SECTION 12.** The Secretary, the Chief Executive Officer and/or the Chief Operating Officer of the Agency are hereby authorized and may distribute, or cause to be distributed, copies of this Resolution and do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

**SECTION 13.** The approvals provided for herein are contingent upon the Company's payment of all the Agency's fees and costs, including but not limited to attorney's fees.

**SECTION 14.** These Resolutions shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to vote which resulted as follows:

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Michael Torelli	✓			
Dean Tamburri	✓			
Vincent Odock	✓			
James Rinaldi	✓			
Susan Walski		✓		

The Resolutions were thereupon duly adopted.

STATE OF NEW YORK    )  
COUNTY OF ORANGE    ) ss:

I, the undersigned Chief Executive Officer of the Orange County Industrial Development Agency, **DO HEREBY CERTIFY**:

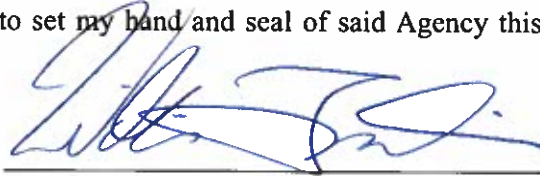
That I have compared the foregoing extract of the minutes of the meeting of the Orange County Industrial Development Agency (the "*Agency*") including the resolution contained therein, held on June 15, 2022, with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

**I FURTHER CERTIFY** that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with Article 7.

**I FURTHER CERTIFY** that there was a quorum of the members of the Agency present throughout said meeting.

**I FURTHER CERTIFY** that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

**IN WITNESS WHEREOF**, I have hereunto set my hand and seal of said Agency this 15<sup>th</sup> day of June, 2022.



William Fioravanti, Chief Executive Officer

(S E A L)



**EXHIBIT A**

**Public Hearing Minutes & Notice of Public Hearing**

**[See Attached]**

## NOTICE OF PUBLIC HEARING

As a result of the public health emergency created by COVID-19, the Federal, State and local bans on meetings or gatherings, and pursuant to Executive Order 202.1 and Executive Order 11, suspending the Open Meetings Law, each as extended from time to time, and corresponding legislation, **NOTICE IS HEREBY GIVEN** that a public hearing, in accordance with the foregoing and pursuant to Section 859-a of the New York General Municipal Law, will be held **electronically** via Zoom by the Orange County Industrial Development Agency (the "Agency") on the 7<sup>th</sup> day of March, 2022, at 1:00 p.m., local time, in conjunction with the matter set forth below. **NO PUBLIC APPEARANCES WILL BE PERMITTED.** Members of the public may listen to the Public Hearing and provide comment by either logging into the Zoom meeting at: <https://us06web.zoom.us/j/83961622038?pwd=RUZCbklvL1ZkTjJlTFdjeVdnUzFQQT09>, or by accessing the link on the Agency's website, using meeting ID: 839 6162 2038 and passcode: 081883 or via telephone at 1 (646) 558 8656, meeting ID: 839 6162 2038.

Comments may also be submitted to the Agency in writing delivered to Orange County Industrial Development Agency, 4 Crotty Ln #100, New Windsor, NY 12553 Attn: Bill Fioravanti **OR** submitted electronically to [business@ocnyida.com](mailto:business@ocnyida.com), in either case **TO BE RECEIVED BY NO LATER THAN MARCH 3, 2022 at 5:00 p.m.** **ANY WRITTEN COMMENTS SO RECEIVED WILL BE READ INTO THE RECORD OF THE PUBLIC HEARING.** Minutes of the Public Hearing will be transcribed and posted on the Agency's website.

The following project is the subject of this public hearing:

West Warwick Energy Storage 1 LLC, a Delaware limited liability company, or an entity to be formed (collectively, the "Company"), requested the Agency undertake a project (the "Project") consisting of: (A)(i) the acquisition of a (sub)leasehold interest in approximately 15.75 acres of a larger approximately 31.5 acre vacant parcel (bearing tax map no. 42-1-35.1) located at 63 County Highway 1, Warwick, New York (the "Land") (ii) the construction of an approximate 10,000 sq.ft. 4MW/22.4MWh battery storage system, including an auxiliary switchboard and a metal enclosed switchgear located on the Land to service the local distribution grid, and provide improvements to the distribution systems' reliability and resiliency, as well as providing emission free energy to the residents of Orange County (collectively, the "Facility"); and (iii) the acquisition and installation in and on the Facility of furniture, fixtures and equipment, (the "Equipment" and together with the Land and the Facility, the "Project Facility"); (B) the granting of certain financial assistance in the form of exemptions from State and local sales and use tax and real property tax (collectively, the "Financial Assistance"); (C) the appointment of the Company or its designee as an agent of the Agency in connection with the acquisition, construction, equipping and completion of the Project Facility; and (D) the acquisition of an interest in the Land and Facility by the Agency pursuant to a sublease agreement and the acquisition of an interest in the Equipment pursuant to a bill of sale from the Company to the Agency; and the (sub)sublease of the Project Facility back to the Company

pursuant to a sublease agreement. The stored energy from the Project Facility will be utilized by Orange and Rockland utilities.

The Company will be the initial manager/owner of the Project.

The Agency will at the above-stated time hear all persons with views with respect to the proposed Financial Assistance to the Company, the proposed owner/operator, the location of the Project Facility and the nature of the Project.

A copy of the application filed by the Company with the Agency with respect to the Project, including an analysis of the costs and benefits of the Project, are available for public inspection during the business hours at the office of the Agency located at 4 Crotty Ln #100, New Windsor, NY 12553 or on its website at <https://www.ocnyida.com>.

Dated: February 21, 2022

ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

# EXHIBIT "B"

## PROPOSED PILOT SCHEDULE

West Warwick Energy Storage 1 LLC					
Town of Warwick S.B.L No. 46-1-49.2					
PILOT Schedule					
Year	School	Town	County	Total	
1	\$ 4,610.02	\$ 629.84	\$ 760.14	\$ 6,000.00	
2	\$ 4,702.22	\$ 642.43	\$ 775.34	\$ 6,120.00	
3	\$ 4,796.27	\$ 655.28	\$ 790.85	\$ 6,242.40	
4	\$ 4,892.19	\$ 668.39	\$ 806.67	\$ 6,367.25	
5	\$ 4,990.04	\$ 681.76	\$ 822.80	\$ 6,494.59	
6	\$ 5,089.84	\$ 695.39	\$ 839.25	\$ 6,624.48	
7	\$ 5,191.64	\$ 709.30	\$ 856.04	\$ 6,756.97	
8	\$ 5,295.47	\$ 723.48	\$ 873.16	\$ 6,892.11	
9	\$ 5,401.38	\$ 737.95	\$ 890.62	\$ 7,029.96	
10	\$ 5,509.41	\$ 752.71	\$ 908.44	\$ 7,170.56	
11	\$ 5,619.59	\$ 767.77	\$ 926.60	\$ 7,313.97	
12	\$ 5,731.99	\$ 783.12	\$ 945.14	\$ 7,460.25	
13	\$ 5,846.63	\$ 798.79	\$ 964.04	\$ 7,609.45	
14	\$ 5,963.56	\$ 814.76	\$ 983.32	\$ 7,761.64	
15	\$ 6,082.83	\$ 831.06	\$ 1,002.99	\$ 7,916.87	
	\$ 79,723.07	\$ 10,892.04	\$ 13,145.39	\$ 103,760.50	

ORIGINAL

1 THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
2 STATE OF NEW YORK

-----x

3 In The Matter of

4 Re: WEST WARWICK ENERGY STORAGE 1 LLC

5 -----x

6 March 7, 2022  
7 1:00 p.m.  
8 Zoom Meeting  
9  
10  
11

12 B E F O R E: WILLIAM FIORAVANTI  
13 CEO OCNYIDA  
14  
15  
16  
17  
18  
19  
20  
21

22 FRANCES ROTH  
23 Court Stenographer  
24 168 North Drury Lane  
25 Newburgh, New York 12550  
Telephone (845) 566-1641

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

3

4 WILLIAM FIORAVANTI  
5 CEO OCNIDA  
6 4 Crotty Lane  
7 New Windsor, New York 12553

6

ALSO PRESENT: Kelly Reilly  
Project Manager

7

8 Dennis Brady  
9 Audio/Visual Consultant

9

10 Daniel Spitzer, Esq.

10

11 Kristin Kurylak  
12 Convergent Energy Systems

11

13 Michael Torelli, Chairman  
14 IDA Board

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13

15 Noel Spencer, IDA Board Member  
16 Robert Kennedy, IDA Board Member

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## WEST WARWICK ENERGY STORAGE 1 LLC

1 MR. FIORAVANTI: Good afternoon everyone,  
2 welcome to the public hearing for West Warwick 1,  
3 West Warwick Energy Storage 1 LLC, my name is  
4 Bill Fioravanti, CEO of the Orange County IDA,  
5 welcome you to this public hearing. I'd like to  
6 first of all ask you all to rise and recite the  
7 Pledge of Allegiance before we begin.  
8 (Whereupon, the Pledge of Allegiance was  
9 recited.)

10 MR. FIORAVANTI: Thank you. Next I'd like  
11 to just announce who the attendees are from the  
12 IDA and from the applicant. Again, my name is  
13 Bill Fioravanti, also a staff member of the IDA  
14 is Kelly Reilly, our Project Manager, we have  
15 board members with us today, our Chairman, Mike  
16 Torelli, Noel Spencer and Mr. Robert Kennedy as  
17 well, our AV Specialist, Dennis Brady, is with us  
18 as well and our stenographer is Miss Frances  
19 Roth. We are opening, we have three public  
20 hearings in a row for three very similar  
21 projects, the same applicant, so we're going to  
22 run through each one on their own and then move  
23 on to each successive hearing until all three are  
24 done. I will let you know that we're going to  
25 keep these public hearings open for a date that

## WEST WARWICK ENERGY STORAGE 1 LLC

1 we will announce, we're looking for the end of  
2 this week, but we need a little more time to  
3 complete the cost benefit analysis. We're  
4 waiting for confirmation of some assessment  
5 values and such so we will keep this public  
6 hearing open and we will reopen it, we'll adjourn  
7 them today and reopen them when all the  
8 information is provided and everyone has enough  
9 time to review that and make any additional  
10 comments if needed. So I'm going to next read  
11 the public notice for this hearing. West Warwick  
12 Energy Storage 1 LLC, a Delaware limited  
13 liability company or an entity to be formed,  
14 known as the Company, requested the Agency, this  
15 is the Orange County IDA, undertake a project  
16 known as the Project, consisting of the  
17 following. The acquisition of a (sub)leasehold  
18 interest in approximately 15.75 acres of a larger  
19 approximately 31.5 acre vacant parcel located at  
20 63 County Highway 1, Warwick, New York, the  
21 construction of an approximate 10,000 square foot  
22 four megawatt, 22.4 megawatt per hour battery  
23 storage system, including an auxiliary  
24 switchboard and a metal enclosed switchgear  
25 located on the Land to service the local



## WEST WARWICK ENERGY STORAGE 1 LLC

1 distribution grid and provide improvements to the  
2 distribution systems' reliability and resiliency,  
3 as well as providing emission free energy to the  
4 residents of Orange County, collectively the  
5 Facility and the acquisition and installation in  
6 and on the Facility of furniture, fixtures and  
7 equipment, known as the Equipment, and together  
8 with the Land and the Facility, the Project  
9 Facility, the granting of certain financial  
10 assistance in the form of exemptions from state  
11 and local sales and use tax and real property  
12 tax, collectively the Financial Assistance, the  
13 appointment of the Company or its designee as an  
14 agent of the Agency in connection with the  
15 acquisition, construction, equipping and  
16 completion of the Project Facility, and the  
17 acquisition of an interest in the Land and  
18 Facility by the Agency pursuant to a sublease  
19 agreement and the acquisition of an interest in  
20 the Equipment pursuant to a bill of sale from the  
21 Company to the Agency, and the sublease of the  
22 Project Facility back to the Company pursuant to  
23 a sublease agreement. The stored energy from the  
24 Project Facility will be utilized by Orange and  
25 Rockland Utilities. The Company will be the

## WEST WARWICK ENERGY STORAGE 1 LLC

1 initial manager/owner of the Project. The Agency  
2 will at the above-stated time hear all persons  
3 with views with respect to the proposed financial  
4 assistance to the Company, the proposed  
5 owner/operator, the location of the Project  
6 Facility and the nature of the project. A copy  
7 of the application filed by the Company with the  
8 Agency with respect to the Project, including an  
9 analysis of the costs and benefits of the Project  
10 are available for public inspection during the  
11 business hours at the office of the Agency  
12 located at 4 Crotty Lane, Suite 100, New Windsor,  
13 New York 12553 or on its website at  
14 <https://www.ocnyida.com>. And I'm remiss in not  
15 introducing, we have two representatives from the  
16 project, Mr. Dan Spitzer, who's counsel and  
17 representing Convergent Energy Systems Kristin  
18 Kurylak, so they are available, they are in  
19 attendance as well today. The IDA did not  
20 receive, we received one letter of comment from  
21 the Town Supervisor from the Town of Warwick,  
22 Mr. Sweeton, who has been apprised almost daily  
23 about the status of the PILOT schedule and the  
24 cost benefit analysis. So his letter really  
25 speaks to that. It's dated March 2nd and

## WEST WARWICK ENERGY STORAGE 1 LLC

1 addressed to myself. Dear Mr. Fioravanti. I am  
2 writing in regards to the application for West  
3 Warwick Energy Storage 1, 2, 3 LLC requesting  
4 sales tax exemptions and a PILOT agreement. A  
5 hearing is scheduled for March 7, 2022, yet their  
6 application online with your office shows no data  
7 regarding the amount of taxes lost to the Town if  
8 this PILOT was granted. While we support  
9 projects that increase the reliability of our  
10 energy system, without complete information it is  
11 hard to weigh the benefits versus those costs.  
12 It is therefore hard for the Town to support this  
13 without having done that analysis. So  
14 Mr. Sweeton will give an updated comment when he  
15 and the town board have had the opportunity to  
16 review all the complete cost benefit analysis  
17 information. So at this time I'm going to see if  
18 anyone else, just to verify if anyone else is  
19 looking to come into the meeting. I don't see  
20 any here and we have received nothing else, I'm  
21 going to now adjourn this public hearing and will  
22 begin the West Warwick 2 hearing in a moment. So  
23 at 1:08 p.m. we are adjourning the hearing  
24  
25

WEST WARWICK ENERGY STORAGE 1 LLC  
for West Warwick 1.

(Proceedings concluded at 1:08 p.m.)

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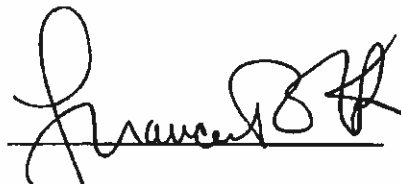
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C-E-R-T-I-F-I-C-A-T-I-O-N

I, FRANCES ROTH, a Stenographic Reporter and Notary Public  
of the State of New York, do hereby certify:

That the foregoing is an accurate record of the testimony,  
as given, to the best of my knowledge and belief, the same  
having been stenographically recorded by me and transcribed  
under my supervision.

That I am not related to any of the parties involved in  
this matter, and that I have no personal interest  
whatsoever in the outcome thereof.

  
FRANCES ROTH

ORIGINAL

1 THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY  
2 STATE OF NEW YORK

-----X

3 In The Matter of

4 Re: WEST WARWICK ENERGY STORAGE 1 LLC

5 -----X

6 June 7, 2022

7 12:00 p.m.

8 Zoom Meeting

9  
10 CONTINUATION OF MARCH 7, 2022 HEARING

11  
12 B E F O R E: WILLIAM FIORAVANTI  
13 CEO OCNYIDA

14  
15  
16  
17  
18  
19  
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21  
22 FRANCES ROTH  
23 Court Stenographer  
24 168 North Drury Lane  
25 Newburgh, New York 12550  
Telephone (845) 566-1641

1

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

3

4

WILLIAM FIORAVANTI  
CEO OCNIDA  
4 Crotty Lane  
New Windsor, New York 12553

6

7

ALSO PRESENT: Kelly Reilly  
Project Manager

8

Dennis Brady  
Audio/Visual Consultant

9

10

Daniel Spitzer, Esq.  
Attorney for Project

11

Van Neils  
Convergent Energy Systems

12

13

Vince Galligan  
O & R Utilities

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Michael Torelli, Chairman  
IDA Board

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## WEST WARWICK ENERGY STORAGE 1 LLC

1 MR. FIORAVANTI: Good afternoon, welcome to  
2 the resumption of the public hearings for West  
3 Warwick 1, a renewal energy project battery  
4 storage project by Convergent Energy and Power.  
5 The time is 12:02, we are resuming this from a  
6 prior public hearing that we held. All documents  
7 related to this project and I'll say its sister  
8 projects, West Warwick 1, West Warwick 2 and West  
9 Warwick 3 can all be found on the IDA website,  
10 our website address is WWW.OCNYIDA.COM, again  
11 OCNYIDA.COM, there's a menu at the top, you go to  
12 active projects, you'll see all of our projects  
13 that are currently seeking some sort of  
14 incentives, it's a number of them, at the bottom  
15 it's alphabetical, you'll see West Warwick  
16 projects, you can expand each of them, see the  
17 application, see the public hearing notices, see  
18 the cost benefit analysis, all of that, that's  
19 always available on the website, make sure I  
20 direct people to that. Let me just talk about  
21 who's present on the call. My name is Bill  
22 Fioravanti, I'm the CEO of the Orange County IDA.  
23 I also have with me Kelly Reilly, our project  
24 manager, Frances Roth is our stenographer, she's  
25 joining us as well, Dennis Brady handling



## WEST WARWICK ENERGY STORAGE 1 LLC

1 audio/visual for us so he's on the call. We have  
2 our Chairman, Mr. Michael Torelli is joining us,  
3 thank you for that, sir, and we have a few  
4 distinguished guests. First of all from the  
5 applicant representing the West Warwick projects  
6 from Hodgson Russ is Dan Spitzer, welcome, Dan.  
7 We also have Mr. Van Niels from Convergent  
8 Energy, thank Dan you for being here. We are  
9 also very appreciative that Mr. Vincent Galligan  
10 is on from Orange & Rockland to answer any  
11 questions as O & R actually released an RFP for  
12 this project and this is a result of O & R's  
13 effort there. See if I have everybody. And also  
14 elected officials I have Town of Warwick  
15 Supervisor Michael Sweeton, Village of Warwick  
16 Mayor Michael Newhard and Orange County  
17 Legislator, local legislator from the District  
18 Barry Cheney, thank you gentlemen for being here  
19 as well, I think I have everyone on. I'm going  
20 to read the public notice just as a matter of  
21 good form for the meeting even though we did  
22 start this already but just for the sake of the  
23 public. The subject of this public hearing is  
24 the following. West Warwick Energy Storage 1  
25 LLC, a Delaware limited liability company or an

## WEST WARWICK ENERGY STORAGE 1 LLC

1 entity to be formed, collectively the Company,  
2 requested the agency undertake a project, the  
3 Project, consisting of (a) the acquisition of a  
4 (sub) leasehold interest in approximately 15.75  
5 acres of a larger approximately 31.5 acre vacant  
6 parcel tax map number 42-1-35.1, located at 63  
7 County Highway 1, Warwick, New York, the Land,  
8 the construction of an approximate 10,000 square  
9 foot four megawatt, 22.4 megawatt per hour  
10 battery storage system, including an auxiliary  
11 switchboard and a metal enclosed switchgear  
12 located on the Land to serve the local  
13 distribution grid and provide improvements to the  
14 distribution systems' reliability and resiliency,  
15 as well as providing emission free energy to the  
16 residents of Orange County, known as the  
17 Facility, and the acquisition and installation in  
18 and on the Facility of furniture, fixtures and  
19 equipment, known as the Equipment, and together  
20 with the Land and the Facility, the Project  
21 Facility, (b) the granting of certain financial  
22 assistance in the form of exemptions from state  
23 and local sales and use tax and real property  
24 tax, collectively known as the Financial  
25 Assistance, (c) the appointment of the company or

## WEST WARWICK ENERGY STORAGE 1 LLC

1 its designee as an agent of the Agency in  
2 connection with the acquisition, construction,  
3 equipping and completion of the Project Facility,  
4 and (d) the acquisition of an interest in the  
5 Land and Facility by the Agency pursuant to a  
6 sublease agreement and the acquisition of an  
7 interest in the Equipment pursuant to a bill of  
8 sale from the Company to the Agency, and the  
9 sublease of the Project Facility back to the  
10 Company pursuant to a sublease agreement. The  
11 storage energy from the Project Facility will be  
12 utilized by Orange & Rockland Utilities. The  
13 Company will be the initial manager/owner of the  
14 Project. The Agency today will hear all persons  
15 with views with respect to the proposed financial  
16 assistance to the Company, the proposed  
17 owner/operator, the location of the Project  
18 Facility and the nature of the project. Again, A  
19 copy of the application filed by the Company with  
20 the Agency with respect to the Project, including  
21 an analysis of the costs and benefits of the  
22 Project are available for public inspection  
23 during the business hours at the office of the  
24 Agency located at 4 Crotty Lane, Suite 100, New  
25 Windsor, New York or on our website at

## WEST WARWICK ENERGY STORAGE 1 LLC

1 WWW.OCNYIDA.COM. I'll also just note that this  
2 is a bit of an unorthodox hearing or series of  
3 hearings in that we have three separate projects  
4 that are from the same applicant, they're almost  
5 identical, just different parcels, different  
6 locations, a couple with some slight different  
7 specifics but for the most part it's the same,  
8 the nature of the projects are the same, they're  
9 battery storage intended to store energy by  
10 Orange & Rockland for use explicitly for the  
11 local Warwick community. I'm thinking that we'll  
12 take comments and questions especially from our  
13 elected officials on all three of the projects.  
14 You can comment or ask questions now and if you  
15 choose not to repeat those questions or ask  
16 others in the subsequent hearings I think that's  
17 fine, let's make it as easy as possible for  
18 everyone. Before we get started, I just, again,  
19 our applicant's here, both Mr. Spitzer and Van  
20 Neils, we appreciate that. I think I'm going to  
21 ask depending on how the questioning goes we may  
22 have the applicant respond directly or we may  
23 wait till the end and have them respond to a  
24 number of questions, it doesn't look like a large  
25 crowd. I'm not expecting this to be unruly in

## WEST WARWICK ENERGY STORAGE 1 LLC

1 any way so I think we should be able to just kind  
2 of do it straightforward. So with that said,  
3 we're not going to have an introductory portion  
4 from the applicant, everything is available, all  
5 the documentation that they've presented to the  
6 Orange County IDA board meeting a few months ago  
7 when they first came before us. If anyone wants  
8 a further description, please just ask as we can  
9 do that but I was going to forego that in the  
10 interest of time and get right to the questions.  
11 So let me open that up and would anyone like to  
12 start either with a comment or question? And  
13 again, not just for Convergent also but for the  
14 folks at O & R, if so applicable?

15 SUPERVISOR SWEETON: I have a series, do you  
16 want them one at a time?

17 MR. FIORAVANTI: Why don't we do one and  
18 again based on the size of attendance here why  
19 don't we do one and we'll allow the applicant to  
20 respond one at a time.

21 SUPERVISOR SWEETON: I'm speaking directly  
22 to storage one and two, I assume they're both on  
23 the same parcel site?

24 MR. FIORAVANTI: Correct.

25 SUPERVISOR SWEETON: And first of all we

## WEST WARWICK ENERGY STORAGE 1 LLC

1 have no objection to renewable energy, we  
2 understand that's the, that's what the state is  
3 mandating, we have no objection to, the town  
4 board had no objection to the school being the  
5 site, clearly did that analysis through the  
6 balancing test. But questions I have are several  
7 and I guess I could start with O & R. One  
8 question I have is how much did this 4 megawatts,  
9 what percentage of that is of the service load to  
10 the Town of Warwick? And I'd like them to end  
11 the comment on the fact that when they purchased  
12 the property across from this site for the  
13 substation that they shelved that project must be  
14 going on eight years now and I'd like a comment  
15 as to why that wasn't pursued.

16 MR. FIORAVANTI: Mr. Galligan?

17 MR. GALLIGAN: Yes. So with regards to West  
18 Warwick 1 and 2, they're each 4 megawatt battery  
19 systems, they are being interconnected with three  
20 of the circuits out of our Wisner substation that  
21 feed the town and the village in the areas of  
22 Warwick. I don't have the customers immediately  
23 interconnected with each of the circuits  
24 immediately available but I can get those to you.  
25 With regards to the property across the street

## WEST WARWICK ENERGY STORAGE 1 LLC

1 that Orange & Rockland purchased the West Warwick  
2 non-wire alternative project that we have  
3 contracted with Convergent to move forward is a  
4 deferral project, so it's an non-wire alternative  
5 project that allows us to defer our substation  
6 that is to be constructed on that property across  
7 the street. We did look at pursuing, putting the  
8 battery system on that property, it wasn't the  
9 favorable location when we discussed it with our  
10 regulator, New York State Department of Public  
11 Service at the time was not favorable to utility  
12 owned infrastructure such as battery systems and  
13 so we pursued third party ownership and that's  
14 the project that's in front of the board now.  
15 It's only a five year deferral so in five years  
16 we will be pursuing a substation at that  
17 property.

18 SUPERVISOR SWEETON: Okay, it sort of  
19 answers it. But the property was purchased has  
20 to be eight years ago now, I'm just curious as to  
21 why O & R knowing that Wisner was under stress  
22 waited until this opportunity? And may be a side  
23 question but I'd like the answer to that.

24 MR. GALLIGAN: So this has been in the works  
25 for a few years to install a battery system here,

## WEST WARWICK ENERGY STORAGE 1 LLC

1 non-wire alternative projects are relatively  
2 newer, the substation is able to be deferred  
3 because of the battery system so it does take  
4 three years for us to stand up these projects to  
5 move forward to get them built. Contracting  
6 takes quite a while so that's the timeframe we're  
7 in right now.

8 SUPERVISOR SWEETON: Okay, question I guess  
9 would be for the company. I've reviewed the  
10 spreadsheets on these PILOT agreements and I  
11 understand that a decision was made to use a  
12 fixed megawatt price as the basis for the PILOT  
13 but I'm curious as to why we're not seeing an  
14 alternative to that which is the traditional way  
15 you would do a PILOT, whether it's based on a  
16 485-b or a phasing in over the 15 years from  
17 zero?

18 MR. SPITZER: With your permission Mr.  
19 Chairman?

20 MR. FIORAVANTI: Please.

21 MR. SPITZER: The reason that's set up on a  
22 per megawatt is that's how every single power  
23 project in the State of New York is done is on a  
24 per megawatt basis. We have numerous solar  
25 projects, for example, on the 487 exemption



## WEST WARWICK ENERGY STORAGE 1 LLC

1 within the County of Orange at least a dozen that  
2 I've worked on every one of them is on a megawatt  
3 basis. I've worked on the Wawayanda PILOT, I  
4 wrote that for the Town of Wawayanda, that's on a  
5 per megawatt basis. I'm not aware of any power  
6 generation projects anywhere in the state that  
7 are not done on a per megawatt basis. So I would  
8 respectfully suggest that the reason for that is  
9 plants like this deteriorate in value, it's an  
10 income stream, plants deteriorate whereas the  
11 PILOT with the two percent increase guarantees an  
12 income stream for the life of the PILOT to the  
13 municipalities, that's not tied to the condition  
14 of the plant, it's not tied to whether or not the  
15 plant is able to sell its energy, it's tied to  
16 the capacity of the plant and it's locked in  
17 place on day one. If the company only uses a  
18 fifth of the power you still get the same PILOT,  
19 it's not tied in that at all. So if you tie it  
20 to assessed valuation the normal method, you have  
21 a situation where the courts in New York have not  
22 said how battery storage should be done, we  
23 expect it should be done on a discounted cash  
24 flow basis. We did these valuations on a cost  
25 basis which is, we're comfortable with that

## WEST WARWICK ENERGY STORAGE 1 LLC

1 locking that in but cost basis decreases every  
2 year because the plants are depreciating. So the  
3 normal way that, traditional way that energy  
4 facilities have always been done in New York is  
5 on this basis which actually also avoids for the  
6 life of the PILOT the cost of litigation. You  
7 don't have any disputes with the assessor over  
8 the valuation, you can get the regular tax  
9 assessment, gives you the right to still  
10 challenge the valuation. So if you have a  
11 situation where simply a decline in the  
12 equalization rate in a community that's a tax  
13 break to the owner that people who use the per  
14 megawatt basis don't get. So there's all sorts  
15 of reasons why it's always been this way. I'm  
16 not aware of any facilities in New York, that  
17 doesn't mean that I'm aware of every single  
18 facility of course but I'm not aware of any  
19 energy generating facilities in New York or  
20 renewable facilities that don't go on this basis  
21 sir.

22 SUPERVISOR SWEETON: But you can understand  
23 that a difference of assessed value it's going to  
24 cost taxpayers approximately 1.5 million if I  
25 read the number right that would at least ask us

## WEST WARWICK ENERGY STORAGE 1 LLC

1 to look at what it would be on a normal basis, it  
2 will be somewhere beyond \$6,000 a year in a PILOT  
3 payment I'm assuming.

4 MR. SPITZER: I would assume that that's  
5 correct over time, I think they start off with  
6 100 percent so it would actually be lower than  
7 that to begin with and then it goes up on their  
8 standard PILOT. However, at the end of the day  
9 the question is what can this project afford,  
10 whether you do it on an abatement basis, on the  
11 abatement basis this project doesn't get built  
12 and therefore the community and the school get no  
13 revenue. This is not the, Bill and his team  
14 spent a lot of time going through variations of  
15 exactly the kind you're talking about and the  
16 numbers would not get the project built based on  
17 the standard abatement, that's why we're asking  
18 for this methodology as well. It simply is not  
19 gee, you're leaving money on the table, you're  
20 getting money if this project gets built, you get  
21 no money if the incentives aren't granted,  
22 whatever way you come to, sir, of calling it  
23 there's a certain amount of revenues we can  
24 afford to share with the community, if not the  
25 project doesn't get built.

## WEST WARWICK ENERGY STORAGE 1 LLC

1           SUPERVISOR SWEETON: The question I guess  
2 would be to the IDA as to why they wouldn't  
3 present that to us but I'll leave that to them.  
4 The second question I have for you would be what  
5 state benefits if any are coming to the project?

6           MR. SPITZER: Unlike other projects, and  
7 Van, correct me if I'm wrong here, but this  
8 project gets zero state benefits, unlike other  
9 energy storage projects in the county which we  
10 understand have applied and received NYSERDA  
11 benefits this project has zero benefits from the  
12 state.

13           SUPERVISOR SWEETON: So no NYSERDA subsidy  
14 at all?

15           MR. SPITZER: That is correct, sir.

16           SUPERVISOR SWEETON: Okay, then I guess the  
17 other question that maybe O & R wants to answer  
18 this is there's been some allusion to the fact  
19 that this will benefit rate payers in the service  
20 area. But my understanding is they're going to  
21 store energy and release it when they need it,  
22 right, so how do they square both of those  
23 statements? Do you understand the question? So  
24 the question would be one of the comments that  
25 came to us from the IDA was that this would be a

## WEST WARWICK ENERGY STORAGE 1 LLC

1 benefit to the rate payers of the Town of  
2 Warwick. I'm assuming outside of Wisner failing  
3 and us not having any energy, how does O & R  
4 foresee this as being a rate benefit to the  
5 taxpayers of the town?

6 MR. GALLIGAN: Well, in this case we're  
7 deferring the traditional infrastructure project  
8 by doing this non-wire alternative system. By  
9 deferring it we're able to build a storage system  
10 that will store the energy and expend it at times  
11 when we need it for contingency purposes,  
12 reliability and to reduce peak loading on the  
13 banks at the Wisner substation.

14 SUPERVISOR SWEETON: Okay, and then just a  
15 final statement. So there are no long term jobs  
16 created by this project. So that's the negative.  
17 If you look at the cost benefit analysis the IDA  
18 provided the costs outweigh the benefits over the  
19 life of the project. So the benefits we're  
20 talking about accepting would be that the school  
21 at least gets revenue as opposed to the village  
22 project which I think goes to a private entity so  
23 that is a benefit to the, certainly to the  
24 taxpayers of Warwick. And that somehow we get,  
25 we have faith that O & R that this improves O &

## WEST WARWICK ENERGY STORAGE 1 LLC

1 R's reliability of service to the residents, is  
2 that what I'm hearing?

3 MR. GALLIGAN: Correct. And I took a look  
4 too so circuit three is pretty much at  
5 100 percent and that's the second battery system  
6 that's being installed, the bus garage is 100  
7 percent, the town limits on terms of the  
8 customers that are fed from it, circuit one is a  
9 mix and circuit five is also a mix, we'll call it  
10 50-50, 50 in the village, 50 in the town.

11 SUPERVISOR SWEETON: Okay so and you'll get  
12 this information I guess? My ultimate question  
13 is the 4 megawatts or the 8 if it's two 4  
14 megawatts, what percentage of power usage in the  
15 town does that comprise? Is that clear?

16 MR. GALLIGAN: So there's a circuit there,  
17 the 4 megawatts reduces the loading on that  
18 circuit for each one of those depending on the  
19 infrastructure there we're able to serve those  
20 customers. So the 4 megawatts will reduce the  
21 loading on those circuits, those circuits are  
22 interconnected with the bank at the substation so  
23 it increases the reliability of the station by  
24 reducing the overall load. If that answers your  
25 question?

## WEST WARWICK ENERGY STORAGE 1 LLC

1           MR. FIORAVANTI: And Vinny, so let me ask  
2           you a followup question. So what would be the  
3           alternative to this then in order to be able to  
4           handle that load, further buildout of your  
5           traditional power grid? And if so, how does that  
6           impact the customer?

7           MR. GALLIGAN: Yeah, so the traditional  
8           solution here is to build the brand new  
9           substation and that will have to happen in five  
10          to seven years from now. And this solution that  
11          we're using at the moment is a non-wire  
12          alternative solution, this allows us to defer  
13          having to build that infrastructure by adding the  
14          storage system on our, on the grid. So the  
15          traditional solution is to rebuild the  
16          substation, is to improve the capacity that we  
17          have at the substation so that it can serve the  
18          customers that are fed from it. And add  
19          additional circuits, right now there's only five  
20          circuits coming out of Wisner so we need to add  
21          additional circuits to feed customers there,  
22          diversify the load, sort of think about it as  
23          your circuit panel in your home, if you have too  
24          many circuits in your home you need to add  
25          another sub panel off your main panel so that you

## WEST WARWICK ENERGY STORAGE 1 LLC

1 can diversify your loading and you're not  
2 increasing the capacity on any one of the  
3 circuits and burning them out. So to do that we  
4 need to increase the number of circuits that we  
5 have fed out at the substation, Wisner doesn't  
6 have the space for us to be able to do that  
7 currently. And so we'll need to rebuild the  
8 substation at a larger footprint so that we can  
9 have additional circuits to feed the area and add  
10 additional capacity because the two banks that we  
11 have right now, one picks up the other in the  
12 event of a failure and so we need to increase the  
13 size of those because right now there's two 25  
14 MVA transformers there and we need to increase  
15 those capacities. So the traditional solution is  
16 to build a brand new substation and that will be  
17 something we're going to have to pursue in a  
18 number of years but we're able to defer it with  
19 this project right now.

20 MR. FIORAVANTI: Vinny, just to further  
21 clarify if O & R did have to build the other  
22 substation, would that only cut into O & R's  
23 profits or would that impact the consumer as  
24 well, would those costs be passed on to the  
25 consumer?



## WEST WARWICK ENERGY STORAGE 1 LLC

1 MR. GALLIGAN: It's a capital infrastructure  
2 cost to improve the system so it is a rate based  
3 item.

4 MR. FIORAVANTI: It would impact rates to  
5 the customer?

6 MR. GALLIGAN: Yes.

7 MR. FIORAVANTI: And supervisor Sweeton, I  
8 just wanted to clarify on the cost benefit  
9 analysis I did resend it because the formatting  
10 was not right, it was missing some key pieces for  
11 West Warwick 1, that cost benefit analysis, if  
12 you go to the end, really this as the end of the  
13 new version that I sent it was cut out before but  
14 the cost for, the total costs for these  
15 incentives is \$2,040,444 but the benefit is \$4.8  
16 million, \$4,891,131 so total, it's cost, I'm  
17 sorry, benefit to cost ratio of two to one but  
18 for the state it's actually just one-to-one  
19 benefits of \$169,000 versus costs of 327,000 but  
20 locally the benefits are \$4,721,000 and the cost  
21 is \$1.7 million, a ratio, a benefit to cost ratio  
22 of three to one. I'm sorry if the original  
23 version didn't illustrate that but it should and  
24 I'm happy to discuss this now or off line later  
25 if you'd like to dive into that a little more.

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1 SUPERVISOR SWEETON: Okay, certainly will do  
2 that. Last question for O & R, isn't there  
3 underway a design to upgrade the Wisner station  
4 in relation to the project out at GTI?

5 MR. GALLIGAN: You said GTI? I'm not  
6 familiar with that.

7 MR. FIORAVANTI: The cannabis manufacturer  
8 at the Warwick Tech Park.

9 MR. GALLIGAN: I don't have information on  
10 that. I can check with our planning and  
11 engineering group to find out what work is  
12 anticipated for Wisner. There's minor updates  
13 being done at Wisner currently to accept the  
14 infrastructure of this battery system and that  
15 will allow us to monitor the energy available.  
16 But we do, I know I have an application for that  
17 location but I'm not certain what's needed there.

18 SUPERVISOR SWEETON: Okay, thank you. I'll  
19 follow up, Bill, on this cost to benefit cause  
20 the benefits come from the construction, correct?

21 MR. FIORAVANTI: Correct, in this analysis,  
22 yes.

23 SUPERVISOR SWEETON: Correct, okay, alright,  
24 thanks.

25 MR. FIORAVANTI: Any other questions,

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1 Mr. Supervisor?

2 SUPERVISOR SWEETON: Not for me at the  
3 moment, thank you.

4 MR. FIORAVANTI: Okay, any other questions?

5 MR. CHENEY: Yeah, I'd be happy to go next.  
6 Not necessarily looking for immediate answers  
7 here today and in addition to me being a county  
8 legislator I'm also a trustee in the Village of  
9 Warwick and the Deputy Mayor. And with that  
10 said, these are my personal comments, I'm not  
11 speaking on behalf of any other elected Village  
12 of Warwick official. The Supervisor said that O  
13 & R purchased property for a substation about  
14 eight years ago, you got the eight right but it  
15 was 2008 so it's been 14 years since they  
16 purchased property to address these power  
17 availability issues that existed at the time and  
18 I expect also to cover the future. Fourteen  
19 years to me seems to be sufficient time to have  
20 put things into place to have resolved it and I'm  
21 more focused on West Warwick street project and  
22 just some things I'd like the IDA board to  
23 consider and maybe receive answers to is why did  
24 the project go through the expense of seeking and  
25 obtaining village planning board approval for a

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1 project that they knew wasn't financially viable?  
2 And if this financial incentive was necessary why  
3 wasn't it included in the environmental form that  
4 was filed with the village planning board as part  
5 of the approval process? The form requires that  
6 all governmental approvals be listed, I believe  
7 that if this incentive was necessity it should  
8 have been disclosed at that point in time. And  
9 also if this is hanging in the balance why did  
10 the applicant apply for a building permit from  
11 the Village of Warwick which was issued May 26th  
12 of 2022? I'm curious as to whether, and I think  
13 the IDA board should be also whether Convergent's  
14 proposal to O & R stated that these sales and  
15 property tax PILOT agreement incentives were  
16 needed to make the project financially viable?  
17 And so, you know, is there a contract that exists  
18 between the two parties that obligates the  
19 project to be completed regardless of receiving  
20 any tax breaks? And to some degree what is O &  
21 R's financial responsibility to make this all  
22 work? The timing of the continuation of the  
23 public hearing has made it virtually impossible  
24 for the village to have the documents reviewed by  
25 our professionals. And that's pretty much what I

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1 have to say relative to the application.

2 MR. FIORAVANTI: Thank you, Legislator  
3 Cheney. Mr. Spitzer, I can respond to the first  
4 question but I think you could as well, do you  
5 want to tackle at least the first couple of  
6 those?

7 MR. SPITZER: The first question just so I  
8 make sure I have the right order was?

9 MR. FIORAVANTI: Why did you seek approvals  
10 for a project that you didn't know was  
11 financially viable?

12 MR. SPITZER: I'm not aware of any IDA  
13 project in this state that doesn't achieve the  
14 zoning approvals whether the financial viability  
15 is not an environmental or zoning question under  
16 state law. In fact I'm not aware of any IDA that  
17 doesn't want the municipality to take the lead on  
18 whether or not the project is acceptable and to  
19 be lead agency on the SEQRA. So as someone who's  
20 represented an IDA for 25 years and my firm  
21 represents many of them as well it's very  
22 typical, I've never heard of an IDA project that  
23 doesn't talk with the town and go to the town or  
24 village first.

25 MR. FIORAVANTI: And require local approvals

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1 before they come to us.

2 MR. SPITZER: Absolutely, I don't know of  
3 any IDA in the state that doesn't, and  
4 particularly on the SEQRA, we have some IDAs that  
5 we work for where municipality will say gee we  
6 want you to be the lead agency, that's pretty  
7 rare, the municipality is the lead agency for  
8 SEQRA purposes.

9 MR. FIORAVANTI: Is it not appropriate to  
10 include the need for financial assistance in the  
11 EAF as the Legislator suggested?

12 MR. SPITZER: I'm gonna have to go back and  
13 get an answer, I wasn't involved with the project  
14 at this time. The EAF should have listed the  
15 IDA, if the intent was to go to the IDA at that  
16 time, I would suggest that the folks may not have  
17 realized that they needed to list that. And Van,  
18 if you have anything more to add, I don't know if  
19 the folks who actually filled that out there but  
20 he is correct, if you're going to an IDA it's  
21 generally listed on an EAF even though it's not  
22 an environmentally related approval.

23 MR. NEILS: We'd have to go back and confirm  
24 that.

25 MR. FIORAVANTI: And then any other

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1 questions at the end there Barry you wanted to  
2 have answered?

3 MR. SPITZER: I think O & R would be the  
4 better one to answer some of the questions  
5 related to how it fits into their system so I  
6 don't want to speak for them, obviously, but we  
7 do want to make sure that is not, and there's a  
8 stenographer so we'll have all of the gentleman's  
9 questions, I don't know whether to call you  
10 Mr. Legislator or Mr. Deputy Mayor.

11 MR. FIORAVANTI: Trustee.

12 MR. CHENEY: Call me Barry.

13 MR. SPITZER: Barry, we will certainly get  
14 answers to all your questions but I don't know  
15 whether Vince has any of the answers specifically  
16 for some of the other ones.

17 MR. GALLIGAN: Contractually we do have a  
18 contract with Convergent to build the battery  
19 system, it was not contingent on incentives. Our  
20 contract provides for the battery system to be  
21 built and the system as we have defined it in the  
22 RFP and they've supplied.

23 MR. FIORAVANTI: Barry, was there anything  
24 else to be answered? I'm sorry, I didn't get all  
25 of them down I don't think.

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1 MR. CHENEY: I think that pretty much  
2 covered the more salient questions that I had.  
3 Thank you.

4 MR. FIORAVANTI: Thanks very much. Mayor  
5 Newhard, can I come to you? Any additional  
6 questions beyond what was posed?

7 MAYOR NEWHARD: No, not really because Barry  
8 and I reviewed his questions and they're really,  
9 the important question was about disclosure from  
10 the beginning and, you know, giving the board  
11 even and the village board the heads up as to,  
12 you know, the funding of this project.

13 MR. FIORAVANTI: This makes me think there  
14 may need to be another check point of ours that  
15 we check with the applicant that they've done so.

16 SUPERVISOR SWEETON: Can I ask one other  
17 question, Bill?

18 MR. FIORAVANTI: Yeah, sure.

19 SUPERVISOR SWEETON: Are there any projects  
20 that Convergent has done in New York State that  
21 did not receive benefits from an IDA for battery  
22 storage?

23 MR. SPITZER: Van, I will defer to you. All  
24 the projects that I'm working on for you have  
25 received benefits either through 487 for solar



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1 and storage or for, there's applications that  
2 have been approved through the New York City IDA,  
3 I'm not working on any projects with you that  
4 have not received similar incentives in the state  
5 and I defer to you if there are.

6 MR. NEILS: That's correct.

7 MR. CHENEY: Can I ask one more thing?

8 MR. FIORAVANTI: Please, absolutely.

9 MR. CHENEY: Mr. Spitzer, I believe you  
10 stated that this, you represented these  
11 particular battery storage facilities to be  
12 energy generating facilities. And I guess, I  
13 mean, is that based on law? Because common sense  
14 says somebody else has generated the energy  
15 that's being received by these battery storage  
16 facilities and they're reintroducing it into the  
17 system when the system requires it. So I was  
18 just curious whether it was law and regulations  
19 that basically has defined these as being  
20 generating facilities?

21 MR. SPITZER: And thank you for correcting  
22 my language, these are not generating facilities,  
23 they buy electrons and then they sell them back  
24 into the grid and they are however treated across  
25 the state. And I provided the executive director

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1 with the examples, there's not a lot of energy  
2 storage that's been built in the state, they have  
3 been treated traditionally the same way for  
4 abatement purposes as generating facilities have  
5 and you're correct, I was imprecise with my  
6 language, to my knowledge, there's no law  
7 establishing how an IDA is to go about assessing  
8 a project or granting a PILOT, it's based on your  
9 UTAP (sic.), it's based on the deviations, it's  
10 obviously a payment in lieu of taxes, it's  
11 assumed that there's some aspect of a break in  
12 return for being able to build. But I'm not  
13 aware of any law that has the, and I defer  
14 obviously to the executive director and his  
15 counsel, I'm not aware of any law that dictates  
16 that, that's traditionally in my 30 years or so  
17 of working on this the way that these facilities  
18 receive PILOTS.

19 MR. CHENEY: Thank you.

20 SUPERVISOR SWEETON: So O & R generates this  
21 electricity or it's buying it, it's not  
22 generating, it's buying it and it's storing its  
23 electricity that it bought in these batteries and  
24 then Convergent is selling it back to O & R, is  
25 that the way I understand this?

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1 MR. SPITZER: Van or Vince, do you want to  
2 explain how the contract works and obviously how  
3 the PSE approved the non-wire alternative in this  
4 case?

5 MR. NEILS: Yes. So convergent is actually  
6 the one purchasing the electricity and then  
7 selling it back to O & R, obviously for these  
8 strategic dispatches in accordance with the  
9 contract.

10 SUPERVISOR SWEETON: And O & R is obligated  
11 to buy it based on some contractual agreement?

12 MR. GALLIGAN: Correct. So there's a number  
13 of dispatches we have contractually with  
14 Convergent to dispatch that battery system at our  
15 discretion throughout the year so that we can  
16 serve the areas of those circuits that are fed  
17 and for that reason and then other times of the  
18 year that contract exists to offload the system  
19 there to reduce the loading.

20 SUPERVISOR SWEETON: So it goes back to my  
21 original question which was the, it's been  
22 pitched that one of the benefits being pitched to  
23 us is that somehow this will benefit the rate  
24 payers other than stability, price is not really  
25 a guarantee of anything, right, because you're

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1 purchasing, if you need it from them you're  
2 purchasing it at whatever price they secured it  
3 from, right? Could be 10 percent higher than  
4 you've gotten from other sources. Is that a fair  
5 statement?

6 MR. GALLIGAN: Well, Convergent is the one  
7 who is going to have the supply contract, they're  
8 the ones that are purchasing the energy from a  
9 supplier. So O & R's a passer. So if our energy  
10 is at six cents a kilowatt hours it's a passer at  
11 six cents a kilowatt hour, they're the ones  
12 purchasing the energy and expending it during  
13 times of peak loading during the summertime.

14 SUPERVISOR SWEETON: Correct. But this is  
15 some fraction of your load. So you might have a  
16 contract to supply energy for the month to  
17 Warwick residents at six cents, Convergent might  
18 be at a price of eight cents because that's what  
19 they bought it at so you're blending that in, is  
20 that not correct? Am I just not understanding  
21 that?

22 MR. SPITZER: Is the Supervisor asking who's  
23 taking the price risk here?

24 SUPERVISOR SWEETON: Yes, yeah, in a sense,  
25 yes.

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1 MR. SPITZER: Van and Vince, I don't know  
2 whether you can answer that? My understanding is  
3 there's a contractual price and the price risk is  
4 allocated to Convergent. But please correct me,  
5 I'm not working with the contract so I'll defer  
6 to you two if you're able to answer that?

7 MR. GALLIGAN: So we have a contract to,  
8 with Convergent for the energy that's being  
9 purchased and they purchase the energy to supply  
10 the system with the power it needs to fill the  
11 batteries and then expend it. Our contract with  
12 them is for the energy, that's our portion of the  
13 contract, I can't divulge much more than that  
14 with regards to the contract. Van, I don't know  
15 if there's anything you want to add to that?

16 MR. NEILS: I would just say that the  
17 pricing is fixed in that O & R's not actually  
18 wearing the energy risk, actually has the  
19 opportunity to share in the upside from outside  
20 revenues but Convergent is wearing the energy  
21 risk.

22 MR. SPITZER: Also to be clear just in terms  
23 of something the Supervisor mentioned the cost  
24 savings that were mentioned as part of this  
25 project were not in terms of the energy costs

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1 even though it's fixed and we're taking the risk.  
2 The cost savings are that O & R is deferring the  
3 capital costs of upgrading its system because  
4 it's relying on us, the private capital if you  
5 will, to take on that measure. And that part I  
6 don't think is in the CBA but that's obviously a  
7 savings, that's why the Public Service Commission  
8 has gone to these non-wire alternatives instead  
9 of just saying let's just build, let's just  
10 build, let's just build, they work with the  
11 utilities to come up with these non-wire  
12 alternatives where a capital cost can be deferred  
13 and rate payers are the direct beneficiaries of  
14 that deferral.

15 SUPERVISOR SWEETON: Okay, thanks.

16 MR. FIORAVANTI: Any other questions at all  
17 from anyone? Alright, well, hearing none, we're  
18 going to close this public hearing. I will  
19 immediately open up the second Warwick, West  
20 Warwick 2. If you have other questions to ask  
21 specific to those obviously stay with us, you  
22 don't have to obviously, if you want to stay on  
23 just to hear if anyone joins or asks please do  
24 but I'm just going to keep going through here.  
25 Sounds like we have the bulk of our questions. I

## WEST WARWICK ENERGY STORAGE 1 LLC

1 just want to remind you the IDA Board of  
2 Directors meeting when this is scheduled to be  
3 considered by the IDA board is next Wednesday,  
4 the 15th, June 15th and as always, our board  
5 meetings are at the Orange County Government  
6 Center in Goshen in the community room on the  
7 first floor so you could attend. They're also  
8 always live-streamed, just by going to our home  
9 page you can check those out. But my point is we  
10 have more than a week before the board meeting,  
11 if you have additional questions, if you want to  
12 look at some things together, any followup that I  
13 need to do we have time to do that and if you  
14 have any other comments you want to make to the  
15 board there's still time to do that as well if  
16 need be, if you don't feel you had sufficient  
17 time here. But again, hearing no other comments  
18 or questions I'm going to close this public  
19 hearing at 12:42 for West Warwick 1. Thanks for  
20 joining us. We'll probably wait ten seconds and  
21 then launch the next hearing.

22 (Proceedings concluded at 12:42 p.m.)

23 \*\*\*\*\*  
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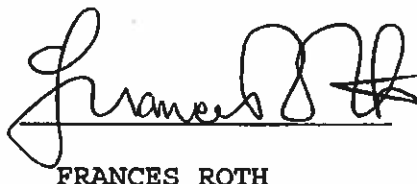
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C-E-R-T-I-F-I-C-A-T-I-O-N

I, FRANCES ROTH, a Stenographic Reporter and Notary Public  
of the State of New York, do hereby certify:

That the foregoing is an accurate record of the testimony,  
as given, to the best of my knowledge and belief, the same  
having been stenographically recorded by me and transcribed  
under my supervision.

That I am not related to any of the parties involved in  
this matter, and that I have no personal interest  
whatsoever in the outcome thereof.

A handwritten signature in cursive script, appearing to read "Frances Roth", written over a horizontal line.

FRANCES ROTH



\$	accept [1] 21/13	33/23
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