STATE OF CONNECTICUT
PUBLIC UTILITIES REGULATORY AUTHORITY

APPLICATION OF THE UNITED	**:**	**DOCKET NO. 24-10-04**
ILLUMINATING COMPANY	**:**	
TO AMEND ITS RATE	**:**	
SCHEDULE	**:**	**JUNE 30, 2025**

BRIEF OF WILLIAM TONG, ATTORNEY GENERAL FOR THE STATE OF CONNECTICUT

Respectfully submitted,

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William Tong, Attorney General for the State of Connecticut ("Attorney General"), hereby submits his brief in the above-captioned proceeding. For the reasons stated herein, the Attorney General respectfully requests that the Public Utilities Regulatory Authority ("PURA" or "Authority") reject the distribution rate increase that The United Illuminating Company ("UI" or "Company") proposed in its Application to Amend its Rate Schedules dated November 12, 2024 ("Application") because it is unjustified and unaffordable. In its Application, UI proposed to increase its rates by $105 million, amended to $106.3 million in this proceeding. Application, 9; Late Filed Exhibit ("LF") 1, Schedule A-1.0. UI's proposed rate hike would increase its distribution revenues by about 34 percent and overall bills by more than 9 percent. *Id*.

For the reasons stated herein, the Attorney General respectfully urges the Public Utilities Regulatory Authority ("PURA" or "Authority") to reject UI's rate hike request in its entirety as unjustified and unwarranted, resulting in rates that are higher than just and reasonable levels. The Attorney General has identified a number of adjustments to the Company's cost of capital and has documented multiple unnecessary expense items that the Authority should disallow. These adjustments – together with those identified by the Office of Consumer Counsel and other parties - would reduce UI's proposed revenue requirement by tens of millions of dollars per year.

I. UI'S APPLICATION

UI is an electric distribution company that serves 345,000 residential, commercial and industrial customers in southwestern Connecticut. UI's service area consists of 17 municipalities, including the cities of Bridgeport and New Haven. Application, 6. In its Application, UI sought to increase its rates by nearly $106 million above what is currently authorized. LF-1, Schedule A-1.0. The Company further proposed that the Authority authorize UI to earn a return on equity ("ROE") of 10.5 percent. Bulkley pre-filed testimony ("PFT"), 1. This proposed ROE is 140

basis points higher than the 9.10 return the Authority approved for UI in its last rate case decided August 25, 2023, just ***15 months prior*** to UI's renewed Application filed here. Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company To Amend its Rate Schedule*, 1. Moreover, because the Authority ordered certain penalties against UI's authorized ROE totaling 47 basis points, UI's proposed return would result in an effective 187 basis point increase above its previous years rates. This change alone would increase costs to customers by almost $20 million a year. LF-1, Attachment A-1.

The rates proposed by UI exceed levels that could be considered just and reasonable for the following reasons. First, UI makes no coherent argument that its overall financial condition or the financial conditions of the equity market have changed so substantially over a period of 15 months to warrant and support a $20 million rate increase in equity returns alone. In addition, UI's proposed ROE is too high. It is based upon a flawed analysis and is substantially higher than recent Authority decisions. This is especially true where, as here, "authorized ROEs have trended downward with interest rates and 16 capital costs in the past 15 years. The average authorized ROEs fell below 10% for electric 17 utilities in 2012. In 2020 and 2021, authorized ROEs for utilities hit an all-time low." Woolridge pre-filed testimony ("PFT"), 13-14.

Second, the Company's proposed capital structure is uneconomic and burdensome. UI's proposed equity level of 54 percent is higher than the gas distribution company average of 43 percent, thereby unnecessarily increasing costs to ratepayers. Rothschild PFT, 3. Third, the record in this proceeding shows that UI has overstated numerous expense items. These expense items include board of directors' costs, fees and dues, investor relations costs and incentive compensation.

Many of Connecticut's residents continue to face difficult economic circumstances. Year over year of high inflation has led to increased costs for core necessities like food, housing and energy, and the Federal Reserve's inflation fighting measures have increased the costs of borrowing for everything, including home mortgages, car payments, and credit card debt. Many consumers – especially those on fixed or limited incomes – are simply unable to absorb any further increases in their cost of living. These customers are entitled to expect that the Authority and all the participants in this proceeding will work to ensure that the electric distribution rates approved will be no higher than absolutely necessary.

PURA should further continue its 20 basis point, or $2 million per year, "ROE" penalty on the Company for its imprudent management of English Station and failure to meet its obligations to the State of Connecticut. The ROE penalty must be retained to encourage meaningful changes to UI's management to remedy these managerial shortcomings. The Authority should continue to impose this penalty prospectively until such time as UI meets its commitments to the State and its customers.

I. DISCUSSION

UI's Application to increase its rates presents various legal issues, the standard for which are outlined below.

A. Relevant Legal Standard

Connecticut law requires that electric rates be no more than just and reasonable. *See* Conn. Gen. Stat. § 16-19. PURA must approve only those rates that it finds are absolutely necessary to fund UI's essential operations as an electric distribution company, and fund only those proposals where the Company has met its evidentiary burden.

In addition, in assessing the requested recovery of rates by UI in the immediate matter, the Authority will need to probe the company's degree of managerial prudence as it recently did in Docket No. 22-07-01, *Application of Aquarion Water Company of Connecticut to Amend its Rate Schedule*. Upon findings of imprudence, the Authority retains the regulatory authority of adjusting a public service company's ROE to properly incentivize prospective prudent and efficient performance. *See* Docket No. 20-08-03, *Investigation into Electric Distribution Companies' Preparation for and Response to Tropical Storm Isaias*, Decision, dated Apr. 28, 2021, at 15.

1. Rate Case Legal Standard

The authority to establish just, reasonable, and sufficient utility rates is found within two historic U.S. Supreme Court cases, which were recognized by the Connecticut Supreme Court. *See, e.g., Connecticut Light & Power Co. v. Dep't of Pub. Util. Control*, 216 Conn. 627, 635 (1990). These cases describe how a regulated utility is entitled to recover prudent operating expenses as well as capital costs, including a fair and reasonable rate of return on capital investments. *See Fed. Power Comm'n v. Hope Nat. Gas Co*., 320 U.S. 591 (1944); *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm'n of W. Va*., 262 U.S. 679 (1923).

Rate setting requires "a balancing of the investor and consumer interests." *Woodbury Water Co. v. Pub. Util. Comm'n*, 174 Conn. 258, 264 (1978) (citing *Hope*, 320 U.S. at 602-03). In doing so, the Authority "is not bound to the use of any single formula or combination of formulae in determining rates. Its rate-making function . . . involves the making of 'pragmatic adjustments.'" *Id.* (internal citation omitted). In achieving this delicate balance and making pragmatic adjustments, the Authority is also guided by General Statutes § 16-19e(a)(5), which states, in relevant part, that the Authority shall examine proposed rates in accordance with the

principle that the level and structure of rates charged customers shall reflect prudent and efficient management of the franchise operation.

2. Managerial Prudence Standard

In assessing a utility's management and operations, the Authority applies the prudence standard, which is the standard of care a reasonable person would exercise under the same circumstances confronting the management of the utility at the time of the decision to take such actions. *See* PURA Tropical Storm Isaias Investigation Decision at 12 (internal citations omitted). The Connecticut Supreme Court has affirmed this standard, stating that the "prudence of a management decision depends on good faith and reasonableness, judged at the time the decision is made." *Connecticut Light & Power Co.*, 216 Conn. at 645 (internal citation omitted). That is, the prudency of a management decision is judged based on what the utility knew or should have known at the time the decision was made. *See* PURA Tropical Storm Isaias Investigation Decision at 12-13; *see also* Docket No. 11-12-02, *Application of PSEG New Haven LLC for Establishment of 2012 Revenue Requirements*, Decision, dated June 6, 2012, at 12.

3. Return on Equity Penalty Standard

Upon a finding of managerial imprudence, the Authority maintains the authority and discretion to reduce a utility's ROE. In the absence of competitive forces and customer choice for electric distribution, the motivation for electric utilities to act prudently, efficiently, and in the public interest in the future depends upon the Authority's ability to properly align the electric utilities' performance with financial incentives. *See* Docket No. 20-08-03, *Investigation into Electric Distribution Companies' Preparation for and Response to Tropical Storm Isaias*, Decision, dated Apr. 28, 2021, at 15. ROE adjustments ensure that rates reflect prudent and

efficient management and incentivize the performance of public responsibilities with economy, efficiency, and care for public safety and energy security. *See id.* at 16 (citing Conn. Gen. Stat. §16-19e(a)(3) and (5)).

B. PURA Should Reject UI's Proposed Return on Equity and Capital Structure

In its Application, UI proposed that the Authority approve an ROE for the Company's shareholders of 10.5 percent, which the Company represents "is conservative." Direct Testimony of Ann E. Bulkley on Behalf of The United Illuminating Company, dated November 12, 2024 ("Bulkley PFT"), Executive Summary. This ROE nonetheless represents an increase of 140 basis points above UI's currently authorized return of 9.1 percent. *See* Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company To Amend its Rate Schedule*, 1. This proposed ROE would be the highest authorized return for any of the State's principal regulated public service companies—and by a very large margin.

The Authority's most recent rate case decisions have indicated the true cost of equity is far lower than that proposed by UI. On November 28, 2024 – or just seven months ago – the Authority approved both the Connecticut Natural Gas Corporation and the Southern Connecticut Gas Company to earn authorized ROEs of 9.15%. Final Decisions, Docket No. 23-11-02, *Application of the Connecticut Natural Gas Corporation To Amend its Rate Schedule*, Decision, at 1; Docket No. 23-11-02, *Application of the Southern Connecticut Gas Corporation To Amend its Rate Schedule*, Decision, at 1. On June 28, 2024, the Authority issued a final decision in Docket No. 22-08-32, *Application of the Connecticut Water Company to Amend its Rate Schedules* awarding the Company an ROE of 9.1 percent. Final Decision, 1. On March 15, 2023 the Aquarion Water Company of Connecticut received a return of 8.7 percent. Final Decision, Docket No. 22-07-01, *Application of Aquarion Water Company of Connecticut to Amend its Rate*

Schedule, dated Mar. 15, 2023, at 1. The Connecticut Light and Power is currently authorized a ROE of 9.25 percent. Docket No. 17-10-46, *Application of The Connecticut Light and Power Company d/b/a Eversource Energy to Amend its Rate Schedules*, Final Decision, dated Apr. 18, 2018, at 18. The Yankee Gas Services Company has an authorized ROE of 9.3 percent. *See* Docket No. 18-05-10, *Application of the Yankee Gas Services Company d/b/a Eversource Energy to Amend Its Rate Schedules*, Decision, dated Dec. 12, 2018, at 11.

UI's requested ROE is 120 basis points higher than the next highest ROE among the state's regulated utilities and 135 basis points higher than the last two final rate case decisions issued by the Authority. It is simply out of touch with current financial markets, investor expectations and Authority precedent.

UI offers no credible explanation why it should receive an authorized return 120 basis points higher than next highest public service company ROE in the State of Connecticut. As noted by the OCC's cost of capital expert:

> [a]s Table 7 (page 37) shows, the electric utility industry is among the lowest risk industries in the U.S. as measured by beta. As such, according to CAPM, the cost of equity capital for this industry is among the lowest in the U.S.

Direct Testimony of J. Randall Woolridge, Ph.D. on Behalf of the Office of Consumer Counsel, dated February 13, 2024 ("Woolridge PFT"), at 67. And while the electric industry as a whole has a low cost of equity, UI is in particular less risky (and therefore less expensive) than the industry as a whole. As Dr. Woolridge states:

> UI's Standard & Poor (S&P) and Moody's issuer credit ratings are A- and Baa1. The averages of the two Proxy Groups are BBB+ and Baa2. This indicates that UI's investment risk is below that of the proxy groups.

Surrebuttal Testimony of J. Randall Woolridge, on Behalf of the Office of Consumer Counsel, dated March 24, 2024, at 4.

UI's unreasonable ROE request is based upon a flawed and unreliable cost of capital analysis. First, UI proposed a capital structure that includes an uneconomically high level of equity. In addition, UI's testimony in support of its proposed ROE of 10.2 percent contains serious errors that have distorted the Company's discounted cash flow ("DCF"), expected earnings and capital asset pricing model ("CAPM") analyses, and unreasonably inflated its proposed ROE. As a result, the Company's proposed ROE is substantially higher than other similarly situated electric utility companies and substantially higher than the levels recently approved for Connecticut's other public service companies.

The Attorney General generally supports the testimony from both the OCC's cost of capital expert, Dr. Woolridge, and the Authority's Department of EOE's cost of capital expert, Aaron Rothschild. OCC's cost of capital expert recommended an ROE of 9.375 percent. *See* Woolridge PFT at 4. EOE's cost of capital expert recommended an ROE of 8.43 percent. *See* Direct Testimony of Aaron L. Rothschild on Behalf of the Connecticut Public Utilities Regulatory Authority Office of Education, Outreach, and Enforcement, dated Dec. 13, 2022 ("Rothschild PFT"), at 9. Adjusting UI's proposed ROE from 10.5 percent to the more reasonable 8.43 percent to 9.375 percent would result in a revenue requirement reduction of approximately $12 to $21 million per year.[1]

1. PURA Should Reject UI's Proposed Capital Structure

In its Application, UI proposed a capital structure of 54 percent common equity and 46 percent weighted cost of debt. Bulkley PFT at 50. UI's current approved debt to equity ratio is

[1] Assuming an ROE of 9.375 as opposed to 10.5 means 115 basis points multiplied by UI's pre-tax revenue requirement of $10,315,970 for each 100 basis points, or an $11,863,000 rate decrease. *See* LFE 1, Revised Schedule A-1.0 A. Assuming an ROE of 8.43 percent as opposed to 10.5 percent means 207 basis points multiplied by UI's pre-tax revenue requirement of $10,315,970 for each 100 basis points, or an $21,350,000 rate decrease.

50/50 debt to equity. Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company To Amend its Rate Schedule*, 63. Bulkley states this new proposed debt to equity ratio is appropriate because: (1) it is consistent with the utilities UI selected as its proxy group (*see* Bulkley PFT at 54); and (2) "[t]he incremental risk of a higher debt ratio is more significant for common equity shareholders, who are the residual claimants on the cash flow of the Company." *Id.* at 50.

The Authority should reject the Company's proposed capital structure because it is economically inefficient and does not effectively balance the interests of the Company and its ratepayers. The cost of equity is simply much higher than the cost of debt. The Company projects its cost of equity as 10.5 percent and proposed weighted cost of debt of 4.38 percent. *See* Woolridge PFT at 4, Table 2. Moreover, because of the income tax responsibility associated with the use of common equity in the capital structure, that form of capital is more than three times as costly than debt capital. Increasing the Company's equity component relative to less expensive debt raises the overall cost of capital and, therefore, is unnecessarily expensive for ratepayers.

UI's justifications for this higher equity level do not withstand scrutiny. EOE witness Rothschild described UI's proposed equity level as having "significantly more common equity than the average common equity ratio used by other electric utilities in the country (46.0%)." Rothschild Direct Testimony at 46. OCC witness Woolridge concluded that "a regulated utility is exposed to less business risk than other companies that are not regulated. This means that a regulated electric distribution company can reasonably carry relatively more debt in its capital structure than can most unregulated companies. Thus, a utility should take appropriate advantage of its lower business risk to employ cheaper debt capital at a level that will benefit its customers

through lower revenue requirements. Typically, one may see equity ratios for electric utilities range from 40% to 50%." Woolridge PFT at 25, Exhibit JRW-3.

UI has previously sought to have the Authority approve unnecessarily costly equity ratios. As in Docket No. 22-08-08, *Application of the United Illuminating Company To Amend its Rate Schedule*, UI's proposed to evaluate the average equity levels of its proxy group subsidiaries, skewing the analysis towards the more expensive equity levels. The Authority similarly rejected this analysis. "Importantly, UI did not use the capital structures of the proxy companies; rather, the Company used the capital structures of the operating subsidiaries of those proxy companies. As a result, the Company's analysis indicates that the simple average of the operating subsidiaries' capitalization mix ranges from 44.97% to 61.33% common equity, with an average of 52.23% common equity and 47.77% long-term debt over the most recent eight financial quarters (2020 Q2 to 2022 Q1)." Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company To Amend its Rate Schedule*, 4. Similarly, in Docket No. 16-06-04, the Authority specifically rejected UI's proposal to increase its common equity ratio from 50 percent to 52 percent. *See id*. at 61-62. The Authority stated that, "UI does not adequately explain why 52% is now appropriate as compared to the 50% common equity ratio that was approved in the 2013 UI Rate Case Decision." *Id*. at 61. UI has again failed to adjust its expectations here.

The Authority should reject UI's proposed equity ratio and should authorize an equity ratio as recommended by the other cost of capital witnesses in this matter. EOE witness Rothschild recommended the Authority impute the average common equity ratio used by other electric utilities in the country, or 46.04 percent. *See* Rothschild Direct Testimony at 46. OCC witness Woolridge recommended the Authority use a 50 percent equity ratio. *See* Woolridge

Direct Testimony at 31. Reducing the Company's proposed capital structure from 54 percent equity to 50 percent equity will reduce UI's revenue requirement by up to $4.4 million.[2]

2. PURA Should Reject UI's Discounted Cash Flow Analysis and Risk Premium/Capital Asset Pricing Model Analyses of the Cost of Equity

The most reliable estimate of a company's cost of equity is generally derived from the DCF analysis. The DCF model attempts to replicate a market valuation of what investors would pay for a share of the Company's stock. The DCF model employs a "proxy group" of companies similarly situated in business risk, cash flow, and investment return to determine a level of earnings necessary to attract needed capital at a reasonable cost to provide safe and adequate utility service. The DCF also needs to make assumptions about long term interest rates and the expected growth rates of the proxy companies. All the parties principally relied upon the DCF model, with a CAPM as a secondary resource.

As noted above, the principal goal of setting an appropriate ROE is to match investor expectations of a fair return comparable to the returns investors can expect to earn on investments with similar risk, that are sufficient to assure confidence in the company's financial integrity and adequate to maintain the company's credit and attract capital. *See* Woolridge PFT at 2-3. The return must be sufficient, but not more than sufficient, to attract investors so the utility can raise sufficient capital to provide safe and efficient utility service.

[2] A move to 50 percent equity at the company's proposed ROE (10.50 percent) and weighted cost of debt (4.93 percent) would reduce its required rate of return ("ROR") from 7.94 percent to 7.71 percent. That 23 basis point reduction applied to a Rate Base of $1,384,648 and Revenue Conversion Factor of 1.3796 results in a reduction in revenue requirements of $4,425,622. *See* LFE 1, Revised Schedule A-1.0 A.

The Authority should reject the Company's DCF testimony as it relies on upwardly biased earnings estimates. As described by the OCC's consultant "Ms. Bulkley overstates reported DCF results by exclusively using the overly optimistic and upwardly biased earnings per share ("EPS") growth rate forecasts of Wall Street analysts and *Value Line*." Woolridge PFT at 5.

Specifically, the Company's discounted cash flow analysis used a growth rate based upon projected earnings per share forecasts by historically optimistic Wall Street analysts and without consideration of the dividend growth rate. As OCC's witness stated, "it is well-known that the long-term EPS growth rate forecasts of Wall Street securities analysts are overly optimistic and upwardly biased. Therefore, using these growth rates as a DCF growth rate produces an overstated equity cost rate." Woolridge PFT at 70. Indeed, "the appropriate growth rate in the DCF model is the dividend growth rate, not the earnings growth rate. . . . Therefore, consideration must be given to other indicators of growth, including historical prospective dividend growth, internal growth, as well as projected earnings growth." *Id.* at 43.

Stated otherwise, not all earnings are paid out as dividends—some of the earnings must be reinvested in the company to ensure future growth. Considering earnings per share exclusively creates a false and unsustainable high growth rate. Because UI selectively used an unsustainably high expected growth rate, its DCF model overestimates the true cost of capital and, therefore, its recommended ROE.

EOE's witness Rothschild identifies the same structural flaws in UI's analysis. Specifically, Rothschild agrees:

> [Bulkley's] constant growth DCF method is unreliable because it mechanically uses analyst 5-year EPS growth rates as a proxy for growth without considering the mathematical relationship between retention rates, dividend payments, and growth. A company cannot invest and grow with money it has paid out to investors as a dividend.

Rothschild PFT, 108.

Rothschild agrees that's DCF model provides similar results on the low-end of the range for cost of equity, however Buckley's projections skews higher on the high end of the range. As Rothschild stated:

> The primary reason our DCF models produce different COE results is because of the growth rate component. Ms. Bulkley's DCF analysis using analyst 5-year EPS growth rate projections produces a cost of equity result of between 8.14% and 13.68%. My sustainable growth DCF and option-implied growth DCF methods produce cost of equity results of 8.88% - 8.93% and 8.39% - 8.56% respectively. Ms. Bulkley uses an average growth rate component of between 4.96% and 10.03%. for each of the companies in her proxy group. I use growth rate components of 4.22% to 4.77%. The low end of Ms. Bulkley's DCF results are within range of my results, lower in some cases, but the high end of her DCF results (17.08%) is so high because she uses unsustainable growth rates.

Rothschild PFT at 111.

The Company's true cost of capital is simply much lower than presented by the Company's witness. Capital costs remain low generally, and there is now a lower tax rate for investors which has made stock investment more attractive. For these reasons, as well as those more fully explained in the testimony of Woodridge on behalf of the OCC, and Rothschild on behalf of EOE, the Attorney General supports a recommended ROE in the range of 8.43 percent to 9.35 percent.

C. The Authority Should Reject UI's Proposed Revenue Requirements

In its Application, UI overstated a number of revenue and expense items. PURA's standard for allowing operating expenses is clear; only those expenses that are reasonable and necessary to provide service to the public may be included. *See* Final Decision, Docket No. 22-07-01, *Application of Aquarion Water Company of Connecticut to Amend its Rate Schedule*, dated Mar. 15, 2023, at 59. Allowable operating expenses must "reflect prudent and efficient management of the franchise operation." Conn. Gen. Stat. § 16-19e(a)(5). PURA should reduce

many of the Company's proposed Operations and Maintenance ("O&M") expenses, as it has in UI's previous rate cases, to ensure that the Company's rates are no more than just and reasonable.

Taken together with the Attorney General's recommended changes to the Company's proposed cost of capital, these revenue and expense adjustments substantially curtail the need for the Company's requested rate increase. The following discussion addresses a few of the adjustments to larger revenue and expense items that the Authority should impose. In addition to addressing the merits of these particular proposals, these adjustments are intended to provide examples of the many revenue requirement adjustments that are warranted in this case and are not intended to represent an exhaustive list.

In its Application, UI proposed that the Authority approve a revenue requirement that includes certain non-cash items into its cash working capital. The Authority previously removed non-cash items from its structure. *See* Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company to Amend its Rates*, dated Aug. 25, 2023, at 22-25; Final Decision, Docket No. 23-11-02, *Application of Connecticut Natural Gas Corporation and the Southern Connecticut Gas Company to Amend Their Rate Schedules*, dated Nov. 18, 2024, at 24-27. PURA should disallow non-cash items from working capital.

Moreover, UI proposed to not reflect the bad debt reserve as a reduction to the rate base. Defever PFT, 6; Schedule B-1.0 line 19. PURA should reflect the bad debt reserve and reduce the rate base of $14,700,000. UI removed the reduction for its allowance for bad debt from its rate base calculations because it argues that ratepayers have not "funded" this reserve and reflecting this expense for uncollectibles in both the cash working capital and the bad debt reserve in rate base would result in a double counting. Exhibit UI-REBUTTAL-1, 13. However, the Company's argument ignores the fact that uncollectible expense is and has been included in

rates, so ratepayers should receive the benefit of the bad debt reserve as a rate base reduction. Defever Surrebuttal, 1.

The Attorney General recommends that the Authority impute a lower cash working capital and bad debt reserve to UI's capital structure to ensure UI's customers are not paying more than they should. The Authority should make a similar adjustment here.

D. The Authority Should Reject or Limit Operations and Maintenance Expenses

PURA's standard for allowing operating expenses is clear; only those that are reasonable and necessary to provide service to the public may be included. *See* Final Decision, Docket No. 22-07-01, *Application of Aquarion Water Company of Connecticut to Amend Its Rate Schedule*, dated Mar. 15, 2023, at 59. Allowable operating expenses must "reflect prudent and efficient management of the franchise operation." Conn. Gen. Stat. § 16-19e(a)(5). PURA should reduce many of the Company's proposed O&M expenses, as it has in UI's previous rate cases, to ensure that the Company's rates are no more than just and reasonable. The following discussion addresses certain elements of the Company's proposed O&M expenses that the Authority should adjust, but PURA should carefully examine all the Company's proposed expense items.

1. *Excessive Employee Benefits Should Not Be in Rates*

PURA should reject UI's proposal to recover excessive employee benefits expenses that are inappropriate to be included in the rates. The following highlights the Company's Incentive Compensation, Employee Recognition Awards, Severance Plan, Bright Horizons (Caregiver) Program, and Student Loan Repayment Plan as requests that are not prudent and efficient uses of ratepayer funds.

First, UI proposed to recover $1,393,000 in employee incentive compensation awards. Schedule WP C-3.16. The Company argues that its Incentive Compensation allows the

Company to pay market-based compensation to attract and retain employees. Exh. UI-REBUTTAL-1 Rev. Req., Comp. & Env. Costs, dated Mar. 12, 2025, at 23. The Authority should reject the Company's $1,393,000 request for Incentive Compensation to be funded in rates. Defever PFT, 17-18. The Authority previously disallowed the Company's recovery of Incentive Compensation. Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company to Amend its Rates*, dated Aug. 25, 2023, at 131. UI has not met its burden to demonstrate that its proposed Incentive Compensation is a prudent and efficient use of ratepayer funds. *See* Final Decision, Docket No. 22-07-01, *Application of Aquarion Water Company of Connecticut to Amend Its Rate Schedule*, dated Mar. 15, 2023, at 63. From 2019-2023, all UI employees eligible for Incentive Compensation received it. In 2023 specifically, 615 UI employees were eligible for Incentive Compensation, and 615 received Incentive Compensation. *See* OCC-294; *see also* Defever PFT, 16. This data raises significant doubt as to the degree to which the program provides motivation to meet or exceed any goals set. *See* Final Decision, Docket No. 22-07-01, *Application of Aquarion Water Company of Connecticut to Amend Its Rate Schedule*, dated Mar. 15, 2023, at 63. UI's Incentive Compensation plan is designed in a way that primarily rewards UI and its shareholders. Defever PFT, 17. In fact, UI failed to provide any studies or documentation to support its claim that Incentive Compensation benefits ratepayers. *See id.*

Second, the Company's request for $96,000 for Employee Recognition Awards should be disallowed. *See* OCC-279. The Authority has previously disallowed employee award costs. *See* Final Decision, Docket No. 22-08-08 *Application of the United Illuminating Company to Amend its Rates*, dated Aug. 25, 2023, at 134-36. Although the Company claims that this plan affects employee engagement, the Company failed to directly link this plan to specific ratepayer benefits

to claim that this plan is for the necessity, convenience, or welfare of the public. Defever Surrebuttal, 9-10.

Third, the Company's Severance plan, which it testified is to attract top talent by providing "safety nets" to executives, is not appropriate to be funded in rates. *See* UI-REBUTTAL-1 Rev. Req., Comp. & Env. Costs, dated Mar. 12, 2025, at 21-22. Ratepayers should not be responsible for the costs for these workers who are no longer providing utility service. Defever PFT, 15. PURA should reject UI's $45,818 request for the Severance plan to be funded in the rates. *See* OCC-346.

Fourth, the Company's Caregiver Program is not necessary for the provision of utility service. Defever PFT, 20. The Company argues that its Caregiver Program has reduced unplanned absences and increased productivity. UI-REBUTTAL-1 Rev. Req., Comp. & Env. Costs, dated Mar. 12, 2025, at 33-34. However, it is neither an industry standard nor necessary for the provision of utility service. Defever PFT, 20. PURA should reject UI's $65,373 request for Bright Horizons Expense for employee childcare, elder care, special needs care and pet care. *See* OCC-706.

Fifth, the Company's Student Loan Repayment plan is not necessary for the provision of utility service. Defever PFT, 22. The eligibility requirements for the loan repayment are not related to any business needs. *Id.* PURA should reject UI's $16,000 request for Student Loan Repayment. *See* Schedule WP C-3.16g, line 7. UI may of course elect to fund these costs using shareholder funds.

2. *Board of Director Costs Should Be Capped*

PURA should reject UI's proposal to recover $429,000 of its Board of Directors Expense from ratepayers and, as it did in UI's 2022 and 2013 rate cases, assign no more than 25 percent

of these costs to ratepayers. *See* Defever PFT,12-13. UI claims that this expense is prudent and necessary. Defever PFT, 18. The Authority has previously determined that the Board of Directors act primarily to benefit UI's shareholders and only tangentially benefit ratepayers, so those shareholders should bear most of its cost. Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company to Amend its Rates*, Decision, dated Aug. 25, 2023, at 147. The Authority only allowed the recovery of 25 percent of these costs. *Id.* In this rate case, an adjustment so that ratepayers pay only 25 percent of Board of Director costs would result in a reduction to UI's request of $321,750. *See* Defever PFT, 12; *see also* OCC-256.

3. *Corporate Service Charges Should Be Capped*

The Company requests $36,120,000 for Corporate Service Charges. Exhibit UI-RRP-1 at 75. The Authority previously denied inflation escalation of Corporate Service Charges for Rate Year 2023/2024 because of the pattern of overall declining cost in this area. Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company to Amend its Rates*, dated Aug. 25, 2023, at 145. PURA should reject $584,000 for inflation adjustment of UI's $36,120,000 request for Corporate Service Charges. Defever PFT, 11.

Likewise, the Company's $3,567,000 request in Late Payment Revenues does not meet levels that could be considered just and reasonable. See Schedule WP C-3.01. Late Payment Revenue costs fluctuate significantly, so a five-year average is more appropriate in determining this cost. Defever PFT, 8-9. The Authority previously determined that the revenues obtained from late payment fees are additional revenues that extend beyond the Company's allowed revenue requirement and should be removed from base rates. Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company to Amend its Rates*, dated Aug. 25, 2023, at

207. PURA should increase $858,918 of UI's $3,567,000 request in Late Payment Revenues. *See* Defever PFT, 9.

4. *Overtime and Premium Payroll Expenses Should Be Capped*

The Company's $15,924,000 request in Overtime and Premium Payroll Expense exceed levels that could be considered just and reasonable. Defever PFT, 14. Overtime and premium payroll costs fluctuate significantly, so a five-year average is more appropriate in determining this cost. *Id.* PURA should reject $2,760,000 of UI's $15,924,000 request in Overtime and Premium Payroll Expense. *See* Company Schedule C-3.15 at 2.

5. *Professional Legal Service Costs Should Be Capped*

The Company's $2,118,000 request in Outside Services – Professional Legal Services exceed levels that could be considered just and reasonable. *See* Schedule WP C-3.06. The Company's request of $2,118,000 is more than triple the legal costs from 2022 and 2019, and more than double the costs from 2021. Defever PFT, 25. The Company's legal cost surpassed $2,000,000 only in 2023. *Id.* UI has not demonstrated that increased costs will continue for the foreseeable future. *Id.* PURA should reject $915,000 of UI's $2,118,000 request in Outside Services – Professional Legal Services. *Id.*

6. *The Authority Should Make Other Appropriate Adjustments for Recovery Requests That Are Not Prudent and Efficient*

The Attorney General's O&M recommendations are not intended to provide an exhaustive list of items the Company has requested that are inappropriate to be included in rates. In addition to the foregoing, the Attorney General highlights the Company's Cafeteria Subsidy, and Employee Volunteer Programs as requests that are not prudent and efficient uses of ratepayer funds.

First, the Authority should reject the Company's $144,015 request for Cafeteria Subsidy to be funded in the rates. OCC-278. Ratepayers should not be responsible for costs related to feeding the Company's employees and insulating a third-party cafeteria from risk. Defever PFT, 23. PURA disallowed costs associated with a cafeteria stating that ratepayers should not be responsible "to bear the costs of an income-producing service such as an on-site food cafeteria." *See* Docket No. 12-01-19 at 44. PURA should reject UI's $144,015 for Cafeteria Subsidy. Defever PFT, 24.

Second, PURA should reject UI's estimated request of $130,248 for Employee Volunteer Activities. *See* Defever PFT, 32-33. PURA previously disallowed the recovery of charitable contributions. *See* Final Decision, Docket No. 22-07-01, *Application of Aquarion Water Company of Connecticut to Amend its Rate Schedule*, dated Mar. 15, 2023, at 82.

E. Environmental Remediation Issues

1. East Shore Remediation is Not Known and Measurable and Thus Cannot be Recovered

The East Shore facility currently supports an electrical substation, contractor yard, and storage of electrical equipment, such as transformers, poles, and related materials. UI Rebuttal Panel, 52. When the Company sought recovery of the deferred expenses for East Shore in its last rate case, the request was denied. Tr. 5/5/25,1307; Final Decision, 22-08-08, *Application of the United Illuminating Company to Amend its Rates*, dated Aug. 25, 2023, at 190. Further, in anticipation of the next rate case, the PURA specifically noted that, "[w]ith respect to future remediation expenses for the East Shore Project incurred after the start of Rate Year 2023/2024, the Authority will allow deferred accounting treatment, with all deferred expenses subject to a prudency review in the Company's next rate proceeding." Defever PFT, 30; Final Decision, 22-

08-08, *Application of the United Illuminating Company to Amend its Rates*, dated Aug. 25, 2023, at 190. Unfortunately for the Company, the prudency test was not met here.

The OCC's accounting witness provided testimony that UI failed to deliver the requisite level of detail to evaluate the Company's anticipated remediation costs. In other words, the costs the Company provided did not meet the known and measurable standard. Defever Surrebuttal, 16-17. Specifically in the Company's Application, the Company noted the costs and timing were subject to change, or as Mr. Defever aptly put it, unknown. Defever PFT, 29-30. Because the Company does not know what the costs are going to be or when they are going to occur, it is inappropriate to recover these costs from ratepayers at this time. Defever Surrebuttal, 16-17. Therefore, $3.744 million of the Company's anticipated remediation costs should be disallowed. *Id.*

2. The PURA Should Keep the 20 Basis-Point Reduction in Place Due to UI's Failure to Remediate English Station

In the 22-08-08 Final Decision, PURA found that the Company had not managed the remediation of English Station "with economy, efficiency, or care for public safety as required by Conn. Gen. Stat. § 16-19e(a) and, in doing so, [] failed to comply with the conditions of the Merger Decision." Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company to Amend its Rates*, dated Aug. 25, 2023, at 99. In this decision, the Authority found a twenty (20) basis point reduction to the Company's ROE to be "warranted to incentivize management to proceed prudently and efficiently in completing the English Station remediation in compliance with the Merger Decision." *Id.* The Authority further held that "[t]he ROE reduction shall remain in effect until the earlier of the Company's compliance with the conditions in the Merger Decision or the effective date of a rate amendment that the Authority

approves in a subsequent rate case proceeding . . . ." *Id.* The Superior Court affirmed the PURA's decision, holding that "PURA was within its statutory authority and regulatory discretion to consider UI's failure to remediate the English Station site when setting UI's authorized ROE," and further stating that "there is substantial evidence in the record supporting PURA's conclusion that UI has not complied with its commitment to clean up the English Station site." *United Illuminating Co. v. Pub. Utilities Regul. Auth.*, 2025 LX 57670 (Conn. Super., Mar. 13, 2025), pp. 6, 18.

The Attorney General fails to see prudent and efficient remediation of English Station that would warrant a removal of the 20 basis-point reduction. The Attorney General takes specific issue with problems that remain from the 22-08-08 Docket, including site security, minimal funds spent on the project, and the incomplete nature of the work. In addition to these problems, the Attorney General is concerned with how internal labor expenses related to English Station are being recorded and charged. Although the Company has claimed that it has neither requested nor has it received authorization of expenses related to English Station, the classification of internal labor expenses, accounting for these expenses, and whether this time is included in rates, is unclear to the Attorney General. OCC-738.

First, regarding site security, the Company has admitted to 24 instances of trespassing with access to English Station since March 29, 2023 at the close of evidence in the last rate case. DEEP-012. Notably, site security – or the apparent lack thereof – was a key factor in PURA's decision to reduce the Company's ROE. Final Decision, Docket No. 22-08-08, *Application of the United Illuminating Company to Amend its Rates*, dated Aug. 25, 2023, at 99. Site security is critical both to protect the public from on-site toxic contaminants and to prevent further

deterioration of this already blighted property from further impacting surrounding neighborhoods and their residents.

Second, the Company has only spent $1,190,581 million on remediation since the last rate case. DEEP-003; Tr. 5/5/25, 1231. Nearly 10 percent of that figure was not even spent on the remediation itself, but rather on the site security that still had 24 instances of trespassing with access to English Station. Tr. 5/5/25, 1239-40. The Company was put on notice in the last rate case when it spent less than $17 million and the site still remained contaminated. Docket No. 22-08-08, AG Brief, p. 17. If the Company keeps spending on remediation at its current rate, it will spend less than it did over the previous seven years. It is clear the Company is not taking its remediation responsibilities seriously.

Third, remediation is not complete, with the Company having taken only partial steps. The Company has investigated "portions of" the building and issued "partial reports" of conditions. Tr. 5/5/25, 1249, 1256. The Company has not submitted the evaluation of the alternatives for the plant building, and thus the DEEP has neither approved nor rejected any remedial alternative. Tr. 5/5/25, 1270-71. As the Attorney General argued in the Company's last rate case, UI's continued failure to make reasonable progress is not an accident—it represents a deliberate corporate policy of indifference to the residents of New Haven, the State, and to this Authority. Docket No. 22-08-08, AG Brief, p. 17.

Lastly, during the hearings, it was unclear to the Attorney General if internal labor expenses related to English Station are being collected from rate base. Tr. 5/5/25, 1280-84. Mr. Hurwitz confirmed that it was consistent with his understanding that well before 2019 up until 2020, the Company was keeping track of labor expenses for English Station and then essentially taking those expenses and counting them towards the PCO cap. Tr. 5/5/25, 1283-84. He also

confirmed that the Company stopped keeping track of internal labor expenses when it determined the PCO cap did not include these expenses. *Id.* This is consistent with the response to DEEP-006 in Attachment 1 in which costs related to payroll and overhead for the years 2021, 2022, and 2023 are not accounted for in the Payroll & Overhead section in the response. DEEP-006, Attachment 1. If the Company is no longer keeping track of this English Station time, where is this time being charged? The Attorney General urges careful review of this matter to ensure ratepayers are not responsible for a hidden English Station charge.

English Station remains a contaminated blight on the residents of New Haven who were promised better. The Authority should continue to impose the ROE penalty until the site is fully remediated, and DEEP has so certified.

II. CONCLUSION

For the foregoing reasons, the Attorney General respectfully requests that the Authority reject UI's rate increase Application. UI has failed to meet its evidentiary burden for a distribution rate increase, and the rates UI proposes are grossly unaffordable to its customers. PURA should also disallow costs for the East Shore Remediation and continue to impose at least a 20 basis point, or $2 million per year, ROE penalty on UI for its English Station imprudence until it meets its commitments to the State.

There are many other adjustments the Attorney General agrees with that are not enumerated here. For example, the Attorney General supports the continued imposition of a 20 basis point ROE penalty against UI to encourage an improvement in their customer service. The Attorney General appreciates the Authority's thorough examination of UI's Rate Application and careful attention to the important consumer protection matters in this brief.

Respectfully submitted,

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Service is hereby provided
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