

171 FERC ¶ 61,119  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Richard Glick, Bernard L. McNamee,  
and James P. Danly.

New York Independent System Operator, Inc.  
Central Hudson Gas & Electric Corporation

Docket No. ER20-715-001

ORDER ON TRANSMISSION INCENTIVES, PROPOSED TARIFF SHEETS

(Issued May 19, 2020)

1. On December 31, 2019, Central Hudson Gas & Electric Corporation (Central Hudson) filed, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> a new rate schedule under Schedule 12 to the New York Independent System Operator, Inc. (NYISO) Open Access Transmission Tariff (Tariff).<sup>2</sup> Under the new rate schedule (Formula Rate), Central Hudson proposes to establish the Highway Facilities Charge for the Hurley Avenue System Deliverability Upgrade, which will allow Central Hudson to recover costs related to common Highway System Deliverability Upgrades (SDU) being installed on Central Hudson's transmission facilities (Hurley Avenue Highway SDUs). Central Hudson states that these upgrades are required to provide four Large Generating Facility Developers (Developers) with Capacity Resource Interconnection Service, which they had requested of NYISO as part of their interconnection to the New York State Transmission System.<sup>3</sup> As discussed below, we accept in part the Formula Rate, suspend

---

<sup>1</sup> 16 U.S.C. § 824d (2018).

<sup>2</sup> NYISO, NYISO Tariffs, NYISO OATT, Schedule 12, Attach. 1, § 6.12.5-6.12.5.2 Rate Mechanism for the Recovery of the Hurley Avenue Highway System Deliverability Upgrade (1.0.0); *id.* § 6.12.5.2.1 Formula Rate Template; *id.* § 6.12.5.2.2 Description of Annual Update P.

<sup>3</sup> Transmittal at 1. A Developer, as defined by NYISO's Tariff, is "[a]n Eligible Customer developing a generation project larger than 20 megawatts, or a Class Year Transmission Project, proposing to interconnect to the New York State Transmission System, in compliance with the NYISO Minimum Interconnection Standard and, depending on the Developer's interconnection service election, also in compliance with the NYISO Deliverability Interconnection Standard." NYISO, NYISO Tariffs, NYISO OATT, § 1.4 OATT Definitions – D (11.0.0).

it for a nominal period, to become effective May 20, 2020, as requested, subject to refund, and establish hearing and settlement judge procedures.

2. Central Hudson also requests that the Commission grant two transmission rate incentives: (1) a 50 basis point adder to the authorized return on equity (ROE) to reflect Central Hudson's continued membership in NYISO (Regional Transmission Operator (RTO) Participation Adder); and (2) a 50 basis point ROE incentive adder for its use of solid-state power electronic flow control technology in lieu of traditional series compensation originally proposed by NYISO (Advanced Technology Adder). We grant the RTO Participation Adder request to Central Hudson's base ROE for its participation in NYISO, as discussed further below. We deny Central Hudson's request for an Advanced Technology Adder without prejudice, as discussed below.

### **I. Background and Filing**

3. Central Hudson is a regulated utility operating in the State of New York and is engaged in the transmission, distribution, and retail sale of electric power and natural gas in the Hudson Valley of upstate New York. Central Hudson is a founding member of NYISO and a signatory to the Independent System Operator-Transmission Owner Agreement. It is also a participant in NYISO's electricity markets on behalf of certain of its end-use customers and serves as a load-serving entity to its retail customers.<sup>4</sup>

4. Central Hudson states that Rate Schedule 12 of NYISO's Tariff permits a Transmission Owner like Central Hudson to recover SDU costs that are allocated to it and not recovered from Developers.<sup>5</sup> Through this filing, Central Hudson states that it seeks cost recovery and a reasonable return on investment for the Hurley Avenue Highway SDUs, pursuant to Rate Schedule 12 of NYISO's Tariff.<sup>6</sup>

5. Central Hudson states that, under the Formula Rate, it seeks to recover costs not paid by Developers for the approved Hurley Avenue Highway SDUs it has been directed by NYISO to construct as part of its Tariff obligations. Specifically, Central Hudson states that the Formula Rate will provide Central Hudson with full recovery of all reasonably-incurred costs related to the development, construction, operation, and maintenance of the Hurley Avenue Highway SDUs undertaken pursuant to Attachment S of NYISO's Tariff that are allocated to Load Serving Entities (LSEs), including abandonment costs for an SDU that is subsequently halted through no fault of Central Hudson.<sup>7</sup>

---

<sup>4</sup> Transmittal at 3.

<sup>5</sup> *Id.* (citing NYISO, NYISO Tariffs, NYISO OATT, Schedule 12, § 6.12 Rate Mechanism for the Recovery of the Highway Facilities Charge (2.0.0), § 6.12.1).

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

6. Central Hudson states that its request to recover SDU costs of \$20,179,439, less the costs paid for by Developers (\$17,621,749), plus ongoing Operation and Maintenance costs and other costs, and to receive a 10.6% ROE on a \$2,844,832 investment results in a Formula Rate annual revenue requirement of \$1,764,119 for the first year the asset is placed in service. Central Hudson states that it will also recover from Developers through the Contribution in Aid of Construction (CIAC) pre-in-service-date development costs and Construction Work in Progress (CWIP) segregated by capital and expense. Central Hudson states that the Formula Rate will be allocated to LSEs pursuant to section 6.12.3.5.1 of Rate Schedule 12 of NYISO's Tariff.<sup>8</sup>

7. Central Hudson proposes a 10.6% overall ROE. Central Hudson proposes a base ROE of 9.6% that it states is calculated in a manner consistent with the *Coakley* Briefing Order.<sup>9</sup> In addition to the calculated base ROE, Central Hudson states that it seeks the RTO Participation Adder because the Hurley Avenue Highway SDUs will be under the operational authority of NYISO and but for its membership in NYISO Central Hudson would not have built the SDU. Additionally, Central Hudson states that it seeks the Advanced Technology Adder for its use of solid-state power electronic flow control technology in lieu of traditional series compensation originally proposed by NYISO.<sup>10</sup>

8. Central Hudson states that, as described in the procedures set forth in the Formula Rate, Central Hudson will recalculate the Formula Rate revenue requirement prospectively for the rate to be charged over the next year and retrospectively as a true-up to actual rate base and expense annually, with the new rates to be effective each year on June 1, to permit the Formula Rate to be adjusted to actual costs. Central Hudson states that the annual update will reflect the FERC Form 1 Report data from the most recent calendar year for all components of the allocation rate template methodology. Central Hudson states that it will coordinate with NYISO to post the results of its annual updates to NYISO's website. Central Hudson states that the annual update will include supporting documentation and be subject to review and challenge as described in the procedures set forth in the Formula Rate.<sup>11</sup>

9. Central Hudson states that, under the terms of the Formula Rate, Central Hudson will charge accrued costs, including those for development and CWIP to Developers, but

---

<sup>7</sup> *Id.* at 1-2.

<sup>8</sup> *Id.* at 4-5.

<sup>9</sup> *Id.* at 4 (citing *Coakley v. Bangor Hydro-Elec. Co.*, 165 FERC ¶ 61,030 (2018) (*Coakley* Briefing Order)).

<sup>10</sup> *Id.* at 5-6.

<sup>11</sup> *Id.* at 6.

NYISO will not actually begin charging the Formula Rate to LSEs until after the Hurley Avenue Highway SDUs are placed into service, unless otherwise determined by the Commission.<sup>12</sup>

## **II. Notice of Filing and Responsive Pleadings**

10. Notice of Central Hudson's filing was published in the *Federal Register*, 85 Fed. Reg. 706 (Jan. 7, 2020), with interventions and protests due on or before January 21, 2020. Consolidated Edison Company of New York, Inc., Long Island Lighting Company d/b/a Power Supply Long Island, Long Island Power Authority, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation filed a timely joint motion to intervene (Indicated Transmission Owners).

11. On January 21, 2020, the New York State Public Service Commission (New York Commission) filed a notice of intervention and a protest.

### **Protest of the New York Commission**

12. The New York Commission contends that Central Hudson's 9.6% base ROE (and 10.6% overall ROE) is excessive and will result in unjust and unreasonable rates, and thereby harm ratepayers. The New York Commission argues that the Commission should adopt a base ROE of 8.0% that better reflects current market conditions and the risks of Central Hudson's transmission-only investments, or alternatively conduct a hearing to ensure that Central Hudson's ROE is just and reasonable.<sup>13</sup>

13. The New York Commission argues that Central Hudson's requested RTO Participation Adder for continued participation in NYISO is unnecessary and unwarranted. The New York Commission contends that merely remaining in NYISO, as Central Hudson will regardless of the adder, is not an action that provides incremental consumer benefits and warrants an incentive. The New York Commission argues that the Commission should reject Central Hudson's request for an ROE Participation Adder under these circumstances.<sup>14</sup>

---

<sup>12</sup> *Id.* at 7.

<sup>13</sup> New York Commission Protest at 4-5.

<sup>14</sup> *Id.* at 5.

### **III. Deficiency Letter and Response**

#### **A. Deficiency Letter**

14. On February 25, 2020, the Commission issued a deficiency letter requesting additional information on both the provisions to recover abandoned plant costs and the request for the Advanced Technology Adder. With respect to the provisions to recover abandoned plant costs, the deficiency letter asked Central Hudson to explain the basis for Central Hudson's apparent request for approval to recover 100% of abandoned plant costs (Abandoned Plant Incentive), including the connection between that request and the risks and challenges associated with building the Hurley Avenue Highway SDUs, as expected under the Commission's current transmission incentives policy. The deficiency letter noted that Central Hudson's transmittal letter contains a brief reference to potential recovery of abandoned plant costs and that its proposed Formula Rate template contains line items that appear to track and amortize abandoned plant costs in rates. With respect to the Advanced Technology Adder, the deficiency letter explained that the Commission's 2012 Policy Statement on transmission incentives<sup>15</sup> eliminated the stand-alone ROE incentive adder for advanced technologies but preserved the ability for applicants to request an ROE adder for projects deploying advanced technologies as part of the overall nexus analysis, and therefore asked Central Hudson to explain how its Advanced Technology Adder request satisfies the Commission's nexus test.

#### **B. Deficiency Letter Response**

15. On March 20, 2020, Central Hudson submitted its response to the Commission's deficiency letter. Central Hudson states that it is not seeking recovery of abandoned plant costs for the Hurley Avenue Highway SDUs and argues that the Commission's concerns regarding the Formula Rate template line items are unfounded. Central Hudson argues that the Commission has accepted similar Formula Rate templates that include a placeholder that can be utilized if the utility later receives Commission approval for abandoned plant cost recovery.<sup>16</sup>

16. Central Hudson argues that it should receive the Advanced Technology Adder because its request meets the requirements of the nexus test, as defined in 18 C.F.R. § 35.35(d) (2019), and that the totality of its 10.6% requested ROE is just and reasonable. Central Hudson explains that it has been working with Smart Wires to develop a variable solid-state power electronic flow control technology to be installed in lieu of traditional fixed series compensation. Central Hudson contends that this technology will help Central Hudson and NYISO more efficiently manage New York's transmission system

<sup>15</sup> *Promoting Transmission Investment through Pricing Reform*, 141 FERC ¶ 61,129 (2012) (2012 Policy Statement).

<sup>16</sup> Central Hudson's Deficiency Letter Response at 2.

through improved system stability, load balance among parallel lines, voltage control, lower impedance, and avoidance of sub synchronous resonance issues often associated with the installation of traditional series compensation. Furthermore, Central Hudson argues that this technology will lower costs to customers by avoiding extensive system protection upgrades. Central Hudson states that it has put considerable effort into making the Smart Wires technology usable for this project and that, absent the Advanced Technology Adder, Central Hudson would have no reason to develop it or any other new technology.<sup>17</sup>

**C. Notice of Deficiency Response**

17. Notice of Central Hudson's deficiency letter response in Docket No. ER20-715-001 was published in the *Federal Register*, 85 Fed. Reg. 17,050 (Mar. 26, 2020), with interventions and protests due on or before April 10, 2020. None was filed.

**IV. Discussion**

**A. Procedural Matters**

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the timely, unopposed motion to intervene of Indicated Transmission Owners and the notice of intervention by the New York Commission serve to make them parties to this proceeding.

**B. Substantive Matters**

**1. Transmission Incentives**

**a. RTO Participation Adder**

19. We grant the request for a 50 basis point adder to Central Hudson's base ROE for its participation in NYISO. In the Energy Policy Act of 2005 (EPA 2005), Congress added section 219 to the FPA, directing the Commission to establish, by rule, incentive-based rate treatments for the transmission of electric energy in interstate commerce by public utilities to benefit consumers by ensuring reliability or reducing the cost of delivered power by reducing transmission congestion.<sup>18</sup> The Commission then issued Order No. 679,<sup>19</sup> which sets forth processes by which a public utility may seek transmission rate incentives pursuant to section 219 of the FPA.

---

<sup>17</sup> *Id.* at 2-4.

<sup>18</sup> 16 U.S.C. § 824s(a), (b).

<sup>19</sup> *Promoting Transmission Investment through Pricing Reform*, Order No. 679,

20. We find that the requested 50 basis point adder is consistent with Order No. 679 and Commission precedent.<sup>20</sup> Central Hudson is a member of NYISO, which is a Commission-approved independent system operator. Order No. 679 provides that an entity will be presumptively eligible for the incentive if it is a member of an RTO or comparable transmission organization.<sup>21</sup> The New York Commission does not provide evidence to rebut this presumption of eligibility for Central Hudson.

**b. Advanced Technology Adder**

21. We deny Central Hudson's request for a 50 basis point Advanced Technology Adder for its use of solid-state power electronic flow control technology. We recognize the value of this technology. However, as discussed below, Central Hudson fails to make the requisite showings to warrant granting the adder. Our denial is without prejudice to Central Hudson making a filing in the future in which it makes the necessary showings.

22. While Central Hudson does not expressly request policy-based incentives under section 205, we first evaluate the requested Advanced Technology Adder as though it was requested under that provision. The Commission has the authority to grant policy-based incentives under section 205,<sup>22</sup> and one factor the Commission has considered in evaluating such requests is the deployment of advanced transmission technologies.<sup>23</sup> In *Commonwealth Edison Co.*, the Commission stated that section 1223 of EPAct 2005 directs the Commission to "encourage, as appropriate" the deployment of advanced transmission technologies,<sup>24</sup> and that, in interpreting that directive, the Commission has stated that it "expressly calls for the Commission to exercise discretion in identifying

---

116 FERC ¶ 61,057, *order on reh'g*, Order No. 679-A, 117 FERC ¶ 61,345 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007) (Order No. 679).

<sup>20</sup> See, e.g., *Valley Elec. Ass'n, Inc.*, 141 FERC ¶ 61,238, at P 26 (2012) (granting 50 basis point adder for RTO participation).

<sup>21</sup> Order No. 679, 116 FERC ¶ 61,057 at P 327 ("An entity will be presumed to be eligible for the incentive if it can demonstrate that it has joined an RTO, I[n]dependent S[y]stem O[perator], or other Commission-approved Transmission Organization, and that its membership is on-going.").

<sup>22</sup> Order No. 679-A, 117 FERC ¶ 61,345 at P 21, n.37 (noting that the Commission retains its discretion to provide policy-based incentives pursuant to section 205).

<sup>23</sup> See *Commonwealth Edison Co.*, 167 FERC ¶ 61,173, at PP 28-30 (2019).

<sup>24</sup> *Commonwealth Edison Co.*, 167 FERC ¶ 61,173 at P 30 (citing EPAct 2005 § 1223(b), 42 U.S.C. § 16422(b); see also *NSTAR Elec. Co.*, 127 FERC ¶ 61,052, at PP 25, 27 (2009) (*NSTAR*)).

where and how it is appropriate to incentivize technologies that satisfy the standard set forth in the statute.”<sup>25</sup> The Commission then found that granting Commonwealth Edison’s requested abandoned plant incentive was appropriate for several reasons: (1) Commonwealth Edison had demonstrated that the project reflected an innovative use of an advanced technology that would improve reliability; (2) the project would be the first domestic permanent commercial installation of that technology; (3) the project was supported by the Department of Homeland Security and had the potential to benefit dense urban centers around the country; and (4) the project would likely face unique and special challenges with risk factors beyond Commonwealth Edison’s control, including inherent risk associated with using the new technology that had not previously been deployed commercially and the risk that Commonwealth Edison’s partners could abandon the project, especially if costs became prohibitive.<sup>26</sup>

23. By contrast, Central Hudson fails to present sufficient evidence to justify awarding the requested incentive under section 205. Central Hudson states that the Smart Wires technology is intended to provide Central Hudson and NYISO the ability to manage the New York transmission system more efficiently, and also that it will allow Central Hudson to complete the project at lower cost to customers. These statements do not reflect a breadth of considerations comparable to those on which the Commission relied in *Commonwealth Edison Co.* Central Hudson also does not otherwise provide sufficient detail with respect to the innovative nature of the proposed deployment, its unique and special challenges, or its potential for broadly applicable benefits that might support granting the Advanced Technology Adder under section 205.

24. Although Central Hudson also did not explicitly request the Advanced Technology Adder under section 219, in its response to the deficiency letter, Central Hudson attempts to demonstrate how its request satisfies the Commission’s nexus test. Central Hudson’s response, however, does not address any of the four showings that the Commission stated in the 2012 Policy Statement that it would expect of applicants requesting an incentive ROE adder based on a project’s risks and challenges. These four showings are: (1) a demonstration that the project’s specific risks and challenges are not already accounted for in the applicant’s base ROE or addressed through risk-reducing incentives; (2) a demonstration that the applicant is taking appropriate steps and is using appropriate mechanisms to minimize risks during project development; (3) a demonstration that project alternatives have been, or will be, considered in the relevant transmission planning process or in another appropriate forum; and (4) an explanation of whether the

---

<sup>25</sup> *Id.* (citing *NSTAR*, 127 FERC ¶ 61,052 at P 27 (The Commission is not obligated to grant incentives to every advanced technology that “increases the capacity, efficiency or reality of an existing or new transmission facility.”); *see also Nevada Hydro Co. Inc.*, 122 FERC ¶ 61,272, at P 84 (2008), *reh’g denied*, 133 FERC ¶ 61,155 (2010)).

<sup>26</sup> *NSTAR*, 127 FERC ¶ 61,052 at PP 31-32.



applicant is committed to limiting the application of the ROE risk adder for risks and challenges to a cost estimate.<sup>27</sup> Regarding the first showing, other than generalized assertions of risks and challenges facing the project, Central Hudson does not discuss whether those risks and challenges may already be accounted for in the requested base ROE. Nor does Central Hudson explain whether or why it would not be appropriate to request risk-reducing incentives. Central Hudson also does not attempt to make any of the three other showings. For these reasons, the record here also does not support the Commission granting the requested Advanced Technology Adder pursuant to section 219.

**c. Abandoned Plant Incentive**

25. We accept Central Hudson's proposal to include a placeholder in the Formula Rate to recover abandoned plant costs. In its response to the deficiency letter, Central Hudson states that it "is not seeking recovery of abandoned plant costs."<sup>28</sup> Thus, we do not interpret Central Hudson's application as requesting an Abandoned Plant Incentive under section 219 and Order No. 679.<sup>29</sup> Absent Commission approval for an Abandoned Plant Incentive, Central Hudson will be eligible to recover 50 percent of prudently-incurred abandoned plant costs.<sup>30</sup> Before Central Hudson recovers any abandoned plant costs under its Formula Rate, it must submit a separate filing pursuant to section 205 to demonstrate the prudence of such costs.

**2. Central Hudson's Formula Rate**

26. We find that, with the exception of the three issues discussed above, Central Hudson's Formula Rate raises issues of material fact that cannot be resolved based on the record before us and that are more appropriately addressed in the hearing and settlement judge procedures we order below.

<sup>27</sup> 2012 Policy Statement, 141 FERC ¶ 61,129 at PP 11, 20, 24-30. The specific types of projects that the Commission identified as potentially facing risks and challenges not addressed by either the base ROE or by risk-reducing incentives are: (1) projects that relieve chronic or severe congestion and which has demonstrated cost impacts to consumers; (2) projects that unlock location-constrained generation resources that previously had either limited or no access to the wholesale electricity markets; or (3) projects that apply new technologies to facilitate more efficient and reliable usage and operation of either new or existing facilities. *Id.* at P 21.

<sup>28</sup> Central Hudson's Deficiency Letter Response at 2.

<sup>29</sup> See Order No. 679, 116 ¶ 61,057 at PP 163-66.

<sup>30</sup> See *New Eng. Power Co.*, Opinion No. 295, 42 FERC ¶ 61,016, *order on reh'g*, 43 FERC ¶ 61,285 (1988).

27. Our preliminary analysis indicates that Central Hudson's Formula Rate has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. The filing raises issues of material fact, including, but not limited to, the determination of base ROE. Accordingly, we accept and suspend for a nominal period the Formula Rate, effective May 20, 2020, as requested, subject to refund, and set it for hearing and settlement judge procedures.

28. While we are setting this matter for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures commence. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.<sup>31</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding. The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements which determine judges' availability.<sup>32</sup> The settlement judge shall report to the Chief Judge and the Commission within 60 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

The Commission orders:

(A) Central Hudson's request for the RTO Participation Adder is hereby granted, effective May 20, 2020, as requested, as discussed in the body of this order.

(B) Central Hudson's request for the Advanced Technology Adder is hereby denied without prejudice, as discussed in the body of this order.

(C) Central Hudson's Formula Rate, as modified in accordance with Ordering Paragraph (B) above, is hereby accepted for filing and suspended for a nominal period to become effective May 20, 2020, subject to refund, as discussed in the body of this order.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the

---

<sup>31</sup> 18 C.F.R. § 385.603 (2019).

<sup>32</sup> If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience <http://www.ferc.gov/legal/adr/avail-judge.asp>.

Department of Energy Organization Act and the FPA, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of Central Hudson's Formula Rate, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (E) and (F) below.

(E) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603, the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within 45 days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates a settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five days of the date of this order.

(F) Within 60 days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every 60 days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(G) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within 45 days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426, or remotely (by telephone or electronically), as appropriate. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) Given that the circumstances caused by the COVID-19 pandemic may disrupt, complicate, or otherwise change the ability of participants to engage in normal hearing procedures, the Chief Judge is hereby authorized to set or change the dates for the commencement of the hearing and the issuance of the initial decision as may be appropriate.

By the Commission. Commissioner Glick is concurring with a separate statement attached.

( S E A L )

Kimberly D. Bose,  
Secretary.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.  
Central Hudson Gas & Electric Corporation

Docket No. ER20-715-001

(Issued May 19, 2020)

GLICK, Commissioner, *concurring*:

1. I concur in today's order, including the Commission's conclusion that Central Hudson Gas & Electric Corporation's (Central Hudson) request for an Advanced Technology Adder does not satisfy its burden under either section 205<sup>1</sup> or section 219<sup>2</sup> of the Federal Power Act (Act). I write separately to underscore that our conclusion is based on Central Hudson's failure to make the requisite showing on this particular record. It is not a judgment on whether the technology at issue could merit such an incentive.

2. In section 219(b)(3) of the FPA, Congress directed the Commission to "encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities."<sup>3</sup> Although I have my doubts about whether an ROE adder has ever been a sufficient enough measure to carry out that statutory directive,<sup>4</sup> the potential limitations of an ROE-based approach to incentivizing those technologies make it only that much more important that the Commission grant those incentive requests that meet the relevant standard under either section 205 or section 219.<sup>5</sup>

For these reasons, I respectfully concur.

---

<sup>1</sup> 16 U.S.C. § 824d (2018).

<sup>2</sup> *Id.* § 824s.

<sup>3</sup> *Id.* § 824s(b)(3).

<sup>4</sup> See *Electric Transmission Incentives Policy Under Section 219 of the Federal Power Act*, 170 FERC ¶ 61,204 (2020) (Glick, Comm'r, dissenting in part at PP 31-33).

<sup>5</sup> *N.Y. Indep. Sys. Operator, Inc.*, 171 FERC ¶ 61,119, at PP 22, 24 (2020) (reciting those standards).

Richard Glick  
Commissioner