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By Electronic Mail

Hon. Kathleen A. Burgess  
Secretary  
NYS Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223

**Re: Case 14-E-0318 – Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric Service.  
Central Hudson's Report Regarding the REV Collaborative and Developing Demonstration Projects**

Dear Secretary Burgess:

Enclosed please find the Comments of the Retail Energy Supply Association in this proceeding.

Thank you for your assistance in this matter.

Respectfully submitted,

Retail Energy Supply Association

By: Usher Fogel, Counsel  
Usher Fogel, Counsel

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

Case 14-E-0318 – Proceeding on Motion of the Commission as to the Rates,  
Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation  
for Electric Service.

Central Hudson's Report Regarding the REV Collaborative and Developing  
Demonstration Projects

COMMENTS OF  
THE RETAIL ENERGY SUPPLY ASSOCIATION

I. PRELIMINARY STATEMENT

The Retail Energy Supply Association (RESA)<sup>1</sup> submits these comments in  
response to the "*Central Hudson Gas & Electric Corporation's Report Regarding the Rev  
Collaborative and Developing Demonstration Projects*", filed in this proceeding on May 1,  
2015 ("Report").

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<sup>1</sup>The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).

## II. SUMMARY OF DEMONSTRATION PROJECTS PRESENTED IN THE REPORT

In the Report, Central Hudson supports implementation and authorization of the following Demonstration Projects in the area of solar, microgrids, demand response, and smart meters:<sup>2</sup>

1. Central Hudson's Community Solar;
2. SolarCity's Community Solar;
3. Central Hudson's Demand Response;<sup>6</sup>
4. Central Hudson's Microgrid; and
5. Central Hudson's Behind the Meter Services (Smart Meter).

With respect to Community Choice Aggregation ("CCA"), the Report recommends authorization of funding to help assess the feasibility of Citizens for Local Power's Community Choice Aggregation proposal.

It is further noted that additional demonstration projects and concepts discussed and considered by the by the REV Collaborative ("Collaborative") but not currently recommended by Central Hudson, include Consolidated Edison Solutions' proposal for a third party owned community solar project where the financial purchase is set equal to the plant's output; Dutchess County's proposal for permitting customers to purchase ownership shares in a utility owned community solar project; and MI's proposal for a large commercial and industrial Self-Direct energy efficiency project.<sup>3</sup>

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<sup>2</sup> Cover Letter dated May 1, 2015, pp. 3-4.

<sup>3</sup> *Id.*, p. 4.

### III. THE DEMONSTRATION PROJECTS SHOULD MAXIMIZE COMPETITIVE AND MARKET FORCES

The Commission has previously set forth its guiding principles regarding REV Demonstration Projects in the Memorandum and Resolution on Demonstration Projects issued in Case 14-M-0101,<sup>4</sup> and further addressed such Demonstration Projects as part of the REV Order.<sup>5</sup>

The Commission has correctly recognized that achieving the goals presented in the REV proceeding requires departure from the traditional utility business approach and accepted ways of doing business. This involves movement away from a utility centric model where the regulated monopoly essentially exerts all primary control and moving towards efforts and projects that in a fulsome manner incorporate competitive principles that supports the provision of energy products and services upon the bedrock of animated market forces and principles.

#### A. Standards Applicable To All Projects

The development of alternate energy sources such as solar has been the subject of Commission and legislative activity for some time. The use of solar power has proliferated throughout the State undergirded by many State and Federal support and subsidization programs. Therefore, in the context of REV and the structure of

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<sup>4</sup> Case 14-M-0101, *Memorandum and Resolution on Demonstration Projects*, (issued December 12, 2014) (“REV Principles”).

<sup>5</sup> Case 14-M-0101, *Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision*, Order Adopting Regulatory Policy Framework and Implementation Plan (issued February 26, 2015) (REV Order).

Demonstration Projects it is necessary to focus not on whether solar is in use but rather on how can the development of solar power be encouraged in a unique and productive manner without relying upon the traditional protective underpinnings of utility regulation and monopoly rate recovery. There is little to be learned if a solar Demonstration Project is fully controlled and developed by a utility under the protective ambit of guaranteed rate recovery. That is simply the old model clothed in the angelic aura of solar or renewable energy. As the Commission noted, a “basic tenet underlying REV is to use competitive markets and risk based capital as opposed to ratepayer funding as the source of asset development.”<sup>6</sup> Nor is there any need to rely on the extant utility centric model for the “strong level of interest in REV markets expressed by independent providers demonstrates that we are not dependent on utility investment to build asset base.”<sup>7</sup>

These same concerns and analysis apply as well with the same force to the other projects included in the Report such as demand response, smart meters, and microgrids. All of these have been the subject of PSC review and legislative activity. In each instance an effort must be made to move away from the existing utility based structure to one that focuses on the consumer and relies on the interplay of market forces.

In view of these factors, RESA recommends that in its consideration of the Solar and other projects recommended in the Report as well as those projects under

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<sup>6</sup> REV Order, p. 67.

<sup>7</sup> *Id.*

consideration, both Staff and the Commission refract each Project's structure and constituent elements through the discerning lens of the following concepts and criteria.

1. *Role of the Utility*

The Commission has underscored that it does "not generally favor the utility ownership of DER assets."<sup>8</sup> This reflects the Commission's concern that unmodulated "utility participation in DER markets presents a risk of undermining markets more than a potential for accelerating market growth."<sup>9</sup> In view of these concerns the Commission concluded that utility ownership would only be allowed in limited circumstances.<sup>10</sup>

It is therefore clear that examination of any proposed Demonstration Project and among competing Demonstration Projects must include an in depth review of the issue of utility ownership. In other words, allowance of utility ownership or substantial control is not a given but must be tested against the Commission's general policy of not favoring utility ownership of utility assets, and those Proposals that minimize or eliminate utility ownership and control while providing material REV related benefits should be favored.

From this perspective, the relevant inquiry needs to focus on the following issues:

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<sup>8</sup> REV Order, p. 67

<sup>9</sup> *Id.*

<sup>10</sup> REV Order, p. 70.

- Whether and to what degree the proposal relies upon utility ownership or substantial control.
- Can the projected results and benefits be secured by reducing, minimizing or eliminating utility ownership or control.
- Which proposals, in fact, on a comparative basis reduce the level of utility involvement either through direct ownership.
- Can the purported desired benefits be achieved while minimizing utility involvement.

## 2. Customer Engagement

Ultimately the goal of the REV effort is to develop Utility 2.0, where the customer rather than the utility becomes the central focus of development.<sup>11</sup> As the Commission underscored, a core policy of REV would be:

**Empowering Customers:** A hallmark of an efficient consumer market is information and knowledge and ensuring the availability of tools to both procure supply and services that consumers' value. By focusing on consumer needs, the Commission can best determine if regulation and the markets are effective at delivering policy objectives.<sup>12</sup>

By this process, the customer should not be a mere passive bystander to exogenous efforts taken and applied by other parties such as the utility of developer. It is necessary to maximize customer involvement in all aspects of the Project and ensure

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<sup>11</sup> See Case 07-M-0548, Press Release dated December 19, 2013 ("Press Release")

<sup>12</sup> Press Release, p. 1.

that customers are provided with timely, accurate, time-sensitive and reliable information which they can use to better manage their energy usage. If the output from a solar facility, for instance, is cheaper or more costly at particular time or season, this information should be presented to the customer in order to ensure that the customer's usage patterns reflect an accurate assessment of costs.

### 3. *Balancing of Risk*

Under the existing utility model, the lion's share of business risk is primarily borne by the general body of utility ratepayers. Once a project or acquisition is deemed prudent, the utility is essentially guaranteed recovery through the regulated rate setting process. Total replication of this approach through the Demonstration Projects thus offers little in terms new or valuable information by which to undergird the REV vision. It therefore behooves the Commission if it truly seeks to create a new paradigm, to assess whether and to what degree a proposed Project establishes a different balancing of risk between the utility, general body of ratepayers, third-party developers and consumers. Ideally, all parties should have some "skin in the game".

### 4. *Competitive Structure & Impact*

The process by which a Project is implemented and procured provides important insight to the degree by which the proposed effort is simply an extension of the existing Utility 1.0 model or whether it advances the ball forward to a more competitive based Utility 2.0 model. Projects which are open to an array of competitors is obviously more



linked to a market oriented base than negotiations limited to a bilateral or restricted group of vendors. Additionally, a truly competitive bidding structure would ensure that each of the parties to the deal take on the risks of project failure as well as success. A competitive structure which merely retains the existing risk structure (i.e. risk borne by the general body of ratepayers) represents more of the existing regulated model.

Furthermore, the Commission has emphasized that it seeks implementation of programs and projects that incorporate market based solutions and participants.<sup>13</sup> As noted by the Commission, the "...market for grid services should be competitive."<sup>14</sup> Clearly, those projects that conform to that standard should be favored.

#### 5. *Innovation*

The goals of REV to transform the existing energy structure necessitate introduction of new and innovative approaches and products and services that do not simply mirror the existing utility centric energy market. To simply offer a product under the structure and guise of the existing utility controlled framework or to offer products and services that do not differ materially from what has been currently available to consumers will not advance the REV goals in a material fashion. Consequently, focus should be placed on the level of innovation of the products or services included in each Project.

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<sup>13</sup> REV Principles, Appendix A.

<sup>14</sup> *Id.*

6. *Retail Access*

The efforts associated with REV hope to achieve results which at this point are only potential in nature. In New York, however, there currently exists an established retail access program that serves millions of consumers and businesses and is supported by a wide network of competitive ESCOs. It is therefore most important for the Commission and Staff to ensure that the REV program and all Demonstration Projects operate in a manner that is consistent with and does not in any way undermine the ongoing retail access program in the Central Hudson territory.

Clearly, this would preclude any type of discriminatory or other prejudicial practices against ESCOs providers. In addition, however it is necessary to craft the operating parameters of each Project so that consistency with extant retail access programs is maintained. This is especially true when dealing with the NYISO settlement process for the Community Solar and Smart Meter (Behind the Meter) Demonstration Projects.

For Central Hudson's Retail Access customers that also participate in any of the Community Solar programs, both the customer's billed and reported commodity usage and the ESCO's load obligation as reported by Central Hudson to the NYISO should be reduced by the amount of Community Solar power the customer purchases. In each case, the amount of generated kWh that may be oversupplied during certain hours during the billing period (i.e. net-generation credits) should be allocated onto the

NYISO settlement statement of the *energy supplier* of the account. The energy supplier may be the utility itself or may be an ESCO, but the net-generation credits should be directed onto the NYISO settlement statement of the entity that is supplying the customer.

For Central Hudson's Retail Access customers that also participate in the Behind the Meter Services, including Smart Meters, Central Hudson should use the actual interval metering from the customer's meter as the basis for determining the ESCO's load obligation as reported by Central Hudson to the NYISO.

B. Citizens for Local Power's Community Choice Aggregation proposal ("CLP").

CLP requests a \$798,147 allocation from the established REV Demonstration Project budget of \$10 million to examine the basic feasibility of its concept of a CCA program, and help offset some of the initial projected costs associated with determining such feasibility.<sup>15</sup> Although the various goals enunciated by CLP have positive attributes, it does not appear that the funding request has merit at this time.

As detailed in the Report, the CLP proposal is only at its earliest stages and is scheduled to take some three years before CLP or the Commission can conclude whether the CLP project will move forward, who will participate and what products

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<sup>15</sup> REV Report, p. 67.

and services will be offered.<sup>16</sup> In view of the limited REV Demonstration Project budget of \$10 million set aside in the rate case,<sup>17</sup> it would be more efficacious to apply funding to the Projects already identified in the Report that are all more concretized and ready to be implemented in a short time frame.

Additionally, the Commission has recently authorized the implementation of a large scale CCA REV project in the County of Westchester.<sup>18</sup> This project is slated to be underway in 2015 and thus can provide information concerning CCA on a demonstration basis in a much shorter time frame. The Commission has also recently instituted a proceeding to examine the standards and criteria that should be applied to CCA.<sup>19</sup> In view of these current developments there does not appear to be any compelling need to use a substantial portion of the limited REV budget to finance another CCA experiment.

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<sup>16</sup> REV Report, CLP Attachments I and II.

<sup>17</sup> Cover Letter dated May 1, 2015, p. 3.

<sup>18</sup> Case 14-M-0564 - Petition of Sustainable Westchester for Expedited Approval for the Implementation of a Pilot Community Choice Aggregation Program within the County of Westchester, *Order Granting Petition in Part*, (issued February 16, 2015). This program was not, to our knowledge, funded by utility ratepayers.

<sup>19</sup> Case 14-M-0224 - Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs, *Order Instituting Proceeding and Soliciting Comments*, (December 15, 2014).

### III. CONCLUSION

RESA appreciates the opportunity to comment on the Report and aid the Commission in its effort to move forward with the REV Vision.

Respectfully submitted,

Retail Energy Supply Association

By: Usher Fogel, Counsel  
Usher Fogel, Counsel

Dated: May 22, 2015  
Cedarhurst, N. Y.