STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by | CORRECTED FINAL DECISION

The Connecticut Light and Power Company
d/b/a Eversource Energy,

Complainant

against | Docket # FIC 2024-0842

Marissa Paslick Gillett, Chairman, State of Connecticut, Public Utilities Regulatory Authority; and State of Connecticut, Public Utilities Regulatory Authority,

Respondents | December 17, 2025

The above-captioned matter was heard as a contested case on August 5, 2025, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.[1]

Procedural History

During the August 5, 2025, hearing in this matter, the parties requested to submit after-filed exhibits. The parties filed their proposed after-filed exhibits on August 12 and 13, 2025. By notice and order dated August 22, 2025, the hearing officer notified the parties that all after-filed exhibits had been admitted into evidence as follows:

Complainant's Exhibit H (after-filed): Freedom of Information ("FOI") Act production in Docket #FIC 2024-0842;

Complainant's Exhibit I (after-filed): Text Message Exchange;

Complainant's Exhibit J (after-filed): FOI Act production to Representative Candelora;

Complainant's Exhibit K (after-filed): Affidavit of Scott Muska in Docket Nos. HHB-CV25-6092047-S and HHB-CV25-6092048-S[2];

[1] The complaint in this matter was filed by The Connecticut Light and Power Company d/b/a Eversource Energy. However, this matter was initially docketed as filed by "Connecticut Light and Power." Accordingly, the hearing officer has corrected the designation of complainant, and the case caption has been amended to reflect such change.

[2] Complainant's Exhibit K (after-filed) was admitted over the objection of the respondents.

Respondents' Exhibit 10 (after-filed): Emails, dated December 30, 2024, and December 31, 2024; and

Respondents' Exhibit 11 (after-filed): Department of Energy and Environmental Protection procedures re: FOI Act.

The Commission notes that the August 22, 2025, notice and order of the hearing officer also advised the parties that the evidentiary portion of this matter was closed, and further, ordered the parties to file a post-hearing brief no later than September 26, 2025.

However, the deadline for filing a post-hearing brief was twice extended at the respondents' request. In their first request, the respondents represented that: "on September 17, 2025, the Hartford Courant published an article alleging the [r]espondent had released emails that are responsive to [c]omplainant's request for records. [Respondent] maintains that the emails are not responsive. On September 19, 2025, named [r]espondent Marrissa Paslick Gillett, Chairman of the Public Utilities Regulatory Authority ("respondent Chair"), resigned her position as Chairman and commissioner, effective October 10, 2025. Counsel for [r]espondents are currently in the process of evaluating the effect these recent events may have on the above-captioned matter, as well as related litigation. The result of this process may require revisions to the respondents' post-hearing brief, and it may not be possible to make said revisions before September 26, 2025." The respondents' request was granted and the deadline to file briefs was extended to October 3, 2025.

The briefing schedule was extended a second time after the respondents' counsel represented that he had fallen ill and could not meet the October 3, 2025, deadline. The hearing officer ordered the parties to file their post-hearing briefs by October 10, 2025.

However, on October 2, 2025, the complainant filed a Motion to Reopen Evidentiary Hearing. In its motion, the complainant contended that "dramatic events of significance related to the allegations of [the complaint] have occurred in just the past few weeks since the evidentiary hearing was conducted that need to be further assessed" and, therefore, a reopened hearing in this matter was warranted. Specifically, the complainant cited the resignation of the respondent Chair, and discovery of the emails, published by the Hartford Courant, that the complainant contended were responsive to the request described in paragraph 2, below. In addition to a reopened hearing, the complainant requested that the hearing officer afford it sufficient time to compel the appearance of seven additional witnesses by subpoena.

The respondents requested two weeks to file a response to the Motion to Reopen Evidentiary Hearing. The hearing officer ordered the respondents to file a response by October 17, 2025. On October 17, 2025, the respondents notified the hearing officer that they did not object to a reopened hearing.

By ruling dated October 31, 2025, the hearing officer denied the Motion to Reopen Evidentiary Hearing, informing the parties that the record already provided a sufficient basis upon which to issue a proposed final decision in this matter.

Finally, on October 31, 2025, the hearing officer ordered the parties to file a post-hearing brief no later than November 25, 2025. The parties filed their respective briefs in accordance with the order of the hearing officer.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.

2. It is found that, by email dated November 14, 2024, and GovQA[3] request portal submission, the complainant, by its counsel, made a 20-part request to the respondents for the following:

> All documents responsive to any one or more of the following topics:
>
> (1) Internal directives and/or written statements or practices, procedures, policies, or interpretations drafted or circulated by the PURA [Public Utilities Regulatory Authority] Chairman, or on her behalf, and adopted or used by the agency and/or the Presiding Officer in the discharge of PURA's functions, *including but not limited to* directives, statements, or instructions pertaining to the following activities:
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> a. Assignment of dockets to one or more commissioners;
>
> b. Designation of a docket to be "contested," "uncontested," or otherwise;
>
> c. Assignment or designation of decisional staff to a docket;
>
> d. Organization, function, and work performed by each division, bureau, or other unit within PURA;
>
> e. Interactions between the Chairman, Presiding Officer, Vice Chairman, and/or Commissioner, and PURA decisional attorneys or staff;
>
> f. Interactions between the Chairman, Presiding Officer, Vice Chairman, and/or Commissioner, and EOE attorneys or staff;
>
> g. Distribution of docket filings and correspondence to the Chairman, Presiding Officer, Vice Chairman, and/or Commissioners.

[3] GovQA is a public records management system utilized by the respondents to respond to requests for records.

h. Investigation, conduct, management, review, or other handling of public utility dockets;

i. Determining outcomes of the proceedings in advance of evidentiary hearings;

j. Preparation of preliminary or intermediate rulings or orders, and rulings granting or denying a petition for reconsideration;

k. Preparation of a proposed final decision;

l. Preparation of a final decision;

m. Processes for responding to FOIA requests;

n. Processes for dissemination of information to the media.

o. Emails, correspondence, or other documentation by and among Chairman Gillett, Scott Muska, General Counsel, and/or any other person employed by PURA now, or in the past, relating to directives provided by Mr. Muska to Connecticut regulatory counsel to file all requests for approval from PURA as a motion.

p. Emails, correspondence or other documentation from Scott Muska, General Counsel, to Connecticut Regulatory Counsel directing that compliance filings or any other filing requiring the approval of PURA must be submitted as part of a motion.

q. Emails, correspondence, or other documentation issued by Chairman Gillett or any other person employed by PURA now, or in the past, indicating that Vice Chairman Betkoski and/or Commissioner Caron must obtain the permission of Chairman Gillett, directly or indirectly, in order to confer, make inquiries to or obtain assistance from, PURA attorneys or staff members on any matter coming before PURA.

r. Emails, correspondence, or other documentation issued by Chairman Gillett or any other person employed by PURA now, or in the past, stating that Chairman Gillett will act as Presiding Officer on all matters coming before PURA.

s. Employee rosters or other documentation showing staffing levels and/or documenting employee attrition since 2020.

…

> Please be reminded that electronic, text, and preserved voice mail messages relating to public business are public records subject to the FOI Act *even if created or maintained on personal telephones or computers*…. (Emphasis added.)

3. It is found that, on November 14, 2024, the respondents acknowledged the complainant's request.

4. It is also found that, by email dated November 27, 2024, the respondents notified the complainant's counsel that they were working on three separate requests for records made by the complainant, including the request described in paragraph 2, above. It is also found that, in the November 27, 2024, email, the respondents notified the complainant that they would likely require "several weeks to review the request, identify relevant documents, review for privilege or other exemptions, and post to the GovQA interface."[4]

5. It is found that in the November 27, 2024, email, the respondents provided the following explanation as the reason for the delay in compliance with the complainant's request:

> Please note that PURA is currently managing a substantial regulatory work load, having recently completed two large rate proceedings for Connecticut Natural Gas and Southern Connecticut Gas… and having to process two newly filed rate applications…one of which was filed by your client.[5] Due to statutory deadlines for these dockets as well as numerous other pending matters, PURA is allocating its limited resources across a broad spectrum of obligations, including FOIA responses.
>
> In addition, PURA has received numerous FOIA requests in addition to yours. These requests will be processed as promptly as possible…

6. By complaint filed December 20, 2024, the complainant appealed to the Commission, alleging that the respondents violated the FOI Act by denying its request for the records described in paragraph 2, above. The complainant requested that the Commission consider the imposition of a civil penalty under §§1-206(b)(2) and 1-206(b)(5), G.S.

7. Section 1-200(5), G.S., provides:

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[4] At the hearing, the respondents' legal director and general counsel, Scott Muska ("Attorney Muska"), testified that "several weeks" meant "ten to twelve weeks," notwithstanding the fact that he was not the author of the November 27, 2024, email.

[5] It is unclear to the hearing officer whether the "client" referenced is the complainant in this matter.

> "[p]ublic records or files" means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

8. Section 1-210(a), G.S., provides in relevant part that:

> [e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to . . . (3) receive a copy of such records in accordance with section 1-212.

9. Section 1-212(a), G.S., provides in relevant part that "[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

10. It is concluded that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

11. It is found that, by email dated January 6, 2025, Attorney Muska provided counsel to the complainant with an initial response to the request and invited the complainant to speak with him in order to narrow the request in duration and/or scope. With respect to the request itself, the respondents issued the following relevant responses to each subpart of the request:

> Item 1 ("Internal directives and/or written statements or practices, procedures, policies, or interpretations drafted or circulated by the PURA Chairman, or on her behalf, and adopted or used by the agency and/or the Presiding Officer in the discharge of PURA's functions, including but not limited to directives, statements, or instructions pertaining to the following activities"): **Request is vague or overly broad. Requester to be contacted.**
>
> Item 1(a) ("Assignment of dockets to one or more commissioners"): **No responsive documents.**
>
> Item 1(b) ("Designation of a docket to be "contested," "uncontested," or otherwise): **No responsive documents.**
>
> Item 1(c) (Assignment or designation of decisional staff to a docket): **No responsive documents.**

Item 1(d) (Organization, function, and work performed by each division, bureau, or other unit within PURA): **Responsive records provided.**

Item 1(e) (Interactions between the Chairman, Presiding Officer, Vice Chairman, and/or Commissioner, and PURA decisional attorneys or staff): **No responsive documents.**

Item 1(f) (Interactions between the Chairman, Presiding Officer, Vice Chairman, and/or Commissioner, and EOE attorneys or staff): **No responsive documents.**

Item 1(g) (Distribution of docket filings and correspondence to the Chairman, Presiding Officer, Vice Chairman, and/or Commissioners): **No responsive documents.**

Item 1(h) (Investigation, conduct, management, review, or other handling of public utility dockets): **Request is vague or overly broad. Requester to be contacted.**

Item 1(i) (Determining outcomes of the proceedings in advance of evidentiary hearings): **No responsive documents.**

Item 1(j) (Preparation of preliminary or intermediate rulings or orders, and rulings granting or denying a petition for reconsideration): **No responsive documents.**

Item 1(k) (Preparation of a proposed final decision): **Responsive records provided.**

Item 1(l) (Preparation of a final decision): **Responsive records provided.**

Item 1(m) (Processes for responding to FOIA requests): **No responsive documents.**

Item 1(n) (Processes for dissemination of information to the media): **No responsive documents.**

Item 1(o) (Emails, correspondence, or other documentation by and among Chairman Gillett, Scott Muska, General Counsel, and/or any other person employed by PURA now, or in the past, relating to directives provided by Mr. Muska to Connecticut regulatory counsel to file all requests for approval from PURA as a motion): **No responsive documents.**

> Item 1(p) (Emails, correspondence or other documentation from Scott Muska, General Counsel, to Connecticut Regulatory Counsel directing that compliance filings or any other filing requiring the approval of PURA must be submitted as part of a motion): **No responsive documents.**
>
> Item 1(q) (Emails, correspondence, or other documentation issued by Chairman Gillett or any other person employed by PURA now, or in the past, indicating that Vice Chairman Betkoski and/or Commissioner Caron must obtain the permission of Chairman Gillett, directly or indirectly, in order to confer, make inquiries to or obtain assistance from, PURA attorneys or staff members on any matter coming before PURA): **No responsive documents.**
>
> Item 1(r) (Emails, correspondence, or other documentation issued by Chairman Gillett or any other person employed by PURA now, or in the past, stating that Chairman Gillett will act as Presiding Officer on all matters coming before PURA): **No responsive documents.**
>
> Item 1(s) (Employee rosters or other documentation showing staffing levels and/or documenting employee attrition since 2020): **Request is vague or overly broad. Requester to be contacted.**

12. It is found that, by email dated January 7, 2025, Attorney Muska contacted the complainant's counsel again and requested to discuss the request described in paragraph 2, above. It is further found that Attorney Muska claimed that the respondents had "already responded" to 17 parts of the request, and that he wished to discuss the remaining three that he believed were "vague or overly broad."

13. It is found that, by email dated January 10, 2025, the complainant's counsel replied and stated that he disagreed with Attorney Muska's "characterizations and conclusions," but welcomed the opportunity to discuss the request. It is found that the attorneys discussed the request on January 15, 2025, by phone.

14. It is found that, by email dated January 22, 2025, Attorney Muska memorialized his understanding of the request described in paragraph 2, above:

> Based on our discussion, I understand that you are seeking any and all of PURA's written directives or policies, and that this should be interpreted "as broad as possible." You indicated that your primary focus is on the policy and directives documents, rather than the "interpretations" thereof, but that you might seek to follow up once you have reviewed the policies. As far as the last item in the request (Item 1(s)), you are looking for records with PURA

> employee names or headcounts from 2020 to 2024, with records showing annual numbers being sufficient.[6]
>
> …
>
> As for the request for employee rosters and staffing levels, I have contacted our DEEP HR point person to determine if any records responsive to the request exist.[7]

15. It is found that the respondents provided approximately 750 pages of responsive records to the complainant on a rolling basis on January 6, 2025, January 23, 2025, January 27, 2025, January 30, 2025, February 5, 2025, February 11, 2025[8], and February 18, 2025[9]. It is further found that, following the February 18, 2025, production of responsive records, the respondents notified the complainant that they considered the matter "closed."

16. However, it is found that, on July 29, 2025, just one week before the hearing in this matter, the respondents provided the complainant with a copy of one additional record, an email, dated July 30, 2024, from the respondent Chair to two of the respondents' staff, regarding "commissioner panels." It is found that, in their email to the complainant, the respondents described such email as responsive to the request described in paragraph 2 (Item 1(a)), above.

17. At the hearing in this matter, and in a post-hearing brief, the complainant argued that the respondents failed to promptly provide copies of all records responsive to the request described in paragraph 2, above. At the hearing, the respondents disputed this contention, and additionally, argued in their post-hearing brief that compliance with the complainant's request required research, which is not required by the FOI Act.

I. Whether the respondents conducted a reasonable and diligent search for records.

18. Prior to the hearing in this matter, the complainant served a subpoena on Sheena McElrath, who, at the time of the hearing, was an administrative assistant to two of the respondents' commissioners: Vice Chair John Betkoski and Commissioner Michael Caron. Ms.

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[6] The Commission notes that the January 22, 2025, email also memorializes that the complainant's counsel made an additional request for records during the January 15, 2025, call, and that Attorney Muska understood that such request should be prioritized over the request at issue herein. Complainant's counsel subsequently agreed that Attorney Muska's prioritization of the subsequent request was correct.

[7] The respondent PURA is contained within the Department of Energy and Environmental Protection, also referred to as "DEEP."

[8] In the February 11, 2025, email, Attorney Muska notified the complainant's counsel that the respondents did not believe that the complainant sought copies of directives related to topics such as employee benefits, seasonal employees, payroll, and policies promulgated by other state agencies, and therefore, such directives were not provided. The complainant did not object.

[9] The complainant's counsel also made two additional records requests on February 18, 2025. It is unclear, however, whether such requests were made by the attorney on his own behalf or on behalf of a client (including the complainant herein).

McElrath appeared and testified at the hearing in this matter. In addition, Attorney Muska appeared and testified at the hearing in this matter. Both witnesses testified at length about the searches that were conducted in response to the request described in paragraph 2, above.

19. It is found that Attorney Muska both performed and managed the search for records responsive to the request at issue herein. It is found that Attorney Muska conducted a search of the respondents' SharePoint[10] for their directives and policies.[11] It is also found that Attorney Muska searched DEEP's databases for its policies. It is found that Attorney Muska also conducted searches for responsive emails and directed the commissioners and their staff to conduct searches of email. It is found that, in so doing, he did not provide them with copies of the request; instead, he provided portions of the request that related to the records that he believed they needed to conduct a search for responsive records. It is found that Attorney Muska also believed that he knew what the complainant was requesting and therefore did not seek the assistance of any IT staff to conduct a search for responsive emails. It is also found that Attorney Muska tasked another attorney to conduct a review of all responsive records for claims of exemption.

A. <u>Searches Conducted for Email Communications.</u>

20. It is found that Ms. McElrath has been employed with the respondents since 2006 and has worked in different roles for the agency with varying responsibilities. It is found that one of her duties has included reviewing and responding to emails on behalf of Vice Chair Betkoski and Commissioner Caron and that she had access to their emails for such purposes. It is also found that, for approximately the first year of the respondent Chair's tenure with the respondents, Ms. McElrath also had access to the Chair's email, but that practice subsequently ceased for a reason unknown to Ms. McElrath.

21. It is found that, among other job responsibilities, Ms. McElrath participated in the assignment of dockets and would communicate via email with the respondent Chair regarding the assignment of dockets. Notwithstanding, it is found that the respondents did not ask Ms. McElrath to conduct a search of her email for records responsive to the request described in paragraph 2 (Item 1(a)), above.[12]

22. It is found that Ms. McElrath was tasked with conducting a search of Vice Chair Betkoski's and Commissioner Caron's email accounts for records responsive to the request described in paragraph 2, above. Ms. McElrath testified, and it is found, that she located responsive emails and provided them to Attorney Muska for subsequent action. It is found, however, that Ms. McElrath was unable to locate one email that she was certain existed and was responsive to the request described in paragraph 2 (Item 1(e), and Item 1(q)), above. It is found

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[10] SharePoint is a Microsoft service that, among other capabilities, allows for the sharing of documents.

[11] The witnesses testified that the "directives" were policies created and implemented by the respondent Chair during her tenure at PURA. The directives admitted into evidence follow a similar structure, containing "subject," "overview," and "procedures" sections.

[12] The Commission further notes that Ms. McElrath is among the recipients of the email described in paragraph 16, above, yet she was not tasked with conducting a search of her own emails.

that such email was sent to Commissioner Caron from the respondents' Chief of Staff and set forth a new policy or practice wherein the respondents' Chief of Staff would schedule all requested meetings with staff. It is found that Ms. McElrath received and reviewed such email with the commissioner sometime after its receipt.

23. It is found, however, that at the time of the hearing, the email described in paragraph 22, above, had not been provided to the complainant in response to its request for the records described in paragraph 2, above.

24. During the hearing in this matter, the respondents attempted to discredit Ms. McElrath's testimony regarding the email described in paragraph 22, above. The respondents relied on a series of emails, dated December 30 and 31, 2024, wherein Attorney Muska asked all of the commissioners, including the respondent Chair, and Ms. McElrath, to confirm that they "do not have nor are [they] aware" of any records responsive to the portion of the request that would have yielded the email in question. Commissioner Betkoski and Ms. McElrath replied, within minutes of receipt, that they did not. Likewise, Commissioner Caron replied that "we re-checked" and did not locate any records. However, none of the responses provide any explanation of the nature of any additional search conducted or how they arrived at their conclusion that no additional responsive records were located. Attorney Muska also did not provide any testimony regarding the nature of such additional searches. In addition, no evidence was introduced that the respondent Chair ever responded to Attorney Muska's email or conducted a search. Furthermore, after Attorney Muska became aware that the email described in paragraph 22, above, was sent by the Chief of Staff, he did not conduct or request a search of the Chief of Staff's email.[13]

25. Therefore, the December 30 and 31, 2024 emails do not provide the Commission with any basis not to credit Ms. McElrath's testimony regarding the missing email. Rather, such emails support the complainant's contention that the respondents have failed to conduct a reasonable and diligent search for all records responsive to the request described in paragraph 2, above. It is found that Attorney Muska's insistence that the email did not exist, or that an additional search for responsive records was not warranted, was not reasonable.

26. Finally, as already found in paragraph 16, above, the respondents belatedly discovered an email, dated July 30, 2024, that was responsive to the request described in paragraph 2, above. It is found that, notwithstanding the discovery of a responsive record after first concluding that no responsive records existed (see paragraph 11, above) and later concluding that all responsive records had been provided (see paragraph 15, above), Attorney Muska determined that undertaking additional searches to locate all responsive records was not necessary. It is found that such determination was not reasonable.

[13] The Commission takes administrative notice that it has been widely reported that, after the hearing in this matter, Commissioner Caron and now former Vice Chair Betkoski confirmed the existence of such email, and further, that the respondents produced such email (among other related emails) to the Hartford Courant in response to a records request. The complainant filed such communication with the Commission as an attachment to its Motion to Reopen Evidentiary Hearing.

B. Search for Records Maintained on Personal Devices.

27. It is found that the request described in paragraph 2, above, included a request for records maintained on personal devices.

28. It is found, based on the testimony of Ms. McElrath, that the respondents' commissioners have been known to use their personal devices to conduct agency business. It is also found, based on the testimony of Attorney Muska, that the respondent Chair, and the respondents' Chief of Staff, have used their personal devices to conduct agency business, including via text message.

29. The Commission takes administrative notice of the Memorandum of Decision issued in *The Connecticut Natural Gas Corporation v. Public Utilities Regulatory Authority*, Docket No. HHB-CV-25-6092047-S (Conn. Super. Ct. Nov. 19, 2025) and *The Southern Connecticut Gas Company v. Public Utilities Regulatory Authority*, Docket No. HHB-CV-25-6092047-S (Conn. Super. Ct. Nov. 19, 2025).[14] In these cases, the court explained that on or about December 2024, the respondent Chair exchanged text messages with two members of the General Assembly regarding an Op-Ed that was subsequently published in the *CT Mirror* (an online publication). However, the "auto-delete" functions on these personal devices had been activated, thereby deleting such text messages, and therefore, any other public records located on such devices. By April 2025, the respondent Chair had turned off the auto-delete function.

30. The respondents were reprimanded by the court for attempting to conceal the use of the auto-delete function, described in paragraph 29, above, from the plaintiffs, and the court. The court referred Attorney Muska, as well as an assistant attorney general who represented PURA, to the Statewide Grievance Committee for their conduct in relation to these matters.

31. Notwithstanding, it is found that Attorney Muska did not instruct any of the respondents' commissioners or staff to search their personal devices for records responsive to the request described in paragraph 2, above.[15] It is found that such decision, considering the aforementioned events, was not reasonable.

C. Search Conducted for Directives, Statements, Practices, Procedures, Policies, or Interpretations Thereof.

32. With respect to the request for "[i]nternal directives and/or written statements or practices, procedures, policies, or interpretations drafted or circulated by the PURA Chairman, or on her behalf, and adopted or used by the agency and/or the Presiding Officer in the discharge of PURA's functions," it is found that the respondents maintain such records, including former

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[14] In these cases, the court granted PURA's motion for remand, after admitting that the respondent Chair violated the law regarding how she conducted the administrative proceeding underlying the matters before the court, and that her actions prejudiced the substantial rights of the plaintiffs.

[15] As already found in paragraph 19, above, Attorney Muska did not provide the full request to any of the commissioners or staff. It is therefore unclear whether anyone knew that the complainant's request included records maintained on personal devices.

directives (whether final or in draft form).

33. At the hearing in this matter, Attorney Muska testified, and it is found, that *current* directives were provided to the complainant on a rolling basis over several weeks, after another attorney reviewed such records for claims of exemption.

34. It is found, based on Attorney Muska's testimony at the hearing, that he understood the complainant's request as broad and unlimited in time and scope, yet he decided to limit his search to *current* directives, without consideration of providing prior versions. It is found that Attorney Muska's decision to limit the scope of his search was not reasonable.

D. Attorney Muska's admission that all responsive records may not have been provided.

35. It is found that the respondents have utilized DEEP's IT staff to assist with responses to records requests in the past. During the hearing in this matter, the hearing officer asked Attorney Muska whether he considered, given the nature of the request, seeking the assistance of DEEP's IT staff with responding to the request described in paragraph 2, above. It is found that, in response, Attorney Muska replied no, and that given what he perceived to be an "extraordinarily broad" request, and that he thought he knew what the complainant was looking for, he did not ask IT to retrieve years' worth of correspondence that would require review. It is also found that Attorney Muska admitted that there could be responsive emails maintained by the respondents that were not located and have not been provided to the complainant, and further, that he could not testify with certainty that every responsive record had been located and provided to the complainant.

36. It is found that, while compliance with the complainant's request, described in paragraph 2, above, may have been time consuming, there is nothing in the FOI Act that allows a public agency to decline to conduct a reasonable and diligent search merely because the agency perceives such request as burdensome.

37. Based on all of the foregoing, it is found that the respondents did not conduct a reasonable and diligent search for all records responsive to the request described in paragraph 2, above.

38. It is therefore concluded that the respondents failed to prove that they provided the complainant with copies of all records responsive to such request.

39. Because it has been found that the respondents failed to prove that all responsive records were provided, it necessarily follows that they failed to promptly comply with such request.

40. Accordingly, it is concluded that the respondents violated the disclosure and promptness provisions of §§1-210(a) and 1-212(a), G.S.[16]

[16] In their post-hearing brief, the respondents belatedly contended that they were not required to comply with the request described in paragraph 2, above, because doing so constituted research that is not required by the FOI Act. Their argument, however, is unavailing.

II. Consideration of the Imposition of a Civil Penalty

41. In its complaint and post-hearing brief, the complainant requested that the Commission consider the imposition of a civil penalty under §§1-206(b)(2) and 1-206(b)(5), G.S. In the post-hearing brief, the complainant specifically requested that the Commission impose such penalty against Attorney Muska or other appropriate official of the respondents.

42. Section 1-206(b)(2), G.S., provides the following, in relevant part:

> [U]pon a finding that a denial of any right created by the Freedom of Information Act was without reasonable grounds and after the custodian or other official directly responsible for the denial has been given an opportunity to be heard at the hearing conducted in accordance with sections 4-176e to 4-184, inclusive, the commission may, in its discretion, impose against the custodian or other official a civil penalty of not less than twenty dollars nor more than five thousand dollars.

43. The standard for when a violation is "without reasonable grounds" is analogous to the legal standard "without any substantial justification." *Connecticut Dept. of Pub. Safety v. Freedom of Info. Comm'n*, Docket Nos. CV 960565902, CV 960565901 (Conn. Super. Ct. Aug. 25, 1997), affirmed, 247 Conn. 341 (1998). Similarly, the phrase "without reasonable justification" has been construed to mean "entirely unreasonable or without any basis in law or fact." *Id.,* quoting *Bursinkas v. Dept. of Social Services*, 240 Conn. 141, 155 (1997).

44. It is found that, at the time of the request and the hearing in this matter, Marissa Paslick Gillett, as the Chairman of PURA, was a public agency in her own right, and was the public official directly responsible for compliance with the request that is described in paragraph 2, above, notwithstanding the fact that her counsel, Attorney Muska, managed the respondents' response to the request.[17]

In *Wildin v. FOI Commission*, 56 Conn. App. 683, 686-87 (2000), the Appellate Court explained that a request requires research if it does not identify the records sought with sufficient particularity, such that the public agency must conduct an analysis or exercise discretion to determine which records fall within the scope of the request.

During the hearing, Attorney Muska testified with great certainty that he understood the nature of the complainant's request and the records sought, where such records were located, and provided copies of the records that were located to the complainant.

As already explained in paragraph 36, above, compliance with the complainant's request may have been time consuming. However, doing so did not require the respondents to conduct analysis or exercise discretion. As the Court explained in *Wildin*, "[a] record request that is simply burdensome does not make that request one requiring research." *Id.* at 687.

[17] The Commission takes administrative notice that, on September 19, 2025, Marissa Paslick Gillett announced her resignation as Chair, effective October 10, 2025.

45. It is found that, although the respondent Chair received notice of the hearing in this matter, she chose not to appear and offer evidence regarding the respondents' efforts to comply with the request described in paragraph 2, above, or why a civil penalty is not warranted. Instead, the respondents presented Attorney Muska who, based on all of the evidence presented, was responsible for managing the response to such request.

46. As already found in paragraphs 20 through 35, above, several of Attorney Muska's decisions in responding to the request described in paragraph 2, above, were not reasonable. It is found that such decisions were made without any basis in law or fact.

47. It is therefore concluded that the complainant's right to prompt access to public records was denied by the respondents "without reasonable grounds," within the meaning of §1-206(b)(2), G.S., and that the imposition of a civil penalty is warranted.

48. However, consideration of the complainant's request for the imposition of a civil penalty under §1-206(b)(5), G.S., is not warranted.[18]

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Within one week of the date of the Notice of Final Decision in this matter, the respondents shall commence a diligent search for all records responsive to the request described in paragraph 2, above. In complying with this order, the respondents shall designate a person, other than Attorney Muska, to supervise and manage the search and disclosure of responsive records that have not already been provided to the complainant. In addition, the respondents shall request that DEEP's IT staff assist with conducting a search of the respondents' emails and electronic filing systems.

2. Within thirty (30) days of the date of the Notice of Final Decision in this matter, the respondents shall commence providing the complainant with copies, free of charge, of all records that have not already been provided. All records shall be provided to the complainant within sixty (60) days of the date of the Notice of Final Decision in this matter.

3. Within one week of the date of the Notice of Final Decision in this matter, the respondents shall contact the Commission's public education officer to schedule training regarding the requirements of the FOI Act.

4. Marissa Paslick Gillett, who at all times relevant to the complaint in this matter was the official directly responsible for the denial herein, shall remit to the Commission, within forty-

[18] In 2023, the Governor signed Senate Bill 1221, which empowered the Commission to impose a civil penalty against a custodian or other official of a public agency for "engaging in a practice or pattern of conduct that constitutes an obstruction of any right conferred by the [FOI] Act or reckless, wilful or wanton misconduct with regard to the delay or denial of responses to requests for public records…and [to] order such other relief that the commission, in its discretion, determines is appropriate to rectify such obstruction or misconduct and to deter such public agency from violating the [FOI] Act." However, in this case, the administrative record lacks sufficient evidence to support a finding that the respondents engaged in a "practice or pattern of conduct that constitutes an obstruction of any right conferred by the [FOI Act]," or, in the alternative, that the respondents engaged in "reckless, wilful or wanton misconduct with regard to" the denial in this matter.

five (45) days of the date of the Notice of Final Decision in this matter, a civil penalty in the amount of two thousand five hundred dollars ($2,500.00).

5. Henceforth, the respondents shall strictly comply with the disclosure and promptness provisions of §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of December 17, 2025.

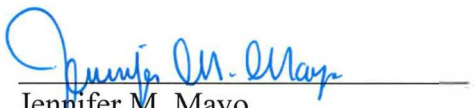
Jennifer M. Mayo
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

CONNECTICUT LIGHT AND POWER COMPANY D/B/A EVERSOURCE ENERGY, c/o Attorney Thomas J. Murphy, Cowdery, Murphy & Healy LLC, 280 Trumbull Street, 22nd Floor, Hartford, Connecticut 06103

MARISSA PASLICK GILLETT, CHAIRMAN, STATE OF CONNECTICUT, PUBLIC UTILITIES REGULATORY AUTHORITY; **AND STATE OF CONNECTICUT, PUBLIC UTILITIES REGULATORY AUTHORITY**, c/o Assistant Attorney General James B. Zimmer, Office of the Attorney General, 10 Franklin Square, New Britian, CT 06065



Jennifer M. Mayo
Acting Clerk of the Commission

FIC 2024-0842/FD/JMM/December 17, 2025