

166 FERC ¶ 61,122  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Cheryl A. LaFleur, Richard Glick,  
and Bernard L. McNamee.

New York Independent System Operator, Inc.                      Docket Nos.    ER18-1598-001

Central Hudson Gas & Electric Corporation    EL18-77-000

ORDER ACCEPTING REVISIONS TO STATED TRANSMISSION RATES IN  
RESPONSE TO THE COMMISSION'S ORDER TO SHOW CAUSE AND  
TERMINATING SECTION 206 PROCEEDING

(Issued February 21, 2019)

■ In this order, we accept New York Independent System Operator, Inc.'s (NYISO) submission, as amended in Docket No. ER18-1598-001, on behalf of Central Hudson Gas & Electric Corporation (Central Hudson),<sup>1</sup> to update Central Hudson's stated transmission revenue requirement under the NYISO Open Access Transmission Tariff (OATT) in response to the Commission's Stated Rate Order to Show Cause.<sup>2</sup> Also, we terminate the proceeding instituted under section 206 of the Federal Power Act (FPA)<sup>3</sup> in Docket No. EL18-77-000.

**I.     Background**

■ On March 15, 2018, the Commission issued several orders to address the effects of the Tax Cuts and Jobs Act of 2017,<sup>4</sup> which, among other things, reduced the federal

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<sup>1</sup> NYISO states that it submitted this filing in the Commission's e-Tariff system on Central Hudson's behalf solely in its role as Tariff Administrator, and it takes no position on any substantive aspect of this filing at this time.

<sup>2</sup> *Alcoa Power Generating Inc.—Long Sault Division*, 162 FERC ¶ 61,224 (2018) (Stated Rate Order to Show Cause).

<sup>3</sup> 16 U.S.C. § 824e (2012).

<sup>4</sup> An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution of the budget for fiscal year 2018, Pub. L. No. 115-97, 131 Stat. 2054 (2017)

corporate income tax rate from 35 percent to 21 percent. Of relevance here, pursuant to section 206 of the FPA, the Commission issued the Stated Rate Order to Show Cause to public utilities that use stated transmission rates under an open access transmission tariff or transmission owner tariff.

■ The Commission stated that the reduced tax rate results in lower income tax expenses for public utilities going forward. The Commission explained that public utilities recover federal corporate income tax expenses in their transmission rates, and when tax expenses decrease, so does the cost of service. The Commission continued that it has allowed transmission rates to be established through, among other things, stated rates, which include a fixed income tax component.<sup>5</sup>

■ The Commission identified Central Hudson and certain other public utilities (collectively, the Respondents) as having such arrangements in effect, and stated that absent a change to Respondents' stated transmission rates, Respondents' stated transmission rates may not accurately reflect their cost of service. Accordingly, the Commission found that Respondents' stated transmission rates appear to be unjust, unreasonable, and unduly discriminatory or preferential, or otherwise unlawful. As such, the Commission directed each Respondent to either (1) propose revisions to its stated transmission rate under its tariff on file with the Commission to reflect the reduced tax rate and describe the methodology used for making those revisions, or (2) show cause why it should not be required to do so.<sup>6</sup>

■ The Commission noted that it generally does not permit single-issue ratemaking. However, given the limited scope of the revisions needed to reflect the change in the federal corporate income tax rate, the Commission would consider proposals to review Respondents' revisions on a single-issue basis.<sup>7</sup> The Commission also noted that, under the show cause option, Respondents may explain how the reduced tax rate is being addressed in another proceeding pending before the Commission.<sup>8</sup> Finally, consistent with providing maximum protection to customers, the Commission set the refund

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(Tax Cuts and Jobs Act).

<sup>5</sup> Stated Rate Order to Show Cause, 162 FERC ¶ 61,224 at PP 2-3.

<sup>6</sup> *Id.* P 4.

<sup>7</sup> *Id.* P 4 n.6.

<sup>8</sup> *Id.* P 4 n.7.

effective date at the earliest date possible, March 21, 2018, which is the publication date of the Commission's notice of its investigation in the *Federal Register*.<sup>9</sup>

## II. Original Filing

■ On May 14, 2018, in Docket No. ER18-1598-000, Central Hudson proposed to reduce its stated transmission revenue requirement under the NYISO OATT<sup>10</sup> from \$16,375,919 to \$16,123,730, a reduction of \$252,189 or 1.54 percent, in response to the Commission's Stated Rate Order to Show Cause. To calculate this rate reduction, Central Hudson explained that it used the electric system revenue requirement determination, specifically the income statement, approved by the New York State Public Service Commission (New York Commission) in Case 92-E-1055 (Approved Revenue Requirement). Central Hudson stated that the Approved Revenue Requirement, which reflected a federal corporate income tax rate on current taxable income of 35 percent, was restated to reflect the current 21 percent federal corporate income tax rate. Central Hudson proposed an effective date of July 1, 2018.

## III. Deficiency Letter

■ On November 15, 2018, Commission staff issued a deficiency letter advising Central Hudson that additional information was required to process its filing.<sup>11</sup> In particular, the Deficiency Letter sought information on the applicability of Central Hudson's settlement in Docket No. OA96-14-000,<sup>12</sup> and how the tax expense in the New York Commission Case 92-E-1055—which Central Hudson cites in its response to the Stated Rate Order to Show Cause—relates to the rate base and associated return and taxes that were included in the Annual Transmission Revenue Requirement reached in the settlement of Docket No. OA96-14-000. Based on the data in Docket No. OA96-14-000, Commission staff estimated that the appropriate revenue requirement adjustment in response to the Stated Rate Order to Show Cause should be approximately \$1,049,067. The Deficiency Letter also sought clarification on the proposed effective date of the

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<sup>9</sup> *Id.* P 5.

<sup>10</sup> NYISO, NYISO Tariffs, [NYISO OATT, 14.1 OATT Att H TSC, 13.0.0](#).

<sup>11</sup> *Central Hudson Gas & Electric Corp. and N.Y. Indep. System Operator, Inc.*, Deficiency Letter, Docket Nos. ER18-1598-000 and EL18-77-000 (Nov. 15, 2018) (Deficiency Letter).

<sup>12</sup> NYISO, Supplemental Filing, Docket No. ER97-1523-000, at Vol. III, Att. B § 5.0 (Original Sheet No. 137) (filed December 19, 1997).

revised tariff records because the proposed effective date of July 1, 2018 differed from the refund effective date of March 21, 2018.

#### **IV. Deficiency Letter Response and Amended Filing**

■ On December 17, 2018, in response to the Deficiency Letter, Central Hudson submitted tariff records, in Docket No. ER18-1598-001, which agreed with Commission staff's estimated revenue requirement reduction and revised the proposed effective date. In particular, Central Hudson revised its proposed transmission revenue requirement to \$15,326,852, a reduction of \$1,049,067, with a proposed effective date of March 21, 2018.

#### **V. Notice and Responsive Pleading**

■ Notice of the Stated Rate Order to Show Cause was published in the *Federal Register*, 83 Fed. Reg. 12,378 (2018), with interventions and protests due on or before April 5, 2018. None was filed concerning Central Hudson.

■ Notice of Central Hudson's May 14, 2018 filing, in Docket No. ER18-1598-000, was published in the *Federal Register*, 83 Fed. Reg. 23,447 (2018), with interventions and protests due on or before June 4, 2018. The New York Commission filed a notice of intervention.

■ Notice of Central Hudson's November 15, 2018 Deficiency Letter response and amended filing, in Docket No. ER18-1598-001, was published in the *Federal Register*, 83 Fed. Reg. 66,699 (2018), with interventions and protests due on or before January 7, 2019. None was filed.

#### **VI. Commission Determination**

##### **A. Procedural Matters**

■ Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the notice of intervention serves to make the entity that filed it a party to this proceeding.

##### **B. Substantive Matters**

■ As described above, Central Hudson has revised its stated transmission rates to reflect the new 21 percent federal corporate income tax rate, which results in rate reductions for customers. Absent a change to Central Hudson's stated transmission rates, customers would not receive the benefits of the reduced federal corporate income tax rate. We therefore accept Central Hudson's proposed revisions to its stated transmission rates, effective March 21, 2018, as requested in Central Hudson's amended filing. Because Central Hudson proposed revisions to its stated rates to reflect the reduced tax

rate, we terminate the section 206 proceeding in Docket No. EL18-77-000. Central Hudson is directed to make refunds, within 30 days of the date of this order, of all amounts collected from ratepayers for periods after the requested effective date in excess of the revised rates. Within 30 days of issuing refunds, Central Hudson must submit a refund report showing the amounts refunded to each ratepayer. The refund report must show the principal amounts and interest refunded to each ratepayer and the interest calculations based on 18 C.F.R. § 35.19a of the Commission's regulations.

The Commission orders:

(A) Central Hudson's proposed revisions to its stated transmission rates in Docket No. ER18-1598-001 are hereby accepted, effective March 21, 2018, as discussed in the body of this order.

(B) Central Hudson is hereby directed to make refunds, with interest calculated pursuant to 18 C.F.R. § 35.19a (2018), within 30 days of the date of this order, and file a refund report within 30 days of issuing refunds, as discussed in the body of this order.

(C) The proceeding in Docket No. EL18-77-000 is hereby terminated, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.