STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY

RE:	**GB II NEW HAVEN, LLC**	**:**	**DOCKET NO. 26-06-03**
	APPLICATION TO ESTABLISH	**:**	
	2027 REVENUE	**:**	
	REQUIREMENTS	**:**	**NOVEMBER 2, 2026**

BRIEF OF THE OFFICE OF CONSUMER COUNSEL

The Office of Consumer Counsel ("OCC") hereby submits this brief regarding the application to establish revenue requirements for 2027, as filed in an application from GB II New Haven, LLC ("GB II") on July 19, 2026, for the GB II peaking plant.

GB II has operated for approximately two years without the transformer necessary to provide dual fuel capability, despite expressly acknowledging its contractual obligation to maintain that capability.[1] Because ratepayers are not receiving the full operational capability for which they contracted, OCC recommends a reduction in GB II's authorized return on equity ("ROE").

In addition, GB II seeks future recovery of approximately $1 million for a replacement transformer, but it remains unclear whether the Company could have procured a replacement sooner and at a lower cost. Absent sufficient evidence demonstrating prudent procurement, OCC recommends disallowing future recovery of the transformer replacement costs from ratepayers.

I. GB II is Currently Not Providing Dual Fuel Capacity, as Required.

[1] Docket No. 26-06-03, Transcript, October 5, 2026, at 69, lines 14–17 and at 73, lines 9–12.

In the Final Decision that authorized what is now GB II as a peaking facility, the Authority made clear that dual fuel capability was an important consideration in selecting and authorizing peaking facilities, which often receive long contracts and need to be able to provide reliable service. In fact, dual fuel capability was expressly identified as one of the reasons for selecting PSEG Power LLC ("PSEG"), now GB II. In pertinent part, the Authority stated:

> "The Department concluded that selecting projects that were capable of only performing on one fuel type was not a reasonable or necessary risk for ratepayers.[2] The Department finds that given the 30-40 year contract that these projects will have, that the ability to run on either gas or oil results in one fewer risk for ratepayers... the Department is unwilling to make a 40 year bet on the price differential between oil and natural gas, or on the availability of either resource."[3]

> And, "Besides the lower costs relative to other project proposals, the Department's inclusion of GenConn and PSEG in the selected portfolio is also supported by consideration of the following benefits: ....2) fuel diversity from du[a]l fuel and fuel switching capability;...".[4]

The intent behind PURA's dual fuel requirement was to ensure that peaking facilities could continue operating during periods of peak demand and switch to the least expensive available fuel when feasible. In its Final Decision, PURA expressed "confidence" in the "technical characteristics of and management teams operating these projects" to effectively utilize their dual fuel capabilities.[5]

GB II has been without a fully functioning transformer for approximately two years.[6] The Company acknowledged that the existing transformer had failed[7] and the Company further

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[2] Significant issues became evident during this proceeding regarding the availability of natural gas as a source of fuel on an intra-day basis for any of these projects. The Department thoroughly examined supply and demand in the Decision dated June 19, 2008, in Docket No. 07-06-62, DPUC Report to Connecticut General Assembly on Electric Reliability.
[3] Docket No. 08-01-01 – *DPUC Review of Peaking Generation Projects*, Final Decision, June 25, 2008, at 23.
[4] *Id*. at 24.
[5] *Id*. at 23.
[6] Tr. at 67, lines 14–18.
[7] Response to OCC-23 at 23.

confirmed that the transformer is necessary to enable dual fuel operations if needed.[8] Despite having brought the transformer issue to the Authority's attention in the prior year, the Company has yet to restore this capability.[9]

II. It Is Unclear Whether GB II Could Have Procured the Transformer Faster and at a Lower Cost.

GB II has failed to demonstrate that its selection of Rizzo Electric was the most cost-effective or timely option for replacing the transformer. GB II states that Rizzo was selected based on its "relevant site experience, technical expertise, and demonstrated capability" to perform the work.[10] GB II further asserts that other vendors were contacted for quotations and that Rizzo's subcontractors had historically offered "more competitive pricing than other regional contractors."[11] However, GB II has not produced the competing proposals, or clear comparison of informal bids, necessary to fully substantiate these claims.[12]

GB II failed to follow its own procurement requirements. The Company's Procurement Policies & Procedures, submitted as Exhibit OCC-12 in response to OCC-12, require projects of this size to undergo a competitive procurement process, including three sealed bids – beyond just emails exchanging information – following a request for proposals, a written bid evaluation, and

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[8] Tr. at 69, lines 14–17.
[9] Tr. at 67, lines 14–18.
[10] Response to OCC-13.
[11] Response to OCC-14 at 14.
[12] GB II produced a "Recommendation to Award Memo" which included information about Rizzo Electric only; it did not discuss or mention not any competing proposals or other options. *See* LFE-10. GB II also produces an internal spreadsheet (LFE-8), cataloging suppliers for repairing and/or replacing the transformer. Rizzo's information was not included here, nor are these actual proposals for work. The spreadsheet was produced internally, based off email discussions with suppliers. *See* LFE-8. Further, the information contained in the spreadsheet warrants additional investigation and comparison with Rizzo's proposal. The spreadsheet identifies a substantial range of estimated transformer costs, between approximately $600,000 to $800,000, as well as varying lead times. However, the timelines are difficult to compare because some address shipping timelines or the availability of individual components rather than delivery of a fully installed transformer. Without a more thorough evaluation of these differences, it is unclear whether Rizzo's proposal represented the most cost-effective and timely option available to the Company. *See* LFE-10.

an award memorandum documenting the selection.[13] These requirements are designed to promote competition and fair value, while also documenting the basis for procurement decisions.[14] Yet, when questioned about its compliance, GB II expressly acknowledged that it "did not solicit three bids for the entire scope of work."[15]

GB II also acknowledges that it "continued to solicit proposals throughout the duration of 2025" and identified Rizzo as a potential contractor in October 2025.[16] Yet, despite this extended procurement process, GB II has not produced any competing proposals solicited via sealed bid or the comparative internal memorandum required by its procurement policy to compare bids and document the basis for its selection for a contract of this size and expense.[17] Without these records, it cannot be verified that other vendors bid and if they offered lower prices, shorter lead times, or more favorable terms.

Accordingly, GB II has not established that the approximately $1 million transformer replacement project represents a reasonable and prudent expenditure. Its general assertions regarding Rizzo's qualifications and competitive pricing are insufficient substitutes for the documentation, as required by General Statutes § 16-22 and the Company's own procurement policy. In the absence of that evidence, PURA cannot meaningfully assess whether GB II could have procured the transformer faster or at a lower cost.

III. Reduction in ROE for Failure to Deliver Contracted Services

[13] Exhibit OCC-12, at 3–6 (pdf pages 5–8).
[14] LFE-9 at 9.
[15] Response to OCC-24 at 1.
[16] Response to OCC-19 at 18.
[17] Despite being afforded multiple opportunities to provide supporting documentation, the Company's response to LFE-10 provided only a Recommendation to Award Memorandum, which notably lacked any comparative pricing analysis.

General Statutes § 16-243u limits cost recovery in peaking plant operation to "just and reasonable costs" and permits recovery of "prudently incurred costs," including "a reasonable rate of return on equity." It further incorporates the general ratemaking standards of General Statutes §§ 16-19, 16-19b, and 16-19e, directing that "[t]he authority shall review such recovery of costs consistent with the principles set forth" in those provisions. Thus, PURA is required to evaluate both the prudency of costs and the reasonableness of its authorized ROE.[18] Given that PURA expressly required the Company to maintain dual fuel capability as a condition of its operation as a peaking facility (as mentioned in Section I), and that the Company's authorized rate of return is premised, in part, on its ability to fulfill its obligations, the Company's admitted inability to meet this requirement warrants a regulatory remedy.[19] In particular, customers should not be required to provide the Company with its full authorized return when it is not delivering the operational capabilities upon which that return was premised.

Importantly, GB II expressly acknowledged its contractual obligation to maintain dual fuel capability at the October 5, 2026 evidentiary hearing. The Company testified: "And I think, from our perspective, importantly, we're contractually obligated under the contract to have that dual fuel capability...".[20]

Consequently, OCC recommends a reduction in the Company's authorized ROE because customers are not receiving the dual fuel service for which they are paying. ROE reductions are intended to adjust rates when ratepayers "are not being adequately served due to inefficiency or

[18] Conn. Gen. Stat. § 16-243u.
[19] Docket No. 07-08-24, *DPUC Investigation Of The Process And Criteria For Use In Implementing Section 50 of Public Act 07-242 - Peaking Generation*, Final Decision, December 14, 2007
[20] Tr. at 73, lines 9–12.

improvidence."[21] The Company's failure to deliver this service raises concerns about its performance and reliability. Customers should not be required to pay for services they are not receiving while the Company, fully aware of its obligation, continues to earn its full authorized return. A reduction in ROE would appropriately reflect this failure in service delivery and protect ratepayers from paying more than is justified by the Company's performance. As such, OCC recommends a 20-basis-point (0.20 percentage point) reduction in the Company's authorized ROE as a reasonable remedy for its failure to maintain the required dual fuel capability. OCC recommends that PURA consider reflecting this reduced ROE as part of its Final Decision in this docket and directs GB II to file updated exhibits reflecting this reduction within two weeks of the Final Decision.

IV. Disallowance of Costs due to Failure to Demonstrate Prudent Procurement

General Statutes § 16-243u authorizes PURA to require applicants to provide additional information "it deems to be in the public interest" for evaluating their peaking plant rate proposals, reinforcing that it is the applicant's responsibility to provide sufficient evidence to support regulatory review, similar to the requirements in General Statutes § 16-22.[22] While OCC agrees that the replacement of the transformer is necessary and should proceed as expeditiously as possible, OCC recommends disallowance of the costs associated with procuring a replacement transformer services because the Company has failed to demonstrate that its procurement process was prudent and consistent with its own policies. The record does not establish that the Company selected the lowest-cost qualified bidder or provided a reasonable justification for selecting a

[21] *In re Citizens Utilities Company*, 171 Vt. 447, 454, 769 A.2d 19, 26 (2000); See also Docket No. 22-08-08, Final Decision, P. 91, (Aug. 25, 2023).
[22] Conn. Gen. Stat. § 16-243u.

higher-cost alternative. Without adequate documentation demonstrating that the procurement was reasonable and cost-effective, these costs should not be passed on to ratepayers.

V. The Company Was Untimely and Lacked Diligence in Responding to Discovery

GB II repeatedly failed to provide timely and thorough responses to OCC's discovery requests, hindering OCC's ability to evaluate the application and prepare for the evidentiary hearing. GB II responded to OCC-1 through OCC-23 more than a month after the July 22 deadline and failed to respond to OCC-24 through OCC-33 by the September 16 deadline, without requesting extensions in either instance. As OCC explained, these delays significantly compressed the time available for follow-up discovery and hearing preparation.[23]

The Company's response to OCC-8 illustrates both the delay and the lack of thoroughness. On July 8, OCC filed its first set of interrogatories, including OCC-8 on interconnection fees. When GB II finally responded on August 26, approximately seven weeks later, it merely indicated that it would seek the information from United Illuminating. When questioned again at the October 5 hearing, GB II still could not provide an answer. Not until October 19, through LFE-2, did GB II provide a brief and straightforward response.[24] Three months elapsed between OCC's initial request and GB II's submission of basic information to a straightforward inquiry.

GB II files an Annual Fixed Revenue Requirement application every year, and the discovery and hearing process is well established. OCC expects a company seeking recovery of

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[23] OCC Correspondence Re: Untimely Interrogatory Responses, Sept. 22, 2026.

[24] "UI has replied that GB II New Haven will continue to receive an Annual Facility Charge. The December 19, 2024 FERC order significantly reduced the charge by eliminating ongoing O&M costs for certain upgrades. GB II remains responsible for costs associated with its Direct Assignment Facilities, which may vary annually." LFE-2 at 2.

costs from ratepayers to approach that process with diligence, preparation, and transparency. Although GB II ultimately submitted responses and late file exhibits, its repeated delays and incomplete answers unnecessarily consumed OCC's and PURA's time and resources. This pattern reflects a lack of diligence in supporting its application and undermines confidence in the thoroughness of the Company's submissions.

Respectfully submitted,

STATE OF CONNECTICUT
OFFICE OF CONSUMER COUNSEL

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CERTIFICATE OF SERVICE

I do hereby certify that on this day the foregoing document was filed with the Public Utilities Regulatory Authority, and copies thereof were served upon each person designated on the official service list in this proceeding in accordance with R.C.S.A. § 16-1-15.

Dated at New Britain, Connecticut this 2nd day of November 2026.

/s/Julie Lelek
Commissioner of the Superior Court