Jenniffer Nelson Clark (7947)
Dominion Energy Utah
333 S. State Street
P.O. Box 45433
Salt Lake City, UT 84145-0433
(801) 324-5392
(801) 324-5935 (fax)
Jenniffer.Clark@dominionenergy.com

Cameron L. Sabin (9437)
Stoel Rives LLP
201 South Main Street, Suite 1100
Salt Lake City, UT 84111
(801) 578-6946
(801) 578-6999 (fax)
cameron.sabin@stoel.com

Attorneys for Questar Gas Company
dba Dominion Energy Utah

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION OF QUESTAR GAS COMPANY TO MAKE TARIFF MODIFICATION TO CHARGE TRANSPORTATION CUSTOMERS FOR PEAK HOUR SERVICES	Docket No. 17-057-09

POST-HEARING BRIEF OF QUESTAR GAS COMPANY DBA DOMINION ENERGY UTAH

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES ii

INTRODUCTION 1

RELEVANT PROCEDURAL BACKGROUND 2

ARGUMENT 9

I. A DECISION ON THE PRUDENCE OF THE CONTRACT CAN AND SHOULD BE MADE IN THIS PROCEEDING 10

- A. The Commission Has Broad Discretion to Determine the Prudence of the Contract in This Docket 10
- B. The Prudence of the Contract Is Ripe for Decision 12
  - 1. The Division Has Had Ample Opportunity to Assess the Need for the Contract 12
  - 2. The Commission Should Make a Prudency Determination on the Evidence in the Record Before It 15

II. THE EVIDENCE DEMONSTRATES THAT THE CONTRACT IS NECESSARY AND THAT THE COMPANY'S DECISION TO ENTER INTO THE CONTRACT WAS PRUDENT 16

- A. The Evidence Demonstrates a Clear Need for Peak-Hour Services 17
- B. Without Peak-Hour Services, Customers Would Be Exposed to Unreasonable Risk 21
- C. The Contract Is the Most Reasonable and Cost-Effective Means of Addressing the Peak-Hour Supply Deficiency 22

III. THE CONTRACT COSTS CAN AND SHOULD BE ALLOCATED TO TRANSPORTATION CUSTOMERS IN THIS MATTER 25

IV. THE EVIDENCE DEMONSTRATES THAT THE COMPANY'S PROPOSED ALLOCATION IS JUST AND REASONABLE 31

CONCLUSION 34

94545781.1 0051831-00001

TABLE OF AUTHORITIES

Page

Cases

In the Matter of the Application of Questar Gas Company to Make Tariff Modifications to Charge Transportation Customers for Use of Supplier Non-Gas Services, Docket No. 14-057-31 (Nov. 9, 2015) 11, 27, 28

Kearns-Tribune Corp. v. Pub. Serv. Comm'n, 682 P.2d 858 (Utah 1984) 29

Questar Gas Co. v. Utah Pub. Serv. Comm'n, 2001 UT 93, 34 P.3d 218 29

In the Matter of the Request for a Home Energy Report Pilot Program, Docket No. 12-035-77, 2015 WL 195806 (Jan. 8, 2015) 11

In the Matter of Rocky Mountain Power's Proposed Revisions to Electric Service Schedule No. 110, New Homes, Docket No. 15-035-T07, 2015 WL 3777648 (June 15, 2015) 11

Statutes

Utah Code Ann. § 54-1-10 13

Utah Code Ann. § 54-3-1 13

Utah Code Ann. § 54-3-3 4

Utah Code Ann. § 54-3-28 13

Utah Code Ann. § 54-4-1 10

Utah Code Ann. § 54-4-1, *et seq.* 4

Utah Code Ann. § 54-4-4(2) 29, 30

Utah Code Ann. § 54-4-4(4) 16

Utah Code Ann. § 54-7-13.5(2)(i) 10

Regulations

FERC Order 809 18

Utah Administrative Code R746-100-1, *et seq* 4

Questar Gas Company dba Dominion Energy Utah ("Dominion Energy" or "Company"), respectfully submits its post-hearing brief.

INTRODUCTION

Dominion Energy applied for Commission approval to allocate a portion of the costs of a peak-hour services contract ("Contract") to transportation customers. The Contract, which is between the Company and Kern River Natural Gas Transmission Company ("Kern River"), will provide the equivalent of 100,000 Dth/day of peak-hour service to Dominion Energy's system during the 2017/2018 heating season. The Company sought approval of its proposed allocation because (i) the Contract benefits *all* customers by providing sufficient gas supply to meet customers' supply needs during the Company's peak hour on its design peak day; and (ii) if transportation customers are not allocated their proportionate share of the Contract costs, firm sales customers would subsidize transportation customers. To properly allocate costs, transportation customers should pay for the services they receive and from which they benefit.

In July 26, 2017 testimony in this proceeding, the Utah Division of Public Utilities ("Division") and the Utah Association of Energy Users ("UAE") questioned for the first time the prudency of the Contract and requested the Commission to make a determination on prudency in this docket. The Office of Consumer Services ("Office") took a similar stance in its August 25, 2017 rebuttal testimony. As a result, there are two issues that can and should be decided by the Commission in this proceeding, both of which have been extensively explained and discussed.

First, the Commission can and should determine that the Company's decision to enter into the Contract was prudent. The undisputed evidence shows that, without the peak-hour services provided by the Contract, the Company will be unable to satisfy its peak-hour gas demand on its design peak day. Instead, a portion of customer demand could only be satisfied, if at all, on an operationally available basis—not a firm basis. This shortfall between the

Company's gas supply and its peak-day, peak-hour demand is unacceptable to the Company because it puts customers and the Company's system at risk. Further, the evidence demonstrates that the Contract is currently the best and most cost-effective option for managing upstream supply shortfall. Dominion Energy submits that the Contract is just and reasonable, and should be approved as prudent by the Commission.

Second, the Commission can and should allocate an appropriate share of the Contract costs to transportation customers. As discussed below, the Commission has the authority to allocate the Contract costs in this proceeding and has done so in similar circumstances. Furthermore, the circumstances justify an immediate allocation of the Contract costs. Without that allocation, sales customers will be unfairly burdened with the full Contract costs and will be subsidizing transportation customers, even though the Contract benefits both firm sales and transportation customers. Finally, the Company's proposed allocation is supported by the evidence and is just and reasonable.

The Company respectfully requests that the Commission enter an order:

(1) Determining that the Contract is prudent; and

(2) Authorizing the Company to implement the cost allocations in its proposed tariff (Exhibit DEU 1.7) to be effective on an interim basis and, after the Division has completed its audit, authorizing those changes on a final basis.

RELEVANT PROCEDURAL BACKGROUND

During an IRP technical conference on December 17, 2015, Dominion Energy presented the Commission, the Division and the Office with information demonstrating the growing demand on its system and upstream supply constraints that are impacting firm service during its peak hour.[1] The Company discussed potential solutions to managing gas supplies during a peak hour, including the option of contracting for peak-hour service from upstream pipelines.[2] This peak-hour issue arose because of discussions between the Company and Dominion Energy Questar Pipeline ("DEQP"). In fall 2015, DEQP notified Dominion Energy, for the first time, that DEQP's system would not be able to meet the increasing intra-day demand fluctuations necessary to maintain sufficient pressures on the Company's system on a firm basis, as DEQP had been able to do in the past.[3] Dominion Energy promptly notified regulators of the circumstances and began evaluating options to meet the peak-hour need.

During its February 24, 2016 IRP workshop, the Company continued to discuss its peak-hour demand concern with the Commission, the Division and the Office.[4] The Company discussed the concept of procuring peak-hour services from upstream pipelines to solve the peak-hour shortfall, explained that it believed additional services were necessary to meet the increasing demand fluctuations during the peak hour on a firm basis, and stated that it would be making two requests for proposal ("RFP") to determine the cost of procuring those services.[5]

During an April 6, 2016 workshop, the Company explained that, in response to its peak-hour service RFP, it had received responses from three upstream providers.[6] Then, during its May 2016 IRP workshop, the Company explained that it had determined that it would move forward with a peak-hour service contract for the 2016-17 heating season.[7]

Dominion Energy provided updates on the peak-hour demand issue during its 2017 IRP workshops. On February 28, 2017, the Company conducted an IRP workshop during which it

[1] *See* Rebuttal Testimony of Kelly Mendenhall at 3:58-62; DEU Exhibit 1.1R at 7.
[2] *Id.*
[3] Rebuttal Testimony of William Schwarzenbach at 4:73-75; Hearing Transcript ("Transcript") at 55:2-7.
[4] Mendenhall Rebuttal at 3:64-66; DEU Exhibit 1.2R at 6-9.
[5] *Id.*
[6] Mendenhall Rebuttal at 3, Lines 66-69; DEU Exhibit 1.3R at 34.
[7] Mendenhall Rebuttal at 3:69-71; DEU Exhibit 1.4R at 9-14.

discussed the need for peak-hour services and informed regulators, including representatives from the Office and the Division, of its plan to contract for peak-hour services for the 2017/2018 heating season.[8] One month later, in its March 23, 2017 IRP workshop, Dominion Energy notified the Commission of the Company's plan to sign a three-year firm peaking contract with Kern River and a precedent agreement with DEQP for additional peak-hour services.[9] During the 2016 and 2017 IRP proceedings, neither the Division nor the Office questioned the need for peak-hour services generally or the prudence of the Contract specifically. Pursuant to its plan, the Company executed the Contract.

On May 1, 2017, Dominion Energy filed two applications. First, pursuant to Questar Gas Company Utah Gas Tariff PSCU No. 400 ("Tariff"), the Company filed a Pass-through Application for an Adjustment in Rates and Charges for Natural Gas Service in Utah ("Pass-through Application") in Docket No. 17-057-07 ("Pass-through Docket"). In the Pass-through Application, Dominion Energy requested a rate adjustment to recover the costs of purchased gas and supplier non-gas costs, including $864,500 relating to the Contract.[10]

On the same day, Dominion Energy filed its second application, the application filed in this docket ("Tariff Application"). Through its Application, Dominion Energy seeks Commission approval of changes to the Company's Tariff to allocate a portion of the Contract costs to transportation customers, who also benefit from the Contract.[11] In particular, when transportation customers utilize more gas than they nominate and deliver in the Company's distribution system during the peak hour of a peak day, the Company plans to utilize the Contract

[8] Mendenhall Rebuttal at 3:73-75; DEU Exhibit 1.5R at 4-15.
[9] Mendenhall Rebuttal at 3:75-77, 4:78-79; DEU Exhibit 1.6R at 23-24.
[10] Pass-through Application at 1, 6, Docket No. 17-057-07; Mendenhall Direct at 3:65.
[11] Tariff Application at 1. The Company sought this relief pursuant to Utah Code Ann. §§ 54-3-3 and 54-4-1, *et seq.* and Utah Administrative Code R746-100-1, *et seq.*

to provide the volumes necessary to match their usage.[12] If transportation customers are not allocated a portion of these costs, they will not be paying the full cost of the services they receive; rather firm sales customers would be subsidizing them.[13]

Through the Tariff Application, the Company proposes to allocate 13.9% ($120,166) of the Contract costs to transportation customers.[14] This allocation corresponds to the percentage of peak-day demand attributable to transportation customers.[15] The Company proposes to collect this allocated cost from transportation customers through an annual demand charge of $0.56 per Dth.[16] The Company supported the Tariff Application with the direct testimony of Kelly Mendenhall, proposed revised tariff sheets and other exhibits.

On May 23, 2017, the Division submitted its comments on the Pass-through Application.[17] In its comments, the Division supported approval of the Pass-through Application. Moreover, and in addition to the prior discussions regarding the need for peak-hour services and the Contract, the Division stated:

> The concept of a peak hour and the associated contract is new and the Division has been meeting regularly with the Company to better understand why this contract is needed and how the peak hour contract will work. The $0.874 million cost for the peak hour contract has been included in this filing *and additional information will be presented to the Commission concerning the peak hour issue under Docket No. 17-057-09. Approval of this new contract cost on an interim basis will allow additional time for the Division to complete further investigation into the peak hour issue.*[18]

---

[12] *Id.*
[13] *Id.* at 2.
[14] Direct Testimony of Kelly Mendenhall at 5:108-14.
[15] *Id.*
[16] *Id.* at 6:115-19.
[17] May 23, 2017 Division Action Request Response, Docket No. 17-057-07.
[18] *Id.* at 8 (emphasis added).

On June 12, 2017, the Commission entered an Order approving the rates in the Pass-through Application "on an interim basis, effective June 1, 2017 . . . ."[19] In rendering this decision, the Commission noted: "The DPU believes the requested changes are in the public interest and represent just and reasonable rates. No party provided comments or testimony opposing the application."[20]

In this docket, the Commission held a scheduling conference on May 10, 2017. The Division, the Office and UAE were represented there. During the conference, it was agreed and ordered by the Commission that the Company would hold a technical conference on June 28, 2017 on the Tariff Application, the purpose of which was to allow the Company to present information concerning the Tariff Application and allow Commission staff or any other interested party to ask questions about the Pass-through Application, including about the Contract.[21] Based on the Parties' agreement, the Commission also set the following deadlines for this matter: July 26, 2017 for direct testimony; August 25, 2017 for rebuttal testimony; September 19, 2017 for surrebuttal testimony.[22] A hearing was set for September 26, 2017.

Pursuant to the schedule, a technical conference was held on June 28, 2017. During the technical conference, the Company provided a detailed explanation of the Tariff Application and explained how the Company calculated its peak day, the distinction between peak-hour and peak-day demand, how non-weather sensitive usage for transportation customers is calculated, how peak-day hourly forecasts were derived, and the Contract, including the 100,000 Dth volume for the Contract and why additional peak-hour volume had not been procured through

[19] June 12, 2017 Order Memorializing Bench Ruing at 6-7, Docket No. 17-057-07.
[20] *Id.* at 6.
[21] May 11, 2017 Scheduling Order and Order Suspending Tariff, Docket No. 17-057-09.
[22] *Id.* at 1.

the Contract.[23] The Commission and its staff, the Division, and the Office had representatives present at the technical conference.[24]

On July 26, 2017, the Division and UAE submitted direct testimony in this docket. Prior to that time, including during the IRP discussions and the Pass-through Docket, no party had questioned the prudence of the Contract. For that reason, the Company did not anticipate that prudence would be an issue in this proceeding. However, the Division asserted in its direct testimony that it was "not convinced the peak hour contracts[25] are necessary and in the public interest" and stated:

> Therefore, based on the information that the Division has at this time, the Division cannot recommend that transportation customers pay a portion of the costs associated with the Kern River contract. However, if the contracts are found to be in the public interest, transportation customers should pay a share as discussed in Mr. Lubow's testimony.[26]

As such, the Division specifically asserted that the Commission should address two issues in this proceeding, the prudency of the Contract and whether a portion of the Contract costs should be allocated to transportation customers:

> Q: Do you believe that this Docket should address whether the peak hour contract is appropriate or should this Docket only address the allocation of the cost for the peak hour contract?
>
> A: There are two issues *that need to be addressed in this Docket*. The first is whether the contract with Kern River is necessary and in the public interest. If the contract is determined to be appropriate, then the second question is whether a portion of this cost should be allocated to the transportation customers that could benefit from the service.[27]

---

[23] *See* July 28, 2017 Technical Conference Peak Hour Presentation, Docket No. 17-057-09.
[24] *See* July 28, 2017 Technical Conference Sign-in Sheet, Docket No. 17-057-09.
[25] The Division has at times during this proceeding referred to peak-hour "contracts," even though only one contract is at issue in this docket.
[26] Direct Testimony of Douglas Wheelwright at 2:35-40. The Division reiterated this position during the hearing. *See* Transcript at 82:9-18.
[27] *Id.* at 4:91-97 (emphasis added).

In its testimony, UAE also challenged the necessity of the Contract, stating: "Dominion/QGC has not sufficiently justified a need for this new hourly peaking service."[28]

On August 25, 2017, the Office filed rebuttal testimony in which it initially asserted that Dominion Energy had not adequately supported the costs associated with the Contract.[29] However, consistent with the Division, the Office stated in its testimony that, if the Commission approved the Contract, "the Office supports allocating to TS customers their share of the costs."[30] In addition, consistent with the Division, the Office, in its rebuttal testimony, stated that the issue of whether or not peak-hour services were necessary had become the primary issue for decision in this proceeding:

> Although Dominion is merely requesting approval of a rate in order to charge TS customers their share of the costs of the peaking service, it is apparent based on the evidence in this proceeding that the central issue has become whether or not the peak hour service is warranted, and the allocation associated with the proposed rate has become a secondary issue.[31]

Because the Division and UAE raised in their direct testimony in this docket the question of whether peak-hour services were necessary, the Company filed rebuttal testimony in which it responded to the issues raised by the Division and UAE and provided evidence to further demonstrate the need for peak-hour services and the prudence of the Contract.[32]

In its surrebuttal testimony, and in response to the material provided by the Company in its rebuttal testimony, the Office modified its position relative to the need for peak-hour services and the Contract. The Office's expert, Mr. Mierzwa, stated in his surrebuttal testimony:

---

[28] Direct Testimony of Neal Townsend at 3:37-38.
[29] Direct Testimony of Gavin Mangelson at 3:62-64; Direct Testimony of Jerome Mierzwa at 3:65-66.
[30] Mangelson Direct at 3:64-65.
[31] *Id.* at 2:37-41.
[32] Rebuttal Testimony of Michael Platt; Rebuttal Testimony of David Landward; Rebuttal Testimony of William Schwarzenbach; Rebuttal Testimony of Kelly Mendenhall.

> I believe that the evidence presented by the Company in its rebuttal case is sufficient to justify the acquisition of 100,000 Dth/day of Kern River peak hour service. If the Commission finds that the acquisition of the Kern River peak hour service is in the public interest, I believe that the Company's proposed allocation methodology for the costs associated with that service is reasonable and should be approved.[33]

Similarly, Mr. Mangelson testified in his pre-filed surrebuttal testimony:

> The position of the Office is that the volumes included in the Kern River contract may have been shown to be necessary . . . . If the Commission finds the Kern River contract to be prudently entered into, it should also approve the proposed rate as a correct allocation of the costs associated with the 100,00 Dths from Kern River.[34]

Neither the Division nor UAE altered their positions on the Contract in their surrebuttal testimony.

ARGUMENT

While this docket was originally filed to address only the allocation of the Contract costs, the Division and UAE introduced the question of the necessity of peak-hour services, and by extension, put the prudency of the Contract squarely at issue in this proceeding. Because of that, all of the parties have submitted evidence on that question, and the matter is ripe for determination. Furthermore, the Company submits that the undisputed evidence clearly demonstrates that the Contract and the peak-hour services it provides are necessary and, in fact, the best and most cost-effective option for addressing the Company's peak-hour need. As such, the Contract is just, reasonable and in the public interest.

In addition, the Commission can and should allocate the costs of the Contract between sales and transportation customers in this docket according to the percentage allocation set forth in Mr. Mendenhall's testimony and associated exhibits. While the Company's Tariff does provide that "supplier non-gas cost *class allocation levels* will be established in general rate

[33] Surrebuttal Testimony of Jerome Mierzwa at 7:156-61.

[34] Surrebuttal Testimony of Gavin Mangelson at 5:101-02, 104-07.

cases," the Commission has authority, and has used that authority in prior dockets, to allocate specific supplier non-gas cost ("SNG") items.[35] Moreover, delaying allocation of Contract costs until the next rate case will prejudice sales customers, who between now and then will be subsidizing transportation customers' share of the Contract costs, with no clear way to obtain recovery of those costs from transportation customers. Finally, the allocation proposed by the Company is supported by the undisputed evidence.

I. A DECISION ON THE PRUDENCE OF THE CONTRACT CAN AND SHOULD BE MADE IN THIS PROCEEDING.

A. The Commission Has Broad Discretion to Determine the Prudence of the Contract in This Docket.

There is no statutory or regulatory impediment to the Commission determining the prudence of the Contract in this docket. With the exception of certain specified proceedings, neither the Utah Code, the Utah Administrative Code nor any order from this Commission dictates a specific type of proceeding for addressing the prudency of a utility's actions. Utah Code Ann. § 54-4-1 makes clear that

> [t]he commission is . . . vested with power and jurisdiction to supervise and regulate every public utility in this state, and to supervise all of the business of every such public utility in this state, and to do all things, whether herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of such power and jurisdiction[.]

Similarly, Utah Code Ann. § 54-7-13.5(2)(i) provides that "[p]rudently incurred actual costs in excess of revenues shall (i) be recovered as a bill surcharge over a period to be specified . . . ." These provisions give the Commission authority to address prudence issues as it determines are

[35] Tariff Section 2.6, at 2-13 (emphasis added).

94545781.1 0051831-00001

"necessary or convenient," and the Commission has exercised that authority when prudency issues have arisen in tariff proceedings.[36]

Moreover, addressing the prudence of the Contract in this docket would not be inconsistent or interfere with the Division's audit of the 191 account items from the Pass-through Docket. In his hearing testimony, Division witness Mr. Wheelwright reversed the position taken in pre-filed testimony, and suggested that a prudence determination could circumvent the audit process for those costs approved on an interim basis in the Pass-through Docket.[37] This is incorrect. While a prudence determination on the Contract would resolve the question of whether the Contract is necessary, it would not otherwise impact the Division's audit. Nor is the Company seeking a determination here that would render the interim rates approved in the Pass-through Docket final rates. Until the Division audit is complete and a final order entered in the Pass-through Docket, the pass-through rates would remain interim, consistent with prior practice.[38]

---

[36] *See* Order, *In the Matter of the Application of Questar Gas Company to Make Tariff Modifications to Charge Transportation Customers for Use of Supplier Non-Gas Services*, Docket No. 14-057-31 at 29 (Nov. 9, 2015) (holding, in the context of a request to modify an existing tariff to charge transportation customers a new transportation imbalance charge, that the charge was just, reasonable and in the public interest); *see also* Order Approving Tariff Sheets with Modification, *In the Matter of Rocky Mountain Power's Proposed Revisions to Electric Service Schedule No. 110, New Homes*, Docket No. 15-035-T07, 2015 WL 3777648, at *3 (June 15, 2015) (denying one aspect of a proposed tariff change on the ground that it was not in the public interest and stating: "Any party wishing to make this proposal in future proceedings should accompany the proposal with additional supporting evidence that it is in the public interest[.]"); Order, *In the Matter of the Request for a Home Energy Report Pilot Program*, Docket No. 12-035-77, 2015 WL 195806, at *3 (Jan. 8, 2015) (approving a modification to the cap for the Home Energy Report pilot program after determining that the proposed modification "is just and reasonable and in the public interest").

[37] Transcript at 98:24-100:7.

[38] During the hearing, there was some confusion created by the Company on this issue. At one point, Chairman LeVar asked Mr. Mendenhall whether the Company was, by asking for a prudency determination on the Contract in this proceeding, effectively attempting to preclude further determination by the Division in the audit and seeking to make the interim rates associated with the Contract final. Transcript at 31:8-12, 14-17. In response, Mr. Mendenhall erroneously stated: "I guess if the Commission were to make both determinations right now and they were to determine the current services were prudent, then we would be asking for final rates for this portion, for the transportation fees."

Furthermore, any concern by the Division about its audit of the Contract has been rendered moot by this proceeding. As noted, the Division and UAE brought the issue of prudence of the Contract to the Commission for decision in this proceeding. Indeed, as noted above, in their July 2017 direct testimony, they specifically asked the Commission to make a prudence determination on the Contract. That action took the issue from the audit process and made it an issue ripe for Commission decision.

B. The Prudence of the Contract Is Ripe for Decision.

1. <u>The Division Has Had Ample Opportunity to Assess the Need for the Contract.</u>

Despite asserting in its pre-filed testimony that the prudence of the Contract should be determined by the Commission now, the Division testified during the hearing that a determination should await further evaluation by the Division.[39] Specifically, according to the Division, the Company belatedly provided information in its rebuttal testimony, and the Division needs additional time to assess the need for the Contract.[40] This position misstates the record and is not supported by facts.

The Division raised questions regarding the prudency of the Contract for the first time, on July 26, 2017, when it filed its direct testimony in this docket. It did so despite a year-and-a-half of discussion, explanations, presentations, and analyses regarding the need for peak-hour services and the Contract, during which it raised no prudency concerns. The Company

---

Transcript at 31:18-22. To be clear, the Company is not presently asking the Commission to make any of the Pass-through Docket rates final in this proceeding. Rather, it is seeking a final determination on the prudence of the Contract and a determination that a portion of the Contract costs can be allocated to transportation customers. That allocation would, for now, be made on an interim basis until the audit is completed and the rates made final.

[39] Transcript at 100:2-15.

[40] *Id.* at 88:6-20, 97:7-12, 99:25-100:15, 106:4-17; Surrebuttal Testimony of Douglas Wheelwright at 1:24-2:30.

responded in its rebuttal testimony to the specific issues raised in the Division's testimony.[41] The Division has had more than a reasonable amount of time to evaluate the peak-hour issue and assess the need for the Contract.

As Mr. Mendenhall noted in his Rebuttal Testimony, in a 2009 order, the Commission, after reviewing Utah Code Ann. §§ 54-1-10, 54-3-1, 54-3-28, and the 2009 IRP Standards stated:

> In our view, these provisions, especially Sections 83 III.A.3. and III.B.3. of the 2009 IRP Standards, which provide for additional informational meetings, obligate the Company to provide timely information on issues associated with the Planning Process and IRP development in an informal setting such that parties have the opportunity to provide their opinions and comments *at an appropriate stage in the Planning Process*. We also view these provisions as obligating the regulatory community and interested parties to inform the Company when they believe additional meetings may be required.[42]

The evidence demonstrates that the Company actively explained and discussed the need for peak-hour services starting in December 2015, and the Division did not raise any concern until less than two months before the hearing.

Dominion Energy began discussing the potential need for peak-hour services in December 2015—nearly two years ago.[43] During IRP workshops, technical conferences and other meetings, the Company presented analyses supporting the need for peak-hour services, discussed the RFP process it followed to obtain bids for those services, explained its decision to enter into the Contract, responded to data requests, participated in numerous meetings with the Division and others, and provided other requested information.[44] In these meetings, the Company explained how it calculated its design peak day, which the Division has conceded is

[41] It is worth noting that no party claims that any information provided in the Company's rebuttal testimony was not within the scope of the concerns raised in the Divisions and UAE's direct testimony in this matter.
[42] March 31, 2009 Report and Order on Standards and Guidelines for Questar Gas Company, Docket No. 08-057-02 at 6 (emphasis added).
[43] *See* Mendenhall Rebuttal at 3:58-62; DEU Exhibit 1.1R at 7.
[44] *See supra* at 2-7.

the same approach the Company has historically used in its IRP modeling.[45] As just one example, during a December 17, 2015 IRP workshop, Mr. Platt reviewed the Company's modeling, and explained how, during periods of high customer demand, the Company's demand could exceed the firm supply provided by upstream pipelines, risking a drop in system pressures below the operational minimum.[46]

Furthermore, the Division has acknowledged that the Company met with the Division numerous times to discuss the need for peak-hour services and the Contract:

> Q. Please briefly summarize the work and investigation that has been performed in this case.
>
> A. The Division has reviewed the filed testimony of Dominion witness Mr. Kelly Mendenhall along with the attachments and exhibits. In addition, the Division and its consultants have submitted data requests to the Company and conducted interviews with company representatives concerning the transportation contracts and relating to peak day and peak hour planning. The Company has provided additional information in response to the formal data requests and during the interview process to help with the Division's review and analysis.[47]
>
> . . . .
>
> Q. Could you please briefly describe your activities?
>
> A. Since the information was filed by the Company, we have done an examination of the information that was filed. We've had numerous meetings with the Company to further explore the peak hour issue, and I have done an extensive analysis.[48]

Given these substantial interactions, it is clear that the Division had ample time to assess the Company's analysis. If the Division believed additional information or analysis was needed, it could have served additional data requests or retained an expert to assess the need for peak-hour services and the Contract. The Office was able to retain an expert to analyze the

---

45 Transcript at 82:24-25, 83:1.
46 Rebuttal Testimony of Michael Platt at 4:17-23.
47 Wheelwright Direct at 3:51-59.
48 Transcript at 80:6-11.

Company's information, and it had the same time to respond as the Division. Moreover, the information relied on by the Company in this docket is the same information and data the Company has been discussing since 2015.

2. The Commission Should Make a Prudency Determination on the Evidence in the Record.

The parties have invested substantial time and effort to respond to the questions raised in this docket regarding the prudence of the Contract, and the Company has provided evidence demonstrating prudence. The only purpose that would be served by delaying the resolution of this issue further is just that—delay. In response to a question from Commissioner Clark, the Division was unable even to identify the specific work it believed needed to be done or estimate how long it would need to conclude the further analysis it now asserts is needed:

> Q. Do you have a sense for the timing of conclusion of the Division's work in this area?
>
> A. I don't. As we dig deeper into this, it creates more and more questions, and as we can see from testimony in this docket, it's raised a number of issues that we need to explore further. I don't have a time frame of how long it would take to complete that work.[49]

This asserted position is highly unusual given the circumstances. The Division participated in the scheduling of this docket and did so knowing the Contract would be an issue in this proceeding. If the Division believed more time was needed to assess the prudence of the Contract, it should have raised that issue and advocated for additional time. Moreover, when the Division received the Company's rebuttal testimony, if it believed it needed more time to consider the Contract, it could have asked the Commission to alter the schedule. It did neither of these things, and the matter proceeded forth to hearing after being properly noticed. It has now been heard by the Commission. All parties were given sufficient time for discovery, expert

[49] Transcript at 100:8-15.

analysis and testimony. The Company submits that the Commission has a record that is more than sufficient to determine the prudency of the Contract.

II. THE EVIDENCE DEMONSTRATES THAT THE CONTRACT IS NECESSARY AND THAT THE COMPANY'S DECISION TO ENTER INTO THE CONTRACT WAS PRUDENT.

The evidence overwhelmingly demonstrates that the Contract is necessary and in the public interest. Utah Code Ann. § 54-4-4(4) provides:

> (a) If, in the commission's determination of just, reasonable, or sufficient rates, the commission considers the prudence of an action taken by a public utility or an expense incurred by a public utility, the commission shall apply the following standards in making its prudence determination:
>
> (i) ensure just and reasonable rates for the retail ratepayers of the public utility in this state;
>
> (ii) focus on the reasonableness of the expense resulting from the action of the public utility judged as of the time the action was taken;
>
> (iii) determine whether a reasonable utility, knowing what the utility knew or reasonably should have known at the time of the action, would reasonably have incurred all or some portion of the expense, in taking the same or some other prudent action; and
>
> (iv) apply other factors determined by the commission to be relevant, consistent with the standards specified in this section.

Applying these standards, it is plain the Company acted prudently in entering into the Contract. The Company has provided substantial evidence demonstrating (i) the clear need for a means to satisfy its peak-hour demand, (ii) that, without peak-hour services, customers would be exposed to substantial risk and (iii) that the Contract is presently the best, most cost-effective option for addressing the peak-hour shortfall. The evidence submitted by other parties does not demonstrate otherwise.

A. The Evidence Demonstrates a Clear Need for Peak-Hour Services.

Over the past 20 years, demand on the Company's system has increased substantially. During that timeframe, the amount of firm transportation service the Company has contracted for has increased by 27%.[50] Despite this, the growth in Dominion Energy's customers' total demand has outpaced the Company's upstream capacity nearly two-fold—by 53%.[51] The growth in customer total demand has also been accompanied by increased demand fluctuations on the Company's system. Residential, commercial and industrial customers do not use gas evenly or predictably during the day, and commercial and industrial usage, in particularly, is very difficult to predict.[52] During the hearing, Dominion Energy witness Mr. Schwarzenbach walked through DEU Exhibit 4.3R, which shows that, while pipeline supply is provided at a relatively constant level, customer demand during a 24-hour gas day (8:00 a.m. to 8:00 a.m.) fluctuates substantially, resulting in times where demand exceeds supply.[53]

In the past, Dominion Energy has coped with the differential between customer demand and upstream pipeline supply by relying on DEQP's pipeline to accommodate some fluctuation to maintain the appropriate pressures in the system.[54] However, during a 2015 Joint Operating Agreement planning process, DEQP informed the Company that, for purposes of peak-day planning, DEQP's "system would not be able to meet the increasing demand fluctuations necessary to maintain adequate pressures for the Dominion Energy system on a firm basis."[55]

---

[50] *See id.* at 18:2-6; DEU Exhibit 1.8R.

[51] *See* Transcript at 17:24-18:2; DEU Exhibit 1.8R; *see also* Transcript at 18:6-9 (Mendenhall Testimony), 50:2-22 (Platt Testimony) ("[T]he growth of the customer demand on the system has been substantial, and we have received – we work with upstream pipelines on a joint operations agreement to determine what the capabilities are and there are no – the capability to feed our demand swings throughout the day has hit its limit and hit its limit a few years ago.").

[52] Transcript at 53:9-12; Mendenhall Rebuttal at 11:245-60.

[53] Transcript at 53:23-55:1; DEU Exhibit 4.3R.

[54] Transcript 55:8-14.

[55] Schwarzenbach Rebuttal at 4:73-75; *see also* Transcript at 55:2-7.

Moreover, DEQP's tariff does not require it to accommodate demand fluctuations.[56] As a result, on a peak day, without another solution, when demand exceeds the supply from the pipeline, the excess demand could only be met, if at all, on an operationally-available basis.[57] The Division's expert agreed that this was the case during the hearing.[58]

DEQP's response is not an anomaly. The industry is changing with regard to the degree of demand fluctuations pipelines will accommodate.[59] As just two additional examples, Mr. Schwarzenbach noted that FERC has addressed the issue with FERC Order 809 and Kern River, during a recent conference, presented a position nearly identical to that articulated by DEQP in 2015.[60]

No party has provided evidence contesting any of the foregoing. UAE's witness, Mr. Townsend, simply states that he "does not believe DEU has made an adequate showing" that peak hour service is needed, but supports this claim only by noting that peak-hour service contracts, in his experience, are "relatively uncommon in the industry" and the Company has been operating without them in the past.[61] He does not dispute the supply shortfall described by the Company in its testimony, he does not dispute the change in DEQP's and Kern River's position regarding intra-day demand fluctuations and he does not dispute the Company's modeling or analyses.

The Division's expert witness, Mr. Lubow, also provided no basis to dispute the Company's need for peak-hour services. While he testified that he did not believe the Contract is necessary, his primary bases for this position was his observation that actual firm sales have

[56] Transcript at 55:19-56:2.
[57] *Id.* at 56:2-7; *see also id.* at 19:8-16; Schwarzenbach Rebuttal at 4:98-5:99.
[58] Transcript at 113:17-23, 114:11-15.
[59] *Id.* at 56:9-20.
[60] *Id.*; Surrebuttal Testimony of William Schwarzenbach at 2:16-3:25; DEU Exhibit 4.1SR.
[61] Transcript at 139:17-21; Townsend Direct at 4:80-83.

been below design day requirements during the last 20 years, his claim that the Company could simply rely on upstream pipeline flexibility, storage or DSM programs, and his contention that the Company could purchase 250,000 Dth/day of additional capacity.[62] However, as discussed below, he did not provide any evidence disputing that the cost of purchasing the additional capacity or using off-system storage would far exceed the cost of the Contract. Furthermore, he admitted that he does not have any reason to challenge the Company's analysis that showed a 17% spread between the peak-hour and the average daily demand during a peak weather event.[63] He also agreed that the Company would be acting prudently to plan for both expected and extreme weather conditions.[64] Mr. Lubow also acknowledged that he had not contacted DEQP or Kern River and, as such, had no basis to contest the Company's evidence regarding the pipelines' reduced inability to accommodate intra-day demand fluctuations on a firm basis.[65]

Notably, when asked during the hearing whether he thought it was prudent for a utility—having received notifications of the kind provided by DEQP and Kern River (i.e., that supply above planned levels would only be provided on an operationally available basis)—to take steps to ensure it could provide service on a firm basis on the "coldest of cold days, on the highest peak design day," Mr. Lubow stated: "I think so."[66] In addition, during the hearing Mr. Lubow appeared to alter his position by clarifying that he was not saying that there is no need to address the supply shortfall identified by the Company, but rather, that he took issue with the Company's claim that the Contract was necessarily the right solution.[67]

[62] Direct Testimony of Howard Lubow at 5:120-127; 10:251-60.
[63] *Id.* at 4:112-15; Transcript at 112:8-16.
[64] Transcript at 112:17-21.
[65] *Id.* at 113:11-23, 114:11-15.
[66] *Id.* at 114:16-24.
[67] *Id.* at 115:12-17.

For his part, Mr. Wheelwright acknowledges that he did not perform any analysis of the Company's supply requirements or its design peak day or peak hour.[68] As such, he had no basis for questioning the Company's analysis supporting the need for the Contract. Rather, his primary objections centered on other options he claimed could be pursued in lieu of the Contract.[69] However, as discussed below, none of the alternatives he raised could more cost-effectively address the problem resolved by the Contract.

Further, Mr. Wheelwright contends that the Company's peak-day analysis incorrectly excludes the volumes provided to the Lake Side facility.[70] However, as noted in pre-filed testimony and during the hearing, Lake Side receives service from Dominion Energy under a special contract which requires Lake Side to pay a fixed amount for a specified level of firm service, even on the coldest days.[71] Moreover, Lake Side has flow-control equipment upstream of their meter that allows the Company to manage its usage on a design day.[72] For these reasons, Lake Side is not a driver of the peak-hour demand problem, nor would peak-hour service be needed to address Lake Side's usage on a peak day.

While the Office initially took the position that the Company had not demonstrated a need for the Contract, its expert, after reviewing the evidence provided by the Company in its rebuttal testimony, stated: "I believe that the evidence presented by the Company in its rebuttal case is sufficient to justify the acquisition of 100,000 Dth/day of Kern River peak hour service."[73] He reiterated this view during the hearing: "Based on the evidence presented by the Company, particularly Mr. Platt's analysis in his rebuttal testimony, it appears there is a need for

---

[68] *Id.* at 94:7-14.
[69] Wheelwright Direct at 7-9.
[70] *Id.* at 4:100-17, 4:129-5:38, 10:246-12:294.
[71] Transcript at 20:1-8; Platt Rebuttal at 7:10-17.
[72] *Id.* at 20:11-17, 44:16-23.
[73] Rebuttal Testimony of Jerome Mierzwa at 7:160-62.

the 100,000 decatherms of Kern River."[74] Moreover, the Company demonstrated, even using Mr. Mierzwa's proposed wind speeds, that there would still be a need for at least 313,0000 Dths/day of peak-hour service.[75]

In short, the evidence is undisputed that, without procuring the peak-hour services provided by the Contract, the Company would not have the ability, on a firm basis, to meet the fluctuating demands of its firm customers on a design peak day.[76] Thus, peak-hour services are clearly necessary.

B. Without Peak-Hour Services, Customers Would Be Exposed to Unreasonable Risk.

The Company also submitted substantial evidence demonstrating that, if it operated without peak-hour services, customers would be exposed to substantial and unreasonable risk. Mr. Platt summarized the evidence concisely in his hearing testimony as follows:

> [O]ur customer demands are growing; the upstream pipelines are not. . . . [W]e must meet our customers' demands on peak day, and that includes every instance of [a] peak day. The peak day models do not solve without peak hour services. I have included analysis in my testimony that shows that 92 percent of the time, the peak hour is at least 17% higher than the peak day mean. I also included analysis that showed that without the proper supply, our pressures drop below operational minimums on our high pressure system and that without peak hour services, we will lose five high-pressure industrial customers and 44 intermediate high-pressure regulator stations.[77]

When asked by the Chairman to describe what this pressure drop would mean specifically to the system and to customers, Mr. Platt further responded:

> So if we look back at this [Exhibit] 3.4R, there are a number of regulator stations that drop below 125 [psig]. Each of these regulator stations feeds the intermediate high-pressure system which is our residential customers. So losing them for one minute means that we have lost them for the day

[74] Transcript at 137:4-7.
[75] *Id.* at 37:12-38:3.
[76] *Id.* at 16:2-4.
[77] *Id.* at 44:2-15.

> and we have to relight them. We have to call techs out and if you think back to Coalville, we lost about 600 customers and it took about 24 hours to relight the town. It would be catastrophic.[78]

None of the intervenors provided any evidence challenging Mr. Platt's description of the consequence to customers if the Company operated without peak-hour services and experienced a design peak day. Indeed, as noted, Mr. Mierzwa conceded that Mr. Platt's analysis justified the peak-hour services provided by the Contract.

C. The Contract Is the Most Reasonable and Cost-Effective Means of Addressing the Peak-Hour Supply Deficiency.

Finally, the evidence thoroughly and convincingly demonstrates that the Contract is not only the most reasonable means of satisfying the peak-hour supply shortfall on the design peak day, but it is currently the most cost-effective means of doing so.

Long before entering into the Contract, the Company took the time carefully to analyze the options available to meet its peak-hour demand need. In that process, it looked at options such as demand response, contracting for additional firm capacity, upstream hourly services, on-system storage, purchasing excess supply to meet demand, facility improvements and constructing an LNG facility.[79] Dominion Energy also researched how other local distribution companies addressed the same issue, and determined that they most often used on-system storage or LNG facilities, or relied on upstream pipelines that, in some cases, continue to provide some flexibility to adjust supply to meet peak-hour demand.[80]

After reviewing those options, the Company determined that procuring peak-hour services was, at present, the best and most cost-effective alternative for meeting its growing peak-hour need. First, Dominion Energy does not have on-system storage or an LNG facility to

---

[78] *Id.* at 51:15-24.
[79] *Id.* at 56:21-57:7; Schwarzenbach Rebuttal at 9:204-10.
[80] Transcript at 57:8-58:1.

draw from. Second, purchasing additional capacity or using intra-day nominations would cost at least double (if not more) the Contract price and could result in operational issues.[81] In fact, when Mr. Wheelwright was presented at the hearing with this cost comparison, he conceded that the Division did not have any evidence demonstrating that the cost of these options was different than as represented by the Company.[82] Moreover, the Company provided evidence that the cost of off-system storage would also be at least double to the Contract price.[83]

During the hearing, Mr. Schwarzenbach was asked why demand response incentives or flow control is not an option to solve the peak-hour issue. He responded:

> Well, first of all, there's two things that are going on. One, is if we were to control the flow, it is going to cost us to control that flow. We're going to have to put in equipment to control the flow to those customers. So on one hand you would have costs that we would incur to do that. On the other hand, you have to keep in mind that while we are trying to allocate a portion of this cost – because a portion of the problem is being caused by transportation customers – it is not the sum of the whole problem. The problem is being caused by our sales customers as well as transportation customers, so it is a larger problem than the sum of just what the transportation customers are doing. So even if you were to add up all the transportation customers and keep them even through flow control – which, to be honest, there's a lot of them – it would not be something that's manageable by our gas control department. If you were to do a few or even all of them, you're still not meeting the full need. The full need is that of both our sales customers and the transportation customers. So saying we control it just by limiting the transportation customers isn't going to resolve your full need.[84]

Mr. Schwarzenbach also clarified that the cost of installing flow-control equipment could be up to $50,000 per customer, which would be cost-prohibitive, in addition to failing to solve the actual problem.[85]

---

[81] *See* Schwarzenbach Rebuttal at 9:211-11:259.
[82] Transcript at 94:15-95:1.
[83] Schwarzenbach Rebuttal at 11:260-66.
[84] Transcript at 59:15-60:14.
[85] *Id.* at 69:11-16, 69:21-24.

The Company was also asked during the hearing whether DEQP could simply solve the peak-hour supply shortfall by increasing the pressure at the Company's city gates.[86] Mr. Schwarzenbach responded that, in order for this to be an option, DEQP would have to replace a significant amount of pipe, which would be a long-term and costly project that would not address the immediate need.[87]

Finally, during the hearing, Mr. Schwarzenbach was asked if, hypothetically, customers nominated less than their full contract limit and received notice from the Company on a peak day that they had to curtail or reduce their nomination and failed to do so, what the consequences would be for the system.[88] Mr. Schwarzenbach explained:

> [T]he consequence would be that our system would not be able to maintain that demand. So while after the fact you can penalize these customers, that's not helping us on an operational basis on the day, that's not keeping the gas flowing. The problem is more gas will then be flowing on our system than we have services or ability to meet, so we wouldn't have the capacity in our system to meet those flows. And you could penalize them afterwards, but that's not going to help explain why sales customers, transportation customers, industrial customers, and residential customers, why they lost service on that particular day.[89]

After reviewing all of the options and considering the testimony, the Office's expert, Mr. Mierzwa, agreed with the Company that the Contract is the most cost-effective way to address this issue:

> Q. Do you have any opinion as to whether or not other tools or remedies would address this issue in a more cost-effective way, or is it just that there's a need and this appears to address it?
>
> A. This addresses it. I believe the cost of the service is $800,000 a year, and I heard testimony today that flow control would cost $50,000 to

[86] *Id.* at 62:6-7.
[87] *Id.* at 62:8-11, 62:12-15.
[88] *Id.* at 71:6-14.
[89] *Id.* at 71:15-72:3.

> $100,000 per customer. I think it's pretty close whether you are going to find something more cost effective.[90]

There simply is no evidence of any current alternative to the Contract that would fill the peak-hour demand need at anywhere near the cost of the Contract. For that reason, the Company respectfully submits that the Contract is clearly just, reasonable and in the best interests of customers, and asks the Commission to enter an order determining as much.

III. THE CONTRACT COSTS CAN AND SHOULD BE ALLOCATED TO TRANSPORTATION CUSTOMERS IN THIS MATTER.

The Company has asked the Commission to approve the allocation of a portion of the Contract costs to transportation customers who, while receiving benefits from the Contract, are currently not paying for those benefits. During the hearing, the Commission raised a legitimate and pertinent question: whether, given language on page 2-13 of Section 2.6 of the Tariff, an allocation of the Contract costs to transportation customers could only be made in a general rate case.[91] Company witness Mr. Mendenhall responded in this way:

> Because this is really an upstream transportation service, typically – well the allocation could be done in an outside tariff filing. I mean, the other charge that we have out there that's similar as a transportation imbalance charge, typically that allocation charge is calculated at the same time as the pass-through in a separate docket. So this is kind of along the same lines. So in terms of a general rate case, I don't believe these charges would be discussed in a general rate case proceeding.[92]

When asked whether he was only speaking about the prudence of the charge or also its allocation, Mr. Mendenhall stated that he was referring to the allocation as well.[93]

The Commission later asked the Division about the same issue. After quoting the relevant Tariff language, the Commission asked Mr. Wheelwright whether any allocation of the

---

[90] *Id.* at 137:10-20.
[91] *Id.* at 28:17-23.
[92] *Id.* at 28:24-29:10.
[93] *Id.* at 29:12.

Contract cost had to be made in a general rate case.[94] Mr. Wheelwright responded: "You have read that it should be determined in a rate case, and that's the way the tariff reads. *We have been, in practice, looking at SNG costs in the 191 filings*."[95] When asked whether SNG costs have been allocated in 191 filings, Mr. Wheelwright stated, "No. We have not been changing the allocation of those costs; we've been reviewing the costs themselves but not changing the allocation."[96] Finally, when Mr. Wheelwright was asked whether there might be a distinction "between the type of tariff approval where we are addressing existing cost versus what – here, we may or may not be addressing new costs," Mr. Wheelwright responded:

> Yes, I think there is a difference because this is a new cost. The other one we have identified in the transportation imbalance charge – I believe that's the one you're referring to – is just a review of the specific costs in that, and, then, crediting that back to the 191 account. This is a new charge that has not been included previously, and I think there is a difference between that and the transportation imbalance charge.[97]

While the Company readily concedes that page 2-13 of Section 2.6 of the Tariff states that "supplier non-gas cost *class allocation levels* will be established in general rates cases," contrary to Mr. Wheelwright's testimony, the Commission has allocated SNG costs in a tariff docket. (Emphasis added.) Furthermore, the cited Tariff language does not provide a basis to justify a different allocation approach for "existing costs" versus "new costs." Finally, the Commission has clear authority to allocate SNG costs outside of a general rate case and should do so here to prevent firm sales customers from subsidizing transportation customers. The Company addresses each of these issues in turn.

First, SNG costs have been properly allocated in tariff proceedings related to 191 account pass-through dockets. One need look no further than the Company's transportation imbalance

---

[94] *Id.* at 102:10-22.
[95] *Id.* at 102:23-103:1 (emphasis added).
[96] *Id.* at 103:3-5.
[97] *Id.* at 103:15-24.

docket (Docket No. 14-057-31) ("Transportation Docket") to see that this is true. Indeed, the Transportation Docket is strikingly similar to this proceeding.

In the Transportation Docket, the Company sought approval to modify its Tariff to allow the Company to impose a transportation imbalance charge on transportation customers to collect costs created by their daily imbalances.[98] The Company proposed the charge for two reasons. First, Dominion Energy contended that the charge would properly recoup from transportation customers amounts for SNG services they had received, but which were being paid by the Company's firm sales customers.[99] In other words, the charge "eliminate[d] [the] interclass subsidy" that then existed.[100] Second, Dominion Energy maintained that the charge would incentivize transportation customers to closely match their daily nominations to the gas they are actually using.[101] Finally, Dominion Energy proposed that the charge would be recalculated annually in pass-through filings.[102]

In approving the Company's application and authorizing it to recover the charge from transportation customers, the Commission stated:

> It is also . . . that Transportation Customers' daily nominations do not always match their usage outside of a 5 percent tolerance band, both in the aggregate and even when netted with Questar's Sales Customers. Therefore, *we find it reasonable to implement a new charge to account for Questar's management of its Transportation Customers' imbalances through the use of certain SNG services. We do not view this charge as a penalty, as suggested by some parties; rather,* ***it is an allocation*** *to Transportation Customers of a portion of Questar's costs for contracted SNG services incurred to manage daily imbalances. The record is clear these costs are caused in part by Transportation Customers whose actual transportation volumes are out of balance. . . .*

[98] *See* Order, *In the Matter of the Application of Questar Gas Company to Make Tariff Modifications to Charge Transportation Customers for Use of Supplier Non-Gas Services*, Docket No. 14-057-31 at 1 (Nov. 9, 2015).
[99] *Id.* at 3.
[100] *Id.*
[101] *Id.*
[102] *Id.*

Additionally, we are convinced it is just and reasonable to require customers to pay for services from which they benefit.[103]

The Commission also ordered that the charge would be re-examined semi-annually in 191 account proceedings, at which time it could be adjusted as necessary.[104]

As is clear from the Commission's order, the Commission approved the imposition of the transportation imbalance charge, which it characterized as an allocation of SNG costs, to ensure that transportation customers were paying their fair share of SNG costs. That same need is what has given rise to this proceeding. There is no dispute that that Contract costs are SNG costs that are properly addressed in 191 account proceedings. The Division acknowledged as much in its testimony.[105] Furthermore, the Company is seeking to allocate a portion of those costs to transportation customers who, while receiving a benefit from the Contract, are not paying for that benefit, but rather, are being subsidized by firm sales customers. Given this, there is no principled reason to treat the Contract costs differently than the costs addressed in the Transportation Docket.

Second, there is no textual support in the Tariff for treating the Contract costs differently than other SNG costs in how they are allocated. Specifically, the Tariff does not allow "existing costs" to be treated any differently than "new costs." The "Supplier Non-Gas Cost Rate Determination" paragraph on page 2-13 of Section 2.6 of the Tariff does not distinguish between "new" and "existing" costs. Indeed, those words are not even present in the provision. Rather, the paragraph simply refers to "supplier non-gas cost class allocation levels" generally.[106] The only time the word "new" is used in reference to 191 account items in the Tariff is in the "191

[103] *Id.* at 28-29 (emphases added).
[104] *Id.* at 30.
[105] Transcript at 96:7-10 ("Q. And would you agree that the costs for the Kern River Peak Hour Service contract are property dealt with in the 191 account? A. Yes.") ("Wheelwright Testimony").
[106] *See* Tariff at 2-13.

Account Entries" paragraph of Section 2.6 of the Tariff.[107] And that provision merely requires the Company to provide 60 days' notice when it includes a "new account or the first time inclusion of other material items . . . ."[108] Neither circumstance is present here, and, in any event, that provision does not relate to the allocation of SNG costs outside of general rate cases.

Third, the Company submits that the Commission was well within its statutory authority to allocate transportation imbalance costs to transportation customers outside of a general rate case (despite the Tariff language), and would be well within its authority to allocate a portion of the Contract costs to transportation customers in this proceeding.

As the Supreme Court of Utah has held, pass-through proceedings are rate proceedings intended to more efficiently allow utilities to record and recover certain costs "without having to go through a lengthy rate-making process."[109] It is "a separate rate-changing mechanism through which the Commission can set rates that are just, reasonable, and sufficient."[110] Subsumed within the Commission's statutory authority to determine rates in any proceeding is the authority to allocate expenses associated with those rates as the Commission deems appropriate.[111] Indeed, under Utah Code Ann. § 54-4-4(2), the Commission is vested with the authority to

> (a) investigate:
>
> (i) one or more rates, fares, tolls, rentals, *charges*, *classifications*, rules, regulations, *contracts*, or practices of any public utility; or
>
> (ii) one or more *schedules of rates*, fares, tolls, rentals, *charges*, *classifications*, rules, regulations, *contracts*, or practices of any public utility; and

[107] *See id.* at 2-13-2-14.
[108] *Id.* at 2-13.
[109] *Questar Gas Co. v. Utah Pub. Serv. Comm'n*, 2001 UT 93, ¶ 9, 34 P.3d 218.
[110] *Id.* at ¶ 11.
[111] *See Kearns-Tribune Corp. v. Pub. Serv. Comm'n*, 682 P.2d 858, 859 (Utah 1984) (holding that "[r]easonbly included in [the statutory] authority to determine . . . rates" is the authority "to determine what . . . expenses may be passed on by the utility to consumers").

> (b) *establish, after hearing*, new rates, fares, tolls, rentals, *charges*, *classifications*, rules, regulations, contracts, practices, or *schedules* in lieu of them.[112]

The authority provided by these provisions clearly includes Commission authority to approve, after a hearing, tariff schedules proposed to collect charges and allocate costs as the Commission deems just and reasonable. There is no requirement in this provision (or any other for that matter) that allocation must occur in a general rate case. Moreover, because this provision is a statutory grant of authority from the Legislature and, in that respect, takes precedence over any contrary language, to the extent it exists, in the Tariff.

In making this argument, the Company is by no means suggesting that the Commission should not address SNG class allocation levels during general rate cases where necessary. Rather, the Company is making two more narrow points: (i) specific SNG costs (as opposed to general class allocation levels) can be determined (and have been determined) outside of general rate cases; and (ii) the Commission has the specific statutory authority—irrespective of the Tariff—to make such an allocation, after a hearing, if the Commission determines the allocation to be just and reasonable. While the Tariff language at issue has not been formally amended, practically speaking, the Commission (and the parties) have raised SNG cost issues exclusively in pass-through proceedings for at least a decade if not for longer. SNG costs simply have ceased to be an issue in general rate cases.

Moreover, allocating certain SNG costs, like the transportation imbalance and the Contract costs, in proceedings like this one, rather than in general rate cases, makes logical sense. Pass through proceedings occur more often than general rate cases, allowing factors to be refreshed more frequently. The allocation percentage for a particular cost item may not be the same as the allocation percentage applicable to other SNG items, simply by virtue of how the

[112] Utah Code Ann. § 54-4-4(2) (emphases added).

cost arises. The Transportation Docket is just one example of this. Moreover, as both Mr. Mendenhall and Mr. Wheelwright noted, pass-through costs (and the allocation of those costs) often do not become issues in general rate proceedings. Furthermore, delaying allocation until a general rate case could harm firm sales customers who are subsidizing the costs that should otherwise be allocated to other customers, and transportation customers will clearly object to having to refund firm sales customers for costs that accumulate pending a general rate proceeding. This concern is particularly relevant here where no general rate case can be filed for some time. Finally, so long as the allocation percentage is just and reasonable, there is no legitimate reason the allocation of costs like the Contract cost should await a general rate case.

The Company submits that the Commission has the authority to allocate a share of the Contract costs to transportation customers in this docket. The prudence and allocation of the Contract costs have been raised in this proceeding, all interested parties have submitted evidence on these issues and no party will be prejudiced if these two issues are resolved in this proceeding. On the contrary, firm sales customers will be harmed if the Contract costs are not allocated here.

IV. THE EVIDENCE DEMONSTRATES THAT THE COMPANY'S PROPOSED ALLOCATION IS JUST AND REASONABLE.

As a final issue, the Company respectfully requests that the Commission approve Dominion Energy's proposed allocation of Contract costs to transportation customers. As noted in Mr. Mendenhall's testimony, transportation customers contribute to the peak-hour demand issue that has given rise to the Contract. Their peak-hour usage exceeds their average daily usage by approximately 17%.[113] The Company proposes to allocate 13.9% of the Contract costs to transportation customers. This percentage corresponds to transportation customers' share of

[113] Mendenhall Direct at 4:84-85; DEU Exhibit 1.3; DEU Exhibit 1.5.

the Company's total peak-day demand.[114] Because the Contract is intended to address the peak-hour demand on the Company's peak day, it is just and reasonable for transportation customers, who account for 13.9% of the total peak-day demand, to pay their proportional share of that cost, which equates to $120,166.[115] Dominion Energy proposes to recover this amount through an annual firm peaking demand charge of $0.56 per Dth.[116]

The Office agrees with the Company's proposed allocation share and calculated demand charge.[117] The Division also agrees that, if the Commission determines the Contract is prudent, transportation customers should be allocated a share of the Contract costs.[118] However, it contends that the allocation to transportation customers should include interruptible transportation customers, as the Contract has been used and will be used at times to benefit interruptible customers and because interruptible customers do not always interrupt as required.[119] In addition, the Division maintains that the allocation analysis should include the gas volumes from the Lake Side facility, which was excluded from the Company's analysis.[120] UAE disputes that any share of the Contract costs should be allocated to transportation customers because, it contends, transportation customers are not the cause of the peak-hour demand concern that is being addressed by the Contract, have not requested peak-hour service and should not be required to accept it.[121]

The Division's and UAE's objections to the Company's allocation calculation are not well founded. First, while Mr. Wheelwright is correct that, at times, some interruptible

[114] Mendenhall Direct at 5:99-112.
[115] *Id.* at 5:112-14.
[116] *Id.* at 6:116-19.
[117] Transcript at 123:19-25.
[118] Wheelwright Direct at 13:302-03; Lubow Direct at 10:263-70.
[119] Wheelwright Surrebuttal at 8:201-12.
[120] Wheelwright Direct at 4:100-5:17, 5:129-6:38; Wheelwright Surrebuttal at 6:134-52.
[121] Surrebuttal Testimony of Neal Townsend at 1:20-3:26.

customers use the service during non-peak periods, the demand for these customers is not included in the peak-hour/peak-day demand requirement. On a peak day, these customers are expected to curtail their interruptible usage. This is much like transportation capacity. Interruptible customers utilize the capacity on non-peak days, but are expected to curtail their interruptible usage on a peak day. When interruptible customers do not interrupt as required, they are penalized for their failure to do so, and the amounts they pay in penalties are returned to the other customers.[122] Therefore, allocating a share of the Contract costs to interruptible customers would (i) not be fair to those interruptible customers who comply with their obligation to interrupt; and (ii) doubly charge interruptible customers who do not interrupt. Neither outcome, in the Company's estimation, is just and reasonable.

Second, the Company's decision to exclude Lake Side from the allocation calculation is proper. As noted, Lake Side is flow-controlled, and the Company is required under a special contract to provide a certain amount of gas, even on the coldest of days.[123] Therefore, the Company could not charge Lake Side an additional charge under the special contract, nor would it be appropriate to do so since the Company can control the amount of gas being used by Lake Side and, in effect, preclude Lake Side from contributing to the peak-hour demand shortfall.

Finally, UAE's objections are not supported by any data and are, in fact, shown by the data to be inconsistent with actual usage. The Contract is necessary to address peak-hour demand on a peak day. Because transportation customers, like other customers, do not use gas evenly throughout the day, they most definitely contribute to the peak-hour demand shortfall the Company data demonstrates.[124] While they are not the sole cause of this shortfall, they do

---

[122] Mendenhall Rebuttal at 9:211-14.
[123] Transcript at 20:1-17, 44:16-25.
[124] *Id.* at 10:228-11:42, 11:250-60; DEU Exhibit 1.9R.

contribute to peak-hour and, for that reason, should proportionally participate in the cost of the Contract procured to addresses the shortfall.

Further, whether transportation customers have requested peak-hour service is irrelevant to the inquiry. To the extent their supply requirements contribute to a need for peak-hour services, the Company has an obligation to address that need, and transportation customers should pay their share of the costs for the required service. The Company has given large transportation customers the option of avoiding any allocation of the Contract costs by installing flow-control equipment. Short of that remedy—which is the only realistic way to avoid contributing to the peak-hour demand issue—transportation customers should bear their fair share of the Contract cost.

CONCLUSION

For the reasons presented above, the Company respectfully requests that the Commission enter an order:

(1) Determining that the Contract is prudent; and

(2) Authorizing the Company to implement the cost allocations in its proposed tariff (Exhibit DEU 1.7) to be effective on an interim basis and, after the Division has completed its audit, authorizing those changes on a final basis.

RESPECTFULLY SUBMITTED: October 27, 2017.

Jenniffer Nelson Clark

Jenniffer Nelson Clark
Questar Gas Company dba Dominion Energy Utah

Cameron L. Sabin
Stoel Rives LLP

Attorneys for Questar Gas Company dba Dominion Energy Utah

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **POST-HEARING BRIEF OF QUESTAR GAS COMPANY ON RETURN ON EQUITY** was served upon the following persons by email on October 27, 2017:

Patricia E. Schmid
Justin Jetter
Assistant Attorney Generals
160 East 300 South
P.O. Box 140857
Salt Lake City, UT 84114-0857
pschmid@agutah.gov
jjetter@agautah.gov

Robert J. Moore
Steve Snarr
Assistant Attorneys General
160 East 300 South
PO Box 140857
Salt Lake City, UT 84114-0857
rmoore@agutah.gov
stevensnarr@agutah.gov

Michele Beck, Director
Office of Consumer Services
400 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
mbeck@utah.gov

Stephen F. Mecham
Bruce Rigby
sfmecham@gmail.com
infor@amngc.org

Kevin Higgins
Neal Townsend
Jeff Fishman
ENERGY STRATEGIES, LLC
215 S. State Street, #200
Salt Lake City, UT 84111
khiggins@energystrat.com
ntownsend@energystrat.com
jfishman@energystrat.com

Chris Parker
Artie Powell
Ericka Tedder
Division of Public Utilities
400 Heber M. Wells Building
160 East 300 South
Salt Lake City, UT 84111
chrisparker@utah.gov
wpowell@utah.com
dpudatarequest@utah.gov

Gary A. Dodge
Phillip J. Russell
Hatch, James & Dodge
10 West Broadway, Suite 400
Salt Lake City, UT 84101
gdodge@hjdlaw.com
prussell@hjdlaw.com

94545781.1 0051831-00001