

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on August 18, 2011

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
Robert E. Curry, Jr.
James L. Larocca

CASE 07-M-0548 - Proceeding on Motion of the Commission
Regarding an Energy Efficiency Portfolio
Standard.

ORDER AUTHORIZING INCREMENTAL COMMERCIAL ELECTRIC ENERGY
EFFICIENCY PROGRAM FUNDS FOR 2011

(Issued and Effective August 22, 2011)

BY THE COMMISSION:

INTRODUCTION

In this order, the Commission authorizes Central Hudson Gas & Electric Corporation (Central Hudson) to expend in Calendar Year 2011 up to \$2,500,000 in incremental program funds for customer incentives in the electric Small Business program and up to \$1,000,000 in incremental program funds in the electric Mid-Size Business program, and to defer the costs thereof for collection from electric ratepayers through the System Benefits Charge (SBC) in Calendar Year 2012. The order also authorizes a modified shareholder incentives regime for the incremental program funds to encourage energy savings and the efficient use of the funds.

BACKGROUND

As part of the Energy Efficiency Portfolio Standard (EEPS) program, Central Hudson administers an electric Small Business program and an electric Mid-Size Business program. The current targets and budgets for the programs are set forth in the table below:

Current Targets & Budgets

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2009-2011</u>	
<u>Central Hudson</u>					
<i>Small Business Program</i>					
Savings (MWWhs)	10,981	14,642	14,643	40,266	
Program & Administration Costs	\$2,821,377	\$3,761,813	\$3,761,778	\$10,344,968	95%
<u>Evaluation/M & V Costs</u>	<u>\$148,493</u>	<u>\$197,991</u>	<u>\$197,989</u>	<u>\$544,473</u>	5%
Total	\$2,969,870	\$3,959,804	\$3,959,767	\$10,889,441	
<i>Mid-Size Commercial Business Program</i>					
Savings (MWWhs)	0	5,338	5,338	10,676	
Program & Administration Costs	\$0	\$1,860,313	\$1,860,314	\$3,720,627	95%
<u>Evaluation/M & V Costs</u>	<u>\$0</u>	<u>\$97,912</u>	<u>\$97,912</u>	<u>\$195,824</u>	5%
Total	\$0	\$1,958,225	\$1,958,226	\$3,916,451	

In regard to meeting the targets, Central Hudson is subject to a mandatory utility shareholder incentives regime based on a rate of \$38.85 per megawatt-hour. The incentives are to be applied symmetrically, positive and negative, on a sliding scale relative to the percent of efficiency targets achieved. The positive incentive scales between 100% and zero for performance from 100% to 80%. Performance between 80% and 70% (the "deadband") earns no positive or negative incentive. The negative incentive scales between zero and 100% for performance from 70% to 50%. Performance below 50% earns a 100% negative

incentive. The measurement period for performance is the aggregate of calendar years 2009 through 2011.

CENTRAL HUDSON'S PETITION

By a petition submitted on May 16, 2011, supplemented by a letter dated June 15, 2011, Central Hudson states that the current funding for both programs will be fully utilized several months before the end of 2011. Central Hudson estimates that with the present rate of commitment to participants that have outstanding applications, the remainder of the funds will be committed by August 1, 2011, thus leaving no funding available for the remainder of the year. Central Hudson expresses concern that any slowdown or discontinuation of the programs would hamper its efforts in meeting the EEPS objectives. The programs contribute to "green collar" job creation and lack of funding could mean a reduction of employees that the direct installer uses to complete audits and project installations. Additionally, if funding becomes unavailable, Central Hudson states it will have to restart the programs next year with new start-up costs that tend to be more expensive than a program that is continuously in operation. Central Hudson states it currently has about 650 commercial electric customers that have received energy audits but have not yet installed energy efficiency measures under the programs. Central Hudson claims that if continuous funding is unavailable, it will have to deny applications for measure installations from the customers that have already received these audits.

Central Hudson states that the programs are achieving intended targets following the approval of zero cost financing in October 2010, as well as the maximum reallocation of \$1.3 million of EEPS SBC funding (authorized by the Director of OEEE) used as additional funding for customer incentives. Central

Hudson reports that the average reduction in annual electric usage in its territory has decreased by about 23.3% for a participant in the Small Business Electric program and about 11.2% for a participant in the Mid-sized Commercial Business program.

Central Hudson requests authorization to expend additional funds on the two programs beyond the total authorized for the cumulative period 2009 through 2011, and to be allowed to defer the costs thus incurred for later deduction from funding Central Hudson anticipates will be budgeted for the programs for 2012. Central Hudson suggests that advancing the use of 2012 energy efficiency funds will provide continuity of the programs until the end of 2011 and that the continuity of the programs is necessary to maintain customer interest in furtherance of the Commission's EEPS objectives. Central Hudson further clarifies that the additional funding will be used only for customer incentives/rebates and will not be used for any additional administration, marketing, trade ally training, implementation or evaluation funding. Central Hudson is requesting that if the Commission determines that a "cap" on the advancement of the 2012 program funding is necessary, that the incremental funding be capped at \$3.5 million. Central Hudson believes that this amount would be high enough so as not to impact operations. Furthermore, Central Hudson proposes that carrying charges at the pre-tax authorized rate of return should be applied to the deferred balances.

NOTICE OF PROPOSED RULEMAKING

A Notice of Proposed Rulemaking concerning the EEPS modifications under consideration here was published in the State Register on June 8, 2011 [SAPA07-M-0548SP39]. The minimum period for the receipt of public comments pursuant to the State Administrative Procedure Act (SAPA) regarding that notice

expired on July 25, 2011. The comments received are addressed as set forth below.

SUMMARY OF COMMENTS

Comments were submitted by Central Hudson, Alliance Energy Solutions, Veith Electric, and Mannino Electric Inc.

Central Hudson comments that after its May 16, 2001 petition was submitted, the pace of the programs continued to increase such that all available funding was committed by the middle of June 2011. It reiterates its claims that the relief sought in its petition will allow continued operation of the programs and avoid undesirable interruptions harming its programs, customer interest in the programs and the Commission's EEPS objectives. It states that a forced shutdown of the programs due to funding unavailability imperils the economic sustainability of the implementation contractor staff, energy auditors and local installation electricians that assist in implementing the programs. Additionally, Central Hudson comments that the failure to approve the proposed deferral will lead to permanent lost energy savings, job losses and harm to the achievement of the EEPS goals. It states that reallocation of funding from other approved electric EEPS programs is not an option to continue the programs because the other programs are expected to fully expend their allowed funding by the end of 2011. Central Hudson claims the programs are successful in its territory and are receiving overwhelming positive responses from the business community, and if deferral of 2011 expenses for customer incentives is authorized the successful programs can continue uninterrupted. Central Hudson states that the savings targets for these programs are being achieved sooner than originally planned and the programs are successfully contributing to meeting the EEPS goals. Central Hudson also

comments that though the recent Staff EEPs White Paper addresses a number of program design and implementation issues, the program funding issue that Central Hudson is facing currently must be dealt with at this time and should not await the Commission's resolution of issues raised in the White Paper. Central Hudson proposes that if financing is obtained by deferring 2011 expenses to 2012 SBC funding, then the savings attained in 2011 should be credited to the 2012 EEPs program and not the 2011 program.

Six separate letters were submitted as comments from representatives of Alliance Energy Solutions, Central Hudson's implementation contractor for the Small and Mid-sized Business programs. The comments describe the benefits that have been achieved by the program in terms of energy savings, utility bill savings of participants, reduced greenhouse gas emissions, contributions to State energy policy, and increased employment of energy auditors and equipment installers. They also identify potential harm that could occur if the programs were terminated, including loss of confidence and trust by participants in energy efficiency programs, green job losses, and failure to meet the programs' objectives such as the reduction of energy use. Alliance Energy Solutions would like to see the momentum of the programs continue uninterrupted to meet the 15x15 goal and the needs of the local community business owners.

Veith Electric and Mannino Electric are implementation subcontractors that participate in the Central Hudson programs installing energy efficient lighting in small and mid-sized businesses throughout the company's territory. They both comment on the fact that they have hired more employees to implement the programs. They also state that installation of efficient lighting leads to lower energy bills resulting in lower overhead costs for the business participants. They urge

the Commission to continue the funding so that the communities in Central Hudson's territory can continue to experience the positive economic advantages that are attributable to these programs.

DISCUSSION

At this early stage of implementation of the EEPS program, it is not surprising that some programs would gain customer acceptance and become over-subscribed. Going forward, it will be important for Central Hudson to learn from experience and manage its programs to more closely modulate program spending so that it keeps within available budgets.

Central Hudson's proposal to defer the additional costs it proposes to incur for later deduction from funding Central Hudson anticipates will be budgeted for the programs for 2012 would seemingly create a repeat of the problem of running out of funds in 2012. Besides, there is as yet no 2012 budget to borrow from. Since the amount to be spent will be optional depending on conditions going forward, it makes sense to defer the costs for later collection when the amount to be collected will be known, but not to borrow the funds from a yet to be approved 2012 budget.

Central Hudson's proposal that carrying charges at the pre-tax authorized rate of return should be applied to the deferred balances is also not acceptable. The allowed deferral, up to \$3.5 million, is short term because it will be recovered during 2012, and therefore, any interest to be accrued should be at the other customer cost of capital.

Central Hudson proposed to spend as needed for customer incentives for the two programs to complete the 2011 program year without interruption. Central Hudson proposed that if a spending "cap" is required by the Commission, a total cap of \$3.5 million be set, but it did not specify an amount by

program. We would prefer program-specific caps, and set them at \$2.5 million for the Small Business program and \$1.0 million for the Mid-Size Business program. We allow the same flexibility to transfer up to 10% of any additional funds between these two programs, subject to the approval of the Director of the Office of Energy Efficiency and Environment in the manner previously allowed for utility program administrators.

Central Hudson's proposal that the savings attained in 2011 should be credited to the 2012 EEPS program, and not the 2011 program, is not practicable given that there are as yet no targets in place for 2012 and the activity will be occurring in 2011. The savings should be credited to 2011, and due to the unique nature of this additional funding, we will make a one-time adjustment to the mandatory shareholder's incentive regime as applied only to these additional monies. This modified shareholder incentives regime for the incremental program funds should encourage Central Hudson to obtain the maximum energy savings possible with additional funds, and the efficient use of any such funds, but we do not desire that this expedient modification be viewed as a model for future incentive regimes.

SEQRA FINDINGS

Pursuant to our responsibilities under the State Environmental Quality Review Act (SEQRA), in conjunction with this order we find that program funding approved here is within the overall action previously examined by us in Case 07-M-0548 and will not result in any different environmental impact than that previously examined. In addition, the SEQRA findings of the June 23, 2008 order in Case 07-M-0548 are incorporated herein by reference and we certify that: (1) the requirements of SEQRA, as implemented by 6 NYCRR part 617, have been met; and (2) consistent with social, economic, and other essential considerations from among the reasonable alternatives available,

the action being undertaken is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable.

CONCLUSION

For the reasons discussed above, the Commission grants the petition with modifications and authorizes additional programs funds in the manner described above and in the ordering clause set forth below.

The Commission orders:

1. In addition to monies that have previously been budgeted by the Commission or reallocated pursuant to Commission authorization, Central Hudson Gas & Electric Corporation (Central Hudson) is authorized to expend in Calendar Year 2011 up to \$2,500,000 in incremental program funds for customer incentives in the electric Small Business program and up to \$1,000,000 in incremental program funds in the electric Mid-Size Business program, without any additional allowance for administration, marketing, trade ally training, implementation or evaluation costs.

2. Central Hudson may transfer up to 10% of the additional program funds between these two programs, but no others, subject to the approval of the Director of the Office of Energy Efficiency and Environment in the manner previously allowed for utility program administrators.

3. Central Hudson is allowed to defer the cost expended pursuant to Clause "1" above, as well as accrue carrying charges on the deferred balance (net of related income tax offsets) at the other customer cost of capital rate, and to collect such costs from its electric ratepayers through the System Benefits Charge (SBC) in Calendar Year 2012.

4. For the purpose of calculating EEPS shareholder incentives, the additional program funds authorized herein shall

be segregated from the funds previously authorized and the MWh's of energy savings obtained from expending the additional funds will not apply towards the general energy efficiency shareholder incentives to be calculated for Central Hudson for the years 2009 through 2011.

5. Central Hudson shall be subject to a 2011 one-time MWh/\$ incentive target linked to the level of additional spending exercised, such that the incentive target shall be 1/217 MWh for each additional dollar spent on the Small Business program and 1/311 MWh for each additional dollar spent on the Mid-Size Business program. The incentives are to be applied symmetrically, positive and negative, on a sliding scale relative to the percent of efficiency targets achieved. The positive incentive scales between 100% and zero for performance from 100% to 80%. Performance between 80% and 70% (the "deadband") earns no positive or negative incentive. The negative incentive scales between zero and 100% for performance from 70% to 50%. Performance below 50% earns a 100% negative incentive. The measurement period for performance is from the date of issuance of this order through program commitments made through December 31, 2011, and confirmed shortly thereafter. Central Hudson shall present its calculation of incentives in 2012 at the same time it presents its calculation of shareholder incentives for the years 2009 through 2011.

6. Central Hudson shall file tariff amendments and/or statements on not less than 30 days' notice to become effective on January 1, 2012, incorporating the revisions described herein. The requirements of Section 66(12)(b) of the Public Service Law as to newspaper publication of the changes proposed by these filings is waived.

7. Central Hudson shall within 60 days of the issuance of this order submit appropriate revisions to its implementation and outreach/marketing plans.

8. Central Hudson shall incorporate appropriate revisions to its monthly, quarterly and annual reports.

9. The Secretary at her sole discretion may extend the deadlines set forth herein.

10. This proceeding is continued.

By the Commission,

JACLYN A. BRILLING
Secretary