



STATE OF RHODE ISLAND

**DIVISION OF PUBLIC UTILITIES & CARRIERS**

Administration

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March 20, 2025

The Honorable Joseph J. Solomon, Jr.  
Chairman – House Committee Corporations  
State House  
Providence, R.I. 02903

**Re: H 5068 - Seriously III, or In Arrears of Payment Provisions**

Dear Chairman Solomon:

While we seriously appreciate the sponsors' intent and share the same concerns to protect seriously ill customers, the Division must object to House Bill No. 5068. In particular, the Division is compelled to alert the Senate to Bennett v. Administrator George, et al. (C.A. No: PC2015-4214), civil litigation that spanned eight (8) years before being resolved by certified settlement and approval by the Superior Court in August 2023 (“**Settlement**”).<sup>i</sup> This Settlement resolved the utility's and Division's administrative processes for customers seeking temporary protections from utility shut-offs due to a serious illness. The amendments proposed in this legislation effectively repudiate and nullify the Settlement, which had been negotiated in good faith between the Division and customer advocates for protected customers.

Fundamentally, Rhode Island Supreme Court case law is clear that consent judgments such as Bennett entered by the court may not be set aside or interfered with by legislation. As one such case makes unambiguous:

“The consent judgment is clearly protected by the impenetrable posted authority that we know as separation of powers, based upon articles 5 and 10 of the Rhode Island Constitution.” A legislative body is “utterly powerless to enact legislation that would serve to interfere with, set aside, or reopen a judgment that had been entered by the [trial court].”

Andrews v. Lombardi, 231 A.3d at 1119, 1120 (R.I. 2020) (citing Mansolillo II, 749 A.2d at 1098).<sup>ii</sup> This legal precedent fits squarely with the matter at hand, as the proposed legislation seeks to nullify the terms of the consent order in Bennett. The parties in Bennett agreed, and the Superior Court entered by order, on August 7, 2023, a proscribed timeline for seriously ill customers to certify and seek protections from utility shut-offs. This legislation would directly interfere with that order, in violation of separation of powers.

The central issue in Bennett turned on which provisions applied to customers deemed "seriously ill", that is, a temporary condition of six months or less. In the Settlement, all parties agreed to follow revised administrative procedures designed to provide fairness and due process to customers in need of protections, while also providing a path forward to process and resolve disputes with consistency. Notably, the court also certified all electric and gas customers as a "Class" in the Settlement, which means that the terms of the agreement are binding on all customers, given that any individual may become seriously ill—now or in the future.

The Settlement established agreed-upon definitions of "seriously ill", "disabled" and the new category of "life-support dependent" customers. As part of the Settlement, Plaintiffs agreed to support Division rulemaking that adopts the provisions of the Settlement. The administrative process of implementing the terms of Bennett and of crafting consistent and equitable collection/termination rules, while underway, has not yet concluded. As such, any contemplation of changes in statutory provisions at this juncture is premature and stands to erase the progress and mutual agreements made between the Division and the advocates for the various protected classes of utility customers.

The balance between utility invoice collection and protection of our community's most vulnerable is a sensitive and important issue to get right. Our office has worked tirelessly for the past eight years to accomplish these twin goals. The Division respectfully asks the General Assembly to take these concerns into consideration and to defer to this negotiated, court-sanctioned process before making any changes to the statutory framework.

Sincerely,



Linda George, Esq.  
Administrator, RI Division of Public Utilities and Carriers

cc. The Honorable Representative Cherie Cruz  
The Honorable Members of the House Committee on Corporations  
Nicole McCarty, Esq., Chief Legal Counsel, Speaker of the House

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<sup>i</sup> A complete copy of the Bennett decision can be provided upon request to the Division.

<sup>ii</sup> See also Quattrucci v. Lombardi, 232 A.3d 1062 (R.I. 2020) ("Functionally, the doctrine may be violated in two ways. One branch may interfere impermissibly with the other's performance of its constitutionally assigned function. Alternatively, the doctrine may be violated when one branch assumes a function that more properly is entrusted to another." (deletion omitted) (quoting Woonsocket School Committee v. Chafee, 89 A.3d 778, 793 (R.I. 2014))