Phillip J. Russell (10445)
HATCH, JAMES & DODGE, P.C.
10 West Broadway, Suite 400
Salt Lake City, Utah 84101
Telephone: (801) 363-6363
Facsimile: (801) 363-6666
Email: gdodge@hjdlaw.com
prussell@hjdlaw.com

Counsel for Utah Association of Energy Users

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Application of Dominion Energy Utah to Increase Distribution Rates and Charges and Make Tariff Modifications	Docket No. 19-057-02

PETITION OF UTAH ASSOCIATON OF ENERGY USERS FOR RECONSIDERATION AND REHEARING OF REPORT AND ORDER ISSUED FEBRUARY 25, 2020

Pursuant to Utah Code sections 54-7-15 and 63G-4-302, and Rule R746-1-801 of the Utah Administrative Code, the Utah Association of Energy Users ("UAE") hereby submits this Petition for Reconsideration and Rehearing of the Public Service Commission's ("Commission") February 25, 2020 Report and Order ("Order") with respect to Dominion Energy Utah's ("DEU") application to increase distribution rates and charges and make tariff modifications.

UAE respectfully requests that the Commission reconsider, and/or grant rehearing of, its Order to address UAE's concerns expressed below.

THE ORDER PHASES IN HIGHER RATES FOR BUSINESS CUSTOMERS MORE AGGRESSIVELY THAN ANY PROPOSAL FROM ANY PARTY

UAE requests that the Commission reconsider the portion of its Order that imposes sharply increased rates for commercial, industrial, and institutional customers in the transportation service

(TS) rate class that accelerate the phase-in approach beyond that proposed by any party in this matter. UAE requests that the Commission reconsider the schedule and amount of its step rate change set forth in Section V.C. of its Order for the reasons set forth below.

Background

A brief discussion of the background of the issues discussed in Section V.C. of the Order will aid in this discussion. The most impactful proposal in DEU's Application in this docket was the proposal to increase rates for the TS rate class to bring the class to full cost of service. DEU's Application proposed a 45.5% increase to the TS rate class.[1] UAE—which consists of many of the largest commercial, industrial, and institutional customers in Utah—challenged a number of DEU's revenue requirement and cost of service proposals in the docket,[2] but did not object to (and, in fact, supported) DEU's fundamental assertion that the TS class should be brought to full cost of service. UAE proposed, however, that the rate increase to the TS customers be imposed gradually to allow TS customers to adapt to the new and significantly higher prices, over time. UAE's proposed adjustments in this docket, if adopted, would have reduced the impact on commercial and industrial customers from rising rates compared to DEU's original proposal, but still would have resulted in an increase in rates for TS customers of approximately 30.8% when fully implemented.[3]

Several parties expressed serious concerns about the negative impact on commercial and industrial customers if TS rates were to increase by even the lowest percentage increases proposed in this docket. To mitigate some of the effects of the rate increase on TS customers, three parties—

[1] *See* Phase II Direct Testimony of Kevin C. Higgins at 11:203 (Table KCH-3). *See also id*. at lines 9:175-12:219.
[2] UAE's concerns are expressed throughout the pre-filed testimony of Kevin Higgins.
[3] This increase reflects UAE's recommended non-confidential Phase I surrebuttal revenue requirement. *See* Phase II Rebuttal Testimony of Kevin C. Higgins at 16:304 (Table KCH-1R).

UAE, US Magnesium ("US Mag"), and the Federal Executive Agencies ("FEA")—each made independent proposals to gradually implement any rate increases.

UAE proposed that the full cost-based increase to the TS class be phased in through three annual steps, with the first step occurring on March 1, 2020, the second step on March 1, 2021, and the third and final step occurring on March 1, 2022.[4] UAE further proposed that the first step impose a rate increase equal to 25% of the overall increase necessary to bring TS rates to full cost of service, that the second step impose an additional 37.5% increase, and that the final 37.5% of the rate increase be imposed in the third step.[5] In its Order, the Commission notes that all other parties that participated in the docket "generally support UAE's asserted need for gradualism," but that "these parties differ with respect to the method of gradualism or the size of the steps and length of time allowed" to implement the rate increases.[6] The Order then seeks to identify the positions of certain of the parties in response to UAE's proposal.[7]

The Order notes that DEU, the Division of Public Utilities ("DPU") and the Office of Consumer Services ("OCS") generally agreed with UAE's three-step approach to phasing in new rates in this docket, but that each proposed an alternative to UAE's specific proposal.

DEU proposed a 25%/25%/50% three-step phase-in of rates, but also proposed that the second and third steps occur "in connection with DEU's first annual IT applications in both 2020 and 2021," which are generally expected to occur in the fall.[8]

---

[4] *See id*. lines 12:220-226.
[5] See Phase II Surrebuttal Testimony of Kevin C. Higgins at 7:128-133.
[6] Order at 36.
[7] While the Order notes that UAE made the initial proposal to phase in the increased rates and identified the positions of various parties in response to UAE's proposal, it does not identify the schedule or amount of the rate increases proposed by UAE. *See id*. at 36-38.
[8] *Id*. at 37.

DPU and OCS each proposed a 33%/33%/33% three-step phase-in of rates. OCS and DPU expressed support for the schedule proposed by UAE for the rate increases to take effect, with OCS expressing agreement with UAE's proposal generally (other than with respect to the amount of each increase)[9] and DPU expressing support for OCS's position.[10]

In contrast to the UAE proposal identified above, US Mag proposed a gradual rate increase that would not bring TS customers to full cost of service in this docket. In its Phase II direct testimony, US Mag expressed concerns about specific cost of service and rate design issues within the TS class and requested that the Commission address certain proposals in this docket.[11] US Mag then proposed two alternative approaches in the event that the Commission did not address the specified cost of service and rate design issues in this docket. First, US Mag proposed that the Commission set an initial rate equal to 50% of the full rate increase and then open a docket in 2020 to address the cost of service and rate design issues within the TS class and impose new rates based on the results of that rate case in 2021.[12] Second, in the event that the Commission did not open a new docket in 2020 to establish new rates to begin in 2021, US Mag proposed that the Commission set an initial TS rate increase equal to 25% of the full rate increase for the first year with a second increase of an additional 50% of the full rate increase to be implemented in the second year, with the rates holding at that level until after the next general rate case.[13] In its Phase II surrebuttal testimony, however, US Mag supported the proposal advanced by UAE for the three-step 25%/37.5%/37.5% phase-in approach shown in Table KCH-2R of the Rebuttal Testimony of

---

[9] *See* Phase II Rebuttal Test. of J. Daniel at p. 8:185-9:200.
[10] *See* Phase II Surrebuttal Test. of H. Lubow at 4:85-94.
[11] *See* Phase II Direct Test. of R. Swenson at 5:72-7:131.
[12] *See id*. at 7:110-123.
[13] *See id*. at 7:124-131.

Kevin Higgins.[14] In its recitation of the positions of the parties, the Order cites to a portion of US Mag's surrebuttal testimony but fails to acknowledge either US Mag's initial proposal for a 25% increase in the first year or its adoption of UAE's proposal.[15]

FEA proposed a gradualism approach that would place an upper limit on rate increases that could be imposed on any class. Specifically, FEA proposed to limit rate increases to 1.5 times the overall revenue requirement increase, yielding a 7.42% cap on rate increases and eliminating rate reductions for any class.[16] While FEA's proposed rate spread moved TS to full cost, FEA's cost of service study showed TS warranting an increase less than the system average. If FEA's gradualism proposal were to be applied to the cost allocation adopted by the Order, the increase to the TS class would be subject to the cap FEA recommended in proportion to the final overall percentage increase.

Commission Order

In its Order, the Commission noted the general consensus among the parties to adopt a gradual approach to increasing rates. The Commission further noted that the approach to moving the TS class to full cost recovery gradually results in other classes continuing to bear some share of the TS class cost responsibility in the interim.[17] The Commission ultimately weighed the magnitude of the necessary rate increases to the TS class against the costs borne by other classes

[14] *See* Phase II Surrebuttal Test. of R. Swenson at 7:139-145 ("I agree with Mr. Higgins' approach for timing and cost increases as he shows in Table KCH 2R of his rebuttal testimony, and I would just suggest that the timing he proposes would provide enough time to have a proceeding for a new rate design case for TS customers classes done by March 2022 using base that rate determination on the COS information derived in this proceeding.").
[15] *See* Order at 37 & n.68 ("US Mag proposes an initial 50% increase followed by a subsequent increase to be determined in another proceeding opened to examine the intra-class subsidy issues in the TS class, and that a final increase should not occur before the spring of 2022." (citing R. Swenson Surrebuttal Test. at 6:116-123)).
[16] *See* Direct Test. of B. Collins filed at 23:7-24:4.
[17] *See* Order at 37.

during the period in which TS rates were increased to full cost of service. The Commission found that the costs borne by other parties during this time, when compared to current rates, would be "small and of relatively short-term duration," and found that the gradual movement to full cost of service TS rates will serve the public interest.[18]

While there was general consensus among the parties to adopt a gradual approach to raising TS rates, the Commission noted that parties had made different proposals about how to reach full cost of service rates. "Given the absence of consensus on the preferred pace of transition to full cost-of-service rates," the Commission indicated that it would "exercise judgment in selecting both the schedule for and amount of the proposed step rate change."[19] The Commission then exercised its judgment to implement a 50%/25%/25% phase-in of rates, implementing 50% of the rate increase for the TS class on March 1, 2020, with an additional 25% of the rate increase coming with DEU's IT filing in the fall of 2020, and the final 25% of the rate increase coming with DEU's IT filing in the fall of 2021.[20] This resulted in a 19.2% increase in TS rates beginning March 1, 2020, with an additional 9.6% increase scheduled for the fall of 2020, and an additional 9.6% increase scheduled for the fall of 2021.[21]

UAE's Concern with the Commission's Order

The Commission's Order increases rates on Utah commercial and industrial customers more aggressively than any proposal submitted by any party in this docket. The Commission's initial increase of 50% towards full cost of service is double the rate of the phase 1 increase proposed by UAE or DEU and is significantly higher than the 33% proposed by DPU or OCS. No

---

[18] *Id*. at 37-38.
[19] *Id*. at 38.
[20] *Id*. at 38.
[21] *Id*. at 39 (Table 6).

party that supported bringing TS rates to full cost of service in this docket proposed that 50% of the rate increase be imposed on TS customers beginning March 1, 2020. As noted above, US Mag initially proposed increases of either a 25% or 50% towards full cost of service to be implemented on March 1, 2020,[22] but those proposals were conditioned on the Commission's acceptance of other proposals that the Commission declined to adopt and US Mag ultimately adopted UAE's 25%/37.5%/37.5% phase-in structure and schedule.

The Commission correctly notes that there was general support among the parties to apply gradualism principles in moving the TS class to full cost of service rates, but also asserts there was an "absence of consensus on the preferred pace of transition to full cost-of-service rates for the TS and TBF classes."[23] While it is true that various parties, each of whom "generally support UAE's asserted need for gradualism in moving the TS and TBF classes to full cost recovery,"[24] presented differing proposals on the scope and timing of rate increases, it is not the case that there was no "consensus" on how the rate increases should be implemented. Among the parties who agreed that the TS class should be moved to full cost of service rates in three steps in this docket,[25] there was "consensus" that the rates implemented on March 1, 2020 should result in an increase to TS rates equal to between 25-33% of the increase necessary to bring rates to full cost of service. Similarly, there was "consensus" that the second increase (taken in combination with the first increase) should result in TS customer rates that would fall in the range of 50% to 67% of the full cost increase.

The Commission's Order stands outside of the bounds of the "consensus" presented to it by the parties to this docket. While the Commission has broad authority to implement rates, nothing in

---

[22] *See* Phase II Direct Test. of R. Swenson at 7:110-131.
[23] *Id*.
[24] *Id*. at 36.
[25] This includes UAE, DEU, DPU, OCS, and US Mag.

the Order or on the record in this docket supports the Commission's decision to depart from the range of proposals presented to it by the parties. Moreover, in light of unforeseen economic disruption caused by the current coronavirus pandemic, the decision to impose a large initial increase on TS and TBF customers that is beyond the range recommended by any party to this case appears particularly untimely. While the Order acknowledges that "moving the TS and TBF classes to full cost recovery gradually requires other classes to continue to bear some share of the TS and TBF class cost responsibility in the interim," it ultimately concludes that "[i]n light of the magnitude of the necessary TS and TBF rate changes," when "compared to current rates, the cost burden borne by other classes is small and of relatively short-term duration."[26] Having reached this conclusion, the Order does not explain the Commission's decision to raise TS and TBF rates in a manner that is more aggressive than the "consensus" band of the proposals presented to it. That aggressive increase on Utah business is especially misplaced in light of current economic conditions.

UAE Request for Relief

UAE requests that the Commission reconsider the portion of its Order aggressively implementing significantly higher rates on Utah's commercial, industrial, and institutional ratepayers in the TS class.

Specifically, UAE requests that the Commission revise its Order and reduce the initial increase on TS customers to 25% of the full cost of service increase from the rate effective date of March 1, 2020 through February 28, 2021, with corresponding changes to other rate schedules to achieve the target revenue requirement for DEU. The revised order should account for the temporary imposition of 50% of the full target increase on the TS and TBF classes that went into effect March 1, 2020, either through the recalculation of the initial rate increase or through a going-forward true-up implemented

---

[26] *Id*. at 37-38.

March 1, 2021 as part of the second step increase. Pursuant to this request, the Commission would then impose a second increase equal to 37.5% of the full-cost rate increase on March 1, 2021 and another 37.5% of the full-cost rate increase—yielding full cost rates—beginning March 1, 2022. These same steps should be applied to the target increase of the TBF class. This request is within the bounds of the gradualism proposals presented by the parties as being consistent with the public interest and is even more necessary now that economic conditions for Utah's business community have turned so dire.

In the alternative, if the Commission feels that it is too administratively burdensome to grant the relief requested above, UAE requests that, at a minimum, the Commission reduce the impact of the second step of the phase-in by reducing it to 12.5% of the full-cost rate increase to the TS class. That is, this alternative relief would hold rates at the current levels imposed on March 1, 2020 for one year, and then impose an additional 12.5% of the full-cost rate increase beginning March 1, 2021. This would result in implementation of 62.5% of the full-cost increase as of March 1, 2021 and would match the total of the first two steps proposed by UAE (25%/37.5%/37.5%). It would also be close to the total of the first two steps proposed by DPU (33%/33%/33%) and OCS (33%/33%/33%) and would exceed the total of the first two steps proposed by DEU (25%25%/50%). This alternative relief would then impose the final 37.5% of the increase on March 1, 2022, which would yield full cost of service rates at that time.

UAE prefers the initial request identified above because it better addresses the important economic needs of the moment, but either form of relief would result in a better alignment of rates with the rate design proposals submitted by the parties in this docket than the Order currently in place.

DATED this 25th day of March, 2020.

Respectfully submitted

By: Phillip J Russell
____

Phillip J. Russell
HATCH, JAMES & DODGE
Attorneys for UAE

Certificate of Service
Docket No. 19-057-02

I hereby certify that a true and correct copy of the foregoing Petition to Intervene was served by email this 25th day of March, 2020, on the following:

QUESTAR GAS COMPANY	
Jenniffer Nelson Clark	jenniffer.clark@questar.com
Cameron Sabin	cameron.sabin@stoel.com
DIVISION OF PUBLIC UTILITIES	
Chris Parker	chrisparker@utah.gov
William Powell	wpowell@utah.gov
Patricia Schmid	pschmid@agutah.gov
Justin Jetter	jjetter@agutah.gov
OFFICE OF CONSUMER SERVICES	
Michele Beck	mbeck@utah.gov
Steven Snarr	stevensnarr@agutah.gov
Robert Moore	rmoore@agutah.gov
Alyson Anderson	akanderson@utah.gov
NUCOR STEEL-UTAH	
Damon E. Xenopoulos	dex@smxblaw.com
Jeremy R. Cook	jcook@cohnekinghorn.com
AMERICAN NATURAL GAS COUNCIL, INC.	
Stephen F. Mecham	sfmecham@gmail.com
Curtis Chisholm	cchisholm@ie-cos.com
US MAGNESIUM, LLC	
Roger Swenson	Roger.Swenson@prodigy.net
FEDERAL EXECUTIVE AGENCIES	
Scott L. Kirk	Scott.Kirk.2@us.af.mil
Robert J. Friedman	Robert.Friedman.5@us.af.mil
Thomas A. Jernigan	Thomas.Jernigan.3@us.af.mil
TSgt Arnold Braxton	Arnold.Braxton@us.af.mil
Ebony M. Payton	Ebony.Payton.ctr@us.af.mil

/s/ *Phillip J. Russell*