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September 9, 2026

Jeffrey R. Gaudiosi, Esq.
Executive Secretary
Public Utilities Regulatory Authority
10 Franklin Square
New Britain, CT 06051

Re: Docket No. 26-05-10, Application of The Connecticut Light and Power Company d/b/a Eversource Energy to Amend its Rate Schedules

Dear Secretary Gaudiosi:

The Connecticut Light and Power Company d/b/a Eversource Energy ("CL&P" or the "Company") submits this Response to the Office of Consumer Counsel's ("OCC") Motion for Clarification, filed with the Public Utilities Regulatory Authority ("PURA") on September 3, 2026, and docketed as Motion No. 43.

OCC requests that PURA clarify whether it intends to evaluate CL&P's proposed multi-year Performance-Based Regulation ("PBR") plan—including the revenue cap formula, capital forecasts, and Total Factor Productivity ("TFP") study—in this proceeding before final decisions are issued in the PBR framework dockets (i.e., the reopeners associated with Docket No. 21-05-14) (Motion No. 43, at 1). OCC argues that this proceeding should not address PBR without guidance from final decisions in those uncontested dockets (id.). OCC maintains that reviewing CL&P's PBR proposal at this stage is problematic because it materially departs from the framework PURA previously considered, and without final PBR guidance, the parties have insufficient time to meaningfully assess these differences (id.). OCC further requests that, if PURA intends to consider the PBR proposal in this proceeding, it clarify whether it will retain a consultant to evaluate CL&P's TFP study, as contemplated in the original PBR draft decision (id. at 2). OCC contends that such guidance is essential so that parties can allocate limited resources appropriately and ensure ratepayer interests are protected given the compressed procedural schedule (id.).

Eversource appreciates OCC's request for clarification, as implementing a performance-based ratemaking framework is a critical issue that can occur only in the context of a rate proceeding, which this is. Therefore, the Company does not oppose OCC's request for clarification, and, in fact, time is of the essence to provide guidance to the parties as to the scope of the proceeding, if PURA is so inclined. However, as PURA considers OCC's request for clarification, it should consider that there are no governing statutes, regulations, or PURA precedent barring CL&P from proposing PBR in this proceeding, even though PURA has not

issued final decisions in all three phases of its PBR dockets. Similarly, PURA is not required to issue final decisions in the uncontested PBR dockets before evaluating a PBR proposal in a contested rate proceeding. In fact, Connecticut law specifically supports PURA's consideration of PBR in this contested case. The relevant factors PURA should consider include the following:

First, all three PBR reopener dockets are uncontested proceedings and are not preclusive in effect to an individual company, meaning PURA cannot impose PBR on a utility as a result of an uncontested case. In Connecticut Light & Power Co. v. PURA, 354 Conn. 507 (2026), the Connecticut Supreme Court held that PURA's finding of imprudence against CL&P, made in an uncontested proceeding, lacked preclusive effect. The Court explained that administrative adjudications are only preclusive when parties have had an adequate opportunity to litigate. 354 Conn. at 535. Because the underlying case was uncontested, PURA conceded its finding was "not binding" in future proceedings, and the Court affirmed that the Company was "not foreclosed from challenging" the finding in subsequent contested cases. Id. at 536. As a result, an agency determination from an uncontested proceeding cannot be treated as conclusively established in later contested matters.

Importantly, the same principle applies here. Because PURA conducted the PBR reopener dockets as uncontested cases (and was only ever going to be able to implement PBR in a contested rate proceeding), the electric distribution companies ("EDCs") always retained the right to make a PBR proposal to PURA in their next contested rate proceeding, adopting all or part of the PBR guidelines adopted in the uncontested PBR policy statement. The EDC's proposal would then be subject to litigation in the contested rate proceeding, including whether and to what extent the record evidence and public policy would support a deviation from the PBR policy statement, subject to appeal. Thus, although PURA's decisions in its uncontested PBR dockets would inform the docket in future rate proceedings, the Court's decision in Connecticut Light & Power Co. v. PURA makes it clear that those decisions would have no preclusive effect against CL&P and would not have barred or in any manner predetermined the Company's proposals in this case.

Second, Conn. Gen. Stat. § 16-19a(b) mandates that, in any rate hearing under Section 16-19, PURA "shall consider the implementation of financial performance-based incentives and penalties and performance-based metrics." Accordingly, PURA's ongoing PBR investigation cannot reasonably be interpreted as barring the Company from submitting a PBR proposal in a rate proceeding, especially when Section 16-19a(b) expressly requires PURA to review performance-based incentives, penalties and metrics in rate proceedings.

Third, if, as OCC suggests, PURA's open, uncontested investigations could bar CL&P from making a PBR proposal or in some way predetermine the outcome of the rate proceeding, PURA would be prevented from considering any PBR rate design proposed by a utility simply because a separate policy proceeding remains unresolved. Thus, OCC's suggested regulatory paradigm raises numerous legal issues, most notably restricting the Company's statutory right to propose rate changes and limiting PURA's duty to consider and adjudicate such proposals in a contested case.

Fourth, the Company is legally entitled to present rate proposals in the evidentiary record

of a contested rate proceeding, even if PURA ultimately modifies or rejects them. Under Conn. Gen. Stat. § 16-22, the utility must prove its proposed rates are just and reasonable. Therefore, although PURA's review may affect the substance or outcome of the Company's PBR proposal, it does not bar the Company from submitting such proposals or supporting evidence for PURA's consideration.

In summary, the Company does not oppose OCC's request for clarification. However, any clarification provided by PURA should indicate that:

- PURA will evaluate CL&P's proposed multi-year Performance-Based Multi-Year Rate Plan ("PBMRP")—including the revenue cap formula, capital forecasts, and TFP study—in this proceeding.

- Final decisions in the PBR reopener dockets are not a necessary predicate to PURA's evaluation of the Company's proposed PBMRP and sufficient work was done in those dockets to inform this proceeding from a policy perspective.

- The issue of whether the Company's PBMRP proposal "is problematic" because it "materially departs from the framework PURA previously considered" is a matter for litigation in this proceeding and all parties are free to make their cases as to the merits of the Company's proposal.

The Company appreciates PURA's consideration of OCC's Motion for Clarification and the Company's response thereto.

Respectfully submitted,

Vincent P. Pace

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On behalf of The Connecticut Light and Power Company d/b/a Eversource Energy

cc: Service list