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June 23, 2016

Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
Agency Building 3
Albany, NY 12223-1350

Re: Case 14-M-0196 - *Tariff filing by Central Hudson Gas & Electric Corporation to establish fees for residential customers who choose to opt out of using Automated Meter Reading devices, Joint Utilities' Comments in Opposition to the Petition*

Dear Secretary Burgess:

Central Hudson Gas & Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation (together, the "Joint Utilities"), hereby submit the Joint Utilities Comments in Opposition to the Petition.

Please contact the undersigned at (845)486-5831 or pcolbert@cenhud.com with any questions regarding this matter.

Respectfully submitted,

A handwritten signature in blue ink that reads "Paul A. Colbert".

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**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

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JOINT UTILITIES' COMMENTS IN OPPOSITION TO PETITION

INTRODUCTION

Central Hudson Gas & Electric Corporation ("Central Hudson"), Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid"), New York State Electric & Gas Corporation ("NYSEG") and Rochester Gas and Electric Corporation ("RG&E") (together, the "Joint Utilities") file the Joint Utilities' Comments in Opposition to Petition ("Comments") due to their concerns for employee and customer safety regarding meter replacement, misunderstanding regarding the safety and use of digital meters and analog meters, and the equitable cost treatment for customers that choose to opt-out of the standard meter option.

On May 22, 2014, Central Hudson filed before the New York State Public Service Commission ("Commission") a request to amend its tariffs to permit customers to opt out of having a digital meter with an encoder receiver transmitter ("ERT") in favor of a digital meter without an ERT. The tariff amendment required customers that decided to opt out to pay the costs associated with the installation and/or retention and maintenance of a digital non-ERT meter—also known as an Automated Meter Recording ("AMR") meter—¹to ensure that the remaining customers would not subsidize customers that chose the higher cost opt-out service.

¹ The terms non-ERT meter and non-AMR meter, and ERT meter and AMR meter are synonymous. Petitioner refers to ERT and Central Hudson's tariffs refer to AMR. Hereinafter these Comments will refer to AMR. See Central Hudson PSC No: 15 Electricity Leaf 53.8 (Initial Effective Date October 1, 2014).

No person intervened or presented evidence in that proceeding. The Commission published its Order Approving Proposed Tariff Amendments Issued and Effective September 8, 2014.

Central Hudson, with the Commission's approval, amended its tariffs to allow customers to opt out because a small number of customers contacted Central Hudson or complained to the Commission communicating their belief that digital ERT meters cause health issues. A few of these customers engaged in dangerous activities, including one who pulled Central Hudson's meter from its socket and installed an unauthorized meter in its place. Although the meters used by Central Hudson meet all of the federal safety standards and the more stringent standards of the BioInitiative Report² suggested by our customers, some customers of the Town of Woodstock have requested an opt out to an analog meter rather than the digital non-ERT meter offered by Central Hudson. These customers are concerned for their health based upon their belief that electromagnetic frequency ("EMF") and a subset of EMF, radio frequency ("RF"), causes health issues for some people and that the use of switch mode power supply ("SMPS") causes—dirty electricity—and associated health issues.³

While the evidence does not support their claims, Central Hudson empathizes with the concerns of its customers and endeavors to provide customer choice. That is why Central Hudson sought approval of the opt-out option, which removed concerns about RF exposure because there is no RF transmitter in the digital non-AMR meter provided to a customer who elects to opt out. At some point, however, there is a limit to choice. That limit is reached where the requested choice is less safe, less reliable and less accurate. That limit is reached when the choice does not comply with regulatory rules and requirements. That limit is reached when

² BioInitiative 2012 Section 24 at 28-29, Biologically-based Exposure Standards for Low-Intensity Electromagnetic Radiation (Key Scientific Evidence and Public Health Policy Recommendations (Supplement 2012) (Cindy Sage, MA Sage Associates Santa Barbara, CA USA, David O. Carpenter, MD Director, Institute for Health and the Environment University at Albany, Rensselaer, NY USA Prepared for the BioInitiative Working Group December 2012).

³ See Resolution 126-2015 (filed July 10, 2015).

the requested choice causes needless incremental expense for the vast majority of customers. And lastly, that limit is reached when the bases for the requested choice are inaccurate and without support. The Joint Utilities respectfully asks the Commission to deny the Petition seeking to allow customers to choose to have Central Hudson install a refurbished analog meter without paying for incremental installation, maintenance, and meter reading costs.

STATE OF THE LAW

Only meters approved by the Commission may be installed and used to measure electric or gas usage.⁴ The Commission has promulgated rules that determine which meters a utility may install. The only entities that may apply for approval of a meter are: (1) a utility under the Commission's jurisdiction; (2) an energy services company ("ESCO") or competitive meter service provider; (3) a nonresidential customer qualifying for time of use ("TOU") rates; and (4) a meter manufacturer with an entity's certification that it will use the meter.⁵

A meter is not eligible for approval unless it is "completely and permanently assembled and classified by type by the manufacturer."⁶ All new types of meters must conform to "the latest version of the American National Standard Code for Electricity Metering" ("ANSI").⁷ Modified meters may not be used if the Department of Public Service Staff ("Staff") determines that the modification is significant.⁸ An application for meter approval must include:

- (a) name and address of applicant;
- (b) name and address of manufacturer;
- (c) manufacturer's type of designation, together with a brief description of general and physical characteristics, including ratings, size, shape, adjustments and the type service to which the meter may be applied;

⁴ PSL § 67(1).

⁵ 16 NYCRR § 93.5.

⁶ 16 NYCRR § 93.3.

⁷ *Id.*

⁸ 16 NYCRR § 93.4.

- (d) statement of intent of sponsoring entity to use, if approved;
- (e) a statement by the manufacturer or sponsoring entity certifying that the device under consideration has been tested to, and meets, all the requirements of this Part;
- (f) a statement by the manufacturer, sponsoring entity or testing laboratory, certifying that:
 - (1) all tests have been conducted by personnel who have thorough practical and theoretical knowledge of the meters and adequate training in making precision measurements;
 - (2) the test equipment employed in these tests conforms to the applicable requirements specified in Standards and Standardizing Equipment, of the latest version of ANSI C12; and
 - (3) the accuracy of the test equipment has been established by comparison with standards whose accuracy is traceable to the National Institute of Standards and Technology.⁹

STATEMENT OF THE FACTS

The Town of Woodstock filed three different resolutions with the Commission (together “Resolutions”).¹⁰ The Resolutions assert the position that customers should be able to choose to retain their existing, or have installed a refurbished, analog meter at no expense to the customer for installation or maintenance costs.¹¹ The Resolutions offer three reasons for the request. First, Resolution 127-2015 alleges that Central Hudson’s opt-out tariff is ambiguous as

⁹ 16 NYCRR § 93.6.

¹⁰ Resolution 127-2015 (filed June 29, 2015); Resolution 138-2015 (filed July 6, 2015); Resolution 126-2015 (filed July 10, 2015)

¹¹ *Id.*

to the type of meter that a customer may receive, analog or digital.¹² Central Hudson's tariff states that: (1) existing customers with an Automated Meter Recording ("AMR") meter may opt out and receive a "digital non-AMR" meter;¹³ (2) an existing customer with a non-AMR meter—which may be either an analog or digital meter—may opt out and continue service with their existing non-AMR meter;¹⁴ (3) a customer receiving new service at an existing location with an AMR meter may opt out and receive a digital non-AMR meter;¹⁵ (4) a customer seeking service at new location who chooses to opt out will receive a digital non-AMR meter;¹⁶ (5) a customer that chooses to opt out after receiving notice from Central Hudson that Central Hudson will make a routine replacement of their meter will receive a digital non-AMR meter; and (6) where emergency meter replacement is required the customer will receive a digital AMR meter unless they have previously opted out in which case they will receive a digital non-AMR meter.¹⁷

Resolution 126-2015 alleges that digital non-AMR meters may actually be digital AMR meters with transmitting capability.¹⁸ The resolution offers no support for this assertion and all digital non-AMR meters installed by Central Hudson remain incapable of transmission. Once a customer opts out they will not receive a digital AMR, or any other type of AMR meter, except in compliance with Central Hudson's opt-out tariff.¹⁹

Resolution 126-2015 also alleges without support that all digital AMR meters "contain components and switch mode power supply, which creates excessive and unsafe amounts of Dirty Electricity." This statement is factually incorrect. Only a small subset of the meters installed by Central Hudson, polyphase meters, contain a switch mode power supply. All digital meters, however, contain a device that converts alternating current ("AC") to direct current

¹² Resolution 127-2015 at 2 (filed June 29, 2015).

¹³ Central Hudson PSC No: 15 Electricity Leaf 53.8 (Initial Effective Date October 1, 2014).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at Leaf 53.9.

¹⁷ *Id.*

¹⁸ Resolution 126-2015 at 2 (filed July 10, 2015).

¹⁹ Central Hudson PSC No: 15 Electricity Leaf 53.8 (Initial Effective Date October 1, 2014).

("DC"). These devices include a transformer, capacitive dropper, capacitive switcher, and resistor dropper in addition to a switch mode power supply. All of these devices operate within the safety specifications required by ANSI, the Commission, the manufacturer, and Central Hudson.

Further, analog non-AMR meters emit more EMFs than do digital meters.²⁰ SMUD independently tested the EMFs of analog meters against those of digital meters.²¹ SMUD found at every distance that analog meters, which operate on the same electric current as digital meters, emit more EMFs when measured at distances of zero, one, three and five feet.²² EMFs dissipate the farther that you are from the EMF source. EMFs, and RFs, indoor measurement is approximately ten percent of their outdoor measurement due to the EMF and RF barriers created by the meter pan and building materials.²³

Analog meters are no longer manufactured and new analog meters are not available for purchase. Several entities sell refurbished or reconditioned analog meters. Refurbished analog meter sellers simply use a bench test to determine meter accuracy and if it passes the accuracy test the meter is available for sale.²⁴ The refurbished analog meter sellers obtain their meters in bulk from a variety of sources.²⁵ The refurbished analog meter sellers do not obtain the records documenting the tests performed by the manufacturer, the tests performed of, and on, each instrument and the standard used in the laboratory or shop of the original owner, showing excessive variation between tests, whether, if excessive variation occurred, the equipment was

²⁰ Sacramento Municipal Utility District ("SMUD") at <https://www.smud.org/en/residential/customer-service/smart-meters/common-questions.htm> (SMUD study set forth as Attachment 1).

²¹ *Id.*

²² *Id.*

²³ *A Discussion of Smart Meters and RF Exposure Issues* at 3 (Edison Electric Institute) (March 2011) (applicable for outdoor meters).

²⁴ Central Hudson contacted refurbished analog meter sellers, including the Hialeah Meter Company cited by Petitioners. Each seller described the accuracy test used, how it refurbished meters, how it obtained meters, the meter records it acquired with the meters and the research it did not perform regarding each meter clarifying that it could not comply with ANSI standards.

²⁵ *Id.*

subjected to special investigation to determine the cause of the variation, whether the cause of the variation was determined and corrected, and whether the use of the instrument or standard was discontinued.²⁶ The refurbished analog meter sellers do not know the meter age, remaining life, or any information regarding any applicable standard at the time of testing.²⁷ If the analog meter fails the accuracy bench test the refurbished analog meter seller may take parts from other defective analog meters to create an accurate refurbished analog meter.²⁸ Once refurbished, the refurbished analog meter seller does not know the vintage of the meter or the replacement parts and, therefore, has no idea regarding the reliability of the refurbished analog meter.²⁹

The Resolutions request that Central Hudson provide an ANSI-approved refurbished analog meter.³⁰ All Central Hudson meters approved for installation must comply with ANSI Standards C12.1 2014 pertaining to meter reliability, C12.10 2011 pertaining to meter safety, C12.20 2010 regarding meter accuracy, and C37.90.1 2012 concerning surge withstand capability (“SWC”).³¹ No refurbished analog meter seller will certify compliance with the required ANSI standards.³²

Petitioners also reference seven utilities that allegedly offer an opt-out from two-way communications digital meters, also known as smart meters, to analog meters.³³ The seven utilities identified are San Diego Gas & Electric (“SDG&E”), Pacific Gas & Electric (“PG&E”), Southern California Edison (“SoCal”), Southern Nevada Power (“SNP”), Northern Nevada Power

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Resolution 127-2015 (filed June 29, 2015).

³¹ See ANSI Standards C12.1 2014, C12.10 2011, C12.20 2010, C37.90.1 2012; See Meter Manufacturer’s specifications.

³² Based upon Central Hudson’s direct contact with refurbished analog meter sellers.

³³ Letter from Kenneth S. Panza at 4 (April 16, 2016).

("NNP"), Consumers Energy ("CE") and Central Maine Power ("CMP").³⁴ Central Hudson contacted each of the named utilities. CE does not offer customers the option to opt-out to an analog meter because no analog meters are available.³⁵ SoCal does have an opt-out program but like Central Hudson's program it is only to digital meters, although its digital meters all have ERT.³⁶ The remaining five utilities do have opt-out programs to analog meters but do not purchase analog meters and do assess an up-front fee and a monthly charge.³⁷

ARGUMENT

I. **The Commission has never approved a refurbished meter for use in New York and neither Central Hudson nor an ESCO or manufacturer has requested that they do so now.**

No meter may be installed and used to provide service to any customer until it has been approved by the Commission.³⁸ The Commission has exclusive jurisdiction to promulgate rules regarding the installation and use of meters.³⁹ The Commission has promulgated such rules at 16 NYCRR Part 93. The Commission has never approved a refurbished meter for use in New York. Indeed, doing so would violate the Commission's own rules.⁴⁰

The Commission has determined that only those meters that comply with the current version of ANSI Standards are eligible for approval.⁴¹ Further, eligible meters must be "completely and permanently assembled...."⁴² A refurbished meter, which may include replacement parts from other defective meters and which have been disassembled and reassembled, are not eligible for approval pursuant to 16 NYCRR § 93.3. All refurbished analog meter sellers replace parts and, therefore, disassemble and reassemble the analog meters

³⁴ *Id.*

³⁵ Based upon Central Hudson's direct contact with the utilities cited at page 4 of the April 16, 2016 letter from Kenneth S. Panza.

³⁶ *Id.*

³⁷ *Id.*

³⁸ PSL § 67(1).

³⁹ PSL § 67(4).

⁴⁰ See 16 NYCRR § 93.3.

⁴¹ *Id.*

⁴² *Id.*

during the refurbishment process.⁴³

The Commission permits only the utility, an ESCO, a competitive meter provider, a nonresidential customer qualified for mandatory TOU rates and a meter manufacturer with a statement by an entity that will use the meter, to apply for approval of a new meter.⁴⁴ Neither the Town of Woodstock nor residential customers may make such an application. This is for good reason as experience and expertise are required to determine which meters allow the utility to provide safe and reliable service at a reasonable cost. Central Hudson is not able to stock and offer all manufactured meters. It must purchase meters best suited to the conditions of its service territory at the best price it can achieve. Central Hudson will not compromise safety regarding the purchase and installation of meters. For these reasons Central Hudson declines to apply to purchase refurbished analog meters. Central Hudson is unaware of any qualified applicant seeking approval to install refurbished analog meters in New York.

Further, no applicant could meet the application requirements required by the Commission because they would need to certify that all tests have been conducted and the refurbished analog meters meet the ANSI Standards C12.⁴⁵ The refurbished analog meters do not meet the ANSI Standards so no such certification is possible.

II. The refurbished analog meters cannot meet ANSI Standards.

There are many reasons why refurbished analog meters cannot meet ANSI Standards. All refurbished analog meters, by definition, have been removed from service. ANSI permits all meters removed from service to be retired.⁴⁶ Also, refurbished analog meters are new metering devices as to Central Hudson because Central Hudson has no records of their use or testing.⁴⁷

⁴³ Based upon Central Hudson's direct contact with the utilities cited at page 4 of the April 16, 2016 letter from Kenneth S. Panza.

⁴⁴ 16 NYCRR § 93.5.

⁴⁵ 16 NYCRR § 93.6.

⁴⁶ ANSI Standard C12.1 2014 at 59.

⁴⁷ *Id.*

Before any new meter may be placed into service or a previously removed meter, such as refurbished analog meters, may be placed back into service, it must be tested by the utility or manufacturer, in this instance the utility since the manufacturer does not have access to the refurbished analog meter, and must be covered by an in-service test plan.⁴⁸ While it may be possible for Central Hudson to test the refurbished analog meters it is not possible to design a compliant in service test plan.

It is not possible to design a compliant in-service test plan because to do so Central Hudson must have the prior in service records of the refurbished analog meters.⁴⁹ The test records that Central Hudson must have access to include: (1) the type of test program that was used and statistical basis for the test(s); (2) the number of metering devices in each group at the beginning of each test year; (3) acceptable quality limit (“AQL”) level or test rate used; (3) the number of meters tested each year; (4) the analyzed test results; and (5) any necessary corrective action.⁵⁰ Absent these records Central Hudson cannot know or plan for the accuracy, reliability, safety and SWC of the refurbished analog meters. The only information that Central Hudson may know is the result of the accuracy test performed by the refurbished analog meter seller. This is particularly true where the refurbished analog meter seller inserts parts from defective analog meters into the refurbished analog meter so that it will work. No records exist that can establish the accuracy, reliability, safety, or SWC of such meters.

There are many other reasons that refurbished analog meters do not meet ANSI Standards. Because Central Hudson does not have access to prior records it cannot properly decide whether to keep, demote, or discard a refurbished analog meter type or decide the proper interval between calibration or verification tests of a refurbished analog meter type.⁵¹

⁴⁸ *Id.* at 59-60.

⁴⁹ *Id.* at 60.

⁵⁰ *Id.* at 61.

⁵¹ *Id.* at 90.

Similarly, the conditions under which the refurbished analog meters were used are important factors in determining accuracy and testing standards.⁵² There is simply no way to bring refurbished analog meters into compliance with ANSI Standard 12.1 2014.

ANSI C12.10 2011 governs safety issues associated with utility meters. Even a small defect to the refurbished analog meter may cause dire safety issues for the meter installer. A cracked meter casing, corroded ground, fittings that are slightly off, or any other defect may result in a meter flash or other danger that could cause serious injury to the meter installer and/or the customer. The refurbished analog meter seller must adhere to all meter safety requirements set forth in ANSI C12.10 2011 or Central Hudson cannot consider installing or using such meters. Based upon Central Hudson's discussions with refurbished analog meter sellers, none are capable of meeting, or will agree to meet, all of the safety standards.

ANSI C12.20 2010 sets meter accuracy standards. The accuracy of any meter is important because the customer needs an accurate bill. A refurbished analog meter provider tests the meter to ensure that it performs within the accuracy guidelines through a bench test but does not have any records demonstrating the accuracy of the meter under field conditions or the actual conditions to which the meter was subjected. Because the refurbished analog meters are old, parts wear out, worn parts may have been replaced with even older parts, and testing history is unavailable so it is unknown if any particular type of refurbished analog meter has had accuracy issues or may be at the end of its useful life as an accurate meter. Because the refurbished analog meter seller does not possess the required information it does not know how long to expect meter accuracy.

ANSI Standard C37.90.1 2012 sets forth the SWC for meters. As with ANSI C12.10 2011 this requirement represents a safety issue. Refurbished analog meter sellers do not apply the ANSI tests for SWC. Absent adequate testing the refurbished analog meters do not meet

⁵² *Id.* at 88.

ANSI Standard C37.90.1 2012.

III. Central Hudson empathizes with its customers that are concerned for their health, but permitting the installation of refurbished analog meters would not solve any health issue and would create compliance and safety issues for Central Hudson's employees and customers.

There is no RF issue associated with the non-AMR digital meters Central Hudson installs through its opt-out program because there is no ERT in any of the non-AMR digital meters so they cannot produce RFs. Similarly, there is no EMF issue associated with Central Hudson's opt-out program because non-AMR digital meters use less electricity and, therefore, produce less EMFs than do mechanical analog meters, whether they are refurbished or not.⁵³ Further, there is no SMPS issue because digital meters are no different than other electronic devices used inside an outside the home such as razors, coffee makers, cameras, and cell phones, all of which have devices that convert AC to DC. All of these devices operate within applicable safety standards, including the non-AMR digital meters used in Central Hudson's opt-out program.

IV. Petitioner's request to opt out of digital AMR meters to mechanical analog meters without paying the associated costs is unjust and unreasonable.

Petitioners seek to opt out of installation of Central Hudson's digital AMR meter to retain or have installed a mechanical analog meter without paying the costs associated with their retention, servicing and reading of an existing analog meter, or the installation, service and reading of a refurbished analog meter. Analog meters cost more because they are old, unreliable, parts are unavailable, and they cost more to read because they must be read by a meter reader instead of by an automated receiving device. If Petitioners are not required to pay the costs associated with their decision to retain or have installed an analog meter then all other customers must pay those costs. That position is unjust and unreasonable and should be

⁵³ Sacramento Municipal Utility District ("SMUD") at <https://www.smud.org/en/residential/customer-service/smart-meters/common-questions.htm> (SMUD study set forth as Attachment 1).

denied.

CONCLUSION

For the reasons more fully discussed above, the Joint Utilities respectfully request that the Commission deny the Town of Woodstock’s Petition.

Respectfully submitted on behalf of the Joint Utilities,



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Dated: June 23, 2016

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