

March 20, 2025

The Honorable Joseph J. Solomon, Jr.
Chairman, House Corporations Committee
Rhode Island State House
Providence, Rhode Island 02908

RE: H-5818 – Relating to Public Utilities & Carriers – Duties of Utilities & Carriers

Dear Chairman Solomon:

On behalf of Rhode Island Energy, I write in **opposition** to H-5818, which would prohibit the electric and natural gas distribution utility from recovering certain direct or indirect costs. This bill may be unlawful and could violate the Company's constitutional right to recover its prudently incurred costs. It would also set blanket prohibitions that infringe on the Public Utilities Commission's (PUC) existing authority to determine, based on evidence, which utility costs can be recovered through rates. In fact, many of the expense categories listed in the bill already have been prohibited from rate recovery by existing law, legal precedent, or through the PUC's exercise of its existing authority. **In short – this is a bill that looks to solve a problem that does not exist. In doing so, H-5818 would result in legal ambiguity, a weakening of the important regulatory discretion exercised by state regulators, run up against the separation of powers doctrine, and potentially conflict with constitutional precedent.**

Rhode Island Energy provides essential energy services to more than 770,000 customers across the state through the delivery of electricity and natural gas. Our team of 1,400 union and non-union employees is dedicated to helping Rhode Island customers and communities thrive, while supporting the transition to a cleaner energy future in a safe, reliable, and affordable manner.

Importantly, public utilities have a constitutional right, affirmed through U.S. Supreme Court decisions, to recover their reasonably-incurred costs and to earn a reasonable rate of return on their investments.¹ Blanket prohibitions, such as those included in H-5818, may infringe on these rights by eliminating any opportunity for those costs to be fairly assessed, particularly when costs are incurred to operate for the benefit of utility customers.

Also, H-5818's proposed prohibition on the recovery of certain expenses incurred as part of infrastructure, safety, and reliability proceedings (page 7, lines 27-34) is both **unwise and unlawful**. The Company makes these filings pursuant to Rhode Island General Laws §39-1-27.7.1 and the investments approved by state regulators through this statutory mechanism support the safe and reliable delivery of electricity and natural gas to our customers. To then prohibit the recovery of prudently incurred costs necessary to implement that statute would be a significant contradiction – *and potentially violate Rhode Island Energy's constitutional rights.*

¹ For example, see Federal Power Commission et. al. v. Hope Natural Gas Co., 320 U.S. 591 (1944) and Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923).

Respectfully, we note the following:

- Re: “advertising, marketing, communications, or public education” expenses (page 7, lines 3-7), **the Company already cannot recover these costs**, unless otherwise approved or ordered by the PUC. This is also supported by precedent and case law. **There is no need to further codify this provision.**
- Re: “membership dues” (page 7, lines 8-10) and “travel, lodging or food and beverage” (page 7, lines 21-22) expenses, the PUC already can and does evaluate whether such costs are properly incurred and subject to rate recovery. **A statutory prohibition would usurp that authority and there is no clear reason to justify such an amendment.**
- Re: “charitable giving” (page 7, lines 11-12), **a legislative ban would usurp the PUC’s authority to determine whether any such expenses are just and reasonable.** Such costs have been the subject of both regulatory and court review in Rhode Island. Those reviews have raised legitimate questions as to how such expenses are treated for rate recovery. Today, such costs are not recoverable based upon the regulatory framework now in place by the PUC.
- Re: “lobbying” expenses (page 7, line 13), “political contributions” (page 7, lines 14-15), and “tax penalties or fines” (page 7, line 20) the PUC already has concluded that such expenses are not recoverable. **There is no reason to infringe on the PUC’s delegated authority or otherwise remove their regulatory discretion to determine what are reasonable incurred costs eligible for recovery.**
- Re: “litigation” costs (page 7, lines 16-17), the PUC *already* conducts a review of such expenses to determine whether they are reasonably incurred and already holds the authority to disallow such costs if found unreasonable. **A statutory prohibition would remove this important discretion.**
- Re: marketing...or customer service for unregulated products” (page 7, lines 18-19), the General Laws already prohibit the recovery of such costs through rates (§39-2-1.2(a)). **Duplicating that provision is unnecessary.**

For these reasons, we respectfully urge the Committee to reject H-5818 in its entirety.

Thank you for your continued leadership and consideration of these comments.

Respectfully,



Nicholas S. Ucci
Director of Government Affairs

CC: The Honorable Members of the House Corporations Committee
The Honorable Arthur Handy, Rhode Island House of Representatives