



SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

State of Utah

Department of Commerce Division of Public Utilities

MARGARET W. BUSSE
Executive Director

CHRIS PARKER
Director, Division of Public Utilities

Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director-

Artie Powell, Manager

Doug Wheelwright, Utility Technical Consultant Supervisor

Eric Orton, Utility Technical Consultant

Date: February 18, 2022

Re: **Docket No. 19-057-31**, Request of Dominion Energy Utah to Extend Natural Gas Service to Eureka, Utah. Submission of Permits.

Recommendation (Acknowledge with Recommendation)

The Division of Public Utilities (Division) recommends that the Public Service Commission of Utah (Commission) acknowledge Dominion Energy Utah's (Dominion or Company) filing made on January 10, 2022. The Division also recommends the Commission require Dominion provide additional documentation. The Commission's order dated August 27, 2020 (Order)¹, directed the Company to provide "documentation showing that it has obtained any consent, franchise agreement, or any other permit required by the city of Eureka, or any other local governmental entity having jurisdiction over the project "as well as other documentation. The Division recognizes that Dominion filed three permits and a franchise agreement, but according to the list

¹ Order Request of Dominion Energy Utah to Extend Natural Gas Service to Eureka, Utah 19-057-31 August 27, 2020.

provided by Dominion², the Division believes those documents do not provide the entirety of the government issued permits that Dominion represented were required nor what the Commission expected or ordered.

Issue

The Commission's Order granted Dominion a Certificate of Public Convenience and Necessity (CPCN) to serve the Eureka area "subject to DEU filing, as soon as practicable, documentation showing that it has obtained any consent, franchise agreement, or any other permit required by the city of Eureka, or any other local governmental entity having jurisdiction over the project."³ What has been submitted thus far is the Franchise Agreement and "three (3) permits related to the Company's expansion into the town of Eureka, Utah" stating that it has "obtained certain permits related to constructing that expansion." The three permits that were provided were: 1) "Utah General Permit for Stormwater Discharges from Construction Activities UPDES Permit No. UTRC000000, Stormwater Pollution Prevention Plan", 2) "UDOT Encroachment Permit No. 113374", and 3) "Eureka City Excavation Permit No. EUR-05-13-21-885"⁴.

Dominion stated in its November 17, 2020 filing that "immediately prior to, or even during construction, it will be required to obtain permits from the Utah Department of Transportation, conditional use permits, building permits, road cut permits and storm water permitting"⁵ and "may also be required to obtain permits to dispose of contaminated soils encountered during

² In the Matter of the Application of Dominion Energy Utah to Extend Service to Eureka, Utah. In the Matter of the Application of Dominion Energy Utah for Approval to Implement a GSE Rate to Provide Services to Customers in Eureka, Utah. Submission of Franchise Agreement, Dated November 17, 2021, page 2

³ Request of Dominion Energy Utah to Extend Natural Gas Service to Eureka, Utah, Order dated August 27, 2020. Order, 4C, page 31.

⁴ In the Matter of the Application of Dominion Energy Utah to Extend Service to Eureka, Utah, Submission of Permits, filed January 10, 2022. Including DEU Exhibit No's 1, 2 and 3.

⁵ In the Matter of the Application of Dominion Energy Utah to Extend Service to Eureka, Utah. In the Matter of the Application of Dominion Energy Utah for Approval to Implement a GSE Rate to Provide Services to Customers in Eureka, Utah. Submission of Franchise Agreement, Dated November 17, 2021, page 2

construction.”⁶ The Company also declared that it “will submit documentation evidencing its receipt of such permitting when it does so.”⁷ In Docket No. 21-057-30 Dominion’s Exhibit No.1.3 identifies that nearly all the approved funds have been expended and the project (speaking of the Eureka Rural Expansion project in this docket) is nearly complete. The Company has not provided the supporting documentation as anticipated or as outlined by the Company for all identified potential permits or other permissions. Additionally, in its Reply Comments filed on January 20, 2022, Dominion stated that it “has completed construction of the high-pressure and intermediate-high-pressure main pipelines required to serve Eureka customers. Those main lines are in-service. The Company has also completed some service lines to customer premises and those customers are receiving natural gas.”⁸ Therefore, the Division surmises that the majority, if not all the permits should have been received and submitted to the Commission. The Division notes that on page 24 of the Order it specifies that the Commission intends “to closely monitor the implementation of the project...”. With that in mind, the Division offers this response to the Commission’s Action Request.

Background

On November 21, 2019, Dominion submitted a notice of its intent to file “a voluntary request for approval of a resource decision under Utah Code Ann. § 54- 17-401 et seq. (“Voluntary Resource Decision Act”), to expand its natural gas distribution system to the rural community of Eureka, Utah”. On December 3, 2019, Dominion filed its application, testimony, and exhibits. The Division and Office of Consumer Services (Office) filed testimony and other parties intervened during the proceeding. On August 27, 2020, the case was completed, and the

⁶ In the Matter of the Application of Dominion Energy Utah to Extend Service to Eureka, Utah. In the Matter of the Application of Dominion Energy Utah for Approval to Implement a GSE Rate to Provide Services to Customers in Eureka, Utah. Submission of Franchise Agreement, Dated November 17, 2021, page 2

⁷ In the Matter of the Application of Dominion Energy Utah to Extend Service to Eureka, Utah. In the Matter of the Application of Dominion Energy Utah for Approval to Implement a GSE Rate to Provide Services to Customers in Eureka, Utah. Submission of Franchise Agreement, Dated November 17, 2021, page 2

⁸ 21-057-30 Dominion Energy Utah’s Reply Comments. Application of Dominion Energy Utah to Change the Rural Expansion Rate Adjustment Tracker, Page 2

Commission issued its Order. On November 17, 2020, Dominion submitted its franchise agreement to the Commission as directed.

On December 27, 2021, Dominion filed an application (Docket No. 21-057-30) to implement the Rural Expansion Tracker Mechanism and recover its revenue requirement associated with the Eureka rural expansion project. The Commission issued its order approving the requested rates on an interim basis on January 28, 2022.

On January 10, 2022, Dominion filed what it termed as its “Submission of Permits” referenced above. On January 25, 2022, the Division received an Action Request from the Commission directing it to Review for Compliance and Make Recommendations regarding Dominion Energy Utah’s Submission of Permits with a due date on or before February 24, 2022.

Discussion

The Commission’s Order states that approval of its CPCN is “subject to DEU filing, as soon as practicable, documentation showing that it has obtained any consent, franchise agreement, or any other permit required by the city of Eureka, or any other local governmental entity having jurisdiction over the project.”⁹ The Commission did not delineate what specifically these government “permits”, “consent” or “agreement” entailed. However, as discussed above, Dominion mentioned five government permits it potentially would be required to obtain, and one that it may need to obtain. In summary, there are at least five government-issued permits it will need to file, and perhaps six, that the Commission should expect to receive as specified above “as soon as practicable”.

In the January 10, 2022, filing, the Company provided three documents. The first is labeled Exhibit #1 and is entitled: “Utah General Permit for Storm Water Discharges from Construction Activities UPDES Permit No. UTRC00000, Storm Water Pollution Prevention Plan” (SWPPP).

⁹ Request of Dominion Energy Utah to Extend Natural Gas Service to Eureka, Utah, Order dated August 27, 2020. Order, 4C, page 31.

Although not the exact title, this exhibit is apparently the permit listed above and called the “Storm Water” permit.

Exhibit #2 is labeled “UDOT Encroachment Permit No. 113374”. This document appears to be the Road Cut permit mentioned.

Exhibit #3 is labeled as “Eureka City Excavation Permit No. EUR-05-13-21-885” and is an Excavation Permit issued by Eureka City. This permit is not listed as a “required” permit and does not fall within the category of “may also be required to obtain permits to dispose of contaminated soils encountered during construction” specified. Therefore, this must be an additional permit not mentioned in the six listed above. Oddly enough, included as page two of this exhibit is an incomplete building permit application.

Therefore, it appears that Dominion has provided two of the five permits it said were required government permits for construction of this project. Likewise, Dominion has not identified if it encountered any contaminated soil or if a permit to dispose of contaminated soil was necessary. Dominion did file an excavation permit, which it did not mention in either its required permits list or its “may also be required to obtain” list.

Based on Dominion’s statement that these permits are required “immediately prior to, or even during construction” Dominion should have already acquired and provided these permits to the Commission since much of the work is already completed and cost recovery has been approved.¹⁰ The Division believes that Dominion has not provided or needs to clarify to the Commission the documentation offered or required.

Finally, on page 22 of the Commission’s Order it states: “Additionally, we will hold DEU to its commitment to submit more information about its selection process including completed surveys (rather than the blank survey in DEU Exhibit 1.04), clear messaging to potential customers about

¹⁰ Docket No. 21-057-30

the safety aspects of appliance conversions, and all other information that DEU committed to file in response to DPU's initial concerns." The additional information specified has not been provided to date.

Conclusion

The November 17, 2021, and the January 10, 2022, filings are only a partial fulfillment of the Company's commitment and the Commission's Order. While some documents have been provided, some of the identified permits have not been submitted to the Commission as ordered. Additionally, the Company has not provided the additional information specified from page 22 of the Order. The Division recommends the Commission acknowledge the November 17, 2021, and the January 10, 2022, filings and recommend that the Commission order Dominion to provide copies of the additional permits and other documentation within 30 days or explain why the requested documentation has not or cannot be provided.

Cc: Kelly Mendenhall, Dominion Energy Utah
Michele Beck, Office of Consumer Services