



February 28, 2008

Village of Walden Planning Board  
1 Municipal Square  
Walden, New York 12586

Re: *Central Hudson Gas & Electric Corporation  
WM Transmission Line Rebuild Project  
Special Exception Use Permit and Site Plan Application*

Members of the Planning Board:

On or about April 17, 2007, Central Hudson Gas & Electric Corporation (CHG&E) submitted to the Village of Walden an Application for Special Exception Use Permit, an Application for Site Plan Approval, and associated figures and documentation. In response to June 6, 2007 comments from Dean Stickles on behalf of the Village of Walden, CHG&E provided supplemental information on October 19, 2007. At the November 5, 2007 Village of Walden Planning Board Work Sessions, CHG&E reviewed the submittal with Jim Fitzsimmons and Board members. On November 16, 2007, CHG&E received a copy of Mr. Fitzsimmons' November 9, 2007 memorandum to the Board summarizing the outstanding issues discussed at the Work Session.

It is CHG&E's responsibility to its customers, including those who reside in the Village of Walden, to take the necessary precautions to avoid outages. The best way to avoid or at least reduce the potential for outages is to obtain adequate right-of-way (ROW) and to ensure that our transmission lines are properly maintained and updated. The WM line was constructed more than 60 years ago, and there is a critical need to rebuild the line, but to do so with adequate ROW. In our experience, we have found that where insufficient ROW width is utilized, encroachments are bound to occur, which has happened in the Village of Walden, and this increases the potential for objects (including trees) that could pose a danger to transmission lines causing potential reliability issues. In response to the August 2003 blackout, the Public Service Commission (PSC) prepared a report, dated February 2004, which addressed the potential causes of the blackout.<sup>1</sup> Included in the report as an Appendix was a discussion of Right-of-Way Management. PSC noted that "[c]ontinuous control of vegetation capable of growing into, or near to, overhead electrical transmission and distribution lines is critical to public safety and electrical system reliability." As a result of this report, PSC began an investigation into the ROW Management practices of electric utilities in New York. This investigation resulted in the PSC's issuance of its June 2005 PSC Order (PSC Order) on ROW Management Practices (Case 04-E-0822), a copy of which was included in CHG&E's October 2007 submission to the Town of Montgomery (which we understand has been supplied to the Village Planning Board). The PSC Order is meant to prevent outages, not simply to react to outages once they occur. CHG&E is seeking the Village of Walden's support and cooperation in facilitating the approval of the applications before the Village, which will result in part in the removal from the yards of some residents of the Village of Walden of transmission poles that have been present for years. Undeveloped areas will be allowed to naturally revegetate, whereas residential properties will have the opportunity to continue current maintenance practices (lawns, gardens, etc.) unencumbered by poles and overhead conductors.

CHG&E respectfully requests that the Village of Walden complete the approval process necessary to allow construction to commence on the WM Transmission Line Rebuild Project. The next step would be to hold a public hearing as required under Section 148-51.1 of the Village Zoning Ordinance. We would be happy to attend a workshop session of the Planning Board, if you believe this is necessary, to discuss our responses below. CHG&E herein submits responses to Jim Fitzsimmons' November 9, 2007 memorandum and review comments (which are restated for your convenience) as follows:

1. **Comment:** CH is requesting waivers from Village site plan requirements to show/provide 2-foot contours, existing and proposed culverts and storm drainage, existing and proposed utilities, and Landscaping Plan. The information provided in the recent submittal is, however, not sufficient to complete a thorough review of the

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<sup>1</sup> The Report is available on PSC's website at: [http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/Web/5FA2EC9B01FE415885256E69004D4C9E/\\$File/doc14463.pdf?OpenElement](http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/Web/5FA2EC9B01FE415885256E69004D4C9E/$File/doc14463.pdf?OpenElement)

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project or its environmental impact, so no waivers should be considered at present. To assist CH, I suggest they consider reviewing available Orange County aerial topographic information to use on this project.

It is noted that the Environmental Management and Construction Plan (EM&CP) filed with the Village references "alignment maps" which were not provided. The EM&CP suggests that the alignment maps would include some of the required information such as wetlands, watercourses, access.

**Response:** It is our understanding that copies of the recent February 5, 2008 submission to the Town of Montgomery (which included the EM&CP alignment maps) was provided to the Village. The EM&CP maps show the requested information.

**2. Comment:** CH's response letter suggests that Article XII ("Village Tree Ordinance") may not be applicable to utilities. Based on our offices' review this is applicable, and so CH will need to provide a tree plan showing existing trees and proposed mitigation. This can be confirmed with the Village Attorney's office. It was recommended that CH review the Village Tree Ordinance and provide the required survey and identification of existing trees. It is noted that EMCP includes some references to possibly identifying and saving select trees during the clearing process, however, this would not satisfy the requirements of the ordinance.

**Response:** CHG&E will continue its dialogue with the Village to reach a mutually agreeable solution to this issue. However, we maintain our position that, as shown in the language in Section 148-72(A), the Village Tree Ordinance does not (and should not) apply to utility lines. The law applies to subdivision and other developments where trees will provide visual buffer as opposed to presenting a danger to electric transmission lines and potentially impacting the ability of CHG&E to provide an essential service to the community. Consistent with the PSC Order on ROW Management discussed above, screening plantings or any type of landscaping that has the potential to interfere with the transmission line are considered incompatible with proper ROW maintenance and contrary to the public safety concerns expressed by the PSC.

**3. Comment:** The EMCP discusses that erosion control measures will be by field determination during the project. However, the locations of these measures should be shown on the plans by the design engineer, along with corresponding details of all EC measures to be employed during construction. An erosion and sediment control plan is, by its nature, subject to differing conditions that will require adjustments in the field, but a designed plan is still the necessary starting point so that the types of EC measures to be employed, and conditions under which they will be used, should be identified and understood.

**Response:** The EM&CP text and maps (maps supplied to the Village PB by Town of Montgomery) provide the requested information. The EM&CP maps describe the measures that will be taken to mitigate any of the minor and temporary potential impacts associated with construction and clearly display erosion control measures to be used for clearing and construction activities in or near wetlands.

**4. Comment:** The EMCP stated that stabilized construction entrances *may* be used (my emphasis). However, this is not optional. Stabilized construction entrances are required and should be shown and installed.

**Response:** CHG&E's intention is to use its existing ROW to access the transmission line; however, this is not always possible. The EM&CP maps display on- and off-ROW access roads as well as access road details for wetland and/or stream crossings. Not all access roads intersect with public roadways; therefore, the EM&CP allows the contractor to determine where a stabilized entrance is necessary.

**5. Comment:** The EMCP notes that erosion controls will generally be installed *after* clearing. Again, however, accepted NYSDEC standards mandate that required erosion controls be installed prior to any clearing.

**Response:** In order to properly install erosion controls, the area must be grubbed and cleared. For example, it is impossible to toe in a silt fence through tree roots. CHG&E will file a joint permit application shortly (see response to comment 6) and presumes that NYSDEC and/or the U.S. Army Corps of Engineers will impose any specific conditions they consider necessary.

**6. Comment:** Per Village Code, wetlands and watercourses should be shown on the plans provided for site plan review. In addition, the jurisdiction and classification should be indicated and any necessary permits should be identified.

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**Response:** The Wetlands Delineation Report included in the October 2007 submission to the Town of Montgomery, copies of which have been provided to the Village, lists the wetlands and waterbodies within the transmission line ROW and indicates jurisdiction and classification. In addition, the EM&CP maps depict wetlands and streams within the ROW and clearly display erosion control measures to be used for clearing and construction activities in or near wetlands and waterbodies.

The Revised EAF included in the February 2008 submission to the Town of Montgomery, copies of which have been provided to the Village, lists on page 8 of 21 the permits/approvals sought by CHG&E for the Project. CHG&E intends to file in the near future a joint permit application with NYSDEC and the U.S. Army Corps of Engineers for impacts to freshwater wetlands, which will include a preconstruction notification under Nationwide Permit 12.

7. **Comment:** The work hours identified in the EMCP are not consistent with Village Code. Construction equipment is exempt from the noise ordinance *when operated* (my emphasis) during daytime hours, which the code defines as 8 am to 9 pm Monday through Saturday and 9 am to 9 pm Sundays.

**Response:** While it is expected that work hours will be limited to Monday through Saturday, there may be certain circumstances where Sunday construction may be deemed necessary. If Sunday construction is necessary, CHG&E will provide 48 hours' notice to the Village Building Inspector that this will occur. CHG&E will direct its employees and contractors to comply with the Village Code with regard to work hours.

8. **Comment:** Figure 2 – the zoning boundaries should be updated (e.g. I1 has become OL1).

**Response:** We are aware that the zoning data used to produce Figure 2 has been superseded by the November 2006 Village Ordinance. We concur with Mr. Fitzsimmons' November 9, 2007 memorandum, which indicates that the Project runs through or along the border of R-2, OL1, RM-1, R-3, and I-2 zoning districts and therefore we do not believe that Figure 2 needs to be revised.

On November 16, 2007 CHG&E received the final recommendation for approval from the Orange County Planning Department dated November 14, 2007 in connection with the entire Project, including within the Village of Walden (upon referral by the Town of Montgomery Planning Board). We believe that the Planning Board now has all that is required to consider the applications complete for public review purposes and to schedule a public hearing.

CHG&E anticipates re-construction of the WM Line to commence in 2008, and there are lengthy lead times for ordering poles and other materials needed for the project as well as bidding the contracts for the work. Given the extensive review of these applications that has been undertaken, we ask that the Planning Board move into the final stages of what we hope to be an approval for the Project.

Respectfully,

CENTRAL HUDSON GAS & ELECTRIC CORPORATION



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