

---

**State of Rhode Island**

---

**Public Utilities Commission**

**Minutes of Open Meeting Held on April 14, 2023**

An Open Meeting of the Public Utilities Commission (Commission or PUC) was held Friday, April 14, 2023 at 2:30 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, John Harrington, Alan Nault, Christopher Caramello, Emma Rodvien and Todd Bianco.

- I. Commissioner Gerwatowski called the Open Meeting to order at 2:30 P.M. A quorum was present.
  
- II. **Docket No. 22-54-NG - Narragansett Electric Co. d/b/a Rhode Island Energy** – This docket relates to Rhode Island Energy’s Gas Infrastructure, Safety and Reliability (ISR) Plan for FY 2024. At this meeting, the Commission clarified its vote at the March 29, 2023 Open Meeting regarding the miles of pipeline approved. Chairman Gerwatowski moved to clarify that the motion was intended to reduce the leak prone replacement miles to 60 miles. Commissioner Anthony seconded the motion and the motion was unanimously passed. **Vote 3-0.**
  
- IV. **Docket No. 22-05-EE – Investigation of Utility Misconduct or Fraud by the Narragansett Electric Company Relating to Past Payment of Shareholder Incentive** - This docket relates to the Commission’s investigation relating to the manipulation of the reporting of invoices affecting the calculation of past energy efficiency shareholder incentives and the resulting impact on ratepayers. The Division of Public Utilities and Carriers (Division) filed a motion to dismiss maintaining that there is sufficient evidence to warrant an independent investigation by the Division. The RI Attorney General filed an Objection to the Division’s Motion to Dismiss, Rhode Island Energy requested that National Grid completes its ongoing investigative report which was expected to be filed on or before March 31, 2023. National Grid requested that the PUC not rule on the motion until it completes its investigate report. Both Rhode Island Energy and National Grid expressed concern with duplicative proceedings.

Chairman Gerwatowski summarized the genesis of this investigation, the travel of the docket and the Commission’s extensive research regarding the Commission’s authority to conduct the investigation. The Chairman also cited case law that supports the Commission authority to engage an independent auditor. The Chairman noted that the Division’s motion to dismiss lacked supporting a legal memorandum and failed to make any defensible argument to support its position. He stated that he is inclined to deny the Division’s motion.

Commissioner Revens was surprised that there was no analyses or authority to support the Division's motion. The Division did not explain why it had the right to file the motion and then assume that we had the obligation to defer jurisdiction to them. He noted that the Chairman pointed out that the energy efficiency program at issue in the investigation lies exclusively within the PUC jurisdiction. Based on the appellate decisions the Chairman referred to in his summary, including the NBC case relating to the authority of the Commission and Division in 2002, the General Assembly has given the Commission broad powers. In the Island Hi-Speed Ferry case, the law states the Commission possess the power and duty to hold investigations involving the rates, tariffs and charges of public utilities. In the NBC case, the court affirmed the Commission's ability to appoint an auditor. It is clear that the ultimate authority rests with the Commission. It is the Division's role to assist the Commission and to advocate for ratepayers, and not to take over the process. It is clear that the Division's request is not supported by law and finds that there is no basis to grant the Division's motion.

Commissioner Anthony concurs with the majority. She considers the PUC to be a steward of least cost procurement, energy efficiency programs and, in particular, performance incentives. She implored that we need to get back to what is the important issue at hand, which is determining the extent to which National Grid compromised the public's trust in the administration of the energy efficiency program in pursuit of their performance incentive. She urged the Division to continue to do their diligent investigation as they have been doing in this docket. She really hopes that they do continue to do this work, and present to the PUC, their findings and recommendation and evidence they have been collecting because we already have findings of fraud, and potentially more extensive fraud. We need to get to the bottom of core issue, in terms of what ratepayers are owed financially and loss of trust in the program.

Chairman Gerwatowski asked for a motion to deny the Division's motion to dismiss. Commissioner Revens so moved. Commissioner Anthony seconded the motion. The motion to deny the Division's Motion to Dismiss was unanimously passed. **Vote 3-0.**

- III. The Chairman adjourned the Open Meeting adjourned at 2:58 P.M. A web video of the Open Meeting discussion can be accessed at <https://video.ibm.com/recorded/132714990>, <https://video.ibm.com/recorded/132715027> and <https://video.ibm.com/recorded/132715042>.