STATE OF CONNECTICUT
PUBLIC UTILITIES REGULATORY AUTHORITY

November 25, 2020
In reply, please refer to:
Docket No. 17-10-46
Motion No. 53

Vincent P. Pace, Esq.
Eversource Energy
P.O. Box 270
Hartford, CT 06410

Re: Docket No. 17-10-46 – Application of The Connecticut Light and Power Company d/b/a Eversource Energy to Amend its Rate Schedules
Motion to Reopen

Dear Attorney Pace:

On July 17, 2020, The Connecticut Light and Power Company d/b/a Eversource Energy (Eversource or Company) filed with the Public Utilities Regulatory Authority (Authority or PURA) a motion (Motion) requesting that the Authority reopen Docket No. 17-10-46, Application of The Connecticut Light and Power Company d/b/a Eversource Energy to Amend its Rate Schedules, and amend the approved settlement agreement to allow the contemporaneous recovery of system resilience program expenditures for years 2021 and 2022.[1] The Motion is denied, and the terms of the approved settlement agreement remain undisturbed.

The Authority approved a settlement agreement, as amended, (Amended Settlement Agreement) by its decision in this docket dated April 18, 2018 (Decision).[2] Importantly, the Amended Settlement Agreement authorized Eversource to recover system resiliency costs through a mechanism referred to as the Electric System Improvements (ESI) tracker, which essentially permits contemporaneous recovery of certain costs with an annual reconciliation for over- or under-collection. Motion, p. 4.

In its Motion, Eversource seeks to expand the recovery of system resiliency costs through the ESI tracker to include costs to be incurred in 2021 and 2022. However, the

[1] By written comment dated August 17, 2020, the Bureau of Energy and Technology Policy (BETP) of the Department of Energy and Environmental Protection requested that the Authority perform a careful review of the cost effectiveness and prudence of Eversource's past expenditures on resiliency programs and develop metrics for tracking future performance, but deferred to the Authority to determine the appropriate docket to do so given the Authority's Tropical Storm Isaias investigation. BETP Written Comments, p. 2. The Office of Consumer Counsel (OCC) and the Connecticut Industrial Energy Consumers (CIEC) request the Authority postpone evaluating Eversource's resiliency programs pending the conclusion of the Tropical Storm Isaias investigation. OCC Written Comments, p. 1; CIEC Written Comments, p. 2.
[2] The original settlement agreement is dated January 11, 2018. Decision, Appendix A. Amendment One to the Settlement Agreement is dated March 23, 2018. Id., Appendix D.

Amended Settlement Agreement allows cost recovery through the ESI tracker for system resiliency for the 2018, 2019, and 2020 calendar years only. Specifically, the Amended Settlement Agreement states that "[Eversource's] proposed new system resiliency projects for calendar years 2018, 2019, and 2020, as filed in the Application, are approved." Decision, Appendix A, p. 4. Further, the Amended Settlement Agreement provided that "the Company may seek Authority approval for additional funding for incremental ETR miles in upcoming calendar years 2019 and 2020." Decision, Appendix D, p. 2.[3] The only language potentially addressing post-2020 cost recovery is a reference to "calendar year 2018 and thereafter"; however, this language is immediately followed by the phrase "as filed in the Application" which refers specifically to calendar years 2018, 2019, and 2020 in the preceding sentence. Consequently, there is no language in the Amended Settlement Agreement that permits contemporaneous cost recovery of system resiliency costs incurred after 2020 through the ESI tracker.

Notably, with respect to Core Capital, the Amended Settlement Agreement expressly provides for recovery in the tracker for "the period commencing *after* the expiration of calendar year 2020 . . . ." Decision, Appendix A, p. 3 (emphasis in original). No similar language exists in the provisions regarding system resiliency costs. The parties to the Amended Settlement Agreement were, therefore, capable of providing for recovery of post-2020 costs through the ESI tracker but elected not to do so with respect to system resiliency costs. Eversource has not presented any factual or legal issues which would warrant the reopening of this docket in order to revise the terms of the Amended Settlement Agreement for its benefit. Consequently, the Authority declines to reopen this docket to allow contemporaneous cost recovery of post-2020 system resiliency program costs though the ESI tracker.

However, the Authority is compelled to address Eversource's implication in the Motion that a failure to approve the 2021 and 2022 system resiliency program costs and to allow recovery of such costs through the ESI tracker, notwithstanding the Amended Settlement Agreement, would result in Eversource suspending its system resiliency programs. Motion, pp. 10-11. This assertion is fundamentally incorrect as it improperly conflates the Company's statutory obligation to prudently operate and maintain a resilient electrical distribution system with the method and timing of recovery of the costs of such programs. Authority approval is not required for the former, only the latter.

Eversource relies on a strained interpretation of one provision of the Amended Settlement Agreement and dicta in the Authority's decision in Docket No. 17-10-46RE02. The Authority is not persuaded by this effort to circumvent Eversource's statutory obligation and the plain language of the Amended Settlement Agreement. Eversource cites to a provision of the Amended Settlement Agreement for the premise that PURA approval is required "before Eversource extends these programs beyond December 31, 2020." Motion, p. 5. Specifically, Section 3(a)(ii)(2)(b) requires PURA approval "[i]f the Company seeks approval and funding for any new system resiliency projects which are

[3] Eversource subsequently petitioned for and was granted approval for recovery of such additional funding through the ESI tracker in Docket No. 17-10-46RE02, Application of The Connecticut Light and Power Company d/b/a Eversource Energy to Amend its Rate Schedules – Enhanced Tree Removal.

not currently in the evidentiary record in Docket No. 17-10-46, . . .".[4] Eversource also cites to the decision in Docket No. 17-10-46RE02 in which the Authority approved the recovery through the ESI tracker of increased costs for Enhance Tree Trimming (ETT) and Enhance Tree Removal (ETR) in accordance with the Amended Settlement Agreement. In that decision, the Authority noted that, "[i]f the Company seeks to continue the ETR program beyond calendar year 2020 at a funding amount above that which was approved in [Docket No. 17-10-46], prior approval from the Authority will be required." Decision, pg. 7.

Eversource's reliance on this language to support the proposition that prudent system resiliency programs may not proceed without prior PURA approval is problematic. First, neither the Amended Settlement Agreement nor dicta in an Authority decision can reasonably be interpreted as negating Eversource's statutory obligation to maintain and operate a resilient distribution system. Second, the language cited by Eversource, although lacking a degree of precision, was intended to affirm that, under the Amended Settlement Agreement, cost recovery through the ESI tracker for system resiliency programs expires after 2020 and that Authority approval is required prior to *recovery* of post-2020 costs from ratepayers. The language does not support the premise that Authority approval is required prior to the *implementation* of such resiliency programs after 2020.

This ruling should have no impact on Eversource's system resiliency programs. Eversource benefitted from the contemporaneous recovery of costs for the last three years (2018-2020). Under the Amended Settlement Agreement, that recovery mechanism expires in 2020; however, Eversource may still seek recovery of 2021 and 2022 system resiliency program costs in its next rate case proceeding. The Authority would not expect the scope or substance of prudent system resiliency programs to vary with or depend on the manner in which Eversource recovers its costs.

The Company shall continue filing annual compliance in accordance with the Orders in the Decision.

Sincerely,

PUBLIC UTILITIES REGULATORY AUTHORITY

Marissa P. Gillett
Chairman

CC: Service List

[4] Section 3(a)(ii)(2)(b) may have been superseded by Amendment One to the Settlement Agreement.