

State of Rhode Island

Public Utilities Commission

Minutes of Open Meeting Held on September 13, 2022

An Open Meeting of the Public Utilities Commission (Commission or PUC) was held Tuesday, September 13, 2022 at 1:00 P.M. in Hearing Room A, 89 Jefferson Boulevard, Warwick, Rhode Island to discuss, deliberate, and/or vote on the following dockets.

In attendance: Chairman Ronald Gerwatowski, Commissioner Abigail Anthony, Commissioner John Revens, Cynthia Wilson-Frias, John Harrington, Todd Bianco, Alan Nault and Luly Massaro.

I. Commissioner Revens called the Open Meeting to order at 1:00 P.M. He announced that the Open Meeting will reconvene at 1:30 P.M. No quorum was present.

II. Gerwatowski called the Open Meeting to order at 1:30 P.M. A quorum was present.

III. **Renewable Energy Resource Eligibility Applications** – The Commission reviewed the applications for eligibility as a renewable energy resource submitted by the applicants in the following dockets. Both facilities have achieved commercial operation. PUC consultant submitted recommendation to approve the applications.

- **Docket No. 22-11-RES– RoxWind LLC’s** application for eligibility of the RoxWind LLC’s generation unit, a 15.32 MW AC wind facility located in Roxbury, Maine as a New Renewable Energy Resource.
- **Docket No. 22-12-RES – Antrim Wind Energy LLC’s** application for eligibility of the Antrim Wind Energy generation unit, a 28.8 MW AC wind facility located in Antrim, New Hampshire as a New Renewable Energy Resource.

After review, Chairman Gerwatowski moved to accept the PUC consultant recommendation to fully approve the applications. Commissioner Anthony seconded the motion and the motion was unanimously passed. **Vote 3-0.**

IV. **Docket No. 2262(N15) – Reduced Rate Long Distance, LLC (Company)** – The Company submitted notice that it has no customers, is not providing telecommunications service in Rhode Island and requested that the Commission cancel the Company’s registration to conduct business as provider of telecommunications service. It is moved that the Commission grant the Company’s request for cancellation. Commissioner Anthony moved to grant the request and Commissioner Revens seconded the motion. The motion was unanimously passed. **Vote 3-0.**

- V. **Docket No. 5210 - The Narragansett Electric Co. d/b/a Rhode Island Energy (Company)** – This docket relates to the Company’s Gas Infrastructure, Safety and Reliability (ISR) Plan for FY 2023 . The Gas ISR Plan is designed to maintain and improve the safety and reliability of the Company’s gas distribution system. The Plan includes a budget that is collected through implementation of ISR rates. At an Open Meeting on March 29, 2022, the Commission conditionally approved a revenue requirement which included forecasted recovery for main replacements scheduled for FY 2023, to be collected through ISR rates subject to refund and subject to further review of the Company’s Proactive Main Replacement Program. A hearing was held on June 1, 2022 which examined the Company’s lag in performance regarding the timing of abandoning leak-prone pipes that are intended to be replaced in the Proactive Main Replacement Program, addressed issues relating to when a new main should be included in rate base under prevailing ratemaking principles, and considered the extent to which there may be no incentive for the Company to abandon leak-prone pipe within a reasonable time after the new main is constructed. At this meeting, the Commission discussed the matter and outstanding issues relating to the Company’s Proactive Main Replacement Program. The Commission also considered the Division’s September 13, 2022 request to postpone deliberation and vote on the matter and requested that the Commission conduct evidentiary hearings on the issues framed in Record Request 23 and discussed in the Commission Memorandum dated August 30, 2022.

The Chairman summarized the travel of the case noting that the Division’s motion is based on the assumption that Division did not have time to address the issue we were voting today. To be clear, the issues that was to be raised is limited to rate making, use and useful standard. The Commission has provided ample notice regarding the application of the use and useful standard and there is ample notice in the record. He stated that he has no intention of making any motion on the SQ measure idea (that was addressed in the August 30, 2022 memorandum) or addressing the issue of whether AFUDC should be stopped. From his perspective that has been an issue that is for the upcoming ISR program, next year. To the extent that the Division argued that it did not know that the Commission will be making a change to how it will apply the use and useful standard, they are missing or forgetting the history here. The question regarding use and useful standard and the benefits to customers began in March 2022. The issue of the benefit to ratepayers actually started in October 2021. The Chairman cited several excerpts from the March 15, 2022 transcript of the Company’s DAC proceeding. At the March 29, 2022 Open Meeting, the matter was discussed and the Commission voted. The Chairman noted that he will not propose any changes that affect the gas ISR revenue requirement or planning for FY 2023. The Commission has sufficient evidence on the record now, even without relying on the Record Request at the June 1, 2022 hearing to make a ruling on the future of appropriate rate treatment. Chairman Gerwatowski moved to deny the Division’s motion to hold for further hearings. Commissioner Revens seconded the motion. Commissioner Anthony supported the motion. The motion was unanimously passed. **Vote 3-0.**

Commissioner Anthony continued discussion. She is struggling with the Chairman’s proposed two-step motion. Step 1 questions about when new gas mains

should be placed into service for ratemaking purposes; the Chairman suggested at time the old main abandoned. Step 2 suggests the adoption of a mechanism to manage accumulation of interest (between the time the new main is connected to the customer and when the old main is abandoned); if the pipe isn't abandoned in time and the new main isn't put in service after some point in time, the Chairman suggested creating some kind of mechanism to control or manage the accumulation of interest. At this Open Meeting, the Chairman wants to talk about step 1 and put off the discussion of step 2 until later.

Commissioner Anthony expressed that she is not convinced step 2 will be easy, straightforward and successful. She lacks confidence that the Commission will be able to develop such mechanism that controls the accumulation of interest and that there is a good chance that we will be unable to identify that there can be improved performance or be able to quantify incremental benefits. If we can't quantify incremental benefit and associate a cash value with them, then she does not know how to fairly split those benefits with the utility or penalize the utility on the basis of the loss net benefit to customers. We may end up in a spot where we don't have a mechanism to manage the interest accruing.

Chairman Gerwatowski questioned whether that is going to be enough of an incentive to get them to move quickly. The AFUDC won't be enough to satisfy them. Based on his experience, the financial people at the company will want to push to get these things put into service as soon as possible. He does not want to pursue the AFDUC. He wants to get the ratemaking principle now, so when they make their plan, they will realize in the planning process what the ratemaking implication will be when they chose investments, they are going to make next year. Is the new main useful under the use and useful standard when it sits there and duplicates the service of the other one? That's the fundamental principle. It is the ratemaking principle that should drive the conclusion that it shouldn't go into rate base until the project is completed. The Chairman recognizes that there may be circumstances when the Company is planning for a given year and might want to look at a specific project; however, given a certain circumstance, the Company will not be able to abandon a main in a timely manner because the main might have a usefulness to it. Where there is a benefit to the ratepayer in such circumstance, the company will know to file a request and make a case in their ISR filing. The Chairman agreed to take the step 2 motion for consideration.

Commissioner Revens noted that he was looking at this from the commonsense perspective. He does not have the perspective in the industry or experience as his fellow commissioners. He is not sure how long it should take but if we take some action, we should focus everybody's attention to doing this more promptly and expeditiously and built into the scheduling a bit more than it is now and it would benefit ratepayers. He is inclined to rely on the Chairman's suggestion and hope it will be enough based on his many years of prior experience inside the utility industry. For all the reasons that were discussed earlier, he does not think this should be a surprise to anyone that we are here today discussing and may be making some decision in that direction that is well documented for months and certainly illuminating and informative to listen to all the questions and answers that were

propounded at the hearings, and to see how the focus clearly isn't as strong on taking pipes out of service after the customers are connected to the new ones. We can't take it back if determined that is not useful, he does not think it's a radical conclusion to come to.

Commissioner Anthony wanted to be clear that she does not see evidence of underperformance and doesn't think it matters for the motion intended to take. The company testified abandonment was a key performance indicator and utility has caught up with the Covid lag that has brought this to our attention. There is no evidence that accelerating time to abandonment would deliver incremental benefits to customers. She does not think those findings are necessary for decision one but would be for decision two. That's where she is struggling. Can make a decision on decision one but unsure about decision two.

After discussion, Chairman Gerwatowski moved that with respect to the proactive main replacement program, commencing with all leak-prone pipe replacement projects proposed and constructed pursuant to the next gas ISR plan filed before the end of calendar 2022, the Commission will hereinafter apply the used and useful standard as follows: the new main that is constructed to replace the applicable leak-prone pipe will not be considered useful and, therefore, eligible for rate base treatment, until the date upon which the leak-prone pipe is actually abandoned. Commissioner Revens seconded the motion. Commissioner Anthony finds that it is legitimate to say customers should start paying the utility back for investments upon abandonment of the old pipes. She is comfortable with that on the spectrum of benefits but she lacks confidence on what happens next. It could be very difficult to find evidence that improved performance could deliver incremental savings that could be shared between the Company and ratepayers. She found the motion to be legitimate and accepted it. She is comfortable that the Chairman doesn't foresee a situation where customers don't end up spending more than they otherwise would have if pipes went into rate base earlier. It is possible that the customer may pay more in interest now. Chairman Gerwatowski stated that the issue of comparing what goes into the rate base and AFDUC cost would be an NPV calculation. It's not going to be uniform. The Chairman does not think something should go into rate base until providing the usefulness and service the investment was intended for fully. The motion was unanimously passed. **Vote 3-0.**

Chairman Gerwatowski moved that the revenue requirement category provided in the FY 2023 plan relating to the forecasted recovery of main replacements which were scheduled for FY 2023 and were conditionally approved in ordering paragraph (b) of the Commission's prior order in this docket is approved. Commissioner Anthony seconded the motion was unanimously passed. **Vote 3-0.** This will bring closure to the past and only will have us going on a looking forward basis to future ISR filings.

VI. **Minutes of Open Meetings held on June 2, 2022, July 14, 2022 & August 11, 2022** – Approval of the minutes was postponed.

VII. There being no further business to discuss, the Chairman adjourned the Open Meeting at 2:45 P.M. A web video of the Open Meeting discussion can be accessed at <https://video.ibm.com/recorded/132105495>.