

IN THE MATTER OF THE	)	
APPLICATION OF DOMINION	)	
ENERGY UTAH FOR APPROVAL OF	)	Docket No. 17-057-T04
A THIRD-PARTY BILLING RATE	)	
	)	PETITIONERS REPLY
	)	

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The Rocky Mountain Gas Association (RMGA), The Utah Plumbing & Heating Contractors Association (UPHCA), and the Independent Electrical Contractors Association of Utah (IEC of Utah) (Collective Petitioners) hereby reply to Dominion Energy’s Combined Opposition to Motion to Reconsider and Motion to Dismiss Petition for Declaratory Ruling filed on September 28, 2017, and reaffirm our concerns that this Third-Party Billing Tariff is not in the best interest of Dominion Energy ratepayers.

### INTRODUCTION

As has already been stated in the Petition for Declaratory Ruling submitted on September 1, 2017, John Hill, the Executive Director of RMGA only learned of the order authorizing Dominion Energy’s proposed Tariff change to allow third-party billing on ratepayer bills, on August 28, 2017 the last day to file a Motion to Reconsider. He hurriedly put together a motion for reconsideration or rehearing and sent it to all parties, including Dominion Energy, but failed to properly file the motion with the Public Service Commission (PSC) until the following day, August 29, 2017. And on behalf of the Collective Petitioners, he then submitted the Petition for Declaratory Ruling on September 1, 2017, because he was informed that the PSC did not need to even consider our earlier motion.

In its Opposition, Dominion Energy contends the Petition is late because it was not filed within the 30 days as set forth in Utah Code Ann. § 54-4-37. Dominion states “a request for reconsideration **must** be filed within 30 days of ‘the issuance of the order with the person or entity designated for that purpose by the statute or rule.’” (Opposition, p. 5) (Emphasis added). But this is a misstatement of the rule. Section 54-4-37 says “the aggrieved party **may** file a written request for review within 30 days after the issuance of the order with the person or entity designated for that purpose by the statute or rule.” (Emphasis added). Because the rule is permissive, the Petition is timely and to PSC has discretion to consider the Petition.

Moreover, consideration of the Petition will not prejudice Dominion in any manner. Indeed, Dominion has not shown that consideration of the Petition by the PSC impairs any of its financial or operational interests. Nonetheless, Dominion further argues that the Petitioners are not parties to the proceeding and also that the Petition must be dismissed under Rule 12(b)(6) Utah R. Civ. P., but Utah Code Ann. § 63G-4-101(4)(b) only permits to use of this rule for filing a “timely motion to dismiss”, not in opposition to a motion for reconsideration. And Dominion offers no authority that these or any of the procedural defects it raises are jurisdictional as opposed to directive guidelines.

Given that the mandate of the PSC is to protect the public interest and Dominion will not be prejudiced by the PSC considering concerns of the construction industry, the PSC should ignore Dominions invitation to summarily dismiss or ignore the Petition on bare technical grounds. Particularly the specious grounds offered by Dominion.

The Collective Petitioners were not aware that a tariff request had been made by Dominion Energy and nor that the hearing had already been held, otherwise, we would have

presented our concerns at that time. While the Collective Petitioners are not a formal party to this proceeding, we do offer relevant and overlooked information that may sway the Public Service Commission to reconsider the approval of Dominion Energy's initial application.

Pursuant to Utah Code Ann. § 54-4-1, the Public Service Commission has the primary responsibility to ensure safe, reliable, adequate, and reasonably priced utility service, and that is why it conducts hearings and investigations of utility company operations, in order to determine just and reasonable rates for service.

Considering the broad authority of the Public Service Commission and mandate to protect the public interest from monopolistic practices of utilities, the PSC has the authority, and should exercise its discretion to consider the Collective Petitioners' Petition to ensure the public and individual ratepayers are adequately protected.

In our filing, and again at the scheduling conference on September 21, 2017, the Collective Petitioners did not request an additional hearing on this matter, we only ask that our concerns, detailed in this Reply, be considered by the Public Service Commission before this third-party billing tariff is rescinded, modified or otherwise goes into effect.

### **\$200,000 ++ BARRIERS TO ENTRY**

Under the Tariff, third-party charges can only be included on Dominion Energy utility bills if they comply with the requirement of Utah Code Ann. § 54-4-37, which as drafted appears to provide a level playing field, but in reality, will preclude Utah's privately owned, for-profit HVAC, Plumbing and Electrical Contractor companies from participating.

While Utah Code Ann. § 54-3-8 does not allow the granting of any preference or advantage to any third-party service provider, the barriers to entry, which include paying \$200,000 up front to cover all initial programming costs required to enable Dominion Energy to provide third-party billing services, severely limits the number of third-party providers able to take advantage of Dominion Energy's ratepayer billing services, to a few deep-pocketed, national firms. Additional barriers to entry that exclude local contractors from competing, include requiring a toll-free telephone number, maintaining a 24/7 customer call center, and dispute resolution center.

The barriers to entry create an unfair and nearly monopolistic advantage for Dominion Energy's for-profit affiliate, Dominion Energy Products and Services over Utah's local, independent, licensed contractors, who offer their own warranty services and maintenance agreements.

In HVAC Contractor Ryan Rentmeister's Affidavit, you will read that his family owned HVAC company, Rentmeister Total Home Service has been in business since 1978, which:

offers a maintenance program to our customers that provides a service call and safety inspection twice a year, and a five-year warranty on any repaired or replaced parts.

It is my understanding that Dominion Energy Products and Services does not offer maintenance or safety inspections, and if the "lack of routine maintenance" is suspected as having caused the furnace malfunction, such as not replacing the air filter and having the blower motor burn out, the ratepayer is not covered. Too often, homeowners think that a warranty service protects them in all circumstances, and they don't maintain their furnace properly.

Additionally, the \$200,000 programming fee is cost prohibitive for our company to compete with Dominion Energy Products and Services, or any other national warranty program provider who is allowed to bill on Dominion Energy's ratepayer gas bills.

Ryan is one of thousands of Utah-based contractors who may have more generous or less expensive warranty services and/or maintenance programs that would benefit ratepayers, but will be hard to sell if they have to compete on an uneven playing field against Dominion Energy, the fourth largest utility in the U.S.A. The Collective Petitioners foresee the potential negative financial impact on individual ratepayers, especially if fewer warranty services and maintenance agreements are available in the marketplace, then prices are likely to rise and/or fewer products and services will be covered by the warranty agreements.

#### **LIKELIHOOD OF RATEPAYER CONFUSION**

On or about August 9, 2017, Bill Hart, Retail Network Operations Coordinator for Dominion Energy Solutions, spoke to RMGA board members on a conference call and told us that Dominion Energy Product and Services was planning to advertise in Dominion Energy's Gaslight ratepayer bill inserts, and in other Dominion Energy publications. He made similar statements to Executive Director, Dave Hill with the Utah Plumbing and Heating Contractors Association (UPHCA) the next day or so. Then on September 19, 2017, after we filed our Petition, the Collective Petitioners met with Dominion Energy's Barrie McKay, who informed us that Dominion Energy Product and Services would not be advertising in Dominion Energy publications. However, the PSC Order, dated July 28, 2017, remains silent on the issue, so the Collective Petitioners would like to see advertising restrictions specifically spelled out in a revised final order, if Docket No. 17-057-T04 is not rescinded outright.

Not allowing Dominion Energy Products and Services to advertise in their parent company's publications, still does not change the fact that Dominion Energy ratepayers will likely be confused about who actually is billing for home warranty services, and more importantly, who is actually providing the warranty services. In actuality, it isn't even Dominion Energy Products Services providing the warranty services being billed on the gas bills, but rather independent contractors hired by Dominion Energy Products Services.

The Collective Petitioners are concerned that such basic name confusion by average ratepayers will only be exacerbated when the ratepayer is asked to understand the legal distinction between Dominion Energy, Utah's monopolistic natural gas utility, and their for-profit affiliate, Dominion Energy Products and Services, offering home warranty services, especially if both companies are allowed to bill monthly on Dominion Energy's gas bill.

John Hill, the Executive Director of Rocky Mountain Gas Association (RMGA), has over 21 years of working with ratepayers who need furnace and water heater repairs in Utah. And he knows first-hand that ratepayer confusion exists today as it relates to Utah's electric and gas utility providers.

Attached is John Hill's Affidavit regarding utility name confusion that currently exists today. As Executive Director of the Rocky Mountain Gas Association, John answers telephone calls from confused ratepayers all the time, who don't even know the name of their gas and/or electric power provider. In his affidavit, John states:

Ever since 2006, when Utah Power and Light (a division of PacifiCorp) changed its name to Rocky Mountain Power, The Rocky Mountain Gas Association receives approximately 2-6 telephone calls per week, depending on the time of the month, from Questar Gas and PacifiCorp customers, who call RMGA and ask us to turn on or off their gas or electric

power. RMGA is confused with Questar Gas, because “Gas” is in our name, and confused with Rocky Mountain Power, because we share “Rocky Mountain” in both of our names. The amount of calls was staggering in the early years, and still they continue on a weekly basis, with approximately 2-6 calls every week. When we get confused customers calling, we establish with whom they really want to speak, then refer them to the respective utility.

The Collective Petitioners do not have the time or resources to conduct a statistically reliable survey of Dominion Energy ratepayers in Utah to determine the likelihood there will be confusion between the names and responsibilities of Dominion Energy and Dominion Energy Products and Services in regard to the warranty services being offered, or the warranty purchasing ratepayer’s understanding that should they need to make a claim against their warranty, independent contractors, not Dominion Energy nor Dominion Energy Products and Services employees, will be sent to the ratepayer’s home to assess the warranty situation and make repair or replacement recommendations.

The Collective Petitioners would like to have the PSC commission such a study, and one that would also look at how much more a Utah ratepayer might be willing to pay for warranty services based on the utility’s goodwill and perceived protection since it is the for-profit affiliate of Dominion Energy providing the home warranty service agreements.

### **UNETHICAL CONTRACTOR CONCERNS**

The Collective Petitioners are even more concerned about the negative impact on individual ratepayers who sign up for Dominion Energy Product and Services warranty service, who may receive subpar-quality workmanship from an unethical independent service provider who has contracted with Dominion Energy Products and Services to perform the warranty work,

because it is not Dominion Energy or Dominion Energy Products and Services that will interface with the ratepayer when something goes wrong with their furnace, water heater or electrical wiring.

How will the Public Service Commission protect ratepayers from unscrupulous third-party warranty work providers, hired by Dominion Energy Product and Services, who are sent to ratepayer homes often in emergency situations? Again, a study would be beneficial to help understand what percentage of ratepayers will simply take the technicians' word on what the problem is, and be less inclined to seek out additional bids because Dominion sent them.

With the limited coverage of the warranty services being offered by Dominion Energy Products and Services, there may be a temptation on the part of an unethical, third-party contractor to perform work not covered or needed by the homeowner.

The Collective Petitioners are concerned that there is no mechanism in place to protect ratepayers from unethical contractors, who gain access to a Dominion Energy ratepayer's home through the warranty program and enjoy a Dominion Energy halo of trust that they will be treated fairly, especially when the warranty doesn't cover the alleged problem.

As the RMGA Executive Director, John Hill has assisted ratepayers in the past, who have had unethical contractors take advantage of emergency situations. In John's affidavit, you will read that:

On several occasions in the last 5-8 years, I have had Questar Gas customers contact me after the fact, complaining that they invited a HVAC contractor into their home for service work, and the contractor proceeded to shut off their gas and condemn their furnace, as night was falling on a cold winter night. In one case, the unethical contractor



left the furnace completely dismantled and pressured the ratepayer to pay an inflated price for a new replacement furnace that they didn't even need.

On two occasions, RMGA hired independent contractors to inspect the old furnaces that had been replaced, only to discover that in fact the furnaces did not have cracked combustion chambers and did not need replacing at all.

The Collective Petitioners are concerned that the Public Service Commission will not be able to protect ratepayers without having a protocol in place for Dominion Energy's for-profit affiliate to hire and vet third-party warranty service providers to ensure that the contractors entering Dominion Energy ratepayer homes are honest and ethical.

## **CONCLUSION**

For the foregoing reasons, the Collective Petitioners respectfully requests that the Public Service Commission:

- 1) Rescind the approval of Docket No. 17-057-T04, or in the alternative,
- 2) Clearly stipulate in a revised order, that advertising by Dominion Energy Products and Services, or any third- party provider is not allowed in Dominion Energy publications and mailings, and
- 3) Have a Study commissioned to assess ratepayer confusion and the perceived value of the Dominion Energy name over all other warranty providers, and the potential for unethical contractors to prey on ratepayers, and
- 4) Consider the public harm to hardworking, independent HVAC, Plumbing and Electrical Contractors licensed to work in Utah, who may offer better warranty programs or maintenance agreements to ratepayers, but are at a competitive disadvantage to Dominion

Energy Products and Services that has the financial backing to pay Dominion Energy to bill their home warranty program on ratepayer gas bills.

DATED: October 13, 2017

Respectfully submitted by Collective Petitioner's Duly Authorized Representative:



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John P. Hill

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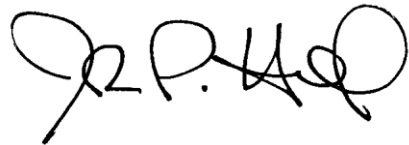
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of October 2017, a true and correct copy of the foregoing Reply was served upon the following by electronic mail, with a mailed copy sent to Jennifer Clark, Attorney for Dominion Energy:



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