



February 6, 2013

Hon. Jeffrey Cohen
Acting Secretary to the Commission
New York State Public Service Commission
Agency Building 3
Albany, New York 12223-1350

Re: *Joint Petition of Fortis Inc. et al. and CH Energy Group, Inc. et al. for Approval of the Acquisition of CH Energy Group, Inc. by Fortis Inc. and Related Transactions, CASE 12-M-0192, Central Hudson Gas & Electric Corporation's Petition Requesting the New York State Public Service Commission's Approval to Recover Deferred Incremental Costs Associated with Tropical Storm Sandy.*

Central Hudson Gas & Electric Corporation ("Central Hudson") respectfully submits this deferral petition pertaining to \$9.7 million of deferred incremental costs and the related carrying charges on the net of tax deferred balance at the currently authorized pre-tax rate of return, associated with Tropical Storm Sandy ("Sandy"). Central Hudson suffered these incremental costs because Sandy severely damaged its electric distribution and transmission system.

Central Hudson is filing this petition at this time so that the review of Sandy storm restoration costs, and the write-off of those costs against funding being provided by Fortis as specified in the Joint Proposal ("JP") filed in this proceeding on January 25, 2013, can be completed promptly. Central Hudson will apply carrying charges to the deferred balance until it writes-off or otherwise recovers all of the incremental costs associated with Sandy. Consistent with the agreements reached in the JP, Central

Hudson is filing this petition as soon as reasonably practicable and is seeking expedited treatment so that it may offset Sandy deferrals against regulatory liabilities funded by Fortis Inc., minimize the accrued carrying charges and thereby benefit customers.¹

Sandy devastated portions of Central Hudson's service territory with damaging winds and rain. Central Hudson's electric distribution and transmission system has been thoroughly battered and tested by three tropical storms in the last 14 months; Sandy is the most recent of those storms. As a result, Central Hudson has incurred storm related incremental costs, and continues to incur storm related carrying charges, during its three-year Rate Plan that commenced on July 1, 2010 and ends June 30, 2013 pursuant to the Commission's approval of a Joint Proposal by Order issued and effective on June 18, 2010 ("Order") in Case 09-E-0588 et al.²

On January 25, 2013 Fortis Inc., FortisUS Inc., Cascade Acquisition Sub Inc. (together "Fortis"), CH Energy Group Inc., Central Hudson, Staff of the New York State Department of Public Service ("Staff"), New York Department of State Utility Intervention Unit ("UIU"), Dutchess County, Multiple Intervenors, Orange County, and Ulster County (together "Signatory Parties") signed the JP and submitted it to the Commission for approval to resolve all issues in this case. Resolution of the issues in this proceeding includes the recommendation to the Commission:

[T]hat \$22 million will be written off promptly after the closing against the \$35 million regulatory liability being funded by Fortis, subject to true-up for subsequent Commission determinations concerning the storm

¹ *Joint Petition of Fortis Inc. et al. and CH Energy Group, Inc. et al. for Approval of the Acquisition of CH Energy Group, Inc. by Fortis Inc. and Related Transactions*, CASE 12-M-0192 (JP at 50-51) (January 25, 2013).

² *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric Service*, Case 09-E-0588 et al. (Order Establishing Rate Plan) (issued and effective June 18, 2010).

restoration costs of the three storms. The Signatories agree that the three deferral requests will be reviewed by Staff consistent with the principles and practices in the recent Central Hudson storm restoration deferral petitions involving Twin Peaks (February 2010) in Case 10-M-0473 and the December 2008 ice storm in Case 09-M-0004.³

The JP's recommended \$22 million offset of storm costs against \$35 million of regulatory liabilities funded by Fortis, includes an estimated \$10 million of storm costs associated with Sandy, \$11 million for Tropical Storm Irene and \$1.6 million for the October 2011 snow storm.⁴

INTRODUCTION

On October 29, 2012, the Central Hudson system experienced a tropical storm that damaged its electric system and wreaked havoc on much of the Eastern seaboard with strong winds, rain and tidal flooding in parts of the region. Sandy damaged one substation, five transmission lines, and knocked seven major distribution circuits out of service.

Sandy interrupted service to approximately 103,000 Central Hudson customers, or approximately one third of its electric customers. Central Hudson undertook a major restoration effort to promptly restore service to customers. Central Hudson's restoration effort included the provision of adequate and timely communication to customers, governmental entities, including local municipalities, the Commission and its Staff, and other constituencies. Customer outages associated with Sandy peaked at approximately 3:00 AM on October 30, 2012. Central Hudson restored service to ninety percent of its

³ *Joint Petition of Fortis Inc. et al. and CH Energy Group, Inc. et al. for Approval of the Acquisition of CH Energy Group, Inc. by Fortis Inc. and Related Transactions*, CASE 12-M-0192 (JP at 50-51) (January 25, 2013) (Ulster County did not take a position concerning the JP's recommended \$22 million offset of storm costs against \$35 million of regulatory liabilities funded by Fortis).

⁴ *Id.* at 50.

customers in three days, by 2:00 PM on November 2, 2012. By the end of the day Sunday, November 4, 2012 service was restored to all but 65 customers located in Ulster County where damage was severe. Service to those customers was restored early on Tuesday, November 6, 2012.

In addition to Central Hudson's own crews, 91 mutual aid crews from other utilities and electrical contractors, as well as 79 tree trimming crews, were involved in the restoration effort, which represent 54% of Central Hudson's total incremental costs. Additionally, a significant portion of Central Hudson's management personnel were reassigned from their normal work responsibilities for a portion, or all, of the restoration effort in order to assist the crews and customers affected by the storm.

Central Hudson's restoration efforts were exemplary, as evidenced by its receipt of the Edison Electric Institute's ("EEI") Emergency Recovery Award. This is the third consecutive year that Central Hudson has been recognized for EEI's award given for outstanding response to a major storm.

Central Hudson's incremental costs included with this Petition represent the amount deferred on its books as of December 31, 2012. Central Hudson's deferred costs were based on actual bills received and a reasonable estimate for bills outstanding. Central Hudson will update this estimate as soon as all actual bills are received. The total estimated costs associated with the electric service storm restoration effort, excluding capital charges, are \$12.2 million and the incremental costs for which Central Hudson is seeking recovery are \$9.7 million. Attachment A, attached hereto, provides a summary in a format similar to that submitted to the Commission on April 24, 2012 in connection

with the October 2011 snow storm, of the incremental expenses by cost component in support of the estimated deferred costs.

It should also be noted that on January 3, 2013, Central Hudson filed its report and evaluation of Sandy in compliance with Part 105 of the Commission's Rules and Regulations. This report provides an overview of Sandy and its impact on the Central Hudson system. It also provides detailed information regarding Central Hudson's advance planning, customer support and communications, and system restoration activities. Additionally, the report includes Central Hudson's self-critique of its storm response for Sandy.

Recent Extraordinary Weather Events & Cost Recovery

Extraordinary weather related events during Central Hudson's Rate Plan, which commenced on July 1, 2010, have continued to challenge Central Hudson. Extraordinary weather events have caused Central Hudson to incur significant incremental expenses related to electric and gas service interruptions during January 2011, a March 2011 ice storm, Tropical Storms Irene and Lee in August 2011, a freakish snow storm in October 2011 and now Tropical Storm Sandy. In each instance Central Hudson has provided exemplary service to its customers through thoughtful and timely communication and disciplined restoration efforts. These weather events present Central Hudson and customers with an ongoing financial challenge. Central Hudson must pay for system restoration costs associated with weather events.

This deferral request presents an opportunity for the Commission to minimize the financial impact of these events on Central Hudson and customers. Central Hudson requests that the Commission approve a solution that permits Central Hudson to recover

its incremental storm costs and minimizes the financial impact on customers in a manner consistent with Central Hudson's Rate Plan and the JP.

Request for Approval of Deferral and Recovery of Storm Costs

Central Hudson's Storm expenses are incremental to its rate allowance for Storms set forth in the rate plan approved by the Commission in Case 09-E-0588 *et al.*

As previously stated, Central Hudson has incurred \$9.7 million of incremental costs associated with its Sandy restoration effort. Central Hudson's Rate Plan contains storm restoration rate allowances for only ordinary weather events, not extraordinary events. Central Hudson, unlike every other major utility in New York, does not have a storm reserve or an allowance in rates for storm events such as Sandy. Central Hudson must, therefore, seek to recover the costs associated with extraordinary weather events through a deferral request. Therefore, all \$9.7 million of costs related to Sandy are incremental. The Commission has explicitly stated that Central Hudson does not recover costs associated with extraordinary storms, such as Sandy, through its rate allowance, and deferral and cost recovery are separate, but complementary, rate mechanisms.⁵ Specifically, the Commission held that:

Inclusion of particular storm costs in the average used for establishing the rate allowance for restoration expense *is an implicit statement that the utility is expected to fund recovery related to storms of that type and magnitude from the amount provided in rates.* Approval of a petition for deferral of recovery costs, on the other hand, *is an acknowledgement that costs of that magnitude were not contemplated when rates were set.* Either funding method, inclusion in the rate allowance or deferral

⁵ *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric Service, Case 08-E-0887 et al.* (Order Adopting Recommended Decision With Modifications at 24) (issued and effective June 22, 2009).

accounting, will enable the utility to recover its costs, *but the two methods cannot coincide.*⁶

Thus, given the absence of a current rate allowance for storm restoration costs, it is necessary that the incremental costs of major storm events such as Sandy are recovered through a deferral petition, as recognized by the Commission's 2009 adoption of the above-quoted portion of the Recommended Decision in the Commission's Order. As described above, in this particular case, however, the approval of this deferral petition is not a prelude to recovery from customers, but write-off of the incremental costs against funding provided by Fortis, and the avoidance of any of the Sandy costs by Central Hudson's customers.

Sandy incremental expense is material to Central Hudson's earnings.

The incremental expenditures associated with Sandy are material to Central Hudson, as measured by comparing those incremental expenditures to Central Hudson's income available for common equity from electric operations. In accordance with the JP, Central Hudson is requesting expedited review of this petition to expedite the approval process and avoid unnecessary delay. Accordingly, the materiality analysis based on the incremental storm expense and actual electric net income available from utility operations is presented below on a calendar year basis, for the twelve months ended December 31, 2012:

⁶ *Id.* (emphasis added).

	<u>(In Whole Dollars)</u>
Incremental Storm Cost	\$ 9,702,767
Income Tax:	
State @ 7.1%	(688,900)
Federal @ 32.515%	<u>(3,154,900)</u>
Incremental Net-of-Tax	<u>\$ 5,858,967</u>
 Electric Net Income Available from Utility Operations	 <u>\$30,676,871</u>
 Materiality Percentage	 <u>19.1%</u>

Sandy incremental expense is extraordinary in nature.

The Commission’s discussion in Case 07-G-1411 relies upon a determination pursuant to the FERC Uniform System of Accounts that the financial impact of an event must be in excess of five percent before it may be considered “an extraordinary event.”⁷ The incremental Sandy restoration expenses, as shown above, clearly exceed five percent of Central Hudson’s net income and, therefore, satisfy this criterion. While no further demonstration is required to show that this event is extraordinary, there can be no debate about whether these incremental expenses resulted from an extraordinary event. Sandy caused service interruptions to more than two million customers on the East Coast of the United States, including approximately 103,000 Central Hudson customers, or approximately one-third of Central Hudson's total electric customers,

Furthermore, given the Commission’s recognition that the \$3.3 million of incremental expense associated with the December 2008 ice storm was financially material to Central Hudson, it is clear that a storm event with incremental costs of almost three times that amount is also material.

⁷ *Petition of Central Hudson Gas & Electric Corporation for Authority to Defer Certain Gas Expenses That Are Beyond the Company’s Ability to Control For the Rate Year Ended June 30, 2007, Case 07-G-1411 (Order Denying Deferral at 6) (Issued and Effective March 27, 2008).*

Central Hudson's Storm Deferral Accounting.

The requested deferral has been recorded on Central Hudson's books of account. Central Hudson has deferred the incremental storm restoration expense as a regulatory asset within Public Service Commission Account 182.35 with associated deferred income taxes. As stated above, Central Hudson has commenced the deferral of carrying charges (within Commission Account 182.47 with associated deferred income taxes). Attachment B provides an explanation of the accounting entries.

CONCLUSION

For the reasons set forth above, Central Hudson seeks expedited Commission approval to recover \$9.7 million of incremental storm restoration expense, with carrying charges, consistent with the provision contained in the JP in Case 12-M-0192.

Central Hudson will promptly provide any additional information necessary to facilitate the Commission's prompt consideration of this request. Any questions related to this Petition may be directed to Mr. David Brideau at (845) 486-5263 or dbrideau@cenhud.com. In addition, contemporaneously with the filing of this Petition, Central Hudson is providing the Commission's Accounting Staff with a flash drive containing support documentation for amounts shown on Attachment A. Consistent with prior deferral petitions, this flash drive will be forwarded to the Commission's Records Access Officer.

This Petition includes a form of notice suitable for publication in the State Register and is identified as Attachment C and a Method of Service notice which is enclosed as Attachment D.

Respectfully submitted,

A handwritten signature in blue ink that reads "Paul A. Colbert". The signature is written in a cursive style and is contained within a thin black rectangular border.

Paul A. Colbert
Associate General Counsel-Regulatory Affairs

Copy: Mr. D.P. Brideau Mr. C.M. Capone Mr. J.A. Croshier Mr. C.A. Freni
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