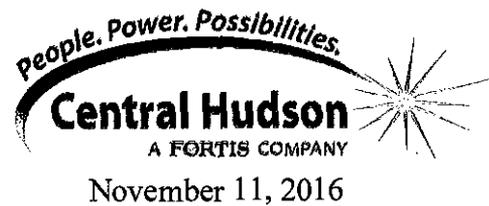


Anthony S. Campajorni, Esq.
Vice President
Regulatory & Governmental Affairs



November 11, 2016

Ms. Donna Giliberto
Records Access Officer
Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Dear Ms. Giliberto:

On November 11, 2016, a redacted copy of the contract specified below was filed by Central Hudson Gas & Electric Corporation ("Central Hudson") pursuant to the requirements of the New York State Public Service Commission, including Case 93-G-0932.

Contract No. 454

Central Hudson Gas & Electric Corporation

With

Cargill Incorporated

Effective: December 1, 2016

Central Hudson hereby submits an unredacted copy of this contract and requests confidential treatment of such information pursuant to 16 NYCRR Part 6-1.

As this filing contains information regarding Central Hudson's current supply portfolio, Central Hudson requests confidential treatment for an unredacted copy of this filing. The negotiations of terms for the provision of gas supply have a direct, and significant, impact on the bills of all customers that continue to purchase their gas supply from Central Hudson. As a result, confidential treatment is requested to protect the interest of all parties.

The requested information constitutes a trade secret pursuant to Section 87 of the Public Officers Law and Part 6-1 of the Regulations. That request is supported by Section 87, as well as the decisions in *New York Telephone Company v. Public Service Commission*, 58 N.Y.2d 213 (1982) and *Matter of Encore College Bookstores, Inc. v. Auxiliary Services Corporation of the State University of New York at Farmingdale*, 87 N.Y.2d 410 (1995).

Section 87 provides an exception from public disclosure for records that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." N.Y. Public Officers Law § 87.2(d) (McKinney 2001). The

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material is information submitted to the Commission, a state agency, by Central Hudson, a commercial enterprise, which if disclosed would cause substantial injury to Central Hudson and/or customers.

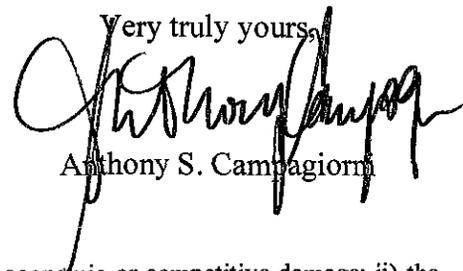
Disclosure would harm Central Hudson by impairing its ability to negotiate reasonable terms and conditions in the competitive wholesale gas markets for gas supply for its customers. The Commission promulgated Part 6-1 of the Regulations to further define what constitutes a trade secret. Section 6-1.3(b)(2) of the Regulations contain the factors the Commission will consider in determining trade secret status.¹

The Court of Appeals has considered what constitutes trade secret material. The Court held that the trade secret exemption in the Public Officers Law Section 87(2)(d) is triggered when public disclosure of the trade material would "cause substantial harm to the competitive position of the person from whom the information was obtained."² The Court determined that the party seeking trade secret protection need not establish actual competitive harm; "rather, actual competition and the likelihood of substantial competitive injury is all that need be shown." In determining whether substantial harm exists, the Court determined that the existence of substantial competitive harm depends on the "commercial value of the requested information to competitors and the cost of acquiring it through other means." The Court concluded, "where FOIA disclosure is the sole means by which competitors can obtain the requested information, the inquiry ends here."

The Commission is empowered to exempt from public disclosure material that is a trade secret.³ Central Hudson, for the reasons stated above, respectfully requests that the material be deemed confidential material exempt from public disclosure under Public Officers Law Section 87 and Part 6-1 of the Commissions Regulations.

Questions regarding this submittal may be directed to Darlene Clay at 845-486-5466 or email at dclay@cenhud.com.

Very truly yours,



Anthony S. Campagnoni

¹ The factors are: i) the extent to which the disclosure would cause unfair economic or competitive damage; ii) the extent to which the information is known by others and can involve similar activities; iii) the worth or value of the information to the person and the person's competitors; iv) the degree of difficulty and cost of developing or duplicating the information by others without the person's consent; and v) other statute(s) or regulations specifically exempting the information from disclosure. 16 N.Y.C.R.R. § 6-1.3(b)(2).

² *Encore College Bookstores, Inc. v. Auxiliary Services Corporation of the State University of New York at Farmingdale*, 87 N.Y.2d 410 (1995).

³ *New York Telephone Company v. Public Service Commission*, 56 N.Y.2d 213 (1982).

Contract No. 454

Central Hudson Gas & Electric Corporation

With

Cargill Incorporated

UNREDACTED COPY – CONFIDENTIAL TRADE SECRET STATUS REQUESTED

Type of Contract: Gas Firm-Peaking
Term: December 1, 2016- March 31, 2017
Date of Execution: September 30, 2016
Date Effective: October 19, 2016

