

1 7/18/2024 - Monthly Meeting

2 STATE OF NEW YORK

3 PUBLIC SERVICE COMMISSION

4 MONTHLY MEETING

5
6 Thursday, July 18, 2024

7 10:34 a.m. until 12:19 p.m.

8 ESP, Building 3, 19th Floor Boardroom

9 Albany, New York

10

11 COMMISSIONERS:

12 RORY M. CHRISTIAN, CHAIR

13 COMMISSIONER JAMES S. ALESI

14 COMMISSIONER DAVID J. VALESKY

15 COMMISSIONER JOHN B. MAGGIORE

16 COMMISSIONER UCHENNA S. BRIGHT

17 COMMISSIONER DENISE M. SHEEHAN

18 COMMISSIONER RADINA R. VALOVA

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2 (The meeting commenced at 10:34 a.m.)

3 CHAIR CHRISTIAN: Good morning,
4 everyone. I call this session of the Public Service
5 Commission to order. Madam Secretary, are there any
6 changes to the final agenda?

7 SECRETARY PHILLIPS: There are no
8 changes to the final agenda.

9 CHAIR CHRISTIAN: Thank you. I'd like
10 to take a moment to recognize our newest member of
11 the Commission who is with us here today,
12 Commissioner Radina Valova, welcome to the
13 Commission.

14 COMMISSIONER VALOVA: Thank you very
15 much.

16 CHAIR CHRISTIAN: Okay. And now
17 before moving to the agenda, I'd like to conduct a
18 roll call of Commissioners. When I call your name,
19 please confirm that you are present. Commissioner
20 James Alesi?

21 COMMISSIONER ALESI: Present.

22 CHAIR CHRISTIAN: Commissioner David
23 Valesky?

24 COMMISSIONER VALESKY: Here.

25 CHAIR CHRISTIAN: Commissioner John

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2 Maggiore?

3 COMMISSIONER MAGGIORE: Here.

4 CHAIR CHRISTIAN: Commissioner Uchenna

5 Bright?

6 COMMISSIONER BRIGHT: Here.

7 CHAIR CHRISTIAN: Commissioner Denise

8 Sheehan?

9 COMMISSIONER SHEEHAN: Here.

10 CHAIR CHRISTIAN: Commissioner Radina

11 Valova?

12 COMMISSIONER VALOVA: Present.

13 CHAIR CHRISTIAN: Thank you for doing
14 that twice. Okay. Now, before we go to the regular
15 agenda, do any Commissioners wish to recuse from
16 voting on item 201? Commissioner Alesi?

17 COMMISSIONER ALESI: No.

18 CHAIR CHRISTIAN: Commissioner

19 Valesky?

20 COMMISSIONER VALESKY: No.

21 CHAIR CHRISTIAN: Commissioner

22 Maggiore?

23 COMMISSIONER MAGGIORE: No.

24 CHAIR CHRISTIAN: Commissioner Bright?

25 COMMISSIONER BRIGHT: No.

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2 CHAIR CHRISTIAN: Commissioner

3 Sheehan?

4 COMMISSIONER SHEEHAN: Yes, I need to
5 recuse from item 201. Thank you.

6 CHAIR CHRISTIAN: Thank you. And so
7 noted. Commissioner Valova?

8 COMMISSIONER VALOVA: No.

9 CHAIR CHRISTIAN: Thank you. We'll
10 now move to the regular agenda, our first and only
11 item for discussion today is item 201, case 23-E-0418
12 and 23-G-0419 addressing Central Hudson's Electric
13 and Gas rates. It will be presented today by
14 Administrative Law Judge James Costello,
15 Administrative Law Judge Ashley Moreno. Chief A.L.J.
16 Dakin Lecakes, Nicola Jones, Debbie Evans, Jeff
17 Hogan, Mike Rieder, and John Sipos are all available
18 for questions. Judge Costello, please begin.

19 A.L.J. COSTELLO: Good morning, Chair
20 and Commissioners. My name is James Costello, I was
21 assigned to preside over these proceedings with my
22 Co-judge, Ashley Moreno. Before you is a draft order
23 that would establish an electric and gas delivery
24 rate plan for Central Hudson Gas and Electric
25 Corporation for the period beginning August 1st, 2024

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2 and ending June 30th, 2025.

3 Central Hudson distributes electricity
4 to more than 300,000 customers and natural gas to
5 approximately 90,000 customers in the mid-Hudson
6 River valley region of New York. The Commission set
7 Central Hudson's previous rates in November 2021
8 during the height of the COVID-19 pandemic by
9 adopting a joint proposal advanced by the parties to
10 that proceeding.

11 The terms of the rate plans sought to
12 mitigate rate impacts over the 3-year term to keep
13 rates as low as possible. And as a result, certain
14 costs and investments that were not undertaken in the
15 last rate plans were included in Central Hudson's
16 current request.

17 In September 2021, Central Hudson
18 began implementing a newly installed S.A.P. based
19 customer information and billing system, which led to
20 widespread customer billing problems. In July 2023,
21 while many issues related to the customer billing
22 problems were still being addressed by the company,
23 Central Hudson commenced these rate proceedings.

24 In its initial July 2023 filing,
25 Central Hudson requested an electric annual revenue

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2 increase of approximately 139.5 million dollars and a
3 gas annual revenue increase of about 41.5 million
4 dollars. The company requested rates premised on a
5 9.8 percent return on equity and a common equity
6 ratio of 50 percent.

7 To receive input and feedback from
8 ratepayers and other stakeholders we held several
9 public statement hearings, four virtually and four in
10 person at different locations in Central Hudson's
11 territory. Over 150 people spoke at the public
12 statement hearings, including various elected public
13 officials and several parties to these proceedings.

14 Commenters strongly opposed Central
15 Hudson's requested rate increases and associated
16 infrastructure investments as unaffordable, contrary
17 to the Climate Leadership and Community Protection
18 Act or C.L.C.P.A., and the Climate Action Council
19 Scoping Plan.

20 And particularly inappropriate given
21 that Central Hudson was under investigation by the
22 Department of Public Service for the widespread
23 billing problems previously mentioned. In addition,
24 over 400 comments were received in writing and by
25 telephone, including comments from various public

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2 officials.

3 To develop the evidentiary record in
4 these proceedings, the parties presented their cases
5 through the filing of direct testimony in November of
6 2023 and rebuttal testimony in December of 2023. In
7 addition to Central Hudson and Department of Public
8 Service staff, testimony was filed by Beacon Climate
9 Action Now, Communities for Local Power, Dutchess
10 County, Key Capture Energy, Multiple Intervenors, or
11 M.I., the Public Utility Law Project of New York, or
12 PULP, Assembly Person Sarahana Shrestha, the Town of
13 Olive, the Department of State Utility Intervention
14 Unit, or U.I.U., and Walmart.

15 Thereafter, Judge Moreno and I held an
16 evidentiary hearing in Albany over a 10-day period
17 from January 24th, 2024, through February 6th, 2024,
18 at which the parties had the opportunity to cross
19 examine each other's witnesses and present evidence
20 supporting their respective positions. After that
21 evidentiary hearing, the parties had the opportunity
22 to file post hearing initial and reply briefs drawing
23 upon the evidentiary record.

24 Judge Moreno and I then prepared a
25 recommended decision that was issued on May 1st,

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2 2024, and addressed all issues properly raised in the
3 proceedings. We recommended that Central Hudson
4 receive revenue increases of approximately 75.45
5 million dollars for electric, and 29.56 million
6 dollars for gas.

7 We also recommended a 48 percent
8 common equity ratio and the use of the Commission's
9 preferred methodology for computing a utilities'
10 allowed return on equity. We recommended that the
11 Commission adopt four stipulations, including a
12 stipulation regarding electric capital and operations
13 in which the company and staff reached agreement on,
14 among other things, electric capital expenditure
15 levels and electric reliability metrics. Under that
16 stipulation, the company's current electric
17 reliability metrics and negative revenue adjustments
18 will continue through 2025.

19 Among numerous other issues, we also
20 recommended approval of certain full-time equivalent
21 employee positions requested by the company that the
22 Commission allows Central Hudson to move forward on
23 its request to commence a phased approach to resuming
24 the collection of arrears, which was paused during
25 the COVID-19 pandemic.

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2 That the Commission find that the
3 proposed rate plans comply with the requirements of
4 the C.L.C.P.A. And that the Commission continue the
5 existing program of customer service and gas safety
6 performance metrics with associated negative
7 financial incentives for failure to attain adequate
8 performance.

9 In making that recommendation, we
10 rejected Central Hudson's position that the
11 Commission lacked authority to adopt a performance
12 program in a litigated rate case. We also reviewed
13 and recommended alternative targets and performance
14 incentives for the Commission's consideration to the
15 extent the Commission sought to modify some of the
16 previous rate plans, targets, and incentives.

17 Following issuance of the recommended
18 decision, Central Hudson, Department staff, M.I.,
19 PULP, and Key Capture Energy filed briefs on
20 exceptions. Central Hudson, Department of Public
21 Service staff, M.I., PULP, and U.I.U. filed briefs
22 opposing exceptions.

23 In its brief on exceptions, Central
24 Hudson reduced its requested revenue requirement
25 increases to 102 million dollars for electric, and 37

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2 million dollars for gas. Throughout the proceedings
3 and in the recommended decision, Judge Moreno and I
4 took the position that the appropriate forum to
5 address the company's billing problems was the
6 Prudence and Enforcement Proceeding in Case 22-M-
7 0645.

8 A rate case is a forward-looking
9 process under the Public Service Law that establishes
10 funding for capital projects and various costs for a
11 rate year to ensure that the company can continue to
12 provide safe and adequate service at just and
13 reasonable rates.

14 By contrast, the prudence and
15 enforcement proceeding in case 22-M-0645 was a
16 retrospective looking process, which addressed the
17 company's billing issues. In its June session last
18 month, the Commission adopted a settlement agreement
19 in that proceeding that was valued at over 60 -- 62
20 million dollars in benefits to customers.

21 Some of those ratepayer benefits are
22 reflected in the draft order before you. At this
23 point, I'd also note that the independent monitor
24 assigned in that case had determined that Central
25 Hudson had resolved critical billing issues and

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2 reached a current state -- current stable state.

3 The draft order before you would
4 provide Central Hudson with a 74.418 million dollar
5 electric revenue increase, which represents a 16.5
6 percent increase in delivery revenues, and a 7.0
7 percent increase in total revenues.

8 It also would provide Central Hudson
9 with a 27.307 million dollar gas revenue increase,
10 which reflects a 20.1 percent increase in delivery
11 revenues and 9.4 percent increase in total revenues.
12 To moderate rates, the draft order applies regulatory
13 assets of 13.15 million dollars to the electric
14 revenue requirement and 5.286 million dollars to the
15 gas revenue requirement.

16 And it applies an additional 4 million
17 dollars of shareholder funds held in a customer
18 benefit fund resulting from the settlement agreement
19 in the prudence and enforcement proceeding. The
20 result is an electric delivery revenue increase of
21 58.067 million dollars, which is a 12.9 percent
22 increase in delivery revenues and a 5.5 percent
23 increase in total revenues.

24 And a gas delivery revenue increase of
25 21.221 million dollars, which is a 15.6 percent

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2 increase in delivery revenues and a 7.3 percent
3 increase in total revenues. After application of
4 rate moderators, the estimated bill impacts at this
5 time are as follows.

6 Central Hudson's average residential
7 customers would experience a monthly electric total
8 bill increase of 7.85 percent resulting in an average
9 total monthly electric bill increase of 12 dollars
10 and 65 cents. For residential customers -- that's
11 for residential customers will also result in a
12 yearly gas total bill increase of 9.19 percent, which
13 results in an average yearly gas bill increase of 146
14 dollars and 83 cents for residential heating
15 customers.

16 These amounts, while still material,
17 are less than half of what the company originally
18 asked for. While we recognize that even as
19 moderated, the increases are significant for
20 ratepayers, those increases are needed for the
21 substantial investments being made to ensure safe and
22 reliable electric and gas service and to improve
23 customer service.

24 They're necessary investments that the
25 company is entitled to recover from ratepayers. Some

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2 of these major investments are continued efforts to
3 harden its electric system for storms, bearing in
4 mind climate change.

5 Replacement of leak prone pipe mains
6 and services for the safety of its gas system and
7 updating its interactive voice response or I.V.R.
8 system that will improve customer call handling and
9 experience. The rates will be supporting
10 approximately 195 million dollars in additional
11 electric plant.

12 And approximately 85 million dollars
13 in additional gas plant that's inclusive of common
14 plant during the rate year. While the rate increases
15 in the draft order are lower than requested by
16 Central Hudson, that's not to say that all of the
17 company's initial requests were inappropriate.

18 The Commission has a duty to balance
19 ratepayer impacts along with necessary spending on
20 system and operating expenses; the result of the
21 draft order does just that. The major differences
22 between the rates requested by the company and its
23 brief on exceptions, and the draft order are not due
24 to major differences in capital projects or programs
25 that the company initially requested and that are

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2 approved here. Rather, the overall differences are
3 due primarily to two things.

4 First, labor and associated costs make
5 up over 40 percent of the difference due to
6 disallowance of 90 of the 254 full-time equivalent
7 employee positions requested by the company. As well
8 as downward adjustments to employee compensation and
9 benefits, the disallowance of executive variable
10 compensation, and application of an attrition
11 adjustment.

12 Second, the difference in return on
13 equity and common equity ratio requested by the
14 company and approved in the draft order, account for
15 approximately 25 percent of the difference, a
16 downward change from what the company requested of
17 6.8 million dollars.

18 In addition for the gas business,
19 almost 20 percent of the difference is due to higher
20 depreciation related costs. And for Central Hudson's
21 electric business, approximately 15 percent of the
22 difference is due to lower major storm expense.

23 The draft order adopts the
24 recommendations made in the recommended decision,
25 except as they had been modified in the draft order.

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2 With those modifications, which I will discuss in a
3 moment, the draft order finds that the rate plans are
4 necessary to ensure that Central Hudson continues to
5 provide safe and reliable service, that the resulting
6 rates are just and reasonable, and that the rate
7 plans will advance the policies of the Commission and
8 State, including compliance with the C.L.C.P.A.
9 Among other things, consistent with longstanding
10 Commission practice and litigated rate orders, the
11 draft order updates the return on equity to 9.5
12 percent, reflecting current financial conditions.

13 It makes certain modifications to the
14 gas safety metrics, including eliminating positive
15 revenue adjustments for leak management, damage
16 prevention, and the leak prone services replacement
17 program. And it imposes stricter performance targets
18 for the gas safety regulations violation -- violation
19 metric to ensure continuing improvement for safety
20 compliance.

21 The draft order removes the cost
22 associate -- associated with Central Hudson South
23 Cairo generation facility from the pro forma embedded
24 cost of service study, in consideration of that
25 facility's retirement.

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2 The draft order makes modifications
3 and clarifications to certain customer service
4 related matters, including requiring the call answer
5 rate metric to be calculated pursuant to the
6 definition included in the Customer Service
7 Performance Indicators, or C.S.P.I. order,
8 recognizing the outcome of the settlement agreement
9 in the prudence and enforcement proceeding that
10 requires Central Hudson to fund incremental costs
11 related to the transition to monthly meter reading.

12 And clarifying that no incremental
13 costs to do monthly meter reading are included in the
14 rate year and will instead be borne by Central
15 Hudson's shareholders. The draft order also modifies
16 the recommended decision to allow for deferral
17 treatment of incremental spending for C.A.T.V. make-
18 ready projects.

19 To ensure additional high speed
20 broadband is deployed throughout New York State in
21 conformance with the Commission's goals and subject
22 to certain limitations and audit.

23 It allows for deferral treatment for
24 incremental costs associated with implementation of
25 the new Roadway Excavation Quality Assurance Act. It

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2 denies ratepayer funded executive variable
3 compensation, reducing revenues by 943,000 dollars
4 for electric, and 238,000 for gas.

5 It adopts the union employee wage
6 increases as reflected in a memorandum of agreement
7 for Central Hudson System Operation Union employees.
8 It incorporates the clarifications made in briefing
9 regarding incremental full time equivalents, and the
10 labor expense, and it remedies certain oversights and
11 errors in the recommended decision with respect to
12 the capital budget for regulator state -- regulator
13 station projects and distribution improvements.

14 Central Hudson had consented to a one
15 month extension of the suspension period in these
16 cases to accommodate procedural scheduling and
17 briefing. The draft order allows Central Hudson to
18 be made whole and recover a refund of any under
19 collections or over collections and sales revenue
20 resulting from the company's agreement. The revenue
21 adjustments will be collected or refunded over 10
22 months starting September 1st, 2024, through the
23 existing miscellaneous rate component for electric
24 and gas surcharge.

25 The draft order also addresses

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2 arguments made by the parties on exceptions that did
3 not result in any change to the recommendations and
4 the recommended decision.

5 In sum, the rate plans will allow
6 Central Hudson to make necessary investments to its
7 system, will allow it to increase the number of its
8 employees to enhance service, and continues to
9 require the company to maintain safety and
10 reliability and customer service standards, or face
11 financial consequences.

12 Accordingly, senior staff recommends
13 the adoption of the rate plans, and this concludes my
14 presentation, and we are now available for any
15 questions you may have.

16 CHAIR CHRISTIAN: Thank you for the
17 presentation and to the detail. I want to take a
18 moment to just thank staff for working through this
19 process during what was a very difficult and
20 controversial period. Rate cases are never easy, but
21 this one I think is exceptional for a number of
22 different reasons, many of which I'm sure we'll be
23 collectively talking through as we go through our
24 discussion points.

25 But before I get into the rate case,

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2 I'm -- I'm noticing the signs in the back. And I --
3 I want to take a moment and take a bit of a tangent
4 before I even start sharing my thoughts on the case
5 in more detail.

6 Yesterday afternoon, I -- I had the
7 opportunity to join Governor Hochul, Senator Griffo,
8 Assemblywoman Buttenschon, County Member Picente, and
9 Mayor Lanigan, and several members of the Governor's
10 cabinet when we toured the tornado damage near Rome,
11 New York.

12 The damage was extensive, I know
13 you've seen it on the news, you've heard of the
14 victims, the one unfortunate fatality. But many more
15 people are without homes right now and recovery will
16 take some time.

17 The tornado was one of a series of
18 storms that crossed throughout New York State, and
19 this was all in conjunction with a heat wave, which
20 we're all experiencing right now. There's a lot of
21 damage, poles, hundreds of poles have been destroyed,
22 infrastructure on those poles, wires, conductors,
23 breakers, other things damaged as well, all of which
24 will need repair or replacement.

25 And at one point this week roughly

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2 400,000 New Yorkers were without power, and this has
3 all happened within the last 36 to 48 hours. As of 8
4 a.m. this morning, I'm happy to say only 30,000
5 outages.

6 And I think that number has actually
7 gone down since, 30,000 outages are still in place
8 Statewide, and this is thanks to the men and women
9 who do the hard work of keeping the system up and
10 running during the best of times and then go above
11 and beyond to assess, repair, and resolve issues
12 during the worst of times.

13 Now, again, these storms came during a
14 week of extremely high temperatures and that made
15 restoration even more important, given the need for
16 public health and safety. And I bring this up
17 because it's time like these that I'm reminded just
18 how important utility services are, and that brings
19 me to the matter of the Central Hudson rate case.

20 Core to rate cases is a review of what
21 resources are needed to ensure safe and reliable
22 service, it costs money to reduce the impacts of
23 storms. It costs money to pay line workers to keep
24 the systems working, and it cost money to invest in
25 resiliency to minimize the impacts when these storms

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2 and other extreme events come around, and it costs
3 even more money to restore services when they are
4 lost.

5 Now, no one likes to raise rates,
6 particularly the individuals in the back with the
7 signs. And I think it's safe to say the Commission
8 as a whole, we're not fans of having to raise rates.
9 But it's important to understand the context in which
10 the rates are being increased.

11 Now, this case came at a very
12 challenging time for Central Hudson's customers,
13 customers who've suffered through inaccurate billing
14 and other failures of customer service. And these
15 were addressed last month during our prudence and
16 enforcement proceeding.

17 And I'll -- I'll have a couple
18 questions on that in a few minutes. Now, in the
19 months leading up to today, many have argued, and
20 some in this room as well, that the very idea of a
21 rate case was questionable.

22 Now, this is a common thread heard
23 throughout the public statement hearings of which
24 myself and Commissioner Valesky were able to attend.
25 And one of the things that made it clear to me is

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2 that this was a sentiment felt by pretty much
3 everyone there.

4 And I'm sure if everyone who wished to
5 have their voice heard could attend, the number would
6 be in the thousands of people feeling the same way.
7 County Executive Metzger, she described the rate case
8 as unconscionable.

9 Senator Hinchy, she described it as
10 unjustifiable, but it was one comment from Klaus
11 Yoder, a Central Hudson customer who I think his
12 comment truly captures the sentiment of the
13 individuals at the public statement hearing.

14 And he said, and I quote, This rate
15 case is an affront to common sense and decency,
16 unquote. And I think this probably captures what
17 many of you holding signs in the room are feeling,
18 and I'm sure this captures the sentiment of many of
19 the people attending the public statement hearing.

20 But what was interesting about this
21 and other negative statements was the juxtaposition
22 between comments about Central Hudson's past.
23 Central Hudson was once viewed as a community
24 partner, as a part of the community.

25 And for anyone who attended that

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2 public statement hearing those public statement
3 hearings, it's clear that sentiment has long since
4 passed. I think we need to rebuild that trust and
5 the first step towards building that trust is
6 understanding.

7 So I'm hopeful today we can take some
8 time to frame what this action here is and what it
9 means and help bridge the gap and make it clear what
10 the purpose of a rate case is. Now, based on my read
11 of the signs, I'm certain some of you view the rate
12 case as a reward giving credit for good behavior,
13 that is not the purpose of a rate case.

14 As Judge Costello so eloquently said,
15 the purpose of a rate case is to ensure reliability
16 of the system. Now, rate cases represent a core
17 aspect of the regulatory compact through which we and
18 utilities operate.

19 This is a compact that's codified in
20 State law and establishes rules and expectations,
21 utilities and the Commission must follow. And so
22 with that, I -- I have a question for you, Judge
23 Costello and Judge Moreno.

24 When it comes to approving or denying
25 a rate case, can you speak to the actions available

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2 to the Commission and the consequences of said
3 actions as established in the Public Service Law? Or
4 maybe this is a question for Dakin.

5 A.L.J. LECAKES: I think they want me
6 to answer, so I'm happy to. Good morning,
7 Commissioners. Welcome, Commissioner Valova. I
8 think the best way to answer this is to explain how
9 rate cases come to be and then what the requirements
10 are.

11 Electric, gas, water and some
12 telephone utility service in New York State and in
13 most states is provided through what's called
14 tariffs. Tariffs are filed by a utility and they're
15 on file with the Commission and they set forth the
16 rates and the terms and conditions in which they
17 provide public service to all of the customers, all
18 of the rate payers.

19 To initiate a rate case, what happens
20 is the utility files updated tariff leaves showing
21 what it wants to increase its rates to. So it
22 changes the tariff leaves and the Public Service Law
23 requires that those new tariff leaves be filed on 30-
24 days notice.

25 Meaning that the Commission has 30

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2 days to review the tariff leaves and determine if it
3 wants to take action. During those 30 days the
4 Commission can suspend the tariff leaves and what
5 that means is the tariff leaves won't go into effect,
6 the new rates won't go into effect for a period of up
7 to what ends up being 11 months, the 30 days plus 2
8 periods that total 10 months together.

9 During that 10 months, the Office of
10 Hearings and the parties conduct basically trial type
11 procedures to arrive at an evidentiary basis for
12 making a recommendation to the Commission on what it
13 must or what it should do with regard to the tariff
14 leaves.

15 In this case, Central Hudson filed for
16 new rates, the Commission suspended the tariff
17 leaves, that suspension would have expired at the end
18 of June, but as Judge Costello mentioned, Central
19 Hudson gave us an additional month extension on the
20 suspension.

21 Which it does not have to do, is not
22 required to do but it did in this case. In those 10
23 months or those 11 months, the Commission has to make
24 a decision, and if it doesn't, what happens is the
25 tariff leaves that are on file as updated throughout

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2 the proceeding go into effect by operation of law,
3 even if the Commission doesn't take any action.

4 So if there's any change intended by
5 the Commission to those tariff leaves, to those rates
6 to reduce what the -- what the companies, what the
7 utilities are asking for, the Commission has to make
8 a decision based on the evidence collected in the
9 proceeding to reduce those rates.

10 So what we're doing here today is the
11 judges are telling you, we conducted these trial type
12 procedures, we have collected the evidence, we've
13 weighed the evidence. And in conjunction with our
14 discussions with all the directors of the offices and
15 senior staff in this agency, we have determined that
16 this is our best recommendation for the most fair
17 outcome to meet the just and reasonable standard of
18 the Public Service Law for what the new rates should
19 be.

20 CHAIR CHRISTIAN: Thank you. So I
21 just want to reiterate some of the things you said,
22 so July 2023, Central Hudson filed its rate case. If
23 the Commission took no action, those rates would have
24 become immediately effective August 2023?

25 A.L.J. LECAKES: That is correct.

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2 CHAIR CHRISTIAN: Okay. And so by
3 entering into this rate case, the 10 month process,
4 the two 5-month periods you mentioned, we review,
5 analyze, revise and we went from, I'm going to quote
6 the numbers you stated earlier, I'm just -- 140
7 million dollars for electric, and 41 million for
8 natural gas to roughly half of those numbers
9 throughout that 10-month process?

10 A.L.J. LECAKES: That is correct.

11 CHAIR CHRISTIAN: Okay. Thank you.
12 So again, this 1-year review of analysis and
13 discussion to figure out what's the reasonable cost
14 of doing business for this utility to ensure safe,
15 reliable service. And so this includes everything
16 from salaries, taxes, materials like wires, pipes,
17 poles, things like that, health insurance costs,
18 services, all of the things you need to run a
19 business to maintain the system. Is that fair?

20 A.L.J. LECAKES: Those are all, and
21 even more than that are things that we look at in
22 these cases, yes.

23 CHAIR CHRISTIAN: So, you know, as was
24 stated before, these investments are what are needed
25 to ensure that the system works and to harden the

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2 system in advance of extreme weather. And they allow
3 for investments in staff and equipment to ensure the
4 efficient operation during the best of times.

5 But this is not a guarantee, is that
6 right, this is an opportunity to earn. And -- and --
7 and I'd like to direct this question to Jeff Hogan.
8 Jeff, thank you, I see you in the room. So Jeff, one
9 of the things that's come up throughout this rate
10 case is that because of the billing issue, ultimately
11 this rate case shouldn't happen, many have made that
12 argument.

13 And I think Dakin has done a good job
14 of explaining the legal process to make this happen.
15 Now, regarding Central Hudson being responsible for
16 the costs associated with resolving the billing
17 system. And this is including the monthly meter
18 reading costs, the negative revenue adjustments, the
19 back billing credits and I forget what else, and I
20 think there was a customer benefit fund as well that
21 was in the settlement agreement.

22 These costs have already had an impact
23 on the company's ability to earn. Is that correct?
24 And if so, can you speak to that?

25 MR. HOGAN: Yes Chair, I can, that

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2 you're absolutely right. The short answer is that
3 there has been an impact, it's been a significant
4 impact on the company's earnings for the past several
5 years. And it will continue to have some impact on
6 the company all the way through the current rate year
7 that is being discussed for this rate plan.

8 It's difficult to come up with an
9 exact basis point amount of how much of an impact
10 these costs have had, there's a lot of different
11 buckets involved, the whole list you just mentioned.
12 Each one spans different time periods and are
13 different dollar amounts.

14 But I think the best way to talk about
15 it is in aggregate, you're talking about 62 plus
16 million dollars of costs that the company has
17 incurred related to -- related to its billing issues.

18 These costs are being incurred in rate
19 years that began in June -- I'm sorry July of 2021,
20 all the way through this current rate year that we're
21 talking about setting rates for, that's a 4-year
22 period.

23 62 million dollars over four years is
24 about 15.5 million dollars a year, that's a very
25 large impact on the company. It's about 120 basis

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2 points on average, the -- the exact number of dollars
3 per basis points changes as their equity grows.

4 But about 120 basis points impact on
5 the company each year, so if they were -- if they
6 were allowed a 9 percent return as they have been
7 previously up until this current rate year, these
8 impacts from the billing issues would -- alone would
9 drive their R.O.E. to about 7.8 percent, what, you
10 know, most investors' analysts would say is a
11 substandard return for utility.

12 And in fact, we see the results of
13 Central Hudson, the actual results of what they've
14 earned are low. For electric, for the period of July
15 '21 through June of '23, that 2-year span, electric
16 was below 7 percent.

17 Gas was a little bit higher, 7.3, 7.4
18 something percent, so we really did see a significant
19 impact from -- from these issues impacting the
20 company.

21 CHAIR CHRISTIAN: Okay. Thank you,
22 Jeff. And -- and this -- sorry, let me collect my
23 thoughts. Mr. Sipos, thinking through the
24 explanation Jeff has just given us, the number of
25 penalties and -- and the various performance issues

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2 and how they've negatively affected the returns.

3 I want to go back to the question
4 earlier about the, or the point earlier about all the
5 bad experiences customers have faced that led to
6 this. Does the law allow for some other way to hold
7 Central Hudson accountable or some punitive action to
8 address those issues beyond what we've already done
9 this far?

10 MR. SIPOS: I think the short answer
11 is yes, and I think Jeff has outlined the financial
12 consequences that the company is -- has faced and
13 will face as a result of what occurred. But
14 consistent with the Public Service Law, which is, you
15 know, our -- our pathway, our lodestar, as we
16 discussed at last session, the department and the
17 Commission commenced an enforcement and prudence
18 proceeding, and that resulted in significant benefits
19 to Central Hudson's customers, and it also addressed
20 head-on a root cause of the problematic billing
21 system development and its deployment and rollout.

22 In that case, 22-M-0645 was, in
23 essence, a civil law enforcement proceeding. So law
24 enforcement proceeding and consistent with this
25 Commission's sovereign regulatory powers, the

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2 department pursued that civil enforcement and civil
3 penalty proceeding to hold the company accountable
4 for what the department had alleged were imprudent
5 acts and expenses and departures from regulatory
6 requirements.

7 And so the -- going to your question,
8 the general concept behind such an enforcement
9 proceeding is to punish a company for regulatory
10 shortfalls and imprudent acts to deter the company
11 and others from such regulatory shortfalls and
12 imprudent acts in the future.

13 And also to potentially remedy the
14 alleged transgression, which could include recouping
15 or disgorging the benefit or something of value that
16 -- that the company had earned along the way. So
17 that's -- that's the legal theory from a holding --
18 can the company be held accountable, that's the
19 philosophy behind it.

20 So yes, the department's civil
21 enforcement power, through that power, the department
22 seeks to hold a company accountable for alleged
23 regulatory trans -- transgressions. And turning back
24 to the specifics of case 22-M-0645, in the settlement
25 agreement that the Commission approved last month,

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2 the company agreed to various substantial financial
3 commitments.

4 And importantly, those commitments,
5 those financial commitments were at shareholder
6 expense, that -- that was at the expense of the
7 owners of the company. There's another pathway that
8 I'll just touch on, I think we discussed it briefly
9 last -- at last session.

10 But that's the consumer complaint
11 process, and any customer can start and pursue such a
12 complaint through the department's Part 12 process,
13 the administrative consumer complaint process, and
14 that process involves two private parties.

15 That's the customer, and that's the
16 utility company, and their respective positions are
17 then reviewed by our Office of Consumer Services.
18 And the inquiry in such a bilateral case focuses on
19 specifically whether the utility's particular conduct
20 towards that customer violated the tariff that Dakin
21 mentioned earlier or other applicable rules; it's a
22 case by case process.

23 And if the Office of Consumer Services
24 determines that the particular evidence in such a
25 bilateral case shows that the utility acted

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2 inconsistently with the tariffs and the rules, a
3 remedy may be directed to the particular customer.

4 So with respect to Central Hudson,
5 many individuals presented complaints to the Office
6 of Consumer Services, and those individual complaints
7 are being reviewed by the office. So yes, there are
8 ways under the Public Service Law where a utility in
9 -- in this situation can be held accountable.

10 And as part of that civil process, one
11 could look at that as a -- as a punishment there --
12 there is -- there is the opportunity to be held
13 accountable in that situation.

14 CHAIR CHRISTIAN: So just to make sure
15 I heard -- I heard you correctly, to summarize it,
16 I'm going to use two -- two points. Case 22-M-0645,
17 the enforcement proceeding you mentioned, that is for
18 the benefit of all ratepayers in Central Hudson
19 Service territory.

20 But individuals who still have
21 problems have recourse through which they can pursue
22 those matters individually. Is that a safe way to
23 sum it up?

24 MR. SIPOS: That is correct. And in
25 case 22-M-0645, the department was seeking to

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2 enforce, if you will, regulations across the board
3 and ensure that what the department alleged had been
4 imprudent expenses or imprudent acts were
5 appropriately addressed.

6 And in one of the major components of
7 the settlement agreement was the company's agreement
8 not to seek recovery for, I think it was 35 million
9 dollars in costs to remedy the billing system. But
10 yes, you -- you summarized it correctly.

11 CHAIR CHRISTIAN: Okay. Thank you for
12 that. Thank you. So setting rates lower than what
13 is needed to operate properly may appear to be a
14 benefit in the short term. But absent sufficient
15 funding, safety and reliability may be jeopardized
16 and create some long-term issues that could actually
17 be more costly in the long run.

18 And it's important to recognize that a
19 bad customer experience doesn't always mean there is
20 a violation in the law. And there have been many,
21 many bad experiences over the last few years, and
22 many of them shared in the aforementioned public
23 statement hearings, and are on display in the back of
24 the room today.

25 Now, as I understand it, the billing

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2 issues, root causes have been identified and the
3 information available shows us a significant
4 improvement in performance from where it was last
5 year. As stated, the consequences of Central
6 Hudson's failures have been determined through a
7 separate process and that was made public last month
8 through case 22-M-0645.

9 And should additional problems arise,
10 D.P.S. staff stand ready to hold the utility
11 accountable. Now, I wish we could return to that
12 time when Central Hudson was regarded as a member of
13 the community in good standing, or at least go back
14 to a blank slate without the burden of recent events.

15 But as the saying goes, if wishes were
16 fishes, we'd all be swimming in riches. So I look to
17 Central Hudson to make the needed investments to
18 continue the safe and reliable operation of their
19 system.

20 And as they make their investment, I
21 hope they take pain to rebuild the trust lost from
22 the members of the community. And I want to read
23 what I think I heard you say, Judge Costello,
24 regarding our obligation.

25 I think you said, the Commission has a

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2 duty to balance ratepayer impacts along with
3 necessary spending on the system and operating
4 expenses, and that the result of the draft order does
5 just that. I agree, and I approve, and I thank you
6 and staff for the hard work in bringing this to us
7 today. Thank you all.

8 All right. Commissioner Alesi?

9 COMMISSIONER ALESI: Thank you,
10 Chairman, thank you to the staff, as always. And
11 especially in this case because there's a significant
12 amount of time and effort that has gone into this in
13 a very difficult environment.

14 I would like to say that we are basing
15 -- I am basing my vote today on in depth briefings
16 that the public does not see or hear, and especially
17 the presentations that are given publicly. So we
18 have a vast amount of information to sift through and
19 to base our votes on.

20 And I would say, at least in my case,
21 I embrace this presentation and will be supporting it
22 based on a few very simple things. And first and
23 foremost is that this is half of the original
24 request, and it represents an amount of money that is
25 critical to the continued operation of Central

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2 Hudson.

3 This is not, by and large, an
4 enforcement action that we're voting on here, it's a
5 rate case action. So we can't lose sight of that
6 fact, it's critical that we continue to provide,
7 according to Public Service Law, safe and reliable
8 service at reasonable and just prices.

9 And in this case, it will help us to
10 continue our pursuit of the C.L.C.P.A. So again,
11 voting on the rate case and voting on the fact that
12 we're talking about half of the original request,
13 I'll be voting yes.

14 CHAIR CHRISTIAN: Thank you,
15 Commissioner. Commissioner Valesky?

16 COMMISSIONER VALESKY: Thank you,
17 Chair Christian. I'd just like to make a few
18 comments, likely no questions, but a few -- a few
19 comments. First of all, I want to join Chair
20 Christian in welcoming Commissioner Valova to the
21 Commission, it's -- it's great to have you here we're
22 all looking forward to -- to -- I know your many
23 contributions over the next six years.

24 And for those who keep score at home,
25 the Commission is now back to full strength of seven

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2 members for the first time in a -- in a number of
3 months, so that's -- that's a good thing too. From a
4 historical perspective, I -- I -- I just want to --
5 to underscore the Chair's role here today and -- and
6 -- and leading us to where we are today.

7 It is unusual for certainly this Chair
8 and -- and certainly many, if not most of your
9 predecessors, to have invested as much personal time,
10 including here at session in questioning the
11 presenters, in walking through the case that is
12 before us, and sharing his reflections, including
13 with current events as recently as yesterday in Rome.

14 So I -- I think that underscores not
15 only the importance of his leadership of this
16 Commission, but also the importance of the case that
17 is before us. So in that vein, I -- I have no
18 interest in repeating and going through all of the
19 items, many of which I was going to raise because I
20 certainly could not -- could not do a better job than
21 he already has.

22 But a few -- a few follow-up thoughts
23 I would just like to -- to offer based on -- on his
24 interaction with all of you. And -- and I should
25 certainly start by thanking you Judge Costello, you

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2 Judge Moreno, you Judge Lecakes and the entire staff
3 that once again did a tremendous job.

4 As you indicated, I -- I -- I was able
5 to join you at a couple of those public hearings and
6 -- and saw firsthand how -- not only how you conduct
7 the hearings, but how you move the entire process
8 forward for the department and ultimately bring an
9 item before us. So I do want to -- I do want to re -
10 - reiterate that.

11 A couple of thoughts in regard to the
12 process itself, the first and Judge Costello, you
13 indicated early in your presentation and -- and it
14 strikes me as I sit here that I and -- and I guess
15 three other members of -- of the current Commission
16 have been here since 2021.

17 We took a vote on the last Central
18 Hudson rate case and we were here during that period
19 of time which was the depths of the pandemic, as you
20 indicated. And I appreciate you reminding all of us
21 that that rate case, which was a joint proposal,
22 reflected the incredible challenges and burdens that
23 Central Hudson ratepayers faced in the middle of that
24 pandemic.

25 But I'm -- I also reflect on the fact

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2 that it was not only Central Hudson ratepayers that
3 would -- that were incredibly burdened during the
4 pandemic and -- and most, if not all of the rate
5 cases for other utilities that the Commission took up
6 during that 2020, '21, and 2022 time period reflected
7 that unique circumstance that -- that all of us as
8 New Yorkers and Americans and -- and around the
9 world, for that matter, were experiencing.

10 I raise that because, as you
11 indicated, Judge Costello, the revenue that is
12 required to allow a system to continue to operate in
13 a safe and reliable fashion eventually have to be
14 addressed. So even when we all determine that
15 because of extenuating circumstances, we may not be
16 able to do what we would have done otherwise, that
17 eventually those issues have to be addressed.

18 And we -- we -- we have seen it, we
19 saw it not that long ago in NYSEG, RG&E rate case, we
20 see it in virtually every rate cases. And I think
21 it's fair to say, and again, I appreciate you raising
22 that, we see it again here in -- in this rate case
23 and no one should be surprised at that.

24 What -- what is a bit different about
25 this rate case and Judge Lecakes, I always appreciate

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2 when you explain the process because it -- it -- it
3 is complicated even for those who have been here a
4 while. What is normally the case to -- to -- to
5 flesh out and certainly correct me if I'm wrong, what
6 is often the case historically over the last several
7 years, often that process leads to at some point
8 during that 10-month period what is known as a joint
9 proposal.

10 And the parties to the case come to an
11 agreement, staff under the guidance of the
12 Administrative Law Judge prepares an -- an item, an
13 order for the Commission to consider, and the
14 Commission considers that.

15 In almost all cases, I won't say all
16 cases, but in almost all cases those joint proposals
17 lead to rates being set by the Commission for a 3-
18 year period of time, sometimes longer, sometimes
19 shorter, but in recent years, most of the major
20 utilities, including Central Hudson back in 2021 led
21 to a 3-year rate case.

22 It's important to note, and I think
23 you indicated at the top of your presentation, Judge
24 Costello, these rates are not 3-year rates because
25 this is not a joint proposal, this is a litigated

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2 rate case based in Public Service Law, that should
3 the Commission today approve this order, these rates
4 will remain in effect, and correct me if I'm wrong,
5 for 1 year, or until the Commission at some future
6 point in time changes those rates, correct?

7 A.L.J. LECAKES: Yeah, that's correct.
8 So it's a -- it's a rate plan, the difference is that
9 in a 3-year joint proposal or a multi-year joint
10 proposal, the company's agreeing to stay out for a
11 set term. Here Commission sets its rates, the
12 utility is able to file for new rates right away or
13 wait as long as they want to.

14 It's just, these are the rates now
15 that are set for as long until the Commission resets
16 them.

17 COMMISSIONER VALESKY: Okay -- okay,
18 thank you. And -- and the final point I wanted to
19 make and I won't repeat what I said last month, but
20 we had two very distinct proceedings taking place,
21 and in many ways overlapping each other and certainly
22 affecting the same universe of -- of customers, the
23 Central Hudson ratepayers happening at the same time,
24 but clearly distinct cases, the prudence and
25 enforcement proceeding and the rate case.

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2 I think I have -- have mentioned a
3 number of times, both -- both staff and to my
4 colleagues and -- and in -- in -- in public
5 opportunities, it was critically important to me that
6 this Commission receive and act on the results of the
7 investigation which was part of the -- the prudence
8 and -- and enforcement proceeding that resulted in
9 some 62 million dollar in ratepayer benefits.

10 That that action take place prior to
11 us considering this rate case. And -- and again, to
12 Mr. Sipos, to other staff here, David Rossi and
13 others, I will just reemphasize what I said last
14 month. The significance of the work that was done by
15 the Department of Public Service in that enforcement
16 and proceed and -- and prudence proceeding, if not
17 unprecedented, I can't think of any other example
18 that would compare in terms of positive impact to our
19 ratepayers -- to Central Hudson ratepayers.

20 That has been addressed as the Chair
21 said, any continuing individual billing issues can
22 and will continue to be addressed by our Office of
23 Consumer Affairs here -- here at D.P.S. So now the
24 time comes for us to take on this for all the reasons
25 why the Chair and -- and staff indicated to consider

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2 this rate case.

3 Again, I believe that this is the --
4 certainly the -- the best outcome that could have
5 been realized. And it certainly came as a result of
6 public hearing, written comment with an awful lot of
7 stakeholder input of -- of -- of -- of both
8 organizations, groups, and individuals who have been
9 impacted.

10 And -- and I know both of you have
11 said and -- and we'll continue to say how important
12 that public input is to the decisions with which you
13 are both asked to -- to make. So with that, I will
14 also be supporting the order and -- and I thank each
15 and every one of you for your incredible hard work on
16 this item. Thank you.

17 CHAIR CHRISTIAN: Thank you.
18 Commissioner Maggiore?

19 COMMISSIONER MAGGIORE: Thank you.
20 And thank you for the presentation, Judge Costello
21 and everybody else who has spoken. Some of the
22 previous questions covered some of the ground that I
23 was interested in, but I have some additional
24 questions and I'm going to start with 2 questions
25 having to do with C.L.C.P.A. compliance.

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2 I'm going to ask them both at the same
3 time, the first is general and the second is very
4 specific. The order itself indicates that the
5 recommended decision, which I'll refer to as the
6 R.D., which is what it's referred to in the order,
7 the R.D., is in compliance with the C.L.C.P.A. which
8 in -- in specifically Section 7(2) and (3).

9 Section 7(2) says that if there's an
10 action that an agency takes, such as approval of a
11 rate case, that has -- that would in any way impede
12 the State's ability to meet its emissions limits,
13 that we have to identify mitigation efforts to offset
14 that, I summarize that that's not the exact language.

15 The actual R.D. goes into great depth
16 in explaining the mitigation efforts to offset any
17 climate impact of approval of this order today, the
18 order itself really just sort of touches on this
19 topic.

20 So the general question is, can you
21 summarize what's in the R.D. in a little more detail
22 than what's in the order? The specific question is
23 this. The R.D. twice mentions that Central Hudson
24 estimates that it will reduce its greenhouse gas
25 emissions in excess of 40 percent by 2030.

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2 And unless I read that incorrectly, my
3 specific question is, does your analysis concur with
4 that conclusion? So the general question is, can you
5 summarize the mitigation efforts that are outlined in
6 the R.D., and very specifically, do you concur with
7 Central Hudson's conclusion that it is likely to
8 reduce its emissions in excess of 40 percent by 2030?

9 A.L.J. COSTELLO: Okay. What -- what
10 I would do is answer those questions actually in the
11 reverse order that you've posed.

12 COMMISSIONER MAGGIORE: Okay.

13 A.L.J. COSTELLO: The general -- the
14 statement by Central Hudson about what they're going
15 to achieve by 2040 (sic 2030) was not something that
16 was -- that we made any fact findings on. It's noted
17 in the R.D. as this is what they say.

18 So we do not have any -- we're not
19 saying that that's factually true. And then we go on
20 and say what's specifically in these rate plans, we
21 believe satisfies the C.L.C.P.A. requirements. We
22 first go through and explain that, as with all
23 utilities, Central Hudson is subject to proceedings
24 that -- other proceedings, the generic proceedings,
25 the C.L.C.P.A. implementation proceeding, the long-

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2 term gas planning proceeding, there's a utility
3 energy network proceeding.

4 And Central Hudson has made filings in
5 all of those, and they are proposing, and this is one
6 of the things that is important, that it's not going
7 to go into place during the rate year, but they're
8 are proposing a utility -- thermal -- I'm sorry,
9 thermal energy network pilot project that will be
10 located in a disadvantaged community.

11 So that's one of the things that we
12 point out that they're subject to all of these
13 ongoing proceedings and they're taking action
14 consistent with what the Commission is requiring.
15 Further action has to be taken by the Commission on
16 that and so we just wanted to note that.

17 In the particular rate plan, we know
18 that there are 21 capital electric projects that are
19 pursuant to the C.L.C.P.A. Phase One order that the
20 Commission issued and that's in case 20-E-0197 which
21 was to implement transmission planning pursuant to
22 the Renewable Energy Growth and Community Benefit
23 Act.

24 What staff indicated on the record was
25 that these projects will satisfy safety, reliability,

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2 and compliance obligations, address system
3 bottlenecks and constraints that limit renewable
4 energy delivery within a utility system, or include
5 the added benefit of increasing the capacity to host
6 additional distributed energy resources.

7 Those projects will provide
8 approximately 547 megawatts of headroom increase and
9 this is a quote, quote, Contribute significantly
10 toward achievement of the Statewide C.L.C.P.A. goals.
11 Going then to the gas projects, it's the company will
12 continue to replace its leak prone pipe at a target
13 rate of 15 miles annually, it will be subject to
14 stringent year end leak repair targets.

15 It's going to implement a new leak
16 prone services replacement program and all of those
17 programs align with the C.L.C.P.A. goals to reduce
18 methane emissions and promote the safety and
19 reliability of the gas system.

20 The company has proposed to purchase
21 responsibly sourced gas and conduct a clean hydrogen
22 feasibility study in an effort to use innovative
23 means to further reduce greenhouse gas emissions in
24 its distribution system.

25 They're going to replace their gas

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2 powered fleet vehicles with electric or plug in
3 electric vehicles where feasible. They'll continue
4 to fully eliminating gas declining block rates,
5 they'll eliminate high volume usage rate discount
6 that's offered to the firm non-residential gas -- gas
7 transportation customers.

8 And they are going to continue to
9 explore non-pipes alternatives as a potential
10 solution to providing customers with energy needed
11 for homes and businesses while avoiding traditional
12 gas infrastructure. So collectively -- and that's
13 with respect to those things, and then going to the
14 disadvantaged communities, the other -- the other
15 part that we have to look at.

16 The staff had reviewed the company's
17 electric capital portfolio from the perspective of
18 each project's location within and the impacts on
19 disadvantaged communities, and they found that the
20 projects located within the dis -- disadvantaged
21 communities and system wide will increase headroom,
22 replace end of life equipment and facilities, improve
23 system remote monitoring and create a hardened and
24 resilient electrical system.

25 And what they said, and -- and what

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2 Judge Moreno and I agreed to in that was that the
3 proposed capital investments have an overall positive
4 impact to disadvantaged communities as they will
5 support additional installation of renewable energy,
6 support a safe operation of the electrical system and
7 improve reliability of the gas and electric system.

8 With respect to gas information, you
9 know, the gas projects, the L.P.P. programs will
10 provide system-wide benefits, including benefits to
11 disadvantaged communities. And what -- according to
12 -- again, what Central Hudson had stated was that
13 they -- they estimate that the G.H.G. emission
14 reduction benefits will be for 2030 around 48 percent
15 of the greenhouse gas benefits will accrue to
16 disadvantaged communities.

17 So that's -- that's what overall why
18 we believe it's in compliance with the C.L.C.P.A.

19 COMMISSIONER MAGGIORE: Thank you.
20 That's a very thorough answer and what's in the body
21 of the R.D. is even more thorough. So I appreciate
22 that and your articulation of it.

23 I'm going to switch topics now in
24 response to some of the questions that the Chair
25 asked, you explained how we turned aside, or I should

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2 say you turned aside, the initial request from
3 Central Hudson and reduced the impact to ratepayers
4 by -- as we've heard approximately 50 percent.

5 But I want to ask some questions about
6 how we got there, the -- the first is in relation to
7 something else that's come up already, which is the
8 settlement that we approved, the 62 million dollars
9 settlement that we approved during the last session.

10 And I asked this question during that
11 session, and I just want to be sure the answer is the
12 same. How -- how can we be sure that this rate case
13 that we're considering approving today is not just
14 passing on the cost of that 62 million dollars
15 settlement to the ratepayer?

16 John Sipos explained that it will be
17 borne by the shareholder, but how could we be sure of
18 that?

19 A.L.J. COSTELLO: I'm going to defer
20 to Jeffrey Hogan for response to that question.

21 COMMISSIONER MAGGIORE: Okay.

22 MR. HOGAN: Sure. Good morning,
23 Commissioner. In order to ensure that costs don't
24 make their way into a rate case would require staff
25 to investigate exactly what -- what costs are to be

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2 allowed and so that's what staff does.

3 We have several dozen people assigned
4 to the rate case who really just scrub the numbers
5 and look to see what the company is spending its
6 money on, what they're proposing to spend, additional
7 monies on what we would call program changes in a
8 rate case.

9 And so we investigate and -- and look
10 at what the total revenue requirement of a company is
11 for the rate year and we would -- staff is able to
12 exclude things that are one time in nature, that are
13 for costs that are -- that are for things that we
14 shouldn't be paying for, and we have many instances
15 of that over the years.

16 So in the settlement -- in the
17 enforcement proceeding, there were several categories
18 that of costs, what I've referred to as buckets
19 earlier. And one of them was the company spent over
20 35 million dollars as John Sipos mentioned, remedying
21 the issues for their billing, that was done over a
22 multi-year period.

23 Staff has reviewed the historic test
24 year, as we call it, to make sure that any amounts
25 that were related to that are not included. And

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2 therefore, if the historic test year doesn't have
3 these rates, then the rate year won't have the
4 amounts either.

5 And so we've -- we've ensured that the
6 amounts that the company is going to receive are for
7 costs that aren't related to any sort of remedy
8 related to those costs. The company's incurred
9 negative revenue adjustments related to its poor
10 performance on some metrics, customer service
11 related.

12 Those amounts are credited to the --
13 are -- are credited to customers, we ensure that
14 those are not included in the rate year costs. And
15 so when we look at the total rate year costs and add
16 them up we can, you know, identify what each -- what
17 each amount is, where it's coming from.

18 That includes monthly meter reading.
19 To date, the company has been reading the meters
20 every other month. There's additional costs, of
21 course, to up that. We have ensured that the costs
22 that we're setting rates on here in the draft order
23 are the costs that the company has incurred to date
24 of reading every other month.

25 Any additional costs that are going to

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2 be borne by the company will negatively impact their
3 earnings, including in the current rate year. And
4 the rates will not be set with any amount related to
5 those efforts.

6 I think that the customer benefit fund
7 would be the other issue, four million dollars of
8 shareholder money that's been put up for -- for
9 customer benefit and is being used in this case to
10 lower both electric and gas costs for customers in
11 the upcoming rate year.

12 Those costs are the -- those -- that
13 is allowing customers to pay less to the company than
14 they would've otherwise paid. And therefore we know
15 from that fact that the customers are not paying for
16 anything related to that. I hope -- hope that
17 answers your question.

18 COMMISSIONER MAGGIORE: It absolutely
19 did, it not only answered my question, but it reminds
20 me of something that's actually pretty basic to what
21 we're doing here today. The -- the company, a rate
22 case is not just that the company is asking for extra
23 money, but the company has a plan to do X, Y, and Z
24 and needs money in order to do X, Y, and Z.

25 And so Jeff, that answer to my first

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2 question was very thorough and I understand, and I
3 appreciate. I'm -- I think I'm -- I'm speaking again
4 to Judge Costello, I'm going to pivot to my next
5 question which is, how much of what we would be
6 approving should we approve this order is not just a
7 good idea, but is legally necessary.

8 Like what -- what is not discretionary
9 in this that we're considering here today?

10 A.L.J. COSTELLO: Anything that is
11 considered for reliability or that's required by law.

12 COMMISSIONER MAGGIORE: Yeah.

13 A.L.J. COSTELLO: And there are
14 certain things that -- that they're legally -- the
15 companies are legally required to do and anything
16 that's -- it's -- they're called mandated projects.

17 COMMISSIONER MAGGIORE: Yeah.

18 A.L.J. COSTELLO: And anything that
19 they are -- is required for reliability and safety,
20 supporting customer service, those are things that
21 really are not discretionary. That's a general --

22 COMMISSIONER MAGGIORE: Okay. And
23 that --

24 A.L.J. COSTELLO: -- I'm giving you
25 very broad terms --

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2 COMMISSIONER MAGGIORE: Yeah.

3 A.L.J. COSTELLO: -- instead of
4 specific projects, but it's a broad categories.

5 COMMISSIONER MAGGIORE: Okay. I'm
6 going to ask a -- a general follow up and then three
7 specific questions. So would I be correct that the
8 vast majority of the items that we would be approving
9 should we approve this order today are -- fall into
10 that category that are either actually or essentially
11 legally required?

12 A.L.J. COSTELLO: They -- they would
13 be legally required under the Public Service Law to
14 the extent that they're necessary --

15 COMMISSIONER MAGGIORE: Yeah.

16 A.L.J. COSTELLO: -- for safe and
17 reliable service and also or otherwise required by
18 other laws, yes.

19 COMMISSIONER MAGGIORE: Okay. So I --
20 I'm going to ask a couple of specific questions to
21 flesh this out a little bit further. So we reject a
22 request by the company, you refer to it as executive
23 variable compensation, I'm going to call it bonus pay
24 for executives.

25 So we reject a program that they asked

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2 to raise rate -- rate pay -- ratepayer revenue for in
3 order to give bonus pay to executives. Now, that
4 wasn't legally required, right, so they -- they're
5 not going to sue us and win in court because we
6 didn't approve bonus pay. Is that correct?

7 A.L.J. COSTELLO: That's correct.
8 It's not legally required, and the reason that it was
9 not approved was because of the findings in the
10 management and audit case that the company was not --
11 they were doing basically, I won't say the bare
12 minimum, but they were doing -- they weren't
13 performing above what standards are set in rate cases
14 so that they could avoid negative revenue
15 adjustments.

16 And what the Commission said in
17 approving the management audit was that that is not
18 what a performance, you know, a bonus plan is for,
19 it's -- it's for doing better and improving for
20 customers. So that's -- that's why it's -- it's not
21 mandated by law, but -- and it's -- in this case, it
22 would not be appropriate based on what the findings
23 were from the management and audit.

24 COMMISSIONER MAGGIORE: Okay. So
25 there's another type of item in here, it's not a

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2 single item, but they're also requesting ratepayer
3 revenue in order to pay local taxes, property taxes
4 and other taxes. Say, I don't like that idea, I
5 don't like the idea of localities raising revenue
6 rather than directly taxing their -- their citizens.

7 Instead, taxing the utilities so that
8 the utility would then pass -- pass that expense on
9 to ratepayers in the -- in the form of -- a
10 regressive form of revenue enhancement, which is
11 higher rates. If -- if we rejected the utilities'
12 request to raise ratepayer funding to pay taxes,
13 could they take us to court and win?

14 A.L.J. COSTELLO: That is something
15 that -- yes, that -- that's a legal requirement that
16 they pay taxes on their utility plant, and they pay -
17 -

18 COMMISSIONER MAGGIORE: Yeah.

19 A.L.J. COSTELLO: -- on other things.
20 And those are costs of business that are -- are
21 appropriately passed on to ratepayers. It cannot be
22 required for the shareholders to -- to absorb that
23 cost.

24 COMMISSIONER MAGGIORE: Okay. So I'll
25 note something that stood out to me in the order is

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2 that the Ulster County Legislature passed a
3 resolution asking for us to reject this order. And
4 unfortunately, we don't have the power to deny the
5 utilities request to pay Ulster County taxes.

6 But the Ulster County Legislature can
7 do something about that by reducing the taxes on the
8 utility. So that's something that they could do, we
9 can't do anything about that. I'm going to ask a
10 question about a third type of expense in here.

11 So the first is a -- a -- just a yes,
12 no question, is -- does Central Hudson have an
13 economic development program, and is that program
14 discretionary?

15 A.L.J. MORENO: Yes, and yes.

16 COMMISSIONER MAGGIORE: Okay. So just
17 personally, I'm not sure that I, you know, if I was a
18 party to the case, which I'm not, that I would think
19 that that was a compelling item, I know it's a very
20 small item compared to everything else.

21 But do I have the ability sitting here
22 to offer an amendment to strike that from the R.D.
23 Is that within my powers up here?

24 A.L.J. MORENO: Certainly, I think --
25 well, I will say that in the context of the R.D.

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2 itself, we did recommend and the draft order before
3 you does eliminate the budget for the gas economic
4 development program, finding that --

5 COMMISSIONER MAGGIORE: Yeah.

6 A.L.J. MORENO: -- it is inconsistent
7 with sort of the direction that the Commission has
8 been moving in with gas policy. So 200,000 dollars
9 was the cost of that program for gas, and that was
10 eliminated in the R.D.

11 So to the extent that that -- the
12 electric economic development program is
13 discretionary, it's something that the Commission
14 could have considered in --

15 COMMISSIONER MAGGIORE: Yeah.

16 A.L.J. MORENO: -- in looking at -- at
17 rates in the rate year, in the upcoming rate year.

18 COMMISSIONER MAGGIORE: So Judge
19 Moreno, I -- what I'm -- what I'm getting at, though
20 is, I don't actually have the ability to amend the
21 R.D., I -- I could just vote for the whole thing or
22 reject the whole thing. Is that correct?

23 A.L.J. MORENO: Sure. Go ahead.

24 A.L.J. LECAKES: I'll -- I'll answer
25 it this way, Commissioner.

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2 COMMISSIONER MAGGIORE: Yeah.

3 A.L.J. LECAKES: To the extent that a
4 single Commissioner during a Commission session would
5 like to see a change in a draft order that's before
6 the Commission, they're able to ask the Chair to --
7 to make a motion or -- or make a -- take a vote on
8 any amendment to an order, at which point the
9 Commission can take the vote.

10 If the single Commissioner request is
11 denied by that vote, then the order as it's before
12 you stands, and that's what you're voting on. If the
13 vote is taken by the Commission to amend the order in
14 line with what the request is from that single
15 Commissioner, then that's what you're voting on
16 eventually.

17 That process has happened maybe, in my
18 recollection of 20 years here twice --

19 COMMISSIONER MAGGIORE: Yeah.

20 A.L.J. LECAKES: -- over those 20
21 years, and it was in very unusual circumstances.

22 COMMISSIONER MAGGIORE: Okay. I don't
23 want to spend too much time with that, but I think
24 that were I to try to make such a motion, it would
25 actually throw the -- the R.D. into a little bit of

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2 disarray that would not end up having a substantial
3 impact on rates.

4 And if -- you don't need to comment on
5 that, but I'm just telling you my conclusion as I
6 considered, hey, I don't like this part of the R.D.
7 But I -- in practice, I don't think that it would be
8 very practical for us as Commissioners to try to pick
9 apart individual components of it.

10 A.L.J. LECAKES: Right. If I could
11 just respond to that last point, that's the
12 difficulty with that process is, that would require
13 senior staff then to evaluate if -- if any of the
14 other Commissioners had a question about what change
15 that would make to the overall recommendation.

16 COMMISSIONER MAGGIORE: Yeah.

17 A.L.J. LECAKES: It's a very difficult
18 thing for us to evaluate, which is why, as
19 Commissioner Alesi mentioned before, we do briefings
20 with individual Commissioners prior to the session.
21 And -- and -- and --

22 COMMISSIONER MAGGIORE: Yeah.

23 A.L.J. LECAKES: -- go through this
24 stuff in detail.

25 COMMISSIONER MAGGIORE: Okay. So I'm

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2 almost done. So you -- Judge Lecakes, you actually
3 answered a question, I think it was from the Chair
4 that was basically, what would happen if -- if -- if
5 we rejected this order for -- if we comes time to
6 vote and four of us cast no votes.

7 And you answered that question, if I
8 understood correctly, what would happen is the
9 original request would take effect. And I understand
10 that a process would then ensue that could lead to a
11 different order that eventually comes before here.

12 But what I'm looking for here -- my
13 understanding of this is based on your answer and my
14 understanding coming into this is, if I -- if my
15 position was that Central Hudson's original request
16 was what we should be approving, what I should do is
17 vote no.

18 If I vote yes, I'm voting for an order
19 that rejects the initial request and is approving
20 something that is substantially smaller. Is that a
21 fair characterization?

22 A.L.J. LECAKES: That's a fair
23 characterization. If the majority vote is no on the
24 draft order before us without any further action by
25 the Commission, the higher tariff rates would go into

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2 effect.

3 COMMISSIONER MAGGIORE: Okay. So I'm
4 looking -- I've got all these papers here and I'm
5 looking through them, I'm looking for the third
6 option because I could vote no, and rates go up, I
7 could vote yes, and rates go up not as much by a long
8 -- a long shot, not as much.

9 But I don't see the option to cast a
10 different type of vote where rates go down or they
11 just hold steady. And I -- as I -- as I look at the
12 permutations of what could happen if we rejected
13 this, I don't see a plausible outcome where rates
14 hold steady no matter how we try to slice the
15 Snickers bar.

16 I mean, sadly that's not an option
17 that's really before us, plus in answer to some of
18 the questions I already asked here. The vast
19 majority of items in this rate case are legally
20 necessary, they're legally required.

21 So if we try to challenge some of
22 those items, such as paying taxes or, hey, we decided
23 that safety isn't really that much of an issue, that
24 -- ultimately the -- the legal process would overturn
25 our decisions here, and it would just drag out the

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2 process and ratepayers would probably end up paying
3 more, that's my determination.

4 So I'm going to -- I -- I don't want
5 to vote for this, I don't want to raise anybody's
6 rates. Well, at least alone here, but I -- I think
7 that the responsible option here is to vote yes on
8 this order. I think it's the best plausible deal
9 that ratepayers are going to get.

10 So that's why I'm going to vote yes,
11 so I appreciate you spending the time answering these
12 questions and thank you for all your hard work.
13 Thank you very much.

14 CHAIR CHRISTIAN: Thank you.
15 Commissioner Bright.

16 COMMISSIONER BRIGHT: Thank you,
17 Chairman. And thank you team and judges for all your
18 hard work, and I want to welcome our new Commissioner
19 as well. So I did also want to recognize and commend
20 department and the department staff and A.L.J.s who -
21 - for working on to come to a settlement on the
22 prudence and enforcement matter that came before us
23 last month.

24 It makes it possible for us to look at
25 this rate case in a way that incorporates some very

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2 important accountability and consumer protection
3 measures. Mainly, we ensure that the costs to fix
4 the company system and to implement its monthly meter
5 reads are not included here and are not being paid by
6 ratepayer dollars.

7 We also made sure that the customer
8 benefit fund to the tune of 4 million dollars will
9 ensure there is a pot of money available for the
10 Commission to use should we need it for the benefit
11 of Central Hudson ratepayers.

12 So with last month's decision we were
13 looking backwards, as you guys mentioned, and with
14 that matter settled we are now able to look forward
15 with the current rate case before us and so I do have
16 a couple questions.

17 And in this rate case, I know we
18 carefully review all of the amounts that New Yorkers
19 are being asked to pay so that they are getting the
20 best bang for their buck. And I think that in the
21 summary, you mentioned an increase to employees to
22 enhance service.

23 The independent monitor from the
24 settlement and the -- and the order that we discussed
25 last month recommended some software, foundational

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2 issues found with software. So I just kind of -- and
3 I know that we denied the ratepayer funded executive
4 compensation.

5 But I'm wondering in this increase for
6 employees to enhance service, is software -- and that
7 -- that sort of software or a tech aspect, is that in
8 any way reflected that there might be a need to have
9 more employees that are advanced tech that can help
10 with the billing issues that they've seen in the
11 past.

12 Mostly because the independent monitor
13 seemed to say that while the -- the -- the company
14 was in a stable state right now, that there might be
15 some foundational issues that still need to be
16 addressed, so I just wanted to see if that was
17 something that got addressed in this.

18 A.L.J. LECAKES: So as far as the
19 labor costs and -- and the full time employee costs
20 are concerned with regard to the software system and
21 everything. The company did request certain full
22 time employee positions to be added.

23 Some of those are replacements for
24 vacancies that they were expecting during the rate
25 year, basically the -- the -- the money that's

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2 allowed is for them to have a complement on hand of
3 employees in all their systems, including their
4 software system that will be able to provide adequate
5 service, reliable service to its customers.

6 In addition, that also includes some
7 employees that were related to taking customer
8 complaints and -- and working in the billing
9 department as well. So it's -- it -- it goes a
10 little bit beyond just the software department itself
11 and into how they interact with their customers, how
12 they can respond to their customers more readily.

13 A.L.J. COSTELLO: And I just want to -
14 - to add to that, I mean, based on the timing of when
15 testimony was provided in these cases, this was
16 before -- before the -- the independent monitor's
17 recommendations. So to the extent that they -- they
18 would need additional employees or they feel they
19 need additional employees to address those, I would
20 expect that that would be raised in the next rate --
21 rate case.

22 COMMISSIONER BRIGHT: Okay. Great.
23 Thank you. And -- and my second question, I mean,
24 this was a -- this is a fully litigated rate case,
25 which is going to have its pluses and minuses,

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2 especially sort of around the constraints that may or
3 may not be present if you don't go into a fully
4 litigated rate case.

5 But my question is related to
6 C.L.C.P.A. compliance, so in this order it allows for
7 what is referenced as responsibly sourced gas. So I
8 just sort of wanted to get a sense of what do we see
9 as that? And then also, how is it compliant with our
10 climate law?

11 A.L.J. COSTELLO: So I'll just tell
12 you how it was presented in -- in the rate case. So
13 responsibly sourced gas, and it has different -- goes
14 by different terms, certified natural gas is another
15 term that's used for it.

16 The utilities would purchase gas from
17 gas producers who then have a third party who
18 provides monitoring of emissions, so I think there
19 are three companies that do that. What was presented
20 to us was information from Central Hudson that they
21 had conducted a pilot project and they estimated --
22 let me just see what the amount was.

23 That by introducing responsibly
24 sourced gas and the responsibly sourced gas is it
25 gets certified by one of these three -- one of these

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2 three companies to say that they followed best
3 practices to reduce emissions while the gas is being
4 produced, and that's a generalization.

5 So they said in -- they provided
6 information in the record that they believe
7 incorporation of responsibly sourced gas can result
8 in approximately an 82 percent reduction in methane
9 emissions throughout its system.

10 And this is upstream -- stream
11 emissions, which are required to be looked at under
12 the C.L.C.P.A. Staff based on and also what they're
13 proposing in this case, is to be allowed to purchase
14 responsibly sourced gas up to a limit of 200,000
15 dollars that would cost more than regularly, you
16 know, regular gas.

17 And so staff, based on what the
18 company was proposing that they do that, they found
19 that based on the modest -- relatively modest cost
20 involved and the fact that they stated R.S.G. can be
21 a means to decrease greenhouse gas emissions, that's
22 -- that's the information that was supporting --
23 supporting this.

24 Communities for Local Power opposed --
25 opposed the -- opposed this project and their --

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2 their major thrust of their opposition dealt with a
3 study done on Project Canary, which is one of the
4 three certifiers. And the -- the -- the study looked
5 at Project Canary, their use of -- of equipment in
6 Colorado.

7 And they pointed out, you know, the --
8 what they perceived as problems with what the, you
9 know, the way they were capturing emissions data. In
10 response, the company provided an article and it was
11 prepared by Project Canary, but it responded to the
12 issues raised in the article -- in the study that was
13 provided.

14 And it was a very persuasive, you
15 know, persuasive as far as pointing out specific
16 issues that they felt were not accurate. So what
17 C.L.P. -- C.L.P. pointed out was that Project Canary
18 was also the certifier for the -- for the pilot
19 project here.

20 However, it was not done in Colorado,
21 it was done in Pennsylvania and according to Project
22 Canary's article, they use different measurement
23 devices depending on where they're located. So where
24 G.H.G. emissions are required, they would use
25 something different than what they used in Colorado.

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2 There's also what C.L.P. pointed out
3 was that, and -- and this is undisputed, there is no
4 oversight like a general regulatory body that -- that
5 governs these certifications. Each individual, each
6 of the three areas do their own certification
7 process.

8 Looking at everything, it -- it seemed
9 to us that there was still no doubt that there was a
10 benefit for greenhouse gas reductions. And based on
11 all of the evidence that the weight of the evidence
12 supported going forward with the project for the rate
13 year because of the limited amount that would be in
14 addition to the regular cost of gas.

15 And with the understanding that this
16 is something that can be revisited in the next rate
17 case.

18 MR. ROSENTHAL: Let me just add one
19 more issue, you raised the issue and I've heard it
20 twice today and it is whether or not this is
21 compliant with the C.L.C.P.A. I just want to
22 elaborate on, you know, specifically what that means.

23 The -- the C.L.C.P.A. doesn't actually
24 have anything in it regarding Public Service Law
25 requirements related to natural gas, or methane, or

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2 R.N.G., or -- or anything like that. There is a
3 section of the C.L.C.P.A. that we're referring to
4 here, and it's Section 7(2).

5 It's an unconsolidated provision of
6 law that applies to all State agencies, authorities,
7 offices, et cetera. And under that provision there's
8 a legal standard that all age -- we have to do an
9 examination with respect to all agency actions.

10 And the question is whether or not
11 they're inconsistent with the Department of
12 Environmental Conservation's G.H.G. emissions
13 limitations. So that's what we're talking about when
14 we're talking about -- when we're referencing
15 C.L.C.P.A., you know, compliance.

16 And so as -- just as a little
17 background going on 3 years ago, the Commission
18 decided in the KEDLI/KEDNY rate case that that
19 provision should apply to rate cases. But we apply
20 it to rate cases as a whole, we don't apply it to
21 individual, particular, you know, capital projects in
22 the rate case.

23 And as Judge Costello, I thought, did
24 a really good job of explaining, there are a lot of
25 different projects at issue. And it was based on all

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2 of those projects that a determination was made that
3 the rate case as a whole is -- is not inconsistent
4 with the G.H.G. emissions limitations.

5 A.L.J. COSTELLO: And I just wanted to
6 point out one more thing. During the process, the
7 process that we have after we -- Judge Moreno and I
8 issued the R.D., the parties are given the
9 opportunity to file briefs on exceptions.

10 Communities for Local Power did not
11 file a brief on exceptions taking any issue with what
12 was stated in the R.D.

13 COMMISSIONER BRIGHT: Yes, I noticed
14 that, yeah. Thank you all for -- for answering so
15 thoroughly these questions. And -- and of course,
16 thank you, Judge Moreno, thanks Judge Costello and
17 Judge Lecakes as well for just all your hard work and
18 of course, just really looking at the evidence and
19 coming to, you know, bringing this order and --
20 before us.

21 And of course, I also want to thank
22 staff who work diligently to -- to get all this
23 together and bring it to the table for a decision and
24 really provide proper oversight and accountability to
25 Central Hudson and for Central Hudson customers. So

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2 thank you so much for all your hard work.

3 CHAIR CHRISTIAN: Thank you.

4 Commissioner Sheehan, you're recusing from the next,
5 okay. Commissioner Valova?

6 COMMISSIONER VALOVA: Thank you. Can
7 everyone hear me okay? All right. So first, thank
8 you to my colleagues for the warm welcome today. I
9 really appreciate it. And I'm very excited and
10 thrilled to be here. And before I go into my vote, I
11 want to say thank you also to staff, to the A.L.J.s
12 today for your presentation, to everyone who's worked
13 on this case.

14 And also to all of the interveners and
15 all of the public commenters having been on the other
16 side of this process, participating as a stakeholder,
17 I know how much time it takes for everybody. I'm now
18 understanding how much time it takes for -- for staff
19 in particular.

20 I hadn't seen that side of things
21 before and it really just, thank you to everyone
22 who's put in the time. And I -- I think by law, the
23 Commission must make decisions based on the evidence
24 in the record. And the evidence in the record is
25 developed by those participating in these

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2 proceedings.

3 And that is why I'm so appreciative,
4 not just of staff, but also of all of the
5 stakeholders who take the time, and the effort, and
6 the heavy lift that it takes to develop testimony and
7 briefings and comments and participate in the
8 hearings.

9 It is incredibly important and I can't
10 emphasize how important it is for there to be a full
11 record of data for the Commission to be able to make
12 these decisions that achieve the purposes of the
13 Public Service Law and the C.L.C.P.A. and/or other
14 statutory objectives.

15 This was a very important litigated
16 rate case and overall, I support the outcome and I am
17 concurring with my colleagues. However, I have
18 concerns with part of the reasoning in the order
19 having to do with the cost associated with
20 responsibly sourced gas.

21 I think that the discussion that that
22 just happened answers the questions that I have. So
23 instead of questions, I'll just share -- share my --
24 share my thoughts. To avoid any confusion, I do want
25 to note that there is not yet a standardized industry

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2 wide term for this type of resource.

3 I believe, for example, Con Edison and
4 Orange & Rockland call it certified natural gas. But
5 for purposes of this discussion, I'll continue to use
6 responsibly sourced gas or R.S.G. Based on the
7 discussion that we just had, I believe that this case
8 raises reasonable and important questions about the
9 testing and certification of R.S.G.

10 I am not convinced that the R.S.G. the
11 company proposes to procure potentially at a higher
12 cost than the weighted average cost of gas will
13 result in the projected emission reduction benefits.
14 Thus far, the Commission has approved investments in
15 R.S.G. only in the context of pilot projects, which
16 are by their nature intended to study and provide
17 data on a given topic in advance of a long -- a
18 larger roll out. So I believe it would be premature
19 to allow cost recovery outside of the pilot project
20 context before we have developed a more thorough and
21 complete understanding of res -- responsibly sourced
22 gas.

23 However, I do concur because the
24 standard that we are working with is, is the order as
25 a whole compliant with the C.L.C.P.A. I think that

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2 this is an important issue for the Commission to
3 address in the future to determine what are the
4 emissions reduction benefits of R.S.G. and the role
5 that it can play in the achieving the C.L.C.P.A.'s
6 objectives. And I look forward to the opportunity to
7 explore this issue further. Thank you.

8 CHAIR CHRISTIAN: Thank you. I now
9 bring this item, call for a vote. My vote is in
10 favor of the recommendation to adopt the terms of the
11 recommended decision with the modifications as
12 discussed. Commissioner Alesi, how do you vote?

13 COMMISSIONER ALESI: I vote yes.

14 CHAIR CHRISTIAN: Thank you.
15 Commissioner Valesky?

16 COMMISSIONER VALESKY: Yes.

17 CHAIR CHRISTIAN: Commissioner
18 Maggiore?

19 COMMISSIONER MAGGIORE: Yes.

20 CHAIR CHRISTIAN: Commissioner Bright?

21 COMMISSIONER BRIGHT: Yes.

22 CHAIR CHRISTIAN: And Commissioner
23 Valova?

24 COMMISSIONER VALOVA: Concur.

25 CHAIR CHRISTIAN: Thank you. The item

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2 is approved and the recommendations are adopted.

3 Thank you everyone. And with that, we'll now move to

4 the consent agenda. Do any Commissioners wish to

5 comment on or recuse from voting on any items on the

6 consent agenda beginning with Commissioner Alesi?

7 COMMISSIONER ALESI: No.

8 CHAIR CHRISTIAN: Thank you.

9 Commissioner Valesky?

10 COMMISSIONER VALESKY: No comments or

11 recusals.

12 CHAIR CHRISTIAN: Thank you.

13 Commissioner Maggiore?

14 COMMISSIONER MAGGIORE: I have no

15 comments, but I actually do have to recuse from item

16 265. Other than that, I have no comments.

17 CHAIR CHRISTIAN: Do you want to

18 confirm item 265?

19 COMMISSIONER MAGGIORE: That's

20 correct, 265, which is case 23-M-0106.

21 CHAIR CHRISTIAN: Thank you, noted.

22 Commissioner Bright?

23 COMMISSIONER BRIGHT: No, I will be

24 voting on all items.

25 CHAIR CHRISTIAN: Thank you.

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2 Commissioner Sheehan?

3 COMMISSIONER SHEEHAN: Okay. So I
4 will be recusing from items 370 and 376. And I do
5 want to comment on two items, if I could do that. Do
6 you want me to do that now?

7 CHAIR CHRISTIAN: Of course.

8 COMMISSIONER SHEEHAN: Okay.

9 CHAIR CHRISTIAN: Please.

10 COMMISSIONER SHEEHAN: Just so I'm not
11 a bump on a log today. Because I was recused from
12 the regular agenda item, I spent a lot of time with
13 the consent items. So I -- I do just have a couple
14 of quick comments.

15 First, I do want to welcome
16 Commissioner Valova. I didn't get a chance to do
17 that officially yet, but I look forward to your voice
18 being part of these discussions. I also did want to
19 just echo Chair Christian's comments with respect to
20 it's been a tough week here in New York.

21 And I wanted to express my support for
22 everyone who's been negatively impacted by the recent
23 storms. But also my gratitude for the utility
24 workers, who worked in hazardous conditions to
25 restore power and are still out there working. I

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2 know I personally benefited from their hard work this
3 week.

4 The two items that I wanted to comment
5 on, the first one, is item 264, which is the pole
6 attachment rules. And yes, while on its face appears
7 to be a mundane topic. I just wanted to really
8 comment that it will address in important ways and be
9 an important step forward to facilitate our
10 deployment of high-speed broadband and wireless
11 cellular services that ensures a fair and cost-
12 effective process.

13 I want to acknowledge the work of
14 staff on this one. I know it's been a long time in -
15 - in the works. And I also just want to really -- I
16 look forward to the success of the working group
17 that's called for in the order.

18 And, you know, having that working
19 group serve as a way to facilitate dispute resolution
20 before it necessarily, you know, becomes a dispute
21 that can't be resolved. So I'm hopeful that that
22 working group will be a successful one.

23 The other item that I wanted to
24 comment on is item 268, the Utility Thermal Energy
25 Networks. I do want to thank the staff and

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2 stakeholders and everyone involved for their work on
3 this -- on this item to date with the pilot projects,
4 et cetera.

5 I want to note that this order is in
6 compliance with the Utility Thermal Energy Network
7 and Job Act, which was approved in July of 2022. So
8 it's an important step forward. However, these are
9 initial rules, important that they be recognized as
10 initial rules.

11 Which will importantly provide fair
12 market access for thermal energy networks. Exempt
13 small scale thermal energy networks that are not
14 owned by utilities, promote training and transition
15 of utility workers and encourage third party
16 participation and competition.

17 The last item being one that I'm
18 particularly interested in. So again, these are
19 initial rules that we expect will be further
20 developed and refined and I really want to strongly
21 encourage stakeholders and everyone involved to stay
22 -- to stay engaged in this process.

23 Particularly the technical
24 conferences, which are called for in this order, as
25 well as other ones that I am sure will be

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2 forthcoming. Your input in this process and in what
3 is really a new -- a new topic for us is going to be
4 really important for our understanding and developing
5 our expertise and knowledge.

6 So that's all I wanted to add. And
7 with that, other than the items that I am recused
8 from again, 370 and 376, I'm supporting the consent
9 agenda. Thank you.

10 CHAIR CHRISTIAN: Thank you. And
11 Commissioner Valova.

12 COMMISSIONER VALOVA: I'm so sorry.
13 Could you repeat the questions again?

14 CHAIR CHRISTIAN: This is the vote in
15 favor, the vote for the consent agenda.

16 COMMISSIONER VALOVA: And --

17 CHAIR CHRISTIAN: Do you wish to
18 recuse from or comment on any items?

19 COMMISSIONER VALOVA: No.

20 CHAIR CHRISTIAN: Thank you. Okay.
21 That's it. Now, we'll call for a vote. My vote is
22 in favor of the recommendations on the consent
23 agenda. Commissioner Alesi, how do you vote?

24 COMMISSIONER ALESI: I vote yes on all
25 items.

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2 CHAIR CHRISTIAN: Commissioner

3 Valesky?

4 COMMISSIONER VALESKY: Yes, on all

5 items.

6 CHAIR CHRISTIAN: Commissioner

7 Maggiore?

8 COMMISSIONER MAGGIORE: Yes, on all

9 items except for 265, which I'm recusing from. Other
10 than that, yes.

11 CHAIR CHRISTIAN: Thank you.

12 Commissioner Bright?

13 COMMISSIONER BRIGHT: Yes, on all

14 items.

15 CHAIR CHRISTIAN: Commissioner

16 Sheehan?

17 COMMISSIONER SHEEHAN: Yes, on all

18 items, with the exception of 370 and 376 from which I
19 am recusing. Thank you.

20 CHAIR CHRISTIAN: Thank you. And

21 Commissioner Valova?

22 COMMISSIONER VALOVA: Yes, on all

23 items.

24 CHAIR CHRISTIAN: Excellent. Thank

25 you very much. The items are approved and the

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2 recommendations are adopted. Thank you. Madam
3 Secretary, is there anything further to come before
4 us today?

5 SECRETARY PHILLIPS: There is nothing
6 further.

7 CHAIR CHRISTIAN: Thank you very much.
8 And with that I adjourn. Thank you everyone.

9 (The meeting adjourned at 12:19 p.m.)

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2 STATE OF NEW YORK

3 I, MONIQUE HINES, do hereby certify that the foregoing was
4 reported by me, in the cause, at the time and place, as
5 stated in the caption hereto, at Page 1 hereof; that the
6 foregoing typewritten transcription consisting of pages 1
7 through 86, is a true record of all proceedings had at the
8 hearing.

9 IN WITNESS WHEREOF, I have hereunto
10 subscribed my name, this the 22nd day of July, 2024.

11

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13 MONIQUE HINES, Reporter

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