

SECTION 9: 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.[1]

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.[2] 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

In 2022, nine of PURA’s decisions were in some stage of an appellate process. Further details on these appeal processes are provided in Table 13 below.

Table 13: Status of PURA Decisions in Appeal during 2022

Appellant	Docket No.	PURA Decision Date	Issue	Significance	Status
Direct Energy Services, LLC et al.	16-12-29	10/21/2020	Certain electric suppliers appealed order that prohibits voluntary renewable offers (VROs) from containing RECs sourced outside ISO-NE, PJM, and NYISO, and establishes certain marketing restrictions, among other things.	In 2005, PURA established a Clean Energy Options Program to enable consumers to procure renewable energy above the state's minimum renewable energy requirement. Voluntary Renewable Offers (VROs) are products offered by electric suppliers with RECs in excess of the state minimum RPS requirements. This case is an appeal by certain electric suppliers of a 2020 PURA decision that imposes restrictions on the VRO market to minimize customer confusion and to align the VRO program with the state's energy and environmental goals. The Superior Court rejected the supplier's arguments and affirmed the Authority's decision; however, the suppliers have sought review of the lower court's decision. The case has important implications on the Authority's ability to regulate the VRO market to be consistent with state goals.	PURA prevailed on all issues before the Connecticut Superior Court. Direct Energy appealed the favorable ruling in which the Superior Court affirmed PURA’s decision administering voluntary renewable options. The case has been transferred to the Connecticut Supreme Court where it has been fully briefed and argued.

Appellant	Docket No.	PURA Decision Date	Issue	Significance	Status
GenConn Energy LLC	21-06-28	12/8/2021	PURA approved GenConn's 2022 revenue requirement based on an actual 75/25 debt to equity ratio, reducing by \$5M the requested revenue.	Each year, the Authority must approve a reasonable revenue requirement for GenConn's peaking power plants using a cost-of-service model. Similar to the 2021 revenue year, the Authority determined that GenConn's cost of capital was being incorrectly calculated by several million dollars to the detriment of ratepayers. The Authority addressed this issue by applying standard cost-of-service methodologies using an actual debt to equity ratio of 75/25. The result was a substantial decrease in the revenue requirement. This case is significant because it will affect the Authority's ability to ensure that rates are just and reasonable.	This is an administrative appeal that is fully briefed and awaiting oral argument before the Connecticut Superior Court.
GenConn Energy LLC	20-06-14	12/23/2020	PURA approved GenConn's 2021 revenue requirement based on an imputed 50/50 debt to equity ratio, reducing by \$3M the requested revenue.	Each year, the Authority must approve a reasonable revenue requirement for GenConn's peaking power plants using a cost-of-service model. The Authority determined that GenConn's cost of capital was being incorrectly calculated by several million dollars to the detriment of ratepayers. The Authority addressed this issue by applying standard cost-of-service	On February 16, 2022, GenConn LLC appealed the favorable ruling in which the Superior Court affirmed PURA's decision setting the 2021 revenue requirements for GenConn. The matter is currently being briefed.

Appellant	Docket No.	PURA Decision Date	Issue	Significance	Status
				<p>methodologies but allowing GenConn an imputed 50/50 debt to equity ratio, notwithstanding an actual ratio of 75/25. The result was a substantial decrease in the revenue requirement. This case is significant because it will affect the Authority's ability to ensure that rates are just and reasonable.</p>	
GenConn Energy LLC	22-06-02	12/14/2022	<p>PURA approved a 2023 revenue requirement for GenConn using an actual 81/19 debt to equity ratio, reducing revenue by about \$8M per year.</p>	<p>Each year, the Authority must approve a reasonable revenue requirement for GenConn's peaking power plants using a cost-of-service model. Similar to the 2021 and 2022 revenue years, the Authority determined that GenConn's cost of capital was being incorrectly calculated by several million dollars to the detriment of ratepayers. The Authority addressed this issue by applying standard cost-of-service methodologies using an actual debt to equity ratio of 81/19. The result was a substantial decrease in the revenue requirement. This case is significant because it will affect the Authority's ability to ensure that rates are just and reasonable.</p>	<p>Timely appealed at the Superior Court. No schedule at this time.</p>

Appellant	Docket No.	PURA Decision Date	Issue	Significance	Status
Northland Investment Corporation	19-12-25	7/1/2020	PURA issued a declaratory ruling finding that ratio utility billing methodology (RUB) is not permitted under Conn. Gen. Stat. § 16-262e.	For decades, PURA has interpreted the statutes governing utilities as prohibiting consumers from being billed directly for estimated utility costs. Utility service must be metered and exclusive to the consumer for billing to occur. RUB would allow landlords to charge tenants for utilities based on estimations of usage.	On July 7, 2022, Northland appealed the favorable ruling in which the Superior Court affirmed PURA’s decision in the RUBs case. The matter was transferred to the Supreme Court where it is awaiting a briefing schedule.
Eversource Energy	21-01-03	9/15/2021	PURA disallowed the inclusion of \$17.2M catastrophic storm costs in the Electric System Improvement (ESI) tracker. PURA interpreted the 2018 settlement giving rise to the tracker as allowing recovery of forecasted core capital improvements, which exclude one-time catastrophic storm costs. In addition, the Authority used the prime rate, rather than WACC, to calculate certain carrying costs.	This case involves the Authority's ability to interpret and implement cost recovery programs.	The Superior Court affirmed PURA on the ESI side of the case, and remanded on the carrying cost side of the case. PURA intends to issue a supplemental decision in March 2023 to address the remand. Eversource appealed the Superior Court’s favorable ruling regarding the removal of catastrophic storm costs from the ESI.

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United Illuminating	20-08-03 and 20-08-03 RE01	7/14/2021	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 in UI's next rate case to incentivize management to focus on improved storm response performance by UI moving forward.	This case involves the Authority's ability to hold utilities accountable for deficient storm preparation and response.	The Superior Court's ruling affirmed PURA's decision on all counts. UI filed a notice of appeal, with preliminary papers requesting a transfer to the Supreme Court.
United Illuminating	22-01-04	8/17/2022	PURA's RAM decision reduced the revenue decoupling mechanism revenue requirement by \$5.2m. PURA found that UI had improperly excluded certain revenues from its actual total revenue calculation. In addition, PURA noted that UI's failure to make an accounting treatment change related to TAC may have been imprudent.	This case involves the Authority's review of a reconciliation mechanism, and the Authority's ability to ensure such mechanisms are implemented properly.	UI appealed the Authority's decision, and the matter is pending before the Connecticut Superior Court at this time.
Yankee Gas	21-08-24	4/27/2022	PURA ordered LDCs to apply surplus non-firm margin (NFM) revenues to capital infrastructure investments. Yankee appealed arguing that this deprives it of a return on its investment.	This case involves the Authority's ability to allocate NFM in the best interest of ratepayers.	PURA filed an initial answer to the appeal on November 4, 2022 and the record on November 7, 2022. Yankee's initial brief is currently due on February 6, 2023. PURA and OCC briefs due 90 days later.