

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

**Comments of the Mid-Hudson Streetlight
Consortium and the Ulster County Association
of Supervisors and Village Mayors on the
tariff filing by Central Hudson Gas & Electric
to Effectuate Amendments to Public Service Law –
New 70-a (Transfer of Streetlight Systems).**

Case 15-E-0745

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1. Introductory Statement

The Mid-Hudson Streetlight Consortium and the Ulster County Association of Town Supervisors and Village Mayors respectfully submits comments to the New York State Public Service Commission (“the Commission”) on the proposed tariff filed by Central Hudson Gas & Electric to comply with statutory requirements to establish a tariff-based process for facilitating the transfer of streetlight system to municipalities, including supporting light equipment, streetlight attachment provisions, and related rates and charges. These statutory requirements were signed into law by the Governor on November 20, 2015. As described by the bill’s sponsors in the State Legislature, the intent of the legislation is to empower municipalities to make energy efficient investments in their streetlight equipment in order to save energy and money.¹ The amendments to Public Service Law are meant to provide a clear and transparent process for municipalities to purchase these assets and upgrade to energy efficient lighting in a timely manner.

¹ Office of New York State Senator Joseph A. Griffo, “Griffo’s Streetlight Legislation Signed by Governor to Help Municipalities Become more Energy Efficient,” Press Release, Nov. 25, 2015.

The legislation and related tariff filings come at a time of sweeping changes in New York’s energy system designed to reduce greenhouse gas emissions and vastly expand the deployment of clean distributed energy resources (“DER”), including energy efficiency—the lowest-cost resource to mitigate climate change and reduce stress on the grid. The conversion to LED streetlighting can make a valuable contribution to these efforts, and is perfectly aligned with the State’s Reforming the Energy Vision (“REV”) goals to enhance customers’ knowledge and tools for managing their energy bills, expand markets for energy efficiency products and services, promote system-wide efficiency, and reduce carbon emissions. According to NYSERDA’s report, *Street Lighting in New York State: Opportunities and Challenges*, a statewide conversion to LED street lights would result in a 524 Gwh annual savings in energy use, with a financial savings of \$28 million from reduced energy costs, and another \$67 million annual savings from reduced maintenance costs.² In addition to the direct climate and economic benefits, streetlight upgrades have high demonstration value because of their community visibility, and will help encourage residents, businesses and schools to invest in more efficient lighting technologies, as well.

The need to achieve steep reductions in electricity use through improved efficiency has been underlined in the recently released Cost Study for the Clean Energy Standard White Paper, which found that the State’s total energy use was one of two cost drivers that will most greatly impact the overall cost of the proposed Clean Energy Standard, expected to be implemented in 2017. The greater the strides that can be made in improving efficiency state-wide, the lower the program costs to electricity customers.

Given the very substantial benefits of LED streetlight conversion, municipalities should be enabled to move forward with upgrades as expeditiously as possible. The Mid-Hudson Streetlight Consortium (“MHSC” or “Consortium”), supported by NYSERDA’s Cleaner Greener Communities Program, is dedicated to assisting municipalities in moving forward with these upgrades by whichever path they choose—either via a utility-owned LED option or via municipal ownership. The Consortium also is working to ensure that regardless of the path that is

² Final Report, December 2014; Revised in January 2015. Report Number 14-42.

chosen, municipal customers are empowered to move forward with upgrades in a timely manner, and are treated fairly and reasonably by the utility, consistent with a cost-of-service model.

The MHSC serves municipalities in Ulster, Dutchess, Orange, Putnam, Rockland, Sullivan and Westchester counties that are part of the Central Hudson Gas & Electric, Orange and Rockland Utilities, New York State Electric & Gas (“NYSEG”) and Con Edison service territories—241 municipalities in total. The project team includes Abundant Efficiency LLC, Citizens for Local Power, Courtney Strong Inc., and LightSmart Energy Consulting.

Together with the Ulster County Association of Town Supervisors and Village Mayors, we offer the following comments on Central Hudson’s tariff filing in response to amendments to Section 70 of Public Service Law.³ We start with more general recommendations regarding 70-a tariff filings, with a focus on standardizing provisions statewide and minimizing what is left to utility discretion in one-on-one negotiations with municipalities, in which utilities have very unfair informational advantages. Standardization and robust transparency in the transfer process may also significantly reduce the time and resources needed for Staff and Commission review of each purchase agreement, and will expedite the approval process. The MHSC has already received dozens of inquiries about municipal purchase of LEDs, and over half of the municipalities in Con Edison territory in Westchester have completed municipal LED upgrades or are in the process of converting to LEDs. We expect many municipalities to pursue purchase of their streetlighting systems in order to upgrade to more efficient lighting.

We also recommend that the Commission consider requiring that utilities use a net-book value approach to calculating the purchase price when opting to sell these systems. While we understand that the Commission cannot compel utilities to sell these assets, we believe it is within the Commission’s jurisdiction to ensure that such transfers are consistent with the utility cost-of-service model and do not unfairly burden municipal ratepayers.

³ The same comments are also filed in the Orange and Rockland Utilities, Inc., and NYS Electric and Gas Corporation cases (Cases 15-E-0749 and 15-E-0746) which, together with Central Hudson, comprise the utility territories covered by the Mid-Hudson Streetlight Consortium project.

And lastly, we recommend that the Commission consider an LED upgrade incentive, to be funded either as part of utility 2016-2018 energy efficiency programs or through the Clean Energy Fund, consistent with the 2015 State Legislation referred to above.

2. State-wide standardization through a tariff-based approach

The MHSC appreciates efforts by Staff to encourage the utilities to work together to develop consistent procedures and requirements for transferring ownership of street lights to municipalities, and with some exceptions, the filings by the utilities contain similar if not the same language. Municipalities in the Central Hudson, Orange and Rockland, and NYSEG territories have shared with MHSC information regarding agreements or proposed agreements with the utility on the transfer of assets. There are some provisions contained in these agreements that we strongly suggest addressing in utility tariffs to achieve greater transparency in these transactions, and level the playing field in negotiations with municipalities that are otherwise at a major information disadvantage vis-à-vis the utility. Standardizing these provisions in the tariffs will have the additional benefit of reducing Commission and Staff time and resources that would otherwise be spent evaluating purchase agreements that differ from case to case. The following provisions are recommended for incorporation into the tariffs:

Full disclosure of costs and fees, including the basis for them: We recommend that the tariffs be explicit about *all* costs and fees associated with the transfer, and that they include language stating that no additional costs and fees will be imposed on municipalities unless specified in the tariff. This would be consistent with a cost-of-service model and the transparency in costs that is expected from a regulated utility. In addition it would insure the rights of communities to be heard if the utility wanted to modify its terms and conditions of sale. Inclusion of this information in the tariff would better prepare municipalities with the information they need before considering the purchase of their streetlights, and would help correct large information asymmetries in negotiations with the utility.

For instance, some utilities are charging customers for utility removal of lights as part of the transfer agreement. These costs are already incorporated into the rates that municipal customers have been paying for their streetlighting, and they should not be made to pay for the same service twice. Municipal customers should in fact receive a refund if they remove the lights themselves.

In another example, one utility charges a post-construction survey fee while also requiring that it retain the right to hire a 3rd party inspector to oversee construction at the municipality's expense. As long as the personnel performing the work are properly qualified to perform the work and are following the guidelines approved by the utility, there should be no cost to the community for such inspection. The tariff should specify that the utility has the right to conduct an inspection any time at its own expense.

The transfer of streetlight systems to municipalities should only involve fees and costs directly related to the sale of equipment and compliance with regulations. We note that in individual conversion agreements with municipalities, one utility requires that municipalities perform a GIS audit while another utility requires a field audit of lights by the utility at the municipality's expense. We believe that the utility has the responsibility to know what it has installed and owns as this is the basis for accurately billing the customer, and that it is unreasonable to impose this cost on municipalities.⁴ We ask that the Commission ensure that utilities demonstrate a reasonable basis for including fees and costs associated with the transfer process before approving the tariff amendments.

Access to information: Municipalities are electricity customers and not private companies acquiring utility assets for profit, and as such, should have access to any needed information to independently verify the basis of the price of the system and any costs associated with the transfer to municipal ownership. This will help ensure that the basis for these costs is reasonable

⁴ As per the Public Service Law (“PSC”) amendments, municipalities choosing to apply to the Commission to commence a proceeding for the transfer of streetlighting equipment are required to provide “an inventory form with pole numbers, location, light size, light and other relevant descriptive information; upon request an electric corporation shall provide such information required based on the actual cost, if any, to prepare the same.” There is no mention of a field audit or GIS inventory in the statute.

and fair. We recommend that the tariff include language stating that such information will be made available to municipalities by request, subject to appropriate non-disclosure agreements.

Application for permission to convert: In one proposed utility agreement, the utility has limited the number of streetlights that can be approved for conversion to more efficient lighting to 125 poles at a time. We see no basis for imposing this additional burden on municipal customers and for drawing out the streetlight conversion process, which is undertaken by the municipality and not the utility. For a city, this provision can require the filing of numerous applications. We recommend that the tariff contain language specifying that a municipality may file a single application for all or a portion of the lighting system that the municipality wishes to purchase.

Timeframe of sale: The proposed tariffs leave the timeframe for the sale to the discretion of the utility. We suggest that language be included in the tariff specifying a 60-day time frame from the date that the conversion agreement is signed by both the municipality and the utility.

Tagging and the installation of disconnect devices: Some utilities have specified that municipalities install disconnect devices and tag the lights within 24 months of signing the agreement. We believe this is reasonable, but recommend that these requirements be included in the tariff and standardized across utility service areas.

Qualifications of personnel performing work; procedures for performing work: Per the requirements of the amendments to Public Service Law, the utility tariff filings include language requiring that any personnel working on municipally-owned lights be properly qualified to undertake this work. We recommend that these qualifications be explicitly listed in the tariff, and should be reasonable (i.e., no certifications should be required that are not also required of utility personnel). In addition, the utility should not be allowed to impose procedures that they themselves do not follow or that are other than standard accepted utility practice. We recommend that language consistent with this principle be incorporated into the tariff.

Payments for streetlight systems: We suggest that all tariffs include language similar to that contained in Sect. (J)(3) of the proposed Orange and Rockland tariff amendments, stating that the

Company may accept payments in installments for the streetlight system; and we suggest further that the tariffs specify that such payments would be interest-free.

3. Comments on tariff provisions common to all proposed 70a filings

Determination of purchase price: The proposed tariff amendments of all utilities contain the same very general language about the determination of price, essentially leaving it to the discretion of the utility in one-on-one negotiations with municipalities. We do not believe that this is consistent with a cost-of-service model, and recommend that the Commission require that all utilities adopt the same methodology for calculating the price of streetlight systems: original cost, less depreciation, net salvage value. This is the standard methodology used in other states, including Massachusetts, Rhode Island and Maine, and ensures that one type of ratepayer is not unfairly subsidizing the utility, which receives a regulated rate of return on the transaction, and the rate base. Communities should receive the full benefit of the depreciation collected through the rates for depreciation established through standard rate-making procedures. The impact on the rate base of any profit made from the purchase is, moreover, negligible, while the impact of this additional cost to the municipality can be quite large. Generally speaking, municipal customers have already paid for the better portion of these assets through their rates. It is appropriate for them to pay the remaining undepreciated value so that the utility will be made whole by the transaction. The utility continues to supply the electricity for the lights, allowing them to recover their costs as with all other classes of customer. Central Hudson has told municipalities currently looking to purchase their streetlights that the Company is employing a net-book value approach, and other utilities should, as well. We do have questions about how Central Hudson calculates this net-book value, but believe the general approach to arriving at the price--original cost, less depreciation, net salvage value--is the correct and fair one. While we understand that the Commission cannot compel utilities to sell their streetlighting systems, we believe that the Commission does have the authority to ensure that electricity customers are treated fairly. This is not a transaction between the utility and a private company seeking to profit from the asset; it is a transaction between the utility and a customer seeking to move from one rate classification to another. The Commission appears to agree, based on its response to

comments submitted by the Ulster County Association of Town Supervisors and Village Mayors, and the Towns of Rosendale and Plattekill, in its Order Adopting the Addition of LED Lighting Options with Modification to Central Hudson's tariff on August 13, 2015:

"Regarding the Commenter's proposal that municipal customers purchasing their own LEDs are treated fairly and equitably and are not required to pay more for these assets than municipal customers upgrading to Company owned and maintained LEDs, we agree that all customers should be treated fairly in that regard."⁵

The Commission went on to point out that the sales are bound by provision of Public Service Law Section 70. This law specifically states that, "no consent shall be given by the commission to the acquisition of any stock in accordance with this section unless it shall have been shown that such acquisition is in the public interest."⁶ The law does not prevent the Commission from prescribing rules for the acquisition of streetlight systems, which serve numerous public interests. Standardizing and simplifying the methodology for determining the selling price will also likely reduce the burden on Staff and Commission resources that are otherwise needed for review individualized purchase agreements.

Timeframe for utility cost estimate: The utilities have proposed a 90-day response time to a municipality's notification of its desire to purchase the streetlight system. We do not see why it should take three months for the utility to provide a cost estimate for the purchase, given utilities' readily available knowledge about their streetlight inventory on a municipality-by-municipality basis. We request the Commission to consider requiring a 30-day response time so that a municipality can move forward with its consideration of the purchase in an expeditious manner.

⁵ NYS Public Service Commission, Order Adopting the Addition of LED Lighting Options with Modification, Case 15-E-0126 – Tariff filing by Central Hudson Gas and Electric Corporation to update Service Classification No. 8 – Public Street and Highway Lighting to reflect LED lighting options contained in PSC No. 15 – Electricity, August 13, 2015: p. 6.

⁶ New York State Public Service Law, Section 70(5).

We also do not see a reasonable basis for limiting the times the utility is required to provide a purchase price for all or a portion of the streetlight system to not more than once in a two-year period. As previously noted, the utility must retain sufficient records for the purposes of billing and determining the tax value of their assets by community. The depreciation rates and therefore the accrual rate of the depreciation is a simple calculation that is only adjusted by additions and retirements in a community--records the company already keeps.

Costs of physical separation from system: All utility 70-a filings state that the utility “shall develop an estimate of the costs that it shall incur to physically separate the system being sold from the rest of its distribution system in order for the Company to meet all applicable codes and regulations.”⁷ We do not see how this applies, since the municipalities are required to install, at their own cost, a fuse disconnect to serve as that point of demarcation. Physical separation from the system is not standard practice, since no physical separation is required for this to be performed. In Massachusetts, NGRID has provided that as long as the worker is properly qualified, the fuse can be installed without any disconnect.

5. Utility incentives to support streetlight system acquisition

Like other major energy investments, the upfront capital costs of LED streetlight upgrades can be a major barrier to investment even though the savings over the life of the investment are significant. This is particularly true for many rural municipalities, which have small tax bases and operate under particularly difficult budgetary constraints. The 2015 legislation amending Public Service Law with regard to streetlight purchases also requires that the Commission work with NYSERDA “to identify energy efficiency or funding which would be available for municipalities for the purpose of the section”⁸ to better enable municipalities to move forward with streetlighting upgrades. In Massachusetts, NSTAR has provided an incentive for LED

⁷ Central Hudson Gas & Electric, Leaf 224, Revision 2 (pending), Service Classification #8, Dec. 23, 2015; Orange and Rockland Utilities, Leaf 304, Revision 2 (pending), Service Classification #6, Dec. 23, 2015; NYS Gas & Electric, Leaf 61.2, Revision 0 (pending), Service Classification #3, Dec. 23, 2015.

⁸ State of New York, 5205—B, 2015-2016 Regular Sessions in Senate, May 7, 2015.

streetlight retrofits of up to \$.25 per kWh saved,⁹ which reduced the project costs of LED upgrades for the City of Boston by 26%.¹⁰ In Rhode Island, National Grid has provided an incentive of \$.15 per kWh for LED conversions and an additional \$.25 per kWh for part night dimming, and the Rhode Island Office of Energy Resources is providing additional grants for watts saved. We have no doubt that similar incentive programs in New York, either through utility energy efficiency programs or through the Clean Energy Fund, would accelerate statewide conversion to LED streetlights and increase the energy-saving and climate benefits that such a conversion promises. Given the substantial energy savings possible from this single incentive program, this investment of energy efficiency funding would be well worth it. It is only appropriate that streetlighting, which makes contributions to the SBC, should qualify to receive a benefit from such contribution. Such benefit extends to every taxpayer in the community.

6. Conclusion

We thank the Commission and Staff in advance for their consideration of these comments. Standardizing and making explicit in the tariff the requirements, costs, and procedures of municipal purchase of streetlighting systems will provide much needed transparency and accountability to the transfer process and will help address the large information asymmetries in negotiations between utilities and municipalities. At the same time, these tariff revisions would also make the review process by Staff and the Commission more efficient and could save on time and resources, expediting the approval process; and would save the utility and ratepayers resources by setting clear expectations of what can be included in purchase agreements. We believe that such revisions are most consistent with the principles of utility regulation and Public Service Law.

⁹ Metropolitan Area Planning Council, “Buy Back Streetlights from Utility,” Sept. 11, 2013, <http://www.mapc.org/system/files/bids/Buy%20Back%20Streetlights%20from%20Utility.pdf>

¹⁰ Northeast Energy Efficiency Partnerships, “LED Streetlight Assessment and Strategies for the Northeast and Mid-Atlantic,” January 2015,

http://www.neep.org/sites/default/files/resources/DOE_LED%20Street%20Lighting%20Assessment%20and%20Strategies%20for%20the%20Northeast%20and%20Mid-Atlantic_1-27-15.pdf: p. 18.

We also hope that the Commission will give consideration to incentives for upgrading to LED streetlighting systems, given the sizeable benefits that a statewide conversion would have for reducing total energy needs consistent with State clean energy targets.

Thank you.

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Respectfully submitted by,

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