BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF APPLICATION OF DOMINIONENERGY UTAH TO INCREASEDISTRIBUTION RATES AND CHARGES ANDMAKE TARIFF MODIFICATIONS.	))))))))	**DOCKET NO. 19-057-02** **Exhibit No. DPU 2.0 DIR** **Direct Testimony of Eric Orton**

FOR THE DIVISION OF PUBLIC UTILITIES

DEPARTMENT OF COMMERCE

STATE OF UTAH

Direct Testimony of

Eric Orton

October 17, 2019

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INTRODUCTION

Q. PLEASE STATE YOUR NAME.

A: Eric Orton

Q: BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A: I work for the Division of Public Utilities (Division) as a Utility Technical Consultant.

Q: WHAT AREAS WILL YOU BE ADDRESSING IN YOUR TESTIMONY?

A: In the following order, I will address the Division's position in four areas of Dominion Energy Utah or Company's application, namely:

- The proposed increase of the Infrastructure High Pressure Feeder Line Replacement Program (Tracker) allowed budget;
- The proposed alteration of the current method of reconciling over/under budget variances of the Tracker;
- The proposed capital spending budget for the test year; and
- The unfulfilled Merger Commitment.

Q: PLEASE SUMMARIZE THE DIVISION'S POSITIONS ON THESE FOUR AREAS.

A: Certainly.

1) Tracker Budget Increase – The Division is opposed to increasing the Tracker budget. The Division has worked for years to refine and achieve a mutual understanding of the expectations and operations of the Tracker with the Company. Generally, the Tracker is working as it should. No budget increase is necessary.

2) Tracker Budget Variance - The Division is not opposed to the Company's proposal to alter the way the Tracker's over/under budget variance is accounted for. The Company's proposed method seems reasonable. The Division proposes that this new method have a test period through three years or to the next general rate case, at which time it should be revisited to determine the actual difference it made or did not make as compared to the current method.

3) Capital Budget - The Division finds that the Company has over-projected its capital expenditures for the test year and recommends that the amount allowed in rates be reduced by $24.659 million, which still represents an aggressive year-over-year increase but is closer to the Company's regular or more average, historical growth rate.

4) Merger Commitment - The Division finds that the Company has not met its merger commitment # 47, to maintain its customer service standards, which have suffered since the merger of Dominion Energy and Questar.

This testimony purposefully addresses a limited number of issues and silence on any issue should not be interpreted as support, neutrality, or opposition to that issue.

TRACKER BUDGET INCREASE

Q: BRIEFLY DESCRIBE WHAT THE COMPANY IS REQUESTING WITH RESPECT TO INCREASING THE TRACKER BUDGET.

A: The Company proposes to sharply increase the allowed budget in the Tracker. It would rise from the current estimated budget in the test year of $72.2 million[1] to $80 million with the same Index adjustment.[2] In other words, the Company is requesting a $7.8 million going forward increase in the Tracker budget.

Q: WHAT BASIS DID THE COMPANY RELY ON TO SUPPORT THE PROPOSAL?

A: The Company gave two reasons:[3]

1: Construction costs are outpacing the inflation rate.

2: Construction practices have changed and made it more costly to construct the lines.

The Company also said that there were "other factors" that the Commission should consider. The Company's explanation amounts to a grievance with normal regulatory lag.[4]

Q: ACCORDING TO THE COMPANY WHAT HAVE THESE INCREASED COSTS RESULTED IN?

A: According to Company witness Mr. Mendenhall "the feeder line replacement program completion date has been postponed from 2030 to 2036. This is caused by the cost increases"[5] he discusses in his filed testimony. In other words, the Company's position is

[1] The projected amount is derived from the originally approved $65 million being annually adjusted based on the Global Insight Distribution Steel Main Inflation Index (Index).
[2] DEU 19-057-02 Exhibit 1.0 lines 496-499
[3] DEU 19-057-02 Exhibit 1.0 beginning on line 500
[4] DEU 19-057-02 Exhibit 1.0 beginning on line 604
[5] DEU 19-057-02 Exhibit 1.0 beginning on line 588

that these increased costs have limited the amount of pipe that can be replaced annually, thus shifting projects into future years.

CONSTRUCTION COSTS VS INFLATION

Q: HAVE CONSTRUCTION COSTS OUTPACED INFLATION?

A: Yes. Construction costs have increased faster than inflation during the life of the Tracker, which began one year after the housing financial crisis of 2008. One needs only to compare the price of a new house today to one ten years ago to discover that construction costs have risen considerably. While the projects differ from constructing a house, the general economic principles leading to increased construction costs are similar.

Q: WHAT EVIDENCE DOES THE COMPANY PROVIDE TO SUPPORT ITS CLAIM?

A: The Company claims that the cost of steel has risen in the past three years (2016-2019).[6] Also, that in the last four years (2014-2018) the price it paid for steel pipe has risen by 27 percent compared to the Consumer Price Index (CPI) inflation rate, which rose six percent in the same time period.[7] However, the Tracker uses the Index, not the CPI inflation rate, to adjust the budget each year.

[6] DEU 19-057-02 Exhibit 1.0 beginning on line 505

[7] DEU 19-057-02 Exhibit 1.08

Q: DO THESE TWO COMPARISONS OF STEEL PRICES PROVIDE THE WHOLE PICTURE?

A: No. Looking through a narrow time window can distort the real picture. I'll address both of the Company's reasons.

First, the price of steel rising in comparison to CPI. It is true, according to the Company's Exhibit 1.07 that steel costs have risen compared to the CPI. According to the Company's response to DPU Data Request 14.02[8], the Steel Main Inflation has had its ups and downs, and plusses and minuses, from 2011-2019. This illustrates that many other costs need to be considered when viewing the appropriateness of the Tracker's budget.

Second, the rising cost of steel pipe. According to the Company's Exhibit 1.08, the cost of pipe has increased significantly. It should be pointed out however, that this measure is for only one size of pipe (12 inch) that the Company uses. The Company actually uses 13 sizes of pipe in its Tracker program.[9] The only other size that the Company cites as reported in that exhibit is eight inches, which has risen a marginal nine percent. There is no evidence whether the other pipe prices have risen or fallen in that same time frame. However, it should be pointed out that steel pipe is only a small portion of the cost of replacing a pipe. In fact, according to the Company's response to DPU Data Request 14.1 all Materials and Supplies are still less than 10% of the total cost of a Tracker replacement. Having the price of one component of such large projects increase does not mean that the project itself is cost prohibitive.

Finally, focusing on a three or four-year window of a nine-year program and on only two of the input costs can tend to distort the picture. Therefore, the Division is not convinced the Tracker is in a poor financial condition or underfunded.

[8] DPU Exhibit 2.05

[9] Pipe diameter included in the Master List are: 0.75, 2,3,4,6,8,10,12,14,16,20,24,and 30 inch diameter.

IMPROVED CONSTRUCTION PRACTICES

Q: DO IMPROVED CONSTRUCTION TECHNIQUES NECESSARILY MEAN THAT CUSTOMERS SHOULD PAY MORE FOR THE TRACKER?

A: No. Improved construction techniques could decrease costs. Even if we agree that construction costs have risen, the inflation index was included as a mechanism to compensate the Company for unexpected variances or increases in construction costs. It is not necessary to alter the Tracker based on every fluctuation in Tracker components over time.

In the past, the Division has discussed with Company representatives ways of adjusting the Tracker budget in a rate case. The Division proposed that the budget be adjusted downward in a rate case if the Company under-spent the allowed amounts (e.g., the cost of construction had not kept pace with the inflation index) in the years before the rate case. The Company, however, convinced the Division that this approach created perverse incentives for the Company to over-spend and that the best practice was to allow the budget to follow the inflation index as originally proposed. It seems inconsistent for the Company to now propose an increase in the budget for similar (or perhaps reciprocal) circumstances. Increasing the budget may create different incentives, including limiting incentives for exercising prudent management of project costs.

While regulators retain the ability to make prudence adjustments, in practice it is often difficult to identify and remedy imprudent decision-making and management. This is one reason to build mechanisms that require the utility to retain the risk of cost recovery. If a project cannot be completed under the Tracker budget but is necessary, the utility is not only free to proceed with building it, it is required to do so. The Division is concerned that the Tracker program continues to change from its original design. While some change is often wise as programs mature, those changes should be undertaken carefully.

The Tracker pilot program is still a benefit to both the Company and to ratepayers, and is in the public interest because it allows the Company to methodically replace aging pipe and recover costs quicker than it otherwise would be able to, while controlling rate increases in a predictable manner for ratepayers between rate cases. The existing mechanism is sufficient to maintain program benefits.

Q: IS THE DIVISION SUGGESTING THAT THE COMPANY SHOULD ONLY REPLACE PIPE CONSISTENT WITH THE TRACKER BUDGET?

A: No. The Company has an obligation to provide safe reliable service to its customers. If prudent management indicates that more pipe should be replaced than can be covered by the Tracker budget, the Company must make the necessary improvements and avail itself of existing mechanisms or procedures to recover costs as it would for any other repair or replacement project. Specifically, the Tracker program requires that the Company file a rate case every three years. It does not prevent the Company from filing more often if it determines a need. The additional pipe would then be scrutinized by parties in the case along with other Company expenses and revenues consistent with traditional utility rate setting.

Q: PLEASE ADDRESS THE EFFECT THAT THESE COST INCREASES HAVE CAUSED ACCORDING TO THE COMPANY.

A: Certainly. The Company claims that these conditions have caused it to push back the completion date from 2030 to 2036.[10]

In the Tracker application (Docket No. 09-057-16) the Company "identified approximately 20 feeder-lines that were scheduled to be completed over the next decade.

[10] DEU 19-057-02 Exhibit 1.0 line 589

Although the timing of each feeder-line replacement could vary from the schedule shown[11] annual expenditures should remain approximately the same."[12] The Company's "next decade" or ten-year plan included the years 2009 – 2018. The 2013 rate case showed an estimated completion date of 2028. Currently, the expected completion date is perhaps as early as 2036. It has gone from a nine-year program to a 27 year program (according to current estimates). The increased length of time to complete the Tracker has tripled, yet costs have not tripled. The increased length of time estimated to complete the program is not solely a result of increased costs in a few areas such as steel pipe.

Q: IN ORDER TO PROVIDE A COMPLETE PICTURE, PLEASE PROVIDE SOME BACKGROUND ON THE TRACKER'S COSTS.

A: In Docket No. 09-057-16, the Company stated that it "is planning to spend approximately $40 million annually for feeder-line replacement."[13] At that time, it explained that it was currently replacing aging feeder lines and that without the Tracker in place it would have to wait for a general rate case for those costs to be included in rates.

Prior to requesting the Tracker in the 2009 rate case, the Company was already doing this feeder-line replacement work. For example, it spent $50 million in 2007 and $47 million in 2008[14] replacing feeder lines. At that time the Company said, that it decided not to self-fund the project to that level in 2009. As a result, in 2009 it spent only $14-18 million.[15] It proposed the implementation of the Tracker to fund these projects through rates, since it claimed that it was difficult for the Company to get money from the capital market.[16]

[11] QGC 09-057-16 Exhibit 1.07
[12] QGC 09-057-16 Exhibit 1.0 beginning on line 286
[13] 09-057-16 QGC Exhibit 1.0 line 332
[14] DPU Exhibit 2.27
[15] QGC 09-057-16 Exhibit 1 line 307
[16] QGC 09-057-16 Exhibit 1 line 308

Q: THE COMPANY CITED THE "GLOBAL ECONOMIC DOWNTURN, WHICH IT SAID, "CAUSED THE COMPANY TO SELF-FUND ALL OF ITS CAPITAL PROJECTS."[17] IS THE ECONOMY STILL IN SUCH A DOWNTURN?

A: No. The economy has changed considerably in the past ten years. The main reason for implementing the tracker, namely the lack of liquidity in financial markets, has changed dramatically for the better.

Q: HOW HAS THE TRACKER'S BUDGET CHANGED OVER THAT SAME TIME FRAME?

A: The budget forecast has increased from approximately $40-$50 million[18] when it was established to an estimated $72.2 million as represented in the test year in this case. That represents an increase of about $27 million over the nine years,[19] or a 62.5 percent increase[20] in the amount allowed to be spent in the Tracker. That equates to approximately $3 million increase per year,[21] or a 6.9 percent[22] increase annually.

Q: WHEN THE TRACKER WAS INITALLY APPROVED DID THE PARTIES EXPECT THAT THE COSTS WOULD INCREASE OVER TIME?

A: We didn't know exactly what they would do, which is why the Index was included. The index was tied to the Tracker budget so that each new budget amount (when compared to what was agreed to and ordered by the Commission each year) was appropriate either up

[17] QGC 09-057-16 Exhibit 1 line 308
[18] QGC 09-057-16 Exhibit 1 line 295
[19] $72.2-$45=$27
[20] $45/$72 = 62.5%
[21] $27 m / 9 years = $3 m per year
[22] 62.5 % / 9 years = 6.9%

or down. This was the basis for including the Index adjustment. The tracker budget was agreed to by parties and approved by the Commission. As previously discussed, the Division continues to support the use of the Index as an appropriate way to determine needed change to the Tracker costs.

Q: DO INCREASING COSTS IN THE TRACKER MEAN THAT THE FUNDING SHOULD BE INCREASED?

A: Not necessarily. Although there have been numerous issues that the Division worked through with the Company to refine the program since the inception of the Tracker,[23] we conclude that its current structure is consistent with our expectations and is now working as it was intended. It is in the public interest. This includes the appropriate level of funding for the work. Again, the Tracker provides benefits for both the Company and ratepayers. It allows the Company to timely recover costs of some (if not all) replacement projects between rate cases while controlling rate increases for ratepayers. These increases are allowed under the Tracker without the commensurate review of the Company's other expenses and revenues.

Q: DO YOU HAVE ANY EVIDENCE THAT THE COMPANY AND ITS SHAREHOLDERS ARE SATISFIED WITH THE TRACKER PROGRAM (OTHER THAN ITS TESTIMONY IN THIS CASE, WHICH INCLUDES THIS DESIRE TO INCREASE ITS FUNDING)?

A: Yes. I've attached a copy of an investor presentation slide by Dominion Energy showing how much this Tracker is contributing to its profit. This shows that the Tracker provides a 6-8 percent estimated annual net income growth through 2019.[24] The financial

[23] Including Division recommended changes in Docket No's 10-057-16, 10-057-11, 13-057-05, 13-057-18, 14-057-29, 15-057-19 (where the Company accused the Division of "Bias"), 16-057-17, 17-057-25, and 18-057-22.

[24] Exhibit 2.01 page 2 of 2

conditions that the Company said were the genesis establishing the need for the current Tracker program are no longer applicable. In some respects, the Tracker is a real benefit to the Company's shareholder. No additional Tracker funding is needed or prudent.

Q: IS THE TRACKER NECESSARY FOR THE COMPANY TO REPLACE ITS AGING INFRASTRUCTURE?

A: Not necessarily. The Company has had a Feeder Line replacement program since at least 2002, long before the Tracker began. Additionally, it is the Company's responsibility to provide safe and reliable service to its customers. If meeting that obligation requires replacing aging infrastructure, then it must do that. Also, as part of the merger the Company agreed to "focus on installing, upgrading and maintaining facilities necessary for safe and reliable operations."[25] With that said, the Division supports the Tracker in its current configuration. However, expanding the program beyond its current configuration, is not in the public interest.

TRACKER BUDGET VARIANCE

Q: DOES THE DIVISION SUPPORT THE COMPANY'S PROPOSAL TO ALTER THE WAY THE TRACKER MECHANISM HANDLES OVER- AND UNDER-BUDGET VARIANCES?

A: The Division is not opposed to altering the way the Tracker's over/under budget variance is accounted for. The Company's proposed method seems a reasonable option. The Division recommends approval on a trial basis through the next three years or to the next general rate case, at which time it should be revisited to determine the actual difference it made or did not make compared to the current method. Before the next rate case, the

[25] DEU 19-057-02 Exhibit 1.02 page 126 of 162 Merger Commitment #8

method can be reviewed and, if necessary, adjustments or changes can be proposed in individual Tracker filings.

CAPITAL BUDGET

Q: DOES THE DIVISION SUPPORT THE COMPANY'S PROPOSAL FOR A $277 MILLION DOLLAR CAPITAL BUDGET FOR THE TEST YEAR?

A: No. The proposed budget is out of line with past growth and has not been sufficiently justified. The Division analyzed the capital budget for the past nine years. Following that trend for the test year, including the increase promised in the Merger agreement, results in a $24.659 million reduction in the rate base or a Revenue Requirement reduction of approximately $1.473 million.

Q: THE COMPANY HAS STATED THAT THE PRIMARY DRIVER FOR THE REQUESTED INCREASE IS THE ANTICIPATED CAPITAL EXPENDITURES. DOES THE FORECAST FOR CAPITAL SPENDING IN 2020 APPEAR TO BE APPROPRIATE COMPARED TO REGULAR INCREASES IN PRIOR YEARS?

A: No. Merger Commitment #8 specifies that Dominion Energy will maintain capital spending at pre-merger levels, which roughly keeps the same trajectory as before the merger of $209 million for 2017, $208 million for 2018 and $233 million for 2019. In this case, the Company has proposed a capital spending budget of $277.7 million for the test year 2020. The proposed amount represents a $44.7 million (19.2 percent) increase from 2019 levels. The proposed capital spending amount represents an increase of $69.7 million (33.5 percent) from the 2018 base year spending amount.

Exhibit 3.05 of the application does not provide a breakdown of the various capital spending items in much detail. In response to DPU Data Request 7.4, the Company provided a more detailed breakdown of the proposed capital spending in the same format as the historical reporting provided in the merger integration reports.[26] The more detailed capital spending estimate in the revised format has been included in DPU Exhibit 2.02. Historical information for years 2010 through 2018 have been included in Columns B through J in order to provide a comparison to the proposed 2020 budget. As shown in Exhibit 2.02, the proposed capital spending for 2020 does not appear to be based on historical growth rates and represents a significant increase.

Q: WHAT HAVE YOU BEEN ABLE TO CONCLUDE FROM THE COMPARISON OF THE HISTORICAL CAPITAL SPENDING TO THE AMOUNT PROPOSED IN THIS CASE FOR 2020?

A: I would like to focus on two specific lines, which have been highlighted on Exhibit 2.02. Line 6 and line 16 of Exhibit 2.02 are highlighted in yellow and include the historical and the forecast amounts for Meters and Mains-Other. On line 6, (Meters) the amount for the 2018 test year has been highlighted as well as the proposed spending amount for 2020. The actual amount spent for meters in 2018 was significantly higher than prior years at $26.3 million. In prior years this category has averaged approximately $8 million per year. The proposed budget for 2020 is $65 million or a $38.7 million increase from the already high 2018 spending level.

On line 16, Mains-Other, the amount for the 2018 test year has been highlighted as well as the proposed spending amount for 2020. The $36.8 million spending in 2018 appears to be consistent with the average in prior years. However, the proposed spending of $55.0 million in 2020 represents an increase of $18.1 million above the 2018 test year.

The Company has provided a list of capital spending projects in response to DPU Data Request 10.03 and 10.04.[27] However, the Division is unable to match the listed projects

[26] DEU Exhibit 1.02, Page 68 of 114.
[27] DPU Exhibit 2.02 and 2.03

to the increase identified in meters and mains. When summed, these two line items represent $56.9 million of the proposed $65.5 million increase requested by the Company. The proposed spending amount does not follow historical growth rates, has not been sufficiently explained or supported by the Company, and appears to be out of line with historical growth and spending.

Q: COULD THE LARGE INCREASE IN CAPITAL SPENDING THAT OCCURRED IN 2018 AND THE PROPOSED INCREASE FOR 2020 BE ATTRIBUTED TO THE TRANSPONDER REPLACEMENT PROGRAM?

A: No. The large increase does not appear to be related. The cost of the transponder replacement program has been included in the capital spending but has been spread out over several years beginning in 2015. Capital spending for this program is estimated to be $4.0 million in 2020. The Company identified the amount of capital spending each year for transponder replacement in DPU Data Request 4.03, which has been included as DPU Exhibit 2.04.

Q: COULD THE PROPOSED LARGE INCREASE IN CAPITAL SPENDING BE RELATED TO THE LNG FACILITY THAT HAS BEEN PROPOSED AND IS CURRENTLY UNDER CONSIDERATION?

A: No. Capital spending for the LNG facility does not appear to be included. MDR 22 D.14 is a highly confidential document that provides a forecast of the annual capital spending amounts through 2023 and includes a separate amount for the LNG facility that has not been included in this filing.

Q: BASED ON THE HISTORICAL INFORMATION, WHAT HAS BEEN THE AVERAGE INCREASE IN CAPITAL SPENDING IN PRIOR YEARS?

A: As shown in Exhibit 2.03, the capital spending has fluctuated from year-to-year and spending in 2015 and 2016 was higher than in 2017 and 2018. Since capital spending has gone down in recent years, calculating a three-year average through the 2018 base year results in a negative growth rate. A calculation of the average growth rate for the previous five years ending 2018 indicates that capital spending has grown at an average annual rate of 3.7 percent and includes the infrastructure tracker, the transponder replacement cost, and the one-time purchase of the Eagle Mountain distribution system that occurred in 2015.

Since there have been large fluctuations in the annual amounts, the Division has also calculated the five-year average growth rate through 2019. This second calculation has been included since the increase in capital spending for 2019 was required as part of the Dominion Merger Agreement. The revised calculation of the five-year average growth rate through 2019 calculates to 7.6 percent. (Capital spending has not been completed for 2019 and is outside of the historical test year period.)

Q: IF THE COMPANY WERE TO USE THE FIVE-YEAR AVERAGE GROWTH RATE THROUGH 2018, WHAT WOULD THE CAPITAL SPENDING AMOUNT BE FOR 2019 AND 2020?

A: The calculations for the historical and expected growth in capital spending have been provided as DPU Exhibit 2.03. Assuming the 2018 base year spending of $212.2 million, the amount for 2019 would be $220.0 million and $228.0 for the test year 2020 (Line 8 columns L and M). This amount is $49.7 million lower than the proposed $277.7 million. If we assume that the Company has already committed to spend $233 million as part of the merger commitment, adding an additional 3.7 percent results in an estimated spending amount of 241.5 million (line 2 column L) or $36.2 million lower than the proposed amount.

Q: IF THE COMPANY WERE TO USE THE FIVE-YEAR AVERAGE GROWTH RATE THROUGH 2019, WHAT WOULD THE CAPITAL SPENDING AMOUNT BE FOR 2020?

A: Applying the 7.6 percent growth rate to the 2019 value results in an estimated capital spending amount of $250.7 million for 2020 (Line 11 Column L). Even with the significantly higher growth rate, the calculated capital spending amount is $26.7 million (Line 11 Column M) lower than the amount requested in the filing.

It should be noted that the calculated 7.6 percent annual growth rate in capital spending is substantially higher than the rate of growth for the number of new customers and much larger than the forecast increase in the per customer usage.

Q: WHY IS IT IMPORTANT TO HAVE A REALISTIC ESTIMATE FOR CAPITAL EXPENDITURES FOR THE TEST PERIOD?

A: Accurate and realistic capital expenditures for 2020 is important since these amounts are used to calculate the revenue requirement. Forecasting amounts that are too high will add to the revenue requirement for depreciation, interest, and the return on rate base calculations. Using a forecast that is too low will not allow the Company to make the necessary capital improvements or earn its authorized rate of return. As seen in Exhibit 2.03, the actual capital spending has experienced significant variability from year-to-year.

Q: HAS THE COMPANY ESTIMATED CAPITAL SPENDING RATES IN PRIOR RATE CASES THAT HAVE BEEN HIGHER THAN THE ACTUAL SPENDING?

A: Yes. In the last completed rate case, Docket No. 13-057-05, the Company indicated that the need for additional capital spending was the driving force behind the requested increase. In that case, the Company estimated that capital spending would be $195.1 million in 2013 and $188.5 million for the 2014 test year. Actual expenditures for 2013 were $177.3 million or $17.7 million lower than forecast. Actual spending for the 2014 test year was $161.5 million or $27 million lower than the amount used to set customer rates. These amounts are also shown on line 1 of DEU Exhibit 3.09.

Q: DOESN'T DEU EXHIBIT 3.09 SHOW THAT THE COMPANY HAS BEEN VERY ACCURATE IN MEETING ITS CAPITAL EXPENDITURE FORECASTS?

A: Not necessarily. The capital spending amount for 2014 was used to establish customer rates in the last general rate case and was off by 14.3 percent.[28] Capital spending for 2015 was overspent by 7.3 percent and 2016 was underspent by less than 1 percent.[29] Capital spending levels for 2017 and 2018 were within 2 percent of the forecast and were required in order to remain in compliance with Dominion's merger agreement #8.

Q: HAVE YOU CALCULATED AN ADJUSTMENT FOR REDUCED CAPITAL SPENDING IN 2020?

A: Yes. The Division has prepared an adjustment because the significant increase in capital spending has not been adequately explained or supported in the application. Since capital spending has been identified by the Company as the primary driver of the requested

[28] DEU Exhibit 3.09 Line 1 column E. 1-.857=14.3%

[29] DEU Exhibit 3.09, Column E, Line 2 and Line 3.

increase, the increase should be adequately supported and explained, which it has not been. Using the high end number of the range of models for capital expenditure increases over time, the Division recommends $24.659 million decrease from the proposed rate base, which makes an adjustment in the Revenue Requirement of approximately $1.463 million.[30] This includes removal of the $7.8 million from not implementing the proposed Tracker budget increase.

UNFULFILLED MERGER COMMITMENT

MERGER COMMITMENT # 47

Q: WHAT DID THE COMPANY OFFER AS A MERGER COMMITMENT REGARDING CUSTOMER SERVICE?

A: Commitment #47 states in part: "If the Dominion Questar Gas service levels become deficient, meaning they fall short of the Customer Satisfaction Standards as shown in the report, Dominion Questar Gas will file a remediation plan with the Commission explaining how it will improve and restore service to meet the Customer Service Standards."[31]

Q: HAS IT LIVED UP TO ITS COMMITMENT?

A: Yes - only in the technical sense. In other words, the Company has told regulators its plans to improve and restore service. However, implicit in the Company's commitment was that in addition to filing its remediation plans to the Commission, it would implement plans to soon remediate the problems and restore customer service to its

[30] Email from Jordan Stevenson to Doug Wheelwright estimating the Revenue Requirement impact of a $10 million reduction in Rate Base which was $593,399 (.0593399*24,659,381=1,463,285)

[31] DEU 19-057-02 Exhibit 1.0 beginning on line 310

previous level. According to the Company, part of the problem is caused "by people taking other opportunities both inside and outside the Company."[32] Regardless of the stated reasons, the fact remains that following the merger these customer service problems have surfaced and remained unresolved.

Q: WHAT ARE THE RESULTS OF THE REMEDIATION PLANS PRESENTED TO THE COMMISSION?

A: The Company has stated that "it is implementing corrective action by hiring and training more customer service representatives and replacing the transponders on its service meters."[33] Nevertheless, some of these metrics have been deficient for over a year. Likewise, a date as to when the Company will be in compliance is uncertain at best.

Q: WHAT ARE THE IMPLICATIONS OF ITS FAILURE TO MEET THIS COMMITMENT?

A: The Company has not shown sufficient urgency in meeting these commitments. Based on its review the Division previously stated: "Given the conflicting evidence, it is uncertain when the Gas Utility expects to complete its transponder replacement program. The Gas Utility should provide clarity and certainty as to the date the transponder replacement will be completed and paid for, as well as when the customer service areas will be fully staffed, trained and operating such that they meet their metrics. Adjustments to Dominion's request in its general rate case may be warranted based on these assertions."[34]

[32] DEU 19-057-02 Exhibit 1.0 beginning on line 359
[33] DPU Action Request Response Docket No. 19-057-17
[34] DPU Action Request Response 19-057-17

Additionally, on October 1, 2019 the Company asked the Commission for a waiver of its obligation to its customers regarding refunds and overbilling, which it says are linked to the Transponder problems--problems that it has known about for years and not resolved.

Q: WHAT DOES THE DIVISION RECOMMEND FOR FAILURE TO MEET VOLUNTARY MERGER COMMITMENTS?

A: In Docket No. 16-057-01, the Commission ordered that: "we approve the proposed merger subject to the terms and conditions presented in the Joint Notice and Application (including the June 16, 2016 Supplement) as modified and supplemented by the Stipulation." In other words, these merger commitments became the Commission's order. Utah Code Section 54-7-25 (1) and (2) specify the minimum and maximum amount of penalty's per day of occurrence. The Company claims that it didn't meet is metrics in 34 instances[35]. This equates to an average penalty of $3,878,125, calculated as follows: (365 days per year /4 quarters = 91.25 days per quarter), 34 deficient quarters calculates to 3,102.5 total deficient days. Using the midpoint of allowed penalties, the average penalty per day would be $1,250. For the 3,102.5 days, that would equal a total penalty of $3,878,125.

The penalty of not meeting this metric is not difficult to calculate, however, the Division is not recommending a fine be imposed at this time. Rather, the Division recommends that the Commission direct the Company to file (with its approved tariff sheets) at the end of this case, a remediation plan with a completion date no later than the second quarter of 2020. The Commission should order in this case that penalties will be imposed if that deadline is not met. The amount of the penalties could be determined in a later proceeding, but the decision to impose a penalty in the absence of compliance should be taken now.

[35] DEU 19-057-02 Exhibit 1 line 325

SUMMARY

Q: PLEASE SUMMARIZE YOUR TESTIMONY AND THE DIVISION'S RECOMMENDATIONS.

A: The Tracker budget should not be increased. The Tracker, which is still a pilot program, is functioning as planned and it is not requisite nor in the public interest to increase the budget other than by the regular use of the Index. The proposal to alter the way the Tracker's over/under budget variance is calculated is a reasonable option and it should be tested on a pilot basis over the next three years or through to the next general rate case, at which time it should be revisited to determine how it compares to the current method. The proposed capital budget is excessive and should be reduced by at least $24.659 million (which includes the reduction of the $7.8 Tracker budget increase), and the Company should file a remediation plan to meet its merger commitments for customer service. The Commission should order that failure to meet the commitments by a date certain will result in penalties.

CONCLUSION

Q: DOES THAT CONCLUDE YOUR TESTIMONY?

A: Yes.