STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY

APPLICATION OF THE UNITED ILLUMINATING COMPANY TO AMEND ITS RATE SCHEDULES	:	**DOCKET NO. 24-10-04**
APPLICATION OF YANKEE GAS SERVICES COMPANY D/B/A EVERSOURCE ENERGY TO AMEND ITS RATE SCHEDULES	:	**DOCKET NO. 24-12-01**
PURA INVESTIGATION INTO REVENUE ADJUSTMENT MECHANISMS FOR A PERFORMANCE-BASED REGULATION FRAMEWORK	:	**DOCKET NO. 21-05-15RE01**
PURA INVESTIGATION INTO PERFORMANCE MECHANISMS FOR A PERFORMANCE-BASED REGULATION	:	**DOCKET NO. 21-05-15RE02**
PURA INVESTIGATION INTO THE ESTABLISHMENT OF INTEGRATED DISTRIBUTION SYSTEM PLANNING WITHIN A PERFORMANCE-BASED REGULATION FRAMEWORK	:	**DOCKET NO. 21-05-15RE03**

September 25, 2025

MOTION FOR RECUSAL OF ATTORNEY MUSKA ON ALL DOCKETS AND PENDING MATTERS PERTAINING TO AVANGRID AND EVERSOURCE ENERGY

I. INTRODUCTION

Pursuant to Conn. Gen. Stat. §§ 4-181 and 16-2, R.C.S.A. §§ 16-1-28 and 16-1-32, Connecticut Rules of Professional Conduct Rule 3.3, Rule 3.4, and Rule 4.1 and the Connecticut

Code of Judicial Ethics Rule 1.2, Rule 2.3 and Rule 2.11, The Connecticut Light and Power Company ("CL&P") and Yankee Gas Services Company ("YGS") each d/b/a Eversource Energy, and Aquarion Water Company of Connecticut ("AWC-CT") (collectively, "Eversource") and Avangrid, Inc. ("Avangrid") and its Connecticut public service companies, The United Illuminating Company ("UI"), Connecticut Natural Gas Corporation ("CNG") and The Southern Connecticut Gas Company ("SCG") (together, the "Avangrid Companies") (together with Eversource, the "Companies") respectfully request that the Public Utilities Regulatory Authority ("PURA"), duly appointed to carry out the statutory obligations delineated in Title 16 of the Connecticut General Statutes, properly exercise its authority to recuse PURA General Counsel and Legal Director Scott Muska from any further participation or involvement in the above-captioned dockets.[1]

This action is necessary in light of actions indicating bias that will prevent the Companies from receiving a fair process and an unbiased outcome in these dockets. Specifically, this Motion should be granted because the cumulative evidence shows that Attorney Muska may have either concealed public records and evidence of Chairperson Gillett's bias toward Connecticut regulated utility companies; neglected his duty to diligently investigate and produce potentially adverse evidence and public records showing the Chairperson's bias toward Connecticut regulated utility companies; and/or failed to timely disclose evidence and public records of Chairperson Gillett's bias toward Connecticut regulated utility companies. These actions and/or omissions create an appearance of bias against the Companies. Therefore, Attorney Muska must be prohibited from

[1] In addition to submitting this joint motion in the above-captioned dockets, given its significance and the importance of the issues at hand, the Companies have also filed this joint motion as "General Correspondence" and respectfully request and intend that PURA enter this joint motion in every open docket at PURA involving the Companies.

further participation or involvement, ***of any kind***, in the above-captioned proceedings, and any other proceedings involving the Companies.

II. APPLICABLE LEGAL STANDARDS

A. State Employees Serving PURA Are Subject to the Judicial Bias Standard, Imposing a Higher Standard of Conduct Than the Administrative Standard of Conduct.

The Connecticut Supreme Court has held that the standard for unbiased agency decision-making starts with the proposition that an administrative agency acts in a quasi-judicial capacity. Clisham v. Board of Police Commissioners, 223 Conn. 354, at 361 (1992); Catino v. Board of Education, 174 Conn. 414, 417 (1978). "At the core of due process is the requirement for an impartial tribunal. Tumey v. Ohio, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749 (1927). Due process demands ... the existence of impartiality on the part of those who function in judicial or quasi-judicial capacities." Clisham v. Board of Police Commissioners, 223 Conn. at 361 (quoting, Rado v. Board of Education, 216 Conn. 541, at 556, 583 (1990) (internal quotation marks omitted)); see also Villages, LLC v. Enfield Planning and Zoning Commission, 149 Conn. App. 448, at 458 (2014).

As a general rule, "[t]he applicable due process standards for disqualification of administrative adjudicators do not rise to the heights of those prescribed for judicial disqualification." Petrowski v. Norwich Free Academy, 199 Conn. 231, 238 (1986); Jutkowitz v. Department of Health Services, 220 Conn. 86, 100 (1991); Clisham v. Board of Police Commissioners, 223 Conn. at 361. There is a presumption that administrative adjudicators are not biased and to overcome the presumption, the plaintiff must demonstrate actual bias, rather than mere potential bias, unless the circumstances indicate a probability of such bias too high to be constitutionally tolerable. Clisham v. Bd. of Police Comm'rs of Borough of Naugatuck, 223 Conn. 354, 362 (1992)

However, both PURA commissioners and PURA staff are subject to the judicial standard of conduct, which imposes a more stringent standard of conduct than the administrative standard. Specifically, PURA has a long-standing regulations that require its personnel to comply with the heightened judicial standard of conduct, prohibiting the *mere appearance of bias*, rather than requiring a demonstration of *actual bias* that typically applies to an administrative adjudicator. PURA's regulation, set forth at R.C.S.A. § 16-1-32, provides:

> Where applicable, the canons of professional ethics and the ***canons of judicial ethics*** adopted and approved by the judges of the superior court govern the conduct of the commissioners, ***state employees serving the [PURA]***, and all attorneys, agents, representatives, and any other persons who shall appear ***in any proceeding or in any contested case*** before [PURA] on behalf of any public or private person, firm, corporation or association.

R.C.S.A. § 16-1-32 (emphasis added).

The Code of Judicial Conduct, made applicable to state employees serving PURA by the above regulation, includes the following provisions pertinent to PURA's personnel:

- **Rule 1.2. Promoting Confidence in the Judiciary**. A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and ***shall avoid impropriety and the appearance of impropriety***. The test for appearance of impropriety whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge's honesty, impartiality, temperament, or fitness to serve as a judge (emphasis added).

- **Rule 2.3. Bias, Prejudice, and Harassment**. (a) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice. . . .

- **Rule 2.11. Disqualification**. (a) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned . . . .

Under PURA's regulation (R.S.C.A. § 16-1-32), PURA's staff are held to the same standard as Connecticut judges, meaning that the *mere appearance of bias* that might disqualify a judge would similarly require the disqualification of a PURA staff member where his or her

impartiality is reasonably in question. Clisham v. Board of Police Commissioners, 223 Conn. at 361-362.

In addition, bias may be raised at any time during a proceeding. "Cross-examination to elicit facts tending to show motive, interest, bias and prejudice is a matter of right and may not be unduly restricted . . . ." State v. Pratt, 235 Conn. 595, 604 (1995). Bias may be raised after an evidentiary hearing when evidence of bias is discovered, and the evidence of bias may be cumulative. Villages, LLC. v. Enfield Planning and Zoning Commission, 149 Conn. App. 448, 461-462 (2014). In that regard, PURA's regulations state, in relevant part, that: "Upon order of any commissioner before, during or after the hearing of a case any party shall prepare and file added exhibits and testimony." R.C.S.A. § 16-1-36 (emphasis added).

In summary, R.C.S.A. § 16-1-32 dictates that the canons of judicial ethics (i.e., the Code of Judicial Conduct) apply to PURA staff, including Attorney Muska. Under this standard, the "cumulative evidence" of conduct by Attorney Muska create the "appearance of impropriety," if not actual bias. Code at Canon 1; see also id. at Rule 2.11.

B. Attorney Muska Is Also Bound by the Connecticut Rules of Professional Conduct.

As discussed above, PURA has adopted heightened standards of conduct for the agency, and this includes making PURA staff subject to the Connecticut Rules of Professional Conduct by regulation:

> Where applicable, the ***canons of professional ethics*** and the canons of judicial ethics adopted and approved by the judges of the superior court govern the conduct of the commissioners, ***state employees serving the [PURA]***, and all attorneys, agents, representatives, and any other persons who shall appear ***in any proceeding or in any contested case*** before the [PURA] on behalf of any public or private person, firm, corporation or association.

R.C.S.A. § 16-1-32 (emphasis added).

The Connecticut Rules of Professional Conduct are the comprehensive rules of ethics and conduct for Connecticut lawyers. These rules, promulgated by the Connecticut Superior Court, have the force of law and are enforced through disciplinary agencies to regulate the behavior of attorneys and maintain the integrity of the legal profession. Mozzochi v. Beck, 204 Conn. 490, 501 n. 7 (1987) ("We recognize that the rules of practice and the codes adopted by the judges of the Superior Court have the force of law."). The Rules of Professional Conduct bind attorneys to uphold the law and to act in accordance with high standards in both their personal and professional lives. Statewide Grievance Comm. v. Egbarin, 61 Conn. App. 445, 450 (2001).

The Rules of Professional Conduct provide that a lawyer shall not knowingly make a false statement of material fact or law to a court, an arbitrator in a binding arbitration proceeding, or a legislative body, administrative agency or other body acting in an adjudicative capacity. Connecticut Practice Book, Rules of Prof'l Conduct R. 1.0(n), 3.3(a)(1) (2025). This duty of candor applies to both misrepresentations that take the form of an affirmative statement, and misrepresentations that take the form of a failure to disclose. Daniels v. Alander, 268 Conn. 320, 330 (2004); see Rules of Prof'l Conduct R. 3.3, Commentary ("There are circumstances where failure to make a disclosure is the equivalent of an affirmative misrepresentation.").

The Rules of Professional Conduct further provide that a lawyer shall not unlawfully obstruct another party's access to evidence. Rules of Prof'l Conduct R. 3.4(1). As explained in the commentary to the Rules of Professional Conduct, this rule acknowledges that "[d]ocuments and other items of evidence are often essential to establish a claim or defense" and the right of a party "to obtain evidence through discovery or subpoena is an important procedural right." Id. at R. 3.4, Commentary. Under the Rules of Professional Conduct, even an attempt at unlawfully obstructing another party's access to evidence or at unlawfully concealing an evidentiary document constitutes a violation of Rule 3.4. Briggs v. McWeeny, 260 Conn. 296, 323 (2002).

Lastly, the Rules of Professional Conduct impose a requirement of truthfulness in statements to others. Rules of Prof'l Conduct R. 4.1. Rule 4.1 states, in part: "In the course of representing a client a lawyer shall not knowingly: (1) make a false statement of material fact to a third person…."

C. PURA's Public Records are Subject to the Freedom of Information Act.

Although not part of the Freedom of Information Act ("FOIA") itself, the authors took the extraordinary step of drafting an informal preamble to emphasize the purpose of the act:

> [T]he [l]egislature finds and declares that secrecy in government is inherently inconsistent with [a] true democracy. That the people have a right to be fully informed of the actions taken by public agencies in order that they may retain control over the instruments they have created. ... That the people in delegating authority do not give their public servants the right to decide what is good for them to know and that it is the intent of this [l]aw that ... the records of all public agencies be open to the public except in those instances [in which a] superior public interest requires confidentiality.

Drumm v. Freedom of Info. Comm'n, 348 Conn. 565, 588–89 (2024).

"[FOIA] expresses a strong legislative policy in favor of the open conduct of government and free public access to government records." Wilson v. Freedom of Info. Comm'n, 181 Conn. 324, 328 (1980). The general rule under [FOIA] is disclosure with the exceptions to the rule being narrowly construed and the burden of establishing an exemption resting upon the party claiming it. Perkins v. Freedom of Information Commission, 228 Conn. 158, 167 (1993). "An agency's FOIA duty is a statutory duty or command. As such, it is not second class to any other statutory duty or command." Comm'r of Dep't of Emergency Servs. & Pub. Prot. v. Freedom of Info. Comm'n, No. HHBCV186047741, 2020 WL 5540637, at *3 (Conn. Super. Ct. July 2, 2020).

Under FOIA, the public has the right to ***promptly*** receive copies of public records, subject to FOIA fees and payment procedures. Conn. Gen. Stat. §§ 1-210(a), 1-212(a). A "public record" is defined as "**any** recorded data or information relating to the conduct of the public's business

prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method." Conn. Gen. Stat. § 1-200(5) (emphasis added).

III. APPLICABLE FACTS

Upon information and belief, Attorney Muska has been employed by PURA for approximately five years, including for the entirety of the above-captioned proceedings, and the summary of events that follows, and remain employed by PURA. Therefore, Attorney Muska is a "state employee[] serving [PURA]," and, as an Attorney practicing law in the State of Connecticut, Attorney Muska is subject to the Connecticut Rules of Professional Conduct and the Code of Judicial Conduct.

On August 23, 2022, Attorney Muska sent an email directive to the state's regulated utility companies indicating that any filings that require approval by PURA should be filed as a motion, thus giving the Presiding Officer power to approve or deny those requests (**Attachment 1**, hereto).

On October 9, 2024, Avangrid filed a FOIA public records request seeking, among other things:

- 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; and

- 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.

(**Attachment 2**, at 9, hereto).[2]

On November 14, 2024, Eversource filed a public records request pursuant to FOIA seeking among other things:

- Emails, correspondence, or other documentation from Scott Muska, General Counsel, to Connecticut Regulatory Counsel directing that compliance filings or any other filing requiring the approval of PURA must be submitted as part of a Motion; and

- Emails, correspondence or other documentation issued by Chairman Gillett or any other person employed by PURA now or in the past, indicating that Vice Chairman Betkoski and/or Commissioner Caron must obtain the permission of Chairman Gillett, directly or indirectly, to confer, make inquiries to or obtain assistance from, PURA attorneys or staff members on any matter coming before PURA.

(**Attachment 3**, hereto).[3]

On December 19, 2024, Avangrid filed two petitions[4] in Connecticut Superior Court, appealing PURA's rate decisions for CNG and SCG in Docket No. 23-11-02 (provided as **Attachment 4** and **Attachment 5**, hereto) (the "Avangrid Appeals"). Included in the Avangrid Appeals is the assertion that PURA's Final Decisions in Docket No. 23-11-02 are tainted by a series of highly unusual procedural irregularities, including the issuance of several important substantive "motion rulings" under the signature block of PURA's Executive Secretary, Jeffrey Gaudiosi (**Attachment 4**, at 9; **Attachment 5**, at 9). The Avangrid Appeals assert that all of these "Executive Secretary" rulings were ostensibly issued on behalf of "the Authority" and the "Public Utilities Regulatory Authority," although it was later revealed that these rulings were issued unilaterally by the Chairperson Gillett (acting as the Presiding Officer), unbeknownst to the companies (**Attachment 4**, at 9; **Attachment 5**, at 9).

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[2] Attachment 2 to this Joint Motion provides a copy of the Avangrid Companies December 17, 2024 Appeal Complaint to the Freedom of Information Commission pertaining to the October 9, 2024 FOIA. Page 9 of Attachment 2 provides a copy of the FOIA.

[3] Attachment 3 to this Joint Motion provides an email response from Attorney Muska to Attorney Murphy in response to the November 14, 2024 FOIA, itemizing and responding to the FOIA.

[4] CNG v. PURA, HHB-CV25-6092047-S and SCG v. PURA, HHB-CV25-6092048-S.

In addition, the Avangrid Appeals assert that under Conn. Gen. Stat. § 16-2(f) the PURA Chairperson's statutory duties and authority largely relate to organizing and administering PURA, and do not include any special ability to act as or appoint a Presiding Officer (**Attachment 4**, at 51-52; **Attachment 5**, at 57). The Avangrid Appeals assert that there is no record evidence or public record of an order delegating the PURA Chairperson – either generally for all dockets or specifically as to Docket No. 23-11-02 – to act as presiding officer and the PURA Chairperson's authority in hearing and deciding matters before PURA is identical to that of her fellow commissioners (**Attachment 4**, at 51; **Attachment 5**, at 57). Lastly, the Avangrid Appeals assert that selecting a Presiding Officer is a collective decision of the panel of Commissioners and this requirement serves to prevent a single member from accumulating and exercising disproportionate authority and to ensure the multiplicity of opinion and perspective inherent in properly functioning as a multimember adjudicative body (**Attachment 4**, at 51; **Attachment 5**, at 57).

Also on December 19, 2024, the CT Mirror published an Op-Ed, entitled "*Don't believe the utility propaganda*," which asserted that the ratings agencies who analyze Connecticut utilities are neither independent nor objective (**Attachment 6**, hereto, at 2).[5] On that same day, Chairperson Gillett sent an email to a limited distribution list of PURA staff (including Attorney Muska) with the subject line "Happy Holidays." (**Attachment 7**, hereto). The email included a copy of the "*Don't believe the utility propaganda*" Op-Ed and included the message: "please enjoy this Op-Ed by the E&T co-chairs." (id.).

On December 30, 2024, Attorney Muska sent an email to Commissioners Caron, Betkoski, and Gillett concerning the public records request seeking, among other things:

[5] CT Mirror, December 19, 2024, State Sen. Norm Needleman and State Rep. Jonathan Steinberg, entitled "*Don't believe the utility company propaganda.*" *available at* https://ctmirror.org/2024/12/19/dont-believe-the-utility-company-propaganda/ (last accessed September 20, 2020).

- 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.

- 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.

(**Attachment 8**, hereto, at 2). In the email, Attorney Muska states that he reviewed the documents provided by the Commissioners and "did not see any documents responsive to" the two categories of documents identified above (id.).

On January 22, 2025, Connecticut Inside Investigator published an article titled "*PURA to investigate itself over alleged administrative problems*," in which PURA was quoted as saying Chairperson Gillett will "generally designate herself as presiding officer" and it is common practice to use the Executive Secretary's signature (**Attachment 9**, hereto, at 3).[6]

On January 6, 2025, Attorney Muska emailed Attorney Murphy (counsel to Eversource) to inform him that PURA had no responsive documents regarding Eversource's request for:

- Emails, correspondence, or other documentation from Scott Muska, General Counsel, to Connecticut Regulatory Counsel directing that compliance filings or any other filing requiring the approval of PURA must be submitted as part of a Motion; and

- Emails, correspondence or other documentation issued by Chairman Gillett or any other person employed by PURA now or in the past, indicating that Vice Chairman Betkoski and/or Commissioner Caron must obtain the permission of Chairman Gillett, directly or indirectly, to confer, make inquiries to or obtain assistance from, PURA attorneys or staff members on any matter coming before PURA.

(**Attachment 3**; but see **Attachment 1** (directing Connecticut Regulatory Counsel to submit filings requiring the approval of PURA as Motions)).

[6] Connecticut Inside Investigator, January 22, 2025, Mark E. Fitch, "*PURA to investigate itself over alleged administrative problems*," *available at* https://insideinvestigator.org/pura-to-investigate-itself-over-alleged-administrative-problems/ (last accessed September 20, 2020).

On February 13, 2025, the Hartford Courant published an article by Edmund H. Mahony, entitled "*PURA Chief's confirmation for second term uncertain as CT lawmakers consider newly released text messages*," reproducing a series of text messages between Chairperson Gillett and State Representative Jonathan Steinberg over the days just before and after the December 19th publication of the Op-Ed "*Don't believe the utility propaganda*."[7] As reported by the Hartford Courant, early in this text exchange Chairperson Gillett tells Rep. Steinberg that she sent him "an overly formal response" to one of his emails because she was "concerned about getting FOI'd" (**Attachment 10**, hereto, at 4). Later in the text exchange, State Rep. Steinberg and Chairperson Gillett discussed the "release/op Ed" on December 15, 2025, four days before its publication, with Chairperson Gillett telling Rep. Steinberg she had "finished [her] draft and [was] waiting for Theresa and others to put eyes on it" and would be sending the draft along "to you and norm [i.e., Sen. Norman Needleman] hopefully later today" (id.). On December 20, 2025, the day after the Op-Ed was published, Chairperson Gillett sent a text to State Rep. Steinberg that she was "getting a number of positive comments on [the] editorial" and, further, that she "[s]aw a nice one from the NH consumer advocate" (id.).

On February 20, 2025, Chairperson Gillett provided testimony under oath before the Executive and Legislative Nominations Committee, in support of her re-nomination as a PURA Commissioner. In her sworn testimony, Chairperson Gillett stated that PURA did not find any documentation of a procedure under which commissioners had to go through the Chair to have access to staff and that the other commissioners had provided an "attestation in writing that they have never been told they needed to go through the Chairman to access staff" (**Attachment 11**,

[7] Hartford Courant, February 13, 2025, Edmund H. Mahony, "*PURA Chief's confirmation for second term uncertain as CT lawmakers consider newly released text messages*," *available at* https://www.courant.com/2025/02/13/pura-chiefs-confirmation-for-second-term-paused-as-lawmakers-consider-newly-released-text-messages/ (last accessed September 20, 2020).

hereto, at 20-21). Regarding the December 19th Op-Ed "*Don't believe the utility propaganda*," Chairperson Gillett testified under oath that she did not write it and understood that Senator Needleman and Representative Steinberg authored the piece (id. at 12).

On April 16, 2025, the Connecticut Superior Court allowed discovery outside the administrative record in the Avangrid Appeals. Specifically, the Superior Court allowed discovery on (1) procedural irregularities arising from PURA's failure to comply with applicable statutory authority on the processes involved with issuing preliminary, procedural and intermediate rulings under the signature stamp of the Executive Secretary; and (2) potential bias and prejudgment by the PURA Chairperson arising from her apparent participation in the preparation of a published Op-Ed article that was highly critical of utilities and alleging collusion between the utilities and credit-rating agencies in the credit downgrades that were experienced by both Avangrid and Eversource as a result of the CNG and SCG rate decisions. PURA was ordered to produce specific documentation within 15 days of the order (i.e. by May 1, 2025) (**Attachment 12**, hereto, at 9).[8]

On May 1, 2025, PURA submitted a materially incomplete response to plaintiffs' discovery request, attempting to explain and/or justify the procedural irregularities experienced by CNG and SCG during their rate dockets. On the second area of inquiry—the genesis of the Op-Ed—PURA failed to fully produce the discovery directed by the Superior Court (see **Attachment 13**, hereto, at 63-68).[9] As part of this May 1, 2025 discovery production, PURA produced the Affidavit of Scott Muska ("Muska Affidavit") (**Attachment 14**, hereto). In the Muska Affidavit, Attorney Muska swore that the contents of his affidavit were true and accurate to the best of his knowledge and belief. Paragraph 18 of the Muska Affidavit asserts "**All commissioners are free**

[8] Memorandum of Decision, CNG v. PURA, HHB-CV25-6092047-S and SCG v. PURA, HHB-CV25-6092048-S, Doc. No. 114.00 at 9 (Apr. 16, 2025).

[9] Attachment 13 provides a copy of the CNG and SCG Memorandum in Support of Motion for Compliance, filed on May 16, 2025 in the Avangrid Appeals.

to schedule meetings with staff to discuss dockets.…. All commissioners are invited to and encouraged to participate in the Sector meetings." (**Attachment 14**, at ¶18 (emphasis added) (internal citations omitted)).

On May 6, 2025, plaintiffs' counsel in the Avangrid Appeals sent a letter to PURA's counsel addressing PURA's non-compliance with the court-ordered document production (**Attachment 13**, at 63-68). The plaintiffs requested that PURA immediately cure its noncompliance, as follows:

- Produce all text messages, emails, attachments, and any other documents relating to the December 19, 2024 Op-Ed, including but not limited to all documents relating to the "draft" that Chairperson Gillett "finished," was "waiting for Theresa and others to put eyes on," and was planning to send to Rep. Steinberg and Sen. Needleman "hopefully later" on December 15;

- Produce all of the attachments to the emails provided in response to the Court's order, in a format that includes all relevant metadata and document history; and

- Clarify whether PURA's search, review, and production in response to the Court's order included a thorough search of the personal devices, personal email accounts, and related personal files of PURA's commissioners and employees, including those of Chairperson Gillett.

(id. at 67).

On May 8, 2025, PURA produced a single email, dated December 20, 2024. This incomplete production consisted of the aforementioned "Happy Holidays" email sent by PURA Chairperson Gillett to PURA's top-tier managers and decisional staff (including Attorney Muska) conveying an electronic copy of the December 19th Op-Ed "*Don't believe the utility propaganda*" (provided as **Attachment 7**).

On May 16, 2025, the plaintiffs in the Avangrid Appeals filed a motion for an order of compliance with discovery with the Superior Court, accompanied by a memorandum of law (**Attachment 13**). The memorandum of law explained that in the Muska Affidavit accompanying PURA's May 1, 2025 discovery responses, Attorney Muska claimed that "production included ***all***

documents ***on both work and personal electronic devices***, including the six (6) text messages referenced by the Companies" (**Attachment 13**, at 7) (emphasis added). However, the image produced in PURA's response did not provide the text messages stored and located on Chairperson Gillett's phone but rather was an image of the text messages published in the Hartford Courant (see **Attachment 10** above) that had been retrieved from Rep. Steinberg's cell phone (id.). In addition, Attorney Muska's affidavit stated that "the Authority does not have possession or control of any documents concerning the drafting or authorship of the December 19, 2024 Opinion piece" (id.).

On June 23, 2025, the Hartford Courant published an article by Edmund H. Mahony, entitled "*CT top utility regulator admits controversial text messages at center of court case deleted*," reporting that Chairperson Gillett had deleted her text message exchange with State Rep. Steinberg concerning the December 19th Op-Ed "*Don't believe the utility propaganda*." (**Attachment 15**, hereto).[10] The article further reported that:

> Gillett asserted in a sworn affidavit by a PURA lawyer that she, and her executive assistant Theresa Govert — referred to in the text exchange as reviewing Gillett's draft — had searched their devices and located no material relevant to [Judge] Budzik's order. The affidavit was dated June 6, ***about six months after Gillett's cell phone would have automatically deleted the exchange*** with Steinberg, according to the account given . . . in court.

(id.) (emphasis added).

On June 25, 2025, Superior Court Judge Matthew Budzik, the presiding judge in the Avangrid Appeals, issued an order allowing the plaintiffs to depose Chairperson Gillett and Chief of Staff Govert concerning the circumstances surrounding the deletion of any documents responsive to the court's discovery order, any actions taken to recover any potentially responsive

[10] Hartford Courant, June 23, 2025, Edmund H. Mahony, "*CT top utility regulator admits controversial text messages at center of court case deleted,*" *available at* https://www.courant.com/2025/06/23/ct-top-utility-regulator-inadvertently-deletes-controversial-text-messages-at-center-of-court-case/ (last accessed September 20, 2020).

documents, and the circumstances surrounding any review, editing, or commenting upon the December 19th Op-Ed by Chairperson Gillett and/or Chief of Staff Govert (**Attachment 16**, hereto).

On July 15 and 16, 2025, subject to Judge Budzik's June 25, 2025 Order, Counsel for Avangrid conducted depositions of Chief of Staff Govert and Chairperson Gillett. The results of these depositions "confirmed that the slow-motion coverup of Chairperson Gillett's involvement" in the Op-Ed continues (see July 25, 2025 Memorandum in Support of Motion for Leave to Take Additional Discovery (**Attachment 17,** hereto)). As set out in **Attachment 17,** Chief of Staff Govert testified at her deposition that "she has experienced an almost complete loss of memory with respect to the events that took place in December of 2024, including what 'drafts' she may have reviewed, and whether she had 'discussions…with Chairperson Gillett about [the] op-ed during this time period." (**Attachment 17**, at 9). Chief of Staff Govert "provided a medical explanation for this loss of all memory as to the key events at issue. According to Ms. Govert, the medication she was taking in December of 2024 has essentially erased all memories of relevant information related to" the Avangrid Appeals (id.).

On September 18, 2025, the Hartford Courant published an article by Edmund H. Mahony, entitled "*CT agency at center of controversy suddenly releases emails at center of long-standing dispute*," reporting that PURA had reversed its prior position and acknowledged the existence of directives limiting the ability of commissioners to consult staff directly (**Attachment 18**, hereto).[11] On Wednesday, September 17, PURA released two emails concerning staff access, including a

[11] Hartford Courant, September 17, 2025, Edmund H. Mahony, "*CT agency at center of controversy suddenly releases emails at center of long-standing dispute*," *available at* https://www.courant.com/2025/09/17/ct-agency-at-center-of-controversy-suddenly-releases-emails-at-center-of-long-standing-dispute/ (last accessed September 20, 2020).

December 2023 email from Theresa Govert, Chief of Staff, to the two then-serving co-commissioners stating that:

> Moving forward …I would appreciate it if all requests to work with staff came through me," Theresa Govert said. "This way, I can coordinate with the appropriate Director/Supervisor. Through my one-on-one conversations with staff these past few weeks, it has been made clear that they appreciate clear chains of communication and decision-making. I look forward to working with all of you to accomplish this goal.

(id.).

The article again noted the August 2025 hearing before the FOIC where Attorney Muska emphatically denied the existence of such a policy, and on the statement by the "PURA spokeswoman" that they were unable to locate such email and that all commissioners are free to consult PURA staff (id.). These statements, as well as Chairperson Gillett's prior testimony to the legislature, are now shown to be patently false. In addition, the article reported that: "In a statement to the Courant in late August, a PURA spokeswoman said the authority had been ***unable to locate email requiring approval for staff meetings***. She said all commissioners are free to consult staff, while recognizing a need for coordination for efficiency" (id.) (emphasis added). A recording of the evidentiary hearing cited to in this article was posted by the Freedom of Information Commission.[12]

On September 18, 2025, Representative Vincent Candelora sent a letter to Matthew Ritter, Speaker of the Connecticut House of Representatives, requesting that the Speaker convene a Select Committee of Inquiry to determine whether Chairperson Gillett perjured herself during her confirmation process before the Legislative and Executive Nominations Committee by denying the existence of any email or directive to the commissioners and/or staff of PURA that required staff support to commissioners be directed through her (**Attachment 19**, hereto; see also

[12] https://portal.ct.gov/-/media/foi/recordings/2025/contested-cases-recordings-2025/fic-2024-0842c_08052025.mp3

Attachment 11, at 20-21). Rep. Candelora also noted that he still had not received a copy of the signed "attestation in writing" from Commissioner Betkoski and Commissioner Caron that no directive existed that limited their access to PURA staff. Chairperson Gillett testified to the existence of this signed attestation at her confirmation hearing (**Attachment 19;** see also **Attachment 11,** at 21).

On September 19, 2025, Chairperson Gillett tendered her resignation from PURA to Governor Ned Lamont, effective October 10, 2025 (**Attachment 20**, hereto).

IV. GROUNDS FOR RECUSAL

The Companies submit this motion because it is necessary to obtain balanced and fair consideration of the above-captioned matters. This request for recusal is necessitated both by the extraordinary misconduct and omissions giving rise to the motion and by the Companies' obligation to raise any claim of bias with "reasonable promptness after learning the ground for such a claim." Clisham v. Board of Police Comm'rs of Borough of Naugatuck, 223 Conn. 354, 367 (1992). Due process demands impartiality on the part of those who function in judicial or quasi-judicial capacities. Id. at 361, citing Rado v. Board of Education, 216 Conn. 541, 556 (1990); Schweiker v. McClure, 456 U.S. 188, 195 (1982).

The Companies do not doubt or contest that Attorney Muska owes a duty of loyalty and diligence to PURA and should zealously represent PURA's interests. However, that duty cannot override the rule of law, nor can it obviate the fact that Attorney Muska must conform to standards of conduct by which he owes equally important duties, including but not limited to candor and transparency to opposing parties, to the legal system, to the administrative law system, and to the public. The cumulative evidence discussed above strongly suggests that Attorney Muska neglected those important duties and may have concealed evidence and public records of Chairperson Gillett's bias toward Connecticut regulated utility companies; may have neglected his

duty to diligently investigate and produce potentially adverse evidence and public records showing Chairperson Gillett's bias toward Connecticut regulated utility companies; and/or may have failed to timely disclose evidence and public records of Chairperson Gillett's bias toward Connecticut regulated utility companies. As discussed below, there are several examples of actions and omissions by Attorney Muska that create an appearance of bias—if not actual bias—toward utility companies in general, and the Companies in particular.

First, on October 9, 2024, Avangrid requested copies of documents indicating that Vice Chairman Betkoski and/or Commissioner Caron should obtain the permission of Chairperson Gillett, directly or indirectly, in order to confer with staff. Avangrid's request was followed by a similar request by Eversource on November 14, 2024. On January 6, 2025 (almost three months later), Attorney Muska informed Eversource's counsel that PURA did not have any documents responsive to the public records request (**Attachment 3**). Then, on September 17, 2025 (nearly one year after Avangrid's initial FOIA request), PURA produced a responsive record in the form of an email from Ms. Govert, acting in her capacity as Chief of Staff, limiting the access of Vice Chairman Betkoski and Commissioner Caron to PURA's staff (see **Attachment 18**).

The production of this email, following nearly a year of staunch denials as to its existence, directly contradicts the testimony provided by Attorney Muska at the Freedom of Information Commission and in Paragraph 18 of the Muska Affidavit (**Attachment 14**). Attorney Muska's improper refusal to produce a responsive document (in the form of an email sent from a State of Connecticut government email address by a top-tier manager) followed by its subsequent release creates an appearance of bias by Attorney Muska because the email he withheld tends to show that Chairperson Gillett, had taken personal control of much of PURA's regulatory apparatus by restricting the access of co-equal commissioners to staff.

It strains credibility beyond the breaking point to suggest that Mr. Muska was unaware of this unambiguously worded email particularly when it was widely known that this was a subject of controversy for the agency and the subject of a FOIA request. The fact that PURA and Mr. Muska falsely denied the existence of this public record and then produced it nearly one year later violates FOIA's requirement that requestors have the right to ***promptly*** receive copies of public records. Conn. Gen. Stat. § 1-212(a). The delay in production also violates Rules 3.3, 3.4, and 4.1 of the Rules of Professional Conduct, to which Attorney Muska is subject as a licensed attorney, and to which Attorney Muska is subject by regulation. R.C.S.A. § 16-1-32 (providing that the canons of professional ethics adopted and approved by the Superior Court govern the conduct of state employees serving PURA).

Under Rule 4.1 of the Rules of Professional Conduct, a lawyer shall not knowingly "make a false statement of material fact or law to a third person" (Rule 4.1 Truthfulness in Statements to Others). Under Rule 3.3 of the Rules of Professional Conduct, lawyers have a duty of candor towards the tribunal and shall not knowingly "make a false statement of fact" to a tribunal or "fail to correct a false statement of material fact…previously made to the tribunal by the lawyer…" (Rule 3.3 Candor Towards the Tribunal). Under Rule 3.4 of the Rules of Professional Conduct, a lawyer is prohibited from unlawfully obstructing another party's access to evidence. Additionally, under Rule 8.4 of the Rules of Professional Conduct, it is professional misconduct to "[v]iolate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or to do so through the acts of another...."

During the past year, Attorney Muska has repeatedly offered sworn statements suggesting that PURA's commissioners have co-equal access to staff (**Attachment 14**, at ¶18) and that there has been no PURA directive or email limiting that access (**Attachment 18**). These statements are directly contradicted by the production of the December 22, 2023 email from Chief of Staff Govert

to Vice Chairman Betkoski and Commissioner Caron. As noted above, Rule 4.1 requires that a lawyer shall not knowingly make a false statement of material fact to a third person. The Commentary to Rule 4.1 makes clear that "[m]isrepresentations can…occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements." State v. Martinez, 319 Conn. 712, at fn. 2 (2015) (quoting Commentary to Rule 4.1 of the Rules of Professional Conduct). The Companies, parties to litigation, the tribunal, and public at large should be able to rely on the sworn statements of public officials, such as Attorney Muska, especially when submitted to a tribunal such as the Superior Court or Freedom of Information Commission. The production of the December 22, 2023 email after a year of staunch denials as to its existence directly contradicts the sworn statements made by Attorney Muska and calls into question compliance with Rules 3.3 and 4.1 of the rules of professional conduct.

Connecticut courts have held that "even when not under oath '[a]ttorneys are officers of the court, and when the address the judge solemnly upon a matter before the court, their declarations are virtually made under oath." Fleischer v. Fleischer, 192 Conn. App. 540 at fn. 12 (2019) (quoting State v. Webb, 238 Conn. 389, 420 (1996)). To the Companies' knowledge, no explanation has been provided to justify the discordance between Attorney Muska's statements regarding PURA commissioner's free access to staff, that "[a]ll commissioners are free to schedule meetings with staff to discuss dockets," and the plain language of Chief of Staff Govert's email limiting that access in December 2023, nor his emphatic denial of such a policy's existence just prior to the production of Chief of Staff Govert's email.

Additionally, the Connecticut Supreme Court has found that the failure to ***promptly*** disclose evidence constitutes a violation of Rule 3.4. Briggs v. McWeeny, 260 Conn. 296, 324 (2002). That is certainly the case here, where production occurred nearly a year after Avangrid's request and well after the commencement of the Avangrid Appeals and only after the need for

proceedings before the Freedom of Information Commission. This delay in producing responsive records, as enabled by the actions and omissions of Attorney Muska, reasonably places the impartiality of Attorney Muska in question in violation of Rule 1.2 and 2.3 of the Code of Judicial Conduct. Accordingly, Attorney Muska should be disqualified from any further involved in the above-cited dockets consistent with Rule 2.11 of the Code of Judicial Conduct.

Second, the November 14, 2024 public records request from Eversource sought copies of any documents from Attorney Muska to Connecticut Regulatory Counsel directing that compliance filings or any other filing requiring the approval of PURA must be submitted as part of a Motion. On January 26, 2025, Attorney Muska informed counsel for Eversource that PURA had no responsive documents. However, such an email does exist, it was authored by Attorney Muska, and it was eventually produced (as provided in **Attachment 1**). The email tends to support the argument that Chairperson Gillett established a framework where all motions would be directed to her, as Presiding Officer, so she could exert disproportionate control over PURA's regulatory apparatus. The fact that Attorney Muska did not produce the email, which he authored, indicates, at a minimum, a violation of FOIA, and creates the appearance of bias in violation of Rule 1.2 and 2.3 of the Code of Judicial Conduct. Accordingly, Attorney Muska should be disqualified from any further involvement in this docket consistent with Rule 2.11 of the Code of Judicial Conduct.

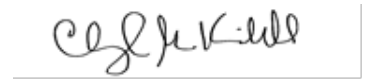
Based on the cumulative evidence regarding the deliberate or negligent failure to preserve and produce evidence by Attorney Muska, a disinterested observer could conclude that Attorney Muska have violated Rules 3.3 (duty of candor), Rule 3.4 (fairness to opposing party and counsel), and Rule 4.1 (Truthfulness in Statements to Others) of the Rules of Professional Conduct and that his acts and omissions create an appearance of bias pursuant to Rule 1.2 and Rule 2.3 of the Code of Judicial Conduct. Accordingly, Attorney Muska should be disqualified from any further involved in these dockets consistent with Rule 2.11 of the Code of Judicial Conduct.

V. CONCLUSION

For the reasons set forth herein, the Companies requests that PURA properly exercise its authority to recuse Attorney Muska from further participation or involvement, of any kind, in these proceedings.

RESPECTFULLY SUBMITTED,

EVERSOURCE ENERGY



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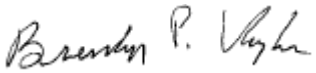
AVANGRID, INC.



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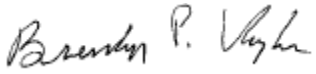
Their Attorneys

CERTIFICATION

I hereby certify that on September 25, 2025, a copy of the foregoing was sent to the Public Utilities Regulatory Authority, the Office of Consumer Counsel, and to the official service list in this proceeding in Compliance with Conn. Regs. §16-1-15, as amended.



Brendan P. Vaughan