

In the Matter Of:

In Re: DEU - Request to Construct LNG Facility

HEARING (NON-CONFIDENTIAL), DOCKET NO. 19-057-13

September 27, 2019

Job Number: 547819B

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Investigation)
of Dominion Energy's Application) Docket No. 19-057-13
for Voluntary Request for Approval)
of Resource Decision.)
_____)

IN RE: DEU - REQUEST TO CONSTRUCT LNG FACILITY

Taken on September 27, 2019
At 9:00 a.m.

At Utah Public Service Commission
160 East 300 South, 4th Floor
Salt Lake City, Utah

Reported by: Michelle Mallonee, RPR, CSR
Job No. 547819B

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1 P R O C E E D I N G S

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3 CHAIRMAN LEVAR: Good morning. We're here for
4 the second day of the Public Service Commission hearing
5 in Docket 19-57-13, request of Dominion Energy Utah for
6 approval of a voluntary resource decision to construct a
7 liquified natural gas facility.

8 And we will go to Dominion Energy Utah for your
9 next witness.

10 MR. SABIN: Before we call our next witness, we
11 wondered if we could address a procedural issue this
12 morning with you, as it will guide us in what exactly our
13 witness needs to address.

14 CHAIRMAN LEVAR: Okay.

15 MR. SABIN: Yesterday during Mr. Mendenhall's
16 testimony, I don't know if it was apparent to you, but we
17 were all caught off guard by the statement or by the
18 questioning of Mr. Mendenhall. And the reason we were
19 caught off guard was we've now been through several
20 months of RFPs, questions, been through testimony, two
21 rounds of it -- four rounds of testimony. We've been
22 through countless numbers of DRs. And at no time, at no
23 instance has there ever been any mention by Magnum or its
24 counsel that anybody ever misunderstood or that they
25 intended something different than what we understood them

1 to have intended.

2 We think the language in the RFP response is
3 abundantly clear, and we're prepared to go into other
4 sections of the RFP that discuss that.

5 But the problem we have here is if you went off
6 just the testimony that's been submitted in this docket,
7 you will look hard, and you will not find any reference
8 whatsoever to either a complaint by Magnum that we had
9 misunderstood the RFP response or any questions or any
10 commentary that would have alerted DEU that they intended
11 something different than what we understood.

12 And the frustration that that breeds is we
13 started this thing in January after last year's docket,
14 and we had a very clear discussion with bidders at a
15 bidder's conference. We had very clear communications
16 and questions and answers, it was obvious from the
17 questions and answers we were providing -- or we were
18 receiving and providing answers to during the RFP
19 process. And we're, again, prepared to go through the
20 evidence if you want to take the time to do it today.

21 Magnum asked questions about reinforcements and
22 how we were intending to apply them and what costs we
23 were intending to charge. At no point in all of that
24 back and forth did Magnum ever say, Hey, wait a minute,
25 we're going to pay the full costs of these

1 reinforcements.

2 Now I'm not absolutely certain that that's what
3 their witness will want to say today. I don't know if
4 the questioning was just cross-examination or if it was
5 an intention to throw an issue on the table the first day
6 of the hearing that had never been raised before.

7 But I go back to the point that if we stick to
8 the testimony that's on the record, Mr. Schultz, who is
9 the only witness for Magnum Energy, cannot offer new
10 evidence into the record. Of all people, the Company
11 should have a right to complain about that. We are
12 routinely reminded, not -- by the parties in particular,
13 that, Hey, if you want to bring in stuff and talk about
14 stuff that's outside the written record, you need to file
15 a motion and tell us why you want to bring that in.

16 You have not been presented any motion, verbal
17 or otherwise, to have that issue placed before you. We
18 feel it is completely unfair to have to address an issue
19 on the fly after it's raised on the morning of a hearing
20 and has never been previously raised anywhere in any part
21 of the record.

22 So we're looking for counsel. We're looking for
23 instruction from the Commission of how you'd like to
24 proceed. We are prepared to address the issue in detail.
25 It will take much more time than it would if we were just

1 proceeding on the written record as it stands as filed.
2 And we've prepared in case you wanted to hear it, and we
3 have no doubt you'll understand what we're going to say.
4 But we do think it's unfair, and we don't think it's
5 proper, and we think we've been put in a very bad
6 position if that issue is allowed to come up during this
7 hearing today, so.

8 CHAIRMAN LEVAR: Let me try to frame this so I
9 can understand what you're asking at this point. Because
10 I don't think we're in a place where we will be able to
11 verbally from the bench give an indication of how we view
12 any particular issue or piece of evidence prior to our
13 deliberation and issuing an order. I don't think we're
14 going to be in a position to give that kind of guidance,
15 if that's what you're looking for.

16 I'm not hearing a motion to strike or anything
17 to that effect. So I'm at a bit of a loss of what
18 guidance we can give on this issue in the absence of any
19 specific motion in front of us to address. But let me
20 see if either of my colleagues have any questions before
21 we allow other attorneys to comment on the issue or --

22 MR. SABIN: Could I clarify what I'm asking for?

23 CHAIRMAN LEVAR: I think that would be helpful.

24 MR. SABIN: I'm raising it this way only because
25 it came up yesterday for the very first time.

1 So the relief we would like to know, and I would
2 ask for a determination of whether the parties are going
3 to be bound by the testimony they filed in this case. If
4 they are, then I'm perfectly happy to put on our case the
5 way we have prepared it and based upon the testimony
6 that's been given. But if Magnum is going to be allowed
7 to raise a new issue that's not in the testimony, then we
8 want leave to be able to address it and address it in all
9 its glory, so to speak.

10 CHAIRMAN LEVAR: Okay. Well, let me frame this
11 a little bit more.

12 So it seems to me we have a couple options. We
13 could try to rule on a motion at this point of what
14 Mr. Schultz can or can't testify, or we can move forward,
15 and when we get to Mr. Schultz's testimony, deal with any
16 objections that happen then with reserving a right for
17 witnesses to be recalled in rebuttal, if necessary.

18 MR. SABIN: The reason we're asking --

19 CHAIRMAN LEVAR: I can see those two ways to go
20 forward. If you can think of another option besides
21 those two.

22 MR. SABIN: The reason we're asking is Mr. Gill
23 is our last witness on direct. And so we could address
24 it with him now and avoid having to recall a witness. We
25 could also have him address just what's in his testimony,

1 get to Mr. Schultz, see if he intends, in fact, to try
2 and offer new testimony, at which point I'm going to give
3 you a heads up I will object and move to disallow that.
4 And if it's granted over that, then we will want to call
5 a witness to address it.

6 That's why we're raising it now as opposed to
7 later because I need to know whether I need Mr. Gill to
8 address it this morning.

9 CHAIRMAN LEVAR: And I don't think we'll be able
10 to guide you on whether you can make that decision, on
11 how you're going to make that decision with Mr. Gill.
12 But I think we understand the issues that we may have to
13 address, depending on where we get going forward. But if
14 either of you want to ask any questions or add any
15 thoughts before -- I think we need to let Mr. Russell
16 have an opportunity to comment on this before we just
17 move on to the first witness.

18 COMMISSIONER CLARK: Why don't we have him do
19 that first?

20 CHAIRMAN LEVAR: Okay.

21 Mr. Russell.

22 MR. RUSSELL: Good morning. It's not entirely
23 clear to me what it is I'm being asked to comment on,
24 although what I think I understand Mr. Sabin to be saying
25 is that to the extent that Mr. Schultz intends to testify

1 about Magnum's intentions with respect to its bids, he's
2 going to object.

3 I will agree with Mr. Sabin that the issue did
4 not come up in prefiled testimony. It wasn't an issue
5 that we, frankly, understood all that clearly until right
6 before the hearing. And I didn't understand it
7 completely until Mr. Mendenhall was testifying. So
8 that's part of the reason why it didn't come up prior to
9 this point.

10 To the extent that the Commission is going to
11 determine that Mr. Schultz is not permitted to testify
12 about testimony that is offered live in response to
13 questioning, then I think that gives us some guidance.
14 Maybe the Commission doesn't know what it wants to do
15 until the question is posed to Mr. Schultz. I don't
16 know.

17 I will admit that I had intended to ask him the
18 question in part because I think some of the questions
19 from the Commissioners had signaled that they were going
20 to ask him. So to preempt that, I was just going to let
21 him talk. If the Commission doesn't want to hear from
22 Mr. Schultz on that, then that's the Commission's ruling.
23 I don't know what more I can say about that. I'm happy
24 to keep talking, but I'm not sure it's making any
25 difference here.

1 CHAIRMAN LEVAR: Yeah. So I think we have in
2 front of us either the option to rule on the
3 admissibility of the testimony we might receive later, or
4 to reserve that question for later with the understanding
5 that we typically, in similar situations if testimony is
6 granted, allow rebuttal, even if witnesses are already
7 completed.

8 So it kind of comes down to are we going to rule
9 on this in advance or deal with it as it comes up?

10 Both of you look like you had some questions.

11 COMMISSIONER WHITE: Well, I was just hoping to
12 get -- with your indulgence, share -- to get maybe the
13 position of the Office of the Division. Because to me,
14 this -- if I'm hearing it correctly, what it sounds like
15 is this is potentially live sur-surrebuttal. And so the
16 question is whether as a matter of fairness -- and I
17 don't know if there's -- if, you know, Ms. Schmid or
18 Mr. Snarr has an opinion as to this that might help
19 inform potentially our decision.

20 MR. SNARR: It seems that the questions
21 presented are begging the question as to what we do at a
22 hearing.

23 For the sanctity of the proceeding, we have
24 prefiled testimony, rebuttal, and everybody knows the
25 issues.

1 So why do we have hearings? To test the breadth
2 of that by relevant questioning. I don't think anybody
3 has reached that rule or gone beyond what is relevant.
4 And I expect we'll still have some relevant questioning
5 from either side on this question.

6 And yes, the Commission will have to determine
7 whether in fairness and newness of things popping out
8 through this relevant questioning live that there are
9 other issues that need to be addressed or readdressed. I
10 think that's the fairness the Commission has to guard
11 here.

12 I think to rule otherwise to limit the admission
13 of evidence on relevant things is cutting the hearing,
14 live hearing short of what it needs to be and is going to
15 preclude the Commission from understanding all the issues
16 to make a sensible decision in this case.

17 Now, that's legal philosophy. I'll leave it to
18 the Commission to figure out how to implement whatever
19 we're going to do here in a fair and appropriate method.
20 And the Office will go along with whatever the Commission
21 decides. But let's not torpedo this live process and the
22 breadth of issues that can come out in the live process
23 prematurely or preclude any party from chasing a relevant
24 issue that has now been brought to light.

25 CHAIRMAN LEVAR: Ms. Schmid.

1 MS. SCHMID: Thank you.

2 The Division also believes that the Commission
3 should have the benefit of information that comes out as
4 a result of things learned at the hearing.

5 In addition, it has not been our practice to
6 limit cross-examination questions to just things the
7 other party perhaps thought might be asked. It has been
8 the practice to allow cross-examination questions on any
9 subject elicited by questions and by the witness's
10 testimony.

11 The Division believes that the Commission should
12 have the benefit of all information and does not advocate
13 limiting this hearing as DEU has suggested.

14 MR. SABIN: May I respond briefly?

15 CHAIRMAN LEVAR: Yes.

16 MR. SABIN: I'm not objecting to anybody asking
17 any cross-examination questions. I haven't objected to a
18 single question, and neither has Ms. Clark, not a single
19 cross question. I don't care if they want to cross the
20 witnesses on whatever they want to cross them on. The
21 issue is offering new evidence into the record that is
22 not in the prefiled record.

23 I'm a little surprised by the Office's and the
24 Division's position because the last hearing I sat here,
25 they objected to our witness coming onto the stand and

1 offering a response that wasn't in the prefiled testimony
2 to their surrebuttal because we hadn't filed a motion.
3 And they objected, and we were denied. So I don't
4 believe the procedure is -- I don't believe that is a
5 fair representation of what we're objecting to.

6 What we're objecting to is Mr. Schultz coming
7 onto the witness stand, whether they understood it or
8 not, and offering something that nobody, nobody has
9 addressed in DRs, in discovery, and we're put in a
10 position of having to do it on the fly.

11 We're willing to do it if you want to hear it.
12 But I think that that's the point. They can ask whatever
13 questions they want, as, of course, you can, too. But to
14 suggest that you get to offer something that's not in
15 your written testimony and doesn't even -- isn't even
16 within the scope of your testimony filed, to me, is
17 improper. That's our point.

18 MS. SCHMID: And if I may respond because I
19 believe that DEU misunderstood what I was trying to say.
20 I perhaps didn't say it clearly enough.

21 CHAIRMAN LEVAR: Yes, go ahead.

22 MS. SCHMID: Thank you. The issues that DEU is
23 concerned about were issues that DEU raised in its
24 testimony at the hearing, and they were issues that
25 Magnum apparently did not understand all the facts of.

1 It would benefit the Commission for the Commission to
2 have Magnum's take on the issues that were raised, and we
3 want the Commission to have all available information.
4 Thank you.

5 CHAIRMAN LEVAR: Okay. I'm just going to say
6 from my view, I think the most efficient way forward is
7 for us to rule on, whether there's a motion in front of
8 us or not, to rule on what Mr. Schultz may or may not
9 testify to later so that we can go forward for the rest
10 of the day knowing that.

11 So I'm going to see if my colleagues have any
12 other questions they want to ask before we rule on that
13 issue. And we'll probably have to step out for a moment
14 or two to do that.

15 MR. SABIN: I was going to suggest, too,
16 whatever your decision, we'd like to take just a brief
17 break so that our witness knows what we want him to do.

18 CHAIRMAN LEVAR: So you'll need that after we
19 make a decision, too.

20 COMMISSIONER CLARK: So I know there were two
21 questions that I was planning to ask in this area if the
22 information didn't come out otherwise. And those were,
23 and are: When would the information about DEU's
24 assessment of the necessary reinforcement costs have been
25 communicated to Magnum, and how that would have happened?

1 And what, if any, communications did DEU receive from
2 Magnum about that before the hearing?

3 And then it does give me some concern that in
4 this context of bids having been evaluated that we
5 receive information that starts to shift the basis on
6 which that evaluation took place and what that turns this
7 proceeding into. So I'm just going to express that
8 reservation about new information that we would receive.

9 CHAIRMAN LEVAR: Okay. Do you have any
10 questions or anything else to ...?

11 COMMISSIONER WHITE: Yeah, I think I'm ready to
12 have a chat.

13 Okay. Does anybody feel like they need to add
14 anything else before we recess for a moment?

15 Mr. Russell?

16 MR. RUSSELL: Thank you. I think some of the
17 answer to at least one of the questions that Commissioner
18 Clark was expressing there probably can't come through
19 any of the witnesses, and it may be more of a discussion
20 about how information was provided. I don't know if
21 that's something that you'd want to hear.

22 I think the underlying question is how did we
23 get to this point before that information came out? And
24 I think that's not necessarily something that any of the
25 witnesses is going to be aware of. It's going to be some

1 issue about when parties and counsel received
2 information. So if the Commission wants to hear it, I
3 can provide some information about when we got what we
4 got, if that would be helpful.

5 CHAIRMAN LEVAR: Okay. I think that will be
6 helpful as we step out for a minute and discuss this.

7 MR. RUSSELL: Sure. The Company filed its
8 application in, was it April? April 30th.

9 As the Commission is aware, the application was
10 filed along with or very shortly before a motion to treat
11 quite a bit of information as confidential or highly
12 confidential, absolutely nothing inappropriate about
13 that. I will -- before I say what I'm about to say, I
14 will say the Company had a very difficult task here,
15 which was juggling a fair bit of highly sensitive
16 commercial information from each of the bidders as well
17 as from its own consultants in putting together its own
18 bid. And I think the Company had a lot of work to do to
19 keep that highly confidential, sensitive information from
20 folks that didn't need to see it.

21 So with that said, they filed their application
22 in April. It was highly redacted, a lot of it was. The
23 information that I think Magnum would have needed to
24 reach the conclusion was part of the redacted
25 information.

1 Magnum was provided some information shortly
2 after it filed its petition to intervene. I believe it
3 was provided at or shortly after the technical conference
4 in June. It was provided, I think, to my partner. But
5 frankly, I don't know what that information was. Some of
6 the information did not come to me until right about this
7 same time that Magnum filed its direct testimony in this
8 case. And I don't want this to sound like a criticism of
9 the Company. It's not. I actually have been very
10 grateful for the cooperation I've received from the
11 Company's counsel in getting information that I need to
12 do my job here. And the Company has been very good at
13 working with me about that while also juggling its
14 responsibility to handle the confidential information
15 that it has.

16 But one of the, sort of, byproducts of all the
17 redactions is that Magnum didn't have some of this
18 information until right about the time that the direct
19 testimony was filed.

20 Another factor here is that the individuals at
21 Magnum who were responsible for putting together the bid
22 are no longer with Magnum. And so there was some
23 catching up to do from the side of Magnum's things in
24 terms of what is being said about the evaluation of the
25 bid versus what the bid is. And so Magnum, frankly, was

1 a little bit slow in -- and that's not a criticism of my
2 client. I hope it doesn't come across that way. There
3 wasn't the institutional knowledge about what its
4 proposal was here to compare it to the information that
5 was in the filing. It wasn't, frankly, until earlier
6 this week that I fully understood what Mr. Mendenhall's
7 testimony was about. It wasn't until yesterday morning I
8 fully understood it because I didn't ask any questions
9 about it. So some of this is my fault for not being up
10 to speed. Some of it is just sort of the circumstances.
11 And again, I have no concern with the way that the
12 Company has handled this information. It's sort of the
13 way it came down.

14 So those are sort of the procedural reasons that
15 we got to this the point. I hope that's helpful to you
16 in making your determination.

17 MR. SABIN: Could I supplement that?

18 CHAIRMAN LEVAR: This is your motion. I think
19 you can have a final say before we deliberate.

20 MR. SABIN: I'll be very brief.

21 I appreciate Mr. Russell's -- I agree with what
22 he said on the record. He came over, and we had some
23 meetings and things like that.

24 But just as you consider this, keep in mind a
25 couple of things. Yesterday, you saw RFP responses and

1 requests that dealt with this same issue. I'm happy to
2 present those in testimony with my witness and talk about
3 it.

4 These questions were asked back in
5 January/February time frame. And the Company made very
6 clear on the record to all RFP respondents that it would
7 be adding reinforcement costs to whatever bids came in
8 that did not deliver to the optimal delivery location to
9 the extent that was necessary to make them provide the
10 same benefits.

11 So the issue was raised. I'm sure that was long
12 before Mr. Russell came on the scene, and it may have
13 been with these prior employees of Magnum. But they were
14 clearly on notice then. We responded very clearly and
15 indicated that we were going to impose costs, and that we
16 would do it based upon the geography and the location of
17 where each of the proposals was going to deliver.

18 We didn't receive any further questions on that
19 issue by them. We did receive questions from other
20 bidders about other issues. And where there was
21 confusion, people followed up and we provided
22 clarification.

23 The second piece that I will just add is that
24 when the case was filed and information was provided to
25 Magnum, that was provided prior to direct, and certainly

1 prior to surrebuttal. So I don't fault Mr. Russell at
2 all because I think he probably came on fairly late in
3 the game, and they intervened fairly late in the game.
4 And that just happens sometimes. So I don't fault
5 anything they did.

6 I think that it would be unfair, though, to not
7 point out that unless Magnum just wasn't reading the
8 materials, they would have known exactly what we're
9 doing. Because you'll see, if you want, in the DRs and
10 in our testimony, we specifically say, Here's what we
11 did, and here's how we applied it. And you don't even
12 need to know the numbers to know we were doing that. So
13 I offer that as additional information.

14 CHAIRMAN LEVAR: Okay. Thank you. We will
15 recess. I wish I could give you a specific estimate for
16 how long we will be, but I don't think I'll be able to do
17 that at this point. So we will try to be brief.

18 (The Commissioners deliberated from

19 9:24 a.m. to 9:33 a.m.)

20 CHAIRMAN LEVAR: Okay. We'll go back on the
21 record.

22 Without prejudicing our intent to consider any
23 specific motion as it comes up as testimony moves
24 forward, I think we're prepared to give this guidance and
25 then ask if any party feels like they need more specific

1 guidance at this point in the hearing.

2 We do intend to allow testimony that might
3 supplement the prefiled written testimony on the issues
4 of what communications occurred and when between Magnum
5 and Dominion Energy Utah.

6 We do not intend to allow supplemental testimony
7 today on interpretations of what those communications
8 might have meant or might have been intended to say.
9 Those communications will be what they are, and we will
10 look -- you know, we will use our judgment in
11 deliberation on those. But the opportunity to opine on
12 what those communications were intended to say or meant
13 to say should have occurred during written testimony.

14 But we will allow supplemental testimony. We do
15 intend to allow supplemental testimony on timing and
16 content of communications, most of which I think are in
17 the record and in the exhibits.

18 So are there any questions?

19 Did you need a further break after this guidance
20 before we move forward?

21 MR. SABIN: No, I appreciate the clarification.
22 I think the way we will proceed is we will have our
23 witness address these two areas. Since it's going to be
24 allowed, we'll have him address those. But we're going
25 to reserve our right if Mr. Schultz attempts to testify

1 beyond the scope of what you just indicated, we reserve
2 our right to raise that objection at that point in time.
3 And if it's allowed in, then we'd like to have the
4 opportunity to call a rebuttal witness, if necessary.

5 CHAIRMAN LEVAR: Okay. Any other preliminary
6 motions or issues before we move on to the next witness?

7 MR. RUSSELL: I, too, have one housekeeping
8 matter. I had introduced three cross-examination
9 exhibits when cross-examining Ms. Faust yesterday, and I
10 don't think I moved for their admission. They were
11 marked as Magnum Cross Exhibits 1, 2, and 3. I don't
12 recall if I moved, and if I didn't, I'll make the motion
13 now.

14 CHAIRMAN LEVAR: I don't recall them being moved
15 into evidence, either.

16 If anyone objects to that motion, please
17 indicate to me. Does everyone know which exhibits he's
18 referring to?

19 Okay, the motion is granted.

20 (Exhibits Magnum Cross 1 through 3 were
21 admitted into evidence.)

22 CHAIRMAN LEVAR: Okay. Dominion, your next
23 witness.

24 MR. SABIN: Dominion Energy calls Mr. Mike Gill
25 as its next witness.

1 CHAIRMAN LEVAR: Good morning, Mr. Gill.

2 Do you swear to tell the truth?

3 THE WITNESS: I do.

4 CHAIRMAN LEVAR: Thank you.

5 THE WITNESS: Is the mic on?

6 MR. SABIN: It is, yes.

7

8 MICHAEL LOWELL GILL,

9 having been first duly sworn,

10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. SABIN:

13 Q. Will you state your full name for the record,
14 please.

15 A. Yeah, it's Michael Lowell Gill.

16 Q. And Mr. Gill, what is your current position with
17 Dominion Energy Utah?

18 A. I am director of engineering and project
19 management.

20 Q. And in that capacity, what does the scope of
21 your responsibilities include?

22 A. Basically oversight of our construction and
23 engineering processes, design procurement, bidding,
24 project estimating, scheduling, those types of things.

25 Q. And Mr. Gill, you have submitted in this

1 proceeding Exhibits 5 -- well Exhibit 5.0, which is your
2 direct testimony, and accompanying Exhibits 5.01 through
3 5.17. And also you have submitted Exhibit 5.0R as
4 rebuttal testimony.

5 Do you adopt the materials -- the statements and
6 testimony in those documents as if it was your testimony
7 you provided today?

8 A. I do.

9 Q. Do you have any corrections to any of that
10 testimony?

11 A. No, I do not.

12 MR. SABIN: Okay. We would move -- the Company
13 would move to have admitted Exhibits 5.0, 5.01 through
14 5.17, and then 5.0R.

15 CHAIRMAN LEVAR: If anybody objects to that
16 motion, please indicate.

17 I'm not seeing any objections, so it's granted.

18 (Exhibits DEU 5.0, 5.01 through 5.17, and 5.0R

19 were admitted into the record.)

20 Q. (BY MR. SABIN:) Mr. Gill, have you prepared a
21 summary of your testimony in this proceeding?

22 A. Yes, I have.

23 Q. Would you please go ahead and share that with us
24 now?

25 A. Sure. As director of engineering for Dominion

1 Energy Utah, I am responsible to ensure that the
2 infrastructure projects the Company performs are
3 designed, constructed, and completed on schedule and on
4 budget.

5 My responsibilities include oversight of the
6 company's engineering, design, procurement, scheduling,
7 and project estimating and project bidding processes.

8 As part of these responsibilities, I have
9 provided engineering oversight of the Company's 2019
10 supply reliability Request For Proposal, or RFP, as well
11 as the development of the Company's on-system, LNG,
12 pre-FEED, and FEED settings.

13 In my direct and rebuttal testimony, I described
14 the process undertaken by the Company in conducting and
15 evaluating the 2019 supplier liability RFP.

16 In developing the RFP, the Company in part
17 utilized feedback from the staff and retained experts of
18 the Office of Consumer Services and the Division of
19 Public Utilities.

20 This feedback was utilized to develop an RFP
21 that concisely identified the Company's requirements
22 while allowing respondents flexibility in meeting those
23 requirements. The RFP allowed for ranges of delivery
24 pressure, delivery volumes, total storage, and delivery
25 location.

1 In my direct testimony, I also discussed the
2 engineering analysis that has been performed to support
3 the construction of an on-system LNG facility to help
4 solve the supply reliability issues discussed in this
5 docket.

6 The team has done extensive work evaluating
7 potential sites to house the LNG facility and has
8 completed a Front End Engineering and Design, or FEED,
9 study of the selected site.

10 As part of the FEED study, the Company has
11 evaluated options for tank size and construction,
12 liquefaction capacity, pretreatment systems, compressor
13 types, and vaporization capacity. The Company, working
14 with its consultant, has determined preliminary
15 configurations for the process and piping and site
16 layout.

17 As part of the siting requirements and
18 preliminary permitting processes, the Company has focused
19 on avoiding potential nibling-related (phonetic) issues.
20 In particular, the Company has selected and secured an
21 option to purchase a 160-acre parcel near Magna, Utah,
22 that is in a highly-industrialized area. This particular
23 site is bordered on the west by Kennecott's tailings
24 ponds, on the north by an asbestos landfill, and on the
25 south by a water treatment plant.

1 The Company has also been meeting with
2 representatives from the Salt Lake County planning and
3 zoning department, the Salt Lake County fire marshal, and
4 the state Department of Environmental Quality to discuss
5 the project and learn more about potential permitting
6 requirements if the project is approved.

7 In my direct and rebuttal testimony, I
8 demonstrate that the Company's evaluation of the RFP
9 proposals was accurate, fair, and allowed for a true
10 apples to apples comparison of the costs and benefits
11 provided by each RFP respondent, and that the Company was
12 favorable to prospective respondents by applying
13 reinforcement costs that were significantly lower than
14 actual costs typically incurred on construction products.

15 Lastly, I discuss that the Company's LNG
16 proposal is the best and lowest reasonable cost option to
17 meet the Company's supply reliability needs. These
18 opinions are shared by Mr. Allen Neale in his direct
19 testimony.

20 In my rebuttal testimony, I refute the claims
21 made by Mr. Schultz that Dominion did not provide
22 meaningful answers to questions posed by Magnum during
23 the RFP process. The Company provided answers to all
24 questions it received on the RFP website and answered
25 questions openly and honestly to ensure a fair and level

1 playing field with all respondents.

2 I also refute Mr. Schultz' claim that the
3 November 20, 2022, in-service date listed in the RFP is
4 unreasonable. The claim is refuted by the fact that all
5 bidders, including the Company's LNG proposal and Magnum,
6 indicated that their projects could be completed prior to
7 the November 2022 in-service date noted in the RFP.

8 Lastly, in my direct and rebuttal testimony, I
9 demonstrate the Company has more thoroughly developed the
10 cost and specifics related to utilizing LNG to serve
11 remote communities and that these benefits should be
12 considered as part of this docket as a potential future
13 use and customer benefit that could be provided by the
14 LNG plan. That concludes my summary.

15 Q. Thank you, Mr. Gill.

16 Insofar as there are questions that have been
17 asked about what kind of information exchange took place
18 during the course of both the RFP process and this docket
19 and also when those communications occurred, I'd like to
20 ask you just a few questions on that point, okay?

21 A. Okay.

22 Q. Would you please describe from the date the RFP
23 was filed what the process was -- or what the RFP process
24 looked like relative to how bidders were able to be
25 provided with information or ask questions?

1 A. Okay. So I'm not sure on specific dates, but
2 the general process was we sent out the RFP via the
3 methods that Will Schwarzenbach described in his
4 testimony in terms of advertising and directly sending it
5 to some respondents.

6 And then after, I think, about a week's time, we
7 held a bidders' conference, which would allow people to
8 either call in or show up and basically ask direct
9 questions regarding the RFP at that point.

10 **Q. Do you know whether Magnum attended that**
11 **bidders' conference?**

12 A. I believe they did, yes.

13 **Q. Go on.**

14 A. So after that bidders' conference, basically at
15 that bidders' conference, we indicated that in order to
16 keep the RFP a fair and even playing field that all
17 communications would have to go through our contract
18 procurement office headed by Misty Gonzales. So all
19 questions would be relayed to Misty, she would relay them
20 to us. We would answer them, and then she would post
21 them on the RFP website.

22 **Q. And did the bidders end up asking questions of**
23 **the Company?**

24 A. Yes, they did.

25 **Q. And did Magnum send questions for the Company to**

1 answer?

2 A. Yes, Magnum sent quite a few questions.

3 Q. During the course of the questioning, did Magnum
4 ask questions about whether the Company intended to add
5 costs or reinforcement if the delivery -- if the option
6 didn't deliver to the optimal delivery location?

7 A. They asked a generic question about costs that
8 would be -- or reinforcements that could be anticipated
9 by delivering into a couple areas of the valley.

10 Q. Okay. So if you've got a book in front of you,
11 would you open up to Magnum Exhibit 1.3.

12 A. Sure.

13 Q. You may not have that. Hang on.

14 MS. CLARK: May I approach?

15 CHAIRMAN LEVAR: Yes.

16 THE WITNESS: Okay.

17 Q. (BY MR. SABIN:) Can you tell the Commission
18 what is this document, Exhibit 1.3? What does it
19 contain?

20 A. It is the summary of all the questions that
21 were -- basically they received and answered as part of
22 the RFP process.

23 Q. Okay. Could you turn to page 3, please, of that
24 document to Question No. 8.

25 A. Okay. I'm on it.

1 Q. That question states: "If a project that is bid
2 into the RFP responses proposes delivery at Bluffdale,
3 please explain what additional costs/facilities DEU would
4 consider or factor into determining equivalent
5 distribution system impacts."

6 Do you see that?

7 A. Yes.

8 Q. Could you please read the answer that the
9 Company provided.

10 A. Yes. "Depending on delivery location, pressure,
11 and volume, the Company would have to upgrade or replace
12 portions of its high pressure feeder line system to allow
13 for delivery into the 471 PSIG/MAOP zone. This would
14 include the construction of several high pressure
15 regulator stations to separate this upgraded feeder line
16 from the 354 PSIG zone. The costs associated with these
17 improvements would be included in DEU's analysis of the
18 total cost of the option."

19 Q. Okay. Let's go to the next page, page 4, and
20 look at Question 11. There, the question was asked: "If
21 an RFP response proposes delivery to Hunter Park, please
22 explain what additional costs/facilities DEU would
23 consider or factor in to determine equivalent
24 distribution system impacts."

25 Could you read the answer that was provided by

1 the Company?

2 A. Yes. "The Company would have to upgrade or
3 replace portions of its high pressure feeder line system
4 to allow for delivery into the 471 PSIG/MAOP zone. This
5 would include the construction of several high pressure
6 regulator stations to separate this upgraded feeder line
7 from the 354 PSIG zone. The costs associated with these
8 improvements would be included in DEU's analysis of the
9 total costs of the option."

10 Q. During the RFP process, did Magnum ever provide
11 you with geographic locations where it intended to supply
12 an option, and then ask you, the Company, to calculate
13 what the replacement costs would be that would be added?

14 A. They did not.

15 Q. Did they have the opportunity to do so?

16 A. Yes, they did.

17 Q. Would you have answered that question?

18 A. Yes, we would have tried to give them an order
19 of magnitude cost associated with that location.

20 Q. After the bid, so after the RFP process had been
21 completed and a bid had been selected or an option had
22 been selected, did any of the bidders contact Dominion
23 Energy and discuss why their bid hadn't been accepted?

24 A. Yes, they did.

25 Q. Please -- are we allowed to -- I'm just debating

1 whether I can ask this without going into closed session.

2 I'm going to ask the question, and if you can answer it

3 without going into highly confidential --

4 A. I can answer just generally without mentioning
5 the company, if that helps.

6 Q. Yeah, would you tell us who the company was, and
7 without going into the detail of what they were asking,
8 just talk about the process you went through of talking
9 with them.

10 A. Yeah. They, the company was Prometheus. They
11 were one of the bidders on the RFP. And they asked if
12 they could sit down with us and just go over the
13 specifics of their bid and where they came up short.

14 Q. Did Magnum take advantage of that opportunity?

15 A. They did not.

16 Q. Is it common practice in your experience for RFP
17 bidders whose bids are not selected to contact the
18 company and discuss why?

19 A. It's common enough, yeah. I mean, we conduct a
20 lot of RFPs, either for services such as this RFP,
21 probably more commonly RFPs for construction services.
22 And quite often after a bid is awarded, losing bids will
23 contact us and ask specifics on where their bids fell
24 short.

25 Q. Did Magnum participate in the proceeding last

1 year?

2 A. Yes, they did.

3 Q. And in the proceeding last year, did you discuss
4 the same reinforcement cost issue that has come up in
5 this proceeding?

6 A. I believe this reinforcement cost issue was
7 brought up by Mr. Neale last year in terms of to properly
8 evaluate any option, you need to look at both system
9 impacts of that option and then what costs are associated
10 with achieving those system impacts.

11 Q. Do you know when the DEU filed its application
12 in this matter?

13 A. I believe it was April 30th.

14 Q. And with that application, the Company provided
15 supporting testimony, correct?

16 A. That's correct.

17 Q. And in that supporting testimony, did the
18 Company discuss the reinforcement costs that were being
19 added to bids with options that did not deliver to the
20 optimal delivery location?

21 A. Yes. It's in my direct testimony, and I believe
22 in the direct of Kelly Mendenhall and maybe others.

23 Q. Okay. Were there also exhibits provided that
24 showed the costs, the amount of costs that were being
25 added for those particular bids?

1 A. Yes, there were.

2 Q. Okay. Magnum intervened in this action
3 subsequently, correct?

4 A. That's correct.

5 Q. And after Magnum intervened, did the Company
6 provide Magnum with a copy of the information disclosing
7 the Company's treatment of Magnum itself?

8 A. Yes, we did. We provided Magnum with a copy of
9 everything that was relevant to their particular bid.

10 Q. And did those materials you disclosed to Magnum,
11 did they indicate that the Company had imputed
12 reinforcement costs into their bids?

13 A. I believe so, yes.

14 Q. Did you provide in that material the specific
15 numbers that were added?

16 A. Yes.

17 Q. After providing these materials, did Magnum
18 contact the Company and take the position that there was
19 some mistake in what you were doing?

20 A. No, they did not.

21 Q. Okay. Did Magnum -- let's see. Did Magnum send
22 any data requests asking how you calculated that figure
23 or indicating that you were in any way incorrect in what
24 you were doing with those reinforcement costs?

25 A. No, they did not.

1 Q. Did Magnum subsequently file direct testimony in
2 this matter?

3 A. Yes.

4 Q. You have reviewed that testimony?

5 A. I have.

6 Q. Does that testimony address in any way this
7 question of what the magnitude -- well, do they take the
8 position in their direct testimony that they -- that you
9 had denied them the ability to understand what their own
10 costs were?

11 A. No.

12 Q. Did Magnum also file surrebuttal testimony?

13 A. That's correct.

14 Q. Did they raise that issue in their surrebuttal
15 testimony?

16 A. No.

17 Q. Okay. If Magnum contacted you, the Company,
18 during the proceeding and asked about the specific cost
19 issues that related to the reinforcement costs, would the
20 Company have addressed those questions?

21 A. Can you repeat that? I'm sorry.

22 Q. Yeah. Sorry, it may have been my bad.

23 After the proceeding was filed but before this
24 hearing, had Magnum contacted the Company and said, Hey,
25 we want to sit down and talk about your assumptions or

1 what you've done with reinforcement costs or how you've
2 calculated them? Would the Company have sat down and met
3 with Magnum about that?

4 A. We would have, but they did not contact us.

5 Q. Okay. Give me one second, please.

6 MR. SABIN: I have no further questions at this
7 time. Mr. Gill is available for cross-examination.

8 CHAIRMAN LEVAR: Thank you. Ms. Schmid, any
9 questions of Mr. Gill?

10 MS. SCHMID: Just a few, thank you.

11

12 CROSS-EXAMINATION

13 BY MS. SCHMID:

14 Q. Good morning.

15 A. Good morning.

16 Q. Did DEU'S LNG proposal, as expressed in its
17 response and how it was addressed by Mr. Mendenhall and
18 Mr. Schwarzenbach, meet the requirements of the RFP?

19 A. Yes, it did.

20 Q. Isn't it true, though, that the information
21 about the in-service date was only provided to at least
22 the DPU and I believe others in DEU's rebuttal testimony?

23 A. The in-service date has not changed. The
24 in-service date has always been end of November 2022.

25 What I think you're referring to is questions

1 about when LNG could start being manufactured. And to
2 answer that question, you need to kind of understand the
3 process.

4 So basically, the plant construction will be
5 completed probably September time frame. And that is
6 where you start a commissioning process. And what
7 commissioning is, is basically you're starting to take
8 the plant through all of its processes to make sure that
9 you're meeting the rates of the equipment, that the
10 equipment is functioning properly, and so on so forth.
11 And so I think this relates to the question of when LNG
12 would start being manufactured, and that would be in
13 September.

14 So the first thing that you would basically
15 commission is the liquefaction train and make sure that
16 you're meeting the parameters that you have defined in
17 your design. But once that liquefaction train is up and
18 running, you'll just continue to make LNG. There's no
19 reason to stop. So you can start filling up your tank at
20 that point, and then actually utilize some of that LNG to
21 help commission some of the other portions of the plant.

22 **Q. Will all of the 150,000 DTH gas be available for**
23 **send out by the end of November 2020 -- sorry, 2022?**

24 A. Yeah. By -- in November, we could start -- we
25 could vaporize at a rate of 150,000 dekatherms a day,

1 where what we won't have is a completely full tank.

2 However, the amount of LNG that we would manufacture in
3 that time between beginning of September and November --
4 and I've listed this in my testimony -- but it meets the
5 parameters of the lower end of the RFP in terms of total
6 volume available.

7 **Q. And that volume is approximately 750,000, or**
8 **four days worth of send out? Did I do my math right?**

9 A. Yeah. I think it's approximately 750,000
10 subject to check.

11 **Q. Well, it seems like DEU has afforded itself some**
12 **flexibility in at least explaining its bid and adding**
13 **additional and providing additional information to the**
14 **Division and others. Don't you think that the bidders**
15 **should have had the same opportunity to provide**
16 **additional information on their bids? Note that their**
17 **bids had to be locked down and absolutely clear before**
18 **DEU started explaining its bid more.**

19 A. Well, let's be clear: DEU is not a bidder in
20 this process. DEU indicated in the RFP that they would
21 be comparing bid results against the LNG plant, as
22 defined in the docket last year. And that's exactly what
23 this is.

24 There's no change in the processes or the design
25 of the LNG facility, as we described it last year. The

1 only thing that changed is we increased the cost due to
2 inflation.

3 So in terms of flexibility, all of the
4 respondents have the exact same range of total volume
5 that they could have available to us.

6 Q. And I apologize. I shouldn't have said
7 "bidder," I should have said "comparative project."

8 A. That's fine.

9 Q. In your opinion or in your experience, is the
10 testimony that DEU files subject to a vigorous review
11 process?

12 A. I believe it is, yes.

13 Q. And so it was reasonable for Mr. Wheelwright to
14 rely upon the information provided by Mr. Mendenhall and
15 Mr. Schwarzenbach at that time?

16 A. It was appropriate for Mr. Wheelwright to come
17 to the conclusions he did based on the information he had
18 at the time. However, that information was corrected as
19 part of our rebuttal testimony, and we indicated what
20 that correction was. And so that's --

21 Q. I think you've answered the question.

22 A. Okay. Thank you.

23 Q. Thank you very much. Those are all my
24 questions -- oh, wait.

25 Does DEU have firm bids in place for the

1 **construction of the LNG facility?**

2 A. No, we do not. That would be -- an EPC RFP
3 would be conducted after approval if we received that.

4 **Q. Without a firm bid, how can you compare -- firm**
5 **bid for the construction -- how can you compare the costs**
6 **of the bids against the LNG facility that was selected?**

7 A. Sure. Well, let me be clear: Not all the bids
8 that we received were firm. Prometheus clearly
9 indicated --

10 MS. SCHMID: I coughed.

11 CHAIRMAN LEVAR: Everybody just stop.

12 MS. SCHMID: One bidder.

13 THE WITNESS: I apologize.

14 MR. SABIN: You can just indicate it's one
15 bidder, not a specific name.

16 THE WITNESS: I apologize, yes.

17 One bidder indicated that their bid was not
18 firm, that they had, that it was --

19 CHAIRMAN LEVAR: I'm going to -- I think even
20 though we've made this correction, I think giving any
21 more detail to supplement that would have to happen in
22 closed session. If you feel like you need to, then we
23 should go into closed session.

24 MS. SCHMID: I can withdraw the question. Thank
25 you. Those are all my questions.

1 THE WITNESS: Okay. Thank you.

2 CHAIRMAN LEVAR: Thank you.

3 Mr. Snarr?

4

5

CROSS-EXAMINATION

6 BY MR. SNARR:

7 Q. Yes, I'd like to follow up on one of your
8 answers to Ms. Schmid's question.

9 You indicated that we can rely upon the
10 representations made by Mr. Mendenhall regarding the
11 in-service date issue; is that right?

12 A. I'm not sure I follow.

13 Q. You indicated in your testimony -- you clarified
14 how you would treat the in-service of the LNG facility.
15 You indicated that it would be partially filled, and you
16 would be able to provide service by November of 2022.

17 A. That's correct.

18 Q. You indicated also, I think in response to a
19 question, that any representations made by you or
20 Mr. Mendenhall to Mr. Wheelwright, that those
21 clarifications could be relied upon.

22 A. The corrected information can be relied upon,
23 yes.

24 Q. Could you turn to Mr. Mendenhall's rebuttal
25 testimony for just a minute, please.

1 I'd like to direct you to page 9 of his
2 rerebuttal testimony.

3 A. Bear with me, please.

4 Okay, page 9.

5 Q. Rebuttal testimony page 9.

6 A. I'm there.

7 Q. I'd like you to look at the line -- the sentence
8 that commences on line 205 and goes through 207.

9 Could you read that for us, please? Starts
10 "Mr. Gill."

11 A. Sure. "Mr. Gill explains in his testimony that
12 the tank could be filled beginning in September even
13 though the in-service date of the entire facility is
14 November 2019." I think that's a typo.

15 Q. Okay. Thank you. I have some other questions.

16 In connection with this proceeding, you've been
17 a witness who's provided much of the testimony concerning
18 the Company's history as it relates to LNG and this
19 particular project; is that right?

20 A. Yes.

21 Q. In that regard, you provided information in
22 response to one of the Office's discovery requests,
23 No. 120; isn't that correct?

24 A. Subject to check, yes.

25 Q. I believe it's -- if you need to find a copy of

1 that, you may -- I believe it's attached to Mr. Ware's
2 testimony.

3 A. Okay.

4 THE WITNESS: Is this just our testimony?

5 MS. CLARK: That's just ours. Hang on a minute.

6 THE WITNESS: Okay.

7 Q. (BY MR. SNARR:) It's something that you
8 generated, but it's also the third attachment to Alex
9 Ware's direct testimony.

10 A. Okay. I don't have that with me here, so.

11 MS. CLARK: Could you cite an exhibit, please?

12 MR. SNARR: Let me find a copy.

13 MS. CLARK: May I approach?

14 CHAIRMAN LEVAR: Yes.

15 THE WITNESS: Okay. Thank you.

16 Q. (BY MR. SNARR:) And was that response generated
17 by you?

18 A. Let's see here. It says it was, yes.

19 Q. And in that response, you indicate that,
20 "Initially the LNG facility was being investigated as an
21 augmentation to the Company's baseload supply portfolio."

22 A. Okay.

23 Q. "But that the Company found that use of LNG as
24 baseload supply source was not as economically viable as
25 other alternatives; that is, new gate stations."

1 **Did I read that correctly?**

2 A. You did.

3 Q. Okay. You also indicate later in that data
4 request response that, "The Company considered whether
5 the LNG facility could be a solution for peak hour
6 demands but that available firm peaking services were
7 more economical than construction of an LNG facility."

8 **Did I read that correctly?**

9 A. Yes.

10 Q. Now, with respect to the earlier quote
11 concerning gate stations, new gate stations, could you
12 provide us with a rough estimate of what a new gate
13 station might cost?

14 A. Depending on size, it's highly dependent upon
15 size. But for something, order of magnitude the size of
16 maybe a 100 tap, for example, you're probably on the
17 order of 23, 25 million-ish.

18 Q. Okay. And are you familiar with the Company's
19 efforts to put in a new Kern River gate station at Rose
20 Park?

21 A. Yes.

22 Q. And would the cost of that station be consistent
23 with the ballpark you provided us?

24 A. I believe so, yeah.

25 Q. What's the volumetric parameters of that

1 **proposed new Rose Park gate station?**

2 A. I would be speculating on the size. But I
3 believe it's roughly equivalent to what we have at Hunter
4 and Riverton. It's fairly sizable.

5 **Q. Can you give us a number, subject to check?**

6 A. Subject to check, I think it's probably on the
7 order of 2- to 300 million cubic feet a day. But I
8 really don't have that number available right now.

9 **Q. Is it a number in excess of 150 --**

10 A. I believe so, yes.

11 **Q. Okay. Now, isn't it also true that the proposed**
12 **Rose Park interconnection with Kern River would allow**
13 **deliveries of gas supplies to the described area in the**
14 **RFP that you discussed, the optimal delivery point, or**
15 **what I call the "magic triangle"?**

16 A. It would, but I need to clarify something.
17 You're bringing up gate stations as a comparison against
18 the LNG, at least that's where I think you're going.

19 **Q. Exactly, yes.**

20 A. And there's a difference between having new
21 supply as a baseload and having supply as a reliability
22 solution. And building a new gate station off of an
23 interstate transmission line does not help solve a
24 supplier liability problem. You can still have outages
25 on the main lines, you can still have outages on your

1 system at the gate stations. It does not solve the
2 problem.

3 So trying to compare the cost of the gate
4 stations for a new baseload source is not an accurate
5 representation against what we're trying to do with this
6 solution.

7 Q. But isn't it true that you could have delivered
8 at such a gate station a quantity of gas supply? It
9 would have to be supported by a separate contract or a
10 transportation service on that pipeline in the amount and
11 in the approximate quantity that you could extract from
12 your LNG facility on the same day.

13 A. I'm not remotely a gas supply expert.

14 Q. Okay. I'll take that as your answer, then.

15 A. That's fine. Thank you.

16 Q. And well, that will -- you know, that's all the
17 questions I have.

18 A. Okay. Thank you.

19 CHAIRMAN LEVAR: Thank you, Mr. Snarr.

20 Mr. Russell.

21

22 CROSS-EXAMINATION

23 BY MR. RUSSELL:

24 Q. Good morning, Mr. Gill.

25 A. How you doing?

1 Q. Great?

2 A. Aren't we all?

3 Q. I do have a few questions for you.

4 I want to start with, if you could turn to
5 page 74 of your direct testimony.

6 A. Of mine?

7 Q. Yes. So did I say page? I meant line 74. I
8 actually -- just go ahead and go to page 4. I think it
9 starts -- the question I want to ask starts at line 83.

10 A. Okay.

11 Q. Okay. And I think this portion of your
12 testimony, if you look back to the previous page, is in
13 part a response to the question of why the LNG facility
14 was sized the way it was, right?

15 A. Yes.

16 Q. And starting on line 83, you state: "System
17 Planning analyzed how much natural gas could reasonably
18 be taken onto the Company's system at the specified sites
19 and determined that 150 million cubic feet per day is the
20 maximum volume that the current system could effectively
21 utilize at each individual site."

22 I read that correctly, right?

23 A. Yes.

24 Q. Okay. And when you're talking about how much
25 natural gas could reasonably be taken onto the Company's

1 **system, what does that mean?**

2 A. So it goes back to the modeling that we
3 discussed at length yesterday. It's basically modeling
4 different locations on your system, basically placing a
5 source of 150,000 in this case and determining if the
6 existing piping configuration can actually utilize it.
7 So you kind of solve it in -- you solve for how much that
8 source can provide.

9 So you put a source there that has no upper
10 limit on it. You run the model, and the model kind of
11 tells you how much it can pull from that source at that
12 given location, if that makes sense.

13 Q. Yeah, I think I understand it from a modeling
14 perspective. But from pipes in the ground and trying to
15 inject gas into it, when you say that the system can
16 absorb 150,000 -- well, you put it in terms of million
17 cubic feet per day.

18 I guess that part is where I'm struggling. I
19 don't know what it means. It's a physical limitation on
20 the system, right?

21 A. Yeah. So pipe, a given pipe size operating at a
22 given pressure has a given capacity. And when I'm
23 talking about reasonably be taken onto the system, it's
24 saying that we have capacity in that area, or where we're
25 trying to place that source, we have capacity in our

1 pipes to actually absorb or take that gas into our system
2 and transport it. We're not at capacity. We wouldn't
3 have to exceed MAOP or anything. We can basically
4 utilize the gas at that point.

5 Q. Okay. Understood. And you say, you use the
6 term "specified sites" here.

7 What does that reference to?

8 A. Well, I think what we're getting at is this kind
9 of is an ongoing continuation of a conversation, I guess,
10 that started way back on line 50, where I was saying, How
11 did we select a site? So part of the -- part of the site
12 selection was making sure that you could actually utilize
13 a supply source at that location. So that's what I was
14 getting at.

15 Q. Understood. Thank you. And I understand from
16 testimony from some other company witnesses that you had
17 some involvement in the determination of the costs
18 associated with the -- or at least the estimated costs
19 associated with the reinforcements that would be
20 necessary to deliver gas from a -- from the Bluffdale
21 area where Magnum was proposing to deliver it to the
22 company up to the optimal delivery location; is that
23 right?

24 A. That's right. I was involved in that process.

25 Q. Can you tell me what your involvement was?

1 A. Yeah. So I actually oversee both groups that
2 were responsible for determining the reinforcements. The
3 system's engineering group, Mr. Platt was responsible to
4 run models and determine exactly what reinforcements
5 would be required.

6 And then I oversee our high pressure engineering
7 design group, which has an estimating function involved
8 in it. And it was that group of engineers and estimators
9 that said okay, with a given reinforcement, applied cost
10 estimates to that.

11 **Q. Okay. Thank you. And I spoke a little bit with**
12 **Mr. Platt about this yesterday about what the nature of**
13 **the reinforcements would be to get from that Bluffdale**
14 **delivery location to the optimal delivery location. And**
15 **I'd like to kind of have that discussion with you as**
16 **well.**

17 **Could you identify, without talking about the**
18 **costs, could you identify what the reinforcements would**
19 **be?**

20 A. Yeah. So specifically talking about the Magnum
21 delivery option to Bluffdale, we would require a new
22 interconnect or gate station off of that, off the Magnum
23 pipe. We would require to run a new, I believe 20-inch
24 pipe approximately 20 to 23 miles, subject to check, that
25 would basically take gas from that delivery area into the

1 optimal delivery area. And then we would have to
2 construct a high pressure reg station to basically
3 regulate flow into the MAOP system.

4 **Q. And can you explain to me why it would require a**
5 **new and separate pipe to deliver that gas up to the**
6 **optimal delivery location instead of upgrading existing**
7 **company pipe?**

8 A. I can high-level describe it. Mike Platt is the
9 expert in that area.

10 But as he explained it to me, based on his
11 analysis, we don't have the takeaway capacity in that
12 pipe. So during a peak hour, that pipe is running close
13 to capacity, if not at capacity, and we would not be able
14 to take away or utilize an additional 150,000 dekatherms
15 into that pipe. So we had to basically be able to
16 utilize that and get it to where we would need to take
17 it. It would require the installation of a standalone
18 pipe.

19 **Q. Okay. Jumping back to the LNG facility for a**
20 **moment.**

21 **Were you involved in, or do you have an**
22 **understanding of the identification of the costs for the**
23 **LNG facility? I'm not asking you for the number.**

24 A. Yes, I do.

25 **Q. Okay. And without talking about the number, is**

1 **there any variability in that number?**

2 A. Variability in what way? I'm not sure I follow.

3 Q. Well, I understand that with certain EPC

4 contracts or otherwise, there's always some -- or there

5 can be some variability in the number, depending on

6 certain conditions that are unknown at the time that the

7 bid is provided.

8 Is there any variability --

9 A. Contingencies, basically?

10 Q. Yes.

11 A. Yeah, there is a contingency on that

12 particular -- that particular estimate that I believe is

13 consistent with the contingencies that we applied across

14 all estimates in this docket.

15 Q. I think contingency is a fairly typical line

16 item in these types of -- is there any variability on top

17 of the top line number?

18 A. No. I'm not sure, really, where you're getting

19 that number. I apologize.

20 Q. I'm just wondering how firm the number is.

21 A. Well, I mean, it's a -- it is an estimate. It's

22 an estimate based on a ground up approach where our

23 consultant looked at everything from foundation design to

24 the amount of steel that would be required to build

25 structures, to building costs, equipment costs. It's a

1 ground up estimate that they bill as if they were bidding
2 this project as an EPC contractor. But that being said,
3 it is an estimate.

4 Q. Understood. Thank you. Mr. Sabin talked to you
5 a little bit about the communications between the Company
6 and Magnum prior to bids being submitted.

7 Do you recall that discussion?

8 A. Yes.

9 Q. And we can look at some of those, but I think
10 maybe the most efficient way to do this would be to have
11 you get out Exhibit -- it's Company Exhibit 1.04. It's
12 the Magnum bid in response to the RFP.

13 MR. RUSSELL: And I think at this point, because
14 that bid is highly confidential, I'm going to move to
15 close the session.

16 CHAIRMAN LEVAR: If any party opposes that
17 motion to close the hearing to the public, please
18 indicate that to me. I'm not seeing any opposition to
19 the motion.

20 So we make a finding that it is in the interest
21 of the public to close the hearing to the public while we
22 discuss Exhibit 1.04. So let's turn off the streaming
23 and start reflecting a confidential portion of the
24 transcript, and I will make the audio adjustments.

25 For your purposes, we'll turn the volume of the

1 microphones down, but if you're not catching what you
2 need, indicate to me and I'll adjust it.

3 (The following testimony is deemed highly confidential
4 and was bound under separate cover.)

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25 (End of highly-confidential testimony.)

1 (A break was taken from 10:35 a.m. to 10:48 a.m.)

2 CHAIRMAN LEVAR: Okay. We'll go back on the
3 record, and we will go to Dominion for any redirect of
4 Mr. Gill.

5

6 REDIRECT EXAMINATION

7 BY MR. SABIN:

8 Q. Mr. Gill, you were asked about the time frame or
9 the in-service date set forth in the RFP.

10 Could you open up the RFP please, which is
11 Exhibit 2 in Mr. Schwarzenbach's testimony.
12 Specifically, it's Exhibit 3.02.

13 A. All right. I'm there.

14 Q. And then please turn to page 3 where it
15 references the in-service date.

16 A. Yes.

17 Q. Could you read those two lines?

18 A. "In addition to the foregoing requirements, the
19 supply reliability resource must be online and able to
20 provide supply by no later than November of 2022."

21 Q. Did any of the bidders object to this in-service
22 date?

23 A. They did not.

24 Q. And did any of the bidders say they couldn't
25 meet this date?

1 A. No, they all indicated they could meet it.

2 Q. And is it your testimony that the Company can
3 meet this date?

4 A. Yes.

5 Q. In other words, it can and will be able to
6 supply -- to provide supply by no later than November of
7 2022?

8 A. Yes.

9 Q. You were shown some testimony from
10 Mr. Mendenhall. I think it was lines 205 and 206 of his
11 rebuttal testimony. Could you turn to that?

12 A. Sure. Was it rebuttal?

13 Q. Rebuttal testimony, yes.

14 A. Okay. What lines?

15 Q. 205 and 206, I believe are the lines.

16 A. Okay.

17 Q. Do you see where there's a reference to the
18 in-service date of 2019?

19 A. I do.

20 Q. You indicated in response to prior questions
21 that you think that is an error?

22 A. That is an error.

23 Q. Have you been able to confirm whether that was
24 an error?

25 A. I've talked to Kelly, and that is indeed an

1 error. It should be November 2022.

2 Q. Okay. Thank you.

3 Could I ask you to turn to Exhibit -- actually,
4 I think I'm going to -- Exhibit 107 to Kelly Mendenhall's
5 testimony. And this is a highly confidential page, and I
6 wanted to do this before we came back on the public
7 record.

8 What I think I'll try and do is ask it in a
9 general way, my question in a general way, and identify a
10 location, Mr. Gill. And so I'd appreciate it if you'd
11 only -- I think Magnum is okay with us talking about its
12 information here that we provided to you, but don't
13 indicate the names of anybody else as you discuss this or
14 what numbers correspond with anybody, okay?

15 A. Yes, sorry. I'm trying to find it here, so.

16 Q. That's okay.

17 A. Is that highly confidential or confidential?

18 Q. DEU highly-confidential Exhibit 1.07.

19 A. This book goes from 1 to 1.03. And you said
20 1.02?

21 MS. CLARK: May I approach?

22 CHAIRMAN LEVAR: Yes.

23 MS. CLARK: Thank you.

24 THE WITNESS: Can you help?

25 MS. CLARK: I can help.

1 THE WITNESS: 1.07? I was looking at 1.02. My
2 apologies. Sorry about that.

3 Q. (BY MR. SABIN:) No problem. So Exhibit 1.07,
4 as I understood Mr. Mendenhall's testimony, and I'd like
5 your clarification on this, is this was the cost
6 comparison documentation that showed in the column
7 related to capital investment the amounts that were added
8 to the bids to account for reinforcement in other
9 facilities, correct?

10 A. That's correct.

11 Q. So if I were to isolate the Magnum Option 1 and
12 look over to line -- without you disclosing the numbers.

13 A. Sure.

14 Q. -- did that disclose the additional amount that
15 you were adding on top of whatever the bid was to cover
16 reinforcement costs?

17 A. Yes. That's the net amount that is reflective
18 of the contribution from Magnum.

19 Q. And when the Company provided to Magnum the
20 unredacted versions of this document, would they have
21 seen lines 4 and 5?

22 A. Yes.

23 Q. Okay. Now, I'd like you to turn to your highly
24 confidential testimony on -- direct testimony at page 10.
25 Should be Exhibit 5.0.

1 A. The supplier liability proposal?

2 Q. No, sorry. Your direct testimony. It's the
3 highly-confidential version.

4 A. I apologize.

5 Q. No. No. It's okay. It's a big book.

6 MS. CLARK: May I approach?

7 CHAIRMAN LEVAR: Yes.

8 MS. CLARK: Make it easy.

9 THE WITNESS: Save everybody the --

10 MS. CLARK: Save us the trouble.

11 THE WITNESS: Thank you.

12 Q. (BY MR. SABIN:) All right, Mr. Gill can you
13 identify that this is a copy of your direct testimony?

14 A. Yes.

15 Q. Okay. Will you turn to page 10 of that
16 document, please. I'm specifically going to be referring
17 to lines 266 through 268. And I don't want you to read
18 that because it's highly confidential. But I want you to
19 describe, generally speaking, what you were
20 communicating -- well, I guess the question here, I
21 should ask Mr. Russell?

22 MR. SABIN: Do you have any objection to him
23 reading this particular portion? We're keeping it
24 confidential only as it relates to your client.

25 MR. RUSSELL: I don't think there's anything.

1 So you're talking about the redacted portion?

2 MR. SABIN: Yes.

3 MR. RUSSELL: I don't think there's anything
4 confidential about that, frankly.

5 **Q. (BY MR. SABIN:) Okay. So would you please read**
6 **lines 266 to 268, please.**

7 A. Yes. "It should be noted that Magnum did
8 include reinforcement costs in some of its options. The
9 Company took these costs into account for its evaluation
10 and only attributed the net cost of the Company's
11 reinforcements to that proposal."

12 **Q. What was your intention in communicating this in**
13 **your testimony?**

14 A. Exactly how we determined reinforcement costs
15 associated with their proposal.

16 **Q. Thank you. I have no further questions.**

17 CHAIRMAN LEVAR: Ms. Schmid, any redirect from
18 the Division? I mean recross. Sorry.

19 MS. SCHMID: Nothing.

20 CHAIRMAN LEVAR: Mr. Snarr?

21 MR. SNARR: Nothing from the Office.

22 CHAIRMAN LEVAR: Mr. Russell?

23 MR. RUSSELL: No, thank you, Mr. Chairman.

24 CHAIRMAN LEVAR: Commissioner White, do you have
25 any questions for Mr. Gill?

1 COMMISSIONER WHITE: I don't. Thank you.

2 CHAIRMAN LEVAR: Commissioner Clark?

3 COMMISSIONER CLARK: No questions, thank you.

4

5

EXAMINATION

6 BY CHAIRMAN LEVAR:

7 Q. I think I have just one.

8 You talked about your experience in other RFPs
9 with bidders coming to you to discuss their scoring and
10 their results and why they might have been unsuccessful.

11 A. Correct.

12 Q. You have some experience in a number of past
13 RFPs doing that process, participating in that process?

14 A. Yes.

15 Q. Have you had any experiences where during that
16 process, communication with the bidder has caused you to
17 reevaluate the RFP evaluation process or the scoring of
18 that bid?

19 A. Not to reevaluate, no. It's more just been to
20 clarify exactly what they -- what they propose and why it
21 wasn't adequate.

22 Q. Typically for informational purposes to the
23 bidder going forward?

24 A. Correct.

25 Q. But you can't recall any instance where after a

1 meeting like that you've gone back and revised a scoring
2 on a bid?

3 A. No. No. And particular construction contracts,
4 often times that information is useful for them to kind
5 of understand if certain line items are -- if they're not
6 being representative of what everybody else is, it's good
7 for them to understand that.

8 Q. Okay. Thank you. Thank you for your testimony
9 today.

10 A. Thank you.

11 CHAIRMAN LEVAR: Anything else from Dominion
12 before we go to Mr. Snarr's witness?

13 MR. SABIN: No, not at this point, thank you.

14 CHAIRMAN LEVAR: Okay. Mr. Snarr.

15 MR. SNARR: Thank you. We'd like to call as a
16 witness Mr. Daniel J. Lawton.

17 CHAIRMAN LEVAR: Good morning, Mr. Lawton. Do
18 you swear to tell the truth?

19 THE WITNESS: Yes, I do.

20 CHAIRMAN LEVAR: Okay. Thank you.

21

22 DANIEL J. LAWTON,

23 having been first duly sworn,

24 was examined and testified as follows:

25

1 DIRECT EXAMINATION

2 BY MR. SNARR:

3 Q. Please state your name and provide your business
4 address for the record.

5 A. Sure. My name is Daniel Lawton, L-A-W-T-O-N,
6 and my business address is 12600 Hill Country Boulevard,
7 Austin, Texas 78738.

8 Q. By whom are you employed as it relates to this
9 particular application and proceeding?

10 A. I've been retained by the Office of Consumer
11 Services, and I am self-employed by the Lawton Law Firm.

12 Q. Thank you. And in connection with this
13 proceeding, did you prepare direct and surrebuttal
14 testimony for submission?

15 A. Yes, I did.

16 Q. And if we were to ask you the same questions
17 would you be providing the same answers as are reflected
18 if the prefiled versions of that testimony?

19 A. Yes. The answers would be the same, and I have
20 no corrections that I'm aware of on either the direct or
21 the surrebuttal testimony.

22 Q. And in connection with the direct testimony, you
23 do have an attachment there which is an exhibit dealing
24 with your qualifications; is that correct?

25 A. That is correct.

1 **Q. Have you prepared a summary of your testimony to**
2 **present at hearing today?**

3 A. Yes, I have.

4 **Q. Go ahead and proceed with that summary.**

5 A. Thank you, sir. Good morning, Commissioners.
6 Good morning. And I thank you and the parties for
7 allowing me to come on out of turn.

8 I address one narrow issue in this proceeding.
9 In the RFP process, the Company received requests for
10 proposals, and one of which was a request for a proposal,
11 a third party building an LNG plant.

12 And to that proposal, the Company -- and it's
13 basically Mr. Mendenhall's testimony that I addressed --
14 added costs to that proposal for foreseeable problems or
15 impacts on financial metrics, such as their debt and
16 other financial metrics that are evaluated by rating
17 agencies. The result of Mr. Mendenhall's analysis
18 made -- by adding those costs -- made the third party
19 proposal more costly than the Company's self-build
20 project.

21 The issue I address in this case and in the two
22 pieces of testimony that I filed before you is that
23 whether -- should these perceived financial metric costs
24 be added to the third party proposal? That's the issue.
25 And in answering the issue, I addressed in my testimony

1 the answer is no.

2 First, Mr. Mendenhall claims that the addition
3 of these additional costs is because of new accounting
4 rules under ASC, or Accounting Standard Clarification
5 842, how leases are dealt with for financial reporting
6 purposes. I point out in my direct testimony that lease
7 change has nothing to do with this case. It adds no
8 costs, it just has nothing to do with this case. And I
9 think that Mr. Mendenhall agreed in his rebuttal.

10 The second reason is that financial metrics have
11 been dealt with for years by rating agencies. And my
12 analysis of the Company indicates there is no threat
13 certainly to financial integrity. And Mr. Mendenhall's
14 perceived impacts, I think, are overblown. And there
15 ought not be an impact, at least based on the evidence of
16 their -- in the marketplace -- impact on this company's
17 bond rating. And that's basically the testimony I
18 addressed. And I complete my summary.

19 MR. SNARR: Thank you. We'd ask first of all,
20 that the exhibits, the direct testimony with its exhibit
21 and the surrebuttal testimony, we'd like to offer them
22 and have them accepted into evidence.

23 CHAIRMAN LEVAR: If any party objects to that
24 motion, please indicate.

25 I'm not seeing any objection, so the motion is

1 granted.

2 MR. SNARR: With that, we'll tender Mr. Lawton
3 for cross-examination.

4 CHAIRMAN LEVAR: I think we'll go to Mr. Russell
5 next.

6 THE WITNESS: We're going to go this way.

7 MR. RUSSELL: Not for very long. I don't have
8 any questions for the witness.

9 THE WITNESS: Thank you, Mr. Russell.

10 CHAIRMAN LEVAR: Ms. Schmid.

11 MS. SCHMID: The Division has no questions.
12 Thank you.

13 CHAIRMAN LEVAR: Ms. Clark or Mr. Sabin?

14 MS. CLARK: We have no questions, thanks.

15 CHAIRMAN LEVAR: Okay. Commissioner Clark?

16 COMMISSIONER CLARK: No questions. Thank you.

17 CHAIRMAN LEVAR: Commissioner White?

18 COMMISSIONER WHITE: No question. Thank you.

19 CHAIRMAN LEVAR: And I'm sorry I don't have any
20 to add, either. So thank you for your testimony here.

21 THE WITNESS: Well, thank you, Commissioner.

22 CHAIRMAN LEVAR: We should have started with
23 you.

24 COMMISSIONER WHITE: You've got an hour to enjoy
25 Salt Lake.

1 THE WITNESS: I'm sorry, am I excused?

2 CHAIRMAN LEVAR: Yes.

3 Does any party see a need to recall him for any
4 reason later in the day?

5 Okay. Thank you.

6 THE WITNESS: Thank you, sir.

7 MR. SNARR: And we'd like to thank the
8 Commission for that accommodation.

9 CHAIRMAN LEVAR: Mr. Snarr, I'm not sure I see a
10 need to have Mr. Ware and Mr. Lawton go consecutively.
11 Should we go back to the Division at this point?

12 MR. SNARR: We are entirely flexible, however
13 you would like to proceed.

14 CHAIRMAN LEVAR: Okay. We'll go to Ms. Schmid
15 for her witnesses now.

16 MS. SCHMID: Thank you.

17 The Division would like to call Mr. Allen Neale
18 as its witness.

19 CHAIRMAN LEVAR: Good morning, Mr. Neale.

20 THE WITNESS: Hello.

21 CHAIRMAN LEVAR: Do you swear to tell the truth?

22 THE WITNESS: I do.

23 CHAIRMAN LEVAR: Thank you.

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ALLEN NEALE,

having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. SCHMID:

Q. Good morning.

A. Good morning.

Q. Could you please state your employer for the record.

A. Yes. I am employed with Daymark Energy Advisors.

Q. And where is Daymark located?

A. They are located -- are you ready for this? -- in Worcester, Massachusetts.

Q. Thank you.

A. We went through this once before.

MR. SABIN: We did.

THE WITNESS: Sorry.

Q. (BY MS. SCHMID:) It's all right.

Have you participated on behalf of the Division of Public Utilities in this docket?

A. I have.

Q. Could you please describe briefly what activities you performed for the Division.

A. Sure.

1 The scope of my review was based on the
2 Commission's Order 18-57-03, which required the Company
3 to conduct an RFP.

4 The Commission found that DEU had not adequately
5 supported its request for approval to construct an LNG
6 facility because it did not follow the common industry
7 practice requesting proposals from the market to address
8 the risk it was seeking to mitigate. And as a result,
9 they could not make a lowest reasonable cost
10 determination at that time; therefore, the Commission
11 could not find that the construction of the proposed LNG
12 facility would be in the public interest.

13 In this case, I've found the RFP process to be
14 robust and in keeping with industry standards.

15 The Commission --

16 **Q. Wait. Wait. Wait.**

17 A. Sorry.

18 **Q. I have some --**

19 A. Okay.

20 **Q. -- questions before we get into your summary.**

21 A. Okay. Sorry.

22 **Q. Did you prepare and cause to be filed or have**
23 **prepared under your direction your direct testimony**
24 **premarked as Exhibit No. 2DIR in redacted and**
25 **confidential form, DPU Exhibit No. 2.1 through DPU**

1 Exhibit No. 2.5 accompanying your direct testimony?

2 A. I did.

3 Q. Do you have any changes or corrections to that
4 testimony?

5 A. I do not.

6 Q. Do you adopt the testimony as filed as your
7 testimony here today?

8 A. I do.

9 Q. Did you also prepare and cause to be filed your
10 surrebuttal testimony premarked as DPU Exhibit No. 2SR
11 with accompanying exhibits, Nos. 2.1 through 2.4?

12 A. I did.

13 Q. Do you have any changes or corrections to that
14 testimony?

15 A. I do not.

16 Q. Do you have --

17 MS. SCHMID: The Division would like to request
18 that Mr. Neale's direct and surrebuttal testimony with
19 accompanying exhibits be admitted.

20 CHAIRMAN LEVAR: If anyone objects to that
21 motion, please indicate to me.

22 And I'm not seeing any objection, so the motion
23 is granted.

24 (Exhibits DPU 2DIR, 2.1 through 2.5, 2SR, 2.1 through 2.4
25 were admitted into the record.)

1 Q. (BY MS. SCHMID:) Now, do you have a summary you
2 would like to present?

3 A. Listen, I'll go back through it, but I think
4 you've all been bored to tears already.

5 So let me just move on to the second point,
6 which is the Commission observed that construction costs
7 are ultimately reviewable as have been prudently incurred
8 in a rate base proceeding.

9 Lastly -- well, I shouldn't say lastly. The
10 Company introduced a network analysis to support the
11 location of where the optimum point on the system that
12 supplies would be required to allow for the adequate
13 pressure profile for the distribution system. The
14 network analysis was also used to determine the
15 additional distribution pipeline necessary to make the
16 competing proposals comparable.

17 I also focused on the issue of transportation
18 customers and the need to file an allocated cost of
19 service study in a future rate case to identify if
20 penalty charges fully recover costs from firm
21 transportation customers.

22 From this limited scope, I determined that the
23 issues were keeping with the public interest. Other
24 policy issues will be addressed by Doug Wheelwright for
25 the Department.

1 Q. Would you turn to page 5 of your direct
2 testimony.

3 A. This new technology stuff is for the birds.

4 Q. Would you like me to provide you a copy?

5 A. If you would.

6 MR. SABIN: May I approach the witness?

7 MS. SCHMID: Mr. Sabin, you beat me to it.

8 THE WITNESS: Here it is, here.

9 MR. SABIN: You got it?

10 THE WITNESS: I hope so. I'm so sorry.

11 MR. SABIN: No, that's good.

12 THE WITNESS: I'm sorry, what page was that
13 again?

14 MR. SABIN: Page 5. Page 5, starting at Line
15 124.

16 Q. (BY MR. SABIN:) Very simply, I just want to
17 ask: I understand that this page 5, Nos. 1, 2, 3, and 4
18 is a summary of your conclusions that you've arrived at
19 in this proceeding; is that right?

20 A. That's correct.

21 Q. And based on the record before you today, you
22 haven't changed any of those conclusions?

23 A. That's correct.

24 Q. No further questions.

25 CHAIRMAN LEVAR: Okay. Thank you.

1 Any redirect, Ms. Schmid?

2 MS. SCHMID: Yes.

3

4 REDIRECT EXAMINATION

5 BY MS. SCHMID:

6 Q. With regard to the page and lines in your direct
7 testimony that Mr. Sabin asked you about, is it true that
8 those conclusions were based on your review and analysis
9 of the file as it was at that time?

10 A. That's correct.

11 Q. And is it also true that you caveated your
12 testimony --

13 A. Right.

14 Q. -- with the notation that certain facts and
15 certain procedures have come to light that possibly could
16 cause you to revisit your conclusions?

17 A. That is correct.

18 Q. Thank you.

19 MS. SCHMID: I have no more redirect.

20 CHAIRMAN LEVAR: Did you have anything further?

21 MR. SABIN: No.

22 CHAIRMAN LEVAR: Commissioner White, do you have
23 any questions.

24 COMMISSIONER WHITE: Yeah.

25

1 EXAMINATION

2 BY COMMISSIONER WHITE:

3 Q. I'm sort of going to violate our own rule here,
4 but I'm a little bit unclear on the terms of this
5 conclusion, in that we have narrowed the discussion today
6 based upon what's been in the record and essentially the
7 communications back and forth provided from Dominion to
8 the bidder.

9 Is there anything that you've heard today with
10 respect, not to the intent or the legal interpretation or
11 otherwise, but the way the information was provided and
12 delivered, the transparency in the way the RFP was
13 conducted that would change your conclusions as to the
14 fairness of the RFP?

15 A. I caveated because I'm not a lawyer, I'm just a
16 lay person. And I don't know what deliberations may
17 happen and/or if there may be a request to review bids.
18 But I've heard an awful lot of discussion centered
19 around, let me say, people misunderstanding bids. So I
20 just want to make sure if something changed relative to a
21 bid, I may have to change my opinion.

22 Q. Is there anything about the way -- I mean, I'm
23 looking at your background. You've worked in utility and
24 I'm assuming have been part and parcel of bidding
25 processes.

1 Is there anything out of the ordinary about the
2 way the information that you've heard today went back and
3 forth? I'm not asking you to give an opinion as to the
4 legal interpretation or the mental interpretation of
5 folks, but just how the information was flowing.

6 A. Well, I think it was -- let me call it a typical
7 back and forth RFP process. But in any back and forth
8 processes, certainly something could have been missed in
9 the discussion. And again, I'll leave that determination
10 up to you. If nothing changes, then I stick with my
11 recommendations.

12 COMMISSIONER WHITE: Thank you. That's all I
13 have.

14 CHAIRMAN LEVAR: All right. Thank you.
15 Mr. Clark.

16

17

EXAMINATION

18 BY COMMISSIONER CLARK:

19 Q. I'd first like to direct your consideration to
20 the optimal delivery area. Your views on the RFP
21 include, I believe, if I'm understanding your testimony
22 correctly, an acceptance of the reasonableness of that as
23 a condition. Am I right about that?

24 A. No, that is correct. As I was able to observe
25 their design plant for their system, they're trying to

1 build a north-south trunk line that will, frankly, give
2 them fabulous flexibility in the future with their system
3 relative to moving volumes around their entire system so
4 they may be able to receive it here and take it here.

5 And so that point is central to the fact of getting
6 volumes to that 760 line so that it can be moved around.
7 That's the nature of their design that I thought -- where
8 is he? There he is. I thought he did a good job laying
9 it out, frankly.

10 Q. And again, regarding the requirements and
11 constraints and parameters of the RFP that you evaluated,
12 I'd like you to consider them in relation to -- I think
13 you were here yesterday. Am I correct about that?

14 A. Umm-hmm.

15 Q. -- in relation to the discussion of park and
16 lawn arrangements, Kern River generally, new gates, the
17 kinds of options that we don't see reflected in any bids
18 that were evaluated.

19 A. I have this -- I believe Kern River received an
20 invitation to bid. They did not participate. I don't
21 know why. I know that in my day, my pipeline would have
22 been visiting me to see what they could have done for me.
23 But the absence of any discussion or bid from them, I
24 think is telling enough. They may not be able to satisfy
25 their needs, the Company's needs.

1 COMMISSIONER CLARK: Thank you. Those are all
2 my questions.

3 MR. SNARR: Could I ask one clarification,
4 please?

5

6 CROSS-EXAMINATION

7 BY MR. SNARR:

8 Q. It seems there is a caveat that Mr. Neale has
9 provided indicating he's made these conclusions, except
10 for things that the Commission might find or look at as
11 it relates to comparability of bids. And we presented
12 testimony this morning on an issue of comparability.

13 Your caveat covers that?

14 A. That's correct. That's the reason for the
15 caveat.

16 Q. Thank you.

17 A. I wasn't sure how they would rule, so.

18 Q. Sure.

19

20 EXAMINATION

21 BY CHAIRMAN LEVAR:

22 Q. In your career history of reviewing RFPs,
23 utility RFPs, how frequently are -- at least in the RFPs
24 that you've been involved with in the past, I'm not
25 talking about this one specifically -- reinforcement

1 costs added to bid costs been an issue? How many -- I
2 mean, I'm not asking for a number, but have you been
3 involved in a significant number of RFPs that have had
4 that issue?

5 A. I have never had an RFP looking for a supply
6 that I needed to include those types of costs in.

7 CHAIRMAN LEVAR: Okay. Thank you. I don't have
8 any other questions, then.

9 Thank you for your testimony today.

10 THE WITNESS: You're welcome.

11 MS. SCHMID: The Division would like to call
12 Mr. Douglas Wheelwright as its next witness.

13 CHAIRMAN LEVAR: Good morning, Mr. Wheelwright.
14 Do you swear to tell the truth?

15 THE WITNESS: Yes, I do.

16

17 DOUGLAS WHEELWRIGHT,
18 having been first duly sworn,
19 was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. SCHMID:

22 Q. Good morning.

23 A. Good morning.

24 Q. For the record, could you please state your
25 employer, title, and place of business.

1 A. My name is Douglas Wheelwright. I'm a technical
2 consultant with the Division of Public Utilities.
3 Business address is 160 East 300 South, Salt Lake City.

4 **Q. Have you participated on behalf of the Division**
5 **in this docket?**

6 A. Yes, I have.

7 **Q. Could you please briefly describe your**
8 **activities related to this docket.**

9 A. Yes. We reviewed the filing from the Company,
10 submitted a data request to ask for additional
11 information, and completed an analysis of the filing.

12 **Q. And in conjunction with your participation on**
13 **behalf of the Division in this docket, did you prepare**
14 **and/or oversee the preparation of, and cause to be filed,**
15 **the following: Your direct testimony marked as DPU**
16 **Exhibit No. 1.0/DIR in both highly-confidential and**
17 **redacted versions, along with accompanying Exhibits**
18 **No. 1.1DR through 1.12DR?**

19 A. Yes, I did.

20 **Q. Do you have any changes or corrections to that**
21 **testimony?**

22 A. No, I don't.

23 **Q. Do you adopt that testimony as if you were asked**
24 **those questions today?**

25 A. Yes, I do.

1 Q. Also, did you prepare or have prepared under
2 your direction your surrebuttal testimony premarked as
3 DPU Exhibit No. 1.0SR in both highly-confidential and
4 redacted form, along with accompanying Exhibit DPU
5 Exhibit No. 1.1SR?

6 A. Yes.

7 Q. Do you have any changes or corrections to that
8 testimony?

9 A. I do not.

10 Q. Do you adopt that testimony as if you were asked
11 those questions today?

12 A. Yes, I would.

13 MS. SCHMID: The DPU would move for the
14 admission of the surrebuttal and direct testimony as
15 previously identified for Mr. Wheelwright.

16 CHAIRMAN LEVAR: If there's any party that
17 objects to that motion, please indicate to me.

18 I'm not seeing any, so the motion is granted.
19 (Exhibits DPU 1.0DIR, 1.1DR through 1.12DR, 1.0SR, and
20 1.1SR were admitted into the record.)

21 MS. SCHMID: Mr. Wheelwright has a summary to
22 present today; however, it contains some
23 highly-confidential information that was presented in his
24 direct testimony. With that, I would like to move that
25 the hearing go into closed session.

1 THE WITNESS: My summary comments don't have
2 confidential information.

3 MS. SCHMID: Perhaps I'll have a question that
4 deals with highly-confidential information.

5 THE WITNESS: Okay.

6 CHAIRMAN LEVAR: Okay. So are you making the
7 motion still at this moment?

8 MS. SCHMID: So I still make the motion now. Or
9 actually, we can have his summary, and then we can just
10 close and I can ask my question.

11 CHAIRMAN LEVAR: Okay. Then why don't we go
12 ahead with your summary, Mr. Wheelwright.

13 THE WITNESS: Good morning. Dominion Energy is
14 seeking approval of a resource decision to build a
15 liquified natural gas facility that would be located on
16 its own distribution system. The specific requirements
17 of the Commission's review of this resource decision is
18 identified in Utah Code Section 54-17-402, which has
19 already been outlined in my testimony and by company
20 witnesses.

21 As part of the review of the application, the
22 Division hired Mr. Allen Neale from Daymark Energy
23 Advisors to assist with the review of specific aspects of
24 the filing. Mr. Neale has reviewed the RFP process and
25 the network analysis used by Dominion in modeling the

1 potential supply shortfall. Mr. Neale's review is
2 limited in scope and was focused on the Commission order
3 and recommendations identified in the previous LNG
4 docket.

5 The Division's overall and more comprehensive
6 review of this filing must address the public interest
7 and the overall cost and risk identified in the Company's
8 application and potential impact to all customers.

9 The stated purpose of this facility will be to
10 offset possible disruptions in the gas supply primarily
11 identified as supply cuts that could occur on a peak day
12 due to extremely cold weather conditions or other
13 catastrophic events.

14 Should a supply disruption or supply cut occur
15 on a peak day, the Company could withdraw gas from the
16 LNG facility to satisfy the shortfall without relying on
17 gas nominations under the NAESB nomination cycles.

18 For supply cuts that occur on non peak days, the
19 Company could use other existing resources to satisfy the
20 shortfall.

21 The Company has provided historical information
22 concerning the size and duration of supply cuts that have
23 occurred as well as the remedies that have been used to
24 satisfy historical shortfall events.

25 The Company has demonstrated that the supply

1 cuts can occur during cold weather conditions but has not
2 shown that the frequency or size of supply cuts has
3 increased in recent years. Historically, these cuts have
4 been short in duration and have been smaller than the
5 150,000 dekatherm per day that has been provided for the
6 proposed facility -- that could be provided.

7 The Company has not provided a clear
8 understanding of how supply cuts would be managed during
9 warmer weather conditions or how the proposed facility
10 would be used during normal operations of the LDC.

11 The cost of the facility is proposed to be borne
12 completely by general sales customers.

13 Company witnesses have admitted that
14 transportation customers could use the facility during
15 cold weather conditions, but maintain that the best way
16 to manage the unauthorized use is by imposing strict
17 penalties.

18 These penalties would be assessed to
19 transportation customers during the next billing cycle,
20 long after the gas has been consumed and the system
21 reliability event or supply cuts are over.

22 The Division has raised questions and is
23 concerned about the original schedule for the proposed
24 LNG facility that did not meet the guidelines identified
25 in the RFP and would not be available and online by the

1 November 2022 schedule and requirement of the RFP.

2 In its rebuttal testimony, Company witnesses
3 changed the fill date to show that the facility could
4 begin to be filled three months earlier than originally
5 identified. The Company has explained that the reason
6 for the change was that the original answers were a
7 misunderstanding. But the Division has concerns that
8 these -- this has caused other problems with the process
9 and questions whether they would allow other bidders the
10 same opportunity to change their bids through a
11 misunderstanding. This raises questions about the
12 fairness and independent analysis of the bidding process
13 as well.

14 In general, utilities have an economic incentive
15 to add to their rate base. The proposed facility
16 represents a significant capital expenditure for the
17 Company and would have long-term impacts to ratepayers.

18 In addition to the large capital cost, the
19 facility will add to the total operating and maintenance
20 cost every year going forward. The Company has estimated
21 that the variable costs to liquefy, store, and vaporize
22 gas will add \$1.92 per dekatherm to the price of LNG --
23 gas coming from the LNG facility.

24 Assuming the facility is filled with gas at the
25 current Wexpro cost of service price of \$3.82 will result

1 in natural gas from this facility at \$5.77 per dekatherm.
2 This price is significantly more expensive than the
3 existing storage and significantly more expensive than
4 the current market price.

5 Their proposed facility will require 30 percent
6 of storage capacity to be withdrawn each year and force
7 the cost of this more expensive gas onto ratepayers, even
8 if there is no supply cut or system reliability event.

9 The Company has provided an estimate of the
10 total annual impact to a typical GS customer. However,
11 that amount has been determined to be highly classified
12 and was also revised in rebuttal testimony.

13 In this request, the company is seeking
14 Commission approval for a resource to meet an uncertain
15 event that may occur at some point in the future.
16 Resources are in place and have been shown to be
17 effective in dealing with supply cuts that occur under
18 normal operating conditions. And the Division is not
19 convinced that the Company has explored all options for
20 dealing with supply cuts that could occur under extreme
21 conditions.

22 In summary, Dominion has failed to show that the
23 cost of the proposed facility is appropriate for the
24 level of risk identified and has not supported the
25 position that the entire cost shall be allocated only to

1 sales customers. DEU has used the fear of major
2 catastrophes as a way to justify the construction of this
3 facility when the facility may not be able to provide the
4 necessary supply reliability in the event of a major
5 catastrophe. The Company has failed to provide a
6 reasonable and balanced assessment of risk and the most
7 likely usage of this type of facility on a year-to-year
8 basis.

9 The Division is not convinced that a large
10 increase in rate base and the ultimate customer -- and
11 the ultimate increase in customer rates is the best
12 choice alternative and would result in the delivery of
13 utility services at the lowest reasonable cost to retail
14 customers.

15 That concludes my summary.

16 **Q. Except that perhaps you might like to add a**
17 **brief summary of the highly-confidential information that**
18 **was included in your surrebuttal testimony on pages 7 and**
19 **8.**

20 MS. SCHMID: And with that, I would request that
21 at this time the hearing go into closed session so he can
22 present a brief summary of that highly-confidential
23 information.

24 CHAIRMAN LEVAR: Does any party object to that
25 motion? Please indicate to me if you do.

1 MR. SNARR: No objection.

2 CHAIRMAN LEVAR: Okay. Not seeing any
3 objection, so the motion is granted. We make a finding
4 that it is in the interest of the public to close this
5 portion of the hearing to the public. I will adjust the
6 volume settings, and we will discontinue the streaming
7 for a moment.

8 (The following is deemed highly-confidential testimony
9 and is bound under separate cover.)

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8 (End of highly-confidential testimony.)

9 MS. SCHMID: Mr. Wheelwright is now available
10 for cross-examination and questions from the Commission.

11 CHAIRMAN LEVAR: Mr. Snarr, do you have any
12 questions for Mr. Wheelwright?

13 MR. SNARR: Just one question, if I might.

14

15 CROSS-EXAMINATION

16 BY MR. SNARR:

17 Q. Mr. Wheelwright, isn't it true that the Division
18 has not presented any testimony in this proceeding
19 addressing the substance or merits of the accounting
20 issue that Mr. Lawton has addressed?

21 A. That's correct.

22 Q. Thank you.

23 CHAIRMAN LEVAR: Thank you, Mr. Snarr.

24 Mr. Russell, do you have any questions for
25 Mr. Wheelwright?

1 MR. RUSSELL: I do not. Thank you.

2 CHAIRMAN LEVAR: Ms. Clark or Mr. Sabin?

3 MS. CLARK: I just have one quick question.

4

5

CROSS-EXAMINATION

6 BY MS. CLARK:

7 Q. So Mr. Wheelwright, in your experience, do you
8 know if it is common or normal for a publicly-traded
9 company to seek Board approval before making a large
10 capital investment? Is that unusual?

11 A. I don't know.

12 Q. I don't have any other questions.

13 CHAIRMAN LEVAR: Commissioner Clark, do you have
14 any questions?

15 Oh, sorry. Any redirect, Ms. Schmid?

16 MS. SCHMID: If I can just have one moment to
17 think. I'm trying to think of how I can ask this without
18 requesting that we go back into closed session.

19 I won't ask the question. We're good.

20 CHAIRMAN LEVAR: Okay. Thank you, Ms. Schmid.

21 Commissioner Clark, any questions for
22 Mr. Wheelwright?

23 COMMISSIONER CLARK: So I have a confession. I
24 had a couple of questions for Mr. Platt that I referenced
25 yesterday that I might be directing to him. And I wished

1 it was -- I wish I had come to him, back to him before we
2 started -- left the Company's case, but I didn't. And I
3 know we needed Mr. Lawton to testify.

4 But I'm going to ask Mr. Wheelwright the same
5 questions so that you'll have an opportunity to address
6 them, and then Mr. Platt, I hope I could address them to
7 him as well.

8 EXAMINATION

9 BY COMMISSIONER CLARK:

10 Q. So you were here yesterday, I believe,
11 Mr. Wheelwright?

12 A. Yes, I was.

13 Q. And you heard, I think, the discussion between
14 Mr. Russell and Mr. Platt about modeling runs that
15 related to Magnum's supply connected to Bluffdale and the
16 effect of -- and conditions that might result in
17 customers in Hyrum losing service.

18 Am I describing --

19 A. I remember that discussion, yes.

20 Q. So -- and I think it's my recollection that
21 Mr. Platt said that might happen within a couple of
22 hours, the loss of service in Hyrum.

23 Did you hear as well?

24 A. I -- that sounds --

25 Q. I don't want to put words in your mouth. If you

1 don't recall it, then --

2 A. I don't know if it's correct or not. I don't
3 know.

4 Q. If that were the case, if that were the concern,
5 would -- how would the ability to nominate within the
6 NAESB cycles address that concern in your mind, or would
7 it?

8 A. One of the things that I don't believe has been
9 fully explored is the possible opportunity to get some
10 additional supply from Kern River through some type of a
11 no-notice arrangement. The Company specified they didn't
12 really pursue that. If that's a possibility, it would be
13 almost instantaneously available to the Company, so --
14 and probably at a much lower price than the proposed
15 facility. That should be explored.

16 Q. The second area relates to, I think, an area of
17 redirect to Mr. Platt regarding the gate station
18 supplying more than 150,000 dekatherms going down, under
19 the conditions with the LNG system -- or the plant in
20 place and operating -- but as I said, more than 150,000
21 dekatherms being -- supply being lost at a particular
22 gate station. And I believe Mr. Platt was asked what the
23 Company might do under those circumstances. And I
24 believe the answer was they would seek to mitigate the
25 loss in some way.

1 **And I wondered if you had an idea of what that**
2 **might be or what those ways might be, what options might**
3 **be available?**

4 A. I don't have an idea of what options might be
5 available. What I think is very important to understand
6 in this proceeding is, is that two events have to take
7 place simultaneously. One is this has to be -- this has
8 to occur on a peak day along with a 150,000 dekatherm
9 cut. So what we're planning for is a remote possibility
10 for extreme conditions.

11 The question I think for the Commission is, is
12 the cost of this facility commensurate with the risk that
13 we're going to have an event like that? I don't -- I
14 don't want to -- I don't want anybody to get cold. I
15 don't want to have the system to lose pressure. But both
16 the events have to take place simultaneously. They have
17 to be cuts on a peak day. If we have cuts on a non peak
18 day, the Company has demonstrated that they can handle
19 those -- those cuts with other resources.

20 So again, we're talking about those two
21 simultaneous events occurring.

22 **Q. Thanks. I know it would have been easier for**
23 **you to address those after hearing my questions to**
24 **Mr. Platt. I appreciate your answers. Thank you.**

25 A. That's fine.

1 CHAIRMAN LEVAR: Thank you. I'll ask a couple
2 of questions next, then I'll go to Commissioner White.

3

4

EXAMINATION

5 BY CHAIRMAN LEVAR:

6 Q. Did you provide feedback on preliminary draft
7 RFPs to Dominion before the RFP was issued that we're
8 working on on this docket?

9 A. We did meet with the Company about the RFP and
10 expressed some concerns about the nature of the RFP and
11 the limiting requirements. Our recommendations were not
12 all accepted. The Company did not take all of our
13 recommendations and continue forward with a more
14 restrictive RFP than the Division felt they should have.

15 Q. And I think I just want to ask one follow-up
16 question on the issue that we discussed earlier.

17 And let me just ask counsel for Dominion: Even
18 though this is his testimony, I think the confidential
19 nature of it, the language that starts the last -- I'm
20 just trying to figure out if I need to close the hearing
21 to ask this question.

22 The last four words of line 185 of his
23 surrebuttal, those four words, and then the next
24 two-and-a-half lines. I'll wait for you to get there.

25 MS. CLARK: Line 185?

1 CHAIRMAN LEVAR: Starting on line 185 of
2 Mr. Wheelwright's surrebuttal, so the last four words of
3 185.

4 MS. CLARK: Oh, I see.

5 CHAIRMAN LEVAR: And the next two-and-a-half
6 lines.

7 Is there anything confidential about those
8 sentences?

9 MS. CLARK: There is not.

10 Q. (BY CHAIRMAN LEVAR:) I'm just trying to
11 understand that sentence in the context of the paragraph
12 before it, Mr. Wheelwright.

13 Is it your position that there is something
14 improper about this sequence of events? And by asking
15 that, I'm trying to envision how a utility would issue an
16 RFP and seek Commission approval without first making a
17 decision to do so.

18 A. Well, I think this is additional evidence of a
19 predetermined decision that had already been made. The
20 Company has identified that they began looking at LNG
21 facilities as early as 2014, so I believe the Company has
22 moved forward -- and I don't know how objective it would
23 be with a proposal that came in and showed that their LNG
24 were not the preferred option. They've made significant
25 capital -- or not capital investments, but investments in

1 the research, the engineering to date, and I don't know
2 if they would be willing to scrap that, I guess is the
3 way to put it.

4 **Q. Are you aware of any steps in the regulatory**
5 **process that have been skipped or ignored?**

6 A. What do you mean? I'm sorry.

7 **Q. I'm trying to understand the implication of this**
8 **paragraph. Maybe there isn't much.**

9 **But is there any step in the regulatory approval**
10 **process that the Company -- in your opinion, the Company**
11 **has not followed, the utility has not followed?**

12 A. What I think we're trying to look at here is if
13 the bidding process was a fair representation of options
14 available to the Company. Did they look at the other
15 options objectively, or had the decision already been
16 made? With Board approval and engineering --
17 pre-engineering already completed, would they be
18 objective in their analysis?

19 **Q. Okay. Thank you. I don't think I have any**
20 **other questions.**

21 **Commissioner White.**

22 COMMISSIONER WHITE: I have no questions. Thank
23 you.

24 CHAIRMAN LEVAR: Thank you for your testimony,
25 Mr. Wheelwright.

1 Anything further, Ms. Schmid?

2 MS. SCHMID: Nothing further from the Division.

3 Thank you.

4 CHAIRMAN LEVAR: Okay.

5 Mr. Snarr, would you like to start with Mr. Ware
6 for a few minutes? I don't know if we'll have time to
7 finish before we take a break.

8 MR. SNARR: Sure.

9 CHAIRMAN LEVAR: Okay.

10 Good morning, Mr. Ware. Do you swear to tell
11 the truth?

12 THE WITNESS: I do.

13 CHAIRMAN LEVAR: Thank you.

14

15 ALEX WARE,

16 having been first duly sworn,

17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SNARR:

20 **Q. Mr. Ware, would you please state your name and**
21 **indicate by whom you're employed and the address.**

22 A. My name is Alex Ware. I'm a utility analyst for
23 the Office of Consumer Services. The address is 160 East
24 300 South, Salt Lake City.

25 **Q. And in connection with this proceeding, have you**

1 participated and prepared testimony to be submitted as
2 part of this proceeding?

3 A. Yes, I have.

4 Q. And does that include direct testimony and
5 accompanying exhibits, rebuttal testimony, and
6 surrebuttal testimony with an exhibit?

7 A. Yes, that's correct.

8 Q. And do you have any corrections to the items
9 that have already been prefiled?

10 A. No, I do not.

11 Q. And if asked all those questions, would your
12 answers be the same today?

13 A. Yes.

14 MR. SNARR: We'd like to move for the admission
15 of OCS Exhibit No. 1.1 with its accompanying exhibits;
16 OSC Exhibit No. 1R, which is rebuttal; and OCS Exhibit
17 No. 1S with its accompanying exhibit.

18 CHAIRMAN LEVAR: If any party objects to that
19 motion, please indicate to me.

20 I'm not seeing any objections. The motion is
21 granted.

22 (Exhibits OCS 1.1, 1R, and 1S were
23 admitted into the record.)

24 Q. (BY MR. SNARR:) Mr. Ware, have you prepared a
25 summary of your testimony for presentation today?

1 A. Yes.

2 **Q. Would you proceed to present that, please.**

3 A. My testimony shows that DEU has not met the
4 statutory standards for the Commission to find this
5 request to be in the public interest, as the Company has
6 not demonstrated that its proposal would most likely
7 result in the acquisition, production, and delivery of
8 utility services at the lowest reasonable cost to the
9 retail customers.

10 DEU has also not adequately evaluated the risk
11 of its supply reliability problem. While the Company
12 provided additional detail regarding its risk analysis in
13 rebuttal testimony in response to parties' questions, the
14 information is still limited and comes too late in this
15 case to perform an adequate review and discovery.

16 Also, although the Company issued an RFP in
17 accordance with the Commission's conclusions in the last
18 LNG docket, the evidence presented in this proceeding by
19 DEU shows the RFP has come up short.

20 Firstly, DEU's claimed supply and reliability
21 risks have never been well-defined, and potential
22 solutions were not studied in the context of a variety of
23 risk scenarios.

24 Second, the parameters of the RFP were so narrow
25 that the ultimate resource selection was biased, did not

1 adequately assess the balance of cost and risk
2 mitigation, and resulted in potentially viable
3 alternatives being overlooked.

4 Lastly, as the Office's second witness,
5 Mr. Lawton, demonstrated, the Company's costs in certain
6 RFP bids are inappropriate, and it skews the final
7 resource selection toward DEU's self-build LNG option.

8 The Office recommends that the Commission deny
9 DEU's application at issue today to build and operate an
10 on-system LNG facility.

11 **Q. Thank you. In anticipation of a question, if**
12 **not by the parties perhaps by the Commission, I'd like to**
13 **ask two additional questions and have you respond.**

14 **First, you heard some discussion in the course**
15 **of these proceedings about the Office and Division**
16 **providing feedback on Dominion's RFP.**

17 **Can you speak to the Office's role in providing**
18 **feedback?**

19 A. I personally did not provide any feedback, but I
20 have conferred with my colleagues who were involved. The
21 recollection of my colleagues is that they provided some
22 minor feedback but in no way gave an endorsement of the
23 RFP as a document or process. In fact, we had internal
24 discussions about how narrowly the RFP was drafted. Our
25 assumption was that Dominion would have had new and more

1 robust modeling justifying the RFP as drafted.

2 **Q. And can you speak to the Office's policy**
3 **regarding informal feedback, such as has been discussed**
4 **with respect to the RFP?**

5 A. Yes. The Office has typically been willing to
6 provide informal feedback prior to utility filings. But
7 informal feedback cannot be misconstrued as endorsement.
8 When we are asked for feedback on one element of a case,
9 we do not know what assumptions or additional supporting
10 evidence will be available to justify the overall utility
11 request.

12 It always remains the utility's burden to
13 support its own request. And frankly, we are surprised
14 that Dominion now seems to be relying on this informal
15 feedback in a manner it was never intended. If Dominion
16 wanted an endorsement of its RFP, the process would have
17 to be much more formal.

18 **Q. Thank you.**

19 MR. SNARR: We now offer Mr. Ware as a witness
20 for cross-examination and Commission questions.

21 CHAIRMAN LEVAR: Thank you.

22 Ms. Schmid, do you have any questions for
23 Mr. Ware?

24 MS. SCHMID: The Division has no questions.

25 Thank you.

1 CHAIRMAN LEVAR: Okay. Thank you.

2 Mr. Russell, do you have any questions?

3 MR. RUSSELL: No questions. Thank you.

4 CHAIRMAN LEVAR: Ms. Clark or Mr. Sabin?

5 MS. CLARK: No questions, thank you.

6 CHAIRMAN LEVAR: Commissioner White?

7 COMMISSIONER WHITE: No questions, thanks.

8 CHAIRMAN LEVAR: Mr. Clark?

9 COMMISSIONER CLARK: No questions. Thank you.

10 CHAIRMAN LEVAR: We got the testimony admitted,
11 didn't we?

12 MR. SNARR: I thought we did. If we didn't, I'd
13 move again. But let's make sure it's admitted.

14 CHAIRMAN LEVAR: Any objection if it wasn't done
15 already? Okay.

16 The testimony and exhibits are admitted into
17 evidence. And I don't have any further questions.

18 So thank you for your testimony this morning,
19 Mr. Ware.

20 THE WITNESS: Sure.

21 CHAIRMAN LEVAR: Do you have anything further,
22 Mr. Snarr?

23 MR. SNARR: That concludes the Office's
24 testimony. Thank you very much.

25 CHAIRMAN LEVAR: Okay.

1 Mr. Russell, I'm thinking at least one of your
2 witnesses is going to be a little bit of time, right?
3 I'm just thinking of whether we break, or do you want to
4 present one of your witnesses before we break?

5 MR. RUSSELL: One of my witnesses will be here
6 later. That's the witness for UAEU. I intend to have
7 him go last.

8 I think it would probably be worthwhile to have
9 Mr. Schultz go after the lunch break. If we're looking
10 to get something done before the lunch break, maybe it's
11 time -- if Commissioner Clark has some additional
12 questions for Mr. Platt, now may be an appropriate time
13 for that.

14 CHAIRMAN LEVAR: Thank you. I hadn't thought of
15 that. Why don't we go ahead and do that.

16 And Mr. Platt, I think you're still under oath
17 from yesterday, so if you'll just come and take the
18 stand.

19 THE WITNESS: Thanks for inviting me back.

20 COMMISSIONER CLARK: Thank you for being here.

21

22

MICHAEL L. PLATT,

23

having been previously sworn,

24

was examined and testified as follows:

25

1 FURTHER EXAMINATION

2 BY COMMISSIONER CLARK:

3 Q. So you heard the questions generally, but I'll
4 do my best to reconstruct. And again, I'm operating
5 without a transcript but from notes and things. So
6 please correct any of this that is just representative of
7 my recollection.

8 But the first matter I'd like you to address is
9 the cross-examination that you had regarding your
10 modeling related to the Magnum delivery at Bluffdale and
11 the Hyrum -- the loss of Hyrum customers.

12 A. Right.

13 Q. And the timing of -- I think you mentioned
14 they'd start to lose -- you'd start to lose sufficient
15 pressure to serve customers in a couple of hours.

16 Is my recollection right?

17 A. That is what I recalled. I didn't go back and
18 check my modeling, but I believe it was within a couple
19 hours.

20 Q. And so would you address, then, the NAESB
21 nomination cycles and how the circumstances in which the
22 issue that would exist in that -- in that set of
23 conditions could be remedied through nominations and any
24 situations where it could not be?

25 A. So I have to preface with I think that the gas

1 supply nominations deeper dive is a better question for
2 Mr. Schwarzenbach. But I do have, I believe it's from
3 Tina Faust's testimony, Exhibit 2.04. It has the
4 nomination schedule included.

5 And so if you look at when nominations are due
6 and when gas is flowing -- so Intraday 1, nominations
7 would be due at 9 a.m. for gas to flow at 1 p.m. That's
8 quite a bit longer. Intraday 2, nominations are due at
9 1:30 p.m. for gas to flow at 5 p.m. Intraday 3,
10 nominations are due at 6 p.m. for gas to flow at 9 p.m.

11 So I mean as you can see, the NAESB cycle
12 wouldn't really account for that kind of shortfall even
13 though it is a bit more of an extended timeline for
14 customers to start to lose service.

15 Q. Thank you. Now, the second question I have for
16 you relates to redirect from your counsel. And this
17 question takes into account or assumes the operation of
18 the LNG facility that's contemplated and an interruption
19 that causes a particular gate to lose more than 150,000
20 dekatherms of supply.

21 And I think you said you'd mitigate, and I'm
22 interested in what the other mitigation opportunities
23 would be for you under that, what you might have modeled
24 or what you would consider in that scenario.

25 A. So I think -- and this is just me trying to pick

1 out what we would do.

2 So if we had an LNG facility and we lost a
3 volume of gas greater than 150,000, significantly
4 greater, I think that it depends on the temperature what
5 our options are available, right. If it were warmer than
6 3 degrees mean, we would still have aquifers in reserve.

7 There are other options as far as supply might
8 go. And when -- when that event may occur, our options
9 will depend on that. I believe that if that occurred at
10 any time, we would call for an interruption of our
11 interruptible customers. And they have a two-hour
12 timeline that they are allotted before they start
13 shutting down.

14 I think that there are a number of other things
15 that we would attempt to do. I don't know how effective
16 we would be at that. I mean, we do have a no-notice on
17 Dominion Energy, Questar Pipeline. So if we weren't
18 flowing at max capacity through Clay Basin or we had
19 excess capacity at other gates and other pipelines, we
20 might try to shift things around. But again, I don't
21 know how effective it would be. And it's really
22 dependent on what the temperature is.

23 On a peak day, our options would be extremely
24 limited. On a peak day, everything would be at capacity.
25 And we would call for an interruption prior to the peak

1 day because we would see the forecast.

2 But then in addition, we would be forced to
3 start following our emergency plan and shutting off
4 customers, starting with the largest and working our way
5 down, as is outlined in our tariff.

6 **Q. Okay. That concludes my questions. Thank you.**

7 CHAIRMAN LEVAR: Thank you, Mr. Platt.

8 Do you have anything?

9 COMMISSIONER WHITE: No.

10 CHAIRMAN LEVAR: Did you want to ask any other
11 witnesses while we're doing this?

12 COMMISSIONER CLARK: Well, I suppose we should
13 offer an opportunity, if there are -- and I would like to
14 do that, I think.

15 Those who have testified already, if any other
16 witness has.

17 CHAIRMAN LEVAR: Oh, is this --

18 COMMISSIONER CLARK: I'm sorry. Were you
19 contemplating something else? What did you mean?

20 CHAIRMAN LEVAR: I wasn't contemplating inviting
21 any witness to come up and address that. But if that's
22 what you would like to do, I'm happy to do that.

23 COMMISSIONER CLARK: I misunderstood.

24 CHAIRMAN LEVAR: If any party wants to address
25 these questions further, please indicate your intention

1 to do so. Sorry.

2 Why don't we take a break until 1:10, and then
3 we will reconvene.

4 (A break was taken from 12:00 p.m. to 1:10 p.m.)

5 CHAIRMAN LEVAR: We are back on the record, and
6 I think we will go to Mr. Russell next.

7 MR. RUSSELL: Magnum calls David Schultz to the
8 stand.

9 CHAIRMAN LEVAR: Good afternoon, Mr. Schultz.
10 Do you swear the tell the truth?

11 THE WITNESS: Yes, I do.

12 CHAIRMAN LEVAR: Okay. And you may have a
13 stretch where you don't have to step outside for any
14 reason for a little while.

15 THE WITNESS: Let's hope I can talk to myself.

16

17 DAVID J. SCHULTZ,

18 having been first duly sworn,

19 was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. RUSSELL:

22 **Q. Mr. Schultz, could you please state your name**
23 **and business address for the record, please.**

24 A. My name is David Schultz. My business address
25 is 35 Lake Mist Drive, Sugar Land, Texas 77479.

1 Q. And can you tell us what your association with
2 Magnum Energy Midstream Holdings is?

3 A. I'm a consultant for them to help them with
4 regard to their underground natural gas storage facility
5 near Delta, Utah.

6 Q. Thank you. And in this docket, did you cause to
7 be filed -- did you prepare and cause to be filed direct
8 testimony labeled as Magnum Exhibit 1.0 along with
9 Exhibits 1.1 through 1.4?

10 A. Yes, I did.

11 Q. And did you also prepare and cause to be filed
12 surrebuttal testimony, which I believe is Magnum Exhibit
13 1.20SR?

14 A. Yes, I did.

15 Q. And do you adopt that testimony as your
16 testimony today?

17 A. Yes, I do.

18 Q. Do you have any proposed corrections to that
19 testimony?

20 A. No, I do not.

21 MR. RUSSELL: I'll go ahead and move for the
22 admission of that testimony.

23 CHAIRMAN LEVAR: If anyone objects to the
24 motion, please indicate to me.

25 I'm not seeing any objections, so the motion is

1 granted.

2 (Exhibits Magnum 1.0, 1.1 through 1.4, and 1.20SR
3 were admitted into the record.)

4 **Q. (BY MR. RUSSELL:) Mr. Schultz, have you**
5 **prepared a summary of your prefiled testimony?**

6 A. Yes, I have.

7 **Q. And can you go ahead and provide that to us?**

8 A. Yes, I will.

9 I have more than 35 years of professional
10 experience focused in natural gas and power.

11 My most pertinent experience to this proceeding
12 includes being senior vice president of LNG America,
13 where we sought to bring liquefied natural gas as a fuel
14 to marine and land based markets in the U.S.

15 Prior to that, I worked in various senior
16 management roles at AGL Resources, including the start up
17 of Pivotal LNG, a wholly-owned subsidiary of AGL, where
18 we focused on the LNG from the utility's LNG and merchant
19 plants to land and marine uses.

20 In that role, I was responsible for the
21 operations of Pivotal LNG's merchant LNG operations,
22 sales, marketing, planning, evaluation, design decisions
23 regarding the possible construction and operation of
24 proposed LNG facilities of similar size to LDC peaking
25 facilities.

1 During my time at AGL and Pivotal, I became
2 intimately familiar with the safety of such LNG
3 facilities, their capital and operating costs, and other
4 aspects of the facilities. This understanding applies to
5 both new and existing utility and merchant-owned LNG
6 facilities.

7 During that time, I became very familiar with
8 AGL's LNG utility operations and those facilities as
9 peaking plants to meet their needs.

10 Prior to that role at AGL, I developed AGL's 18
11 BCF working gas capacity at Golden Triangle Storage near
12 Beaumont, Texas, on the Spindle Top Salt Dome. In that
13 role, I became intimately familiar with the design and
14 safety of underground natural gas storage facilities,
15 including permitting, construction, capital costs, and
16 operating costs.

17 Prior to that role at AGL, I was responsible for
18 the development of a nearly \$3 billion LNG import
19 facility, which -- in Virginia, which never came to
20 fruition. Good thing, I think. And that's my
21 background.

22 Summary to my testimony, I'd like to say and
23 point out the following key points.

24 First, Dominion's 2019 RFP process was flawed in
25 that it did not correct the deficiencies identified by

1 this Commission in its order in Docket No. 18-057-03. In
2 fact, Dominion made a number of changes to the project it
3 sought approval of in that docket and hid critical
4 information from potential responders, including Magnum.

5 Magnum requested information and wanted to
6 discuss the RFP with Dominion to ensure a full and
7 complete response to the RFP. Magnum wanted to
8 understand, among other things, the reasoning for the
9 change in delivery location. Wanted to understand the
10 reasoning for the change in timing, the reasoning for the
11 change in requested resource. Wanted to discuss and
12 tailor a response, and wanted to understand and perceive
13 impacts of the LNG facility.

14 Magnum repeatedly requested information along
15 these lines. When Dominion did provide information, it
16 was at best unresponsive, and at worst designed to
17 protect its interest in the LNG facility and not an
18 attempt to find the best reliable answer for DEU's
19 ratepayers or other stakeholders in Utah.

20 Dominion's actions frustrated the purpose of the
21 RFP process, which, as I understood it, was intended to
22 ensure the Commission was presented with the low cost,
23 least risk project.

24 I haven't been permitted to see the cost of any
25 bids into the RFP, including Dominion's, so I can't say

1 what the results of the RFP were. What I can say is the
2 RFP process was flawed.

3 Second, any of the three options proposed by
4 Magnum would meet Dominion's stated needs as best we
5 could understand them on a more cost-efficient and
6 beneficial basis than Dominion's produced LNG plan.
7 These benefits to Dominion include but are not limited
8 to: Lower cost for equal or better service. Long-term
9 contracts designed to match year-by-year changes in
10 reliability needs instead of a giant rate-based infusion
11 of an LNG facility of questionable utility. No risk of
12 cost overruns. Flexibility in meeting changes in demand
13 in forecasted supply shortfalls. Ability to meet supply
14 shortfalls across the 471 PSI/354 PSI pressure boundary.
15 And enhanced peak hour service beyond what the LNG
16 facility can provide.

17 Third, Dominion should be required to, at a
18 minimum, reevaluate each of the proposed supply
19 reliability requests with the high pressure corridor that
20 was filed or discussed in the IRP filing in Docket No.
21 19-057-01 having been built, or at least portions of it
22 being built. Given that the high pressure corridor is
23 the first step in a broader supply reliability question,
24 it would create options that haven't been analyzed to
25 date.

1 That concludes my remarks. Thank you.

2 Q. And I have just a couple of questions for you
3 Mr. Schultz, before I turn you over for
4 cross-examination.

5 Do you have before you Exhibit 1.3 to your
6 direct testimony?

7 A. Yes, I do.

8 Q. If you could turn to that, please.

9 A. I have it.

10 Q. And this is the question and answer related to
11 the RFP that Dominion put out, right?

12 A. Correct.

13 Q. And these are the questions and answers between
14 Magnum and other bidders on the one hand and Dominion on
15 the other?

16 A. Correct.

17 Q. And it identifies the questions asked, the
18 answers provided, and the dates for each; is that right?

19 A. Correct.

20 Q. I want you to look at page 3 of 11, Question
21 No. 8.

22 A. I have it.

23 Q. And I'll read the question. It states: "If a
24 project that is bid into this RFP proposes delivery at
25 Bluffdale, please explain what additional

1 **costs/facilities DEU would consider or factor in to**
2 **determine equivalent distribution system impacts."**

3 **Can you read the response for me?**

4 A. Yes, I will. The answer was: "Depending upon
5 the delivery location, pressure, and volume, the Company
6 would have to uprate or replace portions of its high
7 pressure FL system to allow for the delivery of the 471
8 PSI/MAOP zone."

9 It goes on to say: "This would include the
10 construction of several HP regulator stations to
11 separate" the -- "that pipe from the 354 PSI zone. The
12 cost associated with these improvements would be included
13 in DEU's analysis of the total costs of the option."

14 **Q. In providing this response, did Dominion provide**
15 **the cost to deliver from Bluffdale to the optimal**
16 **delivery location?**

17 A. No, they did not. Nor did they tell me in any
18 detail the facilities that would be required. So I had
19 to -- in our bid, we looked at that on our own to come up
20 with an estimate of the costs to get from Bluffdale to
21 the optimal delivery point.

22 **Q. And in this response that you just read, did**
23 **Dominion indicate that it would need to build a new**
24 **separate line for delivery of gas from Bluffdale to the**
25 **optimal delivery location?**

1 A. No, they did not. The first I heard of that was
2 yesterday, I believe, during Mr. Platt's testimony.

3 Q. And what does this response indicate would be
4 the reinforcements that would be considered?

5 A. It says replacement of portions of the high
6 pressure FL system, which I read to mean pipe and some
7 regulator stations on the existing facility.

8 Q. Okay. Thank you. I'm going to have you turn to
9 what has been marked as Magnum Exhibit 1.04. It is
10 Magnum's bid -- excuse me. It's Dominion Exhibit 1.04
11 that's attached to Mr. Mendenhall's direct testimony.

12 A. Yes, I have it.

13 Q. I'll give everyone else a chance to get there.

14 While we're finding that, I'll ask you to turn
15 to page 23, as marked in the upper right-hand corner.

16 While we're finding that page, do you understand
17 this exhibit to be Magnum's RFP response or its bid in
18 response to the RFP?

19 A. Yes, I do.

20 Q. Okay. I'd ask you to turn to page 23, and
21 that's the page that identifies the footnotes that we
22 looked at earlier associated with Option 1; is that
23 right?

24 A. Yes, it is.

25 Q. And I read that earlier. I'm not going to

1 burden everyone with it again.

2 The question I want to ask is: This Footnote 9
3 references some of the responses to questions and answers
4 that were in the document that we had just looked at,
5 right?

6 A. Correct.

7 Q. I'm going to now ask you to turn to, it's page 2
8 in the upper right-hand corner.

9 A. Do you mean page 2 of 286?

10 Q. Excuse me. Page 9 in the upper right-hand
11 corner. Page 2 at the bottom.

12 Mr. Schultz, I'll ask you to read starting with
13 the second sentence, where it says, "The Magnum
14 proposal." And I'll just ask you to read through the end
15 of the first sentence onto the next page, if you would
16 please.

17 A. All right. "The Magnum Proposal consists of two
18 primary options. Option 1 proposes Magnum construct, own
19 and operate the Magnum Header Extension between the
20 Magnum Header delivery point at Goshen Hub and a delivery
21 point on the DEU system at or near Bluffdale, Utah.
22 Option 1 also includes a provision where Magnum will fund
23 the cost of upgrading DEU's system that will allow for
24 supplies to access the 471 psi [sic] MAOP zone of DEU's
25 system. Option 2 proposes DEU construct, own and operate

1 the DEU System Extension between Magnum Delivery point at
2 Goshen ... and a delivery point on the DEU system ...
3 near Bluffdale, Utah. As discussed in greater detail in
4 Section B of the Magnum Proposal, both Option 1 and
5 Option 2 provide seamless, Firm Wheeling Service
6 (transportation) service combined with a Firm No-Notice
7 Service. This seamless" -- is that enough?

8 **Q. That's enough. And the question I want to ask**
9 **is, is this consistent with Magnum's understanding of the**
10 **bid?**

11 MR. SABIN: Objection. I think we got that
12 excluded this morning. It's not in his testimony. If he
13 wants to -- of course, the Commission can rule on that,
14 but that's not in his direct testimony.

15 CHAIRMAN LEVAR: Could you remind me what the
16 question was? I'm not sure I heard the question right in
17 the context of the objection.

18 MR. RUSSELL: The question that I asked was: Is
19 the statement in Magnum's bid consistent with Magnum's
20 bid, essentially? I mean, this is Magnum's bid.

21 CHAIRMAN LEVAR: That's what I thought.

22 MR. SABIN: My objection was just to he said is
23 this consistent with Magnum's understanding of the bid?

24 MR. RUSSELL: I guess I don't see much of a
25 distinction between those things.

1 MR. SABIN: If your question is, Is this their
2 bid? That's fine. But I don't know what other
3 information you're seeking.

4 MR. RUSSELL: I guess I'll ask for a ruling on
5 the objection first, and then we'll

6 CHAIRMAN LEVAR: I think we have the language in
7 front of us. I'm not sure what an answer to the question
8 adds to that, so.

9 MR. RUSSELL: Okay.

10 Q. (BY MR. RUSSELL:) This is Magnum's bid, right?

11 A. Correct.

12 Q. Okay.

13 MR. RUSSELL: That's all I have. And
14 Mr. Schultz is available for cross-examination.

15 CHAIRMAN LEVAR: Thank you.

16 Mr. Snarr, do you have any questions for
17 Mr. Schultz?

18 MR. SNARR: No, I do not.

19 CHAIRMAN LEVAR: Thank you.

20 Ms. Schmid, do you have any questions?

21 MS. SCHMID: The Division has no questions.

22 Thank you.

23 CHAIRMAN LEVAR: Thank you.

24 Mr. Clark or Mr. Sabin?

25

1 CROSS-EXAMINATION

2 BY MR. SABIN:

3 Q. Hello, Mr. Schultz.

4 Mr. Schultz, when were you retained for this
5 particular project? What date?

6 A. Around August 1st of this year.

7 Q. So your counsel, or counsel for Magnum
8 represented earlier that you did not participate in the
9 RFP process, right?

10 A. That's correct.

11 Q. Is it true you that didn't participate in the
12 RFP discussions internal to Magnum?

13 A. For the development of the RFP --

14 Q. Correct.

15 A. -- response? No, I did not participate in
16 those.

17 Q. So you didn't participate in the drafting or in
18 the preparation of the language?

19 A. Not in the preparation of the drafting or the
20 language.

21 Q. Okay. And who -- if you know, who actually did
22 prepare the language of the RFP? Or who drafted this?

23 A. I'm not exactly sure. I'm sure it was a team of
24 people, different people doing different parts within the
25 Magnum organization.

1 Q. But you don't know who those people would be?

2 A. It would have been under the primary direction
3 of Kevin Holder at the time and then people that worked
4 on his staff.

5 Q. So you don't -- as you sit here today, you
6 haven't talked to any of those people?

7 A. Yeah, I've talked to them.

8 Q. So who are they? That's my question. Who are
9 the people that participated in the drafting of the RFP?

10 A. It would have consisted of Kevin first, but he's
11 no longer there. Christine Wallat.

12 Q. Is Christine still there?

13 A. Yes.

14 Q. Okay.

15 A. And then she's been my primary contact regarding
16 the drafting of and contents of the RFP.

17 And then there were others in Houston and Salt
18 Lake. I couldn't tell you specifically who did what, but
19 there were others. It wasn't just Christine and Kevin
20 that did it alone.

21 Q. Okay. So you can't personally tell us anything
22 about what the language of the RFP means because you
23 weren't in the discussions, you weren't in negotiations
24 internally, you weren't in the drafting, right?

25 A. Well, it's -- what it means to me, it means what

1 it says.

2 Q. I'm fine to see the plain language on the face.
3 I just want to make sure you don't have anything else you
4 could offer?

5 A. Sure I do, but I'm not sure you would allow me
6 to offer it.

7 Q. Well, you didn't sit in any of the discussions
8 over this language, right?

9 A. Prior to it being submitted to you, no, I did
10 not.

11 Q. Okay. Talk to me about Magnum for a second.
12 My understanding is you're not an employee of
13 Magnum?

14 A. That's correct.

15 Q. So who are the people at Magnum that are there
16 that you're talking to about this?

17 A. That are employees at Magnum, Christine and
18 Craig Broussard in particular are the two that are
19 probably 95, maybe even more, percent of who I speak to
20 about the proposal.

21 Q. When did Mr. Holder leave?

22 A. Probably the first week of August, so we
23 overlapped and spoke once or twice on the phone.

24 Q. Would you turn to Exhibit 1.04 with me, please.

25 A. Whose Exhibit 1.04?

1 Q. I'm sorry the one you had -- your counsel had
2 you looking at Exhibit 1.04, which is the RFP.

3 A. Our bid response?

4 Q. Yes.

5 A. Yes. Okay. If you could refer to the page of
6 the response instead of -- that's on the bottom of the
7 page. I don't have the full 289 pages.

8 Q. Okay. Sure. Pages 21 and 22.

9 A. Okay.

10 Q. That's the bottom -- on the bottom of the page.

11 A. Thank you. Yeah.

12 Q. There are a number of individuals listed here on
13 pages 21 and 22.

14 Could you tell me, if you know, how many of
15 these people on this list are still at Magnum? I
16 counted, I think, 13 people listed here.

17 A. There's 10 that I think are employees or
18 long-term consultants with Magnum. And two, Mr. Lanham
19 and Mr. Pennington -- Mr. Pennington is an attorney, and
20 I believe Mr. Lanham is an advisor and has advised on
21 certain issues.

22 Q. Maybe I didn't make myself clear.

23 How many of these people are still with Magnum,
24 still employed?

25 A. That are employees of Magnum?

1 Q. That are still employed at Magnum.

2 A. By Magnum?

3 Q. Mr. Holder is one you just said is no longer
4 there.

5 A. That's right. He is the only person I think
6 that is no longer at Magnum. But, Mr. Lanham and
7 Mr. Pennington are not employees of Magnum.

8 Q. And is Ms. Wallat an employee? Isn't she a
9 contractor?

10 A. She's a consultant.

11 Q. Consultant.

12 A. That's correct.

13 Q. Do you know whether she participated in the RFP
14 process?

15 A. Yes, I believe she did.

16 Q. Do you know what her involvement was?

17 A. It was pretty extensive.

18 Q. You know that only from her?

19 A. And from Craig and put it together. She has
20 been my primary source of information regarding what's in
21 it, why it says what it says.

22 Q. My only question here is: Do you know exactly
23 what her involvement was in the preparation of the RFP or
24 in the discussions internal to Magnum about it?

25 A. Exactly, I do not know.

1 Q. Okay. And anything you would know, you would
2 only know from her?

3 A. No. I've gotten other information about the
4 response in the RFP from Craig Broussard.

5 Q. Sorry. Anything you know about what her
6 involvement was only came from discussions with her?

7 A. Yes.

8 Q. Okay. And she is not a witness here, correct?

9 A. She is not.

10 Q. Would you turn to page 16 of the RFP, please,
11 again, using the bottom page numbers.

12 Do you agree with me that Footnote 9, which is
13 the one your counsel was referencing to, is in the
14 section with regard to the costs of the proposal and the
15 term?

16 A. It's in Section C entitled, "Cost of the
17 Proposal/Term," yes.

18 Q. And what's contained in Footnote 9 is the
19 explanation for how Magnum derived the contract price --
20 or at least that's what -- that's what the language
21 appears to say.

22 Is that your understanding from the language?

23 A. Yes.

24 Q. Okay. Do you -- do you agree with me that as I
25 read this language -- again, I'm not asking for your

1 interpretation, only asking for the language that's
2 there -- that it references that Magnum was allocating
3 certain amounts to the cost of these facilities?

4 A. Can you point to "allocating" for me?

5 Q. Sure.

6 MR. RUSSELL: Cameron, sorry. I read from a
7 portion of it earlier that I don't think Magnum believes
8 is confidential. I think getting into the guts of this
9 footnote probably is. I think there's only one person in
10 the room that probably needs to take off, and that's my
11 other witness.

12 Sorry, Justin.

13 CHAIRMAN LEVAR: Okay. So do we have a motion
14 to turn off the streaming?

15 MR. RUSSELL: Yes, if we could do that.

16 CHAIRMAN LEVAR: If any party objects, please
17 indicate to me.

18 Again, we make a finding that it is in the
19 interest of the public to close this portion of the
20 hearing to the public, and we will discontinue the
21 streaming.

22 (The following testimony is deemed highly confidential
23 and was bound under separate cover.)

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9 (End of highly-confidential testimony.)

10 MR. SABIN: Are we good?

11 CHAIRMAN LEVAR: Are we streaming now? Okay.

12 Thank you.

13 Q. (BY MR. SABIN:) So when Mr. Platt testifies
14 that his analysis shows that the ideal location for a
15 supply reliability option is located in the specific
16 place he's identified it, you don't personally have any
17 basis to challenge that?

18 A. No, I don't agree with that. I could challenge
19 it simply that it's a wide geographic area that included
20 three or four different feeder lines. And I have no idea
21 which one of those lines is the line that is the
22 preference of the utility to connect to. And I
23 haven't -- and Mr. Platt, when he talked about the
24 20-inch line coming from Bluffdale to that point made no
25 representation of where it would interconnect. I just

1 don't know.

2 **Q. Didn't the RFP state that any one of those areas**
3 **of connection is within that zone?**

4 A. But they're a linear feature, sir, and a linear
5 feature is not a point. And so if you were at the very
6 north end of the northernmost linear feature, that has a
7 completely different cost and issues associated building
8 to it than one at the southern end or one a quarter mile
9 away, left or right, or up or down.

10 **Q. Let's try and simplify this.**

11 Do you agree that he identified an area north,
12 south, east, and west that he said if you deliver into
13 that area, it's an optimal delivery location? That was
14 in the RFP. That was stated in your documents.

15 And my question to you now is: You don't have
16 any basis, I take it, to say that he's not right, that
17 that is, in fact, an optimal deliver location to feed the
18 entire system?

19 A. Other than it's not a point. It's a --

20 **Q. It's an area.**

21 A. -- geographic area. So maybe it could be any
22 one of those points, and he's perfectly comfortable with
23 it. That's fine.

24 I don't know what point he took for developing
25 his 20 to 23-mile 16-inch pipeline. He picked. He might

1 have picked the northernmost points that adds cost to me.

2 Q. I understand, sir. I'm literally just looking
3 for the answer to one question, which is --

4 A. Okay. Try again.

5 Q. -- you don't personally -- you can't comment on
6 whether he's right or he's wrong. You just have no way
7 of knowing because you didn't do the system analysis?

8 A. I have no way of knowing.

9 Q. Thank you. I want to talk about the RFP for
10 just a second. I take from your statement you had some
11 issues with the RFP.

12 One of the things you referenced is that other
13 people -- you said Magnum and others object -- you know,
14 didn't get answers to their questions and had problems
15 with the answers that Dominion Energy provided.

16 A. Can you point me to a reference, sir?

17 Q. No, you just said it in your statement. You
18 actually said "Magnum and others."

19 I just want to know, do you know of any other
20 objections to any of our responses other than from you?

21 A. I don't recall saying "Magnum and others." But
22 if I did, it's probably in the context that some other
23 questions that were in Exhibit 1.03 had nonresponsive
24 answers. And if I was the recipient of those, I would be
25 unhappy with those answers.

1 Q. Okay. But you're not specifically saying
2 anybody else objected to the answers?

3 A. No.

4 Q. Okay.

5 A. Again, I don't recall I said that. If I did, I
6 have no firsthand knowledge.

7 Q. And you agree that a bidder, a prospective
8 bidder for the supply reliability resource had to meet an
9 in-service deadline of November 2022?

10 A. That was the request in your RFP.

11 Q. And in Magnum's bid, it identified, did it not,
12 that it could meet that deadline?

13 A. Yes, it did.

14 Q. Okay. Do you know of anybody else that objected
15 to that deadline?

16 A. I'm unaware of anyone else objecting to that
17 time frame. It's just a very tight schedule. And I
18 think as we pointed out that tight schedules can lead to
19 significant cost overruns and poor construction
20 practices. A lot of different things can happen when you
21 try to compress something that a great deal of diligence
22 ought to -- and time and skill ought to be applied.

23 Q. Okay. And do you have any concern about
24 Magnum's ability to do that in a quality fashion?

25 A. No, because we're so far along with our

1 permitting on most of the project, we have a lot of that
2 already underway.

3 Q. So there really isn't a timing concern as far as
4 you're concerned for Magnum?

5 A. For Magnum.

6 Q. Okay. Thank you. Okay.

7 Lastly, I want to just talk about -- your
8 counsel asked questions about RFP responses, and I'd like
9 to have you pull those in front of you. This was Magnum
10 Exhibit 1.3. It's to your direct testimony.

11 A. All right.

12 Q. Were you involved at all in these questions and
13 answers?

14 A. Other than reading them, no.

15 Q. Okay. So you don't know whether the people that
16 actually sent them were satisfied with the answers that
17 were provided?

18 A. I know that the Company was unsatisfied with the
19 answers provided.

20 Q. Okay. Did the Company -- if it were
21 unsatisfied, did the Company ever come back to DEU and
22 say, We want more information than what you've provided
23 to No. 8? Let's just look at No. 8.

24 A. Okay. Let's look at No. 8.

25 Q. Do you know, did Magnum ever come back and say

1 to DEU, Hey, you didn't answer our question. We need
2 more information?

3 A. To my knowledge, the Company didn't go back.
4 But also, the plain, on-the-face reading of the question
5 and the answer, it was a nonresponse. It was very clear
6 what we were looking for, costs and facilities. And it
7 seems to me that if you knew you needed a 20-inch pipe --
8 or a 20 mile pipe 16-inch in diameter, it should have
9 been in there. And if you knew it was going to cost a
10 certain amount of money, it should have been in there.
11 And it wasn't in there.

12 Q. Well, I guess I -- we can all read the language
13 on the page. And that's your interpretation of it. But
14 the people that sent the question didn't think it was an
15 improper answer because they didn't follow up and say,
16 Hey, you didn't answer our question, right?

17 A. You did answer the question, but without the
18 information requested. And so if I would have gone back
19 and asked the question again, it's like, you know, what's
20 the definition of insanity? Doing the same thing over
21 and over again and getting the same answer.

22 The Company was nonresponsive throughout this.
23 And we would have asked again what --

24 Q. Did you submit a DR, saying, Hey, we want more
25 information on this?

1 A. Nope.

2 Q. Okay. Why not?

3 A. Because we asked in a DR. This question is
4 basically a DR, and you didn't answer it.

5 Q. My question is: If you were not satisfied, or
6 if Magnum was not satisfied, there are mechanisms in
7 place in these proceedings to get further information.
8 We do it all the time. You could have asked another
9 question, right, that said, I get your answer here, but I
10 want to know the specific cost associated with this.

11 You could have asked that, right?

12 A. I suppose. I guess we could have.

13 Q. Now, when Magnum intervened in this case, Magnum
14 was provided with the materials relating to its own bid
15 as well as any cost adjustments that were made to that
16 bid by the Company, right?

17 A. No. I'll go through the process if you'd like.

18 Q. Well, on August 12, 2019, you were provided with
19 a version of the filing that had everything related to
20 Magnum unredacted, except some numbers, correct?

21 A. The first -- let me just walk through, because I
22 was reading these -- I was there, and it was coming in.
23 And I was very curious to see how Dominion was evaluating
24 our bid.

25 And the first thing that came in in the redacted

1 testimony was everything about Magnum blacked out. We
2 couldn't -- there was nothing there. So you wouldn't --
3 you weren't sharing any information about my own bid that
4 you were looking at.

5 The next thing that came in when we asked for
6 confidential information was 1.07 from Kelly Mendenhall's
7 testimony. With one column, three numbers about Magnum
8 appeared. And those numbers were exactly the numbers
9 that were in our options in our response to the bid. And
10 I can give those to you, if you'd like.

11 **Q. I've got them right here. We're going to go**
12 **look at them in just a second, all right?**

13 A. Then --

14 **Q. Go ahead.**

15 A. -- we asked again, saying, Why won't you show us
16 what you did to cause you to think our bid --

17 **Q. When did you do that?**

18 A. I don't have the exact timeline, but it was
19 after.

20 **Q. Did you do that, or are you saying what you**
21 **think your counsel did?**

22 A. Well, I didn't request the information. I have
23 not had any direct communication other than what we're
24 having right now in the last couple of days with anyone
25 at Dominion.

1 Q. And --

2 A. So --

3 Q. Sure.

4 A. Let me finish.

5 So then we finally got a table that showed what
6 you were -- you calculated our revenue requirement impact
7 to the Dominion customers would be of our three options.
8 That's what I got. In one of the tabs, there was -- and
9 I -- forgive me. I'm not -- I'm truly trying not to get
10 into the detail that I'm not supposed to talk about.

11 In one of the tabs to that -- in one of the tabs
12 to that, we were able to discern the total cost, and
13 that's the only cost figure I have for anything that
14 Dominion has done, the total cost that Dominion believed
15 it was going to take to get from Bluffdale and then into
16 the optimal delivery point.

17 Q. Let me short circuit this.

18 Before you filed your surrebuttal testimony --
19 let's just say that -- you had all the information you
20 just said, right?

21 A. Yeah, I think that -- yes. And one other piece
22 that was critical. We finally got the total revenue
23 requirement that Dominion felt its LNG proposal was going
24 to impact its customers. So now we had your view of what
25 you thought our options were impacting your customers,

1 and we had your view of what the LNG project cost and how
2 that would impact your customers. So now I could do my
3 cost. You're putting your header on. I could see how
4 you viewed my costs, and I could see how you viewed
5 your LNG costs -- excuse me, not costs, revenue
6 requirement impact on your customers.

7 Q. I'm going to set aside the LNG. To me, that's
8 irrelevant to our line of questioning.

9 A. Okay.

10 Q. Your counsel represented earlier to the
11 Commission that we provided all of these numbers that I
12 went over in 1.07 related to Magnum to you prior to your
13 direct testimony being filed.

14 Do you disagree with that?

15 A. I don't disagree, I don't agree. I just don't
16 remember the exact timing.

17 Q. Fine.

18 Suffice it to say there was no DR asking for any
19 information to tell us -- to let us know you didn't
20 understand the numbers that were disclosed, right?

21 A. I didn't send you a DR.

22 Q. Okay. And the Company provided you with
23 unredacted information, at least as it relates to the
24 Company's analysis of Magnum before your testimony was
25 filed?

1 A. Umm-hmm.

2 Q. And you never sought to tell us or to sit down
3 with us and say, I don't understand these numbers, right?

4 A. But I do understand them, what you've done. And
5 I understand that you said you were going to do that.

6 What I disagree with, and I don't want to get
7 into the detail because I'm afraid I'm treading too close
8 at this moment --

9 Q. Yeah, okay.

10 A. -- but what I disagree with is your number. And
11 I believe that I could live with my number.

12 Q. Understand. Understand. I think that's all I
13 have. Thank you.

14 CHAIRMAN LEVAR: Thank you.

15 Any redirect, Mr. Russell?

16 MR. RUSSELL: Yeah, very briefly.

17

18 REDIRECT EXAMINATION

19 BY MR. RUSSELL:

20 Q. Mr. Sabin asked you a question about whether --
21 he had talked to you about some of the questions and
22 answers related to the RFP process, your Exhibit 1.3.

23 Do you recall that?

24 A. Yes.

25 Q. His questions related to whether Magnum had

1 received satisfactory responses to his questions.

2 Do you recall that?

3 A. Yes.

4 Q. He then asked you whether the Company had
5 submitted a data request in the context of this docket
6 about those answers.

7 Do you recall that?

8 A. Yes.

9 Q. Would a data request submitted in the context of
10 this docket have alleviated any of your concerns about
11 not getting the information prior to submitting your bid
12 in response to the RFP?

13 A. No, I don't think so.

14 Q. Okay. Thank you. That's all I have.

15 CHAIRMAN LEVAR: Okay.

16 Mr. Snarr, any questions about the redirect?

17 MR. SNARR: No questions.

18 CHAIRMAN LEVAR: Ms. Schmid?

19 MS. SCHMID: No questions.

20 CHAIRMAN LEVAR: Mr. Sabin?

21 MR. SABIN: No, thank you.

22 CHAIRMAN LEVAR: Commissioner Clark, any
23 questions for Mr. Schultz?

24 COMMISSIONER CLARK: No questions. Thank you
25 for your testimony.

1 CHAIRMAN LEVAR: Commissioner White?

2 COMMISSIONER WHITE: No questions, thank you.

3 EXAMINATION

4 BY CHAIRMAN LEVAR:

5 Q. Yeah, I think I have -- just to make sure our
6 record and transcript is correct, I thought I heard a
7 phrase in your summary, but I just wanted to make sure it
8 was accurate, that I was hearing correctly, or I didn't
9 hear something else.

10 You were referring to a comparison between
11 Magnum's options they bid and the LNG to be owned by
12 Dominion. I may have misheard.

13 Did I hear you use the phrase "questionable
14 utility"? Or did I mishear that?

15 A. I think in that context, I think that it was
16 meant that the LNG plant may not have as much utility to
17 the utility as they think it has.

18 Q. So the term "questionable" is intending to refer
19 to the facility?

20 A. Yes.

21 Q. Okay. That's my only question, then. Thank
22 you.

23 A. Thank you.

24 CHAIRMAN LEVAR: Thank you for your testimony
25 today.

1 Mr. Russell.

2 MR. RUSSELL: And on behalf of Utah Association
3 of Energy Users, I'll call Justin Bieber to the stand,
4 please.

5 CHAIRMAN LEVAR: Good afternoon, Mr. Bieber.

6 THE WITNESS: Good afternoon.

7 CHAIRMAN LEVAR: Do you swear to tell the truth?

8 THE WITNESS: I do.

9 CHAIRMAN LEVAR: Thank you.

10

11

JUSTIN BIEBER,

12

having been first duly sworn,

13

was examined and testified as follows:

14

DIRECT EXAMINATION

15

BY MR. RUSSELL:

16

Q. Mr. Bieber, state your full name and business

17

address for the record, please.

18

A. Yes. My name is Justin Bieber. My address is

19

215 South State Street, Salt Lake City.

20

Q. And can you tell me who -- how it is you're

21

associated with Utah Association of Energy Users?

22

A. Yes. I'm a consultant for -- oh, sorry. I'm a

23

consultant for Energy Strategies. And Energy Strategies

24

represents Utah Association of Energy Users in a number

25

of different matters.

1 Q. Have you testified in front of this Commission
2 previously?

3 A. No, I have not.

4 Q. Have you testified in front of state utility
5 commissions elsewhere?

6 A. Yes, I have.

7 Q. And is that summarized in your testimony?

8 A. Yes.

9 Q. Okay. Then we don't need to go over it again.
10 Did you submit prefiled rebuttal testimony in
11 this docket marked as UAE Exhibit 1.0R?

12 A. Yes, that is correct.

13 Q. Okay. And there was also an exhibit to that,
14 was there not?

15 A. Yes, that's correct.

16 Q. Is it Exhibit 1.1R?

17 A. Hold on. I'm looking for it just to make sure
18 how it was -- yes 1.1R.

19 Q. Okay. And do you adopt that as your testimony
20 in this proceeding?

21 A. Yes, I do.

22 Q. Do you have any changes or revisions to make to
23 that prefiled testimony?

24 A. No, I do not.

25 MR. RUSSELL: Okay. At this point, I'll move

1 for the admission of Mr. Bieber's rebuttal testimony.

2 CHAIRMAN LEVAR: If any party objects to that
3 motion, please let me know.

4 I'm not seeing any objections, so it's granted.

5 MR. RUSSELL: Thank you.

6 (Exhibits UAE 1.0R and 1.1R were
7 admitted into the record.)

8 Q. (BY MR. RUSSELL:) And do you have a -- have you
9 prepared a summary of your testimony?

10 A. Yes, I have.

11 Q. Okay. If you could go ahead and provide that,
12 please.

13 A. UAE did not file direct testimony in this docket
14 and has not taken a position regarding preapproval of
15 DEU's proposed LNG facility.

16 In its application, DEU was clear that its
17 proposed LNG facility is only being planned to serve
18 sales customers. However, the DPU testifies that if the
19 proposed LNG facility is approved, costs for the proposed
20 facility should be allocated to transportation customers.

21 In my rebuttal testimony, I recommend that if
22 the proposed LNG facility is approved, that the costs
23 should not be allocated to transportation customers. The
24 cost of the proposed facility should be allocated in
25 accordance with cost causation principles.

1 The Company has confirmed that the proposed
2 facility has been planned for the sole benefit of its
3 firm sales customers, and transportation customers are
4 responsible for their own gas supply. Therefore, it is
5 not appropriate or consistent with cost causation
6 principles to allocate cost for the facility to
7 transportation customers.

8 Further, if a transportation customer does
9 exceed its scheduled supply during a supply shortage, it
10 will incur substantial penalties that will be used to
11 offset the costs for firm sales customers.

12 In my rebuttal testimony, I also state that this
13 docket is not the appropriate forum for discussion of or
14 any rulings on the allocation of costs for the proposed
15 LNG facility. Supplier non-gas costs, including the cost
16 of the proposed facility, should be allocated through a
17 general rate case, not in this instant proceeding.

18 In the surrebuttal testimony, the DPU witness,
19 Mr. Neale, agrees with me on this point, that supplier
20 non-gas costs should be allocated through a general rate
21 case.

22 **Q. Thank you.**

23 MR. RUSSELL: And Mr. Bieber is available for
24 cross-examination.

25 CHAIRMAN LEVAR: Ms. Clark or Mr. Sabin, do

1 either of you have any question?

2 MS. CLARK: We have nothing, thanks.

3 CHAIRMAN LEVAR: Okay. Ms. Schmid?

4 MS. SCHMID: The DPU has no questions. Thank
5 you.

6 CHAIRMAN LEVAR: Thank you.

7 Mr. Snarr?

8 MR. SNARR: Office of Consumer Services has no
9 questions.

10 CHAIRMAN LEVAR: Thank you.

11 Commissioner White?

12 COMMISSIONER WHITE: No questions. Thank you.

13 CHAIRMAN LEVAR: Commissioner Clark.

14 COMMISSIONER CLARK: No questions. Thank you.

15 CHAIRMAN LEVAR: I don't have any.

16 Thank you for your testimony this morning.

17 THE WITNESS: Okay. Thank you.

18 CHAIRMAN LEVAR: Does anyone have anything
19 further before we adjourn?

20 MR. SABIN: I don't think so. Not from DEU.

21 CHAIRMAN LEVAR: I'm not seeing any other
22 indications.

23 MS. SCHMID: Nothing further from the Division.
24 Thank you.

25 CHAIRMAN LEVAR: Okay. In that case, we have

1 the 180-day deadline in this docket, and we will take
2 this matter under deliberation and issue something before
3 that deadline. We're adjourned.

4 (The hearing concluded at 1:59 p.m.)

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1 HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE

2 Litigation Services is committed to compliance with applicable federal

3 and state laws and regulations ("Privacy Laws") governing the

4 protection and security of patient health information. Notice is

5 hereby given to all parties that transcripts of depositions and legal

6 proceedings, and transcript exhibits, may contain patient health

7 information that is protected from unauthorized access, use and

8 disclosure by Privacy Laws. Litigation Services requires that access,

9 maintenance, use, and disclosure (including but not limited to

10 electronic database maintenance and access, storage, distribution/
11 dissemination and communication) of transcripts/exhibits containing

12 patient information be performed in compliance with Privacy Laws.

13 No transcript or exhibit containing protected patient health

14 information may be further disclosed except as permitted by Privacy

15 Laws. Litigation Services expects that all parties, parties'

16 attorneys, and their HIPAA Business Associates and Subcontractors will

17 make every reasonable effort to protect and secure patient health

18 information, and to comply with applicable Privacy Law mandates,

19 including but not limited to restrictions on access, storage, use, and

20 disclosure (sharing) of transcripts and transcript exhibits, and

21 applying "minimum necessary" standards where appropriate. It is

22 recommended that your office review its policies regarding sharing of

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