

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on December 15, 2022

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard
David J. Valesky
John B. Maggiore

CASE 22-M-0645 - Proceeding on Motion of the Commission
Concerning Central Hudson Gas & Electric
Corporation's Development and Deployment of
Modifications to its Customer Information and
Billing System and Resulting Impacts on Billing
Accuracy, Timeliness, and Errors.

ORDER TO COMMENCE PROCEEDING AND SHOW CAUSE

(Issued and Effective December 15, 2022)

BY THE COMMISSION:

Today, the New York State Public Service Commission (Commission) issues an order directing Central Hudson Gas & Electric Corporation (Central Hudson, or the Company) to show cause why the Commission should not commence a proceeding to examine the prudence of the utility's expenses, and/or a civil penalty action and/or an administrative penalty action, pursuant to Public Service Law §§25 and 25-a, for apparent violations of the Public Service Law, rules and regulations adopted thereto, and Commission orders.

The summary of events presented here in this order is based on allegations and information obtained and presented by

the Office of Investigation and Enforcement (or OIE) in its December 2022 Investigation Report. We note that this Order to Show Cause does not constitute final factual findings or legal conclusions by the Commission. Today's order initiates a proceeding and provides the Company with an opportunity to address and respond to the allegations and information.

INTRODUCTION

On September 1, 2021, Central Hudson deployed a new Customer Information and Billing System. In the months following implementation, Central Hudson customers complained to local officials and to the New York State Department of Public Service (Department or DPS) about excessive and delayed bills, and a lack of customer support by the Company. Customer complaints continued and increased during the late fall and winter.

As a result, on April 5, 2022, the DPS OIE commenced an investigation into the cause of the complaints and complications related to Central Hudson's customer and billing system upgrade. During the eight-month investigation, OIE reviewed over 4,700 documents containing several thousand pages of information, participated in numerous meetings with the Company, and interviewed senior level employees at Central Hudson who were responsible for various aspects of the system upgrade and deployment. OIE reviewed Commission orders and previous Central Hudson filings to determine if any actions by the Company violated the Public Service Law or any related regulations or Commission orders. In addition, OIE reviewed information and input provided by the public and from other stakeholders in New York's energy markets.

The investigation resulted in a report (OIE Report), which was filed on the docket today, that included, among other

things, findings that Central Hudson's customer information and billing system was riddled with defects at launch (go-live), resulting in overcharges and delayed bills for thousands of customers as well as automatic withdrawals from the bank accounts of many customers for multiple months' worth of charges. The system transition also led to a drastic decrease in customer satisfaction metrics.

OIE's report identifies and documents a multitude of apparent missteps by the Company including a failure to adequately test the system, failure to properly resource the project, failure to properly train staff, a failure to heed the warnings of its own employees, and an overall lack of candor with its customers and the public.

The OIE Report includes sufficiently credible information to question -- at this juncture -- whether Central Hudson acted prudently with respect to expenditures related to the project development, functionality, and deployment and whether the Company also violated Public Service Laws, regulations, and Commission orders before and following system go-live.

This Order directs Central Hudson show cause, within 30 days of the date of this Order, why the Commission should not commence a prudence proceeding, and/or a civil penalty action and/or an administrative penalty action, for the apparent violations described herein.

SUMMARY OF OIE FINDINGS

Background:

In November of 2017, Central Hudson technical staff submitted testimony in cases 17-E-0459 and 17-G-0460 wherein the Company sought a five-year, \$96.286 million investment related to technology needs. In its testimony, Central Hudson justified

its request relying on a June 2017 audit conducted by Overland Consulting (or Overland) wherein Overland recommended that the Company upgrade its customer information system (CIS). In its testimony, Central Hudson specifically referenced a need to build a system that could handle "complex billing scenarios." The Company indicated its intention to build a modern system that would add to or "bolt-on" to its existing Legacy CIS and would eventually replace it.

On June 14, 2018, the Commission approved funding for modernization of Central Hudson's CIS. The order required the Company to file detailed annual and quarterly Capital Information Technology Reports to include project lists with estimated costs, as well as explanations of cost variances of over 10%.¹ Central Hudson reported cost variances based on each year's approved budget.

On December 3, 2018, Central Hudson advised the Commission that its original "bolt-on" plan was no longer a viable option. Instead, the Company had decided to engage with a third party to help evaluate its options. Central Hudson advised the Commission that if it decided to replace its current system with a modern software package, "more capital [would] be spent over a shorter duration."²

On August 9, 2019, Central Hudson advised the Commission that it had decided to replace its existing mainframe system with a commercially available server-based system.

On September 6, 2019, Central Hudson issued a Request for Proposal (RFP) for the project. In the RFP, Central Hudson

¹ Cases 17-E-0459 et al., Central Hudson Gas & Electric Company-Rates, Order Adopting Terms of Joint Proposal Establishing Electric & Gas Rate Plan, pp. 15-16.

² Cases 17-E-0459 et al., Central Hudson Gas & Electric Company-Rates, 2019 Annual Information Technology Capital Projects Report, p. 4.

announced that it had chosen the SAP solution,³ and the Company was seeking a "system integrator" to deliver implementation services for the CIS replacement as well as initial post-implementation support.

In preparation for the project, the Company engaged in a series of workshops designed to identify "pain points" associated with the initiative. The workshops specifically identified pain points in account management and in billing associated with complex accounts. Central Hudson identified the need for solutions that included "functionality to support alternative Supply and Rate offerings such as Retail Choice" and "Community Distributed Generation". Central Hudson stated, "Our pain-points are primarily around managing billing exceptions and getting to rate and billing data easily for researching issues and customer complaints. We also have challenges around cancel/rebill, adjustments and billing for special programs like Retail Choice, Net Metering and Summary Billing."

From its inception and throughout Central Hudson's planning for the CIS replacement, the Company repeatedly stressed the importance of finding solutions for complex billing scenarios such as Community Distributed Generation (CDG), and Net-Metering. Central Hudson's RFP specifically identified CDG as an important capability that needed to be addressed either through customization of the new CIS solution, through retaining their current legacy solution, or through re-platforming with another third-party solution.

On February 14, 2020, Central Hudson advised the Commission that it had selected Ernst & Young as its system integrator for the SAP platform. The Company indicated that the project would continue throughout 2020 with a go-live scheduled

³ SAP develops systems, applications, and products in the data processing arena for commercial uses.

for the third quarter of 2021. The project was dubbed "Project Phoenix."

On December 23, 2020, Central Hudson filed a petition with the Commission seeking to modify its estimation calculation procedures claiming that the change was necessitated by the implementation of the new SAP system.

DPS Staff subsequently made inquiries concerning the accuracy of the new bill estimating methods. In response, Central Hudson stated:

Staff can be comfortable that SAP's bill estimating methods will produce reasonable results because Central Hudson's system is being configured to ensure that similar methodology for the estimation of consumption (finding a comparable historical period for the premise to use for estimating the current period) will remain the same as the methodology being used with the current system.⁴

Central Hudson also assured DPS Staff that customer complaints associated with the new estimation methods and billing system were not expected and that therefore no testing or studies were conducted to mitigate that risk. Central Hudson stated:

Although there have not been any testing, analysis or studies done, Central Hudson does not anticipate that implementation of this system will result in more complaints to the Public Service Commission related to bill estimations. For 95% of customers, the estimation calculation, while different, is not expected to

⁴ Case 21-M-0045, Petition of Central Hudson Gas & Electric Corporation to Revise the Heating and Non-Heating Procedures Used to Calculate Bill Estimates, Updated Petition Supplement Item 3, PDF frame 16 (submitted July 8, 2021).

create significant changes in interim bills because they will continue to be based on a Comparable Billing Period in a prior year.⁵

Based upon affirmative representations and assurances made by Central Hudson, the petition was granted. However, in our decision granting the petition, we stated:

While the Company worked to identify and address several issues that needed more clarification and details with the bill estimation procedures, the Commission is concerned that the Company did not conduct any studies to determine how the new procedures would impact customers and, by reducing the number of methods and modifying the calculations used to estimate bills, some customers may receive bills with estimates that are not as accurate as those produced using the current bill estimation procedures.⁶

The order went on to direct Central Hudson to file four years' worth of reports related to customer complaints, quarterly reports related to customer complaints, and quarterly reports related to meter-reads.

Go-Live and Associated Impacts:

On September 1, 2021, following four years of preparation, Central Hudson switched over to the new SAP billing system and deployed it to ratepayers. The Company experienced problems almost immediately. The system was riddled with

⁵ Id. at PDF frame 14.

⁶ Case 21-M-0045, Petition of Central Hudson Gas & Electric Corporation to Revise the Heating and Non-Heating Procedures Used to Calculate Bill Estimates, Order Approving Revised Bill Estimation Methods p.13. (The original order contained an error related to ordering clauses which was subsequently clarified).

defects and programming errors. Central Hudson's primary justification for the total replacement of both its predecessor customer relationship management and customer billing engine was a desire to have a new system capable of handling complex billing scenarios including CDG and Net-Metering. However, upon go-live, the SAP system was incapable of handling CDG and Net-Metering scenarios and its inability to do so was the cause of most of the problems that arose after system launch.

Following go-live, system problems led to apparent overcharges affecting over 8,000 Central Hudson customers. The overcharges impacted net-metered customers, Energy Affordability Program (HEAP) customers, and others. According to the OIE Report, some customers had tens of thousands of dollars automatically withdrawn from their bank accounts.

In addition to causing overcharges, the system caused billing delays for tens of thousands of customers. Defects within the system caused Business Process Exceptions (BPEMs), which resulted in thousands of accounts being bill-blocked. The BPEM's increased to over 60,000 by March 2022.

Central Hudson's inability to properly address system problems also resulted in negative impacts on community solar and retail energy projects. Between go-live and April 2022, over 14,000 Central Hudson CDG customers received a late bill, some delayed over six months. Defects in the billing system may have also hampered Central Hudson's ability to process energy service company (ESCO) data in a timely fashion.

In the months following go-live, Central Hudson's customer satisfaction metrics plummeted. The Company missed its customer satisfaction goal of 89% for every month following go-live through October 2022. The percentage of customers dissatisfied or very dissatisfied, as reported in Central Hudson's quarterly Pilot Customer Satisfaction Surveys rose from

11% in the first quarter of 2021, to 62% post-launch in the fourth quarter, with similar results continuing into 2022. The percentage of adjusted bills, which had remained below 2% in each of the first three quarters of 2021, jumped to over 11% in September and remained in double-digits for all but one month between go-live and September 2022, at one point reaching over 20%. In the year following go-live, DPS's Office of Consumer Services received over 2,000 Complaints related to high bills, estimated bills, and inaccurate bills. The Office of Consumer Services' Call Center had received fewer than 200 similar complaints for the two years prior to go-live.

System Defects and Programming Errors:

The OIE Report identifies information reflecting that prior to go-live Central Hudson was aware of programming errors, which it characterized as "major defects," associated with complex billing. Nevertheless, despite those major defects, the Company hastily proceeded with the launch, and post go-live, hundreds more defects were discovered. The Company discovered defects within the system that were causing inaccurate bills to be sent to customers. In the months following launch, Central Hudson continued to discover hundreds of additional errors, including major defects as well as even more serious "critical defects."⁷ Between January 31, 2022, and April 13, 2022, Central Hudson's defect tracking system tracked 45 defects related to CDG billing alone; 22 of the CDG defects were categorized as "major," and 23 were characterized as "critical." The Company indicated that had it been aware of the number of critical defects before deploying the system, it would not have gone live on September 1, 2021.

⁷ Central Hudson defines a "critical defect" as an error that causes a major performance problem or that impacts a process or a significant number of customers.

Inadequate Training:

Effective training of customer service representatives was a vital component of ensuring the successful transition from Central Hudson's 30-year-old system to the new CIS solution. Central Hudson completed over 14,000 hours of training covering over 50 unique courses. Yet, while the primary justification for the transition was the need to have a system that was capable of handling complex billing scenarios, the planned training curriculum contained zero hours of training for "Complex Billing", zero hours for Net Metering, and zero hours for Manage Retail Choice Suppliers. Rather than dedicate training to these complex scenarios, Central Hudson instead chose to hope that employees would pick up proficiency through testing in a manner that was ad hoc and not tracked. When the project manager sought more resources from the steering committee to address the shortfall, Company leadership denied some of his requests. The Company would later admit that the number of employees proficient in complex billing was insufficient to address the billing issues that arose post go-live.

Inadequate Testing:

Central Hudson's system transition called for significant testing prior to go-live. The implementation plan called for several months of System Integration Testing (SIT) in the months preceding deployment. Throughout the planning phases and three System Integration phases, Central Hudson planned for over 4,000 scenarios to be tested. Of the scenarios, a mere 2.88% were dedicated to Retail Choice, 1.25% were dedicated to Net-metering, and zero to CDG.

Several employees warned project and Company leadership about inadequacies related to training claiming that

extra time and resources were needed to test properly. Employees warned of problems with the processing of retail choice, estimates and other aspects of complex billing. Leadership repeatedly postponed resolution of the concerns until after go-live.

Several months after go-live, when asked what could have been done differently, the Company's Chief Technology Officer pointed to, among other things, the lack of sufficient testing.

Inadequate Staffing:

A major contributor to Central Hudson's billing problems was a lack of adequate staffing prior to go-live. Company Leadership identified that they would need more resources but underestimated what they would need. Central Hudson admitted the number of resources (i.e., employees) proficient in complex billing was insufficient. With the justification for the project being an ability to handle complex billing and the steady increase in CDG customers leading up to go-live, the Company should have anticipated these needs and should have planned accordingly.

Central Hudson's Chief Technology Officer (CTO) later stated, "[W]e didn't have a full staff on to handle all the transactions." She also admitted to not having sufficient staffing to handle the additional volume of calls that came after go-live. While the Company did increase some staffing, the CTO admitted, "[W]e didn't hire enough."

Central Hudson's Chief Financial Officer and Treasurer was concerned about the wellbeing of employees and the amount of overtime being required of them during system testing. The CTO determined that the long hours were no longer sustainable and raised a flag with the leadership team. She asked for more

resources for testing but was unable to get them in a timely manner.

Central Hudson's CIS upgrade Project Manager expressed a need for more resources to the project steering committee but did not get all the resources he requested. The Project Manager would later attribute the inability to address billing issues in a timely manner to the lack of resources.

LEGAL AUTHORITY

PSL §65(1) requires that utilities provide "service, as shall be safe and adequate and in all respects just and reasonable." PSL §66(2) empowers the Commission to hold utilities to this obligation, by vesting the Commission with the authority to investigate utilities and their performance, as well as to order utilities to make reasonable improvements that are in the public interest.

The Commission has significant regulatory authority to ensure that utilities meet their obligations to provide safe, adequate, and reliable service. As the Public Service Law makes clear, "[e]very combination gas and electric corporation . . . shall adhere to every provision of this chapter and every order or regulation adopted under authority of this chapter[.]"⁸

PSL §25-a authorizes the Commission to commence an administrative penalty proceeding against a combination gas and electric corporation. In determining the amount of any penalty to be assessed, the Commission considers multiple factors, including: (1) the seriousness of the violation for which a penalty is sought; (2) the nature and extent of any previous violations for which penalties have been assessed against the corporation or officer; (3) whether there was knowledge of the

⁸ PSL §25-a(1).

violation; (4) the gross revenues and financial status of the corporation; and (5) such other factors as the Commission may deem appropriate and relevant.⁹

Under PSL §25-a(3), the Commission may assess a civil penalty not exceeding the greater of \$100,000 or "two one-hundredths of one percent of the annual intrastate gross operating revenue of the corporation[] . . . whichever is greater[.]"¹⁰ Any such penalties are not recoverable from ratepayers,¹¹ and if not remitted in a timely fashion, counsel to the Commission may bring a special proceeding in a court of competent jurisdiction to collect.¹²

APPARENT VIOLATIONS

OIE Staff have identified a sufficient factual basis and credible information to merit ordering Central Hudson to respond to the apparent violations set forth herein. Each alleged violation identified herein -- and further described in the OIE Report -- relates to the actions of Central Hudson in the lead up to and implementation of its customer and billing information system transition, and subsequent actions taken by the Company related to billing.

A brief factual description is also set forth below based upon OIE's investigation. Central Hudson is hereby notified that, consistent with the statute and unless otherwise provided, the Commission will consider imposing, for each established violation, a civil penalty of up to the greater of \$100,000 or two one-hundredths of one percent of the annual intrastate gross operating revenue of Central Hudson.

⁹ PSL §25-a(2).

¹⁰ PSL §25-a(3).

¹¹ PSL §25-a(9).

¹² PSL §25-a(8).

Considering the DPS's identification of apparent violations, Central Hudson is ordered to show cause within 30 days of the issuance of this Order why the Commission should not seek the imposition of administrative or court-imposed penalties related to the apparent violations. Given that the DPS's investigation is continuing in nature, the Commission notes that it may amend this Order to include additional apparent violations identified by the DPS Staff.

1. Apparent Violation of Public Service Law §65: Just and Reasonable Charges.

a. Law:

Every gas corporation, every electric corporation and every municipality shall furnish and provide such service, instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such gas corporation, electric corporation or municipality for gas, electricity or any service rendered or to be rendered, shall be just and reasonable and not more than allowed by law or by order of the commission. Every unjust or unreasonable charge made or demanded for gas, electricity or any such service, or in connection therewith, or in excess of that allowed by law or by the order of the commission is prohibited.

b. Alleged Violation:

Due to defects and errors within the SAP billing system, over 8,500 Central Hudson customers were overcharged for service in an unjust and unreasonable manner including some customers having money automatically withdrawn from their bank accounts at one time or in quick succession during a short time span for multiple months' worth of charges. Additionally, Central Hudson failed to provide bills to tens of thousands of customers in a timely fashion. The delays impacted the ability of customers to monitor their usage and engage in conservation

efforts during particularly volatile months. Each instance was a violation of Central Hudson's duty to only demand charges that are just and reasonable and to provide just and reasonable service.

2. Apparent Violation of Public Service Law §41, 16 NYCRR §11.14(a), 16 NYCRR §13.9(b)(1), and Public Service Commission Order 91-E-0176: Backbilling of Residential and Non-Residential Accounts.

a. Laws, Regulations, and Commission Orders:

Public Service Law §41:

Notwithstanding any other provision of law, no utility corporation ... may charge a residential customer for gas or electric service which was rendered more than six months prior to the mailing of the first bill to the customer for such service unless the failure of the corporation or municipality to bill sooner was not due to the neglect of the corporation or municipality or was due to the culpable conduct of the customer.

16 NYCRR §11.14(a):

No utility shall charge a residential customer for service rendered more than six months prior to the mailing of the first bill for service to the residential customer unless the failure of the utility to bill at an earlier time was not due to the neglect of the utility or was due to the culpable conduct of the customer.

16 NYCRR §13.9(b)(1):

A utility shall not render a backbill more than six months after the utility actually became aware of the circumstance, error or condition that cause the underbilling, unless a court extends the time to render a backbill.

91-E-0176 Commission Order:

"...[I]t is reasonable...to require utilities, in cases involving underbilling of residential customers, to backbill

the customer within four months after the utility actually becomes aware of the circumstances, error, or condition that caused the underbilling, unless the court extends the time to render a backbill.”¹³

b. Alleged Violation:

Central Hudson admitted to becoming aware immediately upon go-live that system transition issues were causing billing delays to customers. Therefore, any residential bill rendered more than four months after September 1, 2021, and any nonresidential bill rendered more than six months after September 1, 2021, constitutes an illegal backbill.

Following system cutover, Central Hudson improperly sent 83 backbills to nonresidential customers, and 1,600 backbills to residential customers in violation of the Public Service Law, DPS regulations, and Commission Orders.

3. Apparent Violation of 16 NYCRR 11.13: Meter Readings and Estimated Bills and Public Service Commission Order 21-M-0045: New Procedures for Bill Estimates.

a. Regulation:

A utility may render an estimated bill for any billing period if:

- (1) the estimated bill is calculated in accordance with a procedure approved by the commission...; and
- (2) the distribution utility has made a reasonable effort to obtain an actual meter reading; or

¹³ Case 91-E-0176, In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, in Relation to Complaint Procedures-Appeal by Long Island Lighting Company of the Informal Decision Rendered in Favor of Donald Johnson Filed in C26358 (E959005), Commission Determination (issued and effective July 15, 1991).

- (3) circumstances beyond the control of the distribution utility made an actual reading of the meter extremely difficult;
- (4) circumstances indicate a reported reading is likely to be erroneous;
- (5) an estimated reading has been prescribed or authorized by the commission for a billing period between periods when actual meter readings were scheduled; or
- (6) the customer is a seasonal or short-term customer..."

b. Alleged Violation:

Central Hudson was authorized to render estimated bills for billing periods between meter reads. However, the Company also used estimates to replace actual meter reads. Such a replacement would only be allowed if: (1) it was based on a procedure approved by the Commission, and (2) circumstances indicated the reported readings were likely to be erroneous.

Central Hudson's approved estimation procedure is set forth in Case 21-M-0045, in Appendix B to the Company's petition to change estimation routines. This Commission approved the Company's bill estimation only under the following conditions: "(1) when an actual read cannot be obtained due to circumstances beyond Central Hudson's control... (2) when an actual read results in usage outside of usage thresholds for the rate and customer type. If the actual read is not validated within seven business days, an estimated bill is issued, (3) during interim months for customers read on a bi-monthly basis issued on a cycle, and (4) for "other business needs as deemed appropriate".

Here, since actual meter reads had been obtained, Central Hudson was only approved to bill non-interim month customers, "when an actual read results in usage outside of

usage thresholds for the rate and customer type.”

Central Hudson’s system is designed to flag meter-read results that are outside of usage thresholds. As designed, if the system identifies a bill above a threshold, it will create a BPEM which blocks the bill from being sent to the customer. Following go-live, due to defects, there was a drastic increase in BPEMs which continued for several months

The OIE Report identifies information to suggest that Central Hudson understood the Company did not suddenly have thousands of customers exceeding usage thresholds. Instead, the Company knew the new system was erroneously interpreting the data, creating BPEMs, and blocking bills. CDG customer bills were blocked due to SAP system errors related to the allocation of credits. Net Metered customers had bills blocked because the system was incorrectly interpreting meter indices for bill calculations. Retail Access customers had bills blocked due to a misalignment of customer data and tax rates. Other customers had their bills blocked for various problems related to the accuracy of the data in the system.

Central Hudson was aware that defects in the new system were erroneously creating BPEMs and blocking bills. However, due to a lack of resources, the Company was unable to correct the errors within seven days, and estimates were then sent out to customers in lieu of more accurate actual meter reads. While Central Hudson was authorized to send estimates to address *actual usage* beyond thresholds, the Company was not authorized to send estimates due to system defects. Rather than dedicate appropriate resources to address the exceptions, Central Hudson intentionally chose to allow estimates to go out in place of actual meter reads. This was not a procedure approved by the Commission, and therefore was a violation of 16 NYCRR §11.13.

Even if the procedure had been approved by the Commission, Central Hudson would additionally have to show that "circumstances indicate a reported reading is likely to be erroneous".¹⁴ The Company was aware that the reading was not erroneous, but rather that the problem was within the system itself. The "circumstances" did not indicate that a reported reading was erroneous or that the usage was beyond thresholds. Nevertheless, because Central Hudson had insufficient resources to review the BPEMs and send out the most accurate bills, the Company chose to send estimates instead in violation of the approved estimation procedure.

4. Apparent Violation of Public Service Commission Order 21-M-0045: New Procedures for Bill Estimates.

a. Order:

On December 23, 2020, Central Hudson filed a petition with the Commission seeking to change its estimation calculation process claiming that the request was necessitated by the implementation of the new SAP system.¹⁵ While considering Central Hudson's request, DPS Staff expressed some concerns about a potential increase in customer complaints because of changes to the estimation procedures. DPS Staff specifically asked, "Has there been any testing or studies done to provide

¹⁴ 16 NYCRR §11.13(a)(4).

¹⁵ Case 21-M-0045, Petition of Central Hudson Gas & Electric Corporation to Revise the Heating and Non-Heating Procedures Used to Calculate Bill Estimates, Petition, p. 1 (filed December 23, 2020).

comfort that a change will not result in more complaints?"¹⁶ In response, Central Hudson stated, "Although there have not been any testing, analysis or studies done, Central Hudson does not anticipate that implementation of this system will result in more complaints to the Public Service Commission related to bill estimation."¹⁷

As described in the OIE Report, what Central Hudson failed to mention to DPS Staff was that one week prior to the Company's response, a Central Hudson employee had identified a risk associated with the migration of data into the new system and the potential impact it could have on estimation calculations. In response to the concern, Central Hudson conducted an "accuracy analysis" comparing estimates generated by the legacy system versus the new SAP system. The testing revealed that in certain circumstances, the SAP system was causing a drop in the percentage of "good" estimates as compared to the legacy system. The testing also showed that in certain circumstances, using the new SAP system would result in "good" estimates for just 25% of new customers, and 30% of existing customers.

While the testing was conducted on July 12, 2021, four days after Central Hudson filed its petition supplement, the OIE Report maintains that from an elementary duty of candor perspective, the Company should have alerted the Commission and DPS Staff to the results of the tests. The Company should also

¹⁶ Case 21-M-0045, Petition of Central Hudson Gas & Electric Corporation to Revise the Heating and Non-Heating Procedures Used to Calculate Bill Estimates, Updated Supplement to the Petition Requesting the New York State Public Service Commission Approve Central Hudson Gas & Electric Corporation's new procedures for bill estimates, Appendix C, p. 1 (filed July 8, 2021).

¹⁷ Id.

have done so since the Company made the following affirmative commitment in its July 8, 2021 letter to the Commission: "Central Hudson will promptly provide any additional information necessary to facilitate the Commission's prompt consideration of this request."¹⁸

On August 16, 2021, unaware of the testing Central Hudson had conducted, the Commission issued an Order Approving Revised Bill Estimation Methods. In the order, we expressed concerns with what we believed to be Central Hudson's lack of testing related to the new estimation methodologies, stating:

"The Commission's primary area of concern is the lack of testing or studies done by Central Hudson to analyze the impact to customers of changing the bill estimating procedures, which could result in less accurate bill estimations and therefore yield more customer complaints and customer dissatisfaction."¹⁹

We approved the new estimation procedures. However, within the Commission order we specifically included ordering clauses 4 and 5 to alleviate some of our concerns, which read as follows:

4. Central Hudson Gas & Electric Corporation is directed to file with the Secretary to the Commission, no later than 30 days after the issuance of this Order, a report to include, at a minimum, complaints it received associated with adjusted bills, estimated bills, high bills, inaccurate bills, and any

¹⁸ Case 21-M-0045, Petition of Central Hudson Gas & Electric Corporation to Revise the Heating and Non-Heating Procedures Used to Calculate Bill Estimates, Central Hudson Cover Letter, p.2 (Filed July 8, 2021).

¹⁹ Case 21-M-0045, Petition of Central Hudson Gas & Electric Corporation to Revise the Heating and Non-Heating Procedures Used to Calculate Bill Estimates, Order Approving Revised Bill Estimation Methods, (issued August 16, 2021), at 9.

complaints related to actual meter readings or bill estimates for 2017, 2018, 2019, and 2020.

5. Central Hudson Gas & Electric Corporation is directed to file with the Secretary to the Commission, on a quarterly basis, updates to the report in Ordering Clause [4]²⁰, filed no later than the 15th day of the month following the conclusion of the calendar quarter though the end of the fourth quarter of calendar year 2023.

b. Alleged Violation 1:

Central Hudson was ordered to file detailed reports related to complaints it received associated with adjusted bills, estimated bills, high bills, inaccurate bills, and any complaints related to actual meter readings or bill estimates for 2017, 2018, 2019, and 2020. The Company was ordered to file updates to that report quarterly through the end of the fourth quarter of calendar year 2023.

As described in the OIE Report, Central Hudson failed to comply with Ordering Clause 4 when on September 14, 2021, the Company filed a report with the Commission stating, "Central Hudson does not track complaints at the granular level included in Ordering Clause 4." Central Hudson then subsequently failed to file an adequate report in each quarter of 2022. Rather than petition the Commission for reconsideration or develop a procedure to collect the customer complaint data moving forward, the Company merely informed the Commission that it did not have the information and moved on. The Company's actions were in violation of the explicit orders of the Commission.

²⁰ The original order referenced Ordering clause 3 in error. It was subsequently clarified as was referenced in Central Hudson's October 15, 2021 report filing.

PRUDENCE

Central Hudson's Actions in Preparation of, During, and Following Go-Live of The Customer and Billing Transition:

Prudence, an essential component of utility regulation, is determined by judging whether the utility acted reasonably under the circumstances at the time, "considering that the company had to solve its problems prospectively rather than in reliance on hindsight."²¹ The Commission has stated that, "...in effect, our responsibility is to determine how reasonable people would have performed the task that confronted the company."²²

In general, the Commission's power to investigate the propriety of costs incurred by a utility derives from its duty to set just and reasonable utility rates.²³ That duty may require the Commission to determine which utility costs should be shouldered by the utility's shareholders rather than its ratepaying customers.²⁴ It would be neither just nor reasonable

²¹ Case 27123, Con Edison - Proceeding to Investigate 1976 Outage of Indian Point No. 2, Opinion No. 79-1, at 6 (issued January 16, 1979), 1979 WL 415126 (determining that 54 days of a refueling outage could have been avoided by adequate advance planning and proper operating procedures on the part of the company).

²² Id. The standard is not actual knowledge, but one of reasonableness under the circumstances. New York Telephone Co. v. PSC, 190 A.D.2d 217 (3rd Dept. 1993); Long Island Lighting Co. v. PSC, 134 A.D.2d 135 (3rd Dept. 1993) (concerning a prudence review undertaken by the Public Service Commission to determine whether costs incurred by Long Island Lighting Company related to the design, construction, and management of the Shoreham Nuclear Generating Facility reflected utility imprudence, mismanagement, or gross inefficiency).

²³ PSL §§66(12), 72.

²⁴ Rochester Gas & Elec. Corp. v. PSC, 51 N.Y.2d 823, 825 (1980), appeal dismissed, 450 U.S. 961 (1981).

for a utility's customers to bear the cost of inefficient or imprudent management or poor planning. The accompanying OIE Report contains an extended narrative of utility decisions and actions over the course of Project Phoenix and the development and deployment of the SAP system that may, depending on the company's response, merit a prudence review.

Central Hudson's expenditures related to its CIS modernization have spanned two rate plans. The first rate plan ran from July 2018 through June 2021 and the second began in July 2021 and continues until June 2024. As of September 30, 2022, Central Hudson affirmatively represents that it has spent over 88 million dollars on the CIS modernization project, with some additional spending expected. According to the Company, through June 30, 2023, it is expected that over 42 million dollars will have been either collected from Central Hudson's ratepayers or borne by shareholders (direct and ancillary expenses, depreciation, and return on capital investment), with the unamortized capital expenditures expected by the Company to be paid by customers over time. Of that 42 million dollar figure, it is estimated that Central Hudson's ratepayers will have paid 21 million dollars toward the project through June 30, 2023, as provided in the Company's two most recent rate plans.

The facts as set forth above and in the OIE Report provide sufficient reason to believe that Central Hudson's actions related to CIS modernization may have been imprudent and may merit scrutiny from a prudence perspective.

DISCUSSION AND CONCLUSION

Concerning OIE Report's identification of apparent violations of PSL §§65 & 41, 16 NYCRR §§11.13, 11.14(a), §13.9(b)(1), and Public Service Commission Orders in Cases 91-E-0176, and 21-M-0045, Central Hudson is ordered to show cause

within 30 days of the issuance of this Order why the Commission should not seek Court-imposed or administrative penalties for the Company's apparent failure to comply with the Public Service Law, associated regulations and Commission Orders.

The Commission notes that should any regulatory violations be demonstrated by the Department Staff in a potential future enforcement proceeding, any financial penalties ultimately imposed and recovered pursuant to PSL §25-a would be remitted to, and for the benefit of, ratepayers. PSL §25-a(7). Furthermore, the Public Service Law provides that such penalty payment would not be recoverable from ratepayers. PSL §25-a(9). Given that the Department's investigation is continuing in nature, the Commission notes that it may amend the scope of this Order to include any additional apparent violations identified by the Department.

Turning to the issue of prudence, Central Hudson is ordered to show cause within 30 days of the issuance of this Order why the Commission should not initiate a proceeding focused on the prudence of Central Hudson's actions concerning the parameters, development, testing, and deployment of the customer information and billing system. At this juncture, the Commission makes no determination concerning whether Central Hudson's actions and/or failures related to the deployment of modification to its customer information and billing system were prudent. Going forward, the Company shall show cause why the Commission should not initiate a prudence proceeding and respond to DPS Staff's contentions contained in the OIE Report and as summarized above, after which we may direct a focused proceeding, overseen by an Administrative Law Judge, concerning prudence related issues. Given that this matter relates to potential enforcement-related matters, the parties in this proceeding shall be limited to the Company and DPS Staff.

The Commission orders:

1. A proceeding is instituted, and Central Hudson Gas & Electric Corporation (Central Hudson) is ordered to show cause, within 30 days of the date of this Order, why the Public Service Commission should not commence a civil penalty action and/or an administrative penalty proceeding, pursuant to Public Service Law §§25 and/or 25-a, for the violations discussed in the body of this Order.

2. Central Hudson is ordered to show cause, within 30 days of the date of this Order, why the Public Service Commission should not initiate a prudence proceeding. Central Hudson shall respond to the allegations contained in the body of this Order and to Department of Public Service Staff's contentions as outlined in the Office of Investigation and Enforcement Report.

3. In light of alleged violations and concerns raised in the Office of Investigations and Enforcement Report related to the Company's bill estimations, Central Hudson is ordered to submit, within 30 days of the date of this Order, to Department Staff (i) a plan to adjust its billing practices to conduct actual meter reads each month for its electric and gas service customers and to discontinue its practice of alternate month billing estimates for its customer accounts, and (ii) a study evaluating if monthly meter reading and an end to alternate-month bill estimates is in the interests of the Company's customers.

4. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

5. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary