STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric Service	Case 23-E-0418
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Gas Service	Case 23-G-0419

REPLY POST-HEARING BRIEF OF CENTRAL HUDSON GAS & ELECTRIC CORPORATION

March 11, 2024

TABLE OF CONTENTS

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric Service	:	Case 23-E-0418
Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Gas Service	:	Case 23-G-0419

REPLY POST-HEARING BRIEF OF CENTRAL HUDSON GAS & ELECTRIC CORPORATION

I. INTRODUCTION

A. Overview

Central Hudson Gas & Electric Corporation ("Central Hudson" or the "Company") filed its initial brief on March 1, 2024. Initial briefs were also filed by the New York State Department of Public Service Staff ("Staff"), the New York State Department of State, Utility Intervention Unit, Division of Consumer Protection ("UIU"), the Public Utility Law Project of New York, Inc. ("PULP"), Multiple Intervenors ("MI"), Walmart Inc. ("Walmart"), Key Capture Energy ("KCE"), Dutchess County, the Town of Olive and Communities for Local Power ("CLP").[1] The Company's Initial Brief anticipated and fully addressed many of the positions

[1] The Company's initial brief is referred to as "Initial Brief" or "CHIB," Staff's as "SIB," PULP's as "PIB," MI's as "MIIB," UIU's as "UIUIB," Walmart's as "WIB," KCE's as "KCEIB," Dutchess County's as "DCIB," Town of Olive's as "OIB," and CLP's as "CLPIB."

raised by parties in their initial briefs. Consequently, the Company will not repeat its presentation on all subjects in this Reply Brief.[2]

Upon review of the parties' briefs, one troubling theme observed by the Company is the parties' strong desire to look backward at the acknowledged challenges and billing issues that arose in the past related to the implementation of a new SAP Customer Information System ("CIS"), one needed to replace an aging decades-old mainframe legacy CIS.[3] CHIB, p. 3. The parties' briefs do not credit the fact that with the help of its union and management employees, third-party experts, and contractors, Central Hudson's SAP-CIS transition issues have been largely addressed and ameliorated and customers are currently receiving bills within normal operating parameters. CHIB, pp. 3-4, 234. The parties' pervasive fixation on the SAP-CIS transition issues take many forms. For example, Staff proposes the imposition of highly punitive negative revenue adjustments ("NRAs") for customer service performance indicators ("CSPIs") that dwarf the NRAs applied to other utilities. CHIB, pp. 4, 215-241. To make matters worse, Staff's proposed NRAs are also subject to tripling and even quadrupling. CHIB, p. 232. Staff also punitively recommends denying recovery for wage increases and certain variable compensation incentive programs based primarily on issues related to the SAP-CIS transition.

The punitive features of Staff's case, however, are not all directly related to the SAP-CIS transition, but also include: refusing to allow the measured recovery of expenses such as storm

---

2 Failure by the Company to address herein a given point in the initial brief of another party does not represent acquiescence by Central Hudson to any such argument, but rather indicates that the Company's Initial Brief has already addressed that point.

3 The Company notes that there are a number of baseless characterizations and ad hominem attacks in CLP's initial brief regarding the Company that have not record basis and that the Company flatly rejects but will not respond to substantively, such as: "longstanding organizational structure failure," "no acknowledgement of responsibility," the Company refuses "to take New York's climate law and mandates seriously," and the Company is "unfit to serve Hudson Valley residents with essential services such as electric and gas." CLPIB, pp. 2, 17, 20, 27.

expense; denial of key deferrals that protect the Company from events beyond its control (ones that other utilities are allowed); recommending the removal of 122.5 incremental full-time equivalents ("FTEs") (many in customer service areas); and the recommendation of an overall revenue requirement that would very likely lead to a downgrade of Central Hudson's credit that could impose higher interest costs on customers for future years.

Unlike some other parties, the Company properly focused these rate cases on the future Rate Year. The Company seeks needed rate relief to allow it to replace infrastructure that is obsolete or beyond its useful life, support energy affordability, energy efficiency and heat pump programs, maintain the reliability and safety of the electric and gas distribution systems and continue to respond to storms and extreme weather events. The Company also seeks the ability to continue investments in modern electric infrastructure that will improve system resilience, which will allow for greater interconnection of local renewable resources and advance the state's goals and policies as set forth in the Climate Leadership and Community Protection Act ("CLCPA").

When reviewing the record in this proceeding, the Company would ask that Your Honors not be persuaded by the backward facing viewpoint of many of the parties. As is the case with every rate case, the Rate Year in these cases is in the future – the 12 months ending June 30, 2025. Although the past may be instructive, ratemaking is a prospective and not a retrospective process.[4] "Deficits in the past do not afford a legal basis for invalidating rates, otherwise compensatory, any more than past profits can be used to sustain confiscatory rates for the future."[5] Central Hudson is not seeking recovery in this rate case for the costs of remediating the

---

4 Niagara Mohawk Power Corp. v. Pub. Serv. Com., 69 N.Y.2d 365, 370 (1987).

5 Los Angeles Gas & Elec. Corp. v. RR Comm'n of California, 289 U.S. 287, 313 (1933) (citation omitted).

billing issues that arose from implementing the new SAP-CIS. Consequently, Central Hudson should not be punished in this rate proceeding for the SAP-CIS transition issues – particularly when there are other open Commission proceedings expressly addressing such issues. The focus and purpose of these rate cases should remain firmly on setting forward-looking rates that are just and reasonable.

With respect to a rate order, it is long-settled that the statutory standard of "just and reasonable" is satisfied by the result reached, not the method employed.[6] To satisfy that standard:

> It is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.[7]

Here, as the Company demonstrated on the record and in its Initial Brief, the end result of the many adjustments and ratemaking policies advocated by Staff, and various other parties, will transgress upon that Constitutional requirement, jeopardizing the Company's credit and its ability to attract capital. CHIB, p. 6. Moreover, the approach of other parties is of concern based on the evident misunderstanding of the overall rate case process and the infirmity of the rationale underlying their various adjustments and policy changes – many of which are neither based in practical and economic reality, nor sound ratemaking policies.

For example, when calculating rates for the future, Staff has ignored the inflation that has already occurred for capital expenditures. "Estimates for tomorrow," however, "cannot ignore

---

6 Federal Power Comm'n v. Hope Natural Gas Co., 320 U.S. 591, 602 (1944).

7 Id. at 603 (citations omitted).

prices of to-day."[8] "The law is well-settled that the Commission may not rely on a reckoning when actual experience is available and establishes that the predictions have been substantially incorrect."[9] Staff also excluded the costs of major storms from the development of its historical average because they were "too major," violating the fundamental ratemaking principle that "elaborate calculations which are at war with realities are of no avail."[10] Staff has even advocated imposing its proposed and extremely punitive CSPI targets and NRAs on the Company retroactively to January 1, 2024, despite the fact that the Company had no warning that such standards would apply as the 2021 Rate Plan had already established CSPI targets and NRAs for 2024, again transgressing settled rules of ratemaking and administrative practice.[11]

In the final analysis, the rates established in these cases must be based on sound, substantial evidence. The fundamental question that needs to be addressed is whether the record evidence taken as a whole provides a rational basis for a Commission order.[12] Such evidence must be substantial and "'does not [a]rise from bare surmise, conjecture, speculation or rumor' nor from the absence of evidence supporting a contrary conclusion."[13] Consequently, all contentions raised in these rate cases that are not based on the evidence, those which rely on the

---

8 Los Angeles Gas & Elec. Corp., supra at 311 (citations omitted).

9 NY Tel. Co. v. Pub. Serv. Comm'n., 29 N.Y.2d 164, 169 (1971) (citations omitted).

10 "'Estimates for tomorrow cannot ignore prices of today.' We have said of an attempt by a utility to give prophecy the first place and experience the second that 'elaborate calculations which are at war with realities are of no avail.' We say the same of a like attempt by officers of government prescribing rates to be effective in years when experience has spoken. A forecast gives us one rate. A survey gives another. To prefer the forecast to the survey is an arbitrary judgment." West Ohio Gas Co. v. Pub. Util. Comm'n., 294 U.S. 79, 82 (1935) (citations omitted).

11 See, e.g., West Ohio Gas Co. v. Pub. Util. Comm'n, 294 U.S. 63, 68 (1935) (citations omitted) ("The waste or negligence, however, must be established by evidence of one kind or another, either direct or circumstantial. In all the pages of this record, there is neither a word nor a circumstance to charge the management with fault. There is not even the shadow of a warning to the company that fault was imputed and that it must give evidence of care. Without anything to suggest that there was such an issue in the case, the commission struck off 2%; it might with as much reason have struck off 4 or 6. This was wholly arbitrary.")

12 Mtr. of National Fuel Gas Distrib. Corp. v. Public Serv. Comm'n, 16 N.Y.3d 360, 368, (2011) (citations omitted).

13 State Div. of Human Rights v. RHS Mgmt. Corp., 270 A.D.2d 426, 427 (2nd Dept. 2000) (citations omitted).

"calculations at war with reality," and those that are backward rather than forward looking should not be adopted if a rate order is to result that will satisfy the long-established fundamental Constitutional parameters of achieving a fair balance between investors and customers. Such a balance is achieved in the Company's testimony, Initial Brief and this Reply Brief and the Company's recommendations set forth therein should be adopted.

B. Procedural History

See the Company's Initial Brief at pages 7-10.

C. Revenue Requirement (Appendix and Updates)

Appendix 1 to this Reply Brief provides the Company's updated electric revenue requirement schedules for the Rate Year. Appendix 2 to this Reply Brief provides the Company's updated gas revenue requirement schedules for the Rate Year. Appendix 3 to this Reply Brief provides the details of labor for electric and gas expense, labor by employee classification, and the allocation of labor costs to electric expense, gas expense, construction, and other categories. Appendix 4 to this Reply Brief provides updated rate base schedules for the Rate Year. The Company's updated revenue requirement schedules reflect corrections or updates acknowledged or agreed to by the Company since the filing of its rebuttal testimony, including the impact of the settlement stipulations that were entered into among the Company, Staff and UIU (i.e., Exhibits 513-516). A summary of these changes is provided in Appendix 5.

1. Use of Net Regulatory Liabilities for Rate Moderation

See the Company's Initial Brief at pages 11-12.

D. Compliance with CLCPA

The Company's rate filing contains a number of proposals that support the greenhouse gas ("GHG") emissions reduction goals of the CLCPA, with many of these reductions accruing to the benefit of disadvantaged communities.[14] As discussed in the Company's Initial Brief, the Company's rate filing is consistent with the requirements of CLCPA Sections 7(2) and 7(3) and related policies established by the Commission. CHIB, pp. 12-20. The Company agrees with Staff's conclusion that, in the aggregate, the proposals in these rate filings are consistent with the attainment of the GHG emissions reduction targets of the CLCPA and "do not disproportionately burden disadvantaged communities."[15] SIB, pp. 11, 15. Further, the proposals in this rate filing are aligned with prior Commission precedent regarding CLCPA consistency. SIB, pp. 11-12. The Commission should determine that the Company's rate filings are consistent with the CLCPA.

II. REVENUE ISSUES

A. Revenue / Sales / Customer Forecasts

See the Company's Initial Brief at pages 20-21.

1. Electric Forecasts

See the Company's Initial Brief at pages 21-24.

2. Gas Forecasts

See the Company's Initial Brief at pages 24-25.

B. Revenue Tracking Mechanisms

See the Company's Initial Brief at pages 25-27.

---

14 For a detailed list of these proposals, see the Company's Initial Brief at page 16.

15 While there are still disagreements between the Company and Staff on the details of some of these proposals, which are discussed in the Company's Initial Brief, the Company agrees with Staff's general characterization of the GHG emissions reduction benefits and impact on disadvantaged communities in Staff's initial brief.

III. EXPENSE ISSUES

A. O&M

1. Areas of Agreement

See the Company's Initial Brief at page 28.

2. Site Investigation and Remediation ("SIR")

Staff recommends that the Commission direct the Company to undertake an internal audit of each of the Company's SIR program sites before its next rate filing. SIB, pp. 23-24. The Company does not necessarily take issue with the substance of this recommendation, but the timeline proposed by Staff is unworkable given that these proceedings will not result in a multi-year settlement but instead litigated one-year outcomes. Given that a final Commission order is not required in these proceedings until June 2024, and the Company is entitled to file for new rates at the end of July 2024, there is not enough time for the Company to complete the internal audits recommended by Staff. Further, the Company has demonstrated that it has sufficient internal controls in place as it relates to the Company's SIR program. Exhibit 346 (SIR-1), p. 174. Therefore, Staff's recommendation to complete internal audits of the Company's SIR program sites before the Company's next rate filing should be rejected.

3. Vegetation Management

In rebuttal testimony, the Company indicated that the Roadway Excavation Quality Assurance Act, signed into law following the Company's initial filing, was estimated to require a Rate Year increase of approximately $1.1 million for Routine Line Clearance Flagging and $440,000 for Hazard Tree Flagging activity. Tr. 2144-2145. Staff disagrees with this increase, citing to the Article 8 Prevailing Wage Schedules provided by the New York State Department of Labor ("NYSDOL") to indicate that Lineman-Tree Trimmers serving as "Flag Person" in their duties have minimum wage as their prevailing wage amount. SIB, p. 27. Staff argues that the NYSDOL information demonstrates that the Company does not need the requested increase.

Staff misinterprets the NYSDOL prevailing wage schedules. The Company agrees that the listed wage for "Flag Person" is the minimum wage, which is $15.00 per hour as of January 1, 2024.[16] However, Staff only cites to the hourly wage portion of the schedule, and fails to add the supplemental benefits, which are $10.48 per hour plus 4.5% of the hourly wage paid.[17] Incorporation of the supplemental benefits results in an overall amount of approximately $26.16 per hour for each "Flag Person."[18] Further, contractor pricing for Distribution Line Clearance Activities is based on the union contract for the Local 1249 B Chapter, which is the same chapter that supplies labor for the Company's Line Clearance Contractors. Tr. 2081. Pursuant to the union contract, a "Flag Person" can only remain in that position for a maximum of 90 days before being upgraded to a "Ground Person." The Company's average contractor billable rate for a "Ground Person" in 2024 is $44.07. This information was used to develop the Company's Exhibit 199 (ECOP-4R). As a result, the Company will experience a cost increase to perform Routine Line Clearance Flagging and Hazard Tree Flagging activities in the Rate Year and a deferral mechanism related to the Roadway Excavation Quality Assurance Act, as discussed in greater detail below, is appropriate. If the deferral mechanism is not approved, the Company's revenue requirement should include incremental funding of $1.54 million for these two activities.

---

16 NYSDOL, Prevailing Wage Rates for 07/01/2023 - 06/30/2024 at 18, available at https://apps.labor.ny.gov/wpp/viewPrevailingWageSchedule.do.

17 Id.

18 To reach this amount the Company utilized the following equation: $15.00 + $10.48 + ($15.00*.045) = $26.16. This amount does not include overheads.

4. Labor Expense

The Company and Staff strongly disagree regarding labor expense for the Rate Year. For the reasons detailed in the Company's Initial Brief, and discussed further below, the Company's labor expense position should be adopted.

a. Incremental FTEs

Staff recommends the disallowance of 122.5 of the FTEs proposed by the Company for the Rate Year. SIB, pp. 29-30. This reduction represents approximately 48% of the incremental FTEs proposed by the Company, which are necessary for the Company to, among other things, continue to provide safe and reliable service, implement the Company's capital plans, make improvements to the customer experience, and execute a number of new initiatives. CHIB, p. 33. As detailed in the Company's Initial Brief and Appendix 2 thereto, the Company has fully justified its proposed incremental FTEs and Staff's disallowance should be rejected. The remainder of this subsection responds to specific Staff recommendations regarding the incremental FTEs proposed by the Company.

i. Electric Capital and Operations Panel Incremental FTEs

Staff's initial brief recommends disallowance of 17 of the incremental FTEs supported by the Company's Electric Capital and Operations Panel. SIB, pp. 30-36. Staff argues that the identified need for the incremental FTEs can either be satisfied through contracted resources or by the Company's existing workforce. For the reasons discussed below, the Company's incremental FTEs are fully justified and the costs related thereto should be included in the Company's revenue requirement as proposed by the Company.

Staff rejects three of the Company's proposed Assistant Engineers (Grid Mod) and two of the Company's proposed Assistant Engineers (Substation).[19] Staff argues that the Company's project workload does not support the need for these additional engineers, and to the extent that there is an increase in developer funded projects, the Company can have contractors perform the work. SIB, pp. 30-31. The Company disagrees on both counts. These incremental positions are necessary to perform planning/scoping, design, and project construction management to meet the demands of the work plan. CHIB, Appendix 2. In addition, these positions are intended to address the uptick of developer funded projects in the New York Independent System Operator ("NYISO") queue, which require Company study support in a prescribed turnaround time. Tr. 2124. The pressing need of this workstream impacts the ability of the Company to support the traditional capital expenditures through its existing staffing. Tr. 2122-2123. The Company requested the minimum number of engineers required to meet the capital spending plan based on pro forma historical data – Staff's disallowance jeopardizes the Company's ability to deliver on its capital projects.

The Company also disagrees with Staff's recommendation to address the increase in developer funded projects through contracted resources. Generally, contracted labor is more expensive than internal labor, and it deprives the Company's internal labor the opportunity to grow through exposure to a variety of project assignments. Tr. 2123. In addition, the requested FTEs will offset the impact of attrition and turnover and will encourage employee engagement by allowing rotational development assignments without extreme disruption to the project workflow. Tr. 2123. Should these FTEs ultimately be disallowed, an adjustment to the non-

[19] While Staff's initial brief and Staff's EIOP testimony (Tr. 2587) indicates that it recommends one Assistant Engineer (Grid Mod), representing a disallowance of four FTEs, Exhibit 302 (SAP-4 Corrected) shows disallowance of three of the Company's proposed five incremental Assistant Engineer (Grid Mod) positions.

labor component of the revenue requirements would need to be made, as expense for incremental contracted work was not assumed.

Staff rejects the Company's proposed Assistant Engineer (Hydro) position, as Staff believes the Company can complete its work related to grant applications in the Rate Year with its current level of staffing. SIB, pp. 31-32. Staff's position is shortsighted. As the Company detailed in rebuttal testimony, these grant applications require a significant amount of work. Tr. 2126. Adding an incremental resource will allow the Company to utilize less contract labor, and will also allow the Company to be more aggressive in identifying and applying for other grant program opportunities. Id. Additional grant funding could result in opportunities for decreased capital costs, which in turn would reduce customer bills. Further, the Commission encouraged utilities to "take all necessary steps to apply for such grants and loans" as it relates to recent federal funding opportunities (Tr. 2126) – Staff's rejection of this FTE will limit the Company's ability to take these steps.

Staff recommends the disallowance of three of the Company's incremental I&C Technician (Substation) positions and two of the Company's Relay Technician (Substation) FTEs.[20] Staff argues that the Company has been able to meet its overall workload with the present headcount, and therefore the proposed FTEs are unnecessary. SIB, pp. 32-33. As it relates to the I&C Technician (Substation) positions, the Company needs in-house expertise to perform fiber optic splicing jobs. The Company's Electric Capital and Operations Panel provided that a recent fiber optic splicing job performed by a contractor to splice 48 fibers cost approximately $20,000 for a single job. Tr. 2130. Building the expertise in-house is more cost

[20] Staff's Exhibit 302 (SAP-4 Corrected) reflects a removal of three I&C Technicians. Staff's EIOP testimony, however, explains that the Company asked for four in total (three within the bridge period and one in Rate Year 2) and notes that three were denied but that the one hired in 2023 was to remain. Tr. 2595-2597.

effective than contracting out the work, and therefore these positions should be approved. As for the Relay Technician (Substation) positions, the Company needs these FTEs to address a growing backlog of relay work, which presents a risk to reliability and compliance. Tr. 2131. This is exacerbated by the additional time that is required to configure and test the relays due to the rapid evolution of relays with more complex versions. Id. Finally, these positions are necessary to stay ahead of the impending retirement of the current Chief. Id.

Staff also recommends the rejection of four of the Company's incremental Assistant Distribution Operators and two of the Company's Emergency Service Representatives. SIB, pp. 34-36. These FTEs are necessary for the expansion of Central Dispatch Operations and the buildout of Distribution System Operations, which will be essential to ensure 24/7 monitoring and control with the Advanced Distribution Management System ("ADMS"). CHIB, Appendix 2. Staff argues that the Company is being overly conservative in its estimation of how many FTEs are needed to operate the ADMS, especially since the purpose of the ADMS is to automate the electric system and lessen the need for constant, full-time monitoring by Distribution Operators. SIB, p. 35. Staff also argues that the Company already has a sufficient number of Emergency Service Representatives to meet its ongoing operational needs. SIB, p. 36.

The Company strongly disagrees with Staff's arguments regarding the proposed Assistant Distribution Operators. Staff demonstrates a fundamentally flawed understanding of the ADMS and the associated efficiencies. The ADMS allows the Company to have more visibility and control over its system – however, the additional actions taken as a result require operator decision making. Further, there is no record evidence to support Staff's assertion that there will only be a "brief advisory mode period" for the ADMS. SIB, p. 35. As the Company operates the ADMS in advisory mode, ADMS solutions will need to be consistently evaluated by operators before execution. Tr. 2118. Even with the future efficiencies associated with the ADMS, centralizing the distribution operating authority will require incremental staffing to perform daily functions currently performed by other Company employees. Staff's disallowance would require the Company to limit shifts to one or two employees, which is not sufficient for a department that will be charged with performing distribution switching and issuing work permits across the entire Central Hudson service territory. CHIB, Appendix 2. Similarly, as the Company describes in Appendix 2 to its Initial Brief, the Company's proposed Emergency Service Representatives are necessary to facilitate 24/7 communications between customers and the Primary Control Center Staff, which is critical to providing timely responses to gas odor incidents. Id.

As discussed above, and further detailed in the Company's Initial Brief and Appendix 2 thereto, Staff's disallowance of 17 incremental FTEs supported by the Company's Electric Capital and Operations Panel should be rejected.

ii. Gas Safety, Capital and Operations Panel Incremental FTEs

Staff's initial brief recommends disallowance of three of the Company's gas-related incremental FTEs. SIB, pp. 37-41. For the reasons set forth in the Company's Initial Brief and Appendix 2 thereto, the incremental FTEs disallowed by Staff are fully justified and the costs related thereto should be included in the Company's revenue requirement as proposed by the Company.

iii. Workforce, Compensation and Benefits Panel Incremental FTEs

Staff's initial brief recommends the disallowance of the Company's incremental Logistics Coordinator and Instructional Designer.[21] SIB, p. 48. For the reasons set forth in the Company's Initial Brief and Appendix 2 thereto, the incremental FTEs disallowed by Staff are fully justified and the costs related thereto should be included in the Company's revenue requirement as proposed by the Company.

iv. Technology Capital and Operations Panel Incremental FTEs

Staff's initial brief recommends the disallowance of 17 incremental FTEs proposed by the Company's Technology Capital and Operations Panel.[22] SIB, pp. 41-43. Staff argues that the Company's proposed incremental FTEs are "either inconsistent with the incremental work necessary for the Company to implement certain projects, have been deemed unnecessary by a third-party consultant, and/or are tied to incremental projects that Staff recommends eliminating entirely." SIB, p. 43. These characterizations are inaccurate for the reasons discussed below.

First, Staff recommends disallowance of five incremental FTEs[23] associated with the incremental work necessary for the Company to provide data to the Integrated Energy Data Resource ("IEDR"). SIB, p. 41. According to Staff, the responsibilities associated with these FTEs are inconsistent with the incremental work required for the IEDR initiative. Further, Staff refers to the Commission's Order Approving Integrated Energy Data Resource Phase 2 Budgets

---

[21] Staff discusses these FTEs in the Accounting and Tax Panel Incremental FTE section of its initial brief; however, these FTEs are more appropriately discussed in this section.

[22] The Company notes that Staff's initial brief asserts that it disallowed 16 FTEs proposed by the Company's Technology Capital and Operations Panel (SIB, p. 42) but the Company believes Staff disallowed 17 such FTEs. CHIB, Appendix 2.

[23] Staff discusses these FTEs in the Common Capital and Operations FTE section of its Initial Brief; however, these FTEs are more appropriately discussed in this section.

issued on January 19, 2024 in Case 20-M-0082, which according to Staff, necessitates that these incremental FTEs be addressed in a subsequent rate case after Phase 2 has been completed. Id. As demonstrated in Appendix 2 to the Company's Initial Brief, the IEDR-related incremental FTEs are necessary for the Company to meet IEDR requirements.

Staff also relies on Overland Consulting's November 2023 report to support the disallowance of a number of incremental FTEs necessary for the implementation of recommendations from the management audit of the Company conducted in Case 21-M-0541 ("2021 Management Audit"). SIB, p. 49. The Company disagrees with the findings in Overland's November 2023 report related to the Company's incremental FTEs, as detailed in the Company's Initial Brief and Appendix 2 thereto. CHIB, pp. 257-267.

Finally, Staff recommends disallowance of the incremental FTEs associated with the Company's proposed Customer Web and Mobile Technology project. SIB, p. 42. Staff disagrees with this project because it is concerned the project is premature, as the Company has not issued an Request for Proposals ("RFP") nor provided a cost-benefit analysis for the project. SIB, p. 133. Staff's concern is misplaced. The Company did not issue an RFP or prepare a cost-benefit analysis for this project because the web and mobile applications were developed over time by in-house resources, and the Company plans to continue to support this project with in-house resources going forward. Tr. 1385. It is critical that the Company has internal FTE web development resources to ensure adherence to best-practice coding standards, address newly identified security and vulnerability issues, and perform technical upgrades to keep these internally developed web and mobile applications current. Id. Staff's disallowance of these positions should be rejected.

v. Customer Experience Panel Incremental FTEs

Staff's initial brief recommends the disallowance of the vast majority of the Company's proposed customer service incremental FTEs. SIB, pp. 43-47. As set forth in the Company's Initial Brief, these incremental FTEs are necessary for the Company to restart and manage residential customer collections activity, comply with complex billing requirements, implement monthly meter reading, and conduct outreach. CHIB, pp. 34-37; Appendix 2. For the reasons discussed below, and further detailed in the Company's Initial Brief and Appendix 2 thereto, these incremental FTEs are fully justified and the costs related thereto should be included in the Company's Rate Year revenue requirement as proposed by the Company.

Staff's initial brief opposes the incremental Billing FTEs proposed by the Company because, according to Staff: 1) the Company's argument that community distributed generation ("CDG") billing requirements are likely to evolve is speculative at this time; 2) the Company can propose such positions in a future rate proceeding to address actual needs as they arise; and 3) the Company's upgraded SAP-CIS should seamlessly be able to process complex billing. SIB, p. 45. The Company will address these arguments in turn. First, Staff's argument that the evolution of complex billing requirements is speculative at this time is disingenuous. One need only look at the significant number of new billing requirements that have been implemented in the last few years, as well as the ongoing Commission proceedings specifically intended to lead to complex billing changes, to understand that utility billing will continue to evolve. Below is a table that identifies recent Commission orders that have required billing changes, as well as ongoing Commission proceedings likely to result in billing changes:

Recent and Potential Billing Change Requirements

Case #	Order Date	Billing Change Description	Status
15-E-0751	April 18, 2019	Value Stack compensation	Implemented
19-M-0463	December 19, 2019	Consolidated Billing for CDG	Implemented
15-E-0751	June 12, 2020	Community Credit	Implemented
19-E-0735	May 14, 2020	Remote Crediting	Implemented
15-E-0751	July 16, 2020	CBC charge implementation	Implemented
20-E-0249	February 11, 2021	Host Community Benefit Program	In Development
15-E-0751	May 17, 2021	CDG Banking Rules Clarification	Implemented
20-M-0266	June 16, 2022	AMP Phase 1	Implemented
22-M-0159	July 14, 2022	Outage Credits	Implemented
22-E-0236	January 19, 2023	EV Phase-In Rates	Proceeding Ongoing
20-M-0266	January 19, 2023	AMP Phase 2	Implemented
22-E-0549	March 17, 2023	Wholesale Value Stack	In Development
15-E-0751	October 13, 2023	Standby Service Rates	In Development
23-M-0298	February 15, 2024	NYS Energy Bill Credit	In Development
19-E-0735	Ongoing Proceeding	Statewide Solar for All Program	Proceeding Ongoing
24-E-0084	Ongoing Proceeding	Renewable Energy Access and Community Help Program	Proceeding Ongoing
19-M-0463	Ongoing Proceeding	Volumetric Net Crediting for CDG	Proceeding Ongoing
21-E-0629	Ongoing Proceeding	Multiple Savings Rates for CDG	Proceeding Ongoing
15-E-0751	Ongoing Proceeding	CBC charge modification	Proceeding Ongoing

It is likely that some of the ongoing proceedings identified above could result in a Commission order that requires the Company to implement further billing changes within the Rate Year.

To that point, Staff's argument that the Company can simply propose these incremental FTEs in a future rate proceeding does not consider recent Commission actions. For example, as the Company discussed in testimony, the Commission's October 13, 2023 Order Establishing Updated Standby Service Rates and Implementing Optional Mass Market Demand Rates in Case 15-E-0751 ("Standby Order") requires the Company to establish new Standby rate structures for customers required to be on Standby/Buyback rates by January 2024, and for customers opting-in to Standby/Buyback rates by July 1, 2024. Tr. 3083. The Company needs incremental Billing FTEs to implement these requirements. Id. Staff points to the fact that compliance with the Standby Order is required prior to the start of the Rate Year. SIB, p. 45. This speaks to the Company's point – the Company cannot wait to propose these incremental FTEs in a future rate proceeding, as incremental resources are needed in the short term. The Company also objects to Staff's argument that the Company's SAP-CIS should be able to seamlessly process complex billing. Id. The reality is that complex billing requirements that are unique to New York State are not within the off-the-shelf functionality included with any SAP-CIS system, and therefore, custom coding and configuration for these complex billing requirements is necessary. For these reasons, the Commission should reject Staff's disallowance of the Company's Billing FTEs.

Staff opposes the incremental FTEs needed by the Company to restart and manage residential customer collections activity. SIB, p. 46. Staff continues to express concern with the Company's plan to commence a phased rollout of collection activities and service terminations in the Rate Year, arguing that there is a lack of detail and no firm timeline for the Company's plan. SIB, p. 46. This argument is contradicted by the record, as the Company has been consistent regarding its proposed timeline. CHIB, pp. 35-36; Tr. 4403. As the Company has repeatedly explained, the Company plans to commence these activities in April 2024 in conjunction with its monthly meter reading initiative. CHIB, p. 247; Tr. 3071.

Staff also raises a concern that, without an automated process in place, the notices required by the Home Energy Fair Practices Act ("HEFPA") may be inadvertently omitted if the Company relies on a manual process for residential service terminations, which could make the Company vulnerable if HEFPA is not followed. SIB, p. 46. Staff's concern is unwarranted. The

Company has already completed a number of manual collections for non-residential customers, and the lessons learned can be applied to the residential collections context. Tr. 3074-3075. One of these lessons involves the creation of a comprehensive training plan to teach the entire contact center, as well as any employee that may be part of the collections process, how residential manual locking will need to be handled in accordance with HEFPA. Tr. 3075-3076. In addition, the Company developed its initial standard operating procedure in conjunction with a skilled third-party training consultant and instructional designer, which will be closely monitored by management to ensure consistency and compliance with HEFPA requirements. Tr. 3076.

Indeed, Staff acknowledged the possible incremental work required to restart collections activities. CHIB, pp. 36-37. Staff's denial of the Company's incremental collections FTEs is inconsistent with that acknowledgment and not supported by the record. For the reasons discussed above, and in the Company's Initial Brief, the Company's incremental collections FTEs should be allowed.

Staff's initial brief also recommends that the Commission disallow the Company's proposed incremental FTEs related to monthly meter reading. SIB, pp. 44-45. As the Company explains in its Initial Brief, the Company's initial plan timeline, which was filed on January 17, 2023, in Case 22-M-0654, was accelerated in accordance with an interim agreement reached on July 27, 2023, between Staff and the Company. CHIB, p. 37. As of December 19, 2023, the monthly meter reading project is well underway (CHIB, p. 245), and incremental FTEs are required to rollout the Company's plan. In fact, as of the time of this Reply Brief the Company has completed the proof of concept and pilot phases of the project and has begun monthly meter reading for the Kingston operating division.[24] For these reasons, and the reasons discussed in Section X.D of this Reply Brief, the Commission should reject Staff's proposed disallowance of these FTEs.

Finally, Staff opposes the Company's incremental Consumer Outreach Director and Consumer Outreach Supervisor. SIB, pp. 46-47. As it relates to the Consumer Outreach Director, Staff notes that they are not opposed to this position, but they suggest it should be removed from the calculation of incremental FTE labor expense because it is merely backfilling a position that was vacated in 2022. SIB, p. 47. However, as the Company's Revenue Requirements Panel testified, the Company's internal labor costs were developed using Company employees on property as of March 31, 2023 as a baseline. Tr. 693. All employees not on property on that date are factored into the calculation as incremental FTEs. Because the prior Consumer Outreach Director was not a filled position on March 31, 2023, the position was not included in the Company's baseline and therefore is incremental. The Company fully justified the need for the Consumer Outreach Director and Consumer Outreach Supervisor in Appendix 2 to the Company's Initial Brief, and therefore, the positions should be adopted.

vi. Climate Leadership and Sustainability Panel Incremental FTEs

See the Company's Initial Brief at page 40.

vii. Accounting and Tax Panel Incremental FTEs

See the Company's Initial Brief at page 40.

[24] See Central Hudson, Monthly Meter Reading Begins for 63,000 Central Hudson Customers (Feb. 8, 2024), available at https://www.cenhud.com/en/news/2024/monthly-meter-reading-begins-for-63000-central-hudson-customers/.

viii. Management Audit Panel Incremental FTEs[25]

As set forth in Exhibit 257 (WCBP-2R), the Company's Management Audit Panel supported two incremental FTEs. Staff recommends allowing 0.5 of these incremental employees and disallowing the remaining FTEs. Exhibit 302 (SAP-4 Corrected). The Company has fully justified the incremental FTEs disallowed by Staff in Appendix 2 to the Company's Initial Brief. For the reasons discussed therein, the costs related to these incremental FTEs should be included in the Company's revenue requirement as proposed by the Company.

ix. Electric and Gas Procurement Panel Incremental FTEs

See the Company's Initial Brief at pages 40-41.

x. Miscellaneous Incremental FTEs

See the Company's Initial Brief at page 41.

b. Vacancy Rate

The Company's Initial Brief thoroughly addresses the fatal flaws with Staff's proposed vacancy rate. CHIB, pp. 41-43. The Company also explained why the determination of whether to apply a vacancy rate should be based on actual headcount and not the Company's attrition rate. Id. When viewed properly under this context, a vacancy rate clearly should not be adopted.

Staff's initial brief opposes Central Hudson's proposal of using actual headcount compared to the amount allowed in rates. While acknowledging that the Company had more FTEs on site than the number of FTEs allowed in rates during the Historic Test Year, Staff argues that the Company still would have had some level of vacancy and the vacancy rate is

---

[25] In its initial brief, Staff discusses the Company's incremental FTEs necessary to implement 2021 Management Audit recommendations in the Accounting and Tax Panel Incremental FTEs section. SIB, pp. 48-50. In the Company's Initial Brief, incremental FTEs necessary to implement 2021 Management Audit recommendations are discussed in the Electric Capital and Operations Panel Incremental FTEs, Technology Capital and Operations Panel Incremental FTEs and Management Audit Panel Incremental FTEs sections. The Company has continued that approach in this Reply Brief.

necessary to account for the routine time lapses as FTEs change positions or leave the Company. SIB, p. 52. The Company agrees that at any given time it will have some level of vacancy. The Company's labor expense should only be adjusted to reflect this vacancy, however, if the vacancies result in the Company's actual headcount being below the level reflected in rates and presumably below the labor expense afforded for in rates. Tr. 778. When viewed in this light, a vacancy rate is unwarranted because historically the Company's actual headcount has exceeded the headcount allowed for in rates (see Exhibit 247 (RRP-7R)), and the Company expects this trend to continue. Tr. 779.

Staff's argument that the productivity, the vacancy rate and the downward-only labor reconciliation mechanism do not account for the same things (SIB, p. 52) is misleading because, even if they are not intended to capture the same things, their effect is the same as all three reduce, in whole or in part, the Company's recovery of labor expense. Collectively, the productivity adjustment, the vacancy rate and the downward-only labor reconciliation mechanism have the cumulative impact of unlawfully indirectly or directly reducing the Company's labor expense to levels far below the actual level of expense reasonably forecasted for the Rate Year. Adoption of all three of Staff's proposed adjustments would be a classic example of regulatory overreach.

Staff is also wrong that the vacancy rate should apply to new FTEs. According to Staff, the vacancy rate should apply to total labor expense including new hires because, like all FTEs, new hires can also leave employment at any time. SIB, p. 52. Staff then goes on to argue that since Central Hudson staggered the hiring of incremental employees, the vacancy rate fairly applies to only the portion of salary included in the Rate Year labor expense. Id. The fact that the Company only included a portion of the expense related to the incremental FTEs in the projected Rate Year labor expense is exactly why it is unfair to reduce this expense any further. The majority of the Company's incremental FTEs are planned to start prior to the start of the Rate Year (Tr. 321) and thus are expected to be on site for the entire Rate Year. Nevertheless, the Company factored in an assumption that staggered the hiring of new employees over time (Tr. 694-695), which resulted in a reduced labor expense for the Rate Year that reflects the possibility that the incremental FTEs may not be present for the entire Rate Year. Tr. 780. Thus, Staff is wrong that applying a vacancy rate to the expense related to the incremental FTEs would not result in unfair and excessive double count. Tr. 780.

c. Labor Distribution Rate (% of labor charged to expense or capital)

The Company properly relied upon the Historic Test Year labor distribution, adjusted for projected changes in the bridge period and Rate Year to determine the labor distribution to be used in the projection of the Rate Year. CHIB, p. 43; Tr. 781, 806. Despite dedicating several pages of its initial brief to the task, Staff cannot avoid the simple fact that the Commission has approved the Company's proposed methodology on this issue for at least the past 30 years of Central Hudson rate cases, including litigated rate cases such as these. CHIB, p. 44; Tr. 781, 783-784. Staff maintains its proposed deviation from precedent by seeking to adjust the labor distribution percentage calculation methodology to reflect a three-year historical average of actual labor cost distributions from 2020-2022. SIB, p. 53.

Such a methodology appears to be a results-oriented approach as the use of the forward-looking normalization adjustment in this instance increases the labor charged to expense whereas in past years it reduced the labor charged to expense. CHIB, p. 44. Staff continues to base its objection on the fact that the Company's forward-looking adjustment is directly linked to proposed incremental FTEs, which remain uncertain. SIB, p. 54. Staff's sole new "enhancement" of its argument appears to be the use of new characterizations that the Company is seeking an "exceptionally large" or "extraordinarily large" increase to labor of 254 incremental FTEs. SIB, pp. 54-55. Unfortunately for this argument, mere characterizations of the size of the requested incremental employees (the number of which Staff was free to and has challenged) does not differentiate these rate cases from 30 years of precedent. Staff has not demonstrated, nor can it, that the Company was not seeking incremental employees in prior rate cases where the Commission applied the Company's proposed methodology. In fact, as Staff points out, in Central Hudson's most recent litigated rate case incremental employees were at issue but the Company's proposed methodology was adopted by the Commission. SIB, p. 55.

As the Company's Initial Brief detailed, Staff's use of a historical average does not reflect how the Company's existing workforce allocated their time between expense and capital, and it ignores the projected effect that incremental employees will have on the overall labor distribution. CHIB, p. 45. Accordingly, consistent with 30 years of Commission precedent, the Company's labor distribution rate should be adopted.

d. Wage Increases

i. Union Employees

The Company fully explained its rationale for providing a 4.5% increase for System Operations employees in its initial brief. CHIB, pp. 45-46. Simply put, since new contract negotiations are expected to start in March 2024 with the System Operations employees, the Company proposes a wage increase of 4.5% (consistent with the overall labor increases utilized for all other employees) for System Operations employees. CHIB, p. 45; Tr. 346. Staff proposes an increase of 2.25% in 2024 and 3.0% in 2025 – allegedly to be consistent with the increase received by the IBEW Local 320 Union in its last collective bargaining agreement and to better align with the actual rates received historically for System Operations employees. SIB, p. 55. Neither reason provides credible support for Staff's far lower proposed wage increases.

Staff fails to show why the IBEW Local 320 Union bargaining agreement, one negotiated several years ago for different types of employees, in a vastly different economic climate and labor market, for a multi-year term including annual increases, should apply here. CHIB, p. 46. More specifically, Staff offers no reasonable rationale why a collective bargaining negotiation for the System Operations union starting in March 2024 should be presumed to result in the same wage escalation rates or outcomes as IBEW Local 320 Union's collective bargaining agreement. SIB, p. 56; CHIB, p. 46.

The fact that Staff is reduced to making the argument that it is "possible" that the System Operations union employees' new collective bargaining agreement will match the IBEW Local 320 Union's old agreement solely because the IBEW Local 320 Union is "larger" (SIB, p. 56) demonstrates the obvious weakness of Staff's overall position on this issue. Notably, Staff fails to cite to any record evidence that identifies or quantifies any linkage between the size of the IBEW Local 320 Union and the System Operations union and the likelihood of a particular outcome of the System Operations union's future collectively bargained contract. This is not surprising given that the two unions represent different groups of employees. Staff's attempted linkage is impractical, unrealistic, and should be rejected. CHIB, p. 46. The Company's proposed use of a 4.5% increase for System Operations employees is supported by the best evidence available today and should be adopted.

ii. Non-Union Management Employees

Staff ignores the merits of the Company's strategy of compensating its employees with base salaries at the 50th percentile of overall compensation for comparable jobs in the Northeast United States. SIB, pp. 56-57. Staff similarly fails to challenge the conclusion of Mercer, a nationally recognized compensation consultant, that an increase in the range of 4% to 5% would be appropriate. The Company utilized the midpoint of this range when it proposed a 4.5%

overall compensation increase for non-executive management employees. Id.; CHIB, pp. 46-47. Contrary to the Mercer study recommendations and Staff's own WorldatWork data review, the Staff Policy Panel inexplicably imposes a significant reduction, reducing the management wage increase to 2.25% in 2024 and 3.0% in 2025. Tr. 4014; see CHIB, p. 47.

Interestingly, Staff freely concedes on brief that it "deviated from its historical approach to analyzing management wage increases" which would have resulted in a 4% escalation rate. SIB, pp. 56-57. Staff's explanation for its highly subjective and punitive reduction in management wage increases is that its methodological deviation is "warranted here, particularly given the circumstances in these proceedings and others surrounding the Company's billing issues." SIB, p. 57. Staff goes on to note what it characterizes as "unprecedented levels of customer dissatisfaction." Id. Staff's final attempt at justification is to rely on its claims that the Company's 2021 Management Audit final report contains "significant critical findings about Central Hudson's management practices." Id. Notably, Staff has shown no link between the unspecified "circumstances in these proceedings," the Company's billing issues, and non-union management (or executive) wages. CHIB, p. 47. Staff's below market wage increases would result in the Company facing challenges attracting and retaining talent, which would put the Company's ability to perform its core functions at risk. CHIB, p. 47; Tr. 400. The Company's proposed non-union management employee base rate increase is competitive, supported by actual market data, and should be adopted.

iii. Executive Employees

The Company utilized a similar approach to base compensation increases for executive employees as for non-executive management employee compensation, assuming an overall compensation increase of 4.5% from the March 31, 2023, level to forecast the Rate Year base payroll. CHIB, p. 48; Tr. 346. The only difference is that the Company utilized Frederic W.

Cook & Co., Inc., a nationally recognized executive compensation consultant, to establish the median level of salaries for the Company's executives. CHIB, p. 48; Tr. 344. For executive employees, the Staff Policy Panel deviates even further from the market-based compensation data in the record to recommend a zero percent wage increase for executives. CHIB, p. 48; Tr. 4014. Staff's initial brief merely refers back to the Non-Union Management Employees section to support its recommendation. SIB, p. 57. For the same reasons set forth in Section III.A.4.d.ii above (management base wage increases), Staff's proposal for a zero percent wage increase for executives should be rejected.

iv. Temporary Employees

See the Company's Initial Brief at pages 48-49.

e. Labor Reconciliation Mechanism

Staff is seeking to add a new downward-only reconciliation for labor. Staff asserts that there is a need for such a mechanism given the "significant" number of incremental FTEs being allowed in Staff's testimony. SIB, p. 58. Staff fails to back up its assertion with a cite to any record evidence that the Company will not seek aggressively to hire the incremental employees. In fact, the record demonstrates quite the opposite. It shows that the Company has already hired a considerable number of the incremental FTEs even though it does not currently have rate recovery for them. Tr. 393, 784; CHIB, p. 49. For all of the reasons set forth in the Company's Initial Brief, Staff's proposed downward-only labor reconciliation mechanism is unnecessary in a one-year litigated case, has calculation flaws and should not be adopted. CHIB, p. 49.

f. Variable Compensation

i. Non-Executive

The Company and Staff are in agreement on this issue. CHIB, p. 50.

ii. Executive

This topic was covered extensively in the Company's Initial Brief and Central Hudson refers Your Honors almost entirely to the points raised there. Short mention, however, is warranted for a particular claim by Staff in its initial brief. Staff argues, without citation, the following:

> Central Hudson's practice of setting performance targets at minimum thresholds protects ratepayers from unacceptably poor service, but ratepayers are better served when utility performance exceeds those minimums. Incentive compensation programs should strive for continuous improvement in all areas where improvement can benefit ratepayers. However, based on its structure, Central Hudson's proposed executive incentive compensation program would not benefit ratepayers.

SIB, p. 62.

First, there is neither a definition of "minimum standards" in the record nor any proof that Central Hudson sets executive incentive targets at minimum levels. What Staff testified is that "Overland noted the Company's performance against its team goal targets since 2017 had been mixed, and the targets did not demonstrate an expectation of continuous improvement." Tr. 4008, lines 10-13. Staff further noted Overland's statement that "[f]or several team goals, nine out of sixteen, Overland noted that 2021 targets were lower than 2017 targets." Tr. 4008, lines 13-16. This says nothing about minimum standards.

Second, Staff ignores that the incentive compensation program being referenced by Overland was not the Executive Incentive Compensation Program being sought in this proceeding. Staff's entire arguments related to Overland's 2021 Management Audit findings are misplaced and do not support Staff's objection to executive incentive compensation.

The Company has demonstrated, and the Staff Accounting Panel agreed (Tr. 4068-4073), that Central Hudson's proposed incentive program satisfies the test for approval. Given that the Company's Executive Incentive Compensation Program meets the Commission's settled standard for incentive compensation, costs related thereto should be included in the revenue requirement.

g. Employee Benefits

i. Medical Benefit Inflation Rate

The Company and Staff fundamentally disagree over how to calculate future medical benefit costs. CHIB, p. 53. To better forecast its medical benefit costs, which have been rising, the Company relied on an actuarial study by Mercer to forecast future medical claim costs. CHIB, p. 52.

Rejecting the Mercer study results, Staff instead projects medical costs using historic costs and the Gross Domestic Product ("GDP") - Price Index (GDP-PI) inflation rate – asserting that it is the Commission's long-standing practice to do so. SIB, p. 62. This methodology produces a lower medical cost than the Mercer study. However, the results of the Mercer study better reflect the Company's actual cost experience. CHIB, pp. 52-53. In the event Staff's approach is adopted, Staff's proposed rate allowance would require modification. CHIB, p. 53. Staff's calculation reflects an erroneous mathematical computation that results in Staff's cost per employee actually decreasing over the bridge period and in the Rate Year, as opposed to growing at the rate of inflation as proposed by Staff Witness Gadomski. Staff applied this declining rate to the group of incremental employees and thus failed to accurately reflect Staff Witness Gadomski's recommendation in the development of revenue requirements. CHIB, p. 53. This erroneous calculation results in Staff understating the rate allowance for electric by $628,000 and for gas by $142,000. CHIB, p. 53.

ii. Tracking Adjustments

See the Company's Initial Brief at page 54.

h. Pensions and OPEBs

See the Company's Initial Brief at page 54.

i. Employee Training, Safety and Education

See the Company's Initial Brief at pages 55-56.

5. Productivity

While the Company's Initial Brief fully repudiates Staff's rationale for doubling the productivity adjustment that would traditionally be applied to Central Hudson (CHIB, pp. 56-60), the Company feels compelled to respond to the more suspect claims Staff makes in this section of its initial brief.

First, Staff disagrees with the Company's argument that newly hired FTEs would only be performing incremental work and therefore will not lead to productivity gains. SIB, p. 67. According to Staff, business needs evolve over time and it is entirely possible that newly hired employees will expand their duties to non-incremental work over time. Id. Staff's claim is nonresponsive to the Company's argument that incremental employees will not lead to more productivity to justify doubling the Company's productivity adjustment. Staff's argument would be a retort to an argument that the productivity adjustment should not apply to incremental employees but that is not what the Company is arguing. Instead, the Company is arguing that because the additional employees are being hired to handle incremental work, their addition will not make the Company's current employees more productive. Tr. 799. Staff does not, because it cannot, attempt to refute this fundamental truth.

Second, Staff argues that the productivity adjustment should be doubled because "while some savings may take time to be fully reflected, there could be savings that begin during the implementation process or immediately following implementation." SIB, p. 68. Tellingly, there is not a shred of evidence cited to by Staff to support this position. This is not surprising given the Staff Accounting Panel's concession during cross-examination that it did not undertake an analysis of the 2021 Management Audit recommendations to determine which specific recommendations would lead to labor efficiencies. Tr. 4180.

For the reasons set forth in the Company's Initial Brief and for the additional reasons discussed above, Your Honors and the Commission should reject Staff's punitive recommendation to double the traditional productivity adjustment in these cases.

6. Uncollectible Accounts Expense

The Company proposed to use the same Uncollectible Accounts Expense established in its 2021 Rate Plan of $3.730 million for electric and $1.323 million for gas, but only in conjunction with full deferral accounting for net write-offs and collection agency fees during the Rate Year, with no threshold limitation. CHIB, p. 60. Deferral accounting is appropriate so that any over- or under-collected amounts compared to what is provided for in rates can be set aside for return to or collection from customers at a future date. CHIB, p. 61. The Company's proposal was based on the fact that the suspension and measured restart of collection activities has significantly distorted the data that would be necessary to develop an accurate forecast of uncollectible expense and as a result, the Company cannot reasonably predict the level of net write-offs that will occur in the Rate Year. CHIB, p. 60.

Staff's refusal to allow reconciliation in a one-year case (SIB, p. 68) leads it to propose a poor alternative, the use of three years of extremely stale data – going back to 2018 (Pre-COVID) that is not reflective of the uncollectible expense the Company is likely to experience in the Rate Year. CHIB, p. 61. Additional problems with Staff's methodology, including its failure to update its projections to align with revenue changes in Staff's correction filing on January 16, 2024, its failure to factor in the impact of uncollectible expenses associated with the proposed rate increases, and its argument that reconciliation is unnecessary based on resumption of collections and the availability of deferral petitions, are further addressed in the Company's Initial Brief. CHIB, pp. 60-62. The Company's proposal to use the same Uncollectible Accounts Expense established in its 2021 Rate Plan with full deferral accounting for net write-offs and collection agency fees is superior to Staff's stale data averaging methodology and should be adopted.

7. Gas Materials and Supplies and Stores Expense

See the Company's Initial Brief at page 62.

8. Inflation Pool Adjustments

See the Company's Initial Brief at page 63.

9. Regulatory Commission Assessments

See the Company's Initial Brief at pages 63-64.

10. Information Technology O&M Adjustment

Staff's adjustment to the Company's Information Technology ("IT") O&M expense to reflect amounts included in rates under the 2021 Rate Plan is inappropriate and should be rejected for several reasons. As an initial matter, as discussed in the Company's Initial Brief, Staff's blanket adjustment of 18.8% to IT O&M based on its reductions of IT capital spending lacks any support in the record in these proceedings. In fact, this adjustment ignores the detailed support shown in the Company's workpapers, which clearly demonstrate that there is no direct one-to-one correlation between IT capital and O&M expense. Staff makes no attempt to link its IT O&M reduction to the particular reductions it makes to IT capital expense. For this reason alone, Staff's adjustment is inappropriate and should be rejected.

Staff's O&M adjustment also contravenes longstanding Commission policy on the use of test periods in setting rates. The Company forecasted its IT O&M expense based on a historical test year normalized for known and projected changes, as required by the Commission's

Statement of Policy on Test Periods in Major Rate Proceedings, issued on November 23, 1977 in Case 26821. Tr. 789. Rather than review and adjust the Company's proposed IT O&M expenses, Staff opts to ignore the normalized Historic Test Year data filed by the Company and instead reverts to the amount included in rates in the 2021 Rate Plan as a base year. SIB, p. 73. Staff's adjustment using rate allowances from a Joint Proposal filed nearly three years ago, while ignoring more recent, actual historic data, is both illogical and contrary to Commission policy and, therefore, should be rejected.

Finally, Staff's adjustment based on the rate allowances adopted in the 2021 Rate Plan disregards the fact that the rate allowances were adopted pursuant to a comprehensive settlement resolving all issues in that proceeding. As Staff acknowledges in its initial brief, when discussing the labor distribution rate:

> negotiated rate cases involve a broad package of issues, where parties could potentially accept a position on a particular issue that it otherwise might not have accepted in a litigated rate case. Agreement on a particular issue by parties in a prior negotiated rate case, by itself, does not demonstrate that it is appropriate for that same position to be applied in a litigated case such as these proceedings.

SIB, p. 54. The rate allowance adopted in the 2021 Rate Plan was similarly part of a comprehensive settlement resolving the Company's 2020 rate cases. As such, the adoption of the IT O&M allowance in the 2021 Rate Plan does not demonstrate that it is appropriate for that same position to be applied in these proceedings. Further, Staff's adherence to previous rate allowances has the potential to discourage settlement of rate cases in the future, as parties may hesitate to engage in the compromise required to meet a mutually acceptable resolution if that resolution will be held against them in future proceedings. For this and all the foregoing reasons, Staff's IT O&M adjustment is inappropriate and should be rejected by the Commission.

11. Major Storm Reserve

See the Company's Initial Brief at pages 65-68.

a. Amortization of Regulatory Asset

See the Company's Initial Brief at pages 68-69.

12. Minor Storm

See the Company's Initial Brief at pages 69-71.

13. Injuries and Damages

See the Company's Initial Brief at page 72.

14. Other Operating Insurance

See the Company's Initial Brief at pages 72-73.

15. Consulting and Professional Services

See the Company's Initial Brief at pages 73-75.

16. Miscellaneous General Expense

See the Company's Initial Brief at pages 75-77.

17. Miscellaneous Charges

See the Company's Initial Brief at page 77.

18. Call Volume Overflow

Staff continues to recommend that the Commission disallow costs related to call volume overflow in the Rate Year. SIB, p. 84. Staff's recommended disallowance of call volume overflow costs should be rejected because it is tied to Staff's mistaken belief that the Company does not have a firm timeline and plan to resume residential collections. SIB, p. 84; Tr. 4406. As is discussed in greater detail in Section X.E below and in the Company's Initial Brief, a phased rollout of collections activities and service terminations will begin next month in conjunction with the Company's monthly meter reading initiative. Tr. 3076.

Staff's analysis of Exhibit 111 (CEP-4) – that it shows the Company plans to triple the historical two-year average of collections calls per customer – is false and based on an apparent misunderstanding of the data presented in that Exhibit. Exhibit 111 (CEP-4) shows that in 2018 and 2019, the Company averaged approximately 16 calls per customer (340,176 calls / 20,843 customers in arrears). The Company then used that historical call per customer figure to extrapolate the call volume anticipated for 2024 and beyond based on the anticipated number of customers in arrears. The Company is not planning to triple the number of calls per customer as Staff erroneously suggests. Quite the opposite, for planning purposes, the Company assumes the same number of calls per customer will occur in the future as has occurred historically.

In addition, Staff's reference to the recent decrease in the number of customers in arrears (SIB, p. 85) is irrelevant for purposes of evaluating the need for call volume overflow. Regardless of whether the Company has 64,851 customers, 62,770 customers or some lesser number of customers, the immutable fact is that the resumption of residential collections and service terminations will increase call volume due to the fact that the Company is not currently terminating residential customers, of which Staff is well aware. Tr. 4555. In light of Staff's concession that the Company's internal call center capabilities are finite (Tr. 4558), any increase in call activity will necessarily need to be handled via increased spend on call volume overflow.

For the reasons discussed here and in the Company's Initial Brief, the requested spend for call volume overflow is critical for achieving targeted levels of customer service performance and thus should be approved. Tr. 3080.

B. Depreciation Expense

In its opening discussion of depreciation, Staff correctly declares:

> Depreciation in a rate-making context is the equitable distribution of the recovery of plant from ratepayers, and using outdated depreciation parameters would result in an inequitable amount of depreciation expense being collected from ratepayers.

> In addition, updating the Company' depreciation parameters would both ensure that the Company is collecting an appropriate amount of depreciation expense, and that the Company's accumulated depreciation reserve will not be smaller than it should be and consequently that the rate base will be at the appropriate level.

SIB, p. 86. In rebuttal, the Company agreed that it is appropriate to use the updated depreciation rates from the Depreciation Study filed by Company Witness Spanos ("Study"). SIB, p. 86.

As Staff's initial brief reveals, and we will highlight, its approach to depreciation is at times superficial and internally inconsistent.[26] Staff claims, for example, that its approach results in a "better fit [to] the actual historic data points." SIB, pp. 86-87. Staff then criticizes Mr. Spanos for his reliance on "informed judgment" rather than Staff's alleged adherence to best visual fits to survivor curves. SIB, p. 87. Staff, however, immediately – albeit tacitly – concedes that its witness, too, deviated from the use of statistics; adjusting his own depreciation rates to conform to his judgment that any change must be "gradual."[27] SIB, pp. 86-87. Moreover, Staff used this approach, not only to limit values for average service lives ("ASLs"), but also for its net salvage values and even its reserve amortization approach. How Staff Witness Huang's reliance on "gradualism" is a "judgment" any different from or superior to Mr. Spanos' judgment, which was informed by and based on actual changes and trends to plant data, Staff simply does not say. In fact, the "judgment" Staff applies to limit the choice of ASLs and net

---

[26] Staff argues that the Commission should reject the arguments raised by Company Witness Spanos and adopt Staff's recommended depreciation parameters because the Company claimed that depreciation curves and average service lives should not be based solely on a mathematical fit even though Company Witness Spanos noted in the Study that the information external to the statistics led to little or no significant departure from the indicated survivor curves. SIB, p. 87. Yet on the very next page, Staff immediately changes its tune, contending that "[t]he selection of depreciation parameters is not precise and necessarily contains an element of discretion…" SIB, p. 88. This inconsistency in Staff's approach speaks volumes.

[27] Staff Witness Huang artificially limited any change to "10 percent for the net salvage factors, but it's 10 years for the average service lives." Tr. 2322.

salvage values is a seemingly arbitrary amount.[28] Mr. Spanos's judgment, in contrast, follows the direction of authoritative text such as the Public Utility Depreciation Practices manual authored by the National Association of Regulatory Utility Commissioners. CHIB, p. 81.

In the matter of ASLs, the Company's Initial Brief offered several examples of where Staff's choices result in ASLs that exceed both the ASLs within the industry, generally, and the experience of other utilities in New York. CHIB, pp. 83-87. Staff's presentation on ASLs, however, offers no similar, side-by-side comparison of Staff's survivor curves versus those developed by Mr. Spanos so an account-by-account refutation of Staff's ASLs is not possible. Suffice it to say, however, that such a comparison would highlight errors in Staff's approach. The continuation of errors, however, in Staff's discussion of this further demonstrates why Staff's approach should be rejected. Two such errors bear comment.

First, Staff offers an example to "demonstrate" the merits of its "gradualism" approach. Staff posits "it is possible that some plant account may be declared outdated and have its retirement accelerated, thereby shortening its average service life significantly, from a hypothetical 80 years to 20 years. It may then be decided that a retirement period of 20 years is too fast, and that it should instead be 40 years." SIB, p. 88. Of course, Staff concedes this example is "extreme," which is an understatement as the differences between Staff's and Mr. Spanos's respective ASL involve years, not decades. Staff's next "example" is equally unavailing. Staff argues:

> … regarding the Company's argument about the appropriate depreciable plant balance, the Company appears to incorrectly suggest that whether plant has been

[28] Indeed, when Company counsel attempted to question Staff's witness on the potential effect of the CLCPA on depreciation rates, Staff counsel objected, stating that "this witness does not have any professional or factual knowledge of -- of those issues. He's here for depreciation only." Tr. 2299. In other words, Staff's judgment could have been informed by virtually any parameters outside of the depreciation statistics. Yet it is unclear what factors Mr. Huang actually relied upon to inform his judgment to limit the choice of ASL and net salvage values.

> fully amortized in the past depends on the amortization period going forward. For example, the current amortization period for Common Plant Account 391.11, EDP Equipment – System and Main Frame, is eight years. By changing the amortization period to five years, the Company is suggesting that everything in the account older than five years should be considered fully amortized, even though plant installed six years ago would not be fully amortized under an eight-year amortization period.

SIB, p. 88. Yet, Staff itself has recommended shortening the ASL for Account 395.10 – Laboratory Equipment from 35 years to 25 years. Exhibit 291 (MH-3) p. 1. Thus, the same problem that Staff contends is problematic for Account 391.11 exists for Account 395.10 – except that the discrepancy for the latter is a full decade, rather than the three years for which Staff takes issue with above. Staff's defense of its ASLs is internally inconsistent and logically deficient and should be rejected.

Staff's discussion of net salvage values is equally deficient. As with its claims with respect to ASLs, for net salvage, Staff avers:

> Staff's recommended changes to net salvage factors are based on a review of the salvage statistics provided in the 2022 Depreciation Study, with a look for trends in the annual and multiple yearly averages of the historic net salvage data, as well as the percentages of the net salvage to the original cost of plant retired each year.

SIB, p. 89. That, however, is not what Staff did at all. Instead, Staff did exactly what it did in the case of ASLs – it artificially constrained its results. Indeed, Staff concedes this is precisely what it did: "[s]imilar to average service lives, Staff also limited its recommended movements to 10% from currently approved net salvage factors." Id. Here, too, as in the case of ASLs, Staff sacrifices precision for "gradualism."

The error of Staff's approach to artificially limit net salvage values to an entirely arbitrary 10%[29] is obvious when looking at a few accounts that Mr. Spanos highlighted. For example, for Accounts 355.10 and 355.15 – Poles and Fixtures, Staff is recommending a negative 60% net salvage estimate. CHIB, p. 85. Given that the average net salvage for the 1965 to 2022 time-period for these accounts is negative 152% and the most recent five-year net salvage average is negative 157%, Staff's 10% limit is an example of "gradualism run amok." CHIB, p. 86. Yet another example is Staff's negative 75% for Account 369.10 – Services – Overhead. Once again, where the actual average net salvage for the 1965 to 2022 time-period for this account is negative 118% and the most recent five-year average net salvage is negative 158%, the negative 100% proposed in the Study is already a very conservative estimate and Staff's increase of just 10 percentage points from negative 65% to negative 75% is simply not realistic. CHIB, p. 87. All such an approach will do is ensure that existing depreciation rates are inadequate, thereby adding to the actual reserve deficiency, continuing the harm to the Company's credit metrics, and kicking the necessary rate recognition down the road.[30]

---

[29] With respect to the artificial limitation of salvage to a 10% movement, Staff witness Huang says only "I limited my recommendations to 10 percent movement from currently approved net salvage factors, following the principle of gradualism." Tr. 2282. Why 10% and not some other value? Staff's witness does not say.

[30] Nowhere is this clearer than in the following colloquy (Tr. 2325-2326):

> Q. Yeah. Wouldn't this mean that your gradualism approach would prolong proper recovery and put a greater burden on future customers?
>
> A. I believe it might prolong recovery, but I do not believe it would increase the burden on future customers since if we assume that my gradualism prevents -- caps the increase in that salvage percentage to what it should be -- what type -- what the math -- what the mathematical analysis suggests it should be, then eventually -- when we get to that point, when -- through repeated rate cases through gradualism to that point, then those customers will be paying what they should -- what --what -- my -- okay, let me -- let me start over on this. Here we go.
>
> So if we assume, right, that the -- the net salvage percentage should be 20 percent more negative than what -- than what it is currently, and I am limiting it only to 10 percent more negative, then in the next rate case, were it to be, again, still 20 percent more negative -- 20 percentage – 10 -- more negative than what it is now, then we will be reaching it in that rate case, and then the -- the --there would no -- be no undue burden on future rate payers.

With respect to the reserve deficiency, Staff's initial brief correctly notes that the Company proposed to: 1) recover the electric and common reserve deficiencies in excess of 10% of the theoretical reserve over a period of 10 years; and 2) recover the entirety of the gas reserve deficiency over a period of 10 years. SIB, p. 90. Staff argues, instead, that there is no deficiency greater than 10% but, if there were, that any such reserve deficiencies in excess of 10% of the theoretical reserve should be recovered over 20 years. Id. Here, again, Staff is ignoring the facts and reality.

Staff offers three reasons in support of its position and rejection of the Company's. First, Staff contends that the reserve is based on the depreciation rates in the Study but notes that the Company originally proposed the Study *only* for redress of the reserve deficiency and not to implement the new rates contained in it. SIB, pp. 90-91. This is ironic given that, as discussed above, it was Staff who insisted that the new Study must be used to set rates in this case.[31] Second, Staff contends that the Company's proposal to recover deficiencies over a period of 10 years is inconsistent with the typical 20-year period over which such deficiencies are usually recovered. SIB, p. 91. As pointed out in the Company's Initial Brief, Staff's witness conceded that the 20-year amortization period is only "discretionary." CHIB, p. 89, fn. 60. If facts warrant a shorter period, those facts need to be recognized.

Third, Staff argued that "it would be inappropriate to permit Central Hudson to recover its entire gas reserve deficiency in these rate proceedings absent further guidance from the

In other words, the shortfall would be carried to the next rate case, thereby unquestionably kicking the can down the road and burdening future customers. Again, "gradualism" layered on gradualism without discernable benefit.

[31] Based on the Study rates, the Company's accumulated depreciation reserve balance is under-reserved by approximately $135.9 million, which is 18.7% of the June 30, 2022 balance, composed of $92.3 million for electric, which is 22.9% of its respective balance, $33.0 million for gas, which is 21.8% of its respective balance, and $10.6 million for common, which is 11.5% of its respective balance. CHIB, p. 79; Tr. 1494.

Commission in that generic [Gas Planning] proceeding." SIB, p. 91. Staff goes on to argue that although the Company asserted that, given the CLCPA, waiting to initiate correction of the under reserve will unduly burden future customers, Central Hudson "did not otherwise provide any evidence as to those burdens on future customers, or provide [a] rationale for why it should be permitted to recover its gas deficiency in full at this time, prior to receiving guidance from the Commission in the generic proceeding." Id.

It should hardly be necessary to explain that with the CLCPA deadlines looming in 2030 and 2050, with their attendant effect on both electric and gas operations, artificially constraining the collection of a reserve deficiency will both burden future customers and jeopardize the Company's ability to recover that deficiency – especially if gas customers convert to other sources of heat. As the Company pointed out in its Initial Brief, amortizing a deficiency over 20 years, especially with Staff's limitation to recover only the portion of the excess over 10%, will leave that entire remaining 10% to be collected in 2044. Given that the CLCPA deadline of 2050 would be only six years away at that point, it means that the full remaining reserve deficiency would have to be collected over only six years – from a declining customer base. The absence of logic in Staff's position is clear. Moreover, this is especially true where Staff has eliminated the reserve deficiency solely through the guise of "gradualism" to reduce the ASLs and net salvage estimates that give rise to the deficiency. To then artificially impose additional gradualism in the form of a 20-year amortization of only the excess over 10% of the reserve simply adds insult to injury. Staff's approach is shortsighted, contrary to the evidence, and should be rejected.

C. Property Taxes

See the Company's Initial Brief at pages 90-92.

D. Payroll Taxes

See the Company's Initial Brief at page 92.

E. <u>Other Taxes</u>

See the Company's Initial Brief at pages 92-95.

F. <u>Income Taxes</u>

See the Company's Initial Brief at pages 95.

G. <u>Deferrals</u>

The deferrals proposed by the Company in this proceeding provide valuable protection to both the Company and its customers against unforeseeable and difficult to forecast costs outside of the Company's control and should be adopted by the Commission. Staff justifies its opposition to many of the Company's deferrals by arguing that the deferral is not needed in a one-year rate case. SIB, pp. 95-103. However, as discussed in the Company's Initial Brief, deferral mechanisms are a common tool used by the Commission to protect both the customers and the Company from volatile and hard to forecast revenues and expenses. CHIB, p. 96. As volatility and unpredictability can affect the Company's costs and revenues even in a one year period, the term of the rate plan alone is not a reason to reject deferral accounting. Deferral accounting is arguably more appropriate in a one-year case, where volatility cannot be spread out over a multi-year period. Further, it is important to note that the Company is not requesting to defer all elements of expenses and revenues. Rather, the Company has identified certain discrete areas that are appropriate for deferral because they are subject to a high degree of volatility, are outside of the Company's control, or are otherwise difficult to forecast.

Contrary to Staff's suggestion, the ability to file a deferral petition at some point in the future does not provide sufficient protection for customers or the Company. SIB, pp. 95-103. As discussed in the Company's Initial Brief, deferral petitions are only available under certain circumstances, including meeting a materiality threshold. CHIB, pp. 96-97. The Company submits that requiring deferral petitions for these expenses will only serve to create additional uncertainty and delay into costs that are already subject to significant uncertainty. Therefore, the Company submits that authorizing deferral accounting for these costs as part of these rate proceedings is appropriate.

The Company identifies and discusses particular deferral mechanisms below that warrant further discussion. However, the Company continues to support all deferral mechanisms proposed in its filing, as further described and supported in its Initial Brief. CHIB, pp. 96-106.

1. FERC Jurisdictional Proceedings Regarding Hydroelectric Facilities

The Company and Staff are in agreement on this deferral. CHIB, p. 97.

2. Governmental, Legislative and Other Regulatory Actions

The deferral of costs incurred as a result of government, legislative and other regulatory actions is appropriate as these costs are entirely outside the Company's control, difficult to forecast, and non-discretionary. Staff argues that a deferral is not needed for these costs because risk is limited in a one-year rate case and the Company can petition the Commission for deferral authority if needed. SIB, pp. 96-97. As discussed above, these justifications are unavailing. The Company maintains that deferral authority is particularly appropriate for these costs. Staff has recognized that expenses related to actions by government bodies are non-discretionary. Tr. 4182. Further, New York State is in the midst of sweeping changes to its climate and energy policies and laws, including measures designed to meet CLCPA goals, which have the potential to impose significant costs on the Company on an undetermined timeline. Deferral of costs incurred by the Company to comply with such government mandates is appropriate and should be adopted.

3. Existing Variable Rate Debt

The Company and Staff are in agreement regarding this deferral. CHIB, p. 98.

4. New Fixed and Variable Rate Debt

The continuation of the Company's new fixed and variable rate debt deferral mechanism in the Rate Year is necessary to protect customers and the Company from the extreme volatility and uncertainty in the current debt market and should be adopted. Staff opposes the continuation of this mechanism because it claims the Company has control over when and how often it goes to market and has the ability to structure fixed rate debt efficiently. SIB, p. 97. Staff's position ignores the extreme volatility of interest rates and uncertainty in the market, which has seen the highest inflation rate in four decades. Tr. 1003, 1518. Staff also fails to acknowledge that a deferral mechanism would benefit customers as much as, or possibly more than, it would the Company. Tr. 1003. As noted in the Company's Initial Brief, should interest rates fall, as they are projected to do, the deferral mechanism would benefit customers by allowing them to realize the benefit of a lower cost of debt than forecast in these proceedings. CHIB, p. 99.

Staff also argues that the Commission typically does not approve reconciliation mechanisms for fixed rate long-term debt in a one-year case because it would not incentivize the Company to minimize issuance rates. SIB, p. 98. Although this may be true in steadier financial times, the Commission has recognized that "special circumstances created by…upheaval in the financial markets" justifies the reconciliation of debt costs in a one-year rate case.[32] The Commission recognized that, where market volatility makes it difficult to accurately estimate debt costs, reconciliation of such costs "protects both the Company and customers by removing the risk of a very inaccurate estimate of such costs."[33] The Company submits that it is clear that

[32] Case 08-E-0539 et al. – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service, Order Setting Electric Rates at 144 (Apr. 24, 2009).

[33] Id. at 144-45.

such volatility and uncertainty exists in today's markets, and that a reconciliation mechanism is needed to protect both customers and the Company and should be adopted here.

5. Late Payment Fee and Reconnection Fee Revenue

Late Payment Fee and Reconnection Fee Revenues are also appropriate for a deferral mechanism, as the forecasts for these revenues is subject to a high degree of uncertainty as the Company resumes collection of these fees after a four-year pause related to the COVID-19 Pandemic. Staff acknowledges that the Company is not currently collecting these fees, and that the pause in collections could create some level of uncertainty as to future collections. Tr. 4158-4159. However, Staff argues that a deferral is not needed in a one-year rate case because the risk to the Company is limited. SIB, pp. 98-99. Staff fails to give appropriate consideration to the unique circumstances created by the COVID-19 Pandemic with respect to customer payments. Due to the four-year pause in collection of late payment and reconnection fees, during which time there was little, if any, consequence for the non-payment of utility bills, it is uncertain what level of revenue the Company will realize once payments resume. Deferral of these costs will protect both customers and the Company from the uncertainty in the forecast of these revenues, as any over- or under-collection of revenues will be trued up.

Staff also suggests that these costs could also be addressed in a "generic deferral." SIB, p. 99. Staff provides no details or indication as to what would be included in such a "generic deferral" or the process by which such deferral would be implemented. There is no mention of a generic deferral for these costs anywhere in the record and, as such, Staff's statement that the Company could use such mechanism to reconcile Late Payment Fee and Reconnection Fee Revenues should be given no weight.

6. Property Taxes

Property tax expense is appropriate for deferral, even in a one-year rate case, as it is a significant source of expense that is largely outside of the Company's control, and is non-discretionary when assessed. Staff argues that this deferral is not needed because "An update was made to the Rate Year forecast to reflect latest known tax rates, and therefore there is very little forecasting risk during the Rate Year." SIB, p. 100. This argument is mistaken insofar as School 2024/2025 taxes and Town 2025 taxes will not be known at the time of the next update in these proceedings, and therefore remain subject to projection. Further, the projection of these expenses is particularly uncertain in current financial circumstances, as municipalities may look to increase property tax rates to mitigate the impact of changes in state and federal assistance programs. Tr. 1545. The Company also maintains that its proposed 90/10 sharing mechanism, which allows the Company to defer 90% of the difference between actual and forecast property taxes and retain the remaining 10% of the difference, is appropriate as it incentivizes the Company to aggressively seek to reduce its property tax expense, which benefits both customers and the Company. Tr. 4151-4152.

7. Right-of-Way Maintenance Distribution

As discussed in the Company's Initial Brief, the Company's proposed modification to this mechanism was limited to a potential multi-year settlement. CHIB, p. 102. In the context of a one-year litigated rate case, the Company and Staff agree that this mechanism should expire. Id.

8. Uncollectible Write-Offs

The Company's proposal to continue its deferral for uncollectible expense is reasonable and should be adopted. Staff argues that this deferral is not necessary in a one-year rate proceeding because risk to the Company is limited and the Company can file a deferral petition, if necessary. In addition to the Company's general objections to this line of argument, as discussed above, the Company maintains that deferral is particularly appropriate with respect to uncollectible expenses given the significant uncertainty in this forecast as the Company resumes collections activity following the COVID-19 Pandemic. Staff recommends that uncollectible expenses be set using an average of amounts experienced between 2018-2020 to forecast uncollectibles for the Rate Year. Tr. 4094. There is substantial uncertainty whether resuming collections activities now will result in the same level of uncollectible expense.[34] Given this uncertainty, the Company's proposed deferral mechanism will protect customers and the Company from inaccuracies in forecasting this uncertain expense.

9. Long-Term Gas Planning Proceeding

Staff's opposition to the Company's proposed deferral for incremental costs related to the Gas Planning Proceeding, Case 20-G-0131, is misguided. Staff initially opposed this deferral because "Central Hudson's long-term plan has yet to be filed, and the Company has not provided any reasonable support for the incremental costs associated with this effort." Tr. 3663, lines 16-20. The Company has since filed its Long-Term Plan in Case 23-G-0676, on February 7, 2024. However, Staff still opposes the deferral of incremental costs related to this plan, arguing that the Commission likely will not complete its review and issue an ultimate decision on the Long-Term Plan until these rate proceedings have concluded. SIB, p. 102. Despite Staff's attempt to move

[34] Central Hudson is not the only utility to experience uncertainty with uncollectible expense. For example, Orange and Rockland Utilities, Inc. ("O&R") experienced uncollectible expense levels of $48,000 and $13,000 in January and February 2020, respectively, $609,000 and $289,000 in January and February 2023, respectively, and $509,000 in January 2024. Case 91-M-0744 – Proceeding on Motion of the Commission to Examine the Collection Practices of the Major Gas and Electric Utilities in New York State to Identify Ways to Reduce Losses due to Uncollectibles while Maintaining a High Level of Customer Service, O&R Monthly Reports (filed Feb. 14, 2020, Mar. 16, 2020, Feb. 15, 2023, Mar. 15, 2023, and Feb. 15, 2024). The variation in uncollectible expense that other utilities are experiencing even after residential termination and collection activities have resumed, including O&R's greater than 10x increase in post-COVID arrears levels, illustrates the inadequacy of Staff's proposed uncollectible expense level without the associated deferral proposed by the Company.

the goalposts on this issue, the need underlying the Company's proposal to defer these incremental costs remains. The Company will undoubtedly incur costs related to its Long-Term Plan filing in Case 23-G-0676, as well as Joint Utility filings in Case 20-G-0131. As these costs are uncertain, the Company's proposed deferral is appropriate.

10. Roadway Excavation Quality Assurance Act

Staff opposes the Company's proposed deferral for incremental revenue requirement associated with the Roadway Excavation Quality Assurance Act ("Act"), arguing that there is insufficient information to evaluate the potential impacts of this Act on the Company's gas capital program. SIB, p. 103. Staff's argument ignores the substantial information provided by the Company in its rebuttal testimony regarding the potential impact of this Act. Specifically, the Company discussed the impact of the Act on its gas capital program, particularly its impact on Distribution Improvement Projects and elimination of leak prone pipe. Tr. 1235-1237, Confidential Exhibit 215 (GCOP-2R). The Company also discussed the impact on routine electric line clearance activities. Tr. 2144-2145, Exhibit 199 (ECOP-4R). Due to the timing of the new law, the Company proposed this deferral in lieu of including costs in revenue requirements. While the Company has quantified the estimated impacts resulting from the Act, because those estimates are preliminary in nature, the Company maintains that this deferral is appropriate and should be adopted by the Commission.

11. Identification of Deferrals Addressed in Other Sections

See the Company's Initial Brief at pages 105-106 and Section XIV.G below.

H. Rate Adjustment Mechanism

The Rate Adjustment Mechanism ("RAM") is an important ratemaking mechanism that promotes more timely collection or return of deferral balances and carrying charges to or from customers while promoting the Company's credit metrics. Staff opposes the RAM in a one-year rate case, arguing that collection or return of deferral balances can be pursued in the next rate case. SIB, p. 104. As discussed in the Company's Initial Brief, Staff's argument ignores several key aspects of the RAM, including the relationship between carrying charges and the RAM, the minimum threshold for collection, and the credit supportive impact of reducing regulatory assets in a timely manner. CHIB, pp. 106-107. These key facets make the RAM valuable to both the Company and customers and it should be adopted in these proceedings.

For these reasons, the RAM deferral and cash recovery mechanism should be continued with the updated thresholds proposed by the Company.

IV. RATE BASE ISSUES

A. Electric Capital

1. Electric Capital Projects

See the Company's Initial Brief at pages 107-109.

2. Hydroelectric & Gas Turbines

See the Company's Initial Brief at pages 109.

3. CATV Make-Ready Reconciliation Mechanism

As explained in the Company's Initial Brief, Central Hudson experienced an unprecedented increase in applications for attachment to distribution poles in 2023. CHIB, p. 109. As these projects are non-discretionary with insufficient lead times, it is not possible for the Company to include them in capital and expense forecasts. Despite Staff's concession that, due to the volume of the number of applications for attachments to distribution poles the Company received, it is difficult for the Company to forecast costs, particularly over a multi-year term (SIB, p. 108), Staff, nevertheless, claims that at a minimum the Company should be able to reasonably forecast its costs for this program and include them in its capital forecast. Id. Staff's recommendations should be rejected. Central Hudson experienced an unprecedented increase in applications for attachment to distribution poles in 2023. Staff concedes that these costs are volatile, non-discretionary and very difficult to predict. Moreover, Staff's empty gesture that the Company can file a deferral petition with the Commission (SIB, p. 109) is cold comfort when Staff knows very well that the costs involved would probably not reach the deferral threshold. Without a deferral for these costs, the Company would be deprived recovery of costs it is obligated to incur.

4. Public Service Law Section 119-d (Maintenance of Utility Poles) Reconciliation Mechanism

Public Service Law ("PSL") §119-d, provides that, on or before April 1, 2024, the Commission will promulgate rules and regulations to combat vine growth on utility poles that could negatively affect service. The Company proposed a deferral mechanism to capture the costs of such vine clearing. Staff argues that "absent such regulations, it is unclear what additional vine clearing activity (if any) would be required beyond the activities already conducted by the Company pursuant to its existing vine removal procedures." SIB, p. 109. With such regulations due to be in place within a month, it beggars the imagination to believe that Staff has no idea of their content. But, if Staff has no idea, the Company has even less of an idea of their cost. Given the uncertainty of everything but the fact that the new regulations are less than a month away, a deferral mechanism to capture their unknown costs is the only fair disposition.

B. Gas Capital

The Company's Initial Brief fully addresses why Your Honors and the Commission should reject Staff's use of a three-year historical average adjusted for inflation and instead adopt the Company's project specific justifications and budgets that reflect anticipated work during the Rate Year. CHIB, pp. 111-121. Should Your Honors or the Commission choose to adopt Staff's recommended approach, prior to calculating the average, all historical periods being averaged should be adjusted for inflation to reflect current day equivalent dollars and an average should then be taken of the adjusted dollars. Tr. 1254. If this does not occur, historic inflation will not be reflected in the average and the result will not reflect actual costs the Company is experiencing today. Tr. 1254-1255. Adjusting historical spending for inflation to reflect current day equivalent dollars would cure the glaring defect of Staff's methodology that was underscored during the cross-examination of Staff's Gas Infrastructure and Operations Panel.[35] Tr. 2227, lines 15-25. Moreover, updating Staff's methodology for calculating the historical averages for capital projects – such that the historical expenditures are first adjusted to current dollars before averaging and inflating – would bring it in alignment with projecting Rate Year O&M expense using a historical average methodology.[36]

1. Gas Transmission Projects

See the Company's Initial Brief at pages 112-116.

2. Regulator Station Projects

See the Company's Initial Brief at pages 116-118.

3. New Business Projects

See the Company's Initial Brief at page 118.

4. Distribution Improvements

See the Company's Initial Brief at pages 118-120.

---

35 Staff utilized this same flawed methodology for calculating its recommended common capital and IT budgets. Should Your Honors adopt Staff's recommended approach for those areas too, the historical common capital and IT spends would also need to be adjusted for inflation to reflect current day equivalent dollars before calculating the historical averages.

36 See, e.g., Tr. 724-725, lines 20-1 ("The projection of Non-Major Storm Restoration Expense was directed by use of a four-year average (twelve months ended March 31, 2020; 2021; 2022; and 2023) of non-major expenditures adjusted to March 2023 dollars, which were then inflated by the GDP factors."). While the Staff Accounting Panel made a normalization adjustment to the Company's projected expense for this item, it did not disagree with the underlying methodology. Tr. 4105-4106.

5. Meters

See the Company's Initial Brief at pages 120-121.

C. Common Capital

1. Lands and Building

Staff's initial brief recommends a reduction to the capital expenditures associated with the Company's proposed installation of local solar generation at Central Hudson's existing facilities. SIB, pp. 120-121. To support its proposed spending level, Staff used the vendor estimates received by the Company. Id. Staff argues because the Company did not provide any indication that the Company's budget included costs for Allowance for Funds Used During Construction ("AFUDC") and overheads, it is appropriate to only rely on the vendor estimates for determining the project costs. Id. The Company disagrees that it did not provide any information to indicate the inclusion of AFUDC and overheads in the Company's budget. For example, in response to DPS-001 (Exhibit 317 (SEIOP-1)), the Company provided information in the 2024-2028 Capital Expenditures Workpaper Recategorization workpaper (in the 2024 Appendices Common tab) indicating that the Company's proposed budget included AFUDC and overhead adjustments. Because these adjustments are necessary for completing the projects, as demonstrated in the Company's Initial Brief, the Company's capital expenditures should be approved.

2. Office Equipment

Staff's initial brief recommends a reduction to the per workstation costs used by the Company to develop the budget for Office Equipment projects. SIB, pp. 124-125. In support of its recommendation to reduce the Company's per workstation cost, Staff argues that the Company failed to provide the parameters for the calculation used, including for cost elements outside of the workstations themselves. Id. The Company disagrees. As the Company indicated in response to DPS-511, the per workstation value was generated using data from a 2021 Company project, adjusted for AFUDC, inflation and overheads. Confidential Exhibit 310 (SCP-1), p. 76. Following the Company's response to DPS-511 on October 2, 2023, the Company provided an updated response to DPS-511 on October 5, 2023 that included an attachment demonstrating how the Company arrived at its calculation. Further, the Company's response to DPS-710 (Confidential Exhibit 169 (CCOP-2R)) included an attachment that demonstrated the vendor costs associated with the 2021 project that served as the basis for the Company's per workstation value. Staff's argument regarding the lack of information provided by the Company should be rejected, and the Company's proposed capital expenditures should be approved.

3. Transportation

See the Company's Initial Brief at pages 129-131.

4. Tools

See the Company's Initial Brief at page 131.

D. Technology Capital

See the Company's Initial Brief at pages 131-132.

1. Energy Management System

See the Company's Initial Brief at page 132.

2. Electronic Data Processing

See the Company's Initial Brief at pages 132-134.

3. Software

See the Company's Initial Brief at pages 135-139.

4. Security

See the Company's Initial Brief at pages 139-140.

5. Communications

See the Company's Initial Brief at pages 140-141.

E. Net Plant Reconciliation Mechanism

Staff opposes the Company's recommendation that the net plant reconciliation mechanism be allowed to expire when the current 2021 Rate Plan, of which it was a part, expires. SIB, p. 138; see CHIB, p. 142. The mechanism was a one-way reconciliation mechanism that protected customers over the duration of the multi-year plan if plant additions were less than forecasted (but provided no similar protection for the Company if the net plant additions exceeded projections). Staff simply ignores the inconvenient fact that this is not a new negotiated multi-year rate plan; it is a one-year litigated rate case.

Staff asserts that a new deferral must be implemented, with the same provisions as in the negotiated 2021 Rate Plan, but with new net plant and depreciation expense targets established in these rate cases. SIB, p. 139. Notably, Staff's initial brief cites to no evidence that would warrant the continuation of such a plan in a one-year litigated case. Staff claims it would protect ratepayers "in the event the Company does not spend its rate allowance due to revised plans or budget reductions." SIB, p. 139. Nor does Staff cite to any record evidence that the Company does not intend to or will not spend its capital expenditure rate allowance in the Rate Year. Adoption of such a one-way reconciliation clause, especially without any record of the Company's deliberate underspending capital, is not only unwise – it is an unlawful exercise of retroactive ratemaking that has long been held to be beyond the Commission's powers.[37] Such a one-way adjustment that operates after a rate case has been decided is clearly violative of that rule. CHIB, p. 142.

---

[37] See Mtr. of National Fuel Gas Distribution Corporation v. Public Serv. Comm'n, 97 A.D.2d 674 (3d Dep't 1983) (citing Mtr. of Niagara Mohawk Power Corp. v. Public Serv. Comm'n., 54 A.D.2d 255 (3d Dep't 1976)).

If Your Honors determine that a new net plant reconciliation should be implemented in this one-year rate case, which it should not, the reconciliation should be symmetrical. To the extent that the new net plant reconciliation mechanism protects customers from capital spending that is under the forecasted level included in rates, it is fair and more balanced that the Company be protected against necessary capital expenditures that exceed the level in rates.

Staff raises a question in its initial brief regarding true-up mechanisms for New Business. SIB, p. 140. For clarity, the Company confirms that it accepted Staff's position to eliminate the Company's proposal for a true-up related to both the gas and electric New Business capital budgets in its rebuttal testimony and as a result this is no longer an issue in this proceeding. Exhibit 160; SIB, p. 140.

For the reasons set forth above, Staff's proposed one-way net plant reconciliation mechanism should be rejected. If it is not rejected, at a minimum, it should be modified to be symmetrical and thus more balanced by granting protection to both customers and the Company.

F. Other Rate Base Items

In this section of its initial brief, Staff discusses the Company's proposal to defer incremental expenses associated with the ERP Phase III Assessment and Project Readiness program. SIB, p. 140. As the Company noted in its Initial Brief, however, due to the expected one-year nature of these rate cases, the Company is no longer pursuing the ERP Phase III Assessment in the Rate Year. CHIB, p. 96, fn. 62. The Company's request for a deferral mechanism for the ERP Phase III, therefore, is no longer an issue in these proceedings.

G. Capital Reporting Requirements

As noted in the Company's Initial Brief, as part of its rebuttal testimony, the Company's Electric Capital and Operations Panel agreed with Staff's recommendations to adopt Recommendation 3.2 of the 2021 Management Audit Report regarding capital project tracking and reporting. The Company also agreed to work collaboratively with Staff to jointly identify and determine with certainty which projects should be included within each category for reporting purposes and filing its capital reports with cost data provided at the project level and rolled-up into Company-identified programs for each category. Tr. 2105-2106. Staff's initial brief recommends that the Company file all its capital reporting requirements in future rate cases and its quarterly capital reports in the same fashion and format as determined in the process described above, to eliminate tracking and reporting confusion. SIB, p. 144. The Company agrees with this recommendation in concept but given the timing of the Commission's order in these cases in relation to when the Company is authorized by law to file its next rate case, it is likely not possible for the process described above to fully inform the Company's next rate case filings.

V. CLIMATE LEADERSHIP AND SUSTAINABILITY INITIATIVES

A. Disadvantaged Communities

As discussed above and in the Company's Initial Brief, the Company's rate filing benefits, and does not disproportionately burden, disadvantaged communities. PULP argues in its initial brief that "there is no guarantee" the Company correctly identified the disadvantaged communities in its service territory because, according to PULP, the Company's Climate Leadership and Sustainability Panel ("CLSP") was not able to sufficiently answer PULP's questions at the evidentiary hearing. PIB, pp. 13-14. This is a non-issue and the Company is confused as to why PULP continues to raise this argument. Importantly, PULP has not identified an actual error with the Company's identification of disadvantaged communities in its service territory. Instead of pointing out an actual flaw, PULP chooses to nitpick the answers of the Company's CLSP at the evidentiary hearing in a last-ditch effort to create an issue where one does not exist. Id.

As the Company has repeatedly stated, it used the geographic data published by the state's Climate Justice Working Group ("CJWG") to identify the disadvantaged communities in its service territory. Tr. 2830, 2877. This data identifies areas throughout the state that meet the CJWG criteria for disadvantaged communities. In preparing its rate filing, the Company utilized this data to identify the customers, projects, and infrastructure located within the specific census tracts defined as disadvantaged communities. Id. This data was also used to develop the Company's analysis regarding greenhouse gas emissions reductions in disadvantaged communities. Tr. 2830. PULP refers multiple times to the fact that the Company may not have used the "best practices" established by the state with regard to identifying disadvantaged communities. PIB, p. 14. The reality is that the Company used the exact information provided by the state for purposes of identifying the disadvantaged communities in its service territory. Given that PULP has not raised an actual issue here, and the Company properly utilized CJWG geographic data to identify disadvantaged communities in its service territory, PULP's argument should be rejected in its entirety.

B. Gas Initiatives

1. Responsibly Sourced Gas

CLP recommends the Commission reject the Company's proposal to procure responsibly sourced gas ("RSG") when the price of RSG is higher than the annual weighted average cost of traditional natural gas, up to an annual incremental cap of $200,000. In support of its position, CLP reiterates many of the arguments it raised in testimony regarding RSG. CLPIB, pp. 12-17. The Commission has considered and rejected similar alarmist arguments regarding RSG in previous utility rate cases and should do the same here. See CHIB, p. 146, fn. 78. As the Company previously stated, the CLCPA will require decarbonization of the Company's gas distribution system, and a potential opportunity to reduce GHG emissions should not be completely foreclosed before it is fully examined. CHIB, pp. 146-147. The Company's proposal has the potential to advance the market and inform further development of RSG certification at minimal costs to customers. Tr. 2836. At worst, the Company's proposal will shed light on the RSG certification process and allow Staff and the Commission to determine whether the procurement of RSG is a viable decarbonization measure. SIB, p. 146. At best, the Company's proposal will result in meaningful GHG emissions reductions. Because the Company's RSG proposal is consistent with the CLCPA and Commission precedent and will provide GHG emissions reduction benefits at minimal cost to customers, it should be adopted.

2. Clean Hydrogen Feasibility Study

See the Company's Initial Brief at pages 147-149.

3. Renewable Natural Gas

See the Company's Initial Brief at page 150.

C. Supplemental Electric Vehicle (EV) Programs

See the Company's Initial Brief at pages 150-151.

D. Electrification of Fleet

See the Company's Initial Brief at pages 151-152.

E. Energy Efficiency / Building Electrification

1. Cost Recovery

See the Company's Initial Brief at pages 152-153.

2. Geothermal District Loop Deferral

See the Company's Initial Brief at pages 153-154.

F. Onsite Solar

See the Company's Initial Brief at pages 154-155 and Section IV.C.1 above.

G. CLCPA Deferral Mechanism

See the Company's Initial Brief at pages 156-157.

H. Website and Customer Communications

See the Company's Initial Brief at pages 157-158.

I. Climate Change Vulnerability Study and Climate Change Resilience Plan

The Company did not address this issue in its Initial Brief. However, the Company agrees with Staff that the Company's proposed surcharge is not necessary at this time. SIB, pp. 152-153.

VI. RATE OF RETURN / FINANCIAL ISSUES

A. Overview[38]

No discussion of the appropriate elements of the rate of return – neither return on equity ("ROE"), capital structure, nor debt cost rates – can proceed without squarely addressing the essential fact that, by its own admission, Staff's case will produce credit metrics that lie well below the level that could produce a credit downgrade and thereby impair Central Hudson's ability to attract capital on reasonable terms. No matter how much Staff's initial brief tries to counsel otherwise, Staff's admission stands unrefuted.

There can be no misinterpretation of this elementary fact. Staff Witness Hale testified:

> As illustrated on page one of Exhibit__(ASH-13), my fallout CFO Pre-WC/Debt metric is 9.3%, as compared to the Company's calculation of 15.7%. According to the Moody's Rating Guidelines for regulated utilities, the appropriate benchmark for a regulated electric and gas utility in the single "Baa" range with a low business risk profile, is between 11% and 19%. Although slightly below the benchmark, my result indicates that Central Hudson should stay within the implied "Baa1" range for an electric and gas utility with a low business risk profile when combined with the other Moody's credit metrics.

[38] As noted in the Company's Initial Brief, the major subheadings in this section are off by one compared to the uniform table of contents.

Tr. 2385-2386. No matter how deftly Staff's initial brief tries to argue otherwise, the fact remains that Staff's case would produce a Moody's CFO Pre-WC/Debt metric that is 170 basis points below even what Staff claims is Moody's downgrade threshold at 11% and, as will be demonstrated, is even much further below the threshold Moody's actually states would trigger a downgrade. In fact, Staff's initial brief contradicts its witness's claim that Moody's floor is 11%, contending it reviewed "Moody's guidance on when to pursue a downgrade and found that pursuing a downgrade based on the CFO pre-WC/Debt metric requires the metric to fall below 14% for a sustained period." SIB, p. 157.

Staff continues to argue what it thinks Moody's might do; ignoring what Moody's actually says it will do. For example, Staff's initial brief boldly announces:

> Based on the credit rating methodology guidelines from Moody's and Standard and Poor's, Staff concludes that our 48% common equity ratio and 9.2% ROE, when combined with other quantitative metrics and qualitative factors, produce credit metrics that are generally consistent with the performance required by Moody's and S&P to maintain the Company's current ratings of "Baa1" and "BBB+" respectively.

SIB, p. 156. Staff's own exhibit, however, Moody's May 16, 2023 Credit Analysis, (Exhibit 266 (ASH-7)) makes Moody's position crystal clear:

> **Factors that could lead to a downgrade**
> CHG&E's ratings could be downgraded if CFO pre-WC to is sustained below 14%. We could also downgrade the ratings if the New York regulatory and political environment become incrementally more challenging or there is a further deterioration in the stability and predictability of regulatory decisions.

Exhibit 266 (ASH-7), p. 2. Staff's initial brief concedes that Central Hudson's most recent value for that metric according to Moody's was 7.8% as of March 2023. SIB, p. 157. Therefore, if Moody's methodology results in a downgrade if CFO Pre-WC is sustained below 14%, the current level is 7.8%, and Staff's case will produce a metric of only 9.3%, how does Staff believe that Central Hudson's CFO Pre-WC will improve to a sustained level of 14% that prevents another downgrade? Staff's initial brief is silent for an obvious reason.

Staff's initial brief next describes a scenario in which both NYSEG and RG&E had subpar metrics but were not downgraded by Moody's so, argues Staff, neither will Central Hudson be downgraded. SIB, p. 157. Staff declaims:

> Notably, in recent credit reports for two other New York utilities, Moody's maintained the ratings and outlook of both New York State Electric & Gas Corporation (NYSEG) and Rochester Gas & Electric Corporation (RG&E). These utilities, like Central Hudson, are rated "Baa1" with a Stable outlook. Moody's maintained those ratings despite the fact that the CFO pre-WC/Debt metric for both entities were significantly lower than the current or forecasted level for Central Hudson. Specifically, as of September 2023, NYSEG's CFO pre-WC/Debt metric was -2.2%, while RG&E's CFO pre-WC/Debt metric was 4.0%. Therefore, Staff recommends that the Commission find the Company's CFO pre-WC/Debt metric argument unpersuasive.

SIB, p. 157. Here, again, the facts tell an entirely different story because NYSEG and RG&E are not like Central Hudson. As explained above and as Staff acknowledges, its own case for Central Hudson will produce a CFO Pre-WC/Debt metric of 9.3%. The situation in the NYSEG/RG&E case, however, was very different. There the Staff Finance Panel testified:[39]

> Q. Did the Panel calculate these Moody's ratios for NYSEG and RG&E following the same approach it used to calculate the S&P metrics?
>
> A. Yes. As illustrated in Exhibit___(SFP-21), pages one and two, the resulting metrics for NYSEG and RG&E are: The (CFO pre-WC + Interest)/Interest ratio is 5.69x for NYSEG and 5.23x for RG&E; The CFO pre-WC/Debt ratio is 18.46 percent for NYSEG and 19.27 percent for RG&E; The CFO pre-WC-Dividends/Debt ratio is 18.46 percent for NYSEG and 19.27 percent for RG&E; and, The Debt/Capitalization ratio is 52.98 percent for NYSEG and 54.18 percent for RG&E.

---

[39] Cases 22-E-0317 et al. - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of New York State Electric & Gas Corporation for Electric Service, Prepared Testimony of Staff Finance Panel at 134 (Sept. 26, 2022).

In other words, the Moody's metrics for the Staff case in the NYSEG and RG&E rate cases were nothing like the metrics produced by Staff's case for Central Hudson. In fact, for NYSEG and RG&E the CFO Pre-WC/Debt ratio was almost twice the metric produced by Staff in this rate proceeding for Central Hudson.

Staff also conspicuously ignores what Moody's said about why they did not downgrade NYSEG and RG&E. In the November 22, 2023, report affirming the stable rating for those companies, Moody's expressly noted the salutary effect of the new three-year rate plan:[40]

> "The New York Public Service Commission rate order will help NYSEG and RG&E receive much-needed cash recovery of historical costs that have mounted since the COVID-19 pandemic" said Ryan Wobbrock, Vice President – Senior Credit Officer. "Current financial metrics for both companies are extremely weak, but we expect that revenue increases from the three-year rate plan will result in year-over-year improvement in cash flow to debt ratios, which will increase to at least 14% in the next 12-18 months" added Wobbrock.
>
> * * *
>
> Importantly, the order improves cash collections in key areas for each company, such as storm costs, which have increased expenses and debt in recent years. For example, the rate allowance for storms will nearly double by the third year of the plan (i.e., to about $47 million and nearly $8 million for Major Storms for NYSEG and RG&E, respectively, compared to about $26 million and $3 million, respectively, from the 2020 rate case). This will help to improve annual cash flow and limit short-term debt balances needed to bridge the difference between actual storm costs versus that which is set in rates.

Here, again, the situation faced by NYSEG/RG&E is nothing like that facing Central Hudson and any suggestion to the contrary lacks credibility.[41]

---

[40] Moody's, Moody's Affirms New York State Electric & Gas and Rochester Gas & Electric Ratings; Outlooks Stable (Nov. 22, 2023), available at https://www.moodys.com/research/Moodys-affirms-New-York-State-Electric-Gas-and-Rochester-Rating-Action--PR_482156?cy=aus&lang=en#Related-Entities.

[41] Note, for example, Moody's laudatory treatment of storm costs in the new rate order for NYSEG and RG&E. In dramatic contrast, Central Hudson's Finance Panel noted: "The cash outlay driven by storms causes a significant impact on cash flow annually, yet Staff's recommended methodology for calculation of the Company's rate allowance excludes the costs from the largest storms. This delay in recovery of storm costs puts a serious strain on financial integrity." Tr. 989. Staff's witness also failed to acknowledge the recommendations of other Staff panels to increase the severity of customer service quality, electric reliability, and gas safety penalties, and the Staff Accounting Panel's proposed elimination of a number of regulatory deferrals that are in place now including property taxes, uncollectible write-offs, and others. These

Again, Staff admits its metric is 9.3%. Staff concedes that Central Hudson's underperformance on this metric is of "potential concern," but claims that "Moody's will often discount performance in the short run, particularly if it is related to cash flow impacts that may not be durable." SIB, p. 157. Given the CFO Pre-WC/Debt ratio of 9.3% that will result from Staff's case, one is left to wonder what magic will render that result "less durable." Here, again, Staff does not say.

In contrast, the Company has provided a path forward. That path begins with adoption of the Company's recommended ROE of 9.8%. Tr. 1002. Also significant are the Company's Finance Panel explanations regarding how the abysmal Moody's metric produced by Staff's case could be ameliorated if proper recognition were accorded to significant cash outlays including storms and New York State mandated programs. Tr. 989-990. Storm costs result in a significant impact on the Company's cash flow annually, yet Staff's recommended methodology for calculation of the Company's rate allowance excludes the costs from the largest storms, putting a serious strain on the Company's financial integrity.

Additional factors contributing to the Company's ongoing cash outflow include the low-income bill discount program, which could be under collected by $7.5 million for electric and $1.8 million for gas during the Rate Year. Tr. 990. Cash recovery mechanisms, such as the RAM, are credit-supportive by providing more current recovery of significant cash outlays. Id. The Company's Finance Panel further explained that if cash outlays and rate allowances for storm expenses and energy efficiency program

recommendations from Staff, along with other Staff recommendations to reduce or eliminate cash recovery mechanisms including the RAM, increase the Company's business and financial risks, rendering Central Hudson significantly different from NYSEG and RG&E. See Tr. 996.

expenditures had been aligned in 2022, the Moody's credit metric would have been above the downgrade threshold of 14%.[42] Tr. 997. Finally, as has been done in the past, the Company's ratemaking equity ratio could be set at the 50% equity ratio recommended by the Company, which would provide support for the Company's financial integrity.

Staff's final argument devolves into a *non sequitur.* Here Staff contends that because the Company was able to sell debt at a rate comparable to other utilities, "[t]his 130-basis-point spread shows that the Company, notwithstanding its recent issues and current credit metrics, remains poised to continue accessing capital at reasonable rates." SIB, p. 158. The point is not at what terms the Company can market its securities at its current ratings; rather the issue is what would happen to the Company's financial integrity and costs if it were to be downgraded by one or more of the credit rating agencies resulting from Staff's recommended rate case outcome. That, however, is the issue Staff tries mightily to evade but which lies at the heart of this matter. At the end of the day, the CFO Pre-WC/Debt ratio produced by Staff's case of just 9.3% provides irrefutable proof of the inadequacy of Staff's recommendations.

B. Capital Structure

The 50% equity ratio recommended by the Company's Finance Panel, and supported by Company Witness Nowak is supportive of Central Hudson maintaining its current credit ratings at a time of heightened business risk and uncertainty in the financial markets, and better positions the Company to start strengthening its credit metrics in order to trend back toward its objective of an "A" rating in the future. Tr. 968-970. In contrast, the 48% common equity ratio recommended by Staff is one of the contributing factors to Staff's calculation of Moody's CFO

[42] The Company's Finance Panel also debunked PULP's claim that the growth in customer arrears was the cause of not attaining the Moody's metric. Tr. 996-997.

Pre-WC to debt metric of 9.3%, per Exhibit 272 (ASH-13), which is below Moody's downgrade threshold of 14%. Tr. 985.

Staff's presentation on this issue devolves almost entirely into a meaningless examination of the equity ratios of holding companies comprising the proxy groups rather than the operating utilities which are similar to Central Hudson. See SIB, pp. 153-156. In fact, Mr. Nowak explained precisely why the capital structure of holding companies is not an appropriate benchmark for the capital structure of operating utilities:

> The DCF and CAPM models require the application of publicly-traded companies, which are typically holding companies. There are very few publicly-traded utility operating companies making it impractical to perform the cost of equity analyses using operating utility companies. Rather, the proxy companies were selected to closely approximate the risk profile of an operating utility. However, in the case of capital structure analysis, the capital structure information is available for the operating utilities of the proxy companies. Therefore, it is more appropriate to consider the capital structures of the utility operating companies as the benchmark for the Company's proposal. This analysis provides a direct comparison of Central Hudson's requested capital structure to the regulated electric and natural gas utility companies held by the proxy companies.

Tr. 263-264.

The Commission has held that, where a company is adequately ring fenced and the equity ratio of its parent is above its own, the appropriate equity ratio to use is that of the utility, not the parent.[43] Central Hudson's standalone equity ratio already exceeds 49%. The average equity ratios of operating companies is 54.13%. Tr. 207. Of equal, or greater import, the average equity ratio authorized by regulators across the county was 52.57% in 2022. Tr. 208. That is the meaningful apples-to-apples comparison that Staff refuses to acknowledge.[44]

---

[43] See Case 16-G-0257 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corp. for Gas Service, Order Establishing Rates for Gas Service at 50 (Apr. 20, 2017).

[44] It is also important to understand the balance between the equity ratio and the ROE. To the extent that proxy companies have higher authorized equity ratios, their weighted average cost of capital ("WACC") will be

C. Long-Term Debt

Staff's offering on the cost of debt consists of two parts; neither of which is surprising or particularly compelling. First, Staff states:

> Staff disagrees with the Company's use of forward yield curves to estimate the interest rate associated with Central Hudson's planned debt issuance. Consistent with the Commission's approach, Staff recommends using the most recent (e.g., January 2024) average of the 10-year Treasury yield and 30-year Treasury yield, or 4.16%, in combination with the Company's 130-basis-points spread, to estimate an interest rate of 5.46% for Central Hudson's proposed new debt issuance.

SIB, p. 158. The use of current debt costs reflects merely the immediate cost of a long-term debt issuance. How that relates to expected costs in the Rate Year is anyone's guess. Staff seemingly attempts to argue that the Company agrees with Staff's use of current debt cost rates to forecast these cost rates into the Rate Year, contending "[t]he Company and Staff agree any chosen interest rate should be updated based on the most recent interest rates and yield spreads available when the Commission ultimately issues its decision." SIB, p. 158, citing Tr. 974. The Company made no such agreement, as the cited transcript clearly states that the cost of capital should reflect "debt costs that reflect Central Hudson's financial projections and interest rates from Blue Chip Financial Forecast." In fact, rather than forecast as to where volatile interest rates ultimately might trend, the Company proposed the use of a debt cost tracker mechanism which Staff's initial brief completely ignores. The next complaint in Staff's initial brief is a flight of fancy. Staff contends:

> Staff's initial testimonial position was that, because the cost of variable rate debt was largely beyond the Company's control, Staff was agreeable to a reconciliation of the Company's existing variable rate debt issuance. The Company's rebuttal testimony misstates Staff's position, claiming instead that Staff was not amenable to such a reconciliation. That is incorrect—Staff was and is amenable to this reconciliation.

greater. Consequently, the 48% equity ratio results in an even lower WACC compared to those proxy companies.

SIB, p. 159. Staff is clearly confusing the mechanism for variable rate debt – which both Staff and Central Hudson support – and Central Hudson's advocacy for the fixed rate debt tracker, which Staff opposes.

To avoid any doubt here, the testimony of the Company's Finance Panel is explicit:

> Q. Do you agree with Mr. Hale's position to eliminate the deferral mechanism for the fixed rate debt?
>
> A. No. With the volatility of interest rates and continued uncertainty in the market, it is extremely important that a deferral mechanism remain in place. This two-way deferral would protect customers as much as it would protect the Company.

Tr. 1002. Staff's initial brief, however, completely ignores the fixed rate debt tracker and the need for it.

The Company's Finance Panel explained Staff's adjustments are major drivers contributing to the deterioration of key cash flow metrics at the Company which, as partially illustrated in Exhibit 272 (ASH-13), places the Company at a high risk of a potential one notch downgrade. Tr. 1000. These incremental costs associated with a credit downgrade should be included in the embedded cost of long-term debt that results from Mr. Hale's recommendations (Id.) but would not otherwise be recognized without a fixed rate debt tracker. Tr. 1002-1003. Furthermore, with the demonstrated volatility of interest rates and continued uncertainty in the market, it is extremely important that a deferral mechanism remain in place. This two-way deferral would protect customers as much as it would protect the Company (Id.) and, as such, the fixed rate debt tracker should be continued.

D. Cost of Common Equity

1. Overview

Staff's initial brief begins its discussion on the appropriate ROE with the observation that both Company Witness Nowak and Staff Witness Hale used the Discounted Cash Flow ("DCF") and Capital Asset Pricing Model ("CAPM") methods to arrive at their 9.8% and 9.2%, respective ROEs. SIB, p. 159. What Staff conspicuously omits from the discussion is the fact that Mr. Nowak's mean CAPM result of 11.06%, Mr. Hale's average CAPM result of 10.33%, and Mr. Nowak's mean DCF result of 10.34%, are all within a 75 basis point band. Yet Mr. Hale's DCF result of only 8.61% (Tr. 2425) is a clear outlier, lying more than 170 basis points below these results. As noted in the Company's Initial Brief, Mr. Hale conceded that an ROE as low as an 8.61% ROE, to his awareness, has not been adopted by the Commission (Tr. 2508-2509; CHIB, p. 179) and such a result is over 60 basis points below the ROEs currently reflected in other Joint Proposals approved recently by the Commission. CHIB, p. 179. This glaring weakness of Staff's DCF, then, is the lens through which the ensuing discussion of the appropriate ROE for Central Hudson should be viewed.

2. Proxy Groups

There is no dispute as to the need to use a proxy group; the composition of the group, however, is in question. Mr. Nowak started with a group of electric utilities, to which he applied appropriate screening techniques. He then added five natural gas companies to recognize that "the Company's operations include gas and electric utility operations, so the inclusion of electric-only utilities in the proxy group may overweight the risk profile of the electric utility operations of the Company." Tr. 176. Arguing that "the majority of holding companies classified as 'electric' in the Value Line universe are combination utilities…[Staff contends that] inclusion of companies with 'gas only' operations has the potential to shift the proxy group's overall risk profile since pure gas companies may not have the same risk characteristics of Central Hudson." SIB, p. 162.

The glaringly contradictory statements in Staff's initial brief undermine Staff's arguments as to the superiority of Mr. Hale's proxy group. Staff notes that its proxy group is composed of 26 electric utility holding companies that met all of Staff's selection criteria. SIB, p. 164. Staff's proxy group, however, excludes gas-only companies, which notably directly reflect Central Hudson's operations, but includes electric companies with significant generation assets, which Central Hudson does not have. This is a significant shortcoming and perhaps Staff has forgotten its concession elsewhere in its initial brief that "New York utilities are no longer exposed to the relatively high risks associated with generation." SIB, pp. 177-178. In other words, Staff's proxy group explicitly excludes gas operations to exclude risks Central Hudson actually faces but includes generation which is a risk Central Hudson does not face. Staff's initial brief fails utterly to reconcile this contradiction, which demonstrates the superiority of Mr. Nowak's proxy group.

3. DCF

The entirety of the discussion of the DCF in Staff's initial brief is simply just repetition of the same two themes: first, Staff claims Mr. Nowak's growth rates are excessive and, second, Staff contends that Mr. Nowak applied an inappropriate internal rate of return ("IRR") tool for calculating the ROE estimate. SIB, p. 165. Neither have merit.

With respect to growth rates, Staff argues:

> Mr. Nowak's DCF model uses earnings growth rates to determine short-term dividend growth rates, ignoring available dividend growth rates or forecasts. This is in direct contrast to the basic premise of the DCF methodology, which measures the present value of future dividends. Utilizing earnings growth assumes that dividend growth will match earnings growth, and Mr. Nowak's testimony fails to present evidence to support such an expectation.

SIB, p. 165. Mr. Nowak used a consensus of analysts' Earnings Per Share ("EPS") growth rates for the proxy group companies as the near-term growth rate, and an estimate of growth in the overall economy for the long-term growth rate. Tr. 236. This mitigates the uncertainty associated with forecasting individual companies' growth rates over very long-time horizons. In contrast, Mr. Hale uses dividend growth projections from a single source (i.e., Value Line) for the near-term growth rate, and a "sustainable growth rate" for the long-term growth rate. Id. Mr. Nowak explained that, although the model is called the "Discounted Cash Flow" model, the cash flows it refers to are those an investor can expect to receive during the time they own the stock. Those cash flows are quarterly dividend payments plus any capital appreciation that occurs between when the stock is purchased and when it is sold. Dividend payments and capital appreciation are both a function of earnings. Tr. 237. Indeed, without earnings, dividends cannot be sustained. This obvious fact is confirmed by a rich resource of authors in the financial literature. Tr. 238-240.

Staff's second foray on the DCF involves Mr. Nowak's use of the XIRR function for estimating dividends versus Staff Witness Hale's use of the IRR approach. Mr. Nowak explained why the XIRR is a superior tool:

> Mr. Hale relies on the "IRR" Microsoft Excel function in which dividends are assumed to be received at the end of the year. This ignores the fact that the proxy companies issue quarterly dividends and, consequently the "XIRR" function – and not the IRR function - would be more reflective of this reality. Although both the IRR and XIRR functions are Microsoft Excel functions that are used to calculate the internal rate of return for a series of cash flows, the IRR function makes the simplifying assumption that cash flows are available at a set time in each period. In contrast, the XIRR function allows additional inputs as to the timing of cash flows.

Tr. 247.

Staff's initial brief seeks to "demonstrate" that Mr. Nowak's use of the XIRR function is wrong but all Staff ends up doing is proving the contrary. Using ALLETE as an "example," Staff tries to prove that Mr. Nowak's Excel worksheet mismatched his DCF dividend cash flow projections, resulting in overstated DCF results. SIB, p. 167. Claiming that Mr. Nowak's estimated annualized dividend per share as of May 31, 2023 was $2.71, Staff argues that Mr. Nowak's worksheet shows that the timing for the $2.91 dividend cash flow is dated November 30, 2023, approximately six months later than May 31, 2023, which Staff claims "demonstrates a mismatch of cash flow and timing." Id. It does no such thing.

Mr. Nowak carefully explained that "the XIRR function allows the analysis to reflect the assumption that dividends are paid, on average, halfway through the year (i.e., two dividends are paid in the first half of the year, and two dividends are paid in the second half of the year)." Tr. 247. Therefore, for an annual dividend paid to be paid quarterly beginning on May 31, 2023, the halfway point of that annual period would be November 30, 2023, exactly as Mr. Nowak described and as it is intended to be. There is no mistake in Mr. Nowak's calculations.

Of equal importance, Staff's brief is utterly silent on the infirmities in Mr. Hale's use of the IRR function. As Mr. Nowak explained:

> In contrast, the oversimplified and imprecise function assumes that all dividends are paid at the end of the year. Every utility in my proxy group, and in Mr. Hale's proxy group, pays dividends on a quarterly basis. Thus, the IRR function used by Mr. Hale, which assumes that investors have to wait longer to receive dividend payments from the utility stock, understates the cost of equity. As shown in Exhibit___(JCN-5R), merely applying the more precise – and more realistic - XIRR function would increase Mr. Hale's DCF result from 8.61 percent to 8.78 percent and increase Mr. Hale's overall ROE estimate from 9.20 percent to 9.30 percent.

Tr. 248. In other words, using Staff's logic, its witness would have been wrong on the May 31, 2023 dividend date by an entire year.

Tacitly conceding that all the companies in Mr. Hale's proxy group pay dividends on a quarterly basis, Staff then tries to escape its trap arguing that "a rational investor would be indifferent to this because a company that pays dividends on a quarterly basis has less use of its earnings to create growth, thereby reducing the company's sustainable growth." SIB, p. 167. This of course, defies economic logic. Money has a time value but Staff assumes that investors will wait a full year for a dividend payment. All of the utility proxy companies issue quarterly dividends. Using a midpoint assumption for the timing of cash flows, as Mr. Nowak has done, most closely approximates the time value of quarterly dividends in an annualized DCF model. Staff's does not.[45]

Finally, Staff argues that its sustainable growth rate is not circular because it relies on Value Line's forecasted ROE to determine Staff's long form DCF results. SIB, p. 169. Mr. Nowak had pointed out that Staff's average 11.00% expected ROE is inconsistent with its 8.61% DCF average result. Staff says it:

> rejects Mr. Nowak's argument because the retention growth component of Staff's sustainable growth calculation relies on a prediction of expected future earned rates of return on common equity for a proxy group composed of mainly holding companies owning both regulated and unregulated business. It is therefore expected that the holding companies in the proxy group will gain additional earnings from these unregulated operations.

Id. The absence of cites makes it clear that this is extra-record speculation on Staff's part. It is telling, moreover, that the DCF result that Staff obtains in its calculation is so far below Staff's

45 Staff cites a 2008 Con Edison decision where the Commission declined to adopt the quarterly model. In that decision the Commission rejected the ALJs' adoption of the finding: "[a]ny extra return to be achieved on account of quarterly dividend reinvestment will be achieved by those who actually reinvest all their dividends in the Company's stock [and a]ny additional allowance would be duplicative for those who actually reinvest dividend sand unnecessarily generous to those who do not." Case 08-E-0539, Order Setting Electric Rates at 126-127. This, too, ignores the time value of money. Whether a dividend received is reinvested back into the company or invested into another instrument does not change the value of the money invested at the time. For all these reasons, the XIRR function that Mr. Nowak used is superior because it reflects the value of the dividend received at the time. Staff's arguments to the contrary ignore this financial reality and are unavailing.

own view of the earnings expectations of investors. This speaks volumes about the inadequacy of Staff's DCF model.

4. CAPM

With respect to the CAPM, Staff mostly quibbles[46] with Mr. Nowak's choice of a risk-free rate and his use of Bloomberg betas. SIB, pp. 171-172.

With respect to the risk-free rate, Mr. Nowak's use of the 30-year Treasury bond yield as the risk-free rate is consistent with the investment horizon for electric and natural gas utility assets. Tr. 250. In Opinion No. 531-B, the Federal Energy Regulatory Commission ("FERC") relied on the yield on the 30-year Treasury bond, stating: "[a]s noted above, the 30-year U.S. Treasury bond yields are a generally accepted proxy for the risk-free rate in CAPM analysis, and are also considered superior to short- and intermediate-term bonds for this purpose."[47]

With respect to Staff's criticism of Mr. Nowak's use of Bloomberg betas (SIB, p. 174), Staff seems to forget that Mr. Nowak used both Bloomberg and Value Line betas, while Staff Witness Hale used only the latter. The Bloomberg beta coefficients, which Mr. Nowak also used, are comparable to those reported by Value Line. Tr. 253. Furthermore, it is generally more reasonable to consider several measures of market conditions estimating the ROE. The Bloomberg beta coefficient is widely used, and, because it is based on a 10-year period as compared to Value Line's five-year period, it mitigates the effect of exogenous events on utility beta coefficients. Id.

---

[46] The term "quibble" is appropriate in the context of the CAPM because Mr. Nowak's results of 10.80% to 11.14% are not appreciably different from Mr. Hale's traditional CAPM of 10.24% and a zero-beta of 10.40%. This shows, again, why Mr. Hale's 8.61% DCF derived ROE is the outlier.

[47] FERC Docket Nos. EL11-66-002 and EL11-66-003, Opinion 531-B at paragraph 114 (Mar. 3, 2015). See also Roger A. Morin, New Regulatory Finance at 151-152 (Public Utility Reports, Inc. 2006) ('the yield on very long-term government bonds, namely, the yield on 30-year Treasury bonds, is the best measure of the risk-free rate for use in the CAPM and Risk Premium methods.").

5. Weighting of DCF and CAPM

This topic was comprehensively covered in the Company's Initial Brief. In its initial brief, Staff argues that:

> had Mr. Nowak employed more reasonable assumptions in his CAPM analysis, its results would not have been artificially inflated. It is therefore not surprising that a significant gap exists between his DCF analysis and his CAPM analysis. But this is not because Mr. Nowak's DCF results are understated. Rather, it is because his CAPM results are overstated.

SIB, pp. 174-175. This is an interesting claim that, as demonstrated above, does not bear up to close scrutiny. The problem is not with Mr. Nowak's CAPM or his DCF. His mean DCF is 10.34% and his mean CAPM is 11.06% - a difference of 72 basis points. Tr. 220. In sharp contrast, Mr. Hale's CAPM of 10.33% is 172 basis points higher than his 8.61% DCF. The problem is Staff's refusal to acknowledge that Mr. Hale's DCF of 8.61% is unreasonably low and lies 60 basis points or more below the returns currently being authorized by the Commission which, themselves, lie near the bottom of returns authorized nationally. Under the circumstances, it should be clear that Staff's DCF calculation is the problem.

Staff points to several more recent decisions where the Commission has expressed a preference to continue the existing 2/3 – 1/3 weighing of the DCF and CAPM to support its use of that weighing in these cases. In fact, one of the reasons that the Generic Finance Proceeding (Case 91-M-0509) was convened in the first place was due to perceived infirmities with the DCF. Tr 149. That has not changed. Notably, the parties to the Generic Finance Proceeding had counseled equal weighting of several ROE methodologies. Rather than simply rely on precedent, updating the balance between DCF and CAPM would better match current financial realities.

6. Staff's ROE in Context

Staff makes a number of claims in an effort to shore up its ROE recommendation. All to no avail. First, Staff argues that rational investors, who are presumably aware of the Commission's preference for a formulaic approach to determining the cost of common equity, would expect an ROE within a range between the Company's current authorized 9.0% ROE and the 9.20% to 9.25% ROEs authorized under recent settlements involving Con Edison, NYSEG, and RG&E. SIB, p. 177. There are several flaws in this claim. One is that all ROEs are not the same. We have already discussed the significant cash flow provisions in the NYSEG/RG&E order that are not present in Staff's case here. Con Edison's fortunes, too, improved significantly with rate relief. In a November 20, 2023 report, Moody's wrote:[48]

> "Recent regulatory support provided by the New York Public Service Commission (NYPSC) will result in roughly $2.2 billion of revenue increases for ConEd, improving the company's cost recovery and financial metrics" said Ryan Wobbrock, Vice President – Senior Credit Officer. "Consecutive rate orders for CECONY's electric, gas and steam businesses also mark a period of improved political, regulatory and stakeholder relationships for the companies – an important consideration as the cost of energy transition increases in the state" added Wobbrock.
>
> Since 20 July 2023, the NYPSC issued general rate orders allowing CECONY revenue increases of nearly $457 million per year for electric services and about $187 million per year for gas services through 2025 as well as a total of about $235 million over three years for steam services. These regulatory allowances are in addition to state provisions for COVID arrears recovery totaling roughly $660 million, a portion of which CECONY began recovering in September 2022. Furthermore, the rate orders improved cash collections for key regulatory accounts, as well as providing a first-time weather normalization mechanism for CECONY's steam business.
>
> Moody's expects that this rate relief (including adjustments for energy efficiency spending) will help CECONY to generate a ratio of cash flow from operations before changes in working capital (CFO pre-WC) to debt around 18% over the next three years, up from the 14% to 15% range previously.

---

48 Moody's, Moody's Upgrades ConEd to Baa1 and CECONY to A3; Outlooks (Nov. 22, 2023), available at https://www.moodys.com/research/Moodys-upgrades-ConEd-to-Baa1-and-CECONY-to-A3-outlooks-Rating-Action--PR_482155.

A far cry, indeed, from the 9.3% CFO Pre-WC metric Staff's case produces for Central Hudson and proof positive that the Company is not "similarly situated" to the utilities Staff cites.

Responding to the lower returns allowed in the New York jurisdiction, Staff argues that "[m]any other jurisdictions do not incorporate these mechanisms into their utility rate plans. For overall blanket-type protections, New York State, unlike most other states, allows utilities to request deferral accounting for material items actually incurred, but not provided for, in the base forecasts." SIB, p. 177. Here, again, Staff's claims ring hollow. When considering the overall regulatory risk, Regulatory Research Associates has assigned a ranking of "Average/2" to New York, which is consistent with the majority of regulatory jurisdictions across the United States. Tr. 258-259. This puts New York squarely in the middle of the range, supporting the contention that, even with the risk reducing measures implemented in New York, those measures result in no significant difference in regulatory risk between New York and other jurisdictions. Id.

Finally, Staff complains that Mr. Nowak has unfairly characterized Staff's NRAs as penalties and avers that they "are not penalties. They are negative adjustments for missed metrics, just as there are positive adjustments available to Central Hudson if it achieves certain goals with positive metrics." SIB, p. 178. To the contrary, Central Hudson has demonstrated that: 1) they are highly punitive, subjecting Central Hudson to tens of millions of dollars of potential forfeitures; 2) they measure Central Hudson only against its own (often excellent) performance; and 3) they are far more demanding and costly than NRAs applied to other utilities in the state. Even more to the point, Staff nowhere refutes Mr. Nowak's finding that:

> while other utilities may be held to performance standards, there is no evidence that there is a direct, downside-only penalty in other jurisdictions. It is the punitive mechanism by which the standards are enforced that poses a unique and incremental risk to Central Hudson. Further, the proposed increase recommended by Staff in negative revenue adjustments would further distinguish Central Hudson from utilities in other jurisdictions. This is a negative development that

> diminishes the supportiveness of the regulatory framework and Mr. Hale does not factor this into his analysis.

Tr. 259.

Consequently, Central Hudson's risk is far greater than its peers and especially those non-New York utilities in the proxy groups. For this reason, Central Hudson's proposed ROE clearly lies at the bottom of the range of ROEs unless Staff's proposals to diminish cash flow and impose penalties are rejected.

7. PULP's Claims Are Unsupported

PULP makes a number of allegations in its brief that demonstrate both a fundamental misunderstanding of the credit ratings process and the ratemaking process. In essence, drawing on a disconnected litany from its cross-examination of the Company's Finance Panel, PULP attempts to cobble together a claim that Central Hudson is seeking a higher than necessary ROE to make up for its past problems with the SAP-CIS. This is simply unfounded.

PULP contends that "during cross examination, the panel admitted that they only relied on Moody's, even though they have also used S&P in the past." PIB, p. 18. The Company Panel, however, explained that they chose Moody's because Moody's metrics are more straightforward than S&P's. Tr. 1028. The Panel also explained to PULP's attorney that arrearages are not part of the cash flow pre-working capital to debt metric that the rating agencies evaluate. Tr. 1025. Most important, despite what S&P may or may not have written about the effects of the SAP-CIS problems and resultant growth in arrearages, the fact remains – as was made clear to PULP on cross-examination – that "actually, S&P did not take any action on our ratings. We were rated triple B plus that's our long-term issuer credit rating and the rating on our senior unsecured debt, and they didn't change that." Tr. 1029. Ratemaking is prospective. The ROE that Central Hudson is seeking has nothing to do with the past. The costs of addressing the SAP-CIS are not in this case and PULP's claims to the contrary are wide of the mark.[49]

8. MI Incorrectly Contends that Central Hudson's ROE Should be Lower than Other LDCs

MI contends that "[t[he 9.2 percent ROE recommended by Staff is on the high-end of recent precedent and the Company has not demonstrated that such return would be inadequate to attract capital." MIIB, pp. 30-31. The only possible retort is that MI must be ignoring significant testimony by the Company's witnesses establishing that Central Hudson faces a significant risk of a credit downgrade due to Staff's case and could be subject to significant risks faced by no other New York utility. Under the comparability standard established under Hope and Bluefield,[50] Central Hudson must be afforded the opportunity to earn a return that is comparable to enterprises with similar risks, which would merit an ROE considerably higher than the 9.2 % ROE, which MI contends is too high.

9. Walmart's Presentation Relies Solely on Second-Hand Observations Bereft of Expert Analysis

Walmart's initial brief, relying entirely on its witness, Mr. Kronauer, contends that the 9.8% ROE sought by the Company is too high. The difficulty with Mr. Kronauer's testimony is that it is entirely anecdotal and contains no substantive analysis. Tr. 272. In fact, Mr. Kronauer's testimony mixes ROEs from periods having very different capital conditions. For example, the period of authorized returns Mr. Kronauer reviews includes periods in which the 12-month trailing average 30-year Treasury yield was as low as 1.52% in 2021 and more recent

---

[49] PULP's further claim that a compensatory ROE is not needed because the Company's parent, Fortis, can backstop the Company (PIB, p. 19), of course ignores the long-standing precedent that a fair rate of return must be allowed on the assets serving New York customers.

[50] Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923).

periods in which the average 30-year Treasury yield has increased nearly 250 basis points to 4%. Tr. 274. This significant increase must be taken into account when comparing authorized ROEs from the prior three years to the current capital market environment, but Mr. Kronauer made no such adjustment to his data. Even so, and given that Mr. Kronauer made no adjustment to account for the 250 basis point rise in cost rates, Walmart's initial brief concedes that for 138 investor-owned electric utilities, the unadjusted average authorized ROE for that period is 9.45% (WIB, p. 5) and for investor-owned gas utilities from 2020, the average authorized ROE is 9.53 percent. WIB, p. 6. Both of these results – albeit understated as a result of going back to the low interest rate environment of 2020 – exceed Staff's ROE of 9.2%.

Although not identifying any particular ROE, Walmart concludes by stating "the Commission should reject the Company's 9.80 ROE request and approve an ROE more consistent with similar utilities, both in New York and nationwide." WIB, p. 7. Central Hudson agrees that an ROE should be set that more closely recognizes both the returns being authorized nationally and the unique risks faced by Central Hudson. That ROE is, at least, the 9.8% ROE identified by Mr. Nowak.

VII. NEGATIVE REVENUE ADJUSTMENTS

A. Applicability in a One-Year Case

The Company's Initial Brief fully addresses why the Commission should deny Staff's proposal to impose NRAs for gas safety and CSPI performance in a one-year litigated case. CHIB, pp. 195-196. The Company explained that the Commission lacked the power to order the NRA penalties recommended by Staff because they were, among other things, arbitrary and capricious, and unlawful retroactive ratemaking. In particular, Staff's proposed gas safety and CSPI NRAs should be rejected because the record is completely devoid of evidence of the existence of uniform statewide standards establishing "adequate" gas safety and customer service performance standards. It is arbitrary and capricious to impose more onerous penalty mechanisms on the Company especially when those mechanisms are not based on any objective measure and would result in another utility escaping a penalty even when it provides a lesser level of service than the Company.

The fact that the Commission has imposed NRAs in other one-year litigated rate cases and has previously rejected similar arguments (SIB, pp. 179-180), does not make those actions lawful. The issue of the legality of the imposition of NRA penalties remains unresolved. While the issue was taken up on appeal following a 2007 National Fuel rate case, the Appellate Division refused to rule on it because National Fuel had not yet incurred penalties and, therefore, the issue was not ripe for judicial review.[51] The Commission's legal authority to impose NRA penalties for failing to achieve some arbitrary level of gas safety and customer service performance, which has no basis in the law, is therefore still very much an open issue and should be reconsidered by the Commission.

B. Carrying Charges on NRAs

Staff recommends that any NRA balances should accrue interest because it would "promote uniform practices across New York utilities." SIB, p. 181. Staff, however, fails to cite to a single source to support its uniformity argument. While the Company is aware that the most recent NYSEG and RG&E rate case joint proposal expressly provides that any CSPI NRAs "will accrue interest …from the date the NRA is incurred until disposed of by the Commission,"[52] the Company has been unable to locate similar explicit language in other rate case joint proposals. Staff's uniformity argument, therefore, appears to lack a factual basis.

---

[51] See Matter of Nat'l Fuel Gas Distribution Corp. v. Pub. Serv. Comm'n, 71 A.D.3d 62, 64 (3d Dep't 2009).

[52] Cases 22-E-0317 et al., Order Adopting Joint Proposal, Attachment 1 at 31 (Oct. 12, 2023).

Even if Staff is correct, it neglects to mention that every utility that currently has NRAs (and any applicable carrying charges) is subject to a multi-year negotiated rate case settlement agreement. As Staff concedes, "negotiated rate cases involve a broad package of issues, where parties could potentially accept a position on a particular issue that it otherwise might not have accepted in a litigated rate case." SIB, p. 54. Staff's recommendation inappropriately ignores the settlement process give and take that went into reaching the other utility rate plans and thus cannot be used as a basis to impose carrying charges on NRA balances in these proceedings.

As the Company established in its Initial Brief (CHIB, pp. 196-197), Staff's recommendation is inappropriate and should be denied because it is inconsistent with the intent behind carrying charges since NRAs do not involve the outlay of cash. Tr. 1550, 4171.

VIII. ELECTRIC RELIABILITY

A. CAIDI and SAIFI Targets and Associated NRA

See the Company's Initial Brief at pages 197-199.

B. CAIDI and SAIFI Exclusions

See the Company's Initial Brief at pages 199-200.

IX. GAS SAFETY

A. Leak Prone Pipe Removal

See the Company's Initial Brief at pages 200-201.

B. Leak Management

As discussed in the Company's Initial Brief, the Company is one of the top-performing New York utilities when it comes to leak management.[53] CHIB, pp. 201-206; Exhibit 222 (GSP-2R), p. 29. Staff now would have the Commission "reward" this excellent performance by

---

[53] Case 23-G-0224 - In the Matter of Staff's Analysis of Local Distribution Company Performance Related to the Pipeline Safety Measures, 2022 Pipeline Safety Performance Measures Report (Jun. 22, 2023).

increasing the Company's leak reduction targets (thereby increasing its exposure under the metric) and eliminating the Company's ability to earn a positive revenue adjustment ("PRA") incentive, while at the same time not proposing any corresponding increase to the Company's rate allowance for leak management. Staff's position is unreasonable.

Staff seeks to arbitrarily lower the Company's current leak management target of 86 all the way down to 49 leaks. Staff's 49-leak target has no rational basis. Tr. 1146-1147. Faced with the fact that its prefiled testimony failed to provide adequate support for its arbitrary target, Staff now attempts to justify its 49-leak target as reasonable because, according to Staff, its year-end 2023 performance results in a new three-year average of 48 leaks, which Staff argues is below its recommended 49-leak backlog. SIB, p. 186. Once again, Staff misses the mark as it is unable to perform basic mathematical calculations. With year-end backlogs of 47, 62 and 41 in 2021, 2022 and 2023, respectively, (Tr. 2660-2661; Exhibit 643) the Company's three-year average is 50 leaks, not the 48 leaks identified by Staff. Thus, even Staff's new justification fails to support its recommended target.

Moreover, it would be unreasonable to set the Company's target based on a pure three-year average without accounting for year-to-year variability within this metric – which can be driven by several factors that are outside of the Company's control, such as weather, as Staff concedes (Tr. 2741), material defects, manufacture recalls, excavation damages or the number of existing leaks removed on distribution improvement replacement projects in any given year. Tr. 1147. Staff also does not appear to have considered the cost it would take to achieve the more stringent target and is not proposing to provide the Company with additional resources to achieve the more stringent targets.

Furthermore, by recommending the elimination of PRAs for this metric, Staff also seeks to fundamentally alter the framework that allowed the Company to excel in this area. The intent behind PRAs is to provide a utility incentive to take actions that are above and beyond those funded in rates. Staff's use of a three-year average that includes years in which the Company was able to earn a PRA ignores the fact that the Company's actions and performance in those years would have been influenced by its ability to earn an incentive. It is unreasonable for Staff to now recommend a minimum target for avoiding an NRA at the level that was achievable due to the availability of PRAs.

Based on the foregoing, maintaining the Company's current targets, as proposed by the Company, is the most reasonable approach. Should Your Honors or the Commission, however, determine that more stringent targets are warranted, the new minimum target should be based on two standard deviations from the three-year average. See Tr. 1148. As Staff acknowledged in another context, the use of two standard deviations to set a minimum target is appropriate because it results in a 95% confidence level that, based on normal operating conditions, performance at that level or better will be achieved.[54] Tr. 4483. Using 2021, 2022 and 2023 data, the mean year-end backlog is 50 leaks and two standard deviations is approximately 18 leaks. Accordingly, if this target is to be adjusted, the minimum target at which no NRA would apply should be set no lower than 68 leaks, with the other tiers based off this minimum target.

Additionally, Staff's recommendation to eliminate PRAs for this metric should be rejected. As the Company explained in its Initial Brief, authorizing Central Hudson to earn a

---

[54] Setting the minimum target using only one standard deviation would be inappropriate because it would drop the confidence level down to approximately 68%. See, e.g., Case 88-G-180 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Service, Opinion 89-22, Opinion and Order Determining Revenue Requirement and Rate Design at 102-103 (Jul. 19, 1989). And setting the minimum target based solely on the three-year average (i.e., using no standard deviation), as Staff appears to suggest, is even worse still.

PRA for this metric is not only consistent with Commission precedent (Tr. 1150), it will drive increased levels of performance thereby further reducing gas leaks and methane emissions, consistent with the state's climate goals. Tr. 1149. Staff is also wrong that the PRA will reward the Company for "simply complying with the requirements of 16 NYCRR Part 255 related to leak management." SIB, p. 187. Those regulations only require the Company to surveil the Type 3 leaks at least once a year but do not require a repair be made during its lifetime.[55] Tr. 1150. Given that the Company must repair Type 3 leaks in order to achieve its leak management target (Tr. 2753), contrary to Staff's assertion, a PRA would not reward the Company for simply complying with the applicable regulations. Tr. 1150.

Your Honors and the Commission should decline to adopt Staff's leak management recommendations, which seek to punish the Company for good performance. Despite Staff's statement that "different operating companies have different operating characteristics, and service territories vary from a region to another and from a system to another" (SIB, pp. 186-187), it is patently unreasonable for the Company to be subject to NRA penalties for performance that far exceeds the statewide average while other utilities would avoid penalties for performance that is far worse than the statewide average.[56]

C. Damage Prevention

The Company demonstrated in its Initial Brief that Staff's recommended damage prevention targets were patently unreasonable because they penalize the Company for activities over which it has no control (Tr. 2682-2683, 2759), fails to recognize that Central Hudson is one

---

[55] See, e.g., 16 NYCRR § 255.817.

[56] Nowhere does the record show that the allegedly different operating characteristics and service territory of Central Hudson translate into the need for Central Hudson to have appreciably higher targets than other utilities. Without that showing, Staff's approach is discriminatory and thus unlawful.

of the state's best performers in this area (Tr. 2758) with total damages below the statewide average (Exhibit 222 (GSP-2R), p. 15), and are significantly more stringent that other New York gas utilities' approved targets. Exhibit 223 (GSP-3R); CHIB, pp. 206-209.

Staff argues that the Company should be able to achieve its recommended target because the Company's performance in the past five years shows an average of approximately 1.40 per 1,000 one-call tickets. SIB, p. 190. Given that each individual damage contributes between 0.03 to 0.05 to the total damages metric (Tr. 1153), Staff's argument is misleading. If Staff's proposed target were applied to the Company's actual three-year average for this metric of 1.36, the Company would have incurred an NRA of five basis points had the Company experienced just two additional excavation damages. Tr. 1155. The Company would have also incurred a five basis point NRA penalty in 2020 even though its performance was significantly better than the statewide average. Id. In fact, under Staff's proposal, performing at the statewide average would have subjected the Company to a 20 basis point NRA penalty while other utilities would have escaped a penalty entirely for the same performance. Id.; Exhibit 223 (GSP-3R).

The Company should not be punished for excelling in this area. Quite the opposite, it should continue to earn PRAs if it is able to maintain its current level of performance. As was the case for the leak management metric, Staff's recommendation ignores that the Company's excellent performance is reflective of the 2021 Rate Plan's inclusion of PRAs for this metric. In other words, the Company had an incentive to apply more resources toward damage prevention than what was allowed for in rates. Staff now expects the Company to maintain this same excellent performance while simultaneously removing the incentive that had been applicable to those levels and failing to significantly increase the Company's damage prevention resources that would allow it to continue to perform at these high levels. It is unreasonable to keep ratcheting down this metric without a concomitant increase in funding for damage prevention. The damage prevention rate allowance in this case does not justify the more stringent targets proposed by Staff.

Staff avers that its "recommendations are also guided by the overarching critical need to ensure public safety, by reducing to the extent possible the number of damages that may occur associated with excavation work." This overarching public safety goal, however, presumably exists for other state gas utilities and is apparently satisfied when Staff sets less stringent targets for them. The logical contradiction in Staff's position is inescapable.

Finally, Staff's claim that damages should decline as older pipes are replaced (SIB, p. 190) is also misplaced. As explained in the Company's Initial Brief, until the Company's leak prone pipe ("LPP") replacement program is completed, it will continue to have a much greater exposure to damages due to associated unknown, unrecorded gas facilities for which the Company has no records and because replacement of these LPP facilities requires excavation in very close proximity to other underground facilities within urban streets. Tr. 1156.

If any level of NRAs/PRAs is to be employed in this one-year litigated case, which they should not, the Company's proposal (Tr. 1128-1129) should be the one adopted.

D. Emergency Response

See the Company's Initial Brief at page 209.

E. Gas Safety Regulations Violations

The Company's Initial Brief fully addressed the concerns the Company has with Staff's proposed penalty mechanism for violations of the Commission's regulations regarding gas safety. CHIB, pp. 209-211. Staff's initial brief appears to concede that Staff's proposed targets for this safety metric are more stringent than those in place for any other utility in the state. SIB, p. 194. Staff attempts to justify its position by noting that "the new targets for this safety metric [proposed by Staff in these cases] will be recommended by Staff in an any future rate case for all gas utility companies." SIB, p. 194. Testimony filed by Staff in another rate case on the very same day that its initial brief was filed in these cases proves Staff wrong, thereby invalidating any justification Staff has in these cases for subjecting Central Hudson to more stringent targets and NRAs.

Specifically, on March 1, 2024, Staff filed testimony in National Fuel Gas Distribution Corporation's ("National Fuel") pending rate case (Case 23-G-0267) that recommended the following targets and NRAs for this metric:[57]

Field Audits		
Associated Risk	Target (Number of Non-Compliances Per Calendar Year)	NRA (BPs Per Non-Compliance)
High Risk	1 to 20	0.50
High Risk	Greater than 20	1.00
Other Risk	Greater than 0	0.25

Record Audits		
Associated Risk	Target (Number of Non-Compliances Per Calendar Year)	NRA (BPs Per Occurrence)
High Risk	6 to 20	0.50
High Risk	Greater than 20	1.00
Other Risk	Greater than 15	0.25

Not only are the above targets and NRAs proposed for National Fuel different than those proposed by Staff in these cases, they are identical to the targets and NRAs proposed by the Company. Staff's testimony in the National Fuel rate case establishes that the Company's

[57] Case 23-G-0627 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of National Fuel Gas Distribution Corporation for Gas Service, Prepared Exhibits of the Staff Gas Safety Panel, Exhibit __ (SGSP-12), page 1 of 12 (filed Mar. 1, 2024).

proposed targets and NRAs here are manifestly reasonable and further demonstrates that Staff's proposed targets and NRAs are vastly different than those in place (or contemplated to be in place) for other New York gas utilities.[58] See also Exhibit 224 (GSP-4R).

There is simply no basis for subjecting Central Hudson to more stringent targets and NRAs than those applicable to its peer utilities, particularly when Central Hudson is a top performer in this area. Exhibit 222 (GSP-2R), Appendices M and N. For these reasons, if NRAs are to apply (which they should not), the Company's proposal should be adopted, including its proposal that violations associated with map corrections should not be counted as violations for NRA purposes. Tr. 1133; CIB, p. 210.

F. Leak Prone Service Program Incentive

See the Company's Initial Brief at pages 211-213.

G. Residential Methane Detection Program

As discussed in the Company's Initial Brief, Staff's proposal to use $100,000 currently funded through the Company's O&M approved in the 2021 Rate Plan to research and develop an enhanced Residential Methane Detection ("RMD") Program is unworkable. CHIB, pp. 213-214. The proposed revenue requirement in these cases does not include funding for the continuation of the RMD Program given that the Company still has RMD units available and did not purchase any new units from 2021 through 2023. Tr. 2704. And given the lack of deferral treatment for RMD-related costs under the 2021 Rate Plan, any research and development would need to occur prior to the end of the 2021 Rate Plan, or June 30, 2024. There just is not enough time for that to happen.

[58] Staff cited to the KEDNY/KEDLI rate case as evidence that all utilities will soon be subject to these more stringent standards. SIB, p. 195. Staff's recommendation in those cases, however, has not been adopted by the Commission and it is unclear whether those utilities will ultimately be subject to more stringent targets and NRAs.

Moreover, it appears that Staff is being too prescriptive with the technology it recommends to be captured in the research and development (i.e., Long-Range Wide Area Network with long device battery life). SIB, p. 197. While this type of technology may make sense for Con Edison, which has rolled out AMI gas meters, until Central Hudson has done the same, research into this technology for purposes of an enhanced RMD Program may be premature.

H. Pipeline Safety Management System

The Company's Initial Brief adequately explains why Staff's proposed funding of $100,000 per year for this program is insufficient to implement programs for each phase of the Road Map. CHIB, pp. 214-215; Tr. 1159-1160. Staff complains that the information provided in Confidential Exhibit 226 (GSP-5R), which provides a breakdown of costs and supports the Company's $250,000 funding request, should have been provided as part of an updated discovery response prior to the filing of rebuttal testimony. SIB, p. 199. Staff's concern is overstated. Given that the Company only received the consultant's written request on December 1, 2023, it was reasonable for the Company to submit it as part of its rebuttal testimony that was filed shortly thereafter on December 19, 2023. Staff's baseless accusation that the consultant's report "is an attempt by the Company to justify that request after-the-fact" should be disregarded. SIB, pp. 199-200. For the reasons set forth in the Company's Initial Brief (CHIB, pp. 214-215), the Company has fully supported its requested $250,000 funding for this program, which should be included in the Company's gas revenue requirement.

I. Community Gas Emergency Response Drill Program

The Company and Staff are in agreement on this issue. See CHIB, p. 215.

X. CUSTOMER SERVICE

A. Customer Service Performance Metrics[59]

The Company's Initial Brief explains why it would be unreasonable and unlawful to apply any modified CSPI targets in this case to the beginning of calendar year 2024 when a Commission order is not even expected until nearly six months into the year. CHIB, pp. 215-217. Common sense dictates that the Company must plan to achieve more stringent performance targets. Staff's proposal would not allow this to happen because new targets would be set retroactively nearly six months into the performance period.

While acknowledging that applying modified CSPI targets and NRAs to calendar year 2024 would be a departure from Staff's recommendation in prior cases, Staff seeks to justify its recommendation by arguing that the Company's current customer service situation is "dire." Staff's scaremongering should not be condoned. Yes, the Company experienced billing issues related to its SAP-CIS transition, which the Company readily admits (Tr. 3286), but Central Hudson has put those issues largely behind it (Tr. 3286) and at this time, customers are receiving accurate and timely bills within normal operating parameters. Tr. 3038. In light of Central Hudson's five key performance indicators ("KPIs") having improved relative to the peak of the SAP-CIS issues and all metrics being close to levels associated with the period prior to the SAP-CIS launch (Tr. 3286; Exhibit 180 (CEP-2R)), the status of the Company's customer service performance is not the bleak picture Staff paints. It certainly does not justify retroactive application of any new CSPI targets and NRAs that may come out of this proceeding.

---

[59] As set forth in Section VII.A, it is the Company's position that CSPI NRAs are inapplicable to a one-year litigated case. To the extent the Commission disagrees, this section addresses each of the proposed CSPI metrics.

1. PSC Complaint Rate

Staff's initial brief presents several reasons for why commodity price-related complaints should be included in the calculation of the PSC Complaint Rate metric, none of which are availing.

Staff first attempts to defend its position by arguing that it does not matter that commodity prices are beyond the Company's control because escalated complaints are not. SIB, p. 205. Despite what Staff would have Your Honors believe, the Company consistently uses its best efforts to resolve complaints before they are escalated but ultimately the Company does not have control over a customer's choice to escalate a complaint. This is especially true for complaints related to supply costs. Nor is there any guarantee that a Standard Resolution System complaint will be downgraded upon the Company's request as Staff seems to imply. The fact remains that commodity price-related complaints are outside of the Company's control, do not present a just cause for charging a complaint against the Company, and do not show or point to any deficiency in the Company's service to customers. Tr. 3012.

Second, as explained more fully in the Company's Initial Brief, Staff's concern that excluding commodity price-related complaints would eliminate the incentive that encourages the Company to perform important customer outreach is overblown. As it has done for years, Central Hudson will continue its efforts to communicate the impact of rising or variable supply prices on a customer's overall bill as such outreach is unrelated to the PSC Complaint Rate. Tr. 3042; Exhibit 183 (CEP-5R). Also, due to the correlation among the metrics, the Company will still have a financial incentive to provide outreach and education to customers on commodity prices. Tr. 3042-3043. Staff's suggestion that outreach alone is a cure-all for rising PSC complaints is mere sophistry. And while Staff is correct that it recommends approving a Consumer Outreach staffing increase, Staff neglects to mention that it does not recommend approving all of the Company's requested outreach resources. CHIB, Appendix 2. Thus even if outreach alone could prevent commodity-related complaints from becoming escalated complaints (it cannot), Staff has denied the Company the tools necessary to fully implement Staff's recommendation.

Third, while Staff argues that "it cannot be said that such PSC Complaints are entirely outside the Company's control," the truth is Staff has lost its way on this issue. When the PSC Complaint Rate metric was being developed in the late 1990s and early 2000s, there was a general recognition that for a complaint to count toward the metric, "[t]he issue of concern must be one within the Company's responsibility and control, including an action, practice or conduct of the Company or its employees, not matters within the responsibility or control of an alternative service provider. Complaints about high bills resulting from the price of electric energy and capacity…and that do not otherwise present just cause for charging a complaint against the Company will not be counted as complaints for the purposes of the [Customer Service Performance Mechanism]."[60] Indeed, the Commission long ago agreed that utilities should not be penalized for commodity-related complaints. For example, when Orange and Rockland Utilities, Inc. ("O&R") petitioned the Commission in 2005 to, among other things, exclude high commodity supply prices from its PSC Complaint Rate metric, the Commission determined that "O&R's proposal to exclude certain complaints from the calculation of this incentive is reasonable…"[61] High commodity price complaints have consistently been and

---

[60] See, e.g., Case 04-E-0572 - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service, Order Adopting Three-Year Electric Rate Plan at Attached Joint Proposal at 55-56 (Mar. 24, 2005).

[61] Cases 02-G-1553 et al. – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Gas Service, Order Approving Complaint Rate Targets at 6 (Aug. 26, 2005).

continue to be excluded from O&R's PSC Complaint Rate NRA calculation,[62] proving wrong Staff's statement that Con Edison is the only utility to have a similar exclusion. SIB, p. 207. Given Staff's concession that Central Hudson and O&R's service territories are similarly situated (SIB, p. 208), there is no basis for Staff's recommended disparate treatment of Central Hudson.

This does not mean that the Commission will not be able to review PSC complaints related to commodity prices and assess the effectiveness of the Company's communication to customers about commodity pricing. SIB, p. 206. The Commission's ability to conduct this assessment would not be deterred by the Company's proposal. PSC complaints regarding commodity prices would still be tracked and reported to the Commission, they just wouldn't be counted for purposes of the NRA calculation.

Faced with the undeniable truth that commodity prices are not within the control of the Company (Tr. 4484, 4501) and it is reasonable for them to be excluded from the PSC Complaint Rate NRA calculation, Staff resorts to erroneously arguing that the Company is unable to accurately identify such complaints because its "PRICING-bill is correct" category is too vague. SIB, p. 206. Staff's argument relies on a mischaracterization of the Company's Customer Experience Panel's testimony.[63] When asked if the Company is able to accurately classify a complaint as a "PRICING-bill is correct" complaint if it is unable to determine whether the customer has been accurately billed, the Company witness answered in the affirmative by describing the process used to categorize a complaint. That process includes reviewing the meter

[62] See, e.g., Case 21-E-0074 et al. - Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Electric Service, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans, With Additional Requirements, Appendix A (Joint Proposal), Appendix 15 at 2 (Apr. 14, 2022).

[63] UIU similarly mischaracterizes the Company's testimony by arguing that the Company's Panel acknowledged under cross-examination that the Company does not have a methodology for differentiating commodity price-related complaints from other complaints. The Company's witnesses testified to no such thing.

to verify accurate reads, reviewing usage to determine that the usage amounts tie to the meter reads, and looking at the customer's supply price. Tr. 3106. There is nothing vague about this robust categorization process. The Company's testimony on this categorization process also refutes Staff's assertion that inaccurate bills rendered from the SAP-CIS call into question the Company's ability to be completely sure that its categorizations are accurate.

Fourth, Staff's argument about the Company's quarterly report (Exhibit 182 (CEP-4R)) containing two pricing categories (SIB, p. 206) is a red herring. After determining that it had inadvertently included two pricing categories in its first quarter 2023 report, both of which concern high commodity price complaints, the Company eliminated the second category in its very next report.[64] Moreover, Staff's assertion that the Company is "placing all other high bill-related complaints into its miscellaneous category" (SIB, p. 206), mischaracterizes the Company's testimony:

> Q. Okay. If a customer called, for example, complaining about the -- the price of their bill, but the nature of their complaint was about a surcharge rather than the commodity prices, how would the company classify that type of complaint?"
>
> A. If the complaint is for anything other than supply for surcharges delivery, then we would file it under miscellaneous complaint.

Tr. 3110. The Company witness was simply responding that pricing complaints associated with surcharges would be included in the miscellaneous category, not that the Company is placing all other high bill-related complaints into the miscellaneous category as Staff erroneously states. The fact that the Company does not conduct an audit to validate the categorizations is also of no consequence because an annual audit of the Company's reporting of its CSPI metrics is

---

64 Case 21-M-0045 - In the Matter of the Petition of Central Hudson Gas and Electric Corporation to Revise the Heating and Non-Heating Procedures Used to Calculate Bill Estimates, Central Hudson 2023 Q2 Report (filed Jul. 10, 2023).

undertaken by Staff to determine that the Company is accurately reporting on its CSPI metrics, including the PSC Complaint Rate metric.

Fifth, despite Staff's claims to the contrary (SIB, p. 207), there is nothing confusing about the Company's assertion that the PSC complaints are a "lagging indicator" and will likely take time to return. Tr. 3038. The Company's witness very clearly explained at the hearing that, in this context, lagging indicator refers to "the actual process and the timeline that it takes to file the complaint, process the complaint, and that being a lag in time from the actual issue or concern." Tr. 3139, lines 10-13.

Similarly, Staff fails in its attempt to discredit the Company's evidence (Exhibit 184 (CEP-6R)) that establishes a correlation between complaints and commodity prices. Staff's argument that the Company did not describe the methodology used to develop the exhibit ignores that the Customer Experience Panel testified that the Panel "calculated the correlations between the four CSPI metrics SCSP proposed and the correlations between the CSPI metrics and electric and gas supply prices for the period 2018 through 2022." Tr. 3055, lines 17-19. Additionally, Exhibit 184 (CEP-6R) itself shows the variables that are correlated on a one-month lag.

Correlations are a rather basic statistical tool and no further description should be needed, particularly when multiple Staff witnesses testified on their familiarity with correlations. See, e.g., Tr. 4309 (noting a correlation between billing issues and lower CDG program participation levels), 2427, 3595. For this reason, it was unnecessary for the Company to provide the underlying data or the sources for this data.[65] See SIB, p. 208. In addition, Staff cannot seriously contend that it is not familiar with the key data points included in the analysis set forth

---

[65] If Staff was truly confused by the underlying data it could have asked discovery questions about it. Tellingly, Staff did not.

in Exhibit 184 (CEP-6R): PSC Complaints received; Electric Supply Prices; Estimated Bill Percentage; Customer Satisfaction; Calls requesting CSR; and Gas Supply Charges. The Exhibit's use of a one-month lag is also not a reason to discount the correlation – it simply shows that the Company recognized that the lagged variables would occur after any energy prices changes.[66]

Finally, Table 10 in Staff's initial brief should be given no weight. As an initial matter, the table does not show escalated complaints as Staff indicates but actually shows initial complaints, which is also what the Company used in its correlation analysis. Your Honors and the Commission should also not rely on Staff's "eyeballing" of the data to reach the conclusion that prior to the SAP-CIS transition, complaints at Central Hudson remained at consistently low levels despite fluctuations in supply prices. Notably, in the time period before the transition, the variation in supply prices was not nearly as acute as it was in February 2022 and later.

For the reasons stated above and in the Company's Initial Brief, given that the Company has the ability to identify commodity price-related complaints, excluding such complaints, which are outside of the Company's control, is completely appropriate and consistent with prior Commission determinations.

2. Residential Customer Satisfaction

As noted in the Company's Initial Brief, the Company and Staff differ on how this metric should be measured once the Company transitions to using the results of the Statewide Pilot Survey for purposes of determining whether the Company would be subject to an NRA for this metric should NRAs be applied in this one-year case. CHIB, pp. 220-222. The Company

[66] Although Staff is correct that Calls requesting a CSR is not the same as the Call Answer Metric, Staff is well aware that it is utilized as the denominator within the calculation of the Call Answer Metric and is therefore an integral component of the calculation and is the component of the calculation that purely measures the actual customer action.

demonstrated that use of the 89% target that was applicable to the former paper survey was clearly inappropriate based on a comparison of not only the Company's results between the two survey methodologies, but the results of nearly every other state utility as well. CHIB, p. 221-222; Exhibit 185 (CEP-7R), Exhibit 641. The two survey methodologies do not result in "supposed differences" as Staff claims (SIB, p. 211); rather these differences are very real and significant with an average difference for the other utilities of -25.12%. CHIB, p. 221.

Staff argues that, because the Company did not conduct any formal analysis of the difference in results, the Commission should reject the Company's position that the current 89% target should not apply to the Statewide Pilot Survey. SIB, pp. 211-212. Staff's argument is nonsensical because the same could be said about Staff – it too did not conduct a formal analysis as to why it would be reasonable to continue to apply the 89% target to the new methodology given the difference in results.[67] In any event, no formal analysis is needed; the numbers speak for themselves. One does not need to be a statistician to come to the conclusion that the variation in the methodology results militates against applying the target applicable to the old methodology to the new methodology.

In regard to Staff's argument that the Company's expectation to return to or exceed baseline performance levels negates any reason to lower the existing metrics targets (SIB, p. 212), it is based on the same faulty premise that it is reasonable to apply the 89% target to the new methodology. As shown in Exhibit 185 (CEP-7R), the Company's results for the Statewide Pilot Survey have never come close to the 89% target even before the SAP-CIS transition in 2021. More importantly, Staff mischaracterizes the Company's testimony with respect to

[67] In light of the fact that all utilities appear to be experiencing the same phenomenon with respect to the two methodologies, Staff is actually in a better position to conduct such a formal analysis.

returning or exceeding baseline performance levels. After discussing the five KPIs (none of which are customer satisfaction),[68] the Company testified as follows:

> Q. Does the Company expect to be at or above baseline (period prior to the SAP CIS launch) performance levels for these metrics prior to July 1, 2024?
>
> A. Yes, the Company is working on all outstanding issues and expects to return to or exceed baseline performance levels for each of these metrics.

Tr. 2995-2996. This testimony relates to the KPIs that the Company is tracking to measure progress towards resolving the SAP-CIS issues. Staff wrongly implies that customer satisfaction is one of those KPIs.

It is clearly unreasonable to apply Central Hudson's existing 89% residential customer satisfaction target to the newer Statewide Pilot Survey. Therefore, if NRAs are to be applied in a one-year case (and, again, they should not), Your Honors and the Commission should adopt the Company's proposal to move the Residential Customer Satisfaction metric to an index value, rather than a percentage, and set the target at 3.08 (Tr. 3016), which is .50 lower than the Company's three-year average (2020-2022). Tr. 3016; CHIB, p. 222.

If the Commission rejects this proposal, the 89% target should be reduced to 59% to reflect the following two adjustments: 1) a reduction of 17% to reflect the difference in survey methodology results as discussed above; and 2) a 13% reduction to reflect a conservative estimate that 50% of the respondents in arrears would likely provide a response less than "4" for "Satisfied." Tr. 3044-3045; CHIB, p. 222.

---

[68] The five KPIs are: % of Current Bills; % Bills Requiring Adjustments; Actual Bills Replaced with Estimates; Call Service Level; % of Calls Abandoned and Average Wait Time.

3. Call Answer Rate

Staff disagrees with the Company's proposal to include callbacks within a two-hour time frame within the numerator and denominator of the calculation of the Call Answer Rate metric. SIB, pp. 213-215. Staff argues that "including callbacks and virtual hold interactions as answered within 30 seconds serves no purpose other than to allow the Company to artificially manipulate the metric as it does not increase the number of customers who are actually assisted by a representative within 30 seconds." SIB, p. 215. Staff's baseless accusation that the Company is trying to manipulate the metric should be disregarded.

As explained in testimony and in the Company's Initial Brief, a callback is an option available to customers who wish to have a Company representative call them back rather than wait in a hold status for a customer service representative or when customers are trying to reach the Company after hours. Tr. 3047; Exhibit 352 (SCSP-1), p. 1835. When the customer chooses the callback option and the Company does in fact call the customer back within two hours, the Company undoubtedly meets the customer's expectation, which Staff agrees the Company should be striving to achieve. See Tr. 4505. Including callbacks within the Percent of Calls Answered within 30 Seconds metric will encourage the use of common technology that some customers prefer and ensure that these customers will be included in the overall measurement of this metric. Tr. 4510. A metric that captures the expectations of all customers aligns with the intent and purpose of the Percent of Calls Answered within 30 Seconds metric.

For the reasons set forth above and in the Company's Initial Brief, the targets for the Percent of Calls Answered within 30 Seconds metric should be updated to align with the Company's actual performance based on a modified Staff calculation methodology that includes customer callbacks for the period 2015 through 2019. Tr. 3047-3048. In addition, if it is determined that the Company should have incurred NRAs for this metric in 2020, 2021 and/or

2022, such NRAs should be allocated to the electric and gas businesses in accordance with the actual allocation in place within each calendar year and be utilized as a rate moderator to offset costs associated with hiring the incremental resources necessary for achieving targeted customer service performance levels during the Rate Year. CHIB, pp. 224-225.

4. Estimated Bills

The Company's Initial Brief explains why Staff's proposed tiers for this metric, which are based off the value of a single standard deviation for the Company's three-year average level of performance for calendar years 2020-2022, are abjectly unreasonable. CHIB, pp. 225-231. If the Commission adopts a new Estimated Bill metric, the targets should be based on Staff's traditional methodology for determining CSPI targets that uses a five-year historical performance average with tiers set at intervals of two standard deviations. Tr. 3050. Due to the impacts that the COVID-19 Pandemic and the SAP-CIS transition have had on estimated bills, the appropriate five-year period to base the target upon is 2015-2019. Tr. 3050. This approach would result in a four-tier structure with an associated basis point NRA value for each tier as follows:

Target	NRA
≤ 3.5%	0
3.5% - 4.9%	4.5
> 4.9% - 6.3%	8
> 6.3%	10.5

The Company's approach is objectively reasonable and should be adopted. Notably, on March 1, 2024 (the same day Staff's Initial Brief was filed), Staff proposed to utilize <u>this very same approach</u> in the pending National Fuel rate case:

> Q. Does the Panel's recommendation to establish the Estimated Bills target utilize the traditional methodology?
>
> A. No, it does not.

> Q. Why does the Panel recommend deviating from the method it typically uses to calculate NFGD's Estimated Bills target?
>
> A. If the Panel used the traditional methodology of setting the minimum target based on a five-year average plus two standard deviations, this calculation would yield a minimum target of 19.77 percent. This methodology results in NFGD having the highest percentage for an Estimated Bills metric target in New York State.
>
> Q. What does the Panel recommend as a target for minimally acceptable performance?
>
> A. We recommend normalizing the Company's performance for Estimated Bills by removing NFGD's 2020, 2021, and 2022 performances from the calculation. As seen in Exhibit__(SCSP-4), the Company's performance trended significantly higher during the COVID-19 pandemic. Given that the COVID-19 pandemic has subsided considerably, we recommend utilizing the data from the preceding five years, 2015, 2016, 2017, 2018, and 2019, to calculate the minimum target for the Estimated Bills metric.[69]

If Staff believes this approach will achieve a minimally acceptable level of performance for National Fuel, it follows that such an approach will do the same for Central Hudson. Moreover, the minimum Estimated Bill metric target that Staff is proposing for National Fuel of 13%[70] further demonstrates the preposterous nature of Staff's recommended minimum target of 1% for Central Hudson.[71]

Staff also disagrees with the Company's proposed exclusion for this metric because "the CSPI Order states that 'Estimated bills due to no access will be counted.'" SIB, p. 218. What Staff fails to recognize is that the CSPI Order concerns reporting requirements only and does not establish an NRA calculation methodology. As noted in 2022 Customer Service Performance

---

69 Case 23-G-0627, Prepared Testimony of the Staff Consumer Services Panel at 51-52 (filed Mar. 1, 2024).

70 Id. at 53.

71 Staff's proposed target for National Fuel is also more aligned with the targets applicable to NYSEG and RG&E. See CHIB, pp 228-229.

Report, NRAs are "negotiated in individual utility rate case proceedings."[72] The Company's proposed exclusions will not alter how Estimated Bills are reported to the Commission pursuant to the CSPI Order, they will only be relevant for calculating whether the Company should be subject to an NRA for this metric. Moreover, the fact that NYSEG's and RG&E's Estimated Bill metrics allow for meter access exclusions negates Staff's argument. As Staff appears to recognize in context of its proposed Estimated Bill credit (Tr. 4370), it would be unfair to penalize the Company for acts that are beyond the Company's control and thus it is wholly appropriate to exclude estimates due to meter access refusals from this metric.

Estimated bills that are issued under abnormal operating conditions that are outside of the Company's control and prevent actual meter reads should also be excluded from this metric. Tr. 3053-3054. The Company is confused by Staff's claim that the Company's proposal in this regard is "overly vague." SIB, p. 218. The Company clearly described in testimony how it was defining abnormal operating conditions:

> Abnormal operating conditions are deemed to occur during any period of emergency, catastrophe, strike, natural disaster, major storm, or other unusual event not in the Company's control affecting more than 10% of the customers in an operating area during any month. A major storm will have the same definition as set forth in NYCRR Part 97.

Tr. 3053-3054. This is not a new concept; Staff is being insincere in suggesting that it is unfamiliar with how "abnormal operating conditions" have been defined or used in the context of CSPI measurement.[73]

---

[72] Case 23-M-0040 – In the Matter of Utility Customer Service Performance, 2022 Customer Service Performance Report at 1 (Jun. 22, 2023).

[73] For example, Appendix 15 (Customer Service Performance Indicators) of O&R's most recent rate case joint proposal states that "For measurement purposes, results from months having abnormal operating conditions will not be considered. Abnormal operating conditions are deemed to occur during any period of emergency, catastrophe, strike, natural disaster, major storm, or other unusual event not in the Company's control affecting more than ten percent of the customers in an operating area during any month. A 'major storm' will have the same definition as set forth in 16 NYCRR Part 97." See e.g., Cases 21-E-0074 et al., Order Adopting Terms of

Based on the foregoing and for the reasons set forth in the Company's Initial Brief, if NRAs are to apply in a one-year litigated case, the Company's proposed targets, NRAs and exclusions for the Estimated Bill metric should be adopted.

B. Negative Revenue Adjustments

1. Maximum BP Per Metric

Staff's initial brief recommends NRAs set at a maximum of 18 basis points for each of the four CSPIs, as Staff remains concerned that the Company's recent performance has demonstrated that the current NRA values are not an effective incentive for the Company to meet its current minimum targets for customer service. SIB, pp. 220-221. In an attempt to support this recommendation, Staff makes an irresponsible argument regarding the Company's approach to the existing CSPI NRAs. Staff argues that the Company consciously decided to reduce contracted agent expense for the second half of 2022 because simply incurring the Call Answer Rate metric NRA is less expensive than maintaining the contracted resource. According to Staff, this "indicates that the Company placed more value on the cost of the contracted agents over the level of customer service it aimed to provide to its customers and opted to incur an NRA instead." SIB, p. 221. The Company is disappointed that Staff would make such a baseless assertion, especially since there is no record support for it.

For sake of clarity, the Company has always tried its hardest to remedy the customer billing issues related to the Company's SAP-CIS billing transition. Any argument to the contrary is offensive and should be flatly rejected. Further, the "calculations" provided by Staff are based on a flawed premise. Staff compares the contracted agent resource costs to the NRA associated with the Call Answer Rate metric in isolation. As the Company explains in its Initial

Joint Proposal and Establishing Electric and Gas Rate Plans, With Additional Requirements, Joint Proposal, Appendix 15 at 2 (Apr. 14, 2022).

Brief, the CSPI metrics are strongly correlated. CHIB, pp. 234-235. Therefore, Staff's comparison of these costs to the Call Answer Rate metric NRA in isolation ignores the fact that there are corresponding impacts to the Company's other CSPIs, which result in additional NRAs. This undercuts Staff's argument that the Company sought to realize "savings" by choosing to incur the Call Answer Rate metric NRA in 2022. Finally, as the Company describes in its Initial Brief, the Company's maximum NRA exposure level of 42 basis points equates to approximately 5% of Staff's proposed ROE of 9.2% or 4% of the Company's proposed 9.8% ROE and would be considered a material financial impact and provides significant motivation for avoidance.

Staff's argument should be rejected, and the Company's proposed maximum basis point per CSPI metric should be adopted.

2. Tripling / Quadrupling Provisions

As demonstrated in the Company's Initial Brief, Staff's recommendation to reinstate tripling and quadrupling for customer service NRAs is excessive, discriminatory, and overly punitive, and introduces significant financial uncertainty for the Company and its debt and equity investors, which will lead to higher financing costs for customers. CHIB, pp. 232-235. Staff's initial brief provides that Staff remains concerned about the Company "seemingly anemic efforts toward improving on its current metrics." SIB, p. 223. The Company disagrees with this characterization. As the Company describes in more detail above, Central Hudson's five KPIs have improved relative to the peak of the SAP-CIS issues, and all metrics are close to levels associated with the period prior to the SAP-CIS launch. Tr. 3286; Exhibit 180 (CEP-2R). Staff argues that the Company's PSC complaints remain elevated above pre-billing system transition period levels when compared to similarly situated utilities. SIB, p. 223. What Staff fails to demonstrate, however, is how this information justifies Staff's draconian tripling and quadrupling provision, to which no other New York utility is subject.

As discussed in more detail in the Company's Initial Brief, Staff's proposal should be considered in conjunction with its recommendation to disallow the Company's incremental FTEs associated with customer service. Staff's intent seems to be to set the Company up for failure by increasing the Company's potential NRAs to astronomical levels while simultaneously making it harder for the Company to utilize the resources necessary to improve its performance. If Central Hudson is going to be held accountable for performance, it must be given the tools and ability to meet and exceed reasonable targets.

C. Customer Bill Credits

As argued in the Initial Brief, it is the Company's position that the Commission does not have the legal authority to require shareholders to provide adjusted, estimated or CDG-adjusted bill credits without express statutory authority.[74] CHIB, p. 235.

1. Estimated Bill Credit

Most telling from Staff's initial brief is that Staff seems to have abandoned its primary justification for the estimated bill credit – its assertion that "[c]ustomers have been consistently harmed by the Company's inability to provide accurate bills since the billing system transition." Tr. 4371, lines 6-7. As this section of Staff's initial brief is devoid of any mention of customer harm,[75] Staff appears to agree that there is no record support that demonstrates precisely how customers have been harmed by receiving estimated or adjusted bills or by the increased frequency in issuing estimated and adjusted bills.[76]

---

[74] The proposed bill credits are also unlawful penalties as Staff proposes that they be shareholder funded. The Commission's authority to apply penalties is limited to Public Service Law §§ 25 and 25-a.

[75] Indeed, Staff's initial brief mentions the word harm nary once.

[76] Staff's initial brief also offers no justification for why $20 is the appropriate amount for this bill credit. Here too, Staff appears to recognize that, as set forth in the Company's Initial Brief, there is no basis to link the amount of estimated bill credit to the amount of the bill credit for missed appointments. CHIB, p. 237.

Having abandoned its customer harm argument, Staff now claims that its ill-conceived estimated and adjusted bill credits are "appropriate if the Company fails to provide actual and accurate bills." SIB, p. 225. If providing estimated and adjusted bills is inappropriate, query why they are authorized under 16 NYCRR §§ 11.13 and 11.14, respectively.[77] Indeed, estimated and adjusted billing are normal, required and expected within every utility billing system. CHIB, p. 236; Tr. 3058.

Staff's argument that the Company should not be concerned with the financial impact of the proposed credits because "the Company has stated that the metrics should all return to baseline levels and the credit would be further incentive for the Company to avoid the financial impact by providing customers with accurate bills based on actual meter reads" (SIB, p. 225), is similarly misguided. Specifically, Staff ignores the record evidence that demonstrates that at the average level of occurrences experienced during 2018 and 2019, during times of normal operations prior to the go-live of the SAP-CIS, the $20 estimated and adjusted bill credits would have resulted in annual financial impacts of $1.4 million and $1.0 million, respectively. Exhibit 188 (CEP-10R). As a result, the Company would still be subject to these inappropriate and overly punitive penalties when it returns to its baseline levels.

Staff is also wrong that the accuracy of bills rendered by the SAP-CIS and those requiring manual intervention are not driven by factors outside of the Company's control. SIB, p. 225. As discussed previously and in the Company's Initial Brief, meter access refusal situations and abnormal operating conditions are beyond the Company's control and impact the number of estimated bills the Company must issue. Curiously, Staff also argues that "providing

[77] Given that estimated and adjusted bills are authorized under the Commission's regulations and the Public Service Law, offering bill credits only to specific customers could result in discriminatory treatment between or among customers in contravention of Public Service Law §§ 65 and 66.

monthly meter readings" is also within the Company's control. Id. It is unclear how that can possibly be the case when the Commission has not authorized the resources for the Company to implement monthly meter reading and Staff continues to oppose cost recovery for monthly meter reading in these cases.

For the reasons discussed above and in the Company's Initial Brief, the Commission should decline to adopt Staff's recommended estimated and adjusted bill credits. If the Commission deems that estimated and adjusted bill credits are appropriate, suitable exclusions must be recognized. CHIB, pp. 229-231, 238-240.

2. Adjusted Bill Credit

See the Company's Initial Brief at pages 238-240 and Section X.C.1 above.

3. Adjusted CDG Bill Credit

The Company's Initial Brief fully addresses why the Commission should reject Staff's recommended adjusted bill credit as redundant and overly punitive. CHIB, pp. 240-241. Staff's rational for the CDG adjusted bill credit is misplaced because, as of August 2023, the number of adjusted CDG bills are a fraction of what they were in March 2022 at their peak. CHIB, p. 240; Tr. 4417, 4558-4559. Staff now admits that adjusted bills are permitted under the Company's tariff (SIB, p. 228),[78] but asserts that the volume of adjusted bills Central Hudson is issuing to its customers is "beyond what can be considered normal and expected business operations." SIB, p. 228. Yet when asked during cross-examination, Staff was unable to identify what minimum acceptable standards should apply to CDG adjusted billing. Tr. 4561.

Furthermore, Staff's concession that billing delays attributable to CDG hosts are outside the Company's control supports excluding those adjusted bills from receiving the bill credit.

[78] Staff also recognizes that the Company "continues to work to reduce the number of customers receiving delayed bills and is actively implementing the automation of CDG customer bills." Tr. 4424, lines 16-19.

Staff, however, takes the extreme and unreasonable position that no adjusted bills should be excluded from receiving this bill credit. Tr. 4560. This is reason alone to deny the entire CDG adjusted bill credit proposal.

Finally, the fact that NYSEG, RG&E and Con Edison may issue similar billing credits is inapposite. See SIB, pp. 229-230. Those billing credits were the result of multi-year rate case settlement agreements. And, as previously noted, Staff agrees that "negotiated rate cases involve a broad package of issues, where parties could potentially accept a position on a particular issue that it otherwise might not have accepted in a litigated rate case." SIB, p. 54. Also, while Staff may argue that those utility's credits are similar to its recommended CDG adjusted bill credit, the fact remains that no other utility is currently required to provide a $20 CDG adjusted bill credit. Tr. 4563.

Given the Commission's ongoing generic proceeding that is examining CDG billing issues and the infirmities with Staff's recommended CDG adjusted bill credit, Your Honors and the Commission should decline to adopt Staff's recommendation. CHIB, pp. 240-242.

4. Discretionary Customer Credit

Central Hudson's Initial Brief described its discretionary customer crediting program, which permits a Contact Center Representative or a Customer Outreach employee to use discretion to suggest a customer be issued a credit to resolve an issue raised by the customer and this suggestion is then reviewed and approved by Supervision. Exhibit 495. This program has been around for many years and has a modest budget of $50,000 that is funded in revenue requirements.

PULP argues that the Company's use of discretionary customer credits could increase during the Rate Year in order to resolve customer issues. PIB, p. 23. For this reason, PULP argues that these credits should not be funded in the revenue requirement, the Company should be required to reform its program, and the Company should be required to file annual reports regarding the use of discretionary credits. PIB, pp. 8-9, 22-24, 29-30. Staff now also expresses concern with the Company's recovery of these credits in rates and recommends that the Commission require that these costs not be borne by ratepayers. SIB, p. 230.

These concerns are misplaced. First, the amount of funding for discretionary customer credits in revenue requirement is nominal and these credits have been funded in rates for years. Discretionary customer credits are a useful tool to provide resolution to situations that are outside of the customer's control. Exhibit 495. If the Company's actual discretionary credits exceed the amount included in the revenue requirement, the excess amount is necessarily funded by shareholders. There is no rational basis to eliminate the discretionary customer credit program from the revenue requirement or require the Company to file detailed annual reports for this program.

D. Monthly Meter Reading

As an initial matter, the Company strongly opposes Staff's assertion, without any citation to the record, that "the Company's proposal for monthly meter reading was in direct response to the issues caused by its own customer information system implementation." SIB, p. 234. Staff grossly misstates that impetus for the transition to monthly meter reading. As testified by the Company's Customer Experience Panel, the "transition to monthly meter reading is aligned with residential customer sentiments that show a preference for monthly meter reads and dissatisfaction with bi-monthly billing estimates." Tr. 2998, lines 17-20. This customer sentiment is clearly described in the Company's implementation plan filed in Case 22-M-0645:

> Subsequent to the initial conversion to monthly billing in July 2016, customers began to express dissatisfaction with bi-monthly billing estimates, as was evident in comments received from customers in response to the Company's on-going customer satisfaction survey, also known as the How Did We Do Survey, and to the Voice of the Customer Survey ("VOC Survey") that was conducted at the end

> of 2019. Customer sentiments shared in these surveys are discussed in further detail in the body of this plan, but what is clear is that Customer discontent with alternate month billing estimates has been an on-going issue for Central Hudson, with one customer stating very succinctly in the 2019 VOC Survey: "Have meters read every month or go back to billing every two months.
>
> ***
>
> Comments within the Company's customer satisfaction survey have consistently mentioned billing estimates since 2016 when monthly billing was instituted. In fact, a review of customer comments received in response to the survey indicates that prior to monthly billing in 2015, customers only mentioned billing estimates in 0.3% of responses. In 2016, this rate rose to 3.4%, and now based on data through October 2022, 5.5% of customer comments refer to billing estimates.
>
> ***
>
> Survey results also indicated that presumed inaccuracy of bill estimation was an area of frustration. Comments received in response to the survey included the following: "Bills are high one month and lower the next, no doubt due to bimonthly meter reading," and "I would like my meter read on a regular basis without estimated bills that are way off." Customer discontent with billing estimates illustrated by Central Hudson's How Did We Do Survey, the 2019 VOC Survey.[79]

Staff is plain wrong that the Company's monthly meter reading proposal was in direct response to the SAP-CIS transition issues.

The Company proposed a transition to monthly meter reading from the present bi-monthly structure, including an incremental annual cost of approximately $4.4 million composed of recurring and one-time O&M costs and the return on and of approximately $1.8 million of capital expenditures. CHIB, p. 243; Tr. 2999-3000. That plan was initially filed on January 17, 2023 in Case 22-M-0645 and provided for a phased roll-out of monthly meter reading. Following an Interim Agreement between Staff and the Company in Case 22-M-0645, the Company accelerated the timeline for the transition to monthly meter reading and provided

[79] Case 22-M-0645 - Proceeding on Motion of the Commission Concerning Central Hudson Gas & Electric Corporation's Development and Deployment of Modifications to its Customer Information and Billing System and Resulting Impacts on Billing Accuracy, Timeliness, and Errors, Central Hudson Plan to Implement Monthly Meter Reading at 2-4 (filed Jan. 17, 2023).

revised cost estimates as part of its update filing. Staff notes that the update filing "required an additional $2.1 million" to reflect the accelerated meter reading plan. SIB, p. 231. What Staff fails to mention, however, is that the revised plan reduced the overall estimated annual cost to $4.1 million, with the increase in the Rate Year costs primarily attributable to advanced timing of hiring incremental contracted meter readers. CHIB, p. 243.

Despite the fact that Staff "generally supports a transition to monthly meter reading for Central Hudson," it maintains its earlier recommendation that the Commission exclude the Company's proposed costs for monthly meter reading in customer rates. SIB, p. 232; Tr. 4393. As a basis for its recommendation, Staff improperly speculates that the yet-to-be released independent monitor's written report regarding the Company's monthly meter reading proposal may materially affect the Company's monthly meter reading proposal. Staff makes a point of noting that "as of the date of this brief, March 1, 2024, Staff has not reviewed the independent monitor report that is contemplated by the interim agreement." SIB, p. 233. Importantly, there continues to be no indication that the independent monitor's report will lead to material changes or any changes to the Company's monthly metering plan. See CHIB, p. 243; Tr. 3065.

In fact, once the independent monitor's report is completed, there would be nothing to prevent the Commission, should it deem it necessary, from developing mechanisms to protect customers from any changes to the final cost of the monthly meter reading plan associated with the final independent monitor's report. CHIB, p. 243-244; Tr. 3065-3066. Staff's mere assertion that the "transition to monthly meter reading is inextricably enmeshed in Case 22-M-0645" provides no support for Staff's recommendation that the Commission take no action until after the investigation proceeding concludes (SIB, p. 233), particularly given the importance of a timely implementation of monthly meter reading. Staff's reliance on mere speculation with no record evidence regarding the potential future content of the pending independent monitor's report is an insufficient rationale for disallowing monthly meter reading costs.

Staff's continued allegations that the Company has failed to plan for monthly meter reading and has not supported its request for additional resources with "any reasonably thorough analysis of its current FTE's ability to conduct meter reading, potential meter route efficiencies, or the expansion of automated meter reading" (SIB, p. 233), is contradicted by the record evidence. For example, the evidence shows that the Company's meter reading routes are currently designed and optimized on geographical area and delaying the roll out of monthly meter reading to undertake a multi-year project to examine additional efficiencies is counterproductive. CHIB, p. 244. The evidence is also clear that as of December 19, 2023, the monthly meter reading project is well underway. Tr. 3064. The Company has completed all functional unit testing and performed an initial proof of concept, which includes reading meters for a small customer population for two consecutive months and validation of subsequent billing. The monthly meter reading plan filed in Case 22-M-0645 fully lays out the timeline and the incremental costs and resources required for the transition to monthly billing. CHIB, p. 245; Tr. 3067. In fact, consistent with the Commission's determination that customers will receive "the substantial benefit of a plan for the Company to begin reading meters on a monthly basis in relatively short order,"[80] as of the time of this Reply Brief, the Company has completed the proof of concept and pilot phases of the project and has begun monthly meter reading for the Kingston operating division. The Commission's finding, as well as what is actually occurring on the ground, directly contradict Staff's position that the Company does not have a sufficient plan for this initiative. CHIB, pp. 245-246.

[80] Case 22-M-0645, Order Adopting Terms of Interim Agreement at 7 (Aug. 18, 2023).

In addition, Staff's assertion that Exhibit 189 (CEP-11R) only provides a "vague communication timeline" for its communication plan and does not include "definitive dates" (SIB, p. 234) is misleading. The communication plan has detailed timelines that are tied to the Company's phased approach with the monthly meter reading rollout. Each communication channel has a specific timeframe for when it will be initiated and is based off of the launch date for each phase. The Company structured its plan in this manner to account for the flexibility needed as to the timing of the launch of each phase. Notably, the Company launched Phase 1 in January 2024 and thus the communications have commenced in accordance with the communication plan set forth in Exhibit 189 (CEP-11R).[81]

More troubling, Staff makes the statement that it "remains concerned that the Company is using the accelerated plan for monthly meter reading implementation as an opportunity to unnecessarily spend additional ratepayer funds." SIB, p. 234. Again, Staff ignores that, while the acceleration of the monthly meter plan increased costs for the Rate Year, it actually reduced the estimated annual costs for the program. Furthermore, the record is devoid of any evidence to support Staff's unjustified and unsupportable allegation that the Company would "unnecessarily spend additional ratepayer funds." Such a baseless and inflammatory statement demonstrates bias against the Company and should be given no weight.

Given Staff's concession that monthly meter reading may help improve the Company's CSPIs (Tr. 4545), which is a chief concern in this case, Your Honors should reject Staff 's disallowance of monthly meter reading implementation costs, including those associated with incremental FTEs and contracted resources.

[81] See Central Hudson, Monthly Meter Reading Begins for 63,000 Central Hudson Customers (Feb. 8, 2024), available at https://www.cenhud.com/en/news/2024/monthly-meter-reading-begins-for-63000-central-hudson-customers/.

E. Collections Activities

The Company and Staff are in agreement that the level of arrears at the Company is significant and concerning. The difference between the parties is that only one party (the Company) is offering solutions to control arrears and bring the balances back down to manageable levels.

Staff continues to recommend the Commission disallow costs related to resuming the Company's residential termination and collection process "until the Company can demonstrate a high confidence level in its internal procedures and a firm timeline for the resumption of residential service terminations before terminations fully resume." SIB, p. 238. Staff, however, fails to specify what that "high confidence level" would look like. And more to the point, Staff ignores that the Company has established, pursuant to any objective standard, that its billing timing and accuracy are now within normal operating parameters (Tr. 3038) and that its five KPIs have improved relative to the peak of the SAP-CIS issues. Tr. 3286; Exhibit 180 (CEP-2R). There is no reason to delay restarting the residential termination and collection process any further and, in fact, they are planned to resume next month. Tr. 3078.

Contrary to Staff's contention that the Company has not provided a "firm timeline" as to when the Company will resume residential collections and service terminations (SIB, p. 238),[82] Exhibit 190 (CEP-12R) does just that, and, as just noted, next month the Company will commence a phased rollout of collections activities and service terminations in conjunction with its monthly meter reading initiative.[83] Tr. 3071. The Company will start with a small group of

---

[82] PULP similarly argues that the Company should not be able to resume collections until it puts forth a plan. PIB, p. 24.

[83] Central Hudson is currently pursuing soft collections of residential arrears via phone, letter and e-mail campaigns, is working with county assistance agencies, and providing the notifications required for residential customers to secure emergency HEAP benefits. Tr. 3071.

customers and then scale to all customers (Tr. 3129) in accordance with the timeline laid out within Exhibit 190 (CEP-12R).[84]

It is essential for the Company to resume residential collection and service termination activities as soon as possible to bring its arrears balances under control. Denying the Company's ability to resume these activities, as Staff recommends, is antithetical to Staff's concern over the size of the arrears balances. As Staff concedes, terminations are a primary tool that utilities have to reduce arrears balances. Tr. 4549. Any further delay would exacerbate the Company's already large arrears balances (Id.) and thus Staff's recommendation must be rejected. Moreover, in recognition that the Company will have commenced residential termination and collection activities prior to the issuance of the Commission's order in these proceedings, the Company's revenue requirement should include funding for resources that will be needed to handle the increased call volume and other associated activities (e.g., increased activity related to DPAs and HEFPA). See CHIB, pp. 35-37.

Finally, it bears clarification that in the Stipulation Regarding Billing Reporting Requirements (Exhibit 514), the Signatory Parties agreed that the Company's Residential Service Terminations/ Uncollectibles *target metric* shall continue to be paused through the end of calendar year 2025 (emphasis added). Staff's initial brief could be interpreted as suggesting the Company agreed to pause terminations and uncollectibles activities through 2025. SIB, p. 238.

F. Extreme Heat Protections

The Company's Initial Brief addresses in detail why PULP's recommended modifications to the Company's extreme heat protections should be rejected. In its initial brief, Staff agreed

[84] The Company has implemented a robust communication plan to alert all stakeholders about the resumption of the Company's formal collections processes, which includes targeted reminders (letters, emails, text messages, outbound phone calls, in-person field visits) to customers with AR balances that alert the non-payers that terminations are coming. Tr. 3077-3078.

with the intent of PULP's recommended modifications that would reduce the number of days the Company could terminate service but nonetheless counselled the Commission against adopting the modifications in these proceedings "given the levels of arrears" at the Company. SIB, p. 240. The irony of Staff's position in this instance should not be lost on Your Honors or the Commission. While Staff's concern over the level of arrears is enough to recommend rejecting a proposal that would likely only have a modest impact on the Company's ability to terminate service, it is apparently not enough to allow the Company the resources to move ahead with resuming residential collection activities, which Staff concedes is a primary tool that utilities have to reduce arrears balances. Tr. 4549.

G. Consumer Outreach

See the Company's Initial Brief at page 249 and Appendix 2 thereto.

H. Economic Development

See the Company's Initial Brief at pages 249-251.

I. Credit Card Fees

See the Company's Initial Brief at pages 251-252.

J. Reporting Requirements

See the Company's Initial Brief at pages 252-255.

XI. MANAGEMENT AUDIT

A. 2013 Staffing Audit

See the Company's Initial Brief at pages 255-257.

B. 2016 Management Audit

See the Company's Initial Brief at page 257.

C. 2021 Management Audit

1. Implementation Plan Costs

See the Company's Initial Brief at pages 258-264.

2. Assessment of Savings

The Company refers Your Honors to its Initial Brief, where the Company demonstrates why the estimate of $1.645 million to reflect the net benefits anticipated from the implementation of the 2021 Management Audit recommendations proposed by Overland and supported by Staff (SIB, pp. 251-252) are significantly overstated and not supported by the evidentiary record. CHIB, pp. 264-265. Staff asserts in its initial brief that Central Hudson did not dispute Overland's benefit cost analyses ("BCAs") during its review of the draft report. SIB, p. 252. This statement is misleading. The Company neither agreed nor disagreed with Overland's BCAs as Staff was unable to provide key underlying data from Overland. The Company noted in a letter dated March 22, 2023 in Case 21-M-0541 ("Management Audit Proceeding") that "Central Hudson will address/identify the feasibility, effective execution, and anticipated costs and benefits, of each recommendation as it begins to develop its implementation plans. To the extent that Central Hudson believes a recommendation cannot be effectively addressed with existing resources, it will provide rationale supporting any future request for cost recovery." Further, in the Company's Implementation Plan letter filed on May 22, 2023, in the Management Audit Proceeding, the Company noted that it had identified incremental costs of implementation where it believed that a recommendation could not be effectively addressed with existing resources. More importantly, the Company pointed out that in many instances, concomitant benefits are either qualitative or additional analyses will be required during the implementation process to identify benchmarks that might allow for the measurement of benefits."[85] The Company further stated that "Central Hudson has noted several recommendations for which a benefit cost analysis is not warranted as there are no costs or measurable benefits."[86] Finally, the Company noted that "Central Hudson anticipates working with DPS Staff throughout the implementation process, including on identification of costs and benefits, particularly with respect to recommendations with incremental costs but without quantifiable benefits."[87] Clearly, the Company did, in fact, dispute Overland's BCAs in the Management Audit Proceeding.

In a surprise development, Staff in its initial brief has asserted for the first time that Staff's proposed 2021 Management Audit net benefits were "inadvertently not reflected in Staff's revenue requirements and that Staff is agreeing to forgo the imputation of capital related savings but will reflect the O&M related savings in its next revenue requirement." SIB, p. 252. Based on the record developed to date and on its review of Staff's proposed revenue requirements, the Company had reasonably anticipated that any potential operational and capital net benefits to be realized in the Rate Year from the 2021 Management Audit would be fully captured in the productivity adjustment, whether the 1% that the Company proposed or, should Your Honors adopt Staff's position, the 2% productivity adjustment. CHIB, p. 56. Stated most plainly, Staff's initial brief has sand-bagged the Company on this issue. Staff's late attempt on brief to reduce revenue requirement by $845,000 for O&M related management costs[88] represents an improper double count of productivity savings and should be rejected by Your

[85] Case 21-M-0541, Central Hudson Implementation Plan Cover Letter (May 22, 2023).

[86] Id.

[87] Id.

[88] The Company notes that its argument in opposition applies to both the O&M and capital-related savings proposed by Staff. The Company appreciates, however, Staff's agreement to forego the imputation of its asserted capital-related savings (SIB, p. 252) thus removing the capital-related savings as an issue.

Honors. Had the Company known of Staff's position that revenue requirement should be reduced by 2021 Management Audit net benefits, the Company would have provided additional testimonial opposition both to Staff's 2021 Management Audit asserted net benefits and to Staff's proposed doubling of the percentage productivity level. For the foregoing reasons and those set forth in the Company's Initial Brief, Your Honors should determine that any 2021 Management Audit implementation net benefits in the Rate Year have been fully captured in revenue requirement and no further adjustments to revenue requirement should be allowed.

3. Deferral of Future Implementation Costs

See the Company's Initial Brief at page 266.

4. Additional Proposals Regarding Labor Expense

See the Company's Initial Brief at page 267.

XII. EARNINGS ADJUSTMENT MECHANISMS

A. <u>DAC Energy Efficiency Benefits</u>

See the Company's Initial Brief at pages 267-269.

B. <u>Electric and Gas Peak Reduction</u>

See the Company's Initial Brief at pages 269-272.

C. <u>DER Photovoltaic</u>

See the Company's Initial Brief at pages 272-274.

D. <u>DER Battery Storage</u>

See the Company's Initial Brief at pages 274-275.

E. <u>EV Adoption</u>

See the Company's Initial Brief at pages 275-276.

F. <u>EVSE&I DC Fast Charger and Level 2 Installations</u>

See the Company's Initial Brief at pages 276-277.

G. Total EAM Basis Points

See the Company's Initial Brief at pages 277-278.

XIII. ENERGY AFFORDABILITY PROGRAM

A. EAP Budget, Expenditures and Reconciliation

See the Company's Initial Brief at pages 278-279.

B. PULP's EAP Proposal

See the Company's Initial Brief at pages 279-280.

REVENUE ALLOCATION AND RATE DESIGN

C. ECOS Studies

See Company's Initial Brief at pages 280-281.

1. Test Year and Forecasting Assumptions

See the Company's Initial Brief at page 281.

2. Property Taxes

See the Company's Initial Brief at page 281.

3. Electric System Control/Load Dispatching

See the Company's Initial Brief at page 282.

4. Legacy Generation Fleet

In its initial brief, MI argues that the costs and revenues from the Company's gas combustion turbines either both be excluded from the pro forma electric ECOS study or both costs and revenues should be included in the pro forma study (MIIB, p. 51), suggesting the revenue imputation should be increased by $1.9 million (MIIB, p. 53). The Company maintains that the revenue imputation established in Case 20-E-0428, which is for hydroelectric revenue benefits, should continue at the $3.9 million level proposed by the Company (CHIB, p. 284) and that any future benefits from the Company's combustion turbines continue to be passed back to all delivery customers through the Miscellaneous component of ECAM.

5. Gas Peak-Day Sendout

See the Company's Initial Brief at page 284.

6. Net-Operating Loss Carryforward

Staff recommends that the Net-Operating Loss ("NOL") carryforward from deferred income taxes be allocated in proportion to projected base delivery revenues, such that the revenue requirement impacts are spread evenly amongst the classes. SIB, p. 274. The Company disagrees with this recommendation. As the Company's Cost of Service Panel indicated, the Company performs a detailed analysis to functionalize each component of deferred income tax. Tr. 1633. The resulting functionalized deferred income taxes are then allocated to the classes in the same manner as the underlying function. Staff essentially recommends allocating the NOLs without taking the initial necessary step of functionalization. This recommendation is unworkable and should be rejected, as allocation of NOLs cannot be performed without first functionalizing the NOLs.

D. <u>MCOS Studies</u>

See the Company's Initial Brief at pages 285-286.

E. <u>Electric Loss Factor</u>

See the Company's Initial Brief at page 286.

F. <u>Lost and Unaccounted For Gas</u>

See the Company's Initial Brief at pages 286-287.

G. <u>Electric Revenue Allocation and Rate Design</u>

1. Revenue Allocation

See the Company's Initial Brief at pages 287-289.

2. Rate Design

Staff, in its initial brief, supported the Low Power Attachment Program rate option proposed by the Company. SIB, p. 278. While no other party opposed this new rate option, implementation of this program would require programming of the Company's billing system, which would need to be prioritized with other Company-initiated and Commission-mandated billing changes. The Company recommends that the implementation of such a new rate offering would be better addressed in a multi-year rate proceeding that would allow for sufficient lead time for the required programming and testing prior to offering the new rate.

H. Gas Revenue Allocation and Rate Design

1. Revenue Allocation

See the Company's Initial Brief at pages 292-293.

2. Rate Design

See the Company's Initial Brief at pages 293-297.

I. Danskammer Revenues

Staff and the Company agree on the need to adjust downward the projected level of Danskammer revenues in the Rate Year. SIB, p. 285. While the Company initially supported the use of a credit that would be passed back to customers at the end of the Rate Year combined with continuation of the existing deferral mechanism (CHIB, p. 297; SIB, p. 285), the Company would accept the use of an imputation of $1.0 million provided that the deferral mechanism is continued. SIB, p. 285. Continuation of the current deferral mechanism is necessary to manage the high degree of uncertainty surrounding Danskammer future operations and revenues. Danskammer retains the ability to alter the contracted volume of gas that it will utilize during the Rate Year. Danskammer also is responsible for and controls the ongoing process to obtain permits and other governmental authorizations necessary for its operations. CHIB, pp. 297-298.

Since these critical factors are outside of the Company's control, the deferral mechanism is critical to protect both customers and the Company from variability in the Danskammer revenues.

J. Bill Impacts

See the Company's Initial Brief at page 299.

K. Battery Storage Rates

Please refer to the Company's Initial Brief which sets forth Central Hudson's position that the Commission should not make any findings at this time regarding bulk storage rates that are subject to the jurisdiction of FERC. CHIB, p. 300.

Staff asserts in its initial brief that FERC Order No. 841 precludes the application of the Commission jurisdictional tariff delivery rates upon standalone bulk energy storage projects buying and selling into the wholesale market. SIB, p. 286. Staff notes that at the present time Central Hudson has not filed its Wholesale Distribution Service ("WDS") tariff with FERC and as such there is no rate that could be applied to the stand-alone storage facility as described by Key Capture Energy. SIB, p. 286; see KCEIB, pp. 1-3. Central Hudson's proposed WDS tariff, which will apply to generation or storage resources interconnected to Central Hudson's distribution system that seek to participate in the NYISO-administered wholesale markets, has been filed with FERC in Docket No. ER24-1434 with a requested effective date of May 8, 2024 subject to FERC review and approval and is outside of the scope of the Company's rate proposals in this proceeding.

L. Tariff Modification

The Company proposed several changes to its tariffs regarding billing, including amendments to electric tariff leaves 54 and 55 and gas tariff leaf 25 that replaced references to customer meter reading submissions through a post card to the Company, with language that a customer can submit the reading on its website. Staff agrees with these changes (SIB, p. 289) but then goes on to propose additional tariff language related to estimated and adjusted bills. Please refer to the Company's Initial Brief at pages 238-240 and Section X.C.1 above with respect to the Company's authority to issue estimated and adjusted bills and Staff's proposed bill credits. In this section, the Company addresses what Staff styled in its initial brief as "various clarifications" of the Company's proposed electric and gas tariff leaves, including, among other things: 1) setting a cadence for actual meter reading and estimated meter readings, aside from certain exceptions; 2) requiring the rendering of bills for each regular cycle billing period; 3) including definitions and parameters for adjusted bills; and 4) adding a provision stating the Company would accept a meter reading electronically submitted by the customer. SIB, p. 289; Exhibit 339 (SPP-3).

Rather than mere clarifications, Staff has sought to impose material and significant changes via its proposed revisions to the Company's tariffs – changes that the Company strongly opposes. Tr. 1912-1913. More specifically, the Company takes issue with Staff's improper attempt to achieve, via its proposed tariff language, further limitations on estimated bills and adjusted bills. Staff's proposed tariff changes violate PSL § 39 and seek to impermissibly alter procedures and protections for both the customers and the Company established by Commission regulation and pursuant to Central Hudson specific estimated billing procedures established in Case 21-M-0045.

Staff's stated justification for these proposed tariff modifications is that the Company's approved estimated billing procedures "were ultimately too vague." SIB, p. 289. Staff ignores that these approved procedures are consistent with the PSL and Commission regulations. Staff's proposed tariff changes raise equal protection concerns because they are a back-door attempt to change key provisions of 16 NYCRR § 11.13 as applied to Central Hudson only. Such a change to a duly promulgated regulation can only be accomplished in the context of a formal rulemaking proceeding that includes a notice and comment period on the specific changes being contemplated, not via Staff proposed tariff changes in a rate case as Staff is seeking to do here.

Staff acknowledges, as it must, that PSL § 39 contemplates the practice of utilities issuing an estimated or adjusted bill. SIB, p. 290. Staff also concedes that 16 NYCRR §§ 11.13(a)(1) and (h) allow a utility to render estimated bills. SIB, p. 290. Staff further acknowledges that the Commission "did approve the Company's estimating billing procedures." Id. Yet, Staff seeks to impose via its proposed tariff modifications significant additional restrictions on the number of adjusted bills that may be issued in a billing period or consecutive estimated bills that may be issued to residential customers. Tr. 1912. Staff's proposed tariff "clarifications" relating to issuance of estimated or adjusted bills should be rejected.

Staff also attempts via proposed tariff changes to materially modify meter reading requirements and exceptions set forth in 16 NYCRR § 11.13. For example, Staff attempts to change the exceptions allowed in 16 NYCRR § 11.13 for when a Company does not have to complete a monthly meter read to "not include circumstances that result from a computer billing system or staffing failures." SIB, p. 291; Exhibit 339 (SPP-3).

Staff's language is overbroad. Staff asserts that "staffing failures" are not circumstances outside the Company's control that would qualify as an exception set forth in 16 NYCRR § 11.13 for purposes of issuing an estimated bill and goes on to imply that even during extreme weather events, which are out of the Company's control, there is no reason for normal operations to be impacted by the extreme event. SIB, p. 291. Staff takes the position that in the event of an extreme weather event, the Company should make up for missed actual meter readings either before or after the storm. Id. Staff's suggestion that the Company can simply make up these meter readings is not practical or operationally feasible. As described in the Company's Forecasting and Rates Panel's rebuttal testimony, storms are likely to require meter readers to perform other roles. Tr. 1912. Prior to a storm event meter readers would be reading their normal meter reading routes and cannot read additional unplanned routes before the storm. Meter readers are a specialized function within the Company and the employees that perform these roles receive advanced training on how to use the data processors, read a meter and be familiar with the logistics of the meter reading route. As a result, other employees cannot simply step in and fill additional meter reading responsibilities. After a storm event, the window in which an actual reading can be obtained is limited due to the current billing system rules, which will estimate a customer if they are too far outside of the monthly billing cycle read date.

Significantly, Staff's suggestion that additional customer outreach should be conducted during a storm event to encourage customers to submit their meter readings electronically (SIB, p. 291) would create a poor customer experience. During a storm event, customers expect the Company to be fully dedicated to restoring service, not contacting customers for assistance in helping Central Hudson issue them a bill. Staff's tariff modifications and definition of "staffing failures" as a reason explicitly excluded from circumstances qualifying as exceptions for purposes of reading meters is overly broad and does not reasonably contemplate how a utility needs to and should respond to a storm event.

Based on the foregoing reasons, Staff's proposed tariff modifications discussed above should be rejected.

XIV. CONCLUSION

For all the reasons expressed above, the positions expressed by Central Hudson herein should be adopted and those positions of Staff and the other parties that conflict with the Company's position should be rejected.

Dated: March 11, 2024

Respectfully submitted,

Brian T. FitzGerald
Gregory G. Nickson
Michael Lloyd
Cullen and Dykman LLP
80 State Street, Suite 900
Albany, New York 12207
Tel: (518) 788-9440
bfitzgerald@cullenllp.com
gnickson@cullenllp.com
mlloyd@cullenllp.com

Attorneys for Central Hudson Gas & Electric Corporation

20729554v4

Central Hudson Gas & Electric Corporation
Electric Operations
Income Statement & Rate of Return
($000)

Income Statement - Summary	Rebuttal Position	Reply Brief Adjustments	Rate Year - Twelve Months Ending June 30, 2025 Before Rate Change	Proposed Rate Change	Proposed Rates
Total Operating Revenue	465,813	9,915	475,728	128,708	604,435
Operating & Maintenance Expense	306,080	(11,273)	294,807	2,485	297,292
Depreciation & Amortization	73,164	7,862	81,026	-	81,026
Taxes Other than Income Taxes	61,187	(575)	60,612	3,644	64,256
Federal & State Income Taxes	(3,574)	4,154	580	32,036	32,615
Operating Income - Regulatory	28,956	9,747	38,703	90,543	129,246
Rate Base	1,782,161	25,232	1,807,392		1,807,392
Regulatory Rate of Return	1.62%		2.14%		7.15%
<u>Calculation of Regulatory Return on Equity:</u>					
Operating Income - Regulatory					129,246
Interest Expense - Regulatory					40,667
Income for Common Equity - Regulatory					88,579
Rate Base Supported by Equity @ 50%					903,696
Regulatory Return on Common Equity					9.80%

Central Hudson Gas & Electric Corporation
Electric Operations
Income Statement & Rate of Return
($000)

				Rate Year - Twelve Months Ending June 30, 2025		
Operating Revenues	Rebuttal Position	Ref. #	Reply Brief Adjustments	Before Rate Change	Proposed Rate Change	Proposed Rates
Own Territory Delivery Revenues	441,943	1.	9,640	451,583	124,232	575,815
RDM & Electric Bill Credit Surcharge Revenues	-		-	-	-	-
Revenue Taxes	7,502	2.	275	7,777	3,644	11,421
Subtotal - Delivery Revenues	449,445		9,915	459,360	127,876	587,236
Resale Revenues	-		-	-	-	-
Deferred Accounting Revenues	-		-	-	-	-
Legacy Hydro Revenue	3,916		-	3,916		3,916
Other Operating Revenues	12,452		-	12,452	831	13,283
Total Operating Revenues	465,813		9,915	475,728	128,708	604,435

Central Hudson Gas & Electric Corporation
Electric Operations
Income Statement & Rate of Return
($000)

Operating & Maintenance Expense	Rebuttal Position	Ref. #	Reply Brief Adjustments	Rate Year - Twelve Months Ending June 30, 2025 Before Rate Change	Proposed Rate Change	Proposed Rates
Labor	96,089	3.	299	96,388		96,388
Executive Incentive Compensation	922		0	922		922
Management Variable Pay	3,399		0	3,399		3,399
Employee Benefits	20,399	4.	(10)	20,389		20,389
Pension Plan	(7,296)	5.	(8,448)	(15,744)		(15,744)
Other Post Employee Benefits	(5,804)	6.	(214)	(6,018)		(6,018)
Employee Training, Safety & Education	2,285	7.	30	2,315		2,315
Production Maintenance	247		0	247		247
Right of Way Maintenance - Transmission	3,595		0	3,595		3,595
Right of Way Maintenance - Distribution	28,495	8.	(2,243)	26,252		26,252
Stray Voltage Testing	764		0	764		764
System Engineering & Compliance	218		0	218		218
Substation Testing & Maintenance	642		0	642		642
Transmission Repairs & Maintenance	1,266		0	1,266		1,266
Distribution Repairs & Maintenance	5,951		0	5,951		5,951
Transformer Installations & Removals	(607)		0	(607)		(607)
Informational & Institutional Advertising	71		0	71		71
Meter Installations, Removals & Maintenance	(951)		0	(951)		(951)
Research and Development	3,725		0	3,725		3,725
Economic Development	800		0	800		800
Meter Reading, Collections & Call Volume Overflow	7,494		0	7,494		7,494
Bill Print	777		0	777		777
Postage	1,675		0	1,675		1,675
Payment by Credit/Debit Card	1,276		0	1,276		1,276
Low Income Program	17,407		0	17,407	2,485	19,892
Uncollectible Accounts	3,730		0	3,730		3,730
Regulatory Commission General Assessment	3,017		0	3,017		3,017
Environmental SIR Costs	4,171		0	4,171		4,171
Environmental All Other	201		0	201		201
Information Technology	15,897		0	15,897		15,897
Telephone	2,047		0	2,047		2,047
Rental Agreements	2,387		0	2,387		2,387
Security of Infrastructure	3,694		0	3,694		3,694
Maintenance of Buildings & Grounds	2,763		0	2,763		2,763
Major Storm Reserve	14,822		0	14,822		14,822
Major Storm Amortization	4,726	9.	1,277	6,003		6,003
Non Major Storm Restoration	7,555	10.	(335)	7,220		7,220
Material & Supplies	2,999		0	2,999		2,999
Stores Clearing to Expense	287		0	287		287

Central Hudson Gas & Electric Corporation
Electric Operations
Income Statement & Rate of Return
($000)

Operating & Maintenance Expense	Rebuttal Position	Ref. #	Reply Brief Adjustments	Rate Year - Twelve Months Ending June 30, 2025: Before Rate Change	Proposed Rate Change	Proposed Rates
Transportation - Depreciation	3,506	11.	(510)	2,996		2,996
Transportation - Fuel	1,238		0	1,238		1,238
Transportation - All Other	1,674		0	1,674		1,674
Rate Case Expenses	576		0	576		576
Legal Services	1,603		0	1,603		1,603
Consulting & Professional Services	3,794	12.	87	3,881		3,881
Miscellaneous General Expenses	5,438		0	5,438		5,438
Injuries and Damages	5,560	13.	7	5,567		5,567
Other Operating Insurance	1,246		0	1,246		1,246
Office Supplies	1,209		0	1,209		1,209
Management & Operational Audit Costs	129		0	129		129
Energy Efficiency	6,569	14.	(939)	5,630		5,630
Heat Pump Program	13,996		0	13,996		13,996
Amortization of EE/Heat Pump Assets	1,875		0	1,875		1,875
Expenses Allocated to Affiliates	(1)		0	(1)		(1)
Miscellaneous Charges	1,374	15.	(361)	1,013		1,013
Amortization of Unprotected Asset (TCJA)	1,998		0	1,998		1,998
Productivity Imputation	(1,137)	16.	87	(1,050)		(1,050)
Recovery/Refund of Rate Change Timing	0		0	0		0
Amortization of Depreciation Reserve Adjustment	4,298		0	4,298		4,298
Total O&M Expense	306,080		(11,273)	294,807	2,485	297,292
Other Operating Deductions:						
Property Taxes	42,966	17.	(849)	42,117		42,117
Revenue Taxes	7,502	18.	275	7,777	3,644	11,421
Payroll Taxes	6,897	19.	(1)	6,896		6,896
Other Taxes	3,822			3,822		3,822
Depreciation	73,164	20.	7,862	81,026		81,026
Total Other Operating Deductions	134,351		7,287	141,638	3,644	145,282
Operating Income Taxes:						
Federal Income Taxes	(4,103)	21.	3,099	(1,004)	24,068	23,064
State Income Taxes	529	21.	1,055	1,584	7,968	9,552
Total Operating Income Taxes	(3,574)		4,154	580	32,036	32,615
Total Operating Revenue Deductions	436,857		168	437,024	38,165	475,189

Central Hudson Gas & Electric Corporation

Electric Operations

Income Statement & Rate of Return

($000)

	Rate Year - Twelve Months Ending June 30, 2025		
Ratemaking Adjustments & Interest Expense	Rebuttal Filing Rate Change	Reply Brief Adjustments	Proposed Rates
Ratemaking Adjustments:			
Long Term Debt Interest Expense:			
Rate Base	1,782,161		1,807,392
Weighted Average Cost of Long Term Debt	2.20%		2.24%
Long Term Debt Interest Expense	39,208	1,278	40,486
Customer Deposit Interest Expense:			
Rate Base	1,782,161		1,807,392
Weighted Average Cost of Customer Deposits	0.01%		0.01%
Customer Deposit Interest Expense	178	3	181
Total Interest Expense - Regulatory	39,386	1,281	40,667

Central Hudson Gas & Electric Corporation
Gas Operations
Income Statement & Rate of Return
($000)

			Rate Year - Twelve Months Ending June 30, 2025		
Income Statement - Summary	Company Rebuttal Position	Reply Brief Adjustments	Before Rate Change	Proposed Rate Change	Proposed Rates
Total Operating Revenue	145,076	(1,374)	143,701	47,210	190,911
Operating & Maintenance Expense	72,502	(3,083)	69,419	902	70,321
Depreciation & Amortization	23,850	5,105	28,955	-	28,955
Taxes Other than Income Taxes	24,950	(331)	24,618	1,787	26,405
Federal & State Income Taxes	2,133	(813)	1,320	11,636	12,956
Operating Income - Regulatory	21,641	(2,252)	19,389	32,885	52,274
Rate Base	751,607	(20,619)	730,988		730,988
Regulatory Rate of Return	2.88%		2.65%		7.15%
Calculation of Regulatory Return on Equity:					
Operating Income - Regulatory					52,274
Interest Expense - Regulatory					16,447
Income for Common Equity - Regulatory					35,827
Rate Base Supported by Equity @ 50%					365,494
Regulatory Return on Common Equity					9.80%

Central Hudson Gas & Electric Corporation
Gas Operations
Income Statement & Rate of Return
($000)

				Rate Year - Twelve Months Ending June 30, 2025		
Operating Revenues	Company Rebuttal Position	Ref. #	Reply Brief Adjustments	Before Rate Change	Proposed Rate Change	Proposed Rates
Delivery Revenues - Before Increase	137,208	1.	(1,324)	135,884	45,123	181,007
RDM/MFC Revenue	-			-	-	-
Revenue Taxes	3,233	2.	(50)	3,182	1,787	4,969
Subtotal - Delivery Revenues	140,441		(1,374)	139,066	46,910	185,976
Resale Revenues	-			-	-	-
Interruptible & Sales to Generators	3,200			3,200	-	3,200
Danskammer Revenue	-					-
Deferred Revenue	-			-	-	-
Other Operating Revenues	1,435			1,435	300	1,735
Total Operating Revenues	145,076		(1,374)	143,701	47,210	190,911

Central Hudson Gas & Electric Corporation
Gas Operations
Income Statement & Rate of Return
($000)

				Rate Year - Twelve Months Ending June 30, 2025		
Operating & Maintenance Expense	Company Rebuttal Position	Ref. #	Reply Brief Adjustments	Before Rate Change	Proposed Rate Change	Proposed Rates
Labor	28,541	3.	(68)	28,473		28,473
Executive Incentive Compensation	230		0	230		230
Management Variable Pay	850		0	850		850
Employee Benefits	5,744	4.	(18)	5,726		5,726
Pension Plan	(2,065)	5.	(2,378)	(4,443)		(4,443)
Other Post Employee Benefits (OPEB)	(1,643)	6.	(55)	(1,698)		(1,698)
Employee Training, Safety & Education	997	7.	11	1,008		1,008
System Engineering & Compliance	106		0	106		106
T&D Repairs & Maintenance	3,728	8.	(344)	3,384		3,384
Pipeline Integrity & Inspection	2,912		0	2,912		2,912
Gas Leak Repairs - Distribution Main	760		0	760		760
Meter Installations, Removals & Maintenance	(381)		0	(381)		(381)
Research and Development	800		0	800		800
Economic Development	200		0	200		200
Informational & Institutional Advertising	120		0	120		120
Meter Reading, Collections & Call Volume Overflow	1,876		0	1,876		1,876
Bill Print	194		0	194		194
Postage	419		0	419		419
Payment by Credit/Debit Card	319		0	319		319
Low Income Program	4,472		0	4,472	902	5,374
Uncollectible Accounts	1,323		0	1,323		1,323
Regulatory Commission General Assessment	848		0	848		848
Environmental SIR Costs	1,043		0	1,043		1,043
Environmental All Other	52		0	52		52
Information Technology	3,927		0	3,927		3,927
Telephone	495		0	495		495
Rental Agreements	537		0	537		537
Security of Infrastructure	926		0	926		926
Maintenance of Buildings & Grounds	648		0	648		648
Material & Supplies	558		0	558		558
Stores Clearing to Expense	112		0	112		112
Transportation - Depreciation	1,147	9.	(167)	980		980
Transportation - Fuel	449		0	449		449
Transportation - All Other	719		0	719		719
Rate Case Expenses	140		0	140		140
Legal Services	466		0	466		466
Consulting & Professional Services	1,253		0	1,253		1,253
Miscellaneous General Expenses	1,367		0	1,367		1,367
Injuries and Damages	1,439	10.	2	1,441		1,441
Other Operating Insurance	312		0	312		312

Central Hudson Gas & Electric Corporation
Gas Operations
Income Statement & Rate of Return
($000)

	Company Rebuttal Position	Ref. #	Reply Brief Adjustments	Rate Year - Twelve Months Ending June 30, 2025: Before Rate Change	Proposed Rate Change	Proposed Rates
Office Supplies	307		0	307		307
Management & Operational Audit Costs	32		0	32		32
Energy Efficiency	1,939		0	1,939		1,939
Miscellaneous Charges	935	11.	(91)	844		844
Amortization of Unprotected Asset (TCJA)	376		0	376		376
Productivity Imputation	(334)	12.	25	(309)		(309)
Amortization of Depreciation Reserve Adjustment	3,307		0	3,307		3,307
Total O&M Expense	72,502		(3,083)	69,419	902	70,321
Other Operating Deductions:						
Property Taxes	19,382	13.	(276)	19,106		19,106
Revenue Taxes	3,233	14.	(50)	3,182	1,787	4,969
Payroll Taxes	1,951	15.	(5)	1,946		1,946
Other Taxes	384		0	384		384
Depreciation	23,850	16.	5,105	28,955		28,955
Total Other Operating Deductions	48,800		4,774	53,573	1,787	55,360
Operating Income Taxes:						
Federal Income Taxes	1,143	17.	(527)	616	8,742	9,358
State Income Taxes	990	17.	(286)	704	2,894	3,598
Total Operating Income Taxes	2,133		(813)	1,320	11,636	12,956
Total Operating Revenue Deductions	123,435		878	124,312	14,325	138,637

Central Hudson Gas & Electric Corporation
Gas Operations
Income Statement & Rate of Return
($000)

Ratemaking Adjustments & Interest Expense	Rate Year - Twelve Months Ending June 30, 2025 Update Filing Rate Change	Rebuttal Adjustments	Proposed Rates
Ratemaking Adjustments:			
Long Term Debt Interest Expense:			
Rate Base	751,607		730,988
Weighted Average Cost of Long Term Debt	2.20%		2.24%
Long Term Debt Interest Expense	16,535	(161)	16,374
Customer Deposit Interest Expense:			
Rate Base	751,607		730,988
Weighted Average Cost of Customer Deposits	0.01%		0.01%
Customer Deposit Interest Expense	75	(2)	73
Total Interest Expense - Regulatory	16,610	(163)	16,447

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

DIRECT LABOR
ELECTRIC EXPENSE
($000)

Item	Rebuttal Position	Reply Brief Adjustment	Rate Year Twelve Months Ending June 30, 2025
Amount from Allocation - Schedule C	$ 99,587	$ (10)	$ 99,577
Less: Labor Included in Other Components:			
Research & Development	$ 152	$ -	$ 152
Storm Expense	$ 4,949	$ (309)	$ 4,640
Meter Installations (Credit)	$ (996)	$ -	$ (996)
Transformer Installations (Credit)	$ (607)	$ -	$ (607)
Total	$ 96,089	$ 299	$ 96,388

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

DIRECT LABOR

GAS EXPENSE
($000)

Item	Rebuttal Position	Reply Brief Adjustment	Rate Year Twelve Months Ending June 30, 2025
Amount from Allocation - Schedule C	$ 28,164	$ (68)	$ 28,096
Less: Labor Included in Other Components:			
Research & Development	$ 33	$ -	$ 33
Meter Installations (Credit)	$ (410)	$ -	$ (410)
Total	$ 28,541	$ (68)	$ 28,473

CENTRAL HUDSON GAS & ELECTRIC CORPORATION

TOTAL DIRECT LABOR

DETAILS BY COMPONENT

($000)

Item	Rebuttal Position	Reply Brief Adjustment	Rate Year Twelve Months Ending June 30, 2025
Labor by Classification:			
Union (Locals)	$ 78,095	$ -	$ 78,095
Union (TDSO)	$ 4,478	$ -	$ 4,478
Foremen	$ 9,019	$ -	$ 9,019
Management (Non Executive)	$ 63,159	$ -	$ 63,159
Officers	$ 3,462	$ -	$ 3,462
Subtotal	$ 158,213	$ -	$ 158,213
Plus: Incremental Employees	$ 25,253	$ (86)	$ 25,167
Subtotal	$ 183,466	$ (86)	$ 183,380
Temporary Employees	$ 375	$ -	$ 375
Total Labor	$ 183,841	$ (86)	$ 183,755
Allocation of Total Labor (%):			
Electric Expense	54.17%	54.19%	54.19%
Gas Expense	15.32%	15.29%	15.29%
Construction	30.48%	30.48%	30.48%
Allocation to Affiliates	0.01%	0.01%	0.01%
Disability Benefits	0.02%	0.03%	0.03%
Income Deductions	0.00%	0.00%	0.00%
	100.00%	100.00%	100.00%
Allocation of Total Labor ($):			
Electric Expense	$ 99,587	$ (10)	$ 99,577
Gas Expense	$ 28,164	$ (68)	$ 28,096
Construction	$ 56,035	$ (26)	$ 56,009
Allocation to Affiliates	$ 18	$ -	$ 18
Disability Benefits	$ 37	$ 18	$ 55
Income Deductions	$ -	$ -	$ -
Total	$ 183,841	$ (86)	$ 183,755

CENTRAL HUDSON GAS & ELECTRIC CORPORATION
RATE BASE SUMMARY - UPDATE FILING VS REBUTTAL
($000)

	Rebuttal Filing Twelve-Month Average for the Period Ended June 30, 2025			Reply Brief Changes Period Ended June 30, 2025			Proposed Reply Brief Filing Twelve-Month Average for the Period Ended June 30, 2025		
	Electric	Gas	Corporate	Electric	Gas	Corporate	Electric	Gas	Corporate
Book Cost of Utility Plant	$2,465,172	$1,024,399	$3,489,571	($1,192)	$913	($279)	$2,463,980	$1,025,312	$3,489,292
Less: Accumulated Provision for Depreciation and Amortization	(624,310)	(219,934)	(844,244)	(11,302)	(3,569)	(14,871)	(635,612)	(223,503)	(859,115)
Net Plant	1,840,862	804,465	2,645,327	(12,494)	(2,656)	(15,150)	1,828,368	801,809	2,630,177
Noninterest-Bearing Construction Work in Progress	27,370	7,717	35,087	3,084	1,803	4,887	30,454	9,520	39,974
Customer Advances for Undergrounding	(1,597)	(850)	(2,447)	0	0	0	(1,597)	(850)	(2,447)
Deferred Charges	(46,253)	(32,058)	(78,311)	0	2	2	(46,253)	(32,056)	(78,309)
Accumulated Deferred Federal Taxes	(190,384)	(79,207)	(269,591)	22,273	(15,279)	6,994	(168,111)	(94,486)	(262,597)
Accumulated Deferred State Taxes	(39,564)	(17,152)	(56,716)	7,654	(5,657)	1,997	(31,910)	(22,809)	(54,719)
Working Capital	87,266	25,054	112,320	(36)	(397)	(433)	87,230	24,657	111,887
Unadjusted Rate Base	1,677,700	707,969	2,385,669	20,481	(22,184)	(1,703)	1,698,181	685,785	2,383,966
Capitalization Adjustment to Rate Base	104,460	43,638	148,098	4,751	1,565	6,316	109,211	45,203	154,414
Rate Base	$1,782,160	$751,607	$2,533,767	$25,232	($20,619)	$4,613	$1,807,392	$730,988	$2,538,380

CENTRAL HUDSON GAS & ELECTRIC CORPORATION
RATE BASE - DEFERRED CHARGES (UPDATE FILING VS REBUTTAL FILING)
($000)

	Rebuttal Filing Twelve-Month Average for the Period Ended June 30, 2025			Reply Brief Changes Period Ended June 30, 2025			Proposed Reply brief Filing Twelve-Month Average for the Period Ended June 30, 2025		
	Electric	Gas	Corporate	Electric	Gas	Corporate	Electric	Gas	Corporate
MTA Tax	1,130	480	1,610	-	-	-	1,130	480	1,610
Unamortized Debt Expense	3,295	1,414	4,709	-	-	-	3,295	1,414	4,709
Deferred Revenues - Attachment Rents	(1,393)	-	(1,393)	-	-	-	(1,393)	-	(1,393)
Unamortized Loss on Required Debt	554	238	792	-	-	-	554	238	792
Management & Operational Audit Costs	615	154	769	-	-	-	615	154	769
Federal Tax Rate Change (Unprotected)	19,311	3,631	22,942	-	-	-	19,311	3,631	22,942
Federal Tax Rate Change (Protected)	(103,420)	(37,098)	(140,518)	-	-	-	(103,420)	(37,098)	(140,518)
NYS Tax Rate Change (Protected)	(1,956)	(994)	(2,950)	-	-	-	(1,956)	(994)	(2,950)
Rate Case Expense Deferral	1,317	329	1,646	-	2	2	1,317	331	1,648
Pension Reserve (Net of Tax)	17,416	(4,870)	12,546	-	-	-	17,416	(4,870)	12,546
Carrying Charge - Pension Reserve	(2)	(1)	(3)	-	-	-	(2)	(1)	(3)
OPEB Reserve (Net of Tax)	16,881	4,660	21,541	-	-	-	16,881	4,660	21,541
Carrying Charge - OPEB Reserve	(1)	(1)	(2)	-	-	-	(1)	(1)	(2)
Other	-	-		-			-		
Total Deferred Charges	(46,253)	(32,058)	(78,311)	-	2	2	(46,253)	(32,056)	(78,309)

CENTRAL HUDSON GAS & ELECTRIC CORPORATION
RATE BASE - DEFERRED FEDERAL INCOME TAXES (UPDATE FILING VS REBUTTAL FILING)
($000)

	Rebuttal Filing Twelve-Month Average for the Period Ended June 30, 2025			Reply Brief Changes Period Ended June 30, 2025			Proposed Reply Brief Filing Twelve-Month Average for the Period Ended June 30, 2025		
	Electric	Gas	Corporate	Electric	Gas	Corporate	Electric	Gas	Corporate
Contributions in Aid of Construction	5,691	3,003	8,694	(472)	(293)	(765)	5,219	2,710	7,929
Unbilled Revenue	3,798	1,508	5,306	-	-	-	3,798	1,508	5,306
MTA Tax	(237)	(101)	(338)	-	-	-	(237)	(101)	(338)
Deferred Avoided Cost Interest Capitalized	5,216	912	6,128	113	(28)	85	5,329	884	6,213
Deferred Revenues - Attachment Rents	293	-	293	-	-	-	293	-	293
Bonds Redeemed	(8)	(3)	(11)	-	-	-	(8)	(3)	(11)
Cost of Removal	9,213	4,435	13,648	(732)	(239)	(971)	8,481	4,196	12,677
Normalized Depreciation	(165,999)	(68,767)	(234,766)	2,210	529	2,739	(163,789)	(68,238)	(232,027)
Repair Allowance	(2,787)	(1,562)	(4,349)	-	0	-	(2,787)	-1562	(4,349)
MACRS - Capital Reliability Program	332	-	332	1	-	1	333	-	333
Prepaid Insurance	(464)	(116)	(580)	-	-	-	(464)	(116)	(580)
Management & Operational Audit Costs	(129)	(32)	(161)	-	-	-	(129)	(32)	(161)
Repair Deduction	(87,180)	(35,229)	(122,409)	4,893	(21,889)	(16,996)	(82,287)	(57,118)	(139,405)
NOL Carryforward	28,369	11,588	39,957	16,260	6,641	22,901	44,629	18,229	62,858
Unamortized R&D Expense	1,940	611	2,551	-	-	-	1,940	611	2,551
Federal Tax Rate Change (Unprotected)	(4,055)	(762)	(4,817)	-	-	-	(4,055)	(762)	(4,817)
Federal Tax Rate Change (Protected)	21,718	7,790	29,508	-	-	-	21,718	7,790	29,508
NYS Tax Rate Change (Protected)	411	209	620	-	-	-	411	209	620
Rate Case Expense Deferral	(277)	(69)	(346)	-	-	-	(277)	(69)	(346)
FIT-SIT Contra Accounts	(6,229)	(2,622)	(8,851)	-	-	-	(6,229)	(2,622)	(8,851)
Total Deferred Federal Taxes	(190,384)	(79,207)	(269,591)	22,273	(15,279)	6,994	(168,111)	(94,486)	(262,597)

CENTRAL HUDSON GAS & ELECTRIC CORPORATION
RATE BASE - DEFERRED STATE INCOME TAXES (UPDATE FILING VS REBUTTAL FILING)
($000)

	Rebuttal Filing Twelve-Month Average for the Period Ended June 30, 2025			Reply Brief Changes Period Ended June 30, 2025			Proposed Reply Brief Filing Twelve-Month Average for the Period Ended June 30, 2025		
	Electric	Gas	Corporate	Electric	Gas	Corporate	Electric	Gas	Corporate
Normalized Depreciation	$ (39,450)	$ (16,869)	$ (56,319)	$ 674	$ 171	$ 845	$ (38,776)	$ (16,698)	$ (55,474)
MTA Tax	(73)	(31)	(104)	-	-	-	(73)	(31)	(104)
Deferred Avoided Cost Interest Capitalized	1,615	277	1,892	35	(24)	11	1,650	253	1,903
Deferred Revenues - Attachment Rents	91	-	91	-	-	-	91	-	91
Cost of Removal	2,869	1,376	4,245	(234)	(77)	(311)	2,635	1,299	3,934
Repair Allowance	(719)	(531)	(1,250)	-	-	-	(719)	(531)	(1,250)
Contributions in Aid of Construction	1,735	921	2,656	(120)	(67)	(187)	1,615	854	2,469
Unbilled Revenue	1,176	467	1,643	-	-	-	1,176	467	1,643
MACRS - Capital Reliability Program	114	-	114	(3)	-	(3)	111	-	111
Prepaid Insurance	(144)	(36)	(180)	-	-	-	(144)	(36)	(180)
Management & Operational Audit Costs	(40)	(10)	(50)	-	-	-	(40)	(10)	(50)
Repair Deduction	(28,860)	(11,668)	(40,528)	1,620	(7,980)	(6,360)	(27,240)	(19,648)	(46,888)
NYS NOL Carryforward	16,204	6,138	22,342	5,682	2,320	8,002	21,886	8,458	30,344
Unamortized R&D Expense	410	114	524	-	-	-	410	114	524
Federal Tax Rate Change (Unprotected)	(1,255)	245	(1,010)	-	-	-	(1,255)	245	(1,010)
Federal Tax Rate Change (Protected)	6,722	2,342	9,064	-	-	-	6,722	2,342	9,064
NYS Tax Rate Change (Protected)	127	65	192	-	-	-	127	65	192
Carrying Charge - Uncollectible Write-Off	-	69	69	-	-	-	-	69	69
Rate Case Expense Deferral	(86)	(21)	(107)	-	-	-	(86)	(21)	(107)
Total Deferred Federal Taxes	(39,564)	(17,152)	(56,716)	7,654	(5,657)	1,997	(31,910)	(22,809)	(54,719)

CENTRAL HUDSON GAS & ELECTRIC CORPORATION
RATE BASE - WORKING CAPITAL (UPDATE FILING VS REBUTTAL FILING)
($000)

	Rebuttal Filing Twelve-Month Average for the Period Ended June 30, 2025			Reply Brief Changes Period Ended June 30, 2025			Proposed Reply Brief Filing Twelve-Month Average for the Period Ended June 30, 2025		
DESCRIPTION	Electric	Gas	Corporate	Electric	Gas	Corporate	Electric	Gas	Corporate
Other Materials and Supplies	$26,321	$8,291	$34,612	$1,175	($62)	$1,113	$27,496	$8,229	$35,725
Prepayments:									
Prepaid Property Taxes	14,879	6,077	20,956	0	0	0	14,879	6,077	20,956
Prepaid Insurance	1,749	437	2,186	70	18	88	1,819	455	2,274
Cloud Computing Prepayments	180	45	225	0	0	0	180	45	225
Other Prepayments	6,881	1,720	8,601	128	32	160	7,009	1,752	8,761
Total Prepayment Working Capital	23,689	8,279	31,968	198	50	248	23,887	8,329	32,216
O & M Cash Working Capital	37,256	8,484	45,740	(1,409)	(385)	(1,794)	35,847	8,099	43,946
Total Working Capital	$87,266	$25,054	$112,320	($36)	($397)	($433)	$87,230	$24,657	$111,887

Central Hudson Gas & Electric
Cases 23-E-0418 & 23-G-0419

Revenue Requirements – Summary of Changes

Electric & Gas Revenue and Revenue Taxes: The Company updated electric and gas revenue requirements to reflect pre-rate relief revenue per the agreed upon Sales Forecast and Price Out Revenues Stipulation.[1]

Labor Expense & Labor Distribution: As indicated on page 32, footnote 43 of the Company's Initial Brief, the Company agreed with Staff that one FTE would be pursued in the Commission's generic UTEN proceeding. An adjustment has been made to revenue requirements to remove that incremental FTE and to make the corresponding tracking adjustment to the labor distribution. Additionally, a tracking adjustment resulting from the revised projection of the non-major storm restoration rate allowance, as discussed later in this document, was appropriately reflected in electric labor expense.

Employee Benefits: Adjustments were made to align and track the Company's current headcount and labor distribution positions.

Pensions & OPEBs: As indicated on page 54 of the Company's Initial Brief and on page 64 of DPS Staff's initial brief, the Company and Staff agreed to reflect an update of Pensions and OPEBs based on the 2024 Mercer update. The results of the 2024 Mercer study have been reflected in the development of revenue requirements.

[1] Ex. 513

Additionally, the labor distribution applied to this expense was updated to track modifications predicated on changes to incremental FTEs, as previously mentioned.

Employee Training, Safety & Education: Adjustments were made to align and track the headcount in the Company's current position.

Distribution ROW Maintenance (Hazard Tree Crews): The Company updated electric revenue requirements to reflect a total of eight hazard tree crews per the agreed upon Electric Capital and Operations Stipulation.[2]

T&D Repairs & Maintenance (Gas Canopy Trimming): As noted by the Company in the rebuttal testimony of the Gas Capital and Operations Panel, the Company is no longer pursuing the tree canopy removal program.[3] As such, the Company removed the expense associated with the program, which aligns with the position of DPS Staff.

Amortization of Major Storm Costs: In accordance with the *Items Subject to Update* presented in Exhibit RRP-9,[4] the accrued regulatory asset attributable to the major storm reserve, which is proposed to be collected over a 10-year period has been updated in the Company's development of revenue requirements. At the time of the Company's rebuttal, the rate allowance was updated to reflect activity from April 2023 through October 2023, resulting in an increase of $670,000. At that time, no additional storm activity was projected and the amount of the regulatory asset to be collected through the RAM was still unknown. As indicated on page 78 of DPS Staff's initial brief, DPS Staff found Central Hudson's initial update reasonable and suggested that the update be incorporated into revenue requirements. The balance of the regulatory asset

---

[2] Ex. 516
[3] Tr. 1255.
[4] Ex. 150

has now been further updated to incorporate incremental activity from November 2023 through February 2024, as well as the actual amount of storm expense to be collected through the RAM beginning on July 1, 2024. Based on these updates the revised rate allowance is $6.003 million, which represents an increase of $1.277 million from the Company's rebuttal position.

Non-Major Storm Restoration: In accordance with the *Items Subject to Update* presented in Exhibit RRP-9,[5] the four-year average of non-major storm restoration expense has been updated to incorporate the latest known actual information. This update resulted in a decrease to the non-major storm restoration rate allowance of $335,000. As previously noted, a corresponding adjustment was made to labor expense to reflect the updated estimate of labor expense embedded in the non-major storm restoration rate allowance.

Consulting & Professional Services: In accordance with the *Items Subject to Update* presented in Exhibit RRP-9,[6] specifically the 'Outcomes of Generic Proceedings' item, consulting and professional services is being updated to reflect costs associated with outcomes and requirements of the Commission's Order in Case 20-E-0197 issued and effective August 17, 2023, *Order Approving A Coordinated Grid Planning Process.* Initial studies for the requirements of this Order are beginning in Q1 of 2024 and spanning the Rate Year. Central Hudson has reflected the portion of costs expected to be incurred during the Rate Year in the development of revenue requirements, which increased the

---

[5] Id.
[6] Id.

rate allowance for consulting and professional services by $87,000. The utilities have been working with DPS Staff in the Office of Markets and Innovation on this proceeding.

Injuries & Damages: Specific to the workers' compensation component of this element of expense, adjustments were made to align and track the Company's current headcount and labor distribution positions.

Energy Efficiency & Heat Pumps: In accordance with the *Items Subject to Update* presented in Exhibit RRP-9,[7] the Energy Efficiency rate allowance has been updated. At the time of the Company's rebuttal the rate allowance was updated to reflect a more current estimate of accrued Clean Energy Fund ("CEF") interest available to fund the Company's programs, resulting decreases of $668,000 and $61,000 to the electric and gas rate allowances, respectively. As indicated on page 150 of DPS Staff's initial brief, DPS Staff recommended that the Company's updates be reflected in the final development of revenue requirements. The estimate of accrued CEF interest has been further updated with actuals and revised projections, resulting in an additional decrease of $939,000 to the electric rate allowance; the gas projection was not impacted.

Miscellaneous Charges: As noted in the Company's Initial Brief on page 77 and in DPS Staff's initial brief on pages 83-84, the Company and Staff agree that the Company's proposed rate allowance should reflect a reduction of $361,000 and $91,000 for electric and gas, respectively. This adjustment has been reflected in the Company's revenue requirements.

Productivity Imputation: Tracking adjustments were made to align with the updated rate allowances of the base components of the calculation.

---

[7] Id.

Property Taxes: In accordance with the *Items Subject to Update* presented in Exhibit RRP-9,[8] property tax projections were updated in the development of revenue requirements. At the time of the Company's rebuttal, property taxes were updated to reflect the latest known information at that time, which resulted in a decrease to the electric property tax rate allowance of approximately $2.1 million; there was no change to the gas projection. As indicated on page 93 of DPS Staff's initial brief, DPS Staff found the Company's update to be reasonable and recommended that it be adopted in the development of final revenue requirements. The property tax rate allowance has been further updated in revenue requirements herein to reflect the latest known county, town and city taxes. The result was a decrease to the rate allowance for both electric and gas property taxes of approximately $849,000 and $276,000, respectively.

Payroll Taxes: Adjustments were made to align and track the Company's current headcount and labor distribution positions.

Depreciation Expense (Incl. Transportation Depreciation): As indicated by the Accounting and Tax Panel, at the time of rebuttal testimony, the Company's position was that depreciation rates should be updated to reflect the outcome of the most recent depreciation study, but that such a position had not yet been reflected in the development of revenue requirements.[9] The revenue requirements being presented herein reflect alignment with the rates put forth by the Company in the most recent depreciation study.[10] Additionally, depreciation expense has been adjusted to reflect latest known actuals through January 31, 2024 and to align with the changes to electric

[8] Id.
[9] Tr. 1537-1538
[10] Ex. 82

and common plant per the agreed upon Customer Experience Capital Stipulation and Electric Capital and Operation Stipulation.[11]

Company's Gross-Up Factor: As noted in the Company's Initial Brief on page 27 and in DPS Staff's initial brief on pages 286-287, the Company agreed with Staff's proposal to amend the Company's RDM tariff language and to remove the portion of the Company's gross-up factor related to the recovery/refund of rate change timing. This adjustment has been reflected in the Company's revenue requirements attached herein.

Rate Base & EBCAP: The following adjustments are reflected in the updated determination of rate base:

- In accordance with the *Items Subject to Update* presented in Exhibit RRP-9,[12] all components of rate base were updated to reflect latest known actuals through January 31, 2024, including shifts in the timing of expenditures for on-going projects from 2023 to 2024.
- Plant projections were revised to reflect the Company's stipulations pertaining to electric and common capital[13] and corresponding updates were made to projections of the accumulated reserve and deferred taxes.
- Projections of the accumulated reserve were updated to track the update of the depreciation factors, as previously described.

[11] Ex. 515 and 516
[12] Ex. 150
[13] Ex. 515 and 516

- Projections of deferred taxes and the Company's Net Operating Loss were updated to reflect the impacts of the Company's adoption of the IRS Revenue Procedure 2023-15[14] that was adopted by the Company in December of 2023.

These updates resulted in an increase to electric revenue requirements of approximately $2.5 million and a decrease to gas revenue requirements of approximately $2.0 million.

Rate of Return: In accordance with the *Items Subject to Update* presented in Exhibit RRP-9,[15] revenue requirements were revised to include the updated capital structure put forth in rebuttal Exhibit __ (FP-3R).[16] As indicated in the rebuttal testimony of the Revenue Requirements Panel, as a result of timing, the revised capital structure was not reflected in rebuttal revenue requirements.[17]

Income Taxes: Income taxes were updated to track the updates described herein.

---

[14] RP-2023-15 (irs.gov) https://www.irs.gov/pub/irs-drop/rp-23-15.pdf
[15] Ex. 150
[16] Ex. 203
[17] Tr. 775