

## 6.12.5.2.2 Formula Rate Protocols

### Section 1 Overview~~Description~~ of Annual Update Process

Central Hudson will recalculate the Hurley-HFC revenue requirement, prospectively for the rate to be charged over the next year and retrospectively as a true up to actual rate base and expense, annually with the new rates to be effective each June 1, ~~to permit the Hurley-FC to be adjusted to actual costs~~. The annual update will reflect the FERC Form No. 1 R~~r~~eport data from the most recent calendar year for all components of the allocation methodology, as well as actual p~~p~~roject costs and associated income taxes ~~and an updated megawatt-hour forecast for billing to the LSEs~~. Central Hudson will coordinate with the ISO to post the results of its annual updates to the NYISO's website. The annual update will include supporting documentation and be subject to review and challenge as described herein.

Central Hudson will track the gross plant costs of the ~~Hurley-FC SDU~~Project. The Hurley-HFC revenue requirement will equal Central Hudson's true up rate base, at the Commission approved return on equity, and ongoing operations and maintenance and other costs based on the entire p~~p~~roject cost. Based on those actual costs, the Hurley-HFC revenue requirements will be adjusted annually to include the related True-up Adjustment. Central Hudson will determine its annual adjusted revenue requirement using the template set forth in Section 6.12.5.2.1 of Attachment 1 to Rate Schedule 12 of the ISO OATT.

Central Hudson will coordinate with the ISO to post its proposed annual update to a publicly accessible location on the ISO's website by no later than April 15, of each year. Interested p~~p~~arties may submit comments to Central Hudson no later than ~~May~~November 1 of each year regarding the posted annual update. Central Hudson will coordinate with the ISO to post all comments and questions submitted by ~~interested parties~~Interested Parties, as well as

Central Hudson's responses thereto (subject to any limitations expressly provided herein for responses that include confidential information), to a publicly accessible location on the ISO's website. Central Hudson will submit an informational filing to the Commission by February 1 of each following year with the results of its annual update, reflecting (to the extent necessary) any changes made in response to comments submitted by interested parties, by May 15 of each year Interested Parties. Central Hudson will also coordinate with the ISO to post ~~the results a copy of its annual update, as filed with the Commission, the informational filing~~ to a publicly accessible location on the ISO's website ~~by May 15 of each year.~~

## Section 2 Definitions

The following definitions shall apply for purposes of these Formula Rate Protocols:

- a. Accounting Change: any change in accounting by Central Hudson or its affiliates that affects inputs to the Formula Rate or the resulting charges billed under the Formula Rate.
- b. Annual Review Procedures: the procedures described in this Section 6.12.5.2.2 of Attachment 1 to Rate Schedule 12 of the ISO OATT that provide for review and challenge by Interested Parties of an Annual True-up Adjustment and the Annual Update.
- c. Annual Stakeholder Meeting: an annual meeting for Interested Parties with the intention that Central Hudson present, explain and answer questions related to an Annual True-up Adjustment and Annual Update.
- d. Actual Annual Transmission Revenue Requirement ("Actual ATRR"): the actual annual revenue requirement of Central Hudson's Hurley Avenue Highway System Deliverability Upgrade Project for a Rate Year (June to May) calculated in accordance with the Formula Rate and posted on the ISO website no later than April 15 following the end of such Rate Year.

e. Annual True-up Adjustment: the difference between the revenues collected for that Rate Year under the Formula Rate based upon the Projected ATRR (not including the True-up Adjustment or Corrections) and the Actual ATRR for the same Rate Year. The Annual True-up Adjustment is included in the Annual Update for the next Rate Year.

f. Annual Update: the Projected ATRR for the upcoming Rate Year, including any Annual True-up Adjustment for the prior Rate Year and/or any Corrections for prior years.

g. Hurley Avenue Highway System Deliverability Upgrade Project: a transmission project owned by Central Hudson that qualifies as a “Highway SDU” as such term is defined in Section 6.12.1.1 of Rate Schedule 12 to the ISO OATT. For the purposes of these Formula Rate Protocols, such transmission project may also be referred to as “Hurley Avenue Project.”

h. Corrections: changes due to errors or otherwise to a prior Actual ATRR that occur after that Actual ATRR is used to determine an Annual True-up Adjustment for that Rate Year and included in an applicable Annual Update.

i. Formal Challenge: a written challenge, filed with FERC, to an Annual True-up Adjustment or Annual Update submitted by Central Hudson to the Commission in the informational filing.

j. Formula Rate: the Formula Rate Template (as set forth in Section 6.12.5.2.1 of this Attachment 1 to Rate Schedule 12 of the ISO OATT) and the Formula Rate Protocols (as set forth in this Section 6.12.5.2.2 of this Attachment 1 to Rate Schedule 12 of the ISO OATT).

k. Formula Rate Protocols: The protocols under this Section 6.12.5.2.2 of this Attachment 1 to Rate Schedule 12 of the ISO OATT that provide safeguards to ensure that the input data to the Formula Rate is correct and accurate, that calculations are performed consistent with the Formula Rate, that the costs to be recovered in the Formula Rate are reasonable and

were prudently incurred, and that the resulting rates are just and reasonable. The protocols address: (1) the scope of participation, (2) the transparency of the information exchange, and (3) the ability of Interested Parties to challenge Central Hudson's implementation of the Formula Rate as a result of the information exchange.

l. Formula Rate Template: the collection of formulas and worksheets, unpopulated with any data, included as set forth in Section 6.12.5.2.1 of this Attachment 1 to Rate Schedule 12 of the ISO OATT.

m. Informal Challenge: a process by which Interested Parties may challenge certain aspects of an Annual True-up Adjustment or Annual Update. Informal Challenges are presented to Central Hudson directly.

n. Informational Filing: the filing of the results of the Review Period with FERC on or before February 1 of the year following the start of each Rate Year. This is filed at FERC for informational purposes only and does not require any action by the Commission.

o. Interested Parties: any Transmission Customer, the New York State Department of Public Service, the New York State Department of State's Division of Consumer Protection Utility Intervention Unit, consumer advocacy agencies, the New York Attorney General or any party that has standing in a Central Hudson Formula Rate proceeding under sections 205 or 206 of the FPA.

p. Posting Date: the date on which Central Hudson causes to be posted to the ISO website an Annual Update, which is April 15 of each year; provided, however, that if such date falls on a weekend or holiday recognized by the Commission, the Posting Date shall be the next business day.

q. Projected Annual Transmission Revenue Requirement (“Projected ATRR”): the projected annual revenue requirement of Central Hudson’s Hurley Avenue Project for the upcoming Rate Year calculated in accordance with the Formula Rate and posted on the ISO website no later than the Posting Date.

r. Publication Date: the date on which Central Hudson causes an Annual True-up Adjustment to be posted to the ISO website, which is April 15 of each year; provided, however, that if such date falls on a weekend or holiday recognized by the Commission, the Publication Date shall be the next business day.

s. Rate Year: a twelve consecutive month period that begins on June 1 and continues through May 31 of the following year.

t. Review Period: the period during which Interested Parties may request information or make Informal Challenges to an Annual True-up Adjustment or Annual Update. The Review Period extends from the Publication Date to December 31 of the current year. Information requests can be submitted from the Publication Date through November 1 of the current year. The deadlines for information requests and for the Review Period shall be extended for any delays in the Publication Date, including if the Publication Date falls on a holiday recognized by FERC or a weekend. In addition, the deadline for information requests or for the Review Period shall be extended to the next business day if such dates fall on a holiday recognized by FERC or a weekend.

### **Section 3 Applicability**

These Formula Rate Protocols apply to Central Hudson’s calculation of its Projected ATRR and Actual ATRR and related Annual True-up Adjustment(s). A timeline of the annual

protocol process is contained in Section 10 of this Section 6.12.5.2.2 of Attachment 1 to Rate Schedule 12 of the ISO OATT.

**Section 4 Projected ATRR, Actual ATRR, Annual True-up Adjustment and Annual Update**

- a. The Projected ATRR calculated pursuant to the Formula Rate shall be applicable on and after June 1 of each Rate Year in which the revenue requirement of the Hurley Avenue Project is to be included in transmission rates.
- b. On or before April 15 of each Rate Year (the Publication Date), Central Hudson shall calculate its Actual ATRR and resulting Annual True-up Adjustment according to the Formula Rate and cause the results to be posted on the ISO website. The ISO shall provide notice of such posting via email to Transmission Customers. Central Hudson shall provide notice via email to all other Interested Parties utilizing the most recent email address provided to Central Hudson.
- c. On or before April 15 (the Posting Date), Central Hudson shall calculate its Annual Update for the upcoming Rate Year and cause the results to be posted on the ISO website. As part of the Annual Update, Central Hudson shall determine its Projected ATRR, calculated according to the Formula Rate. The Annual Update will also include the results of the Annual True-up Adjustment for the prior Rate Year and any Corrections for prior years, when applicable. Central Hudson shall cause the Annual Update to be posted on the ISO website. The ISO shall provide notice of such posting via email to Transmission Customers. Central Hudson shall provide notice via email to all other Interested Parties utilizing the most recent email address provided to Central Hudson.

- d. If the Publication Date or the Posting Date falls on a weekend or a holiday recognized by FERC, then the Publication Date or Posting Date, as applicable, shall be the next business day.
- e. Within thirty (30) days after the Publication Date and Posting Date (April 15), Central Hudson shall hold the Annual Stakeholder Meeting to present, explain and answer questions concerning the Annual True-up Adjustment for the prior Rate Year and the Annual Update for the upcoming Rate Year. Central Hudson will provide the opportunity for remote participation at Annual Stakeholder Meetings. To ensure that Interested Parties receive sufficient advance notice of Annual Stakeholder Meetings, Central Hudson shall schedule each Annual Stakeholder Meeting at least one month in advance and cause notice thereof to be posted on the ISO website. The ISO shall provide notice of such posting via email to Transmission Customers. Central Hudson shall provide notice via email to all other Interested Parties utilizing the most recent email address provided to Central Hudson.
- f. Central Hudson shall modify an Annual Update to reflect any changes that it and the Interested Parties agree upon by no later than May 15 and shall cause the revised Annual Update to be posted on the ISO website. Any change agreed to or required after May 15 will be implemented as part of the subsequent Annual True-up Adjustment to be effective in the next following Rate Year. Central Hudson shall cause any revised Annual Update to be posted on the ISO website. The ISO shall provide notice of such posting via email to Transmission

Customers. Central Hudson shall provide notice via email to all other Interested Parties utilizing the most recent email address provided to Central Hudson.

g. The Actual ATRR and Annual True-up Adjustment posting shall:

i. Include a workable, data-populated Formula Rate Template and any underlying workpapers in native format with all formulas and links intact and based on Central Hudson's FERC Form No. 1 reports for the prior Rate Year;

ii. Provide supporting documentation and workpapers for data that are used in the Annual True-up Adjustment that are not otherwise available directly from the FERC Form No. 1 reports;

iii. Provide sufficient information to enable Interested Parties to replicate the calculation of the Annual True-up Adjustment;

iv. Identify any changes in the Formula Rate references (page and line numbers) to the FERC Form No. 1 report;

v. Identify all material adjustments made to the FERC Form No. 1 data in determining Formula Rate Template inputs, including relevant footnotes to the FERC Form No. 1 and any adjustments not shown in the FERC Form No. 1;

vi. Include, with respect to any Accounting Change that affects inputs to the Formula Rate Template, or the resulting Actual ATRR under the Formula Rate:

A. a description of any changes in an accounting standard or policy;

B. a description of any accounting practices for unusual or unconventional items where FERC has not provided specific accounting direction;

- C. any correction of errors and prior period adjustments that impact an Annual True-up Adjustment calculation or prior Annual True-up Adjustments;
  - D. a description of any new estimation methods or policies that change prior estimates; and
  - E. changes to income tax elections or rates.
- vii. Identify items included in the Annual True-up Adjustment at an amount other than on a historic cost basis (e.g., fair value adjustments);
- viii. Identify any reorganization or merger transaction during the previous Rate Year and explain the effect of the accounting for such transaction(s) on inputs to the Annual True-up Adjustment;
- ix. Include, for each item identified pursuant to 3.g.vi – 3.g.viii of these Formula Rate Protocols, a narrative explanation of the individual effect of such changes on the Actual ATRR under the Formula Rate; and
- x. Provide for the applicable rate year the following information related to affiliate cost allocation:
  - A. a detailed description of the methodologies used to allocate and directly assign costs between Central Hudson and its affiliates by service category or function, including any changes to such cost allocation methodologies from the prior Rate Year and the reasons and justifications for those changes; and

B. the magnitude of such costs that have been allocated or directly assigned between Central Hudson and each affiliate by service category or function.

h. The Projected ATRR shall:

i. Include a workable, data-populated Formula Rate Template and any underlying workpapers in native format with all formulas and links intact;

ii. Provide supporting documentation and workpapers for all Hurley Avenue Project investments exceeding \$1.0 million being added to operating property in the upcoming Rate Year that are used in the Projected ATRR, including expected construction schedule and in-service dates;

iii. Provide enough information to enable Interested Parties to replicate the calculation of the Projected ATRR.

iv. Include, with respect to any Accounting Change that affects inputs to the Formula Rate Template, or the resulting Projected ATRR under the Formula Rate:

A. a description of any changes in an accounting standard or policy;

B. a description of any accounting practices for unusual or unconventional items where FERC has not provided specific accounting direction;

C. any correction of errors and prior period adjustments that impact an Annual True-up Adjustment calculation or prior Annual True-up Adjustments;

- D. a description of any new estimation methods or policies that change prior estimates; and
  - E. changes to income tax elections or rates;
- v. Identify items included in the Projected ATRR at an amount other than on a historic cost basis (e.g., fair value adjustments);
- vi. Identify any reorganization or merger transaction in the prior Rate Year and explain the effect of the accounting for such transaction(s) on inputs to the Projected ATRR; and
- vii. Include, for each item identified pursuant to 3.h.iv – 3.h.vi of these Formula Rate Protocols, a narrative explanation of the individual effect of such changes on the Projected ATRR under the Formula Rate.
- i. If Central Hudson files any corrections to its FERC Form No. 1 that impacts an Annual True-up Adjustment, such corrections and any resulting refunds or surcharges shall be reflected in the subsequent Annual True-up Adjustment or Annual Update as a Correction, with interest.
- j. Interest on each Annual True-up Adjustment shall be determined based on the Commission's regulations at 18 C.F.R § 35.19a a(iii)(A). The interest payable shall be calculated using the average of the interest rates used to calculate the time value of money for the twenty-four (24) months during which the over- or under-recovery in the Actual ATRR exists (middle of Rate Year for which the Annual True-up Adjustment is being determined to the middle of Rate Year where such Annual True-up Adjustment is included in the Annual Update).

k. Formula Rate Template inputs for (i) the base return on common equity and (ii) depreciation and amortization expense rates shall be stated values to be used in the Formula Rate approved by FERC order(s). Changes in depreciation and amortization rates to track a state commission order shall become effective only upon FERC order permitting a change in depreciation and amortization rates, which, to the extent possible, should be made effective as of the same date the state commission order becomes effective. Central Hudson will include notification of any depreciation or amortization rates in the applicable informational filing. Central Hudson may also request transmission rate incentives pursuant to section 219 of the FPA or any superseding sections.

l. It is the intent of the Formula Rate, including the supporting explanations and allocations described therein, that each input to the Formula Rate will be taken either directly from the FERC Form No. 1 or reconcilable to the FERC Form No. 1 by the application of clearly identified and supported information. If the FERC Form No. 1 is superseded, the successor form(s) shall be utilized and supplemented as necessary to provide equivalent information as that provided in FERC Form No. 1. If the FERC Form No. 1 is discontinued, equivalent information as that provided in FERC Form No. 1 shall be utilized.

#### **Section 5 Fundamental Predicates**

a. The Formula Rate is premised upon data reported or recorded by Central Hudson consistent with the following predicates ("Fundamental Predicates"):

i. FERC's Uniform System of Accounts;

ii. Applicable FERC Form No. 1 reporting requirements;

- iii. FERC's policies governing formula rates for transmission service, including FERC's policies that all charges billed under transmission formula rates are subject to: (A) challenge on grounds of imprudence, and (B) an order by FERC requiring refunds in the manner and to the extent ordered;
- iv. FERC orders establishing transmission ratemaking policies of general application to transmission-owning public utilities, including Central Hudson; and
- v. The accounting and cost allocation policies, practices and procedures of Central Hudson to the extent consistent with the authorities listed in (i) through (iv) above.
- b. The Formula Rate is based upon each of these Fundamental Predicates as existed as of the date these Formula Rate Protocols are filed with FERC. Provisions of the Formula Rate may be modified to conform to changes in these Fundamental Predicates in accordance with Section 8 of these Formula Rate Protocols or as ordered by FERC.
- c. The Projected ATRR and the Actual ATRR shall include only costs for the Hurley Avenue Project and as such costs are directly related to or properly allocable to transmission functions pursuant to the Formula Rate Template in Section 6.12.5.2.1 of Attachment 1 to Rate Schedule 12 of the ISO OATT. Interested Parties shall be entitled to review and challenge (i) the reasonableness and prudence of costs and expenditures included in the Projected ATRR and Actual ATRR, (ii) the basis for and reasonableness of allocating all or any portion of such costs and expenditures in determining the Projected ATRR and Actual

ATRR under the Formula Rate, and (iii) whether the allocation of costs as applied results in a disproportionate allocation of cost to the Projected ATRR and Actual ATRR for charges under Section 6.12.5.2.1 of Attachment 1 to Rate Schedule 12 of the ISO OATT. Any such review and challenge shall adhere to the procedures set forth in Sections 6 and 8 below.

### **Section 6 Annual Review Procedures**

Each Annual True-up Adjustment and Annual Update shall be subject to the following review procedures:

- a. Interested Parties shall have until November 1 to serve reasonable information requests on Central Hudson for both the Annual True-up Adjustment and the Annual Update. If November 1 falls on a weekend or a holiday recognized by FERC, the deadline for submitting all information and document requests shall be extended to the next business day. Such information and document requests shall be limited to what is necessary to determine:
  - i. the extent or effect of an Accounting Change;
  - ii. whether the Annual True-up Adjustment or Annual Update fails to include data properly recorded in accordance with these Formula Rate Protocols and the Fundamental Predicates or includes data not properly recorded in accordance with these Formula Rate Protocols and the Fundamental Predicates;
  - iii. whether the costs included in the Annual Update are properly accounted for (e.g., recordable and recorded in the appropriate accounts) under FERC's Uniform System of Accounts under 18 C.F.R. Part 101, and otherwise

consistent with Central Hudson's accounting policies, practices, or procedures;

iv. whether there are errors in the current Annual Update and, if any are identified, whether the same or similar errors were made in prior Formula Rate calculations with a further explanation identifying each Formula Rate in which such errors were made;

v. the proper application of the Formula Rate and procedures in these Formula Rate Protocols;

vi. the accuracy of data and consistency with the Formula Rate of the calculations shown in the Annual True-up Adjustment or the Annual Update;

vii. the prudence of actual costs and expenditures;

viii. the effect of any change to the underlying Uniform System of Accounts or the FERC Form No. 1;

ix. information on procurement methods and cost control methodologies used by Central Hudson; or

x. any other information that may reasonably have a substantive effect on the calculation of the Projected ATRR or Actual ATRR pursuant to the Formula Rate.

b. The information and document requests shall not otherwise be directed to ascertaining whether the Formula Rate is just and reasonable.

c. Central Hudson shall make a good faith effort to respond to information requests pertaining to the Annual True-up Adjustment and Annual Update within fifteen (15) business days of receipt of such requests. Central Hudson shall respond to all

information and document requests by no later than November 20 unless the information exchange period is extended by Central Hudson or FERC. If November 20 falls on a weekend or a holiday recognized by FERC, the deadline for response to information requests shall be extended to the next business day.

d. If Central Hudson and any Interested Party are unable to resolve disputes related to information requests submitted in accordance with these annual review procedures, Central Hudson or the Interested Party may petition FERC to appoint an Administrative Law Judge as a discovery master. The discovery master shall have the power to issue binding orders to resolve discovery disputes and compel the production of discovery, as appropriate, in accordance with these annual review procedures and consistent with FERC's discovery rules.

e. Central Hudson will cause to be posted on the ISO website all information requests from Interested Parties and Central Hudson's response to such requests; except to the extent such responses to information and document requests include material deemed by Central Hudson to be confidential information (in which event such information will not be publicly posted but will be made available to requesting parties pursuant to a confidentiality agreement to be executed by Central Hudson and the requesting party).

f. Central Hudson shall not claim that responses to information and document requests provided pursuant to these Formula Rate Protocols are subject to any settlement privilege in any subsequent FERC proceeding addressing Central Hudson's Annual True-up Adjustment, Annual Update, or its Formula Rate.

g. The dates and time periods set forth in this Section 6 may be modified by agreement between Central Hudson and other Interested Parties.

### **Section 7 Informational Filing**

a. By February 1 of each year, Central Hudson shall submit to FERC an Informational Filing of its Annual Update and the results of the Annual Review Procedures. This Informational Filing must include the information that is required by Section 4, must describe any changes pursuant to the Annual Review Procedures and must describe all aspects of the Formula Rate or its inputs that are the subject of an ongoing dispute under the Informal or Formal Challenge procedures. In addition, Central Hudson will include supporting documentation and workpapers for all Hurley Avenue Project investment exceeding \$1.0 million added to operating property in the Rate Year of the Projected ATRRs, including expected construction schedule and in-service dates.

Central Hudson will cause a copy of the Informational Filing to be posted on the ISO website. The ISO shall provide notice of such posting via email to Transmission Customers. Central Hudson shall provide notice via email to all other Interested Parties utilizing the most recent email address provided to Central Hudson and include the Informational filing on its OASIS page.

b. Any challenges to the implementation of the Annual Update must be made through the Challenge Procedures described in Section 8 of these protocols or in a separate complaint proceeding and not in response to the Informational Filing.

### **Section 8 Challenge Procedures**

- a. Interested Parties have through December 31 of the current year to make an Informal Challenge to Central Hudson's Annual True-up Adjustment or Annual Update. If December 31 falls on a weekend or a holiday recognized by FERC, the deadline for submitting all Informal Challenges shall be extended to the next business day. Failure of an Interested Party to pursue at least one issue through an Informal Challenge shall bar that Interested Party from filing a Formal Challenge. If at least one Informal Challenge was pursued by an Interested Party, then that Interested Party can file a Formal Challenge on the issue included in the Informal Challenge or any other issue. Failure to pursue an issue with respect to any particular Annual True-up Adjustment or Annual Update shall not bar pursuit of such issue through Informal Challenge or the lodging of a Formal Challenge as to such issue as it relates to subsequent Annual True-up Adjustments or Annual Updates. This Section 8 shall in no way affect a party's rights under FPA section 206.
- b. A party submitting an Informal Challenge to Central Hudson must specify the inputs, supporting explanations, allocations, calculations, or other information to which it objects and provide an appropriate explanation and documents to support its challenge. Central Hudson shall make a good faith effort to respond to any Informal Challenge within twenty (20) business days of notification of such challenge. Central Hudson shall appoint a senior representative to work with the party that submitted the Informal Challenge (or its representative) toward a resolution of the challenge. If Central Hudson disagrees with such challenge, Central Hudson will provide the Interested Party(ies) with an explanation

supporting the inputs and provide supporting calculations, descriptions, allocations, or other information. No Informal Challenge may be submitted after December 31, and Central Hudson must respond to all Informal Challenges by no later than January 31, unless the Review Period is extended by Central Hudson or FERC. If December 31 falls on a weekend or a holiday recognized by FERC, the deadline for submitting all Informal Challenges shall be extended to the next business day. Informal Challenges shall be subject to the resolution procedures and limitations in this Section 8.

c. Informal Challenges shall be presented to Central Hudson and Formal Challenges filed before the FERC, pursuant to these Formula Rate Protocols, and both Informal and Formal Challenges shall:

i. clearly identify the action or inaction which is alleged to violate the filed Formula Rate or Formula Rate Protocols;

ii. Explain how the action or inaction violates the Formula Rate or Formula Rate Protocols;

iii. Set forth the business, commercial, economic, or other issues presented by the action or inaction as such relates to or affects the party filing the Informal Challenge or Formal Challenge, including:

A. The extent or effect of an Accounting Change;

B. Whether the Annual True-up Adjustment or Annual Update fails to include data properly recorded in accordance with these Formula Rate Protocols;

- C. The proper application of the Formula Rate and procedures in these Formula Rate Protocols;
  - D. The accuracy of data and consistency with the Formula Rate of the charges shown in the Annual True-up Adjustment or Annual Update, including errors as described in Section 6.a.iv, for the current Annual True-up Adjustment or Annual Update and for any prior years in which the Formula Rate included such errors;
  - E. The prudence of actual costs and expenditures;
  - F. The effect of any change to the underlying Uniform System of Accounts or FERC Form No. 1; or
  - G. Any other information that may reasonably have substantive effect on the calculation of the Annual Update or Annual True-up Adjustment.
- iv. Informal Challenges and Formal Challenges may address whether costs are recorded consistent with the Fundamental Predicates in these Formula Rate Protocols and FERC's policies and regulations, how the costs charged by Central Hudson's shared services division are recorded on Central Hudson's books in accordance with Instruction 14 of the Uniform System of Accounts, the amounts of such centralized service company costs, and whether the costs are properly includable in transmission rates.
- v. Make a good faith effort to quantify the financial impact or burden (if any) created for the party filing the Formal Challenge as a result of the action or inaction;

- vi. State whether the issues presented in a Formal Challenge are pending in an existing Commission proceeding or a proceeding in any other forum in which the filing party is a party, and if so, provide an explanation why timely resolution cannot be achieved in that forum;
- vii. State the specific relief or remedy requested in a Formal Challenge, including any request for stay or extension of time, and the basis for that relief;
- viii. Include all documents that support the facts in the Formal Challenge in possession of, or otherwise attainable by, the filing party, including, but not limited to, contracts and affidavits; and
- ix. State whether the party filing the Formal Challenge utilized the Informal Challenge procedures described in these Formula Rate Protocols to dispute the action or inaction raised by the Formal Challenge, and, if not, describe why not.
- d. Any person filing a Formal Challenge must serve a copy of the Formal Challenge on Central Hudson. Service to Central Hudson must be simultaneous with filing at the Commission. Simultaneous service can be accomplished by electronic mail in accordance with 18 C.F.R. § 385.2010(f)(3), facsimile, express delivery, or messenger. The party filing the Formal Challenge shall serve the individual listed as the contact person on Central Hudson's Informational Filing required under Section 7 of these Formula Rate Protocols.
- e. Central Hudson will cause to be posted on the ISO website all Informal Challenges from Interested Parties and Central Hudson's response(s) to such Informal Challenges; except to the extent such Informal Challenges or responses

to Informal Challenges include material deemed by Central Hudson to be confidential information (in which event such information will not be publicly posted but will be made available to requesting parties pursuant to a confidentiality agreement to be executed by Central Hudson and the requesting party).

f. Any changes or adjustments to an Annual True-up Adjustment or Annual Update resulting from the information exchange and Informal Challenge processes agreed to by Central Hudson on or before May 15 will be reflected in the Annual Update for the upcoming Rate Year. Any changes or adjustments agreed to by Central Hudson after May 15 will be reflected in the following year's Annual True-up Adjustment.

g. If Central Hudson and a challenging party have not resolved an Informal Challenge to an Annual Update, the challenging party shall have the right to submit by April 1 a Formal Challenge with the FERC, which shall be served on Central Hudson on the date of such filing as specified in Section 8.d, above. If April 1 falls on a weekend or a holiday recognized by FERC, the deadline for submitting a Formal Challenges shall be extended to the next business day. However, there shall be no need to make a Formal Challenge or to await conclusion of the time periods in this Section 8 if the FERC already has initiated *sua sponte* a proceeding to consider the Annual True-up Adjustment or Annual Update. A Formal Challenge shall be filed pursuant to these Formula Rate Protocols rather than section 206 of the FPA and in the same docket as Central Hudson's informational filing discussed in Section 7 of these Formula Rate

Protocols. Central Hudson shall respond to the Formal Challenge by the deadline established by FERC. A party may not pursue a Formal Challenge if that party did not submit an Informal Challenge on at least one issue during the applicable Review Period.

- h. In any proceeding initiated by FERC concerning an Annual True-up Adjustment or Annual Update or in response to a Formal Challenge, Central Hudson shall bear the burden, consistent with FPA section 205, of proving that it has correctly applied the terms of the Formula Rate consistent with these Formula Rate Protocols, and that it followed the applicable requirements and procedures in these Formula Rate Protocols. Nothing herein is intended to alter the burdens applied by FERC with respect to prudence challenges.
- i. In the event an error, as further described in Section 6.a.iv, is identified in an Annual True- up Adjustment or Annual Update and such error was present in prior Annual True-up Adjustments or Annual Updates, an Interested Party may request a FERC order making any correction or providing other remedial relief retroactive to the first Formula Rate calculation in which such error occurred. Central Hudson retains all rights to oppose such a request.
- j. Except as specifically provided herein, nothing herein shall be deemed to limit in any way the right of Central Hudson to file unilaterally, pursuant to FPA section 205 and the regulations thereunder, to change the Formula Rate or any of its inputs (including, but not limited to, the base rate of return on common equity), or to replace the Formula Rate with a stated rate, or the right of any Interested Party

to request such changes pursuant to FPA section 206 and the Commission's regulations thereunder.

- k. No Interested Party shall seek to modify the Formula Rate under the challenge procedures set forth in this Section 8, and an Annual True-up Adjustment and Annual Update shall not be subject to challenge by anyone for the purpose of modifying the Formula Rate. Any modifications to the Formula Rate will require, as applicable, an FPA section 205 or section 206 filing.
- l. Any Interested Party seeking changes to the application of the Formula Rate due to a change in the Uniform System of Accounts or FERC Form No. 1 shall first raise the matter with Central Hudson in accordance with this Section 8 before pursuing a Formal Challenge.

#### **Section 9 Changes to Annual Informational Filings**

Any changes to the data inputs as a result of revisions to Central Hudson's FERC Form No. 1 or as a result of any FERC proceeding to consider an Annual True-up Adjustment or as a result of the procedures set forth herein shall be incorporated into the Formula Rate (with interest determined in accordance with 18 C.F.R. § 38.19a) in the Annual Update for the next effective Rate Year. This approach shall apply in lieu of mid-Rate Year adjustments or any refunds or surcharges. However, refunds or surcharges (with interest determined in accordance with 18 C.F.R. §38.19a) for the then current Rate Year shall be made if the Formula Rate is replaced by a stated rate by Central Hudson.

#### **Section 10 Example Timeline of Annual Review Procedures**

