JOINT PRE-FILED TESTIMONY OF

THE UNITED ILLUMINATING COMPANY

Before the Energy & Technology Committee

September 8, 2020

RE: LCO No. 3920, AN ACT CONCERNING EMERGENCY RESPONSE BY ELECTRIC DISTRIBUTION COMPANIES AND REVISING THE REGULATION OF OTHER PUBLIC UTILITIES.

This joint pre-filed testimony is submitted by The United Illuminating Company ("UI" or the "Company") concerning LCO No. 3920 ("LCO") that has been raised for public hearing.

This testimony is jointly sponsored by Anthony Marone, President and Chief Executive Officer of UIL Holdings Corporation, the parent company of UI ("UIL"), Charles Eves, Vice President – Electric Operations of Avangrid Service Company, parent company of UIL, Patrick McDonnell, Vice President of Regulatory – Connecticut of UIL Holdings Corporation, and Leonard Rodriguez, General Counsel of UIL Holdings Corporation.

The United Illuminating Company appreciates the opportunity to offer comments on the aforementioned legislation for consideration in an upcoming special session. The Company will provide virtual testimony at your listening session on Tuesday but wanted to provide more detailed comments for your consideration.

Consistent with our testimony at your recent storm performance information session, the electric distribution companies are positioned to deliver the expected level of performance during major storms under the current Emergency Response Plans (ERP). The current ERP was developed based on comprehensive planning and rigorous review designed to achieve the necessary balance between the level of expected performance in storm restoration, and the costs associated with achieving that performance. Based on comments from the legislature, PURA, DEEP, the Governor and the public, it may be time to revisit the ERP and determine whether it should be revised to reflect changing priorities in the balance between performance and cost. In connection with the review and possible revision to the ERP, The Company also supports the concept that it should be held accountable when it falls short of meeting established objectives.

Broadly speaking, the Company supports the Committee and Governor Lamont's interest in performance-based ratemaking embodied in LCO 3920 related to storm response and restoration. The Company believes, however, that in order to enact appropriate performance-based rate that balance the interests of the Company and its customers, such rates must have clear and measurable metrics that the Company is expected to meet with its performance. These metrics must take into account the severity of the storm for which performance is being measured and the company must be able to have the resources needed to meet those metrics. Any penalties, fines or other financial impacts to the company as a result of its storm performance must be based on its performance in the context of such metrics. There are other complex provisions throughout the bill that we respectfully suggest warrant a more thorough review than can be afforded in a special session, convened in the middle of a pandemic, before a virtual General Assembly. All affected stakeholders should have ample opportunity to participate in the dialogue in a fair and open process. UI proudly serves a diverse socioeconomic and geographic territory and is concerned some of the language of the proposed bill could disadvantage those who need the most support simply because their neighborhoods had fewer trees to damage our infrastructure and experienced shorter duration, or in some cases no power outages.

The company strongly believes that allowing PURA to review and approve the utilities' Emergency Response Plan (ERP) in a contested proceeding is the best way to achieve transparency and rigorous scrutiny to ensure that the expectations among all stakeholders for the plans' execution are in alignment**.** Only upon completion of that review, would PURA approve the necessary funding of resources and other requirements to enable the Company to deliver the performance requirements of the approved plan. PURA should also establish the appropriate performance metrics for the ERP and may include remedies, such s as penalties for non-performance and potential payments for spoiled food or medicine, if the utility did not meet its defined obligations per the approved ERP. Such a comprehensive approach would ensure a framework of expected results and consequences for non-performance based on the level of storm event.

The Company offers the following comments by section:

Section 1: UI supports the concept of PURA initiating a proceeding to "investigate, develop and adopt a framework for implementing performance-based regulation of each electric distribution company." Please note that the Company believes trhat the reference to the "effectiveness of decoupling" is misplaced and does not belong. Decoupling is meant to protect <u>both</u> customers and the company ensuring that the company receives <u>only</u> the level of revenue deemed appropriate by PURA for the provision of safe and reliable service, no more and no less.

Section 2: Section 2 gives PURA the ability to determine reasonableness of rate of return based on established Performance-Based Metrics (Part of Performance-Based Regulations Language). Once again, this should be part of PURA's proceeding. <u>We support this language.</u>

Section 3: Section 3 mandates PURA to consider financial Performance-Based Incentives and Penalties and Performance-Based Metrics during rate hearings (Part of Performance-Based Regulations Language). We support this language.

Section 4: Section 4 proposes to apply performance-based metrics to PURA's examination of whether executive compensation and employee incentive compensation can be recovered in electric rates. While we support the intent of this section, we believe that executive compensation should be determined as part of a rate proceeding and be variable based on storm performance as determined by PURA's review.

Section 4 also proposes to limit the recovery in electric rates of CEO compensation to the median compensation of a proxy group of Northeast and Mid-Atlantic states. UI believes that because PURA already has the authority in a rate case to determine what portion of compensation is recovered in rates, this provision is unnecessary.

Section 5: The Company believes that the language as currently drafted is unclear as to the intent of a docket to examine a "rate reduction" and why this provision is necessary as written. PURA already has the authority under Connecticut General Statute § 16-19 to evaluate low-income rates and economic development rates, or to order a broader rate review. In addition, current statutes already require PURA to evaluate each EDC's distribution rates within four (4) years of its last rate case hearing and authorizes PURA to evaluate if existing rates need to be decreased if an EDC exceeds its allowed ROE or if PURA finds that an EDC "may be collecting rates which are more than just, reasonable and adequate". Lastly, whenever PURA examines an EDC's rates, PURA must evaluate not only whether rates should decrease, but also whether rates must increase to comply with the U.S. Supreme Court's decision that authorizes a utility to recover in rates "enough revenue not only for operating expenses but also for the capital costs of the business. UI believes that any examination of a rate reduction would be most appropriate in a PURA rate proceeding.

Section 6: Section 6 provides an extension of time for issuance of final decisions for Rate Filings from 150 days to 350 days. The current timeframe of 150 days, which is routinely extended by an additional 30 days, requires efficiency from all parties and ensures cost and other data upon which such a decision relies is relevant and timely. We respectfully disagree that an extension of time which is more than double the current period is warranted. Instead, UI proposes adding 30 days to today's effective 180 day timeframe, that easily could be extended by agreement of the parties for an additional 30 days for a total up to 210 days. UI opposes the language as written and urges the Committee to amend the timeframe as UI has proposed.

Section 7: Section 7 provides an extension of time for the approval/disapproval of issuance of Notes/Bonds/Indebtedness/Securities, loans or amendments to financial instruments from 30 to 90 days. While UI agrees that PURA should receive additional time and does not have significant concerns with the language as drafted, the Company does not believe tripling the time

frame is warranted. Delaying three (3) months to receive a decision could adversely impact a utility's ability to promptly take advantage of low lending rates, which will end up costing customers more when a utility misses-out on opportunities to lock-in lower borrowing rates. Instead, we recommend the Committee extend the period to 60 days. UI opposes the language as written and urges the Committee to amend the timeframe as UI has proposed.

Section 8: Section 8 proposes an extension of time for the approval/disapproval of mergers from 120 days to 350 days. While UI does not have significant concerns with the language as drafted, it does not believe almost tripling the time frame is warranted. When a company is contemplating a transaction subject to his provision, it understands that regulatory approval is required. However, an almost 1 year approval period would make such a transaction more difficult to consummate as financial and other information relied upon to consider the transaction becomes stale. Instead, we recommend the Committee extend the deadline by 60 days for a total of 180 days. This should give each of the parties to the proceeding as well as PURA sufficient time to review the transaction in detail so as to make an informed determination. UI opposes the language as written and urges the Committee to amend the timeframe as UI has proposed.

Section 9: Section 9 prevents cost recovery for participation in rate-making hearings. UI strongly opposes this language because it is contradictory to the long standing fundamentals of "cost of service" ratemaking. It is unclear if this section seeks to exclude the costs of employees participating in rate proceedings that would normally be included in O&M rates or simply seeks to exclude costs for third parties. In either case, UI cannot support this provision. Prohibiting recovery of the costs of employees participating in a rate hearing violates the cost-of-service model. Prohibiting the costs incurred for third parties (experts and consultants) on the other hand, would require that EDCs build in-house expertise and pay for the cost of both staffing and professional training as part of its regular operations, creating a cost that customers pay all year every year instead of once, on a temporary basis, every four years. Using external experts to meet provide assistance in a peak period occurring once every four years is more efficient and less costly for customers.. Rate-making proceedings, like other regulatory proceedings, are a part of the utilities' cost of service and thus should be recoverable in rates. In addition, the next section (Section 10) seems to conflict with this section's prohibition against rate recovery because it provides for recovery of these costs through performance based rates. UI strongly opposes this language.

Section 10: Section 10 increases the amount of civil penalties related to emergency preparation Consistent with previous comments, the Company believes that any penalties should be levied as part of PURA's review of the Company's performance pursuant to its ERP. However, the Company believes that increasing the penalty from 2.5% to 10% of distribution revenue would have the potential to be destructive to the financial health of the Company, increasing its risk profile and the potential to decrease credit rating while increasing interest costs. These secondary costs would be passed on to customers. The impact on the earned ROE would be between a 415 to 518 basis points reduction assuming the negative revenue adjustment

would still be tax deductible. The Company believes that a maximum penalty of 2.5%, as provided in the current statutes is the appropriate maximum, especially in light of the various other penalties provided for in the case of non-performance. The Company strongly opposes this section.

Sections 11 & 12: Bill credits and compensation for food and medicine spoilage. As the Company indicated in recent testimony, if PURA determined, post-storm, that the Company failed in the execution of approved ERPs, and were grossly negligent, then bill credits and/or other compensation may be appropriate. Consistent with our testimony during PURA's 2012 study of a similar requirement, the Company believes both concepts should be part of a PURA reviewed and approved ERP (which differentiates the two utilities' number of customers served) to ensure equitable treatment for all classes of customers. The Company should be expected to perform under established guidelines and then judged on how it meets those guidelines.

Public policy changes of this magnitude deserve a transparent public vetting process to enable all stakeholders to weigh in and to avoid any unintended consequences. As raised in the 2012 PURA study, food reimbursement is administratively complicated with respect to proof of purchase and of spoilage. Bill credits and compensation should be only allowed if the utility falls short of the established ERP standards. If the legislature desires a generic reimbursement program, regardless of performance, then the costs must be recoverable in rates. The Company is strongly opposed to the last subsection in Section 12 as it appears to eliminate current protection from liability of storms and other acts of God. This is in direct conflict with the language of the Company's current tariff. The Company believes that the provisions in the proposed bill providing for penalties (which would be in the form of customer credits), reimbursement, etc. are sufficient safeguards of customers' rights arising out of the Company's storm restoration activities. .

Section 13: Minimum Staffing – Section 13 requires PURA to study minimum staffing levels for EDCs. Once PURA has completed its study, this Section authorizes PURA to establish minimum staffing levels. The Company has worked to maintain consistent staffing levels to ensure the safe, reliable operation of our system. We would welcome any additional scrutiny of those levels but recommend that it should be part of PURA's review of our ERP to establish standards and adequate funding. Such review should balance additional staffing with the financial requirements that may impact ratepayers. The Company notes, however, that PURA completed a line worker staffing study on February 3, 2020 in Docket No. 19-06-37 and submitted that report to this Committee. That report appropriately recognized that "reliance on mutual aid to supplement existing crews for severe weather events is an industry best practice" and that "[s]taffing internal resources for events more extreme than Event Level 5 [in an EDC's ERP] would require a significant investment in operating and investment cost and would at least double the staffing and equipment levels . . . . Since there would be significant cost involved with these types of staffing changes, any minimum requirements would require approval in a rate proceeding."

Increasing UI's staffing levels would substantially increase rates for our customers at a time when this we are all actively evaluating all available options to mitigate bill impacts to customers. We support this language with the aforementioned clarification.

Section 14: Section 14 mandates that Electric Distribution Companies open, operate, and staff Regional Service Centers (Part of Minimum Staffing Language) – While UI's service territory is contiguous and easily accessible from our main operations center in Orange, this again, should be part of PURA's review of our ERP. The Company urges the committee to amend the language with the aforementioned clarification.

Section 15: Restitution – Consistent with our previous testimony, the Company believes this should also be part of the PURA review of ERP, and should be only allowed if the utility falls short of well-defined standard. Again, if it is an absolute obligation, regardless of performance, then costs must be recoverable in rates. The Company urges the committee to amend the language with the aforementioned clarification.

Section 16: ISO NE Study + Minor Clarifications in Integrated Resources Plan - The utilities have significant expertise in energy matters. Excluding them would not seem to serve the interests of electric ratepayers in this state. The Company believes that neither concept is germane to the bill's underlying intent to improve storm performance. We oppose both concepts in this section because they warrant careful and transparent consideration in the regular session to enable all stakeholders to fully participate in the dialogue.

Section 17: Third-Party Suppliers– UI has no position on this section.

Section 18: Requires PURA Approval Before Customers May Be Assigned or Transferred (Part of Third-Party Suppliers Language) – UI has no position on this section.

Section 19: Microgrids – UI has no position on this section.

Section 20: Investigation of the NU-N STAR Merger Settlement Agreement UI has no position on this section.

Section 21: Consumer Advocate – Create an advisory board for each EDC. The Company understands the desire to have a direct consumer perspective and voice in shaping the company's direction and decision-making. While the intent of section 21 may be to do that, we do not believe requiring a utility to have a specific individual on the board of directors of a company is the most effective or appropriate way to accomplish this. We believe a more effective approach would be to have an externally- staffed company advisory committee that would provide input into a variety of issues the company is dealing with as well as advocacy for under-represented

groups and the voice of the general customer. We would be interested in exploring this concept further with the Committee and also urge the appointment of a permanent Consumer Counsel as that agency plays a vital role in all regulatory and public policy deliberations on behalf of all consumers.

New Section 22: Section 22 authorizes DEEP to auction off the Conservation & Load Management Programs: UI opposes this late-added and substantive language because it is punitive in nature, having nothing to do with storm performance and/or rates and has the potential to harm customers if made on an expedited timeframe without adequate review and consideration. This approach has a strong potential to result in fewer program dollars being spent to deliver actual energy efficiency benefits to customers because the EDCs fulfill this role at cost, with no profit mark-up for program delivery, except for incentives that can be earned if there is superior performance. This would not be true for competitive service providers. For decades, the CT EDC have administered and delivered award-winning C&LM programs to our customers, and created thousands of jobs in this state. Again, the Company is concerned about the Committee's decision to make such a sweeping change in a special session without the benefit of an open, transparent vetting of this critical divergence from existing policy during the regular session. UI opposes this language.

In conclusion, UI would like to reiterate its acknowledgement and understanding of the difficulties experienced by customers during prolonged power outages, especially during this time of COVID-19 and is willing to work with the Committee, PURA and other stakeholders to develop a plan that balances cost, safety and reliability. UI has an approved ERP which provides certain thresholds and activities to be performed based on the severity of the storm. If now is the time to review and adjust the ERP and move towards performance-based rates, UI is ready to participate in those discussions with all stakeholders so that expectations of performance are aligned and the Company is held accountable for its performance under the plan.

Thank you for your always thoughtful consideration and we look forward to the opportunity to serve as a resource to the Committee as you deliberate the bill's content.

If you have additional questions, please contact:

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