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DEPARTMENT OF COMMERCE  
Office of Consumer Services

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To: The Public Service Commission of Utah  
From: The Office of Consumer Services  
Michele Beck, Director  
Alex Ware, Utility Analyst  
Date: September 20, 2019  
Subject: Dominion Energy Utah, Docket Nos.  
19-057-18 – 191 Pass- Through Application  
19-057-19 - Adjustment to the Daily Transportation Imbalance Charge  
19-057-20 – Infrastructure Rate Adjustment  
19-057-21 - Conservation Enabling Tariff  
19-057-22 – Low Income Assistance

## INTRODUCTION

On August 30, 2019, Dominion Energy Utah (DEU or Company) filed the five above captioned dockets. On September 10, 2019 the Public Service Commission of Utah (Commission) issued a scheduling order establishing that comments be filed on September 17, 2019 and reply comments on September 20, 2019. On September 13, 2019, the Office of Consumer Services (Office) on behalf of the Office, DEU, and the Division of Public Utilities (Division), submitted a Stipulated Motion for a Scheduling Change for the Filing of Legal Comments and for Expedited Treatment. Subsequently the Commission modified its scheduling order to allow that Legal Comments be filed on September 20 with Reply Legal Comments on September 23.

The Office submits these reply comments in response to the comments filed by the Division on September 17, 2019. The Office is separately submitting its Legal Comments.

## DISCUSSION

The Division recommended that the Commission should take the following actions:

- For Dockets 19-057-18 (the 191 pass-through application), 19-057-19 (Adjustment to the Daily Transportation Imbalance Charge), and 19-057-20 (Infrastructure Rate Adjustment), “approve the rates as proposed by Dominion Energy Utah (Dominion or Company), despite their being interim rates of the type addressed in a recent Utah Supreme Court case.”
- For Dockets 19-057-21 (Conservation Enabling Tariff) and 19-057-22 (Low Income Assistance), approve the rates as permanent since they do not require further audit.
- Open a proceeding to establish procedures to bring the 191 Account into compliance with Utah Code Section 54-7-13.5

The Office agrees with the Division’s recommendations for Dockets 19-057-21 (Conservation Enabling Tariff) and 19-057-22 (Low Income Assistance) and takes no position with respect to 19-057-19 (Adjustment to the Daily Transportation Imbalance Charge). The Office will further address Dockets 19-057-18 and 19-057-19 below, and will hereinafter refer to them generally as the 191 Account (or pass-through dockets) and Infrastructure Tracker.

#### *Infrastructure Tracker*

The Office does not believe that any party is asserting that the Infrastructure Account is implicated by the recent Supreme Court ruling. While we do not support this tracker continuing its operations as currently designed, we will advocate our positions for change in the general rate case proceeding (19-057-02) currently underway. The Office takes no further position on the Infrastructure Tracker in this proceeding.

#### *191 Account*

The Office is separately filing Legal Comment in this proceeding that that the recent Supreme Court decision on interim rates in the EBA setting does not apply to the interim rates in the 191 Account. In addition, the Office offers this reply to the Division’s comments on the issues.

The Division specifically requests that the Commission “open a proceeding to **establish procedures** to bring the 191 Account into compliance with Utah Code Section 54-7-13.5”. While the Office takes a different position in Legal Comment with respect to the implications of the recent Supreme Court case, the Office specifically agrees that a separate docket should be opened to review the 191 Account’s procedures.

The Office does not support the current procedures employed in pass-through cases, specifically the filing of comments and reply comments within two to three weeks after DEU makes its filing, followed by a hearing to approve interim rates, then ultimately, after a Division audit and typically several years later, Commission approval of final rates. In fact, the Office asserts that the use of interim and final rates do not seem appropriate or reflective of the actual process in the 191 Account.

For example, the most recent Commission order approving final rates in the 191 Account is from Docket 15-057-04 addressing the fiscal year of July 2014 through June 2015. The final order was issued on February 12, 2019 more than three- and one-half years after the May 28, 2015 bench order approving interim rates in that docket<sup>1</sup>. Seven additional pass-through filings changed rates for the 191 Account in between interim and final rates in Docket 15-057-04. It is not clear how “final” rates from periods several years past relate in a practical sense to the actual revenue being collected from customers in real time<sup>2</sup>.

Significantly, DEU’s tariff does not envision the current procedures used in pass-through dockets. DEU Tariff 2.06 Gas Balancing Account Adjustment Provision governs these filings. This tariff:

- establishes applicability,
- provides details about the balancing account accrual including applicable calculations and Uniform System of Accounts details,
- specifies that the commodity cost rate be determined no less frequently than twice per year,
- specifies that the supplier non-gas rate be determined in general rate cases,
- specifies how CO2 costs are recovered from FT-2, IT, and IT-S rate schedules,
- provides the standard for affiliate expense,
- requires that DEU provide a 60-day notice of an inclusion of new account and other material changes,
- describes audit procedures allowing for proposed adjustments “no later than one year after the end of the fiscal year being audited, or for Wexpro-related adjustments, no later than one year after completion of the applicable third-party monitors’ audits”,
- requires disclosure of certain affiliate considerations,
- specifies a process by which the surcharge rate be determined at least annually, and
- establishes a two-way carrying charge.

The tariff makes no mention of interim and final rates, nor does it provide any additional process guidance. The Office has not fully analyzed whether current practice precisely matches the tariff language for surcharge rate determination. However, it is clear that the Commission has not required strict adherence to certain provisions in the tariff, such as the details surrounding audit procedures<sup>3</sup>.

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<sup>1</sup> The February 12, 2019 order also set final rates in Docket 14-057-22, which were approved on an interim basis on December 8, 2014.

<sup>2</sup> Also, in reviewing these dockets, the Office is unclear how the audit of one fiscal year results in final rates for a particular docket. It seems likely that Docket 15-057-04 also related to the following fiscal year since the next pass-through docket was not filed until September 2, 2015.

<sup>3</sup> The Office acknowledges that efforts are underway to bring the auditing process up-to-date and timelier. For example, see the following two memos filed by the Division in response to Commission action requests: <https://pscdocs.utah.gov/gas/17docs/1705707/297783CommDPU11-6-2017.pdf> and <https://pscdocs.utah.gov/gas/15docs/1505711/309287DPUCmnts7-23-2019.pdf>

Clearly, the 191 Account operates very differently than Rocky Mountain Power's (RMP) Energy Balancing Account (EBA). The EBA tariff specifically addresses a time period for interim and final rates. RMP's base rates, set in the general rate case, contain base net power costs and the EBA evaluated actual, after-the-fact costs and sets rates to collect the difference from what was collected in base rates and actual costs. In the short time the EBA has been in operation as compared to DEU's pass-through dockets, much more significant adjustments have routinely been at issue both in terms of absolute dollars and percentage of revenue requirement.

OCS is convinced that new procedures can be established for reviewing and amortizing the 191 Account that maintain the public interest and proper standard of review without requiring wholesale changes to the 191 Account review process. Regardless of the Commission's ruling on Legal Comment, the Office asserts that it is in the public interest to re-evaluate the procedures being used to implement DEU's Tariff 2.06 Gas Balancing Account Adjustment Provision and consider potential changes to the tariff language. The Office supports a tariff that maintains meaningful auditing processes, strives for reasonably stable rates minimizing rate shocks, minimizes overall costs to customers to the extent practicable, and provides DEU reasonable cash flow.

#### **RECOMMENDATION**

Open a docket to evaluate potential process and tariff changes governing the pass-through dockets.

cc: Jenniffer N. Clark, Dominion Energy Utah  
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