Attachment A2

Recommended Decision

NYPSC Case 23-E-0481

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 23-E-0418 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric Service.

CASE 23-G-0419 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Gas Service.

NOTICE OF SCHEDULE FOR FILING EXCEPTIONS

(Issued May 1, 2024)

Attached is the Recommended Decision of Administrative Law Judges James A. Costello and Ashley Moreno in the above-referenced proceedings. Pursuant to 16 NYCRR §4.10, briefs on exceptions are due by May 21, 2024. Briefs opposing exceptions may be filed by May 29, 2024.

Central Hudson Gas & Electric Corporation (the Company) is directed to include, as an appendix to its brief, tables showing the bill impacts, for each service classification, of the rate changes proposed by the attached Recommended Decision. The Company should consult with Department of Public Service Staff in preparing that appendix.

The parties' briefs must adhere to the requirements of 16 NYCRR §§4.10, 3.5, and 4.8, unless modified by the Secretary in response to a party's showing that its presentation would be prejudiced by enforcement of such limitations. Appendices of financial schedules and similar information presented in tabular form shall not be counted for purposes of the page limitation.

(SIGNED) MICHELLE L. PHILLIPS
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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RECOMMENDED DECISION

By

ADMINISTRATIVE LAW JUDGES

JAMES A. COSTELLO and ASHLEY MORENO

May 1, 2024

TABLE OF CONTENTS

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RECOMMENDED DECISION

James A. Costello and Ashley Moreno, Administrative Law Judges:

I. INTRODUCTION

On July 31, 2023, Central Hudson Gas & Electric Corporation (Central Hudson or the Company) filed tariff leaves and testimony seeking to increase its electric and gas delivery revenues based on a rate year starting July 1, 2024, and ending June 30, 2025 (the Rate Year). The Company's filing included costs incurred during the 12 months ending March 31, 2023 (the Historic Test Year) and cost projections for the Rate Year and the following two years ending June 30, 2026 and June 30, 2027, respectively. These proceedings resulted in a fully litigated case, including an extensive evidentiary hearing conducted over 10 days, as well as the filing of post-hearing briefs and reply briefs. This Recommended Decision (RD) contains recommendations for the Rate Year only, which, if adopted by the Commission, will remain in place until changed thereafter by the Commission.

For the reasons detailed below, we recommend that the Commission grant in part and deny in part the Company's Rate Year proposals. Our recommendations are designed to mitigate rate impacts while preserving the Company's operational and financial stability consistent with the relevant provisions of the New York State Public Service Law and legal precedent.

II. BACKGROUND OF THE PROCEEDINGS

Central Hudson distributes electricity to more than 300,000 customers and natural gas to approximately 90,000 customers in the mid-Hudson River Valley Region of New York. The Company’s most recent rate plan was contained in a Joint Proposal that was adopted by the Commission in a rate order issued in November 2021.[1] In its 2021 Rate Order, the Commission approved a three-year electric and gas rate plan (2021 Rate Plan) that ends on June 30, 2024.

On July 31, 2023, Central Hudson filed tariff leaves and testimony seeking to increase its electric and gas delivery revenues based on a Rate Year starting July 1, 2024, and ending June 30, 2025. Central Hudson’s proposed delivery rates were designed to produce an annual electric delivery revenue increase of approximately $139.5 million and an annual gas delivery revenue increase of approximately $41.5 million. As compared to the revenues approved in rate year three of the Company’s current rate plans, the Company’s requested electric and gas delivery revenue reflected an increase to electric base delivery revenues of 31.6 percent (or a 13.3 percent increase in total system revenues) and to gas base delivery revenues of 29.2 percent (or a 14.2 percent increase in total system revenues). Central Hudson requested an overall return on equity (ROE) of 9.8 percent and a 50 percent equity ratio.

The Company stated that the following six rate drivers accounted for more than 80 percent of the electric and gas

[1] Cases 20-E-0428 et al., Central Hudson Gas & Electric Corporations – Rates, Order Approving Rate Plan (issued November 18, 2021) (2021 Rate Order).

increases: (1) infrastructure investment "driven by the replacement of aging or obsolete infrastructure"; (2) workforce expansion, attrition, and retention; (3) capitalization costs; (4) recovery of major storm expense; (5) recovery of Energy Efficiency Programs and New York State Clean Heat Program costs; and (6) recovery of Low-Income Bill Discount Program expenses.[2] The Company stated that transition costs with respect to its customer information system computer software (SAP CIS) were not a rate driver and that it excluded from the Rate Year revenue requirements approximately $9 million of incremental expenses incurred in the Historic Test Year associated with the SAP CIS transition.[3] However, the Company included ongoing costs with the SAP CIS system and customer billing in its proposed revenue requirements.

On August 11, 2023, the Public Service Commission (Commission) suspended the Company's rate filings and initiated these proceedings to examine the Company's proposals.[4] The following month, after holding a procedural and technical conference, we issued a case schedule requiring Central Hudson to file updates and corrections to its initial filings by September 15, 2023; Staff and intervenors to file their direct testimony and exhibits by November 21, 2023; rebuttal testimony to be filed by December 19, 2023; and an evidentiary hearing to begin on January 9, 2024.[5]

In its updated testimony and exhibits, filed on September 15, 2023, the Company proposed to increase its

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[2] Tr. 3288.

[3] Tr. 3287.

[4] Notice of Suspension of Effective Date of Major Rate Changes and Initiation of Proceedings (issued August 11, 2023).

[5] Ruling on Procedural Matters and Amending Protective Order (issued September 8, 2023).

electric delivery revenues to $142.0 million and its gas delivery revenues to $42.0 million.

On October 31, 2023, PULP filed a motion requesting, among other things, that the Commission "deny" Central Hudson's application for new rates, arguing that customer billing problems related to Central Hudson's deployment of its SAP CIS in September 2021 rendered inaccurate the baseline data used to compile the Company's rate filings.[6] PULP maintained that these rate cases were premature, against the public interest, and should be denied summarily pending final resolution of ongoing proceedings concerning review of individual customer complaints, management audits, and investigations into various aspects of the Company's actions involving, but not limited to, the deployment of the SAP CIS.[7] Alternatively, PULP requested that the rate cases be decided on a fully litigated record, as opposed to an evaluation of any settled agreement, and that any adjustment of the Company's rates be made temporary pursuant to Public Service Law (PSL) §114 to provide the Commission additional time to determine the reliability of Central Hudson's underlying rate case data.

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[6] Assemblymember Sarahana Shrestha, Alliance for a Green Economy (AGREE), Beacon Action Climate Now (BCAN), and Communities for Local Power (CLP) filed responses in support of PULP's motion.

[7] See Matter 22-00666, In the Matter of Staff's Investigation into Central Hudson's Customer Information System Implementation and Resulting Billing Errors; Case 21-M-0541, Central Hudson Gas & Electric - Management and Operations Audit; Case 22-M-0645, Proceeding on Motion of the Commission Concerning Central Hudson Gas & Electric Corporation's Development and Deployment of Modifications to its Customer Information and Billing System and Resulting Impacts on Billing Accuracy, Timeliness, and Errors.

The Commission denied PULP's motion,[8] concluding that (1) PSL §66(12) requires a "full hearing" before final action on a rate filing and the concurrent proceedings cited by PULP did not render these rate proceedings premature, (2) it was inappropriate to grant PULP's request for temporary rates at that stage of the rate proceedings, and (3) the determination whether to enter into settlement negotiations was for the parties to make under the Commission's Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines.[9]

On November 21, 2023, while PULP's motion was pending decision, trial staff of the Department of Public Service (Staff), PULP, the New York State Department of State Utility Intervention Unit (UIU), BCAN, Multiple Intervenors (MI), Walmart, Inc. (Walmart), Town of Olive, Dutchess County, CLP, and Assemblymember Shrestha filed direct testimony. Key Capture Energy (KCE) served its direct testimony on all parties that same day.[10] Central Hudson, Staff, PULP, and CLP filed rebuttal testimony on December 19, 2023. Pursuant to a ruling amending the case schedule, Staff filed supplemental direct testimony that same day to provide electric and gas forecast updates and revenue price-out corrections. On December 29, 2023, the Company filed supplemental rebuttal testimony in response to Staff's supplemental direct testimony.

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[8] Cases 23-E-0418 and 23-G-0419, Order on Motion to Deny Rate Case Filings (issued December 19, 2023).

[9] See, Case 92-M-0138 et al., Procedures for Settlements and Stipulation Agreements, Opinion 92-2, Order and Resolution Adopting Settlement Procedures and Guidelines (issued March 24, 1992)(Settlement Guidelines).

[10] Although KCE timely served its direct testimony on all parties, it did not file its testimony with the Secretary or serve it on the Judges. In the absence of any prejudice to other parties, we granted KCE's subsequent request for leave to file its direct testimony with the Secretary.

Staff recommended an increase to Central Hudson's electric delivery revenues of approximately $65.52 million for the Rate Year, which would result in a 14.5 percent increase in electric delivery revenues and a 6.2 percent increase in total electric revenues.[11] For gas revenues, Staff recommended an increase of $25.15 million, which would result in an 18.5 percent increase on delivery revenues and an 8.7 percent increase on total gas revenues.[12] Staff recommended an ROE of 9.2 percent and a 48 percent common equity ratio.[13]

Staff stated that the major drivers of its proposed electric revenue requirement increases included increases for net plant and depreciation, labor and benefits, storm costs, and energy efficiency and heat pump programs.[14] In addition, Staff testified that the largest differences between the electric revenue requirements proposed by the Company and Staff were labor and benefits, capital structure, removal of the Company's retention factors for low-income and rate change timing, major storm costs, and low-income program costs.[15] With respect to Staff's proposed increase to gas revenue requirements, Staff testified that the major drivers of the proposed increase included net plant and depreciation, revenues, labor and benefits, and capital structure.[16] Staff also stated that the largest differences between the gas revenue requirements proposed by the Company and Staff were labor and benefits,

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[11] Tr. 3939, 4045.

[12] Tr. 3939, 4045.

[13] Tr. 2342, 2393, 2406, 3947.

[14] Tr. 3941.

[15] Tr. 3940.

[16] Tr. 3942.

capital structure, and amortization of the excess depreciation reserve.[17]

In rebuttal testimony, the Company made further corrections and updates to its electric and gas revenue requirements. The Company proposed to increase its electric delivery revenues by approximately $144.4 million and its gas delivery revenues by approximately $46.2 million.

At a procedural conference held on December 21, 2023, Central Hudson and Staff informed us that they did not intend to enter into settlement negotiations at that time and would be proceeding on a litigation track. The Company and other parties indicated at the procedural conference an interest in attempting to narrow the scope of issues to be addressed at the evidentiary hearing. In addition, Staff requested that the evidentiary hearing be delayed two weeks, until January 23, 2024. Central Hudson indicated its general agreement with a delay, without an extension of the suspension period, and requested the hearing commence on January 24, 2024. Several other parties indicated general agreement with the proposal to delay the evidentiary hearing.

By ruling issued December 24, 2023, we granted the request to reschedule the evidentiary hearing from January 9, 2024 to January 24, 2024.[18] On January 4, 2024, the Secretary issued a notice scheduling the evidentiary hearing to commence on January 24, 2024. On January 5, 2024, Central Hudson filed a notice of impending settlement negotiations, stating that settlement negotiations would commence on January 10, 2024, with the initial settlement meeting to be focused on exploring whether parties could enter into stipulations to narrow issues

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[17] Tr. 3941.

[18] Ruling on Evidentiary Hearing Date and Process (issued December 24, 2023).

for the forthcoming evidentiary hearing. Those negotiations resulted in four stipulations, which were entered into the evidentiary record, as discussed below.

We held an evidentiary hearing in Albany from January 24 through February 6, 2024. During the evidentiary hearing, we granted motions by the Company to strike certain portions of pre-filed testimony and one pre-filed exhibit. We granted the motions in whole or part by striking public comments quoted or recounted in the testimony and exhibit because those comments either were or could be made part of the administrative record and referenced in briefing, and because such comments were not entitled to additional weight through inclusion in the evidentiary record as hearsay testimony.[19] We also granted the Company's motion to strike rebuttal testimony on the ground that it should have been provided as direct testimony so that other parties could have responded to it in compliance with the established procedural schedule.[20] The parties did not seek interlocutory review of those rulings.

During the evidentiary hearing, we admitted four stipulations regarding various issues into the record. The first stipulation, between the Company and Staff, deals with the electric and gas sales forecasts and price-out revenues (Exhibit 513); the second stipulation, between the Company, Staff and UIU, regards billing reporting requirements and the Company's

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[19] Tr. 45-48, 4313-4315. We informed the parties during a procedural conference held on August 29, 2023, that the Commission considers all public comments filed in rate cases and that summarizing public comments in the form of testimony did not give extra weight to the comments because they remain unsworn and equivalent to hearsay. (Procedural Conference Tr. 10-11). On February 2, 2024, the Town of Olive added the public comments stricken from its evidentiary exhibit to the administrative record.

[20] Tr. 47.

Interactive Voice Recognition (IVR) modernization project (Exhibit 514); the third stipulation, between the Company, Staff and UIU, addresses the Company's customer experience capital projects (Exhibit 515); and the fourth stipulation, between the Company and Staff, deals with the Company's electric capital and operations (Exhibit 516). Those stipulations are attached for the Commission's review and are discussed in more detail later in pertinent sections of this RD. In total, the evidentiary record consists of 4,574 pages of testimony and 646 exhibits.

On March 1, 2024, the Company, Staff, UIU, Walmart, MI, PULP, Dutchess County, CLP, KCE, and the Town of Olive filed initial post-hearing briefs. On March 11, 2024, the Company, Staff, UIU, MI, PULP, and KCE filed reply briefs.

As of the filing of the reply briefs, the Company requested increases to annual electric revenues by $128.708 million (an increase of approximately 27.5 percent in delivery revenues and 11.7 percent in total revenues) and annual gas revenues by $47.21 million (an increase of approximately 33.2 percent in delivery revenues and 15.6 percent in total revenues).[21] Staff recommends the Commission authorize rates that will increase Central Hudson's annual electric revenues by approximately $64.03 million (an increase of approximately 14.2 percent in delivery revenues and 6.0 percent in total revenues) and annual gas revenues by approximately $25.56 million (an increase of approximately 18.8 percent in delivery revenues and 8.8 percent in total revenues).[22] Those numbers do not include the potential moderation of rates through the use of the Company's existing regulatory liabilities.

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[21] Central Hudson Reply Brief, Appendix 1, p. 1 and Appendix 2, p. 1.

[22] Staff Reply Brief, p. 3 and Appendix A.

III. PUBLIC COMMENTS AND NOTICE OF PROPOSED RULEMAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), Notices of Proposed Rulemaking were published in the State Register on October 4, 2023.[23]

On August 18, 2023, a notice was issued describing Central Hudson's rate filings and announcing that virtual public statement hearings would be held in the afternoon and evening on September 12 and 20, 2023. On September 26, 2023, a notice was issued announcing that in-person public statement hearings would be held on October 17 and 18, 2023, in Catskill, Newburgh, Poughkeepsie and Kingston, New York. Both notices stated that comments could also be submitted by email, regular mail, or through the Commission's toll-free opinion line.

One hundred fifty-seven people spoke at the Public Statement Hearings, including various elected officials and several parties to these proceedings. Commenters vehemently opposed the requested rate increases and proposed infrastructure investments as unaffordable, contrary to the CLCPA and Climate Action Council's Scoping Plan, and particularly inappropriate given that Central Hudson is still under investigation by the Department of Public Service for billing problems arising from implementation of its SAP CIS in September 2021.

Many commenters expressed frustration over billing issues. Various speakers recounted erratic billing practices, with some people reporting no bills for months or years, or receiving several packets of bills monthly with several bills for the same month all with different usages and amounts shown. Many spoke about incomprehensible bills that were wildly inaccurate, sometimes reflecting estimates and actual readings for the same months, and with different usages and total billing

[23] SAPA Nos. 23-E-0418SP1 and 23-G-0419SP1.

amounts. Some people have had direct withdrawals from their bank accounts or credit cards charged for very large amounts. People commented that any refunds from Central Hudson were provided in installments, that they spent numerous hours trying to remedy their bills, and that some have now given up and are either not paying their bills or are paying a minimum amount. Many people reported that their accounts do not show credits where payments were made.

Various speakers also stated that Central Hudson provided abysmal customer service. For example, speakers reported that they have trouble reaching Central Hudson for any assistance. At times, people reported waiting on hold for several hours only to be disconnected. Speakers stated that Central Hudson has failed to call customers back when promised and has used what they termed to be threatening or harassing behavior in an effort to collect amounts customers knew to be wrong. Commenters also reported dealing with poorly trained or impolite customer service representatives - often out-of-state contractors - an inability to speak with managers or resolve their billing issues, and, for some, being provided explanations for high bills that they said did not make sense.

Several speakers reported problems with meters and meter reading. Many speakers believed that Central Hudson is lying about actual meter reads and asserted that, while they have been home, they have never seen a person reading the meter. Many do not believe that remote meter readers actually pick up a signal based on their geography or that the meter read is theirs as opposed to their nearby neighbors. Several commenters noted that people in Community Distributed Generation (CDG) programs are reporting that their bills are not credited and that CDG providers blame Central Hudson’s billing practices.

The general sentiment at the Public Statement Hearings was that Central Hudson is not providing basic service and should not be rewarded for its poor performance. To the contrary, many people voiced the opinion that rates should be frozen until Central Hudson improves its performance, that there should be a rate reduction, and/or that the employees responsible for management, billing, and customer service should be fired. Many reported that Central Hudson's rates are unaffordable and that any increase would exacerbate the problem and leave customers with tough choices, such as choosing between essentials or moving out of New York. The commenters also noted that Central Hudson's requested rate increases are not on par with inflation or increases in wages.

In addition, over 330 public comments opposing Central Hudson's proposed rate increases were filed in writing and by telephone, including letters from Senator Michelle Hinchey, Senator Rob Rollison, Senator James Skoufis, Assemblymember Didi Barrett, Assemblymember Anil Beephan Jr., Ulster County Executive Jen Metzger, the Ulster County Legislature, Kingston Mayor Steven T. Noble, Town of Athens Supervisor Michael N. Pirrone, Town of Poughkeepsie Supervisor Jon J. Baisley, Town of Fishkill Supervisor Ozzy Albra, and resolutions filed by the Town of Pleasant Valley, Town of Rosendale, Town of Olive, Village of New Paltz, the City of Beacon, the Town of Lloyd, and the Town of Wappinger. The written comments were similar in tone and substance to the various comments provided at the public statement hearings.

IV. REVENUES

A. Revenue/Sales/Customer Forecasts

1. Electric Sales and Revenue Forecasts

The Company used econometric models for certain customer classes and time-series models for other service classes to predict customer counts and sales for the Rate Year.[24] The Company generally based its forecasts for larger classes on a per-customer basis and used total class figures for the remaining classes.[25] The Company made certain post-model adjustments to its electric forecast to account for increased adoption of electric vehicles (EVs), photovoltaic (PV) net metering, and heat pumps.[26] Additionally, the Company used Statistically Adjusted End-Use (SAE) variables in determining its electric sales forecast.[27] According to the Company, the SAE model integrates structural changes in end-use saturation and efficiency trends, addresses the interaction of different economic, weather and end-use intensities, and provides a framework for constructing integrated variables that address heating, cooling, and other end-use factors, thus providing additional insight into key energy drivers based on how customers use electricity.[28] Overall, the Company forecasted a growth in the number of electric customers and use-per-customer, with sales forecasted to increase by 90,129 MWh, or 1.8 percent, as compared to the current rate plan.[29]

Staff raised concerns with the use of the SAE variables in the Company's forecast. Staff testified that the

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24 Tr. 1798-1799, 1801.

25 Tr. 1798.

26 Tr. 1816.

27 Tr. 1805.

28 Tr. 1807.

29 Tr. 1797.

SAE variables – i.e., composite variables developed using the Company's proprietary software algorithms - aggregated Company-specific and third-party data, including weather, energy prices, and other economic and demographic data. Staff explained that this aggregation made the Company's forecasting model non-transparent and prevented the evaluation of the impact of individual variables and the reasonableness of the forecast results.[30] Staff also stated that the SAE variables assumed fixed relationships between variables that were not directly included in the models. Staff developed its own forecasting models, using data through September 2023 and the separate underlying components of the SAE variables.[31]

Staff provided the following comparison of Rate Year electric forecasts resulting from the Company's and Staff's respective models: for residential heat customers, the Company forecasted an average of 28,675 customers and sales of 18,890 MWh, while Staff forecasted an average of 28,915 customers and sales of 19,811 MWh; for non-residential heat customers, the Company forecasted an average of 237,407 customers and sales of 150,248 MWh, while Staff forecasted an average of 232,568 customers and sales of 151,330 MWh; for commercial demand customers, the Company forecasted an average of 9,981 customers and sales of 114,463 MWh, while Staff forecasted an average of 9,719 customers and sales of 102,813 MWh; for commercial non-demand, the Company forecasted an average of 29,978 customers and sales of 13,250 MWh, while Staff forecasted an average of 31,110 customers and sales of 13,701 MWh.[32] Staff otherwise

[30] Tr. 3592-3594.

[31] Tr. 3599.

[32] Tr. 3607-3616.

adopted the Company's sales forecasts for the Company's electric business.[33]

In supplemental testimony, Staff provided updated and corrected Rate Year sales and customer forecasts and associated revenue price-outs. In doing so, Staff addressed issues it identified with respect to the Company's post-model adjustments for EVs, PV net metering, and heat pumps. Staff disagreed with the Company's use of data reflecting the cumulative adoption of EVs and PVs, stating that the historical data already captured prior adoption of EVs and PVs and that, to avoid double counting, the forecast results should be adjusted to include only future EV and PV sales incremental to the historical trend.[34] Staff also stated that the Company's post-model adjustments for PVs, EVs, and heat pumps should have included the most recent nine months of available actual data through September 2023.[35] Staff provides a comparison of the Company's and Staff's respective post-model adjustments for the Rate Year with respect to MWhs and revenues in Exhibit 364.

The Company continued to support its use of SAE variables as a widely recognized method of forecasting energy sales.[36] The Company also testified to various concerns it had with Staff's PV and EV post-model adjustments. The Company disagreed with Staff's use of incremental PV sales after 2023, stating that it failed to reflect the cumulative PV installed from October 2023 through the end of the Rate Year.[37] The

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33 Tr. 1883.

34 Tr. 3641-3642.

35 Tr. 3641-3643.

36 Tr. 1881.

37 Tr. 1926.

Company also questioned whether Staff used sufficient data to develop a slope to measure incremental EVs.[38]

Thereafter, the Company and Staff entered into a Stipulation Regarding Sales Forecast and Price Out Revenues (Forecasting Stipulation).[39] The Company agreed to Staff's Rate Year electric forecasts and associated revenue price-outs, with minor corrections regarding adjustments for street lighting and two customers in service classes 8 and 13. The proposed Rate Year electric forecasts and associated revenue price-outs, by service class or sub-class and by month, are set forth in Schedule A of the Forecasting Stipulation. The Rate Year electric sales forecast total is 4,920,370 MWh. The electric revenue price-out at current rates is approximately $451.6 million.[40]

The Company and Staff, the only parties providing testimony on these issues, maintain that the consensus electric sales forecasts and associated price-outs in the Forecasting Stipulation are reasonable, supported by the record, fall within the range of potential litigated outcomes, and are unopposed.[41] Staff further asserts that the Forecasting Stipulation presents an accurate forecast for the Rate Year that reflects the impacts of EVs, solar PV, and heat pumps, and incorporates appropriate modeling corrections and refinements. We agree with the Company and Staff, find that the resolution of this issue is in the public interest,[42] and recommend the Commission adopt the

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[38] Tr. 1927-1928.

[39] Exhibit 513.

[40] Exhibit 513, Schedule A, p. 3.

[41] Central Hudson Initial Brief, p. 24; Staff Initial Brief, p. 17.

[42] Settlement Guidelines.

electric sales forecasts and associated price-outs attached as Appendix A to the Forecasting Stipulation.

2. <u>Gas Sales and Revenue Forecasts</u>

The Company prepared its gas customer and sales forecast using the same general methodology used for the electric forecast, including the use of SAE variables.[43] The Company forecasted its gas load and customer counts based on econometric and statistical forecast models developed for aggregated residential heat, residential non-heat, commercial heat, commercial non-heat, industrial average use, and other public authority average use rate groups, using monthly data through December 2022. The Company applied post-forecast adjustments to account for changes in usage patterns and levels attributable to the increased adoption of heat pumps. The Company explained that it forecasted continued growth in gas customers with a continuing decrease in gas use per customer.[44]

Staff developed its own gas forecasting models using the Company's historic data for customers, sales, heating-degree days, economic, and demographic variables. Staff identified the same concerns with the Company's use of SAE variables as discussed in connection with electric sales and revenue forecasts. Staff's econometric models were estimated using updated monthly data through September 2023, separated out the underlying components of the Company's end-use saturation and efficiency variables, and included them as distinct explanatory variables.[45]

Staff provided the following comparison of Rate Year gas forecasts resulting from the Company's and Staff's

43 Tr. 1804-1807.

44 Tr. 1797.

45 Tr. 3659-3600.

respective models, before application of post-model adjustments: for residential non-heat customers, the Company forecasted an average of 6,758 customers and total sales volumes of 153,633 Mcf, while Staff forecasted an average of 6,994 customers and total sales volumes of 152,484 Mcf; for residential heat customers, the Company forecasted an average of 69,069 customers and total sales volumes of 5,313,282 Mcf, while Staff forecasted an average of 69,037 customers and total sales volumes of 5,451,501 Mcf; for commercial non-heat customers, the Company forecasted an average of 1,046 customers and total sales volumes of 657,060 Mcf, while Staff forecast an average of 1,085 customers and total sales volumes of 586,487 Mcf; for commercial heat customers, the Company forecast an average of 11,041 customers and total sales volumes of 5,590,702 Mcf, while Staff forecasted an average of 10,780 customers and total sales volumes of 5,053,013 Mcf.[46]

In supplemental testimony, Staff corrected two errors that resulted in a $325,000 increase in its gas revenue forecast.[47] Staff also corrected the Company's post-model adjustment for heat pump adoption, resulting in a reduction in Staff's gas sales forecast of approximately $60,000.[48]

Schedule B to the Forecasting Stipulation sets forth the proposed gas sales forecasts and associated revenues for the Rate Year, as agreed to by the Company and Staff. The gas sales forecasts and price-out revenues in Schedule B reflect Staff's litigated position. The Rate Year gas sales forecast total is 15,307,132 Mcf. The gas revenue price-out at current rates is

[46] Tr. 3619, 3622.

[47] Tr. 3638; Staff Initial Brief, p. 18.

[48] Tr. 3643.

approximately $135.9 million.[49] The same reasons supporting adoption of the proposed electric sales forecast and price out revenues apply here. Accordingly, we recommend that the Commission adopt the gas sales forecasts and associated revenue price-outs attached as Appendix B to the Forecasting Stipulation.

B. Revenue Decoupling Mechanisms

The Company proposes to continue its electric and gas Revenue Decoupling Mechanisms (RDMs), with minor modifications. Staff recommends that that the Company's RDM for its electric and gas service classes be continued in the Rate Year with the Company's proposed modifications, and subject to tariff modifications discussed later in this section.

The electric RDM is a revenue-per-class model applicable to Service Classifications (SCs) 1, 2 Non-Demand, 2 Primary Demand, 2 Secondary Demand, 3, 5, 8, 13 and 14. Actual class or subclass delivery revenues are compared on a monthly basis to a delivery revenue target. If the monthly actual delivery revenue exceeds or falls short of the delivery revenue target, the excess is accrued for refund to and the shortfall is accrued for recovery from, customers at the end of the semi-annual RDM period.[50]

In Case 15-E-0751,[51] the Commission directed certain utilities, including Central Hudson, to include a proposal in their next rate proceeding on whether and how to include Standby and Buyback Service customers in an RDM. Because Central

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[49] Exhibit 513, Schedule A, p. 3.

[50] Tr. 1867.

[51] Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Order Establishing an Allocated Cost of Service Methodology for Standby and Buyback Service Rates and Energy Storage Contract Demand Charge Exemptions (issued March 16, 2022), pp. 89-90.

Hudson's electric RDM already includes Standby customers, the Company now proposes to modify the electric RDM to include SC 10 Buyback Service. Staff agrees with this proposal. We also agree with the proposed modification as consistent with the Commission's directive and therefore recommend that the Commission approve the modification.

The gas RDM is a revenue per class model applicable to SCs Nos. 1 and 12 combined; SC Nos. 2, 6 and 13 combined; and SC No. 11, which is subject to certain deadbands and thresholds.[52] As with the electric RDM, actual class delivery revenues are compared on a monthly basis to a delivery revenue target, and any excess or shortfall is accrued for return to, or recovery from, ratepayers at the end of the semi-annual RDM period.

The Company proposes to extend the gas RDM period from semi-annual to annual at the start of the Rate Year.[53] The Company testified that, over the past 3.5 years, the SC No. 2 RDM adjustment factor "has swung from a credit to a surcharge every six months" due to the seasonal nature of gas usage.[54] The Company asserts, and Staff agrees, that a longer recovery period would allow a more gradual change from credit to surcharge over time, mitigating bill impacts on ratepayers. We find this modification to be a reasonable effort to moderate the semi-annual swing from credit to surcharge that the Company has experienced and, therefore, recommend that the Commission approve the modification.

With respect to both the electric and gas RDMs, the Company proposed to address an issue arising when changes in rates occur. The Company explained that, for ratemaking

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[52] Tr. 1868.

[53] Tr. 1870.

[54] Id.

purposes, rate design assumes that all kwh or Ccf billed in a month in which a rate change occurs are billed at the newly effective base delivery rates. However, in practice, such sales are billed at a blended rate reflecting both old and new rates, resulting in an under/over collection relative to the new rates.[55] The Company proposed to include in its revenue requirements amounts for the forecasted under-collection in the Rate Year of approximately $5.48 million for electric and $596,000 for gas.[56]

Staff disagreed with the Company's proposal, recommending instead that language in the Company's electric tariff on Leaf 163.5.4 and gas tariff on Leaf 129, which requires the Company to adjust its actual billed sales in the month of a rate increase by the new rates, be stricken. Staff's proposal would ensure that the Company recovers its Rate Year revenue requirements without the revenue requirement increases it originally proposed by allowing all months' actual billed revenues to be compared to the RDM targets. The Company now agrees that "Staff's recommended approach to modify the tariff language is a more straightforward solution and eliminates the need for the gross up factor in the revenue requirement."[57] We agree as well and recommend adoption of Staff's proposed tariff amendments.

V. EXPENSES

A. Operation and Maintenance

1. Site Investigation and Remediation

Central Hudson requests a rate allowance of approximately $5.2 million for Site Investigation and

[55] Tr. 737-738.

[56] Tr. 738, 4272.

[57] Tr. 1911.

Remediation (SIR) costs, allocated $4.2 million to electric and $1.0 million to gas.[58] The Company projected Rate Year SIR Costs using a historical three-year average of actual costs, adjusted for inflation.[59] The Company testified that this methodology has been used for the Company's SIR projections since its rate proceedings in Cases 08-E-0887 and 08-G-0888, where the methodology was first proposed by Staff.[60] The Company indicated that, as a source of rate moderation in the context of a multi-year settlement, a forward-looking projection of SIR spending in the Rate Year could be considered rather than using the traditional methodology, which would reduce the electric and gas revenue requirements by $4 million.[61]

Staff recommends that a forward-looking projection of SIR costs be used for the Rate Year electric and gas revenue requirements, which the Company projected to be $789,000 for electric and $197,000 for gas.[62] Staff maintains that the use of a historical three-year average is not appropriate in the context of these litigated rate cases because that average includes costs for work at sites at which remediation now has been completed and for other work that will not occur in the Rate Year.[63]

Staff testified that Central Hudson now is required to perform further remediation or investigation at the North Water Street Poughkeepsie manufactured gas plant (MGP) site and at its Newburgh Office.[64] With respect to the Newburgh Office site, the

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[58] Tr. 718, 3429.

[59] Id.

[60] Tr. 718.

[61] Tr. 3299, 3430.

[62] Tr. 3496-3497

[63] Tr. 3496-3497.

[64] Tr. 3497.

results of further groundwater investigations may determine whether mitigation and/or remediation is necessary, but the investigations are ongoing and a determination has yet to be made.[65] In regard to the North Water Street Poughkeepsie MGP site, the Company concedes that "an agreed upon remedial approach is currently undetermined and the timing of full-scale remediation has been deferred beyond the Rate Year."[66] Staff concluded that, under these circumstances, "using a forecast of expected Rate Year costs is more accurate than a historic average of actual spending in this circumstances since it does not include unneeded costs."[67]

Central Hudson notes that it was open to considering the use of forecasted Rate Year SIR costs as a rate moderator only in the context of settlement negotiations to arrive at a multi-year rate proposal. Central Hudson states that the traditional historical three-year average should continue to be used for determining SIR revenue requirements because spending for SIR tends to fluctuate year-to-year, depending on the status of specific remediation projects and given that projects may run into costly increases during active remediation.[68] Central Hudson maintains that use of such a methodology for setting SIR revenue requirements acts as a reserve, which eliminates potential volatility related to SIR costs in the future, and allows customers to pay for the expense of costly remediation projects in a consistent manner year-over-year.[69] Central Hudson argues that if the situation were reversed, and the Rate Year

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65 Tr. 3435.

66 Tr. 3437.

67 Id.

68 Tr. 787.

69 Id.

SIR expense were estimated to be several million dollars more than the three-year average, "there would be little doubt that Staff would be advocating the use of the average to moderate rates."[70]

In the context of these litigated rate cases, where past costs include amounts not likely to arise during the Rate Year, we agree with Staff's proposal, which reflects projected Rate Year SIR costs and acts as a rate moderator.

Staff raises certain additional issues. Although stating that the Company generally is in compliance with the Inventory of Best Practices developed in Case 11-M-0034,[71] Staff makes two recommendations concerning Central Hudson's compliance with the Inventory of Best Practices. First, with respect to item nine of the Inventory of Best Practices ("work with other utilities to share the costs of research evaluating remedial technologies and risks from MGP contamination and other contaminants"), Staff notes that the Company has not identified any instances where it has been able to cost-share in the SIR Program and requests the Commission to direct Central Hudson to actively pursue any opportunities for cost sharing with other utilities on innovative technologies, with particular focus on the North Water Street MGP site. Central Hudson does not oppose this proposal and we recommend the Commission adopt it.

Second, regarding item 12 of the Inventory of Best Practices ("only use waste disposal facilities that have been pre-approved by the utility to minimize the potential for creating new liabilities"), Staff states that it has identified

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70 Central Hudson Initial Brief, p. 29.

71 Case 11-M-0034, Review and Evaluation of the Treatment of the State's Regulated Utilities' Site Investigation and Remediation (SIR) Costs, Inventory of Best Practices for Utility SIR Programs (filed March 28, 2013)(Inventory of Best Practices).

concerns about potential liabilities at some waste disposal facilities used by the Company.[72] Staff therefore recommends that the Commission direct the Company to undertake a cost-benefit analysis of the continued use of some of these facilities, as compared to the cost of switching to waste facilities that do not raise concerns. Again, Central Hudson does not oppose this proposal and we recommend its adoption.

Finally, we note the Commission's directive that, in any future rate filing in which a utility seeks to recover SIR expenses, the utility must indicate the results of any internal process the utility may have conducted with respect to review of SIR procedures and explain how internal controls are brought to bear on the SIR Projects.[73] Central Hudson has not had any specific audit of its SIR program over the last three years.[74] Staff therefore recommends that the Commission direct the Company to undertake an internal audit of each site in its SIR Program before its next rate filing.

Central Hudson does not take issue with performing such an audit, but maintains that, because it can file for new rates almost immediately after the Commission decides these proceedings, there is not enough time for the Company to complete the recommended audits before it files for new rates.[75] The Company also asserts that it has sufficient internal controls in place as it relates to SIR accounting and reporting. We agree that the timeline recommended by Staff is not feasible

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[72] Tr. 3486-3489; Exhibits 491 and 492.

[73] See Case 11-M-0084, Review and Evaluation of the Treatment of the State's Regulated Utilities' Site Investigation and Remediation (SIR) Costs, Order Concerning Costs for Site Investigation and Remediation (issued November 28, 2012).

[74] Tr. 3493; Exhibit 346 (DPS-325).

[75] Central Hudson Reply Brief, p. 8.

given that the Company can file for new rates immediately after a decision setting rates in these proceedings. Therefore, we recommend that the Commission direct the Company to file the audits before the end of the Rate Year.

2. Vegetation Management

Central Hudson's Vegetation Management Program consists of a Transmission Right-of-Way (ROW) Vegetation Management Program and a Distribution Line Clearance Program. The Transmission ROW Vegetation Management Program covers seven ROW maintenance activities: ROW floor maintenance, mowing and access roads, side trimming, danger tree removal, hot spot trimming, ROW edge reclamation, and Legal and Environmental.[76] The Company forecasted expenditures for this Program of approximately $3.60 million for the Rate Year.[77]

Staff testified that it found this request reasonable because, after considering inflation and increased labor contract costs, the requests were in line with historical spending levels, with the exception of the proposed expenditure of $197,287 for hot spot trimming activity.[78] Although Staff testified that the proposed expenditure for such activity is a significant increase from historical levels, Staff recommended that the expenditure be approved for the Rate Year to enable the Company to continue current hot spot work to maintain the transmission system's reliability.[79] For the reasons stated by Staff in testimony, the Company's proposed budget for the

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[76] Tr. 3567.

[77] Tr. 2087.

[78] Tr. 3568, 3573-3574. Hot spot trimming is emergency work performed outside regular management cycles to remove or trim trees on the ROW that have a high probability of contacting electric transmission lines and causing an outage before the next regularly scheduled treatment cycle. Tr. 3573.

[79] Tr. 3574-3575.

Transmission ROW Vegetation Management Program should be approved.

The Company initially forecasted total Distribution Line Clearance Program expenditures of approximately $28.50 million, consisting of approximately $13.73 million for trimming on-road, $5.58 million for trimming off-road, $735,000 for danger trees, $1.66 million for routine line clearance flagging, $62,000 for trouble orders, and $6.05 million for the hazard tree removals.[80] The Company based its forecasted amounts using historical expenditures, adjusted for contract labor and equipment pricing increases.

Staff agrees with the proposed budgets for all activities involving trimming on-road, trimming off-road, danger tree removal, routine line clearance flagging, and trouble orders.[81] The record does not support a different conclusion and we therefore recommend the Commission adopt the Company's requested budgets for those activities.

Staff and the Company initially disagreed over the number of incremental bucket tree crews and associated flagging needed for the Company's Hazard Tree Program. The Company has five bucket tree crews and requested seven incremental bucket tree crews, while Staff supported funding for three incremental bucket tree crews as sufficient.[82] Staff recommended a total downward adjustment for hazard tree work in the approximate amount of $2.25 million.[83]

The Company and Staff have entered into a Stipulation Regarding Electric Capital and Operations Stipulation (Electric

[80] Tr. 2094.

[81] Tr. 3552-3556.

[82] Tr. 3558-3561.

[83] Tr. 3562.

Capital Stipulation), which resolves the differences of Staff and the Company with respect to the number of incremental hazard tree bucket truck crews by adopting Staff's recommendation for three incremental bucket truck crews.[84] The Company and Staff agree that the Electric Capital Stipulation incorrectly states the revenue impact associated with the three incremental crews as approximately $1.683 million and that the amount should be corrected to $2.366 million in Central Hudson's electric revenue requirement.[85] The resolution of this issue is reasonable, supported by the record, falls withing the range of potential litigated outcomes, and is in the public interest. Accordingly, we recommend that the electric revenue requirement should reflect the revenue impact for the three incremental bucket truck crews as set forth in the Electric Capital Stipulation.

Finally, Staff recommended that the Commission require the Company to provide additional Distribution Line Clearance Program quarterly reports.[86] The Company responded that such additional reporting requirements created an unneeded administrative burden because it could provide the additional data during quarterly reliability meetings with Staff without preparing and filing written quarterly reports.[87] The Company also stated that the requested reporting on major and minor storm events was inconsistent with its emergency storm response for those events.[88] The Electric Capital Stipulation resolves this dispute by providing that the "Company will work with Staff

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84 Exhibit 516.

85 Staff Reply Brief, pp. 13-14.

86 Tr. 3563-3567.

87 Tr. 2141.

88 Tr. 2142.

to provide quarterly reporting on all Distribution Vegetation Management Programs."[89]

3. Labor Expense

The Company initially forecasted Labor Expense for the Rate Year of $97.331 million for electric operations and $28.892 million for gas operations.[90] Staff recommended adjustments resulting in a Rate Year forecast of $83.516 million for electric operations and $25.044 million for gas operations.[91] Central Hudson agreed with one adjustment made for a transposition error in a semi-monthly payroll amount, which resulted in reduction of labor expenses of approximately $1.24 million for electric and $351,000 for gas.[92]

A difference of approximately $16 million remains between the Company and Staff in their labor expense revenue requirement components.[93] According to Staff, there are four main areas that make up the difference.[94] The four areas, addressed individually below, are expenses related to Incremental Full-Time Employees (FTEs), amounts credited for vacant positions (Vacancy Rate), the distribution of labor costs charged to expense versus capital (Labor Distribution Rate), and the amount to be included for increases to wages.

a) Incremental FTEs

In its filing, Central Hudson requested that the Commission allow the Company to hire 254 incremental FTEs during

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89 Exhibit 516, p. 3.

90 Tr. 2005, 2044, 2095.

91 Exhibits 300 (SAP-2) and 301 (SAP-3).

92 Tr. 784, 4060-4061.

93 Central Hudson Initial Brief, p. 32.

94 Staff Initial Brief, p. 29. Staff noted a fifth item in the initial testimony that was corrected in the Company's rebuttal testimony. Id.

the bridge period to the end of the Rate Year.[95] The requested positions fall across different divisions. Staff urges the Commission to deny the Company recovery related to 122.5 of the 254 requested incremental FTEs.[96] We examine each type of requested FTE in turn below.

(1) Electric Capital and Operations

(a) Assistant Engineers (Grid Modernization and Substations)

Central Hudson maintains that additional Grid Modernization Engineers are necessary to supply enough capital work to meet the combined capital demands of the Company's Five-Year Capital Plan, the increased number of developer-funded capital projects, and other corporate initiatives such as Grid Mod, Network Strategy, and Interconnection support. The positions include one Engineering Director and three Design Engineers.[97] The Company notes that the anticipated tasks for these positions involve planning/scoping, design, and project construction management to timely meet its work plan.[98] Central Hudson also requested two Electric Substation Planners and one Electric Substation Planning Supervisor,[99] needed to address the persistent trend of missing substation design package deliverables.[100]

95 Central Hudson Initial Brief, p. 32 and n. 43 (citing Tr. 4055 and 1161).

96 Staff Initial Brief, p. 30 (citing Exhibit 302 (SAP-4)).

97 Tr. 2047-2051.

98 Central Hudson Initial Brief, Appendix 2, p. 4 (citing Exhibit 257 (WCBP-2R)).

99 Tr. 2051.

100 Tr. 2121.

Of the eight requested positions it identifies,[101] Staff recommends allowing only one Assistant Engineer for Grid

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[101] The briefing on this issue was difficult to follow. Central Hudson's Appendix 2 and Staff's Brief pages 29–50 do not track the positions in the same presentation order. Appendix 2 discusses "Assistant Engineer – Electric Design Engineer (Grid Mod) (3)" on page 4 and "Assistant Engineer (Substation) (2)" on pages 2-3. No explanation is provided as to what the parenthetical number is intended to represent. Staff treats the "Assistant Engineers (Grid Mod and Substations)" positions together in the first subsection write up on FTEs as represented in the subheadings we have adopted herein. The testimony citations provided by the Company appear to embody a request of 7 FTEs as reflected in the narrative paragraph, but Staff's brief, page 30 states a request of five "Assistant Engineers (Grid Mod)" and three "Assistant Engineers (Substation)" with no record citation nor any further breakdown to indicate that it is tracking both the Engineering Director and the three Design Engineers, or whether its count of five applies only to the Design Engineers. Moreover, Exhibit 257 which was produced by the Company's Workforce, Compensation and Benefits Panel to provide a single list of all the requested positions is not easily decipherable - it presents the requests over 12 pages in three different charts of positions 1) filled/to be filled in 2023, 2) to be filled by June 30, 2024, and 3) to be filled during the Rate Year, without tracking each position across the three different time frames. Exhibit 257 lists one "Assistant Engineer (Grid Mod)" as being in the 2023 category, two in the 2024 category, and zero in the Rate Year category, with a single "Engineer (Grid Mod)" also in the 2023 category that is described as a Distribution System Operations Engineer. Even including this last position, which appears to track the testimony citation, the Exhibit does not account for the five requested positions that Staff identifies. If a fifth was added as a later update, no citation exists to that request in either Central Hudson or Staff's briefs. Notably, there is one supervisor of substation testing, compliance, and work methods included in the testimony cited by the Company as well, but that serves to bring the count to four for Grid Mod and four for Substation rather than the five for Grid Mod and three for Substation identified by Staff. Further complicating the matter, the Company's reply brief treats the various positions by reference to a single higher category based on

Modernization and one Assistant Engineer for Substations.[102] Staff asserts that the requested Grid Modernization engineers would increase the Company's work complement by "166%" and the Substation request by "100%," "excluding one incremental FTE that was recently hired in July 2023."[103] However, given the small number of FTEs at issue, large percentage increases do not translate into large increases in hiring and revenue requirements. As additional justification, Staff relies on historic and forecasted capital expenditures - which have remained flat - and the roles and responsibilities of the respective positions,[104] which, Staff argues, have overlapping roles and responsibilities such that the Company should be able to share the workload among the two positions.[105]

Beyond the level of forecasted capital expenditures "remaining flat," Staff provides no analysis to indicate why it believes the proposed hires are unnecessary. A flat level of forecasted spending, in and of itself, does not necessarily indicate that the workload of these specific positions or areas of work is not increasing in responsibility or focus. Staff relies on the historic spending allowed in the Company's 2020 rate proceeding but does not rebut the Company's evidence regarding why the proposed incremental positions are essential as Central Hudson's focus shifts to new projects or provides additional support and flexibility for existing and potentially

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all the positions requested by a witness panel rather than tracking its initial presentation format. Staff has no discussion of FTEs in its reply brief. Thus, actual number of positions at issue remains unclear at this juncture. See Exhibit 302 (SAP-4).

[102] Tr. 2587-2591.

[103] Tr. 2587, 2590.

[104] Tr. 2588, 2590.

[105] Tr. 2588-2591.

over-tasked employees.[106] In light of Staff's concerns, however, we recommend that the Company be allowed four of the eight proposed positions, with the Company ultimately deciding where best to use the allowed hires.

(b) Assistant Engineer (Hydro)

Central Hudson states that this requested position would involve seeking and applying for grant money that may be available for hydro refurbishment projects and clean energy generation initiatives, which could lower capital costs borne by ratepayers.[107] The FTE also would ensure compliance with grant requirements once grants were secured.[108] Staff contests this position based on slightly lower historic capital costs than those forecasted for the Hydro and Gas Turbines category and the fact that there is one employee in the same title such that an additional employee would "double" the Company's Assistant Engineer (Hydro) head count.[109]

We have the same concern regarding Staff's analysis as discussed above. The Company notes specific evidence of grant applications and that Public Service Commission Chair Christian requested that it seek such grants as they may offset the need for recovery from ratepayers.[110] In addition, the Company agrees with Staff that it has been able to secure grants and pursue compliance activities with its current headcount, but that such work has resulted in overtime expenses and "to date has consumed over 300 hours in contract labor and over 85 estimated hours

[106] See Tr. 2117-2119, 2125, and 2129-2130.

[107] Tr. 2125-2126.

[108] Tr. 2126.

[109] Tr. 2592.

[110] Tr. 2126.

from Company staff."[111] Staff's analysis fails to address these specific points. As such, we determine that the position should be allowed because it may serve to reduce overtime expense and increase productivity, and that it is consistent with the Commission's goals of providing funding alternatives to ratepayer recovery.

(c) I&C Technician (Substation) and Relay Technician (Substation)

The Company recently split the duties of its Substation Technician position into two new job titles because of what it states are increasingly specialized roles.[112] The new job titles are designated as I&C Technician (Substation) and Relay Technician (Substation).[113] Central Hudson requested the addition of four I&C Technicians and two Relay Technicians.[114]

Staff disallowed all but one I&C Technician relying, again, in part on percentage increase of staffing.[115] The Company explains that:

> "Recent turnover within the Substation Technicians has reduced the complement below historical levels and attracting and retaining qualified individuals has proven difficult. Even with the 12 technicians, there remains a growing backlog of work, which presents a risk to reliability and compliance. Additional NERC regulatory compliance requirements have increased burdens on technician resources. Technicians need additional time for training on the equipment and in work practices to ensure compliance requirements are met. The capital project workload has shifted to include more relay replacements as well, which requires the

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[111] Id.

[112] Tr. 2130-2131.

[113] Id.

[114] Tr. 2129-2130.

[115] Id.

> trained technicians to complete incremental configuration and testing above historical levels. Analysis of the projected workload, consideration of the growing maintenance backlog, and minimum complement to have an effective group has led to the Company's determination that total technicians – nine Relay and six I&C – are required. Impending retirements of the Chiefs for each Technician area in the next three to five years also forms part of the basis for the Company's request to increase complement as the Company must hire technicians now so that there is less of an impact when the Chiefs retire."[116]

Staff does not address any of the specifics contained in the Company's testimony. Rather it relies on the Company's statement that Central Hudson has a proven history of hiring employees needed to safely and effectively run the business,[117] but such statement was made in response to a question about whether the Company agreed with Staff's recommendation that a downward-only labor expense reconciliation mechanism be included. The Company's statement has no bearing on whether it has incremental employment needs for which it should be credited in its revenue requirement as just and reasonable expenses. It appears that Staff suggests that when employment deficiencies exist, the Company hires employees as necessary to ensure safe and reliable service. However, that point does not address the Company's testimony that it needs these employees to work during the Rate Year. We are persuaded that the Company has made a proper showing of need and to adhere to Staff's position would deny reasonable costs we expect to be incurred during the Rate Year. We do not think it is reasonable to deny the Company recovery of such costs until the Company next comes in for rates. However, while we are swayed by the Company's

[116] Tr. 2128-2129.

[117] Tr. 784.

specifics, we are concerned with the scope of the new hires requested in light of the Company's admission of hiring difficulties and, therefore, allow for two I&C technicians and one Relay Technician.

(d) Distribution Operators and Emergency Services Representatives

Central Hudson maintains that this group of FTEs were proposed to support the Company's Grid Modernization initiative and are necessary for its expansion of its Central Dispatch operation. The Company states that the positions are necessary to monitor its Advanced Distribution Management System (ADMS) intended to optimize electric distribution operations.[118] In total, the Company seeks to add eight Distribution Operators, two Emergency Service Representatives, and one unclassified Senior Distribution Operator.[119] Central Hudson claims these positions are necessary to provide 24-hour coverage over three eight-hour shifts.[120] The Company seeks to add these positions over a period of the three years, during 2023 through 2025, with two Distribution Operators and both Emergency Services Representatives slated to be hired in 2025.[121]

Staff recommended the allowance of four incremental Assistant Distribution Operators, with two of those allowed after the conclusion of the Rate Year.[122] The allowed FTEs would be incremental to the Company's existing complement of three Distribution Operators and one Assistant Distribution Operator

[118] Tr. 2057-2058.

[119] Tr. 2057.

[120] Id.

[121] Tr. 2058.

[122] Tr. 2585

working in its Primary Control Center.[123] In Staff's view, the purpose of the ADMS is to automate the electric system which should create operator efficiencies which it contends should result in fewer employees necessary for "human intervention."[124] Staff characterizes the FTE request as unaligned with the purpose of adopting an ADMS.[125]

Central Hudson rebutted Staff's position by noting that, although the ADMS will provide efficiencies, centralizing the distribution operating authority will require incremental staffing to cover functions currently performed by existing Electric Operating Engineers, Directors of Electric District Operations, and Line Foremen/Forewomen, allowing those employees to focus more on safety and field productivity.[126] The Company states that Staff's allowance represents the minimum staff necessary to allow for continuous 24-hour coverage of the Distribution Control Center, would require limiting shifts to one or two employees, and would not allow for sufficient overlap for lost time vacancies or time for training.[127]

Although Staff appears to generally agree with the Company's ADMS plans,[128] it provides no evaluation as to the

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123 Tr. 2585-2586.

124 Tr. 2586.

125 Id. On page 35 of Staff's Initial Brief, Staff makes a further argument that the ADMS does not need to be in advisory mode indefinitely and that it should transition to running autonomously, in which case it would no longer need full-time monitors. We do not know that this assertion is true, however, particularly during the rate plan under consideration. Not only is there no time frame given by Staff for when ADMS is expected to operate autonomously, but Staff cites no record evidence that would verify its statements and provide context.

126 Tr. 2117.

127 Tr. 2118-2119.

128 See Tr. 2583-2585.

minimum, versus the optimum, number of operators necessary to run the ADMS. Instead, Staff relies on existing staffing numbers and the fact that the Company's total request would raise its number of Distribution Operators by 200 percent. However, the existing number of Distribution Operators is only four (including an Assistant Distribution Operator), and Staff would provide the Company with only one additional hire. Given the Company's testimony on its hiring plans, we recommend allowing the Company recovery for one distribution operator hired in the 2023 bridge period, one senior distribution operator and two distribution operators to be hired in 2024, and one emergency service representative and one distribution operator to be hired in 2025.[129] In making such recommendation, we remain concerned that the planned hires, even if the Company finds them necessary, may be difficult to fill.

(2) Gas Capital and Operations

Staff indicates that the Company proposed adding eight incremental FTEs in its gas operations.[130] Staff identifies the requested FTEs as including one Engineering Technician, one Natural Gas Compliance Analyst, one Foreperson, three Assistant Engineers, one Operations Supervisor, and one Damage Prevention Patroller, and states that one Assistant Engineer and the Natural Gas Compliance Analyst have been hired.[131] Staff also indicates that it agrees with the Engineering Technician, which will displace the need for outside contractors and thereby facilitate internal skill development, and with an Assistant Engineer incremental to the one hired.[132] Staff additionally

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[129] See Tr. 2058.

[130] Staff Initial Brief, p. 37.

[131] Id.

[132] Id. (citing Confidential Exhibit 334 (SPSP-1)(DPS-681)).

agrees with the Company's proposal to hire an Operations Supervisor, noting that the FTE would provide support for Central Hudson to achieve Staff's recommended targets for damage prevention metrics in that the position will focus on damage prevention education and public awareness.[133] Staff contests the Company's need for the other positions, including the Compliance Analyst that has already been hired.

(a) Natural Gas Compliance Analyst

Staff disagrees with the Company's expressed need for a Compliance Analyst because the position, as described by Central Hudson, is identical to the description for the Assistant Engineer position, one of which was filled.[134] Staff then cites to Confidential Exhibit 334 (SPSP-1)(DPS-680), positing that, in response to a Staff Information Request, "the Company failed to provide any justification for hiring two FTEs with different titles to fulfill the same tasks."[135] Notably, Exhibit 334 (DPS-680) directs the Company's attention to three positions on its FTE summary - two Assistant Engineers, including the one at issue here, and the Compliance Analyst - and requests that the Company explain (1) if and when the positions were previously approved and (2) why, if previously approved, the Company included the positions as incremental FTEs in its rate filing. No other request was made of the Company in DPS-680. In particular, Staff did not request that the Company

133 Tr. 2714-2715.

134 Staff Initial Brief, p. 38 (citing Exhibit 334 (SPSP-1)(DPS-260) containing an overview of all the Company's FTE requests and describing both the Assistant Engineer and Compliance Analyst positions' responsibilities as "To improve the overall effectiveness of the company's natural gas construction, inspection and maintenance programs and oversee and coordinate the Pipeline Safety Management System and Methane Detectors Programs.").

135 Id.

provide any explanation of what differences would exist between the two positions at issue or how the positions would or would not overlap in duties or otherwise integrate. Accordingly, we do not find Staff's reliance on Exhibit 334 (DPS-680) to be persuasive.

Central Hudson offers that it intends the Compliance Analyst to support compliance in each of the Company's operating districts, thereby allowing monitoring of inspection compliance with Commission regulations, and to lead the Company's Pipeline Safety Management System program.[136] Staff attempts to discredit the Company's rebuttal testimony in its initial brief by stating that the Company's responses to Staff discovery requests did not modify the duplicate job description included in the initial testimony, but as we have already noted, Staff has cited no record evidence demonstrating that it actually requested the Company to provide any further explanation than that contained in Central Hudson's rebuttal testimony. Similarly, Staff contests the Company's need for a Compliance Analyst in each operating district but does not cite any record evidence where it questioned the Company's asserted need.[137] In our view, the Company's justification was adequate. To the extent that Staff had more specific concerns regarding these positions, it had the opportunity to pursue those concerns through discovery or cross-examination, but it did not do so. Given that the Company provided an adequate explanation of the differences between the positions at issue, answering the primary objection lodged by

[136] Tr. 1161-1162.

[137] Staff Initial Brief, p. 39. Staff also contests the position based on the lack of evidence that the Company has not made progress in developing its PSMS, but we do not see that objection as compelling given that the PSMS was only a secondary justification offered by the Company as a potential additional duty.

Staff to the two positions (despite both positions already having been filled), and that Staff did not pursue cross-examination of the Company's assertions, we recommend that the Commission approve the Compliance Analyst position.

(b) Foreperson

Central Hudson asserts that its Foreperson FTE would oversee the installation, maintenance, and repair of gas infrastructure with a focus on the Residential Methane Detection Program.[138] The Company notes that it presently employs only one FTE who splits job duties equally between overseeing all pipeline inspections and focusing on damage prevention.[139]

Staff contends that the proposed Foreperson position is unnecessary inasmuch as it has recommended the allowance of the requested Operations Supervisor to perform damage prevention duties, which will allow the existing Foreperson to oversee pipeline inspections on a full-time basis.[140] Central Hudson attempts to rebut Staff by asserting that the Operations Supervisor's duties would be focused on broadening Central Hudson's outreach and program development, while the incremental Foreperson would be focused on day-to-day operations, auditing, and deployment of new technology.[141] The Company further contrasted the positions on the ground that the Operation Supervisor would work on broad safety and education initiatives while the Foreperson would work on supervising mark out personnel, map corrections, education of third-party

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[138] Central Hudson Initial Brief, Appendix 2, pp. 7-8 (citing Exhibit 257 (WCBP-2R)).

[139] Id. (citing Confidential Exhibit 334 (SPSP-1), p. 30)).

[140] Tr. 2716.

[141] Tr. 1162.

contractors, and researching and deploying new technologies for Damage Prevention.[142]

Although the Company has further delineated the expected tasks of the two positions, it is not clear from the record how much the Operations Supervisor's tasks currently overlap with those of the existing Foreperson. We share Staff's concern that the tasks of one position are being divided up into three without an adequate demonstration that the hiring of the Operations Supervisor will relieve the existing Foreperson of tasks presently focused on damage prevention. Specifically, the record is not clear that the tasks that will be undertaken by the Operations Supervisor are new or not otherwise performed by the Company. Accordingly, we do not recommend the inclusion of an additional Foreperson.

(c) Assistant Engineer

Of the three Assistant Engineer FTEs requested by the Company, Staff allows two but contests a third whose job description includes implementing the Pipeline Safety Management System (PSMS) in various ways.[143] The Company maintains that the position is necessary for the further development and integration process of the PSMS with various Central Hudson programs and documentation. Staff maintains that the Company has made insufficient progress on the PSMS to warrant an incremental FTE devoted to integration at this time.

Here, again we agree with Staff that the Company has not made an adequate demonstration of the need for this position

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[142] Id.

[143] See Tr. 1160. The Company acknowledges that it initially also planned to have this position work on PSMS integration with Utility Thermal Networks (UTENs), but that it has since removed that work as part of the responsibilities for this position. Central Hudson Initial Brief, Appendix 2, p. 8, n. 3.

or of the specific day-to-day tasks that the position is expected to fill, particularly given Staff's concerns with the Company's pace in developing its PSMS. In our view, the Company's testimony on this position contrasts with its testimony regarding the Compliance Analyst whose duties are more specifically delineated and appear to be useful now, regardless of the state of the Company's PSMS development and implementation. We recommend disallowing the third Assistant Engineer position.

(d) Damage Prevention Patroller

Staff also contests the Company's proposal to expand its gas Damage Prevention Program to electric and hire an additional contractor at an annual additional cost of $125,000, which Staff labels as an incremental FTE.[144] However, it appears from the record that Central Hudson intended this position to be an additional third-party contractor, rather than an incremental FTE. The Company does not discuss Staff's disallowance of this position in either its initial or reply briefs, although it may have intended to include it in the catch-all objection of Staff's disallowance of positions based on the Company's Management Audit performed by Overland Consulting.[145] Because the record is unclear on this issue, we conclude that the Company has not met its burden and recommend that this amount not be included in the Company's revenue requirement.

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144 Compare Staff Initial Brief, pp. 40-41 with Tr. 1126-1127.

145 See Central Hudson Reply Brief, p. 16 (stating "Staff also relies on Overland Consulting's November 2023 report to support the disallowance of a number of incremental FTEs necessary for the implementation of recommendations from the management audit of the Company conducted in Case 21-M-0541" and noting the Company's general disagreement with the management audits conclusions as being supportive of any disallowance).

(3) Common Capital and Operations

Staff categorizes a number of its recommended disallowed incremental FTEs under the category "Common Capital and Operations FTEs." Staff indicates that it recommends the Commission disallow the following of these positions: Data & Analytics Lead/Program Manager, Analytics Microsoft Data Engineer/Architect, Analytics and Data Engineer #2, Analytics PowerBI Developer, and Business Analyst.[146] Staff states that all of its disallowed FTEs in this category are listed under the Company's Integrated Energy Data Resource (IEDR) initiative.[147] Staff generally testified that the Company's stated purpose and reported responsibilities for these FTEs is inconsistent with the incremental work necessary for the Company to provide data to the IEDR, which Staff notes the Company was not required to host in any event.[148] Staff now asserts that the Company's requested revenue requirement inclusion for these FTEs falls under a January 19, 2024 Order in Case 20-M-0082, where the Commission directed that the recovery of any costs incurred with Phase 2 of Central Hudson's IEDR be addressed only after Phase 2 has been completed.[149] Although Central Hudson states in its

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[146] Staff Initial Brief, p. 41.

[147] Id.

[148] Tr. 3822-3825.

[149] Staff Initial Brief, p. 41 (citing Case 20-M-0082, Strategic Use of Energy Related Data, Order Approving Integrated Energy Data Resource Phase 2 Budgets (issued January 19, 2024) (January 19, 2024 Order), p. 19 (stating "Utility Phase 2 IEDR costs shall be deferred for future cost recovery in the same manner utilized for Phase 1 IEDR expenditures, up to the utilities' respective budget caps. Applicable costs shall encompass incremental operation and maintenance expenses, adjusted for associated savings, and carrying costs pertinent to capital expenditures, and shall include both the return on and return of investment (net of associated tax impacts), offset by corresponding incremental savings realized.").

reply brief that it demonstrated that the IEDR-related incremental FTEs are necessary for the Company to meet IEDR requirements, it makes no argument as to whether the Commission intended incremental FTE expenses to be recovered apart from the requirements of the Commission's January 19, 2024 Order.[150] Notwithstanding the Company's argument regarding the necessity of the employees to meet the IEDR requirements, we cannot conclude that the Commission intended to create an exception for such incremental labor expenses from its general directive in the January 19, 2024 Order, particularly given that the order provides for deferral treatment and future recovery. We therefore recommend revenue requirement exclusion consistent with Staff's position.

(4) Technology Capital and Operations

For this category, Central Hudson proposed the addition of 47 incremental FTEs covering the bridge period through the end of the Rate Year.[151] Staff recommends that 16 of those 47 requested FTEs be disallowed.[152] Staff notes in its initial brief that its IT FTE disallowances are addressed in other sections, including the five FTEs addressed in the section on IEDR implementation above.[153] Another eight disallowed IT FTEs related to the Company's 2021 Management Audit are consider in a later section of this RD. The remaining three FTEs are web developers proposed by Central Hudson "to develop and provide routine daily support for enterprise-wide information systems and technology solutions, including the customer self-service

150 Central Hudson Reply Brief, pp. 15-16.

151 See Tr. 1332-1350.

152 Tr. 3804.

153 Staff Initial Brief, p. 42.

portal and mobile application."[154] The Company notes that it anticipates growth in customer usage of its digital online presence and expects the web developers to be a critical part of enhancing those customers' experience through Central Hudson's planned Customer Web and Mobile Technology project.[155]

(a) Web Developers

Staff, in disallowing the web developer FTEs, expressed its concern that the Company's plans for its Customer Web and Mobile Technology project are premature, relying on Central Hudson's discovery responses indicating that it has not issued any Request For Proposals (RFP) or determined whether an outside vendor would be needed to complete the project.[156] Staff also expressed concern that the Company did not perform a cost-benefit analysis and indicated that it did not expect the project to result in any cost savings as the purpose was to enhance customer experience, not to find savings.[157]

Central Hudson claims that an RFP and cost-benefit analysis are unnecessary because the web and mobile applications have been developed in-house, with the Company planning to support the project in-house, as well.[158] Central Hudson claims that without the proposed FTEs, it will have only one half-time employee equivalent dedicated to supporting critical customer facing web portal and mobile applications and that, to date, it has had to augment its resources by adding external contractor staff to meet the demand for web and mobile projects.[159] Central

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[154] Central Hudson Initial Brief, p. 14 (citing Exhibit 257 (WCBP-2R)).

[155] Tr. 1345-1346.

[156] Tr. 4436.

[157] Id.

[158] Tr. 1385.

[159] Id.

Hudson maintains that it has a critical need for internal FTE web development resources to ensure adherence to best-practice coding standards, address newly identified security and vulnerability issues, and perform technical upgrades to keep these internally developed web and mobile applications current.[160]

Given the Company's plans to maintain the web development resources in-house, we are concerned with Staff's entire elimination of all three FTEs. Staff does not explain the need for an RFP for an in-house project. In addition, while Staff notes the Company did not perform a cost-benefit analysis, it is not clear what relevance such an analysis would have to a project that was designed with customer enhancement as its goal through the development of online tools. Notably, Staff does not provide any critique of the Company's expressed need for an enhanced online digital presence. As such, we are reluctant to eliminate all three requested FTEs and recommend the Commission allow one initial web developer incremental FTE to work in-house on project development.

(5) Customer Experience

The Company's filing includes a proposal to substantially increase its staffing levels related to customer service. In total, Central Hudson proposed 94 incremental FTEs in its Customer Experience Panel Testimony.[161] Specifically, Central Hudson proposed incremental FTEs (1) for monthly meter reading to eliminate regular bi-monthly bills based on estimating usage,[162] (2) to staff its newly created Customer

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160 Id.

161 Central Hudson Initial Brief, p. 30 (citing Exhibit 257 (WCBP-2R)).

162 Tr. 2998.

Billing Department,[163] (3) to support an expected increase in collection activities,[164] and (4) to support increased customer outreach and education efforts.[165] Of the Company's proposed customer service incremental FTEs, Staff recommended the Commission disallow all but three outreach and education representatives.[166] PULP also provided testimony in which it recommended disallowing the costs of the 55 incremental FTEs related to collections, which are to be recovered in a manner that would prevent the Commission from directing a refund to customers in the event the Commission finds imprudence related to the Company's implementation of its SAP CIS.[167]

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163 Tr. 3021-3022.

164 Tr. 3020-3021.

165 Tr. 3007.

166 Tr. 4403, 4405, 4425-4426. Of note, the Company states that Staff disallowed 52 incremental FTEs related to collections activity and 19 incremental FTEs related to meter reading, addressed in the main body of its Initial Brief, and an additional 10 incremental FTEs addressed in the Customer Experience Panel section of Appendix 2 to its brief, making a total disallowance of 81 compared to Staff's asserted 91. Staff does not actually enumerate the number of incremental FTE positions, of which it would disallow all but three. Compare Staff Initial Brief, p. 43 with Central Hudson Initial Brief, p. 39 and Appendix 2, pp. 21-25 and n. 4. Neither party clarified the difference on reply, which has created an uncertainty that should be explained on exceptions.

167 Tr. 617. In its initial brief, PULP did not provide any legal citation for the authority to defer forward looking rate case labor expenses in anticipation of a Commission finding of imprudence based on past activity. Nor does PULP appear to pursue this proposal, instead seeming to now support a total disallowance of this group of collections incremental FTEs pending an audit of the Company's existing workforce and hiring that took place during the bridge period and pendency of these rate matters. See PULP Initial Brief, pp. 6-7.

(a) Monthly Meter Reading

The Company proposes to double the number of meter reading FTEs to allow transition to monthly meter reading in response to concerns raised regarding estimated bills.[168] Central Hudson states that the FTEs are being hired pursuant to a plan filed in Case 22-M-0645, which it claims established a timeline and anticipated incremental costs of implementation. The Company asserts that, subsequent to filing the plan, it reached an interim agreement with Staff that accelerated the Company's proposed timeline.[169] The Company also testified that the plan envisions a phased roll out to limit the impact of any discovered defects in the new billing system supporting monthly meter reads.[170] Finally, the Company notes implementation of the plan will require both internal employees and external contractors.[171]

Staff contested all the meter reading incremental FTEs, including any costs related to the transition to monthly meter reading in Central Hudson's revenue requirement.[172] In support of its position, Staff cited concerns that an independent monitor's evaluation of the Company's plan - as required under the interim agreement - had not yet happened and that the report could materially impact the Company's monthly

168 Tr. 2998.

169 Id.

170 Tr. 2999

171 Tr. 2999-3000.

172 Tr. 3005-3008.

meter read plans.[173] Staff also testified that it was concerned that the Company's plans were not fully formed, including customer education components and the Company's cost estimates and supporting analysis of vehicle purchases, incremental FTEs, and contracted resources.[174]

Staff's direct testimony was submitted on November 21, 2023, more than three months after the Commission Order adopting an interim agreement that DPS technical staff had signed with the Company calling for a complete roll-out midway through the Rate Year being considered in these proceedings.[175] While Staff criticizes the Company's revenue requirement proposals, it appears to recommend only that the Commission "deny the costs associated with the transition to monthly meter reading"[176] with no further explanation of how it expects the Company to comply with the interim agreement and implementation by the end of 2024. In addition, Staff provides no legal analysis to support the position that the Commission can require a utility to implement a program during the Rate Year but deny it recovery for the costs. Staff does not recommend that Central Hudson be

[173] Tr. 4394. Staff's testimony indicates that the report was to be completed by February 29, 2024, and its initial brief notes on page 233 that "[a]s of . . . March 1, 2024, Staff has not reviewed the independent monitor report." No report exists in DMM as of April 9, 2024, notwithstanding Staff's acknowledgment that the Staff interim agreement with Central Hudson accelerated the Company' initial planned roll out that, by Commission Order, is supposed to occur by the end of calendar year 2024. See Case 22-M-0645, Investigation of Central Hudson Gas & Electric Corporation's Customer Information and Billing System Implementation, Order Adopting Terms of Interim Agreement (issued August 18, 2023) (Interim Agreement Order), p. 5.

[174] Tr. 4394.

[175] See Interim Agreement Order, p. 5.

[176] Staff Initial Brief, p. 232.

allowed to defer the costs of implementation, nor does Staff recommend the implementation of a mechanism by which the Company could collect the costs subject to audit, review, and, if appropriate, customer refund.[177] Rather, Staff "recommends that the Commission not act on the proposed monthly meter reading costs until after the investigation proceeding concludes."[178]

We have concerns with recommending a withholding of costs reasonable and necessary to meet a Commission-imposed deadline, even where the Company agreed to that deadline. In the absence of record evidence demonstrating a review of costs to determine a just and reasonable amount necessary for the Company to achieve the Commission-imposed requirement of monthly meter reading, we recommend inclusion of the costs requested by the Company to be collected through an applicable rate adjustment clause mechanism pending further consideration, audit, and review by Staff of the Company's implementation costs in the next rate proceeding. In the absence of such an adjustment clause, we are concerned that the record supports only one of two outcomes, full rate recovery of the Company's requested costs for all its proposed incremental FTEs related to monthly billing, or Commission relief from the December 31, 2024, deadline imposed in Case 22-M-0645. To avoid this, we recommend recovery of the reasonably incurred costs through a rate adjustment mechanism or similar surcharge that may be audited by Staff in the Company's next rate proceeding. Such recovery, however, should be capped at the level requested by

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[177] See, e.g., Case 09-M-0114, Consolidated Edison Company of New York, Inc. - Capital Program and Operation and Maintenance Expenditures Prudence Investigation, Order Establishing Adjustment Clause Mechanisms to Recover Gas and Steam Rates (issued June 25, 2009).

[178] Staff Initial Brief, p. 233.

the Company because we have no other spending level in the record.

(b) Billing

Staff notes that Central Hudson proposed to hire some number of incremental FTEs devoted to billing to supplement its existing 20 employees.[179] Staff relies on its general objections to the Company's costs for its billing system transition.[180] Central Hudson maintains that the proposed incremental FTEs are necessary to support manual processes, testing, and maintenance

[179] Staff Initial Brief, p. 45. Staff's brief cites to Exhibit 111 (CEP-4) which contains no discernable incremental FTE count. Central Hudson's initial testimony states that the Company would hire 11 incremental Customer Billing personnel during the bridge period. Tr. 3022. The Company's Exhibit 257 (WCBP-2R) appears to list six proposed incremental FTEs who would perform collections functions in the billing department that are not accounted for elsewhere. However, in Central Hudson's Initial Brief, p. 35, n. 44, the Company notes that Staff disallowed a total of 52 proposed incremental FTEs related to residential collections activity, of which 34 were to be added in the bridge period and 18 during the rate year. Footnote 44 further offers that Staff disallowed 33 FTEs intended for the customer contact center, 10 collectors, one collection supervisor, four billing FTEs, and four "Other Customer Service" FTEs. Thus, it appears the number of FTEs at issue may be as low as four but as high as 15 or more. Thus, in our view, the record is not sufficiently clear as to the exact number of FTEs requested here in this subsection, or the number disallowed by Staff other than Staff's rejection of "all" of them. Part of the confusion is due to the Company's justification for the employees as being all related to resuming collections activity, with both the Company and Staff discussing collections activity as a broad overarching category while failing to detail the various categories thereunder, one of which is called "collections" by Staff. Moreover, the Company did not include specifics as to these incremental FTEs in Appendix 2 to its initial brief, choosing instead to address these FTEs mostly in its general opposition to Staff's position disallowing any and all costs related to collections of which FTEs was only some portion.

[180] See Staff Initial Brief, pp. 230-239.

associated with new mandated complex billing structures on an ongoing basis.[181] In searching the record, we find that Central Hudson states that it will need to hire 33 incremental FTEs "to handle the expected significant influx of collection calls" and "continue an increased use of external call center personnel."[182] The Company also states that it will hire 11 billing FTEs during the bridge period "to investigate an estimated 10% of the collections calls" and "provide a positive customer experience and facilitate a positive customer action associated with their arrears balance."[183] The Company does not cite to any discussion of its existing employees' ability to perform these functions relative to the number of collections calls; nor does it elaborate on what tasks are required to investigate collections calls and how the figure of 10 percent was derived. It also is unclear whether any of these proposed billing incremental FTEs fall under the Company's statement in its brief that 30 of its proposed incremental FTEs that were disallowed by Staff have already been filled.[184]

Staff expresses the view that the Company's reliance on the prospective evolution of community distributed generation billing requirements is speculative and does not support the addition of new FTEs at this time, arguing that Central Hudson

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[181] Tr. 3083. As an example, the Company cited Case 15-E-0751, In the Matter of the Value of Distributed Energy Resources, Order Establishing Updated Standby Service Rates and Implementing Mass Market Demand Rates (issued October 13, 2023).

[182] Tr. 3021

[183] Tr. 3022. What is not precisely clear from the record is how many of these 33 or 11 incremental FTEs are specific to this subsection regarding billing versus how many are more generally in the next subsections regarding collections.

[184] See Central Hudson Initial Brief, p. 39 (citing Exhibit 257 (WCBP-2R)).

can request the positions if needed in the future.[185] Staff also states that approving "[a]dditional billing FTEs when the Company already has a Customer Billing Department of 20 FTEs, as well as an upgraded [Customer Information System] that should seamlessly be able to process complex billing, is not appropriate at this time."[186]

In reply, Central Hudson argues that Staff's position is disingenuous because the Company used the community distributed generation order as one example of at least 19 cases in which the Commission has taken action requiring billing changes.[187] In addition, Central Hudson notes that, given the relatively short time frames in which the Commission's billing changes need to be implemented, it cannot wait to propose incremental FTEs in a future rate proceeding because these FTEs are needed now. In addition, the Company asserts that the general SAP CIS software does not include New York specific billing requirements and, thus, requires further coding and configuration.[188]

In our view, the record is not sufficiently developed to support the Company's proposal. We agree with Staff that the Company's justification for these specific positions is based more on speculation than a demonstrated need. While the Company does provide legitimate reasons in its brief for hiring some number of FTEs, it fails to explain how it arrived at the actual number of incremental FTEs being requested. In addition, as noted, it remains unclear to us how many FTEs are being proposed, have already been hired, and are sought to be hired in

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[185] Staff Initial Brief, p. 45.

[186] Id.

[187] Central Hudson Reply Brief, pp. 17-18.

[188] Id., pp. 18-19.

the Rate Year specifically, making our task of evaluating and recommending some adjustment rather than fully crediting one position or the other a difficult exercise. Consequently, we recommend disallowance of all billing FTEs.

(c) Collections

For collections, the Company requested 10 field collectors and one supervisor incremental FTE[189] to support its effort to restart collection activity that was paused during 2020 in response to the COVID-19 pandemic. That pause has created unprecedented levels of arrears that, if left uncollected, will become write-offs and uncollectibles that ultimately must be accounted for in rates and collected from the Company's ratepayers.[190] Central Hudson's testimony is that arrears have more than tripled over the last four years, rising from a pre-pandemic level of 21,000 to 66,000 at the time of the rate filing.[191] The Company notes that it has historically maintained a field collector staff of 11 FTEs which has been reduced to a current complement of six.[192] Central Hudson justifies its plans to increase its FTEs to 16 on the grounds that residential arrears greater than 60 days have increased significantly and the increased workforce will facilitate an orderly and measured approach to the resumption of unprecedented collections and associated activities.[193]

Staff recommends disallowance of all costs associated with Central Hudson's plan to resume collections, including any

[189] Tr. 3022.

[190] Tr. 3017-3021.

[191] Tr. 3020.

[192] Tr. 3022.

[193] Id.

costs for incremental FTEs.[194] Staff maintains that complete denial of costs is necessary because of its concern that Central Hudson did not provide a sufficiently detailed plan or firm timeline for beginning service terminations and collections activity.[195] Staff contends that, without this information, Staff could not evaluate the level of staffing that would be appropriate for collection resumption.[196] Staff also contends that because the Company’s automated collection system would not be complete until October 2024, any final termination notices issued before that time would have to be done manually, introducing significant risk of human error that might lead to violations of the Home Energy Fair Practices Act (HEFPA).[197]

Central Hudson replies that Staff’s concern regarding insufficient detail in its collections resumption plan and an indeterminate timeline are belied by the record.[198] The Company cites Staff’s testimony that recognizes that, in discovery, the Company provided a plan to resume collections of late fees on March 19, 2024 and to resume other collections activities (including the issuance of deferred payment plans and

194 Tr. 4404-4405.

195 Tr. 4405.

196 Id.

197 Id.

198 Central Hudson Reply Brief, p. 19.

termination notices) on October 9, 2024.[199] Central Hudson then provides citations to the record where it explains its plans in further detail.[200] The Company notes Staff's acknowledgment that the Company's failure to resume collections activities could result in arrears balances growing even larger, and that collections activity, together with outreach and education, are important tools in controlling the level of arrears.[201]

We have great concerns with Staff's position. It is clear that actions beyond the Company's control, including the pandemic and related activity restricting utility collections, contributed to a heretofore unexperienced growth in arrears for

[199] See Tr. 4404. Staff seemingly took issue with the Company's characterization of this timeline as "controlled resumption," however, we do not see where Staff either questioned the Company as to what constituted "controlled" or ever detailed its concerns with the Company's use of that term. Similarly, we do not find persuasive Staff's interpretation of the Company's further discovery response that it was "currently evaluating the overall timeline and [would] provide updates if any changes occur" on its automation plans as being representative of indefiniteness. Rather, we view this as the Company' realistic acknowledgment that plans are subject to change should unforeseen future developments occur and that the Company is under an obligation to keep Staff informed of any changes made therefrom.

[200] Central Hudson Initial Brief, p. 36.

[201] See Tr. 4549.

all New York utilities, including Central Hudson.[202] The Commission and other authorities, as well as the Joint Utilities, took action because of "the unprecedented nature of this [COVID-19] crisis" as "the public interest required balancing the temporary financial impact on the utility industry against the need for millions of New Yorkers to be able to shelter safely in their homes with access to essential services."[203] By August 2021, the Commission recognized that the actions taken to provide New Yorkers with safe and reliable utility service regardless of the ability to pay had created a "COVID-19 arrears crisis" and tasked a newly created working group to "to address the need for improvements to the utilities' energy affordability programs and develop solutions" to address the unprecedented arrears growth.[204] In taking its Phase 2 action, the Commission noted that the working group had evaluated two potential actions versus maintaining the status quo under the factors of "the higher estimated cost to ratepayers, a projected amount of costs attributable to

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[202] See Case 20-M-0266, Effects of COVID-19 on Utility Service, Order Authorizing Phase 2 Arrears Reduction Program (issued January 19, 2023) pp. 1-12 (reciting the history of government and utility response to the COVID-19 pandemic and its impact on arrears and stating, "[t]he COVID-19 pandemic, which hit New York in or around March of 2020, resulted in the State suffering a rapid and broad loss of employment and associated contraction of its economy. To address the sudden loss of income by many New York residents from jobs lost, the State enacted a moratorium, effective on June 17, 2020, prohibiting the jurisdictional utilities from discontinuing electric and gas delivery services to residential customers for failure to pay their bills" and that "[d]uring the COVID-19 pandemic, residential and small commercial customer arrears grew to unprecedented levels.") (Phase 2 Arrears Reduction Program Order).

[203] Id., p. 2.

[204] Id., p. 5.

programmatic inaction, and the impact upon consumers and the utilities of taking programmatic action to address arrears."[205] Ultimately, the working group report determined that "the cost of alternative utility action is overall less than the cost of inaction," and recommended that credits be used to "offset the entire arrears accrued by eligible customers through May 1, 2022," creating a residual arrears balance that should "be resolved through the DPA or standard collections/terminations process. This would entail estimating a level of uncollectible write-off costs, incremental O&M for call center and collections activity, and incremental financing costs."[206] In explaining why it was taking this action, the Commission stated that the "severe impacts of the COVID-19 pandemic have persisted for too long and with commodity cost increases and inflationary pressures making energy affordability more challenging" it is time to take action.[207]

Staff's recommendations appear inconsistent with the Commission's previously expressed urgency. As expressed by the Company, it is somewhat contradictory of Staff to express dismay over the size of the arrears and insist upon collection activity, which it would subject to increasingly strict metric targets and "tripling and quadrupling" negative revenue adjustments,[208] while disallowing the incremental costs associated with Central Hudson's resumption of collections plans[209] and failing to provide both additional feedback to permit the Company to improve its plans and alternative

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[205] Id., p. 13.

[206] Id., pp. 16-17.

[207] Id., p. 36.

[208] Tr. 4330-4331.

[209] Tr. 4404-4405.

allowance measures for our consideration. We recommend allowing the requested 10 field collectors and one supervisor incremental FTEs.

(d) Outreach

Central Hudson testified that since July 2022 its outreach staff has needed additional support from other Company employees and contractor resources.[210] The Company explained that, in 2023, it hired three additional Consumer Outreach Representatives to handled customer complaints and to allow the Company to "more effectively engage with and assist employees in the community at events and meetings."[211] The Company indicated that it planned to hire five additional employees consisting of three Consumer Outreach Representatives, one Consumer Outreach Director, and one Consumer Outreach Supervisor to further support its outreach work internally. However, the Company asserted that, even with these incremental FTEs, it would likely need to continue some use of contractor resources.[212] The Company notes that its need for additional hires results from significantly increased complaints and increased community outreach activities designed to engage with customers before issues are elevated and become complaints.[213]

Staff recommends allowing the three Consumer Outreach Representatives but disallowing both the Consumer Outreach Director and Consumer Outreach Supervisor.[214] Staff argues that Central Hudson did not adequately justify why a relatively small staff of outreach representatives needed an additional director

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[210] Tr. 3007.

[211] Id.

[212] Id.

[213] Tr. 3008.

[214] Tr. 4456.

and supervisor to further supplement the one existing director.[215]

In reply, Central Hudson first notes that the outreach director is not an additional position but was included as an incremental FTE because the position was vacant when the labor expense of the revenue requirement was calculated based on the existing employees "on property as of March 31, 2023."[216] As for the outreach supervisor, the Company acknowledges that one supervisor is included in the baseline labor expense and that it seeks an additional supervisor.[217] Central Hudson justifies this addition by noting that with the three incremental customer outreach representatives allowed by Staff, its internal outreach staff will total nine which is supplemented by five external contract resources. Thus, the Company plans to have two supervisors for 14 combined internal and external FTEs.[218]

In its brief, Staff acknowledges the Company's rebuttal testimony but states that if the Company is simply backfilling a vacant Outreach Director position, then that hire should not be counted as an incremental FTE. Staff also states its opinion that a second Customer Outreach Supervisor is not necessary for nine Consumer Outreach Representatives and five external contractors.

Central Hudson's response to Staff's concern, which was based in part on misunderstanding, adequately clarifies the Company's position. In our view, Staff's conclusory statement that the Company is merely backfilling a vacant position is nonresponsive to the Company's explanation regarding how its

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[215] Id.

[216] See Tr. 693.

[217] Tr. 3089-3090.

[218] Tr. 3090.

labor expense was calculated. As for the additional Consumer Outreach Supervisor, we agree with Staff that the Company's assertion that two supervisors are needed for 14 internal and external staff is insufficient to demonstrate a need, as opposed to a desire for an optimum staffing arrangement that we decline to recommend at this time. Accordingly, we recommend that the Commission allow the incremental Consumer Outreach Director, together with three incremental Consumer Outreach Representatives that Staff did support.

(6) Climate Leadership and Sustainability

Based on the parties' briefs, the FTEs included in this group and the manner in which their costs should be accounted were intended to be the subject of agreement between Staff and Central Hudson.[219] However, there appears to be some inconsistency in both the number of incremental FTEs and the treatment of such. Central Hudson maintains that it requested two incremental FTEs and that Staff recommended allowing both.[220] The Company then states that the costs for these incremental FTEs should be reflected in the Company's revenue requirement.[221] Staff indicates that Central Hudson requested one FTE whose tasks involved activity related to the Commission's proceeding addressing Utility Thermal Energy Networks (UTENs)[222] and that, while Staff supported the incremental FTE, the costs should be removed from the Company's revenue requirements and tracked

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[219] See Staff Initial Brief, pp. 47-48 and Central Hudson Initial Brief, p. 40.

[220] Central Hudson Initial Brief, p. 40 (citing Exhibit 257 (WCBP-2R)).

[221] Id.

[222] Case 22-M-0429, Requirements of the Utility Thermal Energy Network and Jobs Act.

according to a Commission Order in Case 22-M-0429.[223] Staff cites to the Company's rebuttal testimony to indicate the Company's agreement to this arrangement.[224]

We believe there is no actual disagreement here and the parties are discussing two different things. However, this apparent discrepancy should be clarified on exceptions, and we will use Staff's numbers in this RD.

(7) Accounting and Tax

In its initial brief, Central Hudson indicates that it requested seven incremental FTEs related to accounting and tax positions and that Staff recommended allowing all seven with the costs to be reflected in the Company's revenue requirement.[225] Staff indicates in its initial brief that it supported the addition of five incremental FTEs, but disallowed a Logistics Coordinator and a second Instructional Designer (while allowing one).[226] In reply, Staff makes no mention of FTEs and the Company simply references the page number of the discussion in its initial brief. Once again, this discrepancy should be clarified on exceptions, and we will use Staff's numbers in this RD.

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[223] Staff Initial Brief, pp. 47-48 (citing Case 22-M-0429, supra, Order Providing Guidance on Development of Utility Thermal Energy Network Pilot Projects (issued September 14, 2023)).

[224] Staff Initial Brief, p. 48 (citing Tr. 393 where the Company testifies that it is no longer seeking revenue requirement for an incremental FTE related to UTEN activity). Notwithstanding this exchange demonstrating a potential discrepancy in the initial briefs, Staff makes no mention of FTEs on reply and the Company on reply simply references the page number of its initial brief discussion.

[225] Central Hudson Initial Brief, p. 40 (citing Exhibit 257 (WCBP-2R)).

[226] Staff Initial Brief, pp. 48-49 (citing Tr. 2293).

b) Vacancy Rate

The Company testified that its attrition rate increased from five percent to 8.1 percent in 2021 and 8.8 percent in 2022.[227] The Company explained that the increase in attrition is significant and impactful because it coincides with the need to add incremental resources to its workforce and that, while it filled 100 positions in 2021 and over 150 positions in 2022, the Company's net headcount increased only by 12 in 2021 and 52 in 2022. The Company used annual employee salaries to project labor costs but did not make any specific attrition adjustment to its Rate Year forecast.

Staff recommended adjusting Central Hudson's labor expense forecast to include a 3.5 percent vacancy rate, based on a five-year average of attrition from 2019 to September 2023, excluding retirements, as provided by Central Hudson in discovery.[228] Applying that vacancy rate to total labor costs, Staff recommended a reduction in labor expense of approximately $3.17 million for electric operations and $900,000 for gas operations.[229]

The Company disagreed with Staff's proposed adjustment, stating that Staff improperly relied on the yearly attrition rate, which falsely assumes that a vacated position was vacant for an entire year and does not account for positions that were refilled during the year.[230] To address this issue, the Company calculated a historic vacancy rate based on the Company's actual headcount compared to the headcount funded in rates, using a three-year monthly average from November 2020 to

[227] Tr. 324

[228] Tr. 4059; Confidential Exhibit 299 (SAP-1) and Exhibit 489.

[229] Tr. 4059.

[230] Tr. 777.

October 2023. The Company states that, on average, it exceeded the headcount allowed for in rates, making it reasonable to assume that ratepayers did not pay for positions that were vacant. The Company stated that the same trend is shown by applying its methodology to the five-year period used by Staff and that it anticipated that the trend would continue into the Rate Year.[231] Thus, the Company argues, no vacancy rate should be applied.

The Company maintained that Staff's proposed reductions to the Company's FTEs is equivalent to an imputed vacancy rate and that the Commission should not apply a vacancy rate given Company's imputation of a one percent productivity adjustment. Additionally, the Company asserted that its projected labor costs factor in an assumption that new employee hiring will be staggered over time to account for the fact that incremental hires may not be present for the entire year and, therefore, a further vacancy adjustment would act as a double count of a timing difference the Company already factored into its labor expense projection.[232]

Staff responds that, although the Company has more FTEs than the number allowed in rates during the Historic Test Year, that does not mean there was no level of vacancy at the Company, and that a vacancy rate adjustment is therefore needed to account for FTEs changing positions or leaving the Company. Staff asserts that the vacancy rate should be applied to new hires because they can leave employment at any time. Because the Company's labor expense reflects a staggered hiring of new FTEs, Staff asserts that the vacancy rate is fair because it

[231] Tr. 779.

[232] Tr. 780.

applies only to the portion of salary included in the Rate Year labor expense.

Initially, we find unpersuasive the Company's argument that a vacancy rate is redundant where a productivity adjustment is applied. As Staff states, productivity adjustments are meant to capture unidentified or unquantifiable productivity gains, efficiencies and cost savings that could be realized during the Rate Year, which are not tied solely to employee headcounts and do not capture all positions vacant during the Rate Year.[233] Moreover, Staff's recommended downward adjustments to the Company's proposed incremental FTEs are not equivalent to a vacancy adjustment – they reflect Staff's recommendation of how many incremental FTEs are necessary to perform work in the Rate Year.

We find Staff's position on the vacancy rate more persuasive. In our view, Staff's position correctly reflects that employee positions are vacated during the year. Staff's position may not accurately reflect when those positions may be refilled during the year, but the Company's position does not reflect when those positions are vacant during the year. It makes sense that some level of vacancy will occur during the Rate Year and that there will be lags in hiring incremental FTEs that are included in rates. We conclude that Staff's position, which is based on historical attrition rates provided by the Company, better reflects what can be anticipated during the Rate Year. Moreover, as Staff points out, the attrition rate used by Staff is conservative insofar as it does not account for vacancies due to retirements.

[233] Tr. 4127-4128.

c) Labor Distribution Rate

The Company relied upon the Historic Test Year labor distribution, adjusted for projected changes in the bridge period and Rate Year, to determine the labor distribution between expense, capital, and other affiliates to be used in the Rate Year.[234] The Company states that this has been an accepted methodology used since its 1992 rate cases.

Staff testified that the Company's methodology does not account for the year-to-year fluctuations in types of work that determine the ratio of labor to expense, capital, and other affiliates.[235] Rather than using the Historic Test Year to forecast labor distribution in the Rate Year, Staff proposed using a three-year historical average of actual labor cost distributions from 2020 to 2022, with no normalizations, to capture the variations that occurred during that span.[236] In discovery, Staff stated that it disagreed with the Company's proposed distribution because a major component of the Company's forward-looking adjustments was directly linked to the Company's proposed incremental FTEs and the number of incremental FTEs ultimately to be approved and their actual distribution of costs is unknown.[237] Using the average distribution of labor allocations proposed by Staff, labor expense is reduced by $2.16 million for electric operations and $539,000 for gas operations.

Central Hudson testified that Staff has agreed in the past with the Company's use of a normalized Historic Test Year to forecast Rate Year labor distribution. Central Hudson stated that using a historic three-year average does not reflect

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[234] Tr. 781.

[235] Tr. 460.

[236] Id.

[237] Exhibit 244 (RRP-5R), pp. 6-7.

allocation of the current workforce and does not account for the projected effect of the proposed incremental employees on the distribution.[238] Citing the Commission's Statement on Policy on Test Periods in Major Rate Proceedings, Central Hudson asserts that operating results for the Rate Period should be based on the Historic Test Year with normalizing adjustments. While the Company agreed that the number of incremental FTEs that will be approved is uncertain at this point, it stated that Staff had the information needed to apply the Company's forward-looking normalizations to Staff's proposed level of FTEs. The Company noted that Staff proposed a forward-looking normalization adjustment for incremental FTEs in Central Hudson's rate proceedings in Cases 17-E-0459 and 17-G-0460. The Company states that it adopted Staff's proposal in that case and used the same methodology in Cases 20-E-0428 and 20-G-0429, and that the adjustment reduced the amount of labor being charged to electric and gas expense in those cases.

Staff argues that its testimonial position is the most appropriate way to forecast the Rate Year labor distribution rate in these proceedings given the Company's request for 254 incremental FTEs, which is a 22 percent increase over its Historic Test Year headcount. Staff asserts that, because the number of incremental FTEs allowed during the Rate Year will be unknown until the final resolution of these proceedings, and the actual labor distribution of these future FTEs is also unknown, the Company's proposed normalization methodology could result in a significant distortion of the labor distribution rate. Staff acknowledges that Historic Test Year labor distribution rates with normalizations have been used in prior Central Hudson rate proceedings, but notes that – unlike these proceedings - many of

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[238] Tr. 781.

those proceedings involved negotiated settlements. Staff argues that the Company has not demonstrated why the use of Historic Test Year distribution rates with normalization should now be applied to these litigated rate cases, particularly where the Company has proposed an "extraordinarily large increase in labor headcount" as compared to the Company's requests in prior cases.[239]

We recommend adoption of Staff's position in these litigated rate cases. Although the Company's forecasting method has been used in the context of settled multi-year rate plans, we agree with Staff that the use of a three-year historical average of actual labor cost distributions from 2020 to 2022 better reflects how labor distribution is likely to occur during the Rate Year. As Staff states, the use of a historical average accounts for the year-to-year fluctuations that can occur in types of work that determine the ratio of labor to expense, capital, and other affiliates.

d) Wage Increases

(1) Union Employees

Turning to wage increases, the dispute between the Company and Staff relates to union employees in Systems Operations, where the union contract expired on March 31, 2024, making wage rates after April 1, 2024 unknown.[240] The Company testified that the current Systems Operations union contract provided a 2.5 percent wage increase on April 1, 2023, and that, absent any more precise forecast assumptions for this group of employees, it used a an assumed 4.5 percent wage increase in April 2024 and 2025 to calculate the labor expense for these employees. The Company explained that this percentage increase

239 Staff Initial Brief, pp. 54-55.

240 Tr. 345, 4056.

is consistent with its proposed wage increases for executive and non-union management employees.[241]

Staff recommended Systems Operation employee wage increase of 2.25 percent in 2024 and three percent in 2025.[242] Staff noted that System Operations employees have received wage increases of 2.5 percent each year from 2021 to 2023, which is two percent lower than the Company's proposal.[243] In addition, Staff stated that its recommended percentage increases were consistent with the increases for Central Hudson's IBEW Local 320 union employees, for which the Company applied inflation factors of 2.3 percent in 2024 and three percent in 2025.[244]

In rebuttal, the Company disagreed with Staff's approach, stating that the wage escalation percentages used by Staff were the result of negotiations for a different and larger union population and were determined several years ago in a very different labor market.[245] The Company maintained that using the wage escalation rate determined in one union contract for a different union is unreasonable.[246]

Although noting that the IBEW union is larger than the Systems Operations Union, Staff argues that "it is possible" that the Systems Operations Union would receive a similar wage increase.[247] Staff additionally asserts that the use of the IBEW Union wage increase is reasonable because it is closer to the actual wage increases the System Operations Union employees previously received.

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[241] Tr. 345-346.

[242] Tr. 4057.

[243] Tr. 4056-4057; Exhibit 237, p. 177.

[244] Tr. 4056-4057

[245] Tr. 401.

[246] Tr. 402.

[247] Staff Initial Brief, p. 56.

Central Hudson argues that Staff's proposed 2.25 increase for 2024 likely would result in a reduction of wages that Systems Operations employees otherwise would receive in 2024.[248] The Company notes that those employees were granted a 2.5 percent increase in 2024 under a contract that is effective through March 31, 2024. The Company argues that the Systems Operations Union likely would negotiate an additional increase under a new contract for the period April 1, 2024 through March 31, 2025. In addition, the Company argues that application of a wage percentage increase determined years ago in the IBEW Local 320 union contract to a future union contract for System Operations employees – a vastly different group of employees - is unrealistic and unreasonable. The Company maintains that its proposed use of a 4.5 percent increase is supported by the best evidence available and should be adopted.

We note that the 4.5 percent increase the Company proposes is derived from a recommendation made by its consultant in a merit budget letter addressing executives and non-union management employee salaries.[249] We do not agree with the Company that such a performance percentage should be used as a proxy for increases that Systems Operations union employees may receive. As Central Hudson states in another section of its brief, there is "no evidence demonstrating that labor market conditions are identical for employees governed by the Company's collective bargaining agreements and management employes."[250]

In our view, Staff's methodology is more appropriate because it relies on actual data regarding percentage increases that these particular union employees received annually in 2020,

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[248] Central Hudson Initial Brief, p. 45.

[249] Exhibit 258 (WCBR-3R).

[250] Central Hudson Initial Brief, p. 47.

2021 and 2022, and is similar to inflation factors used for other union employees now under contract. However, to the extent that Staff would apply its inflation factors to calendar years, we recommend a modification to its methodology. Because the Systems Operations union employees have received a 2.5 percent on April 1, 2023, that increase will run through the end of March 2024. Staff's proposed 2.5 percent increase for 2024 should apply to the period April 1, 2024 through the end of March 2025, and its proposed three percent increase should apply to the period beginning April 1, 2025.

(2) Executive and Non-Union Management Employees

In its Rate Year labor projection, Central Hudson applied annual wage increases of 4.5 percent for both its non-union management and executive employees, effective March 1, 2024, for non-union management employees, and January 1, 2025, for executive employees. The Company testified that, to keep salaries competitive but reasonable for new and existing employees, it has adopted a strategy to compensate such employees with a base salary at the 50th percentile of overall compensation for comparable jobs in the Northeast United States.[251] To establish the range of those salaries, the Company testified that it relied on nationally recognized compensation consultants.[252]

Staff testified that, under normal circumstances, it would have recommended a four percent wage increase for executive and non-union management employees.[253] However, Staff recommended that wage increases for non-union management employees be limited to 2.25 percent in 2024 and three percent

[251] Tr. 343-344.

[252] Tr. 343.

[253] Tr. 4013.

in 2025, consistent with the wage increases for the Company's IBEW Local 320 union employees.[254] For executive employees, Staff recommended no wage increase.[255] Staff notes that the Company's SAP CIS implementation resulted in unprecedented levels of customer dissatisfaction within its service territory and that the final report in the Company's most recent comprehensive management and operations audit in Case 21-M-0541 contained significant findings about Central Hudson's management practices.[256] Staff maintains that the Commission should adopt Staff's recommended adjustments to the Company's proposed wage increases because of these "extenuating factors" and the significant rate pressures on ratepayers in these proceedings.[257]

The Company argues that Staff has not alleged that non-union management employees or executive employees mishandled the SAP CIS transition, and it maintains that no link exits between the billing issues and non-union management or executive wages.[258] The Company asserts that no justification exists for Staff's recommendations. The Company argues that no evidence exists demonstrating that labor market conditions are identical for employees to support Staff's reliance on IBEW Local Union 320 wage increases, that Staff ignores the Company's expert consultant's recommendations and Staff's own WorldatWork review, and that Staff's recommendations would prevent the Company from attracting and retaining qualified non-union management and

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[254] Tr. 4014.

[255] Tr. 4014.

[256] Case 21-M-0541, Central Hudson Gas & Electric - Management and Operations Audit, Order Releasing Audit Report (issued April 20, 2021).

[257] Staff Initial Brief, p. 57.

[258] Central Hudson Initial Brief, p. 47.

executive employees needed for the Company to perform its core functions.[259]

We agree with the Company that generalized rate pressures should not be a factor in denying what Staff otherwise would find to be appropriate wage increases for non-union management and executive employees. Staff cites no authority to support its position, and there is no evidence that the rate pressures in these proceedings differ markedly from other post-COVID-19 rate proceedings. Thus, in our view, the record does not support a deviation from Staff's normal methodology for determining wage increases for non-union and executive employees.

Nor do we find that the Company's billing issues warrant a deviation from Staff's normal methodology for determining appropriate wage increases for non-union management and executive employees. We agree with the Company that Staff has not provided a rationale for holding all such employees responsible for the billing issues at the Company. Further, the Interim Agreement between Staff and Central Hudson in Case 22-M-0645 states that the Company "has demonstrated efforts to rectify billing and other impacts resulting from the deployment of the SAP System."[260]

Moreover, the Commission is addressing the Company's implementation of its SAP CIS system and resulting billing issues in Case 22-M-0645. In initiating that proceeding, the Commission ordered the Company to "show cause why the Commission should not commence a proceeding to examine the prudence of the

[259] Central Hudson Initial Brief, pp. 47-48; Central Hudson Reply Brief, pp. 26-28.

[260] Case 22-M-0645, Investigation of Central Hudson Gas & Electric Corporation's Customer Information and Billing System Implementation, Interim Agreement (filed July 7, 2023), p. 1.

utility's expenses, and/or a civil penalty action and/or an administrative penalty action, pursuant to Public Service Law §25 and 25-a, for apparent violations of the Public Service Law, rules and regulations adopted thereto, and Commission orders."[261] In that proceeding, which is ongoing, the Commission will determine whether further actions should be taken against the Company based upon the Company's past actions related to its implementation of its SAP CIS system. In our view, it is not appropriate in these rate proceedings to address the Company's general billing issues given the ongoing inquiry in Case 22-M-0645.

In our view, Staff's reliance on the management and operations report issued by Overland Consulting Group (Overland), the independent auditor in Case 21-M-0541, is misplaced. As part of the normal process in such cases, the Company has filed an implementation plan to address the concerns and recommendations made by Overland. On March 15, 2024, the Commission issued an order approving the Company's implementation plan, as modified by the Commission.[262] Given that order, which requires the Company to implement the recommendations made by Overland, as well as the ongoing proceedings in Case 22-M-0645, we do not agree with Staff that the Overland report justifies a deviation from what Staff normally would recommend for non-union management and executive employee wage increases.

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[261] Id., Order to Commence Proceeding and Show Cause (issued December 15, 2022), p. 1.

[262] Case 21-M-0541, Proceeding on Motion of the Commission to Conduct a Comprehensive Management and Operations Audit of Central Hudson Gas & Electric Corporation, Order Approving Implementation Plan With Modification (issued March 15, 2024).

We are cognizant of ratepayers' frustration over the Company's implementation of its SAP CIS and the resulting billing issues and we emphasize that the Commission is addressing the Company's SAP CIS implementation and billing issues in Case 22-M-0645, which is the appropriate forum for the resolution of such issues. In these proceedings, we must look at what is appropriate for these classes of employees in the Rate Year, not examine the performance of any specific employees in the past. Based on the record before us, we recommend that the Commission adopt a four percent wage increase for non-management and executive employees, which Staff found appropriate absent "extenuating factors."

(3) Temporary Employees

To arrive at its Rate Year labor projections, the Company applied an annual wage increase of 4.5 percent for its temporary employees, consistent with the merit raises projected for executives and non-union employees.

Staff recommended a wage increase of 1.4 percent for temporary employees based on a historical average. Staff explained that temporary employees received an 8.1 percent wage increase in 2023 after six years with no increase, averaging approximately 1.4 percent each year.[263] In its brief, Staff argues that its recommended 1.4 percent wage increase for temporary employees is reasonable and should be approved.[264]

The Company argues that Staff's proposal would punish the Company for keeping wages low when market conditions allowed it. The Company contends that such market conditions no longer exist as reflected by the 8.1 percent increase in wages in

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263 Tr. 4057.

264 Staff Initial Brief, p. 58.

2023.[265] The Company asserts that it recruits new employees from its intern pool, who are temporary employees, and must remain market competitive to attract top talent. The Company maintains that the Commission should adopt the ”more reasonable” 4.5 percent wage increase it proposes.

We do not agree with the Company that it has met its burden of proof to justify a 4.5 percent wage increase for temporary employees. To reflect market conditions, those employees were given an 8.1 percent increase in 2023. While we recognize that Staff’s recommended 1.4 percent wage increase may be on the low side, that is the level increase we recommend because the record does not support a different percentage increase. Moreover, the Company’s concern that it will not remain market competitive is mitigated by the fact that these are litigated rate cases and that the Company can seek a higher increase in its next rate cases.

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[265] Central Hudson Initial Brief, pp. 48-49.

e) Labor Reconciliation Mechanism

Staff recommends a new downward-only labor expense reconciliation mechanism "due to the significant number of FTEs being allowed in Staff's testimony."[266] Staff maintains that if the Company does not successfully fill the incremental positions for the costs reflected in rates set by the Commission in these proceedings, the Company should be required to defer the underspending for future disposition by the Commission.[267]

Staff argues in its brief that a downward-only labor reconciliation is appropriate in the Rate Year to protect ratepayers from funding vacant positions in the event the Company is unable to fill the significant number of incremental FTE positions Staff recommends. Staff maintains that the mechanism will not cause any deferral of funds if the Company has no issues with its hiring, as it claims, and fills the positions allowed in this case.[268] Staff asserts that no issue exists with respect to timing or the assumption of a significant number of positions being assumed vacant for an entire year because the Company's headcount should trend upwards as incremental FTEs are hired, unless the Company also anticipates a significant turnover in its existing workforce during the Rate Year.

The Company disagrees with Staff's recommendation. Referring to its monthly comparisons of actual employees versus those funded in rates from November 2020 through October 2023, as well as its monthly comparisons from November 2018 through October 2023, the Company testified that it has a proven history of hiring employees needed to run its business safely and

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[266] Tr. 4154.

[267] Tr. 4154.

[268] Staff Initial Brief, p. 59.

effectively.[269] The Company stated that Staff's proposal would add unnecessary complexity to managing the Company's business in these litigated rate cases. The Company testified that, if a downward-only labor reconciliation mechanism is adopted, the mechanism should not be adopted as proposed because it is flawed insomuch as it does not consider the timing of when employees are actually employed by the Company.[270] The Company asserted that, in the event an FTE is employed during the year but is not employed at the end of the year, Staff's mechanism – which would rely on end-of-Rate Year comparisons – would assume that the position was vacant the entire year.[271] Additionally, the Company stated that the mechanism "disregards the distribution of labor expense assumed in the development of rates."[272] In its reply brief, the Company takes issue with Staff's contention that the Company's headcount should trend upward during the Rate Year, noting that it has already hired 101 of its proposed 254 FTEs even though it does not currently have rate recovery for them.[273]

We do not recommend adoption of a downward-only labor reconciliation provision in these cases. The Company has already hired 101 FTEs and anticipates hiring more to perform work necessary to provide safe and reliable service during the Rate Year. As stated earlier, we recommend that Staff's proposed vacancy rate be applied, and we see no basis to recommend that the Commission also apply a downward-only labor reconciliation mechanism in these litigated rate cases.

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[269] Tr. 784; Exhibit 247 (RRP-7R).

[270] Tr. 785.

[271] Tr. 785.

[272] Tr. 785.

[273] Central Hudson Reply Brief (citing Tr. 393).

f) Variable Compensation

To receive recovery of the costs of an incentive pay program – such as variable compensation - a utility can demonstrate that its overall compensation, inclusive of incentive pay, is reasonable relative to similarly situated companies.[274] That demonstration is best accomplished in rate proceedings through the utility's presentation of a compensation study of similarly situated companies.[275] In addition, utilities should present and describe the design and intent of the incentive pay program, including the goals against which performance is to be measured and the corporate objectives underlying those goals. In doing so, utilities "should confirm that the incentives will support the provision of safe and adequate service and will have no potential to adversely affect ratepayer interests or to promote results that are inconsistent with Commission policies."[276]

(1) Non-Union Management Employees

Staff supports the Company's newly proposed Management Variable Compensation Program, an incentive program for non-union management employees.[277] The Company requested incentive compensation for its non-union management employees in the amounts of $3.4 million for electric and $850,000 for gas. In support of its request, the Company provided its draft incentive plan and benchmarking study with supporting documents and provided detailed testimony explaining the various steps and

[274] Case 10-E-0362, Orange and Rockland Utilities, Inc. – Electric Rates, Order Establishing Rates for Electric Service (issued June 17, 2011), pp. 39-40.

[275] Id., p. 40.

[276] Id., pp. 40-41.

[277] Tr. 401, 4061-4068; Exhibit 72 (WCBP-11).

processes used in preparing its draft incentive plan.[278] As described by Staff in testimony, Mercer's benchmarking study "examined total compensation, inclusive of incentive pay, of approximately 51 percent of Central Hudson's non-executive management employees, as well as the value of the benefits provided to those employees" and compared the Company's total compensation with 40 utility and general industry peer companies.[279]

After reviewing the Company's testimony and supporting documentation and responses to certain discovery requests, Staff concluded that the Company satisfied the Commission's requirements set forth in Case 10-E-0362 and that the Company's proposed incentive compensation plan for non-union management employees should be included in rates.[280] Staff found that the Company's proposed incentive compensation program aligned with customer interests and Commission policies and that its total compensation is reasonable as compared to similarly situated peer companies.[281] We agree and therefore recommend that the Commission approve the Company's request for an incentive program for non-union management employees.

(2) Executive Employees

Central Hudson also requested recovery of executive variable incentive pay in the amounts of $922,000 for electric and $230,000 for gas.[282] To support its request, the Company relied on a benchmarking study by F.W. Cook regarding the competitiveness of its overall executive management compensation

[278] Tr. 349-366.

[279] Tr. 4063-4065.

[280] Tr. 4067.

[281] Tr. 4067-4068.

[282] Tr. 4003.

package by studying the total direct compensation, including incentive pay, of seven of eight Central Hudson executive management employees.[283] The study compared the Company's overall executive compensation package to the compensation packages of 12 utility peer companies.[284]

After reviewing the Company's benchmarking study methodology and supporting documents, the Staff Accounting Panel concluded that the Company's executive compensation plan satisfied the Commission's requirements stated in Case 10-E-0362.[285] Staff found that the Company's benchmarking study demonstrated that Central Hudson's executive compensation is in the reasonable range of plus or minus 10 percent of the market median.[286] Staff also confirmed that the variable rate pay plan performance targets are appropriate, focused on goals related to safety, reliability, customer service, and the environment, although many are set at the minimum requirements established by the Commission.[287]

The Staff Policy Panel, however, recommended that the Commission deny the Company's request to recover executive incentive compensation in this case.[288] The Policy Panel based its recommendation upon findings by Overland Consulting Group, Inc. (Overland) in a final report issued in Case 21-M-0541, as well as the Company's billing system issues and significant rate pressures. Staff relied on Overland's findings critical of Central Hudson's executive management, including findings indicating that Central Hudson does not use its executive

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[283] Tr. 4069

[284] Tr. 4069.

[285] Tr. 4069-4073.

[286] Tr. 4071.

[287] Tr. 4073.

[288] Tr. 4012.

incentive program to benefit ratepayers.[289] Staff noted Overland's findings that the Company's performance against its Team Goal Targets had been mixed since 2017, that the Team Goal Targets did not demonstrate an expectation of continuous improvement, and that nine out of 16 of the Company's Team Goal Targets were lower in 2021 than in 2017.[290]

Staff argues in its brief that "Central Hudson's practice of setting performance targets at minimum thresholds protects ratepayers from unacceptably poor service, but ratepayers are better served when utility performance exceeds those minimums."[291] Staff argues that "[i]ncentive compensation programs should strive for continuous improvement in all areas where improvement can benefit ratepayers" and maintains that, "based on its structure, Central Hudson's proposed executive incentive compensation program would not benefit ratepayers."[292]

The Company argues that it is entitled to executive incentive compensation based upon Staff's review for the plan's compliance with Commission requirements in Case 10-E-0362. The Company contends that the Staff Policy Panel inappropriately relied on "new and highly subjective" factors in determining that executive incentive compensation was not warranted in these cases.[293] The Company asserts that its billing issues are being addressed in other proceedings and that "general rate pressures, many of which are implications of rates established during the COVID-19 Pandemic, should not support disallowance of an otherwise supported and valid" executive incentive pay

[289] Tr. 4005.

[290] Tr. 4008.

[291] Staff Initial Brief, p. 62.

[292] Staff Initial Brief, p. 62.

[293] Central Hudson Initial Brief, p. 51.

program.[294] The Company maintains that Staff's reliance on billing issues and rate pressures is improperly seeking to penalize the Company on a going forward basis for past difficulties associated with the transition to a new SAP CIS, and that it has taken responsibility for its past actions and has taken corrective action that have brought its billing system errors at or close to pre-SAP CIS billing issue rates.[295]

With respect to the management and operations audit in Case 21-M-0541, the Company stated that its implementation plans would address Overland's recommendations and that program modifications would be made accordingly. The Company maintains that the fact that potential improvements may be made with respect to its executive incentive pay program should not serve as a reason to deny recovery where Staff has found the program to comply with Commission requirements.[296] The Company argues that the acceptance of audit recommendations for improvement and development of an implementation plan by the utility is the expected outcome in every management audit.

Moreover, the Company asserts that the adoption of Staff's recommendation would negatively impact the Company's ability to attract and retain qualified executives. More specifically, the Company maintains that the incentive compensation program referenced by the auditor was not the Executive Incentive Compensation Program at issue here and that the auditor's report says nothing about the Company setting targets at minimum standards. The Company also states that the record contains no definition of "minimum standards" nor any

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[294] Tr. 404.

[295] Tr. 3324.

[296] Tr. 404.

proof that Central Hudson sets executive incentive targets at minimum levels.

For the same reasons stated in connection with wage increases for executive employees, we find Staff's reliance on the Company's billing issues and rate pressures to be unpersuasive. However, with respect to incentive pay for the Company's executives, the Commission's recent order in Case 21-M-0541 requires additional consideration.

In that Order, the Commission rejected Central Hudson's proposed modification to Overland's Recommendation 2.7, which would require continuous improvement in all measurements of Company performance.[297] As stated by the Commission, "Central Hudson's position is that Team Goals related to targets established in rate plans should be set at the same levels because additional funding would be needed to achieve higher performance levels."[298] Central Hudson proposed instead "to enhance its multi-year Team Goal review process to consider continuous improvement criteria and the potential costs and benefits of achieving targeted goals" and to "coordinate the implementation of this recommendation with Recommendations 2.8 and 8.1 involving benchmarking in low performing areas and customer operations."[299]

In rejecting Central Hudson's position, the Commission stated that Central Hudson uses "Team Goal targets to determine the payouts for its incentive compensation program for managers and executives;" that, according to Overland, "Central Hudson set most of its customer and regulatory metrics at the threshold

[297] Case 21-M-0541, Central Hudson Gas & Electric - Management and Operations Audit, Order Approving Implementation Plan with Modification (issued March 15, 2024).

[298] Id., p. 9.

[299] Id.

expectations set in rate cases," establishing "goals at such minimums is not a typical industry practice and . . . it is not unreasonable to expect improvement from such low expectations;" and, that Central Hudson's approach to rewarding its employees for achieving the minimum performance levels established in rate plans "is antithetical to the purpose of an incentive compensation plan."[300] The Commission modified Central Hudson's implementation plan to ensure that the Overland recommendations are "appropriately factored into the Company's process for setting Team Goals and that Central Hudson is using its Team Goals to motivate its employees to improve performance for the Company's customers."[301] The Commission directed the Company to meet with Staff after the Company completed implementation of Overland's Recommendations 2.8 and 8.1, stating that if Staff is not satisfied at that time that the Company will effectively implement Recommendation 2.7, Staff may bring the matter to the Commission for further consideration."[302]

We recognize, that based on its recent Order in Case 21-M-0541, the Commission could deny Central Hudson's request for executive incentive pay during the Rate Year. However, on balance, we recommend that the Commission not do so here. Rather, we recommend that the Commission approve Central Hudson's request for executive incentive pay and direct Central Hudson to make such payments during the Rate Year only if it establishes, to Staff's satisfaction, that the Company is effectively implementing Recommendation 2.7. In our view, this result would recognize Staff's conclusion in testimony that the Company's executive "incentives will support the provision of

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300 Id., pp. 8-9.

301 Id., p. 10.

302 Id.

safe and adequate service and will have no potential to adversely affect ratepayer interests or to promote results that are inconsistent with Commission policies."[303] At the same time, the Commission would ensure that executive incentive pay is provided only if the Company effectively implements Recommendation 2.7. In that regard, the Commission could direct that, if the Company fails to show that during the Rate Year, the Company must defer the incentive compensation amount for the benefit of ratepayers.

g) Employee Benefits

(1) Medical Benefit Inflation Rate

The Company and Staff disagree over the inflation rate that should be applied to medical benefits. The Company maintains that its projected 12 percent inflation rate should be used to recognize higher than historic inflationary factors and to better reflect the Company's actual cost experience.[304] Noting the Commission's "long-standing" use of Gross Domestic Product Price Index (GDP-PI) for certain utility expenses,[305] Staff recommended that, to provide the most accurate forecast of inflation, the inflation rate be calculated using the most recently published consensus short-term and long-range forecasts of the GDP-PI included in the October 10, 2023 issue of the Blue Chip Economic Indicators."[306] Based on a weighted average calculation using those forecasts, Staff recommended that

[303] Id., pp. 40-41.

[304] Central Hudson Initial Brief, p. 53 (citing Tr. 381); Central Hudson Reply Brief, p. 30.

[305] Tr. 3535, 3537 (citing Case 92-M-0184, Proposed Change in the Index Used to Measure Inflation for Use in Rate Making Proceedings, Notice (issued April 14, 1992)).

[306] Tr. 3537.

inflation be projected as an increase of 5.868 percent from the Historic Test Year to the Rate Year.

Following the Commission's long-standing practice, we agree with Staff that the 5.868 percent inflation rate should apply to medical benefits. The Company argues that, if the Commission adopts Staff's recommendation on inflation, Staff's proposed rate allowance for medical benefits requires modification because it is based on an erroneous mathematical calculation that results in Staff's cost-per-employee decreasing over the bridge period and Rate Year, rather than growing at the rate of inflation.[307] The Company maintains that this calculation error resulted in Staff understating the rate allowance by $628,000 for electric and $142,000 for gas.[308]

In its reply brief, Staff conceded that it erred and revised its calculation to update the cost-per-employee. Staff asserts that this correction results in increases of only $48,000 for electric and $14,000 for gas.[309]

Given that the Company and Staff disagree about updated calculations that are not in the record, we cannot make a recommendation to the Commission to adopt either figure at this point. Nevertheless, because the parties agree a calculation error occurred, the Commission may choose to adopt the lower amount proposed by Staff to ensure that some corrective action is taken. We used that amount in preparing the schedules attached to this RD.

(2) Tracking Adjustments

The Company and Staff agree that multiple elements of labor expense should be subject to tracking adjustments. We

[307] Central Hudson Initial Brief, p. 53.

[308] Central Hudson Initial Brief, p. 53 and Appendix 1, Schedule A.

[309] Staff Reply Brief, pp. 18-19 and Attachment A.

agree that the tracking adjustments should be updated to reflect the Commission's determination on the individual labor items that are subject to tracking adjustments.[310]

h) Pension and Other-Post Employment Benefits

For the Rate Year, the Company proposed negative pension expenses of $7.296 million for electric and $2.065 million for gas, and negative Other Post-Employment Benefits (OPEBs) expenses of $5.804 million for electric and $2.065 million for gas.[311] Staff and the Company agree on these figures - subject to the incorporation of updated forecasts of pension and OPEBs costs in a January 2024 Mercer update to be incorporated in the Company's Brief on Exceptions - and to updated tracking adjustments to the percentage allocated to expenses and construction to reflect the Commission's final decision on labor and benefits. For purposes of calculating a revenue requirement, we will use the current forecasts adjusted to be consistent with our recommendations regarding the Company's labor and benefits forecasts in preparing the schedules attached to this RD.

i) Employee Training, Safety, and Education

The Company proposed to expand its training programs during the Rate Year, stating that its training needs were driven by its evolving workforce, including many newer employees with less than five years of service, in conjunction with

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310 Central Hudson Initial Brief, p. 54; Staff Initial Brief, pp. 63-64.

311 Tr. 699-700, 4081-4082. We note that the Company updated its proposed pension and OPEBs expenses in its reply brief. As updated, the Company proposes negative pension expenses of $15.744 million for electric and $4.443 million for gas and negative OPEBs expenses of $6.018 million for electric and $1.698 million for gas. Central Hudson Reply Brief, Appendix 1, p. 3 and Appendix 2, p. 3. However, for purposes of this RD we use the figures discussed in the text.

emerging technologies and best practices that require training prior to adoption.[312] The Company forecasted Rate Year expenses of $2.285 million for electric and $997,231 for gas.[313]

Staff testified that the Company's Rate Year forecasts included three main components: (1) nine existing training programs; (2) training costs to send each incremental employee to those training programs; and, (3) 22 new business initiatives.[314] As relevant here, the Company opposes Staff's recommendation to reduce by 50 percent the Company's request for funding of its new business initiatives in the amounts of $423,680 for electric and $219,920 for gas, which would reduce the Company's requested funding by $211,840 for electric and $109,960 for gas.[315] Staff proposed the 50 percent reduction based on its view that many of the requested training programs are virtual programs, require a minimum number of participants, or are for general business skills that could be provided in-house.[316] Staff acknowledged that the Company may have some need for new training programs, but argues that Company should seek more cost-efficient training programs within its training budget.[317]

The Company responds that it continuously balances the training needs of the organization with costs and resources

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312 Tr. 332.

313 Tr. 4085.

314 Tr. 4085-4086.

315 Central Hudson Initial Brief, pp. 55-56; Tr. 4090. The Company did not contest Staff's proposed adjustments to decrease the Company's forecasts for existing training programs by $4,766 for electric and $2,063 for gas. Tr. 407, 4088. The dispute between the Company and Staff regarding the need for a new Logistics Coordinator and Instructional Designer was addressed earlier.

316 Tr. 4090.

317 Tr. 4090.

needed to conduct the training programs and that is in the best interest of the employee learning experience to provide in-person training when feasible, especially given the amount of compliance training provided virtually.[318] The Company has determined that each of the new business initiative trainings is essential for enhancing the skills of its workforce and asserts that a 50 percent reduction to funding for such training would significantly affect employee development, knowledge and productivity.[319] The Company states that it already has initiated seven of these programs that will continue through the Rate Year with a projected Rate Year cost of $402,200, and that Staff's proposed reductions would provide insufficient funding for those programs and no funding for the remaining initiatives.[320]

With respect to Staff's view that the new business initiative training programs can be conducted on-site or online, the Company responds that all "of the programs that Staff references in their response are planned to be delivered on site or online when feasible and appropriate for the training content."[321] The Company states that in-person training is provided by internal resources, where appropriate, or by external subject matter experts where necessary.[322]

We recommend that the Commission adopt the Company's proposed budget for new business initiatives training programs, adjusted for the number of employees approved in the Rate Year.[323] Although Staff states in its brief that the Company's

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[318] Central Hudson Initial Brief, p. 55; Tr. 408.

[319] Id., pp. 55-56; Tr. 408.

[320] Id., p. 56; Tr. 408-409.

[321] Tr. 409.

[322] Central Hudson Initial Brief, p. 56; Tr. 408.

[323] See Tr. 4088.

new initiatives were not fully supported, Staff testified that it recommended a 50 percent reduction to the Company's proposed budget only because it viewed many of the requested training programs as available online, requiring a minimum number of participants, or dealing with general business skills that could be provided in-house.[324] Staff did not go into further detail. Moreover, although Staff explained why it arrived at a 50 percent reduction, it did not explain how it arrived at that percentage amount, which appears to have been selected solely to account for Staff's broad statement that the Company may have some need for new training programs and should be able to conduct them within that reduced budget. In our view, the Company adequately explained in testimony that those programs would be provided on site and online, where appropriate, and would involve third-party experts where necessary, rebutting Staff's rationale. Under the circumstances, we do not find Staff's position that a 50 percent reduction should be applied to the Company's proposed new business initiatives trainings persuasive.

4. Productivity

Central Hudson proposed to maintain the current productivity imputation of one percent.[325] The Company applied the productivity adjustment to expenses including labor, employee benefits, variable compensation, and payroll taxes. The Company indicates that the variable compensation portion of the base is new in this proceeding, but the other components of the productivity base have been consistent since Cases 05-G-0934 and 05-G-0935.

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[324] Tr. 4090.

[325] Tr. 736-737.

Staff recommended three changes to the Company's productivity forecast including increasing the productivity imputation from one percent to two percent, removing the negative pension and OPEBs expense forecasts from the productivity calculation, and updating the components of the productivity base to accurately reflect Staff's Rate Year cost recommendations. Staff argues that a two percent productivity imputation is appropriate to capture unqualified savings associated with implementing recommendations from the 2021 Management Audit[326] and to reflect expected savings from the FTE increases recommended by Staff. Staff acknowledges that pension and OPEB expenses were previously included in Central Hudson's productivity adjustment even when such figures are negative. However, Staff notes that this expense has been consistently negative and argues that including a negative expense in the productivity adjustments is skewing the adjustment in contravention of its intention to capture unidentified or unquantifiable productivity gains, efficiencies, and cost savings that could be realized by a utility.[327]

In rebuttal, the Company opposed Staff's two percent imputation, arguing that most of the incremental FTEs are needed for incremental work and will not make current employees more productive. The Company further argued that the incremental FTEs were already included in the base upon which the imputation is calculated and, therefore, a one percent productivity improvement has already been imputed for these employees. The Company also disagreed with Staff's claim regarding unquantified

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[326] See Case 21-M-0541, Central Hudson Gas & Electric Corp. – Management and Operations Audit, Order Approving Implementation Plan with Modification (issued March 15, 2014).

[327] Tr. 4127-4132.

cost savings associated with the 2021 Management Audit recommendations. The Company states that it included known savings associated with the recommendations in developing revenue requirements and notes that implementation of other recommendations is expected during the Rate Year with savings to occur in a subsequent period.[328]

The Company also opposed removing the negative pensions and OPEB figure from the productivity base. The Company agreed with Staff's observation that the pensions and OPEB figure has been consistently negative but argues that there is no reason to upset long-standing precedent and that Staff's recommendation is simply an effort to increase the imputation with no valid supporting reason.[329]

In its initial brief, Staff rejects the Company's arguments that newly hired FTEs are unlikely to lead to productivity gains as speculative. Staff argues that because business needs evolve over time, it is possible that newly hired employees could eventually expand their work beyond incremental work. Staff also argues that including the negative pensions and OPEB figure not only implies that no productivity gains can be realized but also negates the benefits from other factors in the productivity calculations. Staff also continues to argue that that some unquantifiable savings could be realized immediately upon implementing the management audit recommendations and such savings should be captured by a two percent productivity imputation.[330]

In its initial brief, the Company agrees with Staff that that the productivity adjustment should be updated by

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[328] Tr. 842-843.

[329] Tr. 800-801.

[330] Staff Initial Brief, pp. 66-68.

applying it to the expenses ultimately determined to apply in the Rate Year. However, the Company rejects Staff's proposed 2 percent imputation and the exclusion of the pension and OPEB element of the imputation calculation. Central Hudson argues that Staff's recommendation for the two percent imputation is not supported by either the notion that incremental FTEs will increase productivity of existing employees, or that savings from the 2021 Management Audit recommendations are not already appropriately considered in the Company's proposed revenue requirements. The Company reiterates that most of the incremental employees it requested are needed to perform incremental work and will not increase productivity of existing employees and states that Staff failed to provide testimony or a study to supports its claim otherwise. The Company also claims that the one percent productivity imputation calculation would include incremental FTEs so that Staff's additional one percent would double count productivity.

Similarly, the Company continues to reject Staff's claim regarding unquantified savings associated with the 2021 Management Audit recommendations. The Company notes that although Staff's Management Audit Panel proposed an audit savings imputation for the Rate Year it did not recommend doubling the existing productivity adjustment as Staff now proposes. The Company also states that the Staff Accounting Panel conceded during cross-examination that it did not undertake an analysis to determine which recommendations would lead to efficiencies or savings.[331] The Company argues that, contrary to Staff's view, it did evaluate costs and savings associated with the audit recommendations and included quantifiable recommendations in the requested revenue

[331] Central Hudson Initial Brief, p. 58 (citing Tr. 4180).

requirement while describing others as to be determined.[332] The Company acknowledges that implementation of the recommendations is likely to lead to additional savings but argues that they will not accrue in the Rate Year. The Company concludes that Staff's position that unquantified savings sufficient to implement a two percent productivity imputation is unsupported and contrary to previous Commission precedent.[333]

In its reply brief, Staff again argues in support of eliminating the negative pensions and OPEB element of the productivity imputation. Staff continues to claim that imputing a negative expense in the calculation detracts from the purpose of the proxy calculations. Staff also argues that the incremental FTEs will inherently lead to productivity improvements as new employees become fully trained, allowing existing employees to be more productive. Finally, Staff argues that because Central Hudson seeks recovery of all the expenses related to implementation of the management audit, including deferral of to-be determined costs, it is appropriate to impute savings to implementation of the recommendations as well.

In its reply, Central Hudson argues that Staff fails to dispute the Company's argument that new FTEs will only perform incremental work and not increase the productivity of existing employees. The Company claims that Staff's position that business needs evolve and that it is possible newly hired employees will expand their duties over time supports application of the one percent productivity imputation to

[332] See Exhibit 229 (MAP-3R).

[333] Central Hudson Initial Brief, pp. 58-59 (citing Case 16-G-0257 National Fuel Gas Distribution Corporation – Rates, Order Establishing Rates for Gas Service (issued April 20, 2017) (2017 NFG Rate Order).

incremental FTEs, not the two percent productivity imputation that Staff recommends.

The Company also argues that Staff's claim that some savings are possible during and immediately following implementation of the management audit recommendations is not supported by any record evidence. The Company reiterates Staff's acknowledgment that it did not evaluate the management audit recommendations to determine which recommendations would lead to efficiencies.

We agree with Staff and the Company that that the productivity adjustment should be updated by applying it to expenses ultimately determined by the Commission. We also agree with Staff that the inclusion of the negative element for pensions and OPEB is inappropriate here. Although inclusion of this negative element may have been appropriate under previous settled multi-year rate plans, we do not recommend the Commission include it here because, as argued by Staff, it skews the imputation and dilutes the purpose of the imputation to capture unquantified savings that the utility should realize during the Rate Year.

However, we agree with the Company that Staff's recommendation of a two percent productivity imputation is not supported by the record. Staff's argument that business needs could evolve and new FTEs could expand their duties beyond incremental work over the rate term is speculative. Further, to the extent incremental FTEs become more productive, the one percent imputation appears sufficient to capture such efficiencies. Similarly, Staff's argument that an additional imputation is supported through efficiencies related to implementation of the 2021 Management Audit recommendations is not supported here. There is little dispute between Staff and the Company that implementation of the recommendations is likely to lead to unquantified productivity improvements. However, as the Commission has previously stated, the question remains as the "appropriate amount of those savings and when they will occur."[334] Here, Staff has not provided an evaluation or other supportive evidence that such savings are likely to occur during the Rate Year and the Company's conclusion that potential savings are likely to occur beyond the immediate Rate Year is reasonable. Therefore, we recommend that a one percent productivity imputation be applied while excluding the negative figure associated with Pensions and OPEBs.

5. Uncollectible Accounts Expense and Deferral

The Company proposed to use the same Uncollectible Accounts Expense established in its 2021 Rate Plan of $3.730 million for electric and $1.323 million for gas for the Rate Year.[335] The Company testified that the "suspension and measured restart of collection activities has significantly distorted the data that would be necessary to develop an accurate forecast of uncollectible expense" and that, at this point, "the Company cannot reasonably predict the level of net write-offs that will occur in the Rate Year."[336] The Company requested that its existing reconciliation mechanism for uncollectible debt be continued in the Rate Year as modified to include a true-up for collection agency fees and to eliminate the 10-basis point threshold currently required to trigger the deferral.[337]

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[334] 2017 NFG Rate Order, p. 35.

[335] Tr. 716-717.

[336] Tr. 3018.

[337] Tr. 1519. The Company's existing true-up mechanism requires that net write-offs compared to bad debt billed exceed a threshold equivalent of 10 basis points for deferral to be allowed. Tr. 3019.

With respect to the data relevant to forecasting uncollectible expense, the Company stated that customer arrears balances have grown significantly since the Company suspended collections activities in March 2020 due to the COVID-19 pandemic. The Company indicated that, from February 2020 through June 30, 2023, residential arrears balances greater than 60 days grew by 1,044 percent to $96 million, non-residential arrears grew by 1,971 percent to $29 million, the number of residential customers with arrears greater than 60 days grew by 224 percent to 66,000, and the number of nonresidential customers with arrears grew by 401 percent to 10,000.[338] In addition, the Company stated that residential arrears balances less than 60 days have increased since the COVID-19 Pandemic by 106 percent to $16 million while such arrears balances for non-residential customers grew by 308 percent to $11 million.[339] The Company asserted that, although it has begun a very measured approach to restarting collections activities, it expects those balances to continue to grow before July 1, 2024.[340] The Company asserted that "[r]eaching the unprecedented number of customers in arrears will take time and any subsequently established [deferred payment agreements] will have a significant impact on timing when arrears may actually get written off."[341]

Staff recommended that the Commission deny the Company's request for a reconciliation mechanism for uncollectible debt in the context of these litigated rate cases. Staff testified that such reconciliation mechanisms are not generally used in litigated rate cases because expenses can be

338 Tr. 3017.

339 Tr. 3017.

340 Tr. 3017.

341 Tr. 3018-3019.

reasonably forecast and the forecasting risk that exists in multi-year rate cases is not present.[342] Staff explained that the Company is beginning to resume collection activities, which should help minimize uncollectible expense, and that Central Hudson can file a deferral petition with the Commission seeking authority to defer costs if its actual uncollectible write-offs are materially higher than the uncollectible expense amount allowed in the Rate Year.[343]

Staff also disagreed with using the same level of uncollectible expense allowed in the 2021 Rate Plan, recognizing that, absent a reconciliation, the Rate Year allowance should reflect uncollectible expense projections.[344] Staff based its projection for uncollectible expense on a three-year average of net write-offs as a percentage of delivery revenues subject to bad debt covering calendar years ending December 31, 2018 through December 31, 2020.[345] Staff applied the three-year average rate of 1.14 percent to projected delivery revenues subject to bad debt to arrive at an uncollectible expense allowance for the Rate Year of $5.054 million for electric and $1.542 million for gas.[346]

The Company argues that the data relied upon by Staff is not reflective of the uncollectible expense the Company is likely to experience in the Rate Year. It states that it proposed to use the same uncollectible accounts expense approved in the 2021 Rate Order in conjunction with a deferral mechanism because the suspension and measured restart of its collection

[342] Tr. 4095-4096.

[343] Tr. 4096.

[344] Tr. 4094.

[345] Tr. 4094.

[346] Tr. 4094-4095.

activities has significantly distorted the data that would be necessary to develop an accurate forecast of uncollectible expense.[347] The Company objects to having to file a deferral petition to recover uncollectible costs in excess of amounts allowed in rates on the ground that, among other things, it would have to show that the excess amounts are greater than five percent of the Company's net income.[348] The Company also states that Staff failed to update its projections to align with Staff's updated revenue filings and to factor in the impact of uncollectible expense associated with the proposed rate increases.[349]

Staff responds that its recommendation best captures expected Rate Year activity and that the Company failed to provide any evidence why the use of uncollectible expense from its prior rate case with a deferral mechanism is reasonable or appropriate.[350] Staff argues that the use of a three-year average from 2018 through 2020 is a reasonable representation of the Company's historical uncollectible expense, although Staff now concedes that its historical average included a nine-month period after the Commission suspended service terminations on March 13, 2020.[351] Staff asserts that the Company failed to

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[347] Central Hudson Reply Brief, p. 32.

[348] Central Hudson Initial Brief, pp. 61-62 (citing Case 17-W-0010, Petition of Bristol Water-Works Corporation to Defer Extraordinary Water Main Leak Repair Costs Over and Above the Level Last Established in Rates, Order Authorizing Deferral and Setting Rates (issued July 16, 2018), p. 13).

[349] Central Hudson Initial Brief, pp. 60-61.

[350] Staff Initial Brief, p. 69; Staff Reply Brief, p. 20.

[351] Staff Reply Brief, p. 69. We do not consider Staff's argument – raised for the first time in its reply brief – that it also reviewed information from calendar years 2017 through 2019. The argument Staff makes is not consistent with its testimony. Tr. 4094-4095.

provide any evidence why its methodology is either reasonable or appropriate. Finally, Staff agrees that it did not update its uncollectible expense recommendation and provides the adjustment and correction as part of Attachment A to its Reply Brief, requiring an upward adjustment to its forecasted revenue requirements for uncollectible expense of $881,000 for electric and $311,000 for gas.

We find the Company's position more persuasive. In our view, various factors, not present during the years used by Staff, will have an impact on the Company's uncollectible account expense in the Rate Year. Staff's forecast does not factor in the effects of the suspension of the Company's termination activities as a result of the COVID-19 pandemic. Nor does it take into account how the Company's intended "measured approach" to resume residential collections may impact the Company's uncollectible expense in the Rate Year.[352]

Normally, we would agree that forecasts based on historical information are preferable and that a deferral mechanism would be unnecessary in the context of litigated rate cases. However, the uncertainty about how representative such historical information is with respect to the Company's uncollectible expense in the Rate Year leads us to agree with the Company's position that use of the uncollectible expense established in its 2021 Rate Plan with a modified deferral mechanism is more appropriate. The uncollectible expense amounts established in the 2021 Rate Plan are significantly less that those proposed by Staff in these cases and will reduce rates during the Rate Year, while the deferral mechanism will

[352] We address the Company's proposed residential collections activities as well as Staff's and other parties' positions on that issue in more detail in the Customer Service section of this Report and Recommendation.

ensure that the Company or ratepayers, as applicable, are able to recover the difference between the uncollectible expense reflected in rates and the actual uncollectible expense for the Rate Year. The Commission can address any deferral amounts and how they should be dealt with in the Company's next rate case.

6. Materials and Supplies and Stores Expense

The Company forecasted a Rate Year allowance of $2.999 million for Materials and Supplies (M&S) expense for electric, based on Historic Test Year levels, increased by inflation. Staff agrees with the Company's forecasted amount for electric M&S expense.[353] We recommend that the Commission adopt that forecasted amount.

Regarding gas, the Company forecasted a Rate Year M&S expense allowance of $558,138, based on a $224,362 normalizing adjustment (allocated $165,255 to M&S expense and $59,108 to Stores-Gas expense) added to the Historic Test Year amount, and increased for inflation.[354] To calculate the normalizing adjustment, the Company used an inflation-adjusted average of the 2020-2022 annual M&S costs for gas, rather than the Historic Test Year expense, stating that "Company subject matter experts indicated that the Historic Year expense was not indicative of projected annual spend, with one main driver being the lower than average expense for inspections and repairs."[355]

Staff disagreed with the Company's normalization adjustment on the ground that M&S expense has declined steadily from $759,735 in 2020 to $360,209 in 2023, an average annual reduction of 22 percent.[356] Staff stated that the Company's

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[353] Tr. 4107.

[354] Tr. 4108.

[355] Tr. 725.

[356] Tr. 4109.

normalization methodology did not consider increased inspections and repairs in the Rate Year forecast to offset the lower-than-normal inspections and repairs during the Historic Test Year. Staff stated that, instead, the Company described how broader trends in materials and supplies can be driven by more cyclical trends in general maintenance and inspection, but did not support that position with reference to any subject matter expert or any specific planned increase in general maintenance or inspection activities.[357] The Company did not use this normalization methodology in its 2020 or 2017 rate filings. Thus, Staff recommended that the Company's $165,255 normalizing adjustment be removed, and that inflation instead be applied to the Historic Test Year cost, resulting in a Rate Year forecast of $382,608 for gas M&S expense.[358] For the same reasons, Staff recommended removal of the Company's $59,108 normalizing adjustment, which the Company used in forecasting a Rate Year allowance of $111,968 for Stores-Gas.[359] Removing that normalizing adjustment reduced the Company's forecast by $62,784, resulting in a Rate Year forecast of $49,184.[360]

The Company argues that "expense incurred in the Historic Test Year does not capture the cyclical costs that the Company anticipates incurring in the Rate Year, and as such Staff's adjustment will not allow the Company to recover the cost of doing business that can be reasonably assumed to occur."[361] The Company maintains that a three-year average,

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357 Tr. 4109.

358 Tr. 4110.

359 Tr. 4110-4111.

360 Tr. 4111.

361 Tr. 793.

adjusted for inflation, would better capture this cyclicality and should be used.

Staff argues that the Company did not provide any specific subject matter expert testimony from its gas personnel to support the Company's position and did not provide any specific cyclical costs related to proposed inspections or maintenance activities forecasted for the Rate Year that did not occur in the Historic Test Year to justify its normalizing adjustment. Staff maintains that, absent any meaningful explanation of specific inspections and activities to justify the incremental amounts requested, the Company should not be given the funding it requests.[362]

We find Staff's position persuasive. We therefore recommend that the Commission approve Rate Year expenses of $382,608 for gas M&S and $49,184 for Stores-Gas.

7. Inflation Pool Adjustments

The Company testified that it developed a GDP implicit price deflator using the consensus forecast included in the March 11, 2023 publication of Blue Chip Economic Indicators and used an extrapolation from that forecast to develop forecasts for the Rate Year.[363] Staff agrees with relying on the Blue Chip consensus GDP-PI forecast to predict expense inflation, and states that it calculated the GDP-PI inflation rate based on a weighted average using the latest available October 10, 2023 Blue Chip publication.[364]

We recommend that the Commission update for the latest GDP-PI inflation information before the conclusion of these

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[362] Staff Initial Brief, p. 70.

[363] Tr. 1796. The Company notes in its brief that it has used different escalation factors for certain expense forecasts. Central Hudson Initial Brief, p. 63.

[364] Tr. 4049-4050.

proceedings to reflect the most recent information for the Rate Year. The updated information should be applied unless we have specifically recommended the application of a different growth rate in other sections of this RD.

8. Regulatory Commission Assessments

This expense item relates to the general assessment charged by the Department of Public Service to each New York State utility to fund its operations.[365] As explained by Staff, the Department of Public Service sends three letters to utilities with respect to the Regulatory Commission Assessment. An initial statement of assessment is mailed in February, before the start of the State fiscal year to which the assessment applies; a revised statement of assessment is mailed in August; and a final statement of assessment is mailed in October of the following year, after the close of the State fiscal year.[366]

To project the Rate Year expense for this item, the Company applied a three-year historic average growth rate of ten percent to the initial assessment of $3.427 million from the Department in a letter dated February 10, 2023, for the fiscal year ending March 31, 2024.[367] This resulted in a Rate Year projection of $3.017 million for electric and $847,520 for gas.[368]

Noting fluctuations in the Company's initial to final assessments, Staff disagreed with the Company's methodology and recommended that the Rate Year expense for this item be projected by using the final statement of assessment of $3.318 million from the Department in an October 2023 letter, for the

[365] Tr. 4096.

[366] Tr. 4096-4097.

[367] Tr. 717.

[368] Tr. 4097.

fiscal year ended March 31, 2023, as adjusted for inflation.[369] Using that forecasting methodology, Staff recommended a Rate Year allowance of $3.449 million, allocating $2.693 million to electric and $91,179 to gas.

The Company agrees with using the final assessment amount, but maintains that adjusting that amount for inflation would not produce an accurate forecast in light of the ten percent increase to assessments based on the last three years for which final assessments are available.[370] The Company argues that its ten percent growth rate was based on a three-year average that included estimated assessments and states that the three-year growth rate based on final assessments is 11 percent.[371] The Company maintains that, to the extent Staff's concerns with using the ten percent growth rate were due to the Company's use of estimated assessments, the Commission should use the 11 percent average growth rate based on the last three years for which final assessments are available or deem the ten percent used by the Company as reasonable given that the new growth rate approximates the ten percent set forth in testimony.

Staff argues that the Company's new calculation is not supported by evidence in the record.[372] Staff asserts that, in any event, use of annual growth rate beyond inflation is not required in the context of these litigated rate cases, particularly because the final assessment is dated six months after the Historic Test Year, and the period being forecasted begins less than one year from the latest known update.[373]

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[369] Tr. 4097-4098.

[370] Tr. 786-787.

[371] Central Hudson Initial Brief, p. 64.

[372] Staff Reply Brief, p. 21.

[373] Staff Initial Brief, p. 72; Staff Reply Brief, pp. 21-22.

We agree with Staff that its methodology for calculating Regulatory Expense using the latest known final assessment statement plus inflation is reasonable and appropriate in the context of these litigated rate cases. Accordingly, we recommend that the Commission adopt Staff's recommended expense for Regulatory Commission assessments.

9. Information Technology O&M Adjustment

Central Hudson originally proposed a Rate Year allowance for IT O&M expense of $15.627 million for electric and $3.860 million for gas.[374] In rebuttal, the Company updated the Rate Year allowance for IT O&M expense to $15.897 million for electric and $3.927 million for gas.[375]

The Company made adjustments to the Historic Test Year to annualize expense to the latest known amounts and to remove out-of-period or non-recurring expenses.[376] The Company then escalated the normalized Historic Test Year amount at inflation or, for specific IT vendors, at eight percent for expenses that were expected to continue in the Rate Year.[377]

Consistent with Staff's determination recommending a total downward adjustment to the Company's proposed IT capital budget in a dollar amount equaling 18.8 percent, Staff recommended a concomitant 18.8 percent tracking adjustment to the Company's projected IT O&M expense, resulting in reductions of $488,236 to electric and $118,816 to gas.[378] As stated in more detail in our discussion of the Company's proposed IT capital budget, Staff reached its recommendations with respect

[374] Tr. 4098.

[375] Exhibit 239 (RRP-1R), Schedule A, p. 3; Exhibit 240 (RRP-2R), Schedule A, p. 3.

[376] Tr. 719.

[377] Tr. 719.

[378] Tr. 4099.

to several IT capital projects based on application of an inflation-based growth rate to the three-year average of the Company's historical 2020 to 2022 IT budget.[379] Staff used that approach to IT capital because its review of the Company's historic level of capital spending for the period 2018 through 2022, as compared to the Company's forecasted capital budgets over that period, showed that actual costs and projected costs varied significantly from year-to-year over that period.[380] Because Staff's recommended reductions to the Company's overall IT capital budget amounted to an 18.8 percent reduction, Staff testified that it therefore "reflected an 18.8 percent reduction to the Company's Rate Year IT O&M expense," without otherwise identifying or explaining the dollar amount to which it applied the 18.8 percent.[381]

According to the Company, Staff calculated its proposed adjustment by taking the difference between the Rate Year 3 allowance in the 2021 Rate Plan and the Company's proposed allowance in this case and multiplying that amount by 18.8 percent. The Company argues that Staff's reliance on prior rates instead of a normalized Historic Test Year contravenes the Commission's 1977 Statement of Policy on Test Periods in Major Rate Proceedings, which states that "forecast material should be developed from the historical base."[382]

Staff counters that its methodology, used because of significant differences between the Company's IT capital budget and actual expenditures from 2018 through 2022, is more

[379] Tr. 3820-3821.

[380] Tr. 3820.

[381] Tr. 4099.

[382] Statement of Policy on Test Periods in Major Rate Proceedings (issued November 23, 1977).

appropriate than the Company's reliance upon a normalized Historic Test Year.[383]

As discussed in connection with the Company's IT capital funding requests, we do not agree with all of Staff's proposed forecasting methodologies and reductions with respect to IT capital funding. To the extent we recommend different IT capital budgets, an 18.8 percent blanket reduction would not be applicable. Moreover, the Company testified that its IT O&M projections were based on O&M expenses specific to its proposed IT capital projects, and Staff has not established that its proposed blanket reduction – derived solely from the total percentage of reductions it recommended for IT capital expense -- would accurately account for such O&M expenses. We therefore recommend that the Commission adopt the Company's proposed methodology to forecast IT O&M expenses, using normalized Historic Test Year amounts adjusted for inflation or, where applicable, an eight percent escalation rate.

10. Major Storm Reserve

The Company proposed three changes related to the operation of its Major Storm reserve. Two of the proposed changes – an increase to one of its pre-staging event thresholds and modification of the definition of a "major storm" for determining costs chargeable to the Major Storm Reserve - are resolved by the Electric Capital Stipulation and are discussed immediately below.[384]

With respect to pre-staging, the Company proposed to change one of its pre-staging event thresholds from $1.75 million to $3.60 million on the basis that the costs associated with a right of first refusal contract – which was put into

383 Staff Initial Brief, pp. 73-74.

384 Exhibit 516.

place after the threshold was established and is essential for the Company to have contractor line resources available when needed - along with increased customer and regulatory expectations regarding restoration times, have significantly increased costs for external resources needed for pre-staging.[385] Finding that in the last ten years, the Company experienced only one pre-staging and mobilization event that exceeded the current $1.75 million threshold, Staff recommended that the threshold remain at that level.[386]

As to the modification of the definition of a "major storm," that term is currently defined in section 97.1 of the Commission's Rules and Regulations as "a period of adverse weather during which service interruptions affect at least 10 percent of the customers in an operating area and/or result in customers being without electric service for durations of at least 24 hours."[387] Central Hudson proposed that costs for a major storm event should be consistent with the exclusion criteria in its reliability performance mechanisms.[388] The Company requested that costs be eligible to be charged to the major storm reserve under the Commission's current definition as well as for "an incident resulting from a catastrophic event beyond the control of the Company; or an incident where problems beyond the Company's control involving generation or the bulk transmission system is the key factor in the outage."[389] Staff disagreed with the Company's proposal on the ground that the Commission's major storm definition and reliability metrics are

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385 Tr. 2087.

386 Tr. 2607.

387 16 NYCRR §97.1(c).

388 Tr. 2078.

389 Tr. 2078-2079.

based on the Institute of Electrical and Electronics Engineers Guide for Electric Power Distribution Reliability Indices, which promotes uniformity and consistent reporting across major utilities in the State, and that a change to the definition "would have far reaching negative effects for tracking historical reliability performance and gauging the effectiveness of a utility's performance during storms and non-storm operations."[390]

Under the Electric Capital Stipulation, the Company and Staff agreed to maintain the Company's existing $1.75 million threshold for pre-staging and mobilization costs, as well as when and how incremental pre-staging costs can be charged to the Major Storms Reserve and/or expense.[391] Additionally, the Company and Staff agreed to certain Major Storm Reserve mechanisms for the Rate Year, including that a major storm event will be defined as set forth in 16 NYCRR §97.1(c). We agree with the Company and Staff that the Commission should approve the Electric Capital Stipulation with respect to these issues.[392]

a) Rate Year Major Storm Expense

The Company and Staff disagree over the major storm expense to be included in the Company's revenue requirements for the Rate Year. The Company proposes a $10.5 million increase to its current $4.674 million annual O&M expense allowance, bringing the Rate Year expense allowance to $14.82 million.[393] As relevant here, the Company used a ten-year historical average

[390] Tr. 2609.

[391] Exhibit 516, Appendix B.

[392] Central Hudson Initial Brief, pp. 65-66; Staff Initial Brief, pp. 76-77.

[393] Tr. 722, 2602.

to project its Rate Year major storm O&M expense.[394] The Company testified that its requested major storm reserve allowance was essential because the Company has been significantly under reserved throughout the 2021 Rate Plan and has accrued a significant regulatory asset in excess of $60 million.[395]

Staff agreed with the Company's use of a ten-year historical average but disagreed with including "superstorms" in the ten-year average.[396] To determine what constituted a "superstorm," Staff looked at the 30 major storm events over the ten-year period, noted that only three events exceeded $10 million, and considered "Storm Events 8493A [Snow and Wind Nor' Easter] and 7542A [Winter Ice Storm 'Landon'] to be superstorms because [costs for] these storm events were significantly greater than the average storm costs for the past ten years."[397] By removing the costs for those two superstorms, Staff concluded that the Company's requested Major Storm O&M expense allowance should be decreased by $4.064 million.[398] Staff testified that Central Hudson would still recover costs for a superstorm in the Rate Year by debiting its storm reserve regulatory asset and accrue carrying charges on the balance until costs are recovered through its next rate proceeding.[399]

The Company argues that Staff should not have removed two of the most significant major storms from the ten-year historical average. In support, the Company quotes section 1(1)(a) the Climate Leadership and Community Protection Act (CLCPA), which states in relevant part that the adverse impacts

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394 Tr. 722-723.

395 Tr. 723, 790.

396 Tr. 4102.

397 Tr. 4103.

398 Tr. 4103.

399 Tr. 4102.

of climate change include "an increase in the severity and frequency of extreme weather events, such as storms."[400] It also refers to Department staff's testimony in the Company's 2017 rate case (Cases 17-E-0459 et al.) stating that major storms are volatile and unpredictable; that, over time, the Company should not be left with a storm reserve that is significantly over- or under-funded; and that the Commission generally adopts an averaging approach of historic actual costs to determine a reasonable rate allowance.[401] In addition, the Company asserts that a "review of storm data back to 2010 shows that the Company had multiple storms resulting in restoration costs in excess of $10 million and two storms that exceeded cost of $20 million, which demonstrates that the storms excluded by Staff are not irregular occurrences."[402] The Company contends that Staff's approach would leave the Company's Major Storm Reserve underfunded and that major storm costs in excess of the amount allowed in rates cannot be deferred indefinitely.[403]

Staff argues that the Major Storm Reserve is intended to fund "recurring" major storm events, exclusive of superstorm events, which occur less frequently.[404] Staff maintains that, even after removing the two superstorms, which Staff asserts cost $14.7 million and $24.2 million, its "recommended major storm rate allowance of $10.7 million provides an adequate Major Storm Reserve allowance after taking into consideration the normalized 10-year average."[405]

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[400] Central Hudson Initial Brief, p. 67; Tr. 790.

[401] Central Hudson Initial Brief, p. 67.

[402] Tr. 790.

[403] Central Hudson Initial Brief, pp. 67-70.

[404] Staff Initial Brief, p. 75.

[405] Staff Initial Brief, p. 75.

We agree with Staff's position in the context of these litigated rate cases. Staff's normalization of the ten-year average of historical costs to remove two outlying events should provide a more accurate forecast of what is likely to occur during the Rate Year. In any event, the Company will be able to recover eligible costs in excess of the Major Storm Reserve O&M rate allowance by debiting its storm reserve regulatory asset and accruing carrying charges on the balance until costs are recovered through its next rate proceeding. As discussed immediately below, the Company will begin collecting its accrued major storm cost regulatory asset during the Rate Year. Moreover, the Company can request an increase to its Major Storm Reserve O&M rate allowance and additional methods for collecting the storm cost regulatory asset in its next rate case, which can be filed as early as July 2024.

b) Amortization of Regulatory Asset

The Company and Staff agree that the Company's accrued regulatory asset attributable to the Major Storm Reserve should be amortized over ten years, beginning in the Rate Year.[406] In rebuttal testimony, the Company updated the accrued regulatory asset attributable to the Major Storm Reserve to reflect activity from April 2023 through October 2023.[407] Stating in its brief that it reviewed the updated figures and found them to be reasonable and appropriate, Staff recommends, and we agree, that the Commission authorize Central Hudson to amortize its existing Major Storm Reserve regulatory asset over ten years and collect

406 Central Hudson Initial Brief, pp. 68-69; Staff Initial Brief, pp. 77-78.

407 Tr. 773-774.

$4.726 million in the Rate Year.[408] Accordingly, we recommend that the Commission authorize Central Hudson to amortize its existing Major Storm Reserve regulatory asset over ten years and collect $4.726 million in the Rate Year.

11. Minor Storm Expense

Central Hudson projected its non-major storm expense using a four-year average of expenditures, adjusted to March 2023 dollars and inflated using GDP factors.[409] The Company asserted that Staff generally accepts this methodology, which has been used in the Company's last three rate plans.[410] The historic expenses included a normalization to reflect the Company's proposed increase to its pre-staging cost-sharing threshold from $1.75 million to $3.6 million and to reflect an accounting entry that was recorded outside of the Historic Test Year as a result of timing.[411] Additionally, the Company proposed to update the four-year average later in the proceeding to reflect the latest known information.

Staff agreed with the Company's methodology to project non-major storm expense but disagreed with the Company's proposed increase to the pre-staging threshold, and removed the Company's normalization adjustment, resulting in a reduction of $57,000 to the Company's Rate Year forecast.[412] Central Hudson disagreed with Staff's position to maintain the pre-staging

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[408] Central Hudson updated the relevant amounts in its reply brief; however, absent Staff's agreement to the updated amount, we rely on the amounts discussed in the text for this RD. See Central Hudson Reply Brief, Appendix 1, p. 3.

[409] Tr. 724-725.

[410] Tr. 725.

[411] Tr. 725, 2077-2078.

[412] Tr. 4104-4106.

threshold at $1.75 million, stating that the current threshold does not provide the Company with sufficient recovery.[413]

As stated earlier, the Company and Staff agreed in the Electric Capital Stipulation to maintain the current pre-staging threshold at $1.75 million. They also agreed to set the non-major storm restoration Rate Year expense allowance at $7.634 million, which represents the four-year average of non-major storm expenditures (exclusive of the Company's proposed normalization adjustment to reflect a change in the pre-staging sharing caps), adjusted for inflation.[414] The Electric Capital Stipulation provides that the $57,000 downward adjustment proposed by Staff in testimony will not apply, and that the Company will work with Staff to provide quarterly reporting on minor storm activities.

Both the Company and Staff recommend that the Commission adopt the Electric Capital Stipulation as a reasonable consensus position. The Company states that the agreed-upon non-major storm expense is consistent with the Public Service Law and Commission precedent and strikes a fair balance between the interests of the Company and ratepayers. We recommend that the Commission adopt the Electric Capital Stipulation with respect to the non-major storms and the pre-staging threshold amount.

12. Injuries and Damages

The injuries and damages expense covers Central Hudson's insurance coverage costs for workers' compensation, excess liability, personal and property damage claims, and accident and safety activities.[415] The Company projected its

[413] Tr. 2136.

[414] Exhibit 516, p. 3.

[415] Tr. 4119.

Rate Year expense for workers' compensation by multiplying the cost-per-employee by the number of proposed Rate Year FTEs.[416] Staff recommended an adjustment to workers' compensation expense to track Staff's labor FTE adjustments. This adjustment is revised to track the FTEs recommended in this RD and should be revised, if necessary, to track the FTEs approved by the Commission.

13. Other Operating Insurance

The Company and Staff disagree on the method to forecast all-risk commercial property insurance.[417] To forecast Rate Year expense for commercial property insurance, the Company used the latest known premiums (consisting of a rate-per-million dollars applied against an aggregate property value) and increased that amount by a three-year average historical growth rate of ten percent applied yearly on July 1, 2023 and July 1, 2024.[418]

Staff disagreed with the use of the Company's growth rate. Staff noted that the insured value of the Company's commercial properties grew significantly from July 2019 to July 2021 but that the rate-per-million dollars of insured value declined significantly from July 2021 to July 2022.[419] Staff proposed to develop a Rate Year projection by taking the latest known costs from the Company's July 2023 premium payments for all-risk commercial property insurance and increasing them for GDP inflation.[420] Staff's forecast reduced the Company's Rate Year forecast by $136,000 for electric and $34,000 for gas.

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416 Tr. 4119-4120.

417 Tr. 4120-4123.

418 Tr. 4122.

419 Tr. 4123.

420 Tr. 4123.

The Company argues that Staff's reliance on a decline in the July 2021 to July 2022 rate per million of insured value to recommend the use of GDP inflation ignores the significant growth in insured value, which increased at a rate greater than inflation, from July 2019 to July 2021.[421] In addition, the Company notes that, in discovery, Staff agreed that the overall growth rate for July 2019 to July 2021, even when considering the decline between July 2021 and July 2022, is greater than the rate of inflation.[422]

Staff asserts that its use of GDP inflation is appropriate due to the recent volatility in the commercial property insurance during the three years the Company used in its average historical growth rate forecast.[423] However, Central Hudson's analysis of the growth trend from 2020 through 2023, which includes the period of decline on which Staff relied, shows an average growth rate of approximately eight percent.[424] Given that the historical growth rate has exceeded the GDP inflation rate, a point that Staff conceded, we recommend that the Commission adopt the Company's position on this issue.

14. Consulting and Professional Services

The Company requested a Rate Year allowance for Consulting and Professional Services of $3.794 million for electric and $1.253 million for gas.[425] The Company generally forecasted those expenses by escalating Historic Test Year expense by inflation. However, for external audit agency fees, the Company used a three-year average historical growth rate of

421 Tr. 796.

422 Exhibit 243 (RRP-5R), p. 3.

423 Staff Initial Brief, p. 81.

424 Tr. 797.

425 Exhibit 239 (RRP-1R, Schedule A); Exhibit 240 (RRP-2R, Schedule A).

6.29 percent and applied that to the latest known invoice for audit agency fees.[426]

a) Audit Agency Fees

With respect to external audit agency fees, Staff agreed with the use of the latest known invoice to forecast audit agency fees but disagreed with using the historical growth rate.[427] Staff noted that the Company used an applicable growth rate when it used Deloitte & Touche for auditing services, but it does not have an active contract with that firm past 2023, was negotiating a new agreement with that firm, and has not completed a comparative cost analysis between that firm and other firms.[428] Staff testified that it was concerned with the use of a historic growth rate for a vendor with which the Company no longer had a contract, particularly in the absence of an analysis of other comparable rates. Staff recommended applying an inflation rate to the Company's latest known invoice, resulting in a decrease to Central Hudson's forecasted costs of $76,340 to electric and $19,085 to gas.[429]

The Company disagrees with Staff's proposed use of the inflation rate. The Company argues that Staff provides no support for asserting that the use of inflation would render a more accurate forecast than the use of a historical growth rate. The Company testified that, in addition to its calculation of the historic growth rate, the Company surveyed other Edison Electric Institute utilities regarding their audit fees and found that, for the twelve utilities responding to the survey, the average audit fee over the last five years increased by 12.5

[426] Tr. 728-729.

[427] Tr. 4114.

[428] Tr. 4114-4115.

[429] Tr. 4115.

percent for those utilities that did not change auditors and by 13.6 percent for those where the auditor was changed.[430] The Company stated that it would provide an updated forecast based on an actual contract if one was executed during these proceedings or that the Commission otherwise should rely on the Company's historical growth rate as providing a more accurate forecast for the Rate Year.[431]

Staff argues that the Company did not establish what utilities responded to the survey, where those utilities are located, or why those utilities are comparable to Central Hudson. Staff maintains that, in any event, rates should be set on the latest known and verifiable data, and in the absence of such data, Staff's use of an inflation rate to calculate audit agency fees is consistent with how the Company forecasted other components of its Consulting and Professional Services expense and is reasonable.

We find the Company's position more persuasive. Although the Company's contract with Deloitte and Touche expired, we find no basis in the record to indicate that the Company's costs will rise by the rate of inflation rather than at the historical rate the Company actually has experienced. That the Company no longer has that contract does not mean that it is reasonable to assume its auditing expenses in the Rate Year will increase by inflation when its historical experience establishes otherwise. Accordingly, we recommend that the Commission adopt the Company's historical escalation rate of 6.29 percent for audit agency fees.

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[430] Tr. 1551.

[431] Tr. 1551.

b) Emergent Consulting Costs

The Company proposed a rate allowance of $200,000 – with $160,000 allocated to electric and $40,000 allocated to gas – for incremental expenses for Emergent Consulting, a third-party vendor that Central Hudson uses for talent attraction and other ad hoc work specific to Human Resources.[432] Staff recommended the removal of these costs because the Company does not have any supporting documentation, such as a contract, quote, or estimate. Although the Company maintains that it needs such funding to be flexible to attract and develop talent, we agree with Staff that the Company failed to meet its burden of proof with respect to this request and recommend the Commission deny these expenses.[433]

15. Miscellaneous General Expense

Central Hudson forecasted Miscellaneous General Expense in the Rate Year of $5.438 million for electric and $1.367 million for gas.[434] The Company generally forecasted this expense by first reviewing the historic period expense to determine what normalizations were required and then applying inflation to those normalized expenses.[435] As relevant here, the Company included in this expense category $100,000 in non-labor costs that it "anticipated incurring" for "marketing and branding development and materials" related to a workforce development program it proposed to create.[436]

[432] Tr. 4116.

[433] The Company's request for Rate Year expenses for its AMI-BCA is addressed in the Management and Operations Audit section of RD.

[434] Exhibit 239 (RRP-1R); Exhibit 240 (RRP-2R).

[435] Tr. 729-730.

[436] Tr. 326-329.

Staff recommended two adjustments. The first was a downward adjustment of $13,000 for electric and $3,000 for gas to reflect the removal of certain membership dues related to organizations that participate in lobbying. The Company did not dispute that adjustment, which is consistent with PSL §114-a, and reflected that adjustment in its development of revenue requirements at the time of rebuttal testimony.[437]

Second, Staff recommended removing the $100,000 of Rate Year recruitment expense, allocated $80,000 to electric and $20,000 to gas, because the Company stated that it had no purchase order or materials quote to support its estimate.[438] The Company argues that the $100,000 is needed for it to successfully build out and run its new workforce development program, which it says is needed to develop skills and increased job awareness of utility careers, create and diversify talent pipelines and enhance and support the Company's diversity, equity, and inclusion strategy.[439] Staff responds that, absent a quote, contract, or invoices to support its request, Staff has no way of verifying that the Company's projected amount of $100,000 is appropriate.[440] Staff maintains that the Commission therefore should adopt its recommendation to exclude that expense from the Rate Year.

We agree with Staff's position. In doing so, we note that the Company testified that it plans to conduct a needs assessment within the first half of the Rate Year, after which a strategy and action plan will be developed, and that it is expected that initial programming will commence approximately

[437] Central Hudson Initial Brief, p. 76; see, Staff Initial Brief, p. 82.

[438] Tr. 4118.

[439] Tr. 326-328; Central Hudson Initial Brief, pp. 76-77.

[440] Staff Reply Brief, p. 26.

nine months after resources are in place. Under these circumstances, our view is that the Company should make its request for such funds, with supporting information, in its next rate case.

16. Miscellaneous Charges

The Company's Miscellaneous Charges consist of expenses not covered in another element of expense. The Company projected charges under this category using the Historic Test Year expense, normalized to remove COVID-19 expenses, and adjusted for inflation.[441] The Company added incremental expense for customer outreach pursuant to the Company's plan to implement monthly meter reading.[442]

Staff made two adjustments to this expense category to reflect errors to costs included in the Historic Test Period for "PSC Required Record Keeping" and "Interpreter Costs," which the Company acknowledged in response to DPS-340.[443] The adjustments to "PSC Required Record Keeping" expenses resulted in downward adjustments of $249,973 for electric and $62,689 for gas. The adjustments to "Interpreter Costs" resulted in downward adjustment of $111,361 for electric and $27,840 for gas. Those adjustments are undisputed,[444] and we recommend that the Commission reflect both adjustments in the final revenue requirements it adopts.

The Company takes issue with Staff's recommended downward adjustment to the customer outreach and education element of miscellaneous expense. Staff recommended a downward adjustment for a contribution made to a non-profit organization,

441 Tr. 735.

442 Tr. 735.

443 Tr. 4125-4126.

444 Tr. 772-773.

stating that it did not consider this type of outreach, in light of the cost, to be an effective form of customer education.[445] Staff stated that, although those costs are charitable and provide social and community benefits, donations for charitable, social, and community welfare purposes are not normal operating costs and should be excluded from utility revenue for ratemaking purposes.[446] We agree with Staff that the Company's donation to a non-profit organization that has no relation to customer education is not outreach that provides an effective form of customer education and that Staff's downward adjustment was appropriate. Accordingly, we recommend the Commission adopt Staff's adjustment.

17. Call Volume Overflow

The Company's revenue requirement included approximately $2.7 million for a third-party call center to handle call volume overflow.[447] Central Hudson estimated the average number of collection calls for each customer in arrears to be 16 based on historical data from 2018 and 2019.[448] The Company stated that it was forecasting the level of collection calls to increase at the same proportion as residential customers in arrears, resulting in approximately 1.1 million collection-related calls in 2024.[449] To handle the expected significant influx of collection calls while also meeting customer service expectations, the Company stated that, in addition to incremental customer service FTEs, it anticipated an increased use of external call center personnel.[450]

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[445] Tr. 4457.

[446] Tr. 4457-4458.

[447] Tr. 711, 3021; Exhibit 111 (CEP-4).

[448] Exhibit 111 (CEP-4).

[449] Tr. 3021.

[450] Tr. 3021.

Staff recommended that the Commission deny "the Company's [requested] $1.6 million for call volume overflow at this time" due to Staff's concerns with the Company's "lack of a firm timeline and plan to resume residential collections."[451] Although not explicitly stated in Staff's testimony, it appears the adjustment eliminates incremental call volume overflow costs only and does not address the remaining $1.1 million of the Company's $2.7 million request.

Staff stated that the Company's initial testimony did not provide a clear path or sufficient detail regarding its collections efforts for residential customers.[452] Staff noted that, in response to a discovery request, the Company stated that it "wanted to increase customer confidence in billing timing and accuracy before implementing collection activities" and that it "is still working to complete its Dunning project which will allow automated instead of manual collections activities."[453] In response to another discovery request, the Company provided a target date of March 19, 2024, for the "controlled resumption" of late payment fees and a target date of October 9, 2024, for the "controlled resumption" of deferred payment agreements, final termination notices and other necessary collections procedures required for compliance with HEFPA.[454] The Company also indicated in response to a discovery request that it "is currently evaluating the overall timeline and will provide updates if any changes occur" for the automation of collections activity.[455]

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[451] Tr. 4406.

[452] Tr. 4403.

[453] Tr. 4403.

[454] Tr. 4404.

[455] Tr. 4404.

The Company disagreed with Staff’s proposed exclusion of $1.6 million for call volume overflow costs.[456] The Company explained that those “costs are necessary to support overall contact center operations and the controlled resumption of collections as call volume and average handle times for these collections contacts are expected to increase significantly,” as well as to achieve targeted levels of customer service performance to all customers.[457] The Company testified that it has begun “a very measured approach to restarting collections activities including soft collections for residential customers,” via phone, letter and email campaigns, “and beginning manual collections for commercial customers.”[458] The Company stated that it was also planning “a phased rollout of collections activities and service terminations in conjunction with its Monthly Meter Reading initiative in 2024.”[459] The Company testified that it will resume residential collections with a manual approach that will start with a small group of customers, include a period of customer account validation for quality and accuracy, and then scale to all customers.[460] The Company stated that the timeline for this plan was laid out in Exhibit 190 (CEP-12R), which refers to various collections activities that start prior to and extend through the Rate Year.

Nevertheless, Staff argues that the Company has not yet provided a firm timeline and plan, including specific job tasks, dates, or outreach communications. In addition, Staff states that the Company’s position that over one million

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[456] Tr. 3079.

[457] Tr. 3080.

[458] Tr. 3071.

[459] Tr. 3071.

[460] Tr. 3072.

collection calls will be made in 2024 based on the 66,214 customers in arrears as of March 31, 2023, represents roughly 16 collections calls or triple the historical two-year average of collections calls referenced in Exhibit 111 (CEP-4).[461] Staff also indicates that the number of residential customers in arrears is trending downward, with Central Hudson reporting 64,851 residential customers in arrears as of December 2023 and 62,770 as of January 2024.[462]

The Company replies, correctly, that Exhibit 111 (CEP-4) shows that the Company averaged approximately 16 calls per customer in arrears in 2018 and 2019. The Company states that it used that number to extrapolate the call volume anticipated for 2024 and beyond based on the anticipated number of customers in arrears.[463] In addition, the Company argues that whether it has 64,851 customers, 62,770 customers or some lesser number of customers, the fact remains that resumption of residential collections and service termination will increase call volume due to the fact that the Company is not currently terminating residential customers.

We do not agree with Staff's position that the Company's plans to resume residential collections are not sufficiently specific. In our view, the Company has sufficiently described its plans and timeline to resume collections activities in testimony and in Exhibit 190. The

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461 Staff Initial Brief, p. 84.

462 Staff Initial Brief, p. 85 (citing the Company's December 2023 Monthly Collections Report filed January 12, 2024 and January 2024 Monthly Collections Reports filed February 15, 2024 in Case 91-M-0744, Proceeding on Motion of the Commission to Examine the Collection Practices of the Major Gas and Electric Utilities in New York State to Identify Ways to Reduce Losses Due to Uncollectibles while Maintaining a High Level of Customer Service).

463 Central Hudson Reply Brief, p. 36.

resumption of collections activities will result in increased customer service calls related to collections, and we find the Company's forecast of an average of 16 calls per customer in arrears to be reasonable. Staff's indication that the Company's call volume overflow is trending downwards does not consider the Company's planned resumption of collection and termination activities. In the absence of an alternative recommendation by Staff with respect to the expense amount, we recommend that the Commission approve the Company's requested call volume overflow expense. To the extent the Commission is concerned by Staff's position that call volume overflow is trending downward, the Commission could impose a downward only reconciliation mechanism for call volume overflow expense.

B. Depreciation

1. Depreciation Study

With its initial filings, the Company included a depreciation study (Study) dated June 30, 2022, which provides an analysis of and proposed changes to depreciation rates, including average service lives (ASLs),[464] net negative salvage rates, and associated theoretical reserves for the Company's electric, gas, and common accounts.[465] The Study makes certain recommendations regarding those factors that would, if implemented, increase delivery rates. Initially, the Company proposed to maintain its current depreciation parameters, rather

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464 "Average Service Life" means the arithmetic average of the lives of the units of property, represented by the area under the survivor curve from age zero to the maximum life, divided by 100 percent. Tr. 2267-2268.

465 Exhibit 151 (CHGE 2022 Depreciation Study). There are different systems that can be used for calculating depreciation rates, each composed of a method, a procedure, and a technique. The Company used the straight-line method, ASL procedure, and whole life technique. See Tr. 2270-2271; Exhibit 151, p. iii.

than implement the Study's recommendations, to mitigate the overall increase in revenue requirement for the Rate Year.[466] The Company explained that, if adopted, the Study's proposed depreciation rates would increase the projected depreciation accruals by $12.2 million annually ($4.8 million relating to electric and the remainder to gas).[467]

In its initial testimony, Staff recommended that many of the adjustments to the depreciation parameters identified in the Study be implemented, except for the survivor curves,[468] ASLs, and net salvage factors for eight electric accounts, four gas accounts and five common accounts.[469] Overall, Staff recommended that the Company's proposed depreciation expense for electric plant be decreased by $4.4 million, from $75.4 million to $70.9 million, representing an increase over current levels of about $1.0 million (2.1 percent).[470] For gas, Staff recommended that the Company's proposed depreciation expense be

466 Tr. 1493, 3297.

467 Tr. 1494-1495; Exhibit 83.

468 A "survivor curve" is a graphical representation of the percentage of original plant, by age, that is still in service. Known curves are fit to the observed curve to help determine an appropriate ASL. Tr. 2268.

469 Tr. 2276-2279. The eight electric accounts are: 341 – Structures and Improvements; 342 – Fuel Holders, Producers & Accessories; 344 – Generators; 355 & 355.10 & 355.15 – Poles & Fixtures; 356.1 & 356.15 – Overhead Conductors & Devices; 362.3 Station Equipment- Electronics; 365 – Overhead Conductors & Devices; and 367 – Underground Conductors & Devices. The four gas accounts are: 367 – Mains; 376 – Mains; 378.3 – Station Equipment - Electronics; and 380 – Services. The five common accounts are: 390.07 – Structures & Improvements – Major Equipment; 390.15 – Structures & Improvements – Landscaping; 391.11 – EDP Equipment – System and Main Frame; 395 – Laboratory Equipment; and 397.1 Communication Equipment – Radio. See Exhibits 294 (MH-3) and 296 (MH-5).

470 Tr. 2265-2266.

decreased by $105,000, from $24.7 million to $24.6 million, an increase over current levels of about $2.5 million (eight percent).[471]

In its rebuttal testimony, the Company agreed with Staff's proposal to update the depreciation rates, insofar as doing so would "provide[] a more appropriate and timely cash recovery in line with the cost causation principle" and, at least with respect to gas infrastructure, "align[] with the goals of the [CLCPA]."[472] As detailed below, however, the Company disagreed with the deviations from the Study proposed by Staff.

2. Average Service Lives

To the extent that the Company now agrees to adjust its depreciation rate parameters, it urges that those modifications should follow the recommendations in the Study, and not those proposed by Staff.[473] The Company highlights the fact that the estimates in the Study were based on "informed judgment" that included a review of historical service life data, the Company's current plans and operating policies, and "a general knowledge of service lives experienced and estimated in the electric and gas industries."[474] In comparison, the Company argues, Staff's recalculation of certain parameters unduly relies upon "visual comparisons to the Company's historical data or current service life parameters, many of which were the result of settlement discussions" that the Company agreed to in prior rate cases.[475]

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[471] Tr. 2265-2266; Staff Initial Brief, p. 87.

[472] Tr. 1537.

[473] Central Hudson Initial Brief, p. 80; Tr. 280-311, 1537-1538.

[474] Exhibit 151 (CHGE 2022 Depreciation Study), p. I-5. See Tr. 280.

[475] Central Hudson Initial Brief, p. 81.

The Company asserts that Staff's failure to consider factors other than "statistical life analysis results," such as CLCPA requirements, technological advancements, and data from other utilities, resulted in Staff recommending "unrealistically long service lives."[476] As an example, the Company challenges Staff's recommendations for electric account 365 (overhead conductors and devices), which assume an ASL of 76 years.[477] The Company opines that this estimate unrealistically "implies that over 30% of the assets will be in service for more than 100 years, about 15% will be in service more than 120 years and some assets will stay in service for 150 years."[478] The Company further argues that Staff's recommendations are unreasonable particularly as compared to current ASL estimates of other New York utilities for similar accounts.[479] Thus, if Staff's recommendations are adopted, the Company posits that its accounts would be "outliers in the industry."[480]

Responding to the Company's criticism, Staff explains that its recommendations are a result of its application of the principle of "gradualism" to avoid significant impacts to revenue requirements.[481] Staff points out that while the Company faults it for relying too heavily on a "mathematical fit" in recommending survivor curves and ASLs, the Study indicates that consideration of "information external to the statistics" did not result in "significant departure from the indicated survivor

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476 Id., pp. 81-82; Tr. 281-282.

477 Tr. 282.

478 Tr. 282.

479 Tr. 282-283. Staff's estimates exceed those of similarly situated utilities by approximately ten years for each highlighted account.

480 Tr. 283.

481 Staff Initial Brief, p. 87.

curves."[482] Staff therefore contends that even had it considered the factors cited by the Company – e.g., CLCPA requirements, technological advancements, and data from other utilities – such information was unlikely to have significantly altered its selection of curves and ASLs.[483]

Staff also defends its application of "gradualism" by explaining that the selection of depreciation parameters "necessarily contains an element of discretion . . . to address concerns of rate shock."[484] In Staff's view, for example, rate shock is likely if an attempt is made to align ASLs too closely with "what analysis indicates they should be," particularly if some plant account that was hypothesized to have an ASL of 80 years but is suddenly retired after only 20.[485]

As both the Company and Staff acknowledge, establishing appropriate depreciation parameters within the context of a rate case requires an element of discretion, in addition to mathematical analysis. The Company argues that its approach more accurately and timely aligns "cash recovery in line with cost causation principles,"[486] whereas Staff's approach results in unrealistically long ASLs. For its part, Staff urges the Commission to adopt a "gradualism" approach, despite the longer ASLs to "avoid significant impacts to revenue requirements" that otherwise would cause rate shock to the Company's customers.[487]

We support Staff's attempt to minimize rates now and the potential for future rate shock through its application of

[482] Exhibit 151 (CHGE 2022 Depreciation Study), pp. III-2.

[483] Staff Initial Brief, p. 87.

[484] Id., p. 88.

[485] Id.

[486] Central Hudson Initial Brief, p. 80.

[487] Staff Initial Brief, p 87.

“gradualism” and therefore generally find its recommended deviations from the ASLs identified in the Study to be reasonable. Nevertheless, in our view, certain of Staff’s recommended ASLs deviate unrealistically from those in the Study, as well as from comparative data and industry standards, sometimes by much as 15 years. Therefore, we believe that Staff’s recommendations for certain accounts should not be adopted by the Commission. Specifically, Staff’s recommendations for gas account 367 – Mains, gas account 276 – Mains, common account 390.07 – Structures and Improvements – Major Equipment, and common account 397.10 – Communication Equipment – Radio, exceed the high end of the typical industry range by five years. Staff’s recommendations for electric accounts 356.15 – Overhead Conductors and Devices – 345kV, and 365 – Overhead Conductors and Devices, exceed the range by ten years. For gas account 380 – Services, Staff’s recommended ASL exceeds the high end of the industry average by 11 years. And for electric accounts 356.10 – Overhead Conductors and Devices and 367 – Underground Conductors and Devices, Staff’s recommendation exceeds the highest end of the industry estimate by 15 years.[488]

The act of estimating ASLs necessarily requires some degree of forecasting future events based upon a review of past data, a difficult task in itself, even without accounting for the opportunity for anomalous future events that could render the projected ASLs inaccurate. However, we are convinced that the Company’s recommended ASLs for the above-named accounts are more aligned with the evidence in the record, namely historical

[488] Tr. 285.

data, comparative utility data, and industry standards.[489] Under the circumstances, we are not convinced that Staff's concern about rate impacts warrant significant departures from the ASLs recommended by the Study for those above-identified accounts. For all other accounts, the ASLs recommended by Staff are reasonable and we recommend they be adopted.

3. Net Salvage Values

Staff recommends that the net salvage factors proposed in the Study be adopted, subject to adjustments for 14 electric accounts, six gas accounts, and four common accounts.[490] Staff explained that the adjustments were recommended based upon its analysis of recent apparent trends. Specifically, where trends suggest that costs of removal are increasing, the net salvage factor is recommended to be more negative; where costs of removal are decreasing, the net salvage factor is recommended to be less negative; and where there is no trend data, Staff does not recommend any change.[491] As with the ASLs, Staff applied the concept of "gradualism" and limited its recommendations to up or down movements within ten percent of the currently approved net salvage factors.[492]

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[489] This is particularly true for the disputed gas accounts, given that the deadlines and requirements of the CLCPA suggest the need to accelerate gas plant depreciation, an issue being studied in Case 20-G-0131, Proceeding on Motion of the Commission in Regard to Gas Planning Procedures (Gas Planning Proceeding).

[490] Tr. 2282-2283; see Staff Initial Brief, pp. 88-89.

[491] Staff Initial Brief, p. 89; Tr. 2281.

[492] Tr. 2315. As an example of how net salvage factors work, Staff explained that if an account had a net salvage factor of negative ten, it would cost the Company "an extra 10 percent of the original value to have [the plant] removed." Tr. 2316.

The Company originally proposed retaining its existing net salvage factors but, in its rebuttal testimony, agreed with Staff in theory that the factors should be changed. The Company disagrees with Staff's recommended departures from the net salvage factors identified in the Study, however, alleging that Staff's proposals are inadequate and its stated methodology is inconsistently applied.[493] Specifically, the Company points out that Staff seemingly applied its "gradualism" approach only when the Study recommended adjusting a net salvage factor in a more downward, or negative, number than Staff wanted, even when it did not necessarily disagree with the factors recommended in the Study.[494]

Staff recommended different net salvage factors for 14 electric accounts and six gas accounts.[495] The electric accounts are: 332 – Reservoirs, Dams; 334.1 – Accessory Electric Equipment; 352 – Structures & Improvements; 355, 355.1, and 355.15 – Poles and Fixtures; 356.1 and 356.15 – Overhead Conductors and Devices; 356.2 and 356.25 – 345kV Overhead Lines, Clearing; 358 – Underground Conductors & Devices; 361 – Structures and Improvements; 365 – Overhead Conductors and Devices; 366 – Underground Conduit; 367 – Underground Conductors & Devices; 369.1 – Overhead Services; 369.2 – Underground Services; and 371 – Installation on Customer Premises.[496] The gas accounts are: 367 – Mains; 375 – Structures & Improvements; 376 – Mains; 380 – Services; 366.5 – Structures & Improvements; and 369.51 – Station Equipment.[497]

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[493] Central Hudson Initial Brief, pp. 85-88.

[494] Id., p. 85; Tr. 2330.

[495] Tr. 2282-2283; see Exhibit 295 (MH-4).

[496] Tr. 2282.

[497] Tr. 2283.

As with ASLs, Staff primarily cites its use of "gradualism" as a justification for recommending these adjustments from the values identified in the Study. Staff does not challenge the values in the Study as unreasonable or inaccurate. When questioned on cross-examination, however, Staff admitted that its recommended adjustments for net salvage factors were not uniformly driven by its use of "gradualism." Staff does not sufficiently articulate or explain what approach it did use, or what its rationale was for the recommended departure.[498] Rather, Staff simply states that it reviewed "trends" in historic net salvage values to adjust its recommendations away from the Study in the direction of the trend, while arbitrarily limiting the change in its values to a ten-percent difference.[499] For some recommendations, Staff arbitrarily limited its adjustment to a five-percent difference, despite the Study recommending a more than 25 percent change in value.[500] Staff ultimately stated that "the actual recovery mechanism is discretionary and up to the [C]omission."[501] In comparison, the Company points to historical average net salvage values, as well as five-year average values, to demonstrate that many of Staff's recommendations are unreasonable when compared to historical data.[502] Again, while we recognize that establishing net salvage values necessarily includes some level of discretion, the values nevertheless should reasonably relate to data. Based upon our review of the record and the parties'

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[498] Tr. 2319-2320, 2323-2324.

[499] Tr. 2281-2282.

[500] Exhibit 295 (MH-4).

[501] Tr. 2329.

[502] Tr. 302. See, e.g., Central Hudson Initial Brief, p. 86 (citing recommendations for electric accounts 355.10 and 355.15).

arguments, we are not convinced that Staff's recommended departures from the net salvage factors identified in the Study are adequately supported by the record. Therefore, we recommend that they not be adopted. Rather, we recommend that the Commission adopt the net salvage factors identified by the Study and proposed by the Company.

4. Amortization of Reserve Deficiency

When a depreciation study is performed, it is customary to compare the actual book reserve to the proposed theoretical reserve that would result from the incorporation of any proposed changes to the survivor curves, ASLs, and net salvage factors.[503] According to Staff, when the difference between the book reserve and the theoretical reserve is within a ten percent margin, no adjustment is required to amortize the over- or under-accrual, whereas an adjustment can be made if the difference exceeds a ten percent margin, particularly if the difference is so large that it is unlikely to self-correct.[504] In this case, the Company and Staff do not dispute that, applying the parameters identified in the Study, the Company's accumulated depreciation reserve balance is under-reserved by about $135.9 million, which is 18.7 percent of the June 30, 2022, balance, with $92.3 million attributed to electric (22.9 percent of the balance), $33.0 million to gas (21.8 percent of

[503] The "book reserve" is "calculated by plant account and subtracted from the gross plant, or original cost of the plant, to calculate the net plant, or the remaining plant balance that is not yet depreciated." Tr. 2270. The "theoretical reserve" represents "the amount of depreciation expense that should have been collected as of a particular date, given the survivor curves, ASLs, and net salvage factors used to determine the proposed depreciation rates." Id.; see Staff Initial Brief, p. 90.

[504] Tr. 2284.

the balance), and $10.6 million for common (11.5 percent of the balance).[505]

The Company maintains that its initial proposal to recover, over a ten-year period, $47.2 million for electric, $33.0 million for gas, and $1.3 million for common should be adopted.[506] The Company asserts a ten-year period is more reasonable than Staff's recommended 20-year period inasmuch as a ten-year recovery better aligns with principles of cost-causation, provides credit-supportive cash recovery to maintain credit metrics, and provides some moderation to bill impacts for customers. The Company believes that its recommended approach is sound because it will reduce the electric and common reserve positions to a ten percent margin, and will eliminate the under-reserve for gas, thus beginning to align its depreciation reserve with the results of the Study.[507]

Staff disagrees with the Company's proposed approach to its depreciation reserve deficiency. Specifically, Staff asserts that it is inappropriate to allow the Company to fully recover its reserve deficiency related to gas in only ten years without further guidance from the Commission in the Gas Planning Proceeding in Case 20-G-0131.[508] Staff recommends that the Company recover its reserve deficiency over 20 years, as is "typical,"[509] and that the recovery should be limited to the extent necessary to bring each of the theoretical reserves,

[505] Tr. 1494, 2285.

[506] This would result in an annual recovery of $4.3 million for electric and $3.3 million for gas, beginning July 1, 2024. See Exhibits 239 (RRP-1R) and 240 (RRP-2R).

[507] Staff Initial Brief, p. 89; see Tr. 1495, 1539; Exhibit 82 (ATP-3).

[508] Tr. 2286-2287.

[509] Tr. 2286.

including gas, down to the ten percent margin.[510] Staff further states that the depreciation rates it recommends "result in theoretical reserves that differ from the book reserve by less than 10 percent of the theoretical reserve for electric, gas, and common" and, therefore, do not require any amortization of reserve deficiency.[511] According to Staff, once the Commission issues further guidance in the generic Gas Planning Proceeding in Case 20-G-0131, the Company's depreciation recovery can be revisited.[512]

We agree with Staff that, under the circumstances of this case, it is reasonable to limit the Company's recovery of its reserve deficiencies for electric, gas, and common to ten percent of the theoretical reserve over a 20-year period. We are mindful of the Company's concern that waiting for guidance from the Gas Planning Proceeding could leave the Company in a "tenuous position" given that 20 years from now will be 2044, thus leaving ten percent to be recovered in the six years remaining until the CLCPA's 2050 deadline.[513] However, the Company's ultimate conclusion - that a 20-year recovery timeline would impose a greater burden on future ratepayers - than its ten-year proposal will impose on current ratepayers is speculative. We are confident that the Commission will provide guidance regarding gas system depreciation in the generic Gas Planning Procedures proceeding to address this issue in a wholistic manner across the State. When that guidance is provided, recovery of the Company's depreciation gas reserve deficiency can be reconsidered, if necessary.

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[510] Staff Initial Brief, p. 90.

[511] Tr. 2287; Staff Initial Brief, p. 90.

[512] Staff Reply Brief, p. 27.

[513] Central Hudson Initial Brief, p. 90.

C. Property Taxes

Central Hudson provided a projection of property taxes and proposed to update the figures to use the most recent known tax amounts as the information became available during these proceedings.[514] Staff proposed adjustments to the Company's projections related to Economic Obsolescence (EO) awards but agreed that the latest known rates should be used.[515]

In rebuttal testimony, Central Hudson updated the property tax projections to include the latest known village and school taxes, and the final 2024 EO award resulting in a decrease for electric of approximately $2.1 million and no change for gas. Staff agreed with those updates.[516] The Company states that it will provide another update for property tax expenses in its Brief on Exceptions.[517]

In addition, Central Hudson proposes to continue the deferral accounting treatment in the 2021 Rate Plan, which provides for future recovery from or pass back to customers of 90% of any difference between actual property tax expense and the rate allowances for each Rate Year.[518] Staff opposes continuing the deferral accounting for property taxes because in the context of litigated rate cases, "many of the factors

[514] Tr. 1521-1522.

[515] Tr. 4135-4136

[516] Staff Reply Brief, Appendix A.

[517] Central Hudson Initial Brief, p. 92. We note that Central Hudson again updated its property tax forecasts in its reply brief. See Central Hudson Reply Brief, Appendix 1, p. 4 and Appendix 2, p. 4. However, absent Staff's agreement on the updated figures, we rely on the latest agreed-to figures in this RD.

[518] Tr. 1527.

influencing the Rate Year property tax forecast are known and therefore not subject to significant forecasting risk.”[519]

We agree that using the latest known property tax forecasts is the proper approach. We also agree with Staff’s position that a deferral mechanism for property taxes is not necessary. Once the Company provides additional updates, only the school 2024/2025 taxes and town 2025 taxes will continue to be based on projections[520] and no record basis exists to believe these expenses will vary significantly from previous years. If property tax expenses do vary significantly from the limited projections remaining, the Company can petition for appropriate relief.

D. Payroll Taxes

Central Hudson and Staff agree that Rate Year payroll tax projections are correctly determined by applying the respective tax rates for State Unemployment Tax Assessment, Federal Unemployment Tax Act, Medicare, and Federal Insurance Contribution Act to the relevant wage bases projected for the Rate Year.[521] Staff further recommends tracking adjustments to account for Staff’s proposed reductions in total labor expense, headcount, and the distribution of labor used to calculate payroll taxes. Staff’s adjustments result in reductions to payroll taxes of $920,000 for electric and $256,000 for gas. We agree with Staff that these tracking adjustments should be updated to reflect the Commission’s decision on each of Staff’s associated labor adjustments. The schedules attached to this RD reflect an adjustment of payroll taxes associated with our labor recommendations.

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[519] Tr. 4153.

[520] Central Hudson Initial Brief, p. 101.

[521] Tr. 4137.

E. Other Taxes

Other Taxes are comprised of sales and use taxes and hazardous waste taxes. There is no disagreement between Staff and Central Hudson regarding hazardous waste taxes. The two parties disagree on the calculation of an adjustment to incremental sales and use taxes to account for amounts associated with call volume overflow, which Central Hudson acknowledges should not have been included in the calculation.[522] Staff calculated the adjustment by applying the eight percent sales tax rate to the Rate Year call volume overflow amounts of $2,145,332 for electric and $536,333 for gas, which resulted in reductions of $171,627 for electric and $42,907 for gas.[523] Staff argues that when items are removed from the taxable base, the taxable amount is less, and total sales and use tax will decrease.[524]

The Company uses a different methodology to adjust the incremental sales tax with respect to call volume overflow. Central Hudson calculated the difference in Rate Year projections to Historic Test Year expense, stating that "non-labor costs for this specific element of expense are projected to be less in the Rate Year than the actual historic year baseline costs," and determining that the removal of call volume overflow costs results in an increase in the sales tax rate allowance of approximately $69,000 for electric and $17,000 for gas.[525] The Company argues that the call volume overflow adjustment calculated through its methodology results in a negative number representing a decreasing expense in the Rate

[522] Tr. 739.

[523] Tr. 4139; Exhibit 243 (RRP-5R), p. 2.

[524] Staff Initial Brief, p. 94.

[525] Tr. 802; Exhibit 298 (SAP-1), p. 178.

Year, and that its exclusion from the calculation therefore would result in an increased projection for sales and use tax expense.[526]

We agree with Staff's methodology, which removes the costs for call volume overflow sales taxes projected for the Rate Year. The Company erroneously included those costs in the Rate Year projection and their removal results in a decrease in projected costs, regardless of whether the projected costs for call volume overflow were lower than the Historic Test Year costs. Accordingly, we recommend the Commission decrease the sales tax expense by $172,627 for electric and $42,907 for gas.

F. Income Taxes

Staff agrees with Central Hudson's method for calculating federal and state income taxes described in Exhibit 89 (ATP-10) but states that, prior to a Commission decision, adjustments will be necessary to reflect the impact of various components including final plant and depreciation amounts that are used in the calculations.[527] The Company agrees that tax depreciation and income taxes must be updated to align with the ultimate revenue requirements determined in these proceedings.[528]We agree with this approach.

Staff does not support the Company's proposal for a new deferral related to potential changes in the federal corporate tax rate.[529] Staff argues that a deferral is unnecessary because any change to the income tax rate will occur before the start of the Rate Year, providing an opportunity for updates if necessary. Staff further argues that any changes to

[526] Confidential Exhibit 299 (SAP-1)(DPS-453).

[527] Tr. 4142; see Exhibit 91 (ATP-12).

[528] Central Hudson Initial Brief, p. 95.

[529] Staff Initial Brief, p. 95.

federal tax rates would likely impact all utilities and, therefore, would be better addressed through a generic proceeding. We agree with Staff that a new deferral related to the federal tax rate is not warranted in these litigated rate cases and recommend the Commission disallow any deferral mechanism related to federal corporate tax rates.

G. Deferrals

1. FERC Jurisdictional Proceedings Regarding Hydroelectric Facilities

The Company currently has a mechanism that allows it to defer incremental O&M expenses and the revenue requirement effect on incremental capital spending incurred in a rate year due to a Federal Energy Regulatory Commission (FERC) proceeding concerning hydroelectric facilities, when the total impact is greater than ten basis points of return on common equity for the electric business.[530] The Company and Staff agree that the current deferral for FERC Jurisdictional Proceedings Regarding Hydroelectric Facilities should continue to apply in the Rate Year.[531]

In testimony, Staff recommended that, to "the extent the Company receives any external government funding for capital work performed" in the hydroelectric and gas turbine electric capital category, "the Company should credit its plant balance to account for this contribution."[532] No party, including Central Hudson, provided testimony in response to that recommendation. Staff notes that the Department of Energy recently selected Central Hudson's Dashville Hydroelectric Facility Units 1 and 2 for funding under the Infrastructure and

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[530] Exhibit 90 (ATP-11).

[531] Tr. 1542; Exhibit 159 (ATP-1R), p. 4.

[532] Tr. 2565.

Jobs Act in the amount of $3.4 million for upgrades to those units.[533] We agree with and adopt Staff's recommendation that the Company credit its net plant balance to reflect the entirety of the federal funding received and recommend the Commission adopt this approach.

2. Government, Legislative, and Other Regulatory Deferrals

The Company proposed to continue its deferral mechanism, approved in the 2021 Rate Plan, which allows the Company to defer the revenue requirement effect of any governmental, legislative, accounting, regulatory, tax or applicable tax rates, fees, government-mandated action or other regulatory actions in a rate year whose impact is greater than ten basis points for either the gas or electric business.[534] Although Staff recognizes that expenses imposed by governmental, legislative, and other regulatory actions are non-discretionary, Staff explains that the Commission generally has not granted such deferral authority in a litigated proceeding because the risk to the Company is limited given that the Company can seek new rates or petition the Commission for deferral authority if the impact meets the traditional deferral criteria.[535]

Central Hudson responds that a reconciliation mechanism is appropriate regardless of the duration of the rate plan for significant items that cannot be reasonably forecasted such as future governmental, legislative, and other regulatory

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533 Staff Initial Brief, pp. 95-96 (citing U.S. Department of Energy Grid Deployment Office, "2024 Mid-Atlantic Region Hydroelectric Efficiency Improvement Incentives selectees" (February 2024), available at https://www.energy.gov/gdo/section-243-hydroelectric-efficiency-improvement-incentives-program).

534 Exhibit 90 (ATP-11).

535 Tr. 4150, 4182.

actions.[536] Additionally, the Company states that historical experience (such as the Tax Cuts and Jobs Act and New York State Budget changes) supports its position that future changes to government, legislative, and other regulatory actions could significantly impact customers or the Company.[537]

In our view, the risk of governmental, legislative, and other regulatory actions resulting in significant, unforeseen costs during the Rate Year is reduced as compared to the risk present under a multi-year rate plan. Moreover, if such action occurs during the Rate Year, it likely would impact all utilities, making it more appropriate for the Commission to address the deferral issue on a generic basis. Accordingly, we agree with Staff that this reconciliation mechanism should not be continued in the Rate Year and recommend the Commission disallow the Company's proposed deferral mechanism.

3. Variable Rate Debt

The Company requests that its existing deferral mechanism for long-term interest costs on existing variable rate debt be continued in the Rate Year. The Company also requests continuation of the variable rate deferral for new variable rate debt, approved as part of its 2021 Rate Plan, but modified to allow a true-up of the entirety of its weighted average cost of long-term debt to the long-term cost of debt rate adopted for the Rate Year.[538]

In its brief, Staff agrees with continuation of the variable rate deferral for existing variable rate debt, but not for new variable rate debt.[539] Although Staff cites witness

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[536] Tr. 1542-1543.

[537] Tr. 1543.

[538] Tr. 971-972.

[539] Staff Initial Brief, p. 97.

Hale's testimony in support of that position, Mr. Hale's testimony broadly recommended that the variable rate debt true-up approved in the 2021 Rate Order be continued.[540] Mr. Hale testified that "continuation of the true-up will assure there is no disincentive to maintaining the variable rate debt as long as it is economically advantageous to do so," that "these issuances are a relatively small portion of the Company's overall long-term debt obligations," and that "Central Hudson is essentially a price-taker with respect to the benchmark rates upon which these securities are priced."[541]

Interest rates on variable rate debt are difficult to forecast because that market involves comparatively more volatility than the long-term fixed rate debt market. With that in mind, based on the testimony provided by the Company and Staff, we agree that a reconciliation mechanism for variable rate debt, including any new variable rate debt, is reasonable and should be adopted. We recommend the difference between the actual interest expense and the amount reflected in rates be deferred and reconciled. Although the Company maintains that forecasted variable debt rates be used, which it contends will protect customers in a falling market, we agree with Staff that such rates should be set based on the latest known actual rates as a more accurate estimate of what rates will be during the Rate Year.[542]

4. <u>Late Payment Fee and Reconnection Fee Revenue</u>

The Company requests continuation of the existing symmetrical deferral of actual late payment charges and reconnection fee revenues above or below the levels included in

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[540] Tr. 2403.

[541] Tr. 2404.

[542] Tr. 2396.

the final revenue requirement if the impact is greater than ten basis points for return on common equity for its electric or gas business. The Company indicated that, as it did not terminate service and was not performing normal collection activities during the Historic Test Year, all forecast periods were normalized to reflect the allowances approved in the 2021 Rate Plan.[543] The Company then considered historic levels of fees from earlier years (2018 and 2019 for finance charges) to derive forecasts for the Rate Year.[544] Because it is unknown how finance charges and reconnection fee revenues during the Rate Year may be change, the Company proposed continuation of the symmetrical deferral mechanisms.

In rebuttal testimony, the Company stated that it was not currently assessing finance charges or reconnection fees, but that "an assumption of $4.5 million for electric and $1.3 million for gas, calculated based on historical methodology, was embedded in the development of revenue requirements," and was "put forth under the premise that it would be accompanied by the proposed deferral" because "the forecast for these elements of revenue remain uncertain."[545] The Company maintained that given "the current ambiguity around customer decisions regarding payments and deferred payment agreements as the Company recommences full collection activities, the timing and amount of the finance charge revenues and reconnection fees cannot be accurately forecasted."[546]

Staff disagreed with the Company's request for continuation of deferral treatment for late payment charges and

[543] Tr. 713.

[544] Tr. 1828-1829.

[545] Tr. 1544.

[546] Tr. 1544.

reconnection fees during the Rate Year. Staff asserted that, while these deferrals are common in multi-year rate plans, the Commission generally has not granted such deferral authority when setting rates in a litigated proceeding because revenues can be reasonably forecasted and the risk that exists in the context of a multi-year rate plan does not exist.[547] In addition, Staff testified that, if the Company's actual revenues vary significantly from the amount established in the revenue requirement, the Company can file a deferral petition with the Commission or file for new rates.

Ordinarily, we would agree with Staff's position. However, given there was no actual collection or termination activity during the Historic Test Year, as well as the Company's testimony that the forecasts for the Rate Year are uncertain, we agree with the Company that the continuation of the deferral provisions for finance charge and reconnection fees is appropriate and recommend the Commission authorize the deferrals.

5. Right-of-Way Maintenance Distribution

The Company agrees with Staff's position that this deferral mechanism should not be continued during the Rate Year.[548]

6. Long-Term Gas Planning Proceeding

Central Hudson requested that it receive deferral treatment of incremental costs associated with the Long-Term Gas Planning Proceeding in Case 20-G-0131.[549] Initially, Staff did not agree with the request on the grounds that Central Hudson had not filed its long-term gas plan at that time and has not

[547] Tr. 4049.

[548] Tr. 1546

[549] Tr. 1515.

provided any reasonable support for the incremental costs associated with that effort.[550]

The Company made its long-term gas system plan filing on February 7, 2024 in Case 23-G-0676.[551] The Company maintains that now that the filing has been made and the process to review the long-term plan is underway, it "will undeniably incur costs in the Rate Year related to its Long-Term Plan filing."[552] It further states that it will also most certainly incur additional costs related to the Joint Utility filings in the Long-Term Gas Planning Proceeding and that the amount of costs remains unknown. Central Hudson therefore argues that a deferral for expenditures that may be required in the Long-Term Gas Planning Proceeding and in Case 23-G-0676 is appropriate.

Staff responds that the Commission's review of and ultimate decision on that filing likely will not occur until after these rate proceedings have concluded. Staff maintains that any decision regarding deferral of costs associated with those proceedings is best left for the Commission to decide on a generic basis in the Long-Term Gas Planning Proceeding, instead of in a rate case involving a specific utility.[553]

We agree with Staff's position. In our view, the setting of a uniform reconciliation method for all utilities with respect to costs arising from the Long-Term Gas Planning Proceeding is reasonable and supports the conclusion that a reconciliation mechanism should not be approved for the Company for the Rate Year.

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[550] Tr. 3663.

[551] Case 23-G-0676, In the Matter of the Review of the Long-Term Gas System Plans of Central Hudson Gas & Electric Corporation.

[552] Central Hudson Initial Brief, p. 103.

[553] Staff Initial Brief, p. 102.

7. Roadway Excavation Quality Assurance Act

On August 16, 2023, Governor Hochul signed the Roadway Excavation Quality Assurance Act, codified as Labor Law §224-F (the Act).[554] The Act, effective as of September 15, 2023, subjects certain roadway construction work by utility company contractors and subcontractors to the prevailing wage requirements of Labor Law article 8. Specifically, the Act applies to "covered excavation project[s]," which, as relevant here, is defined as "construction work for which a permit may be issued to a contractor or subcontractor of a utility company by the state, a county or a municipality to use, excavate or open a street."[555]

Central Hudson proposes a new deferral of incremental costs associated with the implementation of the Act with respect to its gas capital work.[556] Staff noted that the Company had indicated that it was not yet able to evaluate the potential impacts on the gas capital program and had not provided testimony on the issue. Staff maintains that deferral treatment should be denied until the Company evaluates the impacts on its gas capital programs and presents a more thorough proposal.[557] Staff asserts that the risk to the Company is limited in this litigated rate case and that the Company can petition the Commission for deferral authority if the Commission does not otherwise address the impacts of the Act in a generic proceeding.[558]

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[554] Labor Law § 224-F (as added by L. 2023, c. 278, §2).

[555] Labor Law §224-F(1)(a).

[556] Tr. 1238.

[557] Tr. 4153-4154.

[558] Staff Initial Brief, p. 103.

The Company responds that it provided sufficient information in rebuttal testimony to support the use of a deferral mechanism. The Company testified that it had determined that a majority of the Company's gas capital work will be subject to the Act and that its existing contractors have sought increased funding for any excavation work with a permit date after the Act's effective date.[559] In addition, based upon its preliminary review, the Company states that the Act will increase its gas capital program by approximately 27 percent, particularly with regards to Distribution Improvement projects and the elimination of Leak Prone Pipe (LPP).[560] In support, the Company cited Confidential Exhibit 215 (GCOP-2R), which set forth the estimated increased cost for gas Distribution Construction projects. Central Hudson maintains that the Act would impact other gas programs and that a deferral is appropriate given the uncertainty in the cost it may incur in implementing the Act.[561]

We agree with Central Hudson that a deferral mechanism is appropriate in these circumstances. Although the timing of the statute's enactment did not permit the Company to provide a final estimate of impacts, the record shows that the Act will increase Central Hudson's costs by requiring its contractors and subcontractors to pay prevailing wages. We see no reason to require the Company to file a deferral petition to recoup such costs, where legislation has been passed that will necessarily increase the Company's costs and a deferral mechanism can be used to address as-of-yet unknown costs that will be incurred during the Rate Year. Accordingly, we recommend the Commission

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[559] Tr. 1235-1236.

[560] Tr. 1236.

[561] Tr. 1549.

authorize a deferral mechanism. Staff may audit the Company with respect to any deferral costs, should it deem an audit appropriate. Moreover, the deferral mechanism would be subject to change to comply with any Commission order addressing the Act on a generic basis. Absent action in a generic proceeding, the Commission can revisit the use of a deferral mechanism in the Company's next rate case.[562]

H. Rate Adjustment Mechanism

Central Hudson proposes to continue its Rate Adjustment Mechanism (RAM), with an adjusted threshold from 2.5 percent of total operating revenues to 2.4 percent of total revenues, inclusive of surcharges and commodity costs.[563] The RAM allows the Company to implement a surcharge to collect from, or return to, ratepayers certain deferred costs[564].

Staff disagrees with allowing the RAM to continue during the Rate Year. Staff testified that Central Hudson reflected ten-year amortizations of its excess major storm and Energy Efficiency/Heat Pump costs – its two largest RAM-eligible

[562] The Company also testified that the Act would increase electric business costs for routine line clearing flagging by approximately $1.1 million and for hazard tree flagging activity by approximately $440,000 (Tr. 2144-2145). However, Staff states that, based upon historical Article 8 Prevailing Wage Schedules provided by the Department of Labor, "Lineman-Tree Trimmers serving as 'Flag Person' in their duties have consistently maintained New York State minimum wage as their prevailing wage amount." (Staff Initial Brief, p. 27). The Company responds that the Prevailing Wage Law also includes supplemental benefits for "Flag Person" and that, pursuant to union contract, a "Flag Person" is automatically upgraded to "Ground Person" at a higher wage. Central Hudson Reply Brief, p. 9. However, in our view, this does not explain why such costs would increase because of the Act as opposed to the union contract.

[563] Tr. 1865-1866.

[564] Tr. 4143.

regulatory asset balances - in its Rate Year revenue requirements.[565] Because the Company will have a recovery method for those items, Staff did not support a second recovery method through a RAM. In addition, Staff testified that, if a significant balance of regulatory assets or liabilities builds up during the Rate Year, the Company could pursue recovery or refund of that balance in its next rate case.

Central Hudson testified that Staff did not address carrying charges and how the RAM allows for more timely collection or return of carrying charges to ratepayers.[566] The Company also stated that recovery under the RAM would not be implemented if there were insufficient deferral balances to trigger its use and that the RAM would be capped at a maximum threshold to mitigate bill volatility. In addition, the Company testified that Staff did not consider the impacts that "removing this credit supportive mechanism can have on a rating agency's perception of the regulatory environment in New York, which impacts the qualitative portion of rating agency assessments."[567] The Company's Finance Panel testified that cash recovery mechanisms, such as the RAM, are credit-supportive by providing more current recovery of significant cash outlays. The Company also testified that major storm costs continue to be RAM eligible, stating that any collection through the RAM would simply reduce the ten-year amortization collection period.[568]

We find Staff's position more persuasive. Because O&M expenses will be reset in this case based on new forecasts, the deferral build-up during the Rate Year should not be

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565 Tr. 4144.

566 Tr. 1545.

567 Tr. 1546.

568 Tr. 724.

significant. In any event, Central Hudson can file for new rates immediately after the Commission's decision in these proceedings, and the Company can propose recovery/return methods for deferred costs at that time. For those reasons, and because we agree with Staff that the inclusion of major storm and Energy Efficiency/Heat Pump costs in the RAM calculation would effectively provide the Company with two revenue streams for recovery of those expenses, we adopt Staff's position and recommend that the RAM not be continued during the Rate Year.

VI. RATE BASE ISSUES

A. Electric Capital

1. Electric Capital Projects

The Company projected an electric capital budget totaling approximately $754 million over calendar years 2024-2028.[569] The Company indicated that the key drivers of its capital electric forecasts are investments necessary to (1) meet minimum standards of service or compliance, (2) maintain current levels of service reliability and safety, and (3) address aging asset conditions and infrastructure replacements needed throughout its service territory.[570] The proposed electric capital budget includes 21 CLCPA Phase 1 projects that, according to the Company, "satisfy Reliability, Safety, and Compliance purposes," while addressing "bottlenecks or constraints that limit renewable energy delivery within a utility's system" and increase capacity to host additional distributed energy resources (DERs).

After resolving certain issues with the Company's data on proposed electric capital projects and programs, Staff agreed

[569] Tr. 2007.

[570] Tr. 2008-2011.

with the Company's proposed electric capital budget, with two modifications that would reduce the Company's proposed budget by $17 million. Staff states that the Company's proposed electric capital expenditures are "largely business-as-usual spending, plus costs associated with projects identified as CLCPA Phase 1 projects that will advance the sustainability initiatives identifie[d] by and in support of the CLCPA."[571] Staff noted that, without considering costs from the CLCPA Phase 1 projects, the Company's remaining proposed electric capital budget would be well below the Company's historic spending levels and the levels approved by the Commission in the 2021 Rate Order.[572]

Nevertheless, Staff recommended removal of a new capital cost category the Company proposed to track non-discretionary capital spending related to storm restoration efforts.[573] Stating that the Company did not re-categorize all future storm response related capital costs, which are tracked through various other categories, Staff asserted that this could result in double counting of expenditures and could create additional confusion with respect to tracking of capital expenditures.[574] The Company disagreed and asserted that disallowance of the new storm tracking category may result in insufficient funding to complete planned capital projects and programs needed to maintain existing levels of reliability.[575]

Staff's second proposed modification recommended removal of the Company's Electric Transmission Structure Coating (ETSC) Program from its electric capital budget proposal.[576]

[571] Staff Initial Brief, pp. 105-106.

[572] Tr. 2562.

[573] Tr. 2578.

[574] Tr. 2579.

[575] Tr. 2112-2113.

[576] Tr 2567.

Although Staff agreed in concept with the ETSC Program, Staff determined that the program was not needed in the Rate Year, given both that the Company has been safely and reliably managing its electric capital program without the ETSC Program and because of the high capital costs associated with implementation of the CLCPA Phase 1 Projects.[577] The Company disagreed with Staff's recommendation, stating that postponing implementation of the ETSC Program until its next rate proceeding could result in cost impacts to customers.[578]

As stated previously, the Company and Staff have entered into a Stipulation Regarding Electric Capital and Operations.[579] The electric capital budget includes $145.651 million for 2024 and $1421.53 million for 2025. The electric capital expenditures included in the Rate Year reflect Staff's testimonial position and the removal of expenditures in the Rate Year associated with the Company's proposed new storms category and ETSC Program.

With respect to the electric capital budget, MI points to concerns raised both by Staff with respect to the Company's initial presentation of information supporting its capital budgets and in the management audit in Case 21-M-0541,[580] as they relate to problems in how the Company tracks and reports data at the project level, and which are discussed later in this RD.[581] MI states that, as a result of these problems and the time it took Staff to gather information needed to support its review,

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577 Tr. 2568-2569.

578 Tr. 2111.

579 Exhibit 516.

580 Case 21-M-0541, Proceeding on Motion of the Commission to Conduct a Comprehensive Management and Audit of Central Hudson Gas & Electric Corporation.

581 MI Initial Brief, pp. 13-16.

Staff recommended only two "slight modifications" to the Company's proposed electric capital budget, both of which MI supports but insists are, on balance, "woefully inadequate."[582]

MI recommends that the Rate Year electric capital budget and overall five-year electric capital program be reduced by at least 15 percent, which, MI points out, is slightly less than the average amount of capital budget reductions that resulted from the negotiated multi-year rate plans in Central Hudson's two prior rate plans.[583] Without citing supporting authority, MI maintains that the Commission has authority to direct a blanket reduction to utility capital budgets.

We recognize the concerns raised by Staff, MI and the management audit conducted in Case 21-M-0541. However, Staff testified that it was able to review Central Hudson's proposed electric capital budget and apply "specific program or project adjustments to each category, to the extent it was deemed necessary" to reach its final recommendation for each category.[584] Although MI asserts that the Company can continue to provide safe and reliable electric service with a blanket reduction of 15 percent to Staff's recommended electric capital budget, the record does not contain evidence to support such a finding. Moreover, we do not find persuasive MI's argument based upon adjustments that were made to the Company's proposed capital budgets in the context of negotiated multi-year rate plans. Staff made adjustments to the Company's proposed electric capital budget in this litigated rate case, which were adopted in the Stipulation Regarding Electric Capital and Operations.

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582 MI Initial Brief, p. 16.

583 MI Initial Brief, p. 16.

584 Tr. 2561-2563.

The proposed electric capital budget in the Stipulation is supported by the record and falls within a range of outcomes that could have resulted from litigation. Moreover, we agree with Staff that the stipulated electric capital budget represents a reasonable and appropriate level of electric capital spending in light of the Company's historical expenditures and the proposed CLCPA Phase 1 projects. Accordingly, we recommend adoption of the electric capital budget as set forth in Exhibit 516.

We disagree with the Town of Olive's position that a rate increase would not be in the public interest until the Commission completes a forensic audit of the Company's billing practices. As stated, Staff was able to review Central Hudson's proposed electric capital budget and make recommendations for each category of the electric capital budget. Therefore, in our view, the fact that this record does not contain a forensic accounting of the Company's billing practices does not render the agreed-to electric capital budget against the public interest. Nor does the fact that a proceeding to address the Company's billing issues is ongoing in Case 22-M-0645[585] allow us to suspend resolution of these rate proceedings indefinitely. These proceedings are inarguably subject to a statutory 11-month suspension period by which the Commission must issue an order setting rates, absent the Company's agreement to further extend that period.[586]

2. <u>CATV Make-Ready Reconciliation Mechanism</u>

The Company proposed a deferral for incremental spending above that forecasted for its CATV/Broadband Make-ready

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[585] Case 22-M-0645, <u>Investigation of Central Hudson Gas & Electric Corporation's Customer Information and Billing System Implementation</u>.

[586] PSL §66(12)(f).

projects, which averages approximately $643,000 annually, over the Company's five-year construction plan from 2024 through 2028.[587] The Company testified that it experienced an unprecedented increase in applications for attachments to distribution poles in 2023, including a single entity that notified it of build-out plans that would require Central Hudson to survey 34,322 poles within a 1.5-year period. The Company maintained that the estimated capital costs and associated expense for that single project equaled the Company's annual average for all make-ready projects.[588] The Company testified that, "due to insufficient lead times associated with these nondiscretionary projects, inclusion in capital expense and forecasts is not possible and any incremental expenditures would require reprioritization which may impact planned distribution projects necessary for the provision of safe and reliable service."[589]

Staff recommended the denial of the Company's proposal to defer costs incurred above its forecasted CATV Make-ready project forecast.[590] Staff argues that the Company's Rate Year forecast for this program should have included known and expected increases in costs. Staff asserts that the Company should not have forecasted costs based on historical levels when it claims to have expected additional future costs and now be permitted to request what amounts to an uncapped deferral to remedy a situation it created.[591] Staff asserts that the Company

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[587] Tr. 2038.

[588] Id.

[589] Id.

[590] Tr. 2576.

[591] Staff Initial Brief, pp. 108-109.

can reprioritize Capital Plan funds if costs for the CATV Make-ready project exceed the projected Rate Year budget.

The Company responds that Staff's assertion that the Company can reprioritize its Capital Plan if additional expenditures are incurred above the CATV Make-ready project forecast is unrealistic. Central Hudson states that the single project discussed above would require a capital investment of $7.9 million, or approximately 15 percent of the overall forecasted expenditures within the Distribution Improvement Category for 2024, and would hinder the Company's ability to execute its Capital Plan without deferring these incremental costs.[592] The Company states that it considers CATV Make-ready projects non-discretionary and offsetting capital expenditures that exceed the CATV Make-ready project forecast requires the postponement of projects that support other key initiatives, such as CLCPA Phase 1 projects or projects designed to improve system reliability or operating issues.

We agree with Staff's position on this issue. Although the Company indicates it anticipates an uptick in CATV Make-Ready work, it provided no specific information about the work it anticipates it will have to perform in the Rate Year. For example, the Company refers to work related to a 2023 application, but it does not explain when that work will begin or what portion of the work is anticipated during the Rate Year. Nor does it establish that it has a reasonable basis to anticipate significant additional CATV Make-Ready work in the Rate Year. Without that information, which the Company should be able to provide with some level of specificity, we cannot determine whether it would be reasonable to allow the Company a reconciliation mechanism in this litigated rate case.

[592] Tr. 2115.

3. PSL §119-d Reconciliation Mechanism

Public Service Law §119-d requires that, on or before April 1, 2024, the Commission shall promulgate rules and regulations to require utilities to trim vines on utility poles where such vine growth is likely to disrupt safe and reliable service. Currently, the Company addresses vine trimming through pole inspections and dispatch calls from customer inquiries. The Company states that, should the new law and implementing regulations result in additional vine clearing activity, incremental funding will be required. The Company proposes that it be authorized to defer any such incremental funding for future recovery.[593]

Staff responds that absent regulations to implement PSL §119-d, it is unclear what additional vine clearing activity Central Hudson may be required to do and impossible to determine what incremental costs may be involved. Staff recommends that the Commission deny the Company's proposed deferral mechanism as premature at this time. Staff states that, once the Commission has promulgated regulations pursuant to PSL §119-d, Staff can and will monitor the impact of this provision on vine clearance activities. We find Staff's approach reasonable and agree that the requested deferral is both premature and unwarranted at this juncture and recommend the Commission deny the Company's requested deferral.

B. Gas Capital

The Company proposed gas capital expenditures of approximately $79 million for the Rate Year.[594] Staff recommended gas capital expenditures of $65.03 million.[595]

[593] Tr. 2145-2146.

[594] Exhibit 14 (ECOP-1); Tr. 2184.

[595] Tr. 2185.

Staff's proposed adjustments to the Company's gas capital expenditures are discussed below. MI supports Staff's proposed adjustments.[596]

CLP asserts that we should refrain from accepting any of the Company's proposals regarding gas capital expenditures because Governor Hochul's budget includes reference to ending the "100-foot rule" and legislation to repeal the "100-foot rule" is pending in the Legislature.[597] In our view, CLP's request is misplaced. The record in this case is closed and we cannot defer consideration of gas capital expenditures for the possible enactment of future legislation repealing the 100-foot rule. Moreover, such legislation would have impacts on all gas utilities in the State, which we believe would be more appropriate for Commission consideration in a generic proceeding.[598]

1. Gas Transmission Projects

The Company proposed several capital projects under its gas Transmission category, with projected capital expenditure levels of $4.24 million in 2024 and $6.65 million in 2025.[599] As described by Staff in testimony, the majority of the capital improvements in this category are related to (1) the continued replacement and installation of transmission line

[596] MI Initial Brief, p. 13.

[597] CLP Initial Brief, p. 8. PSL §31(4) requires utilities to provide gas service upon request and without cost to the applicant, as long as the building to which the service will be provided is not more than 100 feet from the utility's gas transmission lines.

[598] To further illustrate the inadvisability of relying on legislative proposals in lieu of enacted statutes, we understand that the 2024 New York State Budget that was passed just prior to our issuing this RD did not include the 100-foot rule repeal discussed in the text.

[599] Tr. 1202.

valves with those than can accommodate remote operators, (2) replacements for the aging Receival Mahopac-Poughkeepsie/Tuxedo-Poughkeepsie interconnect transmission station (Poughkeepsie Receival MP/TP), and (3) the partial replacement of gas transmission lines pursuant to what is referred to as the Pipeline Mega Rule, which was promulgated by the Pipeline and Hazardous Materials Safety Administration in an October 2019 Order and set forth in 49 CFR §192.624.[600]

Staff made no adjustment to the Company's proposed expenditure levels for the Pipeline Mega Rule project, stating that it is "imperative that the Company begin working on this project immediately."[601] However, finding Central Hudson's approach to forecasting the capital budget for the remaining gas transmission projects to be "unclear and inconsistent," Staff recommended using a three-year historical average of expenditures from calendar years 2020, 2021, and 2022, asserting that it covers the most recent actual spending while taking into account relevant historical data.[602] Staff then adjusted capital expenditures in the five-year gas capital budget by using inflation factors from the latest forecasts of the GDP–PI in the October 2023 issue of the Blue Chip Economic Indicators.[603] Staff recommended a capital budget for the gas transmission projects of $1.92 million in 2024 and $3.78 million in 2025.[604] Staff did not remove or adjust expenditures for different projects but adjusted the overall budget, leaving it to Central Hudson to determine how to use that budget on specific projects.

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600 Tr. 2186-2187.

601 Tr. 2189.

602 Tr. 2190.

603 Tr. 2190-2191.

604 Tr. 2191.

The Company disputes the reasonableness of Staff's adjustments on various grounds. Noting that Staff testified that the "the Poughkeepsie Receival MP/TP Interconnect [is] an important project for the Company to maintain reliable gas service,"[605] the Company asserted that Staff's recommended expenditure level of $435,000 for that project represents a 71 percent reduction from the Company's proposed $1.5 million cost. The Company maintains that Staff's proposed funding level would not allow the Company to complete the Pipeline Mega Rule and Poughkeepsie Receival MP/TP Interconnect projects, let alone the remaining transmission projects, which included other compliance-driven projects.[606]

The Company additionally argues that use of a three-year historical average is inappropriate and inadequate to determine future capital expenditures for the replacement and modernization of critical infrastructure. The Company asserts that Staff's proposed 2024 budget would require it to remove or delay various transmission projects needed for reliability and safety or mandated by law.[607]

The Company maintains the cost estimates it provided on a project-by-project basis are more accurate than Staff's projection derived on a three-year historical average. The Company states that, in many cases, it "appropriately based its cost estimates on historical spending associated with similar projects," adjusted to reflect several forward-looking factors.[608] The Company asserts, in several instances, it "necessarily relied on conceptual cost estimates because the

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[605] Tr. 3658-3659.

[606] Tr. 1241-1242.

[607] Tr. 1243-1244.

[608] Tr. 1246.

projects had yet to advance to the engineering, permitting and construction stages where more detailed cost estimates are developed."[609] In addition, the Company argues that Staff's methodology does not take into account the significant inflation that has occurred since 2020, nor the increases in prices for construction material caused by supply chain issues, shortages and other price escalation issues.[610] The Company testified that historical spending alone is not always a reliable predictor of future costs.[611]

Staff responds that the historical data for the five-year period from 2018 through 2022, shows that the Company underspent four out five years in the transmission category. Staff further states that the Company did not provide detailed cost breakdowns for costs associated with each project or program. Staff states there was no clear justification in the Company's Five-Year Capital Plan for Cathodic Test stations, Transmission ROW Capital Improvements and Prior Year projects, and that only one justification for all AH Line Valve Replacement projects, despite there being five separate projects of this type in the Transmission category. Staff also states the Company indicated in discovery that a detailed cost breakdown for the remaining future projects was not yet developed.[612] Staff argues that using an average of historical spending, adjusted for inflation, provides a reasonable indication of the Rate Year spending, considering the Company's historical underspending and the lack of details for proposed capital projects.

609 Tr. 1246.

610 Central Hudson Initial Brief, pp. 112-113.

611 Tr. 1240.

612 Staff Initial Brief, p. 111.

We recognize Staff's concerns about the consistency of Central Hudson's approach to determining the forecasted gas transmission budget, as expressed on pages 2189-2190 of the Transcript. Nevertheless, as noted above, Staff does not take issue with the Company's proposed spending for the Pipeline Mega Rule transmission projects, for which the Company proposed expenses of $1 million in 2024 and $3.1 million in 2025. Thus, out of the $1.92 million provided for gas transmission work under Staff's recommendation for 2024, approximately $1 million would remain for the Company to complete all other transmission work in that year, and only approximately $68,000 would remain for all remaining work in 2025. We find this troubling, given the continuing and new transmission work that will occur over the Rate Year. Indeed, while Staff recognizes the importance of the Poughkeepsie Receival MP/TP work for reliability of the gas transmission system, it does not explain how such work – let alone other gas transmission work – can be conducted under its proposal.

Staff did not demonstrate that the Company's project-by-project estimates are unreasonable. Accordingly, we find it more appropriate under the circumstances to adopt the Company's proposal to ensure appropriate funding for work that is mandated by law or needed for reliability of the gas transmission system.

2. Regulator Station Projects

The Company proposed several capital projects under its gas Regulator Station category and proposed capital expenditure levels of $3.3 million in 2024 and $3.6 million in 2025. This category of funding includes replacement of out-of-date regulator stations, pressure monitor upgrades, the addition of conditioning equipment to provide enhanced safety and reliability, and the installation of coating systems to extend the life of existing stations.[613]

In response to discovery, the Company stated that "the general project titles of Pressure Control Improvements and Pressure Recording Chart Replacements cost estimates are based on the historical five-year average of expenditures for these projects."[614] It also stated that Regulator Supervisory Control and Data Acquisition (SCADA) Implementation costs are based on an estimate of $50,000 per installation, with three installations planned in 2024 and two installations in subsequent years; that Regulator Station Coating Program Cost estimate information was provided in response to another discovery request; and that detailed cost breakdowns for the remaining future projects were not yet developed. The Company indicated that all other cost estimates were based on historical averages for similar types of projects, plus an addition amount for inflation. As explained by Staff in testimony, the "pro-forma pricing of the transmission regulator stations applies 20 percent to align estimates with the cost of a full rebuild with all necessary equipment," and the "small distribution regulator station costs added 30 percent due the age of the sample projects."[615]

Staff testified that the regulator station rebuild projects were important for gas reliability, based on the station's advanced age and states of disrepair. Staff stated that the regulator station coating program carries a minimal cost and will help maintain the viability of those stations that

[613] Tr. 2191.

[614] Exhibit 329 (SGIOP-1), p. 144-147.

[615] Tr. 2192-2193.

are not included in the Company's near-term plans for a rebuild.[616]

Using a three-year historical average spend for calendar years 2020 through 2022, adjusted for inflation going forward, Staff recommended capital expenditure budgets for the Regulator Station category of $2.13 million for 2024 (a 35 percent reduction from the requested amount) and $2.17 million for 2025 (a 40 percent reduction from the requested amount).[617] Staff testified that, based on spending for similar projects in this category, the Company spent below its budget for three out of five calendar years – 2018, 2020 and 2021.[618] Staff maintained that the most recent three-year average provides a better estimate by closely following the trend of recent capital expenditures while also including historical data.[619]

The Company takes issue with Staff's use of a three-year historical average adjusted for inflation, stating that Staff has not shown that the Company's methodology produced inaccurate results, and that Staff's proposed reductions will needlessly jeopardize the reliability of the Company's gas system. Staff responds that it is not proposing any budget reductions to specific projects and leaves it up to the Company to prioritize projects within Staff's proposed budget. Staff also states that, while Staff testified to the safety and reliability goals supporting certain capital projects, the proposed level of capital expenditures is a separate issue and should be decided in accordance with Staff's recommendations.

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616 Tr. 3661

617 Tr. 2194.

618 Tr. 2193.

619 Id.

In contrast to our recommendation as to the gas transmission projects, which was predicated on the fact that Staff agreed with the Company's proposal with respect to the Pipeline Mega Rule work, Staff has not agreed to any specific funding levels for any specific regulator station work. Although we generally accept Staff's methodology, we agree with the Company that Staff should not have applied inflation on a going-forward basis only. We therefore recommend that that the budget be calculated with inflation applied as well to historical expenditures for 2020 through 2022.[620] With that modification, we agree with Staff that the use of a three-year historical average, adjusted for inflation, is reasonable. The Company can prioritize projects during the Rate Year and request funds for future work in its next rate case.

3. New Business Projects

For the New Business Category, the Company proposed capital budgets of $9.96 million in calendar year 2024 and $10.4 million in calendar year 2025.[621] Staff agrees with the level of capital expenditures proposed by the Company.[622] We therefore recommend that the Commission approve such capital expenditure levels for this category.

4. Distribution Improvements

The Distribution Improvements category of capital projects includes the Company's LPP Elimination Program, the Large Diameter Gas Welded Pipe Replacement Program, the Leak Prone Services Program, the Creek Crossing Risk Remediation Project, and the Transmission Service Elimination Program.[623]

620 See Tr. 1254-1255.

621 Tr. 1202.

622 Tr. 2194-2195.

623 Tr. 1215, 1222-1223.

The Company proposes capital budgets for the Distribution Improvements category of approximately $51.6 million in 2024 and $56.4 million in 2025.[624] Staff recommends a capital budget of $46.3 million for 2024 and $48.7 million for 2025.

Again, the Company and Staff rely on different forecasting methodologies to support their respective positions. The Company used a pro forma pricing methodology for all work under the Distribution Improvements category. Specifically, the Company analyzes a two-year history of unit price estimates based on recently completed projects and applies several factors to reflect unit price increases due to inflation and other causes. For example, with respect to the LPP program budget, the Company took the unit price per-main-foot that was used for pro forma pricing of LPP projects and increased that amount by 14 percent to account for the difference between actual historical costs and estimated budgets for LPP projects from calendar years 2020 and 2021, plus another four percent to account for past underestimations and continuing inflationary costs, bringing the total pro forma increase to 18 percent.[625] Using that methodology, the Company requested $26.4 million in 2024 and $24.8 million in 2025 for elimination of 15 miles of LPP per year.

Staff recommended a budget for the LPP program of $23.7 million in 2024 and $21.5 million in 2025. Staff calculated the three-year average of the difference between historical costs and estimated LPP project budgets for 2020 to 2022, which Staff calculated as "four percent, not 14 percent as used by Central Hudson."[626] Staff then used an inflation rate of

624 Tr. 1202.

625 Tr. 2198.

626 Tr. 2199.

3.65 percent, increased the pro forma unit cost per foot using a similar method as the Company, and calculated its estimated budget using its pro forma unit cost per foot.[627] In short, Staff took the difference between the actual historical costs and estimated budgets and applied inflation for 2024 and 2025. Staff used a similar methodology for several other projects, such as the Large Diameter Gas Welded Pipe Replacement Project, the Compression Coupling Elimination Program, and the Transmission Service Elimination Program.[628]

For the Leak Prone Services Program, Staff used a three-year annual average to calculate the cost per replaced service,[629] and made similar adjustments to the Compression Coupling Elimination Program and Transmission Service Elimination Programs.[630] Staff used a three-year historical average, adjusted for inflation, consistent with its methodology for adjustments in other categories.[631]

Central Hudson argues that Staff's methodologies resulted in inaccurate calculations. First, the Company maintains that the pro forma pricing used for LPP Replacement Projects was not based on accurate information. The Company testified that Staff relied on revised work order estimates that included project specific adjustments, rather than initial work

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627 Tr. 2199-2200.

628 Tr. 2204-2208.

629 Tr. 2201-2202.

630 Tr. 2207-2208.

631 With respect to the Creek Crossing Risk Remediation project, Staff calculated a similar cost per project as the Company and primarily adjusted the budget by lowering the amount of projects planned to be completed each year because the related emergency events to be prevented were historically rare. Tr. 2210-2211. Staff therefore recommended a budget for this category of $500,000 for 2025. The Company did not object to this recommendation.

order estimates. According to the Company, "initial work order revisions (estimates) . . . should be used to calculate pro forma pricing in order to accurately reflect year-over-year adjustments."[632] Using the initial estimates, the Company calculated the increase to be 10.4 percent, rather than 4.2 percent.[633] In addition, the Company argues that Staff's pro forma methodology does not account for unit cost increases it has been experiencing and that Staff should have used a pro forma methodology for all categories.

We agree that Staff's methodology does not account for updated cost increases. However, we do not recommend adoption of the Company's methodology either. In our view, the best way to account for increased unit costs and to produce the most accurate budgets, would be to use the latest actual costs provided by the Company, adjusted for inflation.

5. Meters

For the Meters category, the Company proposed a capital budget of approximately $2.9 million in 2024 and $3.0 million in 2025. The Company testified that its budget was derived from trending meter installs and allows for inflation and increasing material costs, noting that residential meter costs have increased on average by 56 percent from 2020 to 2023.[634]

Staff recommended a budget for this category of $2.41 million in both 2024 and 2025. Stating that the Company provided conflicting information in discovery for the forecasted number of meters to be replaced annually, Staff calculated its recommended budget based on the historical three-year average

[632] Tr. 1251.

[633] Tr. 1251.

[634] Tr. 1227.

from calendar years 2020 to 2022, adjusted by inflation going forward.[635] In rebuttal testimony, the Company acknowledged the discrepancy in its discovery responses and provided additional information showing its forecasted meter budget using the appropriate forecast for both meters and ancillary equipment.[636] The Company stated that such information responded to Staff's concerns and that the Company's proposed budget should be adopted.

Although Staff maintains its three-year historical average takes into consideration the growth in material costs through 2022, Staff did not make adjustments for new installations anticipated by the Company in the Rate Year. Under the circumstances, we recommend that the Company's proposed budget, which is based on forecasted meter installations during the Rate Year, should be adopted.

C. Common Capital

1. Land and Buildings

Central Hudson proposed various projects in the Land and Buildings category, including Daily Operations, Architectural/Engineering Design Program, Paving, Solar Training Academy-Annex, Training Academy-Academy, Transportation Building, Butler Building Rebuild, and Ellenville Office Renovation. The dispute between the Company and Staff on proposed capital budgets for such projects is discussed immediately below.

a) Daily Operations

The Company testified that its Daily Operations programs address emergent needs and unplanned projects, as well

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635 Tr. 2214.

636 Tr. 1253-1254; Exhibit 219 (GCOP-5 Public Version) and Exhibit 220 (GCOP-5 Confidential Version).

as allowing it to address operational problems that arise without significant impact to the Company's identified projects.[637] The Daily Operations capital budget is separated into four groups – Electric, Flooring, HVAC, and Unidentified. The Company proposed total capital expenditures for Daily Operations of $1.18 million in 2024 and $857,000 in 2025.[638]

Staff recommended no funding for Daily Operations projects because the Company did not provide sufficient historical information to substantiate or support the proposed costs as reasonable or appropriate.[639] The Company responded that it started tracking Daily Operations Projects as a whole in 2023, not by subcategory, and had provided Staff with nine months of historic data for 2023 in discovery.[640] The Company maintains that it started tracking actual Daily Operations project expenditures at a more granular level beginning in 2024.

The Company argues that the Daily Operations programs are for emergent needs and unidentified projects and that it cannot provide additional specific descriptions of the work to be performed and the associate costs because the need for such work has not yet arisen.[641] The Company maintains that, given the emergent nature of the programs, Staff's elimination of all funding because the Company has not described the specific projects and associated costs is unreasonable. The Company argues that Staff's proposed reductions may force the Company to shift capital funding from other important capital projects to address emergent needs.

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[637] Tr. 124-125.

[638] Exhibit 311 (SCP-2).

[639] Tr. 3827-3828.

[640] Tr. 125.

[641] Central Hudson Initial Brief, p. 122.

For the first time in its brief, Staff states that it agrees that the Company should receive some funding for this budget item given the 2023 historical data, and because the Company incurs such costs annually and has begun an effort to better track those costs.[642] After reviewing the workpapers cited by the Company, Staff calculated a total nine-month cost for all Daily Operations in 2023 to be $437,968, which equates to an average monthly cost of $48,663. Multiplying that average by 12 and applying inflation, Staff recommends that the Commission approve a total Daily Operations budget of $597,686 for 2024 and $610,835 for 2025.

Although the Company did not have an opportunity to cross-examine Staff on this issue, Staff's recommendation is based on relevant historic information in the record. While the Company explains that the emergent nature of Daily Operations projects does not allow it to provide specific projects and costs expected in the Rate Year, we find Staff's reliance on the available historic information to forecast expected Rate Year costs to be reasonable. Accordingly, we recommend that the Commission adopt with Staff's updated position.

b) Architectural/Engineering Design Program

The Company forecasted capital funding to facilitate architectural and engineering design work for projects in the land category in the amount of $349,000 for 2024 and $268,000 for 2025.[643] Central Hudson testified that the budget for architectural and engineering design work is needed to allow project development and design work to begin in sufficient time before the actual planned execution of a project without

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[642] Staff Initial Brief, p. 118.

[643] Exhibit 311 (SCP-2).

impacting other planned work.[644] In discovery, the Company stated that the "scope is dependent on each individual project . . . but examples are fees for evaluation needs, generating drawings, obtaining municipal approvals."[645]

Staff recommends no funding for this budget item during 2024 and 2025 because the Company did not identify specific projects and work scopes needed in the Rate Year and did not provide historic information supporting its forecasts.[646] Staff asserts that it cannot verify that the Company's forecast of costs is reasonable or appropriate based on the work needed to be completed.

The Company states that the timeline to develop construction plans ready for a Request for Proposal typically is several months, that development of architectural and engineering design work often must be started in the fiscal year prior to the planned construction date, and that any delay in that process will jeopardize the ability to complete the construction project as planned.[647] Central Hudson testified that it has not performed discrete tracking of architectural and engineering design work costs historically because they eventually roll into the overall project cost when the project is completed. The Company further argues that funding for architectural and engineering design work "is not for specifically identified projects or scope" and that it therefore based its forecasts on amounts approved in the 2021 Rate Plan, adjusted for inflation, and that the 2024 forecast was higher "due to the expectation of additional expenditures for asset

644 Tr. 127.

645 Exhibit 311 (SCP-1), p. 103.

646 Tr. 3830, 3862.

647 Tr. 127-128.

assessments and replacement prioritization."[648] The Company maintains that Staff's proposed elimination of such funding would jeopardize the Company's ability to execute capital projects that require lengthy or complex design work and that the Company's proposed capital budgets should be adopted.

We recommend that the Commission adopt Staff's position. In our view, the Company should have had a method in place to identify the historical costs associated with architectural and engineering design work for completed projects. Moreover, in this litigated rate case, the Company should have been able to provide cost information about significant upcoming projects that will entail architectural and engineering design work. Under the circumstances, we do not find the Company's use of forecasted amounts from a prior rate plan to be a reasonable method to forecast work that is anticipated in the Rate Year. Moreover, it is not clear to us how such emergent needs are not covered by the Company's flexibility to reprioritize overall capital funding as necessary in response to changing circumstances with ongoing projects, particularly when compared to the small amount of funding requested relative to Central Hudson's capital budget.

c) Paving

Central Hudson's Paving budget allocates money "for emergent paving needs that arise during the year and to expand the scope of identified paving projects where conditions warrant."[649] The Paving budget "includes necessary paving projects at Central Hudson's facilities to maintain safe and functional parking lots and roadways."[650] The Company forecasted

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[648] Exhibit 309 (SCP-1), p. 103.

[649] Exhibit 309 (SCP-1), p. 104.

[650] Tr. 3831.

paving expenditures of $697,569 in 2024 and $535,696 in 2025, explaining that the amounts include the historical paving rate plus additional expenditures during 2021 through 2023 that were deferred due to reprioritization.[651] Staff recommended paving expenditures of $335,305 in 2024 and $342,676 in 2025.[652]

Both the Company's and Staff's briefs make their respective arguments on the misimpression that Staff's forecasted budgets were based on a three-year historical average. But that is not the case. Staff testified that it used the available historical spending level of $327,600 - which was the level of spending in 2020 – and applied inflation to that figure to arrive at its forecasted budget levels.[653] Staff did not use a three-year average, which would have included spending levels of $0 in 2021 and 2022 when the Company deferred paving work and reprioritized paving funds to other capital projects. Therefore, the Company's and Staff's arguments against and in support of using a three-year historical average adjusted for inflation are inapposite.

Nevertheless, we are concerned that Staff's use of one year of expenditures from 2020 does not include a sufficient sample of historical spending for an accurate forecast of costs anticipated in the Rate Year, especially in light of the Company's testimony that, because it reprioritized paving funds and deferred paving work starting in 2021, it now needs to address significant paving needs, including visible cracks,

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651 Exhibit 309 (SCP-1), p. 104.

652 Tr. 3831-3832; Exhibit 309 (SCP-1), p. 104.

653 Tr. 3831, 3865; Exhibit 309 (SCP-1), p. 104. Although Staff also indicated at one point on cross-examination that it used a three-year average (Tr. 3865), we find that to be an error based on the remaining testimony and the number actually used by Staff.

patches and potholes that continue to degrade.[654] The Company maintains that further delay could result in slips, trips and falls and subsequent injuries to employees or visitors.[655] Under these circumstances, we recommend that the Commission adopt the Company's proposed paving budgets.

d) EV Charging Infrastructure

The Company proposed capital funding for electric vehicle (EV) charging stations in the amount of $349,000 for 2024 and $268,000 for 2025.

The Staff Common Panel listed the Company's EV Charging Station project among those to which it made adjustments. However, the Panel provided no further testimony on the Company's proposed EV Charging Station budget and provided an exhibit showing that it made no such adjustments.[656] In addition, the Staff Policy Panel testified that, "[a]s explained in the Staff Common Capital Panel's testimony, Staff supports the EV charging station capital project."[657] Moreover, although Staff echoes the Common Capital Plan's listing of adjustments in its initial brief,[658] Staff did not discuss any adjustments to the proposed EV charging infrastructure budgets and did not reply to the statement in the Company's brief that "[w]hile the [Staff Common Panel] listed the Company's proposal as an area of adjustment, Staff supports the level of EV charging station capital expenditures proposed by the Company."[659] In light of the foregoing, we interpret Staff's position as making no adjustment to the Company's proposed

654 Tr. 127.

655 Tr. 127.

656 Tr. 3826; Exhibit 311 (SCP-2), Schedule 3, p. 1.

657 Tr. 3980.

658 Staff Initial Brief, p. 118.

659 Central Hudson Initial Brief, p. 123.

capital budget for EV Charging Stations and recommend that the Commission approve the Company's proposed budget for those stations.

e) Training Academy and Other Facilities

Central Hudson included various facility projects in its proposed capital budget forecasts, including the Training Academy-Annex, Transportation Building–EC, Butler Building Rebuild, and Ellenville Office Renovation projects. The Company proposed funding of $579,000 in 2024 and $9.088 million in 2025 for the Training Academy–Annex project; $505,000 in 2025 for the Transportation Building–EC project; $505,000 in 2025 for the Butler Building Rebuild project; and $76,000 in 2025 for the Ellenville Office Renovation project.[660] Staff recommended downward adjustments of $97,000 in 2024 and $1.53 million in 2025 for the Training Academy-Annex project; $225,000 in 2025 for the Transportation Building-EC project; $197,000 in 2025 for the Butler Building Rebuild project; and $20,590 in 2025 for the Ellenville Renovation Project.[661]

Staff applied the same method for evaluating costs for all of the projects mentioned above. Both Staff and the Company used "raw costs" in calculating their forecasts. Staff based its calculation of "raw costs" on the average of the range of costs provided in construction cost estimates and applied costs associated with overheads, such as insurance, accounting and administration, lost time, and allowance for funds used during construction (AFUDC).[662] Central Hudson's "raw costs" included

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660 Exhibit 309 (SCP-1), p. 2.

661 Tr. 3835, 3838, 3840 and 3843.

662 AFUDC "is the component representing the cost of borrowed funds (interest) used during the construction period" and "applies to all construction projects with a duration in excess of one month and costs of $50,000 or more." Exhibit 317 (SEIOP-1), p. 41.

estimated construction costs provided by the contractor as well as additional costs, which the Company testified were costs for internal Company labor for project management and other owner-provided services such as design, construction administration, testing/inspection, commissioning, and security.[663] The Company stated that it is not possible to complete the proposed construction projects without including the additional owner-provided services and that Staff erred in not including those costs in its "raw costs" calculation.[664]

Our review of the record shows that Staff included the overhead costs that were identified in the Company's exhibits.[665] Accordingly, we recommend that the Commission adopt Staff's recommendations on costs for these projects, as modified to reflect our recommendations immediately below.

With respect to the Training Academy-Annex, the Company and Staff both applied an eight percent contingency factor. The Company applied the contingency factor (to cover the possibility of undefined work and project risks) to the entire cost estimate, which included overhead costs and AFUDC estimates. The Company testified that the application of a contingency factor to the entire cost estimate to determine the project budget is consistent with the Company's Project Management Manual: Procedures and Best Practices (Project Management Manual), which was provided to Staff in discovery.[666]

Staff applied the contingency factor only to overhead costs and AFUDC, without explaining in testimony why it limited

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663 Tr. 129.

664 Tr. 129.

665 Tr. 3837-3838; Exhibit 1 (CCOP-1), p. 3; Exhibit 5 (CCOP-2), p. 3.

666 Tr. 130; Exhibit 317 (SEIOP-1), p. 110.

application of the contingency factor in that way.[667] Staff now explains in its brief that the contractor's cost estimates already contain a contingency factor and that application of two contingency factors would be inappropriate.[668]

According to Central Hudson's Project Management Manual, a "cost estimate is defined as the estimated cost of all known project work, exclusive of a contingency."[669] Under these circumstances, the Company should not apply its eight percent contingency factor on top of the contractor's three percent contingency factor. Nor should the contractor's three percent contingency factor be treated as a proxy for the Company's eight percent contingency factor. Instead, we believe a more accurate measure of costs would be achieved by removing the contractor's three percent contingency factor and applying the Company's eight percent contingency factor to the contractor's remaining estimated costs to avoid double counting.

Finally, for the Transportation Building-EC, Butler Building Rebuild, and Ellenville Office Renovation projects, Central Hudson applied a 20 percent contingency factor. The Company testified that this aligned with its Project Management Guidelines, "which provide for an 8% contingency factor for projects at the definitive estimate phase and a 20% contingency factor for projects at the conceptual estimate phase."[670] The Company stated that the amount of uncertainty in a project's scope, and therefore the cost, varies greatly as a project progresses through its lifecycle and that the projects to which it applied an eight percent contingency factor were much further

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667 Tr. 3835.

668 Staff Initial Brief, p. 123.

669 Exhibit 317 (SEIOP-1), p. 148 (emphasis in original).

670 Tr. 131; Exhibit 317 (SEIOP-1), p. 147.

along in the design phase than the projects to which it applied a 20 percent contingency factor.[671]

Staff applied an eight percent contingency factor to keep all project contingencies within the 2024 to 2025 timeframe consistent.[672] Staff asserts in its brief that, when the Company is presenting Staff with projects in the design phase, it should "already have a fairly accurate idea of the costs associated with those projects," and that this "is particularly true with respect to" these three projects, all of which have capital expenditures forecasted for 2025.[673] Staff additionally argues that it is unclear when a project would transition from a "conceptual" estimate phase to a "definitive" estimate phase and whether the contingency factor is reduced at that time. Staff asserts that its use of an eight percent contingency factor to projects to be implemented in the near future is an appropriate approach for setting rates for the Rate Year.

The Company's Project Management Manual defines the elements that are required as cost estimates move from the conceptual stage through a bid estimate. The Manual states that the desired outcome and general scope of work is required at the conceptual stage, that the accuracy of using historical data for cost estimates at that time is plus-or-minus 30 percent, and that the use of a 20 percent contingency is suggested.[674] The cost estimates may be considered to be at a preliminary stage, where a 15 percent contingency is suggested, if the following additional factors exist: real estate general scope, permitting general scope, major equipment list, pertinent preliminary

[671] Tr. 130.

[672] Tr. 3838; see also Tr. 3842-3843.

[673] Staff Initial Brief, p. 123.

[674] Exhibit 317 (SEIOP-1), p. 147.

design diagrams, and pertinent estimates. Cost estimates are considered to be at the definitive stage when there are also detail drawings, detail specification, real estate detail scope, and permitting detail scope, at which point an eight percent contingency is suggested.

The record therefore supports the use of different contingency percentages based on the available information that impacts the accuracy of the cost estimates. However, we understand Staff's concern in having ratepayers fund projects at a higher contingency factor when that contingency factor will become lower as more information is developed. Given the amount of time that has passed from when testimony on this issue was submitted, we agree with Staff that these projects should be subject to an eight percent contingency factor.

2. Office Equipment

As relevant here, Central Hudson's Office Equipment projects involve the purchase of office chairs and workstations at Company facilities. The Company forecasted capital expenditures for these projects in the amount of $560,000 in 2024 and $689,000 in 2025.[675] The Company testified that its per -workstation-value of $5,938 takes into account all equipment needed to furnish a new space, inclusive of individual workstations, common areas, appliances, and local storage.[676] The Company proposed a cost for office chairs of $547 per chair, stating that "the chairs selected have a long-expected life, are supported by a local vendor and include recommended ergonomic features."[677]

[675] Tr. 133; Exhibit 309 (SCP-1), p. 4.

[676] Tr. 133.

[677] Tr. 133.

Staff agreed with the Company's forecasting methodology but disagreed with the cost-per-workstation and cost-per-chair the Company proposed.[678] Staff used a per-workstation value of $2,250 and a per-chair value of $290.[679] Staff testified that the Company did not provide documentation supporting the per-workstation and per-chair values used in its projection. To calculate the average standard cost per workstation and cost per chair, Staff relied on a website identified in its testimony. Staff then made adjustments for inflation and, with respect to chairs, an additional adjustment for replacement value.

The Company argues that Staff's per-station value should not be used because it does not account for items such as furniture for common areas, appliances, and storage. The Company further argues that Staff's per-chair value is not based on any specific chair but is an "industry average" estimate. The Company asserts that the use of Staff's per-chair cost "will likely result in more frequent replacement needs, a reduction in quality, and the loss of ergonomic features."[680]

With respect to the cost for office chairs, Staff now acknowledges that the Company provided invoices to support its calculation. However, Staff points out that the $547 average cost for Central Hudson's preferred choice of office chairs is well outside the industry average cost of $290 per chair. Staff questions whether the need for the features touted by the Company justifies making ratepayers fund office chairs that cost nearly double the industry standard for such equipment.[681]

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678 Tr. 3845-3854.

679 Tr. 3845, 3847, 3850.

680 Central Hudson Initial Brief, p. 129.

681 Staff's Initial Brief, p. 125.

We recommend that the Commission use Staff's proposed cost-per-chair. Staff used an average cost-per-chair based on the average industry cost for "standard" office chairs. By contrast, Central Hudson chose one chair, did not compare that chair to others with respect the useful life and costs, and did not establish that the cost of the chair it prefers falls within an industry standard. For those reasons, we side with Staff on this issue and recommend the Commission adopt Staff's recommended value of $290 cost-per-chair. Moreover, the Company can still purchase its chairs with the allowed budget, just not as many during the Rate Year.

Turning to the dispute with respect to the different cost-per-workstation proposed by the Company and Staff, the dispute boils down to whether the Company provided sufficient information to support its proposal. In response to Staff's discovery request to the Company for all cost estimates, methodologies, assumptions, and other supporting workpapers justifying the Company's calculations, Central Hudson responded that a "per workstation average cost was generated by using actual data from the recent Building 808 project which is $5,938, . . . adjusted for AFUDC, inflation and overheads," and did not otherwise provide documentation supporting that statement or explain what other costs were captured in its calculation.[682]

Central Hudson argues in its reply brief that it provided an updated response to Staff's discovery request on October 5, 2023, including an attachment demonstrating how the Company arrived at its conclusion. However, the Company fails to demonstrate whether that updated response is included in the

[682] Exhibit 309 (SCP-1), p. 76.

record, and our independent review of the record did not locate it.

Central Hudson also argues that its confidential response to DPS-710 included an attachment that demonstrated the vendor costs associated with the Building 808 project that served as the basis for the Company's per workstation value.[683] However, the relevant response to DPS-710 states that the calculation for the per workstation cost from Building 808 is included in the attachment submitted with the response to DPS-511.[684] That appears to be a reference to a document attached to the updated response to DPS-511, which, as stated earlier, is not in the record. As a result, we recommend that the Commission adopt Staff's cost-per-workstation.

3. Transportation

The Transportation budget category includes the replacement of outdated light- and heavy-duty vehicles, as well as the addition of new vehicles to the fleet, including 25 light-duty electric vehicles, three attenuator trucks needed to meet new Department of Transportation requirements, and five meter-reading vehicles.[685] The Company forecasted capital expenditures for the transportation budget, adjusted for inflation, of $13.824 million in 2024 and $14.115 million in 2025.[686] Staff recommended a downward adjustment of $4.589 million in 2024 and $4.676 million in 2025.[687]

Central Hudson testified that it performed an analysis to determine which vehicles or pieces of equipment would warrant

683 Central Hudson Reply Brief, p. 54.

684 Exhibit 168 (CCOP-2R)(Public Version); Exhibit 169 (CCOP-2R)(Confidential Version).

685 Tr. 3856; Exhibit 9 (CCOP-6).

686 Exhibit 9 (CCOP-6).

687 Tr. 3857.

replacement based on the Company's established replacement criteria.[688] The Company stated that it was significantly behind on its scheduled replacement cycles due to extended delivery times associated with supply chain constraints. The Company asserted that, as a result of the COVID-19 pandemic, lead times for vehicles built to the Company's specifications have changed from approximately one year to three to five years.[689] To address continuing supply chain constraints, the Company proposed a levelized budget approach with a consistent spend over the Five-Year Common Capital Plan, which would allow the Company to meet its replacement schedule by the end of that five-year period.[690]

Using information provided by the Company, Staff calculated average costs-per-type-of-vehicle for each category of light- and heavy-duty vehicles and multiplied those costs by the three-year average actual number of vehicles purchased by the Company during 2020 through 2022.[691] Staff testified that it used that method because the Company did not spend the total amount budgeted during 2020 through 2022 and "the Company's vehicle replacement request was elevated beyond what the historic figures show was actually replaced" during that time.[692] In addition, Staff "added costs for 25 light-duty electric vehicles a year to the fleet as proposed by the Company and . . . [the] cost associated with three incremental attenuator trucks."[693] Staff then adjusted its projected total fleet cost for inflation.

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688 Tr. 110.

689 Tr. 110.

690 Tr. 110.

691 Tr. 3856.

692 Tr. 3857.

693 Tr. 3856.

However, on cross-examination, Staff agreed that the COVID-19 pandemic resulted in supply constraints on the availability of new vehicles during 2020 through 2022.[694] When questioned whether it evaluated and considered the COVID-19 related supply constraints on the number of vehicles the Company purchased from 2020 through 2022, Staff responded that it did not, but that it had determined that the Company also underspent its transportation budgets in 2018, 2019 and 2020 before the COVID-19 supply constraints existed.[695]

Based upon the above, we agree with the Company's position. Staff used historical spends from 2020 through 2022 to calculate its forecasts and conceded that it did not consider COVID-19 supply constraints that existed during that time. Although Staff asserted that it found support for its position on the Company's underspending its vehicle budgets in years before the COVID-19 supply constraints, Staff's forecasts are based on the years 2020 through 2022, not on prior years before COVID-19 supply constraints. Moreover, Staff does not challenge the specifics of the Company's forecasts, but rather bases its recommendations on a different forecast methodology that we do not find persuasive under the circumstances. Accordingly, we recommend that the Commission adopt the Company's proposed transportation budget for the Rate Year.

4. Tools

For the Tools budget category, the Company forecasted capital expenditures of $1.605 million in 2024 and $1.639 million in 2025. Staff recommended a downward adjustment of $1.114 million in 2024 and $1.474 in 2025.[696] Staff based its

[694] Tr. 3866.

[695] Tr. 3866.

[696] Tr. 3885.

recommendations on a review of the Company's historical actual spending from 2020 to 2022, taking the three-year average, and applying inflation to that average.[697] The Company generally agreed with Staff's use of a three-year average, but disagrees with the manner in which Staff applied inflation in its forecasts. The Company testified that, before "calculating the average, all historical periods being averaged should be adjusted for inflation to reflect current day equivalent dollars" so that the average reflects historic inflation. We agree and recommend the Commission adopt Staff's forecasts as revised accordingly.

D. Technology Capital

1. Energy Management System

Central Hudson forecasted capital budgets for Energy Management System (EMS) projects of approximately $5.88 million in 2024 and $3.53 million in 2025.[698] The Company based its forecasts on a project-by-project basis. The Company applied an eight percent inflation rate to forecast the vendor portion of project cost estimates.[699] To arrive at the eight percent inflation rate, the Company analyzed the costs to renew contracts with its existing technology vendors from 2021 to 2023, calculated the percentage difference in costs from year to year, and averaged the differences.[700]

Staff recommended that the Company's proposed budgets be reduced by 12.87 percent in 2024 and 2025, resulting in a forecasted budget of $5.13 million for 2024 and $3.07 million in

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697 Tr. 3885.

698 Tr. 1301.

699 Tr. 1358.

700 Tr. 1358 (citing Exhibit 250 (TCOP-2R)(Confidential)).

2025.[701] To determine its forecasts, Staff reviewed the Company's historic level of spending from 2018 through 2022 and compared it to the Company's forecasted project-by-project budgets over the same period.[702] Finding that the Company's actual EMS costs and budgeted costs during that time period varied significantly from year to year, Staff applied an inflation-based growth rate to the Company's Information Technology (IT) budgets from 2020 to 2022 to determine the forecasted funding for the EMS category.[703] Staff applied the growth rate to the entire IT budget to standardize the cuts across IT subcategories. Staff stated that its use of a growth rate reflects the actual costs incurred by the Company over the last few years, which when used, should provide a better forecast for future actual spending.[704] To determine the growth rate, Staff calculated the annual average actual IT spend on a percentage basis for 2020 through 2022, resulting in a historic average of $34.9 million, and then, to forecast anticipated actual spending during 2024 and 2025, applied the projected inflation rate of 2.35 percent for 2024 and 2.20 percent for 2025, based on the latest forecasts of GDP-PI in the October 2023 issue of the Blue Chip Economic Indicators.[705] Staff then explained how it used that and other information to calculate its recommended 12.87 percent yearly downward adjustment.[706]

The Company argues that Staff's use of a growth rate based on historic actual spend adjusted for inflation was flawed in two respects. First, the Company contends that Staff's

[701] Tr. 3809.

[702] Tr. 3807.

[703] Tr. 3807-3808.

[704] Tr. 3808.

[705] Tr. 3808-3809.

[706] Tr. 3809.

methodology was not appropriate because the historic numbers do not reflect new EMS projects included in the Company's 2024-2028 Five-Year Capital Plan that did not occur in prior years – namely, the Outage Management System, Grid Modernization, and Primary Control Center projects. The Company maintains that the new EMS projects are needed to provide safe and reliable service and to achieve the benefits of the Primary Control Center.[707] Second, the Company asserted that its analysis demonstrated that an eight percent inflation rate based on the Company's actual experience with its vendors "more accurately forecasts the vendor portion of project cost estimate than Staff's inflation rates, which are simply based on the latest forecasts of the [GDP-PI]."[708]

Staff argues that the GDP-PI inflation rate is appropriate as it captures inflation rate for 2023, accounts for software purchases for non-personal purposes, and is consistent with other Staff capital adjustments.[709] Staff additionally argues that the Company's historic annual average IT spend included projects novel to that three-year period, so the presence of incremental additions in 2024 and 2025 does not invalidate Staff's methodology.[710]

Initially, we agree with the Company that an eight percent inflation rate should be used. Unlike the GDP-PI inflation rate used by Staff, the Company's proposed inflation rate accounts for increases that the Company is actually experiencing. Moreover, we do not agree with Staff that budgets established in the 2021 Rate Case provide an appropriate basis

707 Tr. 1359.

708 Tr. 1358.

709 Staff Initial Brief, p. 128.

710 Id.

for forecasting. Nor can we determine that Staff's reliance on actual historical cost averages adequately accounts for the costs of new projects proposed for the Rate Year. Accordingly, we recommend that the Commission (1) forecast these budgets by using the Company's actual spend data from 2021 through 2023, (2) remove the cost of those projects that will not be continued in the Rate Year, (3) average the remaining annual spend for those years, (4) apply an eight percent escalation rate to the average, (5) add the cost of the new projects that would occur in the Rate Year to that figure, and (6) apply the inflation rate for the Rate Year. The schedules attached to this Recommended Decision are based on that calculation. This should address both the Company's concerns with Staff's methodology and Staff's concerns about historical variances between the Company's forecasted technology capital budgets and its actual spending.

2. Electronic Data Processing

The Company forecasted capital budgets of approximately $5.71 million in 2024 and $3.39 million in 2025 for the Electronic Data Processing (EDP) budget category.[711] Staff recommended a 12.87 percent reduction to those forecasts, resulting in a recommended funding level of $4.97 million in 2024 and $2.96 million in 2025.[712]

The Company and Staff used the same forecasting methodologies for EDP that they used to forecast their proposed EMS capital budgets. The Company used a project-by-project approach and applied an eight percent inflation rate for its forecasts.[713] Staff applied its inflation-based growth rate to

711 Tr. 1301.

712 Tr. 3812.

713 Tr. 1358.

the Company's annual average IT spend for 2020 through 2022 and then applied the projected inflation rates from the latest forecasts of the GDP-PI to forecast the spending levels for 2024 and 2025.[714]

In rebuttal testimony, the Company argued that application of its eight percent inflation rate more accurately forecasts the vendor portion of the project cost estimates, especially given the documented expected costs for the Microsoft Roadmap: License/Contract Renewal-MS365 3-Year Renewal (Microsoft License Renewal) project.[715] The Company maintained that the costs for the Microsoft License Renewal Project and the Primary Control Center-IT HW project were not captured by Staff's review of historical spending because those projects were incremental additions.[716] Staff argues in response that use of the GDP-PI inflation rate was appropriate and that the presence of incremental projects in 2024 and 2025 does not invalidate Staff's methodology because the Company's historic annual average IT spend for 2021 through 2023 includes projects novel to that three-year period.

For the reasons stated in connection with the EMS budgets, we recommend the Commission adopt the Company's eight percent inflation rate and apply that to the amount calculated in the manner we recommend in the EMS budget discussion.

The Company raises an additional issue with respect to the proposed EDP budgets, arguing that Staff improperly included the "Asset Management-End User Device SW Lifecycle, Project and Portfolio Management (PPM) Solution, and Service Now Phase IV projects in the EDF budget category. The Company maintains that

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[714] Tr. 3811.

[715] Tr. 1358.

[716] Tr. 1359.

those projects should have been classified in the Software funding category and that the Company's forecasted costs for those projects should not have been subject to the 12.87 percent reduction applied by Staff to the EDP budgets.[717] However, as Staff correctly notes, in its final capital budget workpapers, the Company listed those projects under category 4222, the EDP category, rather than category 4220, the Software category.[718] Accordingly, we agree that Staff properly treated those projects as EDP projects.

3. Software

The Company and Staff agreed with the forecasting of Software capital costs using a project-by-project basis.[719] However, the Company and Staff part ways with respect to the capital costs projected for Emergent Software and the Integrated Energy Data Resource Financial/Operations (IEDR Fin/Ops) Data Analytics Project.

a) Emergent Software

The Company testified that, due to the continuous and rapid evolution of business needs, IT industry-driven changes, and cybersecurity threats, the Company needs emergent capital funding to enable it to respond proactively to risks and new requirements as they materialize, including the purchasing of software updates and incremental software licenses.[720] The Company stated that, starting in 2022, it implemented "an objective prioritization framework to support the prioritization and selection of all capital technology investments."[721] The

[717] Tr. 1360-1361.

[718] Exhibit 317 (SEIOP-1)(see 2024-2028 Capital Expenditures Workpaper (Final)); Exhibit 2 (ECOP-1), p. 1.

[719] Tr. 3814.

[720] Tr. 1328.

[721] Tr. 1301-1304.

Company requested no capital funding for the Emergent category in 2024 but requested approximately $2.2 million for 2025.[722]

Staff recommended removing all Emergent projects on the ground that "the Company failed to adequately justify the need to fund these projects due to a lack of specific deliverables for projects" in this category.[723] Staff asserted that ratepayers should not be responsible for these unspecified costs and that the Company should have to identify specific projects, risks, or requirements to receive funding to address them.[724] Staff pointed out that, although the Company's request for Emergent project funding was based on a historical risk-based methodology, the Company did not provide any historical spending for the Emergent projects for which it requested funding in this rate case.[725]

In rebuttal testimony, the Company asserts that the improved capital planning process for technology projects implemented in 2022 allowed it to adequately classify projects as "emergent" versus "planned."[726] In support, the Company provided a list of 17 Emergent capital projects from the second half of 2022 through November 2023, and testified that, in 2023, $3.0 million in Emergent capital projects were requested and approved by the Company's Technology Steering Committee.[727] Using that $3.0 million figure, the Company applied its qualitative risk-based approach to forecast the amount of funding recommended for each Emergent software area.[728] The

[722] Exhibit 253 (TCOP-4R).

[723] Tr. 3815.

[724] Tr. 3815.

[725] Tr. 3816.

[726] Tr. 1301-1304, 1363.

[727] Exhibit 253 (TCOP-4R).

[728] Tr. 1363-1364.

Company allotted “low risk” software areas a one- to 10-percent Emergent allowance, “moderate risk” software areas an 11-20 percent emergent allowance, and “high” risk areas a 21-35 percent emergent allowance.[729] The specific percentages applied are listed in Exhibit 253, with cybersecurity receiving the highest risk percentage of 35 percent. Based on this record evidence, the Company contends that it has justified the need and level of funding for Emergent software issues.

Staff argues that, although the Commission approved Emergent capital funding in the Prior Rate Plan, funding for such unplanned projects is unnecessary in a litigated rate case and should be granted only if the Company provides justification for specific projects.[730] Noting that the Company does not request Emergent capital funding for 2024, Staff contends that, if an unplanned software project arises during the Rate Year, the Company can petition the Commission for deferral treatment or request funding for a specific project in its next rate case, both of which would allow the Commission to review specific projects with sufficient information. In addition, Staff notes that the Company can reprioritize IT capital funding if necessary.

By their nature, Emergent software issues may arise at any time. Therefore, although we are addressing costs for the Rate Year, we find that it would be reasonable to provide the Company with Emergent software capital funds. Because the Company has not requested Emergent funding for 2024, and the Rate Year only goes through June 30, 2025, we recommend that the Commission approve capital funding for Emergent software

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729 Tr. 1364.

730 Staff Initial Brief, p. 130.

products in the approximate amount of $1.1 million, which is half the amount the Company requested for calendar year 2025.

b) IEDR Fin/Ops Data Analytics Project

The Company and Staff agree that the costs of Integrated Energy Data Resource (IEDR) Projects falling within the scope of Commission orders in Case 20-M-0082 should be treated as nondiscretionary and recovered in base rates.[731] However, a dispute remains with respect to whether the capital costs for the IEDR Fin/Ops Data Analytics Project should be included.

Staff initially took the position that costs for that project are tangential to the IEDR initiative, should therefore be considered discretionary, and should not be funded. Referring to the Company's response to a discovery request about the project,[732] Staff stated that funding for this project is not required to comply with the Commission's IEDR Phase I and Phase II Orders because it is being used for non-IEDR data integrations and that the Company did not adequately justify the need for additional IEDR project funding beyond that approved in the Phase I and Phase II Orders.[733]

In response, the Company testified that the IEDR Fin/Ops Data Analytics project modernizes its data warehouse and reporting systems and consolidates legacy solutions with limited functionality onto the same scalable hosted solution used for

[731] Tr. 3816; Case 20-M-0082, Proceeding on Motion of the Commission Regarding Strategic Use of Energy Related Data, Order Implementing an Integrated Energy Data Resource (issued February 11, 2021) (IEDR Phase I Order) and Order Approving Integrated Energy Data Resource Phase 2 Budgets (issued January 19, 2024)(IEDR Phase II Order).

[732] Exhibit 310 (SCP-1), pp. 94-97.

[733] Tr. 3817.

the state's IEDR program.[734] The Company maintained that this project would allow for ease of data migration for future phases of IEDR as they are identified and capture efficiency insofar as data sets migrated by the proposed project would already be present within the new platform.[735]

Specifically, the Company explained that its IEDR solution will entail the implementation of a scalable cloud-hosted data lake to support the State's IEDR goals for improved utility data sharing and transparency. The Company maintained that, if it implements only the cloud solution for the IEDR Phase I and II requirements, all other data sets and Company reporting will be forced to remain in the on-premises legacy data platforms, preventing any benefits or synergies the new IEDR technology would otherwise provide.[736]

Staff now argues that the potential pitfalls identified by the Company do not justify including funding for a project that was not approved in Case 20-M-0082. Staff asserts that the Commission has not determined that such costs are needed and that the Company has not adequately identified cost savings that would benefit ratepayers in future years if funding for the IEDR Fin/Ops Data Analytics project is included in the Rate Year.[737]

We agree with Staff that funding for the IEDR Fin/Ops Data Analytics Project should not be included. Although the Company justifies the project on the grounds that it will allow the Company to leverage benefits and synergies, the Company provides no data quantifying the cost savings that will accrue

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[734] Tr. 1365-1366.

[735] Tr. 1366.

[736] Tr. 1366-1367.

[737] Staff Initial Brief, p. 131.

to the benefit of ratepayers. In our view, funding should not be provided in this litigated rate case absent such data. The Company can request such funding in its next rate case with appropriate data supporting the request.

4. Security

The Company included various proposals related to physical and cyber security. With respect to physical security, the Company proposed equipping additional substations with cameras and electronic key card access, hiring additional security officers for the new Primary Control Center, restructuring security guard tiers, tasks and responsibilities.[738] In regard to cyber security, the Company proposed a number of initiatives intended to ensure that information pertaining to the Company's critical assets, customer data, and other confidential areas are protected and safe from threats.[739] Staff agreed with each of these proposals.[740] Accordingly, we recommend that the Commission adopt the Company's proposed capital budgets in the amounts of $906,000 in 2024 and $554,000 in 2025.

In addition, Staff recommended that the Commission require that the Company notify Staff (1) when physical or cyber security projects reach significant milestones, are merged with other projects, or are discontinued and (2) when significant changes are made to cyber-security-related FTEs.[741] Stating that such a reporting requirement is unnecessary and burdensome and could expose vulnerabilities for the Company and/or customers if such reports are inadvertently released to the public or fall

[738] Tr. 115-118.

[739] Tr. 1330-1332.

[740] Tr. 3511-3516; 3517-3526.

[741] Tr. 3530-3532.

into the hands of bad actors, the Company proposed instead that its Cybersecurity Manager (Director) have a standing monthly call with Staff to provide cybersecurity updates.[742] We find the Company's alternative approach, which does not require distribution of cybersecurity information in writing, reasonable and recommend that the Commission adopt it.

5. Communications

Central Hudson proposed capital budgets for the Communications category of $9.56 million in 2024 and $8.66 million in 2025.[743] Staff recommended a 12.87 percent annual reduction to the Company's proposed budgets, resulting in a recommended funding level of $8.33 million in 2024 and $7.55 million in 2025.[744]

The Company and Staff used the same forecasting methodologies for Communications that they used for EMS and EDP capital budgets. The Company used a project-by-project approach and applied an eight percent inflation rate for its forecasts.[745] Staff applied its inflation-based growth rate to the Company's annual average IT spend for 2020 through 2022 and then applied the projected inflation rates from the latest forecasts of the GDP-PI to forecast the spending levels for 2024 and 2025.[746]

The Company again argues that application of its eight percent inflation more accurately forecasts the vendor portion of the project cost estimates, and that Staff's use of historical expenditures failed to capture the costs for the Land Mobile Radio (LMR) Replacement with Digital Mobile (DMR) Radios

[742] Tr. 1338.

[743] Exhibit 14 (ECOP-1).

[744] Tr. 3821.

[745] Tr. 1358.

[746] Tr. 3811.

project and the Router Replacement Program because they were incremental additions.[747] The Company asserts that Staff's review by budget category fails to account for critical safety and reliability concerns that could result if sufficient funding is not provided in the Communications capital budget.

Staff maintains that the GDP-PI inflation rate is appropriate because it captures inflation rate for 2023, accounts for communication purchases for nonresidential purposes, and is consistent with its other capital cost adjustments.[748] Staff also asserts that the Company's historic annual average IT spend includes projects novel to that three-year period and that the presence of incremental additions in 2024 and 2025 does not invalidate its methodology.

The Company points out that Staff conceded on cross-examination that the Company's LMR system is nearing its obsolescence state and that the Company's ability to maintain mobile communications with line workers and other employees, particularly during storm conditions, supports safety and reliability.[749] Similarly, with respect to its Backhaul Optical Fiber proposal, the Company states that Staff's forecasting methodology fails to take into account that the Company proposes backhaul optical fiber in those areas where reinforcement of the Company's communication network is needed to provide redundant communications paths, increase system reliability, or to expand the network to reach new substations, regulator stations or gateway locations.[750]

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[747] Tr. 1358, 1362.

[748] Staff Initial Brief, p. 138.

[749] Tr. 3660.

[750] Tr. 1320-1321.

For the reasons stated in connection with the EMS and EDP budgets, we recommend the Commission adopt the Company's eight percent inflation rate and apply that to the amount calculated using the method we recommended in the EMS and EDP budget discussions.

6. Customer Experience Technology Capital Projects

The Company, Staff and UIU entered into two stipulations that impact the Technology Capital budgets for the Rate Year. The first is the Stipulation Regarding Billing Reporting Requirements (the Billing Reporting Stipulation).[751] The second is the Stipulation Regarding Customer Experience Capital Projects (the CE Capital Project Stipulation).[752]

The Billing Reporting Stipulation provides that, subject to implementation of the Company's Interactive Voice Response (IVR) Modernization Project, the Company will comply with various enhanced billing reporting requirements, which will be addressed later in this RD. As relevant here, the Billing Reporting Stipulation states that the IVR Modernization Project, as proposed by the Company in testimony, will commence in the Rate Year and the associated costs of no more than $1.7 million will be reflected in the Rate Year.[753]

The CE Capital Project Stipulation relates to the Company's proposed customer experience capital projects for the Rate Year, as addressed in the Company's and Staff's respective testimonies. To resolve those issues, the Company and Staff agreed that various customer experience capital projects proposed by the Company will not be included in the Rate Year revenue requirements. The projects involve municipal portal

[751] Exhibit 514.

[752] Exhibit 515.

[753] Exhibit 514, p. 2.

upgrade and enhancements, various mobile app upgrades, several web upgrades, CIS/CX emergent issues, customer bill redesign, additional online energy calculators, and Kubra Software Replacement-Payment Experience Vendor, eBill, Bill Presentment and Bill Print.[754]

With that as background, we now discuss specific customer experience technology capital projects.

a) Interactive Voice Response Modernization and Workforce Management Program

The Company proposed to replace its current IVR system with a new system. The Company testified that its current IVR solution is limited in its ability to easily make changes to the routing and handling of calls during high-volume or storm situations and its ability to provide "modernized contact center functionality."[755] The Company stated that the "new cloud-based IVR solution will enable features such as Voice Recognition, and VoiceBots that will augment contact center live agent support by providing self-service voice capabilities for customers" and "Visual IVR . . . to provide Contact Center agents with additional information on customer calls to improve overall experience."[756] The Company proposed a capital budget for its IVR Modernization and Workforce Management System of $1.7 million in the Rate Year.[757]

Staff recommended that costs for the IVR Modernization project be denied because the Company had not conducted a cost-benefit analysis, quantified any savings from the project, received internal management approval, or provide firm project

[754] Exhibit 515, p. 2.

[755] Tr. 1309.

[756] Tr. 1309.

[757] Tr. 1308.

costs.[758] Staff stated that, although the Company identified resource constraints as a key risk related to IVR Modernization project, the Company did not identify any risks associated with outages or service interruptions if the current IVR is left in place. Based on these reasons, coupled with the Company's billing issues and plans to restart collection activities, Staff raised concerns as to whether the Rate Year was an appropriate time to fund the Company to replace its current IVR.[759]

Assemblymember Shrestha testified that the proposed IVR system is unwise and should be rejected because the system is not expected to reduce call center costs and because ratepayers "hate talking to robots instead of actual customer service representatives" and "will not appreciate the Company trying to get an IVR expense added to their monthly bill and approved as a customer benefit."[760] A caseworker "who helps immigrant families to understand [utility] bills," testified on behalf of CLP that the proposed IVR would be helpful for his clients only if it was provided in languages other than English.[761]

In rebuttal testimony, the Company responded to Staff's recommendation by stating that the objectives of the IVR Modernization project are to upgrade the current IVR platform from an on-premises solution to a cloud-based solution with disaster recovery capabilities, the ability to easily develop new flows with a web-based drag and drop configuration tool, and a test environment without the need of a third-party vendor.[762]

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758 Tr. 4434.

759 Tr. 4434.

760 Tr. 73.

761 Tr. 430.

762 Tr. 3085-3086.

The Company asserted that the new IVR would also provide enhanced reporting capabilities. The Company also stressed that the manufacturer is requiring a technical upgrade to the current IVR software in order for it to remain supported by the vendor and that the upgrade must be performed to prevent cybersecurity and functional risk to the organization.[763]

As stated earlier, the Company, Staff, and UIU entered into the Billing Reporting Stipulation. Staff recommends that the Commission adopt this Stipulation, which memorializes the Company's, Staff's, and UIU's agreement on the IVR Modernization Project and will subject the Company to the enhanced reporting requirements that Staff proposed in testimony.[764]

The Company states that the Billing Reporting Stipulation allows work to commence on this "key project" in the Rate Year, while at the same time pointing out that, under the CE Capital Project Stipulation, various customer experience technology capital projects it proposed in testimony are not included in the Rate Year. The Company states that these stipulations are supported by the record, strike a fair balance between the interests of customers and the Company, fall within a range of reasonable outcomes supported by the record, and therefore should be adopted by the Commission as in the public interest.

PULP objects to the Billing Reporting Stipulation to the extent it provides funding for the IVR Modernization Program in the Rate Year.[765] PULP states that the IVR Modernization Program should not go forward until the Department of Public

[763] Tr. 3085.

[764] Staff Initial Brief, pp. 132-133.

[765] PULP Initial Brief, p. 12.

Service determines that the Company's SAP CIS system is operating properly.[766]

PULP also asserts that the Company has not conducted a formal process justifying the need for the IVR Modernization Program, stating that the Company is able to meet customer service reporting metrics with its current IVR system and that the Company did not pursue a second viable vendor for the new IVR system. PULP argues that Central Hudson and Staff are essentially speculating that the requested $1.7 million is the most appropriate use of ratepayer funds and that no funding should be provided until the Company assesses other vendor options.

During cross examination, which PULP cites to support its position, the Company stated that it could not provide a specific measure of accuracy provided by its current IVR system for call abandonment rates, call hold times, call handling times, and call answer rates, but that it could obtain the information through a series of queries.[767] The Company stated that its options with respect to the IVR system were to remain with the current IVR query process, with the analysts and analytic resources to support that going forward, or to proceed with the IVR Modernization Program, which the Company viewed as the best approach.[768] In determining that a new IVR system was the best approach, the Company conducted benchmarking with other utilities and looked at broader industry standards and referred to a third-party company to identify metrics for the software

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[766] PULP Initial Brief, p. 12. Although PULP cites page two of Exhibit 528 as support, Exhibit 528 is a one-page exhibit dealing with the Company's classification and allocation of billing and collections expense.

[767] Tr. 3142-3143.

[768] Tr. 3143-3144.

solutions, which led the Company to its current system vendor and another vendor.[769] The Company stated that it focused on its current vendor at this point because of its relationship with and ability to obtain information from them and that it would continue to pursue other solutions that are available.[770]

We recognize the concerns raised by PULP. However, Staff and UIU, which focus on the interests of ratepayers, did not find that any such concern prevented them from entering into the Billing Reporting Stipulation. Moreover, the Billing Reporting Stipulation imposes enhanced customer service reporting requirement on the Company, which will help DPS Staff and the Commission to ensure that the Company meets customer service requirements going forward. We also note that, although $1.7 million of funding will be included in Central Hudson's technology capital budget for the IVR Modernization Program, the Company agreed in the CE Capital Project Stipulation that funding for other projects will not be included.

Viewed together, these stipulations appropriately allow the Company to move forward with its proposed IVR Modernization program, which is designed to improve customer experience and remedy drawbacks identified with the Company's current IVR system. Moreover, it addresses concerns about rate impacts by removing a number of customer service capital programs proposed by the Company and contested in testimony, in the total amount of $2.436 million.[771]

b) Customer Web and Mobile Technology

The Company proposed to evaluate all customer-facing Web and Mobile Technology digital channels for alignment with

[769] Tr. 3145-3146.

[770] Tr. 3146.

[771] Tr. 3002, 3087; Confidential Exhibit 353 (SCSP-1).

the Americans with Disabilities Act.[772] The Company also proposed to redesign the MyAccount page on its website and mobile application to implement push notifications through the mobile application, streetlight out reporting, and additional energy calculators.

Staff recommended that the Commission deny the FTEs and associated costs for this project as premature because the Company did not issue a request for proposals (RFP) or evaluate the need for an outside vender to complete the project, did not provide a cost-benefit analysis, and stated that the project would not result in any direct cost savings.[773] The Company responded that a RFP for external vendor quotes was unnecessary because the mobile application and website enhancements would be completed by internal sources.[774] Regarding the lack of a cost-benefit analysis, the Company testified that “the provision of user experience that is commonplace throughout many industries is generally seen as the cost of doing business and the relatively minimal customer costs associated with this project are generally not measured against the extremely difficult to quantify value of providing customer experiences.”[775]

The CE Capital Project Stipulation provides that costs for this project will not be included in the Rate Year. We see no basis to disturb that agreement, which is in the public interest.

c) Payment and Billing Experience Improvements

Central Hudson proposed a Payment and Billing Experience Improvements project, with a projected capital cost

[772] Tr. 3002, 4435.

[773] Tr. 4436.

[774] Tr. 3086.

[775] Tr. 3086.

of $316,000 in the Rate Year.[776] The Company testified that this project would allow customers to view their payment status in real time compared to overnight or longer under its current system.

Staff recommended that the Commission reject the requested funding, stating that the Company's estimated costs for the project were inconsistent, that the Company could not provide a timeline for the project nor information as whether customers have complained about the delay in payment status under the current system, and that the Company did not consider alternative proposals or systems.[777] The Company responded that the project originally was proposed to interface with its legacy CIS system and that due to issues with the SAP CIS transition, the project was not completed and resulted in changed cost estimates and timelines.[778]

The Company agreed to withdraw this project under the CE Capital Project Stipulation. The Stipulation is reasonable in this regard, and we recommend that the Commission adopt it.

d) Customer Bill Redesign

The Company proposed to redesign its customer bills to simplify the information contained in the bills in both paper and digital format and to create and provide "bills, forms, and letters in Spanish for customers" whose preferred language is Spanish.[779] As relevant here, the Company requested capital funding for this project in the Rate Year of 373,000.[780]

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[776] Tr. 1307

[777] Tr. 4441-4444.

[778] Tr. 3087-3088.

[779] Tr. 1308.

[780] Exhibit 109 (CEP-2).

(1) Bill Redesign

Turning first to the Company's proposed bill redesign project, Staff noted that the Company had not finalized details on the appearance of the bills and recommended denial of the Company's proposed bill redesign at this time and that the Company continues to develop the details of its proposed redesign.[781] Staff also stated its concern that a bill redesign in the Rate Year would "create additional customer confusion and frustration following the Company's billing transition" and that the Company therefore should postpone its billing redesign effort until the Company resolves all the current billing issues.[782]

The Company disagreed with Staff's concern that the bill redesign would create additional customer confusion.[783] The Company that the main objective in redesigning bills "would be to improve clarity, reduce customer confusion or frustration, limit calls to the contact center, and better align with bill presentment of other New York State utilities."[784]

Under the CE Capital Project Stipulation, the Company agreed to eliminate its Bill Redesign proposal, which equates to $158,000 in the Rate Year.

(2) Spanish Customer Bills, Forms, and Letters

The Company requested capital in the amount of $108,000 in the Rate Year to translate customer bills into Spanish.[785] It also requested $107,000 to translate forms and

781 Tr. 4400.

782 Tr. 4400.

783 Tr. 3087.

784 Tr. 3087.

785 Exhibit 109 (CEP-2).

letters into Spanish in 2025 but did not include that amount in the Rate Year.[786]

In testimony, Staff noted that Appendix Z to the Joint Proposal, which the Commission adopted in the 2021 Rate Order, contained a "Roadmap" for the Company's expansion of "Spanish Customer Support Channels," which provided target dates for the Company's launch of customer bills in Spanish by the second quarter of 2023 and certain forms and letters in Spanish by the first quarter of 2022.[787] Staff testified that, to the extent the Company proposed in these proceedings to provide such documents in Spanish, the Company did not fulfill its obligations under the 2021 Rate Order.[788] Staff recommended that the cost of translating such documents be paid by the Company's shareholders and not be included in rates.[789]

The Company disagreed with Staff's recommendation, stating that it had completed all but one of the Spanish translation projects approved in the 2021 Rate Order.[790] The Company stated that, during its evaluation of providing customers with bills in Spanish, "the launch [of the bill translation project] was deemed to be infeasible based on the scope of the project and conflicts with the SAP CIS that would not be resolved prior to the proposed launch target date."[791] In addition, the Company noted that the Joint Proposal in the 2021 Rate Case provides that, unless expressly stated otherwise, the Joint Proposal was not intended to alter the Company's

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[786] Exhibit 109 (CEP-2).

[787] Tr. 4439.

[788] Tr. 4439.

[789] Tr. 4439-4440.

[790] Tr. 3088.

[791] Tr. 3088.

flexibility to alter the timing of, substitute, change, or modify its capital projects.[792]

Despite having entered into the CE Capital Project Stipulation, Staff asserts in its brief that the Commission should reject all of the Customer Experience technology projects as it recommended in its direct testimony.[793] Staff additionally states that "customers should not continue to be inconvenienced by these important Spanish translations that could be attributed to the SAP CIS transition, and recommends the translation of Spanish bills, documents, and forms be completed per the terms of the 2021 Rate Order, at shareholder's expense.[794] The Company did not reply to this argument in its briefs.

We reject Staff's position. As an initial matter, Staff does not specify what technology projects it recommended be denied that are not listed in the CE Capital Project Stipulation or Billing Reporting Stipulation. Taken together, those stipulations address the IVR Modernization Project, customer web and mobile technology projects, payment and billing enhancements, and the bill redesign project, which covers the category of customer experience information technology capital projects addressed by Staff in testimony.[795]

Moreover, to the extent Staff is referring to the Company's proposal to create and provide bills, forms, and letters in Spanish for customers, our view is that Staff waived its position on that issue in entering into the CE Capital Project Stipulation. The Stipulation broadly states that it resolves all issues raised in the Company's and Staff's

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[792] Tr. 3089.

[793] Staff Initial Brief, pp. 135-136.

[794] Staff Initial Brief, p. 136.

[795] Tr. 4432-4444.

testimonies regarding customer experience capital projects, which includes the issue that Staff now raises in its brief.[796]

In any event, based upon Central Hudson's testimony referred to above, and in response to discovery requests, Central Hudson maintains that it complied with all proposed projects in Appendix Z to the 2021 Joint Proposal, with the exception of customer bills and one form among seven forms identified for prioritized treatment.[797] Central Hudson also explained in testimony why its translation of bills into Spanish has been delayed. Given the Company's testimony and discovery responses, we do not recommend that the Company's request for funding for the translation of bills, forms or letters into Spanish be denied, especially given testimony by other parties about the Company's need to provide bills in Spanish.[798] For the same reason, we reject Staff's request to recommend that the Company's shareholders be required to provide that funding.

Dutchess County argues that the Commission should deny discretionary Customer Service revenue requirements "until the customer billing is software error free and the collection of accurately billed accounts have been reduced to pre-Covid levels."[799] This generalized statement provides no basis to deny the funding for the translation of bills into Spanish.

E. Net Plant Reconciliation Mechanism

The Company proposed that its current downward-only Net Plant Reconciliation mechanism for net plant in service -

[796] Exhibit 515, p. 1.

[797] Exhibits 618-622.

[798] See PULP Testimony, Tr. 596, 653-655; CLP Testimony, Tr. 423, 427. We do not address arguments related to the Company's request for funding to translate forms and letters into Spanish, which are not included in the Rate Year. Exhibit 109 (CEP-2).

[799] Dutchess County Initial Brief, p. 10.

which protects ratepayers if net plant additions and depreciation expense are less than forecasted - be discontinued in the context of these litigated rate cases.[800] Staff recommends that, for the protection of ratepayers, this one-way deferral mechanism be continued with updated net plant and depreciation targets consistent with the Rate Plan levels established in these proceedings.[801] The Company maintains that the continuation of the Net Plant Reconciliation mechanism would constitute retroactive ratemaking and that, if it is continued, a symmetrical true-up mechanism should be used.

Initially, we disagree with the Company that the use of such a net plant reconciliation mechanism would constitute retroactive ratemaking. The Commission has responsibility for determining that ratepayers pay for their utility service only those amounts that it determines are just and reasonable to ensure safe and adequate service. Where the Commission institutes a net plant tracking and reconciliation mechanism, it is making a forward-looking pronouncement that the allowance included in the Company's revenue requirement is capped at the lesser of the forecast or the actual amount of net plant put into service. That the final amount will be adjusted to some number that will ultimately be known in the future does not render use of the reconciliation mechanism an unlawful retroactive ratemaking exercise. This is not a case where the Commission sets only one net plant number in rate base and then, 12 months later, after the rate year is finished, imposes an order requiring a refund of money because the full amount that was provided in rates was never spent.[802]

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[800] Exhibit 90 (ATP-11).

[801] Tr. 2292.

[802] Compare National Fuel Gas Distribution Corp. v. Public Serv. Comm'n., 97 A.D.2d 674 (3d Dep't 1983).

When the Commission adopts a rate plan, it is doing so on a global basis balancing all the revenue, expense, and rate base issues. In the context of setting that rate plan, it may prospectively employ tools such as reconciliation mechanisms or earnings adjustment mechanisms that ensure that the Company's rates remain just and reasonable during the Rate Year. These tools provide a level of fairness not just to ratepayers, but also to the utility inasmuch as the rules are made known to it in advance of putting the rate plan into effect, rather than trying to change them after the fact. The use of reconciliation mechanisms is not an abrogation of the Commission's authority to set just and reasonable delivery rates prospectively, but an exercise of that authority.

Nevertheless, we agree with the Company that a net plant in service reconciliation mechanism is not warranted in this case. The parties are not agreeing to a multi-year settlement where forecasts may be expected to become less reliable as the plan progresses. Moreover, while the Company is in control of when it files for new rates once the rate order is issued and could stay out as long as it chooses, the Commission retains the authority to require the Company to come in for a rate examination should it possess information and belief that the Company's rates are producing returns that are no longer just and reasonable.[803] Nor does Staff argue that the Company will operate its construction program to the detriment of ratepayers without a reconciliation mechanism. Instead, Staff broadly argues that a "downward-only reconciliation is appropriate during the Rate Year to protect ratepayers in the event the Company does not spend its rate allowance due to

[803] See Case 13-G-0136, National Fuel Gas Distribution Corp. - Rates, Order Instituting Proceeding and To Show Cause (issued April 19, 2013).

revised plans or budget reductions."[804] Without further support for its position, we disagree with Staff that a net plant reconciliation mechanism is necessary. Accordingly, we recommend that a net plant reconciliation mechanism not be used during the Rate Year. The need for such a mechanism can be revisited in a future rate proceeding if warranted.

Finally, we note that the Company has withdrawn its request, opposed by Staff, for a symmetrical net-plant true-up mechanism for the New Business category of its electric and gas businesses.[805]

F. Other Rate Base Items

Several other components of rate base are not in contention, including customer advances for undergrounding, deferred charges, accumulated deferred federal taxes, accumulated deferred state taxes, and the earnings base capitalization adjustment.[806] The revenue requirement should be updated to reflect those components not in dispute.[807]

In testimony, Central Hudson had requested a deferral mechanism for costs associated with the ERP Phase III Assessment and project readiness work.[808] Because this proceeding will result in rates premised on a one-year forecasted rate plan, the Company is no longer pursuing the ERP Phase III Assessment in the Rate Year and is no longer requesting a deferral mechanism for the ERP Phase III Assessment in these proceedings.[809]

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[804] Staff Initial Brief, p. 139.

[805] Central Hudson Initial Brief, p. 118; Central Hudson Reply Brief, p. 56; Exhibit 160 (ATP-2R).

[806] Exhibit 300 (SAP-2), Schedule 7; Exhibit 301 (SAP-3), Schedule 7.

[807] Central Hudson Initial Brief, p. 143.

[808] Tr. 1314, 1513.

[809] Central Hudson Initial Brief, p. 96, n. 62.

G. Capital Reporting Requirements

Staff testified to various issues with the Company's presentation of its capital data that initially hindered its review of the Company's proposed projects and programs.[810] Staff testified that "it appears the Company is tracking its historic actual and budgeted costs accurately on the category level, however, there are apparent reported capital expenditure inconsistencies at the project level."[811] Staff therefore recommended that the Commission require the Company to update its Capital Prioritization Policy and Guidelines and work with Staff to identify and determine with certainty which programs should be included within each capital category for reporting purposes.[812] Staff also recommended that the Company file all its capital reporting requirements in future rate cases and its quarterly capital reports in the same fashion and format as discussed above, with cost data provided on the project level and rolled-up into the identified programs for each category to eliminate confusion in tracking historical actual and budgeted information.[813] Finally, Staff recommends that the Commission direct the Company to track and report capital project spending in a manner consistent with Recommendation 3.2 of the Management Audit Report released by the Commission on April 20, 2023 in Case 21-M-0541.[814] MI urges the Commission to adopt these

[810] Tr. 2546-2555.

[811] Tr. 2554.

[812] Tr. 2555-2556.

[813] Tr. 2556.

[814] Case 21-M-0541, Central Hudson Gas & Electric Corporation – Management and Operations Audit, Central Hudson Final Report Public Version, p. 3-3.

proposals in full and enforce them with penalties if necessary.[815]

The Company agreed with Staff's recommendations.[816] On March 15, 2024, the Commission approved the Company's updated implementation plan in Case 21-M-0541, with modifications.[817] The Commission approved the Company's proposed implementation of Recommendation 3.2 without modification. Accordingly, we recommend that the Commission direct the Company to otherwise comply with Staff's capital reporting recommendations. We do not see that MI's request for enforcement of these requirements with penalties is necessary at this time, and should circumstances warrant it, the imposition of further incentives can be considered in future proceedings.

CLP raises an additional issue regarding the Company's reporting requirements. CLP points out that the Company does not track the reasons why certain interconnection projects are not started, CLP asserts that this shows that the Company is failing to facilitate and host interconnections.[818] We do not find this argument persuasive.

Although the Company actually interconnects third-party developer energy projects to its system, the interconnection approval process is administered by the New York Independent Service Operator (NYISO), not the Company.[819] Moreover, project developers, not ratepayers, are responsible for all costs to interconnect to the Company's electric

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815 MI Initial Brief, p. 17.

816 Tr. 2106.

817 Case 21-M-0541, supra, Order Approving Implementation Plan with Modifications (issued March 15, 2024).

818 CLP Initial Brief, pp. 6-7.

819 See Tr. 2122; Exhibit 542.

system.[820] Therefore, although the Company provides estimated interconnection costs to NYISO and developers, we see no reason to require the Company to track and report that information as part of the rate case process.[821] Nor do we see any basis to require the Company to report why the NYISO or developers have withdrawn interconnection applications filed with the NYISO. The record contains no evidence on the costs or benefits such additional reporting would entail.

VII. CLCPA COMPLIANCE

The CLCPA requires that 70 percent of statewide electric generation shall be generated by renewable energy systems by 2030 and that the statewide electric grid have zero emissions by 2040.[822] In addition, the CLCPA requires the 2030 statewide total greenhouse gas (GHG) emissions levels to be 40 percent below 1990 levels, and the 2050 GHG emissions levels to be 85 percent below 1990 levels.[823] The CLCPA further requires all State agencies to consider the impacts that any final agency actions will have on GHG emissions and disadvantaged communities. Specifically, pursuant to Section 7(2), all State agencies must consider whether their administrative approvals and decisions "are inconsistent with or will interfere with the attainment of statewide greenhouse gas emissions limits" established in ECL Article 75. Section 7(3) of the CLCPA requires all State agencies to ensure that their decisions will not "disproportionately burden disadvantaged communities" (DACs)

[820] Tr. 2161; Exhibit 542.

[821] Tr. 2158-2159.

[822] Environmental Conservation Law (ECL) §75-0107(1).

[823] ECL §75-0107(1).

and to "prioritize reductions of greenhouse gas emissions and co-pollutants" in DACs.[824]

The Commission's determination whether a rate plan satisfies the CLCPA "cannot be done in a vacuum but, rather, must be balanced against and consistent with the legal mandates of the Public Service Law,"[825] which requires the Commission to ensure the provision of safe and adequate service at just and reasonable rates.[826] The Commission views its core mandate to ensure the continued provision of safe and adequate service at just and reasonable rates "as paramount during the transition to cleaner energy systems."[827]

In December 2022, the New York State Climate Action Council[828] released a Final Scoping Plan in which the Council makes recommendations on regulatory measures and other state actions for attainment of the statewide GHG emissions limits established by the CLCPA. The Final Scoping Plan states that the achievement of the CLCPA's emission limits will entail a substantial reduction of natural gas usage with a corresponding downsizing and decarbonization of the natural gas infrastructure

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[824] The CLCPA defines "disadvantaged communities" as "communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate-income households, as identified pursuant to section 75-0111" of the ECL. The Climate Justice Working Group approved final disadvantaged communities criteria on March 27, 2023.

[825] Case 22-E-0317 et al., New York State Electric & Gas Corporation – Electric and Gas Rates, Order Adopting Joint Proposal (issued October 12, 2023), p. 55.

[826] PSL §65(1).

[827] Case 21-G-0577, Liberty Utilities (St. Lawrence Gas) Corp.- Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Gas Rate Plan (issued June 22, 2023), p. 33.

[828] See ECL §75-0103(13).

system. The Final Scoping Plan notes that such gas reductions will require coordination among multiple sectors, including the buildout of local electric transmission and distribution systems to meet anticipated increases in demand for electricity, increases to demand reduction measures for fossil natural gas, and the identification of strategic opportunities to retire existing pipelines as demand declines.[829] The Final Scoping Plan also recognizes, however, that investments in traditional gas infrastructure will remain necessary during the transition to decarbonized systems to maintain system reliability and safety, although the plan cautions against creating unnecessary stranded assets.[830]

The Commission has commenced various proceedings to implement policies and programs designed to achieve the CLCPA's objectives. Among other things, the Commission has authorized the offshore wind solicitations needed to achieve the CLCPA target of procuring nine gigawatts (GWs), funded programs to support the electrification of both heating load in buildings and the transportation industry, supported large scale and distributed clean energy project development, funded programs to reduce natural gas and electricity usage in the State, and instituted a coordinated planning process to evaluate local

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[829] Final Scoping Plan, pp. 350-351.

[830] Id., p. 351.

transmission and distribution system needs to support the State's transition to renewable energy generation.[831]

In March 2020, the Commission commenced a generic gas planning proceeding, in which it seeks to ensure, among other things, that gas utilities implement improved planning and operational practices to meet customer needs, minimize infrastructure investments that may have long-term GHG emissions and ratepayer implications, and conduct such practices consistent with the CLCPA (Gas Planning Proceeding).[832] Thereafter, the Commission adopted the Gas System Planning Process Proposal filed by the Department of Public Service, with

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[831] See, e.g., Case 14-M-0101, Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision, Order Adopting Regulatory Policy Framework and Implementation Plan (issued February 26, 2015); Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (issued May 19, 2016); Case 15-M-0252, In the Matter of Utility Energy Efficiency Programs, Order Authorizing Utility-Administered Gas Energy Efficiency Portfolios for Implementation Beginning January 1, 2016 (issued June 19, 2015); Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and Clean Energy Standard, Order Adopting Modifications to the Clean Energy Standard (issued October 15, 2020); Case 18-M-0084, In the Matter of a Comprehensive Energy Efficiency Initiative, Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025 (issued January 16, 2020)(2020 NENY Order); Case 20-E-0197, Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act, Order on Phase 1 Local Transmission and Distribution Project Proposals (issued February 11, 2021); Case 20-E-0197, Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act, Order on Local Transmission and Distribution Planning Process and Phase 2 Project Proposals (issued September 9, 2021).

[832] See Case 20-G-0131, Proceeding on Motion of the Commission in Regard to Gas Planning Procedures, Order Instituting Proceeding (issued March 19, 2020), pp. 4-10.

modifications to reflect stakeholder input.[833] Among other things, the Gas Planning Proceeding Order requires the utilities to file long-term plans that include demand forecasts incorporating energy efficiency, electrification, demand response and non-pipe alternatives (NPAs), as well as reporting GHG emissions for all proposed solutions to meeting gas supply and demand. The order established a flexible and transparent gas system planning process that includes significant stakeholder participation to ensure that gas utilities continue to provide safe and reliable gas service while reducing gas infrastructure and GHG emissions in a manner consistent with the CLCPA.[834]

In May 2022, the Commission also established a proceeding to monitor progress made in meeting the CLCPA's decarbonization targets, review existing Commission policies, and develop new policies to further the goals of the CLCPA.[835] The Commission directed the State's major electric and gas utilities (the Joint Utilities) to work with Department staff to develop proposals for a GHG Emissions Inventory Report that includes an inventory of total gas system-wide emissions and an assessment of direct and indirect GHG emissions, and a GHG Emissions Reduction Pathways Study that analyzes the scale, timing, costs, risks, uncertainties, and customer bill impacts of achieving significant and quantifiable reductions in GHG

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833 Case 20-G-0131, Proceeding on Motion of the Commission in Regard to Gas Planning Procedures, Order Adopting Gas System Planning Process (issued May 12, 2022) (Gas Planning Proceeding Order).

834 Gas Planning Proceeding Order, pp. 29, 35-37.

835 Case 22-M-0149, In the Matter of Assessing Implementation of and Compliance with the Requirements and Targets of the Climate Leadership and Protection Act, Order on Implementation of the Climate Leadership and Protection Act (issued May 12, 2022) (CLCPA Implementation Order).

emissions from the use of gas delivered by the utilities. In addition, the Commission directed "all Utilities in future rate filings to include an assessment of the GHG emissions impacts of each specific investment, capital expenditure, program, and initiative included in their rate filings."[836]

The Commission continues to address policy concerns regarding the achievement of CLCPA goals in other generic proceedings. For example, in September 2022, the Commission initiated a proceeding to fulfill the objectives of the Utility Thermal Energy Network and Jobs Act.[837] In doing so, the Commission recognized that it is essential to transition away from natural gas use in New York's building stock to reduce or eliminate GHG emissions from combustion of fuels in buildings and meet CLCPA goals in a way that ensures continuation of safe and reliable utility service. Among other things, the Commission directed the State's seven largest utilities, including Central Hudson, to submit for Commission review between one and five proposed pilot thermal energy network projects, with each utility to propose at least one of the projects in a DAC.[838]

Central Hudson is subject to applicable requirements in the various generic proceedings discussed above, which promote the State's CLCPA goals. With respect to the last three generic proceedings discussed above, Central Hudson filed its initial Long-Term Gas Plan on February 7, 2024, in Case 23-G-

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[836] CLCPA Implementation Order, p. 16.

[837] Case 22-M-0429, Proceeding on Motion of the Commission to Implement the Requirements of the Utility Thermal Energy Network and Jobs Act, Order on Developing Thermal Energy Networks Pursuant to the Utility Thermal Energy Network and Jobs Act (issued September 15, 2022) (Thermal Energy Network Implementation Order).

[838] Thermal Energy Network Implementation Order, pp. 10-12.

0676,[839] which is subject to stakeholder comments and input. The Joint Utilities, including Central Hudson, filed a proposed GHG Emissions Reduction Pathways Study in the Gas Planning Proceeding on March 31, 2023, as supplemented on May 31, 2023, which has been the subject of public comments and awaits Commission action. On December 15, 2023, Central Hudson filed its proposed Thermal Energy Network Pilot project, which would be located in a DAC.

Central Hudson maintains that it has made significant progress toward GHG emissions reductions and estimates that its initiatives implemented between 2020 and 2030, including the initiatives it proposed in these proceedings, will result in the Company exceeding GHG reductions of 40 percent by 2030.[840] The Company also estimates that approximately 48 percent of the overall GHG emissions reductions will accrue to DACs.[841]

As stated elsewhere throughout this RD, we do not recommend that the Commission adopt all of the initiatives that Central Hudson proposes. Nevertheless, for the reasons stated below, we find that the rate plans we recommend appropriately balance the interests in reliability, public safety, and reasonable rates with GHG emissions reduction and clean energy objectives, without disproportionately burdening DACs.

A. CLCPA Electrification and GHG Reduction Goals

The rate plans we recommend appropriately promote CLCPA electrification and GHG reduction goals. The Company will

[839] Case 23-G-0676, In the Matter of a Review of the Long-Term Gas System Plans of Central Hudson Gas & Electric Corp., Central Hudson Gas System Long Term Plan and Appendices (filed February 7, 2024).

[840] Central Hudson Initial Brief, p. 15 (citing Tr. 2790 and Exhibit 97 (CLSP-1)).

[841] Central Hudson Initial Brief, p. 19 (citing Exhibit 98 (CLSP-2)).

add 21 electric capital projects as CLCPA Phase 1 projects, which satisfy "safety, reliability and compliance" obligations, address "system bottlenecks and constraints that limit renewable energy delivery within a utility's system," or "include the added benefit of increasing the capacity to host additional" distributed energy resources.[842] As stated by Staff, those projects, which will provide approximately 547 MW of headroom increases,[843] will "contribute significantly towards achievement of the statewide CLCPA goals."[844]

Turning to the Company's gas business, the Company will continue to replace LPP at a target rate of 15 miles annually, will be subject to stringent year-end leak repair targets, and implement a new leak-prone services replacement program, all of which align with the CLCPA goals to reduce methane emissions and promote the safety and reliability of the gas system. The Company proposes to purchase responsibly sourced gas (RSG) and conduct a clean hydrogen feasibility study in an effort to use innovative means to further reduce GHG emissions in its distribution system. The Company also will replace gas powered fleet vehicles with electric or plug-in electric vehicles where feasible, will continue towards fully eliminating gas declining block rates, and will eliminate the high-volume usage rate discount offered to firm non-residential gas transportation customers under Service Classification No. 6. In addition, the Company will continue to explore NPAs in the Rate Year as a potential solution to providing customers with energy needed for homes and businesses while avoiding

[842] Tr. 2013; 3973-3975.

[843] Tr. 3974.

[844] Staff Initial Brief, p. 13.

traditional gas infrastructure investments.[845] Collectively, the gas proposals and projects we recommend, as well as the Company's intent to continue exploring NPAs, appropriately address the CLCPA's GHG-reduction goals.

We reject BCAN's argument that any rate increase targeted toward the construction and expansion of the natural gas distribution system is "by definition not in compliance with the goals of the CLCPA."[846] BCAN does not point to any specific project as inappropriate but maintains that Central Hudson must commit to a rapid phase-out of fossil fuels and the decommissioning of its existing gas distribution system. However, as the Commission has recognized, the Company is "legally obligated to provide gas service to both residential and non-residential applicants upon request where there is sufficient gas supply and the applicants satisfy certain requirements."[847] Moreover, Central Hudson must invest in its gas system to ensure that customers receive safe, adequate, and reliable gas service, even as it takes measures to satisfy CLCPA goals.[848] Those same requirements lead us to reject Assemblymember Shrestha's position that the proposed rate plans

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[845] Tr. 2798-2800.

[846] Tr. 3457.

[847] Case 22-E-0064 et al., Consolidated Edison Company of New York, Inc. – Electric and Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements (issued July 20, 2023), p. 112. Indeed, PSL §30 specifically states that the provision of gas service to any residential customer without lengthy delays or imposing unreasonable qualifications is necessary for the preservation of the health and general welfare and is in the public interest.

[848] See id., p. 113.

violate the spirit of the CLCPA by not demonstrating sufficient urgency through the phasing-out of natural gas infrastructure.[849]

Dutchess County states that the Commission should not approve any "voluntary" projects or proposals that go beyond what is required by the CLCPA and Commission regulations and orders. We disagree that these proposed rate plans are inappropriate in that regard. In our view, the recommended rate plans satisfy the goals established by the CLCPA, are consistent with the PSL's requirements and Commission precedent, and "appropriately balance the interests in reliability, public safety, and reasonable rates with emissions reduction and clean energy objectives."[850]

CLP faults the Company for not stating in testimony that it relied on the recommendations made in the Final Scoping Plan in preparing its testimony. On cross-examination, the Company's Climate Leadership and Sustainability Panel stated that it relied on information from the CLCPA and the Climate Action Council's website, but not specifically the Scoping Plan itself. That the Company did not reference the Scoping Plan recommendations does not establish that the proposed rate plans are inconsistent with CLCPA requirements. Indeed, the recommendations made in the Final Scoping Plan do not change the Commission's review of rate plans for compliance with the CLCPA.[851] As stated earlier, the Commission's analyses as to whether rate plans satisfy the CLCPA "must be made in consideration of the Commission's core statutory obligation to ensure the provision of safe and adequate service at just and

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849 Tr. 74-81.

850 Case 22-E-0064 et al., supra, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements, p. 96.

851 Id., pp. 94-95.

reasonable rates."[852] Our recommendations here are consistent with those requirements, and we find that the recommended electric and gas rate plans are consistent with the CLCPA.

Finally, we reject the Town of Olive's proposals that the Commission permit Central Hudson to "no more than break-even at the Operating Income line on its gas revenues" and "pay out of its shareholder funds for any gas capital expenditures beyond immediate repairs (for example replacement of leak prone pipe)."[853] As discussed above, the Company is required to provide gas service to new customers under certain circumstances and, in any event, must ensure that its gas distribution system provides safe and reliable service and does so in compliance with the CLCPA. Those obligations require Central Hudson to spend more than the amount needed only for immediate repairs. Moreover, the Company is entitled to an opportunity to earn a reasonable return on its gas system investment and therefore cannot be arbitrarily directed to recover no more than a "break even" amount.[854]

B. Disadvantaged Communities

The recommended rate plans do not result in any disproportionate burdens on DACs. Staff reviewed the Company's electric capital portfolio from the perspective of each project's location within and impact on DACs.[855] Staff found projects located within DACs and system-wide that "increase headroom, replace end-of life equipment and facilities, improve system remote monitoring, and create a hardened and resilient

[852] Id., p. 95.

[853] Tr. 483.

[854] See Fed. Power Commission v Hope Natural Gas Co., 320 US 591, 603 (1944); Bluefield Waterworks and Improvement Company v Public Service Commission, 262 US 679, 690 (1923).

[855] Tr. 3989.

electrical system."[856] Staff concluded, and we agree, that the proposed capital investments "have an overall positive impact to [DACs] as these investments would support additional installation of renewable energy, support a safe operation of the electrical system, and improve the reliability of the system."[857]

Staff also reviewed Central Hudson's forecasted gas investments and found that the majority of those costs were allocated to projects that replace existing infrastructure (e.g., through the LPP program) - which could improve safety and reduce emissions in DACs - while others were for system-wide programs such as the installation of valves which would promote safe and reliable service throughout the Company's service territory.[858] In addition, the recommended gas rate plan contains projects and programs included as part of Central Hudson's analysis projecting that it will meet or exceed the CLCPA's GHG emissions reductions goals established for 2030 and that 48 percent of those benefits would accrue to DACs.[859]

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[856] Tr. 3989.

[857] Tr. 3989. Staff identified the Company's Tilcon–Tap Station Project, which would supply the needs of the Tilcon quarry in place of an existing 69 kV transmission line that would be retired, as a project that may impact a DACs where it would be built because the substation would not directly serve that community. Tr. 3990-3991. However, Staff concluded that the alternative solution to the Tilcon-Tap Station Project – the total rebuild of the existing 69 kV transmission line – presented more concerns regarding potential impacts to surrounding DACs in terms of higher levels of emissions, noise impacts, construction impacts, and costs. Tr. 3991-3992. Staff also stated that the Company's proposal provided a benefit to DACs by removing the existing transmission line. Tr. 3992.

[858] Tr. 3994.

[859] Exhibit 98 (CLSP-2).

The recommended gas rate plan provides GHG emissions reductions and safety and reliability benefits that will benefit all communities in the Company's service territory without disproportionately burdening DACs. In addition, as Staff notes, the recommended rate plans include cost recovery for existing clean energy programs related to energy efficiency and building electrification, which will help ensure that the benefits associated with the clean energy transition are available to disadvantaged communities.[860]

CLP questions the validity of Central Hudson's methodology for allocating GHG reduction benefits to DACs. Central Hudson testified that, for certain projects, such as the Utility Thermal Energy Network Pilot Project proposed in Case 22-M-0429, it identified the portion of the project that will occur directly within a DAC and assigned benefits proportionally.[861] For broader system-wide and state-wide initiatives, the Company assigned the benefits proportionally based on relevant geographical data available for the service territory,[862] such as the number of the Company's electric or gas customers located in DACs. A listing of the various allocations for each project or program and the reasons for them are set forth in Exhibit 98 (CLSP-2).

We disagree with CLP that testimony stating that a person has "concerns about the methodology" is sufficient to raise doubt about the validity of the methodology Central Hudson used.[863] Contrary to CLP's claim, the fact that the Company does not track methane emissions by customer also does not invalidate

[860] Staff Initial Brief, p. 14.

[861] Tr. 2790.

[862] Tr. 2790.

[863] CLP Initial Brief, p. 11 (citing Tr. 3702, lines 1-2); PULP Reply Brief, pp. 6-7.

its methodology. In any event, we find that the rate plans provide benefits to DACs and system-wide without disproportionately burdening DACs.

PULP's arguments about rate impacts on DACs do not compel a different conclusion. PULP states that bill impacts from these rate cases make it "concerned that the current rate plan may disproportionately burden [DACs], especially economically disadvantaged communities."[864] However, as we discuss later, the Company will continue its Energy Affordability Program, which helps offset the impacts of rate increases by providing bill discounts to low-income customers, including those located in DACs. In addition, PSL §65(1) requires the Commission to ensure that utility rates are just and reasonable, a requirement that applies to all ratepayers, including those located in disadvantaged communities. We do not find that rate impacts are disproportionately burdensome to DACs or that the Company's Energy Affordability Program somehow applies differently to DACs. Whether and to what extent DACs should be afforded different or additional financial assistance to address bill impacts is more appropriate for Commission consideration in a generic proceeding. We therefore disagree with PULP's concerns about disproportionate rate impacts on DACs in these proceedings.[865]

We also disagree with PULP's position that the Company's methodology for mapping DACs in its service territory is deficient because the Company does not track customers based on census tracts, which the Final Scoping Plan has designated as

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[864] PULP Initial Brief, pp. 15-16.

[865] See Case 22-E-0317 et al., supra, Order Adopting Joint Proposal, pp. 57-58; Case 22-E-0064 et al., supra, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements, p. 145.

either "disadvantaged" or "not disadvantaged" communities.[866] Central Hudson explained that it "does not track customers based on census tract since the Company's customer information system does not include an attribute for census tract and that information is therefore not tracked or included in reports generated from that system."[867]

Nevertheless, Central Hudson used "published geographic data obtained from the Climate Justice Working Group's DAC criteria to layer DACs within its geographical mapping software and perform ad hoc spatial analyses which makes it possible to identify customers, projects and infrastructure located within the specific census tracts that are defined as DACs."[868] Based upon that information, the Company identified electric customers, gas customers and capital projects located in DACs. In addition, Staff was able review the Company's proposed capital projects to assess potential benefits and impacts to DACs. Under the circumstances, we conclude that the Company's methodology to track and assess projects and impacts on DACs was not deficient.

Moreover, we recognize that the process for reporting on DACs in connection with the CLCPA is ongoing and subject to refinement. For example, in Case 18-M-0084, Department staff provided utilities with further guidance "on the necessary content and process elements for data metrics tracking and

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866 PULP Initial Brief, pp. 13-15; Tr. 628; PULP Reply Brief, pp. 4-6.

867 Tr. 2829-2930.

868 Tr. 2930; Exhibit 165 (CLSP-1R), p. 3 (stating that it used public geographic data obtained from https://climate.ny.gov/resources/disadvantaged-communities-criteria/).

reporting associated with [DACs] in relation to the [CLCPA]."[869] The DAC Reporting Guidance Document was provided to utilities filing annual reports on their investments in and resulting benefits to DACs. The Document directs such utilities to account for initiatives that reasonably can be targeted to specific geographic areas, such as census tract or county, and to geocode place-based incentives provided through ratepayer supported clean energy, energy efficiency, building electrification, and energy affordability programs.[870] Department staff directed the utilities to use Geographic Information System (GIS) mapping Shapefiles available online to facilitate their ability to geocode investments and conduct GIS analysis of their territories and to conduct geocoding using census information available at https://data.ny.gov/Energy-Environment/Final-Disadvantaged-Communities-DAC-2023/2e6c-s6fp.[871]

The Company testified that it consulted with Department staff and has aligned its reporting to conform with the DAC Reporting Guidance Document.[872] On December 28, 2023, the Company filed its final DAC Report for 2020-2022, reporting information by City, Town, Village, or census tract.[873]

C. CLCPA Deferral Mechanism

The Company proposed a deferral mechanism for costs related to CLCPA compliance. The Company testified that, to

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869 Case 18-M-0084, In the Matter of Comprehensive Energy Efficiency Initiative, CLCPA-Disadvantaged Communities Investment and Benefits Reporting Guidance (issued September 27, 2023) (DAC Reporting Guidance Document).

870 Id., p. 5.

871 Id. and n. 13.

872 Tr. 2830.

873 Case 18-M-0084, supra, Central Hudson Redacted 2020-2022 DAC Reporting (filed December 28, 2023).

meet near- and mid-term CLCPA milestones, "it is likely that new legislation and/or regulations will require accelerated development of new programs, technologies, projects, and other compliance efforts beyond [what the Company proposed in this case], the costs of which are unknown and uncertain at this time."[874] The Company requested authority to defer the "revenue requirement effect of any Commission orders or actions taken as a result of the CLCPA or in alignment with NYS Energy Policy goals," including "new O&M expenses, new capital expenditures or changes to depreciation rates necessary for any changes to the useful lives of investments made to maintain the reliability and sustainability of the system."[875] The Company maintained that such a deferral would ensure that it has the necessary funding if CLCPA compliance requires it to make incremental investments in the Rate Year that are outside of its control and not otherwise addressed within generic proceedings.[876]

Staff disagreed with the Company's proposed CLCPA deferral mechanism. Staff noted that the Company's Five-Year Capital Plan already included capital cost estimates for its CLCPA Phase 1 projects, with total costs in the Rate Year nearing approximately $50 million.[877] Staff stated that it believed the Company should be able to reasonably forecast its capital and CLCPA-related costs during the Rate Year, and that the Company could file a deferral petition with the Commission if it incurred significant incremental expenses during the Rate Year.[878]

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[874] Tr. 2789.

[875] Tr. 1513-1514.

[876] Tr. 2789.

[877] Tr. 4002.

[878] Tr. 4002-4003.

The Company responded that it can reasonably forecast only known CLCPA-related costs.[879] The Company maintained that a new CLCPA study, project, program, or complex tracking system could be required at any time and stated that it has no assurance of recovering costs for those requirements without the requested deferral mechanism.[880] As an example, Central Hudson stated that it incurred substantial unanticipated costs for work on its long-term gas plan and that the Gas Planning Order did not explicitly allow it to recover the associated costs or defer the costs for future recovery.[881] The Company asserted that those costs would not meet the materiality threshold of five percent net income attributable to shareholders required to support a deferral petition.[882]

MI opposes the CLCPA deferral mechanism stating that Central Hudson reflected all known CLCPA-related costs in its filing and will have the ability to file for new rates shortly after the rate order is issued in these proceedings or any time thereafter.[883] MI also argues that, if a material and unanticipated CLCPA-related obligation were to arise during the Rate Year, the Company could file a deferral petition with the Commission or, if applicable, seek recovery in a generic proceeding in which the Company was subject to the obligation.[884]

We do not agree with the Company that a CLCPA deferral is appropriate in these litigated rate cases. The Company's request is based on speculation that it may incur additional CLCPA-related costs in the Rate Year. To the extent it incurs

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[879] Tr. 2846.

[880] Tr. 2846.

[881] Tr. 2847.

[882] Tr. 2827-2848.

[883] MI Initial Brief, p. 28.

[884] MI Initial Brief, p. 29.

such additional costs that do not meet the materiality requirements to support a deferral petition, those costs are appropriately treated as the Company's cost of doing business as a regulated entity. To the extent such costs support a deferral petition to the Commission, that is the appropriate method for it to seek recovery of the costs. Finally, if CLCPA-related costs arise from a generic proceeding, the Company can seek recovery of costs in that proceeding.

VIII. Climate Leadership and Sustainability Initiatives

A. Gas Initiatives

1. Responsibly Sourced Gas

The Company requested Commission authorization to procure responsibly sourced gas (RSG) "when RSG offers are higher than the annual weighted average cost of 'standard' gas to the extent that the incremental cost in a supply year (April through March) does not exceed $200,000."[885] Although Staff recommends that the Commission approve that proposal, Dutchess County and CLP oppose it, as discussed below.

The Company testified that RSG is natural gas obtained from suppliers that proactively manage their methane emissions through an independent third-party measurement and certification process and attest that the gas was produced under specified best practices for methane mitigation, as well as best practices for other vital environmental categories, such as water use, land use or community engagement.[886] The Company explained that continuous emissions monitoring devices are used to detect, locate and quantify leaks, allowing operators to make "quick decisions to mitigate the effects and accurately measure methane

[885] Tr. 1068.

[886] Tr. 2800-2801.

intensity."[887] The Company stated that "each certification company has their own guidelines and procedures that they certify to" and that there is no "global standard."[888] The Company is aware of three companies that accredit RSG.[889]

The Company testified that it previously purchased RSG during the summer of 2022 as part of a Research and Development pilot project, that it procured RSG below the cost of standard natural gas as part of its base supply in 2023, and that the Company intends to continue to select RSG when competitive RSG pricing is at or less than the weighted average cost of natural gas supply.[890] As a result of that pilot project, the Company determined that the incorporation of RSG into its natural gas supply can result in an approximately 82 percent reduction in upstream production emissions, resulting in methane emission reductions throughout its system and in DACs.[891] The Company maintained that its proposal to purchase RSG costing more than the annual weighted average cost of standard natural gas would allow greater use of RSG in serving gas system loads, leading to further reductions in fugitive methane emissions in alignment with the State's emission reduction goals.[892] Finally, the Company testified that the Commission has approved RSG pilot programs for other New York State utilities.[893]

Staff agreed with the Company's proposal to continue purchasing RSG at levels equating to the Company's overall weighted average cost of gas. Staff also agreed with the

[887] Tr. 2803.

[888] Tr. 2897.

[889] Tr. 2918.

[890] Tr. 1067-1068.

[891] Tr. 2801; Exhibit 98 (CLSP-2).

[892] Tr. 2802.

[893] Tr. 2804.

Company's proposal to purchase RSG exceeding the Company's overall weighted average cost of gas on the ground that "exposure to customers would be no more than $200,000" and because "RSG can be a means to decrease greenhouse gas emissions."[894] Staff stated that RSG "is a way for a gas utility to help reduce the climate impact of its energy choices by reducing measurable emissions while providing purchasers with proof that they are making impactful changes to . . . emission reduction goals."[895] In addition, Staff recommended that the Commission require the Company to file the details of its RSG purchases going forward, including the name of the RSG certifier, the source of the gas being certified, the volume, and the cost per unit.[896] Staff stated that the Company should be required to file that information with the Secretary on a monthly basis during the Rate Year to ensure that Staff can properly track and monitor the Company's RSG purchases.[897]

a) Dutchess County Opposition

Dutchess County opposes the Company's RSG proposal. Citing a recent Commission order in Cases 15-E-0302 and 18-E-0071,[898] Dutchess County testified that the Company's proposal goes against Commission policy regarding competitive solicitations for contracts regarding Renewable Energy Certificates and Offshore Wind Renewable Energy Certificates because it would allow the purchase of RSG that is not the

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[894] Tr. 3666-3667.

[895] Tr. 3665.

[896] Tr. 3667.

[897] Tr. 3667.

[898] Case 15-E-0302, Proceeding on Motion of the Commission to Implement a Large-Scale Renewable Program and a Clean Energy Standard and Case 18-E-0071, In the Matter of Offshore Wind Energy, Order Denying Petitions Seeking to Amend Contracts with Renewable Energy Projects (issued October 12, 2023).

lowest base supply option.[899] We disagree with this position. The Commission has approved Pilot Programs for the purchase of RSG costing more than traditional gas to assist in the Commission's consideration as to whether and how RSG should play a role in the transition to a decarbonized gas system.[900] In doing so, the Commission stated that programs that test potential avenues to reduce GHG emissions, like RSG, "should not be ruled out as an interim step in the transition process."

b) CLP's Opposition

CLP testified that there is no recognized and accredited industry organization that certifies natural gas as RSG, and no regulatory body overseeing the RSG industry, and no safeguards to prevent inaccurate or biased reporting on monitoring of RSG production.[901] CLP stated that Project Canary, one of the certifying entities that the Company could potentially purchase from, has no independent and peer review studies to substantiate claims that their monitors consistently work in the field as claimed.[902] CLP also referenced an April 2023 Report entitled "CERTIFIED DISASTER: How Project Canary &

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[899] Tr. 448-449.

[900] Case 22-E-0064 et al., Consolidated Edison Company of New York, Inc. – Gas Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements (issued July 20, 2023), pp. 129-135; see also Case 22-E-0317 et al., New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation – Electric and Gas Service, Order Adopting Joint Proposal (issued October 12, 2023), Attachment 1, Joint Proposal, pp. 70-71; Case 21-E-0074 et al., Orange and Rockland Utilities, Inc. – Electric and Gas Service, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans, with Additional Requirements (issued April 14, 2022), Attachment A, Joint Proposal, pp. 29-30.

[901] Tr. 3702, 3712, 3732.

[902] Tr. 3712-3713; Exhibit 393 (JEDR-02).

Gas Certification are Misleading Markets & Governments," which asserts that Project Canary has failed to detect methane leaks as part of its certification process.[903] CLP points out, that in a discovery response, Central Hudson stated that the 82 percent reduction in upstream production emissions reported for its RSG pilot program by comparing the leakage rate "adopted from the EPA's Greenhouse Gas Reporting Program annual report and the leakage rate from the Project Canary certification."[904]

CLP further argues in its brief that Project Canary has "conflicts of interest" because it provides monitoring, as well as certification, of RSG and that "there is no guarantee" that the information regarding Central Hudson's RSG pilot project "was not cherry-picked or hand-tailored to show benefits that are not there."[905] It also asserts that emissions reductions will fluctuate based on a number of variables, including where the gas comes from.[906]

Central Hudson responded that Project Canary published an article stating that the April 2023 Report contained a number of inaccurate and misleading claims and used a flawed methodology, and that the April 2023 Report was neither peer reviewed nor updated to respond to Project Canary's article.[907] The Company stated that it has not specifically proposed to purchase RSG from Project Canary as opposed to other organizations that certify RSG purchases.[908] The Company maintained that, while it supports further review and/or refinement of certification protocols as part of a longer-term

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903 Exhibit 393 (JEDR-02).

904 Exhibit 503.

905 CLP Initial Brief, pp. 14-15.

906 Id., p. 15.

907 Tr. 2835; Exhibit 166 (CLSP-2R).

908 Tr. 2836.

statewide process overseen by the Commission, the Company's RSG proposal "is intended to pursue a promising opportunity for emissions reduction that can create benefits in the near term at nominal cost" and has the potential "to advance the market and inform further development of RSG certification" at minimal cost to customers.[909]

Although the record contains conflicting information about Project Canary, it does not establish that RSG has no emissions-reduction benefits or that Central Hudson's proposal to procure RSG up to a cost above traditional supplies of $200,000 during the Rate Year should be disallowed. The Commission has approved several pilot projects that will further assist its evaluation of the benefits of using RSG during the transition to a carbon-free gas system.[910] As Central Hudson points out, in those cases, the Commission rejected arguments similar to CLP's arguments here.[911] Moreover, despite CLP's testimony and arguments, Staff continues to support Central Hudson's RSG proposal, stressing the reporting requirements Staff recommends and the limited amount of money Central Hudson

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909 Tr. 2836.

910 See Case 22-E-0064 et al., supra, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements, pp. 129-135; Case 22-E-0317 et al., supra, Order Adopting Joint Proposal, Attachment 1, Joint Proposal, pp. 70-71; Case 21-E-0074 et al., supra, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans, with Additional Requirements, Attachment A, Joint Proposal, pp. 29-30.

911 See Case 22-E-0064 et al., supra, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements p. 131; Case 22-E-0317 et al., Statement of Opposition by Alliance for a Green Economy (AGREE) et al. (filed June 27, 2023), pp. 17-19; Case 21-E-0074 et al., AGREE Statement of Opposition (filed November 21, 2021), p. 6.

requests to fund the RSG proposal.[912] We note that Staff's recommended reporting requirements are similar to those the Commission approved in Case 21-E-0317 for the utilities' RSG Pilot Project.[913] Accordingly, we recommend that the Commission approve Central Hudson's RSG proposal, with Staff's reporting requirements.

2. Clean Hydrogen Feasibility Study

Central Hudson proposed to conduct a Clean Hydrogen Feasibility Study to identify portions of its distribution system where hydrogen blending activities could be successful and to identify project sites that can use hydrogen for both gas heating and industrial process load.[914] The Company testified that the study would allow it to gain experience with hydrogen technology while identifying (1) barriers to implementation, market readiness, and customer interest; (2) portions of its distribution system where hydrogen blending activities could be successful; and (3) project sites that can use hydrogen for both gas heating and industrial process load.[915] Central Hudson requested $250,000 in the Rate Year to complete the study.[916]

Staff agreed "that studying hydrogen as a potential future piece of the Company's plans to support the State's climate goals is commendable and could allow the Company to make progress towards those goals."[917] Staff recommended that the Commission direct the Company to focus the study on "what is available in its service territory," rather than repeating

[912] Staff Initial Brief, p. 146.

[913] 22-E-0317 et al., supra, Order Adopting Joint Proposal, Attachment 1, Joint Proposal, p. 71.

[914] Tr. 2804, 3669.

[915] Tr. 2804.

[916] Tr. 2854.

[917] Tr. 3669.

previous studies that "have already gone over the blending aspect of hydrogen."[918] In rebuttal testimony, Central Hudson agreed with Staff's recommendation to focus the study on what is available in its service territory.[919]

Dutchess County maintains that expending customer resources to investigate the capability of siting a hydrogen production facility "is premature and the feasibility of such an assessment leading to the actual construction of such a facility during the term of the current rate plan is slim to none."[920] Dutchess County stated that "[m]uch needs to be done on industry understanding of safe, cost-effective hydrogen production prior to the investigation of facility siting."[921] However, we agree with the Company and Staff that the proposed study is not premature because its very purpose is to provide information on whether hydrogen-blending can be used in Central Hudson's distribution system to benefit Central Hudson's customers.[922]

Assemblymember Shrestha testified that Central Hudson's proposed study goes against the spirit of the CLCPA because it (1) prioritizes a short-term minimal emission reduction goal at the cost of the more ambitious 2030 and 2040 emission-free electricity goals; (2) does not involve a phase-out of gas infrastructure and, therefore, does not demonstrate urgency toward the 2050 goal; and (3) seeks to invest in an

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918 Tr. 3669. We view that recommendation as requiring the study to focus on identifying portions of Central Hudson's distribution system where hydrogen blending could be successful and specific project sites where hydrogen blending could be used.

919 Tr. 2837.

920 Tr. 449.

921 Tr. 449.

922 Central Hudson Initial Brief, p. 148; Staff Initial Brief, p. 146.

unvetted technology that has known problems and that can exacerbate inequity if sited in disadvantaged communities.[923] Those arguments fail to consider a prior Commission order addressing a utility's potential use of hydrogen to address CLCPA goals.

Specifically, the Commission has recognized that research into whether the use of hydrogen makes sense as part of a utility's efforts to satisfy CLCPA goals "is appropriate and that any information on the potential use of hydrogen in [a utility's] gas system would be pertinent in future phases of the Gas Planning Proceeding that address the role that hydrogen may play in decarbonizing the natural gas distribution system."[924] In doing so, the Commission noted Governor Hochul's $10 million initiative to advance innovative clean hydrogen research, development and demonstration projects to address replacement of fossil fuel usage in hard-to-electrify sectors. Implicit in the Commission's order is a determination that the gas distribution system itself or hydrogen use on that system may play a role in meeting long-term CLCPA goals.

Moreover, we agree with the Company that its proposed study will help determine where hydrogen-blending could be used on its system, including areas where electrification is difficult or infeasible, and whether hydrogen could provide benefits to DACs.[925] We therefore recommend that the Commission approve the requested funding for the Company's Clean Hydrogen Feasibility Study.

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[923] Tr. 75-77.

[924] Case 22-E-0064 et al., supra, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements, pp. 134-135.

[925] Tr. 2839.

3. Renewable Natural Gas

The Company did not propose a program or project that would incorporate renewable natural gas (RNG) in its supply mix during the Rate Year. Staff recommended that the Commission require Central Hudson to take a comprehensive look at its service territory for opportunities where RNG could be produced, identify the benefits and costs associated with those opportunities, and file a report containing its findings with the Secretary.[926] Central Hudson responded that it already hired a consultant to assess regional RNG potential sources and estimate the production cost and GHG emissions of potential supplies. The Company attached the consultant's final report, completed in 2021, as an exhibit to its rebuttal testimony.[927] In addition, the Company stated that it "will supplement the RNG Analysis for purposes of developing its Long-Term Plan in accordance with the requirements set forth in Case 20-G-0131."[928] Central Hudson filed its proposed Long-Term Plan in Case 23-G-0676 on February 7, 2024. Part 1 of the Appendices to that proposed plan includes additional information on RNG at pages 19-21. Based on the foregoing, we do not recommend that the Commission require further investigation and reporting requirements on RNG in this rate case.

B. Supplemental Electric Vehicle Programs

The Company initially proposed two new supplemental EV programs: an EV Charging Site Assessment Service for multi-dwelling units (with a focus on DACs) and an EV Education and Outreach Initiative. Staff recommended the removal of those proposed programs because "funding for all the activities

[926] Tr. 3668.

[927] Tr. 2841; Exhibit 165 (CLSP-1R), pp. 4-40.

[928] Tr. 2841.

associated with the proposed programs [is] already allowed within the exiting EV Make-Ready Program and the Managed Charging Program."[929] The Company now agrees with Staff that funding for those programs was provided in the existing EV Make-Ready Program and Managed Charging Program and agrees to "remove these programs from this proceeding."[930]

C. Electrification of Fleet

The Company proposed to continue electrification of its fleet in the Rate Year by following the normal replacement cycle for its gas-powered vehicles and replacing them with electric vehicles or plug-in electric vehicles where feasible.[931] The Company proposed to recover costs associated with the procurement of 25-light duty vehicles per year, which includes a premium of $10,000 per EV.[932] Staff testified that it supports the level of expenditures associated with the Company's EV fleet proposal.[933] In addition, Staff states in its brief that it "generally supports utility efforts to electrify their fleets, which is consistent with the State's policy regarding transitioning from gas-fueled vehicles to EVs in support of State climate goals."[934]

As previously discussed, we recommend that the Commission approve the Company's requests for transportation capital costs, which includes funding for the Company to further electrify its fleet of vehicles. Because further electrification of the Company's fleet will result in GHG

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[929] Tr. 3904.

[930] Tr. 2832.

[931] Tr. 108.

[932] Tr. 108-109.

[933] Tr. 3980.

[934] Staff Initial Brief, p. 149.

emissions reductions consistent with CLCPA objectives, we recommend that the Commission approve funding associated with the Company's EV fleet proposal even if the Commission otherwise disagrees with our recommendations on transportation capital costs.

D. Energy Efficiency/Building Electrification

1. Cost Recovery

Central Hudson proposed a rate allowance of approximately $23.2 million in the Rate Year for its energy efficiency (EE) and building electrification (BE) programs.[935] The Company predicated its proposed Rate Year allowance on an estimate of accrued Clean Energy Fund interest.[936] As part of its rebuttal filing, the Company updated its estimate of that interest, which reduced the proposed Rate Year allowance for EE by $668,000.[937] The Company proposed to continue deferral treatment for over/under spending compared to the Rate Year allowance.[938] Staff agreed with the Company's proposed rate allowance and continuation of a deferral for EE and BE over/under spending.[939] Because no dispute exists regarding these issues, we agree with Staff's recommendation to approve the Company's proposals.

Central Hudson also proposed to begin cost recovery through base rates, amortized over ten years, of an $18.8 million regulatory asset resulting from EE and BE spending in the current rate plan that exceeded the cost recovery authorized

[935] Tr. 3292, 3889.

[936] Tr. 1427.

[937] Tr. 774.

[938] Tr. 1427.

[939] Tr. 3889-3890; Exhibit 304 (SAP-6 Corrected).

in the 2021 Rate Order.[940] Staff agreed with this proposal because it aligns with the 2021 Rate Order, which authorized EE and BE cost recovery of amounts less than the budgets authorized in Case 18-M-0084[941] in order to mitigate immediate rate impacts and allowed treatment of the difference as a regulatory asset that would be deferred for collection in a subsequent rate plan.[942] We agree with Staff's recommendation that the Commission approve the Company's proposal on this issue.

2. Geothermal District Energy Loop Initiative Deferral

The Company initially proposed continuation of the Geothermal District Energy Loop deferral established by the 2021 Rate Order,[943] which authorized deferral of the revenue requirement effect associated with a Geothermal District Energy Loop feasibility study, up to $200,000. Staff recommended that the deferral be discontinued because the Company had completed the feasibility study and any further deferrals related to Utility Thermal Energy Network pilot projects should be addressed in Case 22-M-0429.[944] In addition, Staff recommended that the Company defer the regulatory asset balance of $89,810 associated with the feasibility study as of July 31, 2023, and

[940] Tr. 774.

[941] Case 18-M-0084, In the Matter of a Comprehensive Energy Efficiency Initiative, Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios through 2025 (issued January 16, 2020).

[942] Tr. 3884-3885; 2021 Rate Order, p. 22.

[943] Exhibit 90 (ATP-11).

[944] Tr. 3890-3891; Case 22-M-0429, Proceeding on Motion of the Commission to Implement the Requirements of the Utility Thermal Energy Network and Jobs Act, Order on Developing Thermal Energy Networks Pursuant to the Utility Thermal Energy Network and Jobs Act (issued September 15, 2022).

allocate that amount to the Company's "electric customers as originally intended in the Existing Rate Term Joint Proposal."[945]

The Company agreed with Staff's recommendations, except with respect to the amount of the regulatory asset balance, which the Company updated to $170,000 to reflect invoices paid after July 31, 2023.[946] Staff agrees with that updated amount and recommends that the Commission authorize the Company to defer the regulatory asset balance of $170,000.[947] We recommend that the Commission adopt Staff's position on these issues, which are not contested, and authorize the Company to defer the regulatory asset balance as updated.

E. Onsite Solar

Central Hudson proposed to install rooftop solar generation infrastructure at Company facilities in Catskill, Kingston, Eltings Corner, and Poughkeepsie over the period of 2025 through 2028, beginning with the Catskill facility in 2025.[948] Out of the proposed total capital expenditure amount of $3.05 million over a five-year period, the Company proposed a capital budget for onsite solar of $30,000 for 2024 and $180,000 for 2025.[949] The Company testified that it "strives to be a role model and leader in promoting local and carbon-free technologies" and that the proposed onsite solar projects would benefit customers by contributing to CLCPA emissions reductions targets and providing a "good example for customers considering similar projects at their home or business."[950]

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945 Tr. 3892-3893.

946 Tr. 2848.

947 Staff Initial Brief, p. 151.

948 Tr. 2811-2812.

949 Exhibit 311 (SCP-2), p. 2.

950 Tr. 2813, 2843.

Staff reviewed estimates the Company provided in response to DPS-678,[951] which requested the Company to provide "all contractor estimates and/or invoices, and workpapers, that the Company used to calculate" costs for the solar generation projects at the Company's various facilities.[952] Staff used the total vender estimated costs as compared to the Company's proposed total capital costs to arrive at a downward recommended adjustment of approximately $590,000. As relevant here, Staff recommended downward adjustments of approximately $7,000 in 2024 and $37,000 in 2025.[953]

The Company argues that the Commission should reject Staff's downward adjustments because Staff did not consider all costs necessary to fund the proposed solar generation projects. The Company noted that its response to DPS-678 contained only the vendor-generated portion of the total cost estimates and did "not provide a total review of the necessary costs."[954] The Company testified that its "originally submitted budget was inclusive of the vendor-estimated cost as well as internal Central Hudson labor for project management, overheads, (AFUDC) and contingency all-inclusive, as required to properly fund these projects."[955]

Staff maintains its testimonial position on the grounds that the Company's Five-Year Capital Plan did not indicate that such costs were included and the Company provided only the vendor estimates in response to DPS-687. We agree with Staff.

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951 Tr. 3829; Central Hudson Initial Brief, p. 155.

952 Exhibit 309 (SCP-1), p. 98.

953 Tr. 3829; Central Hudson Initial Brief, p. 155.

954 Tr. 126.

955 Id.

Although Exhibit 311 broadly states on top of the projected costs "W/AFUDC, Inflated & OH Adjustments,"[956] the Company did not provide any breakdown of those cost factors. Rather, the Company provided only vendor estimates in response to Staff's discovery request for "all contractor estimates and/or invoices, and workpapers, that the Company used to calculate" costs for the solar generation projects at the Company's various facilities. The Company does not point to any record evidence providing specifics about how it calculated the costs for the proposed solar generation projects. We conclude that the Company has not met its burden of proof on this issue and recommend that the Commission adopt Staff's proposed downward adjustments, assuming the Commission rejects our recommendation below to accept the positions of Assemblymember Shrestha and MI that the Company's proposed onsite solar generation project should not be allowed to proceed at this time.[957]

In that regard, Assemblymember Shrestha testified that the Company should offset its electricity use and promote local and carbon free-technologies by loaning "rooftop space to the New York Power Authority [NYPA] to host solar panels, which will

[956] The same notation is contained in the 2024-2028 Capital Expenditures Workpaper Recategorization workpaper cited in the Central Hudson's Reply Brief, p. 53.

[957] We reject Dutchess County's argument that any's proposed onsite solar generation projects as "increasing customer costs to Dutchess County customers" without providing them with tangible benefits.[957] The Company's proposal to install solar generation on its facilities would provide tangible benefits to customers because it will reduce the Company's energy costs and result in GHG emissions reduction benefits consistent with the State's clean energy goals. Central Hudson Initial Brief, p. 155 (citing Exhibit 97 (CLSP-1) and Exhibit 98 (CLSP-2)).

not cost ratepayers."[958] MI opposes the Company's onsite solar generation proposal because these assets will be added to rate base, the Company did not conduct a competitive solicitation to evaluate whether it would be more cost-effective to have a third-party install and maintain the panels, and the Company has not provided support for its assertion that reliance on a "third party who would own and be responsible for the solar generation on Central Hudson's facilities and property would add unnecessary administrative complexity to the projects."[959]

As MI states, the Company has not conducted a competitive solicitation to establish that its proposed vendor offers the best option to proceed and did not evaluate the costs and benefits of third-party ownership as opposed to Company ownership. Because the environmental benefits from rooftop solar would be realized regardless of who owns the asset,[960] we recommend that the Commission deny the requested Rate Year funding for the Company's onsite solar generation project.

F. Website and Customer Communications

The 2021 Rate Order required the Company to discontinue offering incentives for conversion from oil to natural gas and to modify its website in specific ways regarding information available to customers about natural gas.[961] With respect to its website, the Order required the Company to make various edits to existing language, include links to air and geothermal heat pump information and incentives, include information on its business incentives webpage regarding its small business and commercial heat pump programs, add a link to

[958] Tr. 84.

[959] Tr. 2843.

[960] Tr. 2858-2859.

[961] 2021 Rate Order, Attachment 1, Joint Proposal, p. 70 and Appendices BB and CC.

clean heat contractors in the next revision of its Energy Saving Tips booklet, clarify language on its Commercial Incentives webpage to indicate that incentives are associate with energy efficiency programs and add a link to a new commercial heat pump program page, and remove language stating that natural gas is cleaner or more environmentally friendly than fuel oil or other fossil fuels.[962]

Various parties maintain that the Company has violated the requirements of the 2021 Rate Order. Initially, we note our view that issues of compliance with prior rate orders should be addressed in the dockets in which such rate orders were issued and that these cases should deal only with issues related to the Company's forward-looking rate filings for the Rate Year. In any event, because the issues are raised in this case and Central Hudson has responded to them, we address them below for purposes of administrative economy.

Contrary to the Town of Olive's testimony, the 2021 Rate Order did not broadly require the Company to discontinue "advertising its Gas Operations" and, therefore, did not preclude Central Hudson from posting Facebook advertisements stating, "Consider Switching to a Cost-Effective Heating Fuel" and "Learn More About Switching to Natural Gas."[963] Nor does the 2021 Rate Order preclude the Company from sending emails or letters promoting natural gas, such as those referenced in BCAN's testimony.[964] Moreover, despite CLP's testimony that corrective action is needed, a review of the Company's My Energy webpage shows that it includes a link to heat pump information

[962] 2021 Rate Order, Attachment 1, Joint Proposal, Appendix CC.

[963] Tr. 483 (citing Exhibit 459 (SSS-03) and Exhibit 460 (SSS-04)).

[964] Tr. 3459-3462; Exhibits 386 (TW-03), 387 (Exhibit TW-04), and 388 (TW-05).

on its "My Energy Options" drop down menu.[965] Therefore, no corrective action is required on this issue.[966]

In contrast, we agree with CLP that the Company's statement on its webpage that natural gas "emits approximately 28 percent less carbon dioxide than petroleum derived fuels,"[967] does not comply with its obligation to omit language stating that natural gas is cleaner or more environmentally friendly than fuel oil. Central Hudson's position that such language does not specifically preclude reference to carbon content is unpersuasive.[968] The website references carbon content to show that natural gas is cleaner or more environmentally friendly than fuel oil. To the extent such language remains on the Company's website, we recommend that the Commission direct the Company to remove it, unless the Commission concludes that the 2021 Rate Order required the Company only to omit the specific words "natural gas is cleaner or more environmentally friendly than" fuel oil or other fossil fuels.[969]

We further agree with CLP that the Company's commercial incentives webpage should include a link to its "commercial heat pump program."[970] That webpage currently has a

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965 https://www.cenhud.com/my-energy/. See https://www.cenhud.com/en/my-energy/heat-pumps/.

966 Tr. 3697-3698

967 Tr. 3696-3697; Exhibit 404 (JM-05), p. 2.

968 Tr. 2941.

969 https://www.cenhud.com/my-energy/simply-better/. In response to CLP's questioning about references on one of the Company's webpages to the word "switch" or switching with respect to natural gas (Exhibit 400, p. 2), the Company indicated at the evidentiary hearing that it had been removed from the webpage. Tr. 2941-2942; Central Hudson Initial Brief, p. 157, n. 92. Therefore, we do not recommend any further corrective action with respect to those references.

970 Tr. 3696; Exhibit 404 (JM-05).

link to a general heat pump page directed toward residential users.[971] Because the Company has a separate webpage addressing heat pumps and incentives for businesses,[972] we recommend that the Commission direct the Company to include that link on its commercial incentives webpage.

CLP's remaining arguments lack merit. CLP argues that Central Hudson did not provide appropriate witnesses for cross-examination. However, the Company appropriately produced the witnesses who provided or otherwise adopted the Company's pre-filed testimony so that those witnesses could be cross-examined on that testimony. That the witnesses were perhaps unable to respond to other questions or did not do so in a manner that CLP desired does not mean the Company failed to provide the appropriate witnesses. For example, CLP notes that it asked the Company's Climate Leadership and Sustainability Panel whether it "think[s] that if New York wants to meet its climate goals, Central Hudson should stop <u>promoting</u> the conversion of natural gas to its customers," to which the Panel responded it was "not aware of any . . . requirements or mandates that would include not <u>communicating</u> with customers about gas."[973] CLP argues that the Panel's did not respond to CLP's question because it used the word "'communicate,' [rather than the word promote], which has a significantly different meaning in this context."[974] To the extent CLP was dissatisfied with the Company's response, it should have addressed that issue at the evidentiary hearing during cross-examination, not for the first time in a brief.

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971 https://www.cenhud.com/my-energy/simply-better/commercial-incentives/; https://www.cenhud.com/en/my-energy/heat-pumps.

972 https://www.cenhud.com/en/my-energy-money/business-incentives/heat-pumps-commercial.

973 Tr. 2950-2951.

974 CLP Initial Brief, p. 19.

G. Climate Resilience Surcharge

The Company proposed to implement a new surcharge to recover the incremental expenses incurred in developing a Climate Change Vulnerability Study and Climate Change Resilience Plan in accordance with PSL §66(29),[975] until such costs are included in base rates.[976] The Company agrees with Staff's position that such a surcharge is not necessary in this case.[977] Accordingly, we recommend that the Commission not adopt that surcharge.

IX. RATE OF RETURN/FINANCIAL ISSUES

A. Overview

The historical shaping of utility ratemaking by the courts has established core principles by which rate setting commissions are bound in their exercise of determining just and reasonable rates.[978] Commissions are required to balance investor and consumer interests in determining a fair rate that will ensure that the utility has sufficient revenue to cover operating expenses and capital costs, including the ability to cover service on any outstanding debt obligations and the potential for dividends to the utility's investors, but that

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975 See Case 22-E-0222, Proceeding on Motion of the Commission Concerning Electric Utility Climate Vulnerability Studies and Plans, Order Initiating Proceeding (issued June 16, 2022).

976 Tr. 1854.

977 Staff Initial Brief, pp. 152-153; Central Hudson Initial Brief, p. 60. This also resolves CLP's opposition to the proposed Climate Resiliency Surcharge. Tr. 1854-1855; CLP Initial Brief, p. 26.

978 See Public Service Law § 65(1) (requiring the Commission to ensure that New York electric and gas utilities charge only what is just and reasonable).

does not burden utility rate payers with unnecessary costs.[979] The courts have established that the fair return to utility equity owners is one that is both commensurate with returns on investments in other enterprises sharing corresponding risks and sufficient to assure confidence in a utility's financial integrity, allowing the utility to maintain its credit and attract further investment capital.[980] However, the courts have also made clear that the return requirement extends only to providing a fair opportunity to earn that return, not guaranteeing it is attained, and that the responsibility to manage utility operations efficiently, as well as the risk of failure to achieve profitability, rests on the utility.[981] It is with these basic principles in mind that we turn our attention to the parties' disputes on financial issues.

As an initial matter, there is no dispute regarding the assessment of Central Hudson's financial needs on a stand-alone basis, separate from its holding company Fortis. Staff agrees with the Company's position that the relevant credit ratings agencies rate Central Hudson on a stand-alone basis. As such, Staff also evaluates the Company's rate of return as an individual entity.[982]

B. Capital Structure

In general, utilities finance the bulk of their operations through a mix of equity investment and debt

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979 Federal Power Commission v. Hope Natural Gas, 320 U.S. 591, 603 (1944) (Hope Natural Gas); St. Lawrence Gas Company v. Public Service Commission, 54 A.D.2d 815 (Third Dep't 1976).

980 Hope Natural Gas, 320 U.S. at 603.

981 St. Lawrence Gas, 54 A.D.2d 815 (citing Federal Power Commission v. Natural Gas Pipeline Co., 315 U.S. 575, 590 (1942).

982 Tr. 2352-2353.

obligations.[983] The equity component, financing a utility's operations, costs ratepayers more than the debt component does.[984] Thus, the more equity relative to debt needed to fund operations, the higher at which customer rates must be set. However, rate-setting commissions recognize that, as the proportion of a utility's rate base increases in long-term debt obligations, so does the utility's financial risk.[985]

Both utilities and regulators seek to establish a roughly even split of equity and debt with neither generally favoring the debt and equity components being significantly disproportionate. For the purposes of these cases, Central Hudson seeks a fully even split, proposing the Commission allow for rates that are premised on a 50 percent common equity ratio.[986] Staff counters that an equity ratio of 48 percent is appropriate to support the Company's operations and overall credit quality.[987]

Central Hudson claims that a 50 percent equity ratio is necessary for it to achieve and maintain an "A" or equivalent credit rating, keeping it attractive to investors and allowing it to obtain equity readily and at the best price for customers.[988] The Company notes that its current credit ratings by both Moody's Investor Service (Moody's) and Standard & Poor's (S&P) are currently one step below "A" grade.[989] Central Hudson then observes, since 1982, the Commission has expressed a preference that the state's utilities be able to maintain an "A"

[983] Tr. 2345-2346.

[984] Tr. 2348.

[985] Tr. 2346.

[986] Tr. 969.

[987] Tr. 2360–2364.

[988] Tr. 960–962.

[989] Central Hudson Initial Brief, p. 160.

investment rating.[990] Central Hudson cites to the Generic Finance RD in which the Commission expressed a policy to provide rate support sufficient for utilities to maintain an "A" credit rating, absent the imposition of unacceptable rate impacts.[991]

The Company cites a May 16, 2023 Moody's credit opinion to support its further contention that a less than favorable Commission rate order risks a downgrade of its existing "Baa1" credit rating, which then is already below "A" grade.[992] Central Hudson offers the following support for its requested 50 percent equity ratio: a 132 percent rise in energy commodity prices over a two year period, major storm costs in excess of past rate allowances, the growth of arrears balances, and the need to access greater than historic amounts of working capital, all of which have negatively impacted the Company's cash flows.[993] The Company states that financial ratios, such as cash flow to total debt and debt to earnings, are key determinants used by credit rating agencies and that the Company's equity ratio impacts both operating income and debt leverage.[994] In particular, the Company points to the 2017 Tax Cuts and Jobs Act as permanently reducing the Company's cash flows associated with its capital expenditures.[995] Finally, Central Hudson notes that, over the last four years, the average equity ratio of the proxy group of companies used to support Staff's ROE calculation was 54.13 percent. The Company

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[990] Id. (citing Case 91-M-0509, Proceeding on Motion of the Commission to Consider Financial and Regulatory Policies for New York State Utilities, Recommended Decision (July 19, 1994) (Generic Finance RD)).

[991] Id., pp. 160-161.

[992] Id., pp. 161-163.

[993] Id., pp. 165-166.

[994] Id., p. 166 (citing Tr. 957-959).

[995] Id., pp. 166-167 (citing Tr. 988-989).

maintains that some adjustment should be made either to the Company's allowed equity ratio or its ROE if the Commission is concerned about the financial risks the Company faces as compared to its peers.[996]

In response, Staff notes that all other New York combination electric and gas utilities have demonstrated the ability to access "reasonably priced capital" with a 48 percent equity ratio.[997] Staff also takes issue with the Company's position that a 50 percent equity ratio is necessary to maintain its current credit rating, although Staff acknowledges that the Company is not currently at an "A" rating.[998] Staff then observes that the Company was downgraded when it had a 50 percent equity ratio during its existing rate plan.[999] Importantly, Staff notes that the downgrade of the Company was "primarily due to factors other than" Central Hudson's capital structure, such as a large capital spending program, inflation, and increased O&M expenses.[1000]

Staff also disputes the Company's reliance on ongoing impacts from the 2017 Tax Cuts and Jobs Act. Staff first notes that, while the Commission did approve increasing the Company's equity ratio to 50 percent for Rate Years 2 and 3 of the Company's 2017 rate proceeding, the Joint Proposal in that proceeding was signed only four months after the enactment of the Tax Cut and Jobs Act, at a time of great uncertainty about how the Act would impact credit ratings overall.[1001] Staff states that regardless of any ongoing impacts, the uncertainty cited by

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[996] Id., p. 168 (citing Tr. 207).

[997] Tr. 2360.

[998] Id.

[999] Id.

[1000] Tr. 2360-2361.

[1001] Tr. 2370-2371.

the Commission in its 2018 rate order adopting the Joint Proposal no longer exists.[1002] Staff then explains that the Joint Proposal in the Company's subsequent 2020 rate case stepped the applicable equity ratio down from 50 percent to 49 percent and then to 48 percent over the three year plan.[1003] Therefore, Staff maintains, credit ratings agencies have no reason to be concerned or surprised about the Commission continuing on a litigated record the Company's existing 48 percent equity ratio in these proceedings.[1004] Moreover, Staff notes that other utilities have been able to maintain their existing credit ratings over the same time interval since enactment of the Tax Cuts and Jobs Act without an equity ratio above 48 percent.[1005]

We agree with Staff and recommend that the Company's rates be premised on a 48 percent equity ratio. The testimony and exhibits submitted by the Company do not clearly establish that the downgrade it experienced flowed from any direct impacts of the Tax Cut and Jobs Act. Rather, as Staff asserts, the timing of the Commission-approved changes in the Company's equity ratio over the last several years following enactment of the Tax Cut and Jobs Act demonstrates that the Commission was not concerned with any lingering impacts of the Act, even assuming they still exist. Moreover, those equity ratio changes were contained in joint proposals, which allowed for the negotiation of other elements to mitigate any rate impacts of that ratepayers might otherwise have experienced and any corresponding cash flow impacts the Company might experience from the gradual reduction of its equity ratio. That is not the

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[1002] Id.

[1003] Tr. 2372-2373.

[1004] Id.

[1005] Tr. 2373.

case here, where the status quo for the Company’s expiring rate plan is a 48 percent equity ratio, which matches the equity ratios of the Company’s New York utility peers. Absent any unique features of the Company in the record, we see no reason to recommend the Commission depart from what appears to be its current standard equity ratio. Staff’s testimony regarding the other state utilities’ ability to maintain credit ratings while all having an allowed 48 percent equity ratio is highly persuasive.

Although an increase to Central Hudson’s equity ratio might provide support for an increase in the Company’s existing credit ratings, on balance, it does not appear to us to be necessary given that the resulting equity ratio would be disproportionate relative to what the other New York combination electric and gas utilities are allowed. In any event, the Commission’s overall decision in these matters and the resulting rate plans are much more likely to impact Central Hudson’s credit rating than the adoption of any single element, such as an equity ratio. As such, we recommend the Commission adopt a rate plan that provides for a 48 percent equity cost share.

C. Long-Term Debt

Central Hudson’s forecast for the embedded cost of long-term debt was calculated using interest rate forecasts from the Blue Chip Financial Forecasts.[1006] Staff argues that using current rates is superior to using forecasted rates.[1007] Staff cites to several studies supporting its contention that actual Treasury yields should be used to calculate the cost rates for

[1006] Tr. 1002, 2394-2395.

[1007] Tr. 2398 (stating “[t]he best estimate of future long-term interest rates is a no-change forecast, also known as a ‘random-walk’ forecast or, in other words, the current rates of these debt instruments”).

projected new issuance.[1008] In addition, Staff notes that the Commission has expressed a preference for using the average of the most recent ten-year Treasury yield and 30-year Treasury yield updated on exceptions to the extent possible.[1009]

We agree with Staff. The record demonstrates that forecasted long-term debt interest rates are no more reliable than the current rates and, due to high volatility, the current rates provide a reasonable proxy. Given that the use of forecasted interest rates provides no additional reliability, we see no reason to depart from Staff's proposed method, which has been recognized by the Commission in past rate orders.[1010] Finally, we agree with Staff that the long-term debt cost rate should be updated on exceptions to provide the Commission with the most current figure.

D. Cost of Common Equity

The ROE is a calculated percentage applied to the equity funded component of the utility's rate base as measured by the applied equity ratio discussed in a prior section of this RD.[1011] Thus, should the Commission adopt our recommendation of a 48 percent equity ratio, then its determination on the applicable ROE will be applied to 48 percent of Central Hudson's rate base, while the cost of debt will be applied to essentially the remaining 52 percent of rate base. Unlike the cost of debt

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1008 Tr. 2398–2401.

1009 Staff Initial Brief, pp. 158-159.

1010 See Case 08-E-0887 et al., Central Hudson – Rates, Order Adopting Recommended Decision with Modifications (issued June 22, 2009), p. 43 (using the most recent three-month average of 10-year and 30-year Treasury yields to provide long-term debt rates for the Commission's CAPM risk-free rate); Case 08-E-0539, Consolidated Edison Company of New York, Inc. – Electric Rates, Order Setting Electric Rates (issued April 24, 2009), pp. 127-128.

1011 See Section IX. B. Capital Structure.

that measures how much revenue the Company needs to collect to pay the forecasted actual costs of its outstanding debt over a rate plan, the cost of equity is collected in rates as the constitutionally required fair opportunity for the Company's investors to earn a return.[1012]

In the Commission's 1991 generic review of its financial regulatory policies and practices, the co-facilitators of that proceeding issued a Recommended Decision after reviewing several stakeholder proposals, supporting evidence, and comments regarding financing methodologies and issues.[1013] While the Commission has never taken direct action on the Generic Finance Recommended Decision, it has explicitly incorporated several elements discussed in that Recommended Decision into what has evolved as the Commission's preferred methodology for computing a utility's allowed ROE.[1014]

As explained in the 2017 NFG Rate Order, the Commission has repeatedly expressed its preference for (1) the application of both the Discounted Cash Flow (DCF) and Capital Asset Pricing Model (CAPM) analyses to a representative proxy group of utility companies; (2) the use of a two-stage DCF computation with inputs derived from Value Line; (3) basing CAPM results on an average outcome from both standard and zero-beta models with a risk free rate based on Treasury bonds, using a market risk premium and betas taken from Value Line; and (4) calculating the resulting ROE by weighting the DCF results by two-thirds and the CAPM results by one-third.[1015] Of course, while the Commission adheres to these general computational

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[1012] See Section IX. A. Overview.

[1013] Generic Finance RD.

[1014] 2017 NFG Rate Order, pp. 52-54.

[1015] Id.

principles, it retains the flexibility to deviate from them when a compelling reason exists in any individual rate proceeding.[1016] The Commission's consistent application of a standard methodology established through years of precedent provides predictable results that offer transparency and stability to the state's utilities, their investors, ratings agencies, and rate case parties.[1017]

Central Hudson requests a 9.8 percent ROE developed in reference to a multistage DCF analysis and two forms of a CAPM analysis applied to the Company's developed proxy group.[1018] Central Hudson noted that it developed two ranges of ROE, one based on an equal weighting of the Company's DCF and CAPM calculations and the other using a two-thirds DCF and one-third CAPM weighting.[1019] Ultimately, the Company concluded that an appropriate ROE was one that fell in a range between 9.8 percent and 10.8 percent, although it states that it chose to propose a 9.8 percent ROE to mitigate rate impacts resulting from measures taken in its last rate proceeding to moderate rates during the COVID-19 pandemic.[1020]

[1016] See id. (stating "[n]otwithstanding NFGD's continued leadership in certain performance areas among New York's gas utilities, where the cost of equity is concerned, we do not see anything unique to this particular utility or to these particular economic times that requires us to modify any of the foregoing elements").

[1017] See Case 16-G-0058 et al., Keyspan Gas East Corp. d/b/a National Grid – Rates, Order Adopting Terms of a Joint Proposal and Establishing Gas Rate Plans (issued December 16, 2016), p. 32.

[1018] Tr. 143.

[1019] Id.

[1020] Tr. 145, Tr. 963.

Staff recommends that the Commission adopt a 9.2 percent ROE for Central Hudson's litigated rate plan.[1021] Adoption of Staff's 9.2 percent would result in an overall rate of return of 6.4 percent compared to Central Hudson's requested overall rate of return of 7.23 percent.[1022] Staff identifies five main differences between its 9.2 percent ROE calculation and the Company's proposed 9.8 percent ROE.[1023] Specifically, Staff disagrees with the Company's proxy group members, the Company's DCF growth rates, certain assumptions in the Company's CAPM analyses, the Company's deviation from the Commission-approved weighting of the DCF and CAPM results, and an additional input used by the Company to account for a dividend cash flow discount in its DCF model.[1024]

Regarding the composition of the proxy group, Central Hudson criticized Staff's groups as being composed of only 26 "electric utility" companies that potentially own generating assets.[1025] The Company notes that, although Value Line includes both electric and gas combination utilities and electric-only utilities, Staff uses some electric-only utilities in its proxy group, but no gas-only utilities.[1026] Central Hudson concedes that, notwithstanding its criticism of Staff's selection, the DCF and CAPM analyses based upon the two parties' proxy groups do not differ significantly.[1027] Nevertheless, the Company

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1021 Tr. 2342.

1022 Id.

1023 Staff Initial Brief, p. 159.

1024 Id.

1025 Tr. 227-230.

1026 Tr. 229-230.

1027 Tr. 230.

maintains that its proxy group should be used because it better reflects the Company’s actual business risk.[1028]

Staff observes that of the 19 companies in Central Hudson’s proxy group, five are gas-only companies.[1029] Staff explains that the number of gas-only companies in the proxy group is a concern because Central Hudson’s gas operations represent less than one quarter of the Company’s revenues, rendering the Company’s proxy group disproportionately unrepresentative of its actual operations.[1030]

Turning to DCF calculations, Staff disagrees with the Company’s use of earnings growth rates instead of dividend growth rates for the Company’s short-term analyses, use of excessive growth rates, and assumptions regarding future dividends.[1031] Staff contends that the use of earnings growth rates in the Company’s DCF analysis relies on an unsupported assumption that growth in earnings is correlated with growth in dividends.[1032] Staff indicates that the Company fails to provide proof of such correlation and asserts that, even if the correlation was established, the use of earnings growth rates is unnecessary given that the best evidence is the actual dividend growth rates and forecasts that are readily available.[1033] Staff also observes that the DCF measures the present value of dividends, not of earnings, which under the Company’s models result in an inaccurate calculation inasmuch as the Company failed to adjust its earnings growth rate to account for the division of annual earnings into retained earnings and earnings

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[1028] Id.

[1029] Tr. 2454-2455.

[1030] Id.

[1031] Tr. 2459-2468.

[1032] Tr. 2459-2460.

[1033] Tr. 2460-2461.

used to provide investor dividends.[1034] This failure to account for the division into retained earnings and dividends results in an overstated dividend under Central Hudson's DCF calculations.[1035] In addition, Staff demonstrates that Company's use of earnings growth rates rather than the readily available dividend growth rates does not account for changes in the number of common equity shares resulting from future issuances.[1036]

In support of its claim that the Company used excessive growth rates, Staff explains that the Company's growth rate data was disproportionately impacted by the Company's failure to exclude ONE Gas Inc. from its proxy group.[1037] Staff demonstrates that the use of ONE Gas Inc. contributed to an average short-term growth rate for the Company's proxy group of 6.11 percent, compared to Staff's short-term growth rate of 4.89 percent.[1038] Similarly, Staff disagrees with the Company's long-term growth rate calculation and use of a 3.16 percent average historical growth in real GDP over the years 1929 to 2022, modified by an inflation factor that was developed by the Company.[1039] Staff notes that the Company's long-term growth rate result of 5.45 percent is 135 basis points higher than the Blue Chip Economic Indicators growth rate while Staff's 4.43 percent long-term growth rate is only 33 basis points higher.[1040]

Although the Company criticized Staff's use of Value Line growth rates as being unreasonably representative of the

[1034] Tr. 2460.

[1035] Tr. 2460-2461.

[1036] Tr. 2461.

[1037] Tr. 2463-2464.

[1038] Id.

[1039] Tr. 2465-2466.

[1040] Tr. 2466-2467.

views of only a single analyst,[1041] Staff explains that the Value Line process includes quality control review consisting of multiple analysts prior to publication.[1042] As Staff observes, the Commission has explicitly endorsed the use of Value Line dividend growth rate projections and that no material changes have occurred at Value Line to cause concern about this long-standing element of Staff's calculation and the Commission's analysis.[1043] Inasmuch as reliance on Value Line forecasts and financial data is widely accepted by the investment community and has created predictability in the Commission's rate setting process, we find that Staff properly relied upon those forecasts here.[1044]

Staff also expresses concern with Central Hudson's CAPM methodology. In particular, Staff explains that despite the Commission's expressed preference for a no-change forecast for future interest rates, the Company used forecasts of increased rates from those that exist in the current interest rate environment.[1045] Staff recognizes that such an assumption may have been reasonable at the time of the rate filing, but asserts that the assumption is not reasonable over the length of time that it takes to decide a rate case.[1046] Staff demonstrates that the Company's use of forecasted 30-year treasuries as an input for Central Hudson's calculation of a risk-free rate is inconsistent with the Company's existing debt portfolio and, therefore, results in an excessive risk-free rate.[1047] Staff

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[1041] Tr. 237-240.

[1042] Tr. 2467-2468.

[1043] Tr. 2468.

[1044] Id.

[1045] Tr. 2469.

[1046] Tr. 2470-2471.

[1047] Tr. 2471.

argues that the Company's position essentially assumes that all utility equity investors anticipate a 30-year investment strategy, which unrealistically fails to account for shorter intermediate investment expectations.[1048] Staff correctly notes that the Company's methodology also conflicts with the Commission's expressed preference for an averaging of the ten-year and 30-year treasury yields.[1049]

In addition, Staff explains that its primary concern with Central Hudson's CAPM methodology is that it relies on a constant growth DCF analysis of the S&P 500 to estimate a market return.[1050] Staff explains that such an assumption is unreasonable because it effectively applies a short-term evaluation in perpetuity.[1051] Staff observes that its concern with the Company's methodology is compounded because, as with the DCF Central Hudson applied to its proxy group, the DCF Central Hudson applied to the S&P 500 relies on earnings growth estimates, not dividend growth rates.[1052]

The last notable dispute between the Company and Staff concerns the weighting of the DCF and CAPM results to arrive at a recommended ROE. Central Hudson maintains that the Generic Finance Recommended Decision relied primarily on a DCF analysis for which the CAPM was intended to be used only as a check, but that the Recommended Decision envisioned a "gradual transition towards the CAPM."[1053] Central Hudson asserts that any

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[1048] Staff Initial Brief, p. 171.

[1049] Id. (citing Case 08-E-0539, Consolidated Edison Company of New York, Inc. – Electric Rates, Order Setting Electric Rates (issued April 24, 2009), pp. 127-129).

[1050] Tr. 2475.

[1051] Id.

[1052] Id.

[1053] Tr. 203.

uncertainty that the Generic Finance Recommended Decision expressed about the CAPM has been alleviated by the intervening 25 years of Commission reliance on, and application of, the CAPM results.[1054] The Company urges the Commission to recognize the value the Commission has placed on the CAPM and move toward assigning parity of the CAPM results with those results of the DCF model.[1055] Central Hudson cites to observations made in other jurisdictions that suggest those jurisdictions have reduced reliance on the DCF in assigning an ROE.[1056]

In addition to Central Hudson and Staff, Walmart, MI, and PULP make recommendations to the Commission regarding the allowed ROE. Walmart provided testimony recommending that, in considering the Company’s ROE request of 9.8 percent, the Commission consider the customer impacts resulting from revenue requirement increases; recent rate case ROEs approved by the Commission; the Company's current ROE; and, recent rate case ROEs approved by other state utility regulatory commissions nationwide.[1057] Central Hudson observes that Walmart did not conduct an ROE analysis of the type on which the Commission has previously relied and does not recommend a specific figure. Nevertheless, the Company attempts to demonstrate that its requested 9.8 percent ROE is reasonable under a fair assessment of comparable allowed ROEs, one of considerations mentioned by Walmart.[1058]

Although MI did not provide a witness that made an ROE recommendation, it addressed the proposed ROE in its briefing,

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[1054] Tr. 204.

[1055] Id.

[1056] Id.

[1057] Tr. 536, 538-553.

[1058] Tr. 272–275.

basing its recommendations on the evidence provided by Central Hudson and Staff. MI observes that the Company's requested ROE in these proceedings is 80 basis points higher than the ROE allowed by the Commission in the Company's 2021 Rate Plan.[1059] MI recognizes that Staff's ROE is 20 basis points higher but asserts that Staff's ROE is grounded in "methodologies that generally comport with long-standing Commission precedent."[1060] After acknowledging that the Commission does not set rates based on other utility ROEs, MI argues that other ROEs provide reference points and that, under such a comparison, Staff's ROE recommendation of 9.2 percent appears just and reasonable, and sufficient for the Company to attract capital investment on reasonable terms.[1061]

In its testimony, PULP put forward a proposal to annually update the Company's allowed ROE should the Commission adopt a multi-year rate settlement.[1062] PULP also argues that Central Hudson's normalization of its O&M expenses in the Historic Test Year related to its SAP CIS transition should be considered as a contributing factor to the Company's existing financial position and therefore should not be considered as demonstrating that the Company needs a higher ROE to offset any negative impacts the Company's SAP CIS transition difficulties have had on its earnings.[1063] PULP also makes observations about the number of reconciliation mechanisms included in multi-year rate plans that mitigate the effects of attempts to forecast later rate years.[1064] Because we are not considering recommending

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[1059] MI Initial Brief, p. 29.

[1060] Id., p. 30.

[1061] Id., pp. 30-31.

[1062] Tr. 636–646.

[1063] Tr. 646-647.

[1064] Tr. 648–652.

the Commission establish multi-year rate plans, we decline to comment on PULP’s proposals related to annual updates and reconciliation mechanisms. As far as PULP’s observations regarding the Company’s SAP CIS transition, we note that the Commission is considering those issues in its investigation and enforcement matter cited by PULP. For purposes of these cases, we do not see that Staff deviated from its ROE analysis in any material way due to the Company’s SAP CIS transition. Therefore, we simply observe that PULP’s position on this matter is in the record and supported by Staff’s analysis.

Upon consideration of the foregoing, and Central Hudson’s criticisms of Staff’s approach in its testimony and briefs, we conclude that the Company has not raised any arguments here that have not already been addressed by the Commission in numerous rate orders since the issuance of the Generic Finance Recommended Decision. As the 2017 NFG Rate Order indicates, the ROE determinations made by the Commission are not a product of mechanical adherence to that 1994 Generic Finance Recommended Decision. Rather, the generic case process that led to the Recommended Decision provided the Commission with a robust record on which it proceeded to fashion its own preferred methodology that it has since adopted through precedent.[1065] The Commission’s approach for determining an ROE provides consistency and predictability.

The distinction between the Company’s charge that Staff placed unquestioning reliance on the Generic Finance Recommended Decision as opposed to following the Commission’s evolved preferred methodology is critically important. Central Hudson’s arguments distill down to the Company’s primary objection and criticism in its brief that Staff mechanically

[1065] 2017 NFG Rate Order, pp. 53-54.

develops the assumptions used in its ROE calculation without considering the effect of market conditions on the models or the current financial profile of the Company.[1066] We disagree with the Company's characterization of Staff's approach. In our view, Staff thoughtfully considered market conditions and the current financial profile of the Company in determining that those elements were not significant enough in this particular situation to warrant a departure from the Commission's express methodological precedent.[1067]

We are persuaded by Staff that no significant departure is warranted here and, therefore, recommend Staff's calculations, underlying assumptions, and recommended ROE of 9.2 percent be adopted by the Commission. We use Staff's recommended 9.2 percent ROE in our attached revenue requirement calculation. Consistent with past Commission practice regarding rates determined on a fully litigated record, in the parties' exceptions, the information should be updated to reflect the most recent financial information available so that the resulting figure may be updated in the Commission's final rate order in these proceedings should it so choose.[1068]

[1066] See Central Hudson Initial Brief, p. 175.

[1067] See Case 08-E-0539, Consolidated Edison Company of New York, Inc. – Rates, Order Setting Electric Rates (issued April 24, 2009), p. 120 (stating that the "Commission's practice with respect to return on equity issues has been fairly consistent over a period of at least 14 years" as of April 2009 and that "[p]arties that seek a departure from that practice have a heavy burden that they cannot expect to meet simply by repeating arguments previously rejected").

[1068] See id., p. 145 (updating from the Judges' recommended decision in the Commission's permanent rate order the allowed overall rate of return based on the latest available information for the cost of common equity calculation, the cost of long-term debt, and the customer deposit rate).

E. Earnings Sharing Mechanism

One last issue was raised in the evidentiary record regarding Central Hudson's allowed ROE relative to its actual earnings. In testimony, PULP asserted that, if the Commission does not adopt an annual ROE update mechanism, any settlement in this proceeding should include an earnings sharing mechanism (ESM) that would be triggered on any earnings over and above the Company's allowed return (no "dead band") and require that an equal portion (50/50) of such excess earnings be provided between the Company and its ratepayers.[1069] PULP included no discussion of an ESM in its initial brief.

Both Staff and the Company addressed PULP's testimonial proposal in their respective initial briefs, indicating that they did not support the imposition of an ESM in these fully litigated cases.[1070] Notably, PULP also did not include any discussion of an ESM in its reply brief. Under these circumstances, it does not appear that PULP is pursuing an ESM. Importantly, PULP's testimony is expressly made in reference to settlement, which has not occurred here. In any event, even if PULP were to continue advocating for its ESM in these proceedings, the proposal lacks any substantive support, either through additional evidence or citation to precedent that provides a rationale.[1071]

1069 Tr. 652-653.

1070 Staff Initial Brief, p. 179; Central Hudson Initial Brief, p. 189.

1071 See Case 08-E-0539, supra, Order Setting Electric Rates, p. 120 (holding that parties who argue both for or against the application of even long-standing Commission policies in a litigated rate proceeding "need to provide substantive reasons for doing so, either through evidence or by citing to precedent that provides such reasons").

X. COMMISSION AUTHORITY TO IMPOSE PERFORMANCE METRICS

Central Hudson argues that the Commission lacks the legal authority to establish performance metrics with associated revenue adjustments that apply when the Company fails to meet targeted performance levels.[1072] Staff asserts that the Commission has the authority to institute such mechanisms as demonstrated in previous rate orders.[1073]

The Company initially establishes that it is currently subject to gas safety and customer service targeted performance metrics and associated negative revenue adjustments (NRAs)[1074] through its negotiated 2021 Rate Plan.[1075] Central Hudson posits that the Commission order adopting the performance target mechanisms was legal only by virtue of the Company's agreement to be subject thereto, and that it so agreed because it was able to negotiate all of the other elements of the 2021 Rate Plan, such as an agreed level of capital investments and O&M spending, among other contentious issues.[1076] Essentially, Central Hudson argues that a negotiated rate plan creates fairness in targeting performance and providing for revenue reductions in a way that a

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[1072] Central Hudson Initial Brief, pp. 189-196.

[1073] Staff Initial Brief, pp. 179-180 (citing 2017 NFG Rate Order, p. 63 and Case 07-E-0523, Consolidated Edison Company of New York, Inc.– Electric Rates, Order Establishing Rates for Electric Service (issued March 25, 2008), pp. 163-164).

[1074] While some performance metrics applicable in calendar year 2024 also have positive revenue adjustments (PRAs), such positive adjustments are not generally the subject of dispute with regard to their legitimacy in a litigated rate plan. As such, for convenience, we refer in this section only to NRAs, which require the Company to return to customers, usually through the establishment of regulatory liabilities, some portion of its collected revenue for failure to achieve some targeted level of performance.

[1075] Central Hudson Initial Brief, p. 189.

[1076] Id.

litigated outcome does not. However, fairness to the utility does not necessarily equate to a "just and reasonable" result, which is the statutory standard under which the Commission evaluates the record in establishing rate plans.[1077] The Company notes that, although it provided testimony in this case regarding its position on targets for metrics and a reasonable level of NRAs, such testimony was intended only to facilitate settlement negotiations should the parties have opted to explore such.[1078] Central Hudson asserts that a litigated outcome prevents it from agreeing to what it believes is an achievable and acceptable performance metric program on a revenue requirement basis. Further, it maintains that, in setting certain performance targets, Staff conceded that it did not assess the cost it would take to achieve the targets, rendering uncertain the reasonableness of Staff's figures.[1079]

Central Hudson argues that the Public Service Law requires only that utilities provide "adequate service" — which the Company contends is a uniform, statewide standard, established by the Legislature — and that, unless a compelling reason is provided, the adequate service standard must be the

[1077] See Public Service Law §65(1) (stating "[e]very gas corporation, every electric corporation and every municipality shall furnish and provide such service, instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such gas corporation, electric corporation or municipality for gas, electricity or any service rendered or to be rendered, shall be just and reasonable and not more than allowed by law or by order of the commission. Every unjust or unreasonable charge made or demanded for gas, electricity or any such service, or in connection therewith, or in excess of that allowed by law or by the order of the commission is prohibited.")

[1078] Central Hudson Initial Brief, p. 190.

[1079] Id. (citing Tr. 2772).

same for, and universally applied to, all of New York's electric and gas utilities.[1080] Central Hudson maintains that it is, therefore, incumbent on the Commission, should it wish to penalize utilities for "inadequate" service, to undergo a rulemaking and place its calculated measure of minimally acceptable performance in its regulations. Notably, the Company cites no case law in support of its assertion that the term "adequate" is a singular standard that must be applied in a precise and measurable way against all New York utilities. Moreover, the Company ignores the fact that the Commission regulates utilities of various sizes both in geography and population as well as annual revenues.

Central Hudson further maintains that, because neither the Public Service Law nor the Commission's regulations set forth safe and adequate service levels for gas safety and customer service performance, any minimum levels established in this case would be arbitrary and not based on any objective measure of gas safety or customer service.[1081] The Company contends that such arbitrariness is demonstrated by the fact that ascribing differing performance targets to different utilities could result in utilities escaping penalties even when they provide a lesser level of service than Central Hudson.[1082]

Next, relying on an argument proffered by NFG in its 2017 rate case,[1083] Central Hudson argues that the differing performance targets violate utilities' equal protection rights. In that regard, the Company notes that the Commission "possesses only those powers expressly delegated to it by the Legislature,

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[1080] Central Hudson Initial Brief, p. 191.

[1081] Central Hudson Initial Brief, p. 192.

[1082] Id.

[1083] Id., p. 193. See 2017 NFG Rate Order.

or incidental to its expressed powers, together with those required by necessary implication to enable [the Commission] to fulfill its statutory mandate." The Company then asserts that the Commission previously ruled that the only appropriate remedy to address a utility's failure to provide safe and adequate service is to investigate and penalize the utility's performance under Public Service Law § 25-a(3) and (4).[1084] Central Hudson observes that Staff recommends standards and NRAs that are specific to Central Hudson, regardless of whether the Company is providing a higher level of gas safety or customer service than any other utility. The Company argues that because Staff's recommended penalties far exceed the maximum penalties permissible under Public Service Law §§ 25 or 25-a, as well as any adjustments that the Commission has heretofore adopted,[1085] that adoption of such penalties against Central Hudson in these proceedings would violate its right to equal protection under the law.[1086]

Of course, the Company is correct that the Commission possesses only those powers expressly delegated to it by the Legislature, and those incidental thereto or required by necessary implication to enable the Commission to fulfill its statutory obligations. However, the Legislature has expressly granted the Commission very broad authority to enforce the core statutory mandate of Public Service Law §65 (1) to assure safe and adequate service at just and reasonable rates. In our

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[1084] Id.

[1085] Id., pp. 193-194.

[1086] Id., p. 194 (citing Abrams v. Bronstein, 33 N.Y. 2d 488, 492 (1974); Weissman v. Evans, 56 N.Y.2d 458, 466 (1982); Mtr. of Charles A. Field Delivery Service. Inc., 66 N.Y. 2d 516, 518-519 (1985); and Mtr. of Buffalo Civic Auto Ramps v. Serio, 21 A.D.3d. 722, 725 (4th Dep't 2005), lv den., 6 N.Y. 3d 713 (2006)).

opinion, the authority to determine specific and targeted utility performance programs based on a combination of the individual characteristics of a utility's infrastructure and customer base, together with a utility's historic performance, is necessarily incidental to the power expressly granted in PSL §65(1).

We agree with Central Hudson that the state's utilities are entitled to equal protection under the law. However, specifically directed performance programs do not violate equal protection principles simply because Commission established goals differ among utilities. Those differences are based on unique characteristics and past performance of individual utilities that are relevant and material to the Public Service Law's mandate of furnishing and providing utility service "that is safe and adequate and, in all respects, just and reasonable."[1087]

The decision of the New York Court of Appeals in Weissman v. Evans (56 N.Y.2d 458, 465 (1982)) demonstrates the permissibility of specifically directed performance programs. In Weissman, the Court considered a difference in salary among Judges in adjoining counties. The Court of Appeals explained that "distinctions based on geographical areas are not, in and of themselves, violative of the Fourteenth Amendment;" rather, such distinctions are permissible when the state can demonstrate

[1087] Public Service Law §65(1). See Abrams v. Bronstein, 33 N.Y.2d 488, 492 (stating "[o]f course, not every difference in treatment violates the equal protection guarantee. As formulated in a recent Supreme Court decision, the traditional test for a denial of equal protection under State law is 'whether the challenged classification rests on grounds wholly irrelevant to the achievement of a valid state objective,'" quoting Turner v. Fouche, 396 U. S. 346, 362 (1970); accord Matter of Hotel Assn. of N. Y. City v. Weaver, 3 N.Y.2d 206, 212-213 (1957)).

"that the classification is neither capricious nor arbitrary but rests upon some reasonable consideration of difference or policy."[1088] Very significant differences exist between the state's utilities that create differing expectations for adequate service by each utility's customer base, Department of Public Service Staff, and the Commission. For example, geographical differences between service regions present varying conditions under which what may be considered an adequate restoration response time in one location, may be wholly inadequate in another.

To be sure, in Weismann, the Court of Appeals rejected as irrational the continuation of a legacy pay disparity between District Judges in Suffolk County and those in Nassau County. The Court of Appeals noted that the statute ending responsibility for local payment of judicial salaries by making them employees of the state's unified court system stated that "'[f]unding by a single fiscal authority will enable the allocation of moneys and manpower when needed unimpeded by artificial local boundaries and the diverse competing needs of local governmental agencies.'"[1089] The Court held that the state's decision to continue the pay disparity was arbitrary because the reason for its existence was a historic difference in pay that was determined by the local governments whose responsibility for providing such pay had been ended as the specific purpose of the statute.

Here, to the extent legacy considerations matter, the utilities of New York receive franchises from the local communities in which they operate but, since the early 1900s,

[1088] Weissman v. Evans, 56 N.Y.2d 458, 465 (1982 (internal quotation marks and citation omitted)).

[1089] Id. at 462, quoting (L.1976, ch. 966, § 1 (emphasis in original).

have been solely answerable to the Commission's authority to charge only just and reasonable rates and to provide safe and adequate service. Thus, the geographic disparities in directed performance programs are not due to the continuation of historic rates set by local governments or artificial local boundaries, and Weissman presents no bar to the Commission's ability to differentiate by geography of franchises among other rational factors. Rather, in our view, geographical differences fall within the general rule that, so long as the grounds relied on for any difference have a fair and substantial relation to the object of the legislation, such differences are rational and not violative of equal protection.[1090]

As to Central Hudson's claim that performance metric programs conflict with prohibitions on retroactive ratemaking,[1091] the Appellate Division, Third Department has supported the Commission's authority to impose a rate plan in response to poor service quality by creating contingencies that determine what rate could ultimately be charged in the Hurley Water Company cases.[1092] The Hurley Water Company cases provide ample support for the Commission's authority to set a rate of return subject to adjustment through performance incentive mechanisms for failure to maintain safe and adequate service. This conclusion logically follows from the Court's recognition in those cases that the Commission has the authority to set a rate of return subject to upward adjustment if service improves.

[1090] Id. at 465.

[1091] See Central Hudson Initial Brief, p. 195.

[1092] Matter of Hurley Water Co. v. New York State Pub. Serv. Comm'n, 122 A.D.2d 410, 411 (3d Dep't 1986); Matter of Hurley Water Co. v. Pub. Serv. Comm'n, 87 A.D.2d 678, 679 (3d Dep't 1982) (Hurley Water Company cases).

The Company lastly asserts that, even if the Commission determines that it has the legal authority to impose performance targets and associated NRAs, it should forego the exercise of such authority in recognition of the fairness arguments raised by the Company.[1093] The Commission did forego imposing a performance metric program on NFG in that company's 2017 litigated rate plan.[1094] However, the NFG case is an exception, rather than the rule. In its Order Establishing Rates for Gas Service, the Commission noted that it was declining the Judge's recommendation in that instance to impose such metrics because the record amply demonstrated that NFG had demonstrated exceptional performance by surpassing its performance program from its previous rate plan.[1095] Here, although Central Hudson has exceeded certain performance metrics under the 2021 Rate Plan, the record does not demonstrate the same record of excellent compliance with respect to all performance metrics. Therefore, the same Commission restraint is not necessarily warranted here.

Presenting a greater concern to us are the Company's arguments regarding the rationale and reasonableness of some of Staff's proposed performance metrics, targeted performance levels, and associated NRAs. The Company correctly notes that the regulated activities, associated targets, and corresponding revenue adjustments must have a rational basis that Staff should readily be able to articulate. In addition, where the Company raises valid concerns, particularly as to cost and staffing

[1093] See Central Hudson Initial Brief, p. 196.

[1094] See 2017 NFG Rate Order, p. 63.

[1095] Id. (stating NFG's performance "gives the Commission sufficient comfort to allow the Company to operate for the time being, and in the absence of a multi-year rate plan, without the addition of potential revenue adjustments based on targeted performance").

needs, that are dismissed wholesale by Staff with no consideration of alternative proposals, we must give serious consideration of the propriety of recommending any changes to the status quo. We view this as particularly true where it is an open question whether some of the proposed measures have become punitive, or worse, confiscatory and no argument or evidence is presented that would allow us to explore a satisfying answer to that question. As we see it, absent a reasonable allowance to achieve an imposed target, Staff risks rendering an otherwise lawful program arbitrary and capricious.

In conclusion, we opt to recommend what appears to us to be a reasonable course of action. In Central Hudson's last rate case, it agreed in the Joint Proposal that the metrics effective in calendar year 2024 should remain in effect on an annual basis for the target levels identified until modified by the Commission.[1096] Calendar year 2024 is in place and the Company is operating pursuant to the Commission's order adopting the 2021 Joint Proposal.[1097] Beyond that, we recommend that the Commission allow the performance programs applicable to calendar year 2024 to remain in effect until it determines that is has a basis to change those targets, whether in a successive rate case or in some other proceeding in which it considers the Company's relevant performance. Notwithstanding this recommendation, we will consider in each relevant section the disputes as to specific metrics and associated NRAs should the Commission wish to take action beyond our recommendation herein to maintain the status quo.

[1096] 2021 Rate Order, Joint Proposal, pp. 53, 58-59, 71

[1097] 2021 Rate Order.

XI. ELECTRIC RELIABILITY

A. CAIDI and SAIFI Targets and Associated NRAs

The Commission relies on two primary metrics to measure Central Hudson's current reliability performance: (1) the System Average Interruption Frequency Index (SAIFI), which measures the average number of times a typical customer's service is interrupted in a year as calculated by dividing the number of customers interrupted by the number of customers served; and (2) the Customer Average Interruption Duration Index (CAIDI), which measures the average number of hours required to restore service to a customer after an interruption as calculated by dividing the total customer interruption duration by the number of customers interrupted.[1098] The Company's current electric reliability performance metrics are at or below 1.3 for SAIFI and at or below 2.5 for CAIDI.[1099] The Company is subject to NRAs of 30 basis points for missing each of those targets.

Central Hudson initially proposed to maintain the current CAIDI targets, but to modify the SAIFI NRAs to a two-tier NRA system. Under the Company's proposal, the Company would incur an NRA of ten basis points for exceeding the 1.30 SAIFI target and an additional NRA of 20 basis points for exceeding 1.34.[1100] The Company stated that the two-tier NRA structure would provide it with financial incentive to improve reliability performance while maintaining target levels that are aligned with historical results.[1101] The Company testified that the tier one target of 1.30 is "a very aggressive target" based on its average SAIFI performance from 2018 through 2022 and that

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[1098] Tr. 2059, 2611.

[1099] Tr. 2071.

[1100] Tr. 2071-2072.

[1101] Tr. 2072.

the tier two target of 1.34 aligns with its average performance during that time period.[1102]

Staff agreed that the current CAIDI targets should continue but opposed the Company's proposed modification to the SAIFI NRA structure and recommended that the Commission maintain the Company's current SAIFI targets and NRA structure.[1103] Staff reasoned that the Company has been able to meet its SAIFI targets in all but one year out of the last three, that the Company has the potential to show improvement in SAIFI based upon its improved vegetation management and targeted capital improvement projects, and that establishing the proposed second tier 1.34 threshold would not encourage the Company to continue to improve performance under the SAIFI metric.[1104]

The Company's current SAIFI and CAIDI targets and NRAs continue through 2024, and the targets will remain in effect until modified by Commission order. As part of the Electric Capital Stipulation, the Company and Staff agreed to continue the same SAIFI and CAIDI targets and NRAs for 2025. Specifically, the Electric Capital Stipulation provides that the "Company will be subject to a 30 basis point (electric, pre-tax) potential negative revenue adjustment for failure to achieve an annual SAIFI target of 1.30 in 2025" and "will be subject to a 30 basis point (electric, pre-tax) potential negative revenue adjustment for failure to achieve an annual CAIDI target of 2.50 in 2025."[1105]

The SAIFI and CAIDI targets and NRAs continue the current targets and NRAs, as recommended by Staff in testimony,

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1102 Tr. 2072.

1103 Tr. 2613-2614.

1104 Tr. 2613.

1105 Exhibit 516.

and will encourage the Company to continue to improve system reliability, to the benefit of ratepayers. We find that the Electric Capital Stipulation in this regard is in the public interest and satisfies the Commission's settlement guidelines. Accordingly, we recommend that the Commission adopt the SAIFI and CAIDI targets and NRAs set forth in the Electric Capital Stipulation.

B. CAIDI and SAIFI Exclusions

Pursuant to its 2021 Rate Plan, Central Hudson currently excludes from CAIDI and SAIFI calculations major storm outages, incidents resulting from a catastrophic events beyond the Company's control, and incidents where problems beyond the Company's control involving generation or the bulk transmission system is the key factor in the outage.[1106] In testimony, the Company stated that it does not waive and expressly retains the right to petition the Commission to request that other "Non-Utility Control" outages be exempt from the CAIDI and SAIFI calculations, within 60 days after such an outage occurs.[1107]

The Company defined "Non-Utility Control" outages as including, but not limited to, outages due to vandalism, unexpected deforestation (e.g., deforestation caused by the Emerald Ash Borer), foreign utility supply, motor vehicle accidents, weather, strategic pole hits, and disruptions in neighboring utility systems.[1108] The Company stated that such outages could adversely impact its ability to meet the electric reliability performance measure targets established here and that it therefore should have the right to petition the

[1106] Tr. 2070.

[1107] Tr. 2070-2071.

[1108] Tr. 2070.

Commission to have such outages exempted from the CAIDI and SAIFI calculations.[1109]

Staff disagreed with the Company's request with respect to "Non-Utility Control" outages, stating that a waiver process already exists under which the Company may petition the Commission on a case-by-case basis if it believes extraordinary circumstances exist that warrant excluding an event from being counted towards the Company's reliability metrics.[1110] Staff asserted that it "would not be appropriate to maintain the Company's current SAIFI and CAIDI targets if these exclusions were universally granted without a case-by-case review."[1111]

As the Company points out, it did not seek automatic exclusions for "Non-Utility Control" outages but reserved the right to petition the Commission to have such outages excluded in evaluating reliability performance. Nevertheless, we agree with Staff that it is unnecessary for the Commission to approve Central Hudson's reservation of the right to petition the Commission for such relief and that the Commission should not approve a 60-day time limit for filing such a petition.

The Commission has determined that "[e]xtraordinary circumstances can already be addressed through provisions for requesting a waiver under the [reliability performance] standards, and a more liberal listing of events that qualify as extraordinary would not improve the implementation of implementation of the waiver process."[1112] In addition, the

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1109 Tr. 2070-2071.

1110 Tr. 2616.

1111 Tr. 2616.

1112 Cases 02-E-1240 et al., Proceeding on Motion of the Commission to Examine Electric Service Standards and Methodologies, Order Adopting Changes to Standards on Reliability and Electric Service (issued October 12, 2004), p. 20.

Commission found that "the 45-day time limit for requesting a waiver after the occurrence of an extraordinary circumstance is of adequate length to allow utilities to prepare a waiver petition" and refused to adopt a longer time period as unnecessary.[1113] We see no reason to recommend a different result here.

XII. GAS SAFETY

The gas safety issues involve the potential continuation of the Company's performance metrics and revenue adjustments in connection with the removal of LPP, leak management, prevention of pipeline damage, timing of emergency response, and compliance with regulatory safety requirements. The Company also has proposed a new gas safety program, Leak Prone Services (LPS), and changes to three existing programs, Residential Methane Detection (RMD), Pipeline Safety Management System (PSMS) and Community Gas Emergency Response Drills.[1114] These performance metrics and safety programs are designed not only to assure operational safety, pipeline integrity, and distribution modernization, but also to address other policy considerations, such as conservation of gas supply and curtailment of methane emissions.

The performance metrics for the Company are derived from its actual historic performance levels, as well as Staff's knowledge of the Company and experience with other New York

[1113] Id.

[1114] Neither the Company nor Staff propose gas safety enhancements in connection with Permalock Tapping Tee Assemblies in light of regulatory uncertainty surrounding Case 23-G-0083, Generic Proceeding on Motion of the Commission - PermaLock Tapping Tee Assemblies. Tr. 1141, 2718.

utilities.[1115] The Company currently is subject to performance measures for LPP removal, leak management, emergency response, damage prevention and regulatory compliance, the terms for which were all negotiated as part of the 2021 Rate Plan. All of these safety metrics currently have associated NRAs, and all metrics other than LPP removal and regulatory compliance have PRAs, as well.[1116]

As discussed above, the Company does not agree with the imposition of gas safety performance metrics in a fully litigated rate plan, including those to which it previously consented in the 2021 Rate Plan.[1117] We conclude that the Commission has the authority to impose NRAs in the context of litigated rate cases, and, for the reasons stated above, we recommend that, in most instances, the Commission continue the metrics, targets, and number of basis points at risk established for calendar year 2024 continue. Particularly given Staff's consistent acknowledgement that the Company has exceeded the gas safety performance metrics under the 2021 Rate Plan, we find no basis in this litigated rate case to modify the Commission-approved gas safety metrics that currently apply in calendar year 2024, as well as the associated PRAs and NRAs. These metrics were deemed reasonable by the signatory parties to that 2021 plan and have been found by the Commission to be part of an overall just and reasonable rate plan.[1118]

Indeed, as explained in more detail below, the Company and Staff agree that the Company's existing LPP removal target and its current emergency response targets and associated

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[1115] Tr. 2656.

[1116] Tr. 2656-2657; Staff Initial Brief, p. 185.

[1117] Central Hudson Initial Brief, p. 190.

[1118] 2021 Rate Order.

revenue adjustments should remain in place. In addition, the Company advocates that, if metrics and revenue adjustments are established in this case, the metrics and revenue adjustments for damage prevention and gas safety regulations violations remain as established in the 2021 Rate Case.

The Company and Staff also agree that other gas programs approved in the 2021 Rate Order, which apply on a rate year basis, continue during the Rate Year. For example, the Company and Staff agree that the Company's existing PSMS remain in place, although they disagree over the funding for the program in the Rate Year. Those parties also agree that the Company continue its RMD program, although Staff recommends a modification to the program.

Nevertheless, although we recommend as a general matter that the Commission continue the performance metrics established in the 2021 Rate Order, we note that our earlier recommendation that the Commission approve a new deferral mechanism for the Roadway Excavation Quality Assurance Act would apply to the Company's LPP removal efforts. Moreover, as discussed below, we recommend that the Commission adopt both the Company's proposal to implement a new Leak Prone Services Replacement Program (LPSR Program), and Staff's proposed targets and associated PRAs to attach thereto. The LPSR Program will further CLCPA goals to reduce GHG emissions.

Of course, the Commission may choose to impose different metrics or revenue adjustments than recommended above. We therefore address the respective positions of the Company and Staff and make further recommendations for the Commission's consideration.

A. <u>Leak-Prone Pipe Removal</u>

The Company acknowledges that the replacement of leak-prone mains and services is critical for the protection of public health and safety because these projects eliminate materials - such as wrought iron, cast iron and unprotected steel pipelines - that generally leak at a higher rate than coated and cathodically protected steel or certain plastic pipes.[1119] The Company and Staff agree that the Company's existing LPP removal target of 15 miles annually is appropriate, should be continued in the Rate Year, and should remain in effect until changed by the Commission.[1120] Based on the approximately 82 miles of LPP remaining on the Company's system at the end of 2022, removal of at least 15 miles of LPP per year would result in all LPP being removed from the Company's gas system before the end of 2028.[1121]

Although the Company agreed in it is direct testimony that it should remain subject to the associated NRA of 15 basis points if it fails to meet the established LPP removal target, the Company now clarifies that its initial proposal was contingent on achieving a multi-year rate plan.[1122] The Company proposes a deferral of anticipated increased costs for LPP removal associated with the implementation of the requirements of the newly enacted Roadway Excavation Quality Assurance Act.[1123]

[1119] Central Hudson Initial Brief, p. 200; see Tr. 2663-2665.

[1120] Central Hudson Initial Brief, p. 201; Staff Initial Brief, p. 184; Exhibit 335.

[1121] Tr. 2666-2668, 2670-2671. There is no dispute that the Company exceeded the minimum penalty threshold and replaced, on average, over 19 miles of LPP per year from 2018-2022. The Company did not incur any NRAs and earned PRAs in 2019, 2020, and 2021.

[1122] Compare Tr. 1118 with Central Hudson Initial Brief, p. 190.

[1123] Central Hudson Initial Brief, p. 201. Effective September 15, 2023, the Roadway Excavation Quality Assurance Act requires that certain roadway construction work by utility company contractors and subcontractors comply with the prevailing wage requirements of Labor Law article 8.

The Company asserts that, despite its past performance in meeting the 15-mile threshold, the requirements of the new statute place it at risk of failing to complete the proposed mileage targets with the current funding proposed.[1124] The Company further argues that, without a deferral, it should not be subject to an NRA for this metric because it may not have the ability to recover costs related to the 15-mile target.[1125] Staff contends that deferral should not be allowed because, among other things, the record contains insufficient information to permit evaluation of the statute's potential impacts on the gas capital program and, in any event, the risk to the Company is limited in the context of a litigated rate case.[1126]

As explained earlier, we recommend that the Commission adopt a deferral mechanism under these circumstances. In addition, given the agreement between the Company and Staff that the 15-mile threshold for LPP replacement remains appropriate and the undisputed evidence in the record that the Company has consistently exceeded the 15-mile threshold,[1127] the Commission may wish to decline to impose NRAs associated with LPP removal in this litigated rate case. In that regard, we note that the Company will be allowed to file a new rate case shortly after the issuance of the Commission's order and, should the Company fail to maintain its previously strong performance in the removal and replacement of LPP, the imposition of NRAs may be reconsidered. Should the Commission wish to employ NRAs in this case, it is recommended that the target of 15 miles of LPP removal — to which the Company agreed in the 2021 Rate Plan and

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1124 Central Hudson Initial Brief, p. 201.

1125 Id.

1126 Staff Initial Brief, p. 103.

1127 Tr. 2666, 2670.

which the Company has demonstrated that it is capable of achieving — remain in place.

B. Leak Management

Leak management refers to a gas utility's ability to identify and mitigate new and existing underground leaks on its natural gas system.[1128] Under the 2021 Rate Order, the Company is subject to a leak management target that tracks its total leak backlog, including repairable leaks, at year end.[1129] The current total leak backlog targets and associated NRAs and PRAs for this metric are follows:

Number of leaks at Year-End	**(NRA)/PRA (BPs)**
≥90	(15)
≥87 - ≤89	(6)
≥66 - ≤86	0
≥60 - ≤65	2
≥55 - ≤59	4
≤54	6

Regardless of the total number of leaks at year end, the current target for repairable leaks - i.e., all leaks excluding Type III — is six leaks or fewer, and the Company may not earn any PRAs for total leak backlog unless the repairable leak backlog is six or less.[1130] From 2020 through 2023, the Company reduced its total leak backlog from 81 to 41 leaks, and was not subject to

1128 Tr. 1109, 2658.

1129 Central Hudson Initial Brief, p. 206; Staff Initial Brief, p. 185.

1130 Tr. 1112-1113, 2658. See 16 NYCRR §§ 255.811–255.817 for leak type classifications.

any NRAs during the period.[1131] The Company's three-year average end-of-year backlog from 2021 through 2023 is 50.[1132] The total number of new leaks discovered during that time period has not significantly declined, with 323 leaks discovered in 2020, 346 in 2021 and 323 in 2022.[1133]

In its direct testimony, the Company proposed to continue its existing leak management targets, asserting that the performance metric targets were "reasonable" and should not be made more stringent in light of the volatility of outside influences, such as weather, that could impact the Company's ability to achieve the current targets in the future.[1134] Staff disagreed and recommended reducing the total leak backlog target from 86 to 49.[1135] Staff also recommended eliminating PRAs for this metric, explaining that the recommended revenue adjustment targets were based on the Company's actual historical performance, that incentives to reduce the backlog to a manageable level were no longer needed, and that the Company should not be rewarded for simply complying with the requirements of 16 NYCRR Part 255 related to leak management.[1136] In its initial brief, Staff further explains that, based on its experience with other New York utilities, removal of each mile

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1131 Tr. 1111, 1113, 2658-2659; Exhibit 643.

1132 Central Hudson Reply Brief, p. 83; Staff Reply Brief, p. 43.

1133 Tr. 1114. Neither Staff nor the Company cite any data concerning the total number of leaks discovered in 2023.

1134 Tr. 1114.

1135 Staff Initial Brief, p. 185; Tr. 2660. Specifically, Staff recommended that current NRA maximum exposure of 15 basis points continue, but for failure to meet a total leak backlog of 60 or fewer, as opposed to 90 or fewer, at year-end and that an NRA exposure be incurred for failure to maintain a total leak backlog target between 50 and 59, as opposed to the current target of 87-89 year-end leaks.

1136 Tr. 2660-2662.

of LPP generally results in the elimination of 1.5 – 2 leaks, without any additional cost incurred by the utility beyond that covered by the existing LPP main program funding.[1137] Staff maintains that a total leak backlog target of 49 is appropriate because the Company's three-year average of leak backlogs for 2021-2023 is 50 and it ended the year with 47 leaks in 2021 and 41 in 2023, demonstrating that the Company is capable of meeting the new target.[1138]

In response, the Company emphasizes that it is one of the better performing New York utilities with respect to leak management and that other utilities have leak backlog targets that are many times higher, allowing them to avoid penalties where the Company would incur them for the same or better performance.[1139] The Company contends that Staff's targets are arbitrary and capricious because (1) the targets fail to account for year-to-year variability within this metric, which can be driven by factors outside the Company's control, such as weather, material defects and manufacture recall; and (2) the Company's performance was influenced by the availability of PRAs, enabling it to take actions that are beyond those funded in rates.[1140] If the Commission determines that a more stringent target is warranted, the Company argues that the new minimum target should be based on two standard deviations from its

[1137] Staff Initial Brief, p. 186.

[1138] Staff Reply Brief, p. 43.

[1139] Central Hudson Initial Brief, p. 202.

[1140] Central Hudson Reply Brief, p. 83-84.

three-year average performance, resulting in a minimum target of 68.[1141]

The Company's argument that PRAs should be left in place is inconsistent with its assertion that the Commission lacks the authority to impose NRAs because the authority to impose both positive and negative revenue adjustments flows from the same source; namely, the broad power granted to the Commission in Public Service Law § 65 to ensure safe and adequate service at just and reasonable rates. In any event, the Company further argues that its past performance in eliminating leak backlogs was enabled by the ability to earn PRAs and that it is unreasonable to demand that it continue performing at the same level while, at the same time, eliminating the PRAs that enabled that performance.[1142] However, the Company's resulting position that, if any target is imposed at all, the minimum target for year-end leak backlog should be left at 86, should be rejected. That level of performance is worse than its 2020 performance and significantly worse than the 68 year-end leak average of the Company's last three years, with

[1141] Central Hudson Reply Brief, p. 84. The Company notes that the use of two standard deviations results in a 95 percent confidence level that, based on normal operating conditions, performance at that level is achievable, whereas the use of only one standard deviation - i.e., setting the minimum target at 59 - would drop the confidence level down to 68 percent.

[1142] The Company also makes a strong argument that Staff's position is affected by an error of law to the extent that Staff argues that authorizing PRAs in this context would amount to a reward for simply complying with the requirements of 16 NYCRR Part 255 related to leak management. The regulation does not require the Company to repair Type III leaks (see 16 NYCRR 255.817), but the Company must do so in order to achieve its leak management target because the Company must repair Type 3 leaks in order to reach the target. Tr. 2752-2753, two standard deviations added.[1143] Ultimately, it appears that, in the name of eliminating even a minimal financial risk associated with leak management, the Company asks the Commission to decline to impose a minimum leak backlog target that the Company is demonstrably capable of meeting.

Although "protection of a utility's treasury and the preservation of its financial integrity is a proper object of Public Service Commission regulation, . . . the specific function of the rate-making power is to protect the utility's ratepayers."[1144] Moreover, the Commission is "not limited or constrained by the parties' respective positions . . . [i]n exercising its broad authority to regulate utility rates."[1145] Given the Company's recent strong performance in reducing its year-end leak backlog and the fact that this is a litigated rate case instead of a proposed multi-year rate plan, the Commission could determine that the concerns that would normally justify the use of performance incentives, both positive and negative, are not present. Alternatively, the Commission could adopt more stringent targets as proposed by Staff or as the Commission otherwise may determine to be appropriate but leave the PRAs in place, which would encourage the Company to continue its strong performance in this area. In that regard, we note that the Company is correct that PRAs are meant to motivate improved performance and drive increased levels of performance.[1146] Moreover, the Company has demonstrated, with a 95 percent

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1143 Central Hudson Initial Brief, p. 204; Central Hudson Reply Brief, p. 84.

1144 <u>Matter of Niagara Mohawk Power Corp. v Public Service Commission</u>, 69 N.Y.2d 365, 369 (1987).

1145 <u>Matter of Corning Natural Gas Corp. v Public Serv. Commission</u>, 221 A.D.3d 1075, 1082-1083 (3rd Dept 2023), <u>appeal dismissed</u> ___ NY3d ___ (April 18, 2024).

1146 Central Hudson Initial Brief, pp. 204-205.

confidence level, that it is capable of achieving a year-end backlog of 68 leaks or fewer and 59 leaks or fewer with a confidence level of 68 percent; that it now achieves an average backlog of 50 leaks or fewer; and that it is capable of ending the year with only 41 leaks remaining if a PRA of six basis points is available.[1147] Thus, if the Commission chooses not to continue the performance metrics established in the 2021 Rate Order, we believe that imposition of the following minimum targets, NRAs and PRAs would not be unreasonable:

Number of leaks at Year-End	**(NRA)/PRA (BPs)**
≥68	(15)
≥60 - ≤68	(6)
≥50 - ≤59	0
≥47 - ≤49	2
≥46 - ≤48	4
≤45	6

C. Damage Prevention

Damage prevention refers to programmatic action taken by a Company to increase public safety by minimizing damage to underground facilities or infrastructure caused by mechanized excavation activities.[1148] Reducing these types of damage improves public safety by minimizing uncontrolled gas releases that can cause explosions, fires, injuries and fatalities, as well as interruptions of service to customers, building evacuations and road closures.[1149] As relevant here, the damage prevention metric is measured as a ratio of the total damages per 1,000 one-call tickets; “total damages” includes damages caused by mismarks, a company itself and its contractors,

[1147] Central Hudson Reply Brief, pp. 83-84.

[1148] Tr. 1120.

[1149] Tr. 2679.

excavator error, as well as damages from "no-calls," which occur when an excavator did not notify a company of its intent to perform excavation work.[1150]

Unlike its arguments in the context of leak management, in which it asserted that PRAs should be maintained, the Company argues that neither NRAs nor PRAs should be employed for the leak management metric in this litigated rate case.[1151] If any level of revenue adjustments are employed, the Company advocates for continuation of the current gas safety metrics approved by the Commission in the 2021 Rate Order.[1152] Staff proposes more stringent metrics.[1153] The Company's current targets and Staff's proposed targets, are as follows:

Current Total Damage Rate	Staff Proposed Total Damage Rate	NRA (BPs)	PRA (BPs)
≤1.19	<1.00	-	10
≥1.20 - <1.25	≥1.00 - <1.10	-	6
≥1.25 - <1.35	≥1.10 - <1.25	-	4
≥1.35 - <1.65	≥1.25 - <1.40	0	0
≥1.65 - <1.85	≥1.40 - <1.55	5	-
≥1.85 - <2.00	≥1.55 - <1.70	10	-
≥2.00	≥1.70	20	-

1150 Tr. 2676-2677, 2680. A one-call ticket is the notice received by the utility when an excavator makes a toll-free call to a one-call notification system to provide notice of intent to perform excavation work, as required by 16 NYCRR Part 753. The utility then marks the location of its affected facilities so that an excavator can take precautions to avoid them.

1151 Central Hudson Initial Brief, p. 209; Central Hudson Reply Brief, p. 87. In its reply brief, the Company contradicts itself and argues, without qualification, that it "should continue to earn PRAs if it is able to maintain its current level of performance." Central Hudson Reply Brief, p. 86.

1152 Staff Initial Brief, p. 188.

1153 Staff Initial Brief, p. 189.

Measures taken by the Company to improve damage prevention include participation on the board of UDigNY,[1154] involvement with the Hudson Valley Damage Prevention Council, providing damage prevention public services announcements and mailers to excavators, requiring employees or contractors engaged in digging activities to complete certified excavator training and annual refreshers, updating lower quality records inherited from prior natural gas utilities, and employing damage patrollers who travel through the service territory looking for excavation activities.[1155] It is not disputed that the Company's 2022 performance for total damages, a rate of 1.28 per 1,000 one-call tickets, was well below the statewide average of 1.70.[1156] For the years 2018 through 2022, the Company averaged a total damage rate of 1.41 per 1,000 one-call tickets, as compared to a state-wide overall average of 1.81.[1157] The Company earned PRAs of 10 basis points with a total value of $257,500 in 2019, 10 basis points with a total value of $293,000 in 2020, and 10 basis points with a total value of $341,000 in 2021.[1158] The Company's performance in 2022 (under the targets set forth in the 2021 Rate Order reflected in the chart above) would have enabled it to earn 4 basis points.[1159]

The Company argues that Staff's proposed total damage targets and associated revenue adjustments, which would impose a negative adjustment of 20 basis points on the Company for

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1154 UDigNY NY operates the "811" call center for upstate New York and provides excavator training and public awareness in underground facility damage prevention. Tr. 1120.

1155 Tr. 1120-1125.

1156 Tr. 2680; Exhibit 222 (GSP-2R), pp. 14-15.

1157 Tr. 2680; Exhibit 222 (GSP-2R), p. 14.

1158 Tr. 2687.

1159 Staff Reply Brief, p. 46.

performing at the 2022 state-wide average of 1.70, would penalize it for superior performance and are, therefore, outrageous.[1160] The Company maintains that it should not be judged only against its own high performance, but that the Commission should compare the proposed targets to other New York gas utilities' approved targets for 2024.[1161] The Company notes that the proposed 1.70 per 1,000 one-call tickets (the maximum NRA target) is 32 percent lower than the state average maximum target of 2.50; the proposed 1.00 value (the maximum PRA target) is 21 percent lower than the state average of 1.26, and was not achieved by any utility in 2022; and the proposed 0.15 dead band width for zero basis point impact (the spread of points for which the Company earns zero basis points) is 71 percent lower than the state average of 0.52.[1162] The Company further asserts that it is unreasonable to keep ratcheting down this metric without a concomitant increase in funding for damage prevention.[1163]

Staff contends that its proposal is based upon the Company's performance over the last five years and the need to protect public safety by reducing, to the extent possible, damages associated with excavation work.[1164] In light of the continuing danger to the public posed by excavation damage and the Company's demonstrated ability to meet current damage prevention targets, Staff maintains that it is entirely appropriate to adjust the targets for this metric to foster continued improvement in safety and that the Company can be a

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1160 Central Hudson Initial Brief, pp. 207-208.

1161 Id.

1162 Tr. 1154, 2759-2760; Exhibit 223 (GSP-3R).

1163 Central Hudson Reply Brief, pp. 86-87.

1164 Staff Initial Brief, p. 189; Tr. 2685-2686.

leader in the State with respect to damage prevention.[1165] Although it acknowledged that total damages are not entirely within the Company's control, Staff's position is that the Company can minimize damages resulting from conduct such as no-calls and unsafe excavation practices through robust outreach and education efforts, billing excavators for repair costs when damage occurs, increasing inspection activities of excavation occurring near gas facilities, and by referring problem contractors to the Pipeline Safety Staff for enforcement purposes.[1166] Staff contends that there is room for improvement especially with respect to damages caused by the Company and its own contractors.[1167] Staff also took into consideration the fact that, as the Company replaces older LPP, damages due to mismarks should decrease due to improved accuracy in mapping.[1168] Finally, with respect to PRAs, Staff notes that its targets are consistent with those approved in rate cases involving Rochester Gas and Electric Corporation (RG&E) and Consolidated Edison Company of New York Inc. (Con Edison), and that PRAs are a reward for improved performance such that a Company should not continue to receive them simply for maintaining its existing damage prevention targets.[1169]

If the Commission chooses to employ NRAs or PRAs in this litigated rate case, we recommend again that it adopt the

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[1165] Staff Reply Brief, pp. 45-46; Tr. 2758.

[1166] Tr. 2683.

[1167] Tr. 2759.

[1168] Staff Initial Brief, p. 190. The Company argues that, until its LPP replacement program is fully completed, it remains at a greater exposure to damages because removal requires excavation in close proximity to other underground facilities in urban streets, which may be unknown and unrecorded if they were installed in the early 1900s. Tr. 1156.

[1169] Staff Reply Brief, p. 46.

Company’s proposal to leave the targets adopted in the 2021 Rate Order in place. The Company appears to agree with Staff that there is room for improvement in its performance,[1170] and the Company has not yet been able to achieve the maximum level of PRAs permitted under the current damage prevention safety metrics. Those metrics would allow the Company to earn six basis points for a total damage rate of less than 1.25 per 1,000 one-call tickets, or 10 basis points for less than 1.19. The evidence in the record shows that the Company’s best performance with respect to this metric is a total damage rate of 1.28 and that imposition of the current targets led to improved performance.[1171] Thus, the current targets continue to serve the purpose of performance incentives, which - as the Company and Staff agree - is to motivate improved performance and drive increased levels of performance.[1172] Although the Commission is free to adopt the more stringent targets proposed by Staff in an effort to maximize the benefits to public safety, the Company is correct that those targets would make it an outlier in this area particularly with respect to NRAs and dead band width.[1173] Inasmuch as there is no evidence in the record to suggest that the Company can meet these targets, beyond Staff’s belief that

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1170 Tr. 1129-1130.

1171 Exhibit 222 (GSP-2R), p. 15.

1172 Central Hudson Initial Brief, pp. 204-205; Staff Reply Brief, p. 44.

1173 Tr. 1154. See Exhibit 223 (GSP-3R). While the PRA targets proposed by Staff may be consistent with those employed in the rate plans for RG&E and Con Edison, the NRA targets and deadland width for zero basis point impact are not. Moreover, the PRA targets employed in the RG&E and Con Edison rate plans were negotiated in the context of multi-year rate plans (see Staff Reply Brief, p. 46, n. 227 and 228), while this is a litigated rate case.

the Company can do so,[1174] we would not recommend adoption of Staff's proposed targets if the Commission is inclined to alter the performance metrics set forth in the 2021 Rate Order.

D. Emergency Response

Emergency Response Time is the time elapsed between the Company receiving a report of gas odor and a Company representative's arrival at the location of the emergency.[1175] The Company's performance for this metric is measured by the percentage of calls for which response time is less than 30 minutes, 45 minutes and 60 minutes.[1176] The Company and Staff agree that no change should be made to the current emergency response targets established by the 2021 Rate Order and the associated revenue adjustments. Those targets are as follows:

Emergency Response Time	Percent Completed	(NRA)/PRA (BPs)
30 Minute Response	≥92%	6
	≥89% - <92%	4
	≥85% - <89%	2
	≥75% - <89%	0
	<75%	(12)
45 Minute Response	<90%	(8)
60 Minute Response	<92%	(5)

From 2019 through 2022, the Company has met these targets and received a PRA of 2 basis points.[1177] It provided testimony that the present NRA targets are challenging to meet or exceed, and that the PRA targets are performing well as a

[1174] Tr. 2758.

[1175] Tr. 1116.

[1176] Id.

[1177] Id.; Staff Initial Brief, p. 191.

beneficial motivational tool to promote constant improvement in response time.[1178] Staff agrees that, based on the Company's actual performance for the last five years, the current targets and associated revenue adjustments are leading to adequate response times and, thus, should continue.[1179]

Given the demonstrated beneficial effects to the public of the current targets and revenue adjustments, as well the lack of any dispute over whether the Company's targets are reasonable, we agree with Staff and the Company that continuation of the performance metrics authorized in the 2021 Rate Order is the appropriate result.

E. Gas Safety Regulations Violations

This metric measures the Company's compliance with the Commission's pipeline safety regulations and requirements.[1180] All major New York utilities undergo audits of their records documenting required gas facility inspections and field audits of their construction and maintenance activities.[1181] Missed inspection requirements or code violations are classified as "high risk" or "other."[1182] The Company argues that, if targets and NRAs for this metric are to be set in this litigated rate case, the Company's existing targets and NRAs should remain in place for the Rate Year.[1183] It further asserts that it should not be penalized for correcting its records such that any violations associated with map corrections should not be counted

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[1178] Tr. 1117.

[1179] Staff Initial Brief, p. 191.

[1180] Tr. 1131.

[1181] Tr. 1130-1131.

[1182] Tr. 1131.

[1183] Central Hudson Initial Brief, p. 211.

for NRA purposes.[1184] Finally, the Company argues that Staff should continue its practice of counting only one violation when the same violation constitutes noncompliance with both 16 NYCRR 255.603 (d) - which requires conformance with the Company's written operating and maintenance plan - and any other section of 16 NYCRR part 255 or 261.[1185] Staff agrees with the Company's proposal that it continue treating noncompliance with 16 NYCRR 255.603 (d) and another section as a single violation, but disagrees that violations associated with map corrections should not be counted.[1186] In addition, Staff proposes new, more stringent annual targets.

The Company's current annual targets and those proposed by Staff are:

High Risk

Category	NRA (BPs) Per Occurrence	Current Target Violations	Proposed Target Violations
Records	0	0-5	0-5
Records	½	6-20	6-10
Records	1	21+	11+
Field	½	1-20	-
Field	1	21+	All

Other Risk

Category	NRA (BPs) Per Occurrence	Current Target Violations	Proposed Target Violations
Records	0	0-15	0-10
Records	¼	16+	11+
Field	¼	All	All

1184 Central Hudson Initial Brief, p. 210.

1185 Id.

1186 Tr. 2701-2702.

Under both the current and proposed structure, the cumulative maximum exposure for record and field violations is 75 basis points in a calendar year.[1187] Record violations are capped at 10 violations for each code requirement and, if the Company incurs more than 10 violations for a single code section, the Company must submit a remediation plan.[1188] There is no cap on field audit and investigation violations.[1189] From 2019 through 2021, Staff identified, on average, 10 high risk violations and six "other" risk category violations, resulting in a total NRA of 6.5 basis points owed to the Company's customers each year.[1190]

The Company argues that Staff's proposed targets and NRAs in this area are grossly inconsistent with those currently in place for other New York gas facilities and that the only evidence that the proposed targets are achievable is Staff's conclusory assertion that they are so.[1191] Staff appears to concede that the proposed safety targets are more stringent than those in place for most other utilities in the State, with the exception of Liberty Utilities.[1192] Staff asserts, however, that the same targets have been recommended in current rate proceedings for downstate National Grid utilities and that it is endeavoring to recommend the same safety targets in future rate

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[1187] Staff's Initial Brief, pp. 192-193.

[1188] Id.

[1189] Id.

[1190] Tr. 2695.

[1191] Central Hudson Initial Brief, p. 211; Exhibit 224 (GSP-4R).

[1192] Staff Initial Brief, p. 194; Staff Reply Brief, p. 47.

cases for other New York gas utilities except NFG.[1193] It is undisputed that the Company has demonstrated improvements in this metric and that it is one of the better performing utilities in terms of regulatory compliance.[1194] Based on that past performance, the maturity of its program and the Company's stated goal of committing zero violations, Staff expresses confidence that the Company can meet the proposed metrics.[1195]

If the Commission determines that targets and NRAs for this metric should remain in place, we again agree with the Company that the appropriate result is to leave the existing targets and NRAs in place for the Rate Year. The evidence in the record supports the Company's argument that adoption of Staff's proposed more stringent targets would make the Company an outlier with respect to this metric.[1196] Although Staff either has recommended or stated its intention to recommend the more stringent targets in future rate cases for other New York gas

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[1193] Staff Reply Brief, p. 47; Tr. 765-2766. See Case 23-G-0255 et al., KEDNY/KEDLI - Gas Rates, Prepared Testimony of Staff Pipeline Safety Panel (filed September 1, 2023), pp. 52-57. Staff explains that NFG presents a unique set of circumstances because it has not had the same opportunity as other utilities to mature its program to reduce violations.

[1194] Central Hudson Initial Brief, p. 210; Staff Reply Brief, p. 48.

[1195] Id. Staff also argues that the Commission should not adopt the Company's initial proposal that, for record audits, only documentation required to be performed during the calendar year prior to the year in which the record audit is conduct may constitute a violation. Staff Initial Brief, p. 192; Tr. 1133. The Company appears to have abandoned that argument inasmuch as it is not raised in the Company's briefs and the Company does not attempt to defend that proposal. In any event, because intervals between audits and the audits themselves can exceed one year, Staff is correct that the audit should not be limited to only the documentation for the prior year. Tr. 2701.

[1196] Exhibit 224 (GSP-4R).

utilities, Staff has thus far made the recommendation in only one instance and it has not yet been adopted by the Commission.[1197] Given the evidence in the record that the Company remains unable to meet its current targets and, while improving, continues to incur NRAs each year,[1198] Staff's assertion that the Company is capable of meeting more stringent targets is not persuasive.

We further recommend adoption of the agreed-upon proposal that Staff continue treating as a single violation those instances when one violation constitutes noncompliance with 16 NYCRR 255.603(d) and another section. We also recommend that the Commission adopt the Company's proposal that violations associated with map corrections should not be counted as violations for NRA purposes. In our view, penalizing the Company for striving to improve the accuracy of its records does not support the goal of maximizing public safety.

F. Leak Prone Services Replacement Program Initiative

The Company proposes a new LPSR program that focuses on services that are considered leak prone pipe but are not included within the LPP main program.[1199] The Company defines leak-prone service (LPS) as a service containing leak-prone materials, such as wrought iron or bare steel, that is connected to a protected main.[1200] The program is intended to proactively address services located in close proximity to a house before leaks cause hazardous situations.[1201] Staff agrees with the Company's proposal to implement this new LPSR program, but not

[1197] Case 23-G-0225, supra, Prepared Testimony of Staff Pipeline Safety Panel, pp. 52-57.

[1198] Tr. 2695; Staff Reply Brief, p. 48.

[1199] Tr. 1118.

[1200] Tr. 1171.

[1201] Tr. 1118.

with the Company's proposed performance targets and associated PRAs.[1202] The Company's and Staff's proposed targets are as follows:

PRAs	Company Recommended Number of Services Replaced	Staff Recommended Number of Services Replaced
8	76-100	185-245
4	51-75	124-184
0	≤50	≤123

Currently, the Company replaces an average of 39 LPS through the leak management program and it would take more than 31 years to replace all LPSs, assuming the average count remained steady.[1203] Under Staff's recommended targets, the Company would receive eight PRAs per year for removing the remaining 1,224 LPS within approximately five years, or roughly within the same timeframe as LPP elimination.[1204] The Company maintains that its proposed targets and associated PRAs are more appropriate because individual service replacements are geographically dispersed, time-consuming to schedule and complete, and costly to restore.[1205] CLP questions why the Company seeks to hasten removal of LPSs when implementation of the CLCPA will lead to a gradual decrease in the number of gas customers and, thus, a concomitant decrease in the number of leaks.[1206]

Although the Company expresses concern that Staff has not adequately considered whether the more ambitious targets are

1202 Staff Initial Brief, pp. 195-196; Staff Reply Brief, pp. 48-49.

1203 Tr. 1119.

1204 Tr. 2711—2712. The Company would earn four PRAs per year for removing all LPS within 7-10 years.

1205 Central Hudson Initial Brief, pp. 212-213.

1206 CLP Initial Brief, p. 9; Tr. 1174-1175.

achievable from a cost-benefit analysis perspective, the Company bears the burden of proof for its proposed rates.[1207] Beyond the conclusory testimony of its Gas Safety Panel, the Company has presented no evidence of its own cost-benefit analysis or any proof supporting its assertion that the Company's PRA recommendations are reasonable. Given the public safety benefits and GHG-mitigating effects of LPP removal,[1208] we recommend that the Commission approve the proposed LPSR Program if the Commission chooses to employ NRAs or PRAs in this litigated rate case. However, because the Company has not met its burden of proof, we further recommend that the Commission approve the associated targets and revenue adjustments recommended by Staff, which may be reconsidered in a future rate case.

G. Residential Methane Detection Program

The Company developed an RMD program to provide methane detectors for free to its customers who receive HEAP assistance and to sell, at a 50 percent discount, detectors to its remaining residential natural gas customers.[1209] The Company has provided approximately 7,900 methane detectors to its customers through the program,[1210] and continues to send replacement units for units that alarm or are returned for a false positive.[1211] In the 2021 Rate Order, the Commission

[1207] 16 NYCRR 61.1.

[1208] Tr. 2663-2665; Case 20-G-0429, Central Hudson Gas & Electric Corporation - Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan (issued November 18, 2021), p. 51.

[1209] Tr. 1134-1135.

[1210] Tr. 1135.

[1211] Tr. 1135, 2704.

approved the continuation of this program.[1212] The 2021 Rate Order allotted $100,000 annually for the program and provided that the program was to be funded through the Company's gas O&M expenses.[1213]

The Company proposes continuing the existing program during the Rate Year to offer existing RMD units to new customers participating in the HEAP program that request the units until the Company's current inventory is depleted. The Company intends to reevaluate the program and research enhancements to it in accordance with newly developed National Fire Prevention Association guidelines.[1214] It anticipates rolling out an enhanced program during a future rate year.[1215] Staff agrees that the Company should continue providing methane detectors to its customers, but recommends that part of the $100,000 funding approved by the 2021 Rate Order be applied towards researching and developing an enhanced RMD program.[1216] Specifically, Staff recommends that the enhanced RMD program use connected methane detector devices – i.e., those that make use of long-range wide area network technology and have long device battery life, similar to RMD units by Con Edison in its service territory - because the technology provides greater communication range.[1217]

The Company notes that the $100,000 currently funded in rates pursuant to the 2021 Rate Order is not subject to deferral, and the revenue requirement in these cases does not

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1212 Tr. 2703.

1213 Tr. 2704.

1214 Tr. 1135.

1215 Id.

1216 Tr. 2705-2706.

1217 Staff Initial Brief, pp. 197-198; Tr. 2706.

include the same $100,000 for the RMD program.[1218] Any research and development would therefore need to occur under the 2021 Rate Order and be completed by June 30, 2024.[1219] In light of the timing of events in this litigated rate case, Staff's proposal is not realistic. Thus, we recommend that the Commission adopt the Company's proposal to continue the existing program without Staff's recommended alteration.

H. Pipeline Safety Management System

The PSMS is the American Petroleum Institute's recommended management tool for pipeline operators to use in creating a framework to identify and mitigate pipeline safety threats and risks.[1220] The goal of the PSMS is zero safety accidents or incidents.[1221] In the 2021 Rate Order, the Commission approved the Company's continuation of its PSMS program and the funding of that program through the Company's gas O&M expense, allocating $549,000 over a three-year period.[1222] In the last three years, the Company has taken various steps towards implementation of PSMS, including development of a Road Map to detail three to five years of work.[1223] The program is not mandatory, but Staff encourages and supports the continuation of the program with funding at a reasonable level.[1224]

The Company now proposes that it receive an additional $250,000 in funding for the Rate Year, primarily for consultants

[1218] Central Hudson Initial Brief, pp. 213-214.

[1219] Id.

[1220] Tr. 2706-2707.

[1221] Tr. 1136.

[1222] Tr. 2707, 4091; 2021 Rate Order, p. 52.

[1223] Tr. 1136.

[1224] Tr. 2708

to assist in the implementation of its PSMS program.[1225] Staff noted that the Company spent only $202,000 of the three-year $549,000 rate allowance allocated in the 2021 Rate Order - an average of $67,000 per year in 2020, 2022 and 2023, and less than $1,000 in 2021.[1226] Therefore, Staff recommended a $150,000 reduction in the Company's Rate Year forecast, for an allowance of $100,000 in support of implementation of a PSMS program.[1227] The Company asserts that $100,000 per year is insufficient to permit implementation of each phase of the Road Map required to reach a mature PSMS program.[1228] The Company states that the Road Map activities to be implemented include a PSMS policy, visioning sessions, awareness plans, organizational design and resource plans, as well as developing goals, key performance indicators, and element specific process and procedures.[1229] The Company further intends to implement process tools and templates, training and awareness modules, quality assurance and quality control procedures, scorecard developments, and risk identification and mitigation.[1230]

The Company submitted a confidential exhibit with a detailed breakdown of costs to be incurred during the fourth quarter of 2023 through the fourth quarter of 2024 that supports the funding estimate of $250,000 annually.[1231] The Company acknowledges that, to the extent consultant work occurs in the Rate Year ending June 30, 2024, available funds from the 2021

[1225] Tr. 1137.

[1226] Tr. 4092.

[1227] Tr. 2708, 4093.

[1228] Tr. 1159.

[1229] Tr. 1159-1160.

[1230] Tr. 1160.

[1231] Confidential Exhibit 505 (GSP-5R).

Rate Order's allowance for Rate Year 3 PSMS will be used.[1232] Staff objects that the exhibit should be deemed an attempt by the Company to justify its request after the fact because the Company waited until its rebuttal testimony, filed on December 19, 2023, to introduce a partial forecast of 2024 costs prepared by the Company's consultant[1233] and did not provide the complete exhibit breaking down expenses until January 16, 2024,[1234] which was approximately one week prior to commencement of the evidentiary hearings.[1235] We note that Staff did not seek to cross-examine the Company's Gas Safety Panel based on the exhibit; nor did Staff seek to have the exhibit excluded from the record on the ground that, as it now asserts, the one-week time frame did not give the parties sufficient time to review the 11-page document in question.[1236] Inasmuch as the exhibit was entered into the record without objection and it supports the Company's funding forecast, we recommend that the requested $250,000 be included in the Company's gas revenue requirement.

I. Community Gas Emergency Drill Program

Pursuant to this Program, the Company conducts simulated full-scale gas emergency exercises with municipalities and first responders organizations – gas operators, fire departments, police departments, emergency medical services, among others - to test and enhance communication protocols and

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[1232] Id.

[1233] Confidential Exhibit 226 (GSP-5R)

[1234] Confidential Exhibit 505 (GSP-5R).

[1235] Staff Initial Brief, pp. 199-200. The Company responds that it did not receive the consultant's written request until December 1, 2023, which was after Staff filed its initial testimony, and two and a half weeks prior to the Company's filing of its rebuttal testimony. Central Hudson Reply Brief, p. 90.

[1236] Staff Initial Brief, p. 200.

logistics of those organizations.[1237] The exercises are designed to ensure a more coordinated response in the event of an emergency.[1238] In the 2021 Rate Order, the Commission authorized the Company to earn a PRA of four basis points for each drill conducted, with a limit of two drills per year.[1239] Both Staff and the Company agree that the current program should continue with the same PRA mechanism in place.[1240] In light of the positive feedback received by the Company in connection with its prior full-scale exercises, the complexity of coordinating participation from the multiple agencies involved in the drills and the benefits to public safety,[1241] we recommend again that the Commission approve the Company's proposal to continue the existing program if the Commission chooses to employ NRAs or PRAs in this litigated rate case.

XIII. CUSTOMER SERVICE

A. Customer Service Performance Metrics

The issues presented for resolution in these proceedings relate to whether customer service performance indicators (CSPI) mechanisms should be continued and modified in these proceedings, whether new CSPI mechanisms should be established, and the appropriate timeframe for measuring

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[1237] Tr. 1137.

[1238] Tr. 1138.

[1239] Tr. 2709.

[1240] Central Hudson Initial Brief, p. 215; Staff Initial Brief, p. 201.

[1241] Tr. 1140, 2710.

performance.[1242] CSPI are data points used by the Department's Office of Consumer Services to evaluate the levels of customer service provided by regulated utilities such that the Commission may assess whether the utilities are providing adequate customer service.[1243] CSPI mechanisms incentivize utilities to provide adequate levels of customer service by aligning shareholder and ratepayer interests in assigning financial consequences where a utility fails to provide specified levels of service. As utilities are monopoly delivery service providers, customers cannot vote with their feet if they are not satisfied with their utility's customer service performance, and these mechanisms act to ensure that customers do not pay for substandard service. Where a utility fails to meet a minimum threshold of service, the established NRAs are set aside for the benefit of ratepayers. The CSPI mechanisms, including the customer service performance metrics, performance target levels, and associated NRAs are established in rate proceedings based upon historical performance and are assessed on a calendar year basis.

Pursuant to its last rate plan, Central Hudson is subject to NRAs if it fails to meet specified CSPI metrics and threshold levels of service. The 2021 Rate Order established four metrics with associated performance thresholds and NRAs: (1) PSC Complaint Rate; (2) Residential Customer Satisfaction Survey; (3) Percent of Calls Answered by a Representative within 30 Seconds; and (4) Appointments Kept.[1244] Pursuant to the 2021 Rate Order, for calendar year 2024, Central Hudson is subject to

[1242] Although PULP does not address the CSPI mechanisms, it states that it generally supports Staff's position related to CSPI. Town of Olive's brief touches upon residential customer satisfaction but without taking a position on the metric itself.

[1243] Tr. 4342.

[1244] 2021 Rate Order, p. 27-28 and Joint Proposal, pp. 58-60.

total maximum NRAs of 42 basis points -- 15 basis points for failure to meet minimum performance targets established for the PSC Complaint Rate and Residential Customer Satisfaction Survey metrics and a maximum of 12 basis point for failure to meet minimum performance targets for the Percent of Calls Answered by a Representative in 30 Seconds. With regards to the Appointments Kept metric, Central Hudson is required to credit customers $20 per missed appointment.[1245] Central Hudson also reports on Estimated Bills, but without any associated NRA.

In its testimony, Central Hudson proposed to maintain the Percent of Calls Answered by a Representative within 30 Seconds and the Appointments Kept metrics and targets. It proposed some adjustments to the PSC Complaint Rate and Residential Customer Satisfaction Survey Metric, discussed below, but did not propose to change the overall NRAs associated with the metrics.[1246] Staff and UIU recommend an additional metric, and make recommendations for calculating metrics and establishing new and adjusted NRAs.

As described earlier, we find that the Commission has the authority to establish NRAs in litigated rate proceedings. However, rather than modify the existing CSPI metrics or add the new metric recommended by Staff and UIU, we instead recommend the Commission make no modifications to the existing metrics and allow the metrics, targets, and number of basis points at risk established for calendar year 2024 continue. Pursuant to the terms of the Joint Proposal appended to the 2021 Rate Order, "(a)ll CSPI targets and potential PRAs and NRAs shall remain in effect until modified by a Commission Order."[1247] In the context

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[1245] Id., Joint Proposal, pp. 58-60.

[1246] Tr. 3011.

[1247] Cases 20-E-0428 et al., supra, Joint Proposal, p. 59.

of these litigated rate cases, we find the existing metrics, performance levels, and NRAs reasonable and indisputably permissible. Nonetheless, we address the positions of the parties regarding all metrics below and make further recommendations for the Commission's consideration.

1. PSC Complaint Rate

In its initial testimony, Central Hudson proposed to maintain the PSC Complaint Rate metric and its existing targets and to modify the metric to exclude complaints associated with commodity prices that it contends are outside its control. It alleges that complaints received addressing the price of electric and/or gas energy and/or capacity or the operation of the Company's Energy Cost Adjustment Mechanism and/or Gas Supply charge "do not present a just cause for charging a complaint against the Company and do not show or point to any deficiency in the Company's service to customers."[1248] Central Hudson additionally stated that the exclusion would "increase alignment across the state, as this exclusion was included in Con Edison's Joint Proposal recently approved by the Commission."[1249]

Staff explains that there are two types of complaints, initial and escalated. An initial complaint becomes escalated if a customer informs the Department that the utility failed to satisfy the customer's complaint. For this metric, only escalated complaints are considered.[1250] Staff's witnesses state that Central Hudson failed to meet its target for this metric in 2022 and reject the Company's proposal to exclude commodity-related complaints and its rationales for doing so. Staff contends that the Company has not demonstrated that it can

[1248] Tr. 3012.

[1249] Tr. 3012.

[1250] Tr. 4353.

accurately determine whether commodity prices are the root cause of a complaint because it has indicated no complaint category for commodity pricing,[1251] that eliminating complaints addressing commodity prices "would not encourage proactive communication by the Company to its customers regarding commodity prices", and, that Con Edison is the only utility with a provision to exclude commodity price-related complaints and would not increase alignment across the state.[1252]

UIU did not oppose the Company's proposed adjustment to the PSC Complaint Rate metric, noting its agreement that complaints associated with commodities are outside of the Company's control and that their exclusion would align with the practice of other utilities in New York State.[1253]

In rebuttal, Central Hudson argues that "PSC Complaints received are a lagging indicator" that will take time to return to normal levels.[1254] It also states that it can determine whether commodity prices are the root cause of a complaint, and that its "PRICING-bill is correct" category indicates cases where the Company has identified the root cause to be commodity pricing.[1255] It says where it has verified that actual meter reads have been billed bi-monthly and there are no other complaints regarding the handling of other account activity, it finds commodity pricing the root cause of a complaint. Central Hudson takes exception to Staff's contention that excluding such complaints would discourage proactive communication. It says that it undertakes efforts to

[1251] Confidential Exhibit 353 (SCSP-1, DPS-355).

[1252] Tr. 4355-4356.

[1253] Tr. 493-494.

[1254] Tr. 3038.

[1255] Tr. 3041; Exhibit 182 (CEP-4R).

communicate with its customers about its bills, including the difference between delivery and commodity costs and how commodity costs can vary.[1256] Further, it asserts that it nevertheless has an incentive to proactively communicate commodity-price issues "due to the overlapping nature of Central Hudson's current CSPI metrics," stating that a lack of communication could increase call volumes and may impact its ability to meet its Call Answer rate or be reflected in the Residential Customer Satisfaction Survey results.[1257] Central Hudson says there is a correlation between complaints and commodity prices and, pursuant to its analysis, there is a 54 and 63 percent correlation between PSC Complaints received and electric and gas commodity prices, respectively.[1258]

During the evidentiary hearing, testimony was elicited from the Company's Customer Experience Panel witnesses regarding the classification of complaints. The witnesses stated that the Company began to track commodity price-related complaints in January 2023,[1259] confirmed that the Company's ability to accurately classify a complaint for "PRICING-bill is correct" necessitates accurate information from its SAP CIS system,[1260] conceded that consumer outreach representatives have the discretion to exercise their judgment in determining the category under which a complaint is classified,[1261] and that the Company does not undertake any audit of its representatives' classifications.[1262]

[1256] Tr. 3042; Exhibit 183 (CEP-5R).

[1257] Tr. 3042-3043.

[1258] Tr. 3043; Exhibit 184 (CEP-6R).

[1259] Tr. 3102.

[1260] Tr. 3103.

[1261] Tr. 3108.

[1262] Tr. 3124.

Staff argues that, because Central Hudson is afforded several opportunities to resolve a complaint before it becomes escalated and because it may request, on a case-by-case basis, that an escalated complaint be downgraded if the Company believes it has been escalated without cause, its request to exclude commodity price-related complaints should be denied.[1263] Staff further asserts that such complaints should not be excluded because the Company can be proactive and take steps to reduce the number of complaints associated with commodity pricing, including conducting outreach activities and training "Company representatives who handle customer calls to explain how commodity prices affect bills," which may reduce the number of initial and escalated complaints.[1264] Staff says it is recommending increases in Consumer Outreach staffing that will facilitate the Company taking such actions.[1265] It additionally argues, among other things, that based on the testimony of Central Hudson, there is a lack of record evidence demonstrating a correlation between CSPI metrics and commodity prices;[1266] there is a high degree of uncertainty regarding the classification of complaints;[1267] and, only Con Edison has a similar exclusion and adopting Central Hudson's proposal will not provide more alignment across the utilities.[1268]

In its brief, UIU now contends that the record reflects that Central Hudson cannot accurately determine whether

[1263] Staff Initial Brief, p. 205.

[1264] Staff Initial Brief, pp. 205-206.

[1265] Staff Initial Brief, p. 205.

[1266] Staff Initial Brief, p. 208.

[1267] Staff Initial Brief, pp. 204-207.

[1268] Staff Initial Brief, p. 207.

commodity prices are the root cause of a complaint[1269] and believes the Company's proposal should be rejected.[1270]

Central Hudson maintains that Staff's arguments are unavailing. It says that discretion to escalate a complaint is with the customer, outside of its control, and, there is no guarantee that even if it requests a downgrade of an escalated complaint, that the request will be granted.[1271] It reiterates that the Company needs no further incentive to continue to provide outreach about commodity pricing, it will do so regardless of the metric, and opines that Staff failed to acknowledge it does not support the full number of FTEs requested by the Company to support outreach efforts.[1272] Central Hudson alleges that "Staff has lost its way on this issue" contending that when the PSC Complaint Rate metric was first being developed, there was recognition that high commodity pricing should be excluded as outside a utility's responsibility and control.[1273] Central Hudson further argues that Staff is incorrect that Con Edison is the only utility to have a similar exclusion and cites to the recent O&R rate proceeding;[1274] it contends that its classification system is not vague or

[1269] Tr. 3102, 3108.

[1270] UIU Initial Brief, pp. 7-8.

[1271] Central Hudson Reply Brief, p. 92.

[1272] Central Hudson Reply Brief, pp. 92-93.

[1273] Central Hudson Reply Brief, p. 93 (citing Case 04-E-0572, Con Edison – Rates, Order Adopting Three-Year Rate Plan (issued March 24, 2005), Joint Proposal, pp. 55-56 and Case 02-G-1553 et al., Orange and Rockland Utilities, Inc. – Rates, Order Approving Complaint Rate Targets (issued August 26, 2005), p. 6).

[1274] Central Hudson Reply Brief, p. 94 (citing Case 21-E-0074 et al., O&R – Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans, with Additional Requirements (issued April 14, 2022), Joint Proposal, Appendix 15, p. 2).

ambiguous and the lack of an audit is unimportant because Staff undertakes an annual audit to determine if the Company's reporting is accurate;[1275] and, it claims its correlations are correct and that any arguments appearing confused by the concept of a "lagging indicator," basic statistical modeling, or lack of underlying information should be rejected and, in any event, Staff could have requested additional information.[1276]

We recommend that the Commission maintain the metric in Central Hudson's existing rate plan without modification.[1277] In the first instance, we are persuaded by Staff's positions that while commodity pricing is outside the control of the Company, it does have control over the customer service it provides to resolve complaints. Were this metric based on initial complaints, perhaps the complaints regarding commodity pricing should be excluded. However, in this instance, the metric is based only upon escalated complaints and Central Hudson has several opportunities to resolve an issue with the customer. We also find that the existing practice, which would allow Central Hudson to challenge an escalated complaint on a case-by-case basis, provides a reasonable opportunity to review those instances where the Company believes a complaint should not have been escalated. While we recognize that its request will not necessarily be granted in every instance, it will be evaluated based on the particular facts and circumstances presented.

We also do not find the record sufficiently demonstrates the correlation between high commodity pricing and escalated complaints. Exhibit 180 provides, among other things,

[1275] Central Hudson Reply Brief, pp. 94-96.

[1276] Central Hudson Reply Brief, pp. 96-973.

[1277] As described above, the metric and NRAs will continue until modified by the Commission.

a graph depicting the number of complaints received and shows the variation in electric commodity pricing. Exhibit 561, a discovery response by Central Hudson, provides the data informing the graph, including commodity pricing data for gas and electric and the number of initial and escalated complaints over the course of three years. The exhibit indicates that all complaints received, not only escalated complaints, are included on the graph presented in exhibit 180. We likewise find Exhibits 182 and 184 unconvincing insomuch as that data provided appears to include all complaints, not just those that are escalated.[1278] While customers may complain about commodity costs, we find that the Company has several opportunities to resolve such complaints. Indeed, exhibit 561 demonstrates that the number of escalated complaints Central Hudson associates with commodity pricing is dramatically lower than the initial complaint levels.

Further, we find that the process by which Central Hudson categorizes its complaints contains a great degree of discretion on the part of its consumer outreach representatives, and we are not persuaded that that process will yield accurate categorizations. Initially, Central Hudson has indicated this is a relatively new category, which it has commenced tracking only in the beginning of 2023.[1279] As described above, during the evidentiary hearing, the Company's witnesses conceded that its representatives have discretion to determine the primary concern

[1278] Case 21-M-0045, Central Hudson – Procedures Used to Calculate Bill Estimates, Order Approving Revised Bill Estimation Methods (issued August 16, 2021), p. 13 (directing Central Hudson to file "a report to include, at a minimum, complaints it received associated with adjusted bills, estimated bills, high bills, inaccurate bills, and any complaints related to actual meter readings or bill estimates…")

[1279] Tr. 3102.

presented by a customer in making a complaint. While the Company indicated that complaint categories are reviewed with its customer outreach representatives each month and there is a weekly meeting to review different complaints, it did not describe any process by which the accuracy of those categorizations is reviewed or whether those meetings may result in adjustments to the categorizations provided.[1280] The Company's witnesses also noted that there is no separate audit process to ensure the accuracy of the categorizations.[1281] While Central Hudson suggests that Staff's annual reporting on the Company's reporting of its CSPI metrics is a suitable substitute, we disagree. There is no evidence suggesting that Staff's review could or would assess whether an individual representative accurately categorized the complaints.

Lastly, we are unpersuaded that granting the exception for commodity pricing would provide more consistency among the utilities or that Staff has "lost its way." Central Hudson cites to only two utilities that currently have this exception included in their rate plans, and in both instances the cases resulted in settlement with such provisions included in the joint proposals presented to the Commission. We find Central Hudson's argument that Staff has "lost its way" on this issue unconvincing insomuch as the retail marketplace has significantly changed from the late 1990s and early 2000s. Specifically, the Commission has enacted sweeping reforms applicable to energy service company (ESCO) marketing and commodity pricing practices to ensure commodity ESCO pricing is just and reasonable. In one case that Central Hudson cites, the

[1280] Tr. 3111.

[1281] Tr. 3124.

metric apparently excluded commodity price complaints connected to ESCO retailers.[1282]

2. Residential Customer Satisfaction

In its testimony, Central Hudson proposes to replace the Residential Customer Satisfaction Survey with the Pilot Statewide Customer Satisfaction survey (Pilot Survey) "designed by the utilities and Staff and implemented on a pilot basis per the October 18, 2018, Order in Case 15-M-0566."[1283] The Company proposes that the metric will be calculated based on the response to one question, "Thinking about your most recent transaction with Central Hudson, how satisfied are you?", with the response judged on a five-point scale of customer satisfaction: (1) Very Dissatisfied, (2) Dissatisfied, (3) Neither Satisfied or Dissatisfied, (4) Satisfied, (5) Very Satisfied.[1284] Central Hudson further proposes to split the survey metric into two survey groups, High Priority Interactions

[1282] Case 04-E-0572, Con Edison – Rates, Order Adopting Three-Year Rate Plan (issued March 24, 2005), Joint Proposal, pp. 55-56 ("[t]he issue of concern must be one within the Company's responsibility and control, including an action, practice or conduct of the Company or its employees, not matters within the responsibility or control of an *alternative service provider*.") Emphasis added.

[1283] Tr. 3012-3013 (referencing cases 15-M-0566 et al., Revisions to Customer Service Performance Indicators, Order Authorizing Implementation of a Pilot Statewide Customer Satisfaction Survey (issued October 18, 2018) (2018 Survey Order)).

[1284] Tr. 3013.

and General Account & Billing Interactions.[1285] The Company states it has administered the survey through email since January 2019[1286] and argues that the statewide survey methodology is preferable because it was designed to align with customer preferences to encourage participation through ease of use; will include customers who interact through multiple channels (phone, text, web and mobile channels, field visits); and is a consistent measurement used by all utilities in the state "and was recommended for permanent use by the DPS."[1287] The Company proposes to split the metrics between the two survey recipient categories because the interactions "address very different customer issues and resolution expectations"[1288] and contends that Con Edison's recently established rate plan includes separate metrics and targets for priority and urgency interactions. Central Hudson proposes minimum, midpoint, and maximum performance levels that would equally apply to both the High Priority and General Accounts & Billing recipients with 2.5, 5, and 7.5 basis points associated with each respective level. It proposes minimum, midpoint, and maximum performance levels at

[1285] High Priority Interactions would be defined as those relating to gas odor calls, electrical emergency reports, customer reported outages, and reports of streetlights out. General Account & Billing Interactions would be defined as those regarding payments made, budget billing plan changes, ESCO changes, notifications preference changes, installment plans created, energy efficiency program enrollments, customer contact info updates, meter read submissions, start or transfer of service, bill cancellations, NYSERDA OBF, Energy Affordability Program Credit, HEAP commitment, debits/credits, ERT opt out, permit/pressure test, meter changes, rate changes, field visits and service Orders. Tr. 3015.

[1286] Tr. 3014.

[1287] Tr. 3013.

[1288] Tr. 3014.

less than 3.02, less than or equal to 2.96, and less than or equal to 2.90, respectively.[1289]

Staff's witnesses acknowledge that Central Hudson met its targets for this metric from 2018 through 2020 but did not meet its targets for 2021 and 2022.[1290] Staff agrees with the Company's recommendations to use the Pilot Survey methodology, one-question format, and to split the survey groups into two categories. It opines that transitioning to this methodology would eliminate the mailed paper survey and its associated expense and allow the Company to reach customers through other communication channels.[1291] Staff objects to the Company's proposed performance thresholds and recommends the Commission maintain the existing survey target of 89 percent for each survey group, stating that 89 percent of survey responses must rate the Company's performance as a "4" or "5."[1292] Staff further recommends that the Company ensure that it survey consistently throughout the year, rather than concentrated to one quarter; the survey be transaction-based, following a customer's transaction with the Company, without exceptions; and, the Company track and report transaction or contact types generating surveys.[1293] Staff proposes minimum, midpoint, and maximum performance thresholds of less than 89, less than or equal to 87.1, and less than or equal to 85.3 percent and NRAs of four, seven, and nine basis points associated with those thresholds respectively. The performance metrics and basis points would apply to each survey recipient group.[1294]

[1289] Tr. 3016.

[1290] Tr. 4364.

[1291] Tr. 4364-4365.

[1292] Tr. 4364.

[1293] Tr. 4365-4366.

[1294] Exhibit 355 (SCSP-3).

UIU opposes the Company's proposals to replace the Residential Customer Satisfaction Survey with the Statewide Customer Satisfaction Survey and to split the Residential Customer Satisfaction survey into two metrics.[1295] UIU contends that the statewide survey commenced in January 2019, and has insufficient historical data due to the COVID-19 pandemic and because of the Company's SAP CIS launch. It further asserts the existing metric should not be split into two because it would reduce the Company's exposure to NRAs by splitting the basis points at risk between the two categories. UIU says that this structure would facilitate the Company avoiding an NRA and, without clarity on whether an equal number of transactions would be surveyed between the two categories, UIU contends that the Company could engage in gaming or manipulation between the categories of interactions.[1296]

Central Hudson objected to Staff's position in its rebuttal testimony contending that between 2019 and 2022 the results of the Pilot Survey results are on average 17 percent lower than the existing Residential Customer Satisfaction Survey results.[1297] It argues that, if the Commission does not agree to move the metric to an index value, the survey result threshold should be lowered by 17 percent to account for the differences in the survey results, bringing the survey target to 72 percent.[1298] Further, it contends that because almost 27 percent of all residential customers are in arrears, it finds it "unlikely" that those customers would rate their customer experience a "4" or "5" and so the residential satisfaction

[1295] Tr. 494-496.

[1296] Tr. 496.

[1297] Tr. 3044; Exhibit 185 (CEP-7R).

[1298] Tr. 3044.

survey should be additionally reduced by 13 percent to reflect "the likely lower ratings from customers in arrears."[1299] It explains that, to generate that number, it estimates 27 percent of respondents are customers in arrears and a "conservative" 50 percent of respondents would provide a response less than "4." Central Hudson opines that, to the extent a percentage basis is maintained for the metric, the existing 89 percent threshold should be lowered to 59 percent.[1300]

In its brief, Staff reiterates its agreement with transitioning to the Pilot Survey methodology, stating that the existing Customer Satisfaction survey is cumbersome as "a mailed, paper survey." Staff declares that Central Hudson's proposal to reduce the performance targets to account for unhappy customers in arrears is "inappropriate and concerning"[1301] and that Central Hudson failed to provide any analysis explaining why there is such disparity between the surveys in customer satisfaction. Staff urges the Commission to maintain the existing performance threshold, stating no other major utility has a threshold below 82 percent, and to do otherwise "would create the potential for the Company to significantly backslide on its customer service performance in relation to this metric." It further remarks that changing the metric to an index, rather than percentage-based scale, would "create confusion and difficulty" in comparing the Company with other utilities in the State since all but Con Edison use a percentage scale for the metric.[1302]

[1299] Tr. 3044-3045.

[1300] Tr. 3045.

[1301] Staff Initial Brief, p. 211.

[1302] Staff Initial Brief, p. 212.

UIU continues to oppose Central Hudson's proposal to use the Pilot Survey and to split the existing metric into two, with two separate survey recipient groups.[1303] It opposes moving the performance metric target from a percentage value to an index value and the Company's suggestion that the percentage value be reduced by 17 percent should the Commission maintain the percentage target. UIU contends Company witnesses failed to provide a basis for the reduction, admitting they made no inquiry into why the results of the Pilot Survey were so much lower than the results of the Residential Customer Satisfaction Survey and unable to offer a rationale to explain the discrepancy.[1304]

For its part, CLP contends that Central Hudson's rationale for lowering the target of residential satisfaction to exclude a portion of customers in arrears should be rejected. It states that, while it is likely that customers in arrears may have reduced satisfaction with the Company, including those customers would provide an accurate measure of customer sentiment. CLP instead suggests that Central Hudson focus on addressing the issues leading to high levels of arrears to earn a higher level of customer satisfaction.[1305]

While it does not specifically address the metric, the Town of Olive contends that there is "widespread dissatisfaction in Olive with Central Hudson's continuing billing issues"[1306] and opines that "(t)he recently (February 28, 2024) released Customer Satisfaction Index ('CSI') points starkly to the utility's loss of credibility with its customer base," saying

[1303] UIU Initial Brief, pp. 9-12.

[1304] UIU Initial Brief, p. 12; Tr. 3218-3129.

[1305] CLP Initial Brief, pp. 20-21.

[1306] Town of Olive Initial Brief, p. 3.

that in 2020 the Company earned a CSPI of 92.0 and now has a CSPI of 63.5, over 25 points below the penalty threshold of 89.0 percent.[1307]

Central Hudson maintains its testimonial positions regarding this metric, while again questioning the legality of imposing an NRA for the metric in the context of litigated proceedings.[1308] It argues that Staff's criticisms that it failed to investigate the differences between survey results should be rejected because Staff is better positioned to consider all utilities' survey results, but likewise failed to analyze why there are such differences between the survey results.[1309] It argues that maintaining the existing threshold percentage for this metric while moving to the new survey would treat Central Hudson differently and in a discriminatory manner compared to other utilities;[1310] that all utilities have lower Pilot Survey customer satisfaction results than those associated with their Residential Customer Satisfaction Surveys;[1311] and, that in 2023, not a single utility would have met the 89 percent target as applied to the Pilot Survey.[1312]

We recommend that the Commission maintain the existing Residential Customer Satisfaction metric, without modification. The existing survey methodology and threshold performance levels that were deemed reasonable and appropriate by the Commission and parties, including Central Hudson and Staff, in the Company's last rate proceedings and they should continue.

[1307] Id.

[1308] Central Hudson Initial Brief, pp. 220-222; Central Hudson Reply Brief, pp. 97-99.

[1309] Central Hudson Reply Brief, p. 98.

[1310] Central Hudson Initial Brief, p. 220.

[1311] Central Hudson Initial Brief, p. 221; Exhibit 641.

[1312] Central Hudson Initial Brief, p. 222.

Initially, while the utilities implemented the Pilot Survey in 2019, the Commission indicated in its order that following implementation and evaluation it would consider whether the survey should continue on a permanent basis or whether modifications to the survey should be made.[1313] It directed Department staff to file a report that "shall provide a recommendation for Commission action regarding whether the survey should be made permanent, modified, or discontinued."[1314] While Department staff did file a report and made recommendations to the Commission,[1315] the Commission has not yet acted or adopted the permanent use of the Pilot Survey or instructed that it be used as the basis for CSPI metrics. Until it directs further action, we do not recommend that the Pilot Survey be used as the basis for residential customer satisfaction.

We also do not recommend adopting the Pilot Survey as a basis for this metric because it poses difficulties in establishing appropriate performance levels. We do not find that the record supports the performance thresholds proposed by Staff or by Central Hudson. Staff's proposal does not account for the apparently lower customer satisfaction levels across the utilities resulting from the use of the Pilot Survey. Central Hudson would 'normalize' the performance level based on few years of data marked with irregular circumstances and significant variation in the deltas between the paper and email surveys over the four-year period -- in 2020 the delta was 11.6 percent and in 2022, 23.6 percent. The record does not address

[1313] 2018 Survey Order, pp. 6-7.

[1314] Id., p. 7.

[1315] Cases 15-M-0566 et al., supra, Department of Public Service Staff Report on the Uniform Statewide Customer Satisfaction Pilot Survey (June 15, 2020).

the reasons for the disparity in the performance levels between the existing survey and the Pilot Survey and, without that understanding, we cannot assess the reasonableness of either performance level proposed for the Pilot Survey.[1316]

3. Call Answer Rate

In its testimony, Central Hudson indicated that it has met the Percent of Call Answered by a Representative within 30 seconds (Call Answer Rate) metric in 2021 and 2022[1317] and proposed to maintain the metric, without change.[1318] As relevant here, pursuant to its last two rate plans, the Call Answer Rate is defined as "the percentage of calls answered by a Company representative within 30 seconds of the customer's request to speak to a representative between the hours of 8:00 AM and 4:30 PM Monday through Friday (excluding holidays). The performance rate is the sum of the system-wide number of calls answered by a

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[1316] While Exhibit 641 demonstrates that there is a delta between the CSPI results and the Pilot Survey results for the utilities, it is unclear to us whether the surveys are querying customers on the same questions. To the extent they do not, the differing customer satisfaction levels are not surprising and do not necessarily demonstrate that the disparity is solely based on the format of the survey. Exhibit 185 (CEP-7R) demonstrates the delta between Central Hudson's paper and email survey results. While we believe that the Company's paper and email surveys pose the same question, the record is not clear on this point and to the extent the results are not based on the same question, that would undercut the validity of Central Hudson's argument that the survey format response variation requires an adjustment to the performance levels. We also reject Central Hudson's proposal that any additional discount be applied to the threshold performance levels based on the number of customers in arrears who may be unhappy with the Company. We are persuaded by CLP's position that the metric should appropriately capture all Central Hudson customers' level of satisfaction, including those in arrears.

[1317] Tr. 2997.

[1318] Tr. 3011.

representative within 30 seconds divided by the sum of the system-wide number of calls where a customer requests to speak with a representative."[1319] For 2024, Central Hudson would incur no NRA if 67 percent of calls are answered by a Company representative, as described above. NRAs of four, eight, and 12 basis points would be incurred if the Company answers less than 67 percent, equal to or less than 61.4 percent, or 55.8 percent of calls within those timeframes, respectively.[1320]

In its testimony, Staff agreed to maintain the existing targets for the Call Answer Rate metric.[1321] However, Staff describes that it discovered that Central Hudson has not been calculating the metric in conformance with the Company's Metrics Manual, the terms of previous Joint Proposals, or the Commission's CSPI Order;[1322] the Company has been improperly including calls directed to its callback queues and virtual hold within the Call Answer Rate metric;[1323] and, by its calculations, Staff contends that the Company would have incurred NRAs in 2020, 2021 and 2022 in the amounts of $150,000, $600,000, and

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[1319] See 2021 Rate Order, Joint Proposal, p. 60 and Cases 17-E-0459 and 17-G-0460, Central Hudson – Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plan (issued June 14, 2018) (2018 Rate Order), Joint Proposal, p. 57.

[1320] 2021 Rate Order, Joint Proposal, p. 60.

[1321] Tr. 4350.

[1322] Tr. 4360.

[1323] Tr. 4360-4361 and Confidential Exhibit 353 (SCSP-1, DPS-718).

ten basis points, respectively.[1324] Staff recommends that the Commission require the Company to recalculate its Call Answer Rate metric results for each month from 2020 to 2023, using the formula in the CSPI Order, without the inclusion of callback and virtual hold queues and to re-file the monthly results for each year in case 15-M-0566.[1325] In its testimony, UIU's witness likewise concludes that Central Hudson missed the CSPI target in 2022 and avers the Company should have incurred an NRA of three basis points.[1326]

In its rebuttal testimony, Central Hudson agrees that, had the Company used Staff's calculation methodology for the Call Answer Rate metric, it would have recorded NRAs as Staff indicated.[1327] The Company, however, claims that customer callbacks should be included within the numerator and denominator of the calculation and that it "aligns with the intent and purpose" of the metric.[1328] It explains that "(a) callback is an option available to customers who wish to have a Company representative call them back rather than wait in a hold status for a customer service representative."[1329] The Company contends that callbacks allow representatives to be better

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[1324] Tr. 4362. Staff states that its calculation considered the number of calls answered by a representative within 30 seconds divided by the number of calls requesting a representative less all calls abandoned within 30 seconds. It further explains that the 2021 Rate Order established the NRA in basis points rather than dollar figures. The value of a basis point in 2022 was $86,500 for electric and $37,100 for gas. See 2021 Rate Order, Joint Proposal, Appendix W, Sheet 1.

[1325] Tr. 4362-4363.

[1326] UIU Initial Brief, pp. 12-13; Tr. 492-493; Exhibit 492.

[1327] Tr. 3047.

[1328] Tr. 3047.

[1329] Tr. 3047; Confidential Exhibit 353 (SCSP-1, DPS-718).

prepared for a conversation since they can review the customer's information before returning the call, can reduce the number of abandoned calls, and that including calls within the metric "ensures that the customers that chose this option will be included in the overall CSPI measurement."[1330] Central Hudson proposes that the target for the Call Answer Rate metric "be aligned with the Company's actual performance based on a modified Staff calculation methodology that includes customer callbacks for the period 2015 through 2019 in lieu of the Company's performance utilizing the incorrect calculation for the period 2015-2019."[1331] It proposes lowering the existing performance targets associated with NRAs to 63, 57, and 52 percent and reiterates the importance of having adequate resources to provide the targeted customer service performance.[1332] Additionally, Central Hudson proposes that the NRAs associated with this metric from prior years be used as rate moderators "to offset costs associated with hiring the incremental resources necessary for achieving targeted customer service performance levels during the Rate Year."[1333]

In its brief, Staff reiterates its testimonial positions. It again disagrees that callbacks within a two-hour timeframe aligns with the intent and purpose of the Call Answer Rate metric and recommends the request be denied. In Staff's view, this type of callback option is "simply another type of hold in which the customer will have to wait for assistance" and including callbacks and virtual hold interactions would allow the Company "to artificially manipulate the metric as it does

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[1330] Tr. 3048.

[1331] Tr. 3048-3049; Exhibit 186 (CEP-8R).

[1332] Id.

[1333] Tr. 3049.

not increase the number of customers who are actually assisted by a representative within 30 seconds."[1334] Pursuant to Central Hudson's proposal, it says, the Company could be deemed to have met the metric "even if it did not respond to a single customer within the 30-second time frame contemplated by the CSPI Order," which is inconsistent with the metric's intent.[1335]

Based on its testimony, as well as that of Staff and Central Hudson addressed above, UIU recommends that the Commission find that Central Hudson ought to have incurred NRAs in 2020, 2021, and 2022.[1336]

Central Hudson argues in its brief that its rebuttal positions should be adopted. It also disagrees with Staff's proposed allocation of NRAs to the Company's electric and gas businesses, regardless of the total amount.[1337] It contends that Staff appears to have erroneously used a 70%/30% (electric/gas) allocation instead of the actual allocation in place within each calendar year.[1338]

Insofar as the parties are requesting retroactive relief or resolution of open issues related to prior rate plans, those questions are not properly posed to us in the context of these forward-looking rate proceedings. However, because the dispute between the parties may result in the assessment of NRAs in prior years that could be utilized in these proceedings, we will briefly address the arguments for the Commission's consideration.

[1334] Staff Initial Brief, p. 215.

[1335] Staff Reply Brief, p. 51.

[1336] UIU Initial Brief, p. 14.

[1337] Central Hudson Initial Brief, p. 225.

[1338] Id.

There are several different calculations for the Call Answer Rate metric. As outlined in Staff's testimony and initial brief, there are differing calculations in the Company's Metrics Manual, the Commission's CSPI Order, and 2018 and 2021 Rate Orders. In our view, there is no question about which definition is controlling for purposes of assessing NRAs. The calculations included in the rate plans are controlling.[1339] The signatory parties to the joint proposals filed in those rate proceedings established a metric whose calculation deviated from the Commission's CSPI Order reporting standards. In so doing, they may have failed to recognize the deviation and they apparently neglected to establish a reporting process that would ensure that the metric was properly calculated and separately reported from the CSPI reports for purposes of assessing NRAs. The record here demonstrates a lack of internal controls on behalf of both the Company and the Department to ensure compliance with the provisions of those orders.

To satisfy the Commission's CSPI reporting requirements, which are still applicable and binding on Central Hudson, regardless of the language in the rate orders, we recommend that the Commission direct Central Hudson to file new CSPI reports associated with calendar years 2015-2023 utilizing the calculation in the CSPI Order. For purposes of assessing NRAs in compliance with the terms of prior rate plans,[1340] we recommend that the Commission direct Central Hudson to file new

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[1339] Insomuch as Central Hudson requests retroactive relief back to 2015 to include customer callbacks in calculating this metric, we recommend the Commission also direct such action in cases 14-E-0318 and 14-G-0319. See Cases 14-E-0318 and 14-G-0319, Central Hudson – Rates, Order Approving Rate Plan (June 17, 2015) (2015 Rate Plan).

[1340] Again, we recommend that the Commission review the NRAs associated with the 2015, 2018, and 2021 Rate Orders.

reports in each of those proceedings, with supporting documentation corresponding to the applicable calendar years described in the rate plans, calculating the Call Answer Rate metric in conformance with the calculations in those rate orders.[1341] These reports should inform whether the proper NRAs were assessed and if further Commission action is required or warranted. Neither the CSPI Order nor the language in the various rate plan calculations anticipates or authorizes the use of callbacks or virtual holds to satisfy the Call Answer Rate metric and those calls must be included in the Company's calculations. To the extent there is any dispute regarding the NRAs associated with the rate plans, Central Hudson and Staff should avail themselves of the provisions in the joint proposals for resolving the dispute and, if they are unable to, promptly raise the dispute to the Commission for resolution.

We recommend the Commission deny Central Hudson's request to grant it retroactive relief in how it calculated the metric in prior rate proceedings. The Company negotiated the terms of the joint proposals filed in those cases and could have requested that the calculation address the treatment of customers consenting to be placed on a virtual hold or to a callback, but it did not. To approve any modification at this late date would substantively alter the negotiated settlements. The request is inappropriately raised in the context of these proceedings because it does not provide sufficient notice or opportunity to be heard to the signatory parties of those joint proposals and other parties to those proceedings.

[1341] We note that in its testimony, Staff explained that it applied the calculation identified in the CSPI Order in developing the NRAs identified in exhibit 356 rather than that identified in the 2018 and 2021 Rate Orders.

With respect to the application of any resulting NRAs from the process described above, we concur that those funds could be used to offset costs associated with these rate proceedings. However, in the absence of resolution of those issues in these proceedings, we recommend any such NRAs be applied in the Company's next rate proceedings.

For purposes of these proceedings, there are two issues before us -- how the metric should be calculated and whether to lower the performance targets. We recommend no change to the existing metric and that the thresholds and NRAs continue as described in the 2021 Rate Plan.

While we agree with Central Hudson that there are customer experience benefits associated with the use of virtual hold and callback queue technologies and they may provide a better customer experience than if those technologies were unavailable, we do not find any rational basis in the record for including calls routed to those technologies as having satisfied the metric. The purpose of the metric is to determine whether customers seeking to speak to a representative are provided that opportunity within 30 seconds of that request. Both of these technologies are used for a customer to avoid holding for a representative, as the Company concedes, "there are customers who use this option rather than have the potential to be on hold for an extended period of time."[1342] Simply put, if Central Hudson could address all customer calls seeking to speak with a representative within 30 seconds during regular business hours, there would be no need for these technologies during regular business hours. Regardless of whether a customer has consented to a call back, either through the virtual hold or callback queue functionality, those customers were denied the opportunity

[1342] Central Hudson Initial Brief, p. 223; Tr. 3048.

to speak with a representative within 30 seconds of their initial request. To claim that a customer's request was satisfied when they receive a call back, regardless of the time that passes after first attempting to reach a representative,[1343] certainly does not meet the intent and purpose of the metric and lacks merit.

We also recommend rejecting Central Hudson's proposal to lower the performance thresholds associated with the metric. While we agree that historic performance is a consideration in establishing performance targets, we are unconvinced that lowering the threshold is appropriate. If Central Hudson's proposal were approved, it would provide little financial motivation to improve the service quality that customers deserve.

For the foregoing reasons, we recommend the metrics and NRAs of the 2021 Rate Plan continue without modification. We recommend the Commission clarify, as described above, that continuation of the metrics will require reporting obligations on behalf of Central Hudson for the purpose of assessing NRAs. The Commission should also direct Central Hudson to file its CSPI reports in conformance with the CSPI Order using the calculation therein.

4. Estimated Bills

In their testimony, the witnesses of Staff and UIU proposed new Estimated Bill metrics. Staff proposes a four-tiered structure with an associated basis point NRA value for each tier and would base the tiers on the annual average percentage of customer bills rendered based on an estimated meter read in each month.[1344] The Company would incur no NRA if

[1343] Tr. 3124-3125.

[1344] Tr. 4368; Exhibit 355 (SCSP-3).

it issued less than 1 percent of estimated bills, and would incur eight, 14 and 18 basis points respectively for issuing between 1 and 4.5 percent, greater than 4.5 and 10 percent, and greater than 10 percent of estimated bills.[1345] Staff recommends the metric commence with the beginning of the Rate Year and clarifies that, until the Company is doing actual meter reads every month, the metric would be applicable only to scheduled meter reads in a given month.[1346] Staff contends that this metric and associated NRAs are necessary to ensure "minimum acceptable standards for accurate billing performance" and that the metric will "incentivize the Company to provide timely and accurate bills."[1347]

UIU's witness recommended the establishment of a new Percent of Estimated Bills metric that would measure the percentage of occurrences when the Company renders an estimated bill based on an estimated meter read where it was unable to obtain an actual meter reading at the time of a scheduled meter read.[1348] UIU proposed the target be "calculated by dividing the number of actual meter reads by the total number of meters scheduled to be read during that month, multiplied by 100" and proposes an NRA be incurred for failure to meet the target.[1349] Its recommendation would establish minimum, intermediate, and maximum NRAs of five, ten, and 15 basis points associated with minimum, intermediate, and maximum performance thresholds of 12.3, 13.3, and 14.3 percent, respectively.[1350] UIU states that this metric is warranted because customers deserve to see

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[1345] Exhibit 355 (SCSP-3).

[1346] Tr. 4369.

[1347] Tr. 4370.

[1348] Tr. 497.

[1349] Tr. 497.

[1350] Tr. 498-500; Exhibit 465 (GCC-2).

improved utility performance over time, particularly where customers are asked to pay increasing rates. In consideration of the circumstances preceding this case and the Company's transition to monthly meter reading, UIU says that customers will be safeguarded, particularly those that "experienced 'delayed and inaccurate invoices, confusion, and anxiety' during the launch of the SAP CIS and who are now being asked to bear the costs for the Company to roll out monthly meter reading."[1351]

In its rebuttal testimony, Central Hudson addresses only Staff's recommended metric. It disagrees with Staff's proposed target levels, NRAs, and what information should be considered in calculating the metric. Central Hudson proposes that the targets be generated by calculating performance average for the period 2015 through 2019, that would exclude impacts associated with COVID-19 and the SAP CIS transition and set tiers at intervals of two standard deviations.[1352] Pursuant to its calculations, the Company would incur no NRA if it issued less 3.5 percent of estimated bills, and would incur four and a half, eight and 10.5 basis points respectively for issuing greater than 3.5 and less than or equal to 4.9, greater than 4.9 and less than 6.3, and greater than 6.3 percent of estimated bills.[1353] Central Hudson proposes that, in addition to the exclusions proposed by Staff in relation to its estimated bill credit,[1354] it would exclude from the metric estimated meter reads

[1351] Tr. 498.

[1352] Tr. 3050.

[1353] Tr. 3051; Exhibit 355 (SCSP-3).

[1354] Central Hudson states that pursuant to Exhibit 179 (CEP-1R, CH to DPS (005)), Staff would exclude from its estimated bill credit proposal (1) regularly scheduled estimated meter reading; and (2) instances where the Company must rely on estimated usage because the person who controls access to the meter refuses to provide access. Tr. 3052.

that were produced “due to abnormal operating conditions that are outside of the Company’s control.”[1355] It would include in this definition “any period of emergency, catastrophe, strike, natural disaster, major storm, or other unusual event not in the Company’s control affecting more than 10% of the customers in an operating area during any month.” It states that such conditions would likely interrupt normal meter reading activities or require meter readers to perform storm roles, resulting in a greater number of estimated bills.[1356]

In its brief, Staff recommends the metric and NRA be effective commencing with the Rate Year through the end of 2024 and thereafter be calculated on a calendar year basis. It opines that its metric would provide a further incentive for the Company to provide actual meter reads and “deter any backsliding of the Company’s meter reading goals.”[1357] Staff “is concerned that the Company is willing to reduce the quality of customer service and incur an NRA rather than incur the higher cost of maintaining appropriate customer service levels, as it demonstrated with the Call Answer Rate in 2022.”[1358] For that reason, it says, NRA levels must be high enough to act as a deterrent. Staff argues that other than regularly scheduled estimated reads, no exclusions should apply to the calculation of this metric because pursuant to the CSPI Order, estimated bills due to no access are counted towards the metric and Central Hudson’s other “abnormal operating conditions” exception is overly vague.[1359] It further contends that its methodology for

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[1355] Tr. 3053.

[1356] Id.

[1357] Staff Initial Brief, p. 217.

[1358] Id.

[1359] Staff Initial Brief, pp. 217-218.

establishing the metric targets do not deviate significantly from its traditional methodology, and are reasonable because, if Staff applied the traditional methodology based on an average of the most recent five years of performance, it would yield an amount higher than the Company's most recent performance. Instead, it elected to use a three-year average considering the years 2020-2022, which included the billing system transition.[1360] Staff states that Central Hudson likewise did not use the traditional methodology because, though it used a 5-year period, it used calendar years 2015-2019 that did not account for performance during the SAP CIS transition and Staff is concerned that the proposed target would be artificially higher than warranted and would not incentivize improved performance.[1361]

UIU opposes Central Hudson's proposal that would set the targets for the metric based on a timeframe that would exclude the SAP CIS upgrade. It argues that including recent years would reflect the Company's performance that, unlike the COVID-19 pandemic, was within the Company's control.[1362] UIU advises the Commission to adopt the metric, and specifically UIU's proposal, and apply the same number of basis points for each threshold level across the four customer service performance measures.[1363]

Central Hudson stresses its position that NRAs are not appropriate in the context of litigated rate cases. It agrees conceptually with the metric, as proposed by Staff, but continues to object to Staff's methodology for developing targets and unwillingness to include what it maintains are

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[1360] Staff Reply Brief, p.52; Exhibit 642.

[1361] Staff Reply Brief, p. 52.

[1362] UIU Initial Brief, p. 16.

[1363] Id.

reasonable exceptions. Central Hudson argues that Staff's methodology "grossly deviated" from its traditional methodology for establishing CSPI metrics that includes a five-year historic average set at two standard deviations above the historical average.[1364] In this case, Staff used a three-year period and the proposed first tier represents the value of the three-year standard deviation rather than the result of applying the standard deviation to the Company's performance. Central Hudson opines that Staff's target, based on the value of a standard deviation, "is absurdly illogical."[1365] Central Hudson says that in another pending rate case Department staff recommended the same methodology that the Company proposes in this case that results in a minimum estimated bill target of 13 percent, demonstrating the "preposterous nature of Staff's recommended minimum target of 1% for Central Hudson."[1366] Central Hudson further argues that there is no "minimum acceptable standards" for estimated billing[1367] and exceptions are reasonable for this metric as demonstrated by the recent metric established in the NYSEG and RG&E rate plans.[1368] It also requests that the Commission clearly define what would be considered a "no access situation" resulting in an estimated bill being excluded from the metric calculation[1369] and that estimated meter reads be

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[1364] Central Hudson Initial Brief, p. 226; Tr. 4481.

[1365] Central Hudson Initial Brief, p. 227.

[1366] Central Hudson Reply Brief, pp. 101-102 referencing case 23-G-0627, National Fuel Gas Distribution Corporation – Rates, Prepared Testimony of the Staff Consumer Services Panel (filed March 1, 2024), pp. 51-52.

[1367] Central Hudson Initial Brief, p. 228.

[1368] Central Hudson Initial Brief, pp. 229-230.

[1369] Central Hudson Initial Brief, p. 230.

excluded from the measurement of the metric due to abnormal operating conditions.[1370]

While we agree with the intention of the metric on behalf of both Staff and UIU to encourage modest usage of unscheduled estimated billing to enhance customer service and confidence in the Company's billing, we do not recommend adopting a new metric in the context of these cases. As an initial matter, we agree with Central Hudson that there is no established minimum acceptable standard for the use of estimated billing. As it noted in its briefing, Department staff has either agreed to or proposed base targets for this metric at varying and significantly higher levels for other utilities that, in our view, clearly demonstrates that there is no one minimum standard.

Both Staff and UIU are concerned with Central Hudson's use of unscheduled estimated billing in 2020-2022. While we recognize that Central Hudson's use of estimated billing substantially increased between 2020 and 2022, we also recognize that there were unique circumstances presented during those years and that the data available for 2023 demonstrates that Central Hudson's use of unscheduled estimated bills are declining.[1371]

[1370] Central Hudson Initial Brief, p. 230.

[1371] Exhibit 642. We also note that, between 2020 and 2022, Central Hudson's unscheduled estimated bills would satisfy the base targets that were approved for RG&E in its first (less than 15.65%) and second (less than 10.02%) rate years and the base target proposed by Department staff (13%) in the NFG rate proceeding. See Cases 22-E-0317 et al., NYSEG-RG&E – Rates, Order Adopting Joint Proposal, Joint Proposal, Appendix P, p. 2 and Case 23-G-0627, supra, Prepared Testimony of the Staff Consumer Services Panel (filed March 1, 2024), p. 53.

To the extent that the Commission disagrees with our recommendation, we briefly address the targets proposed by the parties associated with this metric. In our view, Central Hudson's recommendation, that would use Staff's traditional methodology of using a five-year historic period and using two standard deviations, is most appropriate. While both Staff and UIU indicate that the historic years that Central Hudson proposes to use are inappropriate because they do not include the most recent five years, we disagree. Central Hudson's average performance during its years of study, which exclude the COVID-19 pandemic and the SAP CIS rollout demonstrate a lower percentage of unscheduled estimated bills being issued. First, we find that this properly normalizes the unique circumstances presented by those occurrences, and second, we find that using the average where Central Hudson's performance was comparatively better would impose a stricter level of performance than if the most recent five-year average were used, as is demonstrated by the elevated levels proposed by UIU. Staff's methodology differs from its regular practice and establishes target thresholds that would result in an NRA if Central Hudson issued more than a mere one percent of unscheduled estimated bills. In our view, this threshold is unreasonable. The record includes data on Central Hudson's performance for this metric from 2015 through 2022. Were Staff's proposed thresholds established, Central Hudson would have incurred an NRA in every year. If this metric is adopted by the Commission, we recommend that the metric be calculated in conformance with the Commission's CSPI Order, limited to the exclusions identified therein, for administrative efficiency.

B. Negative Revenue Adjustments

The parties dispute whether NRAs may be imposed in the context of litigated rate proceedings, the appropriate number of basis points to associate with the proposed metrics, when any higher levels of NRAs should become applicable, and Staff's proposal to establish a tripling and quadrupling provision. As we previously addressed arguments related to the imposition of NRAs in litigated proceedings, we do not revisit them here.

1. Maximum Basis Point Per Metric

In their respective testimonies, Central Hudson, Staff, and UIU propose different maximum levels of basis points associated with the CSPI metrics. While it argues against the imposition of any NRAs in the context of these proceedings, Central Hudson recommends a maximum of 42 basis points be at risk, the same level of basis points applicable to calendar year 2024 as approved by the Commission in the 2021 Rate Order.[1372] Staff would impose a maximum of 72 basis points over the four metrics, with a maximum of 18 basis points at risk for each of the four metrics discussed above.[1373] UIU initially recommended that each metric have a total of 15 basis points assigned to them,[1374] but now indicates it does not oppose Staff's recommendation to increase the maximum number of basis points at risk to 18 basis points for each metric.[1375]

Staff argues in its briefs that its proposed level of NRAs is appropriate in consideration of Central Hudson's recent performance, which suggests that the existing NRAs associated

[1372] Central Hudson originally proposed the same metrics and basis points at risk as outlined for calendar year 2024 in the 2021 Rate Order. It agreed conceptually to the addition of the Estimated Bill metric but proposes that the total basis points at risk be spread over the four metrics.

[1373] Tr. 4373-4375. For the Residential Customer Satisfaction metric, Staff would allocate nine basis points at risk for each category of survey recipients.

[1374] Exhibit 465 (GCC-2).

[1375] UIU Initial Brief, p. 17.

with metrics are ineffective at incenting the Company to meet its current minimum customer service targets. Staff posits that because the Company failed to meet its performance targets in 2022 and 2023, "it appears to be less costly to the Company to incur the negative revenue adjustment than it would be to remedy its performance on the applicable metric."[1376]

Central Hudson argues that Staff has not justified a need to increase the maximum number of basis points beyond its existing level of 42 basis points. Using Staff's valuation for one basis point, it concludes that Staff's proposal of a maximum of 72 basis points yields a maximum amount at risk of approximately $11.6 million.[1377] It contends that 42 basis points presents a material financial impact that provides sufficient motivation to avoid the NRAs. Considering that Staff refuses to adjust metric targets to reflect current circumstances, or for any reason, Central Hudson says Staff's proposal is even more unreasonable.[1378] It recommends that, if NRAs are imposed, its maximum exposure should be 42 basis points spread over the four CSPI metrics recommended in these proceedings.

As we indicated at the outset of this section, we recommend that the Commission continue Central Hudson's existing CSPI metrics without change. Thus, in our view, the appropriate number of basis points at risk is 42. While Staff contends that this NRA level is apparently insufficient motivation for Central Hudson to meet its customer service obligations, in consideration that these are litigated proceedings and of our recommendations would provide Central Hudson additional

[1376] Staff Initial Brief, p. 221.

[1377] Central Hudson Initial Brief, p. 231. Using the same basis point valuation, the Company's proposed 42 basis points would yield a total of approximately $6.8 million.

[1378] Central Hudson Initial Brief, pp. 231-232.

resources to meet its customer service obligations, we find the level of basis points at risk appropriate to motivate the Company to reach performance targets and act as a meaningful deterrent.

In addition to recommending that the Commission establish higher maximum total NRAs, Staff testified that Central Hudson's performance should be evaluated commencing with calendar year 2024, since the Rate Year will commence during 2024.[1379] While Staff acknowledges that the Rate Year is not aligned with the calendar year, it nonetheless recommends evaluating Central Hudson's performance under its proposed CSPI mechanisms starting in 2024 in recognition of customer frustrations with Central Hudson's customer service.[1380]

Central Hudson opposes Staff's proposal that CSPI targets and NRAs be applicable beginning in calendar year 2024.[1381] It contends that to do so would be unreasonable because the Commission would not establish new rates until midway through the performance period, it would necessarily have to change its business management to achieve those goals prior to knowing the outcome of these proceedings, and it would not know, until rates were established, the levels of funding to achieve the performance targets.[1382] In addition, Central Hudson argues that establishing retroactive performance measures and NRAs is inconsistent with prior practice and the gas safety metrics proposed in these proceedings and urges that any new CSPI

[1379] Tr. 4375.

[1380] Id.

[1381] Tr. 3040.

[1382] Id.

targets and NRAs that the Commission establish in these cases commence in 2025.[1383]

Staff cites customer frustration as its basis for requesting the Commission retroactively apply new metrics and financial consequences to Central Hudson in calendar year 2024. Staff has failed to present any compelling case or legal analysis of its recommendation, and in our view, there is no basis for modifying the provisions of Central Hudson's 2021 Rate Plan and to upend the agreements of the signatory parties to the joint proposal in those proceedings. We also agree with Central Hudson that the proposal is patently unreasonable insomuch as the Company would have insufficient time and uncertain resources to prepare for any such changes. We recommend that Staff's proposal to retroactively impose CSPI metrics, targets, and NRAs be rejected.

2. Tripling/Quadrupling Provisions

Referencing a Commission order adopted in Case 12-M-0192, Staff testified that the Commission should "reinstate" a tripling and quadrupling provision for customer service NRAs in the event that Central Hudson misses more than one CSPI metric in multiple years.[1384] Pursuant to its proposal, NRAs would triple if the targets for two metrics are missed in one year, and then quadruple if one or more metric targets are missed the following year.[1385] Staff testified that due to the Company's poor performance on all of its CSPI metrics following the SAP CIS billing transition, it believes the tripling and quadrupling

[1383] Central Hudson Initial Brief, pp. 215-217.

[1384] Tr. 4378-4379. Case 12-M-0192, Fortis Inc. et al. and CH Energy Group, Inc. et al. – Acquisition of CH Energy Group, Inc. by Fortis Inc., Order Authorizing Acquisition Subject to Conditions (issued June 26, 2013), pp. 20-21 and Joint Proposal, pp. 24-26.

[1385] Tr. 4379.

provisions appropriate to "create an even stronger incentive for the Company to improve its performance."[1386]

Staff states in its brief that Central Hudson's efforts to improve its current metrics are "seemingly anemic"[1387] and the Company's performance, particularly in regard to billing, has not yet returned to "pre-billing system transition levels" and is not within normal operating parameters.[1388] Staff contends that its proposed tripling and quadrupling provisions would "provide the Company with a strong financial incentive to improve its customer service performance and its communications with customers as soon as possible."[1389] It opines there is a justifiable basis to treat the Company differently from other utilities because Central Hudson's performance comparative to other utilities is different. UIU states in its brief that it does not oppose Staff's recommendation.[1390]

Central Hudson opposes Staff's proposed tripling and quadrupling provisions in its testimony and briefs. It argues that Staff is not merely seeking to reinstate previous provisions adopted by the Commission, but to significantly modify the provisions "that would make them far more punitive than the prior doubling and tripling provisions."[1391] The Company argues that while Staff acknowledges that other utilities are subject to a maximum CSPI NRA exposure of 60 basis points,[1392] with Staff's proposal to triple and quadruple NRAs, Central

[1386] Tr. 4379.

[1387] Staff Initial Brief, p. 223.

[1388] Staff Reply Brief, pp. 52-55.

[1389] Staff Initial Brief, p. 223.

[1390] UIU Initial Brief, p. 17, n. 13.

[1391] Central Hudson Initial Brief, p. 232.

[1392] Tr. 4496.

Hudson would have a total NRA exposure of 288 basis points.[1393] The proposal, Central Hudson contends, is excessive, overly punitive, discriminatory, unwarranted, and reckless insomuch as the NRAs "result in significant financial uncertainty for the Company and its debt and equity investors, which will lead to higher financing costs for customers."[1394] The Company claims Staff: proposes to treat it differently from all other utilities, fails to account for the strong correlation between CSPIs and commodity price fluctuations[1395] and, rejects its proposed investment requests that are necessary to provide adequate levels of service.[1396] Central Hudson asserts that Staff's proposed increase in NRA exposure and reduction in investments "creates an untenable situation and sets the Company up for failure."[1397]

We recommend that the Commission deny Staff's requested tripling and quadrupling provisions. In our view, Staff's proposal is unreasonable. The potential maximum NRAs associated with Staff's recommendation is extreme and unaligned with the financial consequences assigned to other utilities. Moreover, in the context of litigated rate proceedings, the provision would apply over the course of multiple calendar years, affecting timeframes not covered by the Rate Year. Our recommendations do not address proper levels of resources or funding for the years covered by Staff's proposal and therefore we recommend denial of its proposal.

[1393] Central Hudson Initial Brief, p. 232.

[1394] Id., p. 233; Tr. 3055.

[1395] Tr. 3055-3057.

[1396] Central Hudson Initial Brief, pp. 234-235; Tr. 3055-3058.

[1397] Central Hudson Initial Brief, p. 235; Tr. 3058.

We also find that the circumstances presented between Case 12-M-0192 and the instant proceedings are not comparable. The order cited by Staff addressed the acquisition of CH Energy Group Inc., the parent company of Central Hudson, by Fortis Inc. Among the factors the Commission considers in the context of an acquisition are the benefits and detriments of the transaction and whether the merger would provide net positive benefits. In that case, a joint proposal was advanced to the Commission for its consideration and the utility consented to doubling and tripling provisions, among others, so that their request would be approved by the Commission. In approving the transaction, the Commission established additional conditions, but notably, the petitioning parties to that case had the option to accept those conditions or to have the Commission's approval of the acquisition rescinded. Here, the tripling and quadrupling provisions are proposed as a matter of course in a rate proceeding, not as a condition Central Hudson has adopted as part of a joint proposal or may elected to subject itself to.

C. Customer Bill Credits

In these proceedings, Staff, "in response to an influx in customer complaints following the Company's customer information system transition," advocates that Central Hudson's shareholders provide bill credits to customers under certain circumstances.[1398] Staff reckons such credits would improve the Company's customer service performance and show good will toward customers. Central Hudson insists that, absent its consent to provide such credits and clear legislative authority for such charges, "there is no legal authority for Staff's recommendation."[1399]

[1398] Staff Initial Brief, p. 224.

[1399] Central Hudson Initial Brief, p. 235.

The focus of these proceedings is the establishment of prospective rates. Staff is proposing an entitlement for ratepayers to receive credits that would not be included in revenue requirements or collected in rates. Further, it does not address the statutory basis for the Commission to direct Central Hudson's shareholders to pay its proposed credits or even set any limitation on those costs. While the provision of such credits may engender good will if provided voluntarily, a demonstration of good will is undercut by an obligation to provide it. As Central Hudson is not consenting to provide the credits, and without any reference to the Commission's authority to direct such action, we do not recommend the Commission adopt Staff's estimated bill, adjusted bill, and CDG bill credits. Nevertheless, we address the parties' positions and make additional recommendations below for the Commission's consideration.

1. Estimated Bill Credit

In its testimony, Staff recommends that, commencing with the Rate Year, Central Hudson's shareholders provide customers with a bill credit of $20 for each bill based on estimated usage. It recognizes that the transition to monthly meter reading is not yet complete, and recommends that the Company not be required to provide the credit for a bill based on a "regularly scheduled estimated meter reading, or if the Company must rely on estimated usage because the customer and/or other person who controls access to the meter refuses to provide access."[1400] Staff frames the credit as a way for the Company to show goodwill, incentivize it to reduce estimated bills, and an immediate form of relief that would be recognized by customers

[1400] Tr. 4370.

who "have been consistently harmed by the Company's inability to provide accurate bills since the billing system transition."[1401]

Central Hudson opposes the new estimated bill credits in testimony declaring that: some level of estimated bills and adjusted bills are normal, required, and expected within every billing system; that estimated billing is contemplated and permissible pursuant to the Commission's regulations and Company's tariff; that establishment of a bill credit for every single estimated bill will result in an inappropriate financial impact for routine billing estimates; that establishment of an estimated bill credit is redundant to the Estimated Bill CSPI proposed by Staff and would result in an overly punitive mechanism, particularly if the Company meets the Estimated Bill CSPI targets; the amount of $20 is arbitrarily based on the existing Missed Appointment bill credit; and, that the development of a fixed dollar amount bill credit is inappropriate and would unfairly penalize a smaller utility relative to larger ones.[1402]

In its brief, Staff largely reiterates its position that Central Hudson should provide estimated bill credits to customers because "customers have been unhappy with estimated and adjusted bills" and that such action could help Central Hudson restore its relationship with its customers. It argues that providing monthly meter readings is within the Company's control and dismisses Central Hudson's concerns about financial impacts, opining that such impacts are deserved if the Company fails to provide actual readings for its bills and will motivate the Company to do better.[1403]

[1401] Tr. 4371.

[1402] Tr. 3058-3059.

[1403] Staff Initial Brief, p. 225.

Central Hudson reiterates its testimonial positions in its brief and further argues that: the Commission's regulations already provide redress for customers when an estimated bill significantly understates the actual amount owed by the utility customer, referencing 16 NYCRR §11.13(f);[1404] no other utility provides an estimated bill credit;[1405] Staff has failed to demonstrate "how customers have been harmed by receiving estimated bills or by the increased frequency in issuing estimated bills";[1406] Staff's proposal appears to be designed to punish the Company rather than redress harm because the credit would be equivalent regardless of whether the estimated bill varied by one dollar or more;[1407] basing its $20 credit on the Missed Appointment credit amount is inapt because missed appointments have unique customer impacts and are within the Company's control;[1408] providing monthly meter reading is not within its control in consideration that the Commission has not authorized the resources for it to do so and Staff opposes cost recovery in these proceedings;[1409] and, based on average estimated billing levels during 2018 and 2019 prior to the CIS transition, the impact of a $20 credit would have resulted in a financial impact of $1.4 million annually.[1410] Central Hudson additionally contends that, because it is authorized to provide an estimated bill, offering bill credits only to specific customers could

[1404] Central Hudson Initial Brief, p. 236.

[1405] Id., p. 263; Exhibit 179 (CEP-1R), p. 3.

[1406] Id.

[1407] Id., pp. 236-237.

[1408] Id., p. 237.

[1409] Central Hudson Reply Brief, pp. 107-108.

[1410] Central Hudson Initial Brief, p. 237; see Exhibit 188 (CEP-10R).

result in discriminatory treatment in contravention of PSL §§ 65 and 66.[1411]

At the outset, we disagree with Central Hudson's representation of the potential financial impact of imposing the estimated bill credit. While the years it references in Exhibit 188 are pre-SAP CIS rollout, those two years have elevated levels of estimated billing above those for 2015-2017. Moreover, Central Hudson's comparison to years 2018 and 2019 fails to take into consideration its transition to monthly billing and seemingly does not account for the fact that Staff explicitly exempted payment of estimated bill credits until monthly meter reading is implemented.

Nevertheless, we do not recommend that the Commission adopt Staff's proposed estimated bill credit. As an initial matter, Central Hudson is authorized to provide estimated bills. To the extent that there is any concern that Central Hudson has not abided by what is authorized by the Public Service Law, the Commission's regulations, or the Company's tariff, those concerns are better addressed in other proceedings currently pending before the Commission. To the extent that Central Hudson adheres to the Commission's rules about when it may provide a customer with an estimated bill, it would be contrary to those rules to penalize the Company for doing so. To the extent the estimated bill credit is proposed at least in part to correct a harm or inconvenience to a customer, we are not satisfied that the record demonstrates that the dollar amount of the credit is rationally related to the harm or inconvenience caused by receipt of an estimated bill.

[1411] Central Hudson Reply Brief, p. 237, n. 164.

2. Adjusted Bill Credit[1412]

Beginning in the Rate Year, Staff recommends the Commission require Central Hudson provide customers with a $20 bill credit, at the shareholders' expense, for each instance that it renders a bill with an adjustment.[1413] Staff opines that the credit should be adopted because Central Hudson has ongoing issues with its CIS and has been working to reduce the number of adjusted bills to customers. It says its proposed credit would provide immediate, visible relief to customers; motivate the Company to issue accurate bills; and would show goodwill on the part of the Company.[1414]

Central Hudson opposes Staff's recommendation on similar grounds stated earlier, asserting that: some level of adjusted bills are normal, required, and expected and contemplated and authorized by the PSL and Company's tariffs; providing a bill credit for every single adjusted bill will result in an inappropriate financial impact to the Company for routine billing corrections; that the $20 credit amount was set arbitrarily; and that fixed dollar amount bill credits would unfairly penalize smaller utilities relative to larger utilities.[1415]

[1412] The Town of Olive takes no position on the adjusted bill credit proposed by Staff. However, it states that, as a customer of Central Hudson, it has experienced unexplained adjustments on its bills of between 11 and 18 percent and questions Central Hudson's characterization of its base level revenues used to form its rate request. Town of Olive Initial Brief, p. 3. Dutchess County likewise takes no position on the adjusted bill credit but urges that the Commission simplify electric and gas billing and develop more transparent bills that are understandable to a customer. Dutchess County Initial Brief, p. 12.

[1413] Tr. 4380-4381.

[1414] Tr. 4381.

[1415] Tr. 3058-3059.

In its brief, Staff maintains its positions and alleges the adjusted bill credit is "necessary due to the ongoing issues with the Company's customer information system billing transition."[1416] It states that Central Hudson's adjusted bills increased beginning in 2021 and continuing through 2023.

Central Hudson makes many similar points in its brief to those raised in relation to estimated bill credits. It contends that the Commission's regulations authorize it to issue adjusted bills pursuant to 16 NYCRR §11.14 and provides customers redress when an adjusted bill increases the amount due by $100 or more;[1417] no other utility provides an adjusted bill credit;[1418] the record does not support how customers have been harmed by receiving adjusted bills or by the increased frequency in issuing adjusted bills;[1419] Staff's proposal appears punitive because the credit it proposes does not consider potential harm -- it would grant the same credit regardless of whether the adjustment was one dollar or more;[1420] that the comparison to the Missed Appointments credits is inappropriate;[1421] and, based on average levels of adjusted billing during 2018 and 2019, prior to the SAP CIS transition, the imposition of a $20 credit would have resulted in a financial impact of $1.0 million annually.[1422] Central Hudson says Staff overlooks that it has been reducing its number of adjusted bills and already has an incentive to reduce the number of adjusted bills because they are likely to lead to increased call volume and complaints that could impact

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1416 Staff Initial Brief, p. 225.

1417 Central Hudson Initial Brief, p. 238.

1418 Id., p. 268; Exhibit 179 (CEP-1R), p. 2.

1419 Id., p. 239.

1420 Id., p. 239.

1421 Id.

1422 Central Hudson Initial Brief, p. 239; Exhibit 188 (CEP-10R).

their CSPI Call Answer Rate and PSC Complaint Rate Metrics.[1423] Finally, the Company argues that Staff's proposal is patently unreasonable because it does not include any exclusions, including those that the Commission has previously excluded from reporting metrics as being outside of a utility's control.[1424]

We do not recommend that the Commission adopt Staff's proposed adjusted bill credit. Like with estimated bills, Central Hudson is authorized to provide adjusted bills. Again, to the extent there is a concern about whether Central Hudson has adhered to statutory and regulatory processes and the requirements of its tariff, those questions are best addressed by the Commission in other pending proceedings. While we agree that it is desirable to reduce the number of bills that require adjustments, to the extent that Central Hudson adheres to the statutory and regulatory framework, it would be contrary to those rules to penalize the Company for availing itself of those processes. We again note that we are not satisfied that the record demonstrates that the dollar amount of the adjusted bill credit proposed by Staff is rationally related to the harm or inconvenience caused by receiving an estimated bill.

3. Adjusted CDG Bill Credit

In its testimony, Staff provides an overview of Community Distributed Generation (CDG) and utility consolidated billing obligations.[1425] It explains the recommendations made by

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[1423] Central Hudson Initial Brief, pp. 238-239.

[1424] Id. (referring to theft of service, shared meters or ESCO bill adjustments and citing to Case 15-M-0566, supra, Order Adopting Revisions to Customer Service Reporting Metrics (August 4, 2017), p. 12).

[1425] Tr. 4411-4412 (referring to Case 14-M-0224 et al., Distributed Energy Resources).

the Department included in the CDG Whitepaper[1426] to remedy customer billing and crediting issues stemming from the utilities' failure to fully implement automated crediting and billing, including mandating quarterly utility CDG billing and crediting performance reports, establishing utility performance metrics and consumer protection measures related to CDG crediting and billing, and imposing an NRA mechanism tied to utility CDG crediting and billing performance.[1427] Subsequently, the Commission issued an order requiring utilities to file implementation plans associated with automated CDG billing and initiated a stakeholder conference to establish metrics to track and evaluate utility performance on CDG billing and to propose an NRA mechanism.[1428]

Staff reports that because of Central Hudson's lack of automated billing its customers have experienced significant delays in billing and a significant number of adjusted bills, sometimes receiving multiple adjusted bills per billing cycle.[1429] Staff posits that there is a correlation between CDG customers withdrawing from the program and the months where Central Hudson had either adjusted customer bills, sent multiple adjusted bills, or did not bill customers within the current billing

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[1426] Case 14-M-0224, supra, Department of Public Service Staff Straw Proposal on Opt-Out Community Distributed Generation (March 29, 2022) (CDG Whitepaper).

[1427] Tr. 4413-4414.

[1428] Tr. 4414-4415. Citing Case 14-M-0224 et al., supra, Order Establishing Process Regarding Community Distributed Generation Billing (issued September 15, 2022) (CDG Order).

[1429] Tr. 4415-4417, 4419-4420; see Confidential Exhibit 353 (SCSP-1, DPS-302). Staff acknowledges that, based on discovery responses provided by the Company, the number of customers not billed within their billing cycle has reduced dramatically.

cycle.[1430] While concerned about Central Hudson's delay in fully automating its CDG billing process, Staff also recognizes that more than half of CDG customers receive fully automated bills and that some of the circumstances requiring Central Hudson to bill manually are reasonable.[1431]

In addition to the adjusted bill credit, Staff proposes Central Hudson provide an additional $20 bill credit, at the shareholder's expense, to every CDG customer for each adjusted CDG bill to compensate for the inconvenience of receiving multiple bills.[1432] Staff clarifies that its intent is that the Company issue a customer credit each time an adjusted bill is issued, such that a customer could receive multiple bill credits in one billing period if multiple bills were issued.[1433] It asserts that customers are leaving the CDG program, undercutting the State's renewable energy goals, and justifies the credit to ensure that "minimum acceptable standards for accurate billing performance are being met" and to incentivize timely and accurate bills. Staff opines that billing issues can negatively impact consumer confidence and may drive market participants from New York, creating "a significant financial impact on stakeholders by increasing costs for customer acquisition, creating DER provider capital issues, and the potential for default on their contractual obligations to their customers."[1434] Staff does not propose an NRA related to CDG adjusted bills in these proceedings, explaining that such mechanisms are being discussed collaboratively with stakeholders

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[1430] Tr. 4417-4419; see Confidential Exhibit 353 (SCSP-1, DPS-304).

[1431] Tr. 4424.

[1432] Tr. 4427.

[1433] Tr. 4427-4428.

[1434] Tr. 4428-4429.

as directed in the CDG Order, and if any mechanisms are established in that proceeding, they would supersede its proposed credit.[1435] Staff further recommends that the Commission require Central Hudson to file CDG customer billing quarterly reports detailing the time frames in which bills were issued, monthly reports on the number of times a CDG customer bill is adjusted within a billing period, and an annual filing regarding its performance, with any Commission decision issued in Case 14-M-0224 to supersede these recommendations, where warranted.[1436]

In its testimony, Central Hudson opposes the bill credit for the same reasons addressed above related to adjusted bills and additionally opines that "establishment of an adjusted bill credit and a CDG adjusted bill credit is by definition redundant and overly punitive."[1437] It argues that there are some reasons for CDG bill adjustments that are outside the control of the Company and that those circumstances should be exempted from application of any bill credit. It says that subscriber additions and issues related to host enrollment and disenrollment may require rebilling of subscribers. It also says that because CDG hosts compete with one another for subscribers, the hosts often request Commission authorization for changes to allowable billing design and, if approved, necessitate changes in the Company's billing system. It contends that certain changes must be performed manually and are subject to human error that can result in adjusted bills.[1438] Regarding reporting, Central Hudson conceptually agreed with

[1435] Tr. 4428.

[1436] Tr. 4431-4432.

[1437] Tr. 3059.

[1438] Tr. 3059-3060.

Staff's proposal but says it would require additional FTEs to comply.[1439]

In its brief, Staff maintains that its proposed Adjusted CDG Billing Credit is appropriate in consideration of "the volume of adjusted bills Central Hudson is issuing to its CDG customers" that it characterizes as beyond normal and expected business operations.[1440] It argues the level of adjusted bills results in customer confusion, potential increases in volume to Central Hudson's call center, and potential arrears where customers may pay the wrong bill.[1441] Seemingly to demonstrate the credit will not overburden Central Hudson, Staff recognizes that the Company is developing a CDG fully automated billing system planned to be in place by January 2024 that would reduce the level of bills requiring manual adjustment.[1442] It further argues that other utilities offer similar credits and refers to the rate plans recently adopted for Con Edison and NYSEG and RG&E that include $10 credits to CDG customers under certain circumstances. Staff reiterates its positions that the $20 credit will balance customer concerns with CDG with costs borne by Central Hudson's shareholders, build good will, and provide an incentive for Central Hudson to limit the number of adjusted bills it issues related to CDG.[1443]

Central Hudson maintains that the CDG adjusted bill credit be denied and asserts that Staff's positions are unavailing because Staff: recognizes the Company's radically reduced number of adjusted CDG bills;[1444] acknowledges that the

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[1439] Tr. 3064.

[1440] Staff Initial Brief, p. 228.

[1441] Id., pp. 228-229.

[1442] Id., pp. 227, 229.

[1443] Id., pp. 229-230.

[1444] Central Hudson Initial Brief, p. 240; Tr. 4417, 4558-4559.

Company continues to reduce the number of delayed bills and is implementing fully automated CDG billing;[1445] cannot define a minimum accepted standard for accurate billing performance;[1446] fails to recognize that the CDG billing credits offered by other utilities are the product of multi-year rate case settlement agreements and that no other utility has a $20 CDG adjusted bill credit in place.[1447] Additionally, it argues that Staff's proposal is unreasonable in that it provides for no exclusions, is redundant and overly punitive in consideration of the adjusted bill credit, and fails to consider the complexity of CDG billing.[1448] Central Hudson urges the Commission reject Staff's recommended credit and instead address CDG billing concerns in its generic proceeding, case 14-M-0224, where both NRAs and customer credits are being considered.[1449]

We recommend that the Commission disallow Staff's proposed adjusted CDG bill credit. Central Hudson is authorized to provide adjusted bills and it would be contrary to those rules to penalize the Company for availing itself of those processes.

We recognize the concerns with the issuance of adjusted or delayed bills and the potential impacts on the State's CDG program that could undermine the success of the program and the State's policy goals. However, as Staff identifies, the problems related to billing issues are not isolated to Central Hudson and the Commission has already established a generic proceeding and process for addressing the

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[1445] Central Hudson Initial Brief, p. 240; Tr. 4424.

[1446] Central Hudson Initial Brief, p. 241; Tr. 4561.

[1447] Central Hudson Reply Brief, p. 109.

[1448] Central Hudson Initial Brief, pp. 240-241.

[1449] Central Hudson Initial Brief, pp. 241-242; Central Hudson Reply Brief, p. 109.

issues raised in the Department's CDG Whitepaper. Therefore, we recommend that no action regarding the CDG billing issues be taken here, but instead those matters be addressed in the generic proceeding. Doing so on a generic basis would result in more consistency across the utilities and would ensure that any Commission decision first considers the input of all CDG stakeholders.

The record reflects that Central Hudson is making strides to implement an automated system that will reduce the number of manual transactions and that there has been notable performance improvement. We agree with Central Hudson that, as proposed, the bill credit would be overly punitive. Not only does Staff propose that the adjusted bill and CDG adjusted bill apply separately and simultaneously, but it also would require a credit for each time a CDG bill was adjusted and without regard to whether the circumstances necessitating a further credit was due to any fault of the Company. We again find that the record does not demonstrate that the credit amount proposed by Staff is rationally related to the harm or inconvenience caused by receiving an estimated bill.

4. Discretionary Customer Credits

Central Hudson has a discretionary customer crediting program that permits a Contact Center Representative or a Customer Outreach employee to use their discretion to suggest a customer be issued a credit to resolve an issue raised by the customer. Before a credit is issued, it is reviewed and approved by a supervisor.[1450] Central Hudson indicated that it provides two general categories of credits, Miscellaneous Adjustment Credit, where a discretionary credit is applied when a customer raises an issue not specific to a fee on a bill, and

[1450] Exhibit 495.

Returned Payment or Late Fee Credit, where a credit is provided for a fee on a customer bill. The Company indicated that it does not track the reasons for providing a credit and does not have written procedures for granting credits but provides on-the-job training regarding the process. It explains that its general guidance is that "Courtesy Discounts may be applied based on individual circumstances in order to provide resolution to situations that are outside of the customer's control. A 10% discount is the standard courtesy given, however it may be adjusted higher or lower based on the individual circumstances."[1451] On cross-examination, Central Hudson's witness panel stated that there is approximately $50,000 for the program included in the Company's proposed revenue requirements.[1452]

Although no party addressed the discretionary customer credits in their pre-filed testimony, several parties oppose the inclusion of discretionary customer credits in revenue requirements in their briefs and recommended additional guardrails and reporting related to the program. PULP contends that widespread reform measures for the program are warranted because there is too much discretion, no formal reporting, no annual cap of how many credits are approved, the guidelines are too vague, and there are no written training materials on the use of the credits.[1453] It believes that the Company should establish firm parameters if the program is to continue, including requiring on the customer bill that the "miscellaneous credit" is a "discretionary customer credit" and requiring a formal notification to the customer that it has received a

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1451 Id.

1452 Tr. 822.

1453 PULP Initial Brief, p. 23 (referencing Tr. 3169-3173).

credit and for what purpose. PULP proposes that Central Hudson should be required to report annually on its use of discretionary credits, that written training materials be established and filed with the Department for review and approval, and that maximum caps of the use of credits be established.[1454] PULP is concerned about over-reliance on the credits by Central Hudson, particularly if there is an increase in customer service activity, and opines that shareholders should cover the expenses over any cap established.[1455] Staff apparently agrees with requiring additional recordkeeping insomuch as it voices concern with Central Hudson's lack of historical data prior to April 2022 such that it cannot evaluate any trends regarding the expense.[1456]

Central Hudson maintains that "discretionary customer credits are a useful tool to provide resolution to situations that are outside of the customer's control."[1457] It states that the cost of the program is nominal, that any excess spending above that included in revenue requirement is borne by shareholders, and that there is no rational basis to require the Company to file detailed annual reports for the program.

We agree that providing such credits to customers may be useful to resolve situations with customers and it appears appropriate for a representative, only after receiving approval from a supervisor, to grant a credit. We recommend the

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[1454] PULP Initial Brief, pp. 29-30.

[1455] PULP Initial Brief, pp. 23-24.

[1456] Staff Initial Brief, p. 230.

[1457] Central Hudson Reply Brief, p. 110.

Commission authorize the continuation of this program.[1458] While we recognize that the revenue requirement impact for the discretionary customer credit program is relatively minor, we do have some concerns regarding the structure of the program and recommend that the Commission direct Central Hudson to institute written operating protocols and recordkeeping.

Exhibit 495, attachment 1, provides transaction data for Miscellaneous Adjustment Credits from April 2023 through August 2023 for electric and from April 2022 through August 2023 for gas and provides electric and transaction data for Returned Payment Fees from April 2022 through August 2023. By and large, most of the credits provided are relatively modest with many of the credits at or below \$20. However, there are also many credits of more than \$100, several reaching hundreds of dollars, and in one instance, a credit of \$58,413.48, an amount in excess of the entire requested revenue requirement for the Rate Year.[1459]

For the program to be successful in resolving customer disputes, there must be sufficient safeguards in place to ensure that significant charges have indeed received the proper approval from a supervisor, that the circumstances presented warrant the amount credited, and that records are maintained to ensure that credits are spread throughout the customer base. Such safeguards are important to ensure that ratepayer funds are being spent judiciously and that no one customer is receiving a windfall. However, while we agree that detailed documentation should be provided in some circumstances, we do not believe it

[1458] While Central Hudson’s witness panel stated that there is approximately \$50,000 for the program included in the Company’s proposed revenue requirements (Tr. 822), we could not verify this number. We recommend the Commission cap the discretionary customer credit program recovered in rates to \$50,000.

[1459] Exhibit 495, Attachment 1, p. 26.

is warranted in all circumstances to appropriately balance the burden of the recordkeeping against the credit amount involved. As most credits appear to be below $100, we suggest that dollar amount as a threshold for consideration. We recommend the Commission direct Central Hudson to develop standard operating procedures and training that addresses (1) how many times an individual customer may receive a credit in a year; (2) a threshold dollar amount above which documentation is required; (3) for credits granted above the threshold, an identification of the supervisor approving the credit and the circumstances and/or rationale for granting the credit; and (4) a protocol for maintaining such records. We recommend that the Commission direct Central Hudson to track the total number of discretionary credits granted for the electric and gas businesses over the Rate Year by category of Miscellaneous Adjustment, Returned Payment, or Late Fee and the total credits granted in each category. While PULP recommends that an annual filing be made to the Commission, considering the total cost of the program, we do not believe a separate filing is warranted. However, if the Commission establishes the tracking and recordkeeping requirements we recommend, that information would be available to parties for consideration in the next rate proceeding.

We disagree with PULP's recommendations to require any modification to the billing system to reflect the application of a discretionary credit instead of merely identifying the credit as a miscellaneous credit and to require Central Hudson to provide any separate correspondence to a customer regarding the credit it received. Regarding billing system modifications, there is no record on the cost of implementing such a change or the benefit it would provide. And, given our understanding that such credits are applied following a customer's direct interaction with a representative of the Company, providing further explanation either on the bill or through a separate correspondence appears to be overly burdensome and unnecessary, particularly in consideration of the modest amounts that are common for such credits. We recommend that any standard operating protocols established by Central Hudson require its representative to clearly explain to the customer how and when the customer credit will appear on the customer's bill and the amount that will be applied.

Lastly, because any discretionary customer credits above those included in revenue requirement are borne by the shareholders, we do not recommend the Commission establish any cap regarding the number of credits that may be offered during the Rate Year.

D. Monthly Meter Reading

Central Hudson filed a plan to adjust its billing practices and to conduct monthly meter reading on January 17, 2023 in Case 22-M-0645, including its timeline, incremental costs, and necessary resources.[1460] On January 27, 2023, Central Hudson and Staff reached an interim agreement that prescribes an accelerated timeline, which was subsequently adopted by the Commission.[1461]

In testimony, Central Hudson identified the incremental annual costs as $4.4 million and stated that they were comprised of recurring and one-time O&M costs as well as the return on and of approximately $1.8 million of capital expenditures. The Company stated that annual O&M costs for the

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[1460] Tr. 2998. Case 22-M-0645, Central Hudson - Development and Deployment of Modifications to its Customer Information and Billing System and Resulting Impacts on Billing Accuracy, Timeliness, and Errors, Monthly Meter Reading Implementation Plan (January 17, 2023).

[1461] Tr. 2998. Interim Agreement Order.

transition to monthly meter reading would be approximately $4.0 million, mostly for additional internal and external meter reading resources, and the remainder driven by "maintenance costs of meter reading hardware and maintenance and fuel costs for meter reading vehicles."[1462] Included in the capital forecast was approximately $1.8 million related to the transition "for vehicle purchases and technology investments such as meter reader equipment, mobile radios, tough-pad tablets, and programming modifications in the SAP CIS system."[1463] Central Hudson also identified approximately $0.4 million associated with the return on and of associated capital investments and a one-time O&M expense of approximately $0.2 million for its customer outreach campaign.[1464] Subsequently, Central Hudson revised its cost estimates for meter reading implementation based upon the accelerated meter reading schedule adopted by the Commission.[1465]

In its testimony, Staff "generally supports a transition to monthly meter reading" but recommends disallowing all costs and instead recommends the Commission require the Company to provide additional analysis regarding updated costs for the Commission to consider.[1466] It argues that the monthly meter reading plan and costs associated it are uncertain because the interim agreement's terms direct an independent monitor to prepare a report that, among other things, will review and evaluate Central Hudson's proposal to initiate monthly meter reading. Staff avers that the report could materially affect

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[1462] Tr. 2999-3000.

[1463] Tr. 3000.

[1464] Id.

[1465] Exhibits 157 (PP-1U) and 158 (PP-2U).

[1466] Tr. 4393, 4397-4398.

the Company’s proposal.[1467] Additionally, Staff states that the Company has not fully planned its customer education component and that its cost estimates and supporting analysis for vehicle purchases, FTEs, and contracted resources are lacking.[1468] With regard to the Company’s proposal to purchase electric vehicles for monthly meter reading and associated infrastructure, Staff contends that the Commission should deny the Company’s proposed costs and provide additional analysis for the Commission’s future consideration. It claims the proposal is not supported by cost savings, EVs are more expensive than internal combustion vehicles and hybrid vehicles and would necessitate substantial investment in charging stations, Central Hudson did not conduct a formal cost-benefit analysis for its proposed on-site chargers compared to public charging stations, that locations of the proposed charger installations are not specified, and that the infrastructure would be constructed to support a limited number of EVs at great expense.[1469]

Assemblymember Shrestha avers that the need to do monthly meter reading emerged from the Company’s CIS errors and is not appropriately considered in this case.[1470]

Central Hudson contends that “there is no indication that the independent monitor’s report will lead to material changes or any changes in the Company’s monthly meter reading plan” and, in any event, states that “mechanisms can be developed to protect customers from any changes to the final cost of the monthly meter reading plan and the potential impact of any changes associated with the final independent monitor’s

[1467] Tr. 4393-4394.

[1468] Tr. 4394. Costs related to FTEs and contracted resources are addressed in other sections of this Recommended Decision.

[1469] Tr. 4395-4397.

[1470] Tr. 63.

report."[1471] It provides its Monthly Meter Reading Communications Plan to demonstrate the customer education component of its plan,[1472] contends that Staff has provided no evidence or support for a specific level of operational efficiency in relation to FTEs, and, provides further support for its external contractor. It contends that its plan for using EVs for meter reading is aligned with CLCPA goals and should be approved, even if the purchase price of EVs is relatively higher than other vehicle costs.[1473]

In argument, Staff maintains that costs associated with monthly meter reading should be disallowed because there is uncertainty due to the independent monitor's report and asserts that the "transition to monthly meter reading is inextricably enmeshed in Case 22-M-0645, a proceeding that involves 'potential enforcement and prudence claims presented by the DPS Office of Investigations and Enforcement.'"[1474] Staff claims that it remains concerned with Central Hudson's EV investments and that "the Company is using the accelerated plan for monthly meter reading implementation as an opportunity to unnecessarily spend additional ratepayer funds" and alleges that the proposal "was in direct response to the issues caused by its own customer information system implementation."[1475] It characterizes the Company's Monthly Meter Reading Communications Plan as "a vague communications timeline" that does not include definitive dates.[1476] Apparently for the first time, Staff argues that

[1471] Tr. 3065-3066.

[1472] Tr. 3066-3067; Exhibit 189 (CEP-11R).

[1473] Tr. 3069.

[1474] Staff Initial Brief, p. 233 (citing Interim Agreement Order, p. 6).

[1475] Staff Initial Brief, pp. 233-234.

[1476] Staff Initial Brief, p. 234.

Central Hudson's support for its incremental costs and resources are insufficient because they were filed in Case 22-M-0645, "a separate proceeding from this rate case and certain documents are filed as confidential and therefore may not be available to all parties in this rate proceeding."[1477] Finally, Staff states that, while the Commission adopted the terms of the interim agreement, the Commission did not explicitly direct the Company to include these costs within the rate proceeding.[1478]

Central Hudson finds Staff's position curious insomuch as it supports monthly meter reading but would deny the Company all costs to implement it. In addition to reiterating its testimonial positions, Central Hudson states, without citing record support, that its revised plan reduced the overall estimated annual cost of the monthly meter reading program to $4.1 million[1479] and argues that its communication plans are robust.[1480] It takes exception with allegations Staff makes in its brief, including that the Company's proposal for monthly meter reading was in direct response to the issues caused by the implementation of its CIS[1481] and that the Company is using the meter reading implementation as an opportunity to unnecessarily spend additional ratepayer funds.[1482] Central Hudson says that the first allegation is contradicted by the record in these proceedings and Case 22-M-0645 and the second is devoid of any record basis and inflammatory.

In our view, because the Commission has already approved the interim agreement, including the Revised Monthly

[1477] Staff Initial Brief, pp. 234-235.

[1478] Staff Initial Brief, p. 235.

[1479] Central Hudson Initial Brief, p. 243.

[1480] Central Hudson Reply Brief, p. 114.

[1481] Central Hudson Reply Brief, p. 110.

[1482] Central Hudson Reply Brief, p. 114.

Meter-Reading Plan attached thereto, and recognized "the substantial benefit of a plan for the Company to begin reading meters on a monthly basis," there is no basis for denying Rate Year costs associated with the program. In fact, the Revised Monthly Meter-Reading Plan states that the revised plan, among other things, "is subject to the Company: being able to secure the necessary additional human resources, equipment, software licenses, and vehicles to successfully complete the Plan and Revised Plan." Therefore, we believe that to deny Rate Year costs to Central Hudson to secure such resources, would frustrate the Commission's order and its preference for accelerated monthly meter reading. While Staff takes the position that the Commission did not direct the Company to request such costs in the context of its rate proceeding, nor did the Commission direct shareholders to pay such costs.[1483] Rate proceedings are where such costs are traditionally addressed.

Staff contends that meter reading costs are "inextricably enmeshed" with Case 22-M-0645 that involves enforcement and prudency claims and recommends denial of monthly meter reading costs due to perceived uncertainty. These rate proceedings are for reviewing forward looking costs that are appropriately included in rates. To the extent that the Commission takes some action in the other proceeding related to enforcement or prudency, it will necessarily be looking at past behaviors and actions. The record before us does not persuade us that reporting in Case 22-M-0645 will precipitate significant changes to the monthly meter reading plan. Nevertheless, to the extent that the Commission is concerned that the process laid out in the Interim Agreement Order could impact monthly meter

[1483] The interim agreement approved by the Commission does direct shareholders to pay for the cost of a third-party monitor.

reading Rate Year costs, we agree that the Commission could establish a mechanism to protect customers from any changes to the final costs of monthly meter reading.

Because the plan has been approved by the Commission and Central Hudson has demonstrated it has a comprehensive communications plan to ensure stakeholders are apprised of its activities throughout the transition process, we recommend approval of costs related to the monthly meter reading program. As described in our discussion of FTEs related to monthly meter reading, we recommend the Commission include the costs requested by the Company to be collected through an applicable rate adjustment clause mechanism pending further consideration, audit, and review by Staff of the Company's implementation costs in the next rate proceedings.

Regarding the proposed EVs for monthly meter reading, we note that Staff apparently does not dispute the need for the vehicles in support of the monthly meter reading program. Moreover, we find that the Staff Consumer Services Panel testimonial positions, described above, are inconsistent with the positions of other panels Staff advanced. In addressing the common capital transportation budget, Staff did not take exception to the inclusion of the additional meter reading vehicles or make any adjustment to remove those vehicles and instead focused on the forecasting budget. Further, the Staff Policy Panel testified that it supports "the level of expenditures associated with [the] EV fleet proposal."[1484] The Staff Policy Panel testified that it "supports the EV charging station capital project"[1485] and, while the Staff Common Capital Panel indicated that it would make adjustments to the Company's

[1484] Tr. 3980.

[1485] Tr. 3980.

EV Charging Station project budget, it made no such adjustment, and did not respond to the Company's statement in its brief that "Staff supports the level of EV charging station capital expenditures proposed by the Company."[1486] We agree that it is consistent with CLCPA and Commission goals to encourage the use of EVs and that the Company should integrate EVs in its fleet. We recommend the Commission approve the capital costs associated with the meter reading vehicles and EV charging stations as addressed elsewhere in this Recommended Decision.

Other related costs were not specifically opposed by any party, and we recommend they be approved consistent with this RD.

E. Collections Activities[1487]

Central Hudson explained in its initial testimony that its customer arrears balances have grown significantly from the time it suspended collection activities for all customers in March 2020. The Company proposed how it would address uncollectibles, collections, and terminations in these proceedings, including O&M costs and FTEs required,[1488] and in so doing, stated that its "measured approach to collection activities will provide time for customers to acclimate to collection activities and for the Company to learn how to best help the customers that require assistance by determining eligibility for DPSs, the EAP, HEAP, etc."[1489]

[1486] Tr. 3826; Exhibit 311 (SCP-2), Schedule 3, p. 1; Central Hudson Initial Brief, p. 118.

[1487] Dutchess County does not specifically address Central Hudson's collection activities, but opines that revenues are justifiably uncollectable without an accurate bill. Dutchess County Initial Brief, p. 12.

[1488] The financial arguments related to uncollectibles are addressed elsewhere in this RD.

[1489] Tr. 3018-3019.

Staff finds Central Hudson's level of arrears concerning as well as its alleged lack of detail with resuming collections and terminations.[1490] Among other things, Staff recommends the Commission direct Central Hudson: to conduct additional testing of its billing processes and file the results of its testing prior to issuance of final termination notices;[1491] in addition to monthly collections reports filed in Case 91-M-0744, to provide weekly status updates on its collections efforts to OCS Staff and any other interested party;[1492] to track and report any customer inquiries to the Company regarding collections, including late payment fees, final termination notices, or employee treatment of a customer;[1493] to develop "easy-to-understand" visual reporting for its website and social media pages to provide customers an understanding of its timeline for collections and service terminations;[1494] to evaluate the feasibility and costs of a simple bill calculator for its website to allow customers to compare their bill and ensure its accuracy on their own;[1495] to have its president provide a commitment and attestation filed in these proceedings and posted to its website, that no service termination will occur if a residential customer's account has not received an actual meter read prior to the issuance of a final termination notice.[1496]

[1490] Tr. 4404. In testimony, Staff states that its analysis shows that over 67,000 residential customers and 11,000 non-residential customers were behind on their bills as of September 30, 2023. Tr. 4400-4401; Exhibit 357 (SCSP-5).

[1491] Tr. 4406

[1492] Tr. 4406-4407.

[1493] Tr. 4407.

[1494] Id.

[1495] Tr. 4408.

[1496] Id.

In rebuttal, the Company updates its arrears figures stating that, as of November 30, 2023, arrears balances greater than 60 days for residential customers total $116.1 million and for non-residential customers total $30.6 million with 65,665 residential and 10,638 non-residential customers in arrears.[1497] The Company explains that it is pursuing “soft collections” of residential arrears by phone, letter, and email campaigns, is working with county assistance agencies to promote the HEAP and EAP programs, and providing required notifications for residential customers to secure emergency HEAP benefits.[1498] Central Hudson laid out its collection processes, describing that, in addition to its soft collections, it will begin a phased rollout of collections activities and service terminations in conjunction with its monthly meter reading initiative to address concerns that bills are based on actual readings and says that it will start with a small group of customers before scaling its efforts to all customers. It describes its timeline for manual and automated collections processes for residential and non-residential customers,[1499] the efforts it will undertake to validate customer accounts, and clarifies that final termination notices will only be sent to customers on months where they have received an actual read.[1500] The Company professes that it is taking measured actions to rebuild trust and credibility, including extensive outreach to customers; it describes the successes of its non-residential collection efforts to date; describes the lessons learned from those efforts and how they will be incorporated into residential

[1497] Tr. 3070.

[1498] Tr. 3071.

[1499] Exhibit 190 (CEP-12R).

[1500] Tr. 3072-3073.

collections efforts. Central Hudson opines that weekly status updates are not required or productive but agrees with reporting regularly and based on established milestones and disagrees that a billing calculator should be established because a 'one-size-fits-all' simple calculator is not possible due to the diversity of billing situations and could cause additional confusion.

In argument, Staff contends that Central Hudson appears to use the moratoria on service terminations as a crutch for return to normal collections activities, observes that other utilities do not have such elevated arrears rates, and implies the Company's customer information system is to blame.[1501] Staff reiterates that residential service terminations should not resume until the Company can demonstrate a high confidence level in its internal procedures and firm timeline for termination resumptions.[1502] It states that the Billing Reporting Stipulation[1503] addresses some of its concerns regarding the Company's collections processes and urges the Commission to adopt it.[1504]

In addition to Staff, both PULP and CLP argue that residential collection activities should not resume at this time. PULP contends it is "troublesome" that the Company's witnesses could not provide certain details about its collections activities during the evidentiary hearing, so close to the date in which residential collections are meant to resume, and that Central Hudson is sending communications to customers about arrears and collections activities for closed accounts. Out of concern for customer confusion and frustration

[1501] Staff Initial Brief, pp. 236-237.

[1502] Staff Initial Brief, p. 238.

[1503] Exhibit 514.

[1504] Staff Initial Brief, p. 239.

it opines that the Commission should disallow Central Hudson's resumption of residential collections activities altogether until it files a "fully formulated plan."[1505] "CLP shares Staff's concern about restarting collections in consideration of the high level of Central Hudson customer arrears"[1506] and recommends collection activities not resume until "the Public Service Commission completes its investigation into Central Hudson and all billing issues have been demonstrably resolved."[1507] It is worried that Central Hudson may not be considering that some customers are struggling financially, some may not participate in available low-income programs, and that collections activities would not specifically exclude customers in disadvantaged communities. CLP says resuming collections while frustrations with the billing system is still high will exacerbate customer distrust in Central Hudson.

In its brief, Central Hudson maintains that "(i)t is essential for the Company to resume residential collection and service termination activities as soon as possible"[1508] to bring its arrears balances under control.[1509] It reiterates its testimonial positions and states that Staff has conceded that terminations are a primary tool that utilities have to reduce arrears balances.[1510] Central Hudson claims any "unspecified testing" of its billing process is unnecessary because it plans on resuming collections and terminations in April 2024. Likewise, it says that Staff's recommendation to suspend

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[1505] PULP Initial Brief, pp. 24-25.

[1506] CLP Initial Brief, p. 21.

[1507] CLP Initial Brief, p. 22.

[1508] Central Hudson Initial Brief, p. 246.

[1509] Central Hudson Reply Brief, p. 116.

[1510] Central Hudson Initial Brief, p. 247.

residential collections and terminations will be moot because such activities will have already begun.[1511]

While we are aware of the concerns of parties and customers about the SAP CIS rollout and associated billing issues, they are being considered outside the context of these rate proceedings. Regardless of their positions regarding the reason for the arrears, all parties recognize that the number of customers and dollar amounts associated with arrears are significant. Delaying collections and terminations will not address the arrears levels and those levels will continue to grow absent some action on behalf of the Company. Consequently, we recommend that the Commission reject any proposals to delay collection and termination efforts by Central Hudson. To further delay collections and terminations would only serve to delay the inevitable.

We agree that Central Hudson should proceed deliberately and transparently so that all stakeholders, particularly customers, understand the timing of the resumption of collections and terminations and the process that Central Hudson will follow. However, while some parties suggest that Central Hudson's plans are undefined, we disagree. The record describes Central Hudson's plans to approach collections and terminations and its efforts to contact customers who are in arrears, as well as other stakeholders. Moreover, Central Hudson indicates that it will begin to address arrears along with its monthly meter reading roll out and provided its Monthly Meter Reading Communications Plan. To provide additional transparency for all stakeholders, we recommend the Company be directed to leverage the planned communications efforts to include its timeline for collections and service terminations.

[1511] Central Hudson Initial Brief, p. 247.

As noted by Central Hudson, it will have begun the collections process prior to the Commission's determination in these proceedings. Additional testing of its billing system appears impractical at this point, and we do not recommend the Commission interrupt collection and termination efforts to do so. We have the expectation that Central Hudson has learned from prior experience and has reasonably ensured that its billing processes related to collections and terminations are accurate.

We also do not recommend adoption of Staff's proposal to require Central Hudson to provide weekly status updates on its collection efforts. It is unclear what purpose the reports would serve above and beyond the monthly collections reports that Central Hudson provides now, why reporting at the requested frequency is needed, and what benefit would be derived compared to the burden of providing weekly reporting. However, in addition to the monthly reporting that Central Hudson provides, we recommend that the Company be directed to advise staff from the Office of Consumer Services when it will commence any new phase of its collections processes.

We do not recommend directing Central Hudson to evaluate the costs and feasibility of adopting a bill calculator on its website at this time. There is no record basis describing why a customer would find a calculator on Central Hudson's website more confidence-inspiring than its bill. While the Company has not evaluated costs in the context of these proceedings, it did state that a generic calculator could not consider different billing circumstances. To the extent such a calculator cannot be tailored to address each billing circumstance, calculations resulting in differing amounts may undermine confidence in bills received.

Staff's other recommendations, regarding tracking and reporting customer inquiries and the provision of an attestation regarding service terminations are addressed by the Billing Reporting Stipulation executed by Central Hudson, Staff, and UIU that we address below, under Reporting Requirements.

F. Extreme Heat Protections

In its initial testimony, PULP summarized the cold weather and extreme heat protections included in Central Hudson's existing rate plan and proposed that those protections continue, and that Central Hudson expand the protections related to extreme heat.[1512] It recommends that the Company halt residential service terminations for nonpayment where the heat index is forecast to hit 90 degrees, including not terminating one calendar day before and two calendar days after 90-degree days.[1513] PULP's recommendation was based in part on its characterization that federal agencies, such as the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security, use a 90-degree threshold to identify extreme heat conditions. PULP also advocates for the adoption of a lower temperature threshold of 85 degrees applicable to customers residing in "heat islands," "urbanized areas that experience higher temperatures than outlying areas." Referencing a document prepared by the U.S. Environmental Protection Agency (EPA), it states that daytime temperatures in urban heat islands may be one to seven degrees higher than outlying areas and nighttime temperatures two to five degrees higher. And, although it recognizes the availability of cooling centers in cities within Central Hudson's service territory, it nevertheless opines that because some people may not be able to

[1512] Tr. 655-656.

[1513] Tr. 656.

access such centers, the lower extreme heat protection should apply in heat islands.[1514]

Central Hudson opposed PULP's recommendation in its rebuttal testimony stating that it "is not able to ascertain any scientific basis for lowering the Company's threshold for protection from service termination from 93 to 90 degrees or 85 degrees within more densely populated areas."[1515] The Company says that because its temperature thresholds factor in the heat index, likely terminations would be suspended where surface temperature is below 93 degrees. It views existing extreme heat protections as appropriately balancing protecting vulnerable customers with mitigating uncollectible expense burdens for all customers.[1516]

As described in Central Hudson's initial brief, PULP's witness conceded during cross-examination that lowering the temperature to 90 degrees on a single day is not consistent with the threshold used to identify extreme heat conditions by FEMA and the Department of Homeland Security.[1517] PULP Witness Yates also admitted to giving no consideration to the administrative difficulties or costs associated with tracking which days or which areas would be covered by his recommendation.[1518] Witness Yates also conceded that no entity, including PULP, has determined if there are, in fact, heat islands within Central Hudson's service territory, but instead proposed at the evidentiary hearing that the Company undertake a study, at its own cost, to determine whether heat islands are present in the

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[1514] Tr. 657-658.

[1515] Tr. 3082.

[1516] Id.

[1517] Tr. 669-671.

[1518] Tr. 671

Company’s service territory. Witness Yates admitted that he had not considered any administrative difficulties associated with differing heat standards based on location and did not conduct any cost-benefit analysis regarding his proposal.[1519]

In its brief, PULP argues that the definitions of “extreme heat” adopted by FEMA and the Office of Homeland Security should serve as a floor for implementing consumer health and safety protections and does not prohibit Central Hudson from enacting more protective measures for the benefit of vulnerable customers. It argues that, while FEMA and the Office of Homeland Security both define “extreme heat” as temperatures above 90 degrees Fahrenheit for more than two days and often with high humidity, the Office of Homeland Security also defines “extreme heat” as “a summertime temperature that is much hotter and/or humid than average.” PULP posits that, because there is at least one definition of extreme heat that does not require multiple days to constitute “extreme heat,” protections should be expanded to protect customers “to encompass the days that may fall within the second definition, at a minimum.”[1520]

For its part, Staff states that it agrees with the intent of PULP’s recommendations to increase the number of days that terminations are not conducted during extreme heat, but that it recommends the Commission postpone considering adoption of any such changes until a future rate proceeding because of Central Hudson’s level of arrears.[1521] PULP disagrees with Staff’s position, remarking that the level of arrears should not be given preference over the health and safety of Central Hudson’s customers and maintains that the protections be

[1519] Tr. 671-674.

[1520] PULP Initial Brief, pp. 26-27.

[1521] Staff Initial Brief, p. 240.

adopted.[1522] Central Hudson claims Staff's position ironic, given Staff's recommendation in these proceedings to suspend residential collections activities, which is the primary tool for it to reduce arrears balances.[1523]

We recommend that the Commission continue the cold and extreme heat protections included in the 2021 Rate Plan and reject the expanded protections proposed by PULP. As the Commission previously found, the existing cold and heat protections that Central Hudson uses assist in the prevention of dangerous health conditions during the summer and winter seasons.[1524] While PULP's proposals are apparently well-meaning, PULP apparently wholly failed to consider the costs and benefits of its proposal before advancing it. The record reflects that one of the foundations of PULP's recommendation, the definition of extreme heat used by federal agencies, is mischaracterized; the protections PULP proposes would be unwieldy and administratively difficult to track; and, determining which customers reside in heat islands would be impossible to ascertain, short of undertaking a study.

G. Consumer Outreach

In their respective briefs, Staff, PULP, and CLP address issues related to consumer outreach. Staff recommended an adjustment to the Company's outreach and education budget,[1525] that is discussed above in relation to O&M miscellaneous charges and is not further discussed here.

CLP and PULP both recommend that Central Hudson be directed to provide additional customer support in Spanish. CLP

[1522] PULP Reply Brief, p. 9.

[1523] Central Hudson Reply Brief, p. 117.

[1524] 2021 Rate Order, p. 40.

[1525] Staff Initial Brief, pp. 240-241.

requests that Central Hudson provide bills in Spanish and that making those bill available should be among the first actions that the Company takes with the commencement of the Rate Year.[1526] CLP also requests that any updated EAP communications be translated into Spanish as well as additional materials.[1527] Referencing testimony elicited on cross-examination of Central Hudson's Customer Experience Panel that the Company does not have any Spanish-speaking Consumer Outreach representatives and that it has no strategic plan in place to hire a Spanish-speaking representative, CLP proposes that Central Hudson be directed to hire a Consumer Outreach representative that speaks Spanish to ensure equitable outreach to the community.[1528] It further argues that Central Hudson's website and chatbot have numerous errors[1529] and recommends that Central Hudson be directed to review its materials in Spanish for accuracy and establish a dedicated intake form or phone line to address language errors.[1530] PULP "encourages the Public Service Commission to order Central Hudson to comply with language access promises that were made previously in the rate year."[1531]

With respect to other languages, CLP opines that, because Central Hudson has no plans to hire any staff that speak languages other than Spanish,[1532] some segments of the community may be underserved. In testimony and without providing evidence to support it, CLP's witness alleged that the indigenous Guatemalan language Kekchi is the third most spoken language in

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1526 CLP Initial Brief, pp. 22-23.

1527 CLP Initial Brief, p. 25.

1528 CLP Initial Brief, p. 23; see Tr. 3228-3229.

1529 Tr. 425-426; Exhibit 390.

1530 CLP Initial Brief, p. 24.

1531 PULP Initial Brief, p. 28.

1532 Tr. 3229.

Kingston.[1533] CLP asks that Central Hudson be required to hire customer service staff who speak Kekchi, or to provide access to "a translator who can help promote language accessibility for this segment of the community."[1534]

Both CLP and PULP request that the Commission direct Central Hudson to provide additional outreach for EAP. CLP acknowledges the outreach efforts that Central Hudson has made to date but encourages continued outreach on a greater scale to address any under-enrollment.[1535] For its part, PULP requests that, if any rate increases are authorized, the Commission direct Central Hudson to provide direct and enhanced outreach to EAP customers to advise them of the rate increase and offer information relating to other programs available to assist them.[1536]

As addressed earlier in the Customer Experience Technology Capital Projects section, we recommend that Central Hudson's capital budget for translation of customer bills into Spanish be approved and we noted that the Company proposed a capital budget for the translation of forms and letters into Spanish but that those costs were not included in the Rate Year.[1537] We agree that to further language access for Central Hudson's Spanish-speaking customers, and given the interests of the parties in these and the last rate proceedings for the Company to facilitate billing in Spanish, that Central Hudson should proceed expeditiously to complete this project and begin providing bills in Spanish to those customers desiring them.

[1533] Tr. 427.

[1534] CLP Initial Brief, p. 24.

[1535] CLP Initial Brief, p. 25.

[1536] PULP Initial Brief, p. 29.

[1537] See Exhibit 109 (CEP-2).

Particularly because we recommend that Central Hudson proceed with monthly meter reading and collections activities, we agree with CLP that having additional communications available in Spanish would be beneficial for the Company's Spanish-speaking customers, especially documents explaining the process and available programs that may assist customers, such as EAP informational documents. However, while we find the provisions of those documents valuable, we also recognize that the Company has not requested a capital budget to undertake such activities and there is no agreement among the parties or testimony that would inform a prioritization of documents to translate. Therefore, we recommend that the Commission direct Central Hudson to identify the documents it proposes to translate in its next rate proceeding.

We agree that the Company's outreach efforts may be enhanced by having representatives that speak languages prevalent in its territory and, in seeking qualified candidates for outreach positions, we recommend that Central Hudson identify such language fluency as preferential. We note that, during cross-examination, Central Hudson's witnesses did indicate that the Company uses an interpreter line for "any other language for callers."[1538]

With regards to CLP's allegations that Central Hudson's Spanish-language materials and website contain numerous errors, the only support CLP identifies is Exhibit 390, a screen shot of a chatbot interaction in Spanish. Insomuch as the translation literally translates "Central Hudson" a proper noun, and in one instance inserts an English word, "these", in the context of the response, we agree that the exhibit demonstrates that in that instance, the chatbot did not function with the

[1538] Tr. 3138.

facility we would expect. Nevertheless, we find that the record is insufficient for us to conclude that the errors are sufficiently widespread to recommend the establishment of a dedicated intake form or phone line to address language errors. We do however recommend that Central Hudson correct any errors brought to their attention as expeditiously as possible.

While PULP recommends that Central Hudson be directed to comply with the terms of its existing rate plan such relief would be appropriately pursued in the context of those proceedings, to the extent PULP finds it necessary. As addressed elsewhere herein, Central Hudson maintains that it complied with all proposed projects in Appendix Z to the 2021 Joint Proposal, with the exception of Spanish customer bills and one form among seven forms identified for prioritized treatment and explained the delay in completion for billing.[1539]

We recommend that Central Hudson's sustained outreach regarding the EAP program should be continued. We reject PULP's proposal for enhanced outreach to EAP customers because it cites to no record support for its proposal, and it lacks specificity.

H. Economic Development

In its testimony, Central Hudson describes its forecasted expenses for Economic Development in revenue requirements as $800,000 for electric and $200,000 for gas and proposes a two-way true-up mechanism for such expenses.[1540] It did not propose any changes to its program.

Initially, Staff recommended several modifications to Central Hudson's economic development programs. It proposed: 1) removing the revenue requirement funding for natural gas economic development programs; 2) modifying the existing

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[1539] Exhibits 618-622.

[1540] Tr. 710-711.

programs to eliminate any component relating to grant funding that would offset the cost of any natural gas infrastructure or equipment upgrades or installation; 3) requiring additional information be included in the Annual Economic Development report to enhance transparency on economic development activities; and 4) authorizing Central Hudson to make minor adjustments to its economic development programs on an annual basis by proposing such adjustments in its Annual Economic Development Report.[1541] In proposing the elimination of the funding for the gas program, Staff states that it does not support funding to "incentivize new natural gas projects or expansions of existing gas facilities" indicates the electric economic development program "will better align with the Climate Leadership and Community Protection Act."[1542]

Central Hudson opposes Staff's recommendation to eliminate gas economic development funding "because economic development costs in general are allocated based on the common allocation[1543] since the benefits of economic development accrue to all Central Hudson customers."[1544] The Company did not address the recommendation to eliminate aspects of grant funding related to natural gas infrastructure or equipment. It opposes certain enhanced reporting requirements that Staff proposes, particularly, any enhanced tracking of created and retained jobs, claiming that it would result in additional workload with little to no added benefit. It explains that it only reviews employment levels when an application is filed or initiated, that applicants must "have participation from" a State or local

[1541] Tr. 4466-4468.

[1542] Tr. 4463.

[1543] See Tr. 1498-1499.

[1544] Central Hudson Initial Brief, p. 250; Tr. 3091.

agency or other community organization and suggests that those entities have expertise and capability to monitor performance more so than the Company. It also opposes inclusion of Geothermal and Heat Pump Programs to be included in the annual report, stating that reporting is already required in another proceeding.[1545] Finally, Central Hudson supported Staff's proposal to facilitate program changes in the Annual Economic Development Report.[1546]

Staff maintains most of its litigation positions but now agrees with Central Hudson that there is no need to report on the Geothermal Heat Pump Program in the Annual Economic Development Report because it is separately reported on an annual basis.[1547] Staff again urges that Central Hudson provide reporting on jobs created and retained to highlight the successes and impacts of the programs in the Company's territory and to assist Staff's evaluation of created and retained jobs.[1548] Central Hudson retains its litigation positions.

We recommend that the Commission deny the gas and approve the electric economic development budget included in revenue requirements. In light of CLCPA goals and the movement away from natural gas, continuing to provide opportunities that may result in facilitating new natural gas projects or expansion appears to conflict with the State's policy goals. We also note that NYSEG and RG&E's recent rate plan discontinues gas economic development funding, although we also recognize that those terms were included in the context of a joint proposal approved by the

[1545] Tr. 3092-3093.

[1546] Tr. 3093.

[1547] Staff Initial Brief, p. 243.

[1548] Staff Initial Brief, pp. 242-243.

Commission.[1549] We recommend that the Commission adopt Staff's proposals for modifying the grant program based on the same reasoning.

We find value in the enhanced reporting that Staff proposes, and, with the exception of the Geothermal Heat Pump Program, we recommend that it be adopted. We disagree with the Company that enhanced reporting will require additional workload. Rather, to the extent that the Company requires applicants to partner with State and local entities, it may request or require reporting from those entities as part of the program structure and include that information in its annual reporting. The provision of this information ensures that the intended results of the program are realized and, if they are not, whether the funds for those programs may be better reallocated elsewhere in the future. Staff's proposal to allow for minor modifications to the economic development plan appears reasonable and operationally efficient and we recommend the Commission adopt it.

I. Credit Card Fees

Central Hudson proposed maintaining the rate allowance and symmetrical deferral costs related to recovery of fees for customer payments by debit card, credit card, or at third party walk-in locations.[1550] Staff did not dispute the rate allowance or deferral mechanism but recommended Central Hudson re-evaluate its current vendor and pursue a competitive bidding process prior to the expiration of its current vendor contract and to include a proposal in its next rate filing. Staff also recommended to continue existing reporting requirements with

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[1549] Cases 22-E-0317 et al., supra, Order Adopting Joint Proposal (October 12, 2023), Joint Proposal, pp. 38-39.

[1550] Tr. 3023. See 2021 Rate Order, Joint Proposal, Appendix F, Schedule 1.

modification to "provide more information on these reports to allow the Department and other interested parties to better monitor costs and trends related to customer payments" and uses the example of identifying a vendor by name rather than identifying the vendor as "Vendor A" or "Vendor B."[1551] PULP indicates its general support for customers, particularly low-income customers, to make payments without incurring a transaction fee.[1552]

In its brief, Central Hudson does not oppose Staff's recommendations for additional information to be provided in its reporting. It indicates that it is not currently pursuing a new vendor and, based on timing considerations, it may not be possible to consider a new vendor in the context of its next rate proceeding.[1553]

No party disputes the proposed rate allowance and symmetrical deferral mechanism proposed by Central Hudson in these proceedings and they are consistent with the terms of its current rate plan. We therefore recommend that the Commission adopt the rate allowance and deferral mechanism. Further, Central Hudson does not oppose the additional reporting requirements, which may enhance transparency, so we recommend the Commission adopt the modified reporting requirements proposed by Staff.

J. Reporting Requirements

As discussed in the above sections, Staff proposed that Central Hudson be subject to various new or enhanced reporting requirements including changes to the CSPI metric

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1551 Tr. 4452-4454. See 2021 Rate Order, Joint Proposal, Appendix P for existing reporting requirements.

1552 Tr. 653.

1553 Central Hudson Initial Brief, pp. 251-252.

report;[1554] estimated meter reading and estimated bills;[1555] collections;[1556] CDG reporting;[1557] and economic development.[1558] Central Hudson agreed with some, but not all, of Staff's proposals in testimony. Among other things, Central Hudson voices concern with the proposed changes to the CSPI reports and notes that the reporting would require additional resources and an upgrade to its IVR system.[1559] While it agreed conceptually with the CDG reporting recommendations, it said the reporting would necessitate additional resources to comply because they are incremental and require manual processing.[1560]

On January 24, 2023, Central Hudson, Staff, and UIU entered into a Billing Reporting Stipulation with the intention of reducing the number of issues to be resolved through the litigation process.[1561] The Billing Reporting Stipulation resolves many of the disputed positions between Central Hudson and Staff. The stipulation agrees that the IVR modernization project proposed by Central Hudson will commence in the Rate Year and establishes the costs for the project to not exceed $1.7 million.[1562] Once the IVR project is implemented, Central Hudson will track and report call hold times,[1563] provide certain data in its monthly CSPI report[1564], and track and report the

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[1554] Tr. 3062; 4383-4387.

[1555] Tr. 4387-4390.

[1556] Tr. 4406-4407.

[1557] Tr. 4431.

[1558] Tr. 4464-4466.

[1559] Tr. 3062-3063.

[1560] Tr. 3064.

[1561] Exhibit 514.

[1562] Exhibit 514, ¶ 1.

[1563] Exhibit 514, ¶ 1.a.

[1564] Exhibit 514, ¶ 1.b.

average and maximum call handling time each month.[1565] Additionally, Central Hudson will: provide specified data within its monthly CSPI report regarding estimated meter reading and estimated bills;[1566] continue the reporting requirements set forth in the Commission's Order Approving Revised Billing Estimation Methods in Case 21-M-0045;[1567] file CDG customer billing reports quarterly detailing the total and percentage of CDG customer bills issued within certain timeframes;[1568] provide monthly reports on the number of times a CDG customer bill is adjusted within a billing period;[1569] report on the incremental costs to bill CDG customers on an annual basis;[1570] provide monthly status updates to the Office of Consumer Services Staff and any other interested party regarding its collection efforts;[1571] track and report customer inquiries made to the Company regarding collections, including late payment fees, final termination notices, or employee treatment of a customer;[1572] and file a commitment and attestation by a Company executive in these proceedings that a process is in place and has been validated to prevent service terminations from occurring if a residential customer's account has not received an actual meter read prior to the issuance of a final termination notice.[1573] The signatories to the stipulation state that the reporting requirements will continue until modified by the Commission.

[1565] Exhibit 514, ¶ 1.c.

[1566] Exhibit 514, ¶ 2.

[1567] Exhibit 514, ¶ 3.

[1568] Exhibit 514, ¶ 4.

[1569] Id.

[1570] Id.

[1571] Exhibit 514, ¶ 5.

[1572] Exhibit 514, ¶ 6.

[1573] Exhibit 514, ¶ 7.

Central Hudson states that the Billing Reporting Stipulation meets the public interest standard as set forth in the Commission's Settlement Guidelines and should be adopted by the Commission.[1574] Staff contends that the enhanced reporting requirements are appropriate so that both it and Central Hudson may better monitor the Company's customer service performance "in light of its extensive recent failures."[1575] It recommends adoption of the reporting requirements included in the stipulation "as well as the additional reporting of Call Answer Rate data and survey transaction data" recommended by Staff.[1576] UIU, apparently in support of the Billing Reporting Stipulation, expresses concern with Central Hudson's costs to bill CDG on behalf of CDG sponsors or developers and identifies that the annual reporting requirements it recommends are included in Paragraph 4 of the Stipulation, suggesting its concerns are thereby satisfied.[1577] PULP opines that paragraphs 5 and 7 of the Billing Reporting Stipulation do not go far enough in providing public notice. Stating that the agreement does not require Central Hudson to share its monthly collections efforts in a status report with its customers, PULP urges the Commission to direct the Company to provide "regular written updates on its website, in an easily accessible and viewable location."[1578] It

[1574] Central Hudson Initial Brief, pp. 254-255.

[1575] Staff Initial Brief, p. 245.

[1576] Staff Initial Brief, p. 246.

[1577] UIU Initial Brief, p. 18, n. 14.

[1578] PULP Initial Brief, pp. 30-31. As previously addressed herein, PULP recommends that the Commission impose additional reporting requirements on Central Hudson for its use of discretionary credits and its collection efforts. We do not find PULP's arguments availing regarding discretionary credits considering the total budget for the program, but we do recommend that the Commission establish tracking and recordkeeping requirements for the program.

further argues that requiring Central Hudson to merely file its commitment and attestation in the rate proceeding is inadequate because "customers deserve to have this notice shared widely to increase the chance that customers will see this commitment, in a real promotion of public awareness."[1579] It proposes that the attestation be posted on Central Hudson's homepage, the notice served on all customers, and published in local newspapers, at least one a free periodical.[1580]

In reviewing the record before us, including the initial and rebuttal positions taken by Staff and Central Hudson, we find that the Billing Reporting Stipulation reasonably resolves many of the issues in dispute. We find the Billing Reporting Stipulation is in the public interest and recommend the Commission adopt it. The signatories to the agreement are normally adverse parties, the record demonstrates the litigation positions of those parties, other parties have been afforded the opportunity to develop the record regarding the stipulation in hearing and in briefing, and the provisions of the stipulation are within the range of reasonable results that we would recommend to the Commission. We also find that the terms of the stipulation balance the interests of ratepayers, investors, and the long-term viability of the utility insomuch as the reporting will enhance the frequency and volume of data shared such that Central Hudson, Staff, and all interested parties can monitor issues relevant to customer service and satisfaction and, with such information, may collaborate and course-correct to the extent necessary. In addition, the IVR modernization project will provide operational improvements to the Company and customer experience benefits,

[1579] PULP Initial Brief, p. 25.

[1580] PULP Initial Brief, pp. 25-26.

and established a reasonable capital budget for completion for which shareholders will earn a reasonable return. We also find that the stipulation and its requirements are consistent with the policies of the Commission and the State.

While we recognize that PULP finds certain terms of the stipulation insufficient or inadequate, we disagree and do not recommend disturbing the settlement reached by Central Hudson, Staff, and UIU. With regards to providing further information regarding collections on its website, as indicated above, we recommend that the Commission direct Central Hudson to leverage its Monthly Meter Reading Communications Plan to provide regular outreach to customers regarding its collections efforts that would include outreach and updates on the Company's website. To the extent the Commission finds it appropriate, we do not object to PULP's recommendation for Central Hudson to post the attestation on its website. It may promote awareness about the care the Company will employ regarding service terminations, and we believe the proposal is not unduly burdensome on the Company or its resources. The other proposals regarding publication and direct outreach require additional resources and there is no record developed on the costs and benefits of directing such actions.

The other reporting recommendations addressed by the parties, including those that Staff recommends we adopt along with the Billing Reporting Stipulation, are addressed above.

XIV. MANAGEMENT AND OPERATIONS AUDIT

Public Service Law §66 (19)(c) provides that, upon the application of a gas or electric corporation for a major change in rates, the Commission shall review the utility's compliance with Commission directions and recommendations resulting from "the most recently completed management and operations audit."

The Commission shall incorporate its findings into subsequent rate case orders.[1581] The testimony in these proceedings addressed three audits of the Company, but only the management and operations audit commenced in 2021[1582] remains at issue. The Company and Staff differ on aspects of implementation and cost recovery for the 2021 audit.

A. 2013 Audit

In Case 13-M-0449, the Commission instituted an audit of the internal staffing levels and use of contractors for selected core utility functions at major New York State gas and electric utilities, including Central Hudson.[1583] In February 2017, the Commission authorized the release of the final audit report, which included 14 recommendations for improvement at the Company.[1584] The Commission approved the Company's audit implementation plan in December 2017.[1585] In December 2018, the Company filed an implementation plan update indicating that it had fully implemented all 14 recommendations.[1586] In April 2019, the Director of the Office of Accounting, Audits, and Finance notified the Company that, based upon Staff's review, the

[1581] PSL §66 (19) (c).

[1582] Case 21-M-0541, Central Hudson Gas & Electric Corporation – Management Audit.

[1583] Tr. 866.

[1584] Tr. 867.

[1585] Case 13-M-0449, Generic Staffing Audit¸ Order Approving Implementation Plans (issued December 15, 2017).

[1586] Tr. 868.

Company had satisfactorily completed implementation of all audit recommendations in Case 13-M-0449.[1587]

It is undisputed that the Company is in compliance with the directives and recommendations in the 2013 audit. Staff contends that the Company initially included approximately $2.4 million in the Rate Year related to implementation of recommendations from the 2013 audit related to training, recruitment and the Company's human resource information system.[1588] Staff recommended removing these costs because they did not align with the Company's approved implementation plan and were incurred after the implementation completion dates.[1589] In its rebuttal testimony, the Company clarified that the costs associated with these recommendations reflect normal operating costs, rather than implementation costs.[1590] As a result, Staff now agrees to forgo any adjustments to the Rate Year revenue requirement related to the 2013 audit.[1591] However, Staff notes that it inadvertently omitted its originally recommended adjustment for this item in any event.[1592] Accordingly, no further action is required with respect to the 2013 audit.

B. 2016 Audit

Case 16-M-0001 was a comprehensive management and operations audit of Central Hudson's gas and electric businesses, with a focus on the Company's construction program

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[1587] Case 13-M-0449, In the Matter of Focused Operations Audit of the Internal Staffing Levels and the Use of Contractors for Selected Core Utility Functions at Major New York Energy Utilities, Letter Confirming the Completion of Implementation Oversight of Central Hudson (filed April 22, 2019).

[1588] Tr. 832-833, 869-871; Staff Initial Brief, p. 248.

[1589] Tr. 870-871.

[1590] Tr. 832-833.

[1591] Staff Initial Brief, p. 249.

[1592] Id.

planning processes and operational efficiency.[1593] In October 2017, the Commission authorized the public release of the final audit report, which contained 55 recommendations for improvements at the Company.[1594] Following review of the Company's proposed modifications to seven of the recommendations and rejection of eight recommendations, the Commission directed the Company to implement the 47 recommendations as accepted or modified and acceded to the Company's rejection of the remaining eight recommendations.[1595] In September 2021, the Acting Director of the Office of Accounting, Audits and Finance informed Central Hudson that, based upon Staff's review, the Company had completed implementation of all audit recommendations from Case 16-M-0001.[1596] The Company did not include costs for recovery associated with the 2016 audit in its revenue requirements for the Rate Year. We recommend that the Commission find the Company to be in compliance with the directives and recommendations in the 2016 Audit.

C. 2021 Audit

In Case 21-M-0541, the Commission initiated a comprehensive management and operations audit of the Company, including follow-up review from the 2016 audit, assessment of the Company's information systems planning and implementation, gas safety, and improvements to electric load forecasting processes to support grid modernization and CLCPA goals.[1597] In

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[1593] Tr. 864.

[1594] Id.

[1595] Tr. 864-865; Case 16-M-0001, Central Hudson Gas & Electric Corporation – Management Audit, Order Approving Implementation Plan (issued July 16, 2018).

[1596] Tr. 865; Case 16-M-0001, supra, CHG Close Out Letter (issued September 20, 2021).

[1597] Tr. 872.

April 2023, the Commission authorized the public release of Overland Consulting's final audit report, which contained 37 recommendations for improvement.[1598] The Company filed an initial implementation plan in May 2023, which accepted 31 recommendations and proposed modifications to six recommendations.[1599] Staff concluded that the implementation plan was not likely to result in the intended improvements because many of the proposed steps to address certain recommendations were insufficient and many of the benefit/cost analyses (BCAs) contained higher cost projections and fewer defined benefits than were described in Overland's Report.[1600] At Staff's request, Overland Consulting assessed the Company's implementation plan, in a report filed in November 2023.[1601] In response to that report, the Company filed an updated implementation plan in January 2024.[1602] The Commission approved the implementation plan with modifications that are not relevant to the discussion in this section.[1603]

1. Implementation Plan Costs

As relevant here, the Company proposed to recover the costs for implementing 14 of the audit recommendations in the Rate Year. The Company challenges Staff's assessments of the

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1598 Tr. 873; Case 21-M-0541, supra, Order Releasing Audit Report (issued April 20, 2023).

1599 Tr. 873.

1600 Tr. 873-874.

1601 Tr. 874; Case 21-M-0541, supra, Review of Central Hudson Implementation Plans (filed November 15, 2023).

1602 Case 21-M-0541, supra, CHGE Updated Implementation Plan (filed January 31, 2024).

1603 Case 21-M-0541, supra, Order Approving Implementation Plan with Modification (issued March 15, 2024).

costs related to ten of the recommendations: 2.1, 2.4, 2.5, 3.2, 4.1, 4.4, 4.5, 4.6, 7.2 and 8.1.[1604]

a) Non-labor Expense (Recommendation 2.1)

Relying on Overland's review of the Company's implementation plan, Staff argues that the Commission should deny the Company's requested recovery of $200,000 to hire a third-party contractor to update its BCA for Advanced Metering Infrastructure (AMI), as addressed in recommendation 2.1. Staff notes that Overland's review indicated that the Company performed such analyses internally in the past and that the Company did not provide documentation to support the $200,000 expense (or that the expense would be incurred during the Rate Year) because the Company has not yet issued a request for proposals to engage the third-party contractor.[1605]

The Company responds that it engaged a third-party consultant for the last AMI BCA in 2016, and these costs were both included in the Company's workpapers and served as the basis for the Company's recovery.[1606] The Company points to the testimony of the Staff Management Audit Panel that it relied on the recommendation of Overland – which had access to discovery in interviews during the audit process – in concluding that the Company had the capability to perform the AMI BCA work in-house.[1607] The Company argues that, because the relevant

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[1604] Tr. 876; Central Hudson Initial Brief, p. 258. Although Staff's testimony and Central Hudson's Brief list Recommendation 7.4 as presenting an area for disagreement, costs associated with Recommendation 8.1 were addressed in the Company's testimony and brief, rather than 7.4. Staff addresses neither 7.4 nor 8.1.

[1605] Staff Initial Brief, pp. 250-251; Tr. 881-882, 889, 4116-4117; see Case 21-M-0541, supra, Review of Central Hudson Implementation Plans, p. 6.

[1606] Tr. 834.

[1607] Tr. 909-913.

discovery is not in the record, Staff's recommendation lacks a factual basis.[1608] The Company further maintains that disallowing a cost merely because the activity has yet to occur within the sequence of the Company's audit implementation plan is inconsistent with the use of forward-looking rate years. Thus, the Company argues, its need to retain an outside expert to conduct an AMI BCA should be deemed timely and reasonable.[1609]

The Company bears the burden of proof for its proposed rates.[1610] Because the Company has not submitted a request for proposal outlining the scope of the work or other details to demonstrate that the request for $200,000 during the Rate Year is reasonable and appropriate, the Company has not met its burden with respect to the forecasted AMI BCA costs. Thus, we recommend that this expense be denied.[1611]

b) Labor Costs (Recommendations 2.4, 2.5, 3.2, 4.1, 4.5, 4.6, 7.2, and 8.1)

In its testimony, Staff recommended adopting Overland's conclusion in its November 2023 report that the Company needs 11.5 fewer FTEs than the Company included in its revenue requirement to complete the implementation plan for the 2021 Audit.[1612] The Company strongly disagrees with Staff's

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[1608] Central Hudson Initial Brief, pp. 258-259.

[1609] Id.

[1610] 16 NYCRR 61.1.

[1611] Staff presented testimony on two additional categories of non-labor costs, relating to Recommendations 5.2 and 6.4, appearing to accept the Company's proposals on these recommendations (Tr. 882-883). The Company presented no testimony on expenses related to these Recommendations, and neither the Company nor Staff have addressed in their briefs the non-labor cost differences relating to Recommendations 5.2 and 6.4. Thus, we recommend that these expenses be allowed.

[1612] Tr. 876-881.

removal of the 11.5 FTEs and separately addresses each recommendation in its initial brief, explaining why the FTEs are required.[1613] Staff's current position on the matter is unclear because, while Staff presented testimony on these FTEs, it does not mention them in its briefing with the exception of one FTE related to Recommendation 4.5.[1614]

Turning to the individual recommendations, 2.4 and 2.5 call for the Company to enhance its Enterprise Risk Management (ERM) reports and perform a formal assessment of its ERM program.[1615] The Staff Management Audit Panel recommended a reduction of 0.5 FTE (or $53,000) to the Associate Risk Administrator Position on the ground that these activities were historically performed by a person on a roughly half-time basis.[1616] The Company argues that Staff's recommendation is incongruous with Overland's conclusion that the Company's ERM function is deficient when compared to peer utilities and industry practice because, among other things, the Company devotes fewer resources to this function than other utilities do.[1617] In light of Overland's conclusion that the Company's ERM function is deficient because it has historically assigned only

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[1613] Central Hudson Initial Brief, pp. 259-264.

[1614] Staff Reply Brief, p. 57. Staff simply states that it maintains its position that the Testing/QA Analyst should be removed from the Company's revenue requirements related to Recommendation 4.5. The FTEs recommended for removal in connection with Recommendation 4.5 were project managers, not a testing/QA Analyst (Tr. 839).

[1615] Tr. 877; Case 21-M-0541, supra, Review of Central Hudson Implementation Plans, p. 7-8.

[1616] Tr. 877-878.

[1617] Tr. 835-836; Central Hudson Initial Brief, p. 261. See Case 21-M-0541, supra, Review of Central Hudson Implementation Plans), pp. 7-8; Central Hudson Final Report Public Version (issued April 20, 2023), pp. 2-22.

one partial FTE to ERM administration,[1618] Staff's recommended reduction of 0.5 FTE in connection with ERM administration should be rejected.

Recommendation 3.2 calls for enhancements to the Company's tracking and reporting of capital projects.[1619] Staff removed one incremental FTE from the revenue requirements based on Overland's conclusion that the analysis requested could be completed within 20 hours or less each month because the process is already in place.[1620] The Company provided rebuttal testimony of both its Management Audit Panel and its Electric Capital and Operations panel explaining why one incremental employee is necessary to adequately implement the additional comparison metrics and the resulting detailed variation analysis applied to a broader base of projects and subsequent work order processing, particularly given the doubling in size of the Company's Capital Program and additional recommendations of Staff beyond the scope of the management audit.[1621] We recommend that the Commission adopt the Company's proposed addition of one incremental FTE in connection with enhancements to tracking and reporting of capital projects.

Recommendation 4.1 calls for enhancements to how the Company forecasts information technology costs in order to support more accurate budgeting.[1622] The Company estimated that it would require four incremental FTEs to perform this function and included three (Business Relationship Manager-CX, Business

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[1618] Case 21-M-0541, supra, Central Hudson Final Report Public Version (issued April 20, 2023), pp. 2-22.

[1619] Tr. 878.

[1620] Tr. 878; Case 21-M-0541, supra, Review of Central Hudson Implementation Plans, pp. 9-10.

[1621] Tr. 836, 2131-2132.

[1622] Tr. 878-879.

Relationship Manager-EWAM and Business Relationship Manager-Engineering and Operations) in the revenue requirement for the Rate Year.[1623] Based on Overland's recommendation in its November 2023 report that the fulfillment of Recommendation 4.1 would become a normal function of the existing contingent of business relationship managers, Staff took the position that the three incremental FTEs were not needed and removed these FTEs from the revenue requirements.[1624] The Company points to the rebuttal testimony of its Technology Capital and Operations Panel, which explains that Overland's statement that the Company currently employs Business Relationship Managers is incorrect.[1625] The panel further details each of the FTE roles, the related operational work output and the risk of not hiring these positions.[1626] The Company indicates that for any one of these positions that is eliminated, it will require an additional $150,000 in non-labor expense to hire a contractor.[1627] Given the testimony regarding the necessity of these roles and Staff's failure to counter the evidence that the Company has no current employees that could fulfill the role, we recommend that the Commission accept the Company's proposed addition of the three incremental employees to support implementation of Recommendation 4.1.

Recommendations 4.4 and 7.2 involve implementation of a Project and Portfolio Management (PPM) system. Staff (and Overland) agreed with the Company's estimated cost and its

[1623] Tr. 837, 879.

[1624] Tr. 837, 879, 3824; Case 21-M-0541, supra, Review of Central Hudson Implementation Plans, pp. 10-11.

[1625] Tr. 837, 1377-1379.

[1626] Tr. 1379-1389.

[1627] Tr. 837.

proposed hiring of a PPM Administrator.[1628] Thus, the Management Audit Panel did not recommend eliminating the PPM Administrator position. However, the Company notes that the Staff Common Panel did propose a reduction to the PPM Administrator position, as shown on Exhibit 302 (SAP-4 Corrected), but failed to explain why it did so.[1629] Given the agreement among the Company, the Staff Management Audit Panel and Overland that this position is needed, we recommend that the Commission resolve the inconsistency in Staff's position in favor of the Company.

Recommendation 4.5 involves the establishment of a project management office for all major IT programs and assignment of project managers to all other IT projects.[1630] The Company requested five incremental FTEs to support this recommendation, while Staff relies on Overland's November 2023 report in arguing that three of the five FTEs (Project Manager, Senior IT Project Manager and IT Program Manager-Transformational Projects) are not needed and should be removed from the labor expense in the revenue requirement.[1631] The Company provided testimony explaining that these employees would replace three contractors currently fulfilling the equivalent roles, and that the FTEs were necessary to bring the Company's project manager headcount into line with other utilities after the Company's capital technology profile expanded more than three-fold over the past rate period and is projected to continue expanding.[1632] The Company further explained the risks that long-term reliance on contractor project management

[1628] Tr. 838; Exhibit 332 (SMAP-2).

[1629] Tr. 3822-3825.

[1630] Tr. 879.

[1631] Tr. 839, 879, 897-902, 3824-3825; Case 21-M-0541, supra, Review of Central Hudson Implementation Plans, pp. 11-12.

[1632] Tr. 840, 1373-1375.

resources pose, including lack of institutional knowledge and security threats.[1633] Given that Overland's staffing assessment was predicated on the Company's failure to provide a rationale for the proposed FTE increase[1634] and the Company has now done so in testimony, we recommend that the Commission approve the proposed staffing increase.

Recommendation 4.6 calls for Central Hudson to implement a standardized process mapping and improvement capability program, rather than relying on vendors to create process maps.[1635] Central Hudson estimated that it required three incremental FTEs, at an annual estimated cost of $362,500, to implement Recommendation 4.6 but ultimately included only one of the three positions in the revenue requirements for the Rate Year: Business Application System Analyst #1.[1636] Staff notes that Overland estimated that this recommendation could be implemented with a $75,000 annual cost and deferred to that recommendation in concluding that these incremental FTEs were not needed.[1637] The Company's Technology Capital and Operations Panel explained that the FTEs were needed to adequately address Recommendation 4.6 because the Company uses over 250 business service offerings and its technology department does not have staff with the knowledge, skills and capacity to support the service offerings, forcing the Company to rely on external vendors and thereby creating a cybersecurity risk.[1638] As with

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[1633] Tr. 1375-1376.

[1634] Case 21-M-0541, supra, Review of Central Hudson Implementation Plans, p. 12.

[1635] Tr. 880.

[1636] Id.

[1637] Tr. 880, 906-909, 3825; Case 21-M-0541, supra, Review of Central Hudson Implementation Plans, p. 12.

[1638] Tr. 1381-1382.

Recommendation 4.5, Overland's staffing assessment was predicated on the Company's failure to provide a rationale for the proposed FTE increase needed to implement Recommendation 4.6[1639] and the Company has now provided testimony explaining its rationale. Therefore, we recommend that the single incremental Business Application System Analyst position requested by the Company be approved.

Recommendation 8.1 involves performance benchmarking for customer service operations.[1640] Overland and Staff agreed with the Company's proposed inclusion of $164,000 in the Rate Year revenue requirements, but the Staff Accounting Panel made an adjustment to remove this projected cost from the revenue requirements.[1641] Upon further inquiry by the Company, Staff conceded that the reduction was made in error.[1642] As such, the adjustment made by Staff should not be reflected in the final determination of revenue requirements.

2. Assessment of Savings

Central Hudson took the position that incremental savings related to implementation of the audit recommendations were possible but either qualitative or not yet quantifiable.[1643] With respect to quantifiable savings, the Company estimated that $30,000 should be reflected in the Rate Year in connection with Recommendation 4.5.[1644] Staff (and Overland) initially recommended that the Company's revenue requirement be reduced by

[1639] Case 21-M-0541, supra, Review of Central Hudson Implementation Plans, p. 12.

[1640] Id., p. 16.

[1641] Tr. 841.

[1642] Exhibit 227 (MAP-1R).

[1643] Tr. 884; Central Hudson Reply Brief, p. 118. See Case 21-M-0541, Central Hudson Implementation Plan Cover Letter (filed May 22, 2023), p. 2.

[1644] Id.

$1.645 million to reflect the net benefits anticipated from the implementation of Recommendations 4.5, 4.6, 5.2 and 7.2.[1645] Specifically, Staff estimated O&M-related savings in the Rate Year of $780,000 associated with Recommendation 4.5, $25,000 for Recommendation 4.6, and $40,000 for Recommendation 5.2;[1646] Staff also estimated savings of $800,000 in capital-related efficiency that would result from the implementation of Recommendation 7.2.[1647] Staff now concedes that none of the savings related to these recommendations were reflected in Staff's proposed revenue requirements.[1648] Thus, Staff now agrees to forgo the imputation of the $800,000 in capital-related savings associated with Recommendation 7.2.[1649] Nevertheless, Staff maintains that the revenue requirement should be further updated to reflect the O&M-related savings of $845,000.[1650]

The Company responds that it had reasonably anticipated that any potential operational and capital net benefits to be realized in the Rate Year would be fully captured in the productivity adjustment. Thus, the Company argues, Staff's attempt to reduce the revenue requirement by $845,000 for O&M related management costs represents an improper double count of productivity savings.[1651] The Company argues that no further adjustments to the revenue requirement should be allowed.[1652]

1645 Tr. 889; Case 21-M-0541, supra, Review of Central Hudson Implementation Plans, pp. 12-13, 15-16.

1646 Tr. 885-886.

1647 Tr. 887.

1648 Staff Initial Brief, p. 252.

1649 Id.

1650 Id.

1651 Central Hudson Reply Brief, p. 119.

1652 Central Hudson Reply Brief, p. 120.

The Company persuasively argues that it reasonably assumed that the O&M-related savings were captured in the productivity adjustment and that it would have presented additional evidence had Staff alerted it that the revenue requirements had not been adjusted. Accordingly, we recommend that the Commission reject Staff's proposed downward adjustment to the revenue requirements of $845,000.

However, should the Commission nevertheless choose to consider further revenue requirements adjustment to capture these savings at this stage in the proceedings, the Company further notes that the $780,000 in savings associated with Recommendation 4.5 turns on acceptance of Staff's recommendation that three FTEs not be hired to replace contractors currently fulfilling IT project manager roles. As noted above, we recommend that the Commission find that these three FTEs are necessary for the Company's implementation of Recommendation 4.5. Therefore, we agree with the Company that the $780,000 adjustment to the revenue requirement is not appropriate. In contrast, the Company does not contest the additional $65,000 savings associated with Recommendations 4.6 and 5.2, beyond asserting that Overland lacked sufficient information to assess any potential savings and that the Company reasonably assumed all savings would be captured in the productivity adjustment.[1653] Thus, if the Commission chooses to consider further revenue requirements adjustments to capture savings associated with Recommendations 4.6 and 5.2, we recommend imputation of $65,000 in savings.

3. Deferral of Future Implementation Costs

The Company argues that future implementation costs should be deferred, while Staff opposes deferral treatment for

[1653] Central Hudson Initial Brief, pp. 264-265; Central Hudson Reply Brief, pp. 119-120.

any incremental costs that have yet to be determined by the Company.[1654] The Company asserts that costs associated with the final implementation plan are valid costs of doing business and necessary expenditures for the Company to comply with the audit findings.[1655] The Company argues that, absent the grant of deferral treatment, some of these costs, to the extent they are not yet known, may be improperly stranded because they would be incurred after the revenue requirement is established in these proceedings.[1656] Staff maintains that the Company should update its implementation costs in these proceedings to reflect the updated implementation plan, which would obviate its need for deferral treatment.[1657]

It is not disputed that implementation costs are valid costs of doing business and certain costs are still being evaluated. To the extent that implementation costs remain unknown, and it is reasonable for the Company not to have finalized its evaluation of such costs, we recommend permitting deferral treatment.

4. Additional Proposals Regarding Labor Expense

The Company notes that Staff recommended removal from the revenue requirement of two FTEs – one Testing/QA Analyst and one Project Manager-Change Management – asserting that the reduction was supported by the Staff Management Audit Panel, but the support was not present in testimony.[1658] Staff now acknowledges that it erred and the Project Manager-Change

[1654] Central Hudson Initial Brief, p. 266; Staff Initial Brief, pp. 252-253.

[1655] Central Hudson Initial Brief, p. 266.

[1656] Id.

[1657] Staff Initial Brief, p. 253.

[1658] Tr. 844-845; Central Hudson Initial Brief, p. 267.

Management position should not have been removed.[1659] However, Staff maintains that Testing/QA Analyst position should be removed, noting that it recommended that the position be removed based on the analysis provided by Overland and citing to a general reference in the testimony of the Management Audit Panel that three positions associated with Recommendation 4.5 should be removed from the revenue requirements.[1660] All of the FTEs proposed to be hired in connection with Recommendation 4.5 are project managers.[1661] Thus, there is no support in the record for Staff's position that the Testing/QA Analyst should be removed from the Company's revenue requirements.

XV. EARNINGS ADJUSTMENT MECHANISMS

Earnings Adjustment Mechanisms, or EAMs, provide utility shareholders with an earnings opportunity when the utility achieves set target performance goals for certain metrics that are aligned with promoting New York State energy policy goals. Where a target goal is achieved for a certain metric, there is an associated value and benefit to ratepayers, and the target's associated financial gain is generally recovered from ratepayer funds or from the savings associated with the metric.

The Commission addressed EAMs in a 2016 order in the Reforming the Energy Vision proceeding and, in so doing, recognized that these incentive measures are not related to traditional basic service, but new performance expectations that may run counter to conventional methods of operation and a

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[1659] Staff Reply Brief, p. 57.

[1660] Id.

[1661] Case 21-M-0541, supra, Central Hudson Updated Implementation Plan, pp. 49-50.

utility's implicit financial incentives embedded in the cost-of-service ratemaking model.[1662] The Commission supported examining EAM measures in the context of rate cases, particularly the financial details of EAMs to consider the unique financial situation of the utility, and also acknowledged that such considerations "are best left to the processes that produce multi-year rate plans."[1663] With regard to determining the appropriate incentive structure, the Commission stated that incentives "should be financially meaningful and structured such that they encourage enterprise-wide attention at the utility and encourage strategic, portfolio-level approaches beyond narrow programs," noted that the targets and earning opportunities will not be achieved in all cases and provided guidance on the upper bounds of total incentives for EAMs.[1664] The Commission has also considered EAMs in a variety of other proceedings identified and referenced in Staff's direct testimony.[1665]

Central Hudson's existing rate plans include EAMs aligned with the State's clean energy goals. Ten EAMs are specific to electric, two to gas, and one combined electric and gas.[1666] The EAMs are evaluated on a calendar year basis. In calendar year 2024, the maximum earning opportunity for Central Hudson is approximately $3.4 million for electric and $420,000 for gas.[1667]

[1662] Case 14-M-0101, Reforming the Energy Vision, Order Adopting a Ratemaking and Utility Revenue Model Policy Framework (issued May 19, 2016) (2016 REV Order), pp. 58-60.

[1663] Id., p. 58, 60-61.

[1664] Id., pp. 68-70.

[1665] Tr. 1706-1707.

[1666] Tr. 1411-1413.

[1667] 2021 Rate Order, pp. 47-48 and Joint Proposal Appendix W.

In these rate proceedings, both Central Hudson and Staff recommend the establishment of EAMs, but differ in the EAMs proposed, the appropriate targets and methodologies for developing them, and the incentive levels for metrics and targets.[1668] In their testimony, the Company and Staff both consider metrics, targets, and incentive levels for calendar years 2025, 2026, and 2027. Several parties take issue with aspects of Central Hudson and Staff's proposals, including Dutchess County, which generally opposes any EAMs tailored to achieving CLCPA goals to the extent they drive up customer costs.[1669]

In its brief, MI suggests that establishment of EAMs in these proceedings be given careful consideration. It explains that, with "a limited exception for electric vehicle EAMs targets that were established as part of a generic statewide proceeding," EAMs - including those established in Central Hudson's last rate case - have been negotiated only as part of multi-year rate plan settlements.[1670] In MI's view, because the rate increases sought by Central Hudson are significant and customers have borne the effects of "the deeply-flawed rollout of a new customer information system," Central Hudson should not be offered "an increased opportunity to earn customer-funded incentives."[1671] MI observes that the underlying costs of achieving any metric's targets are funded by the customer and that the Commission may order the Company to pursue the EAM targets without compensation other than prudently-

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[1668] In its brief, PULP indicates general support for the positions of Staff.

[1669] Tr. 472.

[1670] MI Initial Brief, pp. 34-35.

[1671] MI Initial Brief, p. 37.

incurred costs.[1672] For these reasons, it urges the Commission to deny any customer-funded incentives associated with the EAMs. If the Commission disagrees, MI contends that the appropriate incentive period for consideration in these proceedings is isolated to the year 2025, such that the Commission would not bind itself in Central Hudson's next rate proceedings.[1673]

In its reply brief, Staff opposes MI's proposal on the ground that the Commission clearly has authority to address EAMs in the context of litigated rate cases. Staff relies upon the Commission's statement that parties consider EAMs when they "negotiate or litigate specific EAMs in future proceedings."[1674] Staff advocates that the Commission adopt its positions and incentive levels in these proceedings, claiming that they represent "a better reflection of what is needed to encourage greater renewable energy penetration, while also balancing the cost to ratepayers."[1675] Central Hudson did not respond in its brief to MI's arguments.

We recommend that the Commission adopt the Residential and Commercial Energy Intensity and Load Factor scorecard metrics, which are not in dispute in these proceedings and have no associated incentive earnings.[1676] Moreover, the Commission should require Central Hudson to update the Electric Vehicle Supply Equipment and Infrastructure DC Fast Charger and Level 2

[1672] Id., p. 35.

[1673] Id.

[1674] Staff Reply Brief, p. 67; 2016 REV Order, p. 61.

[1675] Staff Reply Brief, p. 67.

[1676] Tr. 1737-1738.

Installations EAMs in conformance with the Commission's order in Case 18-E-0130.[1677]

With respect to the remaining EAMs, which are discussed in more detail below, we support the motivations of Central Hudson and Staff in proposing such EAMs in these proceedings. Positive incentives can motivate the achievement of desired outcomes and can help achieve energy policy goals that might not otherwise be keenly pursued by utilities. Moreover, we agree with Staff that the Commission has broad authority to adopt EAMs in litigated rate proceedings, multi-year settled rate proceedings, or in the context of generic proceedings. However, the question before us is whether the Commission should adopt EAMs and ratepayer funded earnings opportunities within the context of these proceedings.

As the Commission has previously indicated and Staff has repeated several times in these proceedings, EAMs are meant to reward exceptional performance, not business as usual. The Commission has indicated that the earning opportunities should garner business-wide focus on achieving the set goals. Here, the business focus of Central Hudson should not be on potential earnings for achieving EAM metrics, but on its core responsibilities and customer service. Moreover, multiple parties, including Staff, and many members of the public have voiced concerns about rate impacts, and, in the context of these litigated proceedings, we do not recommend requiring ratepayers to fund elective earnings opportunities.

Specifically, we recommend that the Commission disallow the EAMs, but require Central Hudson to report its

[1677] See Case 18-E-0130, Electric Vehicle Supply Equipment and Infrastructure, Order Approving Midpoint Review Whitepaper's Recommendations with Modifications (issued November 16, 2023) (EV Order), pp. 82-89.

performance on the metrics and targets during calendar year 2025. The target performance goals for each metric are set above a baseline level of performance.[1678] Necessarily, a baseline level of performance is what the utility should be striving to meet in the absence of a financial incentive. We therefore recommend reporting on these metrics and targets for informational purposes to determine if Central Hudson is meeting baseline performance and to inform future rate proceedings. For reporting purposes, we recommend the Commission adopt the framework included in the 2021 Rate Plan as neither Central Hudson nor Staff recommended any changes to those requirements. We recommend Central Hudson file a report with the Secretary to the Commission no later than June 1, 2026, setting forth the Company's performance relative to each metric target and identifying any savings and benefits achieved.

In case the Commission elects to establish EAMs, we address each of the proposed EAM metrics, targets, and earnings opportunities below for the Commission's consideration. The Rate Year in these proceedings begins July 1, 2024, and ends June 30, 2025. As stated earlier, Central Hudson's existing rate plan established EAM metrics through the end of calendar year 2024. If the Commission establishes performance incentives, we recommend they commence in calendar year 2025 and the Commission require the Company's reporting to also contain calculations for incentives earned, including proration of any incentives related to metric achievement between performance levels, if applicable.

A. Disadvantaged Communities Energy Efficiency Benefits

Central Hudson proposes to replace its three existing Energy Efficiency EAMs with new electric and gas DAC Energy

[1678] Tr. 1776.

Efficiency Benefits EAMs.[1679] Citing a statement in the CLCPA that, "to the extent practicable, spending on clean energy and energy efficiency programs, projects, or investments shall be directed in a manner that ensures that [DACs] receive at least 35 percent, with the goal of 40 percent, of such spending," Central Hudson seeks an earnings opportunity for directing a higher proportion of gas and electric energy efficiency spending to projects in DACs. It testified that the EAMs would be aligned with the CLCPA's policy objectives by establishing spending targets for clean energy and energy efficiency programs in DACs with the minimum target of 35 percent of spending, a midpoint target of 40 percent, and maximum target of 45 percent.[1680] The proposed incentives for the electric and gas DACs Energy Efficiency EAMs are four basis points for the minimum target, eight basis points for the midpoint target, and 15 basis points for the maximum target.[1681]

Staff and UIU both oppose these EAMs in testimony and MI joins that position in its brief.[1682] Those parties assert that the proposed EAMs are energy efficiency EAMs and inconsistent with the Commission's July 20, 2023 Order Directing Energy Efficiency and Building Electrification Proposals, wherein the Commission stated it would not consider EE or BE EAMs proposed or included as part of any new rate case filing or joint proposal submitted after the effective date of its order "and until such time as the Commission determines an appropriate

[1679] Tr. 1417.

[1680] Tr. 1417-1420.

[1681] Tr. 1416.

[1682] Tr. 507-508, 1719-1721; MI Initial Brief, pp. 31-33.

path forward."[1683] In its reply brief, Staff further opines that the Commission's EE/BE Order, which indicated uncertainties related to EE and BE budgets beyond 2025, applies equally to potential DAC EE/BE targets that the Commission could consider in the context of that proceeding.[1684] UIU additionally argues that Central Hudson's proposed EAM "is an overt effort by the Company to be rewarded for performance already mandated by the CLCPA, which is to ensure DACs receive a certain percentage of the Company's energy efficiency spending."[1685]

Central Hudson acknowledges the Commission's position regarding new energy efficiency and building efficiency EAMs but argues that its proposed DAC Energy Efficiency EAMs are distinguishable. Central Hudson avers that its proposed EAMs are not focused on energy efficiency cost savings, but rather target how much spending is focused on DACs, that the proposed targets are not based on or impacted by existing energy efficiency budgets or targets, and that the structure of the EAMs are aligned with CLCPA goals. It also argues that UIU's position is erroneous because the CLCPA does not mandate that individual utilities or specific programs take actions to satisfy the statewide targets.[1686]

The Commission stated that it will not consider any EE EAMs proposed or included as part of any new rate case filing after July 20, 2023.[1687] It also states that a "specific

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[1683] Case 18-M-0084, In the Matter of a Comprehensive Energy Efficiency Initiative, Order Directing Energy Efficiency and Building Electrification Proposals (issued July 20, 2023) (EE/BE Order), pp. 85-86.

[1684] Staff Reply Brief, p. 58.

[1685] Tr. 507-508.

[1686] Tr. 1435-1436.

[1687] EE/BE Order, pp. 85-86.

portfolio of EAMs may change over time as some objectives are achieved or become standard practice" and indicated that EE/BE programs have become standard practice. As the Commission has indicated that EE programs are now standard practice and has paused consideration of EAMs tied to EE, we recommend it reject Central Hudson's DAC Energy Efficiency EAMs.

While Central Hudson frames the DAC Energy Efficiency EAMs as spending metrics to promote CLCPA goals, we note that Central Hudson did not demonstrate baseline spending in DACs, making it impossible to evaluate the degree to which any such spending incentives are necessary. To the extent that the Commission wishes to incentivize spending in disadvantaged communities we recommend it be considered in the context of a generic proceeding rather in the context of an individual utility's rate cases.

B. Electric and Gas Peak Reduction

Central Hudson proposes to continue the Electric Peak Reduction and Gas Peak Reduction EAMs that were approved in the 2021 Rate Plan.[1688] It proposes to maintain the structure of its electric EAM, with several changes,[1689] and to maintain the structure and targets associated with the gas EAM.[1690]

Regarding the electric EAM, the Company proposes to receive an incentive for reducing its New York State Independent System Operator (NYISO) Zone G-J Locality Peak.[1691] For the gas EAM, the Company would receive an incentive for achieving "gas system peak reductions that provide additional system benefits

[1688] 2021 Rate Order, Joint Proposal Appendix W.

[1689] Tr. 1423 and Exhibit 115 (EAMP-4).

[1690] Tr. 1426.

[1691] Tr. 1422.

and lower supply costs to customers."[1692] Central Hudson proposes performance incentives of two, five, and ten basis points for achieving the minimum, midpoint, and maximum targets for both Electric and Gas Peak Reduction EAMs.[1693]

Staff proposes that these EAMs be discontinued on the ground that they "could potentially result in windfalls for utility shareholders because of instances outside the Company's control, such as an economic downturn or other negative macroeconomic stressors that can affect how consumers use energy."[1694] Staff states that its review of several other utilities with electric or gas peak reduction metrics demonstrated that those utilities earned financial incentives, primarily attributable to economic downturns and changes in customer usage of electric and gas service during the COVID-19 pandemic, rather than the utilities' own actions.[1695] Staff acknowledges that Central Hudson did not achieve minimum targets pursuant to its Electric Peak Reduction metric for 2019, 2020, or 2021 and declared it "unlikely" that the Company could take any actions to earn the incentive.[1696] Nevertheless, it argues that experience should influence EAMs moving forward and that Peak Reduction EAMs should be discontinued to avoid any unearned enrichment by utilities.[1697]

Central Hudson insists that those EAMS should not be discontinued even though they can be influenced by external factors. It asserts that the Commission has rejected such arguments in the past and has acknowledged that peak reductions

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[1692] 2021 Rate Order, Joint Proposal Appendix W, pp. 13-14.

[1693] Exhibit 193 (EAMP-2R).

[1694] Tr. 1727.

[1695] Tr. 1726-1727.

[1696] Tr. 1727.

[1697] Tr. 1727-2728.

programs are appropriately considered for an outcome-based metric.[1698] In any event, the Company maintains that it can influence peak reduction on the electric side through implementation and growth of demand response programs such as the Commercial System Relief Program (CSRP) and the Residential EV Managed Charging Program, through energy efficiency and electrification projects in its territory, and by interconnection of distributed solar and renewables. Central Hudson contends that it can influence peak reduction on the gas side by communicating with customers to encourage energy conservation.[1699] Central Hudson contends that it should be treated similarly to other utilities that have incentives around demand response and peak reduction programs and points out that some utility demand response programs were approved by the Commission following the COVID-19 pandemic.[1700] Central Hudson states that its Benefit Cost Analysis demonstrates that the Electric and Gas Peak Reduction EAMs have benefit/cost ratios of 5.69 and 11.64, respectively,[1701] and that achievement of Central Hudson's EAMs would result in significant benefits to customers

[1698] Tr. 1436-1437 (citing to Case 14-M-0101, 2016 REV Order, pp. 61, 63).

[1699] Tr. 1437-1438.

[1700] Central Hudson Initial Brief, pp. 271-272. Central Hudson references the Electric Demand Response EAMs included in the rate plans of Con Edison (Cases 22-E-0064 and 22-G-0065, Con Edison - Rates, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans with Additional Requirements (issued July 20, 2023), Joint Proposal, Appendix 22) and New York State Electric & Gas Corporation (NYSEG) and RG&E (Cases 22-E-0317 et al., NYSEG and RG&E – Rates, Order Adopting Joint Proposal (issued October 12, 2023), Joint Proposal, Appendix X.

[1701] Central Hudson Initial Brief, p. 272; Exhibit 112 (EAMP-1).

through avoided generation, transmission, and distribution capacity costs.[1702]

During the evidentiary hearing, Staff recognized that Central Hudson's electric demand response programs, including the CSRP and Residential EV Managed Charging Program could theoretically result in reduced peak load.[1703] However, Staff now argues that the CSRP has waning influence and is "demonstrably unsuccessful,"[1704] and that the EV Managed Charging Program's success is uncertain.[1705] It also argues that Central Hudson's ability to reduce gas peak reduction is speculative, citing for the first time to residential participation in the Company's Voluntary Time of Use rate.[1706] Staff distinguishes utilities whose recent rate plans include demand response EAMs approved by the Commission by stating that those businesses have more measured success with demand response programs than Central Hudson and remarks that the EAMs approved in those cases should be distinguished because they were the products of negotiated settlements.[1707]

Although we do not recommend establishing EAMs, we find the metrics and targets proposed by Central Hudson reasonable and we recommend the metrics and targets be adopted for performance reporting. While we recognize the policy basis that Staff advances for the wholesale rejection of Electric and Gas Peak Reduction EAMs, it is not clear to us that Staff's perspective is shared by the Commission considering the

[1702] Tr. 1437.

[1703] Tr. 1757-1758.

[1704] Staff Initial Brief, p. 256-257; Tr. 1756-1758; Staff Reply Brief, pp. 60-61.

[1705] Staff Reply Brief, p. 61.

[1706] Staff Reply Brief, p. 61.

[1707] Tr. 1761; Staff Reply Brief, p. 62.

Commission’s approval of electric demand response EAMs included in the recent rate plans of Con Edison, NYSEG, and RG&E. We recognize that those proceedings were the product of settlement agreements amongst the parties, but in approving those rate plans, the Commission did not indicate any concern with the demand response EAMs or continuation of such programs in the future and, to our knowledge, the Commission has not addressed the issue on a generic basis. Staff advances its position based on the experience of other utilities, but it does not demonstrate or allege any actual overearnings by Central Hudson associated with its existing Electric and Gas Peak Reduction EAMs in connection with macroeconomic factors, and indeed acknowledges that Central Hudson did not achieve targets and earn incentives in the years associated with the COVID-19 pandemic.

Staff’s alternative rationale for rejecting the Electric and Gas Peak Reduction EAMs is based on its belief that Central Hudson is unlikely to take actions that would allow it to earn an incentive. We do not find this rationale convincing. Central Hudson’s past performance in demand response need not dictate future performance and ratepayers are not harmed should Central Hudson fail to achieve the targets established in the Electric and Gas Peak Reduction EAMs.

In addition, we note that the modifications to the Electric Peak Reduction EAM proposed by Central Hudson were apparently supported by Staff as providing descriptive clarity.[1708] Staff did not provide any critique of the targets proposed, and, if such targets are achieved, ratepayers may realize substantial benefits. Because we are proposing metrics and targets be established for performance reporting purposes

[1708] Tr. 1724-1725.

only, there is no danger of Central Hudson receiving a windfall should macroeconomic externalities dramatically reduce peak load.

C. Distributed Energy Resource Photovoltaic

Central Hudson's existing DER Utilization EAM incentivizes the Company to collaborate with third parties to promote the use of DER in its territory to support the State's clean energy goals established in the CLCPA. Initially, the Company proposed to maintain the EAM with updated targets and proposed that performance incentives be set at two, five, and ten basis points for achieving the respective minimum, midpoint, and maximum targets.[1709]

Staff disagreed with the Company's proposal and recommended that the proposed DER Utilization EAM be restructured into two separate EAMs - one for solar photovoltaics (the Solar DER Utilization EAM), and one for battery energy storage (the Storage DER Utilization EAM).[1710] Staff posits that there are distinct policy goals associated with the deployment of these technologies, and in its view, having distinct incentives to encourage those goals is more appropriate than one combined metric.[1711] For the solar DER Utilization EAM, which we will refer to as the DER Photovoltaic EAM, Staff recommends that target baselines "be developed on linear growth to achieve a reasonable approximation of Central Hudson's share of the 2,943 MW of incremental solar installations by 2030 in upstate New York, from the Commission-

[1709] Tr. 1414-1422, Exhibit 193 (EAMP-2R).

[1710] Tr. 1731.

[1711] Tr. 1732.

approved NY-Sun Expansion Order."[1712] Staff recommends an annual baseline of 17.89 MW per year and proposed minimum, midpoint, and maximum targets of ten, 25, and 50 percent above the baseline, respectively, with performance incentives of two, four, and eight basis points associated with each respective target.[1713]

In rebuttal, Central Hudson agreed with Staff's proposal to split the existing DER Utilization EAM.[1714] It also agreed with the DER Photovoltaic EAM targets with one exception.[1715] Central Hudson maintains that all NY-Sun qualifying solar interconnected within Central Hudson's service territory should count towards the target. It states that Staff indicated in response to a discovery request that it would exclude "Solar PV projects with a drop-out date and those exceeding 5 MW."[1716] The Company argues that NYSERDA has published materials stating that qualifying commercial and industrial projects can be up to 7.5 MW and that all solar project types qualifying for NY-Sun should count toward the DER Photovoltaic EAM targets.[1717]

Staff contends that Central Hudson is mistaken, and that NYSERDA sets the system size cap for NY-SUN qualifying commercial and industrial projects at 7.5 MW Direct Current (DC), which it alleges converts to 5 MW Alternating Current

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[1712] Tr. 1733 (citing Case 21-E-0629, In the Matter of the Advancement of Distributed Solar, Order Adopting NY-Sun Mid-Program Modifications (issued June 23, 2023) (NY-Sun Expansion Order)).

[1713] Tr. 1733-1735, Exhibits 314 (SEAMP-3) and 316 (SEAMP-5).

[1714] Tr. 1438.

[1715] Tr. 1439-1440.

[1716] Exhibit 192 (EAMP-1R, CH to DPS-022).

[1717] Tr. 1439-1440 (citing to NYSERDA, NY-Sun Upstate and Long Island Program Manual, Version 17 (October 2023), p. 7).

(AC).[1718] It further argues that Central Hudson is best equipped to work with third parties to expand the use of DER resources by targeting projects below 5 MW and interconnecting below the bulk transmission system and states that the EAMs for Con Edison and NYSEG and RG&E were restructured accordingly in their most recent rate proceedings.[1719]

We recommend adopting the DER Photovoltaic EAM metric and targets for reporting purposes only. While we recognize that NYSERDA limits the system size cap at 7.5 MW DC, we do not have a record basis to determine whether the conversion to 5 MW AC is accurate. Therefore, if the Commission adopts the DER Photovoltaic EAM, we recommend that it clarifies that any solar projects qualifying for NY-Sun should count toward the DER Photovoltaic EAM targets and to define mega-watt thresholds as DC or AC to avoid any future disputes.

D. DER Battery Storage

As previously described, Staff proposes a separate battery energy storage EAM to incentivize Central Hudson to realize the State's distinct battery storage policy goals.[1720] Staff recommends the DER battery storage baseline be developed based on linear growth to achieve Central Hudson's share of the statewide 2030 energy storage deployment goal of six gigawatts, and set its proposed baseline based on Central Hudson's deployment targets identified in the NY-Sun Expansion Order.[1721] In establishing the proposed targets, Staff calculated Central Hudson's portion of Standardized Interconnection Requirements by

[1718] Staff Initial Brief, pp. 258-259; Staff Reply Brief, p. 65 (citing NY-Sun Upstate and Long Island Program Manual, Version 17 (October 2023), p. 16).

[1719] Staff Reply Brief, p. 65.

[1720] Tr. 1731-7132; Exhibit 313 (SEAMP-2).

[1721] Tr. 1736-1737.

MW and, in so doing, applied a factor of 26.8 percent to account for the presumptive portion of battery storage that would be five MW or less and interconnected below the bulk transmission system pursuant to a 2018 Commission Order in Case 18-E-0130.[1722] Staff recommends targets be set at ten, 25, and 50 percent above the baseline for the minimum, midpoint, and maximum targets, and that incentive earnings of two, four, and eight basis points be associated with each respective target.[1723]

Central Hudson agreed to the separate DER Battery Storage EAM,[1724] but disputes that the 26.8 percent factor should be used in calculating the target. It avers that the 2030 storage goal of six GW considers all grid-interconnected storage rather than only those storage projects at or below five MW or projects interconnected below the bulk transmission system.[1725] The Company instead proposes all grid-interconnecting storage in its service territory apply to the target, which would result in elevated target levels.[1726]

In its brief, Staff maintains that its battery storage targets appropriately limit qualifying projects to five MW or below because it is aligned with NY-Sun.[1727] It makes the same arguments it raised in relation to DER Photovoltaics, namely that Central Hudson is best equipped to work with third parties to expand the use of DER resources by targeting projects below 5 MW and interconnecting below the bulk transmission system and

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[1722] Exhibit 314 (SEAMP-3), see case 18-E-0130, In the Matter of Energy Storage Deployment Program, Order Establishing Energy Storage Goal and Deployment Policy (issued December 13, 2018) (Energy Storage Order).

[1723] Exhibits 314 (SEAMP-3) and 316 (SEAMP-5).

[1724] Tr. 1438.

[1725] Tr. 1440-1441.

[1726] Tr. 1441 and Exhibit 193 (EAMP-2R).

[1727] Staff Initial Brief, p. 259.

that, the structure of EAMs contained in the Con Edison and NYSEG and RG&E rate proceedings reflect that threshold.[1728]

We recommend that the Commission adopt the DER Battery Storage metric and targets proposed by Staff for reporting purposes only. While Central Hudson takes issue with Staff's baseline targets because its calculation applies a factor to reflect a presumptive portion of battery storage that would be five MW or less, we find that such limitation reasonable to promote consistency between the DER EAMs. Additionally, we observe that at the time the Energy Storage Order was issued, "(t)he most recent version of the SIR [Standardized Interconnection Requirements] includes energy storage system interconnection rules, either stand-alone or paired with on-site renewable generation, up to 5 MW."[1729] Therefore, the limitation appears reasonable.

E. <u>EV Adoption</u>

Central Hudson proposes to continue its EV Adoption EAM with updated targets and assumptions regarding vehicle emissions reductions.[1730] This EAM incentivizes the Company to reduce GHG emissions by facilitating a greater penetration of EVs.[1731] The Company proposes target performance based on the number of battery electric vehicles (BEVs) and Plug-in hybrid electric vehicles (PHEVs) registered in its service territory. Performance would be measured by obtaining data regarding the number of registered BEVs and PHEVs vehicles in the territory from the Atlas Public Policy – EvaluateNY website. To develop its EAM targets, Central Hudson used the forecasts and various

[1728] Staff Reply Brief, p. 65.

[1729] Energy Storage Order, p. 75.

[1730] Tr. 1424; Exhibit 116 (EAMP-5).

[1731] Tr. 1423.

adoption scenarios included in its 2023 Distributed System Implementation Plan (DSIP).[1732] Central Hudson proposes earnings opportunities of two, five, and eight basis points for meeting the minimum, midpoint, and maximum target thresholds, respectively. The Company posits that its proposal is reasonable for establishing EV Adoption targets because it is tailored to its service territory, considers historic adoption curves, and its forecasts support a more limited range of likely vehicle adoption rates which is more appropriate for setting targets.[1733]

Staff proposes modifying Central Hudson's targets and recommends lower performance incentives for realizing the minimum, midpoint and maximum targets of two, four, and eight basis points, respectively.[1734] Staff accepted Central Hudson's calculation for determining annual avoided CO_2 per BEV and PHEV but recommended increasing the minimum target of BEVs and PHEVs, thereby raising the target annual avoided CO_2.[1735] It also disagreed with the Company's midpoint and maximum targets and proposed using an analysis included in the Climate Action Council Final Scoping Plan.[1736] It applied a growth rate reached by analyzing Scenarios 2 and 3 within Appendix G of the Plan and then accounting for Central Hudson's proportion of electric vehicles necessary to meet the transportation electrification goals.[1737] Staff's resulting midpoint and the maximum targets are significantly higher than those proposed by Central Hudson.[1738]

[1732] Tr. 1424, Exhibit 116 (EAMP-5).

[1733] Tr. 1443.

[1734] Tr. 1742; Exhibit 316 (SEAMP-5).

[1735] Tr. 1742-1743; Exhibit 315 (SEAMP-4).

[1736] Tr. 1761.

[1737] Tr. 1743-1748.

[1738] Tr. 1442.

Central Hudson objects to Staff's proposed targets, alleging that they are unrealistic for failing to rely on historic EV adoption rates within the service territory,[1739] unachievable for setting targets dramatically above the baseline, even at the midpoint target,[1740] and out of line with the other targets proposed by Staff in these proceedings.[1741] It also objects to Staff's proposal to reduce the financial incentives associated with the EAM and argued that reducing the incentive was particularly egregious when proposing to significantly increase the targets.[1742] It maintains that its proposal is more appropriate due to its reliance on service territory-specific data.

Staff contends that its EV Adoption EAM is more appropriate because of its relation to the New York State Climate Action Council Scoping Plan and its use of the Scenarios included in Appendix G of the Scoping Plan, which provides the "framework, assumptions, details, and pathways" to achieve the GHG mitigation goals set out therein.[1743] Staff contends that its analysis was developed "based on the Company's share of EV adoption within its service territory necessary to reach statewide goals." Staff rejects Central Hudson's concerns about the reasonableness of the targets, stating that Appendix G to the Scoping Plan provides that the achievement of the targets therein "is technically feasible," that varying target levels between metrics are appropriate where they aim to meet different

[1739] Tr. 1442, 1763.

[1740] Central Hudson Initial Brief, p. 276; Tr. 1442-1443, 1764.

[1741] Central Hudson Initial Brief, p. 276 (referencing the Solar and Storage DER Utilization EAMs that set maximum targets at 50 percent above the baseline).

[1742] Tr. 1443-1444.

[1743] Staff Initial Brief, p. 261; Tr. 1745.

policy goals. Staff insists that EAMs are meant to motivate the Company to realize elevated levels of performance, not merely to reward business-as-usual.[1744]

We recommend that the Commission adopt the targets proposed by Central Hudson for reporting purposes only. In our view, the Company's methodology for establishing the targets for EV adoption rates in its territory is more reasonable than that proposed by Staff because the target levels are established utilizing historical data. We recognize the lofty EV adoption rates required to meet reductions in statewide GHG emission levels. However, while we agree with Staff that EAM targets should be a stretch, we do not believe that setting the targets at the elevated levels that Staff recommends will have the effect of motivating the Company to achieve those goals. Rather, if the targets are too high and perceived as unachievable, the Company may elect to forego any additional effort to attain those goals. Staff recognizes this metric is outcome-based and that Central Hudson may affect electric vehicle adoption rates by "stimulating public interest."[1745] We find it improbable that the Company's actions will precipitate vastly higher EV adoption rates in its territory, even if necessary to reach state policy goals. Accordingly, if the Commission elects to establish this EAM, we recommend it adopt the lower positive earnings opportunities proposed by Staff.

F. EVSE&I DC Fast Charger and Level 2 Installations

In its testimony, Central Hudson proposed to maintain the existing Electric Vehicle Supply Equipment and Infrastructure (EVSE&I) DC Fast Charger and Level 2 Charger EAMs

[1744] Staff Initial Brief, p. 261; Staff Reply Brief, pp. 63-64.
[1745] Tr. 1749.

developed in Case 18-E-0138.[1746] Central Hudson also stated that, to the extent the Commission modified the structure of the EAMs in the context of the generic proceeding, that those changes supersede any EAM structure proposed in these proceedings.[1747] Staff supported the Company's proposal in its testimony.[1748]

In its rebuttal testimony, Central Hudson recognized the Commission's November 2023 Order that modified the EVSE&I DC Fast Charger and Level 2 Charger EAMs and committed to updating the EVSE&I EAMs consistent with the revised EAM structure.[1749]

We recommend the Commission require Central Hudson to update the above-mentioned EAMs in conformance with the EV Order.

G. Total EAM Basis Points

Central Hudson's proposed EAMs provide it with total maximum potential earnings of 91 basis points, 66 associated with electric EAMs and 25 associated with gas EAMs. Staff's proposals have a total of 39 basis points of earnings opportunities attached to them, all of them tailored to the electric business.

Central Hudson opines that Staff's proposed basis point level is lower than authorized by the Commission in the REV Order and alleges that they are also lower than incentives offered to other utilities.[1750] Central Hudson claims that its proposed overall incentive compensation levels are appropriate because achievement of the metrics and goals would provide great

[1746] Tr. 1426. See Case 18-E-0138, supra.

[1747] Tr. 1426.

[1748] Tr. 1739.

[1749] Tr. 1444 (citing EV Order).

[1750] Central Hudson Initial Brief, p. 277.

benefits to ratepayers, and that the incentive levels proposed by Staff are insufficient to drive exceptional performance.[1751]

Staff argues that its proposed incentive levels are sufficient and, when viewed in consideration of "the revenue requirement value of $125,400 for one electric basis point, the prospective EAMs that could be earned by the Company amount to approximately $4.9 million."[1752]

As described at the outset of this section, MI advocates that no compensation be associated with the EAM targets in these proceedings. To the extent any are established, it states that the value should be limited and structured in such a manner "to avoid customer-funded shareholder incentives that reward the utility for circumstances beyond its control."[1753] MI characterizes Staff's total proposed incentive level to be comparatively more measured than Central Hudson's but still material and unwarranted and in excess of the value of incentives approved in Central Hudson's last rate plan for calendar year 2024.[1754] MI also objects to Central Hudson's positions regarding incentive levels and states that "(t)he Company did not explain why it apparently lacks motivation to perform exceptionally well unless customers incentivize it to the tune of tens of millions of dollars on top of its authorized rate relief."[1755]

As we indicated at the outset of this section, we do not recommend that the Commission establish performance

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[1751] Id., pp. 277-278.

[1752] Staff Reply Brief, p. 66, Exhibit 511.

[1753] MI Initial Brief, p. 36.

[1754] MI Initial Brief, pp. 36-37.

[1755] MI Initial Brief, p. 36.

incentives in the context of these proceedings. Nevertheless, we address metric-specific performance incentives below.

There is no dispute between Central Hudson and Staff regarding the appropriate incentive levels for the DER Photovoltaic, DER Battery Storage, EVSE&I DC and Level 2 EAMs.

Central Hudson and Staff disagree on the appropriate incentive levels for the EV Adoption EAM. Because Staff opposed their adoption, it opposes any incentives associated with the Electric and Gas DAC Energy Efficiency and Electric and Gas Peak Reduction EAMs. Regarding the EV Adoption incentive levels, as addressed above, we find the lower incentive levels proposed by Staff more reasonable in consideration of it being an outcome-based target for which the Company's actions may play a role but is not determinative of outcome. Consistent with our above discussion, we recommend adoption of the Electric and Gas Peak Reduction EAM targets for reporting purposes only and we take no position on the appropriate valuation of the target incentives. We do not recommend that the Commission adopt the DAC Energy Efficiency metric or targets for the reasons provided above.

To the extent the Commission determines to adopt the DAC Energy Efficiency metric and establish earnings opportunities for reaching target goals, we do not recommend that the Commission adopt the Company's proposed incentive levels. As an initial matter, the Company acknowledges that "there is not yet an established way to quantify the societal benefits of concentrating benefits within DACs."[1756] Therefore, in our view, requiring ratepayers to fund any incentive in the absence of such quantification would result in rates that are neither just nor reasonable. Moreover, compared to the other EAMs, the proposed basis points associated with reaching

[1756] Exhibit 112 (EAMP-1), p. 2.

minimum, midpoint, and maximum target levels are significantly higher.

XVI. ENERGY AFFORDABILITY PROGRAM

A. EAP Budget, Expenditures, and Reconciliation

In dispute in these proceedings is the method for establishing an appropriate rate allowance for the electric and gas Energy Affordability Program (EAP). Staff also proposes certain improvements for record keeping and establishing standard operating procedures for calculating EAP bill discount levels and preparation of EAP workbooks.

In 2016, the Commission adopted a policy that set a target energy burden at or below six percent of household income for all low-income households in New York and established a funding limit such that the total budget for each utility may not exceed two percent of total electric or gas revenues for sales to end-use customers.[1757] In 2021, the Commission made certain policy modifications and, among other things, established a hybrid average bill approach for calculating each low-income customer group's average bill,[1758] stated that it will not consider EAP program adjustments in the context of individual rate cases,[1759] and required that known delivery rate increases be factored into the two percent total revenue budget cap but only be recalculated when a utility's affordability program budget exceeds its unadjusted two percent total revenue

[1757] Case 14-M-0565, Energy Affordability Proceeding, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 20, 2016)(2016 EAP Order), pp. 3, 8.

[1758] Case 14-M-0565, supra, Order Adopting Energy Affordability Policy Modifications and Directing Utility Filings (issued August 12, 2021), pp. 30-31.

[1759] Id., p. 39.

cap.[1760] The Commission also established a process whereby utilities must file annual standardized tariff filings beginning on November 1, 2022, providing revised low-income discount levels to become effective December 1 to be supported by workpapers, and required that utility energy affordability bill discounts be updated whenever the utility files tariff compliance for a new rate plan.[1761]

In its testimony, Central Hudson forecasted EAP budgets for the Rate Year, including expense for the Low Income Bill Discount Program and the Waiver of Reconnection Fee Program, as \$20.2 million for electric and \$5.3 million for gas.[1762] In proposing its EAP total budgets, Central Hudson calculated two percent of revenues for the prior period, as defined by the 2021 EAP Order, and escalated it by two percent of the proposed rate increase.[1763] It projected enrollment growth based on a three-year average of actual participation and projected updated bill discounts using the program budgets and average bills filed in these proceedings.[1764] In calculating projected bill discounts, the Company stated that it used the same methodology utilized in its annual low-income discount filing in Case 14-M-0565.[1765] Central Hudson asserted that, based on its projected participation in the Rate Year, applying the current discount levels, it expects the program budget to be exceeded and, consequently, proposed to reduce gas heating

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[1760] Id., p. 41.

[1761] Id., pp. 42-44.

[1762] Tr. 716-717, 3005.

[1763] Tr. 716.

[1764] Tr. 716, 1853-1854, 3003-3005.

[1765] Tr. 1853.

discounts, to ensure it could serve all eligible customers and stay on budget.[1766]

Staff argued that Central Hudson's methodology for deriving the EAP budget and its associated documentation is inconsistent with Commission directives established in EAP Orders and should be rejected.[1767] Staff took issue with Central Hudson's workpapers supporting the EAP budget because they use the Company's proposed increases to the customer charge and projected participation levels, rather than existing customer charges and historical participation levels.[1768] It also argues that the Company's average bill calculation should be rejected because it is inconsistent with the 2021 EAP Order as it uses 2024 and 2025 forecasts instead of a hybrid average low-income bill.[1769]

Staff instead proposed that the Commission set the rate allowance for the EAP as equivalent to the amounts calculated by Central Hudson in its November 1, 2023 EAP workbook filed in Case 14-M-0565, which calculates the EAP budgets for the upcoming program year of $12.7 million for electric and $3.5 million for gas.[1770] Staff avers that establishing the lower rate allowance is appropriate because the November 1, 2023 EAP workbook was developed consistent with Commission directives and would ensure the rate allowance is not set "at an artificially higher level based on bill forecasts and projected customer participation levels."[1771] Staff noted that the Commission requires utilities to update EAP discounts after

[1766] Tr. 1853-1854.

[1767] Tr. 4448.

[1768] Tr. 4448.

[1769] Tr. 4448.

[1770] Tr. 4450.

[1771] Tr. 4450.

new rates are established and, if additional funding for the program is required, it will be deferred for future action by the Commission.[1772]

Staff further recommended that Central Hudson "maintain a hard copy of any documents, materials, or manuals related to the EAP." It states that the Company was unable to provide standard operating procedures or processes for calculating the EAP bill discounts and compiling EAP workbooks.[1773] While the Company maintains EAP materials and procedures in its SAP CIS, Staff opines that maintaining hard copies of documents would be useful in the event of any issues with that system and in training customer service representatives, and would provide a record of the changes that Central Hudson makes to its procedures.[1774]

In rebuttal, Central Hudson contended that its EAP forecasted Rate Year budgets and its workpapers reasonably differ from its program year budgets included in its November 1, 2023 workbook filed in Case 14-M-0565. The Company stated that forecasting requires looking at a different time period than conducting calculations based on known inputs.[1775] The Company affirmed that it will comply with the Commission's directives in the 2021 EAP Order and calculate new bill discounts at the time of compliance tariff filings in these proceedings using a typical bill calculation using Rate Year proposed customer charge and volumetric rates and a historical three-year weighted average commodity price.[1776] Central Hudson stated that Staff's

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[1772] Tr. 4450.

[1773] Tr. 4451; Confidential Exhibit 353 (SCSP-1, DPS-484, 485, 585).

[1774] Id.

[1775] Tr. 1914-1915.

[1776] Tr. 1915.

proposed EAP Rate Year allowances should be rejected because they would likely yield insufficient program budgets, resulting in significant incremental costs that would be deferred for future collection by ratepayers.[1777]

In its brief, Staff maintains that adoption of its proposed rate allowance is preferable because the calculations in Central Hudson's November 1, 2023 workbook comply with Commission directives and "may result in adjusted bill discounts for low-income customers that are consistent with the Commission's Energy Affordability Policy and EAP Orders."[1778] It dismisses Central Hudson's concern that Staff's proposed budgets may result in shortfalls resulting in significant deferrals for future collection by intimating that the Commission would be comfortable with that approach because it previously approved reconciliations of deferred EAP costs in Case 14-M-0565.[1779]

Without identifying a record basis for its claim, Staff states in its brief that it believes Central Hudson does not maintain historical information identifying EAP customers by whether they are heat or non-heat electric and gas customers.[1780] It opines that because discount sizes are established by a customer's status as an electric or gas heat or non-heat customer, it has little confidence in the veracity of participation levels provided in the Company's workbooks.[1781]

In its 2021 EAP Order, the Commission stated that it would not enact changes to utility low-income programs in the context of individual rate cases. Here, Staff appears to

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[1777] Tr. 1913-1916.

[1778] Staff Initial Brief, p. 267.

[1779] Staff Initial Brief, p. 266.

[1780] Staff Initial Brief, p. 264.

[1781] Id.

interpret that directive to only consider EAP rate allowances that are developed in strict adherence to the directives in the 2021 EAP Order for calculating EAP costs. However, those calculations are used to generate program costs considering known data inputs for the program year. In these cases, Central Hudson is not attempting to change the terms of its EAP, but rather to project a rate allowance for its EAP that will accurately represent the costs of the program during the Rate Year.

In our view, the methodology employed by Central Hudson is reasonable. It projects an increase in the total budget for the program by increasing the two percent revenues from the prior period by two percent of its requested revenue increase, used a three-year average of actual participation to project program participation, and incorporated its proposals in forecasting the average bills. By considering how the component rate changes will impact different facets of the EAP, the proposed budget is more likely to reflect actual costs.

Staff's critiques of Central Hudson's proposal and its calculations are insufficiently supported because the workpapers that it references and takes issue with were not offered into evidence and are not in the record.

Staff's proposed revenue requirement for the EAP fails to consider any impact of rate changes on the overall EAP program budget, the impact of any increase on customers' energy burden, and that existing discount levels will necessarily be adjusted to consider those factors. Staff acknowledges that its proposal may result in under-collection, but seemingly discounts the concern that its proposed budgets may result in a deferral because ultimately the utility, or its ratepayers, will be made whole.

Though Staff recommends the Commission adopt the EAP program budgets for electric and gas included in Central Hudson's November 1, 2023 workbook, Staff also seemingly calls into question the data included therein. For the first time in its brief, it asserts a lack of confidence "in the veracity of the participation levels from the provided workbooks" because, in its understanding, Central Hudson does not maintain historical information identifying whether EAP customers are electric or gas heat or non-heat customers.[1782] We find this statement troubling. Central Hudson's EAP, complying with the framework of the 2016 EAP Order, has been in effect for years. To audit program costs, the Commission necessarily requires information categorizing participating customers. To now question the support for annual program calculations suggests a larger problem with EAP management and auditing that seems best suited to be raised and addressed in the generic proceeding.

Ideally, in establishing new rates, the Commission would adopt an EAP rate allowance that considers the impact of the rate changes on the EAP such that it may be more closely aligned with actual program costs and reduce deferral amounts. In this instance, while we find Central Hudson's approach for projecting Rate Year program budgets more reasonable than that of Staff, we recognize that the inputs Central Hudson used in developing its budgets were based on its initial rate request. As we are unable to adjust the EAP budgets using Central Hudson's methodology, incorporating the recommendations included in this RD, we have only two record-based options before us -- Central Hudson's budget that we know to be too high, and Staff's budget, that we know to be too low. In consideration that Central Hudson is entitled to seek new rates almost immediately

[1782] Staff Initial Brief, p. 264.

following the Commission's decision in these proceedings, we recommend the Commission adopt the EAP budgets at Staff's recommended levels. In so doing, the Commission should understand it will likely result in a shortfall and associated deferral that would be addressed in Central Hudson's next rate case.

With regards to Staff's proposals for Central Hudson to maintain hard copies of documents, materials, and manuals related to the EAP, we note that Central Hudson did not object to Staff's recommendation. The proposal is reasonable to document the procedures Central Hudson puts into place for EAP, monitor any changes, and would provide a safeguard in the event Central Hudson encounters problems with its SAP system. We recommend that the Commission adopt Staff's recommendation.

B. PULP's EAP Proposals

In its testimony, PULP Witness Yates opined that Central Hudson's proposals to lower gas bill discounts, described briefly above, would be detrimental to all gas participants, and particularly heating customers.[1783] Recognizing that Central Hudson's proposal was developed with the intention of keeping the budget under the Commission-established two percent of revenues, PULP recommended the Commission raise the two percent cap on Central Hudson's EAP discounts by the lesser of the Company's allocation from the $200 million appropriated from the 2023-2024 State budget, or the amount that EAP budgets for the Rate Year are determined to exceed the two percent cap.[1784] PULP also recommended a new metric be adopted that would

[1783] Tr. 620.

[1784] Tr. 622.

track the number of new EAP self-certifications and manual enrollments by the Company each month.[1785]

In its rebuttal, Central Hudson opposed PULP's proposal to increase the EAP budget cap stating that it would be more appropriately considered in the context Case 14-M-0565.[1786] It also stated, as relevant here, that it would establish a team in connection with its collections program that would, among other things, establish metrics and targets for EAP and HEAP enrollment.[1787]

In its brief, Staff recommends that the Commission reject PULP's proposal to raise the EAP budget for Central Hudson in these proceedings and recommends the Commission adopt PULP's recommendation for tracking and monitoring self-identification and manual enrollment EAP customers.[1788]

As the Commission indicated in the 2021 EAP Order, its preference is that that any program adjustments for the utilities be considered in the generic proceeding, Case 14-M-0565, rather in the context of individual rate proceedings.[1789] In so doing, the Commission referenced the purposes for establishing a generic low-income proceeding –- standardization of low-income programs, streamlining the regulatory process, and consistency with the Commission's statutory and policy objectives.[1790] PULP's proposal to modify Central Hudson's EAP budget cap is a major program adjustment, we concur with Central Hudson and Staff that it would be best considered in the context

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[1785] Tr. 636.

[1786] Tr. 1917.

[1787] Tr. 3077.

[1788] Staff Initial Brief, p. 267.

[1789] 2021 EAP Order, p. 39.

[1790] Id.

of the generic proceeding, and we recommend the Commission reject PULP's proposal in the context of these rate proceedings.

While we do not oppose PULP's proposal that Central Hudson be directed to track monthly EAP enrollments by whether customers have self-certified or are manually enrolled by the Company, we note that it may result in an inconsistent program requirement among the utilities to require Central Hudson alone to track and file such data on a quarterly basis in these proceedings and in Case 14-M-0565. Therefore, we recommend the Commission direct Central Hudson to track monthly enrollments by enrollment method but do not recommend the Commission establish the filing requirements, which may be better suited for consideration in the generic proceeding.

To the extent the Commission is willing to entertain PULP's proposal in these proceedings instead of in the generic case, we note that inasmuch as the Company has already committed to establishing a team that will be reviewing EAP metrics and targets, establishing such filing requirements would seemingly align with the Company's intentions, would ensure that such data is tracked, appears not to be overly burdensome, and would provide timely information to interested parties to the proceeding.

XVII. REVENUE ALLOCATION AND RATE DESIGN[1791]

A. ECOS Studies

With its rate filing, Central Hudson filed four embedded cost of service (ECOS) studies, historical studies for

[1791] PULP indicates in its brief that it generally supports the positions taken by DPS Staff regarding ECOS Studies, MCOS Studies, Electric Loss Factor, Lost and Unaccounted for Gas, Electric Revenue Allocation and Rate Design, Gas Revenue Allocation and Rate Design, Danskammer Revenues, Battery Storage Rates, and Tariff Modifications.

electric and gas operations based on calendar year 2021 and pro forma studies for electric and gas operations based on the Rate Year,[1792] and used those studies as the basis for its revenue allocation.[1793] As described in the direct testimony of Central Hudson's Cost of Service Panel, the basic purpose of an ECOS study is to determine the earned rate of return (ROR) on rate base by service class in order to evaluate the relationship between current rates being charged to each customer class and the costs incurred to serve customer classes.[1794] The historical cost of service study "uses actual data as recorded on the Company's books for a particular calendar year"[1795] and documents "actual realized rate base, revenues and expenses by rate class that are reconcilable to Central Hudson's AR [Annual Report] to the Commission" and is used to facilitate the unbundling of rates by reference to actual calendar year labor and expenses.[1796] A pro forma cost of service study uses "Rate Year forecasts for

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[1792] Tr. 1592. The Company also prepared a hypothetical study based on 2021 that excluded commodity and surcharge related expenses but did not use it for the purposes of revenue allocation but noted that hypothetical cost of service studies are used in the preparation of pro forma studies to more accurately reflect delivery-only aspects of revenue requirement. Tr. 1613; Exhibit 102 (COSP-3). Pursuant to Commission directives in Case 15-E-0751, Central Hudson also filed an Allocated Cost of Service (ACOS) study for its electric business on a Federal Energy Regulatory Commission account basis and new standby service rates. Exhibits 106 (COSP-7) and 174 (COSP-3R). In its Initial Brief, DPS Staff recommends that Central Hudson be required to submit a compliance filing with updated standby rates that reflect the final determinations of these proceedings. We concur and recommend the Commission direct Central Hudson accordingly.

[1793] Tr. 1613. Exhibits 100 (COSP-1) and 101 (COSP-2).

[1794] Tr. 1596.

[1795] Tr. 1596.

[1796] Tr. 1597.

system loads, revenues, expenses, and rate base to develop an estimated ROR by service class"[1797] and provides "a frame of reference and guidance for the design of cost-based delivery service rates that will produce relative ROR uniformity among the various rate classes and a fair rate of return on the Company's investments."[1798] Central Hudson explains that together, the studies "allow for a comparison of estimated realized to estimated expected rates of return based on the current rate structure adopted in Cases 20-E-0428 and 20-G-0429, the Company's prior rate cases."[1799]

Central Hudson testified that preparation of an ECOS study involves a three-step process of allocating rate base, expenses, and revenue among the service classes by: 1) functionalizing; 2) classifying investments and expenses; and 3) allocating the costs among the service subclasses. The first step, functionalization, involves the analysis and re-grouping of various plant investment and expenses according to the activity or function to which the costs were incurred. Typically, Central Hudson explains, these are production-related, transmission-related, distribution-related, or customer-related.[1800] The second step, classification, involves separating the functionalized costs into amounts related to demand, energy, or the number of customers.[1801] Demand costs vary in proportion to the rate at which customers use electricity or natural gas, energy costs vary in proportion to the total volume

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[1797] Tr. 1596.

[1798] Tr. 1597.

[1799] Tr. 1596.

[1800] Tr. 1598.

[1801] Tr. 1599. Central Hudson also notes that there is a fourth category of costs, which is smaller, that defines costs that can be attributed to a particular service class of customers.

of the electricity or natural gas delivered, and customer costs vary in proportion to the number of customers served.[1802] The third step, allocation, involves distributing the functionalized and classified costs among the service classes on the basis of service class contribution to peak demand, or class contribution to total volume of electricity delivered, or class contribution total number of customers, or by direct assignment to a specific rate class, where appropriate. In performing allocation, Central Hudson considers several types of demand allocators.[1803]

In these proceedings, there is dispute about which ECOS studies should serve the basis for revenue allocation; how certain rate base, expenses, and revenues are functionalized; what level of certain revenues should be imputed; and certain metrics used in developing the ECOS studies.

1. <u>Test Year and Forecasting Assumptions</u>

As described above, Central Hudson proposes to allocate proposed revenue increases among the various service classification using the results of both the historic and pro forma ECOS studies.[1804] DPS Staff testified that it agreed with the methodology employed by Central Hudson to use both historic and pro forma ECOS studies and stated that the results of the Company's ECOS studies are reasonable.[1805]

In its testimony, MI proposed that the electric and gas revenue allocations should be based solely on the results of the pro forma ECOS studies.[1806] MI Witness Pollock testified that there are differences between the historical and pro forma ECOS

[1802] Tr. 1599.

[1803] Tr. 1599-1600.

[1804] Tr. 1832.

[1805] Tr. 4252 and 4280.

[1806] Tr. 4216.

studies, specifically, the historic ECOS includes rate base, revenues, and expenses associated with commodity purchases of electricity and natural gas and surcharges related to the System Benefits Charge that the pro forma ECOS studies do not include.[1807] In addition, he that, because the historical ECOS study reflect rates in effect in 2021, rather than current rates, direct comparisons between the historic and pro forma ECOS studies "may be unduly influenced by the circumstances specific to each test year and the degree to which current delivery rates deviate from costs on a going-forward basis."[1808]

In its rebuttal testimony, Central Hudson apparently maintains it position that both historic and pro forma ECOS studies should be relied upon and updated the four ECOS studies and its ACOS study.[1809] The Company also proposed that revised ECOS studies be filed at a later stage in the proceeding to incorporate updates, corrections, and revisions to revenue requirements.[1810] In its rebuttal testimony, DPS Staff opposed MI's proposal to only use the pro forma ECOS study. According to DPS Staff, using the two studies in concert balance any shortcomings of only using the pro forma study because that study would account for forecasted changes to historic data that may prove inaccurate.[1811]

In its brief, MI reiterates its testimonial position. It alleges that because the inputs and assumption between the historic and pro forma studies are "very different" it would be expected that outputs would differ and that for that reason, the

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[1807] Tr. 4215, 1609-1610.

[1808] Tr. 4216.

[1809] Tr. 1630; Exhibits 172 (COSP-1R)-174 (COSP-3R).

[1810] Tr. 1646.

[1811] Tr. 4280.

comparison between the studies have limited value;[1812] that the comparison itself does not provide a cost-based justification for assigning class responsibility for utility revenue requirements and, if it did, the studies should yield results that are at least directionally aligned for each rate class, which they are not and historically, have not been;[1813] the historic ECOS is not simply "dated" but based on a calendar year ended two years and six months prior to the start of the Rate Year.[1814] MI argues that "neither Central Hudson nor Staff can demonstrate that the risk of inaccurate cost study results stemming from reliance on outdated information is any greater or lesser than the risk of inaccurate study results stemming from reliance on forecasts."[1815] MI also states that it is unaware of any other utility in New York that relies on two disparate ECOS studies for cost allocation purposes and that nothing in the character of Central Hudson suggests it warrants different treatment.[1816]

In its brief, Central Hudson maintains its testimonial position and proposes to submit revised ECOS studies with its Brief on Exceptions to reflect the final recommended revenue requirements and any modifications to the historic or pro forma ECOS studies recommended in this RD along with the resulting

[1812] MI Initial Brief, pp. 63-64.

[1813] MI Initial Brief, p. 64.

[1814] MI Initial Brief, p. 65.

[1815] MI Initial Brief, p. 65.

[1816] MI initial Brief, p. 66. MI does acknowledge in its brief that in several rate proceedings that resulted in settlement, the parties to those cases resolved revenue allocation and rate design issues without agreeing on the ECOS study methodology that should be used. MI Initial Brief, p. 62.

revenue allocation and rate design.[1817] DPS Staff maintains its litigation position.[1818]

In its brief, UIU supports Central Hudson and Staff's recommendation that the Commission rely on both the historical and pro forma ECOS models for allocating electric and gas revenue, rather than only the pro forma ECOS model recommended by MI.[1819] UIU concurs with the reasoning of the Company and Staff that the results of a pro forma ECOS model might create errors affecting revenue allocation due to their reliance on estimated revenue, expenses, and allocation, that are subject to change.[1820] UIU asserts that the historical ECOS study, that includes known costs and allocators, can assist in balancing inaccuracies and "dangers that may arise" in relying solely on a pro forma ECOS model.[1821] It urges the Commission to utilize both models "to better understand the variation of the financial impacts to service classifications and make informed decisions based on the results."[1822] UIU also shares the perspective of Central Hudson that when any changes are made to the functionalization, classification, and/or allocation methodology in one ECOS model, the same methodological changes should be made in the other ECOS model for the purpose of revenue allocation.[1823] UIU states that MI's proposal to make changes only with respect to the Company's pro forma ECOS studies should be rejected because, in its view, in the absence of corresponding changes to the historical ECOS studies, the

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[1817] Central Hudson Initial Brief, p. 281.

[1818] Staff Initial Brief, pp. 269-270.

[1819] UIU Initial Brief, p. 20.

[1820] Tr. 1892-1893, 4280.

[1821] UIU Initial Brief, p. 22.

[1822] UIU Initial Brief, p. 22.

[1823] UIU Initial Brief, pp. 22-23; Tr. 1682.

Commission has insufficient information before it to analyze MI's proposals.[1824]

In its reply brief, MI maintains its position that revenue allocation and rate design "should rely exclusively on the pro forma ECOS study" as it proposed. To address the concern of UIU that the Commission be presented with updates to both historic and pro forma ECOS studies to evaluate MI's proposal, MI contends that, because Central Hudson intends to update its studies, that concern is easily remedied.[1825]

We recommend that the Commission continue to rely upon both the historic and pro forma ECOS studies for the purpose of rate allocation as recommended by Central Hudson, DPS Staff, and UIU. As the record reflects and MI concedes, the Commission has approved Central Hudson's use of the two ECOS studies in prior rate proceedings. And, while MI states that this is rationale is insufficient to continue doing so, we are not persuaded by that there is any defect in Central Hudson's proposed methodology that would warrant disregarding it. We are persuaded that the historic ECOS study, taken alongside the pro forma ECOS study, can act to balance and inform the allocation process.

Central Hudson has indicated it will update its ECOS studies at the time of briefing in conformance with the recommendations we make in this RD. We recommend the Commission consider both the updated historic and pro forma ECOS studies at that time. Further, as noted in a footnote above, we recommend the Commission direct Central Hudson to update its ACOS study in conformance with its order in these proceedings and direct the

[1824] UIU Initial Brief, p. 24.

[1825] MI Reply Brief, pp. 8-9.

Company to submit a compliance filing with updated standby rates.

2. Property Taxes

In its testimony, MI asserts that electric property tax expense should be functionalized using net plant in service instead of being functionalized by land and land rights investments as Central Hudson proposed.[1826] It contends that to do otherwise would assign "a disproportionate amount of taxes to the production and transmission functions and far too little to distribution and other functions."[1827] DPS Staff agreed with MI's proposal in its rebuttal testimony and stated that "property taxes should be functionalized in the same manner for both the Electric and Gas ECOS studies."[1828]

In its rebuttal testimony, Central Hudson's witnesses agreed that "it would be more appropriate to functionalize property taxes on net plant, consistent with gas, as property taxes are assessed both on the land as well as on the structures and/or equipment erected or affixed to the land." It nevertheless declined to make such change in its updated electric ECOS study due to a concern "about the impact the resulting change in methodology could have on the electric ECOS study results and corresponding class rates of return."[1829]

MI argues that Central Hudson professes to prefer cost of service studies conducted based on cost causation principles but would abandon that principle in this instance and rely instead on an outcome-based approach.[1830] It further contends

[1826] Tr. 4205.

[1827] Tr. 4204.

[1828] Tr. 4287-4288.

[1829] Tr. 1635; see also Exhibit 178 (COSP-7R).

[1830] MI Initial Brief, p. 42.

that the Company: failed to specify what impacts may be concerning; mitigates cost-based results of its ECOS studies by limiting allocation of delivery revenue increases to rate classes to no more than 125 percent of system average increase and no less than 75 percent of the system average increase; and, is inappropriately attempting to mitigate potential ECOS study results by changing the methodology used to conduct the studies.[1831]

In its brief, Central Hudson states that it "does not believe it is necessary to reflect this change in these rate proceedings, as the overall electric ECOS studies, and the resulting rate design, is reasonable."[1832] It reckons that maintaining its methodology would support the concept of gradualism because it would mitigate large rate shifts for customers.[1833]

We recommend that the Commission require Central Hudson to update its electric ECOS studies to reflect property taxes functionalized based on net plant in service. There appears to be no real dispute between the parties about the appropriateness of that approach. While Central Hudson is concerned with the results the change would precipitate, we find that, in this instance, the concern does not outweigh the benefit of following cost causation principles and uniformity in treatment of the costs between the electric and gas ECOS studies.

3. Electric System Control/Load Dispatching

Central Hudson proposes to functionalize Federal Energy Regulatory Commission (FERC) Account 556, System Control

[1831] MI Initial Brief, pp. 42-43.

[1832] Central Hudson Initial Brief, p. 281.

[1833] Central Hudson Initial Brief, p. 281.

and Load Dispatching,[1834] and FERC Account 557, Other Expenses,[1835] to apply 30 percent to the Merchant Supply Function and 70 percent to the production function. Production function costs are classified to energy.[1836]

In its testimony, MI Witness Pollock proposed that the expenses associated with FERC Accounts 556 and 557 should be allocated to production labor expense.[1837] He testified that Load Dispatching includes all of Central Hudson's legacy generation and that its gas turbine assets are classified as demand. MI contends that the Company has failed to demonstrate a relationship between Load Dispatching expense and the amount of electricity delivered to customers and contends that most of the expenses involved, 84 percent, relate to labor and do not vary with the amount of electricity delivered. It also argues that Load Dispatching expenses reflect Central Hudson's management of its production, transmission, and distribution assets and is therefore more appropriately allocated in the same manner as corresponding production, transmission, and distribution assets.[1838] Finally, it argues that the National Association of Regulatory Utility Commissioners' Electric Utility Cost Allocation Manual (NARUC Manual) shows that FERC Accounts 556 and 557 should be classified to demand.[1839]

[1834] As explained in MI's testimony, this account includes the cost of labor and expenses incurred in load dispatching activities for system control. Tr. 4200.

[1835] This account is charged with any production expenses including expenses incurred directly in connection with the purchase of electricity that are not specifically provided for in other production expense accounts. Tr. 4200.

[1836] Tr. 4200.

[1837] Tr. 4202.

[1838] Tr. 4201.

[1839] Tr. 4202; Exhibit 439 (JP-4).

Central Hudson opposes MI's proposal. It contends that the accounts are "not entirely attributed to labor" as MI assumes. It asserts that it is more appropriate to consistently functionalize plant assets and corresponding expenses.[1840] The Company concedes that "there could be stronger linkage between the functionalization of production plant and production system control and dispatch expense" and states that, should the Commission decide to direct a change in the allocation of the accounts, it recommends that modification should be made only to the 70 percent functionalization to production based on the classification of production plant, which is classified as 92.5 percent to energy and 7.5 percent to demand.[1841]

Staff opposed MI's proposal to reclassify FERC Accounts 556 and 557 in its testimony. Staff maintains that the Company's approach, to classify the accounts as energy related, is more appropriate. It states that it is true that NARUC Manual states that Accounts 556 and 557 are typically classified as demand related, but that the manual was published in 1992, prior to the creation of the New York Independent System Operator, Inc. (NYISO) and, prior to the utilities' divesture of generation assets in New York. Staff states that Central Hudson owns only gas turbines and hydroelectric units. It contends that the hydroelectric units have little capacity value, with most its benefits energy-related rather than capacity-related.[1842] It further states that soon, Central Hudson's only production will be hydroelectric -- the Company's Coxsackie and South Cairo gas turbines are expected to be out of service pursuant to the

[1840] Tr. 1637.

[1841] Tr. 1638.

[1842] Tr. 4286; Exhibit 360 (SRP-7). DPS Staff states that from 2019-2022, approximately 94 percent of benefits were energy related and "only 6 percent were capacity related."

NYISO's 2023 Load & Capacity Data Report and that, as of the December 13, 2023 NYISO generator status report, the South Cairo gas turbine is slated to retire on March 31, 2024 and Coxsackie gas turbine is scheduled to retire on December 31, 2024.[1843] For these reasons, DPS Staff contends it is not appropriate to classify Accounts 556 and 557 as demand related as MI proposes.

In its briefs, MI contends that its approach should be adopted, or in the alternative, the proposal advanced by Central Hudson in its rebuttal testimony should be adopted. MI maintains that Central Hudson's initial position is inconsistent and deviates from cost causation principles. It argues that load dispatching costs include gas turbines that are classified on demand rather than energy; Central Hudson failed to demonstrate cost-based connection between load dispatching expenses and energy consumption by rate class; and that load dispatching expenses reflect management of the Company's production, transmission, and distribution assets and that such expenses should be consistently treated in all ECOS studies.[1844] MI supports the proposal Central Hudson advanced in its rebuttal testimony remarking that it is comparable to MI's recommendation. MI contends that Staff's position ignores certain data and is internally inconsistent.[1845] It contends that: DPS Staff's exhibit demonstrates a portion of revenues associated with Central Hudson's gas turbines are capacity-related and represents significant revenues; while MI agrees that the gas turbine facilities are slated for retirement, the assets should not be excluded until withdrawn from the market

[1843] Tr. 4287.

[1844] MI Initial Brief, pp. 44-45.

[1845] MI Initial Brief, p. 47.

and retired;[1846] the South Cairo facility will retire halfway through the Rate Year, but its only its costs are reflected in the electric pro forma ECOS studies; and, if Staff's proposal were adopted, it would violate the Matching Principle[1847] by only accounting for the costs, but not benefits of an asset.[1848] MI further argues that Staff's position that the NARUC Manual should be disregarded is inconsistent with positions taken by the Department in other cases and, in any event, should be discounted insomuch as the expenses in question relate to Central Hudson's generation fleet and for the purpose of these accounts, can be considered to be vertically integrated.[1849]

There is no dispute regarding the functionalization, classification, and allocation of the MFC Supply expense and we recommend that it be adopted as proposed by Central Hudson. Regarding the 70 percent functionalization of FERC Accounts 556 and 557 to production, we are persuaded that the ECOS studies should be modified to functionalize that portion of the accounts 92.5 percent to energy and 7.5 percent to demand as recommended by Central Hudson and supported by MI. We are persuaded that this approach more appropriately assigns the costs to their underlying functions and is more consistent with Central Hudson's approach for similar accounts. We find this approach reasonable considering that the breakdown between energy and

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[1846] MI Initial Brief, p. 47.

[1847] As explained in MI's testimony, the Matching Principle means that all ratemaking components should be based on the same set of assumptions to provide a consistent and realistic measure of the utility's revenue requirements, as well as the costs incurred to make serve the utility's various service classes. "As applied to ECOS studies, the Matching Principle means that the same assumptions should be used in determining both the costs and the revenues." Tr. 4206.

[1848] MI Initial Brief, p. 48.

[1849] MI Initial Brief, p. 49.

demand more closely represents the revenues derived from the generation assets, as demonstrated by Staff's exhibit 360.

4. Legacy Generation Fleet

As discussed in the above section, Central Hudson owns gas turbines and hydroelectric generation facilities. Central Hudson explained in its testimony that its Energy Cost Adjustment Mechanism (ECAM) has four components, one of which is the Miscellaneous Charge.[1850] The Miscellaneous Charge component recovers the cost or benefit of non-avoidable, variable energy-related revenues or costs associated with the Company's retained generating facilities and from mandatory Independent Power Producer purchases. Pursuant to the 2021 Rate Plan, the Miscellaneous Charge was modified to include the variance between the actual cost or benefit of non-avoidable variable energy related revenues and costs associated with the Company's generating facilities and a base rate revenue imputation.[1851] Pursuant to this component of the ECAM, a charge or credit is calculated on a monthly basis by dividing the previous month's benefit or cost by estimated deliveries and is applicable to all energy deliveries as a uniform factor and there is a reconciliation on a three-month lag to address actual costs and benefits.[1852] Central Hudson proposes to increase the hydroelectric base rate revenue imputation in its ECAM from $2.1 million to $3.9 million "reflective of a three year average of the actual cost or benefit over calendar years 2020 through 2022."[1853]

[1850] Tr. 1859.

[1851] Tr. 1860.

[1852] Tr. 1860-1861.

[1853] Tr. 1861.

In its testimony, MI raised several concerns with the treatment of generation revenues. It takes issue with the imputation of $3.9 million in the electric pro forma ECOS study contending that those revenues are substantially below the actual market revenues received by the Company for its legacy generation in 2021 and the most recent twelve months. It states the electric historic ECOS study reflects market revenues of $17.4 million and, in the twelve months ended September 30, 2023, the Company received $23.6 million in market revenues.[1854] It is also troubled that the imputed revenues are far less than the revenue requirement associated with Central Hudson's legacy generation, noting they are "nearly five times the legacy generation revenues" and asserts that as a consequence, the electric ECOS study results are distorted because the rates of return, used to determine how delivery rates are spread between customer classes, is unduly influenced by generation costs that are not a delivery service.[1855] MI further contends that, to the extent imputed revenues are included in the electric pro forma ECOS study, it is more appropriate to use Rate Year loss-adjusted energy sales to correspond to the historic ECOS input.[1856] MI argues that all legacy generation costs and imputed revenues should be removed from the electric ECOS studies. In

[1854] Tr. 4207. The record includes conflicting information regarding this issue. Although MI characterizes that the electric ECOS studies include these costs, exhibit 359 (SRP-8) states that revenues related to the Company's electric generation facilities were not included in the Company's historical and pro forma ECOS studies. Exhibit 522 describes that the "estimated annual benefit of $2.1 million imputed in base rates is addressed through the Miscellaneous Charges component of the Energy Cost Adjustment Mechanism, which is applied to all deliveries, on a monthly basis."

[1855] Tr. 4207.

[1856] Tr. 4208.

the alternative, it proposes to "neutralize" the impacts of legacy generation costs on the ECOS study results by imputing market revenues of $18.6 million to the electric pro forma ECOS study instead of the $3.9 million Central Hudson proposes.[1857]

In its rebuttal testimony, Central Hudson stated that, based on the most recent 36-month average ending November 2023, the Company's legacy hydroelectric facility revenues are $4.4 million.[1858] However, Central Hudson proposed to maintain its imputation of $3.9 million asserting that the increase is attributable to higher energy prices and that such elevated pricing is not expected to persist.[1859] Central Hudson also rejected MI's positions. It explains that "the Company has continued to reflect the base rate imputation of assumed hydro benefits in response to the concern [MI Witness Pollock] raised in prior cases."[1860] While MI would exclude all costs and imputed revenues of Central Hudson's generation because it is not a delivery service, the Company maintains that its approach is reasonable because to do so includes the return on and of the plant investment as well as production-related O&M costs that are recovered through delivery rates. Central Hudson states that because the hydroelectric generation facilities are provided rate base treatment, it is reasonable and appropriate to include them in ECOS studies.[1861] Central Hudson also opposes MI's proposal to increase the imputation of revenues to $18.6 million in the electric pro forma ECOS study contending the MI's

[1857] Tr. 4208. Again, Central Hudson did not include the $3.9 million imputation in the electric pro forma ECOS study as indicated in exhibits 359 and 522.

[1858] Tr. 1889.

[1859] Tr. 1890.

[1860] Tr. 1640.

[1861] Tr. 1641.

witness failed to recognize certain aspects of the pro forma ECOS design and made an assumption that certain revenue accounts are reflective of actual market revenues for all of its legacy generation, but that some of the referenced accounts are unrelated to the Company’s hydroelectric facilities.[1862] Central Hudson agreed that the final electric pro forma ECOS study should allocate imputed revenues on Rate Year loss-adjusted energy sales.

In its rebuttal testimony, Staff disagreed with MI’s positions. It stated that Central Hudson is not a pure-delivery business and its rates should be established to allow the Company an opportunity to earn a fair return on its assets.[1863] Staff argues that it is appropriate to reflect anticipated revenues and costs in the pro forma ECOS study, regardless if the levels differ, because the study will serve as a guide to allocating revenue responsibility. It states that, so long as production costs are recovered through base rates, it would skew the allocation results if production costs and revenues were removed from the ECOS studies.[1864] Staff also opposes MI’s imputation of $18.6 million in generation revenues contending that “unsupported and unanticipated market revenues” would distort the study results.[1865] It argues MI’s proposal to allocate imputed revenues to service classes using Rate Year loss-adjusted energy sales is improper because it would allocate revenues entirely based on energy sales even though a portion of revenues are derived from capacity and it alleges that MI’s proposal would decrease costs and increase revenues allocated to

[1862] Tr. 1642-1643.

[1863] Tr. 4281.

[1864] Tr. 4281.

[1865] Tr. 4282.

energy intensive classes, such as those MI represents, increasing the classes' relative rates of return.[1866] Staff states that Central Hudson did not include electric generation revenues in its historical or pro forma ECOS studies, and recommends that the revenues be included in the electric historic ECOS study and that the forecast Rate Year revenues be imputed to rates and included in the electric pro forma ECOS study.[1867] Staff contends that Central Hudson should include the actual 2021 benefits received from its electric generating facilities in its electric historical ECOS study with benefits derived from energy and ancillary services allocated to the service classes using the average hourly delivery service demand at the bus level allocator and capacity benefits allocated using the summer coincident peak demand allocator. For the electric pro forma ECOS study, Staff recommended including an average of the most recent 36 months of revenues received from the electric generation facilities and that those benefits be allocated to the service classes using the same allocator as used to allocate the production revenues included in the historical ECOS study.[1868]

In its brief, MI opposes Central Hudson's methodology for addressing its legacy generation, which legacy generation facilities' revenues are imputed to base rates, and the imputation level for legacy generation revenues. It alleges that the electric pro forma ECOS study does not fully account for the benefits of Central Hudson's generation fleet and, as a result, it distorts the ECOS study results, including the class rates of return.[1869] MI contends that all costs and benefits

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[1866] Tr. 4283.

[1867] Tr. 4283-4284.

[1868] Tr. 4284-4285.

[1869] MI Initial Brief, p. 50.

associated with Central Hudson's generating assets must either be included or excluded from the historic and pro forma electric ECOS studies or the studies will violate the Matching Principle.[1870] MI explains that both the electric historic and pro forma ECOS studies include the costs associated with Central Hudson's gas turbines and hydroelectric units.[1871] However, the revenues associated with the legacy generating units are not treated similarly between the electric historic ECOS study, which includes all market revenues associated with the gas turbines and hydroelectric units, and the electric pro forma ECOS study, which excludes certain revenues that are addressed through its ECAM mechanism. Only Central Hudson's hydroelectric facilities are reflected in the ECAM base rate revenue imputation and remaining revenues excluded from the base rate revenue imputation flow back to customers through the ECAM.[1872] MI contends that, if legacy generation costs and benefits are considered in the ECOS studies, all legacy generation benefits must be considered, not just the hydroelectric facilities as Central Hudson proposes. It acknowledges that the South Cairo gas turbine is scheduled to retire prior to the Rate Year. It asserts that the unit should not be included in rate base if it will not be operational during the Rate Year or be used to provide service or some other benefit to customers. However, if costs associated with the facility are included, then so too, must revenues. With regards to the Coxsackie gas turbine, MI states that the facility is not scheduled to retire until mid-way through the Rate Year and as such, costs and revenues associated with the facility should be included in the pro forma

[1870] MI Initial Brief, p. 50.

[1871] MI Initial Brief, p. 50; Exhibit 521.

[1872] MI Initial Brief, pp. 50-51; Exhibit 534, pp. 3-4.

ECOS study. MI claims that Central Hudson's imputation should "be increased by one-half of the most recent three-year average of market revenues earned by both of the Company's combustion turbines."[1873] In its brief MI now agrees that the base rate imputation of hydroelectric generation revenues should be calculated on the most recent three-year average of date that includes calendar year 2023.[1874] It suggests that, if the gas turbines are included in the ECOS studies, the Company should use a three-year average of actual market revenues, including calendar year 2023, earned by the entire legacy generation fleet as a proxy value for the Rate Year base rate imputation.[1875]

Central Hudson maintains its position in its reply brief, stating that the revenue imputation of hydroelectric revenue benefits should continue as it proposed and that any future benefits from the Company's gas turbines continue to be passed back to all delivery customers through the Miscellaneous component of the ECAM.[1876]

Staff contends in its brief that the costs related to Central Hudson's hydroelectric facilities should be represented in both the electric historic and pro forma ECOS studies and that revenues associated with the hydroelectric facilities should be reflected in both studies -- for the historic ECOS study, based on the level of imputed revenues during the historical period, and for the pro forma ECOS study, based upon the projected level of revenues to be imputed during the Rate Year.[1877] In its reply brief, Staff maintains that the future of

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[1873] MI Initial Brief, pp. 52-53.

[1874] MI Initial Brief, p. 54.

[1875] MI Initial Brief, p. 55.

[1876] Central Hudson Reply Brief, pp. 121-122.

[1877] Staff Initial Brief, p. 273.

Central Hudson's gas turbines are uncertain and that an imputation of the "soon-to-be retired" facilities is inappropriate.[1878] It acknowledges that a revenue imputation of the facilities would slightly decrease the current revenue requirements in these proceedings, but when the facilities are out of service, would require an increase. It further argues that actual turbine-related market revenues after 2021 have not been presented in these proceedings and maintains that any gas turbine-related revenues should be passed back through the Miscellaneous Charge.[1879] Staff states that, to the extent the Commission agrees with MI's proposal to include gas turbine revenues, "the level of these imputed revenues should be 25% of the three-year average, to reflect the scheduled retirements of these facilities according to the NYISO generator status report."[1880]

MI argues in its reply brief that DPS Staff's contention that any actual hydroelectric revenues exceeding those in imputed in the ECOS would be passed back to customers through the Miscellaneous Charge should be rejected as irrelevant. MI states that the dispute is not whether actual revenues will be passed back to customers but rather what information is properly considered in the pro forma ECOS studies. According to MI, "whether or not market revenues earned by the generation fleet are returned through the Miscellaneous Charge thus has no bearing on the amount of benefits that should be reflected in an ECOS study to match the generation fleet costs that give rise to those revenues."[1881]

[1878] Staff Reply Brief, p. 68.

[1879] Id.

[1880] Id.

[1881] MI Reply Brief, p. 13.

Based on the record before us, we are persuaded that, ideally, all costs and benefits associated with the legacy generation facilities should be considered in the electric historic and pro forma ECOS studies because failure to do so may distort the ECOS results and the resulting allocations. However, while we would ideally reflect the legacy gas turbine revenues in the pro forma ECOS study, we do not have sufficient record basis before us to impute an amount.

For the electric historic ECOS study, we recommend that all actual 2021 benefits received from the hydroelectric and gas turbine facilities be included and we adopt DPS Staff's proposal that the benefits derived from energy and ancillary services be allocated to the service classes using the average hourly delivery service demand at the bus level allocator and capacity benefits allocated using the summer coincident peak demand allocator to reflect that a portion of revenues are derived from capacity. For the pro forma ECOS study, we recommend all legacy generation facilities' costs[1882] and certain benefits, as discussed below, be included and we recommend the revenues be allocated to the service classes using the same allocation as used for the revenues included in the historical ECOS study. We are persuaded by Staff that allocating the

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[1882] Based on the record, we are unclear whether the costs related to the legacy gas turbine generation facilities in the pro forma ECOS study reflect the proposed retirements of those facilities, one prior to the commencement of the Rate Year and the other mid-way through the Rate Year. We presume that costs associated with the facilities would change following retirement. MI argues generally that all costs and benefits should be in or out of the pro forma ECOS study but does not specifically dispute the costs associated with these facilities; its argument focuses on associated revenues. In the absence of dispute regarding the costs associated with the South Cairo and Coxsackie facilities, we recommend the costs levels be maintained as forecasted.

revenues in this manner appropriately reflects that revenues are derived from energy and capacity rather solely energy.

We recommend the Commission impute revenues of $4.4 million related to Central Hudson' hydroelectric facilities included in Central Hudson's rebuttal testimony. While Central Hudson recommends $3.9 million to account for projected market price changes, we find that using an average over the three-year accounts for some market fluctuations. To the extent the market does change, and prices fall, those differences will be addressed through the ECAM Miscellaneous Charge.

As indicated above, ideally, we would impute all revenues associated with the legacy generation facilities in the pro forma ECOS study. However, the record reflects that there is uncertainty regarding the revenues associated with the legacy gas turbine generation facilities. The South Cairo gas turbine is due to retire prior to the commencement of the Rate Year and the Coxsackie gas turbine is anticipated to be out of service and retire mid-way through the Rate Year. Consequently, it may be that no revenues will be realized for these facilities during the Rate Year. While Staff recommends excluding any gas turbine revenues in the pro forma ECOS study, in the alternative it suggests that the level of revenues imputed be 25 percent of the three-year average of revenues. MI suggests that the revenues should be increased by one-half of the most recent three-year average of market revenues earned by the Company's two gas turbines.[1883] However, as DPS Staff points out, there record does

[1883] Both Staff's alternative and MI's approach would require using the most recent three-year average of revenues for the gas turbine facilities. Detailed information about recent revenues, other than 2021, is not in the record. Therefore, Central Hudson cannot merely "update" the information. To direct new information to be provided would deny all parties the opportunity to test the information.

not contain information about recent revenues associated with these facilities and we have no record basis to impute revenues. Accordingly, we are persuaded that revenues associated with the gas turbine facilities should be excluded from the pro forma ECOS and realized through the ECAM Miscellaneous Charge and we recommend the Commission adopt the same approach.

While MI argues that if revenues are excluded, so too should costs associated with those facilities be excluded from the pro forma ECOS study. We disagree that the Matching Principle is violated where certain facilities have known costs, but no revenues associated with them. As MI explains in its testimony, all ratemaking components should be based on the same set of assumptions to provide a consistent and <u>realistic</u> measure of the utility's revenue requirements. In the first instance, if no revenues are expected, they are appropriately considered by the study and there is no violation of the Matching Principle. If there are known costs, but significant uncertainty whether any revenues will be realized, as is the case here, we find it reasonable to assume revenues of zero for these facilities and allow for any revenues ultimately realized to be addressed by the ECAM Miscellaneous Charge. To exclude any known costs associated with the facilities would not provide a realistic measure of the utility's revenue requirement and would distort the appropriate allocation of responsibility for such costs.

We recommend that any variance between the actual costs or benefits of non-avoidable variable energy related revenues and costs associated with the Company's generating facilities and the base rate revenue imputation of $4.4 million continue to be flowed through the ECAM Miscellaneous Charge.

5. Gas Peak-Day Sendout

In its testimony, MI identified an error in Central Hudson's gas ECOS studies. The Company had agreed in the context of its last rate case that 73 heating degree days (HDD) is the appropriate metric for measuring Peak-Day Sendout but it erroneously continued to use 70 HDD in these proceedings.[1884]

In its rebuttal testimony, Central Hudson stated that while it updated the peak day degree days to 73 HDD in the historic study, it neglected to do so in the pro forma study. The Company agreed that the proper design criteria of 73 HDD should be reflected in the pro forma study and agreed with the impact on peak day allocators presented by MI.[1885]

There is no dispute between the parties on this issue. We recommend that the Commission direct Central Hudson to update its gas pro forma ECOS study to reflect the 73 HDD design criteria.

6. Net-Operating Loss Carryforward

In its ECOS studies, Central Hudson functionalized deferred income taxes and Net-Operating Loss (NOL) carryforward as Rate Year pre-tax operating income and taxable income.[1886] MI Witness Pollock testified that it is unreasonable to allocate in this manner because these costs are not caused by Rate Year pre-tax operating income and taxable income, that income tax expense is directly proportional to rate base, and consequently, "all non-current deferred income taxes and NOLs should be allocated to service classifications based on previously allocated rate base."[1887]

[1884] Tr. 4211-4212.

[1885] Tr. 1644-1645; Exhibit 450 (JP-7).

[1886] Tr. 4203.

[1887] Tr. 4203.

In its rebuttal testimony, Central Hudson explains that it does not functionalize and allocate all NOL and deferred income taxes in the same manner, but rather it "performs a detailed analysis to functionalize each component of deferred income tax."[1888] The resulting functionalized deferred income taxes are then allocated in the same manner as the underlying function.[1889] Central Hudson explains that NOL carryforwards "reflect the outcome(s) of previous tax calculations that incorporate a diverse set of items and, as a result, the NOL lacks the link to the specific items necessary for more granular function."[1890] Central Hudson contends that MI's proposal to functionalize NOL on rate base rather than pre-tax operating income and taxable income would increase functionalization of deferred income taxes to Distribution Line Transformers, Distribution Services and Meters, and reduce functionalization to all other functions. This it says, would impact the class rates of return, decreasing the return for SCI non-heating, SC2 non-demand and secondary demand, and SC13 substation and transmission and SC9.[1891]

In its rebuttal testimony, Staff opposed MI's proposal. Staff's witnesses state that "income taxes are not proportional to rate base but rather to the return on rate base less interest, that is the pre-tax return on equity."[1892] Staff explains that classes with lower returns impose lower income tax obligations on the Company than classes with higher returns and consequently, it recommends that out of period income taxes not

[1888] Tr. 1633.

[1889] Id.

[1890] Tr. 1633.

[1891] Tr. 1634.

[1892] Tr. 4288.

related to specific rate base should be allocated proportionally to base delivery revenues so that revenue requirement impacts are spread evenly among the classes.[1893]

During the cross-examination of Central Hudson's Cost of Service Panel, the witnesses could not explain the relationship between NOL carryforwards and how the underlying actions that the NOL's relate to would have been functionalized. The witnesses stated that to decide how to functionalize, classify, and allocate expenses in its cost studies, it relied on various factors, including subject matter experts in other areas of the Company.[1894] However, the witnesses stated that in this instance, they continued the prior methodology it employed for these expenses.[1895] Regarding NOL carryforwards, the Company's witnesses stated that they believe the functionalization they used is the most appropriate because there is not "an appropriate level of granularity that can be used to identify another way to functionalize them."[1896]

MI maintains in its brief that its recommendation "aligns most closely with a cost-based approach to the functionalization and allocation of NOL carryforwards because it is rooted in consideration of the items that gave rise to a substantial portion of the unmonetized deductions."[1897] MI argues that: Central Hudson does not address why MI's proposal is inappropriate in functionalizing and allocating based on MI's general understanding of the expenses giving rise to them; the Company's witnesses lacked familiarity with the issue and relied

[1893] Tr. 4288-4289.

[1894] Tr. 1651.

[1895] Tr. 1651-1652.

[1896] Tr. 1654.

[1897] MI Initial Brief, p. 60.

on its prior methodology instead of consulting relevant subject matter experts;[1898] and, the Company's approach appears outcome-oriented insomuch as it attempts to manage impacts where other, more appropriate, methodologies for mitigation exist.[1899] It contends that Staff concedes that there is no causal link between base delivery revenues it recommends as an allocator and NOL carryforwards from a prior period, admitting its proposal is not cost-based.[1900]

In its reply brief, Central Hudson contends that Staff's proposal "essentially recommends allocating the NOLs without taking the initial necessary step of functionalization" and claims the recommendation is "unworkable" and should be rejected.[1901]

Treatment of NOL carryforwards appear to have no standard functionalization treatment as is demonstrated by the varying positions of Central Hudson, MI, and DPS Staff. The parties apparently agree that NOL carryforwards lack a level of granularity to easily functionalize them, and each parties' witness(es) appear to exercise their best judgment about the most appropriate manner to deal with these costs and criticize the others' approach.

We are not persuaded any of the options before us is the "right" way to address the NOL carryforwards. In consideration that these costs are not easily functionalized by their underlying activity or function and the arguments undercutting the functionalization categories that either Central Hudson or MI would assign, we are persuaded that DPS

[1898] MI Initial Brief, p. 59.

[1899] MI Initial Brief, pp. 59-60.

[1900] MI Initial Brief, p. 60.

[1901] Central Hudson Reply Brief, p. 122.

Staff's approach is the most reasonable. While Central Hudson criticizes that Staff essentially is foregoing the functionalization process, Staff basically concedes that point and proposes what we find to be an equitable way to address the costs that would spread them proportionally over all the service classes. We therefore recommend that the Commission allocate costs associated with NOL carryforwards proportionally to base delivery revenues so that revenue requirement impacts are spread evenly among the classes.

B. MCOS Studies

Central Hudson prepared marginal cost of service (MCOS) studies and filed them with its testimony.[1902] It explains that, among other things, MCOS studies are used to revised the Excelsior Jobs Program (EJP) rates pursuant to the Commission's ongoing implementation of the EJP in Case 11-M-0542.[1903] Central Hudson testified that it is participating in the ongoing proceeding in Case 19-E-0283 in which Department staff issued a Whitepaper Regarding Marginal Cost of Service Studies.[1904] It proposes that the results of its MCOS studies be utilized to develop the EJP rates.[1905]

In its testimony, Staff opposed Central Hudson's proposal to modify its current EJP rates and stated that the Company should instead continue to use its system-wide $14.55 per kW year estimate to develop its EJP rates until the Commission acts in Case 19-E-0283 and establishes consistent

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[1902] Tr. 1613; Exhibits 103 (COSP-4) and104 (COSP-5).

[1903] Tr. 1613. See Case 11-M-0542, Excelsior Jobs Program Proceeding, Untitled Order (issued May 18, 2012).

[1904] Tr. 1593. See Case 19-E-0283, Marginal Cost of Service Studies Proceeding, Whitepaper Regarding Marginal Cost of Service Studies (March 27, 2023).

[1905] Tr. 1852.

marginal costs of service methodology to be used for all New York utilities.[1906]

In its rebuttal testimony, Central Hudson disagrees with Staff's position. While it acknowledged Commission action in Case 19-E-0283 could result in revised EJP rates, it continues to advocate for the use of its MCOS studies as the basis of developing EJP rates. It also noted that in Central Hudson's last rate plan, EJP rates were designed using the MCOS studies.[1907]

In its brief, Staff now "deems it reasonable to utilize the Company's proposed rates in the context of a one-year rate case absent any alternative directive from the Commission, since MCOS estimates are used to set the price floor, and the proposed EJP rate increase still represents a discount relative to current rates."[1908] Staff states that, even if the Commission acts in Case 19-E-0283 prior to the start of the Rate Year, Central Hudson's EJP rates should nevertheless remain unchanged until its next rate filing where it should file updated MCOS studies consistent with any methodological changes approved by the Commission in Case 19-E-0283.[1909]

We recommend that the Commission adopt the EJP rates proposed by Central Hudson that utilizes its MCOS studies. As Staff notes, the resulting rates are lower than those it would impose and, to the extent the Commission addresses changes to MCOS studies in the future, those changes can be reflected in the MCOS studies filed in Central Hudson's next rate

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[1906] Tr. 3632-3633, 4275.

[1907] Tr. 1907.

[1908] Staff Initial Brief, p. 288.

[1909] Staff Initial Brief, pp. 288-289.

proceedings. We find this approach reasonable and beneficial to ratepayers.

C. Electric Loss Factor

Central Hudson testified that electric losses "are determined as the difference between the total electricity received into the system and the total metered electricity delivered to customers divided by the total electricity received."[1910] It explains that the electric loss factor is used to determine the factor of adjustment (FOA) that is calculated as one divided by one minus the loss factor percentage. Central Hudson developed its FOA based on the methodology established by the Commission in Cases 09-E-0588,[1911] and continued in subsequent electric rate proceedings.[1912] The FOA is based on the electric loss factor calculated as the most recent 36-month average based on the data available at the time of compliance.[1913] Central Hudson identified the FOA for the 36 month average ending September 2021 as 1.011236 and the 36 months ended May 2023 as 1.0458, for comparative purposes.[1914]

In its brief, Central Hudson "submits that the data for the 36 months ending May 2024 should be adopted" in these proceedings consistent with past Company practice and Commission precedent and notes that there has been no opposition by any party to this recommendation.[1915] In its brief, DPS Staff agrees

[1910] Tr. 1619.

[1911] Case 09-E-0588, Central Hudson – Rates, Order Establishing Rate Plan (issued June 18, 2010).

[1912] Tr. 1620 (referencing Cases 14-E-0318, 17-E-0459, and 20-E-0428).

[1913] Tr. 1620.

[1914] Id.

[1915] Central Hudson Initial Brief, p. 286.

with the Company's proposal to use the most updated data for its calculation of the FOA and urges Commission adoption.

There is no dispute regarding the methodology employed by Central Hudson in establishing the FOA. We find it reasonable and recommend the Commission use the most recent 36 months of data available for establishing the FOA. As we anticipate the Commission will render a decision in July, we recommend the data used be the 36 months ending June 2024.

D. Lost and Unaccounted for Gas

Lost and Unaccounted for gas (LAUF) is the difference between the total gas received into the system and the total metered gas delivered to customers divided by the total gas received.[1916] LAUF is used to determine the FOA that is calculated as one divided by one minus the LAUF percentage.[1917] Central Hudson testified that consistent with Commission orders in its last three gas rate proceedings, it calculates the FOA as a five-year average for the 12 months ending August 31st of each year and updates it annually to be applicable for the period beginning with the first billing batch in November an ending with the final billing batch the following October.[1918] It states that performance against the FOA is determined using a dead band of two standard deviation as established in Case 14-G-0319. Central Hudson proposes no methodological revisions to its FOA in the instant proceedings.[1919]

In its brief, Central Hudson states that its FOA calculation methodology is reasonable, consistent with past Company practice and Commission precedent, is unopposed by any

[1916] Tr. 1621.

[1917] Id.

[1918] Tr. 1621.

[1919] Tr. 1622.

party, and should be adopted.[1920] DPS Staff agrees with continuing the LAUF methodology and calculations in its brief.[1921]

There is no dispute regarding the methodology employed by Central Hudson in establishing the FOA for gas. We find Central Hudson's methodology reasonable and consistent with prior practice and we recommend it be adopted by the Commission.

E. Electric Revenue Allocation

1. Revenue Allocation

Central Hudson proposes to allocate revenue among its electric and gas service classes using the same approach as in its last rate proceedings.[1922] The Company explains that it has "historically sought to bring the rates of return of the various service classifications to within 15 percent of the system average rate of return."[1923] It testified that in these proceedings, to mitigate impacts on customer classes earning less than 85 percent of the system average rate of return, the maximum increase allocated to the service classifications is 1.25 times the overall applicable system increase. The minimum increase allocated to customer classes earning more than 115 percent of the system average rate of return is 0.75 times the overall applicable system increase.[1924]

After describing the revenue requirement used in developing electric rate revisions, Central Hudson testified its procedure for allocating the proposed revenue increases among the various service classification using the results of its historic and pro forma ECOS studies. Central Hudson described

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[1920] Central Hudson Initial Brief, p. 287.

[1921] Staff Initial Brief, p. 275.

[1922] Tr. 1830.

[1923] Id.

[1924] Id.

its three-step revenue allocation methodology: first, to use the results of the ECOS studies to determine what revenue adjustments are necessary for each class utilizing a unitized rate of return; second, to allocate the proposed revenue increase based on total delivery service revenue under certain constraints; third, to determine the resulting adjustments that must be allocated to each.[1925] This process resulted in SC 1, 2, 3, 5, 6, 8, and 13 (Transmission) receiving an allocation of the incremental revenue requirement using the overall system average rate of return. SC 13 (Substation) received the minimum increase of 0.75 times the average overall increase. The increases produced a revenue shortfall, which was then allocated pro rata among the service classes.[1926]

In its testimony, Staff agreed with Central Hudson’s revenue allocation approach and stated that it is consistent with the Company’s past practice.[1927] It prepared an electric revenue allocation using the Company’s ECOS studies’ results and allocation methodology applying DPS Staff’s proposed electric revenue increase.[1928]

As identified in the above sections, MI Witness Pollock testified that only the pro forma ECOS study should act as the basis for revenue allocation for Central Hudson’s electric business and prepared revised electric class revenue allocations that incorporating his recommendations.[1929] Witness Pollock testified that, if the Commission authorizes a lower electric delivery revenue increase, classes currently earning

[1925] Tr. 1833.

[1926] Tr. 1833-1834.

[1927] Tr. 4257.

[1928] Tr. 4258.

[1929] Tr. 4216.

rates of return that are more than 300 basis points above Central Hudson’s proposed 7.09 percent rate of return should receive no increase.[1930] Pursuant to MI’s recommendations, this would result in no increase for SC 6 Residential Time-of-Use, SC 3 Primary, and SC 9 Traffic Lighting customers.[1931]

In its rebuttal testimony, Central Hudson updated its revenue allocation to reflect updates to its ECOS studies and revenue requirements using the same methodology described in its initial testimony.[1932] The Company opposes MI’s proposal to only use the results of the pro forma ECOS study to allocate rates stating that the Company’s methodology is consistent with past practice,[1933] MI’s methodology could introduce error that could have impacts to each service classification,[1934] and that MI’s witness acknowledges that a pro forma study may be unduly influenced by the circumstances specific to each test year and degree to which delivery rates deviate from costs on a going-forward basis.[1935] The Company maintains that historic ECOS studies can be used as a tool to compare reasonableness.[1936] The Company also opposes MI’s proposal to assign no rate increase to classes currently earning a rate of return more than 300 basis points above the Company’s because it “could cause material shifts in the revenue increase of other classes depending on which class is earning above the Company’s rate of return.”[1937] Central Hudson testified that MI failed to assess its proposal

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[1930] Tr. 4217.

[1931] Id.; Exhibit 449 (JP-6), p. 2.

[1932] Tr. 1876-1877; Exhibit 204 (FRP-1R).

[1933] Tr. 1893.

[1934] Tr. 1892.

[1935] Tr. 1892-1893.

[1936] Tr. 1893.

[1937] Tr. 1893.

on other classes.[1938] Utilizing the Company's allocation approach, only one class, the gas SC 11 Transmission class, would fit MI's criteria and, impacts on the class are already mitigated by applying Central Hudson's methodology that would apply only 75 percent of the system average increase to the class.[1939]

In its rebuttal testimony, Staff opposed MI's proposal to use only the pro forma ECOS study in allocating rates.[1940]

In its brief, MI maintains its litigation positions. With regards to assigning no rate increases to classes exceeding the system average return by more than 300 basis points, MI states that it is important to view this recommendation in the context of its recommendation, to use only the pro forma ECOS study for allocation purposes as revised by MI. It says that, pursuant to its recommendations, such proposal is necessary because the SCs 3, 6, and 9, would receive a delivery rate increase despite producing revenues that would well exceed the class cost of service, consequently subsidizing other classes with rates not covering their class cost of service. MI avers that this proposal, resulting in some classes subsidizing others, is highly inequitable, would not result in just and reasonable rates, and should be rejected.[1941] MI also notes that the SCs 3, 6, and 9 account for less than three percent of total electric delivery revenues at present rates and "spreading this small amount of the delivery revenue increase among all other classes would 'have only a minimal impact' on them."[1942]

[1938] Tr. 1893-1894.

[1939] Tr. 1894.

[1940] Tr. 4280.

[1941] MI Initial Brief, p. 67.

[1942] MI Initial Brief, p. 68. See Exhibit 201 (FP-2R), p. 11.

Acknowledging that Central Hudson's pro forma ECOS study yields different results and that only SC 13 Transmission would result in a system average return exceeding the 300 basis point threshold MI proposes,[1943] MI contends that same rationale should apply -- that classes with delivery rates already exceeding their cost of service by significant amounts should be allocated "the smallest delivery revenue increases, relative to the other rate classes."[1944] Nevertheless, MI states that its agreement with Central Hudson's proposals "to allocate system average increases to rate classes earning between 85%-115% of the system average increase, and to limit the minimum and maximum delivery revenue increases to no more or less than 0.75 times and 1.25 times the system average increase, respectively, for those rate classes earning below 85 percent or more than 115 percent of the system average increase" and recommends it be applied using MI's revised pro forma ECOS study.[1945]

Central Hudson maintains its litigation positions in brief and contends that, pursuant to its ECOS study results, only one service class, SC 11 Transmission, would meet MI's criteria of providing returns above 300 basis points above the system average rate of return. It maintains that is methodology "takes steps to mitigate bill impacts to this over-returning class while managing bill impacts on all other service classes by allocating an increase of 0.75 times the overall system average increase."[1946] In its view, MI's proposal, that would "adjust the entire revenue allocation methodology solely for the

[1943] In its brief, MI also contends that "[i]t could be argued that the appropriate threshold should be less than 300 basis points." MI Initial Brief, p. 68.

[1944] MI Initial Brief, pp. 68-69.

[1945] MI Initial Brief, p. 69.

[1946] Central Hudson Initial Brief, p. 289.

benefit of one service class is unreasonable and should be rejected."[1947]

In its brief, Walmart does not oppose Central Hudson's proposed revenue allocation methodology, its proposal to move classes towards cost of service with rate mitigation, or its proposed revenue allocation banding methodology.[1948] UIU likewise states that it does not object to the electric revenue allocation proposals of Central Hudson and Staff because "no customers are unduly harmed" by the proposals and "no customers are receiving more than the system average increase."[1949]

With regards to MI's electric revenue allocation proposal, UIU opposes it for being based solely on the results of MI's recommended electric pro forma study rather than both historical and pro forma ECOS studies, and because MI's proposal "seeks to place a higher cost burden on the majority of low usage customers. i.e., S.C. 1 Non-Heating (residential non-heating) and S.C. 2-ND (small commercial non-demand)."[1950] Staff opposes MI's recommended change to electric revenue allocation that would assign no increase to classes earning ROR that are more than 300 basis points above the system average.[1951] According to Staff, "not allocating any of the proposed revenue requirement to classes earning a rate of return 300 basis points above the system ROR would inequitably distribute the revenue requirement among the other classes."[1952] Staff contends that Central Hudson's proposed methodology, and the constraints it applies, sufficiently move classes with above-average RORs

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[1947] Id.

[1948] Tr. 566; Walmart Initial Brief, p. 8.

[1949] UIU Initial Brief, p. 25.

[1950] UIU Initial Brief, p. 25.

[1951] Staff Initial Brief, p. 276.

[1952] Staff Initial Brief, p. 276.

towards the system average while ensuring that those classes that have been under-earning are allocated a higher portion of the revenue requirement. It argues that assigning no revenues to any class would be inequitable and would inappropriately shift revenue requirement burden to other classes.[1953]

As we addressed above, and therefore did not discuss in detail here, we disagree that rate allocation should only be based on a pro forma ECOS study, and we recommend the Commission adopt Central Hudson's allocation methodology that relies on both the historic and pro forma ECOS studies for the reasons given above. We find that Central Hudson's proposed allocation methodology reasonably addresses the treatment of service classes that either over- or under-earn the system average rate of return by either allocating those classes a maximum increase of 1.25 times the system average rate or return or a minimum increase of 0.75 times the system average. This approach moves the classes towards the cost of service, the methodology is consistent with past practice, and ultimately, is unopposed by all parties.[1954]

We recommend that the Commission reject MI's proposal to assign no rate increase to those rate classes exceeding a system average return exceeding 300 basis points. As described above, Central Hudson already mitigates rate impacts to those classes by allocating amounts lesser than the system average. Contrary to MI's assertion, we believe it would be inequitable allocate no rate increase to any class.

[1953] Id.

[1954] While MI requests adoption of its pro forma ECOS study and no rate increase for classes exceeding a system average return exceeding 300 basis points, in its brief it states its agreement with Central Hudson's proposal for allocation but recommends it be applied using MI's revised pro forma ECOS study. MI Initial Brief, p. 69.

2. Rate Design

In its testimony, Central Hudson proposed: a new Low Power Attachment Program;[1955] changes to minimum and customer charges, volumetric rates, and demand rates for various service classes;[1956] updates for its billing services credit, Energy Efficiency Tracker credit, and low-income discounts.[1957] Issues in dispute are addressed below.

Incorporating our recommendations, detailed below, we find that the electric rate design is reasonable and strikes the right balance between moving towards cost-of-service rates while mitigating bill impact. Accordingly, we recommend the Commission adopt the electric rate design as modified below.

a) Customer Charges: SC 1 Residential Service, SC 6 Residential Time-of-Use Service, SC 2 Non-Demand Metered

In its testimony, Central Hudson proposed a rate design for Residential SC 1 and Residential Time of Use SC 6 that includes increasing customer charge by $2.00, from $19.50 to $21.50 for SC 1 customers, and from $22.50 to $24.50 for SC 6 customers. The remainder of the SC 1 revenue requirement was met by establishing a flat delivery rate of $0.14759 per kWh. For SC 6 customers (12-hour), the on-peak and off-peak delivery rate differential ratio applied was 3:1, resulting in on-peak and off-peak delivery rates of $0.20975 and $0.06992 per kWh, respectively, to produce the remainder of the revenue requirement. For SC 6 (5-hour) customers,[1958] on-peak and off-peak delivery rates of $0.15747 and $0.13617 per kWh, were

[1955] Tr. 1841-1845.

[1956] Tr. 1845-1848.

[1957] Tr. 1852-1853.

[1958] Central Hudson states that SC 6 is revenue neutral to SC 1.

established.[1959] The Company states that customers participating in its EAP will be provided with monthly bill discounts to cap their energy burden at six percent and will work to do so, regardless of the rate design employed.[1960] For SC 2 General Service rate design, the monthly customer charge for non-demand was increased by $2.00 to $32.50 to move closer to the cost of service indication.[1961] A flat delivery rate of $0.11461 per kWh was developed to produce the remainder of the Non-Demand SC 2 class.[1962]

Staff testified that increases to the Residential SC 1 and 6 and SC 2 Non-Demand customer charges should be limited to $0.50 in the Rate Year.[1963] According to Staff, approximately two thirds of SC 1 customers and almost 70 percent of SC 2 Non-Demand customers fall within the usage bracket where the customer charge increase is likely to have a larger impact on customer bills.[1964] In its view, limiting the customer charge to $0.50 would limit bill impacts and continue moving these customers towards the increases indicated in the Company's ECOS studies.[1965] In its testimony, PULP opposed Central Hudson's proposed increase to the monthly customer charge. PULP proposed exploring alternative rate designs that would freeze customer charges and reward conservation and energy efficiency.[1966]

In its rebuttal testimony, Central Hudson opposed the recommendations of Staff and PULP. It stated that Staff's

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[1959] Tr. 1845.

[1960] Tr. 1846.

[1961] Id.

[1962] Id.

[1963] Tr. 4262.

[1964] Id.; Exhibit 341 (SRP-1, DPS-735).

[1965] Tr. 4262; Exhibits 344 (SRP-4) and 345 (SRP-5).

[1966] Tr. 619-620.

proposal fails to make sufficient movement towards customer costs indicated in its ECOS studies. The Company performed an analysis of resulting bill impact of its proposal and Staff's proposal using a customer within the usage bracket of concern to Staff. It contends that, if Staff's proposal were adopted, it would have a comparative minimal bill impact for customers of merely $0.36.[1967] It contends that PULP's proposal likewise fails to make sufficient movement towards customer costs.[1968]

In its brief, Central Hudson maintains its testimonial positions that the recommendations of Staff and PULP fail to make sufficient progress towards cost-based rates.[1969] It argues the minimal savings resulting from Staff's proposal does not justify the lack of progress towards cost-based rates and that the Commission should adopt its proposed customer charge increases to provide "an appropriate balance of following cost causation principles, while mitigating bill impacts on customers."[1970]

Staff argues that its recommended customer charges "move sufficiently towards ECOS customer costs while mitigating bill impacts on low-income and low volume customers."[1971] Staff maintains that its proposal would result in "material positive bill impacts ranging from 0.24%, to 4.42% based on usage."[1972] Staff further argues that the majority of residential SC 1 customers are below the average usage threshold over the majority of the year, and such customers would realize an average of 1.32% lower bills under Staff's recommended customer

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[1967] Tr. 1898.

[1968] Id.

[1969] Central Hudson Initial Brief, p. 290.

[1970] Central Hudson Initial Brief, p. 291.

[1971] Staff Initial Brief, p. 277.

[1972] Id. Internal citations excluded.

charges. It says, "[i]n the aggregate, Staff's recommended customer charge results in lower bills for average users, and substantial benefits to below average users. For its part, CLP takes issue with the inclusion of a $2.00 increase to the SC 1 residential customer charge "and the introduction of a new 'flat delivery fee increase' of $1 for electric customers."[1973]

We recommend that the Commission adopt the $2.00 increase to the customer charge for residential SC 1 and 6 and Non-Demand Metered SC 2 customers. While we acknowledge that the increase will have a bill impact on lower usage customers as Staff points out, we do not find the cost savings associated with Staff's proposal to be sufficiently beneficial to customers to outweigh the benefits of moving to more cost-based rates.

b) Customer Charges for SC 3 Primary and SC 13 Transmission

Central Hudson proposed to increase the customer charges applicable to the SC 3 Primary from $2,400 to $2,600, the SC 13 Substation from $7,500 to $8,500, and the SC 13 Transmission from $12,000 to $13,500.[1974]

MI Witness Pollock testified that the customer charges proposed by Central Hudson "would remain well below the cost-based customer charges in the Company's ECOS study.[1975] It opines that the Company's customer charges would not significantly close the gap between customer charges and the allocated customer-related costs and recommends increasing the SC 3 Primary and SC 13 Substation customer charges by 1.25 the same percentage as the corresponding delivery revenue increases to

[1973] CLP Initial Brief, p. 26; Tr. 1845. CLP is apparently referencing the flat delivery rate used in developing the SC 1 revenue requirement rather than a flat fee.

[1974] Tr. 4218. Exhibit 129 (FRP-13), Schedules E and J.

[1975] Tr. 4219.

these classes and the SC 13 Transmission customer charge to be increased by double the percentage increase in delivery revenues.[1976] It states that, because there are no applicable volumetric base delivery charges associated with these service classes, any remaining revenue shortfall or surplus should be applied to the demand charges.[1977] MI professes that even if the Commission approves lower increases for these service classes, it should nevertheless adopt its customer charges because "they would continue to be below customer-related costs for these classes."[1978]

Central Hudson opposed MI's proposals regarding SC 3 and 13 customer charges. It believes the proposal could negatively impact smaller customers by significantly increasing the customer charge.[1979] The Company contends that the SC 13 Substation and Transmission customer charges would increase by 11 percent and 32 percent respectively above its proposed customer charges and asserts that the Company's approach for a more gradual increase in customer charges is more appropriate and should be adopted.[1980]

Central Hudson maintains its testimonial position. It agrees that MI's proposed increases would move the classes closer to the cost of service, but states that overall bill impacts resulting from the change would severely harm smaller customers in the classes.[1981] Referring to its testimony, it says that a small SC 13 Transmission customer with 925 kW of demand would experience a delivery bill 20 percent higher than what

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[1976] Tr. 4196, 4218.

[1977] Tr. 4220.

[1978] Tr. 4220.

[1979] Tr. 1899.

[1980] Tr. 1900.

[1981] Central Hudson Initial Brief, p. 291.

would be charged under the Company's proposal.[1982] Central Hudson recommends a more gradual movement to cost based rates.

Staff argues MI's proposal would "rapidly alter the proportions between fixed and volumetric charges" for those classes and alleges that such rapid changes "would result in rate instability and saddle low-volume users with the majority of the class revenue requirement."[1983] Staff states that if its revenue requirement were adopted in these proceedings, MI's proposed customer charges for SC 13 Transmission customers would increase by 48 percent, while volumetric rates would increase less than two percent; for SC 3 Primary, the customer charge would increase by 37 percent, while the volumetric rate would increase less than nine percent. According to Staff, changing the proportions between the customer and volumetric charges too quickly may alter customer usage resulting in altered system conditions and costs to serve other customers.[1984] It argues that a more gradual approach is preferable to allow customers "time to understand how such changes impact customer behavior."[1985]

MI maintains in its brief that Central Hudson's proposed increases to the customer charges for these classes are too modest make a significant impact in bringing the customer charge to the cost to serve customers in these classes.[1986] It posits that "neither the current nor the proposed customer charges are remotely close to the customer-related costs indicated by the results of the Company's cost study."[1987] MI maintains that its proposal is most reasonable because the

[1982] Id.; Tr. 1899-1900.

[1983] Staff Initial Brief, p. 277.

[1984] Staff Initial Brief, p. 278.

[1985] Id.

[1986] MI Initial Brief, p. 70.

[1987] MI Initial Brief, p. 71.

customer charges would move more substantially to cost-based rates, but still only partway. It contends that Central Hudson failed to evaluate or consider how its proposal will impact larger customers within the SC 3 and 13 rate classes.[1988] In its reply brief, MI alleges that Staff fails to show any concern for this impact.[1989]

While we agree with MI that moving to a rate design closer to the cost-of-service is appropriate, in this instance the increases it proposes are significantly higher than either existing customer charges or those proposed by Central Hudson. We are persuaded by Central Hudson and Staff that MI's proposal would be too significant a change to the existing balance between the customer charge and demand charge and that a more gradual movement to cost-of-service rates in this instance is warranted to mitigate the fixed rate component of rates to customers in these classes. We therefore recommend the Commission establish the customer charges proposed by Central Hudson.

c) SC 2 Demand Metered - Secondary and Primary Service Rates

Walmart testified that it takes electric delivery service primarily on Central Hudson's Secondary Demand rate with some facilities served on the Primary Demand rate.[1990] It contends that delivery service costs are typically classified as demand-related because such costs do not vary with the amount of electricity provided.[1991] Walmart recommends modifying the rate design for Secondary Demand and Primary Demand rates such that delivery service charges are recovered through the demand charge

[1988] MI Initial Brief, p. 73.

[1989] MI Reply Brief, p. 14.

[1990] Tr. 566.

[1991] Tr. 570.

rather than through the energy charge as proposed by Central Hudson.[1992] It contends that collecting demand-related costs through a kWh energy charge shifts demand costs from lower load factor customers to higher load factor customers and proposes "the Commission approve the Company's proposed customer charges and assign the remaining increase only to the demand charge, such that the delivery energy charges for each schedule remain at current levels."[1993]

In its rebuttal testimony, Central Hudson "agrees that full alignment between costs and rates is ideal" but that other factors must be considered in rate design, including the impact of doing so on customers with different load factors.[1994] Central Hudson states that energy delivery charges are a relatively small portion of the total delivery revenue requirement for these classes, Walmart's proposal would result in higher bill impacts to customers with lower load factors, and its proposed rate design is more "mindful of customer bill impacts for customers of all load factors."[1995]

In its brief, Walmart claims that the Company's proposal results in a shift in demand cost responsibility from lower load factor customers to higher load factor customers that would create "a misallocation of cost responsibility that negatively impacts higher load factor customers while violating principles of cost causation."[1996] Walmart remarks that Central

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[1992] Tr. 570.

[1993] Tr. 572. Walmart also states that, if the Commission approves a revenue decrease for these rates, the decrease should be applied only to the delivery energy charges for each rate. Id.

[1994] Tr. 1901.

[1995] Id.

[1996] Walmart Initial Brief, p. 10; Tr. 571.

Hudson concedes that full alignment between costs and rates is "ideal," but is concerned about the impacts of Walmart's proposal on lower load factor customers.[1997] Walmart contends that this concern should be disregarded because the delivery charges are only a small portion of the total delivery revenue requirement for Secondary Demand and Primary Demand at 8.5 percent and 4.7 percent, respectively,[1998] and "it is likely that Walmart's proposed shift would not cause a substantial impact on lower load factor customers." It also alleges that Central Hudson has not provided evidence in the record to support its concern.[1999]

While we recognize and share Central Hudson's concern that rate design should balance impacts to customers with different load factors and we recognize that moving more costs to the demand charge may impact some customers, the Company has failed to demonstrate that such imbalance would result from Walmart's proposal. Instead, the Company stated that the energy delivery charges comprise a relatively small portion of the total delivery requirement. In consideration of the relatively small portion of revenues collected through the energy charge, and in the absence of a demonstration of disproportional effects on members of the classes, we are persuaded that Walmart's approach, that has a stronger incorporation of cost causation principles, should be adopted in this case and we recommend that the Commission adopt Walmart's position and approve the Company's proposed customer charges and assign the remaining increase only to the demand charge, such that the delivery energy charges for each schedule remain at current levels.

[1997] Tr. 1901.

[1998] Tr. 1901.

[1999] Walmart Initial Brief, p. 11.

d) Low Power Attachment Program

In its testimony, Central Hudson proposed a new Low Power Attachment Program to be available under SC 2 to provide unmetered service to eligible customers.[2000] The Company proposed to make this service available to "municipalities attaching a low power consumption device to Central Hudson distribution pole utilized for service for which the municipality is the customer of record or to municipal or governmental agencies with the written consent of the municipality" and to customers attaching a low power consumption device on a Central Hudson owned pole on private property.[2001] Low power consumption devices applicable to this offering are devices less than or equal to a power consumption of 300 watts draw per the manufacturer's specification and could include devices such as security cameras, smart cities devices, and decorative holiday lighting but would exclude telecom service equipment.[2002] In proposing this service, the Company stated that it would provide a "more customer-friendly option" and meet "increasing customer requests to attach small powered devices to existing poles but who find the cost of metering and new service installation required under the Company's current tariff to be difficult and cost prohibitive."[2003] Central Hudson described in its testimony the application process for the program, the rate structure, how rates were developed, and provided an illustrative example of costs pursuant to this proposed service offering as opposed to SC 2 non-demand.[2004] In recommending this classification, Central

[2000] Tr. 1841.

[2001] Tr. 1841.

[2002] Id.

[2003] Tr. 1841-1842.

[2004] Tr. 1843.

Hudson did not include any revenues associated with it in the Rate Year due to uncertainty about participation and usage levels.[2005]

In its brief, Staff states that it "believes the new rate structure was designed appropriately for this new offering, and should be implemented in the Rate Year."[2006] In its reply brief, Central Hudson states that implementation of this program would require programming changes in its billing system "which would need to be prioritized with other Company-initiated and Commission-mandated billing changes."[2007] It now contends that the new rate offering "would be better addressed in a multi-year rate proceeding that would allow for sufficient lead time for the required programming and testing prior to offering the new rate."[2008]

In light of Central Hudson's request to defer consideration of this program to a future rate proceeding, we recommend that the Commission not establish the new Low Power Attachment Program service class at this time. As noted by Central Hudson, implementation may require changes to the billing system, and we persuaded that Central Hudson should be afforded sufficient time to make any required changes and test them thoroughly before implementing them.

F. Gas Revenue Allocation and Rate Design

1. Revenue Allocation

As described in the electric revenue allocation section, above, Central Hudson uses the same general methodology to allocate revenue for its gas service classes as it does for

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[2005] Tr. 1843-1844.

[2006] Staff Initial Brief, p. 278.

[2007] Central Hudson Reply Brief, p. 123.

[2008] Id.

its electric.[2009] Central Hudson assigned a system average increase to SC 1, 2, 6, 11, 12, 13, and Distribution Large Mains because that the rates of return in the ECOS studies produced differing results. For SC 11 Distribution, Central Hudson applied the maximum increase of 1.25 times the average overall increase because the unitized rate of return fell below the lower tolerance level and for SC 11 Transmission, the unitized rate of return was above the tolerance level and therefore Central Hudson applied 0.75 times the average overall increase.[2010] The increases resulted in a revenue surplus that was allocated among the service classes pro rata.[2011] Central Hudson also testified that, pursuant to the 2021 Rate Plan, current base delivery rates include a profit imputation of $3.2 million estimated to be received from interruptible sales and explained that it is authorized to surcharge or credit firm customers for 90 percent of any shortfall or excess revenue through the Gas Cost Adjustment factor.[2012] Central Hudson proposes to maintain the $3.2 million imputation based on the most recent two-year average ending March 2023.[2013] The imputation is offset in the rate design process.[2014] Central Hudson updated its revenue allocation in its rebuttal testimony to reflect updates to its ECOS studies and revenue requirements

[2009] Tr. 1830.

[2010] Tr. 1834.

[2011] Tr. 1834.

[2012] Tr. 1826.

[2013] Tr. 1827.

[2014] Tr. 1831-1832.

using the same methodology described in its initial testimony and adopted proposed modifications advanced by Staff.[2015]

As with the electric allocation, Staff testified that it agrees with Central Hudson's revenue allocation approach and stated that it is consistent with the Company's past practice.[2016] Staff made various recommended adjustments to the gas allocation that were reflected in Central Hudson's rebuttal position.

As described earlier, MI testified that only the gas pro forma ECOS study, modified as it recommends, should act as the basis for revenue allocation and made several recommendations that were previously addressed herein.[2017] In its brief, MI states that the gas pro forma ECOS study, revised as it proposes, should be used together with the historic ECOS study for revenue allocation and rate design purposes.[2018]

Like its position with regards to electric revenue allocation, UIU does not object to the revenue allocation proposals advanced by the Company and Staff because no customers are receiving more than the system average increase.[2019] It objects to MI's recommendation to solely on the pro forma gas ECOS study to allocate revenue among service classes, rather than also utilizing a historic ECOS study making the same corresponding changes.[2020]

As we addressed above, and therefore did not discuss in detail here, we disagree that rate allocation should only be

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[2015] Tr. 1877-1878; Exhibit 205 (FRP-2R). These adjustments addressed modifications raised by Staff in its initial testimony. Tr. 4254-4255.

[2016] Tr. 4257.

[2017] Tr. 4211-4216.

[2018] MI Initial Brief, pp. 73-74.

[2019] UIU Initial Brief, p. 26.

[2020] UIU Initial Brief, p. 26.

based on a pro forma ECOS study, and we recommend the Commission adopt Central Hudson's allocation methodology that relies on both the historic and pro forma ECOS studies for the reasons given above.

2. Rate Design

In its testimony, Central Hudson proposed: structural changes to its gas rate design, including the continued phase-out of declining block rates and the elimination of the high-volume discount for SC 6 customers;[2021] changes to minimum and customer charges, volumetric rates, and demand rates for various service classes;[2022] updates for its billing services credit, Energy Efficiency Tracker credit, and low-income discounts.[2023] Central Hudson maintains that its rate design is reasonable, advances CLCPA and state policy goals[2024] by reducing volume discounts to customers and providing better price signaling, and should be adopted.[2025] Several parties, including Staff, PULP, and UIU recommend changes to the rate design. We address issues in dispute below.

Incorporating our recommendations, detailed below, we find that the gas rate design is reasonable and strikes an appropriate balance between moving towards cost-of-service rates while mitigating bill impact. Consequently, we recommend the Commission adopt the gas rate design as modified below.

a) Phase-Out of Declining Block Rates

Pursuant to the 2021 Rate Plan, Central Hudson is currently in year three of a five-year transition to eliminate

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[2021] Tr. 1836.

[2022] Tr. 1850-1851.

[2023] Tr. 1852-1853.

[2024] See Case 20-G-0130, Proceeding on Motion of the Commission in Regard to Gas Planning Procedures.

[2025] See Tr. 1838-1839.

declining block rates for SC 1, 2, 6, 12, and 13. It proposes that the Rate Year be year four of the transition.[2026] In so doing, Central Hudson stated that the elimination of declining block rates will result in some customers experiencing decreases while others experience increases in typical bills.[2027]

Staff testified that it agrees with Central Hudson to continue the five-year block rate flattening plan for non-high-volume customers.[2028]

In its testimony, UIU stated that it understood the need to consider the phase out of declining gas block rates in the context of these proceedings. It contends that the degree of decline should be influenced by the revenue requirement, bill impacts, and other considerations and, as a general principle, "the magnitude of any increase to the minimum charge and/or adjustments to the volumetric rate structure should not be determined until the Commission selects the final revenue requirement and revenue allocation process."[2029] UIU states that in consideration of the Company's high gas revenue requirement, it recommends slower movement towards flat rates to avoid rate shock, particularly to high usage residential customers.[2030] For SC1 (residential heating) and 12 (residential non-heating) customers, UIU Witness Panko witness recommends assigning a 0.715 slope ratio (Block3/Block 2) in the Rate Year, rather than the 0.82 slope proposed by the Company.[2031] UIU also recommended

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[2026] Tr. 1836.

[2027] Tr. 1839-1840.

[2028] Tr. 4268.

[2029] Tr. 523; UIU Initial Brief, p. 27.

[2030] Tr. 523-524; UIU Initial Brief, p. 27.

[2031] Tr. 524.

slower movement towards flat rates for SC 2, 6, and 13 (commercial and industrial heating and non-heating) customers.[2032]

In its rebuttal testimony, Central Hudson contends that that there is no basis to slow down the pace of the block rate phase-out based on impacts to large users as proposed by UIU.[2033] Central Hudson's Forecasting and Rates Panel state that a residential customer who uses 200 Ccf per month, approximately three times the average customer who uses 780 Ccfs per year, would only receive monthly delivery increase of approximately 2.4 percent higher using its proposed phase-out compared to UIU's proposal.[2034] They contend that the modest delivery rate savings produced by UIU's proposal does not outweigh the interest in phasing-out the declining block rates.[2035]

In its brief, UIU maintains that, even though Central Hudson states that average residential customers would experience slight savings under its proposal as compared to UIU's for SC 1 and 12 users, "UIU continues to find merit in considering the bill impacts for the range of customers in SC1 & 12."[2036]

Central Hudson maintains its testimonial position that eliminating volume and end-use-specific discounts like declining block rates, the SC high-volume discount, and gas air conditioning discount further the goals of the CLCPA and New York State energy policy. It states that the Commission, in approving the 2021 Rate Plan, "found that the five-year phase-out of declining block rates supported energy efficiency and

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[2032] Tr. 525; Exhibit 463 (DP-2).

[2033] Tr. 1903.

[2034] Id.

[2035] Id.

[2036] UIU Initial Brief, p. 28.

eliminates the inconsistency between the Company's rate structure and its energy efficiency efforts."[2037] According to Central Hudson, UIU's concern about "low bill impacts on a small number of high-use customers do not justify deviating from the phase-out of declining block rates established in the 2021 Rate Plan and the accompanying incentives for energy efficiency gains."[2038]

Staff likewise argues that UIU's proposed rate design proposals should be rejected. It contends the flattening period recommended by UIU would result in higher bill impacts to low volume customers and it opines the result would be a less equitable distribution of revenue requirement.[2039] It further states that "extending the block rate flattening period unnecessarily slows progress toward state policy goals. The longer the declining block rates remain effective, the longer the rates will be promoting higher gas usage by offering a lower volumetric tail block rate."[2040]

Dutchess opposes the elimination of declining block rates as well as the high-volume usage discount in the S.C. No. 6 gas tariff, discussed further below, to address climate change. It contends that commercial customers must compete both locally and internationally and the rate design changes "are hard to support from a customer perspective weighed against a benefit that only accrues on a worldwide basis."[2041]

We recommend that the Commission continue the five-year phase out plan that was commenced in the previous rate plan

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[2037] Central Hudson Initial Brief, p. 295 (citing 2021 Rate Order, pp. 31, 41).

[2038] Central Hudson Initial Brief, p. 295.

[2039] Staff Initial Brief, p. 284.

[2040] Id.

[2041] Dutchess County Initial Brief, p. 13.

as proposed by Central Hudson. We find it appropriate to continue the trajectory set in the 2021 Rate Proceeding for the reasons elucidated by the Commission in approving that plan. In our view, the benefits associated with phasing out the declining block rate structure in support of both CLCPA and state policy goals far outweigh any bill impact benefits associated with UIU's proposal.

b) Elimination of SC 6 High-Volume Discount Rate

Pursuant to its existing rate plan, customers taking service under SC 6 with annual consumption of 50,000 Ccf or greater are eligible for a discounted rate. The discounted rate is currently equivalent to an approximate 23 percent discount from the average block rates.[2042] Together with its move to eliminate declining block rates, Central Hudson proposes to eliminate the SC 6 high-volume rate option for large non-residential retail customers contending that the rate "is not aligned with the goals of the CLCPA and there is no cost basis for providing such a differential to high-volume retail customers."[2043] The Company proposes to phase this change out over a two-year period to "be mindful of bill impacts."[2044] During the Rate Year, Central Hudson proposes to eliminate approximately one half of the discount.[2045] After the phase out, these customers would be billed at the same unit rate, regardless of usage. In its testimony, Central Hudson stated that, pursuant to its proposal to phase out the discount over two years, SC 6 high-volume customers would realize a total bill

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[2042] Tr. 1837.

[2043] Tr. 1836.

[2044] Id.

[2045] Tr. 1837.

increase of 12 percent prior to any rate change.[2046] It also notes that conforming changes to the definition of Pure Base Revenue used in the Weather Normalization Adjustment would be necessary to refer to the volumetric delivery charge rather than the tail block delivery charge.[2047]

Staff testified that it recommends "a more gradual phase out of the high-volume discount rate over a longer time frame." Instead of aligning the phase out to coincide with the ending of the Company's five-year block rate flattening plan, Staff recommends the SC 6 high-volume discount rate should be spread over its own five-year period, staring in the Rate Year, to mitigate billing impacts to high-volume customers.[2048]

Central Hudson asserted in it testimony that Staff's proposal should be rejected.[2049] In its view, the bill impacts resulting from Staff's proposal do not justify prolonging the provision of the discount by an additional three years.[2050] It states that, as demonstrated in Exhibit 211 (DPS-269, Attachment 1 and DPS-736, Attachment 2), SC 6 high-volume customers would see a Rate Year total bill impact of 18.9 percent under its two-year phase out plan compared to a Rate Year total bill impact of 14.4 percent pursuant to Staff's 5-year phase-out plan.[2051]

In its brief, Central Hudson reiterates its testimonial position that the modest savings associated with Staff's proposal do not justify prolonging the discount for

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[2046] Tr. 1840.

[2047] Id.

[2048] Tr. 4267-4268.

[2049] Tr. 1905.

[2050] Tr. 1905.

[2051] Tr. 1905.

high-volume customers that is subsidized by other customers and contrary to CLCPA goals.[2052]

Staff argues that its approach is superior, opining that Central Hudson’s phase out could produce rate shock and rate instability; result in a rapid and inequitable increase in rates; result in decreased usage by affected customers; result in these customers switching from firm to interruptible service, which it contends could negatively impact all other commercial customers in SC 2, 6, and 13 because the usage and revenues associated with the SC 6 high-volume customers are forecasted in the Rate Year and class RDM.[2053]

We support Central Hudson’s proposal to phase out the SC 6 high-volume discount program. As it indicated in its testimony and brief, this is only one component of several in its gas rate design that advance CLCPA and New York State policy goals. We concur that other customer classes should not subsidize discounts for high-volume users. While we are sensitive to the concerns raised by Staff in its brief that the Central Hudson’s proposed transition away from this discount rate may have consequences, we do not believe they outweigh the benefits of moving those high-volume customers to rate more representative of actual costs. We note that the customers will continue to receive a discount over the rates they would otherwise be charged, and for that reason do not share Staff’s concern that these customers may abandon the service class. For these reasons, we recommend that the Commission adopt Central Hudson’s proposal to phase out the SC 6 high-volume discount rate over a two-year period commencing in the Rate Year. We

[2052] Central Hudson Initial Brief, pp. 296-297.

[2053] Staff Initial Brief, p. 284.

further recommend that conforming changes be reflected in the Company's tariff as indicated in Central Hudson's testimony.

c) Customer Charges

Under the 2021 Rate Plan, customers served under SC 1, 2, 6, 12, and 13 are subject to declining block gas base delivery rates. For SC 1 and 12, separate declining rates are applied to monthly Ccf usage based on three usage blocks. For SC 2, 6, 12 and 13, separate declining rates are applied to monthly Ccf usage based on four usage blocks.[2054] Central Hudson proposes implementing the fourth year of its phase out of declining block rates in the Rate Year. To effectuate its plan, the Company would reflect a minimum charge and a single flat volumetric rate with the rate structure for SCs 1, 2, 6, 12, and 13 to include the first two Ccf in the minimum, also referred to as the customer charge, and remaining Ccf would be billed at the class specific rates.[2055]

For SCs 2, 6, and 13, the customer charges were increased by $2.00 to $41.00 with the remaining increase allocated to the volumetric delivery charges while compressing blocks 2 through 4 to reflect 80 percent movement to flat rates.[2056] The parties have not opposed or disputed the propriety of the service charges related to SCs 2, 6, and 13 and we recommend they be adopted by the Commission.

d) Residential Customer Charge

For residential gas SCs 1 and 12, Central Hudson proposed to increase the minimum charge for the first 200 cubic feet or less, by $2.00 to $26.25 per month to move closer to the ECOS study indication. "The remaining increase was then

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2054 Tr. 1836-1837.

2055 Tr. 1837.

2056 Id.

allocated to volumetric delivery charges while compressing blocks 2 and 3 to reflect 80% movement to flat rates."[2057]

PULP and Staff both oppose Central Hudson's proposal to increase the SC 1 and 12 residential customer charges by $2.00. Like for electric, PULP recommends freezing customer charges.[2058] For its part, Staff testified that the minimum charge should be limited to $1.00.[2059] Staff argues that the majority of customers in SC 1 fall within the usage lowest usage bracket and avers that limiting the customer charge to $1.00 "would limit the bill impact for these customers while still moving towards the customer cost indicated in the Company's ECOS studies.[2060]

Central Hudson testified that the more appropriate way to consider the increases to minimum charges for these classes is to look at the resulting impacts to an average annual customer. It says that when considering a gas customer with an annual usage of 780 Ccf, the difference between its proposal and Staff's proposal would yield only a modest percentage delivery rate increase of 0.06 percent, with Staff's proposal resulting in the higher bill.[2061]

Staff contends in its brief that Central Hudson's criticism of Staff's utilization of customer usage distribution when examining bill impacts for SC 1 and 12 customers should be disregarded because the Company also avails itself of the methodology in supporting its proposals.[2062] It maintains its approach should be adopted because it would reduce bill impacts

[2057] Tr. 1850.

[2058] Tr. 619-620.

[2059] Tr. 4266-4267.

[2060] Tr. 4266-4267.

[2061] Tr. 1899.

[2062] Staff Initial Brief, p. 282.

on customers in the lowest usage bands that would reduce the impacts on low use and low-income customers.[2063] UIU states that it "is not opposed to Staff's proposal to lower customer charges in the event a lower gas revenue requirement is adopted in these cases."[2064]

In its brief, Central Hudson contends that the positions of PULP and Staff should be rejected for the same reasons it advanced regarding electric rate design.[2065] It states that the proposals "fail to make as much meaningful progress as the Company's proposal toward the cost of service for residential customers."[2066] It also argues that Staff's proposed customer charge increase fails to yield savings for most residential customers.[2067]

We recommend that the Commission establish minimum charges for SC 1 and 12 residential customers at $2.00. Like with the electric customer charge, we find that the relatively modest cost savings that may result from Staff's proposal does not outweigh the benefit of moving customers towards more cost-based rates.

e) SC 11 Transmission Customer Charges

For SC 11 Transmission, Distribution and DLM, Central Hudson used a Maximum Daily Quantity (MDQ) based rate design and, based on the results of its ECOS studies: decreased the monthly customer charge for SC 11 (Transmission) from $4,800 to $3,100; decreased the monthly customer charge for SC 11 (DLM)

[2063] Staff Initial Brief, p. 283 (referencing Exhibits 341 (SRP-1) (DPS-269), 345 (SRP-5) Schedule B, and 119 (FRP-3) Schedule F).

[2064] UIU Initial Brief, p. 28.

[2065] Central Hudson Initial Brief, pp. 293-294.

[2066] Central Hudson Initial Brief, p. 294.

[2067] Id.

from $7,600 to $6,600; increased SC 11 (Distribution) from $2,100 to $2,400; and increased SC 11 (EG) from $2,000 to $3,000.[2068] Central Hudson testified that only a limited number of customers take service under SC 11 and the proposed increases and decreases do not generate significant revenues. The remaining increases for SC 11 were allocated by subclass to the volumetric and MDQ charges in a manner to maintain the same relative proportion of revenue collected through each component as is currently recovered in rates.[2069]

For SC 11 customers, Staff testified that a more gradual decrease be applied to SC transmission and large distribution mains customer charges.[2070] Staff states that the Company's recommendation would move the customer charges for these classes to those reflected in the ECOS studies. In Staff's opinion, a more moderated approach is preferable to gradually move to the ECOS study cost of service. It recommends moving halfway to the Company's proposed changes -- establishing a customer charge of $4,000 for SC 11 Transmission customers and $7,100 for SC 11 large distribution mains.[2071]

Central Hudson opposes Staff's lower customer charges for these classes in its rebuttal testimony stating that the "customer charge should follow the ECOS customer cost indication which follows the cost causation principles in setting the price at the appropriate level."[2072] In its view, the bill impacts should be reviewed with an annual average customer in mind.

[2068] Tr. 1851.

[2069] Tr. 1851.

[2070] Tr. 4267.

[2071] Id.

[2072] Tr. 1900; Central Hudson Initial Brief, p. 294.

Staff opines that Central Hudson's approach to move some customer charges toward the ECOS costs but others directly to the ECOS costs "would inappropriately and inequitably apply different treatment to certain service classes."[2073] It opines that if Central Hudson's proposed customer charges were adopted, it would "maximize the probability and severity of rate instability, as future ECOS studies may indicate moving in the opposite direction." It maintains its approach is superior because it would reduce "the likelihood and magnitude of rate instability" and would "allow customers the opportunity to gauge the impact that such changes have on their own bills and behavior."[2074]

We are persuaded by Staff that a more incremental approach is warranted to bringing the SC 11 customers towards the costs to serve provided in the Company's ECOS studies while moderating rate impacts. We find this appropriate in this instance because we are persuaded by Staff that future ECOS studies may move rates in the opposite direction and an incremental approach will somewhat mitigate that risk. We find Staff's approach strikes a balance between mitigating rate impacts while moving significantly towards cost-based rates, like the other classes. Therefore, we recommend the Commission adopt Staff's proposed customer charges for the SC 11 subclasses.

f) Gas Air Conditioning Discount

In its testimony Central Hudson proposes to eliminate the SC 2 and 13 Special Provisions applicable to gas air conditioning customers. It states that, as of June 30, 2023, it

[2073] Staff Initial Brief, p. 281.

[2074] Staff Initial Brief, p. 282.

did not serve any customers under this provision.[2075] The Company states that its approach is reasonable given the lack of participation in the program and that it will result in improving the price signal of delivery rate design.[2076]

UIU does not object to the Company's proposal to eliminate the gas air conditioning Special Provision in consideration that there are no existing customers under this rate as of June 30, 2023. However, UIU recommends that the Commission order Central Hudson to amend its tariff language to explain that the Special Provision will be unavailable after the commencement of the Rate Year.[2077]

We find that Central Hudson's recommendation is reasonable recognizing that the Company has no customers it serves under these classes. The recommendation to end this end-use-specific discount is consistent with CLCPA and New York State policy goals. We recommend that the Commission approve Central Hudson's proposal to eliminate the SC 2 and 13 Special Provisions applicable to gas air conditioning customers. We further find that UIU's recommendation to modify the tariff language provides transparency to potential customers and we recommend the Commission direct Central Hudson to amend its tariff to reflect that the Special Provision is unavailable commencing in the Rate Year.

g) Declining Block Rates - Customer Information and Notification

Pursuant to the 2021 Rate Plan, the Company established a page on its website explaining the gas rate structure and estimated annual impacts. In its testimony,

[2075] Tr. 1838.

[2076] Tr. 1838.

[2077] Tr. 525; UIU Initial Brief, pp. 28-29.

Central Hudson proposes to update the webpage to reflect bill impacts associated with the Rate Year.[2078]

UIU supports Central Hudson's proposal to maintain and update the webpage to reflect the bill impacts of the phase out of block rates in the Rate Year.[2079] UIU Witness Panko testified that to ensure public awareness on the bill impacts that gas customers may experience, the website should contain: a history of the Company's rate design approach in the 2021 Rate Plan; the rate design and bill impacts adopted in this proceeding; typical customer bill impacts with a range of bill impacts based on CCF usage with the number of customers in each billing usage range;[2080] future rate design goals; and energy efficiency tips.[2081] Witness Panko further testified that the Commission should order Central Hudson to mail a letter to Energy Affordability gas customers "who will experience delivery bill percent changes that are higher than average customers as a result of changes in the tail block structure."[2082]

In its rebuttal testimony, Central Hudson opposed UIU's proposal to continue mailing letters to EAP customers who will experience delivery bill changes because of changes in the tail block structure.[2083] Central Hudson contends that no separate notification should be provided to customers outside of the existing gas rate design webpage because: no customer met the criteria to be sent a letter during the existing 2021 Rate

2078 Tr. 1840.

2079 UIU Initial Brief, p. 29 (citing to Central Hudson's proposal Tr. 1840); Tr. 526.

2080 See Exhibit 462 (DP-1) (UIU-6, IR-035, Attachment 1 and UIU-6, IR-036, Attachment 1).

2081 Tr. 526-527.

2082 Tr. 527-528; UIU Initial Brief, p. 31.

2083 Tr. 1904.

Plan; the impact of its proposed rate design in the Rate Year prior to any rate change would be "a 3.7% total bill increase for the highest users and a savings for all customers at or below the average residential usage"; and, customer bills can fluctuate more than 3.7 percent or more in a month due to changes in usage, supply, or other factors.[2084]

UIU contends in its brief that Central Hudson misunderstands its proposal. UIU states that the Company's obligation in the 2021 Rate Plan was to "mail a letter to each Energy Affordability Program gas customer who, based upon their gas usage in the 12-months ending April 30, 2021 would experience a delivery bill impact of 9% or more solely due to changes in the tail block structure in the Rate Year beginning July 1, 2021."[2085] UIU states that in the instant proceeding, it is not recommending the nine percent trigger included in the 2021 Rate Plan, but rather "recommending that EAP gas customers who will experience delivery bill percent changes that are higher than average customers as a result of changes in the tail block structure should be notified."[2086]

Central Hudson maintains its testimonial positions in brief and contends the "monitoring and notification requirement is unnecessary, creates an undue administrative burden for the Company and provides no benefit for customers."[2087] The Company urges that the Commission reject UIU's proposal and not require any notification procedures outside the Company's gas rate design website.[2088]

[2084] Id.

[2085] UIU Initial Brief, p. 31 (citing 2021 Rate Order, Joint Proposal, p. 39).

[2086] UIU Initial Brief, p. 31.

[2087] Central Hudson Initial Brief, p. 296.

[2088] Id.

There appears to be no dispute regarding the information that will be presented on Central Hudson's website. We find the proposals of Central Hudson and UIU to post gas rate and design information on the Company's website will encourage transparency and we recommend the Commission adopt those proposals as in the public interest. We do not recommend that the Commission direct Central Hudson to establish a separate notification procedure as UIU proposes. The record is not sufficiently developed for us to weigh any benefits associated with the notification against the administrative burden of establishing when a customer would qualify for such a letter as proposed by UIU and providing such notice.

G. Danskammer Revenues

Central Hudson's Forecasting and Rates Panel testified that gas delivery revenues associated with the Danskammer Generating Station (Danskammer) were not reflected in the Rate Year forecast because of the recent reductions in firm supply and uncertainty surrounding Danskammer's repowering plans.[2089] Instead, the Company proposed that any delivery revenues resulting from SC 11 sales to Danskammer be deferred for future return to customers through a bill credit. Central Hudson proposes that commencing on July 1, 2025 and annually thereafter, "a credit be developed crediting Danskammer SC11 revenue from the prior Rate Year based on eleven months actual revenue and one month forecast, allocated to each service class in proportion to its contribution to overall gas delivery revenue."[2090] The Company proposed to reconcile credits annually

[2089] Tr. 1825.

[2090] Id.

"with any over or under pass-back included in the development of succeeding rates."[2091]

The Staff Rates Panel testified that the $1.5 million Danskammer imputation authorized in the 2021 Rate Plan should continue in the instant proceeding and be used in rate design as it did in that case.[2092]

In its brief, DPS Staff stated that Central Hudson provided updated Danskammer revenues that reflected approximately $900,000 for the 2023 calendar year.[2093] Based upon this information, Staff now agrees that lowering the imputation to $1.0 million would "better reflect the expectations of Danskammer related revenue in the Rate Year."[2094] Staff recommends the Commission adopt a continuation of the imputation updated to $1.0 million.[2095]

In its reply brief, Central Hudson states that it will "accept the use of an imputation of $1.0 million provided that the deferral mechanism is continued."[2096] Central Hudson claims that the deferral mechanism is necessary to protect customers and the Company from variability in the Danskammer revenues contending that there is significant uncertainty because Danskammer retains the ability to alter the contracted volume of gas it will use during the Rate Year and "is responsible for and controls the ongoing process to obtain permits and other governmental authorizations necessary for its operations."[2097]

[2091] Id.

[2092] Tr. 4258.

[2093] Staff Initial Brief, p. 285; Exhibit 644 (DPS-788).

[2094] Staff Initial Brief, p. 285.

[2095] Id.

[2096] Central Hudson Reply Brief, p. 123.

[2097] Id.

The 2021 Rate Plan established that the revenue requirement would include an imputation of forecasted Danskammer revenues, that Danskammer SC 11 gas delivery revenue would not be applied as a rate moderator through gas bill credits, that the imputation would be allocated to each class in proportion to such class's responsibility for overall delivery rate increases, and, that the Company will defer the amount of actual revenues above or below this revenue imputed into base delivery rates for future pass back/collection from customers.[2098] We understand Staff's testimonial position to adopt the framework established in the 2021 Rate Order, but, as it agreed to in its initial brief, to establish the imputation at $1.0 million. We find that imputation amount reasonable based on record evidence and the methodology proposed by Staff as reflected in the 2021 Rate Plan reasonable and consistent with past practice. Accordingly, recommend that the Commission establish an imputation of $1.0 million related to Danskammer revenues and continue the existing deferral mechanism.[2099]

H. Battery Storage Rates

Key Capture Energy (KCE) alleges that the Company is improperly seeking to "apply distribution rates to bulk storage projects interconnected to transmission facilities in its service territory and providing a service to the [NYISO]."[2100] Specifically, KCE takes issue with the Company's proposed SC 13 rate, which KCE alleges will be applied by the Company to bulk storage projects that are larger than 5 MW, interconnected at 69 kV, 115 kV, or 345 kV, and otherwise participate only in the

[2098] 2021 Rate Order, Joint Proposal, pp. 24, 38.

[2099] We note that in reaching this conclusion we did not need to reach the other arguments raised by Central Hudson and Staff in their respective initial and reply briefs.

[2100] KCE Initial Brief, p. 1.

NYISO wholesale markets.[2101] According to KCE, the application of the SC 13 rate to a 200 MW bulk storage project is tantamount to treating the facility as a retail electric customer, rather than a provider of storage of excess generation intended for later load relief, and would result in an annual charge of $14 million, thereby rendering such project uneconomic.[2102] KCE alleges that this impropriety is highlighted when the rate is compared to an identical 200 MW bulk storage project in a different New York utility's service territory, where such project would be subject to FERC jurisdiction and, thus, "would not pay a dollar in charging rates for charging the battery."[2103]

In response, the Company and Staff each assert that KCE's concerns are misplaced inasmuch as the rates applicable to bulk storage projects in its service territory are wholesale distribution service rates (WDS), not SC 13.[2104] The Company states that it provided its proposed WDS rates to the NYISO, which filed the proposed rates on its behalf with FERC.[2105] Thus, the Company contends, the Commission should not make any findings with respect to bulk storage rates. Staff further states that FERC Order No. 841 "precludes the application of the Commission-jurisdictional tariff delivery rates upon standalone

[2101] KCE Initial Brief, p. 1.

[2102] KCE Initial Brief, p. 2.

[2103] KCE Initial Brief, pp. 2, 8.

[2104] Company Initial Brief, p. 300.

[2105] Central Hudson Initial Brief, p. 300; Central Hudson Reply Brief, p. 124. See Central Hudson Gas and Electric Corp. Filing of Rate Schedule 21 to NYISO Open Access Transmission Tariff, Docket No. ER24-1434 (filed March 8, 2024).

bulk energy storage projects buying and selling into the wholesale market."[2106]

While it seems that these three parties essentially agree that any bulk storage project in the Company's service territory should be subject to the WDS rate and that such rate is wholly within FERC's jurisdiction to approve, KCE nonetheless maintains that, because "WDS Tariffs are based on state-approved rate designs and cost allocations," and because utilities frequently "mirror" rates that are approved by the Commission in their FERC filings, the rate applicable to bulk storage projects within the Company's service territory is not outside the scope of this rate proceeding.[2107] KCE further maintains that, in the absence of a FERC decision regarding the Company's proposed WDS rate, the Company's SC 13 rate will be applied to bulk storage projects, which provides another basis for the Commission to consider this issue.[2108]

In 2018, FERC expressly stated that "[t]he sale of charging energy to an electric storage resource that the resource then resells into the RTO/ISO markets is a sale for resale in interstate commerce and thus subject to [FERC's] jurisdiction."[2109] FERC thus determined that the applicable wholesale rate must be applied to any purchases and sales made by bulk electric storage projects.[2110] Thus, the rate applicable to the bulk storage projects is not SC 13 but, rather, the WDS

[2106] Staff Initial Brief, p. 286. See Electric Storage Participation in Markets Operated by Regional Transmission Organizations & Independent System Operators, 162 FERC ¶ 61,127 (Feb. 15, 2018) (FERC Order No. 841).

[2107] KCE Initial Brief, p. 3; KCE Reply Brief, pp. 1-5.

[2108] KCE Reply Brief, p. 4.

[2109] FERC Order No. 841, p. 193.

[2110] FERC Order No. 841, p. 289.

rate -- a rate over which the Commission has no approval or modification authority. In our view, based on the FERC Order, were Central Hudson to try and apply the SC 13 rate to a battery storage facility, such action would be impermissible as a matter of law and therefore null and void. We agree with Staff's claim that, absent a FERC-approved WDS rate, and given that a Commission-approved rate cannot be applied, there currently is no identifiable rate applicable to any bulk storage projects within the Company's service territory.[2111]

We are not unsympathetic to KCE's concerns that the absence of an identifiable rate could cause economic uncertainty for bulk energy storage project developers, which in turn could negatively impact the development of battery storage projects within the Company's service territory, thereby slowing down the advancement of the State's policy goals with respect to battery storage. However, that does not change the fact that KCE's arguments regarding the level of the wholesale rate that ultimately should be applied to battery storage projects in the Company's service territory are outside the purview of this rate

[2111] See Staff Initial Brief, p. 286. See also Tr. 1683-1685. The question as to which rate, if any, is applicable to bulk storage projects in the absence of a FERC-approved wholesale rate is a legal question. As KCE points out in its briefing, while a Company witness testified on cross-examination that they believe that, in the absence of a FERC-approved wholesale rate, the SC 13 rate would be applied to bulk storage projects, that witness's opinion is of no relevant value considering that the witness is not qualified to provide a legal opinion. KCE itself appears to recognize that the Company's apparent assertion that the SC 13 rate would be applied to bulk storage projects absent a WDS rate is legally suspect. See KCE Initial Brief, pp. 4-5.

case and, instead, are appropriately raised in other proceedings, either before FERC or the Commission.[2112]

Further, even if it were true, as KCE argues, that the Company's SC 13 rate may be considered or relied upon by FERC when it reviews the Company's proposed WDS rate, that possibility is irrelevant to the rate design issues that are within the Commission's authority in this case. KCE's argument that any WDS rate set by FERC would be unreasonable as applied to bulk storage projects if that WDS rate were based upon the SC 13 rate proposed herein must be made in the appropriate forum - namely, the ongoing FERC proceeding.[2113] This is also true with respect to KCE's apparent claim that the Company is improperly seeking to recover state-jurisdictional distribution costs in its WDS filing with FERC.[2114] Such argument must be directed to FERC in the context of the proceeding in which the WDS is under review.

Finally, we note that KCE's concerns appear to be academic inasmuch as there are currently no bulk storage projects operating in the Company's territory, nor are any expected to become operational within the Rate Year.[2115]

[2112] In an exercise of our discretion, we take judicial notice of the documents filed in FERC Docket NO. ER24-1434 and note that KCE filed a Motion to Intervene and Protest related to the Company's WDS filing. Among the arguments presented in its motion is that the proposed WDS rate is not just and reasonable. See FERC Docket No. ER24-1434, Doc. Accession No. 20240329-5286, KCE Motion to Intervene and Protest (filed March 29, 2024), pp. 3-7 (KCE FERC Motion).

[2113] Again, we note that KCE does, in fact, make this argument before FERC. See KCE FERC Motion, pp. 7-10. Indeed, KCE argues before FERC that "Central Hudson's WDS Tariff should be subject to a fulsome review and approval process by [FERC] in this proceeding." Id., p. 9.

[2114] KCE Reply Brief, p. 5.

[2115] Tr. 1683-1684.

Accordingly, it is our recommendation that KCE's arguments regarding bulk storage rates are unpersuasive and need not be addressed by the Commission in this case.[2116]

I. Tariff Modifications

Central Hudson provided various proposed modifications to its tariffs, along with the updates required to implement the provisions of its proposed rates. Tariff provisions addressed by the parties in their briefs are addressed below for the Commission's consideration.

1. ECAM Power Purchase Agreement

Central Hudson proposed to Remove the Power Purchase Agreement component of the ECAM from its tariff due to the agreement's expiration and because the Company no longer collects revenues associated with the agreement.[2117] We find this proposal reasonable and recommend it be adopted by the Commission.

2. EAMs

Central Hudson proposed the eliminate the electric energy efficiency, combined energy efficiency LMI (electric), gas energy efficiency and combined energy efficiency LMI (gas) EAMs and replace them with two Disadvantaged Communities Energy Efficiency Benefits EAMs for electric and gas, respectively.[2118] We recommend that the Commission adopt Central Hudson's proposal to eliminate the electric energy efficiency, combined energy

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[2116] Alternatively, KCE appears to recognize that the legally appropriate response to its concerns is for the Company to "develop a rate for bulk storage facilities." KCE Initial Brief, p. 9. In that regard, we note that the Company has made the requisite filings with NYISO and FERC to develop such rate and, therefore, the Commission could consider KCE's arguments to be moot.

[2117] Tr. 1863.

[2118] Tr. 1870-1871.

efficiency LMI (electric), gas energy efficiency and combined energy efficiency LMI (gas) EAMs. As described earlier in this RD, we recommend that no EAMs be adopted in these proceedings other than the Residential and Commercial Energy Intensity and Load Factor scorecard metrics and Electric Vehicle Supply Equipment and Infrastructure DC Fast Charger and Level 2 Installation EAMs. We recommend the Commission direct Central Hudson to make all necessary conforming changes to its tariff leaves to account for the Commission's decisions impacting EAMs in these proceedings.

3. <u>Billing for Service Supplied and Retail Access Program</u>

Central Hudson proposed changes to the Billing for Service Supplied and Retail Access Program sections of its tariff to implement the monthly meter reading proposal.[2119] Revisions related to Billing for Service Supplied are reflected on electric tariff leaves 54 and 55 and gas tariff leaf 25. The changes would replace references to customer meter reading submissions through a post card to the Company, with language that a customer can submit the reading on its website. The proposed tariff amendments also state, "By December 31, 2024, meters of customers will ordinarily be read by the Company on a monthly basis." Central Hudson also proposed changes to the Retail Access Program section of its tariff to implement the monthly meter reading proposal.[2120] These amendments would remove references to "interim" in the context of estimates and estimated readings.

[2119] Tr. 1870. Central Hudson's Direct Testimony of the Forecasting and Rates Panel states that the proposal is described in the testimony of the Company's Customer Experience Panel, however it is not discussed therein.

[2120] Tr. 1870. Revisions related billing the Retail Access Program are reflected electric leaves 124, 126, 130, and gas leaf 113.

In its testimony, Staff opined that the estimated billing procedures previously approved by the Commission in Case 21-M-0045[2121] were demonstrated to be too vague in consideration of the issues experienced by customers after Central Hudson's SAP CIS transition.[2122] Staff testified that the Commission should "require the Company to work with Staff to revise its estimated billing procedures that were previously approved by the Commission" and thereafter file revised estimated billing procedures within 60 days of the Commission's rate order in these proceedings.[2123] Staff adopted Central Hudson's proposed tariff amendments and testified that the Company should further modify its tariffs as it proposed in Exhibit 339 (SPP-3),[2124] and recommended that, depending on the outcome of the investigation in Case 22-M-0645, the Commission should require Central Hudson to file tariff amendments incorporating the conversion to monthly meter reading, if and when a resolution is reached.[2125] As summarized by Staff, its modifications in Exhibit 339 include: "(1) setting a cadence for actual meter reading and estimated meter readings, aside from certain exceptions; (2) requiring the rendering of bills for each regular cycle billing period; (3) adding the [Staff Consumer Service Panel's] proposed Estimated Bill Credit of $20 to the customer for each estimated meter read, aside from reads where the customer prevents access; (4) including definitions and parameters for adjusted bills; (5)

[2121] Case 21-M-0045, In the Matter of the Petition of Central Hudson Gas and Electric Corporation to Revise the Heating and Non-Heating Procedures Used to Calculate Bill Estimates, Order Approving Revised Bill Estimation Methods (issued August 16, 2021).

[2122] Tr. 3996-4001.

[2123] Tr. 3999.

[2124] Tr. 4000.

[2125] Tr. 4001.

adding a provision stating the Company would accept a meter reading electronically submitted by the customer; and, (6) adding the [Staff Consumer Service Panel's] proposed Adjusted Bill Credit of $20 for each adjusted bill."[2126]

In its rebuttal testimony, Central Hudson objected to Staff's proposed tariff language that would limit the Company's flexibility by removing terms like "ordinarily" or "generally" and took issue with language restricting the number of adjusted or consecutive estimated bills that could be issued to residential customers.[2127] Central Hudson declares that the Public Service Law permits it to issue estimated and adjusted bills, sometimes there are abnormal operating conditions outside the Company's control that may necessitate off-cycle estimates, and, some definitions are overly broad and inappropriate.[2128]

Staff maintains in its brief that its proposed tariff changes "would clarify the Company's tariff and increase transparency through written definitions and clear language."[2129] It contends that its language seeks to "safeguard customers against detrimental impacts should the Company experience future issues regarding the Company's billing system, or from potential poor resource planning on behalf of the Company" stating that these are within Central Hudson's control.[2130]

In its initial brief, Central Hudson requests "that any tariff compliance filings relating to monthly meter reading be made within 30 days after the Company has fully implemented monthly meter reading across its service territory with such

[2126] Staff Initial Brief, p. 289.

[2127] Tr. 1912.

[2128] Id.

[2129] Staff Initial Brief, p. 291.

[2130] Id.

tariff amendments effective on 15 days' notice."[2131] In its reply brief, Central Hudson states that Staff's tariff modifications would "impose material and significant changes" that it strongly opposes.[2132] It opposes further limitations on estimated and adjusted bills that it contends would "violate PSL § 39" and "impermissibly alter procedures and protections for both the customers and the Company established by Commission regulation and pursuant to Central Hudson's specific estimated billing procedures established in Case 21-M-0045."[2133] Central Hudson further argues that Staff's proposed tariff modifications "raise equal protection concerns because they are a back-door attempt to change key provisions of 16 NYCRR § 11.13 as applied to Central Hudson only."[2134] It contends Staff's terms are overly broad and its perception of how meter reading occurs during and following a storm is not realistic and "does not reasonably contemplate how a utility needs to and should respond to a storm event."[2135]

We recommend that the proposed tariff language of Central Hudson be adopted by the Commission. The language is not in dispute, facilitates customers submitting a meter reading electronically, and otherwise removes references to interim estimates. While we understand Staff's motivations in recommending additional language in the tariff to clarify expectations and terms, we recommend that the Commission disallow DPS Staff's proposed tariff modifications. As described earlier in this document, we do not recommend the

[2131] Central Hudson Initial Brief, pp. 300-301.

[2132] Central Hudson Reply Brief, p. 125.

[2133] Id.

[2134] Central Hudson Reply Brief, pp. 125-126.

[2135] Central Hudson Reply Brief, p. 127.

Commission establish a shareholder-funded bill credit of $20 where (1) the Company renders an estimated bill or (2) where the Company issues more than one adjusted bill within the same billing period. Staff's proposed provisions would constrain how the Company conducts its business and, in some instances, would limit Central Hudson's ability to use tools such as estimated and adjusted billing despite being authorized in the law and regulations to do so. To the extent that Staff is proposing language relating to estimated billing, we find it more appropriate to consider such language in the context of Case 21-M-0045.

XVIII. USE OF REGULATORY ASSETS TO MODERATE RATES

The Company identified several regulatory liabilities that could be used to offset rates in the context of a multi-year rate plan.[2136] The Company projected having net regulatory liability balances at the start of the Rate Year of approximately $22 million for electric and $12 million for gas.[2137] The Company also identified an electric rate base credit of approximately $32 million from the sale of generation plants and the potential use of over-funding from the Company's Voluntary Employees' Beneficiary Association (VEBA) trust to offset medical expense by an estimated $5 million. Finally, the Company noted that its forecasted SIR expenses could be based on a forecasted spend in the Rate Year rather than on an average of the prior three-year actual spend through the Historic Test Year.[2138]

[2136] Tr. 3298-3300.

[2137] Tr. 3298.

[2138] Tr. 3299.

Staff generally agreed with the net regulatory liability balances proposed by Central Hudson. However, Staff recommended updates to certain balances, resulting in revised available net regulatory liability balances of $23,299 million for electric and $12.796 million for gas.[2139] Staff also agreed that the rate base credit related to prior generation plant assets could be available for use as a rate moderator, if needed, for electric. Staff disagreed with the use of the VEBA trust credit because the Company had indicated that additional analysis was needed before this trust credit could be used as a rate moderator.[2140] Staff agreed with the alternative methodology for projecting Rate Year SIR costs, which we have recommended the Commission adopt. Finally, Staff proposed that regulatory credits be amortized over a three-year period and that the Commission consider the final Rate Year revenue requirements it adopts in deciding on the use of rate moderators.[2141]

Neither the Company nor Staff included rate moderators in their proposed Rate Year revenue requirements.[2142] The Company states that the electric regulatory asset balances exist solely because the Company removed regulatory assets of $60 million associated with deferred storm response, energy efficiency, and heat pump programs through a ten-year amortization, in lieu of a more immediate recovery, thereby preserving net regulatory liabilities to be used to moderate customer bill impacts in a

[2139] Tr. 3944.

[2140] Tr. 3945.

[2141] Tr. 3945-3946; see Staff Initial Brief, p. 9.

[2142] However, we note that Staff's initial testimony included proposed Rate Year revenue requirements if one-third of the available regulatory liabilities were used to mitigate Staff's initial proposal. Tr. 3946-3947, 4046.

multi-year rate case.[2143] It further asserts that the use of the "significant net regulatory [asset balances] will have the impact of further weakening the Company's CFO Pre-WC/Debt metric, posing yet another risk to the financial integrity and credit rating metrics of the Company."[2144] The Company maintains that the use of net regulatory assets to moderate rates is more appropriate in a multi-year rate case because they can be used to levelize rates across rate years while balancing the impacts on the Company's financial integrity with customer bill impacts.

Staff replies that it does not recommend that existing regulatory liabilities be fully exhausted to moderate rates in litigated rate cases. Staff maintains that it would be reasonable to use some level of customer credits to moderate customer bill impacts, while considering the overall final revenue requirement and impacts in litigated rate cases.[2145]

We agree with Staff's position that some level of rate moderation would be appropriate in these cases. We do not make a recommendation on the amount to be used at this juncture in the proceedings, although the use of one-third of the available amounts appears reasonable, as it would leave the remaining balance to be used to moderate future rate increases. We recommend that, if the Commission agrees that some amount of the Company's net regulatory assets be used to moderate rates, the Commission determine the appropriate amount when it sets the revenue requirements for the Company in these proceedings.

[2143] Tr. 3298.

[2144] Company Initial Brief, p. 11.

[2145] Staff Reply Brief, p. 3.

XIX. CONCLUSION

Based upon our review of the record and briefs in these proceedings, we find that the recommendations to the Commission contained herein are in the public interest, in compliance with the CLCPA, and will provide reasonable recompense for Central Hudson's provision of safe and adequate service at just and reasonable rates. Our recommendations are incorporated in the attached revenue requirements schedules set forth in Appendix 1.

May 1, 2024

Attachment 1

Electric Revenue Requirement

Gas Revenue Requirement

Central Hudson Gas & Electric Corporation
Electric Operations Income Statement and Rate of Return Calculation
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted	Rate Increase	As Adjusted For Revenue Requirement
Operating Revenues									
Own Territory Delivery Revenues	$ 441,943	1	$ 9,640	$ 451,583		$ -	$ 451,583	$ 75,448	$ 527,031
Revenue Taxes	7,502	2	275	7,777		-	7,777	2,213	9,990
Subtotal - Delivery Rates	449,445		9,915	459,360		-	459,360	77,661	537,021
Resale Revenues	-		-	-		-	-	-	-
Legacy Hydro Revenue	3,916		-	3,916		-	3,916	-	3,916
Other Operating Revenues	12,452		-	12,452		-	12,452	505	12,957
Total Operating Revenues	**465,813**		**9,915**	**475,728**		**-**	**475,728**	**78,166**	**553,894**
Operating Expenses									
Labor	97,331	3	(13,766)	83,565	1	2,701	86,266		86,266
Executive Incentive Comp	922	4	(922)	-	2	922	922		922
Management Variable Pay	3,399		-	3,399		-	3,399		3,399
Employee Benefits	22,172	5	(6,264)	15,908	3	440	16,348		16,348
Pension Plan	(7,296)	6	(63)	(7,359)		-	(7,359)		(7,359)
Other Post Employee Benefits	(5,804)	7	(13)	(5,817)		-	(5,817)		(5,817)
Employee Training, Safety & Education	2,285	8	(387)	1,898	4	264	2,162		2,162
Production Maintenance	247			247		-	247		247
Right of Way Maintenance Transmission	3,595		-	3,595		-	3,595		3,595
Right of Way Maintenance - Distribution	28,495	9	(2,243)	26,252		-	26,252		26,252
Stray Voltage Testing	764		-	764		-	764		764
System Engineering & Compliance	218		-	218		-	218		218
Substation Testing & Maintenance	642		-	642		-	642		642
Transmission Repairs & Maintenance	1,266		-	1,266		-	1,266		1,266
Distribution Repairs & Maintenance	5,951		-	5,951		-	5,951		5,951
Transformer Installations & Removals	(607)		-	(607)		-	(607)		(607)
Informational & Institutional Advertising	71		-	71		-	71		71
Meter Installations, Removals & Maintenance	(951)		-	(951)		-	(951)		(951)
Research & Development	3,725		-	3,725		-	3,725		3,725
Economic Development	800		-	800		-	800		800
Meter Reading, Collections & Call Volume Overflow	7,494	10	(3,124)	4,370	5	1,353	5,723		5,723
Bill Print	777		-	777		-	777		777
Postage	1,675		-	1,675		-	1,675		1,675
Payment by Credit/Debit Card	1,276		-	1,276		-	1,276		1,276
Low Income Program	17,407	11	(4,703)	12,704		-	12,704		12,704
Uncollectible Accounts	3,730	12	1,435	5,165	6	(1,435)	3,730	-	3,730
Regulatory Commission General Assessment	3,017	13	(324)	2,693		-	2,693		2,693
Environmental SIR Costs	4,171	14	(3,382)	789		-	789		789
Environmental All Other	201		-	201		-	201		201
Information Technology	15,627	15	(488)	15,139	7	758	15,897		15,897
Telephone	2,047		-	2,047		-	2,047		2,047
Rental Agreements	2,387		-	2,387		-	2,387		2,387
Security of Infrastructure	3,694		-	3,694		-	3,694		3,694
Maintenance of Buildings & Grounds	2,727	16	36	2,763		-	2,763		2,763
Major Storm Reserve	14,822	17	(4,064)	10,758		-	10,758		10,758
Major Storm Amortization	4,056	18	670	4,726		-	4,726		4,726
Non Major Storm Reserve	7,555	19	79	7,634		-	7,634		7,634
Materials & Supplies	2,999		-	2,999		-	2,999		2,999
Stores Clearing to Expense	287		-	287		-	287		287
Transportation - Depreciation	3,428	20	(452)	2,976	8	60	3,036		3,036
Transportation - Fuel	1,238		-	1,238		-	1,238		1,238
Transportation All Other	1,674		-	1,674		-	1,674		1,674
Rate Case Expenses	576		-	576		-	576		576
Legal Services	1,679	21	(76)	1,603		-	1,603		1,603
Consulting & Professional Services	3,834	22	(436)	3,398	9	76	3,474		3,474
Miscellaneous General Expenses	5,450	23	(93)	5,357		-	5,357		5,357
Injuries & Damages	5,560	24	(46)	5,514	10	4	5,518		5,518
Other Operating Insurance	1,246	25	(136)	1,110	11	136	1,246		1,246
Office Supplies	1,209		-	1,209		-	1,209		1,209
Management & Operational Audit Costs	129		-	129		-	129		129
Management & Operational Audit Savings	-	26	(684)	(684)	12	684	-		-
Energy Efficiency	7,237	27	(668)	6,569		-	6,569		6,569
Heat Pump Program	13,996		-	13,996		-	13,996		13,996
Amortization of EE/Heat Pump Assets	1,875			1,875		-	1,875		1,875
Electric Vehicle Program	-		-	-		-	-		-
Expenses Allocated to Affiliates	(1)		-	(1)		-	(1)		(1)
Miscellaneous Charges	1,404	28	(457)	947		-	947		947
Amortization of Unprotected Asset (TCJA)	1,998		-	1,998		-	1,998		1,998
Productivity Imputation	(1,168)	29	(1,010)	(2,178)	13	1,047	(1,132)		(1,132)
Recovery/Refund of Rate Change Timing	-		-	-		-	-	-	-
Amortization of Depreciation Reserve Adjustment	4,298	30	(4,298)	-	14	479	479		479
Inflation Reduction	-	31	(117)	(117)		-	(117)		(117)
Total Operating Expenses	**308,836**		**(45,995)**	**262,841**		**7,488**	**270,329**	**-**	**270,329**
Other Deductions									
Variable Rate Debt Interest Overcollection	-		-	-		-	-	-	-
Property Taxes	45,264	32	(2,298)	42,966		-	42,966	-	42,966
Revenue Taxes	7,502	33	275	7,777		-	7,777	2,213	9,990
Payroll Taxes	6,982	34	(951)	6,031	15	186	6,217	-	6,217
Other Taxes	3,753	35	(172)	3,581		-	3,581	-	3,581
Depreciation	71,954	36	(1,128)	70,826	16	5,714	76,540	-	76,540
Total Other Deductions	**135,455**		**(4,274)**	**131,181**		**5,900**	**137,081**	**2,213**	**139,295**
Income Taxes									
Federal Income Taxes	(4,144)		11,530	7,386		(3,800)	3,585	14,913	18,499
State Income Taxes	428		3,817	4,245		(1,192)	3,053	4,937	7,990
Total Income Taxes	**(3,716)**		**15,347**	**11,631**		**(4,992)**	**6,638**	**19,850**	**26,489**
Total Operating Revenue Deductions	**440,575**		**(34,922)**	**405,653**		**8,397**	**414,049**	**22,063**	**436,113**
Net Operating Income	**$ 25,238**		**$ 44,837**	**$ 70,075**		**$ (8,397)**	**$ 61,679**	**$ 56,102**	**$ 117,781**
Rate Base	**$ 1,755,471**		**$ (17,456)**	**$ 1,738,015**		**$ 9,485**	**$ 1,747,500**		**$ 1,747,500**
Rate of Return	**1.44%**						**3.53%**		**6.74%**

Central Hudson Gas & Electric Corporation
Electric Operations Federal Income Tax
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted	Rate Increase	As Adjusted For Revenue Requirement
Operating Income Before FIT, SIT, Interest	$ 21,522		$ 60,184	$ 81,706		$ (13,389)	$ 68,317	$75,952	$ 144,270
Interest Expense	38,620		1,702	40,322		220	40,542	-	40,542
State Income Tax - Current Period	1,763		3,817	5,580		(3,661)	1,919	4,937	6,856
	(18,861)		54,666	35,804		(9,948)	25,856	71,015	96,872
Reconciling Amounts:									
Total Additional Income and Unallowable Deductions	85,352		(1,007)	84,345		5,608	89,953	-	89,953
Total Additional Deductions and Nontaxable Income	159,882		(1,245)	158,637		3,323	161,960	-	161,960
Adjusted Taxable Income	(93,391)		54,904	(38,488)		(7,663)	(46,151)	71,015	24,865
Federal Income Tax									
FIT - 21%	(19,612)		11,530	(8,082)		(1,609)	(9,692)	14,913	5,222
NOL Carryforward Adjustment	19,142		-	19,142	17	(9,450)	9,692	-	9,692
Total	(470)		11,530	11,060		(11,059)	-	14,913	14,914
Deferred Taxes	(3,674)		-	(3,674)		7,259	3,585	-	3,585
Total Federal Income Taxes	**$ (4,144)**		**$ 11,530**	**$ 7,386**		**$ (3,800)**	**$ 3,585**	**$14,913**	**$ 18,499**

Central Hudson Gas & Electric Corporation
Electric Operations Additional Income and Unallowable Deductions and
Electric Operations Additional Deductions and Nontaxable Income
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
Additional Income and Unallowable Deductions							
Depreciation - Central Hudson	$ 72,560	37	$ (1,007)	$ 71,553	18	$ 5,466	$ 77,019
Transportation Depreciation	5,941		-	5,941	19	142	6,083
50 Percent Meal Disallowance	341		-	341		-	341
Avoided Cost Interest Capitalized	3,818		-	3,818		-	3,818
Contribution in Aid of Construction	2,499		-	2,499		-	2,499
CATCH-ALL ACCOUNT	193		-	193		-	193
Total	**$ 85,352**		**$ (1,007)**	**$ 84,345**		**$ 5,608**	**$ 89,953**
Additional Deductions and Nontaxable Income							
Depreciation - Central Hudson	$ 89,699	38	$ (1,245)	$ 88,454	20	$ 3,323	$ 91,777
Cost of Removal-Tax Basis	11,800		-	11,800		-	11,800
Property Tax Accrued-Central Hudson	15		-	15		-	15
Repair Deduction	58,331		-	58,331		-	58,331
Catch-All Account	37		-	37		-	37
Total	**$ 159,882**		**$ (1,245)**	**$ 158,637**		**$ 3,323**	**$ 161,960**

Central Hudson Gas & Electric Corporation
Electric Operations Federal Income Tax Deferred Items
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
FIT - Current Benefits Deferred							
Depreciation-Central Hudson	$ 9,154		$ -	$ 9,154	21	$ (1,855)	$ 7,299
Avoided Cost Interest Capitalized	(552)		-	(552)		-	(552)
Contribution in Aid of Construction	(229)		-	(229)		-	(229)
Cost of Removal-Tax Basis	(3,273)		-	(3,273)	22	81	(3,192)
Income Tax Rate Change Protected	(1,048)		-	(1,048)	23	4	(1,044)
NOL Carryforward	(17,690)		-	(17,690)	24	8,835	(8,855)
Repair Allowance	(168)		-	(168)		-	(168)
Repair Deduction	10,316		-	10,316	25	10	10,326
Catch-All Account	(184)			(184)	26	184	-
FIT - Current Benefits Deferred	**$ (3,674)**		**$ -**	**$ (3,674)**		**$ 7,259**	**$ 3,585**

Central Hudson Gas & Electric Corporation
Electric Operations State Income Tax
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted	Rate Increase	As Adjusted For Revenue Requirement
Federal Taxable Income	$ 21,522		$ 60,184	$ 81,706		$ (13,389)	$ 68,317	$ 75,952	$ 144,270
Interest Expense	38,620		1,702	40,322		220	40,542	-	40,542
Reconciling Amounts:									
Total Additional Income and Unallowable Deductions	85,352		(1,007)	84,345		5,608	89,953	-	89,953
Total Additional Deductions and Nontaxable Income	159,882		(1,245)	158,637		3,323	161,960	-	161,960
Federal Taxable Income	(91,628)		58,721	(32,908)		(11,324)	(44,232)	75,952	31,721
Additions:									
Federal Depreciation Deduction Transition Property	(17,110)		-	(17,110)			(17,110)	-	(17,110)
Subtractions:									
NYS Depreciation Deduction Transition Property	-		-	-			-	-	-
	(17,110)		-	(17,110)		-	(17,110)	-	(17,110)
NYS Taxable Income	(108,738)		58,721	(50,018)		(11,324)	(61,342)	75,952	14,611
State Income Tax									
NYS Income Tax - 6.5%	(7,068)		3,817	(3,251)		(736)	(3,987)	4,937	950
Capital Base Tax	1,919		-	1,919		-	1,919	-	1,919
NYSIT and MTA	-		-	-		-	-	-	-
NOL Carryforward Adjustment	6,912		-	6,912	27	(2,925)	3,987	-	3,987
Total Current NYSIT	1,763		3,817	5,580		(3,661)	1,919	4,937	6,856
Deferred NYSIT	(1,335)		-	(1,335)		2,469	1,134	-	1,134
Total State Income Taxes	**$ 428**		**$ 3,817**	**$ 4,245**		**$ (1,192)**	**$ 3,053**	**$ 4,937**	**$ 7,990**

Central Hudson Gas & Electric Corporation
Electric Operations State Income Tax Deferred Items
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
SIT - Current Benefits Deferred							
Depreciation-Central Hudson	$ 3,547		$ -	$ 3,547	28	$ (459)	$ 3,088
Avoided Cost Interest Capitalized	(186)		-	(186)		-	(186)
Contribution in Aid of Construction	(85)		-	(85)		-	(85)
Cost of Removal-Tax Basis	(1,069)		-	(1,069)		-	(1,069)
Income Tax Rate Change Protected	(18)		-	(18)		-	(18)
NOL Carryforward	(6,912)		-	(6,912)	29	2,925	(3,987)
Repair Allowance	(27)		-	(27)		-	(27)
Repair Deduction	3,415		-	3,415	30	3	3,418
Total	**$ (1,335)**		**$ -**	**$ (1,335)**		**$ 2,469**	**$ 1,134**

Central Hudson Gas & Electric Corporation
Electric Operations Rate Base Summary
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
Rate Base							
Book Cost of Utility Plant	$ 2,459,982	39	$ 1,140	$ 2,461,122	31	$ 4,276	$ 2,465,398
Less: Accumulated Provision for Depreciation & Amortization	(618,590)	40	(4,125)	(622,715)	32	(595)	(623,310)
Net Plant	$ 1,841,392		$ (2,985)	$ 1,838,407		$ 3,681	$ 1,842,088
Noninterest-Bearing Construction Work in Progress	19,947	41	(8,543)	11,404	33	(10)	11,394
Customer Advances for Undergrounding	(1,597)		-	(1,597)		-	(1,597)
Deferred Charges	(46,698)		-	(46,698)	34	445	(46,253)
Accumulated Deferred Federal Taxes	(190,602)		-	(190,602)	35-38	2,333	(188,269)
Accumulated Deferred State Taxes	(40,834)		-	(40,834)	39-42	1,921	(38,913)
Working Capital	85,543	42	(5,929)	79,614	43	1,115	80,730
Unadjusted Rate Base	1,667,151		(17,456)	1,649,695		9,485	1,659,180
EBCAP Adjustment	88,320		-	88,320		-	88,320
Rate Base	**$ 1,755,471**		**$ (17,456)**	**$ 1,738,015**		**$ 9,485**	**$ 1,747,500**
Equity Component of Rate Base							
Rate Base	$ 1,755,471			$ 1,738,015			$ 1,747,500
Common Equity Ratio	50%			48%			48%
Common Equity	$ 877,736		$ (43,489)	$ 834,247		$ 4,553	$ 838,800
Interest Expense Deduction							
Rate Base	$ 1,755,471		$ (17,456)	$ 1,738,015		$ 9,485	$ 1,747,500
Weighted Cost of Long Term Debt & Customer Deposits	2.20%			2.32%			2.32%
Interest Expense Deduction for Taxes	**$ 38,620**	43	**$ 1,702**	**$ 40,322**		**$ 220**	**$ 40,542**

Central Hudson Gas & Electric Corporation
Electric Operations Deferred Items - Rate Base
For the Rate Year Ended June 30, 2025
($000)

Deferred Charges	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
MTA Tax	$ 1,130		$ -	$ 1,130		$ -	$ 1,130
Unamortized Debt Expense	3,295		-	3,295		-	3,295
Deferred Revenues-Attachments Rents	(1,393)		-	(1,393)		-	(1,393)
Unamortized Loss on Reacquired Debt	554		-	554		-	554
Deferred Rate Case Expenses	1,317		-	1,317		-	1,317
Pension/OPEB Reserve	34,297		-	34,297		-	34,297
Federal Tax Rate Change - Unprotected	19,311		-	19,311		-	19,311
Federal & NYS Tax Rate Change - Protected	(105,821)		-	(105,821)	34	445	(105,376)
Mgmt & Operational Audit Costs	615		-	615		-	615
Other	(3)			(3)		-	(3)
Total Deferred Charges	**$ (46,698)**		**$ -**	**$ (46,698)**		**$ 445**	**$ (46,253)**

Accumulated Deferred Federal Income Taxes	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
Contributions in Aid of Construction	$ 5,691		$ -	$ 5,691		$ -	$ 5,691
Unbilled Revenue	3,798		-	3,798		-	3,798
MTA Tax	(237)		-	(237)		-	(237)
Deferred Avoided Cost Interest Capitalized	5,216		-	5,216		-	5,216
Deferred Revenues- Attachment Rents	293		-	293		-	293
Bonds Redeemed	(8)		-	(8)		-	(8)
Cost of Removal	9,259		-	9,259	35	(46)	9,213
Repair Allowance	(2,761)		-	(2,761)		-	(2,761)
Normalized Depreciation	(166,382)		-	(166,382)	36	2,499	(163,883)
MACRS - Capital Reliability Program	332		-	332		-	332
Prepaid Insurance	(464)		-	(464)		-	(464)
Mgmt & Operational Audit Costs	(129)		-	(129)		-	(129)
Repair Deduction	(87,180)		-	(87,180)	37	(26)	(87,206)
NOL Carryforward	28,369		-	28,369		-	28,369
Rate Case Expenses	(277)		-	(277)		-	(277)
Federal Tax Rate Change - Unprotected	(4,055)		-	(4,055)		-	(4,055)
Federal & NYS Tax Rate Change - Protected	22,223		-	22,223	38	(94)	22,129
Other	(4,290)		-	(4,290)		-	(4,290)
Total Deferred Taxes	**$ (190,602)**		**$ -**	**$ (190,602)**		**$ 2,333**	**$ (188,269)**

Accumulated Deferred State Income Taxes	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted By Staff
Normalized Depreciation	$ (39,581)		$ -	$ (39,581)	39	$ 783	$ (38,798)
MTA Tax	(73)		-	(73)		-	(73)
Deferred Avoided Cost Interest Capitalized	1,615		-	1,615		-	1,615
Deferred Revenues- Attachment Rents	91		-	91		-	91
Bonds Redeemed	-		-	-		-	-
Cost of Removal	2,869		-	2,869		-	2,869
Repair Allowance	(710)		-	(710)		-	(710)
Contributions in Aid of Construction	1,735		-	1,735		-	1,735
Unbilled Revenue	1,176		-	1,176		-	1,176
MACRS - Capital Reliability Program	114		-	114		-	114
Prepaid Insurance	(144)		-	(144)		-	(144)
Mgmt & Operational Audit Costs	(40)		-	(40)		-	(40)
Repair Deduction	(28,860)		-	(28,860)	40	(9)	(28,869)
NOL Carryforward	15,028		-	15,028	41	1,176	16,204
Rate Case Expenses	(86)		-	(86)		-	(86)
Federal Tax Rate Change - Unprotected	(1,255)		-	(1,255)		-	(1,255)
Federal & NYS Tax Rate Change - Protected	6,878		-	6,878	42	(29)	6,849
Other	409			409		-	409
Total Deferred Taxes	**$ (40,834)**		**$ -**	**$ (40,834)**		**$ 1,921**	**$ (38,913)**

Central Hudson Gas & Electric Corporation
Electric Operations Working Capital - Rate Base
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
Materials and Supplies							
Other Material and Supplies	$ 23,881		$ -	$ 23,881		$ -	$ 23,881
Prepayments							
Prepaid Property Taxes	$ 14,879		$ -	$ 14,879		$ -	$ 14,879
Prepaid Insurance	1,711		-	1,711		-	1,711
Cloud Computing Prepayments	182		-	182		-	182
Other Prepayments	6,752		-	6,752		-	6,752
Prepayments Working Capital	$ 23,524		$ -	$ 23,524		$ -	$ 23,524
Operation and Maintenance							
Cash Working Capital @ 1/8	$ 38,138	42	$ (5,929)	$ 32,209	43	$ 1,115	$ 33,325
Total Working Capital	**$ 85,543**		**$ (5,929)**	**$ 79,614**		**$ 1,115**	**$ 80,730**

Central Hudson Gas & Electric Corporation
Electric Operations Capital Structure
For the Rate Year Ended June 30, 2025
($000)

Per Central Hudson	**Amount**		**%**	**Cost Rate**	**Weighted Cost**	**Pretax**
Long Term Debt	$1,324,762		49.75%	4.39%	2.19%	2.19%
Customer Deposits	6,846		0.26%	3.60%	0.01%	0.01%
Common Equity	1,331,449		50.00%	9.80%	4.90%	6.63%
Total	**$2,663,057**		**100.0%**		**7.10%**	**8.83%**

Per Staff Testimony	**Staff Adj. No.**	**%**	**Cost Rate**	**Weighted Cost**	**Pretax**
Long Term Debt		51.75%	4.46%	2.31%	2.31%
Customer Deposits		0.25%	4.20%	0.01%	0.01%
Common Equity		48.00%	9.20%	4.42%	5.98%
Total	44	**100.0%**		**6.74%**	**8.30%**

Per Recommended Decision	**ALJ Adj. No.**	**%**	**Cost Rate**	**Weighted Cost**	**Pretax**
Long Term Debt		51.75%	4.46%	2.31%	2.31%
Customer Deposits		0.25%	4.20%	0.01%	0.01%
Common Equity		48.00%	9.20%	4.42%	5.98%
Total		**100.0%**		**6.74%**	**8.30%**

Central Hudson Gas & Electric Corporation
Electric Operations Revenue Requirement Calculation
For the Rate Year Ended June 30, 2025
($000)

Average Rate Base	$ 1,747,500
Rate of Return on Rate Base	6.74%
Net Income after Rate Increase	$117,782
Net Income before Rate Increase	61,679
Net Income Increase	56,102
Retention Factor	0.7224
Revenue Increase Required	$77,661

Revenue Taxes	$2,213
Finance Charges	$505
Uncollectibles	-
Recovery/Refund of Rate Change Timing	-

<u>Retention Factor</u>

Additional Revenue Requirement	1.0000
Less: Revenue Taxes	0.0285
Uncollectibles	-
Recovery/Refund of Rate Change Timing	-
Finance Charges	(0.0065)
Operating Income subject to FIT	0.9780
Less: Federal Income Tax	0.2054
Less: State Income Tax	0.0502
Net Operating Income	0.7224

Central Hudson Gas & Electric Corporation
Staff Adjustments - Electric
For the Rate Year Ended June 30, 2025
($000)

Staff Adj. No.	Explanation	Staff Adjustments
	Revenues (Schedule 1)	
1	Own Territory Delivery Revenues	
	To reflect Staff's adjustment to the forecasted revenues	$ 9,640
2	Revenue Taxes	
	To reflect revenue collected for revenue taxes	275
	Total Adjustments to Revenues	**$ 9,915**
	Operating & Maintenance Expenses (Schedule 1)	
3	Labor	
a	To reflect Executive and non-union wage inflator reduction	(1,453)
b	To reflect system operations and temporary employee wage reduction	(88)
c	To apply an attrition rate	(3,174)
d	To change distribution to historic average	(2,160)
e	To reflect reduction of incremental FTEs	(5,940)
f	To correct transposed base wage error	(1,242)
g	To reflect compounding of multiple adjustments	291
	Total Adjustments to Labor	(13,766)
4	Executive Incentive Compensation	
	To remove from forecast	(922)
5	Employee Benefits	
a	To base projection on historic costs and update inflation	(4,564)
b	To track changes to labor	(1,700)
	Total Adjustments to Employee Benefits	(6,264)
6	Pension	
	To track changes to the distribution of labor	(63)
7	Other Post-Employment Benefits	
	To track changes to the distribution of labor	(13)
8	Employee Training, Safety & Education	
a	To reflect latest-known and general inflation	(5)
b	To track Staff's FTE forecast	(170)
c	To reflect 50% of new business initiatives	(212)
	Total	(387)
9	Right of Way Maintenance - Distribution	
	To reflect Staff's adjustment to vegetation management	(2,243)
10	Meter Reading, Collections & Call Volume Overflow	
a	To accelerate implementation of monthly meter reading	(1,771)
b	To remove the Company’s increased projection of call volumes due to uncertainty of arrears	(1,353)
	Total	(3,124)
11	Low Income Program	
	To reflect Staff's forecast	(4,703)

Central Hudson Gas & Electric Corporation
Staff Adjustments - Electric
For the Rate Year Ended June 30, 2025
($000)

Staff Adj. No.	Explanation	Staff Adjustments
12	Uncollectibles	
a	To reflect Staff's forecast	$ 1,324
b	To track Staff's adjustments to revenue	111
	Total adjustment for uncollectibles	1,435
13	Regulatory Commission General Assessment	
	To reflect latest known and inflation	(324)
14	Environmental SIR Costs	
	To reflect Staff's forecast	(3,382)
15	Information Technology	
	Tracking adjustment to IT capital reduction	(488)
16	Maintenance of Buildings and Grounds	
	To reflect Staff's forecast	36
17	Major Storm Reserve	
	To reflect Staff's forecast, net of superstorms	(4,064)
18	Major Storm Amortization	
	To reflect Company's update	670
19	Non-Major Storm Restoration	
	To reflect Staff's forecast of Non-Major Storm Restoration	79
20	Transportation - Depreciation	
	To reflect Staff's adjustment to transportation depreciation	(452)
21	Legal Services	
	To correct normalizing adjustment	(76)
22	Consulting and Professional Services	
a	To adjust audit agency fees - latest known	(76)
b	To remove Emergent Consulting costs	(160)
c	To remove AMI BCA costs	(200)
d	To remove JD Power Benchmarking Study from forecast	-
	Total Consulting and Professional Services adjustment	(436)
23	Miscellaneous General Expenses	
a	To remove lobbying expenses	(13)
b	To remove unsupported recruitment expenses	(80)
	Total Miscellaneous General Expenses adjustment	(93)
24	Injuries and Damages	
	Tracking adjustment to labor	(46)
25	Other Operating Insurance	
	To reflect Staff's forecast	(136)

Central Hudson Gas & Electric Corporation
Staff Adjustments - Electric
For the Rate Year Ended June 30, 2025
($000)

Staff Adj. No.	Explanation	Staff Adjustments
26	Management and Operations Audit Savings	
	To reflect Staff's forecast	$ (684)
27	Energy Efficiency	
	To reflect Staff's forecast	(668)
28	Miscellaneous Charges	
	To reflect Staff's forecast	(457)
29	Productivity	
	To reflect Staff's forecast	(1,010)
30	Amortization of Depreciation Reserve Adjustment	
	To remove from forecast	(4,298)
31	Inflation Reduction	
	To reflect impact of Staff's update of inflation rates on O&M expenses	(117)
	Total adjustments to Operating & Maintenance Expenses	**$ (45,995)**
	Other Deductions (Schedule 1)	
32	Property Taxes	
	To reflect Staff's adjustment to property tax expense	(2,298)
33	Revenue Taxes	
	To track adjustments to revenues	275
34	Payroll Taxes	
	To reflect the impact of Staff's adjustments to labor expense	(951)
35	Other Taxes	
a	To remove Call Volume Overflow	(172)
b	To remove inflation	-
	Total	(172)
36	Depreciation	
	To reflect Staff's forecast	(1,128)
	Total Adjustments to Other Deductions	**$ (4,274)**
	Taxes - Reconciling Items (Schedule 3)	
	Additional Income	
37	Book Depreciation	
	To track Staff's adjustments to depreciation	(1,007)
	Additional Deductions	
38	Book Depreciation	
	To track Staff's adjustments to depreciation	(1,245)
	Total Adjustments to Taxes - Reconciling Items	**$ (2,252)**

Central Hudson Gas & Electric Corporation
Staff Adjustments - Electric
For the Rate Year Ended June 30, 2025
($000)

Staff Adj. No.	Explanation	Staff Adjustments
	Rate Base (Schedule 7)	
39	Utility Plant	
	To reflect Staff's changes to Utility Plant	$ 1,140
40	Accumulated Provision for Depreciation and Amortization	
	To reflect Staff's adjustments tracking utility plant	(4,125)
41	Non-Interest Bearing Construction Work in Progress	
	To reflect Staff's adjustment	(8,543)
	Working Capital (Schedule 9)	
42	Cash Working Capital	
	To reflect Staff's adjustments to O&M expenses at 1/8th	(5,929)
	Total Adjustments to Working Capital	**$ (5,929)**
	Total Adjustments to Rate Base	**$ (17,456)**
43	**Interest Expense Deduction (Schedule 7)**	
	To reflect Staff's changes to Rate Base and the Weighted Cost of Long Term Debt	$ 1,702
	Capital Structure (Schedule 10)	
44	Overall Pre-Tax Rate of Return	
	To reflect Staff's changes in the Capital Structure	8.30%

Central Hudson Gas & Electric Corporation
Electric Operations - ALJ Adjustments
For the Rate Year Ended June 30, 2025
($000)

ALJ Adj. No.	Explanation	ALJ Adjustments
	Operating Expenses	
1	Labor To reflect recommended labor FTEs and executive and management wage inflation factors.	$ 2,701
2	Executive Incentive Compensation To reflect Central Hudson's requested executive incentive compensation.	922
3	Employee Benefits To track FTE increases on employee benefits costs.	440
4	Employee Training, Safety & Education To reflect Central Hudson's requested new initiative costs and to track FTE increases on training costs.	264
5	Meter Reading, Collections & Call Volume Overflow To reflect Central Hudson's requested call volume overflow costs.	1,353
6	Uncollectible Accounts To reflect Central Hudson's uncollectible accounts forecast.	(1,435)
7	Information Technology To reflect Central Hudson's Information Technology forecast.	758
8	Transportation - Depreciation To reflect recommended allowance for transportation-depreciation.	60
9	Consulting & Professional Services To reflect recommended Consulting & Professional Services forecast of audit agency fees.	76
10	Injuries & Damages To track FTE increases on injuries & damages expense.	4
11	Other Operating Insurance To reflect Central Hudson's forecast of other operating insurance.	136
12	Management & Operational Audit Savings To reflect removal of Staff's imputation of savings.	684
13	Productivity To reflect 1% productivity and tracking changes in productivity base.	1,047
14	Amortization of Depreciation Reserve To reflect recommended amortization of depreciation reserve.	479
	Other Deductions	
15	Payroll Taxes To track adjustments to labor.	186
16	Depreciation To reflect recommended depreciation expense.	5,714
	Federal Income Tax	
17	NOL Carryforward Adjustment To reflect updated NOL usage.	(9,450)
	Additional Income and Unallowable Deductions	
18	Depreciation - Central Hudson To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	5,466
19	Transportation Depreciation To reflect Central Hudson's Rebuttal Testimony update.	142

Central Hudson Gas & Electric Corporation
Electric Operations - ALJ Adjustments
For the Rate Year Ended June 30, 2025
($000)

ALJ Adj. No.	Explanation	ALJ Adjustments
	Additional Deductions and Nontaxable Income	
20	Depreciation - Central Hudson To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	$ 3,323
	FIT - Current Benefits Deferred	
21	Depreciation-Central Hudson To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	(1,855)
22	Cost of Removal-Tax Basis To reflect Central Hudson's Rebuttal Testimony update.	81
23	Income Tax Rate Change Protected To reflect Central Hudson's Rebuttal Testimony update.	4
24	NOL Carryforward To reflect Central Hudson's Rebuttal Testimony update and tracking NOL usage.	8,835
25	Repair Deduction To reflect Central Hudson's Rebuttal Testimony update.	10
26	Catch All Account To reflect Central Hudson's Rebuttal Testimony update.	184
	State Income Tax	
27	NOL Carryforward Adjustment To reflect Central Hudson's Rebuttal Testimony update and tracking NOL usage.	(2,925)
	SIT - Current Benefits Deferred	
28	Depreciation-Central Hudson To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	(459)
29	NOL Carryforward To reflect Central Hudson's Rebuttal Testimony update.	2,925
30	Repair Deduction To reflect Central Hudson's Rebuttal Testimony update.	3
	Rate Base	
31	Book Cost of Utility Plant To reflect recommended plant forecast.	4,276
32	Accumulated Provision for Depreciation & Amortization To reflect recommended accumulated depreciation forecast.	(595)
33	Non-interest bearing Construction Work in Progress To reflect recommended non-interest bearing Construction Work in Progress forecast.	(10)
	Deferred Charges	
34	Federal & NYS Tax Rate Change - Protected To reflect Central Hudson's Rebuttal Testimony update.	445
	Accumulated Deferred Federal Taxes	
35	Cost of Removal To reflect Central Hudson's Rebuttal Testimony update.	(46)
36	Normalized Depreciation To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	2,499
37	Repair Deduction To reflect Central Hudson's Rebuttal Testimony update.	(26)
38	Federal & NYS Tax Rate Change - Protected To reflect Central Hudson's Rebuttal Testimony update.	(94)

Central Hudson Gas & Electric Corporation
Electric Operations - ALJ Adjustments
For the Rate Year Ended June 30, 2025
($000)

ALJ Adj. No.	Explanation	ALJ Adjustments
	Accumulated Deferred State Income Taxes	
39	Normalized Depreciation	
	To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	$ 783
40	Repair Deduction	
	To reflect Central Hudson's Rebuttal Testimony update.	(9)
41	NOL Carryforward	
	To reflect Central Hudson's Rebuttal Testimony update.	1,176
42	Federal & NYS Tax Rate Change - Protected	
	To reflect Central Hudson's Rebuttal Testimony update.	(29)
43	Working Capital	
	To track Operating Expense changes.	1,115

Central Hudson Gas & Electric Corporation
Gas Operations Income Statement and Rate of Return Calculation
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted	Rate Increase	As Adjusted For Revenue Requirement
Operating Revenues									
Own Territory Delivery Revenues	$ 139,293	1	$ (3,409)	$ 135,884		$ -	$ 135,884	$ 29,560	$ 165,444
Revenue Taxes	3,282	2	(130)	3,152		-	3,152	1,171	4,323
Subtotal	142,575		(3,539)	139,036		-	139,036	30,731	169,767
Interruptible & Sales to Generators	3,200		-	3,200		-	3,200	-	3,200
Danskammer Revenue	-	3	1,000	1,000		-	1,000	-	1,000
Other Operating Revenues	1,435		-	1,435		-	1,435	197	1,632
Total Operating Revenues	**147,210**		**(2,539)**	**144,671**		**-**	**144,671**	**30,928**	**175,599**
Operating Expenses									
Labor	28,892	4	(3,834)	25,058	1	766	25,824		25,824
Executive Incentive Compensation	230	5	(230)	-	2	230	230		230
Management Variable Pay	850			850		-	850		850
Employee Benefits	6,245	6	(1,764)	4,481	3	125	4,605		4,605
Pension	(2,065)	7	(21)	(2,086)		-	(2,086)		(2,086)
Other Post-Employment Benefits	(1,643)	8	(6)	(1,649)		-	(1,649)		(1,649)
Employee Training, Safety & Reliability	997	9	(174)	823	4	129	952		952
System Engineering & Compliance	106			106		-	106		106
T&D Repairs & Maintenance	3,728	10	(344)	3,384		-	3,384		3,384
Pipeline Integrity & Inspection	2,912	11	(150)	2,762	5	150	2,912		2,912
Gas Leaks Repairs - Distribution Main	760		-	760		-	760		760
Meter Installations, Removals & Maintenance	(381)		-	(381)		-	(381)		(381)
Research & Development	800		-	800		-	800		800
Economic Development	200	12	(200)	-		-	-		-
Informational & Institutional Advertising	120		-	120		-	120		120
Meter Reading, Collections & Call Volume Overflow	1,876	13	(769)	1,107	6	338	1,445		1,445
Bill Print	194		-	194		-	194		194
Postage	419		-	419		-	419		419
Payment by Credit/Debit Card	319		-	319		-	319		319
Low Income Program	4,472	14	(969)	3,503		-	3,503		3,503
Uncollectible Accounts	1,323	15	222	1,545	7	(222)	1,323		1,323
Regulatory Commission General Assessment	848	16	(91)	757		-	757		757
Environmental SIR Costs	1,043	17	(846)	197		-	197		197
Environmental - All Other	52		-	52		-	52		52
Information Technology	3,860	18	(119)	3,741	8	186	3,927		3,927
Telephone	495		-	495		-	495		495
Rental Agreements	537		-	537		-	537		537
Security of Infrastructure	926		-	926		-	926		926
Maintenance of Building and Supplies	639	19	9	648		-	648		648
Materials & Supplies	558	20	(176)	382		-	382		382
Stores Clearing to Expense	112	21	(63)	49		-	49		49
Transportation Depreciation	1,121	22	(148)	973	9	20	993		993
Transportation Fuel	449		-	449		-	449		449
Transportation All Others	719		-	719		-	719		719
Rate Case Expenses	140		-	140		-	140		140
Legal Services	481	23	(15)	466		-	466		466
Consulting & Professional Services	1,253	24	(59)	1,194	10	19	1,213		1,213
Miscellaneous General Expense	1,371	25	(23)	1,348		-	1,348		1,348
Injuries & Damages	1,439	26	(12)	1,427	11	-	1,427		1,427
Other Operating Insurance	312	27	(34)	278	12	34	312		312
Office Supplies	307		-	307		-	307		307
Management & Operational Audit Costs	32		-	32		-	32		32
Management & Operational Audit Savings	-	28	(161)	(161)	13	161	-		-
Energy Efficiency	2,000	29	(61)	1,939		-	1,939		1,939
Miscellaneous Charges	943	30	(115)	828		-	828		828
Amortization of Unprotected Asset (TCJA)	376		-	376		-	376		376
Productivity Imputation	(343)	31	(299)	(642)	14	309	(333)		(333)
Recovery/Refund of Rate Change Timing	-		-	-		-	-		-
Inflation Reduction	-	32	(34)	(34)		-	(34)		(34)
Gas Safety Programs	-		-	-		-	-		-
Amortization of Depreciation Reserve Adjustment	3,307	33	(3,307)	-	15	57	57		57
Total Operating Expenses	**73,331**		**(13,792)**	**59,538**		**2,302**	**61,840**	**-**	**61,840**
Other Deductions									
Variable Rate Debt - Interest Overcollection	-								
Property Taxes	19,382	34	-	19,382		-	19,382	-	19,382
Revenue Taxes	3,282	35	(130)	3,152		-	3,152	1,171	4,323
Payroll Taxes	1,975	36	(265)	1,710	16	53	1,763	-	1,763
Other Taxes	367	37	(43)	324		-	324	-	324
Depreciation	23,570	38	985	24,555	17	3,393	27,948	-	27,948
Total Other Deductions	**48,576**		**547**	**49,123**		**3,446**	**52,569**	**1,171**	**53,740**
Income Taxes									
Federal Income Taxes	1,690		1,878	3,568		(1,687)	1,881	5,843	7,724
State Income Taxes	965		622	1,587		(521)	1,066	1,934	3,000
Total Income Taxes	**2,655**		**2,500**	**5,155**		**(2,208)**	**2,947**	**7,777**	**10,724**
Total Operating Revenue Deductions	**124,562**		**(10,745)**	**113,816**		**3,539**	**117,356**	**8,948**	**126,304**
Net Operating Income	**$ 22,648**		**$ 8,206**	**$ 30,854**		**$ (3,539)**	**$ 27,315**	**$ 21,980**	**$ 49,295**
Rate Base	**$ 743,799**		**$ (7,306)**	**$ 736,493**		**$ (5,113)**	**$ 731,381**		**$ 731,381**
Rate of Return	**3.04%**						**3.73%**		**6.74%**

Central Hudson Gas & Electric Corporation
Gas Operations Federal Income Tax
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted	Rate Increase	As Adjusted
Operating Income Before FIT, SIT, Interest	$ 25,303		$ 10,706	$ 36,009		$ (5,747)	$ 30,262	$29,757	$ 60,019
Interest Expense	16,364		723	17,087		(119)	16,968	-	16,968
State Income Tax - Current Period	441		622	1,063		(583)	480	1,934	2,414
	8,498		9,361	17,860		(5,046)	12,814	27,823	40,637
Reconciling Amounts:									
Total Additional Income and Unallowable Deductions	27,015		1,016	28,031		3,304	31,335	-	31,335
Total Additional Deductions and Nontaxable Income	67,603		1,434	69,037		(2,374)	66,663	-	66,663
Adjusted Taxable Income	(32,090)		8,943	(23,146)		632	(22,514)	27,823	5,309
Federal Income Tax									
FIT - 21%	(6,739)		1,878	(4,861)		133	(4,728)	5,843	1,115
NOL Carryforward Adjustment	6,623		-	6,623	18	(1,895)	4,728	-	4,728
Total	(116)		1,878	1,762		(1,762)	-	5,843	5,843
Deferred Taxes	1,806		-	1,806		75	1,881	-	1,881
Total Federal Income Taxes	**$ 1,690**		**$ 1,878**	**$ 3,568**		**$ (1,687)**	**$ 1,881**	**$ 5,843**	**$ 7,724**

Central Hudson Gas & Electric Corporation
Gas Operations Additional Income and Unallowable Deductions and
Gas Operations Additional Deductions and Nontaxable Income
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
Additional Income and Unallowable Deductions							
Depreciation - Central Hudson	$ 23,721	39	$ 1,016	$ 24,737	19	$ 3,268	$ 28,005
Adjustment - CY Average Method (Book Depr)	-		-	-		-	-
Transportation Depreciation	1,485		-	1,485	20	36	1,521
50 Percent Meal Disallowance	85		-	85		-	85
Avoided Cost Interest Capitalized	975		-	975		-	975
Contribution in Aid of Construction	700		-	700		-	700
Catch-all account	49		-	49		-	49
Total	**$ 27,015**		**$ 1,016**	**$ 28,031**		**$ 3,304**	**$ 31,335**
Additional Deductions and Nontaxable Income							
Depreciation - Central Hudson	$ 33,473	40	$ 1,434	$ 34,907	21	$ (2,374)	$ 32,533
Cost of Removal-Tax Basis	2,077		-	2,077		-	2,077
Property Tax Accrued-Central Hudson	7		-	7		-	7
Repair Deduction	32,037		-	32,037		-	32,037
Vacation Accrual- Additional Tax Deduction	9		-	9		-	9
Total	**$ 67,603**		**$ 1,434**	**$ 69,037**		**$ (2,374)**	**$ 66,663**

Central Hudson Gas & Electric Corporation
Gas Operations Federal Income Tax Deferred Items
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
FIT - Current Benefits Deferred							
Depreciation-Central Hudson	$ 4,185		$ -	$ 4,185	22	$ (1,631)	$ 2,554
Income Tax Rate Change Protected	(262)		-	(262)	23	(132)	(394)
Avoided Cost Interest Capitalized	(158)		-	(158)		-	(158)
Contribution in Aid of Construction	(14)		-	(14)		-	(14)
Cost of Removal-Tax Basis	(1,562)		-	(1,562)		-	(1,562)
NOL Carryforward	(6,121)		-	(6,121)	24	1,772	(4,349)
Repair Deduction	5,804		-	5,804		-	5,804
Catch All Account	(66)		-	(66)	25	66	-
Total	**$ 1,806**		**$ -**	**$ 1,806**		**$ 75**	**$ 1,881**

Central Hudson Gas & Electric Corporation
Gas Operations State Income Tax
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted	Rate Increase	As Adjusted For Revenue Requirement
Federal Taxable Income	$ 25,303		$ 10,706	$ 36,009		$ (5,747)	$ 30,262	$ 29,757	$ 60,019
Interest Expense	16,364		723	17,087		(119)	16,968		16,968
Reconciling Amounts:									
Total Additional Income and Unallowable Deductions	27,015		1,016	28,031		3,304	31,335		31,335
Total Additional Deductions and Nontaxable Income	67,603		1,434	69,037		(2,374)	66,663		66,663
Federal Taxable Income	(31,649)		9,565	(22,083)		49	(22,034)	29,757	7,723
Additions:									
Federal Depreciation Deduction Transition Property	(5,735)		-	(5,735)		-	(5,735)		(5,735)
Subtractions:									
NYS Depreciation Deduction Transition Property			-	-		-	-		-
	(5,735)		-	(5,735)		-	(5,735)	-	(5,735)
NYS Taxable Income	(37,384)		9,565	(27,818)		49	(27,769)	29,757	1,988
State Income Tax									
NYS Income Tax - 6.5%	(2,430)		622	(1,808)		3	(1,805)	1,934	129
NOL Carryforward Adjustment	2,391		-	2,391	26	(586)	1,805	-	1,805
Capital Base Tax	480		-	480		-	480	-	480
Fixed Dollar Minimum Tax			-	-		-	-	-	-
Total Current NYSIT	441		622	1,063		(583)	480	1,934	2,414
Deferred NYSIT	524		-	524		62	586	-	586
Total State Income Taxes	**$ 965**		**$ 622**	**$ 1,587**		**$ (521)**	**$ 1,066**	**$ 1,934**	**$ 3,000**

Central Hudson Gas & Electric Corporation
Gas Operations State Income Tax Deferred Items
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
SIT - Current Benefits Deferred							
Depreciation-Central Hudson	$ 1,509		$ -	$ 1,509	27	$ (521)	$ 988
Avoided Cost Interest Capitalized	(53)		-	(53)		-	(53)
Contribution in Aid of Construction	(1)		-	(1)		-	(1)
Cost of Removal-Tax Basis	(454)		-	(454)		-	(454)
Income Tax Rate Change Protected	(8)		-	(8)	28	(2)	(10)
NOL Carryforward	(2,391)		-	(2,391)	29	586	(1,805)
Repair Deduction	1,922		-	1,922	30	(1)	1,921
Total	**$ 524**		**$ -**	**$ 524**		**$ 62**	**$ 586**

Central Hudson Gas & Electric Corporation
Gas Operations Rate Base Summary
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
Rate Base							
Book Cost of Utility Plant	$ 1,021,047	41	$ 477	$ 1,021,524	31	$ (3,800)	$ 1,017,724
Less: Accumulated Provision for Depreciation & Amortization	(219,314)	42	(3,951)	(223,265)	32	(1,053)	(224,318)
Net Plant	$ 801,733		$ (3,474)	$ 798,259		$ (4,853)	$ 793,406
Noninterest-Bearing Construction Work in Progress	6,801	43	(2,080)	4,721	33	30	4,751
Customer Advances for Undergrounding & Prel Survey Investigation	(850)		-	(850)		-	(850)
Deferred Charges	(30,986)		-	(30,986)	34	(1,070)	(32,056)
Accumulated Deferred Federal Taxes	(78,204)		-	(78,204)	35-38	31	(78,173)
Accumulated Deferred State Taxes	(17,291)		-	(17,291)	39-42	434	(16,857)
Working Capital	25,456	44	(1,752)	23,704	43	315	24,020
Unadjusted Rate Base	706,659		(7,306)	699,353		(5,113)	694,241
EBCAP	37,140		-	37,140		-	37,140
Rate Base	**$ 743,799**		**$ (7,306)**	**$ 736,493**		**$ (5,113)**	**$ 731,381**
Equity Component of Rate Base							
Rate Base	$ 743,799			$ 736,493			$ 731,381
Common Equity Ratio	50%			48%			48%
Common Equity	$ 371,900		$ (18,383)	$ 353,517		$ (2,454)	$ 351,063
Interest Expense Deduction							
Rate Base	$ 743,799		$ (7,306)	$ 736,493		$ (5,113)	$ 731,381
Weighted Cost of Long Term Debt & Customer Deposits	2.20%			2.32%			2.32%
Interest Expense Deduction for Taxes	**$ 16,364**	45	**$ 723**	**$ 17,087**		**$ (119)**	**$ 16,968**

Central Hudson Gas & Electric Corporation
Gas Operations Deferred Items - Rate Base
For the Rate Year Ended June 30, 2025
($000)

Deferred Charges	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
MTA Tax	$ 480		$ -	$ 480		$ -	$ 480
Unamortized Debt Expense	1,414		-	1,414		-	1,414
Unamortized Loss on Reacquired Debt	238		-	238		-	238
Mgmt & Operational Audit Costs	154		-	154		-	154
Federal Tax Rate Change - Unprotected	3,631		-	3,631		-	3,631
Federal & NYS Tax Rate Change - Protected	(37,022)		-	(37,022)	34	(1,070)	(38,092)
Rate Case Expenses	329		-	329		-	329
Pension/OPEB Reserve	(210)		-	(210)		-	(210)
Total Deferred Charges	**$ (30,986)**		**$ -**	**$ (30,986)**		**$ (1,070)**	**$ (32,056)**

Accumulated Deferred Federal Income Taxes	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
Contributions in Aid of Construction	$ 3,003		$ -	$ 3,003		$ -	$ 3,003
Unbilled Revenue	1,508		-	1,508		-	1,508
MTA Tax	(101)		-	(101)		-	(101)
Deferred Avoided Cost Interest Capitalized	912		-	912		-	912
Bonds Redeemed	(3)		-	(3)		-	(3)
Cost of Removal	4,445		-	4,445	35	(10)	4,435
Normalized Depreciation	(69,112)		-	(69,112)	36	1,379	(67,733)
Prepaid Insurance	(116)		-	(116)		-	(116)
Management & Operational Audit Costs	(32)		-	(32)		-	(32)
Repair Deduction	(35,229)		-	(35,229)	37	(1,562)	(36,791)
NOL Carryforward	11,588		-	11,588		-	11,588
Interest Expense on Tax Reserve	-		-	-		-	-
Federal Tax Rate Change - Unprotected	(762)		-	(762)		-	(762)
Federal & NYS Tax Rate Change - Protected	7,775		-	7,775	38	224	7,999
Rate Case Expenses	(69)		-	(69)		-	(69)
Other	(2,011)		-	(2,011)		-	(2,011)
Total Deferred Taxes	**$ (78,204)**		**$ -**	**$ (78,204)**		**$ 31**	**$ (78,173)**

Accumulated Deferred State Income Taxes	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
Normalized Depreciation	$ (16,989)		$ -	$ (16,989)	39	$ 415	$ (16,574)
MTA Tax	(31)		-	(31)		-	(31)
Deferred Avoided Cost Interest Capitalized	277		-	277		-	277
Bonds Redeemed	0		-	-		-	-
Cost of Removal	1,376		-	1,376		-	1,376
Contributions in Aid of Construction	921		-	921		-	921
Unbilled Revenue	467		-	467		-	467
Prepaid Insurance	(36)		-	(36)		-	(36)
Management & Operational Audit Costs	(10)		-	(10)		-	(10)
Repair Deduction	(11,668)		-	(11,668)	40	(531)	(12,199)
NOL Carryforward	6,138		-	6,138	41	481	6,619
Interest Expense on Tax Reserve	0		-	-		-	-
Federal Tax Rate Change - Unprotected	(236)		-	(236)		-	(236)
Federal & NYS Tax Rate Change - Protected	2,407		-	2,407	42	69	2,476
Rate Case Expenses	(21)		-	(21)		-	(21)
Other	114		-	114		-	114
Total Deferred Taxes	**$ (17,291)**		**$ -**	**$ (17,291)**		**$ 434**	**$ (16,857)**

Central Hudson Gas & Electric Corporation
Gas Operations Working Capital-Rate Base
For the Rate Year Ended June 30, 2025
($000)

	Before Proposed Rate Change	Staff Adj. No.	Staff Adjustments	As Adjusted By Staff	ALJ Adj. No.	ALJ Adjustments	As Adjusted
Materials and Supplies							
Other Material and Supplies	$ 8,216		$ -	$ 8,216		$ -	$ 8,216
Prepayments							
Prepaid Property Taxes	$ 6,077		$ -	$ 6,077		$ -	$ 6,077
Prepaid Insurance	428		-	428		-	428
Cloud Computing Prepayments	46		-	46		-	46
Other Prepayments	1,688		-	1,688		-	1,688
Prepayments Working Capital	$ 8,239		$ -	$ 8,239		$ -	$ 8,239
Operation and Maintenance							
Cash Working Capital @ 1/8	$ 9,001	44	$ (1,752)	$ 7,249	43	$ 315	$ 7,565
Total Working Capital	**$ 25,456**		**$ (1,752)**	**$ 23,704**		**$ 315**	**$ 24,020**

Central Hudson Gas & Electric Corporation
Gas Operations Capital Structure
For the Rate Year Ended June 30, 2025
($000)

Per Central Hudson	Amount		%	Cost Rate	Weighted Cost	Pretax
Long Term Debt	$1,324,762		49.75%	4.39%	2.19%	2.19%
Customer Deposits	6,846		0.26%	3.60%	0.01%	0.01%
Common Equity	1,331,449		50.00%	9.80%	4.90%	6.63%
Total	**$2,663,057**		**100.0%**		**7.10%**	**8.83%**

Per Staff	Staff Adj. No.	%	Cost Rate	Weighted Cost	Pretax
Long Term Debt		51.75%	4.46%	2.31%	2.31%
Customer Deposits		0.25%	4.20%	0.01%	0.01%
Common Equity		48.00%	9.20%	4.42%	5.98%
Total	46	**100.0%**		**6.74%**	**8.30%**

Per Recommended Decision	ALJ Adj. No.	%	Cost Rate	Weighted Cost	Pretax
Long Term Debt		51.75%	4.46%	2.31%	2.31%
Customer Deposits		0.25%	4.20%	0.01%	0.01%
Common Equity		48.00%	9.20%	4.42%	5.98%
Total		**100.0%**		**6.74%**	**8.30%**

Central Hudson Gas & Electric Corporation
Gas Operations Revenue Requirement Calculation
For the Rate Year Ended June 30, 2025
($000)

Average Rate Base	$731,381
Rate of Return on Rate Base	6.74%
Net Income after Rate Increase	$49,295
Net Income before Rate Increase	27,315
Net Income Increase	21,980
Retention Factor	0.7152
Revenue Increase Required	$30,731

Revenue Taxes	$1,171
Uncollectibles	-
Recovery/Refund of Rate Change Timing	-
Finance Charges	$197

Retention Factor

Additional Revenue Requirement	1.0000
Less: Revenue Taxes	0.0381
Uncollectibles	-
Recovery/Refund of Rate Change Timing	-
Finance Charges	(0.0064)
Operating Income subject to FIT	0.9683
Less: Federal Income Tax	0.2033
Less: State Income Tax	0.0497
Net Operating Income	0.7152

Central Hudson Gas & Electric Corporation
Staff Adjustments - Gas
For the Rate Year Ending June 30, 2025
($000)

Staff Adj. No.	Explanation	Staff Adjustments
	Revenues (Schedule 1)	
1	Own Territory Delivery Revenues	
	To reflect Staff's adjustment to the forecasted revenues	$ (3,409)
2	Revenue Taxes	
	To reflect revenue collected for revenue taxes	(130)
3	Danskammer Revenues	
	To reflect Staff's adjustment	1,000
	Total Adjustments to Revenues	**$ (2,539)**
	Operating & Maintenance Expenses (Schedule 1)	
4	Labor Expense	
a	To reflect executive and non-union wage inflator reduction	(410)
b	To reflect systems operations and temp employee wage reduction	(24)
c	To apply attrition rate	(900)
d	To reflect reduction of incremental FTEs	(1,680)
e	To reflect change distribution to historic average	(539)
f	To correct transposed base wage error	(351)
g	To reflect compounding of multiple adjustments	70
	Total	(3,834)
5	Executive Incentive Compensation	
	To remove from forecast	(230)
6	Employee Benefits	
a	To base projection on historic costs and update inflation	(1,290)
b	To track changes to labor	(474)
	Total	(1,764)
7	Pension	
	To track changes to the distribution of labor	(21)
8	OPEBs	
	To track changes to the distribution of labor	(6)
9	Employee Training, Safety & Reliability	
a	To reflect latest known and general inflation	(2)
b	To track Staff's FTE forecast	(62)
c	To reflect 50% of new business initiatives	(110)
	Total	(174)
10	T&D Repairs and Maintenance	
	To remove Company's proposal	(344)
11	Pipeline Integrity & Inspection	
	To reflect Staff's forecast	(150)
12	Economic Development	
	To reflect Staff's forecast	(200)
13	Meter Reading, Collections & Call Volume Overflow	
a	To accelerate implementation of monthly meter reading	(431)
b	To remove the Company's increased projection of call volumes due to uncertainty of arrears	(338)
	Total	(769)

Central Hudson Gas & Electric Corporation
Staff Adjustments - Gas
For the Rate Year Ending June 30, 2025
($000)

Staff Adj. No.	Explanation	Staff Adjustments
14	Low Income Program	
	To reflect Staff's forecast	$ (969)
15	Uncollectibles	
a	To reflect Staff's forecast	219
b	To track Staff's adjustments to revenue	3
	Total	222
16	Regulatory Commission General Assessment	
	To reflect Staff's forecast	(91)
17	Environmental SIR Costs	
	To reflect Staff's forecast	(846)
18	Information Technology	
	Tracking adjustment to IT capital reduction	(119)
19	Maintenance of Building and Supplies	
	To reflect Staff's forecast	9
20	Materials and Supplies	
	To reflect Staff's forecast	(176)
21	Stores Clearing to Expense	
	To remove normalizing adjustment	(63)
22	Transportation Depreciation	
	To reflect Staff's adjustment to transportation depreciation	(148)
23	Legal Services	
	To correct normalizing adjustment	(15)
24	Consulting and Professional Services	
a	To adjust audit fees to latest known	(19)
b	To remove unsupported costs for Emergent Consulting	(40)
c	To remove JD Power Benchmarking Study from forecast	-
	Total Adjustments for Consulting and Professional Services	(59)
25	Miscellaneous General Expenses	
a	To remove lobbying expenses	(3)
b	To remove unsupported recruitment expenses	(20)
	Total Adjustments for Miscellaneous General Expenses	(23)
26	Injuries and Damages	
	Tracking adjustment to labor	(12)
27	Other Operating Insurance	
	To reflect Staff forecast	(34)
28	Management and Operations Audit Savings	
	To reflect Staff forecast	(161)
29	Energy Efficiency	
	To reflect Staff's forecast	(61)

Central Hudson Gas & Electric Corporation
Staff Adjustments - Gas
For the Rate Year Ending June 30, 2025
($000)

Staff Adj. No.	Explanation	Staff Adjustments
30	Miscellaneous Charges	
	To reflect Staff's forecast	$ (115)
31	Productivity Imputation	
	To reflect Staff's forecast	(299)
32	Inflation Reduction	
	To reflect reduction in inflation	(34)
33	Amortization of Depreciation Reserve Adjustment	
	To remove from forecast	(3,307)
	Total adjustments to Operating & Maintenance Expenses	**$ (13,792)**
	Other Deductions (Schedule 1)	
34	Property Taxes	
	To adjust the EO award reductions and EO tax rate	-
35	Revenue Taxes	
	To track adjustments to revenues	(130)
36	Payroll Taxes	
	To reflect the impact of Staff's adjustments to labor expense	(265)
37	Other Taxes	
a	To remove Call Volume Overflow	(43)
b	To remove inflation	-
	Total Adjustment for Other Taxes	(43)
38	Depreciation	
	To reflect Staff's adjustment to depreciation expense	985
	Total	985
	Total Adjustments to Other Deductions	**$ 547**
	Taxes - Reconciling Items (Schedule 3)	
	Additional Income	
39	Book Depreciation	
	To track Staff's adjustments to depreciation	1,016
	Additional Deductions	
40	Book Depreciation	
	To reflect Staff's adjustment	1,434
	Rate Base (Schedule 7)	
41	Utility Plant	
	To reflect Staff's changes to Utility Plant	477
42	Accumulated Provision for Depreciation and Amortization	
	To reflect Staff's adjustments tracking utility plant	(3,951)

Central Hudson Gas & Electric Corporation
Staff Adjustments - Gas
For the Rate Year Ending June 30, 2025
($000)

Staff Adj. No.	Explanation	Staff Adjustments
43	Non-Interest Bearing Construction Work in Progress	
	To reflect Staff's adjustment	$ (2,080)
	Rate Base Deferred Charges (Schedule 8)	
	Working Capital (Schedule 9)	
44	Cash Working Capital	
	To reflect Staff's adjustments to O&M expenses at 1/8th	(1,731)
	Total Adjustments to Working Capital	**(1,731)**
	Total Adjustments to Rate Base	**$ (7,284)**
45	**Interest Expense Deduction (Schedule 7)**	
	To reflect Staff's changes to Rate Base and the Weighted Cost of Long Term Debt	723
46	**Capital Structure (Schedule 10)**	
	Overall Pre-Tax Rate of Return	
	To reflect Staff's changes in the Capital Structure	8.30%

Central Hudson Gas & Electric Corporation
Gas Operations - ALJ Adjustments
For the Rate Year Ended June 30, 2025
($000)

ALJ Adj. No.	Explanation	ALJ Adjustments
Operating Expenses		
1	Labor To reflect recommended labor FTEs and executive and management wage inflation factors.	$ 766
2	Executive Incentive Compensation To reflect Central Hudson's requested executive incentive compensation.	230
3	Employee Benefits To track FTE increases on employee benefits costs.	125
4	Employee Training, Safety & Education To reflect Central Hudson's requested new initiative costs and to track FTE increases on training costs.	129
5	Pipeline Integrity & Inspection To reflect Central Hudson's forecast of Pipeline Integrity & Inspection costs.	150
6	Meter Reading, Collections & Call Volume Overflow To reflect Central Hudson's requested call volume overflow costs.	338
7	Uncollectible Accounts To reflect Central Hudson's uncollectible accounts forecast.	(222)
8	Information Technology To reflect Central Hudson's Information Technology forecast.	186
9	Transportation Depreciation To reflect recommended allowance for transportation-depreciation.	20
10	Consulting & Professional Services To reflect recommended Consulting & Professional Services forecast of audit agency fees.	19
11	Injuries & Damages To track FTE increases on injuries & damages expense.	
12	Other Operating Insurance To reflect Central Hudson's forecast of other operating insurance.	34
13	Management & Operational Audit Savings To reflect removal of Staff's imputation of savings.	161
14	Productivity To reflect 1% productivity and tracking changes in productivity base.	309
15	Amortization of Depreciation Reserve To reflect recommended amortization of depreciation reserve.	57
Other Deductions		
16	Payroll Taxes To track adjustments to labor.	53
17	Depreciation To reflect recommended depreciation expense.	3,393
Federal Income Tax		
18	NOL Carryforward Adjustment To reflect updated NOL usage.	(1,895)
	Additional Income and Unallowable Deductions	
19	Depreciation - Central Hudson To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	3,268
20	Transportation Depreciation To reflect Central Hudson's Rebuttal Testimony update.	36
	Additional Deductions and Nontaxable Income	
21	Depreciation - Central Hudson To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	(2,374)

Central Hudson Gas & Electric Corporation
Gas Operations - ALJ Adjustments
For the Rate Year Ended June 30, 2025
($000)

ALJ Adj. No.	Explanation	ALJ Adjustments
22	FIT - Current Benefits Deferred Depreciation-Central Hudson To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	$ (1,631)
23	Income Tax Rate Change Protected To reflect Central Hudson's Rebuttal Testimony update.	(132)
24	NOL Carryforward To reflect Central Hudson's Rebuttal Testimony update and tracking NOL usage.	1,772
25	Catch All Account To reflect Central Hudson's Rebuttal Testimony update.	66
State Income Tax		
26	NOL Carryforward Adjustment To reflect Central Hudson's Rebuttal Testimony update and tracking NOL usage.	(586)
27	SIT - Current Benefits Deferred Depreciation-Central Hudson To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	(521)
28	Income Tax Rate Change Protected To reflect Central Hudson's Rebuttal Testimony update.	(2)
29	NOL Carryforward To reflect Central Hudson's Rebuttal Testimony update.	586
30	Repair Deduction To reflect Central Hudson's Rebuttal Testimony update.	(1)
Rate Base		
31	Book Cost of Utility Plant To reflect recommended plant forecast.	(3,800)
32	Accumulated Provision for Depreciation & Amortization To reflect recommended accumulated depreciation forecast.	(1,053)
33	Noninterest-Bearing Construction Work in Progress To reflect recommended non-interest bearing Construction Work in Progress forecast.	30
34	Deferred Charges Federal & NYS Tax Rate Change - Protected To reflect Central Hudson's Rebuttal Testimony update.	(1,070)
35	**Accumulated Deferred Federal Taxes** Cost of Removal To reflect Central Hudson's Rebuttal Testimony update.	(10)
36	Normalized Depreciation To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	1,389
37	Repair Deduction To reflect Central Hudson's Rebuttal Testimony update.	(1,562)
38	Federal & NYS Tax Rate Change - Protected To reflect Central Hudson's Rebuttal Testimony update.	224
39	**Accumulated Deferred State Income Taxes** Normalized Depreciation To reflect Central Hudson's Rebuttal Testimony update and tracking RD depreciation adjustments.	417
40	Repair Deduction To reflect Central Hudson's Rebuttal Testimony update.	(531)
41	NOL Carryforward To reflect Central Hudson's Rebuttal Testimony update.	481
42	Federal & NYS Tax Rate Change - Protected To reflect Central Hudson's Rebuttal Testimony update.	69
43	Working Capital To track Operating Expense changes.	315

Attachment 2

Stipulations

Exhibit 513 - Stipulation Regarding Sales Forecast and Price Out Revenues

Exhibit 514 – Stipulation Regarding Billing Reporting Requirements

Exhibit 515 – Stipulation Regarding Customer Experience Capital Projects

Exhibit 516 – Stipulation Regarding Electric Capital and Operations