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: **House Bill – 5821** An Act Relating to Public Utilities and Carriers- Regulatory Powers of Administration

Dear Chairman Solomon:

The Division is opposed to H-5821 which proposes to amend R.I. Gen Law §39-3-25 to substitute the Public Utilities Commission ("PUC") for the Division of Public Utilities and Carriers ("Division"). This law requires the Division to approve transactions between utilities (e.g., the PPL case). The bill attempts to modify the standard by which such petitions should be approved. In the existing law, the petition is to be approved if: (1) the Division is satisfied that the prayer of the petition should be granted, (2) that the facilities for furnishing service to the public will not thereby be diminished, and (3) that the purchase, sale or lease and the terms thereof are consistent with the public interest. The proposed change would eliminate the first element of the 3-prong test and alter the overall test to prohibit the approval "unless" the second and third elements are satisfied. The proposed amendment also provides a definition for "public interest," to include, but not be limited to, "an interest in rates, in competitive access to markets and elimination of all anti-competitive influence, in proper administration and regulation of any utility functions, in environmental protection, in any interest addressed in the petition, and in any other purpose of Rhode Island law or policy implicated by the proposed transaction."

The proposed amendment would also require the PUC to "allow intervention and advocacy by any citizen, business or any other group seeking to advocate on or for any such element of the public interest." The proposed amendment would also bar the PUC from denying participation "on the premise that private commercial interests cannot also be in the public interest or that any public interest is otherwise represented by any public agency or any other party". Finally, the proposed amendment would make any decision of the PUC appealable to the Superior Court under the Administrative Procedures Act rather than under the well-established provisions of R.I. Gen Law §39-5-1, which requires appeals of PUC decisions to go to the Supreme Court.

The Division has several areas of objection. First, the bill purports to transfer the authority for approvals of utility transactions from the Division to the PUC but makes no changes to R.I. Gen Law §§39-3-24(3) and (4), which provide the core authority for the Division. No such amendment to transfer authority from the Division to the PUC is possible without commensurate amendments to §39-3-24.

Second, the Division's authority for approving transactions between utilities under §39-3-24 and §39-3-25 is part of a full panoply of powers conferred to the Division for approving all kinds of transactions by and between public utilities. These powers include authority to: suspend rate schedules (§39-3-13); order refunds (§39-3-13.1); review and approve the issuance of stock, bonds, notes or other evidences of indebtedness (§39-3-15, §39-3-17, §39-3-18); review and approve contracts between utilities and would allow them to operate their lines or plants in connection with each other (§39-3-24(1); review and approve requests by a public utility to directly or indirectly purchase the stock of another public utility (§39-3-24(4)); review and approve transactions between public utilities and their affiliates (§39-3-28, §39-3-29, §39-3-30, §39-3-31, §39-3-32). The authority possessed by the Division to supervise such transactions has existed for 100 years (since 1923). We see no justification to remove one of these regulatory powers from the Division's broad and longstanding authority over financial transactions by and between public utilities.

Third, the Division has many more staffing and expert witness resources than the PUC. If the bill became law, the PUC would invariably be relying on the Division to properly vet the appropriateness of any such transaction. Having two agencies engaged in the same review is not an efficient regulatory practice.

Fourth, to justify the move of such regulatory review over to the PUC, the bill carves out a totally new appellate process for the PUC, as opposed to the appellate review prescribed under §39-1-5. The legislature has long identified the proper appeal from PUC decisions is to the Supreme Court, not the Superior Court.

Fifth, the bill proposes to grant automatic intervention to any person or group wishing to address the "public interest" criterion in the standard of proof. Intervention standards exist to ensure that the adjudication process proceeds in an orderly fashion and not be unduly burdensome to the petitioner and approved parties. Consequently, the Division holds that the public interest is best served by retaining the traditional legal principals for approving interventions in contested cases.

Sincerely,

Linda George

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

CC: The Honorable Representative Arthur Handy
The Honorable Members of the House Committee on Corporations
Nicole McCarty, Esq., Chief Legal Counsel