

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of the Application of Dominion Energy Utah to Increase Distribution Rates and Charges and Make Tariff Modifications	Docket No. 19-057-02
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**SURREBUTTAL TESTIMONY OF ANGC WITNESS  
BRUCE R. OLIVER**

**ANGC EXHIBIT 1SR**

Phase 1

**TESTIMONY ON CLASS COST OF SERVICE  
AND RATE STRUCTURE ISSUES**

*December 5, 2019*

Testimony on Behalf of

**American Natural Gas Council**

*/s/Bruce R. Oliver*

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1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Bruce R. Oliver. My business address is 7103 Laketree Drive  
3 Fairfax Station, Virginia, 22039.

4

5 **Q. ARE YOU THE SAME BRUCE R. OLIVER WHO HAS PREVIOUSLY**  
6 **SUBMITTED DIRECT TESTIMONY IN PHASES I AND II OF THIS**  
7 **PROCEEDING ON BEHALF OF ANGC?**

8 A. Yes, I am.

9

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

11 A. This testimony addresses issues relating to return on equity ("ROE") analyses  
12 and recommendation presented in the Rebuttal Testimony of Robert B. Hevert on  
13 behalf of Dominion Energy Utah.

14

15 **Q. WERE THIS TESTIMONY AND ACCOMPANYING SCHEDULES PREPARED**  
16 **BY YOU OR UNDER YOUR DIRECT SUPERVISION AND CONTROL?**

17 A. Yes, they were.

18

19 **Q. HAS WITNESS HEVERT PROVIDED UPDATED ROE ESTIMATES IN HIS**  
20 **REBUTTAL TESTIMONY?**

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21 A. Yes, he has. Witness Hevert's Rebuttal Testimony updates each of his ROE  
22 estimates.

23

24 **Q. HAVE THE CHANGES IN WITNESS HEVERT'S COMPUTED ROE**  
25 **ESTIMATES IMPACTED WITNESS HEVERT'S ROE RECOMMENDATION**  
26 **FOR DEU IN THIS PROCEEDING?**

27 A. No. Despite noticeable declines in 30-year U.S. Treasury Bond yields, Witness  
28 Hevert indicates that his ROE recommendation is unchanged. He continues to  
29 advocate a 10.50% ROE for Dominion Energy Utah in this proceeding. In  
30 essence, Witness Hevert suggests that the observed declines in 30-year  
31 Treasury Bond yields are not material even though his CAPM and ECAPM  
32 analyses depict a direct relationship between interest rates (as reflected by yields  
33 on 30-year U.S. Treasury Bonds) and DEU's required equity return.

34

35 **Q. WHAT IS YOUR RESPONSE TO WITNESS HEVERT'S DISMISSAL OF**  
36 **GRADUALISM IN COMMISSION ROE DETERMINATIONS?**

37 A. Witness Hevert apparently does not share a concern for gradualism in the  
38 adjustment of utility ROEs. He clearly did not utilize gradualism in the  
39 development of his ROE recommendation in this proceeding which would move  
40 DEU's ROE from 9.85% to 10.50%. Moreover, his rebuttal arguments on this  
41 issue do not recognize either applications of gradualism used by other  
42 commissions in recent utility regulatory determinations or the real world

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43 consequences for both investors and ratepayers that can result from a dramatic  
44 change in the authorized return on equity for a distribution utility.

45 Although a more than 100 basis point downward adjustment is  
46 quantitatively supported by the ROE analyses presented in my Direct Testimony  
47 (as well as by the ROE presentations of other witnesses in this proceeding), my  
48 ROE recommendation is sensitive to the application of gradualism in the  
49 adjustment of the utility's authorized ROE. Commissions in other jurisdictions  
50 have articulated policies regarding gradualism. For example, the Maryland  
51 Public Service Commission's ("MD PSC") policy of applying gradualism in the  
52 adjustment of a utility's ROE is reflected in the following determination:

53  
54 *As we said in Case No. 9418, relative stability in rates is an*  
55 *important ratemaking goal – for ratepayers and utilities alike.*  
56 *Gradualism prescribes that sudden and dramatic shifts in rate*  
57 *design should be avoided. We look to authorize ROEs that change*  
58 *gradually, instead of attempting to respond immediately to inter-*  
59 *mediate market changes.*<sup>1</sup>

60  
61 The MD PSC determined that its approved downward ROE adjustment in  
62 that proceeding "*comports with the principle of gradualism*" and "*maintains an*  
63 *environment that does not surprise investors with changes that impact them*  
64 *adversely.*"<sup>2</sup> While this anecdotal example should not limit this Commission's  
65 determination of a reasonable ROE for DEU, it highlights a sensible rationale for  
66 why dramatic changes to a distribution utilities ROE should be avoided. Witness  
67 Hevert's offhanded disregard for these real-world considerations is not

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<sup>1</sup> MD PSC Order No. 88432, page 101, Case No. 9443, October 20, 2017.

<sup>2</sup> Ibid.

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68 reasonable and reflects nothing more than his advocacy for a higher ROE  
69 determination in this proceeding.

70

71 **Q. SHOULD THE COMMISSION ACCEPT WITNESS HEVERT'S DEFENSE OF**  
72 **HIS OVERSTATED ROE RECOMMENDATIONS?**

73 A. No. Witness Hevert's track record of overstated recommendations is well  
74 documented and irrefutable. ANGC Exhibit 1.02 (provided with my Direct  
75 Testimony) illustrates the consistency in which Witness Hevert's ROE recom-  
76 mendations have overstated the final ROE determinations made by regulators in  
77 cases in which he has presented an ROE recommendation. That analysis is  
78 based on proceedings in which Witness Hevert has testified over the last three  
79 years and reflects consideration of 24 gas distribution utility rate cases. Those  
80 results clearly depict an average upward bias of 78 basis points. In other words,  
81 **on average** Witness Hevert's ROE recommendations have been 78 basis points  
82 above the levels ultimately approved by regulators.<sup>3</sup> Witness Hevert's overstated  
83 ROE recommendations are broadly recognized and are not isolated to either this  
84 proceeding or my perspective.

85

86 **Q. DO YOU AGREE WITH WITNESS HEVERT'S PERCEPTION OF THE**  
87 **POTENTIAL ELECTRIFICATION RISKS FACED BY DEU?**

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<sup>3</sup> This observation is not intended to imply that the authorized ROE for DEU in this proceeding should simply reflect the average of other commissions' recent determinations. Rather, the ROE set for DEU in this proceeding should reflect current market conditions and current investor expectations, not the conditions which prevailed at the time earlier regulatory decisions were rendered. As I have discussed, the current conditions and investor expectations include declines in U.S. 30-year U.S. Treasury Bond yields that were not known or anticipated in 2018 or most of the first half of 2019.

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88 A. No, I do not. Witness Hevert’s position is premised on unsupported assessment  
89 of electrification risks.

90 His suggestion that a “younger system,” such as DEU, might have greater  
91 exposure to stranded assets than older systems ignores the substantial amounts  
92 of pipe replacement costs that many older systems have incurred and now  
93 include in their rate bases.

94 Witness Hevert also ignores the level of Unaccounted for Gas that DEU  
95 reports relative to comparable measures for some older systems. For 2018,  
96 DEU reported only **0.7%** Unaccounted for Gas as a percentage of total  
97 consumption.<sup>4</sup> By comparison, Washington Gas Light Company, which serves a  
98 similar total number of customers in the District of Columbia, Maryland and  
99 Virginia, had a 2018 Unaccounted for Gas rate of **4.16%** (i.e., nearly six times the  
100 level reported by DEU).<sup>5</sup> Thus, in the context of concerns regarding greenhouse  
101 gas emissions, a utility such as Washington Gas is a more likely target of  
102 environmental concerns and electrification efforts than DEU.<sup>6</sup>

103 Furthermore, as I mentioned in my Direct Testimony, regulators generally  
104 appreciate the stranded costs concerns. Where utilities have undertaken  
105 investments in good faith to provide regulated utility services to their customers,  
106 but due to unforeseen subsequent events may not be able to recover those costs

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<sup>4</sup> See Part G of DEU’s “Annual Report for Calendar Year 2018 Gas Distribution System,” submitted to the US Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), March 12, 2019.

<sup>5</sup> See Part G of Washington Gas Light Company’s Annual Reports for Calendar Year 2018 Gas Distribution System for the District of Columbia, Maryland, and Virginia submitted to the US Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), March 15, 2019.

<sup>6</sup> In fact, Washington Gas has already begun an investigation of issues associated with a reduction or wind-down of the operations of Washington Gas Light Company in that jurisdiction to comply with the District of Columbia’s climate goals.

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107 through traditional ratemaking mechanisms, instances of regulators denying  
108 recovery of such costs are at best rare. Thus, any presumption that DEU and its  
109 investor, Dominion Energy, face significant stranded cost risk is unfounded.

110

111 **Q. DOES WITNESS HEVERT'S REBUTTAL REGARDING FLOTATION COSTS**  
112 **PROVIDE ANY FURTHER SUPPORT FOR HIS PROPOSED INFLATION**  
113 **COST ADJUSTMENT?**

114 A. No. Witness Hevert's advocacy for a flotation cost adjustment for utility  
115 subsidiaries of diversified energy holding companies has been routinely rejected  
116 or ignored by numerous other commissions. The position of Dominion Energy  
117 Utah as a wholly owned subsidiary of Dominion Energy, Inc. renders the  
118 identification of direct ties between holding company equity issuance costs and  
119 DEU's responsibility for such costs extremely difficult, if not impossible. In this  
120 context, the Commission should recognize that Dominion Energy Utah is only  
121 one of more than a hundred Dominion Energy subsidiaries. Witness Hevert has  
122 provided neither quantitative evidence of equity issuance costs that Dominion  
123 Energy, Inc., has incurred to fund DEU's capital expenditures nor evidence of the  
124 portion of any actual equity issuance costs incurred by Dominion Energy for  
125 which DEU ratepayers should be held responsible. Witness Hevert's adjustment  
126 for flotation costs in this proceeding, thus, remains unsupported and continues to  
127 fall well within the margin of error of the range of ROE estimates that has been  
128 presented in this proceeding. With the judgmental elements of any ROE  
129 determination far exceeding the magnitude of Witness Hevert's proposed

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130 flotation cost adjustment, his proposed flotation cost adjustment warrants no  
131 weight in this Commission's ROE determination for DEU.

132

133 **Q. HOW DO YOU RESPOND TO WITNESS HEVERT'S REBUTTAL REGARDING**  
134 **THE RELATIONSHIP BETWEEN DEU'S CAPITAL STRUCTURE AND THE**  
135 **CAPITAL STRUCTURE OF DOMINION ENERGY?**

136 A. I must respond to several elements of Witness Hevert's capital structure  
137 arguments. First, Witness Hevert's argument that capital structure data is "*only*  
138 *available at the holding company level*" should not be accepted as a sound basis  
139 for utility regulatory determinations. As I emphasized in my Direct Testimony, the  
140 Commission's responsibility is to ensure that the capital costs that DEU  
141 ratepayers must bear are reasonable and that the Company appropriately  
142 attempts to minimize its overall costs of capital while ensuring its ability to raise  
143 capital to finance projects necessary to meet its ongoing utility service  
144 obligations. Neither Witness Hevert nor any other DEU witness demonstrates  
145 that the Company's proposed capital structure achieves such a balance.  
146 Acceptance of an unnecessarily large common equity percentage in the  
147 Company's capital structure does not meet the Commission's fiduciary  
148 responsibility to ensure the reasonableness of rates charged to DEU customers.

149 Second, Witness Hevert's listing of actual common equity ratios for a  
150 handful of regulated utility operating companies<sup>7</sup> is of little probative value.  
151 Witness Hevert offers no insight regarding the relationship between the listed

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<sup>7</sup> See Table 10 in Witness Hevert's Rebuttal Testimony at page 96, line 1765.



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152 utilities' actual common equity ratios and the common equity ratios used by the  
153 regulators of the listed companies to determine their overall costs of capital in  
154 ratemaking determinations. Witness Hevert also fails to provide any information  
155 regarding the relative size and credit ratings of the listed utility subsidiaries.  
156 Arguably, the two companies in Witness Hevert's Table 10 that are closest in  
157 geographical proximity to DEU (i.e., Southwestern Gas and Northwest Natural  
158 Gas) are shown to have common equity ratios that closely approximate the 50%  
159 level I have recommended.

160 Third, contrary to Witness Hevert's assertions, my recommendation does  
161 not run counter to the "stand-alone" principle. To the contrary, as noted above,  
162 other gas utilities in neighboring western states operate with roughly 50% equity  
163 ratios, and DEU has failed to demonstrate that it could not operate successfully  
164 and at lower cost to its ratepayers with rates based on a 50% common equity  
165 ratio.<sup>8</sup> Again, when the much higher effective cost of common equity relative to  
166 the costs of debt financing is properly considered, the importance of minimizing  
167 DEU's common equity ratio on a stand-alone basis in efforts to ensure the  
168 reasonableness of rates billed to DEU customers cannot be ignored. Although a  
169 lower common equity ratio may have some impact on DEU's costs for  
170 incremental debt financing, as long as the Company's common equity ratio  
171 remains reasonably close to 50%, the impacts of any increase in incremental  
172 debt financing costs will be small relative to the overall capital cost savings that

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<sup>8</sup> Actual utility capital structures vary constantly and rarely conform to the common equity ratios that are used by regulators in setting rates.

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173 ratepayers would enjoy by lowering DEU's common equity ratio for ratemaking  
174 purposes to the 50% range.

175 Fourth, although Witness Hevert's Rebuttal Testimony offers a lengthy  
176 discussion of "double leverage," I never used that term in my Direct Testimony.  
177 More importantly, Witness Hevert's discussion of that concept is highly  
178 academic<sup>9</sup> with no real-world quantitative support. The fact is, Dominion Energy,  
179 Inc. is a highly diversified holding company with many non-regulated business  
180 ventures. As such, most analysts would perceive that Dominion Energy, Inc.  
181 represents a more risky investment than a direct investment in DEU would  
182 represent. As a more risky entity, Dominion Energy economic theory would  
183 suggest that Dominion Energy, Inc. would need to maintain a higher common  
184 equity ratio than DEU to achieve a comparable debt rating. Yet, as noted in my  
185 Direct Testimony and not refuted by DEU in Rebuttal Testimony, the actual  
186 common equity ratio for Dominion Energy, Inc. is significantly below the level  
187 DEU proposes for ratemaking purposes in this proceeding.

188

189 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

190 A. Yes. It does.

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<sup>9</sup> It should be noted that most of the literature to which Witness Hevert cites in his discussion of "double leverage" is from a time period during which the formation of utility holding companies was effectively barred by the Public Utilities Holding Company Act of 1935 (PUCHA), and most utilities could be readily examined on a stand-alone basis. The ban on utility holding companies in the PUCHA legislation was repealed by the Energy Policy Act of 2005.

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the Surrebuttal Testimony of Bruce R. Oliver for ANGC in Phase 1 of Docket 19-057-02 was served by email December 6, 2019 on the following:

### QUESTAR GAS COMPANY

Jenniffer Nelson Clark  
Cameron Sabin

jenniffer.clark@questar.com  
cameron.sabin@stoel.com

### DIVISION OF PUBLIC UTILITIES

Chris Parker  
William Powell  
Patricia Schmid  
Justin Jetter

chrisparker@utah.gov  
wpowell@utah.gov  
pschmid@agutah.gov  
jjetter@agutah.gov

### OFFICE OF CONSUMER SERVICES

Michele Beck  
Steven Snarr  
Robert Moore

mbeck@utah.gov  
stevensnarr@agutah.gov  
rmoore@agutah.gov

### NUCOR STEEL-UTAH

Damon E. Xenopoulos  
Jeremy R. Cook

dex@smxblaw.com  
jcook@cohnekinghorn.com

### UAE

Gary A. Dodge  
Phillip J. Russell

gdodge@hjdllaw.com  
prussell@hjdllaw.com

### US MAGNESIUM

Gary A. Dodge  
Phillip J. Russell  
Roger Swenson

gdodge@hjdllaw.com  
prussell@hjdllaw.com  
Roger.Swenson@prodigy.net

### FEA

Maj Scott L. Kirk  
Capt Robert J. Friedman  
Thomas A. Jernigan  
TSgt Arnold Braxton  
Ebony M. Payton

scott.kirk.2@us.af.mil  
robert.friedman.5 @us.af.mil  
Thomas.jernigan.3 @us.af.mil am  
arnold.braxton@us.af.mil  
ebony.payton.ctr@us.af.mil  
ULFSC. Tyndall@us.af.mil

/s/Stephen F. Mecham