

Dissent of Chairman Marissa P. Gillett
Docket No. 17-12-03RE11, Phase 2a

Enhanced local control, short- and long-term ratepayer relief, and accountability are front of mind for me on a daily basis. It is clear in both the Settlement and in the witness testimony offered by the settling parties that these objectives were also front of mind in the discussions and motivations that led to today's Settlement. These objectives mirror those advanced by the Authority's Equitable Modern Grid Initiative, and are a common thread in every proceeding convened during my tenure.

I understand and can appreciate the desire to bring finality to these proceedings; to reach a sense of closure with respect to Eversource management's (mis-) handling of Tropical Storm Isaias. I commend the parties for their efforts in reaching the Settlement and strongly encourage that level of engagement in future PURA proceedings, as the outcome of a proceeding is unquestionably better and more balanced when more perspectives contribute to the development of the record on which a decision is based. Nonetheless, I must respectfully dissent from the Majority's decision today to accept the Settlement.

Despite the best intentions of the parties, in my opinion, the Settlement falls short of its laudable objectives of enhancing local control, providing long-term ratepayer relief, and accountability.

Although the inclusion of terms intended to advance local control are commendable (and indeed, more direct accountability to this state's ratepayers is sorely needed), the Settlement lacks the necessary specificity. The very real costs (e.g. board and executive compensation) of such settlement terms, which are to be borne by Connecticut ratepayers, are foreseeable, yet the benefits remain nebulous at this stage. The new Connecticut President will remain accountable to an Eversource-controlled board of directors, in which even the new "independent" seats are outnumbered by the seats held by Eversource executives. Further, where the rubber hits the road so to speak – during emergency weather events – the status quo will persist in that the Connecticut Incident Commander will continue to report to the Regional President. Tr. 10/12/2022, pp. 88-89. Moreover, when pushed to commit to a transition period during which the Regional President would hand off responsibilities to the incoming Connecticut President, and when asked whether Connecticut ratepayers would now be on the hook for paying duplicative executive salaries since the Regional President will retain responsibility for shared services that affect our state, the responses were underwhelming, non-specific, and non-committal. Tr. 10/12/2022, pp. 90-94.

Additionally, I cannot support the inclusion of the so-called "rate freeze" term through January 1, 2024, which is *not* to say that I support a rate increase. My concerns are three-fold. First, while the parties are describing the term accurately, i.e. a *distribution* rate freeze, the nuances of electric ratemaking simply do not matter when you are a ratepayer faced with a monthly electric bill that has increased. We do not have to look further than last summer's public outcry when the reconciling components of customers' bills were adjusted to account for fluctuating federal (transmission) and state (public

policy) costs, which the Authority is largely obligated by law to approve. Nor can we shield the public from the twice per year changes to the residential standard service supply rate, which will increase markedly this coming January due to global natural gas price spikes and other commodity and supply chain issues. At best, the public will be confused as to why the Authority has “allowed” these rate increases when the Settlement has negotiated a rate freeze, and at worst, this confluence of events may undermine the public’s confidence in the public bodies entrusted with ensuring affordable rates, which is ultimately to no one’s benefit.

Second, the record does not reflect that a rate case stay-out through 2024 is actually in the public interest. Again, this statement should not be conflated with an assumption that I am advocating *for* a rate increase – indeed, such an assumption is based on the faulty premise that all rate cases must necessarily result in rate increases and ignores other external factors. Importantly, one prevalent external factor, which was incorporated into the September 14, 2021 draft decision, is that the historically low interest rates over the past several years, coupled with other market conditions, have contributed to ratepayers overpaying for services, as the market conditions permitted utilities to raise the capital required to provide safe and reliable service at lower rates. Incorporating such macroeconomic effects into regulatory policy is supported by precedent: a rate of return may be reasonable at one time, and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally. See *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679, 692 (1923). Unfortunately though, it is likely that interest rates will reverse their recent trends, just in time to be reflected in the evaluation of the rate structure that will now be considered for implementation in early 2024.

Third, Eversource ratepayers, due to a previous settlement agreement, are deprived of many of the benefits that normally accrue in between rate cases through a concept known as “regulatory lag.” The principles of regulatory lag are simple: between rate cases, a utility has every incentive to lower costs and retain investments for use by the principal business. Thus, in theory, a rate stay-out (absent the kinds of projected up-swings in interest and federal tax rates that we are now seeing) could be construed positively. Unfortunately though, these long-held principles were undermined by the 2018 authorization of a contemporaneous cost recovery mechanism known as the Electric System Improvements (ESI) surcharge, which allows Eversource to now spend up to \$300 million per year *in addition to* the \$270 million built into base rates. During my tenure, the Authority has repeatedly noted its displeasure with the ESI mechanism, indicating that its implementation has made the Company’s core capital investments significantly less transparent and undermined the prudence tools normally at the Authority’s disposal to address these expenditures. We are now locked in to reliance on this ill-advised rate mechanism through at a minimum 2024.

In short, electric rates in this state have been so thoroughly de-risked from the point of view of the utilities, through policies like decoupling, contemporaneous cost recovery, mandatory annual adjustments to reconciling mechanisms, multi-year rate plans, and an over-reliance on settlement agreements (albeit in the valiant pursuit of reduced interest

payments due to the utilities), that we have sacrificed valuable opportunities to conduct bottom-up reviews of our utilities' operational and financial records. Given that PURA was newly imbued with the necessary tools to address some of these issues – particularly through a lengthening of the time allotted to review a rate case application through the Take Back Our Grid Act – it seems counter-intuitive that we would further delay this opportunity. Due to repeated, consecutive settlements, by the time we engage in a full review of Eversource's records through the next rate case, it will have been well more than a decade since the last time this exercise was completed.

Further, the lump-sum ratepayer relief advanced by this Settlement will not be effectuated through an actual reduction in Eversource's Return on Equity (ROE). Although there can be reasonable disagreement as to whether the provision of short-term relief through the \$35 average bill credits is more or less desirable than the more robust, long-term relief envisioned by the Authority's September 14, 2021 draft decision, first-hand experience tells us that ratepayers are hungry for systemic change (and rightfully so). For example, there is no shortage of anecdotal evidence that ratepayers are underwhelmed by the monthly bill credits ordered by the Authority, which began last month to refund the \$28.4 million civil penalty levied by PURA against Eversource for the Company management's failures during Tropical Storm Isaias – despite the fact that this was the maximum penalty eligible by law at the time of our decision. More importantly though, we know that for private corporations, such as Eversource, one of the most effective tools at a regulator's disposal to effectuate long-term, systemic change, is through a reduction in the company's ROE. Allowing Eversource to dispose of its obligations imposed by the Authority's decisions in our Tropical Storm Isaias dockets through a one-time, lump sum cash infusion *does* achieve the collective goals of finality and closure, and also removes the litigation risk from the equation (i.e. the risk that Eversource would have prevailed in its appeal of the Authority's decisions). But, I worry that this will not be the last time that we are in this situation – more devastating storms will come to pass – and a tool such as a ROE reduction would more acutely encourage Eversource's executives to properly prepare for and respond to such storms. Simply put: sometimes it is worth going to the mat, and I am apprehensive of a future where we *still* do not have a court-backed interpretation of PURA's regulatory authority in holding utilities accountable following a storm event.

Lastly, I am troubled by the opinions expressed regarding the impact of the Settlement on the Authority's subsequent prudency review, which will be conducted through subsequent rate proceedings. Specifically, at least one party advanced the notion that an approval of the Settlement precluded the Authority's prudency review of those concepts at a later date; although, the party maintained that the Authority could still review the associated expenditures. Tr. 10/12/2022, pp. 81-83. Frankly, this would be an absurd and unworkable result, particularly in light of the void of evidence and details offered by the parties regarding the Settlement implementation terms and costs. It is my understanding that the Majority's decision today comports with my dismissal of the aforementioned position; neither the decision nor the plain language of the Settlement supports such an interpretation that would remove statutorily-embodied discretion allocated to the Authority.

In conclusion, while I cannot support today's decision to adopt the Settlement, I do support what I interpret to be many of its objectives, and I commend the parties for their thoughtful consideration of the matter. These laudable objectives represent the culmination of hundreds of hours, nights, and weekends spent by the Authority staff and the settling parties, including over a year invested in exhaustively building a record that culminated in the issuance of the Authority's September 14, 2021 draft Decision in this matter, and on other related matters including the Authority's extensive Tropical Storm Isaias investigation in Docket Nos. 20-08-03 and 20-08-03RE01. I am proud of the efforts put forth by the Authority and sincerely appreciate the time, effort, and thoughtful engagement of each participant in this and all related proceedings.

I understand this Settlement to be the collective will of the parties who represent a variety of vested interests in the outcome, and for that reason I fully respect today's outcome and will work diligently to see that the Settlement terms are implemented faithfully and in line with the parties' intent. The Governor has communicated clearly through his enactment of the Take Back Our Grid Act (Public Act 20-5), alongside our legislative colleagues, that we should collectively invest our focus in becoming the second state in the nation to transition fully to a performance-based regulatory model. I look forward to working with the settling parties on building the best performance-based model for the ratepayers of Connecticut, and to ensuring that their perspectives and expertise are heard, understood, and taken into account. Performance-based regulation is a hugely important mechanism to ensure that our public utilities are just that: accountable to the public. I am fully committed to executing on the Governor's vision of performance-based regulation and to working with stakeholders in an open and collaborative manner to effectuate that vision.