

1 6/16/2025 - Central Hudson Gas & Electric Corporation
2 Evidentiary Hearing 6/16/25 - 24-E-0461, 24-G-0462

3 STATE OF NEW YORK

4 PUBLIC SERVICE COMMISSION

5 CASE 24-E-0461, 24-G-0462 - Proceeding on Motion of
6 the Commission as to the Rates, Charges, Rules and
7 Regulations of Central Hudson Gas & Electric
8 Corporation for Electric and Gas Service.

9 EVIDENTIARY HEARING

10 DATE: JUNE 16, 2025
11 LOCATION: 100 S Mall Arterial
12 Meeting Room 2 at Empire State
13 Plaza
14 Albany, New York 12207

15 BEFORE: ALJ LEAH SOULE AMYOT
16 ALJ ERIKA BERGEN
17 CHIEF ALJ DAKIN LECAKES

18 APPEARANCES:

19 FOR NYS DEPARTMENT OF PUBLIC SERVICE

20 BY: ALISON WRYNN, ESQ.
21 BY: BRANDON F. GOODRICH, ESQ.
22 BY: IAN MAURO, EXCELSIOR FELLOW

23 FOR CENTRAL HUDSON GAS & ELECTRIC CORPORATION

24 BY: GREGORY G. NICKSON, ESQ.
25 Outside Counsel, Cullen & Dykman

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3 FOR NEW YORK DEPARTMENT OF STATE, UTILITIES
4 INTERVENTION UNIT

5 BY: ANNA BINAU, ESQ.
6 BY: GREGG COLLAR, ESQ.

7 FOR MULTIPLE INTERVENORS

8 BY: JAY GOODMAN, ESQ.
9 BY: ERIKA L. BENTLEY, ESQ.

10 FOR THE PUBLIC UTILITY LAW PROJECT

11 BY: ALICIA CORP, ESQ.
12 BY: LAURIE WHEELLOCK, ESQ.

13 FOR WALMART, INC.

14 BY: STEVEN W. LEE, ESQ.

15 FOR CONGRESSMAN JOSH RILEY

16 BY: JOSH RILEY

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20 Reported by John Sheffield

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3 I N D E X O F P R O C E E D I N G S

4 CENTRAL HUDSON WITNESSES:

| | | |
|---|----------------------|----|
| 5 | JOSHUA NOWAK, Sworn; | 85 |
| 6 | JOSEPH HALLY, Sworn; | 85 |
| 7 | JODI HARRIS, Sworn; | 85 |
| 8 | STACY POWERS, Sworn; | 85 |
| 9 | AMY DITTMAR, Sworn; | 85 |

10 DEPARTMENT OF PUBLIC SERVICE WITNESSES:

| | | |
|----|------------------------|----|
| 11 | ANDREW HALE, Sworn; | 85 |
| 12 | TSHEPO SIMPSON, Sworn; | 85 |
| 13 | LILIYA RAND, Sworn; | 85 |
| 14 | ADAM POLMATEER, Sworn; | 85 |

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3 (The hearing commenced at 10:02 a.m.)

4 THE COURT REPORTER: On the record.

5 A.L.J. AMYOT: Great, thanks. We call
6 Case 24-E-0461, Proceeding on Motion of the
7 Commission as to the Rates, Charges, Rules and
8 Regulations of Central Hudson Gas and Electric
9 Corporation for Electric Service, and Case 24-G-0462,
10 Proceeding on Motion of the Commission as to the
11 Rates, Charges, Rules, and Regulations of Central
12 Hudson Gas and Electric Corporation for Gas Service.

13 Can everybody hear me?

14 UNIDENTIFIED SPEAKER: Yes.

15 UNIDENTIFIED SPEAKER: Yes.

16 A.L.J. AMYOT: That's great. My name
17 is Leah Amyot, and with me is Erika Bergen. We also
18 have the Chief A.L.J., Dakin Lecakes, with us. We're
19 administrative law judges for the Department of
20 Public Service, and Judge Bergen and I are co-
21 presiding over these proceedings.

22 We're here this morning for an
23 evidentiary hearing that was noticed by the Secretary
24 on May 20th, 2025. The purpose of today's hearing is
25 to receive into evidence the joint proposal filed in

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3 these proceedings on May 13th, 2025, as well as other
4 exhibits, and to allow cross-examination of certain
5 witnesses.

6 We will start by taking appearances.
7 When we call your party, please identify all
8 representatives appearing today. So we'll start with
9 Central Hudson.

10 MR. NICKSON: Good morning, Your
11 Honors. Gregory Nickson with the law firm of Cullen
12 & Dykman LLP, on behalf of Central Hudson Gas and
13 Electric Corporation.

14 A.L.J. AMYOT: DPS staff?

15 MS. WRYNN: Good morning, Your Honors.
16 This is Alison Wrynn on behalf of DPS staff. I'm
17 appearing here with staff counsel Brandon Goodrich,
18 as well as Excelsior Fellow Ian Mauro.

19 THE COURT REPORTER: Could you spell
20 names, please?

21 MS. WRYNN: Sure. Alison,
22 A-L-I-S-O-N; last name Wrynn, W-R-Y-N-N.

23 THE COURT REPORTER: Thank you.

24 MS. WRYNN: Okay, thank you.

25 THE COURT REPORTER: And --

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3 MR. MAURO: Mine?

4 THE COURT REPORTER: Yeah.

5 MR. MAURO: Ian, I-A-N; Mauro,
6 M-A-U-R-O.

7 THE COURT REPORTER: Thank you.

8 And --

9 MR. GOODRICH: Brandon Goodrich.
10 B-R-A-N-D-O-N, G-O-O-D-R-I-C-H.

11 THE COURT REPORTER: Thank you.

12 A.L.J. AMYOT: When people aren't
13 speaking, if they could keep their mics off, that
14 will cut that down on the feedback. If all the mics
15 are on, we'll start to get feedback.

16 Okay. Department of State, Utility
17 Intervention Unit. Anybody here today?

18 MS. BINAU: Yes. Anna Binau for the
19 New York State Department of State, Utility
20 Intervention Unit. And with me is Gregg Collar, from
21 staff of UIU.

22 THE COURT REPORTER: And I should know
23 it, but could you please your name?

24 MS. BINAU: Yeah, I -- Anna, A-N-N-A;
25 Binau, B-I-N-A-U. I have a card if you need it.

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3 THE COURT REPORTER: Oh, I got it.

4 Thanks. And --

5 MR. COLLAR: Gregg, G-R-E-G-G; Collar,
6 C-O-L-L-A-R.

7 THE COURT REPORTER: Thank you.

8 MR. COLLAR: You're welcome.

9 A.L.J. AMYOT: Thank you. Multiple
10 Intervenors?

11 MR. GOODMAN: Good morning, Your
12 Honors. Jay Goodman of Couch White LLP, appearing on
13 behalf of multiple Intervenors. I'm joined by my
14 colleague from Couch White, Erika Bentley. We have
15 cards, if we may approach to --

16 A.L.J. AMYOT: Sure.

17 MR. GOODMAN: -- get these to the
18 reporter. Thank you.

19 THE COURT REPORTER: Thank you. Thank
20 you.

21 A.L.J. AMYOT: So next is PULP, Public
22 Utility Law Project of New York.

23 MS. CORP: Good morning. Alicia Corp
24 for the Public Utility Law Project. Along with me is
25 Laurie Wheelock. And we also have cards we can bring

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3 up.

4 A.L.J. AMYOT: Walmart?

5 MR. LEE: Good morning, Your Honors.
6 Steven Lee from the law firm of Spilman Thomas &
7 Battle, here on behalf of Walmart. And I have a card
8 as well.

9 A.L.J. AMYOT: New York State Power
10 Authority?

11 (No audible response)

12 A.L.J. AMYOT: Okay. Dutchess County?

13 (No audible response)

14 A.L.J. AMYOT: Key Capture Energy?

15 (No audible response)

16 A.L.J. AMYOT: For the Many?

17 (No audible response)

18 A.L.J. AMYOT: Town of Olive?

19 (No audible response)

20 A.L.J. AMYOT: Communities for Local
21 Power?

22 (No audible response)

23 A.L.J. AMYOT: Josh Riley?

24 MR. RILEY: Yeah. Congressman Josh
25 Riley, R-I-L-E-Y.

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3 A.L.J. AMYOT: Is anyone appearing
4 with you today? No.

5 MR. RILEY: No.

6 A.L.J. AMYOT: And Sarahana Shrestha?
7 The office of Sarahana Shrestha?

8 (No audible response)

9 A.L.J. AMYOT: Is there anybody else
10 here who would like to make an appearance?

11 (No audible response)

12 A.L.J. AMYOT: Okay. As we previously
13 explained, we require the relevant pre-filed
14 testimony of DPS staff and companies -- company that
15 addresses the management audit to be entered into the
16 record in these proceedings. We've received the
17 affidavit of Amy Dittmar, Joseph Hally, and Jodi
18 Harris, adopting as sworn testimony the portion of
19 the Company's Management Audit Panel addressing the
20 management audits. This has been marked as Hearing
21 Exhibit No. 538.

22 And we have received the affidavits of
23 DPS staff witnesses Peter Lavery, Peter Schmitz-Morfe
24 in the Department's Office of Accounting, Audits, and
25 Finance, adopting their pre-filed testimony, which

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3 addresses the audit as sworn testimony. These have
4 been marked as the Hearing Exhibit Nos. 539 and 540,
5 respectively.

6 We have the latest consensus proposed
7 exhibit list, with exhibits identified from numbers 1
8 through 540, which includes several reserved exhibit
9 numbers. The joint proposal with appendices is
10 marked as Exhibit 486.

11 At this time, does any party have
12 corrections to exhibit lists? Any corrections?

13 (No audible response)

14 A.L.J. AMYOT: Okay. Are there any
15 objections to the exhibits listed?

16 MR. NICKSON: Yes, Your Honor. As the
17 Companies have an objection to admitting Exhibits 487
18 through 503 into the evidentiary record, and those
19 exhibits consist of the Company's responses to
20 Congressman Riley's information request.

21 A.L.J. BERGEN: On what basis?

22 MR. NICKSON: Your Honors, I would
23 first like to indicate that each of those responses
24 includes a legal objection before limited information
25 is provided in response to the questions. And so

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3 from that perspective alone, the responses have
4 limited evidentiary value. On top of that, the
5 responses are irrelevant to the purpose of today's
6 evidentiary hearing, which is to evaluate the joint
7 proposal and whether it's in public interest. And
8 Your Honor, I can get into the specifics of each one
9 if you like, or I can hold off on going into each
10 one.

11 A.L.J. BERGEN: That would be good,
12 thanks. Could you expound? And then we'll provide
13 the Congressman with an opportunity to respond.

14 MR. NICKSON: Yes. As it relates to
15 Exhibits 487, 488, 490, 494, 496, and 497, those
16 information requests ask for information regarding
17 Fortis, that Central Hudson's parent company, and in
18 particular, they ask questions regarding the earnings
19 of Fortis and whether those earnings should be taken
20 into consideration when approving a rate increase for
21 Central Hudson in these proceedings.

22 And the principal objection to these
23 information requests being entered into the evidence
24 in this proceeding is that New York and federal law
25 has a longstanding principle of corporate

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3 separateness, and Central Hudson is a distinct legal
4 entity from Fortis, with its own capital structure,
5 its own assets, its own liabilities, and its own
6 obligations. The profits and losses of Fortis,
7 especially those generated from unregulated or out-
8 of-state businesses, are completely irrelevant to the
9 just and reasonable rates that are charged by Central
10 Hudson.

11 And I'd just like to note that the
12 Commission has directly addressed this issue in a
13 2012 order from Case 11-W-0082, and that was a water
14 rate case for a water utility at the time known as
15 United Water Owego-Nichols. On pages 26 and 27 of
16 that order, the Commission notes that, quote, "While
17 some parties suggest that the utility should rely on
18 the assets of Suez, the ultimate parent company, to
19 avoid raising rates, this is not an appropriate
20 solution. We set rates for our jurisdictional
21 utilities based on the revenues and expenses in the
22 overall fair rate of return for the utility".

23 The Commission then goes on to note
24 that, "In this case, no issues have been raised to
25 suggest any irregularities in the utility's

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3 relationship between Suez or otherwise to justify
4 departing from our policy of treating them as a
5 separate corporate entity. Therefore, there is no
6 basis to impute revenue or assets from Suez to the
7 utility for purposes of setting the company's water
8 service rates".

9 So that decision and that
10 determination from that rate case is controlling
11 here. We face the same fact pattern here as we
12 did -- as the utility case in that case. There have
13 been no allegations or evidence to suggest that there
14 was any wrongdoing between Central Hudson and its
15 actions between its parent company.

16 Central Hudson, its current
17 organizational structure was approved by the
18 Commission in Cases 12-M-0192 and was approved as in
19 the public interest. Importantly, as part of that
20 proceeding, the PSC established a number of
21 provisions to insulate Central Hudson from its parent
22 company, including cost allocation guidelines and
23 affiliate standards. There have been no evidence
24 that those guidelines or standards have been
25 violated. In fact, staff's core obligation in this

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3 are objecting to all of them.

4 A.L.J. BERGEN: Would you like to
5 provide more detail regarding your objection for 489,
6 491 through 493, 495, 498, 500 through 503?

7 MR. NICKSON: Your Honors, before I
8 get into that, I just -- a procedural question. When
9 Congressman Riley indicated he had cross-examination
10 for the Company's witnesses, he identified certain
11 IRs, including the ones that we just -- I just
12 objected to. It's unclear to me whether he had any
13 intention of using the remaining IRs for purposes of
14 cross-examination today, and to the extent that he is
15 not proposing to utilize them, I see no evidentiary
16 value, because they have not -- are not associated
17 with any pre-filed testimony and have not been
18 previously filed on DMM.

19 And so it said he's not using them. I
20 certainly can go into an objection for each of them,
21 but I think there's a general question that maybe we
22 could get answered. If he doesn't intend to use
23 them, I see no evidentiary basis for allowing them
24 in.

25 A.L.J. BERGEN: Okay.

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3 MR. RILEY: Your Honor, if I -- I'd be
4 happy to stipulate that the IRs that were not set
5 forward as -- on exhibit list for as a basis for
6 cross, that I wouldn't seek to admit those.

7 THE COURT REPORTER: Apologies --

8 A.L.J. AMYOT: So you're withdrawing
9 the offer of which IRs?

10 MR. RILEY: So the ones that we
11 submitted as a basis to ask questions of the
12 witnesses are the only ones that should be held
13 current.

14 THE COURT REPORTER: Apologies,
15 Congressman. Could you spell your name one more
16 time, please?

17 MR. RILEY: Riley, R-I-L-E-Y.

18 THE COURT REPORTER: And a first name?

19 MR. RILEY: Josh.

20 THE COURT REPORTER: I'm sorry?

21 MR. RILEY: Josh.

22 THE COURT REPORTER: Oh, thank you.

23 A.L.J. BERGEN: So here, let me ask.

24 Mr. Nickson, would that be 489, 491 to 493, 495, 498,
25 500 to 503? Is that what --

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3 MR. NICKSON: I believe that's
4 correct, Your Honor. I'm just --

5 A.L.J. BERGEN: Those would be
6 withdrawn?

7 A.L.J. AMYOT: Let's do it this way.
8 It would be quicker than us going back through. Mr.
9 Riley, please identify which IRs you are seeking to
10 ask cross-examination on.

11 MR. RILEY: Thank you, Your Honor. IR
12 1, 2, 4, 6, 14.

13 A.L.J. BERGEN: Okay. So on the
14 exhibit list, that would be Exhibits 487, 488, 490,
15 492, and 500. Is that --

16 MR. RILEY: I believe that's correct.

17 A.L.J. BERGEN: So Mr. Nickson, of the
18 ones Mr. Riley has identified, your argument was
19 specific to 487, 488, 490. Would you like to add
20 anything with respect to 492 and 500?

21 MR. NICKSON: Thank you, Your Honor.
22 With respect to 492, which is the response to IR 6,
23 this question asks Central Hudson regarding potential
24 financing and rates that would exist under a
25 hypothetical community-owned operation. It's unclear

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3 to me the relevancy of this question. What's before
4 the Commission today is not some speculative
5 ownership structure of a community-owned operation.
6 Rather, it's the current ownership structure of
7 Central Hudson and its rates and whether they are
8 just and reasonable.

9 So we do object to this question on
10 the basis of relevancy, as well as it asks for
11 studies that, I think, as we noted in the response,
12 calls for a special study.

13 A.L.J. BERGEN: And for -- at 500?

14 MR. NICKSON: Your Honor --

15 UNIDENTIFIED SPEAKER: I haven't seen
16 it.

17 MR. NICKSON: I believe that this
18 response here also deals with the Fortis -- and
19 Fortis -- my prior arguments would apply equally
20 here. And I may have misspoke earlier if I did
21 identify this response as applicable.

22 A.L.J. BERGEN: Give me a minute.

23 Mr. Riley?

24 MR. RILEY: Yeah. Thank you, Your
25 Honor. So I understood counsel to make two points.

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3 One, as to the relevance of these questions going to
4 Fortis' profits, and some misstatements it made to
5 shareholders at exactly the same time that Central
6 Hudson was coming to the 110,000 households I
7 represent asking for a rate hike.

8 My understanding is that the
9 overarching question here is whether the rate hike
10 that we're talking about is in the public interest.
11 It's hard for me to see a case where we can decide
12 what's in the public interest without considering
13 both what the Company was saying to regulators at the
14 same time as what Fortis was saying to Wall Street.

15 Beyond that, though, my understanding
16 is one of the factors for determining what's in the
17 public interest is striking a balance between
18 customers, 110,000 of which I represent, on the one
19 hand, and investors. It's surprising, frankly, to
20 hear counsel suggest that Fortis' income and profits
21 are completely irrelevant when Fortis is the investor
22 in this case. If counsel is stipulating that Fortis
23 wasn't considered at all, I would ask how that factor
24 of balancing my constituents' interests and the
25 investor's interest was done if half the ledger

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3 wasn't even considered.

4 Beyond that, it's really important, as
5 you know, Your Honor, to have a complete record here.
6 That's one of the factors to be considered, and I
7 would argue that the record would certainly be more
8 complete with this information provided. And I would
9 suggest that it might be incomplete without it.

10 Counsel said his principal objection
11 went to corporate separateness. I don't dispute that
12 Central Hudson and Fortis are corporately --
13 corporate distinct, separate entities, but being
14 separate corporations doesn't -- being separate
15 doesn't make you irrelevant. Very obviously, one
16 corporate entity that is entirely separate from
17 another corporate entity, the former can invest in
18 the latter, which is exactly what has happened in
19 this case.

20 A point was raised that Fortis is an
21 out-of-state and out-of-country corporate entity. I
22 think that counsels even more in favor of examining
23 its financial situation. Counsels even more strongly
24 in favor of analyzing what Fortis was telling Wall
25 Street while Central Hudson was making

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3 representations to my constituents. The fact that
4 they are so far removed from this community, in fact,
5 was one of the primary concerns that was raised
6 during the Fortis acquisition of Central Hudson.

7 And I would note finally on that
8 point, whether Fortis' financials are relevant to the
9 wellbeing of my constituents and to striking the
10 balance, this question's already been answered in the
11 acquisition order. The Commission itself stated that
12 it -- as a condition of that acquisition order, that
13 it had authority to review the books and records of
14 Fortis. It described that not just as some offhand
15 thing, but rather as quote unquote "vital" to
16 ensuring that ratepayers are protected. It's hard to
17 see how, when Fortis acquired Hudson and Fortis'
18 financials were so vital to ensuring that taxpayers
19 are protected, that it's now, ten years later, all of
20 the sudden irrelevant.

21 And in the acquisition, the joint
22 proposal for that acquisition provided that the staff
23 would have access to the books and records of Fortis
24 and its affiliates to determine whether the rates and
25 charges of Central Hudson were just and reasonable.

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3 Surely the acquisition order didn't require a
4 consideration of Fortis' financials for no good
5 reason, or because it was irrelevant. It was clearly
6 central in that case.

7 And the last thing I'll say on this,
8 which I mentioned just briefly a moment ago, the most
9 common theme -- the most common concern when Fortis
10 acquired Central Hudson those years ago, as set forth
11 in the acquisition order at pages 6 and 7, was that
12 the transaction would replace a well-regarded, highly
13 capable, and locally engaged utility with a foreign
14 entity of unproven quality, having no inherent ties
15 to the service territory and financial objectives,
16 and may conflict with the interests of taxpayers.

17 So given that record and common sense,
18 I think Fortis' financials are not just relevant here
19 but are very important.

20 A.L.J. BERGEN: I'm having a hard time
21 understanding your argument with respect to why
22 Fortis' corporate profits are relevant to this rate
23 case. You clearly read the acquisition order, and
24 the acquisition order made it clear that Central
25 Hudson's rates were going to be determined in a

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3 certain way, with ring fencing to consider it as a
4 standalone entity. So can you maybe explain a little
5 bit more why you're making the argument about
6 Fortis' --

7 MR. RILEY: Sure. On that point, Your
8 Honor, my understanding of the acquisition order
9 isn't that the ring fencing provisions were
10 determinative of how rates would be set in the future
11 but rather was a safeguard for corporate governance.
12 And surely the acquisition order didn't purport to
13 override decades of law establishing the factors to
14 be considered in determining whether the rate
15 increase is in the public interest, one of which is
16 striking a balance -- I'll get the exact quote here,
17 which you all know better than I do -- whether the
18 proposal strikes a fair balance among interests of
19 customers and investors.

20 I represent about 100,000 Central
21 Hudson customers on the one hand. I have a pretty
22 good sense of what their interests are. Investors,
23 on the other hand -- if somebody wants to correct
24 me -- my understanding is Central Hudson is a wholly
25 owned subsidiary of Fortis, meaning that Fortis is

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3 the investor.

4 It's unclear to me how those factors
5 could have been considered in any meaningful way if
6 the interests of the investors were not only not
7 considered, but are being presented here as
8 completely irrelevant.

9 MR. NICKSON: Your Honor, if I may
10 respond to that.

11 A.L.J. BERGEN: Yeah, please.

12 MR. NICKSON: So I don't think -- when
13 we're talking about balancing investor interest,
14 we're talking about, in this case, balancing Fortis'
15 investment in Central Hudson. What Congressman Riley
16 is trying to do is to bring into this proceeding
17 Fortis' investments in other unregulated, out-of-
18 state entities, which is improper under the legal,
19 regulatory, and policy framework that has been well
20 established not only in New York, but under federal
21 law.

22 A.L.J. BERGEN: Yeah, that's fine.

23 MR. RILEY: Your Honor, if I may. I
24 think we actually just found --

25 A.L.J. BERGEN: Sure.

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3 MR. RILEY: -- I think we actually
4 just found agreement on this. I understood counsel
5 to say -- and if I'm getting this incorrect, the
6 court reporter can probably correct me -- counsel
7 said the issue here is Fortis' investment in Central
8 Hudson, not the investments that Fortis has in other
9 entities. Totally agree.

10 Happy to stipulate that I won't
11 inquire into Fortis' investments in other entities.
12 But I think counsel just said on the record that what
13 we're dealing with here is Fortis' investment in
14 Central Hudson, which is kind of the point.

15 MR. NICKSON: Your Honor. My
16 understanding of these IRs, it's not just asking
17 about Fortis' earnings or investment in Central
18 Hudson, but it's looking to Fortis' overall earnings
19 through all of its subsidiaries, which again -- it
20 goes against New York State law and federal law.

21 A.L.J. BERGEN: Sure. Mr. Riley, can
22 you point to any rate case where the Commission's
23 looked at specific information that would involve
24 private investment in their individual holdings into
25 a utility that's separate and apart from rates?

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3 MR. RILEY: This was one of the
4 most -- I don't want to say surprising, perhaps I'm
5 not surprised at all. It appears that regulators
6 haven't looked at this issue over time because it
7 hasn't been done doesn't mean it shouldn't be done.
8 We have --

9 A.L.J. BERGEN: Can you point to --
10 I'm sorry to interrupt, but can -- is there a law
11 that would require such inquiry?

12 MR. RILEY: Your Honor, the way I
13 interpret the public interest standard that's been
14 set forth, very clearly says that the Commission has
15 to balance the interests of my constituents and the
16 investors. Counsel for Central Hudson just said,
17 clear as day on the record, that it's the investments
18 of Fortis in Central Hudson that are relevant here.

19 A.L.J. AMYOT: I think what we're
20 asking is, are there any cases where you have private
21 investors and utilities, people that are owned in the
22 stock market or whatever, that -- do we -- does the
23 Public Service Commission consider the other holdings
24 of those investors in the utility? What we're trying
25 to, I think, get at is, do Fortis' other holdings

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3 unrelated to Central Hudson have any impact on the
4 rate case?

5 MR. RILEY: So I'm willing to
6 stipulate, again, that inquiry into other holdings of
7 Fortis, I won't inquire into those. What I do think
8 is important for us to understand is Fortis' -- the
9 interest of Fortis, what it lays out as part of the
10 public interest standard. If Fortis is going to Wall
11 Street and reporting \$331 million in quarterly
12 profits, and then the very next day, Central Hudson's
13 telling my constituents that they're broke and need a
14 rate hike, that is something that the public interest
15 requires questions about.

16 I think part of your question is,
17 you're asking me for precedent. It may very well be
18 unprecedented that this precise issue -- I'm not --
19 I'm aware of no case in which this precise issue has
20 been raised. Just because it may be unprecedented
21 doesn't mean it shouldn't be allowed or required.

22 A.L.J. AMYOT: I think what we're
23 asking is, how much of that 331 million is relevant
24 to this rate case when most of those profits come
25 from other holdings of Fortis?

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3 MR. RILEY: Well, I think that's -- I
4 think your question shows exactly why this is
5 important. How much of that profit comes from other
6 holdings? We know, for example, from investor
7 presentations that have been given in just the past
8 few months, that Fortis is claiming that up to 30
9 percent of its earnings per share are derived
10 directly from Central Hudson.

11 A.L.J. BERGEN: And can you point to
12 the provision of the public service law that, in
13 setting rates, the Commission must consider how much
14 profit a parent company must contribute to the --
15 support the operations that are -- of a regulated
16 utility?

17 MR. RILEY: Well, Your Honor, what I'm
18 saying is that the public interest standard providing
19 that -- bear with me for a moment. I'll quote the --

20 MR. NICKSON: Sure. And while you're
21 thinking, I just -- corporate law itself, right --
22 we're dealing with not only the public service law
23 and how to set rates, but we're also talking about
24 issues that implicate corporate law itself, which is
25 well outside the scope of this proceeding.

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3 So there's a corporate structure in
4 play that's governed by a corporate law. And there
5 are rules about, right, streams of revenue with
6 corporate entities, parent companies, and
7 subsidiaries. And so we're interested in the legal
8 basis for suggesting that, number one, even if it's
9 in the public interest, even if -- assuming without
10 deciding it would be in the public interest for
11 Fortis to downstream send revenues to support
12 Central's operation, is there even a corporate law
13 that would permit that?

14 So I think we're struggling with -- we
15 understand you don't think it's in the public
16 interest. We're trying to get to, can we allow this
17 line of questioning? Is there a legal basis for it?
18 And I haven't heard you say as a legal basis for it,
19 other than the public interest, which is in the
20 public service law.

21 MR. RILEY: Thank you, Your Honor. If
22 I could, I'll address that final point first. So the
23 legal basis for this line of inquiry is that the
24 determination the Commission has to make here is
25 whether the rate hike is in the public interest. One

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3 of the factors, which I don't understand would be
4 discretionary, that has to be considered in that
5 analysis, is whether the settlement strikes a fair
6 balance among the interest of ratepayers and
7 investors, which is page 30 of the settlement
8 guidelines. The interests of investors, that's the
9 question.

10 So what are we talking about when
11 we're talking about the interests of investors?
12 Well, as counsel from Central Hudson just said,
13 there's one investor that's interested here, and
14 that's Fortis. I don't see how one can possibly
15 consider, consistent with the settlement guidelines,
16 the interest of investors without asking some
17 questions about Fortis.

18 Now, to your second point, Your Honor,
19 I'm certainly not here asking for -- to pierce the
20 corporate veil or to have any sort of breakdown of
21 the corporate separateness of these two entities, nor
22 am I here to suggest that the over billion dollars in
23 profits that Fortis is making each year should be
24 used to cover this rate hike. I'm not here to
25 propose or suggest any remedies. But I do think

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3 there are some real important questions to be asked.

4 And I understand; I'll withdraw that.

5 A.L.J. BERGEN: Okay. So let me just
6 ask a few -- excuse me -- clarifying questions. Is
7 your main objection, Fortis' upstream ownership is a
8 foreign corporation?

9 MR. RILEY: So I'm not offering a --
10 yes. I'm not objecting to the fact that Fortis is a
11 foreign upstream corporation. What I'm concerned
12 about is that this deal is not in the public interest
13 because it does not strike a fair balance between the
14 interests of my 110,000 Central Hudson customer
15 constituents and the interests of the investor, which
16 is Fortis.

17 Why doesn't it strike that balance?
18 Well, there's a lot of things we could talk about
19 today. We could talk about whether it was considered
20 at all how wealthy Fortis is when these rate hikes
21 were proposed. We could talk about how the ROE --
22 the higher the ROE that's requested leads to higher
23 rates, which, by Fortis' own admission in investor
24 presentations it gave just months ago, drives its own
25 profits.

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3 I cannot imagine there's anybody in
4 this room who wants to suggest that increasing rates
5 on my constituents has no relationship to the
6 profits --

7 A.L.J. BERGEN: Okay.

8 MR. RILEY: -- of Fortis, which is
9 exactly why --

10 A.L.J. BERGEN: So --

11 MR. RILEY: -- the Public Service
12 Commission --

13 A.L.J. BERGEN: I'm going to stop you.
14 The answer to my question is, your objection is not
15 that Fortis' upstream ownership as a foreign
16 corporation is a problem.

17 MR. RILEY: It is a problem. No, Your
18 Honor, I think that's a huge problem. And I think
19 the Commission has --

20 A.L.J. BERGEN: Okay.

21 MR. RILEY: -- recognized it as a huge
22 problem in the acquisition order.

23 A.L.J. BERGEN: So actually, the
24 foreign ownership of Central Hudson through its
25 subsidiaries was specifically approved and not

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3 determined to be against the public interest. So any
4 argument that foreign ownership upstream of Central
5 Hudson is a collateral attack on the acquisition
6 order, that is not going to be litigated here.

7 MR. RILEY: Your Honor, if I might.
8 The foreign acquisition of Central Hudson was
9 approved, as I understand it in the acquisition
10 order, with a number of safeguards in place to
11 specifically address the fact that the primary
12 concern in that case was that the acquisition would
13 replace a well-regarded, highly capable, and locally
14 engaged utility with a foreign entity of unproven
15 quality, having no inherent ties to the service
16 territory, and financial objectives that may conflict
17 with the interests of taxpayers. The acquisition
18 order is quite long, as you know. It was approved
19 with a whole host of safeguards to address that very
20 issue, including examining and assessing Fortis'
21 books and records.

22 A.L.J. BERGEN: Okay. So are you
23 arguing that the Commission -- or DPS has not been
24 fulfilling its obligations under that order to
25 examine the books of Fortis?

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3 MR. RILEY: So I don't take any
4 position historically as to whether that has or has
5 not happened. My position is that it certainly
6 should happen in the context of this rate case. And
7 it sounds like it hasn't because the position of, it
8 sounds like everybody in this room, is that it's
9 completely irrelevant.

10 A.L.J. AMYOT: Okay. So to the extent
11 you're, again, alleging a violation of terms and
12 conditions of the acquisition order, that's a
13 collateral attack that we cannot litigate here. If
14 you believe there's a violation of a separate
15 Commission order that the protections in place, the
16 conditions surrounding the acquisition, are not being
17 adhered to or enforced, that's -- this rate case is
18 not the proper place to claim these collateral
19 attacks.

20 MR. RILEY: Your Honor, I'm not
21 arguing that there's been a violation of the
22 acquisition order. What I'm saying is, the
23 acquisition order itself establishes the relevance of
24 Fortis' financials in protecting the ratepayers. And
25 it says as much. Reviewing the books and records is

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3 vital -- Fortis' books and records -- reviewing
4 Fortis' books and records is vital, not helpful, not
5 something we may or may not want to do, it's vital --

6 A.L.J. BERGEN: So --

7 MR. RILEY: -- to ensuring that
8 ratepayers are protected under the new organization.

9 A.L.J. BERGEN: -- one of the
10 questions you'd like to ask our Witness Panel is,
11 were are the books and records of Fortis examined?

12 MR. RILEY: I would like to ask --
13 yeah, that is a question I would like to ask,
14 including with respect to particular books and
15 records and statements that Fortis has made.

16 A.L.J. BERGEN: Okay. Can you please
17 just provide a little bit more context of your
18 argument as to why you think that just and reasonable
19 standard is the only consideration that we need to be
20 concerned about here?

21 MR. RILEY: I don't know that I've
22 taken that position, Your Honor, but the position I
23 have taken is that the Commission has to determine
24 whether this rate hike is in the public interest, and
25 that balancing the interest of the customers and the

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3 investors is a factor that has to be considered.

4 A.L.J. AMYOT: I'm going to -- I'm
5 going to ask one more question about the foreign
6 ownership. Would you have the same questions of
7 Fortis if it was a U.S. corporation?

8 MR. RILEY: I would. If an American-
9 held corporation told Wall Street one day that it was
10 swimming in cash and that its wholly-owned subsidiary
11 came to my constituents and said it was broke the
12 next, I would certainly have that question. The fact
13 Fortis is a --

14 A.L.J. AMYOT: So -- right.

15 MR. RILEY: -- foreign-owned
16 corporation exacerbates the concern.

17 A.L.J. AMYOT: How does it exacerbate
18 it?

19 MR. RILEY: It exacerbates it for
20 exactly the reasons that were laid out in the
21 acquisition order. I mean, the acquisition order
22 spent pages dealing with the fact that Fortis has no
23 inherent ties to the service territory which I
24 represent, and that its financial objectives which,
25 let's face it, are to increase its own profits, may

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3 conflict with the interests of taxpayers, which,
4 let's face it, is to be able to pay their utility
5 bills.

6 A.L.J. AMYOT: Do you have any -- I
7 know the answer to this, but do you -- can you cite
8 to any cases, any statutes, any regulations, apart
9 from the acquisition order, that you believe would
10 prevent a foreign corporation from owning a domestic
11 utility?

12 MR. RILEY: Oh, certainly not. And I
13 don't want to be understood as suggesting that there
14 is or should be some sort of blanket rule prohibiting
15 foreign corporations from owning utilities. It's,
16 frankly, one of the things I'm looking at in my work,
17 is whether we need federal legislation to do exactly
18 that. It sounds like we probably do, but with
19 respect to this proceeding, I'm not contesting that
20 point.

21 A.L.J. BERGEN: It seems to me,
22 though, that there is a difference between concerns
23 about protecting ratepayers by ensuring that the
24 acquisition order's terms and conditions are being
25 adhered to and abided by, that they're being -- the

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3 reporting and the inquiry into the books and records,
4 all of the terms and conditions of the acquisition
5 order are being adhered to, and the issue of whether,
6 in a rate-setting proceeding, are the terms -- the
7 rates being set just and reasonable?

8 I mean, those are two different
9 activities. And I think we're just struggling to
10 see -- I hear you're saying they're intertwined and
11 almost inseparable, but those are distinct activities
12 that the Commission undertakes, the enforcement of
13 orders, to ensure they're being adhered to, and then
14 the act of setting rates under the public service
15 law.

16 MR. RILEY: Yeah. Your Honor, I don't
17 disagree that they're distinct. And I'm not -- I'm
18 not here to challenge compliance with the acquisition
19 order. What --

20 A.L.J. AMYOT: It sounds like you are
21 challenging compliance, which then, in that case,
22 those issues would need to be raised in that
23 proceeding.

24 MR. RILEY: Your Honor, I'm not
25 challenging compliance with the acquisition order.

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3 that it's only Fortis' profits as derived from
4 Central Hudson, not from its other utility holdings?

5 MR. RILEY: Yes. The specifics of
6 relationships between Fortis and its other
7 subsidiaries would not be relevant, but the extent to
8 which the rates that my constituents are being asked
9 to pay are driving Fortis' profits is relevant.

10 A.L.J. BERGEN: Would you like to
11 respond?

12 MR. NICKSON: Based on that last
13 representation, it sounds to me that we're now at the
14 point where Mr. Riley -- Congressman Riley is
15 concerned about the rate of return that's being
16 recommended in the joint proposal. And to the extent
17 that he has questions about the rate of return that
18 is recommended, we have no objection to that.

19 A.L.J. AMYOT: I'm just going to ask
20 you to articulate why he's really talking about the
21 rate of return.

22 MR. NICKSON: Congressman Riley has
23 indicated that he is not concerned about the earnings
24 of Fortis' affiliates outside of New York. And so
25 when Mr. Riley is talking about the public interest

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3 cross-examination on -- you had also said you had ROE
4 questions. As Mr. Nickson said, that's an
5 appropriate line of questioning for this. We're just
6 focusing right now on trying to narrow down IRs.

7 MR. RILEY: Thank you, Your Honor.
8 Yeah, I would like to ask a couple questions about
9 the ROE. And I stand by the handful of IRs that
10 we've put forward as being needed for a complete
11 record.

12 A.L.J. BERGEN: So for instance, IR
13 8 --

14 UNIDENTIFIED SPEAKER: 2, 4, 6.

15 A.L.J. BERGEN: Oh, sorry. I think we
16 looked through 8. IR 4 was -- the question was
17 related to Fortis' cumulative twenty-year total
18 shareholder return of 616 percent. Can you relate
19 that to the Central Hudson-specific contributed -- I
20 mean, that is an essential Hudson-specific
21 contribution? That's the overall twenty-year return
22 for Fortis. How does that relate to the ROE for
23 Central Hudson in this rate case?

24 MR. RILEY: Because, Your Honor, what
25 we know from the statements that Fortis has provided

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3 to its shareholders in connection with that 616
4 figure is that its Central Hudson business is driving
5 a substantial percentage of its EPS.

6 It would be a different question, for
7 example, if I were asking why, for instance,
8 Central -- or sorry, Fortis' Arizona holdings were
9 substantially more or less profitable than Central
10 Hudson, but that's not the question. The question
11 is, was this even considered at all? And how much of
12 that profit is driven by the rates that my
13 constituents are being required to pay?

14 A.L.J. BERGEN: And did you offer the
15 investor presentation into evidence?

16 MR. RILEY: I don't know that I did.
17 I know that it was linked to -- linked in the IRs
18 that I submitted. So I don't know -- like,
19 hyperlinks aren't showing up on my paper, but it's a
20 publicly available document.

21 A.L.J. BERGEN: Okay. I think what
22 we're going to do at this point is reserve judgment
23 on whether to strike the exhibits. And again, just
24 for the clarity of the record, to reiterate, I think
25 we're talking at this point, Mr. Riley, about 487,

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3 IR1; 488, IR 2; 490, IR 4; 492, IR 6; 500, IR 14.

4 And did I miss any?

5 MR. RILEY: Will you bear with me for
6 one second, Your Honor. I can confirm that that's
7 right.

8 UNIDENTIFIED SPEAKER: Thank you.

9 A.L.J. BERGEN: Okay.

10 A.L.J. AMYOT: So I'll strike this,
11 then.

12 MR. RILEY: That's correct, Your
13 Honor.

14 A.L.J. BERGEN: So everything else --
15 okay. All right. Okay.

16 A.L.J. AMYOT: Okay. Well, we will
17 address that later in the proceedings, those five.
18 But with respect to all of the other exhibits -- so
19 we have the proposed exhibit list with everything
20 that's identified from 1 through 540, we are going to
21 move that into evidence now.

22 A.L.J. BERGEN: Striking --

23 A.L.J. AMYOT: Striking -- not with
24 respect to -- right -- while reserving on 487, 488,
25 490, this one -- 500, and --

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3 A.L.J. BERGEN: 492.

4 A.L.J. AMYOT: 492.

5 A.L.J. BERGEN: We are striking, as
6 withdrawn by Congressman Riley, 489, 491, 492 --
7 nope, sorry. We're reserving on 492. Striking 493,
8 494, 495, 496, 497, 498, 499, 501, 502, 503. Those
9 are stricken. We've reserved on the other side. The
10 remainder are moved into evidence.

11 A.L.J. AMYOT: Well, before we turn to
12 the witnesses, we're going to also enter the -- into
13 the transcript of testimony regarding the completed
14 management and operations audits. We previously
15 entered into evidence the affidavit of Amy Dittmar,
16 Joseph Hally, and Jodi Harris as Exhibit 538. We
17 also moved into evidence the affidavits of Peter
18 Lavery and Peter Schmitz-Morfe as 539 and 540.

19 We ask the Court reporter to please
20 enter these written testimonies into the transcript
21 here as though they were given orally today. So the
22 titles of those are the direct testimony of the
23 Management Audit Panel of the Company and the
24 prepared testimony of Staff Management Audit Panel,
25 which is DPS.

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3

4 BEFORE THE
5 STATE OF NEW YORK
6 PUBLIC SERVICE COMMISSION

6

7

In the Matter of

8

Central Hudson Gas & Electric

9

Corporation Cases 24-E-0461 and 24-G-

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0462

11

August 1, 2024

12

Direct Testimony of: Management Audit Panel

13

Joseph J. Hally
Vice President, Regulatory Affairs

14

15

Jodi L. Harris
Director of Regulatory Planning

16

17

Amy S. Dittmar
Director of Regulatory Affairs and Compliance

18

Central Hudson Gas & Electric Corporation 284 South
Avenue
Poughkeepsie, NY 12601

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T A B L E O F C O N T E N T S

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3 concentration in Management and Finance from The
4 State University of New York at Albany and a Master
5 of Business Administration degree in Finance from The
6 State University of New York at Albany. I joined
7 Central Hudson as a Financial Analyst in 2004 and
8 have held positions of increasing responsibility
9 including Director - Treasury Services, Director
10 Strategic Planning, Manager - Finance & Planning and
11 Strategy, Manager - Energy Transformation &
12 Solutions, and Manager - Regulatory Affairs, prior to
13 assuming my current role. Prior to joining Central
14 Hudson, I was employed by Orange and Rockland
15 Utilities, Inc. as a Finance and Planning analyst.

16 Q. Mr. Hally, have you previously
17 testified before the New York State Public Service
18 Commission ("PSC" or the "Commission")?

19 A. Yes, I testified before the
20 Commission in Cases 23-E-0418, 23-G-0419, 20-E-0428,
21 20-G-0429, 17-E-0459, 17-G-0460, 14-E-0318 and 14-G-
22 0319.

23 Q. Ms. Harris, please state your
24 current employer and business address.

25 A. I am employed by Central Hudson

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3 and my business address is 284 South Avenue,
4 Poughkeepsie, New York 12601.

5 Q. Ms. Harris, in what capacity are
6 you employed by Central Hudson and what is your scope
7 of responsibilities?

8 A. I am employed by Central Hudson
9 as Director of Regulatory Planning. In that
10 capacity, my responsibilities include the planning,
11 coordinating, and development of short- and long-term
12 revenue requirement projections. In addition, my
13 responsibilities include directing, coordinating, and
14 developing financial analyses used for a variety of
15 purposes, such as developing business plans and
16 analyzing operating results.

17 Q. Ms. Harris, what is your
18 educational background and professional experience?

19 A. In 2005, I received a Bachelor of
20 Science degree in Business Administration with a
21 concentration in Accounting from Pace University.
22 From 2005 through 2007, I worked for Ernst & Young,
23 LLC and earned my Certified Public Accountant
24 license. I joined Central Hudson in 2007 as an
25 Associate Accountant in the Plant Accounting

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3 Department. In 2009, I was promoted to Accountant
4 and subsequently transferred to the Cost & Rate
5 Department as an Analyst. In 2012, I received a
6 Master of Science degree in Business Administration
7 from Marist College. In 2013, I transferred to
8 Regulatory Planning as a Regulatory Planning Analyst
9 and was then promoted to Senior Regulatory Planning
10 Analyst in 2015. In 2022, I was promoted to my
11 current role as Director of Regulatory Planning.

12 Q. Ms. Harris, have you previously
13 testified before the Commission?

14 A. Yes, I testified before the
15 Commission in Cases 14-E-0318, 14-G-0319, 17-E-0459,
16 17-G-0460, 20-E-0428, 20-G-0429, 23-E-0418 20 and 23-
17 G-0419.

18 Q. Ms. Dittmar, please state your
19 current employer and business address.

20 A. I am employed by Central Hudson
21 and my business address is 284 South Avenue,
22 Poughkeepsie, New York 12601.

23 Q. Ms. Dittmar, in what capacity are
24 you employed by Central Hudson and what is your scope
25 of responsibilities?

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3 A. I am employed by Central Hudson as
4 the Director of Regulatory Affairs and Compliance. In
5 that capacity, my responsibilities include oversight
6 over rate filings, management audits, and the Company's
7 compliance with all Commission orders and the New York
8 State Public Service Law.

9 Q. Ms. Dittmar, what is your
10 educational background and professional business
11 experience?

12 A. I received a Bachelor of Science
13 degree in Financial Economics with a Business
14 Management adjunct from Binghamton University in 2004
15 and a Master's in Business Administration from Marist
16 College in 2013. I was employed by Central Hudson in
17 February 2006 as an Accounting Clerk in the Plant
18 Accounting Division. I was then promoted to the
19 position of Assistant Financial Analyst in May 2006 and
20 was subsequently transferred to the position of
21 Assistant Cost and Rate Analyst in January 2008. I was
22 promoted to Associate Cost and Rate Analyst in January
23 2009, Cost and Rate Analyst in March 2014, and Senior
24 Cost and Rate Analyst in April 2018. I was promoted to
25 Project Manager in July 2019, and promoted to my

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3 current position of Director of Regulatory Affairs and
4 Compliance in July 2024.

5 Q. Ms. Dittmar, have you previously
6 testified before the Commission?

7 A. Yes. I testified before the
8 Commission in Cases 08-E-0887, 08-G-0888, 09-E-0589,
9 09-G-0589, 14-E-0318, 14-G-0319, 17-E-0459 and 17-G-
10 0460.

11 **II. MANAGEMENT AUDIT OVERVIEW**

12 Q. What is the purpose of this
13 Panel's testimony in this proceeding?

14 A. This testimony will address
15 Central Hudson's overall compliance with the
16 Commission's Order Approving Implementation Plan with
17 Modification ("Final Implementation Plan") issued and
18 effective March 15, 2024 in Case 21-M-0541. The
19 Panel will also describe the Company's progress with
20 the Final Implementation Plan.

21 Q. Please describe Central Hudson's
22 management audit.

23 A. On March 16, 2022, the Commission
24 selected Overland Consulting ("Overland") to perform
25 a comprehensive management audit of Central Hudson's

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3 gas and electric business in accordance with Section
4 66(19) of the Public Service Law.

5 Q. Please discuss Overland's audit
6 report and the initial Implementation Plan ("Initial
7 Implementation Plan"), issued and effective May 22,
8 2023.

9 A. As directed in the Commission's
10 Order Releasing Audit Report, Central Hudson filed
11 its Initial Implementation Plan on May 22, 2023. The
12 Initial Implementation Plan addressed a total of 37
13 recommendations which included 31 recommendations
14 adopted by Central Hudson and six recommendations
15 that were modified by the Company.

16 Q. Please describe the Final
17 Implementation Plan that was filed on January 31,
18 2024.

19 A. Based on discussions with New
20 York State Department of Public Service Staff
21 ("Staff"), Central Hudson filed a Final
22 Implementation Plan on January 31, 2024, in order to
23 clarify or revise the Initial Implementation Plan for
24 certain recommendations and remove confidential
25 information. As a result, Central Hudson has further

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3 adopted, rather than modified, an additional
4 recommendation, therefore adopting 32 of the
5 recommendations and modifying the remaining five. To
6 address the latter consideration, regarding
7 confidential information, Central Hudson utilized the
8 average annual internal labor cost per employee based
9 on the Rate Plan approved in Cases 20-E-0428 and 20-
10 G-0429 to estimate labor costs.

11 Q. Please describe the Commission's
12 March 15, 2024, Order Approving Implementation Plan
13 with Modification ("March 15, 2024 Order").

14 A. The Commission approved the Final
15 Implementation Plan and directed Central Hudson to
16 implement that plan as modified by the March 15, 2024
17 Order, which included the following modifications:

18 • Recommendation 2.3 - Executive
19 Management - While the Commission found that the
20 Company's implementation plan addresses several of
21 Overland's findings that led to this recommendation,
22 it does not address all of those findings.
23 Specifically, Overland expressed concerns during this
24 audit and the 2016 Audit about the number of direct
25 reports to the CEO, and that number is now greater

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3 this recommendation to ensure that Recommendations
4 2.8 and 8.1 are appropriately factored into the
5 Company's process for setting Team Goals and that
6 Central Hudson is using its Team Goals to motivate
7 its employees to improve performance for the
8 Company's customers. The completion of
9 Recommendation 8.1 is expected to satisfy the
10 Independent Monitor's recommendation to utilize more
11 tailored, direct metrics measuring specific aspects
12 of performance improvements related to billing.
13 Central Hudson is authorized to proceed with
14 implementation of Recommendation 2.7, but the Company
15 will be required to meet with Staff at the conclusion
16 of its implementation of Recommendations 2.8 and 8.1.
17 If Staff is not satisfied at that time that the
18 Company will effectively implement this
19 recommendation, Staff may bring the matter to the
20 Commission for further consideration.

21 Q. Please describe the Final
22 Implementation Plan execution process.

23 A. Staff will oversee and verify
24 Central Hudson's execution of the Final
25 Implementation Plan as modified by the March 15, 2024

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3 A. Implementation of the
4 recommendations listed below are complete:

5 • Budgeting & Finance

6 Recommendation 3.1: As justification for its decision
7 to issue fixed- vs. hedged variable-rate debt,
8 management should develop projections of total debt
9 costs under both scenarios and explain in writing, if
10 applicable, why the projected least cost alternative
11 was not selected. On a prospective basis, data
12 should be tracked to evaluate the reasonableness of
13 assumptions used in these projections.

14 • Budgeting & Finance

15 Recommendation 3.2: Central Hudson should begin to
16 track and report capital projects with actual current
17 year spending that exceeds budgeted current-year
18 spending by \$100,000 and 10%. In addition, the
19 Company should expand its KPI that monitors the
20 timeliness of project in-service dates to include all
21 projects that are categorized as Non-Discretionary.
22 Detailed variance explanations should be provided for
23 all projects that are disclosed in these KPIs.

24 • Info Systems Recommendation 4.2:

25 To support greater leadership oversight of IT asset

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3 management, metrics and a scorecard should be
4 developed to monitor the health of IT assets.

5 • Info Systems Recommendation 4.7:

6 The Change Request Process should include a more
7 robust analysis of alternatives to help mitigate or
8 eliminate the impact of the requested change.

9 • Electric Operations

10 Recommendation 5.1: The development of high skill
11 roles in engineering should follow a consistent and
12 structured development plan that provides goals and
13 expected outcomes.

14 • Electric Operations

15 Recommendation 5.2: Drive additional refinements to
16 the Electric Forecasts by synchronizing bottom-up and
17 top-down forecasts and the development of fleet EV
18 locationally specific forecasts.

19 • Electric Operations

20 Recommendation 5.3: The Company should regularly
21 audit DER data and performance specifications. The
22 Company should also track DER outages caused by the
23 Company to better understand approaches that can
24 mitigate the cause of these outages.

25 • Electric Operations

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3 Recommendation 5.4: A PMO and robust reporting should
4 be in place for the Grid Modernization Program.

5 • Electric Operations

6 Recommendation 5.5: The VDER billing and credit
7 process would benefit from clearly defined process
8 maps and procedures documentation to support
9 consistency and effective process management.

10 • Gas Operations Recommendation

11 6.1: Basic criteria/policy for the scheduling of leak
12 repairs identified in Response to IR256, should be
13 included in the O&M 300 procedure.

14 • Gas Operations Recommendation

15 6.2: Establish repair timeline goals for Type 3 gas
16 leaks.

17 • Gas Operations Recommendation

18 6.3: When the existing contract, entitled Standard
19 Specifications for Vendors Performing Code Rule 753
20 Functions Develop, with Protek Locating is rebid, a
21 section should be added encouraging adoption of
22 evolving industry best practices.

23 • Project & Work Management

24 Recommendation 7.1: Update the Project Management
25 Manual to include clear Roles and Responsibilities

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3 (Responsible, Accountable, Consulted, and Informed
4 (RACI) charts) of each key stakeholder and their
5 functions throughout the project management
6 lifecycle.

7 • Project & Work Management
8 Recommendation 7.3: Establish clear guidelines for
9 escalating variance from actual vs. budget project
10 costs to the CARE Committee for all projects over
11 \$100,000.

12 • Project & Work Management
13 Recommendation 7.4: Implement an Estimating
14 Management System to ensure a single system of record
15 and that proper estimating standards can be easily
16 updated, and proper change control enforced.

17 • Customer Operations
18 Recommendation 8.2: Central Hudson should manage the
19 Contact Center's live agent (voice) communication
20 channel such that the combination of Service Level,
21 Call Abandonment Rate and Average Wait Time are
22 optimized instead of just the Service Level.

23 Incorporate a goal for an optimized
24 level for all three metrics directly into the
25 performance evaluations used in annual compensation

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3 reviews for the Manager of Customer Experience and
4 the Senior Director Customer Contact.

5 • Customer Operations

6 Recommendation 8.4: Part 1: Assign a CAS or Consumer
7 Outreach management employee the direct
8 responsibility for ensuring OTDA low-income customer
9 records are properly and completely matched with
10 Central Hudson account records to the best extent
11 possible, and that record mismatches are
12 systematically identified, reviewed and resolved.
13 Document this responsibility in the written position
14 description for the assigned employee. Part 2:
15 Develop exception reporting in SAP to identify all
16 OTDA records with service addresses in Central
17 Hudson's territory that cannot be matched with a
18 Central Hudson account record in CIS. Part 3:
19 Develop and implement a performance metric and target
20 for the assigned management employee to measure
21 mismatched record resolution success. This could be
22 the percentage of mismatched records found through
23 exception reporting cleared in X number of days, the
24 number of mismatched records for which customers were
25 successfully enrolled in HEAP, or something similar.

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3 • Customer Operations

4 Recommendation 8.5: Operations Develop analysis and
5 data to better classify and address the root causes
6 of customer complaints.

7 Q. Please discuss the remaining
8 recommendations.

9 A. Recommendations 2.2, 2.4, 2.6,
10 6.4, and 8.7 are expected to be completed as of the
11 September 30, 2024 written update. A Modification
12 Request was filed for Recommendations 2.7, 2.8, 8.1
13 and 8.6 on July 2, 2024 and granted on July 12, 2024.
14 The remaining recommendations are currently expected
15 to be completed by the original completion date
16 included within the Initial Implementation Plan.

17 Q. Are the financial impacts of the
18 recommendations addressed within the Final
19 Implementation Plan reflected in the development of
20 revenue requirements in the Rate Year?

21 A. Yes, estimated costs and savings
22 that were identified within the Final Implementation
23 Plan have been provided to the Revenue Requirements
24 Panel by the appropriate subject matter experts and
25 were included in the development of revenue

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3 requirements.

4 Q. Is the Company anticipating any
5 incremental savings beyond those identified?

6 A. No. The subject matter experts
7 tasked with the implementation of the recommendations
8 continue to assert that they do not project any
9 savings beyond those identified and provided to the
10 Revenue Requirements Panel.

11 Q. Does the Panel have any
12 additional comments regarding potential savings
13 associated with the management audit recommendations?

14 A. Yes. Even though the Company
15 believes its revenue requirements were developed in a
16 manner that reflects the costs needed to run the
17 business in an effective and efficient manner, the
18 Company incorporated a 1% productivity imputation
19 based on the long-standing tenure of such an
20 imputation being included in delivery rates. To the
21 extent that any recommendations result in savings
22 that have not yet been identified, these would be
23 captured in the productivity adjustment.

24 Q. Does the Company propose to
25 update revenue requirements for incremental costs

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3 associated with implementation of management audit
4 recommendations?

5 A. Yes, revisions to the Final
6 Implementation Plan may occur that result in
7 incremental unforeseen costs. As noted in Exhibit
8 __ (RRP-9), the Company proposes to update revenue
9 requirements to reflect any additional quantifiable
10 costs that may be identified during the pendency of
11 these rate proceedings.

12 Q. Does this conclude your direct
13 testimony at this time?

14 A. Yes, it does.

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3

4 BEFORE THE
5 STATE OF NEW YORK
6 PUBLIC SERVICE COMMISSION

6

7

In the Matter of

8

Central Hudson Gas & Electric

9

Corporation Case 24-E-0461 and 24-G-0462

10

November 22, 2024

11

Prepared Testimony of:

12

Staff Management Audit
Panel

13

14

Peter Lavery
Utility
Analyst 3

15

16

Peter Schmitz-Morfe
Utility Analyst
Trainee 2

17

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Office of Accounting,
Audits, and Finance
State of New York
Department of Public
Service Three Empire
State Plaza Albany, New
York 12223-1350

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3 Q. Members of the Staff Management
4 Audit Panel, referred to as the Panel, please
5 identify yourselves, your employer, and your business
6 address.

7 A. We are Peter Lavery and Peter
8 Schmitz-Morfe. We are employed by the New York State
9 Department of Public Service, referred to as the
10 Department, at Three Empire State Plaza, Albany, New
11 York 12223.

12 Q. Mr. Lavery, what is your position
13 at the Department?

14 A. I am employed as a Utility
15 Analyst 3 in the Management and Operations Audit
16 section of the Office of Accounting, Audits, and
17 Finance.

18 Q. Please describe your educational
19 experience and professional background.

20 A. I hold a Bachelor of Science in
21 Business Administration from the State University of
22 New York at Albany. I have been employed by the
23 Department since July 2015.

24 Q. Please briefly describe your
25 responsibilities at the Department.

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3 A. I am responsible for the
4 oversight of management and operations audits, as
5 well as the implementation of the resulting
6 recommendations. I am also responsible for analyzing
7 incentive compensation in rate case proceedings.

8 Q. Have you supervised management
9 and operations audits of New York State utilities?

10 A. Yes. I have managed multiple
11 management and operations audits of utility
12 companies. I am currently the Project Manager for
13 Case 18-M- 0013, which is an operations audit to
14 investigate the income tax accounting of certain New
15 York State utilities, as well as Case 22-M- 0314, a
16 proceeding to review the diversity, equity, and
17 inclusion practices of certain New York State
18 utilities. I previously served as Project Manager in
19 Case 18-G-0394, a comprehensive management and
20 operations audit of National Fuel Gas Distribution
21 Corporation, Inc., referred to as NFGDC. As the
22 Project Manager for these proceedings, I aided the
23 development of the Request for Proposals which
24 defined the scope of each audit, oversaw and
25 participated in audit field work, reviewed and

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3 analyzed audit discovery, and communicated audit
4 findings and recommendations to Department Staff and
5 the Public Service Commission, referred to as the
6 Commission. In addition, I managed the
7 implementation of audit recommendations as
8 Implementation Manager for Case 16-M-0001, a
9 comprehensive management and operations audit of
10 Central Hudson Gas & Electric Corporation, referred
11 to as Central Hudson or the Company, as well as for
12 Case 11-G-0580, a comprehensive management and
13 operations audit of NFGDC. In the role of
14 Implementation Manager, I am responsible for ensuring
15 that the utility submits timely implementation
16 updates, reviewing the implementation of audit
17 recommendations, and reporting implementation status
18 to Department Staff and the Commission.

19 Q. Have you previously testified in
20 a proceeding before the Commission?

21 A. Yes. I testified before the
22 Commission in previous rate proceedings regarding
23 Central Hudson, Cases 17-E-0459, 17-G-0460, 20-E-
24 0428, 20-G-0429, 23-E-0418, and 23-G-0419. I also
25 testified in the rate proceedings regarding

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3 Consolidated Edison Company of New York, Inc. in
4 Cases 16-E-0060 and 16-G-0061, 22-E-0064 and 22-E-
5 0065, and 22-S-0659; The Brooklyn Union Gas Company
6 d/b/a National Grid NY and KeySpan Gas East
7 Corporation d/b/a National Grid in Cases 23-G-0225
8 and 23-G-0226; NFGDC in Case 16-G- 0257; Liberty
9 Utilities (St. Lawrence Gas) Corporation in Case 21-
10 G-0577; Veolia Water New York, Inc. in Case 23-W-
11 0111; and Liberty Utilities (New York Water)
12 Corporation in Case 23-W-0235. In addition, I
13 testified in the Matter of Eligibility Criteria for
14 Energy Service Companies' evidentiary proceeding in
15 Case 15-M-0127.

16 Q. Mr. Schmitz-Morfe, what is your
17 position at the Department?

18 A. I am employed as a Utility
19 Analyst Trainee 2 in the Management and Operations
20 Audit unit of the Office of Accounting, Audits, and
21 Finance.

22 Q. Please describe your educational
23 experience and professional background.

24 A. I hold a Bachelor of Arts in
25 International Relations from American University. I

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3 have been employed by the Department since May 2023.

4 Q. Please briefly describe your
5 responsibilities at the Department.

6 A. I am responsible for the
7 oversight of management and operations audits, and
8 the oversight of the utilities' implementation of the
9 resulting recommendations. I am also responsible for
10 analyzing incentive compensation in rate case
11 proceedings.

12 Q. Have you supervised management
13 and operations audits of New York State utilities?

14 A. Yes. I am currently the
15 Assistant Project Manager for Case 23-M-0103, a
16 comprehensive management audit of New York State
17 Electric & Gas Corporation, referred to as NYSEG, and
18 Rochester Gas and Electric Corporation, referred to
19 as RG&E. I am also the Implementation Manager for
20 Case 18-M-0013, overseeing the implementation of
21 audit recommendations by NYSEG and RG&E.

22 Q. Have you previously testified
23 before the Commission?

24 A. Yes. I testified before the
25 Commission in the rate proceedings regarding Orange

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3 and Rockland Utilities, Inc. in Cases 24-E-0060 and
4 24-G- 0061.

5 Q. What is the purpose of the
6 Panel's testimony?

7 A. Public Service Law, or PSL,
8 Section 66(19)(c) directs that "upon the application
9 of a gas or electric corporation for a major change
10 in rates...the commission shall review that
11 corporation's compliance with the directions and
12 recommendations made previously by the commission, as
13 a result of the most recently completed management
14 and operations audit." Our testimony will discuss
15 Central Hudson's compliance with the Commission's
16 Order Approving Implementation Plan with
17 Modification, issued and effective March 15, 2024, in
18 Case 21-M-0541.

19 Q. Will the Panel refer to any
20 information Central Hudson provided during the
21 discovery phase of this proceeding in your testimony?

22 A. No.

23 Q. Describe how the Commission
24 initiates the management and operations audit
25 process.

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3 A. The Commission first initiates a
4 proceeding that provides for the issuance of a
5 Request for Proposals, referred to as an RFP. The
6 RFP details the scope of work and expected schedule
7 for a particular audit. The Department reviews
8 proposals received from consulting firms. The
9 Commission then selects a consulting firm to conduct
10 the audit.

11 Q. Explain the primary factors for
12 assessing the proposals of consulting firms.

13 A. When assessing the proposals of
14 consulting firms for a management and operations
15 audit, the primary considerations are the expertise
16 and qualifications of the consultants who will
17 perform the audit. The Commission's selection
18 process ensures that the selected consulting firm has
19 the requisite qualifications and expertise to assess
20 the full audit scope.

21 Q. Provide an overview of the
22 typical management and operations audit process.

23 A. The Commission-selected
24 consulting firm reviews utility documents, interviews
25 utility personnel, performs its analysis, and submits

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3 an audit report to the Department. The audit report
4 includes recommendations for improvement at the
5 utility. The Commission requires that an audit
6 consultant develop cost and benefit estimates for
7 each of the recommendations based on information
8 provided by the utility. The utility reviews the
9 audit report, inclusive of the cost and benefit
10 estimates, for factual accuracy. The Commission then
11 releases the report to the public.

12 Q. What are a utility's
13 responsibilities regarding the outcome of a
14 management and operations audit report?

15 A. When the Commission issues a
16 management and operations audit report, Public
17 Service Law Section 66(19)(b) requires that utilities
18 file an implementation plan for audit recommendations
19 with the Commission. The Commission may approve,
20 modify, or reject the proposed implementation plan.
21 The implementation plan becomes enforceable upon the
22 Commission's approval or approval with modification.
23 In its order approving, or approving with
24 modification, a utility's implementation plan, the
25 Commission generally requires the utility to submit

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3 regular implementation updates and to comply with the
4 implementation plan until Staff determines that the
5 utility has satisfactorily implemented all
6 recommendations.

7 Q. What specific audit will you
8 discuss in your testimony?

9 A. We will discuss the comprehensive
10 management and operations audit of Central Hudson in
11 Case 21-M- 0541, referred to as the 2021 Management
12 Audit.

13 Q. Please describe the 2021
14 Management Audit.

15 A. The 2021 Management Audit was a
16 comprehensive management and operations audit of
17 Central Hudson's gas and electric businesses. The
18 audit was performed by Overland Consulting Group,
19 Inc., referred to as Overland.

20 Q. What is the status of the 2021
21 Management Audit?

22 A. On April 20, 2023, the Commission
23 authorized the release of Overland's final audit
24 report, which contained 37 recommendations for
25 improvements at Central Hudson. In accordance with

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3 the Company set the Team Goal targets comprising its
4 incentive program to ensure continuous improvement in
5 all measurements of Company performance. The
6 Company's implementation of Recommendation 2.7 will
7 result in improvements to its executive incentive
8 compensation program. Per its approved
9 implementation plan, Central Hudson has coordinated
10 its implementation of Recommendation 2.7 with two
11 other recommendations that involve benchmarking
12 exercises.

13 Q. What is the status of the
14 Company's implementation of Recommendation 2.7?

15 A. In its September 2024
16 implementation plan update filing, Central Hudson
17 indicated its implementation of Recommendation 2.7 is
18 in progress with an expected completion date of 6
19 February 2025.

20 Q. What occurs after the Company
21 notifies Staff that it finished implementing a
22 recommendation?

23 A. In its March 2024 Order Approving
24 the Implementation Plan with Modification, the
25 Commission required the Department to oversee and

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3 Company's position?

4 A. Yes.

5 Q. Does this conclude the Panel's
6 testimony at this time?

7 A. Yes.

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3 A.L.J. AMYOT: So we're now ready to
4 start with testimony and cross-examination of the
5 joint Panel of witnesses from the Company and staff.
6 If they so choose, the cross-examining parties may
7 direct questions to and receive responses from the
8 Company and DPS staff separately.

9 As a reminder to the parties and the
10 witnesses, no cell phones on the stand, please.
11 Also, if the witnesses are using laptops to locate
12 information, they cannot reference sources not in the
13 record and cannot use the laptop to communicate with
14 counsel or other witnesses.

15 Counsel for Central Hudson, would you
16 please have the Company's witnesses identify
17 themselves and the capacity in which they're
18 appearing?

19 MR. NOWAK: Joshua Nowak. It's --
20 it's J-O-S-H-U-A; Nowak, N-O-W-A-K. I'm vice
21 president of Concentric Energy Advisors here on
22 behalf of Central Hudson.

23 THE COURT REPORTER: Thank you.

24 MR. HALLY: Joseph Hally, H-A-L-L-Y.

25 THE COURT REPORTER: Thank you.

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3 MR. HALLY: Vice president of
4 regulatory affairs for Central Hudson.

5 MS. HARRIS: Jodi Harris. J-O-D-I,
6 H-A-R-R-I-S. Manager of regulatory planning at
7 Central Hudson.

8 MS. POWERS: Stacy Powers. S-T-A-C-Y,
9 P-O-W-E-R-S. Senior manager of regulatory forecast
10 and planning for Central Hudson.

11 THE COURT REPORTER: Thank you.

12 MS. DITTMAR: Amy Dittmar. A-M-Y,
13 D-I-T-T-M-A-R. Manager of regulatory affairs and
14 compliance for Central Hudson.

15 THE COURT REPORTER: Thank you.

16 A.L.J. AMYOT: Thank you.

17 Counsel for staff, would you please do
18 the same for your witnesses?

19 MS. WRYNN: Sure, good morning. Can
20 everybody please identify themselves and their
21 positions with DPS?

22 MR. HALE: Andrew Hale. A-N-D-R-E-W,
23 H-A-L-E. Office of Accounting, Audits, and Finance.

24 THE COURT REPORTER: I'm sorry. One
25 more time, please, on the last name.

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3 MR. HALE: H-A-L-E. Yeah.

4 THE COURT REPORTER: Oh, thanks.

5 MR. SIMPSON: Tshepo Simpson.

6 T-S-H-E-P-O; Simpson, S-I-M-P-S-O-N. Office of
7 Accounting, Audits, and Finance.

8 THE COURT REPORTER: Thank you.

9 MS. RANDT: Liliya Rand. L-I-L-I-Y-A;
10 last name is Randt, R-A-N-D-T. Utilities supervisor,
11 Office of Rates and Tariffs.

12 THE COURT REPORTER: Thank you.

13 MR. POLMATEER: Adam Polmateer, Office
14 of Consumer Services. It's A-D-A-M, last name
15 P-O-L-M-A-T-E-E-R.

16 THE COURT REPORTER: Thank you.

17 A.L.J. AMYOT: Thank you. Are there
18 any other parties presenting witnesses today in
19 support of the joint proposal?

20 (No audible response)

21 A.L.J. AMYOT: Okay. Hearing none,
22 we're going to now swear in the witnesses. I'm going
23 to ask the question and then ask each witness to
24 answer on the record individually. So if you all
25 could please stand and raise your right hands. Thank

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3 from staff. We do.

4 A.L.J. AMYOT: Company?

5 MR. HALLY: This is Joe Hally from
6 Central Hudson. We do.

7 A.L.J. AMYOT: Okay, great.

8 All right. Then at this time, we're
9 ready to engage in cross-examination. And the only
10 person we have who currently is asked to perform
11 cross-examination is Josh Riley. And we're ready for
12 you to ask your questions of the Panel.

13 MR. RILEY: Thank you, Your Honor.

14 So my questions are for -- my first
15 set of questions are for the Central Hudson Panel.
16 Central Hudson, when you filed this rate case on
17 August 1st of 2024, you stated in the cover letter
18 accompanying the petition that, quote, "Currently
19 approved rates and regulatory provisions are
20 insufficient to sustain Central Hudson's financial
21 integrity". The currently approved rates referred to
22 in that statement were those from the 2024 rate
23 order, correct?

24 MR. HALLY: Yes.

25 MR. RILEY: And --

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3 THE COURT REPORTER: Could you please
4 identify? Sorry.

5 MR. HALLY: This is Joe Hally from
6 Central Hudson, and the answer was yes.

7 THE COURT REPORTER: Thank you.

8 MR. RILEY: And when Central Hudson
9 stated that the currently approved rates, which we
10 just said were those from the 2024 rate order -- when
11 Central Hudson said that those rates were
12 insufficient to sustain its financial integrity, what
13 does that mean, to sustain the financial integrity of
14 that?

15 A.L.J. BERGEN: While the witnesses
16 are contemplating the response, I want to say, while
17 it's okay to ask the question of the Central Hudson
18 Panel, it is also appropriate if DPS has anything to
19 add, they can add to the response.

20 MR. RILEY: Understood, Your Honor.
21 Thank you.

22 MR. HALLY: Are you ready for my
23 response?

24 MR. RILEY: Waiting with bated breath.

25 MR. HALLY: So the purpose of the rate

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3 filing is to marry revenues with expenses -- or match
4 revenues with the operating expenses of the Company.
5 Without an increase in rates, there would be a
6 disconnect between the revenues and expenses, and
7 therefore a shortfall. That shortfall would endanger
8 the Company's financial integrity.

9 MR. RILEY: Gotcha. So if I'm
10 understanding correctly, when you said that the rates
11 approved under the 2024 rate order were insufficient
12 to sustain its financial integrity, that meant that
13 those rates would not be enough to meet, for example,
14 operating costs and other costs?

15 MR. HALLY: Yes, those rates were not
16 contemplated to cover operating expenses into future
17 periods.

18 MR. RILEY: So in other words, at that
19 time Central Hudson would not be able to meet its --
20 if the rates had not increased, Central Hudson would
21 not be able to meet its short-term and long-term cash
22 requirements. Is that what you're saying?

23 MR. HALLY: So I think your question
24 simplifies the overall concern here. I think
25 financial integrity has to do with a lot of the

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3 different financial aspects. And I think when we're
4 looking at financial integrity, again, for a
5 regulated utility, it is important that the revenues
6 cover the ongoing operating expenses. And without
7 that, there is a shortfall. That shortfall would
8 endanger the firm's financial integrity.

9 MR. RILEY: So understanding that
10 there's a number of aspects and factors that go into
11 financial integrity, the one that I'm asking about is
12 at that time when the on -- on August 1st, when
13 Central Hudson said that its -- the 2024 rates were
14 insufficient to sustain its financial integrity. At
15 that point, did Central Hudson believed that the
16 current rates were sufficient to allow it to meet its
17 short-term and long-term cash requirements?

18 MR. NICKSON: Your Honor, can I
19 object? I've let the question go on for a little
20 bit. I'm trying to understand the relevance of
21 statements contained in the cover letter to the rate
22 case filing and the joint proposal that's before us
23 today. I'm just missing the connection between the
24 two. And so if Mr. Riley could just focus on how
25 this is relevant to the joint proposal, I'd

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3 appreciate it.

4 A.L.J. BERGEN: Sure. So I was
5 letting him get a little bit of background
6 information out. I understand the cover letter is
7 not directly relevant to the joint proposal. The
8 hearing here is to evaluate the terms and conditions
9 of the joint proposal, in accordance with the
10 settlement guidelines Standards. It appears to me
11 Mr. Riley is trying to get a little bit of basic
12 understanding of how a rate case works. Is that a
13 fair characterization of your questioning?

14 MR. RILEY: No, Your Honor, I wouldn't
15 say that it is. I'm just trying to understand some
16 of the background that went into the very first thing
17 Central Hudson said in this rate case, representing
18 to my constituents and the commission that its -- the
19 2024 rates were insufficient to sustain its financial
20 integrity.

21 A.L.J. BERGEN: And how is that
22 relevant to the joint proposal?

23 MR. RILEY: Well, if, for example, the
24 2024 rates were sufficient to sustain Central
25 Hudson's financial integrity, we probably wouldn't be

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3 here. The entire basis and foundation of requesting
4 a rate increase seems to be that the 2024 rates were
5 insufficient. And so I'm trying to understand
6 specifically how that's the case. And the specific
7 question I'm asking here is whether Central Hudson is
8 taking the position that the rate increase was needed
9 to meet its short-term and long-term cash
10 requirements.

11 MR. NICKSON: Your Honor, this line of
12 questioning feels more like discovery, which I think
13 is improper at this stage of the proceeding.

14 A.L.J. BERGEN: Can you rephrase your
15 question, Mr. Riley?

16 MR. RILEY: I could, Your Honor.
17 Thank you. So for the -- for the Central Hudson
18 panel, my question is whether, as of August 1st,
19 2024, did Central Hudson believe that it would be
20 unable to meet its short-term and long-term cash
21 requirements, absent a rate increase. Put
22 differently, on August 1st, 2024, did Central Hudson
23 believe that it would be unable to meet its short-
24 term and long-term cash requirements under the 2024
25 rate order?

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3 MR. HALLY: Congressman Riley, could
4 you please maybe define what you mean by cash
5 requirements?

6 MR. RILEY: My understanding is cash
7 requirements -- that's a term of art that Central
8 Hudson has used historically. And I would take it to
9 mean the cash that's required for operations.

10 Let me reframe my question, just,
11 like, very simply. Did you -- was Central Hudson in
12 a position that you needed to increase the rates in
13 order to meet your cash requirements? Is that -- is
14 that -- was that the position when you came in and
15 said that your financial integrity was at risk, that
16 the previously approved rates, the 2024 rates, were
17 insufficient to sustain financial integrity, was part
18 of that that you weren't able to meet your long-term
19 and short-term cash requirements under the existing
20 rates?

21 MR. NICKSON: Your Honor, I'm going to
22 renew my objection again. I'm establishing --

23 A.L.J. BERGEN: I think that's going
24 to be sustained. The use of the term cash
25 requirements is not, I think, a term of art that's

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3 resonating with the panel. I can maybe ask a few
4 questions to -- that I think might help here. Are,
5 to the panel, utilities capital intensive businesses?

6 MR. HALLY: Yes, Your Honor, utilities
7 are generally known as capital intensive businesses.

8 A.L.J. BERGEN: And the company in a
9 rate plan is expected to invest a certain amount of
10 money into its operations; is that correct?

11 MR. HALLY: That is correct.
12 Generally a rate case includes the discussion of
13 ongoing operating expenses, incremental operating
14 expenses, and incremental capital investments that
15 need to occur.

16 A.L.J. BERGEN: And the investment is
17 needed to repair and to sustain and replace existing
18 infrastructure, to improve reliability, to further
19 different policy goals. Where does the money come
20 from time to invest in these operations?

21 MR. HALLY: In general, the money that
22 comes to fund those investments, there are two
23 components. First, within a rate case, we're looking
24 at the operate -- the operating expenses of the
25 company, including incremental operating expenses.

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3 Those operating expenses include depreciation expense
4 on the incremental capital investment, as well as
5 other ongoing or new expenses, such as making Cyber
6 Central Hudson cybersecurity posture more robust.

7 Those incremental expenses are then
8 looked at as expenses that are then married up to a
9 revenue requirement, and incremental revenues are
10 used to offset those incremental expenses. So that
11 would be where the cash to fund those incremental
12 expenses comes from.

13 A.L.J. BERGEN: So am I right in
14 understanding that some of the money from -- for the
15 investment, will come from Central Hudson retaining a
16 portion of its profits, and some of the money is from
17 cash flow? Is that rate sufficient to cover your
18 costs, or do you need to raise additional debt and
19 equity?

20 MR. HALLY: Yes. So in general, the
21 utility company, because its capital investments are
22 not covered within rates, dollar for dollar, the
23 depreciation of those capital investments is covered
24 within rates, as well as a return on, the utility has
25 to raise debt and equity in order to finance its

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3 capital investments or other cash requirements that
4 are not recovered directly within rates. And so that
5 is the need for raising incremental, whether it's
6 debt or equity, to finance those cash flows that are
7 not recovered directly within rates.

8 A.L.J. AMYOT: I'm just going to ask,
9 can you speak to -- what period of time did the 2024
10 rates cover? Rates are forward looking, so what
11 period of time did that cover?

12 And DPS staff panel, you can speak to
13 that as well.

14 MR. HALLY: So they covered the
15 twelve-month period ending June 30th, 2025.

16 A.L.J. AMYOT: Right. And when you
17 were seeking additional rates, a rate increase to
18 cover incremental expenses, what period of time did
19 those incremental expenses -- when would you be
20 incurring them?

21 MR. HALLY: I apologize, Your Honor.
22 The incremental expenses covered within this rate
23 filing?

24 A.L.J. AMYOT: Yes.

25 MR. HALLY: Yes. The filing covered

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3 the twelve-month period ending June 30th, 2026.

4 A.L.J. AMYOT: Right. So we're
5 talking about different time periods here, correct?
6 With cash requirements and so on?

7 MR. HALLY: Yes, we are, Your Honor.

8 A.L.J. AMYOT: Okay, thank you.

9 A.L.J. BERGEN: Okay. Mr. Riley, does
10 that help inform your formulation of the question?

11 MR. RILEY: Yes. I think could -- I
12 think I could rephrase it, understanding, you know --
13 I wanted to talk specifically about the cash issue,
14 but I take the point that the operations require a
15 combination of cash and debt and equity, and we're
16 talking about operations generally.

17 So I reframe the question this way.
18 When Central Hudson on August 1st, 2024, said that
19 the currently approved rates, those from the 2024
20 rate order, were insufficient to sustain its
21 financial integrity, would that mean that the cash
22 generated from operations at that time would not be
23 sufficient for the foreseeable future to meet Central
24 Hudson's working capital needs?

25 MR. HALLY: Congressman, I'm still a

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3 little confused because you used working capital as a
4 definition, and I'm not sure, exactly, how you intend
5 to use that.

6 MR. RILEY: Okay. So let's -- let me
7 do it this way. August 1st, 2024, Central Hudson
8 comes to my constituents, among others, and says that
9 the currently approved rates and regulatory
10 provisions are insufficient to sustain its financial
11 integrity. Sixty days later -- every word that I've
12 given you here, not my words. They're Central
13 Hudson's.

14 Sixty days after coming to my
15 constituents and saying you needed a rate hike
16 because you were so broke that current provisions
17 were insufficient to sustain its financial integrity.
18 Sixty days after that, you went to your Wall Street
19 investors and you said, quote, "Central Hudson
20 believes it will be able to meet its short-term and
21 long-term cash requirements".

22 Based on what the 2024 rate order --
23 the same one that you just told everybody else was
24 insufficient -- Central Hudson went to its investors
25 and said cash generated from operations and funds

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3 from equity infusions and financing program -- all
4 the things we just talked about -- debt, equity,
5 cash, all of that. It will be sufficient for the
6 foreseeable future to meet working capital needs,
7 meet Central Hudson's public service obligations, and
8 growth objectives.

9 So what I'm getting at, and what I
10 would hope you could answer, is, how can it possibly
11 be the case that on August 1st, 2024, you came to the
12 110,000 households that I represent and said you
13 needed a rate increase because the rates they were
14 paying out of their pockets were insufficient to
15 sustain your financial integrity. And then sixty
16 days later, told Wall Street that you were able to
17 meet your short-term and long-term cash requirements
18 and that cash generated from operations was
19 sufficient.

20 MR. NICKSON: Your Honor, I'm going to
21 object this question.

22 MR. RILEY: Sure you are.

23 A.L.J. BERGEN: Mr. Riley, civility,
24 please.

25 Continue.

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3 MR. NICKSON: First objection is
4 relevancy as to how it relates to the proposal. And
5 the second objection is, I think we just established
6 through Your Honor's questioning that we're talking
7 about two different time periods here. And so
8 Congressman Riley's question is conflating these two
9 different time periods.

10 A.L.J. BERGEN: I agree. Sustained.

11 MR. RILEY: Your Honor, if I may be
12 heard in response to the objection, the time period
13 that's relevant was August 1st, the day that they
14 filed the rate case. And what we're talking about is
15 whether they need a rate increase.

16 A.L.J. BERGEN: Sure. Mr. Riley, do
17 you understand that the rate case is a forward-
18 looking rate case?

19 MR. RILEY: I do, I do. That's the
20 point. If the -- if Central Hudson was telling its
21 investors that the 2024 rate order was sufficient for
22 all purposes under the sun, and then on August 1st
23 said, well, it's insufficient. Looking forward, we
24 need to increase rates. There is a real conflict
25 between those two statements, and maybe somebody can

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3 explain how what was said on August 1st is
4 reconcilable with what was said sixty days later, but
5 I haven't heard it.

6 A.L.J. BERGEN: I think it has been
7 explained in terms of how they are talking about and
8 referring to two different time periods. So the
9 filing for the rate case that was under consideration
10 today has nothing to do with what happened prior to
11 the time the rate case was filed.

12 MR. RILEY: Your Honor, respectfully,
13 we established in the very first question that I
14 asked that the -- the time periods were identical
15 because the very first question I asked -- the Court
16 reporter will tell me if I'm getting this wrong from
17 memory -- was whether we in Central Hudson filed on
18 August 1st. This rate increase, the currently
19 approved rates, were the 2024 rates. And so the
20 question is do we need to increase those rates or
21 not, okay?

22 A.L.J. BERGEN: I'm going to stop. Do
23 you understand that the purpose of this rate case is
24 to evaluate whether or not the increase is requested
25 by Central Hudson are in fact needed, just, and

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3 reasonable?

4 MR. RILEY: Yeah, that's exactly the
5 point of the question.

6 A.L.J. BERGEN: So can we move on and
7 ask the rest of your questions about whether the
8 rates that are proposed are needed and just and
9 reasonable?

10 MR. RILEY: Well, that's the -- that's
11 the point of the question I'm asking. Are -- do you
12 need -- do you need to increase your rates, given
13 that you told Wall Street and the investors --

14 A.L.J. BERGEN: That question's been
15 sustained.

16 MR. RILEY: You -- I'm not allowed to
17 ask for a reconciliation between what was said August
18 1st and what was said sixty days later? I understood
19 somebody else to say that the question had been
20 answered. And are we saying it's not to be answered?
21 I mean, it's a simple question. How can it be the
22 case on August 1st, you say financial integrity is at
23 risk, and six days later you say it's not?

24 A.L.J. AMYOT: Mr. Nickson, do you
25 want to be heard on that?

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3 MR. NICKSON: Yeah. Thank you, Your
4 Honor. I believe the answer has been answered
5 through the questions from Your Honors that
6 established that the rates from the 2024 -- excuse
7 me, 2023 rate case, which were approved on August
8 1st, went into effect on August 1st, 2024, covered
9 the period through June 30th, 2025.

10 The purpose of this rate case is to
11 establish rates for the following period. The rate
12 year ending June 30th, 2026, and then the two
13 following rate years. And so again we're talking
14 about two different time periods.

15 A.L.J. AMYOT: Okay. So the question
16 has been asked and answered. At this point, we
17 understand your argument. We're going to ask you to
18 please move to your other questions.

19 MR. RILEY: I will, Your Honor.
20 Although I would note for the record, I would take
21 the position that the question has not been answered.

22 A.L.J. AMYOT: Okay. Your objection
23 is noted for the record. Please move on.

24 A.L.J. BERGEN: But before you move
25 on, I have a question for the panel. We've heard

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3 Congressman Riley talk about the financial integrity
4 and asking a lot of questions about the statements
5 made by the company about their financial integrity.
6 Perhaps it would be good for the record, if somebody
7 could explain what the company means or what DPS
8 means when it says the financial integrity of the
9 company is -- what that means when you use that term.

10 MR. GOODRICH: Your Honor, I -- I
11 would just note that that question is about -- I want
12 to make sure I understand. That question is about
13 the company's right to use that term in company's --

14 A.L.J. BERGEN: It's a term of art.
15 Throughout testimony, and exhibits, and when we're
16 talking about the financial integrity of a question
17 as it relates to the returns, what does that mean?

18 THE COURT REPORTER: Could you say
19 your name again for the record?

20 MR. GOODRICH: Brandon Goodrich.

21 THE COURT REPORTER: Okay. And could
22 you spell your last name one more time?

23 MR. GOODRICH: G-O-O-D-R-I-C-H.

24 THE COURT REPORTER: Thank you.

25 MR. HALLY: Your Honor, in general,

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3 the term means sufficient cash flows to ensure credit
4 metrics that are acceptable to the financial markets,
5 and a return that's acceptable to the financial
6 markets to ensure access to the capital markets, to
7 continue to raise debt and equity, to finance capital
8 investments that are necessary to provide safe and
9 reliable services.

10 I was asked earlier, is the utility
11 industry a capital-intensive industry? The answer
12 was yes. And in order to provide safe and reliable
13 service, it needs to continue to access the debt and
14 equity markets.

15 A.L.J. BERGEN: So part of, as I
16 understand what you're saying, is that an accurate
17 statement to say that part of Central Hudson is
18 external financing is debt?

19 MR. HALLY: Yes.

20 A.L.J. BERGEN: And is the interest
21 rate on that debt paid by customers?

22 MR. HALLY: Yes.

23 A.L.J. BERGEN: And does the interest
24 rate offered to Central Hudson depend on its
25 financial integrity or credit rating?

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3 MR. HALLY: Yes.

4 A.L.J. BERGEN: So a lower financial
5 credit rating would have a negative impact on the
6 ratepayers; is that accurate?

7 MR. HALLY: I believe that is
8 accurate, Your Honor.

9 A.L.J. BERGEN: Mr. Riley, would you
10 like to ask another question?

11 MR. RILEY: I have been instructed,
12 Your Honor, to move on from that. I take it that --
13 can I continue on this line of questioning, or have I
14 been instructed to move on?

15 A.L.J. BERGEN: If you can either
16 rephrase your question or ask a different one.

17 MR. RILEY: I'll try one -- one more
18 time, Your Honor.

19 For the Central Hudson panel, when you
20 stated on August 1st, 2024, the 2024 rates and that
21 rate were -- that those were insufficient to sustain
22 financial integrity, was it -- was Central Hudson at
23 that time under those rates, able for the foreseeable
24 future to meet its working capital needs, meet its
25 public service obligations, and its growth

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3 objectives?

4 MR. NICKSON: Objection, Your Honor,
5 for the same reasons. We've already discussed the
6 same questions that's been asked and answered.

7 A.L.J. AMYOT: Sustained.

8 MR. RILEY: I'll ask a different
9 question then. Also to Central Hudson. Did Central
10 Hudson inform -- when Central Hudson took the
11 position that its financial integrity was at risk,
12 did Central Hudson inform Fortis of that fact?

13 MR. NICKSON: Again, Your Honor, I'm
14 struggling to understand the relevance between
15 communications that may or may not have occurred
16 between Central Hudson and Fortas, and whether the
17 joint proposal that's before us today is in the
18 public interest.

19 A.L.J. BERGEN: Sure. Before we rule
20 on that, I'd like to just understand, Mr. Riley --
21 the purpose of the evidentiary hearing today is to
22 evaluate the terms of the of the joint proposal under
23 the settlement guidelines issued by the commission.
24 It seems to me you're trying to go back to the
25 beginning of the rate case to investigate whether, in

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3 your estimation, it was appropriate for Central
4 Hudson to file for new rates in the first instance.
5 Is that --

6 MR. RILEY: Well, I'm just trying to
7 understand. I mean, Central Hudson has said
8 throughout, from the beginning to the end, that it
9 needs increased rates. That's -- is that correct?
10 Maybe I could ask the question. Lays the foundation
11 for this.

12 A.L.J. BERGEN: Okay. You can try
13 that again.

14 MR. RILEY: Okay. For the Central
15 Hudson panel, do you require increased rates to
16 maintain your financial integrity?

17 MR. HALLY: Yes.

18 MR. RILEY: Right. And did you inform
19 Fortis at any point prior to August 1st, 2024, that
20 your financial integrity would be jeopardized absent
21 the rate increase?

22 MR. NICKSON: Again, Your Honor,
23 objection to the relevancy as to how this relates to
24 the joint proposal.

25 A.L.J. BERGEN: Can you connect that

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3 to the draft proposal?

4 MR. RILEY: Part of it is, I mean, I
5 think it's -- it'd be interesting to know whether
6 this is the first time and to the first audience that
7 Central Hudson has said its financial integrity was
8 at risk. The fundamental question is whether they
9 actually need the rate increase. And if the only
10 place where they're saying that is to the people in
11 this room, and are saying something completely
12 different to investors and Wall Street, I think that
13 would call into question whether the rate increase is
14 actually needed.

15 MR. NICKSON: Your Honors, again, the
16 statements that may have been made to investors on
17 Wall Street were concerning a different time period
18 than what we're dealing with here today. And this
19 entire rate case process is to examine whether
20 Central Hudson needs to increase its rates. And --

21 MR. RILEY: That's the point.

22 MR. NICKSON: And we have a joint
23 proposal here signed by four signatory parties who
24 all agree that, yes, a rate increase is needed.

25 A.L.J. BERGEN: I think we're still

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3 struggling, Congressman, with the two different time
4 periods concept here. So statements made outside the
5 context of the rate case with respect to financial
6 data of a company, to investors -- if they are
7 different time period, then how is it relevant to the
8 time period that's a forward-looking process?

9 MR. RILEY: Well, Your Honor, there
10 are different time periods in the sense that one
11 happens sixty days after the other. I would suggest
12 those are so close in time to, basically,
13 contemporaneous.

14 A.L.J. AMYOT: Mr. Nickson, do you
15 want to speak to that?

16 MR. NICKSON: Yeah, again, Your Honor,
17 the statements that were made sixty days after the
18 rate increase, we're talking about two different time
19 periods. We're talking about whether the rates
20 approved on August 1st, 2024, were sufficient. We're
21 talking about whether those rates were going to be
22 sufficient after June 30th, 2025.

23 MR. RILEY: Exactly.

24 A.L.J. BERGEN: Mr. Riley, you say
25 exactly, but that is not -- what Mr. Nixon is saying

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3 is not what you're saying.

4 MR. RILEY: No, I think it is, Your
5 Honor, because the whole point is if -- if there was
6 no rate increase, if Central Hudson continued to
7 operate under the rates that had been approved under
8 the 2024 order, that's one forward-looking world.

9 The other is the one that we're in
10 where they're asking for a rate increase. And my
11 question is, looking forward, should we be in a world
12 where we're operating under the rates that were
13 approved in the 2024 order, which, by the way,
14 Central Hudson has told its investors are perfectly
15 fine and great. Or do we need to increase rates on
16 110,000 households I represent, which is what's being
17 said here.

18 A.L.J. BERGEN: Okay. So tell me --
19 show me where Central Hudson specifically said if
20 rates are unchanged from the 2024 rate plan, there
21 will be no impact to operations or financial
22 integrity. Because I'm hearing you claim that
23 Central Hudson said that, but I don't recall you
24 saying where they've said that.

25 MR. RILEY: Sure, Your Honor. On page

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3 51 and 52 of the 2024 third quarter report that
4 Central Hudson submitted as part of its unaudited
5 financial statement. Central Hudson said, quote,
6 "Central Hudson believes that it will be able to meet
7 its short-term and long-term cash requirements based
8 on the improved cash recovery through
9 delivery rates provided under the 2024 rate order,
10 including the ROE of 9.5%".

11 A.L.J. BERGEN: In what time period
12 did they say they will be able to continue to meet
13 their financial targets?

14 MR. RILEY: It's a standard quarterly
15 report, forward-looking statement.

16 A.L.J. BERGEN: It doesn't identify a
17 time period.

18 MR. RILEY: It might, Your Honor. I'd
19 have to go back and check, but it's forward-looking.

20 A.L.J. BERGEN: Have you offered this
21 document into evidence and provided everybody with an
22 opportunity to review it?

23 MR. RILEY: It's been -- it was linked
24 in the IRs that have been -- that are now under
25 consideration. It's also I would -- I would suggest

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3 a quarterly report from a public utility is a public
4 document subject to judicial notice. I would argue
5 that it's part of the record because it's linked in
6 the IR. But if it's not, I would suggest that it be
7 noticed.

8 And I -- if I could, Your Honor, you
9 asked me where, specifically, did Central Hudson take
10 the position that the 2024 rates were sufficient? I
11 gave you one example. I'll just give you just one --
12 one more was when Central Hudson said that cash
13 generated from operations under the 2024 order --
14 cash generated from operations and funds obtained
15 from equity infusions from Fortis, as well as its
16 financing program -- I think that's the debt and
17 equity we talked about -- will be sufficient for the
18 foreseeable future to meet working capital needs and
19 meet Central Hudson's public service obligations and
20 growth objectives.

21 And so is it the case that the 2024
22 rates are insufficient to sustain Central Hudson's
23 financial integrity, as Central Hudson has told my
24 constituents? Or is it the case that the 2024 rates
25 will be sufficient for the foreseeable future, as

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3 Central Hudson is telling regulators? And that's my
4 question.

5 A.L.J. BERGEN: I understand your
6 question, and you asked the question of this panel.
7 Is the current rate plan -- the 2024 rate plan --
8 does that provide sufficient revenue requirements to
9 maintain financial stability for the company? And I
10 heard the answer from the panel was no. So the
11 question you're asking has been asked and answered.

12 MR. RILEY: Okay. And in that case,
13 then, Your Honor, if I might just one last question
14 on this point. If that's the case, if the answer is
15 no -- well, let me ask, is that correct? The answer
16 to that question is no?

17 A.L.J. AMYOT: You might want to
18 repeat that question for them.

19 MR. RILEY: Are the rates that were
20 approved under the 2024 order sufficient to meet
21 Central Hudson's working capital needs, service
22 obligations and growth objectives for the foreseeable
23 future.

24 MR. NICKSON: Your Honor, I believe
25 the witnesses previously expressed that they were

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3 unclear by the term working capital needs.

4 A.L.J. BERGEN: Can you define your
5 working capital needs?

6 MR. RILEY: Again, do you guys really
7 need this rate hike? Do you really need to raise
8 rates on 110,000 households I represent that you
9 serve?

10 MR. NICKSON: Your Honor, this
11 question is becoming argumentative.

12 A.L.J. BERGEN: It is becoming
13 argumentative. Can you rephrase, please?

14 MR. RILEY: Is Central Hudson's
15 position that it needs to raise rates to meet its
16 public service obligations for the foreseeable
17 future?

18 MR. NICKSON: Could we define what
19 foreseeable future is in this context?

20 MR. RILEY: As far as you can see.

21 A.L.J. BERGEN: Rate plans are not
22 issued for as far as you can see.

23 MR. RILEY: For the next three years.

24 A.L.J. BERGEN: Did you say three
25 years or thirty years?

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3 MR. RILEY: Three.

4 A.L.J. BERGEN: Great.

5 MR. HALLY: It is the company's
6 position as well as, I believe, the other signatories
7 on the joint proposals position, that an increase in
8 rates is necessary in order to maintain the company's
9 financial integrity and the public service
10 obligations.

11 MR. RILEY: Terrific. Thank you.
12 Then how could it be the case that Central Hudson
13 while simultaneously taking that position, which I do
14 understand to be the position here -- how can it be
15 that Central Hudson simultaneously took that position
16 with regulators while telling investors that the
17 current rates are sufficient for the foreseeable
18 future to meet Central Hudson's public service
19 obligations?

20 A.L.J. BERGEN: That question's
21 already been sustained. Objection sustained.

22 MR. RILEY: Maybe I could ask it this
23 way. Was Central Hudson truthful and accurate when
24 it told regulators that its current rates were
25 sufficient, or was it truthful and accurate when it

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3 told Wall Street that the current rates -- sorry, let
4 me rephrase that.

5 Was Central Hudson truthful and
6 accurate when it told regulators that the current
7 rates are not sufficient, or was Central Hudson and
8 truthful and accurate when it told Wall Street that
9 the current rates are sufficient?

10 MR. NICKSON: Objection, Your Honor.
11 Argumentative.

12 A.L.J. BERGEN: Sustained.

13 MR. RILEY: Okay.

14 A.L.J. BERGEN: Please move on.

15 MR. RILEY: I don't -- I don't
16 remember if we got an answer to the question of
17 whether Central Hudson informed Fortis at any point
18 that its financial integrity -- was it did Central
19 Hudson at any point tell Fortis that its financial
20 integrity was at risk?

21 MR. NICKSON: Your Honor, this is
22 asked, answered, and objected to. And I renew my
23 objection.

24 MR. RILEY: I'll withdraw the
25 question. For Central Hudson, the day before this

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3 rate case was filed, on August 1st, 2024, the day
4 before, July 31st of 2024, Fortis reported \$331
5 million in quarterly profits. Was that fact
6 considered at all when Central Hudson asked to
7 increase its rates?

8 MR. NICKSON: Objection, Your Honor.
9 As we've discussed earlier in today's proceeding, the
10 earnings of Fortis are completely irrelevant to the
11 rate case before us.

12 A.L.J. BERGEN: Let me, maybe, ask a
13 question that can better inform Mr. Riley's question.

14 Panel, is there a conflict between
15 Central Hudson as a utility filing a rate case, in
16 which it seeks revenue adjustments to maintain its
17 own financial metrics for a future period, and a
18 parent company reporting a profit? Is there an
19 inherent conflict in those two things?

20 MR. HALLY: Your Honor, I don't know
21 of any conflict in those two things. I do not think
22 that there's a conflict.

23 A.L.J. AMYOT: Can I ask a question?
24 This is for the DPS panel. Can you explain briefly
25 what goes into the calculation of ROE or rate of

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3 return, and why would it be necessary to take a
4 parent corporation's overall profits into account
5 when calculating rate of return, or is it necessary?

6 MR. HALE: Your Honor, staff does not
7 take into consideration the parent company's profits
8 when calculating rate of return on equity. Return on
9 equity is based on current interest rates, and the
10 return on equities at other comparable companies
11 throughout the Country that have a business model
12 that is similar to Central Hudson's, with similar
13 ratings, other similar risks, both business and
14 financial.

15 THE COURT REPORTER: Could you please
16 restate your name?

17 MR. RILEY: Andrew Hale.

18 THE COURT REPORTER: Thank you.

19 A.L.J. BERGEN: So Mr. Riley, can you
20 point to anything in this joint proposal that would
21 increase cost to Central Hudson's or Central Hudson's
22 ratepayers that would be directly attributable to
23 Fortis's upstream ownership and profit reporting?

24 MR. RILEY: I guess that's the point
25 of the questions I'm asking is whether this was even

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3 considered. If the answer is no, it's no, and we can
4 move on. But the question is simply, did Central
5 Hudson consider at all when it filed this rate case
6 on August 1st, 2024, that the day before, its parent
7 company, Fortis, had reported \$331 million in
8 profits? Was that considered at all?

9 MR. NICKSON: Again, Your Honor, I
10 object to the question. The relevancy of the parent
11 company's earnings -- it doesn't come -- it's not
12 considered within the rate making process in New York
13 or across the country, for that matter.

14 MR. RILEY: Your Honor, if I might --
15 and maybe somehow -- I don't stipulate to this. It
16 may be irrelevant to a lot of folks doing public
17 utilities work, but it matters a heck of a lot to the
18 110,000 families I represent, that Fortis, the
19 company that just bought their utility company within
20 the last decade, bragged to Wall Street about \$331
21 million. And the very next day, Central Hudson asked
22 for a rate increase.

23 And all I'm asking on behalf of the
24 households I represent, is whether Central Hudson
25 gave that any thought at all. And I would say it's

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3 relevant to these proceedings, because we're here to
4 determine whether there was a fairly struck balance
5 between the customers and the investor.

6 A.L.J. BERGEN: So again, I'm going to
7 ask the question of the staff and company panel. Is
8 there a conflict between Central Hudson filing a rate
9 case in order to maintain its own financial metrics
10 and an upstream, three times removed, parent company
11 posting a profit? Is a parent company with profit
12 part of the calculation in New York State utility
13 rate case?

14 MR. HALE: Your Honor, from staff's
15 perspective, there is no conflict.

16 MR. HALLY: Your Honor, from the
17 company standpoint, there's also no conflict.

18 A.L.J. BERGEN: Mr. Riley, do you have
19 your answer?

20 MR. RILEY: And I take it from the
21 fact that everybody thinks there's no conflict
22 between, on the one hand requested rate hike and on
23 the other, Fortis's profits, that it wasn't
24 considered at all in -- when -- when Central Hudson
25 filed this rate case.

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3 A.L.J. BERGEN: So let me ask again.
4 In setting a utilities rate, does the Commission
5 focus on a parent company's profit or is, in
6 particular, Central Hudson considered to be a
7 standalone entity?

8 MR. HALLY: Your Honor, Central Hudson
9 is considered to be a standalone entity for the
10 purposes of setting rates.

11 A.L.J. BERGEN: So to clarify,
12 Fortis's profits would not be used to calculate rate
13 setting in Central Hudson's territory?

14 MR. HALLY: No, they would not.

15 A.L.J. BERGEN: And where does
16 Fortis's profits, if you know, come from? If the
17 reported \$331 million or whatever figure Mr. Riley
18 said -- where is that profit coming from?

19 MR. HALLY: Yeah, it is coming from
20 all of the subsidiaries, of course.

21 A.L.J. BERGEN: Do you have other
22 questions, Mr. Riley?

23 MR. RILEY: So is the answer, nobody
24 considered it? I understand there's questions about
25 relevancy and conflicts. I'm just asking, did

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3 anybody at Central Hudson consider at all the fact
4 that Fortis posted \$331 million the day before this
5 rate case was filed?

6 MR. NICKSON: Again, Your Honors, I'm
7 objecting to the question because it's irrelevant to
8 this rate case proceeding.

9 A.L.J. BERGEN: Yes, I think the
10 questions -- the answers to my questions have
11 demonstrated it's irrelevant. So that's sustained.

12 MR. RILEY: Your Honor, just asked --
13 and just one final question on this about the \$331
14 million quarterly profit. I think that's around 1.2
15 billion annually. How much of it comes from Central
16 Hudson ratepayers? Is anybody aware of what the
17 answer to that question is?

18 Well, let me reframe the question.
19 What percentage of Central Hudson's earnings per
20 share are derived from Central Hudson ratepayers?

21 A.L.J. AMYOT: I'm sorry, did you mean
22 Central Hudson's earnings per share or Fortis?

23 MR. RILEY: Thank you, Your Honor.

24 A.L.J. AMYOT: Yeah, no problem.

25 MR. RILEY: What percentage of

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3 Fortis's earnings per share are derived from Central
4 Hudson ratepayers?

5 MR. HALLY: I'm sorry, Congressman
6 Riley, but I am not aware of the exact percentage
7 contribution of Central Hudson to Fortis's earnings
8 per share.

9 MR. RILEY: You went out one way or
10 the other. What percentage of the earnings per share
11 for Fortis are driven by the rates that my
12 constituents pay?

13 MR. NICKSON: Your Honor, I think this
14 question was just asked and answered.

15 MR. RILEY: I'm just clarifying that.
16 I take it that you don't -- you don't know,
17 basically, is the answer, which is fair; is that
18 right?

19 MR. HALLY: Correct. I have not
20 performed any analysis that shows the exact
21 percentage of Central Hudson's contribution to
22 Fortis's earnings per share, correct.

23 MR. RILEY: And so if it were the case
24 that on May 7th, 2025, just a month ago, that Central
25 Hudson and Fortis, informed investors that \$0.02 out

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3 of every \$0.07 of increased earnings per share for
4 Fortis were derived from Central Hudson. You have no
5 basis to dispute that?

6 MR. NICKSON: Your Honors, I believe
7 the witnesses have indicated they have performed no
8 analysis. And secondly, again, the relevancy of this
9 question to whether the joint proposal in the public
10 interest, I think, has not been established.

11 A.L.J. BERGEN: The witnesses have
12 said they have no basis to answer that question, and
13 they don't have to take it on your word.

14 MR. RILEY: Is that -- does that mean
15 the objection is sustained?

16 A.L.J. BERGEN: That's sustained.

17 MR. RILEY: One of the factors -- this
18 is for -- for anybody on the panel -- one of the
19 factors to be considered in this proceeding is
20 whether the record is complete; is that correct?

21 A.L.J. BERGEN: Are you asking me?

22 MR. RILEY: I'm asking the panel to
23 just establish an agreement that one of the factors
24 to be considered is the completeness of the record.
25 Let me put it this way. On the Central -- for the

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3 Central Hudson panel, do you believe that the record
4 in this proceeding is complete or incomplete?

5 MR. HALLY: So I believe you're asking
6 for a legal opinion, and I am not an attorney,
7 congressman, or other.

8 MR. RILEY: So I'll -- I will say -- I
9 will offer as a legal standard, one of the factors
10 for this proceeding is whether the record is
11 complete. I'm asking, as a factual matter, is it
12 your position that the record is, in fact, complete?

13 MR. NICKSON: Yeah, I'm going to
14 object that it does call for legal conclusions.

15 A.L.J. BERGEN: Objection to legal
16 conclusions sustained.

17 A.L.J. AMYOT: Yeah.

18 MR. RILEY: Did the panel -- and this
19 is the whole panel again. Did the panel consider any
20 independent studies or analysis to determine the
21 appropriate ROE in this case?

22 MR. NOWAK: Yes. This is Joshua
23 Nowak. I performed an analysis to estimate
24 appropriate ROE for Central Hudson.

25 MR. RILEY: And you -- and you are

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3 offering your analysis as independent?

4 MR. NOWAK: Yes.

5 THE COURT REPORTER: Now, can you
6 state your name one more time?

7 MR. NOWAK: Joshua Nowak. N-O-W-A-K.

8 THE COURT REPORTER: Okay, thank you.

9 MR. RILEY: You're holding -- you're
10 holding -- let me ask this other foundational
11 question first. Aside from the expert report
12 submitted by Dr. Nowak, are there any other
13 independent studies or analysis about ROE that are
14 part of the record in this case?

15 A.L.J. AMYOT: DPS staff, if you want
16 to answer that.

17 MR. HALE: There are no other studies
18 that I'm aware of.

19 MR. RILEY: Okay. So the one
20 independent study that's in the record is that of Dr.
21 Nowak. We just established that. For the -- for the
22 panel, anybody, the record would be, well, I'll
23 withdraw that.

24 A.L.J. AMYOT: I'm sorry. Can I ask
25 one more clarifying question? DPS staff, do you

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3 perform an analysis of the ROE?

4 MR. HALE: Yes, staff does perform an
5 internal analysis of the ROE.

6 MR. RILEY: Is that internal analysis
7 part of the record in this case?

8 MR. HALE: Yes, it is.

9 MR. RILEY: Doctor Nowak, you say
10 you're independent, but you actually performed your
11 work on behalf of Central Hudson, correct?

12 MR. NOWAK: Yes, I - the analysis
13 itself is independent. I perform my analysis based
14 on customary market analysis, and I perform that
15 independent from any direction of the company.

16 MR. RILEY: Independent from any
17 direction of the company. You did not communicate
18 with the company as you were performing your
19 analysis?

20 MR. NOWAK: I communicated with the
21 company. I gave them results. I ensured I had
22 certain aspects of the case correct, what they were
23 planning to file to make sure I had the correct
24 framework for the case. But my analysis is my own.

25 MR. RILEY: You say it's your own, but

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3 it was -- it was done on behalf of Central Hudson.

4 MR. NOWAK: Yes, it was done on behalf
5 of Central Hudson.

6 MR. RILEY: Can I say that you were
7 compensated for doing that work on behalf of Central
8 Hudson?

9 MR. NOWAK: Yes.

10 MR. RILEY: And you say it was done
11 independently, but in fact, what happened was that
12 Central Hudson advised you that the ROE it was
13 seeking was ten percent, correct?

14 MR. NOWAK: I provided a range of
15 reasonableness, and they selected a number within
16 that range of reasonableness, and that's what they
17 used in their application.

18 MR. RILEY: You took a range of
19 reasonableness to Central Hudson before they informed
20 you of what the ROE they were requesting; that's your
21 testimony?

22 MR. NOWAK: Yes.

23 MR. RILEY: Would you, Doctor Nowak --
24 and just -- you've done a lot of work for Central
25 Hudson over the course of your career, correct?

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3 You've done -- this isn't your first case that you've
4 done on behalf of Central Hudson, correct?

5 MR. NOWAK: This is the second case
6 I've done on behalf of Central Hudson.

7 MR. RILEY: Okay. Throughout your
8 career, have all of your clients been investor-owned
9 utilities?

10 MR. NOWAK: No. No.

11 MR. RILEY: Who have you represented?
12 Who have you submitted work on behalf of this
13 analysis?

14 MR. NOWAK: Sorry. I've submitted
15 work on the New York Power Authority, which is a
16 government-owned entity. I've done work on behalf of
17 state agencies, but a few questions -- who have I
18 submitted testimony for, it would be New York Power
19 Authority, would be a government-owned entity. It's
20 not an investor-owned utility.

21 MR. RILEY: Would you have -- do you
22 think if an independent expert -- so a truly
23 independent expert, not one that was hired by Central
24 Hudson or doing work on behalf of Central Hudson, do
25 you think if they --

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3 MR. NICKSON: Objection, Your Honor.
4 This is argumentative, and it calls for speculation.

5 A.L.J. BERGEN: Let him finish the
6 question first.

7 MR. NICKSON: Yes. Okay.

8 MR. RILEY: If a truly independent
9 expert, somebody not paid by Central Hudson and
10 working on behalf of Central Hudson -- if a truly
11 independent expert were engaged in this matter, how
12 confident are you that they'd reach the same results
13 that you reached?

14 MR. NICKSON: Objection, Your Honor.
15 Argumentative and calls for speculation.

16 A.L.J. BERGEN: Sustained.

17 MR. RILEY: Do you have any objection,
18 Dr. Nowak, would you -- have you personally had any
19 objection to an independent expert being hired to --
20 to check your work? In this case, to perform its own
21 analysis, to see where it lines up with yours?

22 MR. NOWAK: Well, I would note that
23 the staff performed its own analysis as part of this
24 proceeding. Other parties submitted testimony that
25 related to the cost of capital. That's on the record

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3 of evidence.

4 MR. RILEY: I want to ask you just a
5 couple questions about -- a couple of questions about
6 the analysis you conducted. You wrote that the -- in
7 your direct testimony, you wrote that the return to
8 the equity owner should be commensurate with returns
9 on investments in other enterprises having
10 corresponding risks; is that correct?

11 MR. NOWAK: Give me a page reference.

12 MR. RILEY: It's your direct testimony
13 on page 7, line 28.

14 MR. NOWAK: Yeah, that's actually a
15 quote to the whole citation, but yes, it's a
16 statement of the standard.

17 MR. RILEY: And the proxy group that
18 you used for your analysis, it consists entirely of
19 investor-owned utilities; is that correct?

20 MR. NOWAK: That necessary condition
21 of performing these market-based analysis is that
22 they're publicly traded. So by virtue, they have to
23 be investor-owned utilities that have sufficient data
24 to perform the discounted cash flow or DCF analysis,
25 or the capital asset pricing model or CAPM model that

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3 are consistent with your precedent.

4 MR. RILEY: Right. So the answer is
5 yes, they were all investor owned utilities. Did you
6 consider at all the rates that are charged? I
7 understand that it's different because of the market,
8 but did you consider at all the rates charged by any
9 community-owned utilities in analyzing what a proper
10 rate would be in this case?

11 MR. NOWAK: So I'm not sure what you
12 mean by you recognize that it's different?

13 MR. RILEY: Sorry. Let me rephrase
14 the question. Did you consider the rates charged by
15 any community-owned utilities at any point in your
16 work on this case?

17 MR. NOWAK: And when you say rates,
18 what are you speaking to?

19 MR. RILEY: The rates that Central
20 Hudson is asking for in this case.

21 MR. NOWAK: My analysis was of the
22 return on equity, on my analysis.

23 MR. RILEY: Right. And the return on
24 equity informs the rates.

25 MR. NOWAK: That is one cost of

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3 service component. There are many components that go
4 into rates. Return on equity is one component.

5 MR. RILEY: And so are you saying you
6 can't analyze -- you couldn't have analyzed the rates
7 of community-owned utilities to make inferences about
8 an appropriate ROE?

9 MR. NOWAK: That is well beyond the
10 scope of my analysis, looking at the rates of
11 investor-owned utilities or looking at any individual
12 rates. I'm looking at market-required rates of
13 returns in the history of --

14 MR. RILEY: Got it. Yes, sir. So
15 established well beyond your analysis to look at all
16 that community-owned utilities. And so are you --
17 are you aware -- do you know how much lower or higher
18 public utility rates are for community-owned
19 utilities versus investor-owned utilities? Is that
20 something you're aware of?

21 MR. NICKSON: Objection, Your Honor.
22 The relevancy of any sort of community-owned entity
23 that may provide utility service is not within the
24 scope of this proceeding. We're here today to
25 evaluate Central Hudson's rates, and I don't see the

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3 relevancy of the community-owned entities.

4 A.L.J. BERGEN: In your testimony, Mr.
5 Riley, that community-owned utilities are not
6 included in the pool, comparative utilities. How is
7 this relevant?

8 MR. RILEY: Well, I think the key
9 thing is having now just established that it's not.
10 So proceedings like this, we've established that it's
11 completely irrelevant how much higher or, in fact,
12 lower public utility rates are than investor-owned
13 utilities.

14 A.L.J. BERGEN: Testimony has not been
15 about how much higher or lower utility rates are.
16 You are asking questions about the return on equity.
17 It's not a rate.

18 MR. RILEY: Yeah. Or just generally
19 with respect to rates. Has anybody, I guess -- maybe
20 I could ask the question of the entire panel. Has
21 anybody considered whether community-owned utility
22 rates are higher or lower than investor-owned utility
23 rates?

24 A.L.J. BERGEN: I'm going to jump to
25 that. That's far outside the scope of what we're

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3 here to consider.

4 MR. RILEY: Okay, but I --

5 A.L.J. BERGEN: And I'd also like to
6 just take the opportunity to note, for the record,
7 that staff has also done an ROE testimony analysis.
8 And there is analysis and testimony offered by the
9 Public Utility Law Project that is also in the
10 record.

11 MR. RILEY: My question, I guess, for
12 any of those then, and the entire panel can address
13 this, has there been any point during these
14 proceedings in the development of this record, where
15 anybody even considered the comparison between the
16 rates that are generally charged by community-owned
17 utilities versus those charged by industrial
18 utilities?

19 A.L.J. AMYOT: Yeah. When we had
20 asked you, which IRs you would be performing cross
21 on, Number 6, which is about the community-owned
22 power, was not in your list. I don't think this
23 panel came here today prepared to speak to that.

24 MR. RILEY: Okay. I will just
25 state -- I will just represent, then, for the

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3 record --

4 A.L.J. BERGEN: We're not allowing you
5 to testify for the record, Mr. Riley.

6 MR. RILEY: Yeah. Doctor Nowak, did
7 you consider in your analysis -- I know you have this
8 proxy group that consists entirely of IOUs. Did you
9 consider in your analysis any utility-based
10 investment funds from any major investment banks?

11 MR. NOWAK: Sorry, could you restate
12 that?

13 MR. RILEY: Yeah. So there's a whole
14 bunch of investment banks out there that put together
15 portfolios consisting of utility-based funds. Do you
16 understand that to be the case?

17 MR. NOWAK: I understand that there
18 are funds based on utility companies, yes.

19 MR. RILEY: And do you understand it
20 to be the case that those investment banks then
21 provide -- conduct capital market assumptions to
22 project the returns from those funds? You understand
23 they do that, correct?

24 MR. NOWAK: I am aware that they may
25 have projected funds or projected returns.

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3 MR. RILEY: Right. Did you look at
4 any of those in your analysis?

5 MR. NOWAK: I'm not attempting to
6 assess projected returns. I'm looking at required
7 returns. And there's a distinction there.

8 MR. RILEY: Would not the -- are you
9 saying that the returns projected by the investment
10 banks would not be relevant at all in terms of
11 analyzing the ROE that you're suggesting?

12 MR. NOWAK: Those represent the view
13 of those particular investment banks, and they may
14 represent a particular investment horizon --

15 MR. RILEY: Right.

16 MR. NOWAK: -- a particular time
17 period. I'm looking at market data to see what the
18 market requires for an investment.

19 MR. RILEY: You said investment. The
20 investment banks, their capital market assumptions
21 present one view. And all I'm asking is whether you
22 consider that view in your analysis.

23 MR. NOWAK: Those views inform the
24 market, and those are therefore included indirectly
25 in my market analysis. My analyses, at its most

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3 fundamental level, is of market data, correct.

4 MR. RILEY: Do you know -- so for
5 example, do you know what one of the -- do you know
6 what BlackRock Utilities Fund projected total return
7 is?

8 MR. NOWAK: I don't know what the
9 return is. I don't know what companies constitute
10 that fund. Those would all be vital -- vital
11 assumptions that would -- we would need to know to
12 know if it has any relevance whatsoever.

13 MR. RILEY: Right. And you haven't
14 examined it, so you wouldn't know whether it was
15 relevant or not.

16 MR. NOWAK: That one specific return?

17 MR. RILEY: Yeah.

18 MR. NOWAK: No, I have not.

19 MR. RILEY: Right. Or how about JP
20 Morgan?

21 MR. NOWAK: JP Morgan. I'm sorry.
22 I'm going to need more -- JP Morgan --

23 MR. RILEY: Their utility -- their
24 utilities funds, their capital market assumptions
25 they made based on utility-based funds. Have you

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3 considered that?

4 MR. NOWAK: I don't know which funds
5 you're speaking to.

6 MR. RILEY: Because you haven't looked
7 at it? You understand JP Morgan's an investment
8 bank. Did you understand JP Morgan has funds
9 consisting of utilities?

10 A.L.J. BERGEN: Mr. Riley, what is
11 your basic question here? You're harassing the
12 witness a little bit.

13 MR. RILEY: I hope you don't feel
14 harassed. I'm just asking a question about what was
15 considered in the report, because what we've seen
16 from --

17 A.L.J. BERGEN: He told you what he
18 considered when he made his report.

19 MR. RILEY: And if -- and I guess what
20 I'm trying to establish is that the returns projected
21 by various investment banks, which manage trillions
22 of billions -- hundreds of billions of dollars for
23 other people, whether their analysis of the rates of
24 return that are expected in utility industry were
25 considered in this analysis, because a lot of those

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3 rates are -- a lot of those returns are significantly
4 lower.

5 A.L.J. BERGEN: Okay. So what I'm
6 hearing from the witness, as I understand it, is that
7 there's a difference between what an investment fund
8 might project as an expected return, as an
9 investment, and what the funds that you're looking --
10 or the grouping that you're looking at to ascertain
11 what required return is necessary to maintain a
12 credit metric, not necessarily what you're talking
13 about, so --

14 MR. RILEY: Well --

15 A.L.J. BERGEN: Is that what I'm
16 understanding? There's a difference between the two
17 types of --

18 MR. NOWAK: Yes, projections serve a
19 specific purpose, and they are often for specific
20 time frame and have a specific relevance to a fund.
21 What I'm trying to measure is in equity investors
22 long-term required returns. There is a distinction
23 between projected returns and required returns.

24 A.L.J. BERGEN: And as a projected
25 return reported by some J.P. Morgan, how was that

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3 helpful to you in ascertaining what a required return
4 would be? Is it helpful to you?

5 MR. NOWAK: It's very difficult for me
6 to speak to any relevance whatsoever without seeing
7 the specific projection. The specific projection
8 he's referring to, I have not looked at. But without
9 context, I cannot speak to its relevance in this
10 proceeding.

11 A.L.J. BERGEN: Staff, would you like
12 to add anything to this?

13 MR. HALE: I would just add that staff
14 also takes the position that we would not look at
15 utility funds as such. Without -- we have no context
16 as far as how much of the investment is regulated,
17 unregulated, how much risk is involved in any
18 particular fund here, so we would not find that
19 useful for our analysis.

20 A.L.J. BERGEN: So the answer is, from
21 staff and the company, that projected returns like
22 you're talking about would not provide enough detail
23 to be useful to their analysis.

24 MR. RILEY: If the -- so we
25 established at the very beginning that the return to

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3 the equity owner should be commensurate with returns
4 on investments in other enterprises having
5 corresponding risks. I guess what I'm trying to get
6 at is you have your proxy group of IOUs that you use
7 to determine a return on investment, correct?

8 MR. NOWAK: Yes.

9 MR. RILEY: And we both understand
10 that investment banks also have funds consisting of
11 utilities, correct?

12 MR. NOWAK: Some do, yes.

13 MR. RILEY: Right. And so my question
14 is whether -- why should we take your proxy group --
15 the required return that you're calculating for your
16 proxy group -- over the projected returns that are
17 calculated by the investment banks?

18 MR. NOWAK: Because again, I don't
19 know what those specific return assumptions are in
20 terms of investment horizon. That can be a very
21 important one. I mean, the market fluctuates from
22 year to year. Changes can be significant. I don't
23 know if that's an annual projection. I don't know if
24 it's a five-year projection. I don't know if there's
25 unregulated companies that are -- that are in that

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3 fund.

4 MR. RILEY: Exactly, because you
5 haven't looked at it. You haven't looked at the time
6 horizons, you haven't looked at the extent of
7 regulation for the entities. You haven't looked at
8 any of those components of any of those funds.

9 MR. NICKSON: Objection.
10 Argumentative, Your Honors. This has been asked and
11 answered.

12 A.L.J. BERGEN: This has been asked
13 and answered. Sustained.

14 MR. RILEY: Was the answer no, that
15 you haven't looked at any of those?

16 A.L.J. BERGEN: The answer repeatedly
17 has been no, he did not look at those. Move on,
18 please.

19 MR. RILEY: Dr. Nowak, you -- you have
20 a risk premium model that you rely on in your
21 analysis; is that correct?

22 MR. NOWAK: To be clear, I looked at
23 it. Discounted cash flow model and capital asset
24 pricing model is my primary analytical models to
25 inform my recommended range. The CAPM is a risk

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3 premium model, but I also looked at a bond yield plus
4 risk premium analysis to -- to better inform the
5 analysis. But ultimately, I was relying on the DCF
6 and CAPM models.

7 MR. RILEY: For the -- for the risk
8 premium model that involves bonds as one of the
9 bases. Was that the same model that was used in the
10 Midcontinent Independent System Operator case that
11 you were involved with -- with FERC some number of
12 years ago?

13 MR. NOWAK: To be clear, both the CAPM
14 and the bond yield plus risk premium analysis involve
15 interest rates. So not exactly sure which one you're
16 referring to based on the --

17 MR. RILEY: So let me let me back up.
18 What are the models you use to come up with your ROE
19 in this case?

20 MR. NOWAK: I primarily relied on the
21 discounted cash flow and capital asset pricing model.
22 I also looked at a bond yield plus risk premium
23 analysis to inform myself.

24 MR. RILEY: So the bond yield plus
25 premium analysis, that is -- we can also call that a

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3 risk premium model, right?

4 MR. NOWAK: That is one of the two
5 risk premium models I looked at, yes.

6 MR. RILEY: And is that risk premium
7 model the same one that was at issue in -- are you
8 familiar with the FERC case, Midcontinent Independent
9 System Operator?

10 MR. NOWAK: I believe there have been
11 several cases, but if you're referring to the recent
12 cases before FERC that I believe you're referring to
13 in this 569, 569A, 569B, subsequent order on
14 remand -- I'm generally familiar with those cases.

15 MR. RILEY: Right. And is the risk
16 premium model that you're using in your analysis
17 here, the same one that was at -- the same model that
18 was at issue in that case?

19 MR. NICKSON: Your Honors, objection.
20 What's the relevancy between the FERC proceeding and
21 this proceeding here?

22 A.L.J. BERGEN: Yes, please explain
23 how --

24 MR. RILEY: If I could just -- if I --
25 if I could ask just a couple more questions.

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3 A.L.J. BERGEN: Well, we'd like to
4 know the relevancy before you ask your questions.

5 MR. RILEY: I'm trying to understand
6 if a model was used in this case that has been
7 rejected by FERC and the D.C. circuit.

8 MR. NICKSON: Your Honors, I note that
9 the questioning here appears to be regarding Mr.
10 Nowak's pre-filed testimony, and we're dealing here
11 with an ROE that's been negotiated as part of the
12 settlement agreement. And so to the extent that
13 we're looking at whether the ROE and the joint
14 proposal is in the public interest, I'm not sure this
15 line of question is particularly relevant.

16 MR. RILEY: Well, I think yes -- I
17 mean --

18 A.L.J. BERGEN: You can respond.

19 MR. RILEY: Well, I think we
20 established at the top there were one or two reports
21 that were used to consider ROE in this case. I take
22 it that the ROE that Dr. Nowak presented was one of
23 the baselines in the negotiations. And so if that's
24 what everybody's anchored on, we should know how he
25 got to the -- how he got to the number.

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3 A.L.J. BERGEN: I'm not sure I
4 understand what you mean when you say that we're
5 anchored on. The ROE and the joint proposal is its
6 own ROE.

7 MR. RILEY: Well, Your Honor, I don't
8 think the -- I don't understand the ROE and the joint
9 proposal to have been plucked from thin air. I
10 understand it to be the result of a negotiation, part
11 of which was Central Hudson asking for a ten percent
12 ROE, which in turn was based on Dr. Nowak's analysis.

13 A.L.J. BERGEN: I will allow you a
14 little limited leeway. Overruled for now.

15 MR. RILEY: Dr. Nowak, is the risk
16 premium model that you used in this case the same as
17 or different from the risk premium model that was at
18 issue in Opinion 569 from FERC?

19 MR. NOWAK: There are some
20 differences, but it's the same general model. But I
21 would note that that decision also included the
22 discounted cash flow and capital asset pricing. So
23 again, I'm just trying to be clear because we're
24 using the term risk premium generally, and both the
25 CAPM and the bond yield plus risk premium analysis

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3 are risk premium models.

4 MR. RILEY: So let's not do that.
5 Let's go back to -- let's go back to having a shared
6 understanding between us that when I'm referring to
7 risk premium model, I'm referring to the bond yield
8 plus premium model, not the other one. That's why
9 I'm using that as shorthand. Is there a different
10 shorthand we should use?

11 MR. NOWAK: No, that's an appropriate
12 shorthand. But because we're talking about an
13 entirely different order and you use the term model
14 singularly, those two other models were also at issue
15 in that proceeding.

16 MR. RILEY: I understand that, but
17 what I'm focused on is the risk premium model that
18 you use in your analysis and the risk premium model
19 that was at issue in opinion 569 before FERC. And
20 what I'm understanding you're saying is those are
21 fundamentally the same model, correct?

22 MR. NOWAK: They use the same
23 principles. There are some differences in inputs.

24 MR. RILEY: Okay. Are you aware then,
25 that FERC -- you wrote in your -- you wrote in your

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3 statement, or in your testimony, that the risk
4 premium model has been used in other jurisdictions as
5 a primary model to estimate authorized ROE, including
6 FERC. You wrote that on page 60, line 3 of your
7 testimony?

8 MR. NOWAK: Yes. And I would clarify
9 at the time this is filed, that was prior to the
10 order on remand in this specific case you're citing
11 to. It's also been used by FERC in other cases
12 outside of that MISO proceeding.

13 MR. RILEY: Is it not the case that
14 FERC actually rejected that model, and then the D.C.
15 circuit confirmed that it would be arbitrary and
16 capricious to use it?

17 MR. NICKSON: Objection, Your Honor.
18 Relevancy, and it calls for legal conclusion.

19 A.L.J. BERGEN: Do you want to
20 respond, Mr. Riley?

21 MR. RILEY: No. I think the question
22 speaks for itself.

23 A.L.J. BERGEN: Sustained.

24 MR. RILEY: Is it your understanding
25 that the risk premium model has been described by

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3 FERC as defying general financial logic, creating
4 circularity problems, and being quite defective?

5 MR. NOWAK: I'm aware that that is
6 some of the statements that they made in that case,
7 which was part of the issue in that case, which was
8 really for an analytical period. That goes back to,
9 I believe, the 2014-2015 period.

10 What models the record at FERC is that
11 there have been subsequent FERC -- if there have been
12 other FERC cases rely on later analytical periods
13 where they have included the risk premium model and
14 ROE have been dependent on risk premium model.

15 MR. RILEY: But the risk premium model
16 that you're using here is fundamentally the same as
17 the one that was at issue in that MISO case.

18 MR. NOWAK: It's the same general
19 model, yes.

20 MR. RILEY: Right. Okay. My last
21 question, and this is for Central Hudson: in the
22 acquisition order at page 18, it states that the
23 commission observed that there were substantial,
24 quote, concerns that the responsiveness of Central
25 Hudson to the community it serves might be diminished

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3 if the utility becomes a subsidiary of a foreign
4 holding company, end quote. Do you believe those
5 concerns have proven to be valid over time?

6 MR. NICKSON: Objection, Your Honors,
7 to the relevancy to the rates being considered in
8 this proceeding.

9 MR. RILEY: I'll drop the question. I
10 have no further questions, Your Honor.

11 A.L.J. BERGEN: Is there any redirect?

12 MR. NICKSON: May I have a moment with
13 the witnesses, Your Honor?

14 A.L.J. BERGEN: Sure. We'll go off
15 the record for five minutes.

16 MR. NICKSON: That's good.

17 A.L.J. BERGEN: Five minutes. It's
18 off the record.

19 (Recess from 12:12 p.m. until 12:18
20 p.m.)

21 A.L.J. BERGEN: We're back on the
22 record after a short recess. Mr. Nickson, do you
23 have any redirect?

24 MR. NICKSON: The company has no
25 redirect, Your Honor.

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3 A.L.J. BERGEN: Mr. Goodrich, do you
4 have any redirect?

5 MS. WRYNN: No redirect, Your Honor.

6 A.L.J. BERGEN: Is there anyone else
7 that would like to engage in cross based on the
8 examination that's taken place today? Okay. Hearing
9 none, we have a few follow up questions.

10 Staff, for the benefit of the record.
11 Can you please explain the process and the purpose of
12 setting a return on equity? What is that intended to
13 provide for the utility?

14 MR. HALE: The return on equity is
15 intended to provide the utility the opportunity to
16 earn a return that will allow them to attract future
17 equity investments, or equity investments going
18 forward.

19 A.L.J. BERGEN: And is that a forward-
20 looking process?

21 MR. HALE: That is a -- the -- when we
22 bought our model, it is a point in time. So it's a
23 very -- it's very specific to when the model is run
24 as to what the output is.

25 A.L.J. BERGEN: Okay. Is that Staff's

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3 its ROE recommendation in this case, was it looking
4 at Central Hudson as a standalone company?

5 MR. HALE: Yes it was.

6 A.L.J. BERGEN: Okay. Why did Staff
7 use a standalone corporate structure for the ROE
8 recommendation in this case?

9 MR. HALE: Staff used a standalone
10 structure because the company under the merger order,
11 there were a number of requirements in order to make
12 sure that the company was independent from the
13 ultimate parent company. And Staff was determined
14 that the ring fencing provisions that exists are
15 sufficient. They have been recognized by both S&P
16 and Moody's as being sufficient, the rating agencies,
17 as being sufficient.

18 The Company raises debt on its -- at
19 its own level, does not raise debt from -- for this
20 or any other company that is above the corporate
21 structure.

22 A.L.J. BERGEN: And can you explain,
23 for the benefit of the record, what ring fencing is?

24 MR. HALE: Ring fencing is the
25 separation of the operating company from the parent

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3 company to allow for independence in terms of raising
4 capital. And in the event there is something that
5 happens at a higher level, that the operating company
6 impact would be -- the impacts on the operating
7 company would be minimal.

8 A.L.J. BERGEN: Would it be
9 appropriate for the Commission to set rates for
10 Central Hudson below the levels required for Central
11 Hudson to maintain financial integrity in an attempt
12 to force its parent company, Fortis, to use its own
13 profits to subsidize Central Hudson's operations in
14 New York?

15 MR. HALE: Could you repeat the
16 question?

17 A.L.J. BERGEN: Sure. You've heard a
18 lot of conversation here about the level of profit
19 that the parent company has posted. We've heard a
20 lot about Central Hudson's consideration as a
21 standalone company set its return on equity. I
22 understood part of Congressman Riley's concern to be
23 that Central Hudson's parent company is posting a
24 profit that, it seems, in his opinion, to be unjust
25 to post a profit without asking for Central Hudson's

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3 rates and returns to be set at an increasing level
4 over the last three quarters.

5 Could Central Hudson or could the
6 Commission set rates below the levels required to
7 maintain financial integrity for Central Hudson as a
8 way to force Fortis to subsidize it?

9 MR. HALE: I believe the Commission
10 could do whatever it would like. But I believe the
11 danger in what you're describing is that the -- you
12 would then be forcing Fortis, the parent company, to
13 - and all the other companies that are under Fortis
14 umbrella - to essentially subsidize New York's --
15 Central Hudson's operations. If you're not providing
16 Central Hudson with sufficient capital to -- to run
17 the corporation as a going concern.

18 A.L.J. BERGEN: And that would be the
19 same if other Fortis subsidiaries were similarly --
20 as I understand, Fortis is primarily regulating
21 utilities at their subsidiary companies. If those
22 affiliates were not allowed rates to adequately
23 protect their financial integrity, the same would be
24 true here, that Central Hudson would be forced to
25 subsidize other out of state, out of country --

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3 MR. HALE: Correct, yes.

4 A.L.J. BERGEN: What happens if the
5 Commission sets an ROE that's too low for a regulated
6 utility like Central Hudson?

7 MR. HALE: In the short-term, the
8 utility could face a credit downgrade, which would
9 increase the cost of issuing the debt for the
10 company. And you would also have the issue of
11 attracting equity capital as well, but the primary
12 concern would be on the company issue when it issues
13 debt at an increased rate. That of course goes -- is
14 charged to ratepayers as part of the revenue
15 requirements.

16 A.L.J. BERGEN: And what is the
17 proposed ROE in the joint proposal?

18 MR. HALE: The proposal is 9.5%.

19 A.L.J. BERGEN: And is there an
20 earnings sharing mechanism?

21 MR. HALE: There is.

22 A.L.J. BERGEN: Can you explain what
23 that is, please?

24 MR. HALE: So an earnings sharing
25 mechanism is a mechanism that allows ratepayers to

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3 benefit from the -- if the company has -- is becoming
4 more efficient and earns a higher profit than is
5 allowed in the joint proposal, they would share those
6 earnings with ratepayers to varying degrees,
7 depending on how much more or how much above the
8 allowed -- the actual earnings were.

9 A.L.J. BERGEN: Do you know what the
10 authorized ROE was in the last rate plan?

11 MR. HALE: The -- in the 2024 rate
12 plan was also 9.5.

13 A.L.J. BERGEN: Do you know what it
14 was in the rate plan before that?

15 MR. HALE: It was 9.2. That's just
16 from memory.

17 A.L.J. BERGEN: Do you know how often
18 Central Hudson attains an earned ROE at the allowed
19 ROE?

20 MR. HALE: I don't have the specific
21 numbers in front of me, but I believe that Central
22 Hudson, for both the electric and the gas service,
23 has no exceeded its allowed ROE often in the past -
24 well, since the 2020 case, so the past five years or
25 so.

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3 A.L.J. BERGEN: They exceeded the
4 allowed Roe. Have they even attained the allowed
5 ROE? Do you know that?

6 MR. HALE: I don't believe so.

7 A.L.J. BERGEN: Okay. So again, to
8 clarify, simply because there's an allowed ROE in the
9 joint proposal does not guarantee that the company
10 will actually earn that ROE.

11 MR. HALE: Correct. It is the
12 opportunity to earn up to that amount.

13 A.L.J. BERGEN: Thank you. Is there
14 any redirect or questioning based on my questions?

15 MR. NICKSON: No, Your Honor.

16 MR. RILEY: Just -- just one question,
17 Your Honor. Is there any relationship whatsoever
18 between -- in your view, is there any relationship
19 whatsoever between the rates that Central Hudson
20 customers pay and Fortis's profit?

21 MR. NICKSON: Objections. Corporate
22 relationship is ill defined, and I don't know how
23 folks connect to that.

24 A.L.J. BERGEN: Can you be more
25 specific, please, Mr. Riley?

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3 MR. RILEY: I don't know how I can be.
4 If all else equal, do you agree that raising -- all
5 else equal, do you agree that raising rates on
6 Central Hudson customers would increase profits for
7 Fortis?

8 MR. HALE: I can't say for certain
9 because I wouldn't -- it would depend on the
10 performance of Central Hudson during that particular
11 time frame.

12 MR. RILEY: But all else equal,
13 Central Hudson's performance doesn't change at all.
14 Nothing in the world changes except Central Hudson
15 increases rates on my constituents. Does that have
16 any relationship to the profits that Fortis received?

17 MR. HALE: Compared to the previous
18 period or --

19 MR. RILEY: Just generally.
20 Everything in the world is static. Hold everything
21 in the world constant. The only thing that changes
22 in the world, my constituents' Central Hudson bills
23 go up. Does that have any impact on Fortis' profits?

24 MS. WRVNN: Objection, speculative.
25 It's kind of unclear what two items are being

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3 compared here. And again, for what period of time?

4 MR. RILEY: I mean, the point is,
5 nobody's even willing to acknowledge the basic fact
6 that increasing rates on Central Hudson customers has
7 an impact on Fortis. Is that -- or is everybody on
8 the panel denying that increasing rates on my
9 constituents has any impact whatsoever on Fortis'
10 profits?

11 A.L.J. AMYOT: I think the witness
12 answered that it would depend on Central Hudson's
13 performance. Are you still saying if everything is
14 equal --

15 MR. RILEY: Yes.

16 A.L.J. AMYOT: -- and the world does
17 not change in any way from year to year?

18 MR. RILEY: Yeah. Dr. Nowak, is
19 something that economists often do, to hold a bunch
20 of factors and variables constant to isolate the
21 impact on one of those variables? That's something
22 that economists do from time to time, correct?

23 MR. NOWAK: You're asking just to
24 clarify (indiscernible) medical.

25 MR. RILEY: Just as a general economic

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3 principle. This is --

4 MR. RILEY: Yes, I'm just asking as a
5 general economics principle. Do economists sometimes
6 hold the variables constant in order to isolate the
7 impact of one variable?

8 MR. NOWAK: It's possible. And the
9 limited analytical value that goes with such
10 assumptions should also be considered.

11 MR. RILEY: Okay. And so if we were
12 to hold all factors constant except for raising rates
13 on my constituents, what impact would that have, do
14 you think, on Fortis' profits?

15 MR. NICKSON: Your Honor, I'm going to
16 object that this calls for speculation. I also
17 believe that staff's witnesses explained that the
18 rates that would be approved in this proceeding
19 provide an opportunity for the company to earn. And
20 so whether they actually earn or not is yet to be
21 seen.

22 A.L.J. BERGEN: I'm still struggling
23 to understand the question. So is your question just
24 simply asking if rates are increased for Central
25 Hudson, then profits will go up for Fortis?

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3 MR. RILEY: My question is, it seems
4 like in this -- in this entire proceeding, we're
5 living in, like, a fantasy land where there's no --

6 A.L.J. BERGEN: I'm sorry, can you get
7 a little more decorum and professionalism when you
8 ask your questions? You're being very argumentative.

9 MR. RILEY: Because there's an
10 argument to be had that there is a relationship
11 between the profits of the foreign corporation that
12 bought Central Hudson and the rates that my
13 constituents are being asked to pay. And the theme
14 throughout this proceeding in this day has been that
15 the latter are in no way relevant to the former.

16 And apparently nobody has even
17 considered whether the two have any relationship to
18 each other at all. And so my question is, is there
19 anybody who thinks there's any relationship
20 whatsoever between the bills my constituents are
21 paying and the profits that Fortis is making?

22 A.L.J. BERGEN: I mean, I think we've
23 fully explored the corporate relationship between
24 Fortis and Central Hudson.

25 MR. RILEY: I agree, Your Honor. And

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3 we established that they're separate entities. We
4 also establish that Fortis is a one hundred percent
5 shareholder of Central Hudson. And I guess the
6 question that -- that can't be in this room, can't be
7 answered is whether raising rates on my constituents
8 has any impact on Fortis' profits.

9 A.L.J. BERGEN: Let me ask this
10 question of the panel. What is the entity that's the
11 direct corporate parent of Central Hudson?

12 MR. HALLY: CH Energy Group is the
13 direct corporate parent of Central Hudson Gas and
14 Electric.

15 A.L.J. BERGEN: Is that a New York
16 corporation or a foreign corporation?

17 MR. HALLY: That is a New York
18 corporation.

19 A.L.J. BERGEN: And what is the
20 corporate ownership of CH energy Group?

21 MR. HALLY: I believe that is Fortis
22 US.

23 A.L.J. BERGEN: And what is the parent
24 company of Fortis US?

25 MR. HALLY: I believe that is Fortis

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3 Incorporated.

4 A.L.J. BERGEN: So how many corporate
5 entities separate Central Hudson from Fortis Inc.,
6 the largest parent company?

7 MR. HALLY: There are two in the
8 middle.

9 A.L.J. BERGEN: Okay. So is it an
10 easy to answer, straightforward question of saying
11 what happens when rates at Central Hudson, the local
12 level, are increased to the three-level-up parent
13 corporation? Can that be reasonably answered?

14 MR. HALLY: It is difficult to answer
15 because of the corporate structure. It is also
16 difficult to answer because of the performance issue
17 that was mentioned by Staff's witness.

18 A.L.J. BERGEN: So are you refusing to
19 answer the question, or is the answer it's difficult
20 to understand what impact it will have upstream?

21 MR. HALLY: It is difficult to -- to
22 understand what the impact would be upstream.

23 A.L.J. AMYOT: Can I ask a question?

24 MR. RILEY: I think --

25 A.L.J. AMYOT: Wait, let me just ask

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3 one question, please. This is for the DPS panel.
4 Isn't it true under rate regulation that if Central
5 Hudson came to us asking for an increase in rates,
6 but everything was projected to be the same for the
7 next year, rates would not go up?

8 MR. HALE: That's correct. The
9 company would have to justify what is driving the
10 increase in rates, the capital expenditures, new
11 employees, whatever. And that is something that
12 Staff analyzes and verifies.

13 MR. RILEY: I think just to clarify
14 because I think the question that the Bench asked
15 answered the question. I just want to make sure I --
16 the answer -- your position is that it's difficult to
17 understand the impact of a rate hike for Central
18 Hudson customers on Fortis' profits. That's your
19 position.

20 MR. HALE: I think there are many
21 variables that impact your question. And I think
22 I've answered the question as, because of all those
23 variables, it is difficult to make a one to one
24 correlation that you are attempting to do to deal
25 with the question.

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3 MR. RILEY: I'm not trying to make a
4 one to one correlation. I'm just saying,
5 directionally and setting aside all the other
6 variables, I understood you to say, and maybe the
7 record will speak for itself, that it's difficult to
8 understand the impact of raising rates on Central
9 Hudson on -- on Fortis' profit. Is that your
10 testimony or not?

11 MR. HALE: Yes, that is how I answered
12 the question. Correct.

13 MR. RILEY: Thank you, Your Honor.

14 A.L.J. BERGEN: So is there any
15 redirect?

16 MR. NICKSON: No, Your Honor.

17 A.L.J. BERGEN: Counsel?

18 MS. WRYNN: No, Your Honor.

19 A.L.J. BERGEN: If we assume that
20 Central Hudson's rates increasing will in some way
21 upstream -- or could upstream increase profits for
22 Fortis, assuming what the congressman is saying was
23 true, would that change the analysis that the
24 Commission is legally obligated to do in terms of
25 setting rates for Central Hudson? Would that change

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3 your internal calculations and analyses of the rate
4 request that Central Hudson has set forth?

5 MR. HALE: From staff's perspective,
6 that would not.

7 A.L.J. BERGEN: Answer if you have a
8 different answer or same answer.

9 A.L.J. LECAKES: Madam, let me try
10 just a couple of questions.

11 You mentioned that there's a number of
12 variables that take -- that are taken into
13 consideration in real world circumstances as to
14 whether a rate increase will increase Fortis' profits
15 ultimately. You remember answering that way,
16 correct?

17 Is one of those factors the finding of
18 efficiencies in the operations of Central Hudson that
19 would allow it to earn its return on equity, such
20 that dividends could be paid to Fortis?

21 MR. HALLY: So just so I'm --
22 dividends and profits are different. Central Hudson
23 has generally not provided dividends up to Fortis for
24 quite some time. However, profits are still recorded
25 at the Fortis level. Depending on the return on

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3 equity at Central Hudson is able to achieve during a
4 period of time. And in the past, I think what staff
5 has answered is that the allowed ROE has not been
6 achieved for some periods of time, so performance is
7 definitely a factor.

8 You may not be able to achieve the
9 level of ROE within a joint proposal. The joint
10 proposal itself is a comprehensive package that
11 includes an ROE as one component, but it includes a
12 number of other components about how the company will
13 run its business over that period of time, the
14 expenses if allowed to recover.

15 And so all of those factors can come
16 into play when you're looking at the potential for
17 actually achieving that allowed ROE. So again, if
18 that allowed ROE is not achieved, or if there is --
19 the performance is not capable of achieving that
20 allowed ROE, Fortis' profit could actually go down
21 based on the performance of Central Hudson.

22 A.L.J. LECAKES: All right. But let's
23 focus on circumstances in which the profits might go
24 up, just to move things along. And one of the
25 changes would be working toward -- well, let's start

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3 this way. One of those items would be rates. Costs
4 and expenses are based on forecasts, correct? So is
5 that a yes?

6 MR. HALLY: Oh, sorry. Yes, they are.

7 A.L.J. LECAKES: And so if things like
8 inflation, taxes, or other forecast expenses were to
9 go down, it's possible that could result in
10 additional earnings for Central Hudson. correct?

11 MR. HALLEY: That is correct.

12 A.L.J. LECAKES: And then assuming
13 that Fortis files for new rates at the end -- or the
14 expiration of the rate plan in the joint proposal,
15 would those lower costs have to be required by
16 Commission policy to be included in the test year,
17 that Fortis submitted to support any rate request?

18 MR. HALLEY: So I just want to clarify
19 that question. Central Hudson files?

20 A.L.J. LECAKES: I'm sorry. Yes, that
21 Central Hudson would file.

22 MR. HALLY: Okay. So could you just
23 repeat your question?

24 A.L.J. BERGEN: So the costs and
25 expenses that the company files in its rate request

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3 are based on a historic test year; is that correct?

4 MR. HALLY: That is correct.

5 A.L.J. LECAKES: And that's based on
6 Commission policy. There's a generic policy
7 statement on a historic test year, correct?

8 MR. HALLY: Historic test year that's
9 been adjusted to look into the future. But yes,
10 correct.

11 A.L.J. LECAKES: Right. That was my
12 next question. And so if those costs go down during
13 the rate plan itself, that result in additional
14 profits, during the rate plan itself, those cost
15 decreases would be then used in the next forecasted
16 rate plan or the next forecast rate request?

17 MR. HALLY: Yes. Those profits or
18 efficiencies that drive those profits would be first
19 caught within the earnings sharing mechanism, and
20 some portion would likely be returned to customers.
21 But then, within the next rate proceeding, those
22 efficiencies would be baked into that historical time
23 period that new rates would be based on.

24 A.L.J. LECAKES: And the same -- you
25 mentioned efficiency. So if there's efficiencies in

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3 terms of employee retirements where no one was needed
4 to be hired to fill those positions, if there were
5 efficiencies found within any sort of capital
6 expenditures and expenses, those efficiencies might
7 result in additional profits that Central Hudson
8 realizes during the rate plan, correct?

9 MR. HALLY: So just to, again, clarify
10 the question. So the efficiencies on the operating
11 expenses would likely allow for some improvement in
12 profitability, that again would be caught in the
13 earnings sharing mechanism. Efficiencies on the
14 capital investment side would likely be caught within
15 the net plant adjustment that's incorporated within
16 the joint proposal, and therefore would not impact
17 profitability, but would trigger a mechanism that
18 would provide those savings back to customers.

19 A.L.J. LECAKES: Right. Because the
20 net plant reconciliation says that if the company
21 doesn't spend all of the capital project money that's
22 supplied through rates that that difference, on a
23 downward basis only if the company doesn't spend
24 enough, gets returned to customers during the rate --
25 well, gets accounted for in a certain way that it

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3 will ultimately be returned to customers as decided
4 by the Commission, correct?

5 MR. HALLY: That's correct. And then
6 expenditures above that amount would be on the
7 company. And there is not recovery during the term
8 of the rate plan for those expenditures.

9 A.L.J. LECAKES: Right, meaning that
10 the company cannot surcharge the customers, the
11 company cannot raise rates during the rate plan or
12 anything to make up for that difference between what
13 the Commission allows in rates for those capital
14 expenditures and what the company actually spends if
15 it is above that amount; is that correct?

16 MR. HALLY: That is correct.

17 A.L.J. LECAKES: So if there are
18 efficiencies that are found during the term of the
19 rate plan, either on the capital expenditure side,
20 which might -- is it possible that that would impact
21 the projected costs of capital expenditures for the
22 next rate proceeding?

23 MR. HALLY: Yes. I don't want to
24 speak to the company or Staff's methodology for
25 reviewing capital expenditures, but lower capital

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3 expenditures during the term of this rate plan would
4 likely impact that review and may lead to lower
5 capital expenditures in future periods.

6 A.L.J. LECAKES: And if there's
7 efficiencies found on the expense side, that would
8 result in lower expenditures, which, again, would be
9 included as part of the forecasted costs for
10 expenditures in the next rate proceeding, correct?

11 MR. HALLY: Yes, that is correct.

12 A.L.J. LECAKES: And so, getting back
13 to all of the different considerations that go into
14 whether a rate increase might increase the profit
15 recorded by Fortis, isn't it also true that
16 efficiencies and other cost savings and things that
17 may impact the profits afford us, may also ultimately
18 benefit ratepayers in the cycle of rate proceedings?

19 MR. HALLY: That is definitely
20 correct.

21 A.L.J. LECAKES: Through lower costs,
22 through lower capital expenditure projections or
23 otherwise; is that correct?

24 MR. HALLY: Yes, that is correct.

25 A.L.J. BERGEN: Sir, I just need you

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3 not tell us anything, because we do not know what
4 kind of capital was needed to -- to generate that
5 profit. How large the book value of all the
6 companies under the Fortis umbrella are -- you know,
7 if it was a smaller number than a few billion, that
8 would be a very good profit. If it was \$100 billion,
9 maybe not as impressive.

10 A.L.J. BERGEN: Sure. And I think we
11 went over this earlier, but in New York, does the
12 Commission make sure in rate cases and in merger
13 acquisition proceedings to isolate New York utilities
14 from its parent corporation operations?

15 MR. HALE: Yes.

16 A.L.J. BERGEN: Okay. That's called
17 ring fencing.

18 MR. HALE: Yes, that is.

19 A.L.J. BERGEN: So Central Hudson as a
20 utility operates as an independent company apart from
21 Fortis, its ultimate parent; is that accurate?

22 MR. HALE: Yes it is.

23 A.L.J. BERGEN: Okay. And Fortis
24 Inc., the largest parent corporation -- those
25 financial statements, again, are a compilation of all

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3 of its affiliates; is that true?

4 MR. HALE: Yes, that's correct.

5 A.L.J. BERGEN: So how would focusing
6 on all of its affiliates, which are spread out, I
7 believe, all over Canada and the United States and
8 even into the Caribbean -- how would that help inform
9 how the Commission establishes rates for Central
10 Hudson?

11 MR. HALE: It wouldn't.

12 A.L.J. BERGEN: As a subsidiary
13 corporation, does Central Hudson send dividends to
14 the parent?

15 MR. HALLY: It may, depending on the
16 financial circumstances at the time.

17 A.L.J. BERGEN: Okay. And as its own
18 independent corporation, Fortis also needs to attract
19 capital for its investments?

20 MR. HALLY: That is correct.

21 A.L.J. BERGEN: And with some of the
22 money invested in Fortis, does it provide equity
23 infusions to Central Hudson and other affiliates?

24 MR. HALLY: Again, at times it may,
25 depending on the financial circumstances of both of

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3 the subsidiary, but potentially also Fortis itself.

4 A.L.J. BERGEN: So when in the
5 quarterly report, Quarter 3, 2024, Fortis reported,
6 Central Hudson states equity from Fortis as cash from
7 its operations and external financing, only working
8 capital needs. That was a near-term situation, but
9 the rate case is looking at a much longer period into
10 the future. Is that an accurate understanding of
11 that statement?

12 MR. HALLY: That is my understanding
13 of that statement, Your Honor.

14 A.L.J. BERGEN: So in the near term,
15 if they received equity from Fortis and can raise
16 debt through external financing, that was the
17 statement was referring to a very near-term
18 situation?

19 MR. HALLY: Again, that is my
20 understanding, Your Honor.

21 A.L.J. BERGEN: And the rate case goes
22 beyond that into the future. And this rate plan has
23 been proposed for three years; is that correct?

24 MR. HALLY: That is correct, Your
25 Honor.

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3 A.L.J. BERGEN: And this rate plan is
4 intended to provide the level of rates to allow the
5 company to raise your debt and to provide a
6 reasonable return on equity.

7 MR. HALLY: That is correct, Your
8 Honor.

9 A.L.J. BERGEN: Okay. No further
10 questions. Any redirect?

11 MR. NICKSON: No redirect.

12 MS. WRVNN: No redirect, Your Honor.

13 A.L.J. BERGEN: Okay. Congressman?

14 MR. RILEY: No, Your Honor.

15 A.L.J. BERGEN: Okay. Thank you. The
16 witnesses can be excused. Yes.

17 A.L.J. BERGEN: I'm sorry. The
18 hearing is not concluded. The witnesses are just
19 excused.

20 A.L.J. AMYOT: Okay. We have to rule
21 on the IRs, and then we would like to discuss
22 post-hearing briefs and a couple other matters. It's
23 our opinion that based on the questions asked during
24 cross-examinations, the IRs are duplicative. So we
25 are going to strike the five that were objected to.

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3 Those are 47 (sic) --

4 A.L.J. BERGEN: 47 (sic), 488, 498,
5 492, 500 are stricken from the exhibit list.

6 A.L.J. AMYOT: So we're going to talk
7 about the post-hearing briefs. Now, we are planning
8 on allowing the parties to submit post-hearing
9 briefs. They should be limited to the issues
10 addressed during cross-examination and related legal
11 arguments. The briefs will be due by June 27th,
12 2025, and we're going to set a ten-page limit. And
13 then we'll give you a week after that to reply to the
14 post-hearing briefs.

15 But that would put us on July 4th. So
16 I guess those will be due July 7th. And if we have
17 any further questions, we may send those out. We
18 understand that the transcript is necessary to
19 prepare the post-hearing briefs, and we believe it's
20 coming in on Wednesday.

21 A.L.J. BERGEN: We've requested
22 expedited transcript service, two-day turnaround. So
23 when we get even a draft, we can post it or send it
24 to you without posting it. And then once it's
25 finalized, we'll post it to DMM.

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3 A.L.J. AMYOT: Are there any other
4 issues the parties wish to address?

5 MR. NICKSON: Your Honor, is there a
6 page limitation for the reply brief?

7 A.L.J. AMYOT: No, but --

8 A.L.J. BERGEN: Yes, maybe. I mean,
9 ten should be fine, but if you go over, we're not
10 going to entertain motions to strike, or we're not
11 going to stop reading, but we'd appreciate it. I'm
12 sure everybody would appreciate it, if we can keep
13 our briefs ten pages.

14 MS. WRYNN: And nothing further, Your
15 Honors. Thank you.

16 MR. RILEY: Your Honors, I'd just like
17 to preserve whatever rights I may have with respect
18 to the exhibits that have been struck.

19 A.L.J. AMYOT: Noted.

20 A.L.J. BERGEN: Is there anything
21 else?

22 MR. NICKSON: No, Your Honor.

23 MR. RILEY: No, Your Honor.

24 A.L.J. BERGEN: That concludes our
25 hearing. Thank you for coming out. We're off the

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3 STATE OF NEW YORK

4 I, EMINA GRGIC-GRIJALVA, do hereby certify that the
5 foregoing was reported by me, in the cause, at the
6 time and place, as stated in the caption hereto, at
7 Page 1 hereof; that the foregoing typewritten
8 transcription consisting of pages 1 through 122, is a
9 true record of all proceedings had at the hearing.

10 IN WITNESS WHEREOF, I have hereunto
11 subscribed my name, this the 18th day of June, 2025.

12

13 EMINA GRGIC-GRIJALVA, Reporter

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