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dba Dominion Energy Utah*

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>IN THE MATTER OF THE APPLICATION OF DOMINION ENERGY UTAH TO EXTEND SERVICE TO EUREKA, UTAH</p>	<p>Docket No. 19-057-31</p> <p>EXPEDITED MOTION FOR COMMISSION CLARIFICATION REGARDING SUBMISSION BY ROCKY MOUNTAIN PROPANE</p>
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Pursuant to Utah Code Ann. § 63G-4-206(d) through (f), and Utah Admin. Code R746-1-108 and R746-1-301, Questar Gas Company dba Dominion Energy Utah (Company, DEU, or Dominion Energy) respectfully moves the Public Service Commission of Utah (Commission) to provide clarification concerning the Cost Benefit Analysis of Expanding Natural Gas Pipeline Capacity to Eureka, Utah Area (Cost Benefit Analysis) submitted by Rocky Mountain Propane (Rocky Mountain) in this docket on June 24, 2020. Specifically, Dominion Energy requests that

the Commission clarify whether the Cost Benefit Analysis will be considered as part of the record in this docket or whether it will be excluded from consideration.

The Company files this Motion so that it can know whether it needs to respond to the Cost Benefit Analysis. This Motion is necessitated by the fact that, as explained in detail below, the Cost Benefit Analysis is not pre-filed testimony, was not properly submitted as testimony in compliance with relevant statutes and the Scheduling Order, and purports to provide entirely new material at the rebuttal stage of this docket that should have been disclosed, if at all, in the direct testimony phase of this proceeding. Because surrebuttal testimony under the Amended Scheduling Order in this matter is due July 8, 2020, Dominion Energy requests that the Commission treat this Motion in an expedited fashion.

BACKGROUND

The Company filed its application and direct testimony in this docket on December 3, 2019, as well as a related application and testimony in Docket No. 19-057-32. In the Application in this docket, DEU sought approval of its decision, pursuant to Utah Code Ann. § 54-17-401, et seq., to (i) construct and develop rural infrastructure to expand natural gas service to Eureka, Utah, (ii) use a Eureka expansion tracking mechanism to track construction costs, and (iii) obtain a Certificate of Public Convenience and Necessity. In Docket No. 19-057-32, DEU sought Commission approval to construct gas service lines to individual customer locations within Eureka, as well as the recovery of the associated costs through a GSE rate.

The Commission's original Scheduling Order in this matter set the deadline for non-applicant direct testimony for March 18, 2020, and the intervention deadline for April 2, 2020. On April 2, 2020, Rocky Mountain filed a consolidated petition to intervene in this matter as well as in Docket No. 19-057-32. On April 7, 2020, DEU filed a motion seeking leave to

withdraw its application in Docket No. 19-057-32 and to amend its application in this matter (“Motion to Amend”). The Motion to Amend was prompted by the passage of Utah H.B. 129, Natural Gas Amendments (HB 129), which amended the definition of “rural gas infrastructure development” in Utah Code Ann. § 54-17-401 to include “the acquisition, planning, development, extension, expansion, and construction of natural gas utility facilities to serve previously unserved rural areas of the state.” The new legislation eliminated the need for two dockets, and DEU sought to amend its application in this docket to include a request for pre-approval of the construction of service lines and the recovery of the associated costs through the rural expansion rate adjustment tracker. DEU also sought in its motion to have the Commission approve the following revised schedule:

ITEM	DEADLINE/DATE/TIME/LOCATION
Amended Application and Supportive Supplemental Testimony (Dominion Energy Utah)	April 15, 2020
Supplemental Direct Testimony Pertaining to Company’s Supplemental Direct Testimony	May 27, 2020
Intervention Deadline	May 29, 2020
Rebuttal Testimony, all parties, all issues	June 24, 2020
Surrebuttal testimony, all parties, all issues	July 8, 2020
Hearing	July 16, 2020 at 9:00 a.m.

On April 24, 2020, Rocky Mountain’s petition to intervene was granted. Rocky Mountain elected not to submit direct testimony either by the original March 18, 2020 deadline or by the May 27, 2020 deadline for supplemental direct testimony.

On June 24, 2020, Rocky Mountain filed the Cost Benefit Analysis. The Cost Benefit Analysis is not pre-filed testimony, was not submitted under oath, and in substance purports to

be a narrative recitation of an analysis of costs and benefits of expanding natural gas service to Eureka, conducted by Gavin Roberts, Ph.D., a professor at Weber State University. It is dated May 20, 2019. The Company assumes the date should be May 20, 2020. In any event, the Cost Benefit Analysis was completed prior to the deadline for supplemental direct testimony and more than a month before the date it was finally submitted to the Commission.

ARGUMENT

Under applicable statutes and rules, the Cost Benefit Analysis is not properly part of the record in this matter. Utah Code Ann. § 63G-4-206(1) provides, in relevant part:

- (1) Except as provided in Subsections 63G-4-201(3)(d)(i) and (ii), in all formal adjudicative proceedings, a hearing shall be conducted as follows:
.....
 - (d) The presiding officer shall afford to all parties the opportunity to present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence.
 - (e) The presiding officer may give persons *not a party* to the adjudicative proceeding the opportunity to present oral or written statements at the hearing.
 - (f) *All testimony presented at the hearing, if offered as evidence to be considered in reaching a decision on the merits, shall be given under oath.*

(Emphasis added). In addition, Utah Admin. Code R746-1-108 states:

- (1) A person that wishes to intervene in a proceeding shall comply with Utah Code Section 63G-4-207.
- (2) A person that is granted intervenor status:
 - (a) *shall comply with the scheduling order* issued in the docket; and
 - (b) *may not file public comments* unless the Commission's scheduling order provides for the filing of comments by a party.

(Emphasis added).

Here, Rocky Mountain's petition to intervene was granted in April 2020. Under the above provisions, Rocky Mountain, as a party, is not permitted to submit public comments or written statements for consideration by the Commission in this docket. Rather, its position must be set forth in *pre-filed testimony* that must be provided under oath and in compliance with applicable law and rules. Despite this, Rocky Mountain elected not to file pre-filed direct testimony. And now, it has filed the Cost Benefit Analysis, which is not pre-filed testimony, was not provided under oath, and presents material that should have been presented, if at all, at the direct testimony phase of this proceeding, not reserved for the rebuttal stage.

Given this, the Company does not believe the Cost Benefit Analysis should be part of the record in this proceeding and should not be considered by the Commission. However, if the Commission is inclined nonetheless to consider the Cost Benefit Analysis as it reviews the Company's application in this docket, that information is necessary for Dominion Energy to know so that it can have a fair opportunity to respond to any material in the Cost Benefit Analysis as part of its pre-filed surrebuttal testimony in this matter.

CONCLUSION

For the foregoing reasons, the Dominion Energy requests that the Commission provide clarification concerning whether or not the Cost Benefit Analysis will be considered as part of the record in this docket, so that the Company can know whether it needs to respond to the Cost Benefit Analysis.

RESPECTFULLY SUBMITTED this 29th day of June 2020.

/s/ Cameron L. Sabin

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing EXPEDITED MOTION FOR COMMISSION CLARIFICATION REGARDING SUBMISSION BY ROCKY MOUNTAIN PROPANE was served upon the following persons by email on June 29, 2020:

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