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State of Utah
DEPARTMENT OF COMMERCE
Office of Consumer Services

MICHELE BECK
Director

To: Public Service Commission of Utah

From: Office of Consumer Services
Michele Beck, Director
Cheryl Murray, Utility Analyst

Date: July 19, 2018

Subject: Dominion Energy Utah's Gas Line Coverage Letter. Docket No. 18-057-07
Office of Consumer Services Comments.

History of the Issue

On May 2, 2018, the Public Service Commission of Utah (Commission) issued an action request to the Division of Public Utilities (Division) requesting that the Division investigate a letter recently sent under Dominion Energy's letterhead to Utah gas utility customers. The gas line letter (Letter) offers optional coverage of up to \$8,000 annually for repairs to customers' gas lines "from your utility's responsibility up to each gas appliance in your home". The repair service is available from HomeServe USA Repair Management Corp. (HomeServe) for \$5.49 per month. The Letter indicates that Dominion Energy Utah (DEU or Company) customers can apply for this service at the DECcustomerHomeRepair website and the monthly charge will be included in the customer's DEU bill.

The impetus for the issuance of the action request was the receipt by regulatory agencies of customer complaints and questions regarding the Letter.

On May 11, 2018, the Division and the Office of Consumer Services (Office) submitted comments responding to the Commission's May 2, 2018 action request. Both parties voiced concerns with the Letter and its offering and suggested, among other things, that the Commission should suspend the tariff and take further comments from interested parties.

On May 21, 2018, DEU filed comments stating 500,000 copies of the Letter had been sent to DEU customers under tariff Section 8.08, which governs DEU's use of customer bills to include third-party billings. DEU asserts that Section 8.08 should not be suspended because neither the Division nor the Office cites any violation of the tariff.

On May 23, 2018, the Commission issued guidance to parties for a May 24, 2018 scheduling conference and declined to suspend Section 8.08 at that time.

On May 25, 2018, the Commission issued a Scheduling Order and Notice of Technical Conference wherein parties were directed to file comments and reply comments by June 28 and July 12, 2018, respectively.

On June 28, 2018 the Division and the Office submitted comments. Both parties recommended, among other things, that the Commission should revoke tariff Section 8.08 as it is not in the public interest and it cannot be administered in a fair and non-discriminatory manner.

Office Response to Division's June 28 Comments and Recommendations

Revoke Tariff Section 8.08 and Impute Revenue

The Office will not address all of the Division's comments and recommendations, which should not be taken as a sign of support nor disagreement with any issue not addressed. However, the Office notes that it is in general agreement with the Division in recommending that the Commission revoke Section 8.08 of DEU's tariff and impute revenues associated with the transaction whereby DEU customer information was provided to DPS and HomeServe.

Unwinding Plan

The Division states that it "generally supports the plan as reasonable, with a few changes and clarifications." [Division June 28 memo at page 13]

The Division recommends that: 1) the relevant entities, DEU, DPS, and HomeServe should all be distinctly identified; 2) the notification timelines should affect how the non-utility parties treat billing, payment, and continuation of coverage in the immediate post-revocation period; and 3) the cost of letters, phone calls and other contact contemplated in the plan should not be borne by the utility's customers.

The Office agrees with the Division's recommendations in regard to the unwinding plan. We also maintain our original recommendation that the Billing Arrangement Letter be further clarified to explicitly state that gas appliances are not covered by the HomeServe repair agreement. (Or, in the alternative that if Section 8.08 is kept in place then the Clarification Letter should be modified to explicitly state that gas appliances are not covered by the HomeServe repair agreement.)

Privacy Tariff and Rulemaking

The Division recommends, "the Commission should make rules to enable customer control of information sharing for all regulated utilities but may wish to adopt new tariff language for DEU until those rules are completed." The Division then provides the following language, which it states "may be adequate".

“Dominion Energy may not share customer information with any other entity without compensation, except for purposes of billing and collection for the customer’s gas usage. Compensation for customer information shall be a revenue credit in rate proceedings. A customer may opt out of any information sharing other than sharing ordinary billing and collection information. At least once in each calendar year, Dominion Energy shall include a notice with each customer’s bill that the customer may opt out of information sharing. Once a customer opts out of information sharing, the customer’s permission is required before information may be shared, other than for purposes of billing and collection for customer’s gas usage.”

While the Office does not oppose a tariff change in general, it does not support the language proposed by the Division. This proposed language is inconsistent: the first sentence prohibits the sharing of customer information and then the third sentence allows for the opting out of information sharing followed by a description of the processes associated with opting out. Provisions for opting out presumes that information sharing would be allowed.

The Office also maintains that the proposed tariff language addressing customers opting out of information sharing is inappropriate for inclusion in the DEU tariff at this time. It would not be in the public interest to make such a specific tariff change prior to a more general rulemaking on the topic. By the time customers are educated about this change, the rulemaking could result in a different policy resulting in additional necessary customer education and potential confusion.

The Office recommends that if the Commission believes a tariff change is appropriate at this time, it should be a simple prohibition of customer information sharing until a more comprehensive policy can be established through rulemaking that would be applicable to all regulated utilities.

Impose penalty

The Division addresses options that the Commission could pursue regarding potentially imposing a penalty on DEU. It states in part, “if the revenue imputation above is made, the Commission should impose only a single \$2,000 penalty on the Gas Utility.” The Office supports the Division’s recommendation for a small penalty and notes that the revenue imputation is much more relevant to ratepayers and a better tool to effectuate the public interest in this instance.

Office Recommendations

The Office recommends:

1. The Commission should revoke Section 8.08 of the DEU tariff for the reasons described above and more fully in our June 28, 2018 memorandum.

2. The Commission should require that the Billing Arrangement Letter be further clarified to explicitly state that gas appliances are not covered by the HomeServe repair agreement. (Or, in the alternative that if Section 8.08 is kept in place then the Clarification Letter should be modified to explicitly state that gas appliances are not covered by the HomeServe repair agreement.)
3. The Commission should adopt the Division's recommendations related to the unwinding plan as identified on pages 13 and 14 of the Division's June 28 memorandum.
4. The Commission should impute into customer rates the revenues associated with the transaction that provided DEU customer information and consider imposing a small penalty on DEU.
5. The Commission should initiate a rulemaking process to set forth standards addressing utility customer privacy issues.
6. If the Commission believes that a tariff change is necessary prior to the outcome of rulemaking, as suggested by the Division, it should be a simple prohibition of customer information sharing until a more comprehensive policy can be established through rulemaking that would be applicable to all regulated utilities.

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