

September 26, 2025

Secretary Michelle L. Phillips
NYS Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 24-E-0461 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric Service.

Case 24-G-0462 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Gas Service.

Dear Secretary Phillips:

Introduction

Trial Staff is in receipt of Representative Josh Riley's Motion to Reverse the PSC's Order Approving the Joint Proposal, dated September 12, 2025. Representative Riley's "motion," or petition for rehearing (Petition) of the Commission's August 14, 2025, Order Adopting Terms of a Joint Proposal and Establishing Electric and Gas Rate Plans (Rate Order) in these proceedings, does not meet the standard for rehearing before the Commission. The Petition does not raise any errors of law or fact or present any new circumstances warranting that the Commission reach a different determination in these cases, as required by 16 NYCRR §3.7(b). Accordingly, Trial Staff recommends that the Commission deny the Petition.

Background

On August 1, 2024, Central Hudson Gas & Electric Corporation (Central Hudson or the Company) filed tariff leaves and testimony with the Commission in support of proposed increases to its electric and gas delivery revenues based on a Rate Year comprised of the 12 months ending June 30, 2026. On or about November 22, 2024, Staff and seven intervening parties submitted pre-filed initial testimony, and on December 18, 2024, Staff, the Company, and one intervening party (Multiple Intervenor) submitted pre-filed rebuttal testimony.¹ Thereafter, from December 20, 2024, through April 24, 2025, parties engaged in multiple rounds of settlement negotiations. As a result of these extensive negotiations, on May 13, 2025, Central Hudson, Staff, Multiple Intervenor, and Walmart submitted a Joint Proposal recommending a comprehensive resolution of all issues raised in the above-captioned proceedings.

On June 16, 2025, Administrative Law Judges Erika Bergen and Leah Soule Amyot held an evidentiary hearing in these proceedings. During the hearing, Representative Riley

¹ Representative Riley did not submit pre-filed testimony in these proceedings.

questioned a joint panel consisting of Trial Staff and Central Hudson witnesses on issues such as financial analysis conducted prior to submitting the Joint Proposal, the adequacy of the Company's current rates and what Representative Riley perceives as "conflicting" statements about those rates, and the Company's relationship to its parent company, Fortis, Inc. (Fortis). Staff, the Company, and Representative Riley submitted post-hearing briefs addressing these subjects on July 1, 2025, and these parties also filed post-hearing reply briefs on July 8, 2025, and July 9, 2025.

On August 14, 2025, the Commission issued the Rate Order, approving the Joint Proposal, without modification, and establishing three-year rate plans for electric and gas delivery service for the period encompassing July 1, 2025, to June 30, 2028. Representative Riley's Petition challenges the Rate Order based on purported "legal errors" the Commission committed, and requests that the Commission "stay, reconsider, and/or reverse the Order and/or re-open the evidentiary record for further development."

Standard

After an order has been made by the Commission, a rehearing may be sought only on the grounds that the Commission committed either an error of law or fact, or that new circumstances warrant a different determination.² A petition for rehearing must separately identify and specifically explain and support each alleged error said to warrant rehearing.

Argument

The Petition raises two primary arguments. First, Representative Riley claims that the Commission allegedly failed to account for Central Hudson's own statements in reports to investors that it has sufficient funds to meet its obligations for the foreseeable future, thus making a rate hike purportedly unnecessary. Second, Representative Riley asserts that the Commission allegedly failed to balance ratepayers' interests against Fortis' interests, pursuant to the Settlement Guidelines the Commission adopted in Cases 90-M-0225 and 92-M-0138 (Settlement Guidelines). As discussed below, neither of these arguments has merit or meets the standard for rehearing under 16 NYCRR §3.7(b). Both arguments merely recite previous statements Representative Riley made on the record and in briefs, and which Staff has already refuted in briefs and the Commission appropriately considered in the Rate Order.³ The Petition does not identify any errors of fact or law or new circumstances that warrant a different determination; it merely disagrees with the Commission's decision to adopt the Rate Order. Therefore, the Petition should be denied.

1. The Commission Fully Addressed Representative Riley's Claims that Central Hudson Contradicted Itself in Statements to Regulators and Statements to Investors

Representative Riley contends that the Company essentially misled the Commission by representing to investors on multiple occasions that it had sufficient cash while stating something different in the cover letter to its rate filing.⁴ Specifically, the Petition argues that, in its rate filing from August 1, 2024, Central Hudson sought to increase rates because "currently approved rates and regulatory provisions are insufficient to sustain its financial

² PSL §22; 16 NYCRR §3.7(b).

³ Rate Order, pp. 17-22, 40-44.

⁴ Petition, pp. 1-2.

integrity,” but subsequently informed investors through quarterly reports issued on October 31, 2024, April 30, 2025, and July 31, 2025, that its “cash from operations, funds obtained through its financing program, and equity support from its parent will be sufficient for the foreseeable future to meet its working capital needs, fund its capital program and meet its public service obligations and growth objectives....”⁵ According to Representative Riley, Central Hudson’s inclusion of this “foreseeable future” language in its recently quarterly statements means that the Company does not require any rate increase, and therefore the evidentiary record should be further developed to allow consideration of this issue.

However, as Staff explained in its Post-Hearing Reply Brief when comparing the Company’s August 1, 2024, rate case filing letter with its 2024 Q3 Quarterly Report, Central Hudson’s statements are not contradictory because they reference different time periods. The August 1, 2024, rate case filing letter statement refers to the Company’s anticipated revenue needs as of the start of Rate Year 1 (the 12-month period commencing July 1, 2025, and ending June 30, 2026). In contrast, and as Staff has previously stated, Central Hudson’s quarterly reports address the Company’s overall financial viability as of the dates they were issued.⁶ As with the 2024-Q3 Quarterly Report that Representative Riley raised at the hearing and in his post-hearing brief, Central Hudson acknowledged the then-pending rate proceedings and their potential impact on the Company’s rates in its three subsequent quarterly reports.

Moreover, Staff noted in its post-hearing reply brief – and Representative Riley does not address – that “it is possible for the Company to have adequate cash available for short-term and long-term needs without a rate increase, while still facing the possibility of deteriorating financial integrity.”⁷ Like other investor-owned utilities, Central Hudson may be able to rely on various sources of cash for a certain amount of time, but it relies on periodic rate increases to account for routine changes to its business, such as capital improvements being brought into service and increases to operations and maintenance expenses. Reflecting this, rates should be, and were in these cases, set to provide the Company with the opportunity to recover its costs of providing service, including a reasonable return on its investment. Failing to timely account for these changes and set rates accordingly could potentially result in credit downgrades for the Company and an increased cost of debt for ratepayers.

To the extent that Representative Riley alleges that the issuance of three recent quarterly reports – one of which, the 2025-Q2 Report, was never previously referenced – constitutes new circumstances that warrant rehearing, that argument should be rejected. These quarterly reports recite similar statements as the Representative has previously claimed were at issue. The record is clear that Central Hudson sought and the Commission granted a rate increase based on the Company’s projected future revenue needs to recover its costs of providing service and ensure its continuing financial integrity, whereas its quarterly statements address the Company’s ability to meet its financial obligations at particular points in time.

⁵ Petition, pp. 1-2 (quoting CH 2025-Q1 Report at p. 25).

⁶ See CH 2024-Q4 Report, CH 2025-Q1 Report, and CH 2025-Q2 Report.

⁷ Staff Post-Hearing Reply Brief, p. 3.

2. The Joint Proposal Adopted by the Commission Appropriately Balanced Ratepayers' and Shareholders' Interests and Fully Complied with the Requirements of Both the Settlement Guidelines and the Acquisition Order

Representative Riley next claims that the Commission failed to conduct an “in-depth review” of Central Hudson’s upstream ownership, and that, in approving the Rate Order, the Commission essentially gave Central Hudson the green light to “raise consumers’ rates and pad Fortis’ profits without scrutiny.”⁸ The Petition further states that the Commission failed to balance ratepayers’ interests against Fortis’s interests, as required by the Settlement Guidelines.⁹ Representative Riley claims that the Settlement Guidelines require the Commission to determine whether it is “fair” that Fortis reported “\$331 billion in quarterly profits” on July 31, 2024, only for Central Hudson to request rate increases in the instant proceedings the next day.¹⁰

As Staff explained in its Post-Hearing Reply Brief, the Order Authorizing Acquisition Subject to Conditions in Case 12-M-0192 (Acquisition Order) ensures that Central Hudson is properly ring-fenced and that its “stand-alone capital structure should be used for setting rates.”¹¹ As a result, Central Hudson’s rates do not improperly support Fortis’s other subsidiaries, and vice versa, Fortis cannot be required to use its other subsidiaries to support Central Hudson’s cost of providing service to its customers. No parties to these proceedings, including Representative Riley, presented any evidence that Central Hudson and Fortis are acting in contravention of the ring-fencing measures required by the Acquisition Order. Staff also did not discover any problems with the cost allocations and ring-fencing between Central Hudson and Fortis during the discovery phase of these rate proceedings and therefore made no additional recommendations in testimony or to the Commission.¹² The Petition raises no new evidence on this point.

Furthermore, while Central Hudson certainly contributes to Fortis’s earnings¹³ – by Staff’s estimate, the Company constitutes approximately five percent of Fortis’s overall profit¹⁴ – Fortis’s earnings from entities other than Central Hudson are not relevant to and did not influence Staff’s analysis of Central Hudson’s costs of service, revenue needs, and

⁸ Petition, p. 5.

⁹ It appears that Representative Riley is referring to page 30 of the Settlement Guidelines, providing that a factor the Commission should consider when assessing a settlement is whether that settlement “strikes a fair balance among the interests of ratepayers and investors and the long-term soundness of the utility.” See Cases 90-M-0225 and 92-M-0138, In the Matter of Settlement Procedures, Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines (issued March 24, 1992), p. 30.

¹⁰ Petition, pp. 4-5.

¹¹ Case 12-M-0192, Petition of Fortis Inc. et al. and CH Energy Group, Inc. et al. for Approval of the Acquisition of CH Energy Group, Inc. by Fortis Inc. and Related Transactions, Order Authorizing Acquisition Subject to Conditions (issued June 26, 2013), p. 16; see also Staff Post-Hearing Reply Brief, p. 5.

¹² Staff Post-Hearing Reply Brief, p. 5.

¹³ Representative Riley does not dispute the fact that Fortis’ earnings, including the profits reported on July 31, 2024, can be attributed to multiple sources. Staff further notes that Representative Riley contends that Fortis “raked in \$331 billion in quarterly profits,” whereas the Fortis 2024-Q2 Press Release reports \$331 million in profits during that time.

¹⁴ Staff Post-Hearing Reply Brief, p. 7.

financial integrity. The Petition merely accuses the Commission of putting on “blindness” without any indication of how or if additional review of Central Hudson’s contributions to Fortis would result in a different outcome in these rate proceedings.¹⁵

The Rate Order explains that “[t]he Settlement Guidelines address balancing affordability concerns against utility shareholders’ long-recognized right to earn a reasonable return on investment; the Guidelines in no way compel a broad assessment of the financial situation of those shareholders.”¹⁶ The Settlement Guidelines, therefore, do not require the Commission to conduct the analysis of shareholder interests in investments external to Central Hudson that Representative Riley seeks. Furthermore, Representative Riley does not specify what alternative analysis the Commission should have conducted to balance these interests or how the evidentiary record is insufficient. Accordingly, his arguments should be rejected.

Conclusion

The rate-setting process is intended to ensure that a utility has the opportunity to recover its prudent costs of service, including a reasonable return on its investments. The rates recommended in the Joint Proposal and established by the Commission in the Rate Order reflect Central Hudson’s costs of service and provide the Company with this legally required opportunity.¹⁷ Representative Riley’s Petition does not identify errors of law or fact or changed circumstances relevant to these proceedings and his arguments therefore fail to meet the legal standard for rehearing. Thus, for the reasons stated above, the Commission should deny Representative Riley’s petition for rehearing.

Respectfully submitted,

/s/

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CC: Hon. Leah Soule Amyot

Hon. Erika Bergen

Active Party List

¹⁵ Petition, p. 5.

¹⁶ Rate Order, p. 44.

¹⁷ See Rate Order, pp. 7-8, 38, 43; Staff Post-Hearing Brief, p. 3.