

–BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH–

**IN THE MATTER OF DOMINION ENERGY
UTAH TO INCREASE DISTRIBUTION
RATES AND CHARGES AND MAKE
TARIFF MODIFICATIONS.**

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**DOCKET No. 19-057-02
Exhibit No. DPU 6.0 SR
Surrebuttal Testimony
Howard E. Lubow
Phase II**

FOR THE DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE
STATE OF UTAH

Surrebuttal Testimony of

Howard E. Lubow

January 6, 2020

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1 **INTRODUCTION**

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

3 A. My name is Howard E. Lubow. My business address is Overland Consulting. My
4 business address is 5407 West 124th Court, Overland Park, Kansas 22209.

5 **Q. DID YOU FILE DIRECT TESTIMONY IN THIS DOCKET?**

6 A. Yes. I submitted direct testimony on behalf of the Division of Public Utilities (“DPU”)
7 on November 14, 2019.

8 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

9 A. I will address certain issues raised in the rebuttal testimonies filed by Mr. Summers, Mr.
10 Oliver, Mr. Higgins and Mr. Daniel (“other parties”). More specifically, I will consider
11 the class cost of service (“CCOS”) and rate design issues found in the rebuttal testimony
12 of the witnesses identified, and provide final DPU recommendations based on this
13 evidence.

14 **Q. BASED ON THIS EVIDENCE, DO YOU FIND IT APPROPRIATE TO MODIFY
15 ANY OF YOUR ANALYSIS OR RECOMMENDATIONS AT THIS TIME?**

16 A. Yes. While my analysis is not necessarily impacted due to the rebuttal evidence filed by
17 various parties on December 13, 2019, I believe that the rebuttal evidence supports a
18 modification of certain recommendations proposed in my direct testimony. These
19 modifications are premised on commission precedent, industry practice and the specific
20 CCOS and rate design evidence in this docket.

21 **DESIGN DAY FACTOR**

22 **Q. HAVE THE PARTIES GENERALLY OPPOSED YOUR RECOMMENDATION
23 THAT THE PEAK DAY ALLOCATION FACTOR BE BASED ON ACTUAL
24 RATHER THAN DESIGN USAGE?**

25 A. Yes. OCS agrees (p. 4-5). The arguments raised by the remaining other parties in the
26 rebuttal all rest on the assumption that the DEU Design Day is appropriate as this reflects
27 expected usage based on peak period system planning. The parties, however, ignore two
28 significant factors. General industry practice is to rely upon actual or weather-adjusted
29 usage in employing a peak allocation factor in CCOS studies. More directly, substantial
30 evidence has indicated a low probability to the actual occurrence of a design day event,
31 which has not occurred in over 50 years. A primary factor in CCOS studies is to
32 recognize customer “use” of the system based on relevant test year data. To do
33 otherwise, ignores the customers who enjoy system benefits and cause associated costs.
34 These customers, firm and interruptible, who use the DEU facilities during peak period
35 conditions, year after year, should pay some portion of these system costs. This
36 Commission has recognized this principle in DEU rate design.

37 **Q. AT PAGE 7 OF YOUR DIRECT TESTIMONY YOU PROPOSE TO INCLUDE**
38 **ACTUAL USAGE OF INTERRUPTIBLE CUSTOMERS IN THE**
39 **CALCULATION OF THE DESIGN DAY FACTOR. HOW DID THE PARTIES**
40 **RESPOND TO THIS RECOMMENDATION IN THE REBUTTAL TESTIMONY?**

41 A. While not explicit, it is likely that OCS supports the recognition of interruptible usage to
42 the extent that it occurs at the time of the actual peak day. The other parties find this
43 treatment to be inappropriate. As stated above, and amplified in my direct testimony,
44 interruptible customers are highly unlikely to be interrupted on an actual peak day. They
45 should pay for the likelihood of deliveries during peak periods. Such ongoing benefits
46 likely outweigh the cost and inconvenience of imposing discretionary interruptions for
47 operational purposes during peak period conditions.

48 **Q. DO YOU FIND MR. HIGGINS COMMENTS REGARDING YOUR ALLEGED**
49 **IMPLICIT DISALLOWANCE OF 26% OF FEEDERS AND RELATED**
50 **FACILITIES (P.9) AS A BASIS TO REFUTE YOUR PROPOSED USE OF**
51 **ACTUAL PEAK DATA PARTICULARLY COMPELLING?**

52 A. No. The characterization in his testimony is a misrepresentation of my statements in
53 support of using an actual peak day demand. Nowhere have I proposed to disallow the
54 cost recovery of feeders and related facilities.

55 **60% DESIGN DAY, 40% THROUGHPUT FACTOR**

56 **Q. WHAT POSITIONS HAVE THE OTHER PARTIES TAKEN REGARDING THE**
57 **USE OF THIS HYBRID ALLOCATION FACTOR IN THE CCOS?**

58 A. OCS supports the DPU 50% / 50% recommendation. The other parties have proposed to
59 reflect a higher weighting; UAE proposing a 68% design-day / 32% throughput. DEU
60 revised its original position of a 60% / 40% distribution to adopt the UAE
61 recommendation. In doing so, DEU has abandoned its own criteria in support of the
62 basis for this allocation factor as stated in its response to DPU 3.25 where it stated that:

63 The cost-of-service task force that resulted from the 2002 general rate case
64 looked at studies based on alternative weightings between peak and
65 commodity of 75/25, 60/40, and 50/50. No consensus was reached as to the
66 most appropriate weighting. However, the 60/40 weighting more closely
67 matches the results of the COS that the Company has proposed over time.

68 **Q. IN HIS REBUTTAL TESTIMONY AT PAGE 4, LINES 79-80, MR. DANIEL**
69 **STATES THAT MR. HIGGINS' REPRESENTATION THAT DEU HAS USED AN**
70 **AVERAGE AND PEAK ALLOCATION METHODOLOGY IS INCORRECT. DO**
71 **YOU CONCUR WITH THIS STATEMENT?**

72 A. Yes. The use of an Average and Peak or Average and Excess allocation methodology
73 would encompass a broader range of costs and would result in a much greater shift in
74 costs to higher load factor customers.

75 **Q. IN HIS REBUTTAL TESTIMONY, MR. HIGGINS POINTS OUT THAT A**
76 **REVISION IN THE HYBRID FACTOR AT THIS TIME SEEMS SOMEWHAT**
77 **PUNITIVE, GIVEN THE COST SHIFT ALREADY OTHERWISE INDICATED**

78 **TO THE TS CLASS. DO YOU BELIEVE THAT THIS OBSERVATION HAS**
79 **MERIT?**

80 A. I do. Given the potential for this and other refinements to be analyzed in the next case,
81 perhaps it is more reasonable not to proposed any further tinkering with this factor at this
82 time. Therefore, I propose a continuation of the 60% / 40% weighting, consistent with
83 the DEU direct case, and its statements in support of this weighting in its response to
84 discovery.

85 **TS CLASS RATE DESIGN**

86 **Q. HAVE YOU REVIEWED MR. HIGGINS' PROPOSAL TO SPREAD THE**
87 **INCREASE TO THE TS CLASS OVER A PERIOD OF THREE YEARS,**
88 **COMMENCING ON MARCH 1, 2020 (P. 2)?**

89 A. I have. Mr. Higgins proposes a slightly lower increase in year 1, with equal remaining
90 increases in years 2 and 3 (7.7%; 10.7%; 9.7%). (p.19) I agree that the spread of this
91 increase, given its magnitude is appropriate. Mr. Summers proposes 25% of the TS
92 increase in years 1 and 2, with 50% in year three. (p. 9) Mr. Daniel proposes equal annual
93 increases over the three-year period. In the absence of any compelling rationale to do
94 otherwise, I concur with Mr. Daniel's recommendation for uniform percent increases.

95 **SPLITTING THE TS AND GS CLASSES**

96 **Q. IN HIS REBUTTAL TESTIMONY, MR. SUMMERS IS OPEN TO A**
97 **POTENTIAL SPLIT IN THE TS CLASS ONCE FULL RATES FOR THIS CLASS**
98 **ARE IMPLEMENTED. HOWEVER, HE OPPOSES THE POSSIBILITY OF**
99 **SPLITTING THE GS CLASS BASED ON VARIOUS FACTORS THAT HE**
100 **FINDS SUPPORT LEAVING THE GS CLASS AS IT IS. (P. 15-16) I BELIEVE**
101 **THAT YOUR TESTIMONY PROPOSES TO SEPARATE RESIDENTIAL**
102 **CUSTOMERS IN THE NEXT CASE, AS TO CONSIDER THE SEPARATION OF**
103 **THE GS COMMERCIAL CUSTOMERS INTO LARGE AND SMALL GROUPS.**

104 **(P. 12) DO YOU FIND THE DEU RATIONALE FOR NOT MAKING THESE**
105 **CHANGES PERSUASIVE?**

106 A. No. The separation of residential customers is not difficult or misleading; it should be
107 based on the FERC Uniform System of Accounts definitions and be consistent with
108 annual filing requirements made to the FERC. As stated in my direct testimony, the
109 separation of residential customers will assure greater transparency in CCOS assumptions
110 and allocations, while providing greater assurance of the accuracy of allocations to this
111 group. While Mr. Summers, believes that the number of customers in the GS class
112 provides stability, he ignores the possibility that interclass subsidies are more likely
113 within a more diverse group.

114 **Q. MR. OLIVER GENERALLY SUPPORTS THE IDEA OF SPLITTING THE GS**
115 **CLASS (P. 20), ALBEIT WITH CERTAIN REFINEMENTS FOR THE NON-**
116 **RESIDENTIAL CUSTOMERS IN THIS GROUP. MR. DANIELS IS ALSO OPEN**
117 **TO THIS SPLITTING THE GS CLASS, BUT DOES NOT WANT TO MAKE**
118 **THIS DETERMINATION UNTIL DATA CAN BE MADE AVAILABLE TO**
119 **DETERMINE THE RELATIVE BENEFITS OF ANY POSSIBLE**
120 **STRATIFICATION. (P. 11) DO YOU FIND THESE RECOMMENDATIONS TO**
121 **BE REASONABLE?**

122 A. I do. While I do not see any adverse outcomes associated with a separation of residential
123 customers into their own tariff, I agree that the Commission may wish to see the results
124 of such a separation before restructuring this tariff. In order to properly evaluate the
125 possibility of splitting the GS class in the next case, however, it will be necessary for
126 DEU to provide the necessary data. To facilitate this analysis, DEU should be directed to
127 separate residential customers from the GS class in its next rate filing.

128 **Q. ASSUMING THAT A 60% / 40% HYBRID ALLOCATION FACTOR IS USED,**
129 **THAT ACTUAL INTERRUPTIBLE CUSTOMER USAGE IS RECOGNIZED IN**
130 **THE DESIGN DAY FACTOR, AND THAT THE TS INCREASES ARE SPREAD**
131 **UNIFORMLY OVER A THREE-YEAR PERIOD, HOW WOULD THIS IMPACT**

132 **YOUR RATE DESIGN PROPOSAL ASSUMING THE DPU REVENUE**
133 **REQUIREMENT?**

134 A. My direct testimony included a proposal of a 35% increase for the TS and TBF classes.
135 This proposal assumed that the increase would be below the indicated CCOS which
136 supported potential increases for TS customers ranging from 37.91% to 53.20%,
137 depending on the DPU modification assumed. The actual CCOS result arising from a
138 60% / 40% hybrid allocation, including recognition of interruptible usage in the Design
139 Day Factor, is 45.45%. This is shown in my direct testimony on DPU Exhibit 6.3 DIR.
140 Assuming that this increase is uniformly spread over three years, I would propose the
141 following distribution:

- 142 • No change in rates for FS, IS, and NGV customers.
- 143 • Increase TS and TBF customers 15% (\$4,358,346 TS; \$239,041 TBF) per year
144 for the next three years.
- 145 • Reduce GS rates 0.95% (\$3,335,060) per year for the next three years.

146 **Q. WITH THESE MODIFICATIONS, DO THESE RATE SPREADS GENERALLY**
147 **CONFORM WITH THE CURRENT COMMISSION POLICIES AND / OR**
148 **ASSUMPTIONS MADE IN PREVIOUS RATE SETTLEMENTS?**

149 A. Yes. The intervening parties have stakes in the outcome that are unique to their
150 respective clients' interests. Not surprisingly, these analyses develop outcomes that are
151 favorable to these represented customers to the detriment of others. The Commission,
152 however, must ultimately weigh the impact of cost of service and rate design proposals,
153 consistent with fairness and equity to all customers. The DPU has no stake in favoring
154 the interests of one particular class of customers over another. I believe that my
155 proposals have taken into consideration the legitimate concerns and issues raised by the
156 various parties, and provide a reasonable basis to set rates at this time.

157

158 **Q. AT PAGE 14 OF HIS REBUTTAL TESTIMONY, MR. OLIVER STATES THAT**
159 **YOU HAVE MISREPRESENTED THE IMPACT OF YOUR PROPOSED RATE**
160 **STRUCTURE ON TS CUSTOMERS, AND THAT SUCH**
161 **MISREPRESENTATION IS ALSO TRUE IN MR. SUMMERS' TESTIMONY.**
162 **HAVE YOU CONSIDERED THESE COMMENTS?**

163 A. Yes. Mr. Summers can speak to this for himself, but I believe that the answer to Mr.
164 Oliver's point is that the increase is uniformly applied in the rate structure, when taken as
165 a whole, and subject to the specific component treatment for service fees and
166 administrative charges contained in the proposed TS tariff.

167 **Q. AT PAGE 21 OF MR. OLIVER'S REBUTTAL TESTIMONY, HE RAISES SOME**
168 **CONCERN ABOUT YOUR ALLEGED LACK OF ANY SUPPORTING**
169 **DISCUSSION ASSOCIATED WITH MINIMUM USAGE REQUIREMENTS FOR**
170 **TS CUSTOMERS AS PROPOSED BY DEU AND SUPPORTED IN YOUR**
171 **DIRECT TESTIMONY. IS THIS A FAIR CHARACTERIZATION OF YOUR**
172 **FILED COMMENTS?**

173 A. I could have further addressed this point in my direct testimony. However, I found Mr.
174 Summers had covered the subject appropriately, and chose not to duplicate the history
175 and recommendations made by DEU. The parties had originally envisioned a much
176 higher threshold for this service. Had I developed any alternative recommendation, it
177 would have been to set the minimum usage higher, not lower.

178 **Q. DOES THIS COMPLETE YOUR PREPARED SURREBUTTAL TESTIMONY?**

179 A. Yes, it does.