

FIC 2024-_____ : FREEDOM OF INFORMATION
UIL HOLDINGS CORPORATION, : COMMISSION
: :
: *Complainant*, :
: :
vs. :
: :
STATE OF CONNECTICUT, PUBLIC UTILITIES: :
REGULATORY AUTHORITY, and CHAIRMAN, :
STATE OF CONNECTICUT, PUBLIC UTILITIES: :
REGULATORY AUTHORITY, :
: :
Respondents. : DECEMBER 17, 2024

APPEAL COMPLAINT

1. This appeal arises out of a public agency's refusal to produce a readily identifiable public record. Since this matter involves only one or more specifically designated documents that are necessary for upcoming administrative proceedings, this matter will require priority treatment.

2. Complainant UIL Holdings Corporation ("UIL") is an energy holding company for electric and natural gas utilities that operate in the state of Connecticut. The UIL subsidiaries include The United Illuminating Company ("UI"), The Southern Connecticut Natural Gas Company ("SCG"), and Connecticut Natural Gas Corporation ("CNG"). UIL has a business address of 180 Marsh Hill Road, Orange, Connecticut 06477.

3. Respondent Public Utilities Regulatory Authority ("PURA") is an entity established by the Connecticut General Statutes that regulates investor-owned utilities in Connecticut, including UIL. PURA is located at Ten Franklin Square, New Britain, Connecticut 06051. Its phone number is 860-827-1553 and its fax number is 860-827-2822. PURA is a "public agency" as defined by Section 1-200(1) of the General Statutes. PURA's current Chairman is Marissa Paslick Gillett.

4. On October 9, 2024, UIL served on PURA a narrowly targeted request seeking access to specified public records in accordance with Section 1-210, *et seq.*, of the General

Statutes. That request is attached hereto as Exhibit A (“the October 9 Request”).

5. PURA has acknowledged the request. The agency has not denied the existence of any documents responsive to the request, nor has it asserted any exemptions for any of the requested records. Nonetheless, PURA has failed to provide the responsive records.

6. PURA’s failure to produce the records is particularly glaring with respect to two aspects of the request, which each likely seek a single document. Specifically, Paragraph 4 of the October 9 Request sought any “emails, correspondence or other documentation issued to PURA personnel . . . stating that Chairman Gillett will act as Presiding Officer on any or all matters coming before PURA.” *See* Ex. A, ¶ 4. And Paragraph 3 had called for any “emails, correspondence or other documentation indicating that Vice Chairman Betkoski and/or Commissioner Caron should obtain the permission of Chairman Gillett, directly or indirectly, in order to confer, make inquiries [of,] or obtain assistance from PURA personnel, including but not limited to attorneys, technical experts or any other staff, on any matter coming before PURA.” *See id.*, ¶ 3.

7. These two aspects of the October 9 Request likely call for only one document to respond to each. Upon information and belief, UIL understands that Chairman Gillett, or someone acting at her direction, instructed certain PURA personnel that she would be the “Presiding Officer” on all matters. At the contested hearing in this case, UIL anticipates calling one or more witnesses (including PURA personnel) to establish the existence of that documentation. Locating that single document, as well as the communication called for in Paragraph 3, should not have been difficult for PURA.

8. Upon information and belief, PURA’s withholding of this documentation is knowing and intentional. UIL and other utilities have objected to actions and positions taken by PURA and Chairman Gillett that failed to adhere to PURA’s statutory obligation to discharge its

quasi-judicial oversight of utilities in a fair and impartial manner. UIL believes that PURA's refusal to produce the documentation sought in Paragraphs 3 and 4 of the October 9 Request is connected to PURA's recognition that the directives at issue in those requests are not consistent with applicable law. In particular, the requested documentation would further demonstrate the scope and intentional nature of Chairman Gillett's unlawful usurpation of decision-making authority in circumvention of Section 16-2(c)'s requirement that a presiding officer may be appointed only with the open, express, and documented approval of the panel of no less than three commissioners on a docket-by-docket basis.

9. Regardless of the reason for the refusal, PURA has failed to produce the key documentation responsive to Paragraphs 3 and 4 of the October 9 Request. When PURA requested additional time to process its response, UIL continued to work with PURA in a good faith effort to secure production of the requested public records. Unfortunately, PURA has failed to comply. In correspondence dated December 2, 2024 and December 5, 2024, UIL made clear that it would be forced to file this Complaint if PURA failed to produce the requested records by a date certain (December 6, 2024). Because PURA has now refused to produce records by that deadline, UIL is left to treat that refusal as a denial as of that date.

10. Unfortunately, PURA's tactics of delaying and denying proper Freedom of Information requests have become common. In a recent Proposed Final Decision, this Commission concluded that PURA "failed to provide records to [a separate party] promptly," and directed that, "[h]enceforth, [PURA] shall strictly comply with the promptness requirements of" the Act. *See Utility Workers Union of America AFL-CIO v. Chairman, State of Connecticut, Public Utilities Regulatory Authority, et al.*, Docket No. FIC 2024-0025.

11. PURA's stonewalling is particularly problematic in light of PURA's practice of issuing discovery requests to UIL and other utilities that include a compliance deadline that is just

14 days from the date of service. And, upon information and belief, PURA has delayed its responses to other Freedom of Information requests in order to time a disclosure so that any responsive materials are not provided to the requester until after the record closes in a rate case, making it too late to make use of materials that should have been disclosed more promptly.

12. UIL respectfully requests that this Commission order PURA to provide the documents requested in the October 9 Request. The agency has not asserted any exemptions for the requested records, nor would any be applicable.

13. UIL further respectfully requests that the Commission find that PURA's denial of access to the requested records was without reasonable grounds. After providing PURA's custodian, or any other official who was directly responsible for the denial, to be heard at the hearing, the Commission should impose against that custodian or other appropriate officials a civil penalty, in accordance with Section 1-206(b)(2) of the General Statutes.

14. UIL further respectfully requests that the Commission, after the above-referenced hearing, find that (1) PURA has engaged in a practice or pattern of conduct that constitutes an obstruction of the right to access public records in accordance with Freedom of Information Act, and/or (2) has engaged in reckless, willful, or wanton misconduct with regard to the delay or denial of responses to requests for public records under the Act, and (3) it is appropriate to impose a civil penalty, in accordance with Section 1-206(b)(5) of the General Statutes.

15. UIL further respectfully requests that the Commission order such other relief as it deems just and proper.

Respectfully submitted,

COMPLAINANT UIL, INC.

By: //s// Thomas J. Murphy (ct409132)

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– Its Attorneys –

CERTIFICATE OF SERVICE

I certify that a copy of this document was or will immediately be delivered electronically on December 17, 2024, to the following:

Scott Muska, Esq.
General Counsel
Public Utilities Regulatory Authority
10 Franklin Square
New Britain, Connecticut 06051
scott.muska@ct.gov

//s// Thomas J. Murphy (ct409132)
Thomas J. Murphy
Dated: December 17, 2024
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Tel: (860) 278-5555

Exhibit A



October 9, 2024

BY EMAIL & DEEP PORTAL

Jeffrey R. Gaudiosi, Esq.
Executive Secretary
Public Utilities Regulatory Authority
10 Franklin Square
New Britain, CT 06051
Pura.ExecutiveSecretary@ct.gov

Re: FOIA REQUEST

Dear Mr. Gaudiosi:

As a public agency, the Public Utilities Regulatory Authority (“PURA”) is subject to the Connecticut Freedom of Information Act (“FOIA”), Conn. Gen. Stat. §§ 1-200, *et seq.*, without exception, as well as the Uniform Administrative Procedures Act, Conn. Gen. Stat. §§ 4-166 *et seq.*

Section 4-167 of the Connecticut General Statutes (Conn. Gen. Stat.) states, in relevant part, as follows: “In addition to other regulation-making requirements imposed by law, each agency shall: (1) Adopt as a regulation rules of practice setting forth the nature and requirements of all formal and informal procedures available provided such rules shall be in conformance with the provisions of this chapter; and (2) make available for public inspection, upon request, copies of all regulations *and all other* written statements of policy or interpretations formulated, adopted or used by the agency in the discharge of its functions, and all forms and instructions used by the agency” (emphasis added).

Accordingly, pursuant to FOIA and the UAPA, I hereby request copies of the materials listed below in the possession, custody, and/or control of PURA and/or any of its officers, employees, agents, or representatives. Specifically, I hereby request:

- (1) Copies of any and all emails, correspondence or other documentation evidencing distribution of the Proposed Final Decision (“PFD”) in Docket No. 23-11-02, or any portion thereof, to Presiding Officer Gillett, Vice Chairman Betkoski and/or Commissioner Caron, prior to issuance of the PFD to the public on October 4, 2024.
- (2) Copies of any and all emails, correspondence or other documentation of meetings and meeting dates conducted by or between the Presiding Officer, Vice Chairman

Betkoski and Commissioner Caron, discussing or relating to the development of the Proposed Final Decision in Docket No. 23-11-02.

- (3) Copies of any and all emails, correspondence or other documentation indicating that Vice Chairman Betkoski and/or Commissioner Caron should obtain the permission of Chairman Gillett, directly or indirectly, in order to confer, make inquiries or obtain assistance from PURA personnel, including but not limited to attorneys, technical experts or any other staff, on any matter coming before PURA.
- (4) Copies of any and all emails, correspondence or other documentation issued to PURA personnel, including but not limited to attorneys, technical experts or any other staff, stating that Chairman Gillett will act as Presiding Officer on any or all matters coming before PURA.
- (5) Copies of any and all internal written statements of practices, rules, policies or interpretations formulated, adopted or used by PURA and/or the Presiding Officer related to the development and/or issuance of proposed final decisions, including all internal forms and instructions pertaining to the development and issuance of a “proposed final decision,” or the role of the Presiding Officer therein.

Please contact me immediately if you have any questions regarding this request. The Companies will provide any payment related to this request that is required by law promptly upon notification of the amount due.

Please be reminded that electronic, text, and preserved voice mail messages relating to public business are public records subject to the Freedom of Information Act even if created or maintained on personal telephones or computers.

I respectfully note PURA’s obligations under the FOIA to provide the responsive document; to respond in a timely fashion, as required by Conn. Gen. Stat. § 1-212; to provide a written statement of the basis for withholding the document covered by this request within four days, as required by Conn. Gen. Stat. § 1-206(a), should that be the decision; and to ensure that any person to whom this request is delegated is fully apprised of PURA’s statutory obligations and the scope of this request.

Jeffrey R. Gaudiosi, Esq.
October 9, 2024
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Thank you in advance for your anticipated assistance.

Sincerely,

/s/ David T. Martin

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