

**STATE OF CONNECTICUT
PUBLIC UTILITIES REGULATORY AUTHORITY**

PURA INVESTIGATION INTO : DOCKET NO. 21-05-15RE01
REVENUE ADJUSTMENT MECHANISMS :
FOR A PERFORMANCE-BASED :
REGULATION FRAMEWORK : May 27, 2025

BRIEF OF THE ENVIRONMENTAL ADVOCATES

Save the Sound, Vote Solar, Conservation Law Foundation, Fairfield Forestry Committee, Neighborhood Housing Services of New Haven, and Acadia Center (hereinafter, jointly, “environmental advocates”) hereby submit this brief in the above referenced matter in response to the Public Utilities Regulatory Authority’s (“PURA” or “Authority”) request for briefing directing the parties and intervenors to summarize their respective positions concerning the proposed Performance Based Regulation framework.

Background – Phase 1 (21-05-15)

The predecessor to the current docket (“Phase One docket”) was initiated by PURA on May 26, 2021, pursuant to Section 1 of Public Act 20-5, An Act Concerning Emergency Response by Electric Distribution Companies, the Regulations of other Public Utilities and Nexus Provisions for Certain Disaster-Related or Emergency-Related Work Performed in the State (“Take Back Our Grid Act”). That legislation directed PURA, not later than June 1, 2021, to “initiate a proceeding to investigate, develop and adopt a framework for implementing performance-based regulation of each electric distribution company.” The PBR framework adopted by the authority is required to:

Establish standards and metrics for measuring such electric distribution company's performance of objectives that are in the interest of ratepayers or benefit the public, which may include, but not be not limited to, safety, reliability, emergency response, cost efficiency, affordability, equity, customer satisfaction, municipal engagement, resilience and advancing the state's environmental and policy goals, including, but not limited to, those goals established in section 22a-200a of the general statutes, in the Integrated Resources Plan approved pursuant to section 16a-3a of the general statutes and in the Comprehensive Energy Strategy prepared pursuant to section 16a-3d of the general statutes; (2) identify the manner, including the timeframe and extent, in

which such standards and metrics shall be used to apply the principles and guidelines set forth in section 16-19e of the general statutes and to determine the relative adequacy of the company's service and the reasonableness and adequacy of rates proposed and considered pursuant to section 16-19a of the general statutes; and (3) identify specific mechanisms to be implemented to align utility performance with the standards and metrics adopted pursuant to this section and subsection (b) of section 16-19a of the general statutes, including, but not limited to, reviewing the effectiveness of the electric distribution company's revenue decoupling mechanism.

Throughout the Phase I docket, PURA and docket participants worked on identifying and developing overarching regulatory goals, corresponding priority outcomes, and foundational considerations to guide the development of the PBR framework. This effort was facilitated by the issuance of three Concept Papers by the Authority to serve as the catalyst for deeper and more detailed inquiry into the respective topics. On January 25, 2023, the Authority issued a Straw Proposal intended to facilitate the establishment of a holistic PBR framework by identifying areas for consideration and investigation in Phase 2.

Following stakeholder review, discussion, and comments regarding the Straw Proposal, the Authority issued its Final Decision in the Phase One docket on April 26, 2023. As part of that decision, the Authority set forth the elements of the PBR framework to be developed as part of the reopeners that would make up Phase Two of the PBR proceedings. These included Revenue Adjustment Mechanisms (to be developed in 21-05-15RE01), Performance Mechanisms (to be developed in 21-05-15RE02), and Integrated Distribution System Planning (to be developed in 21-05-15 RE03)

Background – Phase 2 (21-05-15RE01)

PURA issued its initial Straw Proposal outlining a conceptual framework for a revenue cap formula and ancillary revenue adjustment mechanisms on November 13, 2023. That first Straw Proposal provided the catalyst for stakeholder feedback and comments, including comments related to suggested modifications to the revenue adjustment mechanisms as set forth in the Straw Proposal.

On February 27, 2025, PURA issued a revised Straw Proposal. The revised Straw Proposal reflected the months of discussions among the participants concerning the draft Straw Proposal

itself, as well as additional ancillary topics related to the development of the PBR framework. The Revised Straw Proposal included numerous changes based on stakeholder feedback.

Throughout the docket, PURA has conducted extensive discovery through interrogatories and technical workgroup sessions, in addition to regular requests for written comments. To date, in this reopener alone, PURA has noticed and received seven rounds of written comments, received fourteen sets of party interrogatory responses, and held fifteen technical meetings.

I. The Establishment of a Performance-Based Regulatory Framework

Traditional cost-of-service regulation compensates utilities based on their spending, often discouraging cost-efficiency and innovation. In contrast, PBR ties utility earnings to performance metrics, encouraging the utilities to achieve measurable outcomes—such as reliability, affordability, environmental sustainability, and customer satisfaction. This shift aligns regulatory oversight with the public interest while promoting innovation, efficiency, and accountability in utility operations.

There is no disagreement among the participants that adopting a well-designed Performance-Based Regulatory model to the electric distribution companies does not violate the constitutional and statutory frameworks governing utility compensation. In other words, it is recognized that moving from a strict cost-of-service model to a performance-based model can continue to provide the EDCS with the opportunity, though not a guarantee, to earn their approved ROE while also ensuring that rates are just and reasonable, but not more than just and reasonable.

Despite this overall consensus, throughout the proceedings the EDCs have raised concerns that specific elements of the proposed PBR Framework interfere with, or are contrary to, their ability to earn the approved ROE/established ratemaking standards. Accordingly, while accepting the EDCs' stated approval in concept of establishing a PBR regime, we will address specific concerns as they arise pursuant to individual elements of the Revised Straw Proposal.

II. The Proposed Revenue Cap Formula

The original Straw Proposal, which the Authority issued for the purposes of having a concept to guide stakeholder conversations, included a simplified revenue cap formula, with adjustments

to the going-in rate based solely on an I-factor (inflation) adjustment and the recovery of unusual costs outside the utility's control. The original formula proposal is set forth below:

$$\text{Allowed Revenue Adjustment} = (\text{Going In Revenue Requirement}) * (1+I) + Z$$

Under this proposal, the I-Factor GDPPI would have been set according to GDPPI 'at the beginning of the MRP period without annual adjustments (i.e., the I-Factor would be set at a static figure established at the outset of the MRP plan period).'¹ The Z-Factor was anticipated to follow the general principles articulated by the Hawaii Public Utilities COMmission in its Z-Factor treatment. These include: "(1) The costs must be attributable to events outside the control of a prudently operating electric utility; (2) The costs must be related to the exogenous event and outside the base upon which the rates were originally derived; (3) The cost impact of the event must be clearly outside of the base upon which current effective rates were derived; (4) The costs must be prudently incurred; (5) The costs must not be otherwise addressed by existing rates and/or other sources of cost recovery available to the utility (e.g., insurance, government aid, or indemnity from third parties); and (6) The costs related to each exogenous event must exceed the defined Materiality Threshold for the applicable utility."²

Under the Revised Straw Proposal, the Revenue Cap Formula has been set to:

$$\text{Allowed Revenue Adjustment} = (\text{Going In Revenue Requirement}) * (1+I - (X+S)) + Z + \text{CT Bar}$$

The revised Revenue Cap Formula represents adjustments made based on the input of all parties, including the utilities. Among the major changes made to the proposed revenue cap formula between the initial draft and the Revised Straw Proposal is the inclusion of an "X" factor, "S" factor, and a capital funding mechanism (identified as the "CT-Bar"), which were absent from the formula proposed in the initial draft. The addition of the X-factor accounts for expected annual efficiency gains. With respect to the S-Factor, which represents a stretch factor or customer dividend, PURA proposes an approach "wherein highly efficient utilities have an S-Factor at zero, which returns nothing to customers, and less efficient utilities have an S-Factor greater than zero, which returns increasing amounts to customers as utilities are demonstrated to

¹ Docket No. 21-05-15RE01, Preliminary Straw Proposal at 21 (Nov. 13, 2024)..

² See Preliminary Straw Proposal at 20, 23.

be less efficient relative to their peers.”³ Additionally, under the new formula, the “I” factor will be adjusted for inflation annually.

X-Factor and TFP Studies

With respect to the X-Factor, we agree with the consensus that a Total Factor Productivity Test is a valid and useful tool for establishing the appropriate X-Factor. However, we strongly disagree with Eversource’s characterization of the establishment of the X-factor as “more a science than art” and that the results of a TFP study must be mechanistically applied to set the value of the X-Factor⁴. Indeed, as the jurisdictional examples cited by the EDCs demonstrate, the regulatory authority retains discretion to set the X-Factor at the level it deems appropriate and is not bound to adopt the results of any particular TFP study or average the results of multiple TFP studies.⁵ Certainly, the regulatory authority *may* adopt TFP study results as having probative value, but it is not bound to do so.

With respect to the TFP outputs requested by PURA (customer count, delivered energy, and peak demand), Eversource notes that it may have difficulty in securing peak demand data. While peak demand may not be reported on FERC Form 1, we find it hard to believe that the utilities would have difficulty in obtaining data that is so central to their work. Managing peak demand is core to managing costs, and you can’t manage what you don’t measure. Certainly, ISO-NE tracks peak demand in real-time and this may provide the starting point for collecting the needed data to inform a more granular analysis of peak demand within the utilities’ service territory.

Z_Factor

While not objecting to the overall criteria that PURA has recommended to determine if a specific cost is appropriate for Z-Factor, Eversource argues that the “materiality threshold” of 1% of the EDC’s annual revenue requirement is too high and should be lowered. Eversource recommends lowering this threshold to 0.5% of the revenue requirement.⁶ It appears, from the

³ Docket No. 21-05-15RE01, Revised Straw Proposal at 28 (Feb. 27, 2025).

⁴ Docket No. 21-05-15RE01, Eversource Written Comments at 34 (Mar. 26, 2025)..

⁵ See, e.g., Eversource Written Comments at 30-31 (Mar. 26, 2025).

⁶ Eversource Written Comments at 38-39 (Mar. 26, 2025).

examples provided, that this recommendation moves the materiality threshold closer in line to those adopted in other PBR jurisdictions. Accordingly, we have no objection to this change. However, we would encourage the Authority to monitor the frequency with which the Z-Factor is engaged to ensure that it is performing its intended function (i.e., to address cost recovery for extraordinary events).

As noted by Eversource, “PURA’s rationale for applying the materiality threshold for Z-Factor eligibility is to ensure that exogenous events are meaningful enough to be uncommon while small enough to not warrant the implementation of an off-ramp. We agree that a well-designed Z-Factor should, by its nature, be a rarely used mechanism.

CT -Bar Mechanism

Eversource argues that the proposed design of the CT-Bar would “eliminate any incentive to execute its IDSP investments at the lowest possible cost” due to the downward-only reconciliation mechanism. Essentially, the utility argues that, in order to avoid any downward adjustment, it would be incentivized to spend up to the maximum authorized CT-Bar budget.⁷ The perversity of this argument is a tacit acknowledgement of the capital bias that has been discussed throughout this docket.

Ideally, a downward-only adjustment would help to capture and to “bake-in” efficiencies⁸ and successes in implementing the lowest cost distribution investment solutions. This aligns the capital funding mechanism with the general PBR objective of cost control. However, in order to avoid the moral hazard of the utility implementing a “spend-to-the-limit” policy in order to secure a particular level of CT-Bar funding, it may be prudent to eliminate the formal “downward adjustment” mechanism and instead base each PBR term’s CT-Bar spending level based on the utilities’ IDSP forecasts. We note that, while this would provide the envelope of funding to allow the utilities to implement their IDSP proposals, any investments made pursuant to the CT-Bar would still be subject to prudence review.

Accounting For Growth

⁷ Eversource Written Comments at 58 (Mar. 26, 2025).

⁸ See, e.g., generally, the discussion at the May 21, 2025 Technical Meeting related to the relationship between dockets 21-05-15RE01 and 21-05-15RE02.

Eversource claims that the proposed structure of the Revised Straw Proposal “fails to acknowledge that anticipated load growth on the system will raise the cost of providing service” and that it fails to “adequately support necessary incremental investments as part of the IDSP.”⁹

However, growth is accounted for and built into the I-X formula (allowing the natural growth or revenue over time). Moreover, investments pursuant to the Integrated Distribution System Plan are expressly included as the foundational basis for the proposed CT-Bar capital funding mechanism. Eversource has recognized that growth can be accounted for through the adoption of a K-bar mechanism.¹⁰ Eversource claims that the Revised Straw Proposal does not contain such a mechanism, but that is exactly what the CT-Bar is (a K-bar by a different name). Indeed, moreover, Eversource itself implicitly concedes that the CT-Bar accounts for load growth.¹¹

We must not lose sight of the cost-containment and efficiency goals inherent in adopting Performance Based Regulation. The PBR framework is designed to accommodate growth while controlling runaway expenses. Much of the utilities’ discussion with respect to providing adequate funding appears to be an argument for Performance Based Regulation with no Performance requirement. The core of the PBR framework is to accommodate growth *while providing the utilities with the incentive to manage costs*.

We recognize that Connecticut and the region will likely experience load growth due to the increasing adoption of electric vehicles and the growth of the market for electric heat pumps. However, this growth comes after a period of declining demand due to the success of the state’s energy efficiency programs and the deployment of behind-the-meter solar generation.¹² In fact, between 2005 and 2023, load was reduced by 21,703 GWhs.¹³ In 2024, demand was only 6,329 GWhs above 1995’s demand level and ISO-NE is forecasting that the regional demand in 2033 will only exceed the 2005 level by 3,576 GWhs.

While net electricity use is expected to increase by an average of 1.8% annually between 2024 and 2033, energy efficiency and behind-the-meter solar will also provide greater levels of

⁹ Eversource Written Comments at 9-10 (Mar. 26, 2025).

¹⁰ Eversource Written Comments at 17 (Mar. 26, 2025).

¹¹ See Eversource Comments at 18 (Mar. 26, 2025) (“The Company recommends that the final framework be adjusted to account for growth in customers and load *that is not otherwise accounted for in the IDSP . . .*”) (emphasis added).

¹² Id. at 13; ISO-NE Load Growth *infra* n.14.

¹³ ISO NE, “Load Growth & Demand Drivers in New England” at 4 (Mar. 6, 2025), https://www.iso-ne.com/static-assets/documents/100021/ison_e_march6_demand_drivers.pdf.

demand reduction.¹⁴ We should also be cognizant of the goal that demand response programs, including those tied to new technologies such as EVs, can play in managing loads on a daily basis. With this in mind and given the historical decline in load over the past 20 years, some measure of this growth should be able to be accommodated without substantial investments in new infrastructure. Where investments are necessary, the CT-Bar mechanism is expressly designed to provide for incremental capital funding as reflected in the Integrated Distribution System Planning docket.

The utilities' thesis appears to be that they can't do PBR during periods of growth, they just have to grow. Once growth stops, then they will improve performance in order to chase the incentives. But a period of growth is exactly the right time to implement PBR to encourage the utilities to meet increased demand without unnecessary revenue increases by improving productivity and increasing energy efficiency and other demand reduction efforts.

Eversource also recommends that "the final framework account for growth "not otherwise accounted for in the IDSP" such as data center and AI by supporting investments aimed at enabling the siting of such load sources.¹⁵ We agree that data centers represent a looming load surge and deserve special attention.¹⁶

With respect to potential large discrete load additions, such as data centers, we alternatively recommend that this issue could be addressed by making large new sources of load such as data centers pay their own increased costs to the system. This is an approach that is already being pursued by a growing number of states around the country. For example, the Georgia Public Service Commission (PSC) unanimously approved a new rule requiring customers whose energy usage exceeds 100 megawatts to cover the transmission and distribution costs incurred during their data center's construction.¹⁷ In Ohio, utility regulators (in alignment

¹⁴ ISO-NE, "New England's Electricity Use" (2025), <https://www.iso-ne.com/about/key-stats/electricity-use#:~:text=Net%20electricity%20use%20is%20expected,to%209%2C975%20GWh%20in%202033>.

¹⁵ Eversource Written Comments at 18 (Mar. 26, 2025).

¹⁶ See Miguel Yañez-Barnuevo, "Data Center Energy Needs Could Upend Power Grids and Threaten the Climate," Environmental and Energy Study Institute (Apr. 15, 2025) ("There were 5,426 data centers nationally as of March 2025, and the number is skyrocketing. Collectively, these centers consumed about 17 gigawatts (GW) of power in 2022. Data centers' projected electricity demand in 2030 is set to increase to up to 130 GW."), <https://www.eesi.org/articles/view/data-center-energy-needs-are-upending-power-grids-and-threatening-the-climate>.

¹⁷ David Chernicoff, "Georgia Follows Ohio's Lead in Moving Energy Costs to Data Centers," Data Center Frontier (Apr. 15, 2025), <https://www.datacenterfrontier.com/energy/article/55263580/georgia-follows-ohios-lead-in-moving-energy-costs-to-data-centers>

with the utility and ratepayer advocates) are considering a proposal to require data centers to cover the cost of new infrastructure to meet at least 85% of their projected power demand, no matter how much they actually use.¹⁸

The details regarding how data center load forecasting would be differentiated from other load growth factors (such as electrification of building heating, increased adoption of EVs, state climate goals, etc.) could be developed as part of the ongoing ISDP process,

III. Plan Duration and Off-Ramps

The Revised Straw Proposal maintains the original recommendation of a four-year duration for the Multi-Year Rate Plan under the PBR framework. There is general consensus in support of this term.

The Revised Straw Proposal also newly incorporates three proposed “off-ramps” within the four-year rate plan period to allow for adjustments under certain conditions: (1) EDC Financial Condition, (2) Windfall Profits, and (3) Falling Interest Rates. The utilities have raised several concerns regarding the details of the proposed “off-ramps” and have provided recommendations for adjustments to their implementation.

EDC Financial Condition

Under the Revised Straw Proposal, the utilities could request an interim rate adjustment if it felt that its financial condition was “substantially and materially deteriorating.” Eversource proposes establishing a quantitative metric to the definition of “substantial deterioration” of the EDC’s financial condition. Eversource proposes that a specific quantitative trigger be adopted and that this metric be set at a 150 basis point shortfall between the authorized and actual ROE.¹⁹

We oppose the EDC’s recommendation on the basis that the language of PURA’s proposed off-ramp mirrors the statutory standard currently governing interim rate adjustments and adopting the utilities’ recommendation would undermine the integrity of the ratemaking process.

Under current law, the Authority may “[approve] an interim rate increase, if the authority finds that such an interim rate increase is necessary to prevent substantial and material

¹⁸ Jake Zuckerman, “Ohio Regulators to Decide Who Pays to Power Data Centers” Government Technology (Jan. 7, 2025), <https://www.govtech.com/policy/ohio-regulators-to-decide-who-pays-to-power-data-centers>.

¹⁹ Eversource Written Comments at 19 (Mar. 26, 2025).

deterioration of the financial condition of a public service company, [or] to prevent substantial deterioration of the adequacy and reliability of service to its customers”²⁰

Establishing a mechanical, quantitative threshold would circumvent the obligation of the utility to present its case and establish to PURA that its financial condition has in fact “substantially and materially” deteriorated such that a rate adjustment is necessary. Any quantitative threshold would have to take into consideration the underlying ROE (150 basis points may feel quite different if the approved ROE is 8% than it would if the approved ROE was 11%), as well as the effective earned ROE (earned ROE inclusive of Performance Incentives). Additionally, setting such a quantitative threshold could also undermine the incentive for the utility to manage its costs in order to maintain earnings. .

Windfall profits

As proposed in the Revised Straw Proposal, this “off-ramp” would provide PURA with the discretion to evaluate the potential for a rate decrease during the MRP term if the utility exceeds or authorized ROE by 50 basis points for any rolling 12-month period. While Eversource takes no issue with this off-ramp, it suggests that the establishment of a quantitative threshold for this off-ramp highlights the need for such a threshold for the “financial condition” off-ramp, characterizing the different treatment as “inconsistent.”²¹ We disagree that there is anything improper or inappropriate with respect to the trigger language in the two off-ramps .

In fact, the different structure of the two “off-ramps” reflects the different policy considerations underlying the respective off-ramps. The protection of ratepayers from the collection of rates that are more than fair, just, and reasonable warrants the adoption of a specific quantitative metric to trigger an investigation into such rates to ensure a timely correction. This is reflected in the current statutory language and requirements governing interim rate cases related to under or over-collection, respectively. For example, while as noted above, the statutory standard for a potential under-earning by the utility is a showing of “substantial and material deterioration,” the statutory standard in the case of a potential rate decrease due to over-earning includes, inter alia, “when a public service company has, for the rolling twelve-month period

²⁰ Conn. Gen. Stat. § 16-19 (d).

²¹ Eversource Written Comments at 19 (Mar. 26, 2025).

ending with the two most recent consecutive financial quarters, earned a return on equity which exceeds the return authorized by the authority by at least one-half of one percentage point.”²²

Similarly, with respect to the protection against “windfall profits” the 50-basis point threshold is necessary to ensure that the utility does not over-earn by under-serving. However, with respect to the first off-ramp, a fall of 150 basis points may not necessarily indicate a fall below the cost of capital, so “substantial and material deterioration” is the appropriate standard.

Falling Interest Rates

The third and final proposed “off-ramp” provides that PURA may initiate an interim rate proceeding if the average cost of debt falls by more than 200 basis points within the MRP term. Eversource challenges the validity of this off-ramp on the basis that they view it as “single-issue ratemaking.” Eversource also challenges this off-ramp as not meaningfully tied to a utility’s embedded cost of debt.²³

We challenge the characterization of this “off-ramp” as single-issue ratemaking. Nothing in the description of the proposed off-ramp suggests that a downward adjustment to rates would automatically follow a triggering drop in interest rates. Rather, the trigger would provide an opportunity to call in the utility for a rate proceeding, at which time evidence of the impact of the interest rate drop in light of, and with reference to, all other relevant considerations would be evaluated. Eversource’s challenge to this off-ramp appears to be simply a collateral attack on establishing productivity adjustments.

Going -In Rates

With respect to “plant-in-service, both Eversource and UI challenged the proposed use of a 13-month rolling average to establish the depreciation expense, claiming that such an approach “inappropriately dilutes depreciation on recently completed plant additions.”²⁴ In response to this concern, the Authority modified its proposed treatment of depreciation expense in a manner designed to allow for the capture of the full expense. Eversource has proposed certain modifications to the revised Straw Proposal language as it relates to depreciation expenses. We

²² Conn. Gen. Stat. § 16-19 (g).

²³ Eversource Written Comments at 20 (Mar. 26, 2025).

²⁴ UI Written Comments at 16 (Mar. 26, 2025) (citing UI’s May 15, 2025 Written Comments).

do not take exception to Eversource's proposed language, provided it is modified as follows (Eversource's language is underlined; our modifications are underlined and italicized in bold):

The Authority maintains its recommendation that plant-in-service and accumulated depreciation, along with pro-forma additions, retirements, and adjustments, be established as of the end of the evidentiary record. However, it recommends two modifications to the treatment of depreciation expense. Specifically, the Authority recommends a traditional historical test year approach, as well as annual inflation adjustments. Participants advised that use of a 13-month average to establish depreciation expense would underestimate actual depreciation over the course of the MRP, thus violating General Statutes § 16-19e(a)(4) which requires that rates be set for utilities to "cover their operating costs " Further, UI noted that the lack of inflation increases would exacerbate this difficulty with cost recovery. Accordingly, the Authority recommends allowing the measurement of period-end depreciation expense as of the end of the evidentiary record, as well as the inclusion of annual inflation increases on depreciation expense in order to enable EDCs to cover their operating costs. The remainder of the Original Straw Proposal's recommendation on Plant-in-Service remains intact, including the EDCs option to use nine months after the rate application filing as a proxy for the close of the evidentiary record for the pro forma additions, retirements, and adjustments for plant-in-service, accumulated depreciation, and depreciation expense identified in its rate applications, and the requirement that all capital projects included in a rate application must be demonstrated as prudent, as well as used and useful, by the close of the evidentiary record to be eligible for inclusion in rate base.

Lastly, all rate applications must also include a depreciation study that was conducted on the historical test year to ensure the application and calculation of accurate depreciation rates and depreciation expense. The depreciation study, as approved in the rate application, would be used to calculate revisions to the historical test year depreciation expense in setting going-in rates *to the extent deemed reasonable by PURA*. This updated historical test year depreciation expense would then be used as the baseline expense adjusted for the annual inflation factor *and for other purposes as deemed appropriate by PURA*.

Operations and Maintenance

Eversource proposes extending the period for post-test-year adjustments for O&M (as well as tax and miscellaneous expenses) through the midpoint of Rate Year 1, rather than the beginning of rate Year 1.²⁵ This timing change would affect the baseline used for determining allowed expenses (and therefore rates) in Rate Year 1 and beyond. Specifically, this change would reduce the O&M allowance in Rate Year 1 as a result of forecasting inflation for half a year instead of a

²⁵ Eversource Written Comments at 24 (Mar. 26, 2025).

full year. It would also lower the base from which performance is measured, meaning any O&M reductions look smaller against a lower benchmark.

It appears that this would have the effect of reducing the performance element for O&M in Rate Year 1 by 50% and by 12.5% over the term of the MRP. As a result, this would incentivize less cost control or diminish rewards for efficiency during the MRP and raises concerns over the weakened incentives for long-term savings under the MRP structure.

Cost of Service Studies

In the Revised Straw Proposal, PURA maintained its recommendation to allow COSS to be evaluated in each base distribution rate case proceeding. Eversource recommends that, in a circumstance in which a rate case is filed within the four year MRP, existing cost of service studies be considered, at PURA's discretion, rather than requiring the development of a new COSS. We have no objection to this amendment to PURA's COSS proposal.

Management Audits

There appears to be general consensus with PURA's revised proposal regarding management audits. Specifically, PURA has proposed, in an effort to optimize the value of each audit, to set the scope and timing of the management audit on a case-by-case basis.

Despite a general consensus around the revised management audit proposal, Eversource recommends certain additional prescriptive requirements to govern the conduct of management audits. Specifically, it recommends that PURA "release the results of a management audit upon the auditor's first draft release to PURA so that the EDC's may have equal opportunity and transparency to the process, as well as to provide comments and edits to the report concurrently with PURA." While we have no objection, per se, to the sharing of draft audit findings with the auditee (indeed, this is currently provided for), we object to the utilities' attempt to use the establishment of a PBR framework to circumscribe or alter PURA's existing authority with respect to the conduct of management audits.

PURA has broad authority and discretion to conduct or require a management audit of a public service company. Pursuant to Conn. Gen. Stat. § 16-8(b)(2), the Authority may perform a management audit of a public service company "where the [A]uthority determines that an audit is necessary or desirable." Further, the timing of audit report releases is already to be determined

through agreement among the parties, with the opportunity for the auditee to review the draft audit before finalization. As provided for in PURA's regulations:

Reports are to be issued by the consultant or the management audit team on or before the dates agreed upon by the department, consultant, management audit team and the auditee. Reports are to be issued promptly so as to make the information available for timely use by the department, auditee, and other interested parties. Any anticipated deviation from the agreed upon dates shall be communicated to the department and the auditee as early as possible, and shall require the prior agreement of the department and the auditee.²⁶

Reports, both interim and final, shall be issued on or before the dates agreed to by the consulting firm or management audit team, the department and the auditee. If for any reason, the consulting firm or management audit team shall be unable to meet such dates, the consulting firm or management audit team shall notify the department and the auditee at the earliest possible date.²⁷

Before the final management audit report is issued, the consulting firm or management audit team shall present a draft report to the auditee for the sole purpose of permitting the auditee to verify the accuracy of the facts contained in the draft report.²⁸

Thus, audit reports are already required to be issued in a timely fashion for the benefit of the auditee (and other parties) and the EDCs are fully vested in the decision-making process regarding when audit reports are issued. Accordingly, there is no need to establish additional prescriptive requirements for management audits conducted pursuant to implementing a PBR framework.

Prudency Review

Both the original and the revised straw proposals affirm the principle that “confirming the prudence of any previously incurred cost is vital to ensuring that going-in rates are an accurate reflection of prudent decision-making and utility operation.” There was a significant amount of discussion regarding the tension between implementing a proactive capital funding

²⁶ R.C.S.A. § 16-8-3 (g).

²⁷ R.C.S.A. § 16-8-4 (b).

²⁸ R.C.S.A. § 16-8-4 (c).

mechanisms (such as the CT-Bar), the requirement for utility expenditures to undergo regulatory prudence review, and the consequences of regulatory lag on the ability of the utility to maintain necessary levels of investment to provide the requisite level of service.

While we are not utility economists, we question why a formula that includes a going-in rate informed by historical costs and plant additions set at the outset of the MRP period, with annual adjustments to account for inflation (I-factor), productivity (X-factor), unexpected exogenous costs (Z-factor), and an additional envelope of funding to cover investment in the distribution system (CT-Bar) should necessarily fail to provide the utilities with the revenue to conduct their business in a sound and an efficiency manner. Indeed, as noted previously, it appears that the utilities assume unprecedented (and unpredictable) load growth such that the historic base simply bears no probative value to what incurred costs are likely to be moving forward. The concern here being, apparently, the regulatory lag that would defer cost recovery for “excess” expenditures. We note that the utilities have conceded that rates set based on “historical plant additions that were used and useful and didn't reflect contemporaneous recovery of ongoing capital” have provided sufficient available revenues to the utility sufficient to “provide them an opportunity, *if they could manage their costs under those revenues*, to earn their authorized return.” (emphasis added).²⁹ Indeed this cost-control incentive is a core element of the PBR model.

Nevertheless, if we grant the premise that the utilities would not be in the position to earn their ROE (and our inclination is to test the thesis in the first MRP, given the available offramps previously discussed), there may be additional opportunities to address this concern. While it was noted that the capital tracking system originally implemented in Massachusetts to address this issue led to a level of administrative review that all parties apparently found burdensome, there may be some middleground to be found beyond merely deferring all prudence reviews to the conclusion of the four-year MRP. We suggest, for example, whether an annual compliance filing (similar to the current Revenue Adjustment Mechanism) could be accommodated within the PBR framework for significant capital expenditures through the CT-Bar to ensure more timely prudence review.

IV. CONCLUSION

²⁹ Docket Nos. 21-05-15RE01, 21-05-15RE02, and 21-05-15RE03, Technical Meeting, Testimony of Doug Horton at 103-104 (May 21, 2025).

We appreciate the Authority's thorough exploration of the benefits of establishing a Performance-Based Incentive framework in Connecticut and the thoughtful participation and discussion among the stakeholders to refine and improve the proposed regulatory framework. We believe that the latest proposal reflects a prudent approach to ensuring effective and efficient utility operation and oversight in Connecticut. We welcome further dialogue on these important regulatory matters and any opportunities to provide additional information at your convenience.

Respectfully submitted,

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