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Comments

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

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Date: March 15, 2021

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

Recommendation (No Recommendation)

The Division of Public Utilities (Division) has no recommendation for the Commission. The Division will comply with Commission direction on specific procedures and would revise its current practices to address any specific concerns the Commission wishes to add to the Division's current audit reviews.

Issue

The Commission's Request for Comments issued January 13, 2021, references a paragraph found on page 14 in the Infrastructure Tracking Program (ITP) section of its Report and Order (Order) issued February 25, 2020, approving a revenue requirement increase for Dominion Energy Utah (Dominion). The paragraph referenced states: "OCS requests we clarify the intent and timing of the prudence review of ITP-related investments and monitor the size and scope of the ITP going forward. We find this request reasonable since the only guidance related to this subject was included in the Stipulation we approved in our June 3, 2010 order in Docket No. 09-057-16. Accordingly, we will soon invite comments in this docket to help refine ITP prudence review procedures." The June 3, 2010 order referenced by the Commission is found in docket 09-057-06 and originated from paragraph 17 stating that all items included in the ITP are subject to regulatory audit consistent with the audit procedures in the Gas Balancing Account (GBA).

The above Commission directive identifies four areas where the Office of Consumer Services (Office) presumably seeks Commission clarification. First, the intent of the prudence review related to ITP investments; second, the timing of the prudence review; third, the size of ITP; and fourth, the scope of the ITP. In that same Order, the Commission noted that all items included in the ITP are subject to regulatory audit consistent with the GBA. This leads to a possible fifth area of clarification, the consistency of the regulatory audit procedures of the ITP with the GBA.

Background

On July 1, 2019, Dominion submitted its General Rate Case (GRC) Application to the Commission. In its December 21, 2020 GRC Order, the Commission approved a Distribution Non-Gas (DNG) revenue requirement rate increase. The Order also approved the current ITP spending level, including its inflation rate adjustment allowing for changes in the amount invested over time (which generally increases).

On January 13, 2021, the Commission issued its Request for Comments regarding the prudence review of investments in Dominion's ITP. Comments are due on or before March 15, 2021, and reply comments are due on or before April 12, 2021.

This memo represents the Division's Comments.

Discussion

Each of the five possible prudence review areas of guidance or clarification identified above will be examined below.

1. THE INTENT OF THE PRUDENCE REVIEW RELATED TO INFRASTRUCTURE TRACKING PROGRAM INVESTMENTS

The Division's intent in its review of ITP related expenditures has been to determine if Dominion's expenditures of its ITP investments are reasonable and prudent and, thus, appropriately recoverable from ratepayers.

The Division's review is generally consistent with the description of prudence reviews described by Lowell E. Alt Jr: in his book, Utility Energy Rate Setting[1] "The principle employed in utility regulation is that prudently incurred costs should be allowed recovery in customer rates," (p.28). Mr. Alt continues, stating:

> The prudence review of utility expense and investment decisions is based on the conditions that existed at the time the decisions were made. Following are some questions that may be used to judge the prudence of a utility investment and expenses. Are the costs incurred to meet the needs of the customers? Are the costs necessary to provide adequate service? Are the costs reasonable? Is the plant investment used and useful? Will ratepayers derive a benefit? Is the plant capacity type, size and timing consistent with any commission acknowledged integrated resource plan?

The Division uses questions such as these as well as its professional experience gained over the years in performing its review to help determine the prudency of Dominion's ITP expenditures.

Additionally, the Division's review is completed in the context of, and supported by, the structure and requirements of the Commission approved ITP. The ITP stipulation was approved and ordered in the 13-057-05 GRC. The ITP (at that time it was called the Infrastructure Rate-Adjustment Mechanism Pilot Program) provided that Dominion (then-Questar Gas Company) was allowed to do certain things with regards to the ITP stipulation and subsequent order. A summary of these allowances the ITP provides for is taken from the stipulation and order and is outlined below. A brief summary of the Division's audit/review objective with each is also included.

[1] Alt, Lowell E. Jr,. *Energy Utility Rate Setting*, Lulu, Copyright 2006. "A Practical Guide to the Retail Rate-Setting Process for Regulated Electric and Natural Gas Utilities".

Specifically, the stipulation references the following:

1) Continuation of the ITP;

The ITP is no longer distinguished as a “pilot program”

2) The ITP will be modified to include the costs associated with the replacement of certain Intermediate High Pressure (IHP) beltlines;

Those IHP beltlines are quantifiable and total 70 miles. The Division continues to monitor Dominion’s work on these beltlines and their corresponding mileage to ensure the funds invested by Dominion and requested for recovery are under this pre-defined umbrella.

3) That in identifying high pressure (HP) pipelines for replacement, Dominion “shall utilize the evaluation criteria as set forth in Settlement Stipulation Exhibit 4”;

Each filing, the Division compares the replacement HP pipeline list provided by Dominion with the proposed replacement work and those that represent already-completed replacement work to determine that the evaluation criteria in Exhibit 4 is utilized.

4) That in identifying IHP pipe for replacement, Dominion “shall utilize the evaluation criteria set forth in Settlement Stipulation Exhibit 5”;

Each filing the Division compares the replacement IHP pipeline list provided by Dominion with the proposed replacement work and those that represent already completed replacement work to determine that the evaluation criteria in Exhibit 5 is utilized.

5) That evaluation criteria may evolve “and may be expanded and modified as new and additional information and/or technology becomes available”;

Each filing the Division looks for information provided by Dominion that indicates it may be contemplating expanding or modifying the criteria. So far, none have emerged.

6) Dominion "shall inform the Commission, the Office and the Division of any changes in the criteria set forth in Settlement Stipulation Exhibits 4 or 5";

Again, the Division looks for information provided by Dominion that indicates it may be contemplating expanding or modifying the criteria. So far, none have emerged.

7) Dominion has a "Master List of all HP Feederlines," which were "attached as Confidential Settlement Stipulation Exhibit 6";

This Exhibit No. 6 is what the Division relies upon to determine the specific pipes, their initial installation age, their footage, and their location, which sums to the boundaries of the HP Feederlines to be replaced in the ITP. This is used as the baseline against which the then-current filing is compared.

8) Dominion "also identified certain HP pipelines for replacement utilizing the criteria set forth in Settlement Stipulation Exhibit 4;

This Exhibit No. 4 is what the Division relies upon to review the justification Dominion uses to determine which of its HP Feederlines are to be replaced in the ITP. This exhibit was confidential but included such items as the age of the pipe, its location, its past history, etc.

9) Dominion also provided those pipelines' location, "associated footage, and the currently-anticipated schedule for replacement." These were provided as Confidential Settlement Stipulation Exhibit 7";

Exhibit No. 7 is a tool the Division uses to compare the current next-year schedule against, along with requiring explanations by Dominion when the order of replacements vary from the short-term plan of Dominion's HP Feederlines that are to be replaced in the ITP. Likewise, the Division compares the footage variances that frequently occur between the next-year plan and the one in this exhibit. The Division seeks explanation by Dominion as to the variances that may and do, occur.

10) Dominion "identified 70 miles of IHP beltlines for replacement utilizing the criteria set forth in Settlement Stipulation Exhibit 5";

The Division utilizes Exhibit No. 5 to review the justification Dominion offers concerning which IHP pipelines are to be replaced in the ITP.

11) The beltlines scheduled for replacement in 2014 were "delineated in Confidential Settlement Stipulation Exhibit 8";

The Division utilized the information contained in exhibit 8 to review the scheduled beltlines for 2014. This information, although useful then, is no longer relevant with regards to the Division performing its ITP review and audit.

12) On or before April 30, 2014, Dominion "will provide additional information about the beltlines to be replaced in a form similar to that shown on Confidential Settlement Stipulation Exhibit 7";

This information was provided at that time and is no longer relevant with regards to the Division performing its ITP review and audit.

13) Dominion would provide the following reports:

a. In November of each year, Dominion will "file an annual budget for both HP and IHP replacements for the upcoming calendar year." (Dominion was also allowed to "request Commission approval to exceed the budget cap if there are exigent circumstances requiring immediate capital expenditures.)

b. In April of each year, Dominion will provide the following:

i. An updated Master List of all HP pipelines in its system, including new construction and replacement work.

ii. Updated HP and IHP project schedules which will explain any material changes to the schedules previously set forth.

c. Quarterly "variance reports showing the actual expenditures in the program, as compared to the budget, and describing any material variances from the most-current replacement schedule."

As part of its review and audit procedure the Division continues to check that Dominion provides the annual budget for both HP and IHP replacements for the upcoming calendar year, an updated Master List of all HP pipelines in its system, an updated list of HP and IHP project schedules along with an explanation of any material changes to the schedules previously set forth. It also ensures receipt and review of quarterly variance reports showing the actual expenditures in the program, as compared to the budget, and describing any material variances from the most-current replacement schedule.

The Division uses these reports to compare the approved plan of action with Dominion's upcoming plans. If there are significant differences, the Division points them out to the Commission recommending a disallowance or further justification by Dominion.

14) Previously "unscheduled pipeline replacements may be added to the HP replacement schedule" provided certain criteria are met "with prior Commission approval."

This has not occurred in the ITP as of this date, so Division review has not been required.

15) Dominion "may apply, at any time, for adding HP pipes to the schedule;

This has not occurred in the ITP as of this date, so Division review has not been required.

16) The ITP was "limited to a total of $65 million per year to cover the costs associated with replacing both high pressure and intermediate high pressure natural gas facilities" with the added inflation index each year using the most recent GDP Deflator;

This is addressed more fully in section 3 below.

17) The budget cap would be re-set in each GRC;

This was addressed in the 2019 GRC as more fully described in section 3 below.

18) The tracking of ITP costs would not commence until the $84 million level of infrastructure investment in rates has been reached;

The Division reviewed the calculations as part of its regular ITP audit/review and submitted to the Commission when this $84 million level of infrastructure investment in rates had been reached. The Division's memo stated "That level of investment was exceeded in October 2014."

19) The Division would "conduct its audit of the 2013 tracker investment and, in the event of any disallowance, those costs will be adjusted out of the next" ITP filing.

No disallowances were made as a result of the Division's audit of the 2013 ITP.

2. THE TIMING OF THE OF THE PRUDENCE REVIEW RELATED TO INFRASTRUCTURE TRACKING PROGRAM INVESTMENTS

The Division reviews each ITP filing Dominion makes for prudence and reasonableness. The Division has challenged some of these costs in the past and costs have been denied recovery on occasion by the Commission based on the Division's recommendation (as an example, see Docket No. 15-057-19).

A one-time prudence review on a predetermined date is not best to meet this purpose, nor is it in the public interest. Rather, it is appropriate to perform its review in a manner fit to each filing.

Again, to reference Utility Energy Rate Setting, by Mr. Alt, "A prudence review of a utility's expenses and investments is normally done when the utility seeks recovery of those costs in rates by filing for a rate increase with the public service commission," (page 28). In the case of the ITP, Dominion requests its rate increase on an annual basis. The Division examines Dominion's request at that time and additionally at each of its ITP quarterly update filings. The Division supports and recommends this schedule going forward. Firm deadlines for the review are unlikely to yield significant benefits.

3. THE CONTINUAL MONITORING OF THE SIZE OF THE INFRASTRUCTURE TRACKING PROGRAM

The size of the ITP from the implementation of the new rates going forward was directed by the Commission's most recent GRC Order, which states, "We approve the continuation of the infrastructure tracker program (ITP). We also approve a Test Year ITP budget of $72.2 million, adjusted thereafter for each ITP plan year based on the GDP Deflator Index."[2] Thus, the size of the ITP is $72.2 million and is adjusted annually based on the GDP Deflator Index. Therefore, each year the Division will continually monitor Dominion's ITP investment to determine if it complies with the allowed budget. The only exception is found on page 11 of the Commission's Order where it addressed the handling of spending variances, which the Division continually monitors as well.

4. THE CONTINUAL MONITORING OF THE SCOPE OF THE INFRASTRUCTURE TRACKING PROGRAM

At each of Dominion's ITP fillings, the Division continues to monitor the scope of the projects that Dominion includes in its request for ITP cost recovery. The scope of the Division's review has expanded as the ITP has expanded and changed to include Intermediate High Pressure feeder lines. However, the scope has been consistent since the 13-057-05 GRC, which was the last time the scope of the program changed. In other words, included in the ITP are a certain lengths of certain identified Feeder Lines (Master Lists) and 70 miles of Intermediate High Pressure Feeder Lines; all are included as part of the Division's regular review.

The Division also uses Dominion's Tariff Section 2.07 regarding the ITP as a metric when performing its review. The tariff allows Dominion "…to track costs that are directly associated with Replacement Infrastructure, defined below, through an incremental surcharge…" This "Surcharge is designed to track and collect costs of Replacement Infrastructure between general rate cases." Dominion is to "file its next year's annual plan and budget describing the estimated costs and schedule…" Additionally, it must also "provide an updated master list of all HP

[2] Docket 19-057-02 Report and Order, February 25, 2020 Synopsis

pipelines and updated HP and IHP project schedules." And finally it is required to "file quarterly progress reports describing the Replacement Infrastructure program."

The tariff generally defines the boundary and scope of the ITP by defining it as "new high-pressure feeder lines, and intermediate high pressure lines that are replacing aging high-pressure feeder lines and intermediate high pressure lines approved by the Commission, and as required to ensure public safety and provide reliable service." The Tariff then lists some factors Dominion considers in replacing infrastructure, these include the age of the pipe, the manufacture method, the pipe's operational history, and the requirement to maintain safe operations and whether or not the pipe is in a High Consequence Area or an area of higher population. The Division also uses this tariff section as specific standards in its review and audit.

In summary, the scope of the ITP is detailed in the master list, Dominion's tariff, and prior Commission orders. The Division utilizes this information to review Dominion's annual plan, its ITP expenditures, and Dominion's reports to determine whether ITP activity is within the prescribed scope as approved by the Commission. The Division sees no need for change to this review process.

5. THE CONSISTENCY OF THE INFRASTRUCTURE TRACKING PROGRAM WITH THE GAS BALANCING ACCOUNT REGULATORY AUDIT

There are no specific mandated requirements that direct the Division on how to perform its regulatory reviews and audits of either the GBA or the ITP. Arguably the terms audit and review have been used interchangeably by the Division in the past. Mr. Jeffery S. Einfeldt briefly reviewed some of the Division's efforts in its ITP audit/review in his direct testimony filed October 17, 2019 in this docket.[3]

Section 2.06 of Dominion's Tariff addresses regulatory audits for the GBA as follows: "All items recorded in the 191 Account are subject to regulatory audit. Adjustments to the 191 Account may be proposed on a retroactive basis for items identified in such regulatory audits that

[3] DPU DIR 5. Direct Testimony of Jeffery S. Einfeldt beginning on page 1

are not in compliance with 191 Account standards and procedures, not in compliance with prior orders of the Commission, or imprudently incurred."

The ITP section of Dominion's Tariff, Section 2.07, states that, **"**All items included in the Tracker are subject to regulatory audit consistent with the audit procedures in the "Gas Balancing Account," at section Tariff 2.06. At the time of the Company's next general rate case all prudently incurred investment and costs associated with the Surcharge will be included in base rates."

These Tariff-based review discussions mention audit reviews, but there is no definition or direction on exactly how the Division is to perform these regulatory audits. The Division's personnel that perform the GBA and the ITP reviews/audits are the same and have years of experience doing both reviews. Again, the review process was generally described by Mr. Einfeldt in his testimony in this case. The main difference is that the GBA is significantly more complicated and includes a much larger population of transactions involving much larger dollar amounts in total than contained in the ITP and, reasonably, more time is spent on the GBA review than on the ITP review, but the processes and procedures are similar.

SUMMARY

As Mr. Einfeldt testified, a report of the Division's audit of Dominion's ITP was "filed August 8, 2019 and can be found in dockets 09-057-16 and 13-057-05." He also provided a summary, although not an exhaustive discussion, of the work performed during the ITP audit, which is similar to the work performed in a GBA audit. Some highlights of his statements were:

- The Division meets with Dominion personnel to review the accounting procedures.
- The Division reviews prior year audits.
- The Division reviews prior dockets.
- The Division obtains a detailed list of transactions for the period.

- The Division compares current activity to prior years.
- The Division compares current spending to budgets for reasonableness.
- The Division requests supporting documentation including vendor invoices.
- The Division reviews cutoff procedures to determine that charges were recorded in the proper accounting period.
- The Division reviews the approval process of vendor invoices prior to payment.
- The Division inquires about the internal audit process.
- The Division reviews internal audit reports.

At that time Mr. Einfeldt stated that; "The Division concluded the costs accounted for in the Pilot Program (i.e., the ITP) were appropriate and reasonable and recommended they be included in general rates for the pending general rate case." The Division continues to perform such reviews of the ITP, which are adequate to identify problems and meet Division's duties. If the Commission wishes for something different, it should clearly articulate what is wanted.

Conclusion

During the last GRC the Division concluded the costs accounted for in the ITP "were appropriate and reasonable and recommended they be included in general rates for the pending general rate case." Additionally, Division witness Mr. Jeff Einfeldt summarized some of the Division's review and audit procedures in his testimony.

Noting that the Commission's guidance related to this subject was given over ten years ago in the June 3, 2010 order in Docket No. 09-057-16, should the Commission determine that it is advisable to provide further direction to the Division (and/or other parties), the Division will revise its current practices to address any specific concerns the Commission feels may be beyond the scope of the Division's current audit reviews.

Cc: Kelly Mendenhall, Dominion Energy Utah
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