



PUBLIC UTILITY
LAW PROJECT
OF NEW YORK, INC.

SHINING A LIGHT ON

People. Power. Possibilities.

Central Hudson

A FORTIS COMPANY





**PUBLIC UTILITY
LAW PROJECT**
OF NEW YORK, INC.

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What we will talk about today:

- **Central Hudson's billing problems: what happened and why**
- **What action has PULP taken**
- **The Department of Public Service's Investigation & Report: what they found and their recommendations**
- **Central Hudson's Reply**
- **Other actions: NYS Senate Investigation and a class action lawsuit and**
- **What can customers do about their billing concerns?**

What happened

- Central Hudson ("CH") upgraded its customer information system aka "CIS," which went "live" on September 1, 2021
- Summer/fall 2021- PULP received an increase in calls to our hotline requesting help from CH customers requesting help with billing issues
- March 2022- PULP sends a letter to the Public Service Commission encouraging an investigation into billing issues and the Company leadership's response to winter storm Landon

Investigation Background

- March 16, 2022: the Public Service Commission (PSC) announced three investigations into CH:
 1. Approval of a third-party independent consulting company comprehensive management and operations audit;
 2. Customer service investigation into customer billing and customer service issues related to the utility's new billing system (4,371 comments as of 1/19/23)
- April 5, 2022: The Office of Investigations and Enforcement (OIE) under the Department of Public Service ("DPS") commenced its investigation requiring the company to secure and retain documents related to the implementation of its new billing system
 - Reviewed over 4,700 documents containing hundreds of pages of info, participated in meetings with the company, and interviewed senior level employees at CH who were responsible for various aspects of the system upgrade

PULP's actions

- Note: Feb. 2022- across NYS, winter energy prices began to spike on the supply side of bills
- May 2022- PULP attends and participates in a public hearing in Ulster Co. about CH's billing issues
- July 2022- PULP sends a letter to the Public Service Commission highlighting concerns we have with CH's billing and operations (ex: high bills, no bills, auto withdrawals, inaccurate bills, whether the financial assistance portal was working, whether the Company was mailing some customers Visa gift cards etc.)
- December 2022- PULP files a motion with the Public Service Commission requesting a prudence review be conducted following the release of the Department's investigation, as well as a penalty review.

The Department completed its investigation and released its Report on December 15, 2022

FACTUAL FINDINGS OUTLINING THE NEED FOR THE CIS UPGRADE:

A consulting audit flagged complex billing as an issue and recommended an upgrade.

- Relying on the recommendations given to the Company by Overland Consulting in June of 2017 that CH upgrade its CIS, in their 2017 rate case, the Company sought a five-year, *\$96.286 million* investment related to replacing its legacy CIS (LCIS) with a modern-day software platform that would “improve customer experience,” as well as find solutions for complex billing scenarios.

PSC issued an Order to Modernize required annual and quarterly updates from the Company

- On June 14, 2018, the PSC approved funding for modernization of Central Hudson’s CIS and ordered the Company to file detailed annual and quarterly Reports to include project lists with estimated costs, as well as explanations of cost variances of over 10%.

The Company delayed the launch or "go-live" date of the new system and reported increased costs

- Initially, on August 14, 2020, “go-live” was scheduled for mid-2021, however on July 30, 2021, a Go-Live Extension Change purchase order was signed **extending the go-live date by 60 days to September 1, 2021.**
- On August 13, 2021, Central Hudson advised the Commission: “the project reflected a quarter-to-date overrun of \$6.046M or 82%.”

The Department's Report Confirms that there were widespread problems

1. Overcharges

- The new system implementation resulted in system control failures that resulted in incorrect bills being sent to customers
- System problems lead to overcharges affecting over 8,050 customer accounts

2. Delayed Bills

- The delays primarily revolved around CDG, net metered, and Retail Access customers
- These problems, and others, resulted in alerts in the Business Process Exception Management (BPEM) tool.
 - Company reported that as of September 11, 2022, over 8,000 customers' bills were still not current.

3. Automatic Withdrawals

- Between September 2021 and June 2022, over 30,000 customers who were accustomed to receiving a monthly bill, had multiple months' worth of charges automatically withdrawn from their bank accounts.
 - During that period, Central Hudson automatically withdrew over \$16,000,000 from customers' bank accounts in this manner.

4. Customer service performance indicators

- Between September 1, 2021 (go-live) and September 1, 2022, DPS received numerous complaints
 - Through its Call Center, DPS received over 2,000 complaints for problems including, high bills, estimated bills, inaccurate bills, and delayed bills.
 - DPS also received over 4,000 complaints submitted as public comments through its DMM System

The Problems (Cont.)

5. Impact on Community Solar and Retail Energy Projects

- Between the September 1, 2021, go-live date and April 25, 2022, 14,245 Central Hudson customers participating in community distributed generation ("CDG") received late bills.
- NYSERDA reported that as of July 2022, 1,300 CH CDG customers had experienced delayed billing, some over 6 months.
- CDG hosts reported an inability to accurately account for credits and bill customers in a timely fashion, as well as unreliable and incorrect host report data.
- Providers reported not receiving payments in a timely manner for net-crediting projects and an inability to accurately assist customers due to a lack of information from the utility.
- Central Hudson's billing issues also caused problems related to 3rd party energy suppliers called energy service companies ("ESCOs").
 - On March 25, 2022, Agway Energy Services filed a petition with the commission for a declaratory ruling concerning Central Hudson's failure to provide accurate bills.
 - Agway complained of customers being overbilled, underbilled, not being billed at all, and in some instances receiving large, multi-month bills after not being billed for several months.

The investigation's findings include:

System Defects

- The goal was zero critical defects prior to go-live, however, Central Hudson was aware of major defects associated with complex billing prior to go-live. Nevertheless, the Company hastily proceeded with the launch, and post go-live, hundreds more defects were discovered.

Inadequate Training

- While the primary justification for the transition was the need to have a system that was capable of handling complex billing scenarios, the planned training curriculum contained zero hours of training for “Complex Billing”, zero hours for “Net Metering “, and zero hours for “Manage Retail Choice Suppliers. In the months preceding go-live, several risks associated with training were identified by Central Hudson staff, but leadership repeatedly delayed resolution until after go-live.

Inadequate Testing

- DPS identified many risks associated with insufficient testing of complex-billing scenarios that intentionally had been left unaddressed by CH. CH Employees reported to the Company that the Billing Tower Test Group was “NOT at all ready” for the implementation of the new system, and that there were several failures such as not having enough time to complete optimum testing.

Inadequate Staffing

- DPS identified as a "major contributor to CH's billing problems" a lack of adequate staffing prior to go-live. (p. 39) and the lack of adequate staffing resources should not have been a surprise to CH leadership, because employees identified risks related to limited resources as early as January 2021, and again in May 2021. (p. 41) CH admitted that the amount of staffing resources was insufficient to address the billing issues that arose, particularly regarding complex billing for Community Distributed Generation providers. (p. 39)

Lack of Candor with Customers and Public

- Publicly, CH avoided disclosing earnestly the issues with their billing system and instead described the cause of the impact on customers to be commodity price increases due to "energy supply prices;" "cold weather;" "increased global demand;" etc. While DPS acknowledged that commodity price increases impacted CH customers, they were clear: CH's lack of candor regarding the breadth of system problems resulted in more confusion, which led to more calls to CH CSR, which led to longer wait times and a lack of resolution for many customers. (p. 43)

The Department's Report Identifies Violations of the Public Service Law

(1) Lack of prudence

- CH represents that it spent over \$88 million on the CIS modernization, with some additional spending expected.
- **CH ratepayers have now contributed to \$21 million on unfulfilled promises**, a disastrous rollout that has wreaked havoc on customer accounts, impeded information transparency, and undermined the deployment of initiatives to expand renewable energy use.
- **DPS concluded that CH failed to:** properly train its staff, properly test the new system, properly allocate resources, address known system defects, address known process deficiencies, rushed to go live, and failed to have or develop a contingency plan to revert to the legacy system once problems manifested themselves across the customer base following go-live
- **As a result of CH failures, CH customers have a new system that has resulted in multiple problems:** overcharges, delayed bills, inaccurate bills, erroneous automatic withdrawals from customer bank accounts, negative impacts on community solar projects, customer confusion and frustration, increased complaints, and an overall inferior customer experience that has eroded customer trust in the accuracy of CH bills and statements.
- **DPS concluded that the new system still cannot handle complex billing scenarios**
- DPS concluded that CH's actions and expenditures were clearly imprudent and recommended that a prudence proceeding be initiated to determine the extent of customer harm.

(2) Overcharges and delayed billing (as per Public Service Law § 65)

(3) Backbilling (as per Public Service Law § 41; 16 NYCRR § 11.14(a) & 16 NYCRR § 13.9(b)(1))

(4) Improper estimates (as per 16 NYCRR §11.13)

The Investigation Conclusion and Recommendations

Conclusions

- **Central Hudson pushed employees to meet the transition deadline, and despite significant efforts of those employees, the Company was not ready for the transition** leaving their customers with a system that cannot process complex billing formulations and that provides customers with markedly inferior experience.
- **System transition problems were foreseeable and avoidable and CH decisionmakers were negligent and reckless**, as CH's problems were not "merely fleeting minor issues associated with system stabilization," but were "significant and long-lasting" and "the direct result of a lack of preparation, testing, training, staffing, communication, and candor."

Recommendations

- **The OIE made five recommendations:**
 1. CH should be required to **show cause why the PSC should not commence a civil penalty action and/or an administrative penalty action, pursuant to Public Service Law §§ 25 and 25-a**, for violations of the Public Service Law, associated regulations, and Commission orders identified in the DPS report.
 2. The PSC should **initiate an administrative prudence proceeding** to recoup imprudently incurred expenses made by CH **related to the development, preparation, and implementation of the CIS system and Project Phoenix** as well as consequential expenses related to the Company's post "go-live" remediation efforts that were and are necessary to address defects and shortcomings in the system and address negative impacts to customers.
 3. The Commission and DPS Staff should **consider requiring CH to conduct actual reads of customer meters each month and discontinue alternative month estimates**.
 4. The Commission should **order CH to refund payments made by customers who were illegally back-billed**.
 5. Copies of **DPS' report** should be delivered to chief executives and general counsel of other gas and electric utilities in New York.

What happened next

- The Public Service Commission gave Central Hudson 30 days to submit their Reply to the Investigatory Report and the recommendation to open a prudence proceeding and penalty review, as well as the recommendation to conduct monthly meter readings.

Central Hudson's Reply

- On Jan 17, 2023, CH submitted its reply to the DPS investigatory report and the PSC Order
- CH filed two main documents:
 - The first being a 92-page reply to the PSCs order to show cause, defending their actions and explaining why the PSC should not commence a proceeding to examine the prudence of the utility's expenses, and/or a civil penalty action and/or an administrative penalty action, pursuant to PSL §§25 and 25-a, for apparent violations of the PSL rules and regulations. Essentially, Central Hudson filed its defense
 - The second submission was a motion to implement their proposed plan to adjust its billing practices and to conduct monthly meter reads, thereby eliminating alternate month bill estimates. The timeline includes phased in reading with completion estimated for **Feb 2026**.
- **When it comes to the Reply, Central Hudson makes several arguments to defend their actions.**
- CH recognizes that customers that have experienced delayed bills, consecutive estimated bills, backbills and some less frequent issues, are frustrated, inconvenienced, and confused.
 - CH takes responsibility for those issues and is doing everything it can to resolve those issues and provide timely and accurate billing service to its customers.
 - That some things went wrong does not mean that CH should be subjected to penalties or a prudence review
 - CH has corrected customer bills through the backbill process to ensure that each customer has an accurate bill.
 - CH has credited customers with the amount of the upward adjustment if an upward adjusted bill was time barred.
 - No customer has been financially harmed, and CH has not violated a PSL statute, rule of 16 NYCRR, or a Commission Order.
 - The Show Cause Order, which unfortunately relied on the OIE Report has misstated the law and facts and is therefore, not credible
 - The OIE Report has made significant legal and factual errors, such as misstating the Commission's Order in Case 91-E-0176 and stating that CH does not have usage thresholds in compliance with the Commission's Order in Case 21-M-0045. Under these circumstances, the OIE Report and the Show Cause Order that adopted it are not credible and there remain no grounds for the Commission to proceed with penalties under PSL § 25-a.
 - Similarly, the OIE Report has failed to meet its burden of proof to allow the Commission to proceed with a prudence review
 - PSC should not commence a penalty review pursuant to PSL § 25-a and the OIE Report has not carried its burden of proof necessary for the Commission to commence a prudence review.

Update: what happens next?

- On Jan 24, 2023- Agway Energy sent a letter to the Public Service Commission arguing that CHGE has not corrected their billing issues and urged the Commission to hold it accountable. We think this is very good because it builds the public case that the Commission should move forward with a prudence review
- The Public Service Commission is reviewing Central Hudson's Reply, the Department's Report, Agway's letter, the public comments, and decide whether to open a prudence review and whether penalties will be assessed.

NYS Senate Investigation and a Class Action Lawsuit

Senator Skoufis' Utility Report was released in late December 2022 about billing issues, supply volatility and more

- Greater disclosure of terms and conditions related to utilities' energy purchases in order to allow CCA programs and other entities to better predict future utility prices and customers to more clearly determine whether alternative supply choices are warranted;
- Also, customers with rooftop solar installations or who are part of community solar or community choice aggregation ("CCA") programs have gone months – sometimes upwards of a year – without receiving bills or proper application of credits to their accounts, leaving them unsure about what they owe
- For example, in July 2022, participants of Hudson Valley Community Power – a CCA serving Beacon, Poughkeepsie, Clinton, Marbletown, New Paltz, Philipstown, Red Hook, Saugerties, and Cold Spring – were returned to Central Hudson electricity supply service as a result of a default by program energy supplier Columbia Utilities Power, LLC.
- As the service provider of last resort, Central Hudson absorbed about 23,000 customers as their default energy servicer; however, billings only began to resume around roughly October 2022.³
- Additionally, as recognized by Central Hudson and exacerbated by its billing system deficiencies, there has not been "seamless integration" between one's solar program participation and standard utility account, leading to extremely untimely and/or inaccurate bills.
- https://www.nysenate.gov/sites/default/files/article/attachment/nys_senate_igo_committee_-_utility_report_final.pdf

Class action:

- Lowey Danburg law firm filed a class action at the end of Dec 2022

What can you do if you're concerned that there's something wrong with your bill

Step 1: Try to speak with CH first,

Step 2: If there's no resolution or you can't reach CH's customer service team, you have the right to file a complaint against CH with the Department of Public Service by calling:

800-342-3377 or filing online

at: https://www3.dps.ny.gov/ocs/itxgate.nsf/wdps_complaint.xsp



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