Gary A. Dodge, #0897
Phillip J. Russell (10445)
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, UT 84101
Telephone: 801-363-6363
Facsimile: 801-363-6666
Email: gdodge@hjdlaw.com
prussell@hjdlaw.com

Counsel for UAE

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Investigation of Revenue Requirement Impacts of the New Federal Tax Legislation Titled: "An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution of the budget for fiscal year 2018"	**Docket No. 17-057-26** **UAE'S RESPONSIVE COMMENTS REGARDING DEU'S SUBMISSION OF SUPPLEMENTAL INFORMATION AND MOTION TO MODIFY AND REPLACE TARIFF SCHEDULES**

In accordance with the Commission's Scheduling Order in this docket issued March 7, 2018, the Utah Association of Energy Users ("UAE") files these responsive comments directed toward the supplemental filing made by Dominion Energy Utah ("DEU") in this docket on April 2, 2018.

Direct Revenue Requirement Impact of Income Tax Reduction. As explained in UAE's February 16, 2018 comments, UAE is supportive of DEU's approach to calculating the direct distribution non-gas ("DNG") revenue requirement impact of the reduction in the federal corporate income tax rate from 35% to 21%. DEU has calculated a $14,519,623 decrease to its annual revenue requirement due to the federal income tax expense reduction.

<u>Allocation of Tax Savings to Customer Classes</u>. UAE's comments filed February 16, 2018 supported DEU's stated approach to allocating the direct income tax benefits to customer classes, as presented in the table on page 4 of the Direct Testimony of Kelly B. Mendenhall. Based on Mr. Mendenhall's Direct Testimony, it was UAE's understanding that the revenue requirement impact was spread to classes based on each class's proportion of the total base DNG revenues as determined in Docket No. 13-057-19 (the depreciation study docket). UAE supports this approach because it would apportion the benefit of the income tax reduction based on the overall allocation of DNG revenues determined to be just and reasonable by the Commission's Order in Docket No. 13-057-19.[1] The "Step 2" DNG revenue allocation resulting from Docket No. 13-057-19 reflects the spread of revenues approved in the last rate case, Docket No. 13-057-05, as subsequently modified in the depreciation study docket. This is the appropriate basis for apportioning income tax savings to customers, and will result in approximately equal percentage reductions to each class's base DNG revenues.

However, upon UAE's review of DEU's supplemental filing, in particular DEU Exhibit 1.3, it became apparent that the rates developed by DEU <u>would not</u> allocate benefits in the manner purported in Mr. Mendenhall's Direct Testimony. For example, according to Mr. Mendenhall's table, the TS class would receive $636,195 of the $14.5 million benefit,[2] but DEU Exhibit 1.3 reflects a reduction of only $518,963.[3] Conversely, Mr. Mendenhall's table indicates

---

[1] Docket No. 13-057-19, Report and Order (June 6, 2014).

[2] Direct Testimony of Kelly B. Mendenhall, table on page 4.

[3] DEU Exhibit 1.3-Tax Reform Rate Adjustment Calc 04-02-2018. Original volumetric and demand charge revenues of $10,208,879 compared to Tax Update revenues of $9,689,916.

that the GS class would receive a $13,244,950 reduction, but the rates developed by DEU would result in a $13,530,594 reduction.[4]

Seemingly inadvertently, the rates developed by DEU would distort the dispersion of benefits among classes, by changing the proportions of class DNG revenues reflected in Mr. Mendenhall's table. Rather than allocating the tax savings based on the revenue allocation resulting from the depreciation study docket, DEU reran the Tax Update revenue requirement through the cost-of-service study and rate design model used in that docket (the "Settlement Model"). This means that the rate spread techniques developed specifically in the last rate case settlement, and utilized in the depreciation study docket per the rate case settlement, are being applied to a new, lower revenue requirement. Due to the function of the Settlement Model, the TS, IS and FT-1 classes, which received mitigated increases as part of the rate case settlement, would receive less than their proportionate share of the tax savings.

It is not necessary to rely on the Settlement Model to allocate the tax benefits to customer classes. Rather than utilizing this model, the benefits can be directly apportioned based on each class's share of the total base Step 2 DNG revenues determined in Docket No. 13-057-19. Table 1, below, estimates the proper apportionment of the income tax expense reduction to each class based on the base Step 2 DNG revenues determined in Docket No. 13-057-19. This is conceptually consistent with Mr. Mendenhall's table, except the revenues for the MT rate schedule and special contract customers are excluded, because these customers are not included in DEU's allocation of tax benefits. These results are compared to DEU's rate design as summarized in DEU Exhibit 1.3 from DEU's supplemental filing.

---

[4] *Id.* Original volumetric revenues of $194,057,922 compared to Tax Update revenues of $180,527,328.

Table 1

Class	Step 2 Base DNG Revenue 13-057-19	% of Total DNG Rev.	UAE Recommended Allocation of Tax Savings	UAE % DNG Rev. Reduction	DEU Rate Design Reduction	DEU % DNG Rev. Reduction
GS	$274,403,189	92.37%	($13,411,151)	-4.89%	($13,530,594)	-4.93%
FS	$3,622,426	1.22%	($177,042)	-4.89%	($173,430)	-4.79%
IS	$937,290	0.32%	($45,809)	-4.89%	($37,270)	-3.98%
TS	$12,639,467	4.25%	($617,740)	-4.89%	($518,963)	-4.11%
FT-1	$1,800,378	0.61%	($87,991)	-4.89%	($70,726)	-3.93%
NGV	$3,680,699	1.24%	($179,890)	-4.89%	($188,693)	-5.13%
Total	$297,083,449	100.0%	($14,519,623)	-4.89%	($14,519,676)	-4.89%

As shown in Table 1, the rate design developed by DEU would result in disproportionate decreases among the various customer classes. UAE recommends that the revenue reduction be allocated based on each class's share of base Step 2 DNG revenues determined in Docket No. 13-057-19, which will result in approximately equal percentage reductions to each class's base DNG revenues.

While UAE proposes that the tax reform surcredits be recalculated based on UAE's recommended allocation of tax savings, UAE supports DEU's general approach to the design of the surcredits for the TS and FT-1 classes. That is, UAE recommends that the TS surcredit be applied as a proportionate reduction to the Base Firm Demand Charge and each of the Base DNG Volumetric Rates, consistent with DEU's approach, but recalibrated to the appropriate reduction amount for the class as estimated in Table 1. UAE is also supportive of DEU's approach to the FT-1 surcredit calculation, which maintains the relationship to the TS Base Firm Demand Charge, and applies the remaining surcredit proportionately to each of the FT-1 Base DNG Volumetric Rates, but recalibrated to UAE's recommended FT-1 reduction.

Carrying Charges on Deferred Benefits. DEU began deferring the estimated direct benefits of the reduction in the federal income tax rate from 35% to 21% in January 2018. The Company proposes to implement the going-forward surcredit on June 1, 2018, and to continue to defer the pre-June 1st savings in a regulatory liability account until the 1st quarter of 2019 (or earlier, depending on when the impact of excess deferred income taxes can be determined). Based on DEU Exhibit 1.4 from the supplemental filing, DEU estimates it will defer $9.05 million for the period January 1 to May 31, 2018.[5]

Despite proposing to retain these savings until the 1st quarter of 2019, DEU has not proposed to apply a carrying charge to the deferred balance. UAE recommends application of an appropriate carrying charge to the remaining deferred balance, equal to DEU's most recently approved weighted average cost of capital, or 7.64%, until these savings have been fully returned to customers.

Period to Return the Deferred Benefits to Customers. UAE recommends that the deferred benefits be returned to customers as expeditiously as practicable. However, UAE recognizes that DEU's volumetric sales vary seasonally, which may present rate design challenges. Therefore, UAE recommends that the deferred benefits, including carrying charges, be fully returned to customers during the period January 1 through May 31, 2019, which matches (albeit one year later) the exact months in which the deferral was recorded. This approach will equitably return these benefits to customers over a period comparable to the deferral period,

[5] Since DEU calculates the deferral by multiplying the tax reform surcredit by the actual billing determinants each month, UAE's recommended allocation to classes and resulting class surcredits may slightly impact the amount of the deferral, although the total annual tax savings are unaffected.

while also ensuring that customers receive these benefits approximately within a year of when benefits were realized.

Excess Accumulated Deferred Income Taxes ("ADIT"). Excess ADIT represents income tax prepayments by customers that are now greater than the Company's expected future income tax obligations for the associated assets due to the lower tax rate. In its supplemental filing, DEU explains that it continues to study the impact on ADIT, and it will file a revision in the 1st quarter of 2019, or earlier, to account for these changes. While UAE appreciates that the calculation of ADIT impacts is complex, the period of time requested by DEU to complete this calculation appears unduly protracted.

The normalization provisions governing the return of Excess ADIT to customers creates a significant inter-generational burden on customers to the advantage of utilities; that is, past overpayments of federal income taxes by customers associated with public utility property can only be returned over a very extended time period.[6] This inter-generational burden required by statute should not be exacerbated by delaying the return of past customer overpayments any longer than is necessary to comply with the normalization requirements in the law.

UAE encourages the Commission to require DEU to present its analysis of Excess ADIT impacts no later than the 3rd quarter of this year, so that the implementation of a crediting mechanism to return Excess ADIT to customers can occur in a timely manner, consistent with normalization requirements.

---

[6] The excess ADIT on public utility fixed assets are subject to normalization rules using the average rate assumption method, which basically means that the excess ADIT subject to these requirements cannot be returned faster than the depreciable lives of the assets without incurring a penalty. However, these normalization rules do not apply to "unprotected" excess ADIT (such as ADIT on regulatory assets/liabilities) and the rate at which the unprotected excess ADIT should be amortized should be set by the Commission.

DATED this 2nd day of May 2018.

HATCH, JAMES & DODGE

Gary A. Dodge
Attorneys for UAE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 2nd day of May 2018 on the following:

DOMINION ENERGY UTAH

Jenniffer Nelson Clark	jenniffer.clark@dominionenergy.com
Arminda I. Spencer	arminda.spencer@dominionenergy.com
Kelly Mendenhall	kelly.mendenhall@ dominionenergy.com

DIVISION OF PUBLIC UTILITIES

Chris Parker	chrisparker@utah.gov
William Powell	wpowell@utah.gov
Patricia Schmid	pschmid@agutah.gov
Justin Jetter	jjetter@agutah.gov

OFFICE OF CONSUMER SERVICES

Michele Beck	mbeck@utah.gov
Cheryl Murray	cmurray@utah.gov
Steven Snarr	ssnarr@agutah.gov
Robert Moore	rmoore@afutah.gov