STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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Case 12-M-0192 — Joint Petition of Fortis Inc., FortisUS Inc., Cascade Acquisition Sub Inc., CH Energy Group, Inc., and Central Hudson Gas & Electric Corporation for Approval of the Acquisition of CH Energy Group, Inc. by Fortis Inc. and Related Transactions

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**ADDITIONAL COMMENTS BY MANNA JO GREENE**
**May 1, 2013**

Honorable Secretary, Judges and Commissioners:

I would like to submit the follow comments in addition to written comments submitted previously, and comments provided verbally at three of the four public hearings held in the Central Hudson service area on this matter. In this communication I am speaking on my own behalf, not on behalf of the Town of Rosendale, where I serve as a Councilwoman, or on behalf of Citizens for Local Power, nor on behalf of Hudson River Sloop Clearwater, where I serve as Environmental Director.

First and foremost I would like to thank the Public Service Commission (PSC) for deciding to issue a **Recommended Decision** for the additional review and public process this will afford. This case has recently come to the public attention and the response has been widespread opposition to the proposed Joint Petition (JP) for Fortis to acquire Central Hudson (CH) – a utility provider in the Mid-Hudson region, where I live, work and actively volunteer.

I would also like to request a **60-day extension** to allow a process that only recently engaged the public enough time for each municipality and organization that wishes to assess the JP and take a position to do so. Although the JP has been proposed and negotiated over the past year, it was essentially after the first public hearing in February that many became aware of the proposed acquisition, and that awareness has triggered a wave of opposition that is rarely seen in public utility cases. The PSC surely did everything it was required to, to ensure public notice and allow public participation, but the wheels of government turn slowly and most legislative bodies only meet twice a month. Given that, it is amazing that 10 municipalities in the CH service area – Ulster County, the Towns of Rosendale, Woodstock, Esopus, Olive, Marbletown, the City Newburgh and the Town of Newburgh, and the Town of New Paltz and the Village of New Paltz – have passed resolutions in opposition. The Orange County Legislature is considering this matter tomorrow, and the City of Poughkeepsie is on Monday, with others pending. See attached list for the current tally. It will serve the Commission and the record to allow enough time for others to read the facts of this case and offer their own comment.

Also, I wish to request an **Evidentiary Hearing**. It makes sense to me that an Evidentiary Hearing is needed to complete the record, and that it should precede the Recommended Decision.

The main point I wish to add to the record is as follows:

**THE JOINT PETITION COMPLETELY IGNORES THE NEED TO TRANSITION TO A SUSTAINABLE ENERGY FUTURE**

Although New York State has many goals, policies, standards and regulations to promote energy efficiency and renewable energy, it will take commitment to achieve the urgently needed transition to a Green Energy Economy – commitment on the part of individuals, businesses, municipalites and the energy industry, including local utility providers. Fortis's track record, articulated so clearly in the brief

filed today by Citizens for Local Power and the Consortium in Opposition, demonstrated a pattern and a set of values that will not foster – but will in fact inhibit and deter – the needed progress. Fortis's profitability forecast is contingent upon, among other things, "the current environment of low natural gas prices and an abundance of shale gas [which] should help maintain the competitiveness of natural gas versus alternative energy sources in North America" and "no significant changes in government energy plans and environmental laws that may materially affect the operations and cash flows of the Corporation and its subsidiaries." They favor increasing reliance on fossil fuels as opposed to renewable energy and essentially ignore the global climate crisis we now face and must address in all our actions and decisions.

Here are a few goals and objectives and opportunities, beyond those stated in the CLP brief filed today:

NY State Renewable Portfolio Standards of 30% by 2015: Approaching a balanced portfolio of 30% renewable energy generation in New York is entirely achievable and within reach:

> The New York Public Service Commission (PSC) adopted a renewable portfolio standard (RPS) in September 2004 and issued implementation rules in April 2005. As originally designed, New York's RPS had a renewables target of 25% of state electricity consumption by 2013, but this was expanded in January 2010 to 30% by 2015 by order of the PSC. Of this 30%, approximately 20.7% of the target will be derived from existing renewable energy facilities and one percent (1%) of the target is expected to be met through voluntary green power sales in 2015.
>
> The remainder will be derived from new, eligible resources centrally procured by the New York State Energy Research and Development Authority (NYSERDA). Eligible new renewable resources fall into two tiers: a Main Tier (roughly 91.56% of incremental renewables generation) and a Customer-Sited Tier (roughly 8.44%). Under the original standard, the CST was set at 2% of the incremental renewable generation required to meet the standard, but was expanded in April 2010 as part of the expansion of the RPS from 25% by 2013 to 30% by 2015.
>
> NYSERDA manages an RPS fund gathered through a surcharge on each kilowatt-hour sold by the state's investor-owned utilities. The RPS surcharge is separate from and in addition to the state system benefits charge (SBC). Customers exempt from contributing to the SBC are also exempt from the RPS charge. Municipal utilities, the New York Power Authority (NYPA) and the Long Island Power Authority (LIPA) do not fall under the jurisdiction of this program, but have been encouraged by the PSC to adopt similar programs. LIPA has adopted a renewable energy goal equivalent to the state target.[1]

Central Hudson's Net-Metering supports NYS RPS: Contributing to positively toward the NYS RPS goals, the rates of solar photovoltaic (PV) and solar thermal are higher in the Central Hudson service area than anywhere in NY State. Central Hudson has twice raised its net-metering cap to accommodate this enthusiastic participation in renewable energy generation.[2] In fact, in the rest of NY State the aggregate capacity limit for a utility's solar, biogas, fuel cells and micro-CHP is 1% of the 2005 peak demand, but in the Central Hudson service area it is now 3% (or 36 MW).[3] It is 3% for wind statewide.[4] While Central Hudson states on its website and in a recent spate of expensive full-page advertisements that "Central Hudson energy efficiency and solar programs and those that help protect the environment will continue as before," there is no actual commitment to do so in the Joint Petition. Given the prioritization of these goals and policies by New York State and in the country as a whole, and especially given Fortis'

[1] www.dsireusa.org/incentives/incentive.cfm?Incentive_Code=NY03R
[2] Draft Mid-Hudson Regional Sustainability Plan, Feb. 15, 2013; p. 5-22.
[3] State of New York Public Service Commission, Order Raising Net-Metering Limit, Oct. 18, 2012
[4] Database of State Incentives for Renewable Energy and Efficiency
www.dsireusa.org/incentives/incentive.cfm?Incentive_Code=NY05R

record on this score, it would be imprudent for the PSC to approve any agreement that lacks specific commitments in this area.

NYS Energy Efficiency Portfolio Standard (EEPS): The 2008 NYS Energy Efficiency Portfolio Standard (EEPS) mandates a 15% reduction in New Yorkers' electricity usage from the forecasted 2015 level, with comparable results in natural gas conservation.[5] According to the PSC ruling, "In addition to helping lower monthly energy bills, the ratepayer-funded initiative is expected to save enough energy to electrically power about 600,000 average-sized homes annually and enough natural gas to heat about 60,000 average sized homes annually by 2015." [6]

New York State Energy Plan (2009): Developed by the Governor's Energy Planning Board, the State Energy Plan is intended to inform and coordinate the roles and activities of state agencies and authorities in setting, implementing and overseeing New York's energy policies. The plan provides guidance and recommendations that focus on strategies to increase energy efficiency, support renewable energy production, improve the energy infrastructure, and encourage innovation and a green economy. In its recommendations for improving the state's energy efficiency efforts and increasing renewable energy generation, the New York State Energy Plan highlights the need for consistency in measuring and reporting the impacts of energy efficiency programs. A revised NY State Energy Plan is pending. [7]

New York's energy needs can be met entirely by renewable resources: A recent Stanford University study, ***"Examining the Feasibility of Converting New York State's All-Purpose Energy Infrastructure to One Using Wind, Water, and Sunlight"*** by Mark Z. Jacobson, Robert W. Howarth, *et al* lists the many benefits of converting New York State's "all-purpose (electricity, transportation, heating/cooling, and industry) energy infrastructure to one derived entirely from wind, water, and sunlight (WWS) generating electricity and electrolytic hydrogen." The study analyzes a plan in which NYS's 2030 power would be provided by:

- 10% onshore wind (4020 5-MW turbines),
- 40% offshore wind (12,700 5-MW turbines), 10% concentrated solar (387 100-MW plants),
- 10% solar-PV plants (828 50-MW plants),
- 6% residential rooftop PV (~ 5 million 5-kW systems),
- 12% commercial/government rooftop PV (~ 500,000 100-kW systems),
- 5% geothermal (36 100-MW plants), 0.5% wave (1910 0.75-MW devices),
- 1% tidal (2600 1-MW turbines), and
- 5.5% hydroelectric (6.6 1300-MW plants, of which 89% exist).[8]

The conversion would reduce NYS's end-use power demand ~ 37% and stabilize energy prices since fuel costs would be zero. It would create more jobs than lost because nearly all NYS energy would now be produced in-state. NYS air pollution mortality and its costs would decline by ~ 4000 (1200–7600) deaths/yr, and $33 (10–76) billion/yr (3% of 2010 NYS GDP), respectively, alone repaying the 271 GW installed power needed within ~17 years, before accounting for electricity sales. NYS's own emission decreases would reduce 2050 U.S. climate costs by ~ $3.2 billion/yr.[9]

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[5] 07-M-0548: Energy Efficiency Portfolio Standards
www3.dps.ny.gov/W/PSCWeb.nsf/All/766A83DCE56ECA35852576DA006D79A7?OpenDocument

[6] *Ibid.*

[7] *Ibid.*

[8] Mark Z. Jacobson, Robert W. Howarth, Mark A. Delucchi, Stan R. Scobie, Jannette M. Barth, Michael J. Dvorak, Megan Klevze, Hind Katkhuda, Brian Miranda, Navid A. Chowdhury, Rick Jones, Larsen Plano, Anthony R. Ingraffea. © 2013 Elsevier Ltd. *Examining the feasibility of converting New York State's all-purpose energy infrastructure to one using wind, water, and sunlight* © 2013 Elsevier Ltd.
www.stanford.edu/group/efmh/jacobson/Articles/I/NewYorkWWSEnPolicy.pdf

[9] *Ibid.*

Fortis's outlook is contrary to sustainable energy goals: The contrast between the Fortis Profitability Forecast cited above and Regional, State and Federal energy goals and objectives is stark, startling and ultimately incompatible. The proposed Fortis acquisition of Central Hudson conflicts with the plans for sustainable energy systems in CH service area and beyond and would erode the progress Central Hudson has made toward promoting and implementing sustainable energy infrastructure in the Mid-Hudson Region. In view a the global climate crisis we all face, this transition is urgently needed and entirely possible in the immediate future, if not hampered by a company with a history of putting shareholders' profits over ratepayers' interests, including the public benefit of a safe, protected environment and a sustainable energy future characterized by increasing reliance on energy efficiency and renewable resources. This is one of many reasons that this merger is **NOT IN THE PUBLIC INTEREST** and we urge the Public Service Commission to reject the Joint Petition.

Finally I would like to offer a clarification regarding hydroelectric power, which I strongly support as a major part of a sustainable energy portfolio. In fact, hydroelectricity will be an essential component for balancing a diverse renewable energy portfolio. But there is low-impact hydro and highly impactful hydro, and we must distinguish between them.

Hydroelectric in the Mid-Hudson Region:

Hydroelectric is a well-established form of fuel-free renewable energy. The Mid-Hudson Region has the human resources as well as the natural resources to lead the expansion of this proven source of renewable energy. The several small hydro (1-5 megawatt) sites in the area have been in operation since the early 1900's, proving the longevity of this technology. With some economic incentives more small and micro-hydro could be developed in the area. According to the U.S. Department of Energy reports there are 137 undeveloped hydro sites in the Hudson River basin. The vast majority of these are in the Mid-Hudson Region. There are 370 megawatts of hydroelectric evaluation software (HES)-modeled potential in these sites. Of the existing sites, it is estimated that an additional 100 megawatts could be gained through upgrades in efficiency controls and expansions.[10]

A recent Energy Department resource assessment finds that many potential hydropower sites are located in areas of the state with fewer wind or solar resources, providing nearby communities another way to secure renewable energy for local families and businesses. Because hydroelectric power provides reliable baseload power day and night, developing existing dams to capture hydropower could also provide flexibility and diversity to the electric grid and allow utilities to integrate other renewable energy sources such as wind and solar power.[11] This must, however, be done in a way that ensures that fish and other organisms have adequate habitat and are not negatively impacted.

The Mid-Hudson region has established businesses that specialize in hydropower and several new sites are already in preliminary development. Windsor Machinery Co. Inc. owns, operates and maintains 3 MW of hydro in the Hudson Valley: Wappingers Falls Hydroelectric, Salisbury Mills Hydroelectric and Wallkill Hydroelectric. Central Hudson owns and operates three hydroelectric facilities: Sturgeon Pool, Dashville, and High Falls. Combined, these facilities have 23 megawatts of renewable energy capacity.

Theses hydroelectric stations are small, local stations, which use renewable energy to provide about two percent of their customers' total electric energy needs.[12]

Central Hudson is in the process of completing upgrades to the dam at the Sturgeon Pool Hydro facility, originally constructed in 1922-23. The dam is operated and utilized for hydropower generation, and can

[10] *Op cit*: Draft MHRSP; p. 5-8.
[11] *Ibid.*
[12] *Ibid.*

produce 15 megawatts combined from three turbines. [13]

Low-Impact vs. High-Impact Hydroelectric: Hydroelectric, like wind, solar, deep well/hot-rock geothermal and tidal power, is clean and fuel-free – it simply harnesses existing energy and converts it to electricity. Large or small, low-head, run-of-the-river, or steep dams can either be of low impact or can be severely detrimental to the ecology of an area. The Robert Moses Niagara Falls Power Station is an example of a very large, but relatively low-impact hydroelectric generating facility, which takes advantage of a 350-foot drop in topography created 12,000 years ago by the thaw and recession of glacial ice, which formed the Great Lakes and carved out the Niagara Gorge, and which now utilizes 13 generators to enable the NY Power Authority to produce 2,525 megawatts (MW) of power.[14, 15] On the other hand, HydroQuebec's Great Whale Hydroelectric Project in James Bay, is an example of a high impact project, which was opposed by the Cree and Inuit in the region because the flooding required to impound the water would destroy their hunting and fishing grounds and release large amounts methyl mercury into the environment and the food chain, which is a basic source of nourishment for their people. This project was cancelled in 1994, after S. David Freeman of the New York Power Authority (NYPA) withdrew from NY State's contract with HydroQuebec for electricity from this project for exactly these reasons.[16] Many of the smaller hydroelectric plants operating in the Central Hudson service area and beyond have minimal impact on the surrounding ecosystem; some may limit fish migration and could be improved by the installation of fish ladders; and some may ultimately be decommissioned or removed if the impact on fish and other aquatic organisms is deemed too harmful.

As detailed in the brief submitted today by Dan Duthie, CLP and the Consortium in Opposition Fortis's hydroelectric project in Belize (below), is definitely an example of a high-impact hydroelectric project – one that is poorly sited and designed and was so costly to the people of Belize that the government has expropriated the distribution to make rates, which had skyrocketed under Fortis, more affordable.

If we do not learn from the past, we are doomed to repeat it. I would like to close by quoting a note a colleague of mine received today:

> Dear Ms. Meola,
>
> I saw an article about your struggle against Fortis. We have been waging, and still are, a battle against Fortis here in Belize, Central America since 1999.
>
> Up until a couple of years ago, they [Fortis] owned 68% of our electric company and 100% of the dams that provide about 50% of our energy. The electric company was taken back by the government but we are still bound by some awful financial investment contracts.
>
> If there is anyway we can be of assistance, by sharing information, please feel free to contact me. Check out our website which talks about the court cases we mounted to stop one dam and then, to make Fortis abide by their commitments under an environmental compliance plan.
>
> Regards,
>
> Candy Gonzalez
> The Belize Institute of Environmental Law and Policy (BELPO)
> #8 Mayflower Street, City of Belmopan, Belize, Central America
> Home Phone: 824-2476 | Ph/Fax: 802-0220
> Website: https://www.belpo.org//[17]

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[13] *Ibid.*
[14] New York Power Authority: Niagara Power Project; www.nypa.gov/facilities/niagara.htm
[15] Wikipedia: Robert Moses Niagara Hydroelectric Power Station
http://en.wikipedia.org/wiki/Robert_Moses_Niagara_Hydroelectric_Power_Station
[16] Wikipedia: James Bay Project: http://en.wikipedia.org/wiki/James_Bay_Project
[17] Personal email correspondence to Dawn Meola, May 1, 2013 via email.

We here in the Hudson Valley strongly urge the Public Service Commission to deny the Fortis petition to prevent future problems. It is not only a matter of protecting our economy, our ecology and our energy future – it is also a matter of ensuring that democracy works in New York. The people are speaking out. We are drawing a line in the sand and saying, "No way! Not here! Not now – or ever again!"

Thank you very much for considering my comments, for listening openly and intently to all who have spoken out, and for perservering through hundreds of documents to inform your decision. Given how late it is in these procedings, it will not be an easy decision, but I trust it will be a wise and judicious one.

Sincerely,

Manna Jo Greene
148 Cottekill Rd.
Cottekill, NY 12419

May 1, 2013

# Citizens for Local Power

Opposition to the takeover of Central Hudson by Canadian holding company Fortis, Inc., is strong and growing. – May 1, 2013

Since information about the proposed Fortis, Inc., acquisition of Central Hudson became more widely known in January, the groundswell of opposition has been strong and nearly unanimous.

**Not a single vote in any town or city has been cast in favor of the takeover of Central Hudson by Fortis, Inc.** Municipalities that passed strong resolutions against it:

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|---|---|
| Ulster County Legislature | City of Newburgh |
| Town of Rosendale | Town of New Paltz |
| Town of Woodstock | Village of New Paltz |
| Town of Olive | Town of Marbletown |
| Town of Esopus | Town of Newburgh |

A letter opposing the takeover was signed by 13 members of the Dutchess County Legislature (including Democrats, Republicans, and Conservative members).

Elected officials who wrote strong letters to the PSC opposing the acquisition:

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|---|---|
| AM Kevin Cahill | Sen. Terry Gipson |
| Sen. Cecilia Tkaczyk | |

Labor and elected officials who spoke out against the takeover at two press conferences:

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| John Kaiser, IBEW 320 | Sierra Club representative Juergen Weckerle |
| AM Didi Barrett | AM Frank Skartados |
| AM Kevin Cahill | Dutchess Co. Legislator Debra Blalock |
| Dutchess Co. Leg. Barbara Jeter-Jackson | Ulster Co. Rep. Hector Rodriguez |
| Dutchess Co. Legislator Joel Tyner | Kingston Alderwoman Elisa Ball (representing Sen. Tkaczyk) |
| Rosendale Supervisor Jeanne Walsh | |

Elected representatives who testified publicly against the proposed merger at the hearings:

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|---|---|
| AM Frank Skartados | Dutchess Co. Legislator Rich Perkins |
| Dutchess Co. Legislator Joel Tyner | |

Organizations that passed resolutions against the proposed merger:

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|---|---|
| Sierra Club of New York | Citizen Action of New York (CANY) |
| AARP of NY State | SEIU Local 200 |
| Dutchess County Central Labor Council | |

**Not a single person spoke in favor of the proposed Fortis acquisition of Central Hudson at any of the four PSC hearings**.