

SECTION 10: STATUS OF DECISIONS IN APPEAL

The Decision Appeal Process

All Authority decisions are based upon robust evidence gathered through the docket process, which includes discovery, hearings, written and verbal comments and testimony, interrogatories, and more. Authority staff with technical expertise in finance, accounting, engineering, economics, policy, and law are assigned to each docket to ensure that the record of that docket is substantial and sufficient to issue sound decisions. However, on occasion, a party to a PURA docket will disagree with a finding or statutory interpretation of the Authority; in these cases, the party may choose to appeal the decision to the Superior Court, pursuant to the limitations of the Uniform Administrative Procedure Act. Importantly, parties filing an appeal of a decision issued by PURA are only allowed to appeal on issues that were raised during the proceeding or were addressed in the final decision.[1] This must be completed within forty-five days after issuance of the final decision.

Once an appeal is filed, it is the Superior Court's responsibility to review the record used to issue the decision and determine whether the party appealing the decision's rights have been violated because the decision:

1. Is in violation of constitutional or statutory provisions;
2. Is in excess of the statutory authority of the agency;
3. Was made through unlawful procedure;
4. Was affected by other error of law;
5. Is clearly incorrect in the view of the reliable, probative, and substantial evidence on the whole record; or
6. Is arbitrary or characterized by the unwarranted exercise of discretion.[2]

Should the Superior Court find any of the above to be true, it may issue a judgement that modifies the original decision or orders a particular agency action.[3] If the Superior Court rules in favor of the Authority, the original appealing party may attempt to appeal that decision through the Appellate Court and/or Supreme Court if appropriate.

PURA Decisions in Appeal

The below table provides a status update of PURA's decisions that were in some stage of an appellate process in 2023.

Table 17: Status of PURA Decisions in Appeal during 2023

Appellant	Docket No.	Summary	Status
Direct Energy Services, LLC et al.	16-12-29 SC 20643	Certain electric suppliers appealed a 2020 PURA decision that imposes restrictions on the Voluntary Renewable Offers (VRO) market to minimize customer confusion and to align the VRO program with the state's energy and environmental goals.	The Superior Court affirmed PURA on all counts. The CT Supreme Court sustained the lower court's determination in favor of PURA.
Northland Investment Corporation	19-12-25 SC 20769	Northland challenged PURA's determination that ratio utility billing methodology (RUB) is not permitted under state law.	The Superior Court affirmed PURA's determination. The CT Supreme Court heard arguments on the matter. A decision is pending.
Retail Energy Advancement League (REAL, assoc. of retail electric suppliers)	18-06-02RE01 CV23-6077829	REAL appealed motion ruling declining to strike evidence.	REAL withdrew the appeal.
Retail Energy Advancement League (REAL, assoc. of retail electric suppliers)	18-06-02re02 CV23-6082579	REAL is seeking a declaratory judgment relating to provisions of Senate Bill 7 and PURA's pending docket No. 18-06-02RE02.	Schedule pending.
Yankee Gas (Eversource)	21-08-24 CV22-6073770	Eversource appealed a 2022 PURA decision ordering LDCs to apply surplus non-firm margin (NFM) revenues to capital infrastructure investments at their next rate case.	After full briefing, Eversource withdrew the appeal.

Appellant	Docket No.	Summary	Status
CL&P (Eversource)	21-01-03 CV21-6069473	Eversource appealed a 2021 Rate Adjustment Mechanism (RAM) decision in which PURA disallowed \$17.2M of catastrophic storm costs in the Electric System Improvement (ESI) tracker. Eversource also challenged the interest rate applicable to carrying charges.	The Superior Court affirmed PURA on the storm cost issue and remanded the interest rate matter for clarification by PURA. PURA issued a clarification decision, and the matter is pending before the Superior Court.
CL&P (Eversource)	21-01-03 CV23-6078865	See CV21-6069473 above. Eversource separately appealed the clarification decision issued on remand by PURA.	PURA is reviewing the complaint and considering legal options, including a motion to dismiss.
CL&P (Eversource)	23-01-39 CV23-6081727	Eversource appealed a decision resulting from PURA's investigation into Eversource's response (exceeding 1 hour) to an entrapment incident involving injured persons in Norfolk. PURA directed Eversource to reduce its target response time to 30-minutes for "blue sky" conditions and to improve its accident reporting.	PURA is reviewing the complaint and considering legal options, including a motion to dismiss.
CL&P (Eversource)	23-01-39 CV24-6083548	In addition to the direct appeal of the accident/entrapment investigation, Eversource also filed a request for a declaratory judgment challenging the entrapment investigation.	PURA is reviewing the complaint and considering legal options, including a motion to dismiss.
CL&P (Eversource)	23-01-32 CV24-6083754	Eversource appealed a decision resulting from PURA's investigation into a series of explosions and fires in Eversource's underground facilities.	PURA is reviewing the complaint and considering legal options, including a motion to dismiss.
CL&P (Eversource)	22-09-08 CV23-6078868	PURA identified a transcription error in a decision that consolidated existing PURA orders related to RAM proceedings. PURA issued an errata decision correcting the error. Eversource appealed the correction.	PURA has filed a motion to dismiss.

Appellant	Docket No.	Summary	Status
Aquarion (Eversource)	22-07-01 CV23-6078177	Aquarion/Eversource appealed the 2023 rate case decision denying a \$35M rate increase. Aquarion/Eversource is challenging approx. \$15M in disallowances.	The appeal has been fully briefed and argued in Superior Court. A decision is pending.
United Illuminating (UI)	23-01-04 CV24-6083218	UI appealed the 2023 RAM decision in which PURA made adjustments related to RDM revenue, fuel cell project accounting, and incentive compensation	PURA is reviewing the complaint and considering legal options.
United Illuminating (UI)	22-08-08 CV23-6081616 CV23-6082032	UI appealed the 2023 rate case decision granting a \$22M increase.	PURA filed a request for UI to revise the complaint to remove extra-record documents. Briefing is scheduled through Fall 2024.
United Illuminating (UI)	22-01-04 CV22-6075751	UI appealed the 2022 RAM decision in which PURA reduced the RDM revenue requirement by \$5.2M and indicated that UI may have been imprudent in failing to implement an accounting change that would have saved ratepayers millions of dollars annually. PURA subsequently issued the 2023 rate case decision, which adjudicated the accounting change issue, resulting in a 5 basis point reduction in ROE.	The appeal has been fully briefed and argued in Superior Court. A decision is pending.
United Illuminating (UI)	20-08-03 and 20-08-03RE01 SC 20795 CV21- 6067807S CV21- 6066639S	After finding UI's storm response was deficient in several areas, PURA imposed a civil penalty of \$1.3M for non-compliance with performance standards and accident reporting requirements and ordered a 15 basis point ROE reduction penalty in UI's next rate case to incentivize improved storm response performance by UI. In the subsequent rate case, PURA determined that the 15 basis point reduction was no longer warranted.	The Superior Court affirmed PURA's decision on all counts. UI appealed the affirmation. The CT Supreme Court heard arguments on the matter. A decision is pending.

Appellant	Docket No.	Summary	Status
GenConn Energy LLC(a joint venture between UI and NRG Energy, Inc.)	20-06-14 21-06-28 22-06-02 23-06-02 CV21-6064030 CV22-6070555 CV23-6077103 CV24-6083506 SC 20716	GenConn has appealed the decisions issued in these annual rate proceedings for 2021 to 2024. The primary issue on appeal is GenConn's debt-to-equity ratio used to calculate the ROE.	The Superior Court affirmed PURA's initial decision on all counts (subsequent appeals have been stayed). The CT Supreme Court heard arguments on the matter. A decision is pending.
Vistra Corp. et al.	23-06-01 CV24-6083505	Several electric suppliers that had previously entered into a settlement agreement to resolve a PURA investigation appealed this decision, which requires the suppliers to pay their actual Renewable Portfolio Standard (RPS) obligations, rather than have these costs shifted to ratepayers.	PURA is reviewing the complaint and considering legal options, including a motion to dismiss.
Sunnova Energy Corp.	22-10-05 CV23-6078852	Sunnova appealed PURA's determination regarding the transfer of RECs under the RRES program.	PURA has filed a motion to dismiss, which is pending before the Superior Court.
Clearview Electric, Inc.	07-08-17 CV23-6082224	Clearview appealed PURA's denial of Clearview's request to withdraw its electric supplier license until Clearview pays the amount it owes under the supplier cost allocation decision (14-07-19re07).	PURA will file a motion to dismiss.

[1] Conn. Gen. Stat. § 16-35(b)

[2] Conn. Gen. Stat. § 4-183(j)

[3] Conn. Gen. Stat. § 4-183(k)