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June 22, 2026

Public Utilities Regulatory Authority
Ten Franklin Square
New Britain, Connecticut 06051

Re: Docket No. 26-08-08: Non-Wires Solutions Process Cycle 2

Dear Commissioners:

The Office of Consumer Counsel ("OCC") respectfully files this comment on Motion No. 8 filed by Eversource Energy ("Eversource"). The Motion stems from Motion No. 7 , which requested that the Public Utilities Regulatory Authority ("Authority") reconsider its ruling on Motion No. 5 denying confidential treatment for certain filings. Here, pursuant to Authority instruction, Eversource has resubmitted the filings with the specific additional redactions it is requesting.

As OCC explained in its comment on Motion No. 7, Eversource is correct when stating that the Freedom of Information Act ("FOIA") does not apply to it. FOIA applies to the Authority and the Authority has permitted parties appearing before it to avail themselves of FOIA exemptions since the Authority's dockets are public records. *See* General Statutes § 1-210(a) (stating, "Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to" inspect and copy such records). However, because Connecticut law "favors the open conduct of government," FOIA exemptions are narrowly construed. *Drumm v. Freedom of Information Comm'n*, 348 Conn. 565, 581 (2024). As the Authority routinely explains in its notices of proceeding, it "operates with the strong presumption that all documents filed with it are public records."

It is very important to recognize that FOIA protects only the specific portions of a document that are subject to the FOIA exemption, not the entire document. "When portions of a document are subject to [a FOIA] exemption, those portions are redacted, and the remainder are to be disclosed." *Commissioner, Dept. of Correction v. Freedom of Information Comm'n*, 2009 WL 4852114, *5 Nos. CV084016692S, CV094020945S (Conn. Super. Ct. Jud. Dist. of New Britain, December 17, 2009). "The redaction of portions of a record has been recognized from the creation of the FOIC as a partial disclosure remedy under FOIA." *Id.*; *see also*, *Spina v. Denardis*, 2020 WL 1656199, *5, CV196098107S (Ct. Super. Ct. Jud. Dist. New Haven, February 24, 2020)

("In light of the court's obligation to consider reasonable alternatives to sealing the lodged documents in their entirety and to limit this order to being no broader than necessary to protect such overriding interest; see Practice Book § 11-20A(c); the court finds that redacting portions of the lodged documents is a reasonable alternative to sealing them entirely. Such redactions serve to limit this order to being no broader than necessary to protect the defendant's overriding security interest."). "One should normally presume that a request for information under the FOIA is a request for all or any, not for all or none, of the information described"; therefore, "*an entire document is not exempt merely because an isolated portion need not be disclosed*. Thus the agency may not sweep a document under a general allegation of exemption, even if that general allegation is correct with regard to part of the information." *Falrey v. Worley*, 599 W.E.2d 835, 844 (W.V. 2004) (emphasis added).[1]

As a result, when the Authority is considering a motion for protective order, it must ensure that the movant has redacted only the information meeting the FOIA exemption, and nothing more.[2] Using that as the baseline and examining the redactions submitted in Motion No. 8, it is not clear that everything Eversource proposes to redact meets a FOIA exemption. For example, Q-RSR-003 Attachment 1 includes redactions of costs (such as in the middle of p. 2 of the pdf), yet costs are not included within the items Eversource requested to redact in the Motion. It appears that whole paragraphs, even pages, are redacted when more precision might be required.

Further, OCC has concerns about requests to redact types of items that might have been filed publicly in the past or are filed publicly elsewhere now. For example, in Docket No. 26-01-03, Eversource could not explain why it filed the same material both confidentially under a protective order and publicly (i.e., fully unredacted). *See* Docket No. 26-01-03, Tr. dated June 3, 2026, p. 103-104. OCC happened to find Eversource's mistake in that docket because the confidential and redacted materials were adjacent to each other in the filing, but OCC does not have the capacity to ensure that the material at question here has not been filed publicly elsewhere or that the same type of material has not been filed publicly in other dockets. Based on experience in other proceedings, Eversource's assurances in this regard are unpersuasive.[3]

Finally, while OCC agrees cybersecurity measures are critical, OCC cautions against using the threat of safety concerns to consistently override FOIA. Regarding the present filing, one can use Google maps to find Eversource substations, for example. Their location is not secret. OCC

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[1] *See Commissioner, Dept. of Correction v. Freedom of Information Comm'n*, 2009 WL 4852114, *5, in which the Court stated, "The court notes the excellent analysis of the purposes of redaction in *Farley v. Worley,* 215 W.Va. 412, 599 S.E.2d 835 (W.Va.2004)."

[2] To the extent the Authority has occasionally in the past allowed a party to file documents fully confidential when only a portion of those documents met the FOIA exception, it appears that practice might not have met the FOIA requirements should the documents have been FOIA'd, and should not be continued. The burden of redaction is not a FOIA exemption. *See Gordon v. Sandoval County Assessor*, 28 P.3d 1114, 1120 (N.M Ct. of App. 2001) ("[A]dministrative burden alone is not a sufficient reason for failure to make public records available for reasonable inspection…"); *Director, Dept. of Information Tech. of Town of Greenwich v. Freedom of Information Comm'n*, 274 Conn. 179, 192 (2005) ("With regard to weighing the interests of a party claiming an exemption against the public's interest in disclosure, this court has stated that "within the language itself of the [act], the legislature has [already balanced] the public's right to know and the private needs for confidentiality.... Therefore, neither the [commission] nor the courts are required to engage in a separate balancing procedure beyond the limits of the statute.").

[3] Eversource filed a Motion for Protective Order in Docket No. 26-01-03 claiming that the material should be protected even though it filed the same material in the same docket without redacting it.

recognizes that there are some items that certainly warrant protection, and that all parties must remain cognizant of increasing threats to the grid, but we must ensure those concerns are not used as an indiscriminate shield against the public's right to engage with materials in docketed proceedings. FOIA calls for precision.

OCC thanks the Authority for considering this comment.

Respectfully submitted,
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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 22nd day of June, 2026.

/s/Kimberly White
Commissioner of the Superior Court