

# STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY  
TEN FRANKLIN SQUARE  
NEW BRITAIN, CT 06051

DOCKET NO. 21-01-04 PURA ANNUAL REVIEW OF THE RATE ADJUSTMENT  
MECHANISMS OF THE UNITED ILLUMINATING  
COMPANY

DOCKET NO. 17-12- PURA INVESTIGATION INTO DISTRIBUTION SYSTEM  
03RE11 PLANNING OF THE ELECTRIC DISTRIBUTION  
COMPANIES – NEW RATE DESIGNS AND RATES  
REVIEW

DOCKET NO. 16-06- APPLICATION OF THE UNITED ILLUMINATING  
04RE04 COMPANY TO INCREASE ITS RATES AND CHARGES –  
INTERIM RATE DECREASE, LOW-INCOME RATES, AND  
ECONOMIC DEVELOPMENT RATES

June 23, 2021

By the following Commissioners:

Marissa P. Gillett  
John W. Betkoski, III  
Michael A. Caron

## DECISION<sup>1</sup>

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<sup>1</sup> This Decision is issued as an Interim Decision in Docket Nos. 21-01-04 and 17-12-03RE11 and as a Final Decision in Docket No. 16-06-04RE04.

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# **DECISION**

## **I. INTRODUCTION**

### **A. SUMMARY**

In this Decision, the Public Utilities Regulatory Authority (Authority or PURA) directs The United Illuminating Company (UI or Company) to make amendments, as summarized in Section III.C., to the proposed settlement agreement UI filed with PURA on March 9, 2021 (Proposed Settlement Agreement). UI entered into the Proposed Settlement Agreement with the Office of Consumer Counsel (OCC), the Office of the Attorney General (AG), the Department of Energy and Environmental Protection (DEEP), and the PURA Office of Education, Outreach, and Enforcement (together, the Settling Parties). The amendments to the Proposed Settlement Agreement (Amended Settlement) direct UI to net the deferred Rate Adjustment Mechanism (RAM) Rate component balances identified by the Company in this proceeding (\$44.560 million) against the Company's accrued tax liabilities as of June 30, 2021 (\$44.685 million), and the inclusion of a \$5 million contribution from UI, through an adjustment to base distribution rates over a period of twenty-two (22) months, from July 2021 through April 2023. The Amended Settlement, *inter alia*, also satisfies the topics examined in Phase IIa (interim rate decrease) of Docket No. 17-12-03RE11, PURA Investigation into Distribution System Planning of the Electric Distribution Companies – New Rate Designs and Rates Review, and the treatment of UI's existing tax liabilities.

### **B. BACKGROUND OF THE PROCEEDING**

By application dated March 9, 2021, UI submitted its RAM filing detailing the Company's calculated over- or under-recoveries for the Generation Services Charges, Bypassable Federally Mandated Congestion Charges, Non-Bypassable Federally Mandated Congestion Charges (NBFMCC), Transmission Adjustment Charge, Systems Benefits Charge, and the Revenue Decoupling Mechanism for the period of January 1, 2020, through December 31, 2020. Prior to its annual RAM filing, on January 15, 2021, UI submitted its proposed known and measurable cost changes to the NBFMCC reconciliation component expected to occur in calendar year 2021, pursuant to the Authority's decision dated December 2, 2020, in Docket No. 20-01-02, Administrative Proceeding to Review the United Illuminating Company's Standard Service and Supplier of Last Resort Service 2020 Procurement Results and Rates.

In addition, on March 9, 2021, UI submitted a motion requesting the Authority's review and approval of its Proposed Settlement Agreement that aimed to resolve certain issues relating to the RAM and other proceedings, including Docket No. 17-12-03RE11. The Settling Parties proposed, *inter alia*, that UI amortize the collection of net RAM Rate Component balances from customers over a two-year period. Motion No. 8, p. 10.

### C. CONDUCT OF THE PROCEEDING

On November 6, 2020, the Authority established the instant proceeding pursuant to §§ 16-19b, 16-245g, and 16-245l of the General Statutes of Connecticut (Conn. Gen. Stat.), to review the rate adjustment mechanisms in the Company's Application. The Authority issued a Notice of Proceeding on November 25, 2020.

The Authority issued four sets of interrogatories on the above filings on February 25, March 15, March 19, and May 6, 2021. By Notice of Hearing dated March 17, 2021, pursuant to Conn. Gen. Stat. §§ 16-19b, 16-245g, and 16-245l, the Authority held a public hearing on March 26, 2021, via teleconference, "to review UI's proposed rate adjustments filed on March 9, 2021, and to consider information pertaining to a settlement agreement filed in the above-referenced proceeding (Motion No. 8)." Notice of Hearing, dated March 17, 2021, p. 1.

On April 14, 2021, the Authority issued a Proposed Interim Decision in the RAM proceeding and provided an opportunity for the Parties and Intervenors to file Written Exceptions and to present Oral Argument on April 22, 2021. During Oral Arguments, UI, the AG, OCC, and DEEP indicated that they would not withdraw their support for the Proposed Settlement Agreement if the Authority did not reach a decision by May 1, 2021, as stipulated in Articles 1.5 and 2.6 of the Proposed Settlement Agreement.<sup>2</sup>

On April 26, 2021, the Authority issued a Procedural Order (April 26 Procedural Order)<sup>3</sup> to suspend the procedural schedule in the instant proceeding with the intent to provide more time to understand the details of the Proposed Settlement Agreement. The Authority held a second Hearing on May 25, 2021, via teleconference, to further evaluate the provisions of the Proposed Settlement Agreement.

The Authority issued a second Procedural Order on June 2, 2021 (June 2 Procedural Order)<sup>4</sup> providing redlined changes to the Proposed Settlement Agreement that depicted the minimum modifications deemed necessary to conform the Proposed

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<sup>2</sup> Article 1.5 of the Proposed Settlement Agreement states: "The Settling Parties shall cooperate and use best efforts to obtain approval of the Settlement Agreement from PURA to allow for implementation of new rates on May 1, 2021. The Settling Parties will request the Authority to issue approval of the Settlement Agreement in its entirety by that date." Article 2.6 of the Proposed Settlement Agreement states: "If the Authority does not approve this Settlement Agreement in its entirety, or does not issue an order on the Settlement Agreement by May 1, 2021, each of the Settling Parties shall have the right to withdraw from the Settlement Agreement upon notice to the other parties and the Authority, and in that event the Settlement Agreement will be deemed to be withdrawn and will not constitute a part of the record in this or any other proceeding or used for any other purpose." See also Article 1.6 of the Proposed Settlement Agreement: "...the implementation of new rates for the Company's RAM Rate Components shall be subject to a make-whole provision in the event the regulatory process extends past May 1, 2021 and new rates for the RAM Rate Components are not implemented until after this date. The purpose of this provision is to keep the Company and its customers in the same position as if RAM Rate Components had gone into effect on May 1, 2021."

<sup>3</sup> April 26 Procedural Order in Docket No. 21-01-04 *available at*: [http://www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/a090ffefbe8d8cae852586c3005afae0/\\$FILE/21-01-04%20Procedural%20Order.pdf](http://www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/a090ffefbe8d8cae852586c3005afae0/$FILE/21-01-04%20Procedural%20Order.pdf).

<sup>4</sup> June 2 Procedural Order in Docket No. 21-01-04 *available at*: <http://www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/fc09f12f8fcd0f08852586e8006d126a?OpenDocument>

Settlement Agreement to the applicable legal standards, for further consideration by the Settling Parties.

The Authority issued a Proposed Interim Decision in this proceeding on June 10, 2021, and provided an opportunity for the Parties and Intervenors to file Written Exceptions and to present Oral Argument. The Settling Parties submitted a joint Letter in Lieu of Written Exceptions in support of the Proposed Interim Decision. The Connecticut Industrial Energy Consumers (CIEC) also filed a Letter in Lieu of Written Exceptions in support of the Proposed Interim Decision. No Party or Intervenor requested Oral Argument.

#### **D. PARTIES AND INTERVENORS**

Pursuant to the Notice of Proceeding dated November 25, 2020, the Authority recognized the following as Parties to this proceeding: The United Illuminating Company, 180 Marsh Hill Road, Orange, CT 06477; OCC, Ten Franklin Square, New Britain, CT 06051; the Commissioner of DEEP, 79 Elm Street, Hartford, CT 06106; and the PURA Office of Education, Outreach, and Enforcement, Ten Franklin Square, New Britain, CT 06051. The Authority granted Intervenor status to the AG, Ten Franklin Square, New Britain, CT 06051; Dominion Energy Nuclear Connecticut, Inc., 120 Tredegar Street, Richmond, VA 23219; and the Connecticut Industrial Energy Consumers, 540 Broadway, P.O. Box 22222, Albany, NY 12201.

#### **E. PUBLIC COMMENT**

The Authority did not receive any written comment from members of the public filed in this proceeding, nor did any members of the public provide oral comments during the hearings held on March 26, 2021, and May 25, 2021.

## **II. LEGAL STANDARD**

Conn. Gen. Stat. § 16-19b provides a procedural framework for reconciling the energy adjustment clauses and transmission rate adjustment clauses for the electric distribution companies (EDCs). Conn. Gen. Stat. § 16-19b(a) prohibits the Authority from authorizing an adjustment clause if such clause operates automatically to permit changes that are not first approved by PURA. Conn. Gen. Stat. § 16-19b(e) establishes that proposed charges or credits to adjustment clauses are approved or denied by the Authority in an uncontested proceeding. Further, Conn. Gen. Stat. § 16-19b(h) provides that the Authority shall continually monitor and oversee the application of the adjustment clauses, and at least annually undertake a proceeding to determine if charges or credits made to the adjustment clauses reflect actual prices or costs. Under this subsection, the Authority must recompute charges or credits and direct the EDC to take corrective action when the Authority finds such charges or credits do not reflect actual prices or costs.

Pursuant to Conn. Gen. Stat. § 4-177, a contested case may be resolved by a proposed settlement agreement, unless it is precluded by law. Conn. Gen. Stat. § 16-19jj encourages the use of settlement agreements to resolve contested cases, when the Authority deems it appropriate to do so. Alternative dispute resolution through a

settlement agreement approved by the Authority can produce satisfactory results for all parties involved and the Authority.

The Authority may approve proposed settlement agreements that are just and reasonable and in the public interest, pursuant to Conn. Gen. Stat. §§ 16-19 and 16-19e. To determine the reasonableness of a proposed settlement agreement and to exercise its due diligence responsibility, the Authority conducts an analysis of the proposal based on record evidence in the relevant proceeding(s). The Authority's analysis considers the principles articulated in Conn. Gen. Stat. §§ 16-19 and 16-19e and other applicable statutes or regulations.

### **III. AUTHORITY ANALYSIS**

#### **A. APRIL 26 PROCEDURAL ORDER**

The Authority's April 26 Procedural Order suspended the procedural schedule of the instant proceeding for a period up to and including July 2, 2021, so that the Settling Parties could address numerous deficiencies and other issues identified as part of the Authority's initial consideration of the Settling Parties' proposal. The April 26 Procedural Order also indicated that the burden of proof that the Proposed Settlement Agreement provides appropriate protection to relevant public interests, both existing and foreseeable, pursuant to Conn. Gen. Stat. § 16-19e(a)(4), resided with the Settling Parties. Based on the Authority's initial review, this burden was not met. Accordingly, the Authority identified through the April 26 Procedural Order thirteen (13) deficiencies in the Proposed Settlement Agreement broken into the following categories:

1. Short-circuiting of several Authority investigations being conducted pursuant to Public Act 20-5, An Act Concerning Emergency Response by Electric Distribution Companies, the Regulation of Other Public Utilities and Nexus Provision for Certain Disaster-Related or Emergency Related Work Performed in the State (Take Back Our Grid Act);
2. Issuance of \$41.55 million in tax liabilities owed to UI customers; and
3. UI's rate of return on common equity (ROE) and the proposed "Distribution Base Rate Freeze."

#### **B. SUBSEQUENT PROCESS**

The Authority issued an additional set of interrogatories on May 6, 2021, regarding the Proposed Settlement Agreement. On May 21, 2021, UI, OCC, the AG, and DEEP submitted correspondence in response to the Authority's April 26 Procedural Order, reiterating their support for the Proposed Settlement Agreement.

The Authority held a Hearing on May 25, 2021, via teleconference, to further evaluate whether the provisions of the Proposed Settlement Agreement provide appropriate protection to relevant public interests, both existing and foreseeable, pursuant to Conn. Gen. Stat. § 16-19e(a)(4), and to review any relevant interrogatory responses or information provided since the issuance of the April 26 Procedural Order. In its opening

statement, UI conveyed its willingness to incorporate several of PURA's recommended modifications of the Proposed Settlement Agreement. Tr. 5/25/2021, pp. 9-10; 13. While recognizing that the Company only represents its perspective and does not speak for the other Settling Parties, UI made the following statements expressing its support for certain modifications to the Proposed Settlement Agreement:

"While not incorporating [the change in the federal tax rate to 21 percent] in the settlement agreement was an expedient solution at the time, [the Company] would also embrace PURA's expeditious integration of the 21 percent federal tax rate as UI's base distribution rates for additional relief to our customers." Id., p. 12; see also id. p. 10; 95; 97-98.

"UI is also in agreement when using the tax liability as a direct offset to the RAM balance." Id., p. 10.

"The Settling Parties thought the description of a credit as a COVID credit seemed appropriate as an explanation for customers as to why they were receiving that credit. The description may no longer resonate with customers. The Company is open to whatever description the Authority deems appropriate." Id., pp. 11-12.

"[The Company] would also like to take the opportunity to reinforce our understanding and commitment that the earnings sharing mechanism, as laid out in the last rate case, will continue until at least the next rate proceeding for UI." Id., p. 10; see also id. p. 96.

### **C. JUNE 2 PROCEDURAL ORDER**

In the June 2 Procedural Order, the Authority provided redlined changes to the Proposed Settlement Agreement that depict the minimum modifications deemed necessary to conform the Proposed Settlement Agreement to the applicable legal standards, for further consideration by the Settling Parties. Specifically, the Authority's proposed amendments address the following:

- Directs UI to extinguish the current regulatory asset associated with all accrued tax liabilities<sup>5</sup> as of June 30, 2021, and to use such monies, plus the inclusion of the \$5 million contribution from UI, to net the Company's net deferred RAM Rate Component balances, and to reconcile the monies through base distribution rates to be amortized over a period of twenty-two (22) months, from July 2021 through April 2023;<sup>6</sup>

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<sup>5</sup> "Accrued tax liabilities" refers to the regulatory asset established pursuant to the Decision in Docket No. 18-01-15, PURA Review of Rate Adjustments Related to the Federal Tax Cuts and Jobs Act. UI's tax liabilities as of June 30, 2021 total \$44.685 million; see UI Attachment 1, Supplement, filed on 6/1/21.

<sup>6</sup> The Authority directs UI to treat, for accounting purposes, each of the tax liabilities, the \$5 million credit, and the 2020 RAM under recoveries separately, but to calculate one adjustment to base distribution rates to reconcile all three components, as the Authority understands that this results in the greatest credit amount to ratepayers. UI may propose another accounting treatment should it result in a greater credit to ratepayers, but must clearly articulate through its brief what that treatment is and how it provides greater benefits to ratepayers.

- Lowers the Company's base distribution rates across all rate classes, beginning July 1, 2021, by applying the current twenty-one (21) percent federal corporate tax rate;
- Clarifies that any metrics established as a result of the Authority's Equitable Modern Grid investigations in Docket No. 17-12-03RE01 *et seq.*, or through its performance-based regulation investigation in Docket No. 21-05-15, PURA Investigation into a Performance-Based Regulation Framework for the Electric Distribution Companies, pursuant to Section 1 of the Take Back Our Grid Act, or through any other Decision of the Authority, may become effective before May 1, 2023. However, such metrics shall not result in any adjustments to the Company's allowed ROE before May 1, 2023;
- Clarifies that PURA may implement any cost recovery mechanism it deems appropriate for a low-income rate or economic development rate, so long as the Company's authorized revenue requirement is made whole in some manner;
- Confirms that UI's Earnings Sharing Mechanism (ESM), as approved in the Authority's decision dated December 12, 2016, in Docket No. 16-06-04, Application of The United Illuminating Company to Increase Its Rates and Charges, will remain in place through at least April 30, 2023, meaning the Company is subject to returning overearnings consistent with the current ESM until the Company's next rate case; and
- Confirms that all cost recovery is subject to the Authority's subsequent review in the current RAM proceeding or subsequent RAM proceedings, as applicable.

#### **D. ACCEPTANCE OF PURA'S PROPOSED AMENDMENTS**

On June 8, 2021, the Settling Parties submitted a Joint Letter in Lieu of Briefs accepting PURA's proposed amendments identified in redlined changes in Appendix A of the Authority's June 2 Procedural Order, with two proposed technical changes.<sup>7</sup> The Settling Parties stated that, "The Authority's amendments provide clarity and promote the public interest, consistent with the intended purpose of the [Proposed] Settlement Agreement for a full and final resolution of the issues addressed therein, most notably the net RAM balances that are the subject of Docket No. 21-01-04, the investigation of an interim rate decrease for UI in Phase IIa of Docket No. 17-12-03RE11, and disposition of the tax regulatory liability ordered in Docket No. 18-01-15." Settling Parties' Joint Letter in Lieu of Briefs, p. 2.

The Authority appreciates the Settling Parties' timely response and acceptance of PURA's amended terms of the Proposed Settlement Agreement. The Authority finds that the deficiencies of the Proposed Settlement Agreement have been cured through the Amended Settlement terms. Moreover, the Authority finds that the language reflected in Appendix A of the June 2 Procedural Order, incorporating the two technical changes proposed by the Settling Parties, provides appropriate protection to relevant public interests, both existing and foreseeable, pursuant to Conn. Gen. Stat. § 16-19e(a)(4).

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<sup>7</sup> The Settling Parties' Joint Letter in Lieu of Briefs dated June 8, 2021 *available at*: <http://www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/6c4e6d59de50aa98852586ee005863de?OpenDocument>.



Accordingly, no later than June 24, 2021, the Authority directs UI to file an executed amended settlement, and supporting attachments, that adopts the redlined edits outlined in Appendix A of the June 2 Procedural Order and incorporates the two technical changes identified by the Settling Parties.<sup>8</sup> Since UI did not propose an alternative accounting treatment in its response to the June 2 Procedural Order, the Company is directed to update its attachments to the Proposed Settlement Agreement, providing exhibits that illustrate the reconciliation of the total tax liabilities, the \$5 million UI shareholder contribution, and the RAM Rate Components, as directed in the June 2 Procedural Order.<sup>9</sup> Specifically, the Company shall treat, for accounting purposes, each of the tax liabilities, the \$5 million credit, and the 2020 RAM under recoveries separately, but calculate one adjustment to base distribution rates to reconcile all three components, as the Authority understands that this results in the greatest credit amount to ratepayers.

#### **IV. CONCLUSION AND ORDERS**

##### **A. CONCLUSION**

In this Decision, the Authority directs UI to make amendments, as summarized in Section III.C., to the Proposed Settlement Agreement to provide appropriate protections to relevant public interests, both existing and foreseeable, pursuant to Conn. Gen. Stat. § 16-19e(a)(4).

The Authority has not yet determined the prudence, or final amount, of 2020 costs identified through the RAM proceeding to be recovered by the Company. Accordingly, the Authority reserves the right to direct any further adjustments to the delivery service rates upon completion of its review in this proceeding.

##### **B. ORDERS**

For the following Orders, the Company shall file an electronic version of the required documentation through the Authority's website at [www.ct.gov/pura](http://www.ct.gov/pura). Submissions filed in compliance with the Authority's Orders must be identified by all three of the following: Docket Number, Title, and Order Number. Compliance with orders shall commence and continue as indicated in each specific Order or until the Company requests and the Authority approves that the Company's compliance is no longer required after a certain date.

1. No later than June 24, 2021, the Company shall file a redlined version and a fully executed amended settlement agreement entered into by the Settling Parties that adopts the redlined edits outlined in Appendix A of the June 2 Procedural Order, and incorporates the two technical changes identified in the Settling Parties' Joint Letter in Lieu of Briefs dated June 8, 2021. The Company shall also file updated

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<sup>8</sup> The Authority requires submission of the executed amended settlement as well as a redlined version of the amended settlement incorporating all changes from the Proposed Settlement Agreement.

<sup>9</sup> See June 2 Procedural Order, footnote No. 5, p. 4: "...UI may propose another accounting treatment should it result in a greater credit to ratepayers, but must clearly articulate through its brief what that treatment is and how it provides greater benefits to ratepayers."

attachments that illustrate the reconciliation of the total tax liabilities, the \$5 million UI shareholder contribution, and the RAM Rate Components balances, calculated as a single net adjustment to base distribution rates effective July 1, 2021, through April 30, 2022.

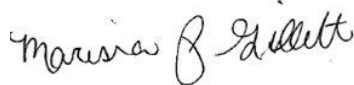
2. No later than June 24, 2021, the Company shall file tariffs to reflect the adjustments to the base distribution rates directed herein, for Authority review and approval.
3. Effective July 1, 2021, UI shall adjust its base distribution rate, as directed herein.

**DOCKET NO. 21-01-04 PURA ANNUAL REVIEW OF THE RATE ADJUSTMENT MECHANISMS OF THE UNITED ILLUMINATING COMPANY**

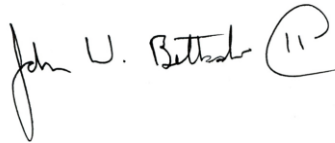
**DOCKET NO. 17-12-03RE11 PURA INVESTIGATION INTO DISTRIBUTION SYSTEM PLANNING OF THE ELECTRIC DISTRIBUTION COMPANIES – NEW RATE DESIGNS AND RATES REVIEW**

**DOCKET NO. 16-06-04RE04 APPLICATION OF THE UNITED ILLUMINATING COMPANY TO INCREASE ITS RATES AND CHARGES – INTERIM RATE DECREASE, LOW-INCOME RATES, AND ECONOMIC DEVELOPMENT RATES**

This Decision is adopted by the following Commissioners:



Marissa P. Gillette



John W. Betkoski, III



Michael A. Caron

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Public Utilities Regulatory Authority, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.



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Jeffrey R. Gaudiosi, Esq.  
Executive Secretary  
Public Utilities Regulatory Authority

June 23, 2021

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Date