APPLICATION OF DOMINION ENERGY UTAH

Docket No. 19-057-02

PHASE I

HEARING

December 18, 2019

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

--oo0oo--

In re: Application of Dominion Energy Utah to Increase Distribution Rates and Charges and Make Tariff Provisions.

Docket No. 19-057-02

CONTINUATION OF PHASE I HEARING

Taken on Wednesday, December 18, 2019

at 9:00 A.M.

At The Public Service Commission of Utah

160 East 300 South

4th Floor

Salt Lake City, Utah 84111

Reported by: Kellie Peterson, RPR, CSR

A P P E A R A N C E S

THE PUBLIC SERVICE COMMISSION:	Chair Commissioner Thad LeVar Commissioner Jordan A. White Commissioner David R. Clark
FOR DOMINION ENERGY UTAH:	Jenniffer Nelson Clark, Esq. DOMINION ENERGY UTAH 333 South State Street Salt Lake City, UT 84145 Telephone: (801)324-5392 jenniffer.clark@dominionenergy.com Cameron L. Sabin, Esq. STOEL RIVES 201 South Main Street Suite 1100 Salt Lake City, UT 84111 Telephone: (801)578-6985 cameron.sabin@stoel.com
FOR DIVISION OF PUBLIC UTILITIES:	Justin Jetter, Esq. UTAH ATTORNEY GENERAL'S OFFICE DIVISION OF PUBLIC UTILITIES 160 East 300 South Fifth Floor Salt Lake City, UT 84114 Telephone: (801)366-0380 jjetter@agutah.gov
FOR OFFICE OF CONSUMER SERVICES:	Robert J. Moore, Esq. Steven W. Snarr, Esq. UTAH ATTORNEY GENERAL'S OFFICE OFFICE OF CONSUMER SERVICES 160 East 300 South Fifth Floor Salt Lake City, UT 84114 Telephone: (801)366-0380 moore@agutah.gov stevensnarr@agutah.gov
FOR FEDERAL EXECUTIVE AGENCIES:	Major Scott L. Kirk, Esq. AIR FORCE LEGAL OPERATIONS AGENCY FEDERAL EXECUTIVE AGENCIES AFLOA/JACE-ULFSC 139 Barnes Drive Suite 1 Tyndall AFB, FL 32403 Telephone: (850)283-6347 scott.kirk.2@us.af.mil

UTAH ASSOCIATION OF ENERGY USERS:	Phillip J. Russell, Esq. HATCH, JAMES & DODGE 10 West Broadway Suite 400 Salt Lake City, UT 84101 Telephone: (801)363-6363 prussell@hjdlaw.com
AMERICAN NATIONAL GAS COUNCIL:	Steve Mecham, Esq. MIB PARTNERS 10 West 100 South Suite 323 Salt Lake City, UT 84101 Telephone: (385)222-1618 mecham@millc.com

I N D E X

E X H I B I T S

Ex. No.	Description	Page No.
DEU 7R	Revised Matrix	297
DEU 8	Transponder Cost Adjustment Summary	319
FEA 1	Direct Testimony of Michael Gorman, with Attachments (not attached)	340
FEA 3SR	Surrebuttal Testimony of Michael Gorman, with Attachments (not attached)	340
ANGC 1	Direct Testimony of Bruce Oliver, with Attachments	373
ANGC 1SR	Surrebuttal Testimony of Bruce Oliver	373
DPU 1	Direct Testimony of Douglas Wheelwright (not attached)	379
DPU 4	Direct Testimony of David Thomson, with Attachments (not attached)	383
DPU 5	Direct Testimony of Jeff Einfeldt, with attachment (not attached)	387
DPU 2	Direct Testimony of Eric Orton, with Attachments (not attached)	389
DPU 2S	Surrebuttal Testimony of Eric Orton, with Attachment (not attached)	389
DEU 9	Feeder Line Technical Conference	395
DEU 10	FL Replacement List	395
DPU 3	Direct Testimony of Casey Coleman, with Attachments (not attached)	399
DPU 3SR	Surrebuttal Testimony of Casey Coleman with Attachments (not attached)	399
OCS	Direct Testimony of Alyson Anderson (not attached)	405
OCS 2D	Direct Testimony of Donna Ramas (not attached)	412

(Exhibits cont.)

OCS 2S	Surrebuttal Testimony of Donna Ramas (not attached)	412
DEU 11	OCS Data Request No. 10.04	462
DEU 12	OCS Data Request No. 10.03	462
DEU 13	OCS Data Request No. 10.12	468
DEU 14	OCS Data Request No. 11.12	468
OCS 3	Direct Testimony of Daniel Lawton, with Attachments (not attached)	487
OCS 3S	Surrebuttal Testimony of Daniel Lawton, with Attachments (not attached)	487
UAE 1	Direct Testimony of Kevin Higgins, with Attachments (not attached)	510
UAE 1S	Surrebuttal Testimony of Kevin Higgins, with Attachments (not attached)	510

December 18, 2019 9:00 A.M.

P R O C E E D I N G S

COMMISSIONER LEVAR: Okay. Good morning. We will begin. We are here for Day 2 of the evidentiary hearing in the Public Service Commission Docket 19-57-2, application of Dominion Energy Utah to increase distribution rates and charges and make tariff modifications. This is the Phase I Hearing of revenue requirements.

We had completed cross-examination of witness Mr. Jordan Stephenson. We had indicated that we would give parties one more opportunity, if they wanted any additional cross-examination, before we move to any redirect.

So I will start with that and ask any parties to indicate to me if they want to do any more cross before we --

Did you have a comment?

MS. CLARK: I do. I spoke to most of counsel present about Exhibit 3 and Exhibit 7 that drew so much discussion yesterday. The company has prepared a revised exhibit that removes all of the numbers that other parties found objectionable, and so I would -- I don't know if it's appropriate to offer that now before cross continues or if you would like me to wait for redirect to do that.

COMMISSIONER LEVAR: Probably makes sense to go ahead and do that now.

MS. CLARK: I will do it. Thank you. May I approach?

COMMISSIONER LEVAR: Yes.

(Exhibit passed out.)

MS. CLARK: May I officially lay foundation for this docket?

COMMISSIONER LEVAR: Yes.

MS. CLARK: Mr. Stephenson, you have just been handed what is marked as DEU 7R. Can you describe what that is?

THE WITNESS: Yes. This exhibit shows the original proposal the company filed in this case, along with adjustments that have been proposed by various parties participating in this case.

And from Rows 2 -- well, I'll just summarize DEU's position. As it relates to each of these adjustments that's shown, the amount shown is what DEU currently calculates its acceptable adjustment to be. And where you see zeros next to any particular adjustment, DEU does not agree with that adjustment.

MS. CLARK: Thank you.

The company would move for the admission of

DEU Hearing Exhibit 7R.

COMMISSIONER LEVAR: If any party objects to this motion, please indicate to me.

I'm not seeing any objection in the room, so the motion is granted.

(Hearing Exhibit DEU 7 was marked for identification.)

MS. CLARK: Thank you. And Mr. Stephenson is available for further cross.

COMMISSIONER LEVAR: Okay. Does any party want to do further cross-examination before we go back to redirect? I will look for an indication from anyone.

I'm not seeing any, so we will go to redirect.

MS. CLARK: Thank you.

REDIRECT EXAMINATION

BY MS. CLARK:

Q. Mr. Stephenson, yesterday when you were speaking with Mr. Snarr, you may have recall that he discussed the company's capital budget; do you recall that?

A. Yes.

Q. Can you describe for the Commission the company's process in developing that capital budget and how it may evolve over time?

A. Yes. And specifically to this case, I will talk about how the 2020 capital budget was prepared. So the budget we filed in July of 2020 was based on the capital budget that actually had been prepared in the fall of 2018, and it was based on our best knowledge of what projects would occur in 2020.

And as the process goes and as we get closer to the actual year of construction, we learn -- we gain new insights about the conditions that will be in place in 2020 and some -- sometimes reality causes a change in planning.

For example, it could be that cities do not allow us to come in and do construction at the same time that we would like to come in and there may be other considerations. And then even in the period of construction within 2020 itself, there can be changes that occur related to unanticipated projects, scope changes.

For example, if you are installing a feeder line, and this has been something I think we have seen in the feeder line tracker budget line process that we report on thoroughly in our feed line tracker program. There's costs that we don't necessarily know a year and a half in advance. For example, if we start digging a trench and find contamination in the soil and have to incur costs to clean it up and dismantling costs go up significantly, those items are all very difficult to project when you're a year and a half out.

That said, as we get closer, each individual project is subject to variance related to those things, but what we have seen and what we have a history of seeing each year is that each of these individual projects may vary, but when you summed them all up together, those variances tend to offset each other. And that's the reason why your total capital budget doesn't vary significantly normally and, on average, has been within 1 percent over the last five years.

We looked at 2019, for example, and we're close to the end of the year, and now knowing what the actual capital spend has been through 2019, we anticipate we will end the year slightly above the $233 million total, although particular projects may have shifted and there is variance within categories, the total budget doesn't vary significantly.

And with that knowledge and going into 2020, we are very comfortable that the $277 million amount is appropriate.

Q. Mr. Stephenson, Mr. Snarr also asked you about professional services, a proposed adjustment that has sometimes been, in this case, referred to as LNG

costs and I want to follow up on that a little bit.
With regard to professional services, I believe you testified that there are services like engineering analysis and legal work; is that right?
A. That's correct.
Q. And doesn't the capital budget for 2020 include large projects like the Southern System Expansion, which I think is a $20 million item, and the current gauge station, which is a $14 million item; is that correct?
A. That's correct.
Q. Would you expect projects like that to need professional services like engineering analysis and legal work?
A. Yes.
Q. Mr. Stephenson, I also want to talk to you about the transponders and dismantling cost. You recall discussing that with Mr. Snarr yesterday?
A. Yes.
Q. And do you recall offering to provide or write a diagram or a chart that could help explain it?
A. Yes.
Q. Have you prepared such a chart?
A. I have.
MS. CLARK: May I approach?

COMMISSIONER LEVAR: Yes.

(Exhibit handed out.)

BY MS. CLARK:

Q. Mr. Stephenson, I provided you with a document labeled DEU 08. Can you describe what that is?

A. Yes this is a summary of the transponder costs in this case. Column A shows the original impact of transponders that I had included in the 2020 test period.

Column B shows adjustments or the impact that the Office that Ms. Ramas has included in her testimony. And Column C shows an update based on analysis I've done, after reviewing Ms. Ramas's testimony and consulting with our project manager over the transponder program, as well as our accounting group.

And so just to walk through what these rows are, Row 1 shows the rate base items that we're talking about, and as has been discussed, dismantling costs incurred during any specific period have a rate base impact, in that they reduce the accumulated depreciation balance and so that increases rate base.

And in my test period, I had used a system total factor for dismantling that I calculated using a three-year average of total dismantling cost historically over total retirement costs, and I applied that to all retirements, including transponder retirements. And as Ms. Ramas pointed out in her testimony, historically, the transponders had not incurred -- or shown on the books dismantling costs.

And so she recognized an adjustment down to reflect that there will not be dismantling costs in the test period in 2020 and in 2019. And so her adjustment shown in Column B -- and I have actually accepted the adjustment as the 3.6 million downward adjustment to rate base related to dismantling the transponders.

I also reviewed, as it relates to transponders, the system total factor that we included in our original model and in our rebuttal model, to estimate how much investment would be left in construction work in process.

And just to explain how that works, we have a capital budget for the year, and oftentimes, projects are not completed by the end of the year, so although we may spend, in this case, $11 million on transponders, a lot of our projects are not in service. And if it is not yet complete, we do not include that in rate base, even though we've had capital spend on that.

And so to estimate how much would be left in the construction work in process and not be included in rate base, I used a systemwide factor based on five years of history of total capital spend versus total amount left in the 107 Account, which is construction work in process. And that five-year history showed a 29.15 percent average amount of capital spend that stays in CWIP so it wouldn't be close to rate base.

Looking specifically at transponders and talking with our accounting group, transponders themselves actually don't stay in construction work in process because it is not an ongoing construction project. It is a very rapid change-out when a technician removes a transponder and places a new transponder on a meter, so we wouldn't expect to have any construction work in process balance.

And so my position is, if we're going to depart from using the average systemwide total factors and account for transponders individually and specifically, we should update all three of those factors: dismantling, proceeds, and construction work in process.

So my Row 2 of this exhibit, Hearing Exhibit 8, reflects the update in that construction work in process factor, and it actually increases the rate base amount that will be close to investment by $2.3 million. When you add those items together, we have a net reduction of $1.3 million in rate base, and then I also have a reduction related to depreciation expense. And these -- these adjustments are shown in Column D, and this is what I would propose being a reasonable amount to adjust our test period by.

MS. CLARK: The company would move for the admission of DEU Hearing Exhibit 8.

COMMISSIONER LEVAR: Does anyone object to that motion? Please indicate to me.

MR. SNARR: I would object without the opportunity to further examine Mr. Stephenson on this particular document.

COMMISSIONER LEVAR: Do you have any objection to holding this motion until after recross?

MS. CLARK: No, I would be happy to hold the motion. Sure.

COMMISSIONER LEVAR: Any other --

MS. CLARK: I do, please.

BY MS. CLARK:

Q. Mr. Stephenson, I have one more topic to discuss with you. There was a fair amount of discussion yesterday with Mr. Russell about the proposed pension adjustment. Do you recall that discussion?

A. Yes.

Q. And do you recall with being provided with OCS Cross Exhibits F1 and F2 that are testimony from the

merger proceeding before this Commission; do you recall that?

A. Yes.

Q. And you were asked, in particular, what the company meant when it said, "There would be a benefit to customers in perpetuity."

Can you speak to what you understand that to be?

A. So I believe Mr. Felsenthal was asked that question. I don't know that that came up to me specifically yesterday. But I did hear the question, and I'm familiar with the cross exhibit that you're referring to.

And so my understanding is what Mr. Wohlfarth was referring to in his testimony, in that docket, was that by contributing $75 million to the pension fund, we have a larger base that will generate a return in the pension fund.

And so how pension accounting works is you have service costs and interest costs, then you also have a return on plant assets that reduces those costs. And so that return on plant assets is, basically, applying a market return that those assets are performing by, by a base of assets that exist in the plant.

And the 75 million was derived simply by applying the expected return on those plant assets, which I believe at the time was 7 percent, by the $75 million amount to derive a benefit.

And in terms of whether or not that will ever change or go away, the 75 million after it is contributed into the plant, will continue to generate a credit going forward into perpetuity. And although the pension expense itself may change, the amount my change, the amount of assets that were contributed will never change. That will continue to create a credit that reduces the pension expense.

So whatever level it would have been going forward will have been reduced because there is now a higher amount of assets that are earning a return in the pension fund.

Q. Mr. Russell also asked you about the pension credit amount related to the 75 million contribution, and you had identified a $3 million pension credit.

Assuming, Mr. Stephenson, that the asset was also included, what would the asset balance be related to that $75 million contribution?

A. So we had referred to an exhibit, and I'll just open that back up again. It was included in Ms. Ramas' direct testimony, and it was Exhibit 2.16D, OCS 2.16D, and that is a data request that had been asked by the Office. And we had identified that there's a $3 million credit amount --

Q. If I can interrupt you, can you point us to the page in that rather voluminous exhibit?

A. Yes, absolutely. It is page 22.

So we had identified in that exhibit the $3 million amount shown in the bottom right corner of that table, and that relates to the return on the $75 million contribution that was placed into the fund in 2016.

If you were to identify -- rather than identifying a specific credit amount, you want to identify a specific asset amount today, we know that the total asset balance we included in the test period was 112 million.

You'll notice that part of that is related to the Dominion Energy affiliates and part of it is specific to Questar Gas or to Dominion Energy Utah. There's a credit with 65 percent of the total gets allocated to Dominion Energy Utah, and it would have been the same for the asset. So the asset would be 65 percent of the $75 million amount that would be on Dominion Energy Utah's balance sheet related to that contribution.

And I did want to expound a little on your previous question, if I may --

Q. Please.

A.   -- related to Mr. Wohlfarth's testimony. As I reviewed that and understanding the conditions that were in place at that time, my understanding is that Mr. Wohlfarth was explaining that the pension expense would be reduced by the $3 million credit into perpetuity, and I believe that remains true. That will continue to be the case.

What I don't believe is true, however, is that he was claiming that if the pension expense is zero in the future, that then other operating and maintenance expenses would be reduced as a result of a pension contribution.

I believe that it remains true that any potential pension expense, whether it is negative or positive, continues to be reduced by $3 million because of that contribution and that hasn't changed, but I believe it kind of -- it goes beyond the scope of his discussion to then say, "If we have no pension expense today, that we will now reduce other expenses in a test period," I don't believe that was -- that was contemplated at the time, and I don't believe that was the meaning of what Mr. Wohlfarth was saying, so...

MS. CLARK: I don't have any additional questions for Mr. Stephenson.

COMMISSIONER LEVAR: Okay. Thank you.

Mr. Jetter, any recross?

RECROSS EXAMINATION

BY MR. JETTER:

Q. Just a couple brief questions about what you just discussed in the pension fund.

Just so I'm maybe clear for the record and clear for my own understanding here, if shareholders of the company were to put $75 million into the pension fund with the expectation of earning a return on that, the weighted average cost of capital sought by the company is around 7.3 percent, just for a ballpark.

And if the return on that investment, if we considered it an investment by shareholders rather than a funding of shareholder expense and it was earning around a 7 percent return, that would effectively be meaningless to customers; is that right?

A. So I would have to do the math, but I believe the expected return on that contribution at the time was 7 percent. Right now, it's 8.75 percent, so I guess if you compare that to the return on rate base -- I believe Mr. Felsenthal may have done that comparison in his testimony, and I think he showed that the return included in rate base was actually slightly less than the return on plant assets that reduces the pension expense, so that it did have a slight benefit to customers to do that.

Q. Okay. But that wouldn't total around $3 million, would it?

A. No, that's correct.

Q. Okay.

A. And let me just reiterate as well, we -- our position, although Mr. Felsenthal presented evidence as to why it may be reasonable and make sense to include the pension asset and rate base, my proposal is not to include the pension asset and return -- and earn a rate of return on that. Our proposal is to strip it out.

Q. Thank you. I just wanted to make sure that that was clear, that that if that were put into rate base, the return would effectively offset the benefit to customers.

I have no further questions. Thank you.

COMMISSIONER LEVAR: Mr. Snarr?

MR. SNARR: I would like to request just about a five-minute recess. I need to confer with my clients on just a couple of matters before I proceed.

COMMISSIONER LEVAR: Okay. Why don't we recess until 9:30.

MR. SNARR: Okay. Thank you.

(Whereupon, a break was taken.)

COMMISSIONER LEVAR: Okay. I think we are back on the record.

Mr. Snarr?

MR. SNARR: Thank you.

RECROSS EXAMINATION

BY MR. SNARR:

Q. Mr. Stephenson, you have been asked some questions just this morning about the pension issues. You described the $112 million that was contributed into that pension fund; is that right?

A. Yes.

Q. And isn't it true that you've suggested that that $112 million ought to be considered as part of rate base in order that a return could be earned on that?

A. My proposal has been that these items should be treated symmetrical, so if a pension credit is included in the test period, then the associated pension asset should also be included. But we could also treat them symmetrical by removing all items.

And so my proposal is to actually treat them symmetrical by removing them and not including the pension asset or credit in the test period.

Q. Isn't it true that a portion of that $112 million that you were talking about does not pertain to the utility operations of Dominion Energy Utah?

A. No, that's not true.

Q. I would like to refer you to OCS Data Request

Response 3.02 that was provided to the Office. Do you have access to that?

A.   Yes.

Q.   And in looking at that, do you see the figure of 65.62 percent anywhere on that page?

A.   I do.

Q.   Could you explain what that information is that you have previously provided to us?

A.   So that's the amount of the total pension fund which is held at the corporate level, formally Questar Corp., and it's allocated down to all of the western affiliates here. So we have Questar Pipeline, Wespro and Questar Gas Company, now Dominion Energy Utah.

At the time this funding contribution was made, 65 percent of that total pie came to Dominion Energy Utah, the utility. The $112 million amount is after the 65 percent has already been allocated, so that 112 million exits on Questar Gas books as a Dominion Energy portion of the pension. The 112 million is not a total corporate asset. It's already allocated.

Q.   Okay. Thank you. Now turning to the other issues that you've addressed here, the issues related to transponders, in connection with the testimony -- in connection with the exhibit that has been identified as Hearing Exhibit 8, you have certain information you have

provided there and attributed to the Office's witness, Ms. Ramas; is that correct?

A. That is.

Q. And what was the source of that information?

A. The source, referring to Column D, the adjustment, the $3.6 million adjustment comes from the direct testimony of Ms. Ramas. I apologize, is it Ramas or Raumas? I don't want to keep saying it wrong if I am.

Q. I'm not sure I'm saying it right.

MS. RAMAS: Ramas.

THE WITNESS: Ramas, okay, thank you. Ms. Ramas, her Exhibit 2.6D showed an adjustment of $3.6 million to rate base.

BY MR. SNARR:

Q. And that was in her direct testimony filed on October 16, 2019. Correct?

A. I believe so, yes.

Q. And in your rebuttal testimony -- your rebuttal testimony was filed on November 14th of this year; is that right?

A. Right.

Q. And in connection to that, you provided Exhibit 3.2 in connection with your rebuttal testimony; is that right?

A. Yes.

Q. I would like to direct your attention to line 9 of Exhibit 3.2 of your rebuttal testimony. Do you have that there?

A. You said 3.9?

Q. 3.2, excuse me.

A. Oh, I'm sorry, 3.2. Yes.

Q. And directing your attention to line 9, you indicate there that the forecasted spend for 2020 is $4 million; is that correct?

A. That is correct.

Q. And that's inconsistent with the exhibit that you presented today; isn't that correct? More specifically, directing your attention to Footnote 1 of the exhibit you presented today and about the fourth line down, you represented the total 2020 spend is $5 million; isn't that right?

A. That is correct.

Q. And so there is an inconsistency there. Can we rely upon the rebuttal testimony previously submitted on November 14th?

A. Yes. My apologies. I do believe that the 5 million is a previous number. It should be updated to 4 million.

Q. Okay. Thank you. I would also like to direct your attention to line 12 of your Exhibit 3.2R,

part of your rebuttal testimony. Do you see that?

A. Yes.

Q. And there is a figure there of $3,705,545; is that correct?

A. That's correct.

Q. What does that particular figure represent as you presented that in Exhibit 3.2?

A. That's the amount of removal cost that was incurred related to transponders from the period of 2016 through 2018.

Q. So from the period of 2016 to 2018, that's the number. And where was that accounted for?

A. That was originally included in the construction work in process account and moved over into the 101 Account.

Q. That's plant in service; is that right?

A. That's right.

Q. And where is that amount today?

A. If the amount remains in the 101, and it will be adjusted, along with the dismantling. So the update to dismantling costs will include a movement from the 101 Account to the 108 Account, the accumulated depreciation. So the net impact rate base of that adjustment is zero. It's a reassociation from a positive 101 balance to the 108 balance.

Q. And on the Exhibit No. 8 that you have presented today, that we are talking about today, that number, that adjustment is not shown or reflected anywhere on that page; is that right?

A. I am sorry, which number did you refer to?

Q. The $3,705,545.

A. Sorry, I'm just reconciling here. Right, that's not part of -- that is not part of the calculation included. I believe if you add the $3,705,000 amount shown on line 12 -- let's see, with the removal cost shown on line 8, you arrive at $4.7 million amount, roughly, which is represented in Footnote 2 of Hearing Exhibit 8, which shows a decrease of $4.71 million.

So the 4.71 million on the footnote is derived from the 3.7 on Row 12, plus the $1 million amount removal cost on Row 8.

Q. That's in your Footnote 2, second to the last line; is that right?

A. Yes, that's correct.

MR. SNARR: That concludes my recross. Based upon the new information, the Office still opposes this exhibit for admission.

COMMISSIONER LEVAR: Okay. Why don't we go back to the motion to admit this exhibit.

Do you have anything you want to add to that motion?

MS. CLARK: I guess I would like clarification on the basis for the objection.

COMMISSIONER LEVAR: Do you want to add anything?

MR. SNARR: Sure. The basis for the objection is, it doesn't show the complete picture as we've demonstrated in some cross-examination here and also presents late-filed information, which is difficult for us to cope with and it is not part of these administrative proceedings are all about.

They had the information from Ms. Ramas commencing October 12th, had full opportunity to develop this kind of an exhibit, present it as part of their rebuttal testimony so we could look at it, understand it and cross-examine with a little more preparation than merely responding a few minutes after it is presented here on December 18th.

COMMISSIONER LEVAR: Does any other party want to weigh in on this motion? I'm looking around the room not seeing any other indication.

Do you want to make any final remark?

MS. CLARK: I do. While I appreciate this is information that we discussed with Mr. Snarr and his client -- or provided to them yesterday. It was provided in response to some cross-examination from Mr. Snarr himself. And if we look back at the record, you will see that Mr. Stephenson offered to use a white pad to provide exactly this information, and Mr. Snarr sort of invited it.

So I think it is completely appropriate as a redirect question. It is completely appropriate as a redirect exhibit.

COMMISSIONER LEVAR: Mr. Snarr, do you disagree this is within the scope of your cross-examination?

MR. SNARR: I don't have an objection that it's beyond the scope of cross, no. It is just late filed, late information coming -- excuse me, it is late-filed information coming to us. It is difficult for us to respond on the fly on complicated accounting issues, which are reflected here, some of which has been presented with misinformation and some of which -- well, all of which could have been presented as a part of the rebuttal testimony that was previously provided.

Those are the issues that we have and the basis for our position at this time.

COMMISSIONER LEVAR: I think the way I'm going to rule on the motion -- I don't see this as any different than if the witness had verbally presented this information in redirect. I think we are going to treat this as such, with your objections noted. However, I think, considering that it is within the scope of the cross-examination, I don't see a basis to deny the motion, so I'm going to grant the motion, to admit it as a redirect exhibit related to his redirect testimony.

And as we consider it, we understand the objections to the numbers and the objections to the calculations.

(Hearing Exhibit DEU 8 was
marked for identification.)

MR. SNARR: I would ask some latitude in how we react to this as we put our own witness on the stand, as we might want to address this more directly and haven't had a chance prior to this time to do it.

COMMISSIONER LEVAR: I anticipate that we will allow some flexibility when we get there.

MR. SNARR: Thank you.

COMMISSIONER LEVAR: Okay. Major Kirk, do you have any recross for Mr. Stephenson?

MAJOR KIRK: No questions, sir.

COMMISSIONER LEVAR: Mr. Mecham?

MR. MECHAM: No, thank you.

COMMISSIONER LEVAR: Mr. Russell?

MR. RUSSELL: No, thank you.

COMMISSIONER LEVAR: Do you have anything else based on the recross by the Division or the Office?

MS. CLARK: I do not, thank you.

COMMISSIONER LEVAR: Commissioner Clark, do you have questions for Mr. Stephenson?

COMMISSIONER CLARK: I do.

EXAMINATION

BY COMMISSIONER CLARK:

Q. I would like to just have you clarify some information regarding the outside contractor cost that are -- that you refer to in your redirect. I think you refer to a couple of projects in 2020.

Would you just repeat what they were for me again and their approximate capital of costs?

A. Sure. So one is a gate station, a new gate station, to serve the northern region. It is off of Current River Pipeline, a $15 million capital project. And the other was the southern system expansion to construct a loop of additional pipeline to serve Southern Utah, and that was $20 million in 2020.

Q. And the year that the contractor-related costs that are being suggested for removal was 2018; is that correct?

A. Right. That's the base period they were incurred in.

Q. Right. So in that base year of capital expenditures, what's the largest project, outside of the LNG facility, that would be present if we had a list in front of us?

A. In 2018?

Q. Do you, by chance, have that in your record of exhibits?

A. Off the top of my head, I think it would be in the record. I don't know that I have a copy of it. Off the top of my head, and I would have to check, but I believe that the feeder line tracker program probably contains one of the largest projects in Feeder Line 21, which is tens of millions of dollars in 2018. But I would have to pull the individual projects to verify if that was the largest and what the actual amount was.

Q. And the nature of these outside contractor costs, do they apply generally or maybe even exclusively to services that pertain to seeking the approvals that the administrative approvals for constructing the project, or are there other types of costs involved?

A. So it's other types of costs. So I believe the reason why the 2018 costs became a question was that there was a docket on those -- on that particular issue that required some legal costs. However, the scope of those services, include preparing -- for example, preparing requests for proposal on a scope of work on hiring contractors. Also doing engineering-type analysis and whether or not there's a special docket involved related to that or an approval needed, those kinds of preparations and analyses would need to be conducted.

So, for example, with the gate station, it's large enough where we will need legal services to prepare a request for proposal for that particular project, as well as for the southern system expansion project and it will be a similar scope of work to what we had to do in 2018.

Q.   Similar to the feeder line project?

A.   Or similar to -- I guess we refer to it as the LNG project that the request was based on.

Q.   And would those services be provided by DEU employees, or would they be outside services or some mixture?

A.   So the specific adjustment is just for the external services, and the 2020 projects that we are discussing would include external services as well. So I believe the amount we're discussing is -- 200 some-odd thousand amount is just for the external service portion.

Q.   Do you have any sense of how much of that, of the amount that's being scrutinized, relate to the services provided for preparation -- in preparation for

and the conduct of approval proceeding or the application proceeding before the Commission?

A. Now I apologize, I don't have that breakdown. I couldn't tell you.

Q. If I were to think that most of it pertained to that, to the approval and application process, would I be wrong, or what is your judgment about that?

A. It's hard for me to say. I really wouldn't be able to weigh in on whether or not most of it were -- if it were a minority of the costs.

Q. Pretty sure the projects that you are thinking or that you are proposing to complete in 2020 won't require that same kind of pre-approval process or won't involve that kind of process; is that true?

A. Well, I mentioned yesterday, there are some projects that will have a pre-approval time process associated with them that will be occurring over the course of 2020.

One is related to an expansion fee to serve Eureka, and that was filed on December 1st. I think we anticipate that process to be over a six-month period, so it would be in 2020.

Another is related to the Clean the Air legislative effort that the company's responding to, that would be filed on December 31st of this year, is the plan, and that would extend into 2020 as well.

Q. Those are different than the gate station and the --

A. Right.

Q. And the expansion in southern --

A. Yeah.

Q. Okay. Thank you. Those are all my questions.

EXAMINATION

BY COMMISSIONER LEVAR:

Q. I just want to restate Commission Clark's first question but with one additional limitation. Off the top of your head, could you identify any 2018 capital projects, other than LNG, that are not part of the infrastructure tracker? You know, for example, line replacements that weren't within the tracker budget or anything like that?

A. Yeah, I know we replaced quite a bit. I think it was up to 90 or so million, if I remember the rebuttal testimony of Mr. Mendenhall correctly. We could pull the specific amount. I couldn't tell you, I guess, the specific project name or how it was named by the project managers, but we did do $90 million of replacement outside the tracker.

I'm trying to think if I can recall another specific project in 2018.

Q. That answers my question.

A. Okay.

Q. Thank you.

COMMISSIONER LEVAR: Commissioner White?

COMMISSIONER WHITE: I have no questions, thank you.

COMMISSIONER LEVAR: Thank you, Mr. Stephenson.

THE WITNESS: Thank you.

COMMISSIONER LEVAR: Anything further from Dominion Energy?

MS. CLARK: Nothing further from the company, thanks.

COMMISSIONER LEVAR: Based on your discussion of schedule yesterday, is there any objection if we move to Major Kirk and his witness next?

Okay. Major Kirk, are you ready to present your witness?

MAJOR KIRK: Yes, sir. The FEA calls Michael Gorman.

COMMISSIONER LEVAR: Good morning, Mr. Gorman.

DIRECT EXAMINATION

MICHAEL GORMAN,

called as a witness, having been first duly sworn, was examined and testified as follows:

BY MAJOR KIRK:

Q. Good morning, Mr. Gorman. Could you please state your name and provide your business address?

A. My name is Michael Gorman. My business address is the 16690 Swingley Ridge Road, Chesterfield, Missouri.

Q. Sir, would you briefly provide your position and background and your role in this case?

A. Yes. I'm a managing principal at my firm of Brubaker & Associates. We are regulatory and economic consultants representing predominantly large institutional, industrial and government agencies in regulatory proceedings around the country and in, actually, around North America. We also represent certain state commissions on part of their litigation staff.

In this case, my testimony concerned developing a fair return, a rate of return for the company. I made several adjustments to the company's proposed rate of return, which was based on a capital structure with a 55 percent common equity ratio and a return of common equity of 10.5 percent. I found that the company's proposed overall rate of return is excessive, principally for two reasons. First, I believe that the ratemaking capital structure with the 55 percent common equity ratio is far more expensive than necessary in order to maintain their financial integrity credit standing and ability to attract capital under reasonable terms and prices.

I believe it is important that the ratemaking capital structure reflect an appropriate balance to the company and their customers, to ensure that rates are just and reasonable in support of the utilities financial credit standing. The capital structure I found is more appropriate to meet those objectives at a lower cost of retail customers is the last authorized capital structure for Dominion Energy Utah and its predecessor company, which included a 52 percent common equity ratio and 48 percent long-term debt ratio of capital.

In assessing that capital structure, I reviewed credit metrics for this utility in the 2020 test year based on cost of service principles for this rate case. Those credit metrics indicate that 52 percent common equity ratio, with a 9 percent return on equity, which I will talk about in a minute, produces credit metrics which are more than adequate to support the utility's existing bond rating, which is BBB+ from S&P and A3 now from Moody's.

I also looked at ratemaking capital structures for other electric and gas LDC companies around the company to get a sense of what regulatory commissions typically find to be reasonable and balanced capital structures for ratemaking purposes.

That assessment indicates that a ratemaking capital structure right around 50 to 52 percent is, as I proposed here, a reasonably balanced capital structure and likely is reflective of what the market participants would expect a Regulatory Commission to find is a fair and balanced capital structure for ratemaking purposes.

I also looked at the indicated debt leverage metrics for various bond ratings for utility companies, and that assessment indicated that a 52 percent equity ratio and 48 percent debt ratio would support credit metrics that reasonably align with core data metrics and medians for industry debt ratios, which also support the utility existing bond ratings.

Adjusting the equity ratio from 55 percent to 52 percent I believe will maintain the financial integrity of the utility but do so at a much lower cost to the utility. I also encourage the Commission to consider the cost of capital as a discretionary cost that the utility management does have control over.

The actual mix of debt and equity for the utility is made by explicit decisions on behalf of management. To the extent that the capital structure mix with in a result of unreasonable cost, I believe it is appropriate to adjust those costs down to a reasonable level for ratemaking purposes.

That price signal then to management would encourage the company to modify its actual capital structure to conform to what the rate setting authority believes is appropriate. I believe that is consistent with regulatory principles, that price setting should provide signals to management just like they do in a competitive market but also do so in a regulated market.

Again, a 52-48 percent capital structure is a reasonable mix that is lower cost than what the company is proposing and will maintain the bond rating and is consistent with what is going on in the industry generally.

The second issue of the utility's overall rate of return is the request to set the return on equity at 10.5 percent. I find that authorized return on equity, that level of return on equity to be unreasonable. I believe it is significantly in excess of what the current market's cost of equity is for a utility -- with this utility's overall investment risk characteristics.

In doing -- in making that evaluation, I first conducted my own study of what the current market cost of equity is. I look -- I measured the current market cost of equity using three versions of the discounted cash flow analysis, two versions of the risk premium analysis and two versions of the capital asset pricing study.

That analysis indicated that the current market cost of equity for this utility falls in the range of about 8.7 to 9 percent. I observed, because I do rate of return studies quite frequently and have for about the last 30 years, that those models are indicating a reduction in the authorized -- or market cost of equity for utilities more recently.

And based on that experience, I thought it was more appropriate to recommend the return on equity at the high end of my estimated range because of the change of market circumstances.

And by that, I'm simply referring to uncertainty about the market about where the economy is going, going forward, whether we are heading for a data recession or whether or not the market is overinflated. When the market conditions kind of signal that, the markets generally moves investments into lower risk, stable investments, which utilities are included within the category of, and that has the effect of increasing prices and lowering costs for low-risk sectors in the marketplace, which include the utility industry.

I also looked at the return on equity studies offered by Dominion Energy Utah's witness, Mr. Hevert. His recommended return on equity of 10.5 percent I don't believe is supported by his own study, if they are correct, for more reasonable inputs.

I found his DCF analysis was overstated in some parts because of his use of Value Line growth rates, which were far too high to be reasonable estimates of long-term sustainable growth rates. His use of consensus analyst growth rate produce more reasonable outlooks for future growth, and by adjusting his DCF analysis to provide predominant reliance on consistence growth rate show that the current market cost of equity, under his study, would have been less than 9 percent.

I also took issue with Mr. Hevert's capital asset pricing model, largely because it reflected an expected return on the market, which produced an overstated market risk premium, which is a major factor within the capital asset pricing model. The outlook for the expected market risk premium simply was not a rationale outlook for what the expected return on the market as a whole was, and correcting that would adjust his CAPM return estimates down to a level more consistent with my own capital asset return model.

I also took issue with Mr. Hevert's risk premium analysis, showing that his simple inverse relationship between interest rates and equity risk premiums while is one factor that can help gauge what the current market risk premium is, it is not the only gauge. And by ignoring other factors that can impact the equity risk premium prevalent in the current marketplace, I found his risk premium estimate was overstated.

I also took issue with Mr. Hevert's proposed use of what he referred to as an empirical CAPM analysis. And in constructing that analysis, he used adjusted Value Line betas within an empirical CAPM framework. There is no academic support for constructing empirical CAPM analysis that way.

When you do, you, essentially, convert the capital asset pricing model in such a way that it significantly reduces the slope of the security market line. And what that means is it increases the estimated return for low-risk companies like utility companies and decreases the expected return for higher-risk companies, such as those that are measured with more risk than the overall marketplace.

The empirical CAPM analysis is generally accepted in academic research when unadjusted betas are used within that framework, but there is no support for developing the E-CAPM analysis with a Value Line adjusted beta. That methodology simply distorts the risk and return relationship in security evaluations.

I also considered the observable evidence that tests the reasonableness of my return on equity finding. I believe there is market evidence that can be used and verified that does give strong indication where the current market cost of capital is.

Specifically, the utility's last authorized return on equity of 9.85 percent was done around 2013. At that time, it's true that authorized returns on equity really haven't changed much since that time, but there is also significant other pieces of observable market evidence that shows that the capital market costs have declined since that time.

One example is comparison of treasury bonds and utility bonds in around 2013, 2014 to where they are today. Treasury bond yields around that time period were around 2. -- around 3.5 percent. That compares to around 2.3 percent today, so that is about a 120 basis point drop. Utility bonds have also dropped. A-rated utility bonds have declined from around 4.5 percent around that time, around the 2013, 2014 time period, to around 3.5

percent today, so that is about 100 percent basis point decline. BAA utility bond yields have also decreased by about 100 basis points since that time.

There is also at issue about whether or not that decline of bond yield also translates to a reduction in common equity cost, and I offer evidence that shows that there is a relationship between equity cost and bond yields, observable bond yields, more so than just that accepted within the risk premium analysis of capital asset pricing models.

But I also compared the make-up of the DCF return, which is an undisputed, generally accepted methodology in this proceeding and, frankly, across the country, where a required return on utility stock investment is composed of the stock yield and a growth component.

Well, the stock yield, that makes it more of a hybrid investment as opposed to a pure equity investment because an investor gets both current income return, plus growth in income. That can be compared to other income investment which don't have the growth component such as utility bond yields.

And I looked at the yield spread between utility stocks and utility bond yields, and it showed that the utility stock prices are adjusting in line with -- to adjust the utility stock yield to conform to changes in utility bond interest rates. So the utility stock yield components, that DCF analysis, is economically logical in comparison to utility bond yields.

I also looked at the growth component within the DCF model and found it is quite robust. It is a very high growth rate compared to the what the dividends and earning growth rates have been for industry historically. That makes sense because utility companies generally are in the midst of very large capital investment programs, which had the effective growing rate base. A growing rate base grows earnings and dividends.

But that growth rate simply can't be sustained indefinitely, even if there is sustained period of capital investment by the industry. In my sustained growth rate analysis, per my DCF study, I observed that a significant portion of short-term growth outlooks for utility companies is being attributed to the utilities need to sell new stock in public marketplaces that's creating kind of a short-term kicker in growth rates over the next three to five years, maybe a little bit longer than that.

But the need -- that sustainable growth rate kicker likely will be mitigated over time and sustained levels of large capital investments by utility companies have the effect of growing rate base slower over time, you know. For example, if there is a sustained level of capital investments by the utility, that can grow rate base fast initially but the growth and rate base will slow over time as imbedded rate base grows.

You know, for example, if you had $100 million capital investment in rate base, $1 million rate base, then rate base would grow by 10 percent. If that sustained level of capital investment was maintained for five years, in five years, your embedded investment would grow to $1.5 million. The $100,000 increment to that would slow the growth from about 10 percent down to 7.5 percent. So that growth will subside over time and that likely will reduce growth.

So growth rates right now are quite robust because of a large capital program that support growth by reinvestment of earnings and cash flows in utilities and is also supplemented by relatively high levels of growth because they are selling stock to the public to fund large capital investments.

So the combination, the relatively competitive yield on stock prices right now with high levels of growth, which are producing indicator returns on the market of less than 9 percent in the DCF model is clear evidence to me of the economic logic finding that the DCF model is measuring the fair market return on equity to being around 9 percent and, frankly, a little bit less than that right now.

One other factor, one final factor I looked at was comparing my recommended return on equity to the Commission authorized returns on equity. The Commission authorized returns on equity, as Mr. Hevert noted yesterday, has been around 9.6 to 9.7 for the last three years.

I explained the difference between my market cost of equity and those Commission authorized returns on equity simply by observing that in my judgment, Regulatory Commissions, typically, have a policy that gradually reduce the authorized returns on equity down towards the market cost of equity.

I think that's been going on for the last three to four years, this market cost has continued to decline over that time. But I think authorized returns on equity continue -- should continue to climb, even with the gradualistic movement, because capital market costs are much lower than authorized returns on equity.

While the policy implemented by most Regulatory Commissions, I think, is sound in managing and maintaining the proper balance between investors and customers, that same balance, I think, supports a continued reduction in the authorized return on equity relative to what we have seen over the last three to four years.

One additional piece of information I offered in my testimony that is relevant, I think, in the gradualistic adjustment to where the authorized return on equity should be in comparison to the estimate of current cost of market equity is where market participants think capital market cost might be over the next five to ten years.

And in my testimony, I show that projections of interest rates in the last five years indicated that market participants were expecting increases in capital market costs to bring the treasury bond yield back over to 4 percent, in the 4 to 5 percent area, five to ten years down the road.

The market has now embraced today's low capital market cost as being more sustainable. Those same consensus economists' outlook for changes and interest rates project treasury bond yield to be in the 3 percent area five to ten years out, as opposed to 4 to 5 percent area where they were not too long ago. So I think that's clear evidence that the market has embraced today's low capital market cost as being sustainable, at least in the intermediate period.

So I believe my testimony gives clear indication where the current market cost of equity is. It provides a lot of observable market evidence to help provide some logical interpretation as to the reasonableness of the results, and it also provides outlooks by market participants of what the market generally is looking at for fair compensation for making investments in this marketplace.

That concludes my summary.

Q. Mr. Gorman, thank you for your summary. And you were summarizing your pre-filed direct testimony and rebuttal testimony in this case; is that correct?

A. It is, yes.

Q. And those exhibits, would you like to adopt the full explanation that you gave in those direct testimony as part of your testimony today?

A. Yes.

Q. Thank you.

MAJOR KIRK: At this point, I would like to move for admission of FEA Exhibit 1.0, as well as the accompanying Exhibit FEA Exhibit 1.01 through 1.19 and FEA Exhibit 3.01 -- 3.0SR and accompanying FEA Exhibit 3.01SR.

COMMISSIONER LEVAR: If anyone objects to that motion, please indicate to me.

I'm a not seeing any objection in the room, so the motion is granted.

(Hearing Exhibit FEA 1 and 3SR, plus attachments, were marked for identification but not received by court reporter.)

MAJOR KIRK: Thank you.

COMMISSIONER LEVAR: Mr. Mecham, do you have any questions for Mr. Gorman?

MR. MECHAM: I do not.

COMMISSIONER LEVAR: Mr. Russell?

MR. RUSSELL: I do not.

COMMISSIONER LEVAR: Mr. Snarr or Mr. Moore?

MR. MOORE: No questions, thank you.

COMMISSIONER LEVAR: Mr. Jetter?

MR. JETTER: I have no questions, thank you.

COMMISSIONER LEVAR: Ms. Clark or Mr. Sabin?

MR. SABIN: Thank you.

CROSS-EXAMINATION

BY MR. SABIN:

Q.   There should be binder by your chair that has the exhibits in it. Can you open to your direct testimony -- do you have a copy of your testimony, your direct testimony?

A.   I do, yes.

Q. Okay. Let me state for the record, it is Exhibit FEA Exhibit 1.0. Could you turn to page 6 of that, please?

A. I'm there.

Q. I wanted to focus on just one line. At the bottom of page 6, you said, "While bond rating analysts still have credit rating negative outlooks on certain utilities with marginal cash flows, the majority of the industry companies, such as DEU, has stable credit outlooks because their cash flows, while reduced, are still adequate to support their bond ratings."

Did I read that correctly?

A. You did, yes.

Q. You still agree with that position?

A. Well, Moody's did downgrade DEU from A2 to A3 since I wrote that testimony, so I would have to correct that, but DEU's current -- revised current rating from Moody's is still one of the stronger credit ratings within the industry.

Q. In that binder that you just pulled up, would you open up to DEU Exhibit 1.02R?

A. 1.02R?

Q. Yes. It should be -- it is an exhibit that is attached to Mr. Mendenhall's rebuttal testimony. It is right behind the first rebuttal exhibit for the

company.

A. Utility -- I have it.

Q. Great. You recognize that as a Moody's Investors Service rating action?

A. I do.

Q. Would you turn to page 2 of that document? About two thirds of the way down the page, the outlook by Moody's has changed for Questar Gas Company from "stable" to "negative"; isn't that right?

A. It's January 18th document, yes. That's true, yes.

Q. And that predated your testimony by almost a year; is that right?

A. It did, yes.

Q. Okay. If I can have you look at -- in that same book, you'll want to find DEU Exhibit 1.05, which was attached to Mr. Mendenhall's direct testimony.

A. His direct testimony?

Q. Yes. I know there's a lot of paper here, 1.05.

A. I'm there.

Q. Okay. If I could just draw your attention to the date of this, this is January 30, 2019. Right?

A. Yes.

Q. This is a Moody's Investors Service update of

credit analysis?

A. Yes.

Q. If you look down at the second paragraph, it says, "Questar Gas' credit profile is constrained by a very weak financial metric versus peers."

That's right, isn't it?

A. Yes. As of January 2019, yes.

Q. Right. And do you have any basis to believe that that's improved since January of 2019?

A. Well, I heard the company talk about how they were underearning since the merger in the last case and under -- by underearning and being restricted or agreeing to a rate moratorium, it's had the effect of reducing an earned return on equity and that would reduce credit metrics.

But what this rate case is about is rewarding the rate of return -- or excuse me, a rate change that will allow for the opportunity to earn the Commission approved rate of return on rate base, which will strengthen those operating incomes and credit metrics.

Q. But that wouldn't be true if the Commission adopted your approach and also reduced the capital -- the proposed revenue requirement by the company, if it was down to zero or close to zero, and the Commission also reduced the rate of the return on equity, as you suggest,

both of those would be viewed as negative in the market; isn't that true?

A. No. I presented some credit metrics in my testimony that weren't challenged by the company, which show that my recommended rate of return and the company's rate base investment in this case and the level of depreciation expense. The projected test year of 2020 does produce credit metrics that are adequate to support their bond rating.

Q. You think that if we -- if the Commission approved your approach, that would result, essentially, in almost an entire reduction of the rate increase being proposed by the company, that that would be viewed favorably by the market?

A. Well, yes. I'm telling you that the evidence the company included in this case, what their operating costs are going to be for calendar year 2020, and what my rate of return and capital structure adjustment will produce operating income, depreciation expense and cash flow metrics that are adequate to support their bond rating based on Standard & Poor's credit rating criteria.

Now, the actual cash flow strength of utility during the historical period -- this was a period where there was a transition related to the acquisition, which may include integration cost into the Dominion system and possibly short-term debt purchases, you know, I don't know, because I didn't look at the historical financial metrics of the utility. Instead, I looked at the ratemaking capital structure cost of service metrics for the utility in the forecasted test year.

And what that analysis clearly shows, and was not contested, is that the credit metrics in 2020 will be adequate to support the bond rating.

Q.   Let me go back to my original question at line -- because I don't think we got an answer on that.

Do you have any evidence that the company's credit performance has improved since January?

A.   I have not reviewed the historical credit metrics of the utility to try to identify why they may have been weak and what opportunities are available to the company to allow them to improve.

What I did look at what was the company's test year cost of service projections in this case and looked at the implied credit metrics from that cost of service filing and found that the resulting credit metrics, under my rate of return, will be adequate to support their bond rating.

Q.   Again, I'm going to go back to my question. Do you have any evidence that the company's performance relative to the way that they are viewed by the credit

rating agency has improved since January 2019?

A. I will say again, I do, and that is based on my assessment of the credit metrics for these utilities based on their test year cost of service projections.

Q. And you're aware as of August of 2019 this year, they were downgraded?

A. From A2 to A3 by Moody's, yes. And, again, A3 still leaves them at one of the higher credit rating utilities in the industry.

Q. I guess my point, Mr. Gorman, is since January of 2019, things have not improved or there wouldn't have been a credit downgrade; isn't that right?

A. It may simply mean that Moody's believes that they are more in line with an A3 credit rating, a very strong credit rating, as opposed to an A2 credit rating. That does not mean that there is not an outlook from improved credit metrics to support the A3 credit metric grade by Moody's. In fact, when Moody's downgraded them, they did adjust their outlook to stable from them.

Q. Do you see anything in the Moody's report indicating that they would -- they expect improvement, in that would move them back up to a credit rating from which they were downgraded?

A. I see no comment by Moody's about moving -- well, they do indicate opportunities to move up and down but my --

Q. Yes, but --

A. -- but my assessment is that the cost of service is more than adequate to support the existing bond rating, which now is A3 from Moody's. And, again, that is consistent with one of the stronger bond ratings in the industry.

Q. Final question on that point: Investors, you would agree -- I take it that investors, they rely on what the credit agency say about performance of the company when determining whether to invest in those companies; isn't that right?

A. Yes.

Q. It is a common resource. Right?

A. It is.

Q. Okay. I want to shift topics now and talk about the capital structure for a moment.

Do you understand that the company's current capital structure, its operating capital structure is approximately 60 percent of -- its current equity ratio is at 60 percent?

A. Well, I looked at that in my testimony, and it was pretty close to 60 percent in 2018. I'm not sure where it is at right now.

Q. Let me just -- subject to checking, and you

weren't here yesterday, so I will give you the benefit of the doubt. Let me represent to you that we've had several witnesses testify that the equity portion will remain at 60 percent this year and throughout 2020.

Do you have any basis to dispute that?

A. I was here yesterday. I just didn't confirm that.

Q. I forgot. You were, that's right. Did you hear that testimony?

A. I did hear that testimony.

Q. Do you have any basis to dispute that?

A. I do not.

Q. Okay. So let's take it for -- let's stick with that 60 percent. The company's proposing 55 as its equity portion of the capital structure. Correct?

A. They are.

Q. And your proposing 52 percent?

A. I am.

Q. So if the company is -- financially, the company is operating at 60 percent equity and they're proposing 55, can you explain to me, wouldn't the company want to move down its equity portion at some point? Wouldn't it desire -- wouldn't that be a good thing to do? Because it's actually asking for 55 but operating at 60, and there is a cost to the shareholders of that 5

percent differential; isn't that right?

A. I would agree with that.

Q. And so if you are thinking, economically thinking, you would try not to have shareholders paying something that they are not going to recover. Right?

A. I think that's the same question, but it would be prudent for the company to adjust its actual cost down to what the Commission finds to be reasonable costs for recovery rates.

Q. So the company should -- if it's thinking rationally and has the ability to do it, it would want to move down as much as possible so it's not having shareholders cover something that they don't recover from customers. Right?

A. I believe that's the intent of ratemaking, that when costs are unreasonable or excessive, then management has the obligation to try to adjust their actual cost to conform to what the Commission finds to be appropriate for setting rates.

Q. So do you think it's a fair assumption then, if that is -- if we assume the company is economically reasonable or acting economically in an economically reasonable way, that there are other constraints that are preventing that from being moved down to 55 percent or even moved down to 52 percent as you suggest?

A. Well, I don't know if there's constraints or simply financial objectives trying to be set by the company, which may be at odds with the most accurate management of cost of capital on behalf of customers. So I don't know if it is constraints or simply outlooks for the company in attempting to estimate how much income might be available to start paying dividends at some point to the parent company.

Q. It is also true in the Moody's documents we have reviewed that Moody's looks favorably on the company taking the action of having a higher equity portion to stabilize its credit metrics; isn't that right?

A. It's true. I believe Moody's also opine that the company's proposal for a 55 equity ratio may not be approved in this case.

Q. That's right.

A. So I think all of that is an outlook by Moody's when they establish that they have -- this company has a relatively strong bond raise rating of A3 with a stable outlook.

Q. And finally, would you also agree that if the company wanted to move down its equity portion to the level at which you are suggesting, that would come at a substantial cost to the company? They would have to go find the ability to either -- you know, to dividend up,

so to speak, is what we heard yesterday, its shareholders to get that debt to equity ratio down. It's true, isn't it?

A.   Well, I don't agree that is necessarily a cost to the company. Dividend-ing from the subsidiary to the parent company is not a negative thing. To the parent company, it is a positive. But there would be a need to restructure their capital structure in order to provide them with an opportunity to earn the authorized return on equity.

Q.   They would have to come up with a significant amount of cash. Right?

A.   Well, there is a significant amount of capital investments planned for 2020. So the accommodation could be some dividend payment to readjust embedded capital structure but to use predominantly debt capital in supporting the implemented plant investment that the utility has planned for 2020. That would allow them to rebalance their capital structure in line with what the Commission finds to appropriate for the setting rate.

Q.   Have you done any analysis in your testimony to identify what that cost would be? how much the company would have to incur, in either debt or some other form of financing, to make that restructuring happen?

A. There would not be a cost of issuing a dividend to the parent company. There would be debt issued cost associated with issuing additional debt to the market. I have no reason to believe that because the capital structure is in line with industry norms that I'm proposing, and that there would be anything more than normal, that issue cost associated with that capital structure rebalance.

Q. And all I'm asking is, have you calculated that amount?

A. I have not.

Q. I have no further questions at this time.

COMMISSIONER LEVAR: Major Kirk, any redirect?

MAJOR KIRK: No, sir.

COMMISSIONER LEVAR: Commissioner White, do you have any questions for Mr. Gorman?

COMMISSIONER WHITE: I have no questions, thank you.

COMMISSIONER LEVAR: Commissioner Clark?

EXAMINATION

BY COMMISSIONER CLARK:

Q. Mr. Gorman, thanks for the summary, in particular, of the context that you placed your modeling work in. That's a dense area, and I'm also grateful when

people make some effort to simplify that for us or provide some additional explanation.

I would like to talk with you more qualitatively. You referred, in your summary, to the overall risk characteristics of DEU, and I just wanted to hear you elaborate on those characteristics, as you perceive them, in relation to peer companies and the relative riskiness of the enterprise.

A. Thank you, I'm happy to. I discuss the investment risk characteristics of DEU and the industry in my testimony. I observed what the credit standing is for both electric and gas utilities. I look at authorized returns on equity. I look at comments of the credit analyst, with which are probably the most independent body that assesses investment risk for utility companies. If they are truly an independent body, they are the closest thing they have to it.

Credit analysts have stated concern about the change in the federal tax law that has reduced utility cash flows. Standard & Poor's noted that the change in cash flows is notable, but there is no threat to the credit standing of the utility.

Moody's initially put the utility industry on a negative outlook because it wasn't quite sure what the impact on cash flows would be, but that negative outlook was revised more recently to a stable outlook, recognizing that cash flows have been reduced. The cash flows are still relatively strong for the industry as a whole.

Authorized returns on equity and the 9.6 to 9.7 over the last five years have supported strong credit outlooks, have supported access to significant amounts of capital under reasonable terms and prices to support very large capital programs and costs to the industry in general.

More recent authorized returns on equity, and I mean more recent, about the last -- within 2019, particularly in the Pacific Northwest, we are seeing Regulatory Commissions move below that 9.6, 9.7 area down to the 9.3, 9.5 area for a lot of northwest electric and gas utilities specifically. But we are starting to see other jurisdictions start to reduce the authorized returns on equity below the 9.6, 9.7 percent area.

With that reduction on authorized return on equity, I'm not aware of any reduction in credit standing for any of those utilities or limitations on any of those utilities to access capital or continue to fund their large capital programs under reasonable terms and prices.

I also note that the ratemaking capital structures that aligned with those authorized returns on equity have included common equity ratios that were around 49 to 50 percent. There are very few that go much above 52 percent for ratemaking purposes. Again, that is notable and observable evidence of what the market finds to be appropriate ratemaking decisions by Regulatory Commissions that support the utilities credit standings and ability to support very large capital programs.

Stock performance of utility companies have been very robust over the last five years. While it's generally recognized that utility companies are below market risk investments, the stock performance of regulated utility companies has actually outperformed the market in many instances but still has been more stable because it doesn't drop as much as the market drops in down markets.

And more recently, it actually has gone up more than the markets -- but they are generally regarded as relatively stable investments and the market has been supportive of increased valuations of utility stocks more recently.

So from an industry standpoint, recognizing what the trend in authorized rates of return on, from return on equity and common equity ratio, they are meeting the Hope and Bluefield standards of maintaining credit, maintaining the utility access to capital, maintaining financial integrity, and most importantly, doing so under just and reasonable prices to retail customers.

For Dominion Energy specifically, I also reviewed some of these characteristics of that company and did observe that, you know, they made quotes about what Standard & Poor's specifically is saying about Dominion Energy's resources. And at the time I did my analysis, Standard & Poor's had a stable credit rating outlook for Dominion Energy Resources. I should have been more careful about quoting Moody's because its outlook for this utility was negative at that time.

But importantly, the negative outlook related to an A2 bond rating from Moody's. That is one of the strongest bond ratings in the industry. When Moody's adjusted that bond rating down to A3, it changes the outlook to stable. So this utility still has one of the stronger bond ratings in the industry, and now its bond rating outlook is stable.

It's important to know what bond rating was rated as negative by Moody's and what bond rating is rated as stable by Moody's and how that bond rating relate to other utilities within the industry. And an A3 Moody's bond rating is a very strong bond rating, and right now, Moody's believes it to be stable. And they believe it to be stable where the credit metrics were impacted by whatever was going on with this utility as it transitioned from the acquisition of Questar to Dominion Energy Resources.

And it went through the rate moratorium period, where the company acknowledges that it was not earning its authorized return on equity. By not being able to file a rate case to adjust rates to give you the opportunity to earn a return on equity, that will have a negative impact on your credit metrics. And that was being noted by the regulated credit agencies during that time period.

If we look at 2020 test year, the credit metrics are not weak for this utility with a balanced capital structure of 52 percent equity and a return on equity more in line with authorized returns on equity.

Again, within my testimony, I provide all of that evidence and also observe what other Commissions are doing in terms of gradual movement to adjust the return on equity down to the current market cost of equity, which is conservatively 9 percent, I believe.

And most of those Regulatory Commissions now are starting to move under the 9.6 to 9.7 ROE that have been in place for the last five years. And I believe that is, in part, because market participants have now moved away from the expectation of increasing capital market costs over the next five years and now embrace that capital market cost levels are low today, are going to stay low for at least the next five to ten years.

Q. Thank you. That's my only question.

A. Thank you.

COMMISSIONER LEVAR: Thank you.

I don't have any additional questions, so thank you for your testimony this morning.

THE WITNESS: Thank you.

COMMISSIONER LEVAR: Anything else, Major?

MAJOR KIRK: No, sir. Thank you.

COMMISSIONER LEVAR: Why don't we take a ten-minute break and reconvene at 10:45. And then if there is no objection, we will go to Mr. Mecham for his witness at that point.

(Whereupon, a break was taken.)

COMMISSIONER LEVAR: Okay. I think we will start again, and we will go to Mr. Mecham.

MR. MECHAM: Thank you very much, Mr. Chair. ANGC calls Mr. Bruce Oliver.

COMMISSIONER LEVAR: Good morning, Mr. Oliver.

DIRECT EXAMINATION

BRUCE OLIVER,

called as a witness, having been first duly sworn,
was examined and testified as follows:

BY MR. MECHAM:

Q. Good morning, Mr. Oliver.

A. Good morning.

Q. Could you please state your name and business address for the record, please?

A. My name is Bruce Richard Oliver. My business address is 7103 Lake Tree Drive, Fairfax Station, Virginia.

Q. Thank you. And did you prepare and cause to be filed direct testimony in this proceeding, which we have premarked as ANGC Exhibit 1, with Attachment A, that describes your experience and your resume with associated Exhibits ANGC 1.01 through 1.05?

A. I did.

Q. Thank you. And did you also cause or prepare and cause to be filed surrebuttal testimony in this proceeding, which we have premarked as ANGC Exhibit 1SR?

A. I did.

Q. Do you have any corrections to that testimony?

A. Just one. On the cover of the surrebuttal testimony, it inadvertently referenced class cost of service and rate structure issues. It should state rate -- return on equity and capital structure issues.

Q. Thank you. And is there anything else you would like to correct?

A. I don't believe so.

Q. And are you adopting that testimony as your testimony today?

A. I am.

Q. Thank you very much. Do you have a summary, a brief summary, of your background and experience that you could share that with the Commission?

A. I do. I have more than 45 year's experience in energy and utility regulatory matters, including testimony on a wide range of rate and regulatory policy issues for gas, electric and water utilities.

For more than 25 years, I served as the primary technical consultant on gas rate issues for the Rhode Island Division of Public Utilities. I also assisted the Delaware Public Service Commission on numerous gas and electric rate proceedings over a period of more than ten years.

I have served in management positions for two major investor-owned utilities, the Pacific Gas and Electric Company and the Potomac Electric Power Company, and I have held senior consultant management and executive positions in three consulting firms. I have testified in over 300 regulatory proceedings spread across 25 jurisdictions, from Arizona to Vermont to California to the mid-Atlantic states and many states in between.

As a consultant, I have represented a diverse set of clients, including Regulatory Commissions, residential consumer advocates, commercial, institutional, industrial rate case interveners, municipal governments -- and municipal governments. I have also consulted for such organizations as the U.S. Department of Energy, the Environmental Protection Agency, the Electric Power Research Institute and the World Bank.

My rate case testimonies have addressed an array of topics, including but not limited to, revenue requirements, cost of capital, capital structure, class cost of service allocations and rate design. I have also submitted testimonies addressing utility mergers and acquisitions, remnant decoupling, divestiture of generation assets, gas procurement planning, the economics of large scale power purchase agreements, rate on bundling, incentive ratemaking, economic development, rate adjustment mechanisms and the development of gas transportation rates and policies.

In addition, I advise a large number of

commercial and institutional energy users on how to procure energy -- how to procure natural gas and electricity in competitive markets and how to evaluate competitive energy supply options.

Q. Thank you. And do you have a brief summary of your testimony, please?

A. Rate of return -- or return on equity and capital structure are the two most important revenue requirement issues in this proceeding. DEU's requested ROE is substantially overstated. The 10.5 ROE that DEU witness Hevert recommends is not reflective of current financial market conditions. It's premised on holding company equity returns and does not properly reflect the risks faced by gas distribution utilities.

His recommendation is also inconsistent with other recent comparable gas distribution utility ROE determinations. DEU's ROE should be set in a manner that is more reflective of current market conditions and the risks faced by DEU's regulated gas distribution operations in Utah.

DEU's proposed capital structure in this proceeding places unnecessary and inappropriate cost burdens on the company's ratepayers in Utah. The company's actual capital structure is even worse. Despite the company's representations to the contrary, its actual capital structure is of little relevance for ratemaking purposes in this proceeding. The ratemaking purposes, the equity component of DEU's capital structure, should be set to reflect a more optimal use of the company's capital resources and to minimize the cost of capital borne by Utah ratepayers but do so in a manner consistent with sound financial management.

As I have demonstrated in ANGC Exhibit 1.05, appropriate adjustments to DEU's ROE and capital structure will eliminate most, if not all, of the company's need for additional revenue in this proceeding.

In my direct testimony, I present ANGC Exhibit 1.01, which documents a much lower current yield on U.S. treasury bonds than witness Hevert used in his direct testimony. Since early summer of this year, both current and projected yields on 30-year U.S. Treasury bonds have fallen noticeably.

Witness Hevert's rebuttal testimony reflects that decline in yields on 30-year Treasury bonds and shows that they have fallen even further. Witness Hevert's direct testimony used a current yield on 30-year Treasury bonds of 2.92 percent. His rebuttal shows a current yield on 30-year Treasury bonds of 2.11 percent. That is a decline, in his own testimony, of 81 basis points. If this decline is not reflected in any change in his ROE recommendations.

The upward bias in witness Hevert's ROE recommendations must be recognized. My direct testimony documents the basis for this upward bias in ANGC Exhibit 1.02. That exhibit indicates that on average, witness Hevert's ROE recommendations have been 78 basis points above the levels that the Commissions, in the cases in which he testified, made determinations.

So the difference between his recommendation and what the Commission's ultimately decide, on average over the last three years, has been 78 basis points. That's substantial.

However, this observation is offered not to suggest that this Commission should simply take witness Hevert's recommendation of 10.5 and subtract 78 basis points. Rather, it is offered as evidence of a substantial and persistent upward bias in his recommendations.

This Commission must make an ROE determination in this case on the basis of the record presented in this case and not regulator's determinations in other cases. Reliance solely or primarily on determinations by regulators in prior proceedings does not properly account for differences in financial and operating characteristics of utilities, nor does it address the influence of more recent changes in financial markets such as the decline in U.S. Treasury bond yields that I previously referenced. Witness Hevert also relies inappropriately on data for holding companies.

We must remember that there are often substantial differences between the risks faced by holding companies and the risks faced by gas distribution utilities. Holding companies often have unregulated, nonutility activities that have no assurance of cost recovery and often considerable market uncertainties and competitive risks that are not faced by gas distribution utilities.

By contrast, gas distribution utilities frequently have an array of ratemaking mechanisms, such as weather normalization adjustments and capital trackers that are not available to nonutility subsidiaries of holding companies. The differences between utility and nonutility risks must not be overlooked.

It is not sufficient to look at utility ratings on holding company debt instruments and conclude that the risks on holding company and utility debt instruments and conclude that the equity risks faced by utilities and their holding company parents are the same.

The experience of Northwest Natural Holding Company cited in my direct testimony provides demonstration of the importance of this difference. In 2017, Northwest Natural Holdings incurred $198 million write-off in a nonutility gas storage operation. Although the regulated gas distribution utility operations within Northwest Natural Gas were the company's primary source of earnings, the write-off related to its nonutility gas storage operations was large enough to equate to more than three times the annual earnings from its gas distribution utility operations.

Although that write-off had no impact on Northwest Natural Gas Holdings' gas distribution utility earnings or equity risk, it had a significant impact on the holding company's finances. The Hope and Bluefield decisions mandates that utility equity returns reflect returns earned on comparable risk investment, but gas distribution utility risks and holding company risks for equity investors are not comparable.

This puts us into a situation where all rate analysts have to grapple with the problem that -- we only have market data for holding companies, yet it's the role and purpose of regulatory proceedings to set equity returns for distribution companies. And it is extremely difficult to accurately quantify what the impacts of that difference in risks are, given the limited data available.

But in your judgmental considerations and your weighing of the evidence, you have to take rates of return that are estimated based on holding companies and edge them downward, at least some, to recognize the distribution utilities are much less risky investments.

The Commission's capital structure considerations in this proceeding must start with recognition that the effective cost of equity for gas distribution utilities is significantly greater than the cost of debt.

The company's filing in this proceeding shows a cost of debt of 4.37 percent. A weighted average cost of debt. Witness Hevert's recommendation for ROE is 10.5 percent. That means that the cost of equity that ratepayers all over will bear is more than two times the cost of debt.

We hear a lot of concerns about, "Well, if you cut the cost of equity, it is going to increase our debt costs." If you will excuse the analogy, if I go to the gas station and I have to pay $2 more per gallon for gasoline, I get upset. But if I go and it's a 10 cents or 20 cents variation, you know, I can live with that. Well, that is what we are looking at by comparison, when we compare the cost of debt and equity and the impacts of changes in debt ratings.

Nobody in this case has recommended an equity -- a common equity percentage less than 50 percent. And within the range that we're talking about here -- we're not talking about extreme movements in the cost of debt capital. Certainly, nothing that would cause the cost of debt to even come close to rivalling the cost of equity.

The cost of equity remains an expensive option for the utility and a very expensive option for ratepayers because whatever you pay to equity holders for ratemaking purposes has to be grossed up further for taxes. The effective cost of equity to a ratepayer is about 2.4 times the cost of debt.

So you have a lot of room to accept somewhat lower debt ratings. And as Mr. Gorman pointed out, even with recent lowering of the company's debt rating, it is still a very strong debt rating, but you can do that without jeopardizing -- and still provide substantial savings to ratepayers and not jeopardize sound financial management for the utility.

A key shortcoming in the company's presentation in this case is that nowhere do they address the impacts of their capital structure decisions on ratepayers and the costs that they impose on ratepayers, yet that is a key role of the Regulatory Commission in evaluating an appropriate capital structure. You have a fiduciary responsibility to ensure that rates charged to customers are just and reasonable. And if the equity percentage is inflated and the overall costs of capital are much higher because you don't control the percentage of equity, then that's the Commission's responsibility.

A rational investor would look at the cost of debt and the cost of equity and say, "We need a better balance in how these costs are structured for ratemaking purposes."

Now, I say, "for ratemaking purposes," because a utility has tremendous influence and control over what their actual capital structure is. And regardless of where you set the capital structure for ratemaking purposes, the actual capital structure can and, most often, will be different.

For some utilities, the variations are much larger than others, but rarely is it exactly what is approved for ratemaking purposes. While the company complains, "Oh, well, we have all this equity and we will be losing 8 million of return," that's their choice.

The holding company has decided that they want to keep extra equity within this entity. The presumption is that the holding company's -- you know, and we talked about shareholders, but Dominion Energy Utah only has one shareholder and that's Dominion Energy, Inc. And Dominion Energy -- the presumption is that Dominion Energy, Inc.'s, shareholders could get a better return in another investment. But is that the case? Would they have put 60 percent equity into Dominion Energy Utah if they could get a better return on their other investments? I don't think so.

When we look at the company's Exhibit 3.31, which lay out the component of the company's capital structure since the decision in 2013, we find that the company's overall capitalization has increased 78 percent -- has increased -- I lost my number here, I believe it is 78 percent over that period. Of that increase in overall capitalization, the vast majority of it has come from equity.

The company has had 360 million, approximate, of retained earnings over that period and 200 million of an equity infusion paid in capital. So over 560 million of the 700 and some million of capital additions has come from equity.

Now, why has the company used such a disproportionate amount of equity in the most recent period? Well, you could argue, and we have heard arguments in this proceeding, that when a company has credit problems, one way to address that is by increasing the equity percentage. Right? But over the last several years, Dominion Energy has increased their equity percentage. But their credit concerns haven't gone away. Why is that? Well, it's because Dominion Energy has used its retained earnings and its equity diffusions disproportionately to fund its capital expansion and left itself with insufficient liquidity.

If it would have retained more of its retained earnings or capital infusion in cash or more liquid assets and borrowed some of the funds for capital expansion, their credit metrics would be improved. It is that simple.

I think the bottom line is that DEU's concerns are of a -- regarding its credit ratings and its capital structure are of its own making and do not justify the higher common equity percentage in its capital structure. DEU's entire capital structure presentation lacks sensitivity to customer impacts of its proposal.

Instead, the company relies on speculative assertions about future credit impacts to support its position that it needs more equity. Now we're not talking -- and even the company witnesses weren't saying that "If we had a lower credit rating, we are going to have vastly higher debt costs."

What they are saying is, "Well, maybe in the future, if the market turns down, we might have a problem."

I respect that, and that is a consideration all financial managers have to address. But it doesn't justify the vast additional costs that we're putting on ratepayers by carrying a higher equity percentage. When you look around at neighboring utilities -- and I point you to witness Hevert's Table 10, two of the utilities, the operating utilities cited in there, are Southwest Gas and Northwest Natural Gas.

Well, both of those companies are operating with less than 50 percent equity ratios, and yet both of them have current credit ratings equal to or better than those for DEU. And yet when you look at the recent returns that are cited by witness Hevert in his rebuttal exhibit, 2.09R, you find that the authorized rates of return range from 9.50 percent to 9.25 percent, well-below his recommendations in this case.

This Commission needs to act and act significantly to lower the cost of the return on equity, the cost of equity in this case, and reduce the amount of equity in the company's capital structure for ratemaking purposes. The company can maintain whatever it believes is appropriate for its operational purposes, for its own company strategy purposes, but for ratemaking purposes, the equity percentage needs to be reduced.

Thank you.

Q. Thank you, Mr. Oliver. Does that conclude your summary?

A. It does.

MR. MECHAM: Then I would move the admission of ANGC Exhibit 1, with Attachment A and -- ANGC Exhibits 1.01 through 1.05, and ANGC 1SR.

COMMISSIONER LEVAR: Does anyone object to this motion? Please let me know.

I'm not seeing any indication, so the motion is granted.

(Hearing Exhibit ANGC 1 and 1SR, plus attachments, were marked for identification but not received by court reporter.)

MR. MECHAM: Thank you. Mr. Oliver is available for cross-examination.

COMMISSIONER LEVAR: Thank you.

Major Kirk, do you have any questions for Mr. Oliver?

MAJOR KIRK: No questions, thank you.

COMMISSIONER LEVAR: Mr. Russell, do you have any questions for this witness?

MR. RUSSELL: No.

COMMISSIONER LEVAR: Mr. Snarr or Mr. Moore?

MR. MOORE: No questions, thank you.

COMMISSIONER LEVAR: Mr. Jetter?

MR. JETTER: I have no questions.

COMMISSIONER LEVAR: Ms. Clark or Mr. Sabin?

MR. SABIN: We have no questions, thank you.

COMMISSIONER LEVAR: Commissioner White?

COMMISSIONER WHITE: No questions, thank you.

COMMISSIONER LEVAR: Commissioner Clark?

COMMISSIONER CLARK: No questions, thank you.

EXAMINATION

BY COMMISSIONER LEVAR:

Q. I think I just have one or two on your Exhibit 1.02.

A. Yes.

Q. Just to make sure I'm understanding that, these are all cases that Mr. Hevert illustrated as a witness?

A. Absolutely, yes.

Q. Are these illustrative or exhaustive? Is this exhaustive?

A. It is exhaustive for the time period.

Q. Exhaustive for the time period?

A. Yes.

Q. The chart doesn't have this, but --

A. Now, I have to caveat that because I bring it up into 2019, and since I filed the testimony or, you know, in more recent periods, there may have been some decisions that I didn't pick up.

Q. Exhaustive up to -- well, at least until April of 2019, is the most recent on this.

A. Yes.

Q. Okay. The only other question I have is this chart does not indicate what the approved ROEs were prior to these decision points.

A. No, it does not.

Q. Do you know off the top of your head if any of them were increases or maintained the same level versus decreases?

A. In general, they have been, at least, slightly downward but there are always exceptions.

Q. There are probably some exceptions?

A. Yes.

Q. Thank you. That answers all my questions. Thank you for your testimony this morning.

A. Thank you.

COMMISSIONER LEVAR: Mr. Mecham, anything else from your client?

MR. MECHAM: No, that's it.

COMMISSIONER LEVAR: Okay. Mr. Snarr or Mr. Moore, were there timing concerns with any of your witnesses? There was some discussion after the hearing yesterday that there might be.

MR. SNARR: We have two expert witnesses from out of town. I think their flight arrangements are after we conclude today, but it presumes that we conclude today and we want to make sure it happens for them.

COMMISSIONER LEVAR: Okay. Do you have any objection to moving back to the order that we typically go in at this point and going to the Division next, or would you like to present your witnesses now?

MR. SNARR: I think we can go with the regular routine.

COMMISSIONER LEVAR: Okay. I think we will move to Mr. Jetter to start your witnesses at this point.

MR. JETTER: Great. The Division would like to have called and have sworn in Douglas Wheelwright.

COMMISSIONER LEVAR: Good morning, Mr. Wheelwright.

DIRECT EXAMINATION

DOUGLAS WHEELWRIGHT,

called as a witness, having been first duly sworn,
was examined and testified as follows:

MR. JETTER: If I may, before I begin my

direct examination of Mr. Wheelwright, I have an exhibit yesterday that was discussed as DPU Cross Exhibit No. 2 that I believe I did not enter into the record. And so given that, I would like to move at this time --

COMMISSIONER LEVAR: Can you remind me what that exhibit was?

MR. JETTER: That was investor presentation from December 2nd from Dominion Energy, Incorporated.

COMMISSIONER LEVAR: This?

MR. JETTER: Yes.

COMMISSIONER LEVAR: If anyone objects to this motion, please indicate to me.

I'm not seeing any objection, so the motion is granted.

(Exhibit was previously marked.)

MR. JETTER: Thank you, Mr. Chairman.

MR. JETTER: I don't recall, I apologize, if Mr. Wheelwright has been sworn in.

COMMISSIONER LEVAR: Yes, he has.

MR. JETTER: Great.

BY MR. JETTER:

Q. Mr. Wheelwright, would you please state your name and occupation for the record?

A. My name is Douglas Wheelwright. I'm a technical consultant supervisor with the Division of

Public Utilities.

Q. Thank you. And in the course of your employment with the Division of Public Utilities, did you have the opportunity to review the application, along with the filings of the various parties, in this docket?

A. Yes, I did.

Q. And did you create and cause to be filed with the Commission pre-filed direct testimony, along with DPU Exhibit No. 1.0 Direct?

A. Yes.

Q. If you were asked the same questions that are contained in that pre-filed testimony today, would your answers remain the same?

A. Yes, they would.

Q. And would you adopt that as part of your testimony today?

A. Yes, I would.

Q. Okay.

MR. JETTER: I would like to move to enter into the record the pre-filed direct testimony of Mr. Wheelwright, along with the exhibits that are attached.

THE COURT: If anyone objects to the motion, please let me know.

I'm not seeing any objection in the room, so the motion is granted.

MR. JETTER: Thank you.

(Hearing Exhibit DPU 1 was marked for identification but not received by court reporter.)

BY MR. JETTER:

Q. And, Mr. Wheelwright, have you prepared a brief summary of your testimony and the Division's position in this --

A. Yes, I have.

Q. Please go ahead.

A. Thank you. Good morning, Commissioners, Questar Gas Company, doing business as Dominion Energy Utah, originally requested an increase in its Utah rates of $19.2 million. The company's asking for an increase in the authorized rate of return on equity from 9.85 percent to 10.5 percent, an increase in infrastructure tracker program and an increase in the proposed capital expenditures.

In rebuttal testimony, the company's accepted a few of the adjustments provided by other parties and has revised the request to $17 million. The Division has reviewed the testimony and exhibits of company witnesses, as well as the testimony and exhibits of the intervening parties.

The Division has participated in meetings with the company representatives to obtain additional information and clarification on multiple topics and has submitted numerous data requests. The representatives from the Division have also reviewed the data requests and have -- that have been submitted by other parties and the corresponding response from Dominion Energy Utah.

The Division does not agree with or support the company's calculation of the deficiency and the revenue requirement for the test year. In total, representatives from the Division have identified $19.6 million in adjustments to the proposed revenue requirement and a specific detail of each adjustment has been provided to the Commission in written testimony.

The company has accepted the Division's $1.5 million adjustment to the lead lag calculation, leaving two of the Division's adjustments remaining, that of capital spending and the return on equity calculation.

The two remaining adjustments total $18.1 million, which calculates a revenue surplus of $1.1 million. In this proceeding, the Division will provide witnesses to address each of the a specific adjustments. David Thomson will address the lead lag adjustment, Jeff Einfeldt will address the tracker program, and Eric Orton will address the proposed increase in the tracker budget and capital expenditures, and Casey Coleman will address the return on equity calculation.

And that concludes my summary.

Q. Thank you.

MR. JETTER: I have no further questions for Mr. Wheelwright, and he is available for cross and questions from the Commission.

COMMISSIONER LEVAR: Thank you.

Mr. Moore, any questions?

MR. MOORE: No questions, thank you.

COMMISSIONER LEVAR: Major Kirk?

MAJOR KIRK: No questions, sir.

COMMISSIONER LEVAR: Mr. Mecham?

MR. MECHAM: No, thank you.

COMMISSIONER LEVAR: Ms. Russell?

MR. RUSSELL: No questions.

COMMISSIONER LEVAR: Ms. Clark?

MS. CLARK: The company has no questions, thank you.

COMMISSIONER LEVAR: Commissioner Clark?

COMMISSIONER CLARK: No questions, thank you.

COMMISSIONER LEVAR: Commissioner White?

COMMISSIONER WHITE: No questions for me, thank you.

COMMISSIONER LEVAR: None for me either.

THE HEARING OFFICER: Thank you for your testimony, Mr. Wheelwright.

Your next witness?

MR. JETTER: Thank you. The Division would like to next call David Thomson.

COMMISSIONER LEVAR: Good morning, Mr. Thomson.

DIRECT EXAMINATION

DAVID THOMSON,

called as a witness, having been first duly sworn,

was examined and testified as follows:

BY MR. JETTER:

Q. Mr. Thomson, would you please state your name and occupation for the record?

A. My name is David P. Thomson. I'm a technical consultant for the Division of Public Utilities.

Q. Thank you. And in the course of your employment with the Division, have you had the opportunity to review the application filed by Dominion Energy Utah, along with the various filings of other parties, in this docket?

A. I have.

Q. And with that knowledge, did you create and cause to be filed with the Commission direct testimony, along with eight exhibits that are titled DPU Exhibits

No. 4.0 through 4.8 direct?

A. Yes, I did.

Q. And if you were asked the same questions in your pre-filed direct testimony today, would your answers remain the same?

A. They would.

MR. JETTER: I would like to move at this time to enter the direct testimony, along with the attached exhibits, of DPU Witness Thomson into the record.

COMMISSIONER LEVAR: If anyone objects to the motion, please let me know.

I'm not seeing any objection in the room, so the motion is granted.

(Hearing Exhibit DPU 4, with attachments, were marked for identification but not received by court reporter.)

MR. JETTER: Thank you.

BY MR. JETTER:

Q. Mr. Thomson, have you prepared a brief summary of your testimony?

A. I do.

Q. Please go ahead.

A. Good morning, Commissioners, and thank you for the opportunity to briefly review the Division's changes to the Company's lead lag factor used to estimate cash for capital in this rate case.

In my direct testimony, I stated that the company should file lead lags indicating that lag days of 7.258 should be adjusted to show negative lag days of .828.

Using the Division's proposed negative .828 negative lag days reduce the company's adjusted revenue requirement by $1,496,508. The Division made four adjustments to the company's lead lag study. These adjustments were explained in my direct testimony and were summarized in my DPU Exhibit 4.8DIR.

As been stated a couple of times in this hearing, the company has accepted my adjustments and this concludes my testimony.

Q. Thank you.

MR. JETTER: I have no further questions. Mr. Thomson is available for cross and Commission questions.

COMMISSIONER LEVAR: Thank you.

Mr. Moore or Mr. Snarr?

MR. MOORE: No questions, thank you.

COMMISSIONER LEVAR: Major Kirk?

MAJOR KIRK: No questions, thank you.

COMMISSIONER LEVAR: Mr. Mecham?

MR. MECHAM: No, thank you.

COMMISSIONER LEVAR: Mr. Russell?

MR. RUSSELL: No questions, thank you.

COMMISSIONER LEVAR: Ms. Clark?

MS. CLARK: No, thank you.

COMMISSIONER LEVAR: Commissioner White?

COMMISSIONER WHITE: No questions.

COMMISSIONER LEVAR: Commissioner Clark?

COMMISSIONER CLARK: No questions.

COMMISSIONER LEVAR: And I don't have any either.

Thank you for your testimony this morning.

MR. JETTER: The Division would like to call as its next witness, Mr. Jeffrey Einfeldt.

COMMISSIONER LEVAR: Good morning, Mr. Einfeldt.

DIRECT EXAMINATION

JEFFREY EINFELDT,

called as a witness, having been first duly sworn,
was examined and testified as follows:

BY MR. JETTER:

Q. Good morning, Mr. Einfeldt, would you please state your name and occupation for the record?

A. My name is Jeffrey S. Einfeldt. I'm a utility analyst for the Division of Public Utilities.

Q. Thank you. And in the course of your employment with the Division, did you have the opportunity to review the application and materials filed in this docket?

A. Yes.

Q. And I'm not sure that a lot of that relates directly to your testimony in this docket, but did you create and cause to be filed direct testimony, along with one exhibit that is titled DPU Exhibit No. 5.0DIR?

A. Yes.

Q. And would you answer the questions that were posed in your direct pre-filed testimony the same if they were asked today?

A. Yes.

Q. Given that your direct testimony was a summary in itself, I won't have you provide a summary today.

Do you have any corrections or changes you would like to make to your pre-filed testimony?

A. No.

Q. Thank you.

MR. JETTER: With that, I would like to move to enter into the record the direct testimony and exhibit attached to that from Mr. Einfeldt.

COMMISSIONER LEVAR: If anyone objects to the motion, please let me know.

I'm not seeing any objection in the room, so the motion is granted.

MR. JETTER: Thank you.

(Hearing Exhibit 5, plus attachment, was marked for identification but not received by court reporter.)

MR. JETTER: I have no further questions. Mr. Einfeldt is available for cross or questions from the Commission.

COMMISSIONER LEVAR: If anyone has cross-examination for Mr. Einfeldt, would you indicate to me? I'm not seeing any indication.

Commissioner White, do you have any questions?

COMMISSIONER WHITE: No questions, thank you.

COMMISSIONER LEVAR: Commissioner Clark?

COMMISSIONER CLARK: No questions.

COMMISSIONER LEVAR: I don't have any either.

Thank you for you testimony this morning.

THE WITNESS: Thank you.

MR. JETTER: The Division would like to next call and have sworn in its fourth witness, Eric Orton.

COMMISSIONER LEVAR: Good morning, Mr. Orton.

DIRECT EXAMINATION

ERIC ORTON,
called as a witness, having been first duly sworn,
was examined and testified as follows:

BY MR. JETTER:

Q. Good morning, Mr. Orton. Would you state your name and occupation for the record?

A. My name is Erik Orton. I'm a technical consultant for the Division of Public Utilities.

Q. Thank you. In the course of your employment with the Division, have you also had the opportunity to review the application filed by the Commission, along with the filings from other parties?

A. The application filed by the company?

Q. Excuse me? Yes, the application filed by Dominion Energy Utah.

A. I did.

Q. And with that knowledge, did you create and cause to be filed with the Commission direct testimony, along with DPU Exhibits 2.0 Direct through 2.5 Direct, and surrebuttal pre-filed testimony, with Exhibit DPU Exhibit No. 2.0 Surrebuttal?

A. I did.

Q. Do you have any questions or changes you would like to make to any of that pre-filed testimony?

A. I do have two corrections to my pre-filed

direct testimony.
Q. Please go ahead -- actually, let me hold off until everyone that is interested is ready.
Please go ahead.
A. Line 351 currently references Columns L and M. They should reference Columns K and L.
Also, the next page, line 354, I need to delete the reference in parentheses, so we would remove paren, line 2, Column L, and close paren. Those are all the corrections I'm aware of.
Q. Thank you.
MR. JETTER: With that, I would like to move to enter the direct surrebuttal testimony, along with the exhibits into the record.
COMMISSIONER LEVAR: If anyone objects to the motion, please indicate to me.
I'm not seeing any objection in the room, so the motion is granted.
(Hearing Exhibit DPU 2 and 2S, with attachments, were marked for identification but not received by court reporter.)
MR. JETTER: Thank you.
BY MR. JETTER:
Q. Have you prepared a brief summary of your testimony?

A. I have.

Q. Please go ahead.

A. Thanks. In my direct testimony, I researched four claims of proposals made by the company in its application. First was the proposal to increase the infrastructure tracker's budget to $80 million in 2020. The tracker is functioning as it should, and increasing the budget in this matter is unmerited and not in the public interest. So as such, I recommended that that request be denied.

Second, the proposed change to the current method of reconciling the over or under budget variances of the tracker standard, I recommended adopting the company's proposal on a trial basis.

Third, I addressed the capital budget proposed in the test year. I looked at the annual trend in the company's capital spending, the amount the company was rewarded compared to what it spent and the justification for that amount. This came up with the conclusion that I couldn't support the 2020 capital budget, and therefore, I proposed to reduce that amount to a more appropriate level.

Finally, I addressed the company's claim that it had kept all its merger agreements. I pointed out that it had not -- that issue has since been resolved in

19-057-25 docket ordered just two weeks ago.

My surrebuttal testimony doesn't change any of any positions. Thank you.

Q. Thank you.

MR. JETTER: I have no more further question for Mr. Orton. He is available for cross or questions.

COMMISSIONER LEVAR: Thank you.

Mr. Moore or Mr. Snarr, do you have any questions for Mr. Orton?

MR. MOORE: No questions.

COMMISSIONER LEVAR: Major Kirk?

MAJOR KIRK: No questions.

COMMISSIONER LEVAR: Mr. Mecham?

MR. MECHAM: None for me.

COMMISSIONER LEVAR: Mr. Russell?

MR. RUSSELL: No questions.

COMMISSIONER LEVAR: Thank you. Ms. Clark?

MS. CLARK: I have just a few, and I will be asking Mr. Orton about a couple of cross exhibits.

May I approach and just provide you with both?

COMMISSIONER LEVAR: Yes.

MS. CLARK: Thank you.

(Exhibit was handed out.)

CROSS-EXAMINATION

BY MS. CLARK:
Q. Mr. Orton, I just provided you with two exhibits. One is labeled as DEU hearing Exhibit 9 and another is labeled at DEU hearing Exhibit 10.
I would like to draw your attention to Hearing Exhibit 9. It is a PowerPoint presentation. Do you recognize that?
A. I have that, uh-huh.
Q. And do you recognize that? Can you describe what it is?
MR. SNARR: Excuse me, might we have a copy or two?
MS. CLARK: I'm sorry.
BY MS. CLARK:
Q. Mr. Orton, would you please describe DEU Exhibit 9?
A. It appears to be a printed copy of the slide deck of a feeder line technical conference ten years ago.
Q. In Docket 09-057-16; is that correct?
A. That is what it looks like, yes.
Q. And would you agree, subject to check, that this was presented within that docket?
A. I assume it was.
Q. Can I have you turn to pages 20 and 21 of Hearing Exhibit 9?

A. I have it.

Q. And as you are looking at those two pages, does that represent the scope of the feeder line replacement schedule as it stood in 2009?

A. If you say it does, I assume.

Q. Subject to check?

A. I don't have anything to contradict that.

Q. When you testified in this matter, Mr. Orton, that initially the feeder line replacement program was intended to be completed in nine years, is that consistent with these two pages?

A. It is not.

Q. It is not?

A. It is.

Q. It is? Okay.

A. I was looking at the wrong column.

Q. No, I understand. And to your knowledge, was the commencement of the feeder line replacement program -- did that occur in the 2009?

A. The tracker program did. The feeder line occurred -- started in 2002.

Q. Fair enough. I would like to turn your attention then to DEU Hearing Exhibit 10 and ask you if you recognize what that is?

A. I have seen several of these, yes. It's when the company files, on an annual basis at least, the schedule for their feeder line replacements.

Q. And would you agree, subject to check, that this is the most recent schedule for the feeder line replacement?

A. It is probably right.

Q. And you would agree with me, wouldn't you, if you were to compare pages 20 and 21 of Hearing Exhibit 9 to Hearing Exhibit 10, there are substantially more feeder lines included now than at the commencement at the program?

A. Yes, I think we talked about that in the past.

Q. And it is your recollection that in 2013, more feeder lines were added to that program?

A. That is true.

Q. And is it your recollection also that in 2013, the belt lines in the company system were also added?

A. Yes.

Q. And so you would agree the feeder line replacement program is larger in scope than it was in 2009?

A. It is larger in scope.

MS. CLARK: I would move to admit DEU Hearing

Exhibits 9 and 10?

COMMISSIONER LEVAR: And just one question, in abundance of caution, and I'm sure I know the answer to this, but page 25 has some yellow highlighting that I assume is not intended to be confidential material, but I wanted to check with you before we enter it into evidence.

MS. CLARK: Let me double-check. Which page are you looking at?

COMMISSIONER LEVAR: Page 25 of the presentation of the tech conference.

MS. CLARK: That is correct.

COMMISSIONER LEVAR: It is not confidential?

MS. CLARK: It is not confidential. Correct.

COMMISSIONER LEVAR: If anyone objects to the motion, please indicate to me.

I'm not seeing any objection, so the motion is granted.

(Hearing Exhibit DEU 9 and 10
were marked for identification.)

MS. CLARK: Thank you.

BY MS. CLARK:

Q. I wanted to ask you a couple questions about the capital budget. You have taken issue in your testimony with the capital budget?

A. That is right.

Q. Would you agree that the capital budget for 2020 is approximately $44 million higher than the prior capital budget?

A. I think that is about right.

Q. And would you agree the $44 million is made up in part of the proposed increase to the feeder line tracker, the increase that you oppose; is that correct?

A. Right.

Q. Would you agree that if the Commission approved that increase in the feeder line budget, the capital budget should have a commensurate increase for whatever that increase was?

A. I don't know how else you would pay for it.

Q. Okay. Would you also agree the remainder of that $44 million is made up largely of the $20 million southern system expansion and the $14 million Current River cap?

A. I am not sure that's the difference. I could -- those are included in that budget, I believe, but I'm not sure they are the difference. They are certainly major parts of the 2020 budget.

Q. Fair enough. You have not taken issue with either of those projects in this proceeding, have you?

A. I have not.

Q. Okay.

A. I haven't had the information, no.

Q. I don't have any more questions. Thank you.

COMMISSIONER LEVAR: Any redirect, Mr. Jetter?

MR. JETTER: No, no redirect. Thank you.

COMMISSIONER LEVAR: Commissioner Clark, any questions for Mr. Orton?

COMMISSIONER CLARK: No questions, thank you.

COMMISSIONER LEVAR: Commissioner White?

COMMISSIONER WHITE: No questions, thank you.

COMMISSIONER LEVAR: I don't either. Thank you for you testimony this morning.

THE WITNESS: Thank you.

COMMISSIONER LEVAR: Mr. Jetter?

MR. JETTER: Thank you. The Division would like to have sworn in Mr. Casey Coleman.

COMMISSIONER LEVAR: Good morning.

DIRECT EXAMINATION

CASEY COLEMAN,

called as a witness, having been first duly sworn,

was examined and testified as follows:

BY MR. JETTER:

Q. Mr. Coleman, please state your name and occupation.

A. My name is Casey J. Coleman, and I'm a technical consultant with the Division of Public Utilities.

Q. Thank you. And in the course of your employment with the Division, did you have an opportunity to review the application made by Dominion Energy Utah in this docket, as well as the filings from other parties?

A. Yes.

Q. And with that information, along with your own research, did you create and cause to be filed with the Commission direct pre-filed testimony, and along with that, 12 exhibits that are listed DPU Exhibit No. 3.0 Direct through 3.12 Direct?

A. Yes.

Q. And did you also cause to create and cause to be filed with the Commission surrebuttal testimony with three exhibits that are DPU Exhibit No. 3.0SR through 3.2SR?

A. Yes.

Q. And I would like to correct the first question that I asked you, if there were 12 exhibits with 3.0 being the first one. That would be 13 exhibits; would that be correct?

A. That is correct, yes.

Q. If I were to ask you the same questions

included in your direct and surrebuttal testimony, would you answers remain the same?

A. Yes.

Q. And do you have any corrections that you would like to make?

A. Yes, just a minor -- a couple minor corrections, and it is in the direct testimony. It would be on line 490 and 491, which is page 26 of the direct testimony. There is a list there of some growth rates that was used in the analysis, and the Reuters should be struck from that because Reuters was not used.

So on line 490, it says "Reuters" and also on line 493, and those should be struck from the testimony.

Q. Thank you.

MR. JETTER: With those corrections, I would like to move to enter into the record of the hearing the direct and surrebuttal testimony of Mr. Coleman, along with the attached exhibits?

COMMISSIONER LEVAR: If anyone objects to the motion, please indicate to me.

I'm not seeing any objection, so the motion is granted.

(Hearing Exhibit DPU 3 and 3SR, plus attachments, were marked for identification but not received by court reporter.)

BY MR. JETTER:

Q. Mr. Coleman, have you prepared a brief summary of testimony for this docket?

A. I have.

Q. Please go ahead.

A. Thank you. Good morning again, Commissioners. My testimony review generally accepted the valuation methods, including the capital asset pricing model, the constant growth discounted cash flow model and the bond yields, plus risk premium approach. These financial models provided a solid framework for analysis to arrive at a cost of equity for Dominion Energy Utah.

I have concluded that the appropriate cost of equity for Dominion Energy Utah is 9.25 percent. The current market condition support a reasonable range for cost of equity between 8.09 percent and 9.55 percent. There are a number of factors that go into this recommendation. There has been a longstanding discussion dealing with the fair rate of return versus the cost of equity for utility companies.

The 9.25 percent ROE balances the fair rate of return for investors, while providing just and reasonable rates for captive utility customers.

Q. Thank you.

MR. JETTER: And I have no further questions. Mr. Coleman is available for cross and questions from the Commission.

COMMISSIONER LEVAR: Mr. Moore or Mr. Snarr, any questions?

MR. MOORE: No questions, thank you.

COMMISSIONER LEVAR: Major Kirk?

MAJOR KIRK: No questions, thank you.

COMMISSIONER LEVAR: Mr. Mecham?

MR. MECHAM: No questions, thank you.

COMMISSIONER LEVAR: Mr. Russell?

MR. RUSSELL: No questions.

COMMISSIONER LEVAR: Ms. Clark or Mr. Sabin?

MS. CLARK: We have no questions, thank you.

COMMISSIONER LEVAR: Commissioner White?

COMMISSIONER WHITE: No questions, thank you.

COMMISSIONER LEVAR: Commissioner Clark?

EXAMINATION

BY COMMISSIONER CLARK:

Q. Do you have an opinion regarding the capital structure recommendation of the company, proposal company?

A. Sure. I can tell you what I said in our testimony because we felt it was a stipulated amount. We didn't look at it much.

I would say from my own personal experience, though, that the capital structure does impact a potential return on equity because those two are tied together to, ultimately, come up with what the revenues requirement would be for a company.

So there's been a lot of discussion here of what the appropriate capital structure would be. Our 9.25 percent was in consideration of a capital structure of the 55-45. And as we said in there, if there was some changes in the capital structure, that you may want to look at a rate of return that would reflect the amounts that would be appropriate with that.

So that's -- I don't know if 55, 60, 50 is the appropriate amount with that, 52, but I would just give some direction to the Commission that, obviously, when you're setting those two elements, they do have an inner play that impacts customers, as well as investors.

I don't know if you wanted me to get more specific than that or --

Q. I understand what you're telling us. And thank you.

A. Okay.

EXAMINATION

BY COMMISSIONER LEVAR:

Q. Just one question about your Exhibit 3.02.

Do you have that in front of you?

A. And that would be --

Q. It looks like an S&P rate history for past rate cases. Oh, yeah, I think it was to your surrebuttal.

A. Okay. Surrebuttal, okay.

Q. Yes, 3.02SR.

A. Yes, I have that.

Q. You may not know the answer to this because you pulled this from S&P. Correct?

A. Yes.

Q. Okay. This chart does not indicate what the preexisting approved ROE was prior to these decision points, which it just has the requested and the approved but not what the ROE was prior to the decision; is that correct?

A. What I provided to you doesn't have that. The information that we pulled does have that information, but for its space and limitations, I had to try and decide what may be the most important information.

If the Commission would like us to, though, we can go back and provide what the return on equities were or what the changes were because I believe that information -- actually, I guess, I'm not accurate because I have -- let me restate this. There is a lot of different elements and information in that, but I don't -- I put in there what I believe was the most appropriate as far as return on equity, but I don't think that information provides what the previous ones were.

Q. Okay. Thank you. That is the only question I have. Thank you for your testimony this morning.

A. Sure.

COMMISSIONER LEVAR: Mr. Jetter, anything else from the Division?

MR. JETTER: No, the Division has nothing further on its, I guess, live case. Thank you.

COMMISSIONER LEVAR: Okay, thank you.

Mr. Moore?

MR. MOORE: The Office calls Alyson Anderson and asks that she be sworn.

DIRECT EXAMINATION

ALYSON ANDERSON,

called as a witness, having been first duly sworn,

was examined and testified as follows:

BY MR. MOORE:

Q. Could you state your name and occupation for the record?

A. I'm Alyson Anderson, and I'm a utility analyst for the Office of Consumer Services.

Q. And in that capacity, have you reviewed the application of DEU in this matter and the various filings?

A. I have.

Q. Did you prepare direct testimony filed on October 17, 2019?

A. I did.

Q. Do you have any changes you would like to make to that testimony now?

A. No.

Q. If I asked you the questions in your direct testimony, will your answers be the same today?

A. They would.

MR. MOORE: I request to admit the testimony of -- direct testimony of Alyson Anderson.

COMMISSIONER LEVAR: Okay. If anyone objects to the motion, please indicate to me.

I'm not seeing any objection in the room, so the motion is granted.

(Hearing Exhibit was marked but not identified or received by court reporter.)

BY MR. MOORE:

Q. Have you prepared a summary of your testimony?

A. I have.

Q. Please proceed.

A. My testimony introduces the Office of Consumer Services' witnesses and provides the office's policy on Dominion Energy Utah proposed changes to the infrastructure replacement tracking mechanism.

Witness Dan Lawton presents the Office's recommended overall cost of capital of 6.958 percent, which includes a return on equity of 9.1 percent.

Witness Donna Ramas presents the Office's rate base and net operating income adjustments and provides the analysis behind the Office's revenue requirement.

In surrebuttal, the Office is recommending a reduction in the company's revenue requirement of $11,468,230 based on the CET allowed revenue.

As part of its original filing, DEU requested changes to the infrastructure's replacement tracker. The company seeks to increase the annual expenditure level of the infrastructure tracker from 65 million, adjusted for inflation, to 80 million, adjusted for inflation, and to change the treatment of annual budget variances.

The annual expenditure level adjusted for inflation is projected to be 72.2 million in 2020. The Office's concern with the size and scope of the infrastructure tracker and the intent of the prudence review specified in the Commission's infrastructure tracker evaluation plan. The Office requested that the Commission clarify the intent and timing of the prudence review of the infrastructure tracker investments, as well as continue to monitor the size and scope of the tracker going forward.

The Office opposes the proposed increase to infrastructure tracker annual expenditure level but does support the company's proposed treatment of spending variances.

This conclude my summary.

MR. MOORE: Ms. Anderson is now available for cross and questions from the Commission.

COMMISSIONER LEVAR: Mr. Jetter, do you have any questions for Ms. Anderson?

MR. JETTER: I do not have any questions, thank you.

COMMISSIONER LEVAR: Thank you. Major Kirk?

MAJOR KIRK: No questions, thank you.

COMMISSIONER LEVAR: Mr. Mecham?

MR. MECHAM: No questions, thank you.

COMMISSIONER LEVAR: Mr. Russell?

MR. RUSSELL: No questions, thank you.

COMMISSIONER LEVAR: Ms. Clark?

MS. CLARK: No questions, thank you.

COMMISSIONER LEVAR: Commissioner White?

COMMISSIONER WHITE: No questions, thank you.

COMMISSIONER LEVAR: Commissioner Clark?

COMMISSIONER CLARK: No questions, thank you.

COMMISSIONER LEVAR: And I don't either. Thank you for your testimony this morning.

Mr. Moore or Mr. Snarr?

MR. SNARR: Yes. Our next witness would be Ms. Donna Ramas.

COMMISSIONER LEVAR: Good morning, Ms. Ramas.

DIRECT EXAMINATION

DONNA RAMAS,

called as a witness, having been first duly sworn,

was examined and testified as follows:

BY MR. SNARR:

Q. Could you please state your name for the record?

A. Donna Ramas.

Q. And what is your usual employment?

A. I'm a regulatory consultant.

Q. And have you been hired by the Office of Consumer Services to participate in this proceeding?

A. Yes, I have.

Q. Did you prepare direct and surrebuttal testimony in connection with this proceeding?

A. Yes, I did.

Q. And with those testimonies, did you also prepare exhibits associated with the submissions?

A. Yes.

Q. And do you have any corrections you would like to make to any of those submissions?

A. I wouldn't call them corrections, but there were some modifications made on the stand yesterday by Mr. Felsenthal that impact some items in my direct and surrebuttal testimony, so I would like to quickly go through where his statements impacted what was said in my testimony.

Q. Would you do that, please?

A. Yes. The first would be, that I would like to address first, would be in my surrebuttal testimony, going to page 44, line 259 -- I'm sorry, page 44, line 959. I discuss that Mr. Felsenthal indicated that the Commission approved 8.18 million of pension expense in the last rate case. And on this stand yesterday, he corrected that amount and said the amount should be 5,612,000. I haven't been able to verify the correction of that number because it goes back to the 2013 rate case, and I don't have those files with me but I have no reason to dispute his correction.

But then if you also turn to the next page, on page 45 of my surrebuttal testimony, there is a table at the top where I provided comparison of the pension expense that the company contends are included in base rate from the 2013 docket to the amount of pension expense actually booked by the company.

And I use the $8.18 million from Mr. Felsenthal's pre-filed rebuttal testimony, and that amount would change to 5.6 million. But even if that number is updated, it would still show that the amount collected -- or included in rate since the last rate case compared to the actual pension expense has been significantly greater.

And then the next item pertains to my direct testimony. At page 43, lines 936 to 939, I state, "I am not aware of the company including a deferred pension asset nor an accrued pension liability in rate base, in prior rate cases over the long period, over which the accrual basis of accounting has been in effect for pensions."

Mr. Felsenthal indicated on the stand that in the 19 -- in the '99 docket, that there were some -- a pension asset was included in rate base, so I was able to go and confirm that. And I looked at that case, which was -- let me get you the docket number. Yes, it was Docket No. 99-057-20 and the order that was issued on

August 11, 2000 -- I believe it's at page 25, this issue was addressed -- it was part of a stipulation in that case. It appears under Section D, "Stipulations of certain revenue requirement items," as Item No. 12.

And the order specifically states that the Division challenged the inclusion of that prepaid pension asset in rate base in that case. So the order states, and I quote, "To reach stipulation, the Division would support an adjustment to remove 233,680 from rate base."

This is compared to the $2,399,941 the company requested, and it is very clear from reading that order that it was included as a result of the stipulation reached between the parties, not based on a Commission decision that that should, in fact, be included.

And those are the extent of things that have come up that would have impacted my direct testimony and my surrebuttal testimony.

Q. With those corrections or adjustments, if I asked you all the same questions, would you provide all the same answers otherwise today?

A. Yes.

Q. All right.

MR. SNARR: I would like to offer Ms. Ramas' exhibit into evidence. It would include her direct testimony filed on October 17th, along with Exhibits 2.1D through 2.17D, as well as her surrebuttal testimony submitted on December 5th, including Exhibits 2.1S through 2.7S.

I would like to offer those into evidence.

COMMISSIONER LEVAR: If anyone objects to that motion, please let me know.

I'm not seeing any objection in the room, so the motion is granted.

(Hearing Exhibits 2S and 2D, plus attachments, were marked for identification but not received by court reporter.)

BY MR. SNARR:

Q. Have you prepared a summary of your testimony for today?

A. Yes, I have. And before starting, I had left my water at the back and it is a bit of a lengthy summary, so I would appreciate it if I could have it up here.

Yes, I do have a summary.

Q. Please proceed.

A. Good morning, Commissioners, Chairman. The facts and circumstances of this case show that Dominion Energy Utah's rate should be reduced and not increased. As indicated in my surrebuttal testimony, rates currently being collected, based on the conservation enabled allowed tariff revenue, should be reduced by $11,468,230. This reduction is based on impacts of the adjustments recommended in my testimony, coupled with impacts of the rate of return equity recommended by the Office witness Daniel Lawton in this case.

If the Commission agrees with my recommendation regarding the cost for outside legal fees incurred by the company for assistance in the 2018 LNG proceeding, then the reduction of approximately 11.5 million should be increased by the amount disclosed in my confidential testimony in this case.

My surrebuttal testimony discusses several issues remaining in dispute in this proceeding. As Mr. Stephenson indicated, agreement with the reduction for the audit fee accrual, seven issues discussed in my surrebuttal testimony remain in dispute at this time. I will briefly summarize my position on each of these outstanding issues in the order in which they appear in my surrebuttal testimony.

The first area is the area of projected capital expenditures. The company's calculation of the projected tester plant in service balances assumes a substantial increase in the annual level of capital expenditure, increasing from a 2018 base year level of 212.2 million to forecasted amounts of approximately 232 million for 2019 and 277.7 million for 2020.

The company has failed to provide a reasonable level of support or justification in its submission in this case for these substantial increases in annual capital expenditure. The burden of proof in supporting its case resides with the company, and it is my opinion that the company failed to meet this burden in this case.

When an itemization of the forecasted 2020 capital expenditure was finally provided with the company's rebuttal filing, the amounts provided in the rebuttal filing by functional category of cost differed substantially from the amounts previously provided in response to discovery and in the original filing.

Well, the company did provide some additional information and response to discovery on some of the areas of capital cost and on a few of the projects. The amounts contained in the itemized listing, finally provided with the rebuttal filing, differed from what was previously disclosed for many of those costs.

In fact, the cost changed between what had been previously disclosed in this case and what was listed in the company's rebuttal filing, had changed for all 21 of the functional categories of plant cost identified by the company.

These changes, many of which were significant and can be -- you can quickly see the variances when you review my testimony, at page 9, my surrebuttal testimony. It shows a comparison of what was identified by functional category of costs and response to discovery compared to what was, ultimately, provided at the late rebuttal phase in this case.

It is my opinion that the company has provided too little information too late to support the substantial budget increase in annual capital expenditures for 2020.

In my testimony, I recommended that those forecasted 2020 capital expenditures be reduced by approximately $43 million. Since the company's filing assumes a portion of the 2020 capital expenditures will remain in construction work in progress at the end of the future test year, coupled with the fact that we have an average test year being used, the removal of $43 million in forecasted capital expenditures reduces the average test year plant in service by approximately $13.4 million.

The next area is the transponder retirements. As the Commission is likely aware, the company's experienced multiple problems with transponders that were manufactured by Elster that caused the early retirement or early replacement of those transponders from what was originally projected. This replacement program began in 2015 and is projected to be completed in 2020. As pointed out in my direct and surrebuttal testimonies, DEU has acknowledged several problems with its accounting for the dismantlement and retirement for Elster transponders on its books.

As a result of these accounting issues, the dismantling costs associated with removal with the Elster transponders is effectively double counted in the company's filing. It included both in plant and service in Account 101 and again as a reduction to accumulated depreciation in Account 108.

As the company was replacing the transponders, it was booking the costs associated with dismantling the old Elster transponders as a part of the cost of the new replacement transponders. That's how they got included in plant and service in this case.

Additionally, the method used by the company in its rate case model for estimating the dismantlement cost in its filing, essentially, picked up these dismantling costs a second time through a reduction of accumulated depreciation which also increases rate base. The company agreed, in response to discovery, there was a double counting of the transponder dismantling costs in this case.

I recommended that rate base be reduced by 3.6 million, which would remove the double counting of these costs. I also recommended the depreciation expense be reduced by $166,263, to remove the inappropriate depreciation that was applied to the dismantling cost for those replaced transponders. This still remains my position today with regards to this issue.

This issue, I would say, has been pretty messy at times in this case because of the accounting errors and the problems, coupled with the double counting in the filing. The information I received throughout this case pointed out additional problems, beyond what I realized at the time I filed my original testimony.

As I sit here today, based on all the new information that has been provided by the company, I would likely have an even bigger adjustment than this I would recommend, but I think the adjustment recommended in my original testimony is still a reasonable means to take care of this problem and to avoid that double counting in this case of those dismantlement costs.

The next area regards cash working capital. While the company has agreed to substantially reduce the net lag days using -- in cash working capital requirement, one issue still remains in dispute in my opinion. The revised lag days adapted in the company's rebuttal testimony still includes the impact of depreciation and deferred income taxes in the determination of the net lead lag days.

As explained in my testimony, it has been longstanding Commission policy that depreciation be excluded from the determination of cash working capital, and within my direct testimony and possibly my surrebuttal as well, I quote from a prior Commission decision that specifically addresses that longstanding precedent and sets some bars that companies are required to bring in to address the issue fully for the Commission prior to changing that policy, and the company hasn't done that in this case.

If the impacts of the deferred income taxes and depreciation are removed from the lead lag study adopted by the company in its rebuttal filing, the negative .828 lag days that was agreed to in rebuttal would be reduced to negative .905 lag days.

And, again, I acknowledge that that's lower in lag days than the number presented in my testimony. However, the company adopted the Division's position on that issue. And if you are going to adopt the position, then you still need to look at that depreciation expense issue.

The next area is inflation. In its filing, the company inflated the 2018 base year nonlabor expenses by FERC account using inflation factors provided by Global Insight Power Planner report.

Well, the use of inflation in forecasting a future test year may be appropriate in some circumstances, it shouldn't just be an automatic given in a case. Rather, that facts and circumstances for this specific company at the time of the case should be evaluated. The reality is that the company has been quite successful in reducing its O&M expenses in recent years. This reduction has continued even into this year, into 2019.

As background, energy efficiency program costs are not collected in distribution based rate, so once nonrecurring employee severance payments and the energy efficiency program cost are removed from the operation and maintenance expenses, the amount of operations and maintenance expenses incurred by the company in the first six months of 2019 were actually 1.65 percent lower than the O&M costs, excluding those efficiency programs, for the first six months of 2018.

Given the reduction O&M expenses and the continued reduction occurring after the base year, which would be the 2018 time period, I recommend that those base year nonlabor O&M costs not be inflated in this case. Removal of the inflation factors from the company's rate case model reduces revenue requirement by approximately $1.9 million. And, again, the exact impact would be dependent on other adjustments made by the Commission and the model because they flow automatically through the model.

The next area where there is a difference between myself and the company at this point would be with regards to the excessive -- excess deferred income tax amortization. And I believe there is really only one issue remaining in dispute with this that impacts the revenue requirements in this proceeding.

It remains for the Commission to decide the appropriate time frame over which to return to non-plant related access deferred income taxes to Utah ratepayers. The parties are in agreement on the amount, which is approximately 14.56 million, inclusive of the associated tax gross up. I'm recommending that this amount, which is a small portion of the total access deferred income tax owed to ratepayers, be returned to ratepayers over a five-year period.

And that is, in large part, due to considerations or factors such as interjurisdictional equity issues and the fact that the plant-related access deferred income taxes are being flowed back over an extremely lengthy period as necessary under IRS rules. So as explained in my testimony, I recommend that at least for this item that is a small portion of the total amount owed to customers, that that be done on a quicker basis than what the company has proposed.

The next area is the cost associated with the LNG facility proceedings. I recommend the outside legal costs incurred by the company and charged to base year expenses for assistance in seeking approval of its decision to construct the LNG facility be removed from the test year. These legal costs associated with 2018 proceedings are not reflective of ongoing regulatory costs that would be incurred by the company on an annual basis.

I know some questions have been asked earlier in this proceeding regarding those costs. With my direct testimony on OCS Exhibit 2.17D, which is confidential, that provides the company's response to OCS 1.14 in this proceeding, which provides a breakdown of the outside legal fees that are included in the base year by matter. My adjustment removes only a portion of these fees that would be applicable to those LNG proceeding costs.

If the Commission would like, at some point while I'm on the stand, for me to point out which lines of that exhibit specifically I removed in coming up with the amount on the confidential adjustment I have, I believe I can do that in a public way by walking through that exhibit without being too specific.

But by looking at that Exhibit 2.17D, that confidential exhibit, you could see that if my adjustment was made, which that amount of which is provided in my confidential section of my testimony, you can see what types of other costs would still remain in the test year for legal fees in the adjusted test year if my adjustment's adopted.

Okay. Then the final issue I wish to address is whether or not pension expenses should continue to be incorporated in rates in Utah for this company, based on the accrual basis of accounting. This, at least in my opinion, is, perhaps, one of the, if not the most important issue that I'm addressing in this proceeding is the Commission's ultimate decision on this issue could have very long-term consequences in rate impacts on Utah ratepayers for many years to come.

For financial reporting purposes, the accrual basis of accounting has been required for pension since 1987, so for over 30 years, they have been accounted for in the company's books and records on that accrual basis of accounting. And so the best of my knowledge, it has also been incorporated in Utah in base rate cases that have occurred since that 1987 time frame on the accrual basis as well.

And under that, if there were years in which actual cash contributions to the pension plan would have been zero or years that the actual cash contribution may have been lower than the expense amount determined under the accrual basis of accounting, the amount incorporated in base rates during the rate cases would have been based on that accrual accounting basis, regardless of what the cash outflow would have been.

Under the accrual basis for accounting for pension, negative pension expense can occur and it does occur. The negative pension expense, which could be referred to as pension income or pension credit. I have heard various terminology used for that. But regardless of the terminology used, the fact remains that negative expense or a pension credit can evolve under accrual accounting.

The company has, in fact, been recording negative pension expense on its book for several years and anticipates to continue that into the test year. In fact, the table I discussed earlier where I discuss the impacts Mr. Felsenthal's change on my table, clearly shows there has been a negative pension expense booked for several years now.

Now that the result of the accrual accounting has resulted in a negative pension expense or credit amount, the company wants to abandon the accrual method of accounting for pensions in determining its revenue requirement, instead of including zero pension -- and instead, wants to include zero pension costs and rates. It is my opinion that this is both unreasonable and unfair to ratepayers.

As an alternative, which I understand this isn't the company's primary position, but Mr. Felsenthal offered the alternative company position that if the negative pension expense is included in rate, then it should also be allowed to include prepaid pension assets on its books in rate base.

I disagree for many reasons that are expressed in both my direct and surrebuttal testimony. In fact, I find the company's attempt to exclude the negative pension expense from revenue requirement and its alternative recommendation to increase rate base substantially for prepaid pension and assets to be particularly alarming in this specific case.

As the Commission is well aware, the company recently merged with Dominion Energy, Incorporated. And under the settlement and stipulation in that merger docket, which was approved by this Commission, Dominion Energy agreed to contribute 75 million in funding to Questar Corporation's retirement plan. That settlement stipulation specified that this contribution was to be made by Dominion Energy as a, quote, "shareholders cost," unquote.

To the best of my knowledge, there was no indication in that merger proceeding that the company would attempt to include that shareholder contribution in rate base or that it would -- or that it would attempt to seek to earn a return on that contribution amount.

In fact, the testimonies filed by the joint applicants in the merger proceedings indicated that the $75 million contribution to the plant assets would translate directly to a reduction in pension costs formed by customers.

In presenting the estimated benefits to customers from the contribution, the joint applicants did not offset the cost savings that they had presented in that case to include a shareholder return on that $75 million contribution. In fact, had it done so, the net impact would have likely shown an increase in revenue from its customers as a result of that and not a reduction in cost.

And part of the reason for that is as you're applying a rate of return on that amount, which includes a higher equity return than the interest rate, using determining pension expense as well as tax gross up for that equity return.

As explained in my testimony, the test year pension expense would have been negative or a credit amount, even without that $75 million contribution. By removing the negative pension expense in this case, the company's clearly removing the benefits to ratepayers of the contribution that was asserted by the joint applicants in the merger proceeding.

On this important issue, I continue to recommend that the negative pension expense of approximately $5.4 million on a total Dominion Energy Utah basis be included in the adjusted test year, and that the prepaid pension asset be excluded from rate base.

Thank you.

Q. Thank you, Ms. Ramas. Before we conclude and turn you over for cross-examination, I would like to direct your attention to the Dominion Energy Hearing Exhibit No. 8 that was presented this morning. Do you have that in front of you?

A. Yes, I do.

Q. Now, recognizing that there was a correction

made in Footnote 1 to show $4 million instead of $5 million, with that correction, does this exhibit resolve the accounting issues that you have identified in your testimony?

A. No, I don't agree that it does. As indicated in my summary, I still recommend that the adjustment presented in my direct testimony be reflected.

As explained, there have been numerous problems with the company's accounting for the Elster transponders. For example, the date they retired the transponders on its books and records and the fact that the dismantling costs were booked to plant in service as part of the new transponders and the double counting and the filing.

I had presented direct testimony, pointing out several of these issues, and yet the company, in its rebuttal filing, still argued that no adjustment should be made for this. And so within my surrebuttal, I addressed it again and pointed out the fact that there is a double counting of these costs.

This exhibit -- I mean, now the company is coming in and adjusting the timing application of quip in a lot of different adjustments that need to be made to the rate case model if this revised approach is considered. But even that, even if that were to be accepted, which I don't recommend be done, there is the error for the 2020 amount or, at least, the fact that it is inconsistent with what is contained in Mr. Stephenson's Exhibit 3.2R for 2020.

But you also have the fact that there is -- according to Mr. Stephenson's Exhibit 3.2R, there is also $3.7 million of plant in service that was booked to plant in service associated with the dismantlement costs of the Elster transponders that were replaced from 2016 through 2018. Those are still in that plant in service balance, even with this revised calculation that was presented by the company today.

So I continue to recommend that as a way to resolve this issue, that the adjustment in my direct testimony be adopted. The Commission has how to flow that through the rate case model in the record, as well as, I believe, my adjusted rate case model is also submitted with my testimony. So that's all information the Commission should have available to do that.

And, again, as I indicated, this new information presented regarding the timing of quip and which accounts should or shouldn't have that quip timing issue applied has come so late in the record that I don't recommend this approach be used.

And, again, as I indicated, if I had this information sooner before I filed my surrebuttal testimony, I suspect my adjustment would have been even higher than what I'm recommending in this case.

Q. Thank you.

MR. SNARR: Ms. Ramas is available for cross-examination.

COMMISSIONER LEVAR: I think at this point we will take a break and return to start the cross-examination of Ms. Ramas.

So let's break until 1:30 and we will reconvene at 1:30.

(Whereupon, a break was taken.)

COMMISSIONER LEVAR: I think we are ready for cross-examination of Ms. Ramas.

So Mr. Jetter, do you have any questions for her?

MR. JETTER: I have no questions, thank you.

COMMISSIONER LEVAR: Mayor Kirk?

MAJOR KIRK: No questions.

COMMISSIONER LEVAR: Mr. Mecham?

MR. MECHAM: No questions, thank you.

COMMISSIONER LEVAR: Ms. Russell?

MR. RUSSELL: No questions, thank you.

COMMISSIONER LEVAR: Ms. Clark or Mr. Sabin?

MR. SABIN: We do have questions, and in the words of Sesame Street, which one of these things are not like the others.

CROSS-EXAMINATION

BY MR. SABIN:

Q. Good afternoon, Ms. Ramas.

A. Good afternoon.

Q. I want to focus first on the plant -- your objections to the capital budget for plant, for the 2020 -- for the revenue requirement portion that is associated with that.

I want to just get a few things in the record on that point. It's true, isn't it, that the Division requested a specific line-by-line itemization, I should say, of each of the projects that are included in that capital budget, and that was requested back in September?

A. I don't know if the Division did, but those -- let me see who submitted the data request. It's in my response, give me just a moment.

Q. No problem. Are you referring to your surrebuttal?

A. No, that would have -- I believe this was filed with my direct.

Q. For your reference, if you looked at DPU 7.04, which is attached to your surrebuttal, it is included in the Exhibit 2.7S and it is page 1.

A. Oh, yes, this wasn't a request -- you had asked about an itemization of projects, and the Office had asked for an itemization before September. And in a September -- I believe it was September 5th response, the itemization was not provided.

What you're referring to, this DPU 7.04, the DPU had asked for a breakdown of the capital expenditures by category consistent with the categories of the merger report, so it didn't ask for individual projects, per se.

Q. Here is my question: As of September, the company provided an itemization of all the capital projects that are included in your rebuttal, your surrebuttal table?

A. It didn't provide an itemization of the projects. It provided a breakdown of costs by category, but an itemization of the actual projects included within those categories wasn't provided until the company's rebuttal filing in this case.

Q. Okay.

A. So maybe it is just the language. I agree, the company provided a grouping of project costs but not individual projects for all the projects.

Q. Did you send a data request asking for an itemization prior to that?

A. Yes, I did. If you give me a moment, I thought it was included.

Q. I'm still going to refer you back to 7.04, that page 1. The second page of that exhibit has a listing of the items and amounts that add up to 277 million by category?

A. Yes. We had asked -- and, again, it's included in my direct testimony, an attachment, where we asked for a data request, asking for the budget included in the file, the most detailed level available.

But I can -- so you would like me to refer to the response of 7.04?

Q. If you could tell me -- if you look at page 2 of data response to 7.04, you had that information as of September 3, 2019?

A. Well, not by project. We have it by category of plant cost. We had it by that date.

Q. Right. And you had the total and each of the amounts for each of the categories?

A. The amount by category but not by project. Correct.

Q. Right. Okay. And you'd agree with me that was subsequently updated by the company when it did its 2020 budget?

A. Yeah, I've seen this number update -- this specific format updated three times in this proceeding.

So I believe the third time would have been when they provided the rebuttal testimony.

Q. Do you have any problem with the fact that the company updated it to provide you with additional information as it became available?

A. No, I would have appreciated a detailed listing much earlier in the case. We had sought the detail. In my view, there wasn't a level of detail provided beyond high level by category and a few specific projects identified by that point. The format the company provided in the rebuttal exhibit, I think is very helpful.

And it would have been nice in an earlier phase if the company had provided the detail it had at previous stages. I mean, I understand capital costs can shift between category and project, but just the fact that this level of detail wasn't provided until -- the level by project, not by category but by project, was not provided until the rebuttal phase.

And the fact that, I mean, as pointed out in my testimony, there's significant shifts in the cost from what was originally provided. Not just minor but fairly significant, in my view.

Q. We will come to that. Suffice it to say at this point, you believe the information provided does

outline, by item, the amounts that the company anticipates, based on its budgeting, what would be spent for each project?

A. Yes, the exhibit provided in the rebuttal testimony provides the current estimates by project.

Q. Okay. Now subject to check, the information provided in the company's direct testimony, as supplemented later by data responses and rebuttal testimony, is the same kind of information the company has relied on for years in its rate cases; isn't that right?

It has always provided a listing with a number, with the same kind of detail that we're dealing with here?

A. Yes, I can't speak to this -- the last litigated rate case I didn't participate in. That was a '13 docket. I had begun my review of the last rate case that ended up being settled as part of the merger proceeding, and as it I sit here today, I don't recall the level of detail.

But if all that was provided was a list, like what's on this page 2, very high level, I anticipated if the case had gone on, I would have asked for quite a bit more detail, particularly if there is a large increase compared to historic budget levels.

Q. You have no basis to say that the company's disclosures of this kind of information, in this kind of format, has ever failed to satisfy the burden the company has, that you've noted in your statement, of identifying what its capital budget is based upon?

A. Yeah, I can't speak to past cases. But, again, in this case, we're looking at a significant increase in the annual budget level. So in my view, there should be a higher threshold set to justify and support a significant increase in capital cost compared to the historic, what's happened.

Q. Do you think the burden of proof should change because there is a different number?

A. Well, the company still has the burden of proof to support its case.

Q. Understood. I want to make sure we're clear. Your position is that there should be a heightened type of burden in this case?

A. Perhaps not heightened, but as an analyst that reviews revenue requirements in many, many cases, when you have a large increase beyond what had been done historically, I would anticipate a much higher level of support and information being provided by the company to support that increase.

Q. And it is just based on your opinion then?

A. It is based on my opinion, having done this, I think, 28 years now.

Q. Okay. I want to switch over just to the projects themselves. I want to be clear. My understanding is you don't object to any of the projects, you don't say they are imprudent or they should be excluded or they shouldn't be completed by the company?

A. No, I did not.

Q. Okay. And you've heard testimony and you have seen data responses showing that the company, over the last five years, has been within 1 percent of its budget. Its spend has been within 1 percent of its budget in every one of those years; isn't that right?

A. Yes, that's my recollection.

Q. So the company, wouldn't you agree, has a pretty good track record of meeting its budget as it relates to its capital expenditures?

A. In total dollar amount, they have historically. I can't speak if that is still the case going forward, but historically, yes, they have.

Q. And isn't that really, at the end of the day, what we should all be -- what you should be concerned about, is what the customers are, ultimately, spending, not what one in particular project costs?

In other words, let me rephrase, if the

company says we are going to spend $277 million, and you -- that's what the Commission sets rates on, and customers end up spending -- or end up being charged, in all, the equivalent of $277 million approximately, then the customers are not made worse off by that; is that right?

MR. SNARR: I object to the question. He is asking this witness to opine on what this Commission should do in a form and format different than the carrying the burden of proof, which goes with the filing of the application. I object to it.

COMMISSIONER LEVAR: Want to respond to the objection?

MR. SABIN: Sure. She is challenging the $277 million amount, claiming that it somehow is unreliable or that is an improper basis and that customers could somehow be hurt from that. That is what her testimony says.

I'm just trying to help her elaborate for me how the customers would be hurt if we are on budget.

MR. SNARR: I continue the objection.

COMMISSIONER LEVAR: Sure. I will take a moment and think about this.

I see the question is relevant to her testimony. I can't -- I don't think I can rule that it's not relevant to the testimony she's already provided, so I'm going to allow the question to be answered.

THE WITNESS: Okay. I didn't say customers would be hurt by it. Parties outside the company have not had an opportunity to scrutinize the individual projects that result in this very large increase of projected capital expenditures.

I don't believe that it's appropriate for the company to just say, "Well, we are going to split" -- if the company had said 400 million, "We are going to spend $400 million this year," does that mean it is not appropriate for the regulators and interveners to be able to look at what makes up that 400 million to decide: Is it prudent? Is it appropriate to include in the future test year? And is it likely that they are going to spend that much in the future test year? Because, again, we are dealing with future test year, not a historic test year here.

I don't believe my testimony ever said customers are harmed by that $277 million of expenditures. I didn't have the opportunity to look at those projects on an individual basis for the total until the company filed its rebuttal filing in this case.

BY MR. SABIN:

Q. Let me break that down. And I wasn't saying

the customers were hurt by the number. My understanding of your testimony was you were saying that the substantial increase, which you didn't think was justifiable, was excessive, and customers shouldn't have to pay for that. That is how I understood it.

A. Yes, I said -- I didn't say it wasn't justifiable, just that the company had not justified it and provided a reasonable level of support for it.

Q. Okay. Let me try to be brief about this. The Office and the Division have participated in IRP proceedings. They have participated in just about every proceeding this company has filed, many of which deal with these very projects; isn't that right?

A. Yes, they do. And I do know, at least, a few of the projects included in the listing that was provided have been discussed and addressed in IRP proceeding.

Q. So it is not accurate for you to say that other parties, other than the company, have not had the opportunity to scrutinize these projects. That is not true, is it?

A. For some of the specific projects, yes, but, again, from what was provided in the initial filing by cost category, changed in the company's response to discovery requests and then changed again, substantially again, not in total but by cost category when the company filed its rebuttal.

So it is hard, as an analyst, to sit down and evaluate the reasonableness and appropriateness of those costs when we didn't get the details behind those costs until much later.

Q. You served data requests, or The Office did, asking about individual projects; isn't that true?

A. I asked for the budget in the most detailed format available, and that wasn't provided to me.

Q. But I should be more --

A. Maybe if you can reference a specific data request.

Q. I should be more clear. Not necessarily you. The Office served data requests asking about specific projects that it had questions regarding in this proceeding; isn't that right? They asked for detail about them, about what they were all about, about how the company was coming to its numbers?

A. But individual projects? If you could point me to a specific data request -- again, I didn't have a list of individual projects until rebuttal phase. And I wrote a lot of data requests in this case, so I may have and just don't specifically recall it.

Q. Sure.

MR. SABIN: May I approach?

COMMISSIONER LEVAR: Yes.

(Exhibit handed out.)

BY MR. SABIN:

Q. This is 11 and 12. So 11 will be OCS 10.04 and 12 will be the 10.03.

A. Yes. While you were handing this out, I was able to open my plant in service folder, and I do see these responses in there and I believe I did write these questions.

Q. So it's true, isn't it, that these Exhibits 11 -- the Hearing Exhibits 11 and 12, they were from the OCS, and they were asking specific detailed questions about specific projects. Right?

A. Yes. Exhibit 11 asked specifically about the southern system expansion project, yes. Then OCS 1.03 references another data request and asks for more plan information.

Q. Right. And the company, in fact, did provide responsive information to those requests; isn't that right?

A. Are you referencing 12, the one DPU -- that references DPU 10.3, 10.4, 10.6 and 10.7?

Q. I'm referencing -- let 's start with 11. DPU Hearing Exhibit 11 answers the question you asked. Right?

A. Yes.

MR. SABIN: And by the way, I should note for the record, Commissioners, that there were attachments to these. They were voluminous, and we didn't think it was pertaining necessarily to -- we didn't want to dump a whole bunch of paper on people unnecessarily. So anyway, this is just the cover page of those two responses.

BY MR. SABIN:

Q. So that is why the company responded to 11 to a question you asked and provided additional information. Right?

A. Yes. On the southern system expansion project, yes, it did.

Q. And there wasn't any follow up, saying that what we provided was not adequate for what you needed; that's right, isn't it?

A. No, it's not. And, again, I don't challenge any specific projects the company's included, and I don't take issue with the southern system expansion project.

Q. I appreciate that. I just want to make sure the company provided this information. And to my knowledge, and subject to check, I don't think we ever heard from you or the Office saying that they were deficient responses.

A. Yes. These data request references the company's rebuttal testimony, which is when it provided the listing of projects, and they are responsive to the questions asked in the data request.

Q. Right. Okay. So to the extent you wanted to follow up on any specific projects, you had the opportunity, and you did, in fact, follow up on them and there was, in fact, a response?

A. Specific to the southern system expansion project, yes.

Q. Well, Exhibit 12, they cited you to three or four other discovery responses where the information you had asked about was provided.

A. Yes, and I did -- I didn't submit follow up on that.

Q. Right. Okay.

A. Uh-huh.

Q. Are you aware of any of these requests that you sent that the company didn't -- where you asked about specific projects, where the company didn't respond?

A. No, I'm not. But, again, these data requests were asked after the company's rebuttal filing was provided because we had requested more detailed information well in advance of when my direct testimony was due, and the company hadn't provided that information until its rebuttal filing.

So in my direct testimony, I wouldn't have had the opportunity to address the specific projects.

Q. Right. You would have in your surrebuttal, though. Right? That is why -- I assume that is why --

A. To that extent, in that very limited amount of time between the company filing of the rebuttal and our surrebuttal. I didn't have time to do a detailed review and analysis of those projects. That constituted over 300 projects, I believe.

Q. Okay. I want to move on. I want to keep this moving here. So you don't -- because you don't object to the specific projects, then I take it that the amount itself associated with those particular projects, you don't have any basis to challenge the amounts associated with each of the projects or the global amount itself?

In other words, you don't know that -- you are not saying that is incorrect?

A. No, I'm not saying it's incorrect. It would have been nice to have the information much earlier in the case when requested so a more thorough analysis would have been conducted of it.

But I don't have a basis, as I sit here, to challenge any specific project.

Q. Okay. Or its amounts. Right?

A. No. I noted in my surrebuttal that the amounts had changed substantially for some of the individual projects. I haven't had a chance to follow through on what is driving those significant changes. But I don't challenge the dollar amounts. I have no information with which to really analyze those amounts and challenge them.

Q. And you are not suggesting that there is anything improper in what the company has done, that it -- in other words, that the numbers are not -- its best information and most accurate information today is what it has provided?

A. Again, the substantial changes, I hope that is the best and most accurate information. I do take issue with the manner in which it was provided and the lateness of it and the prior budget detail not being provided.

Q. Okay. Thank you. The difference you're noting between the 2019 budget -- or 2019 capital expenditures amount and 2020 forecasted amount you highlighted is about $45 million; isn't that right?

A. I seem to recall 43 million but somewhere in that range, yes.

Q. You may be right. You heard the testimony of these proceedings up to this point. Right?

A. Yes, I have.

Q. And you heard the company witnesses identify that that $43 million difference is largely, if not entirely, made up through a $10 million proposed tracker increase, a 19 million southern expansion and a $14 million Current River gate station being built up in Northern Utah. Do you recall that?

A. Yes. But as Mr. Orton pointed out earlier today, I don't know if that is the entire cause of the difference because in 2018 and 2019, you had completely different projects for all -- you know, an itemized listing of projects is different.

Yes, there is that amount in this 277.7 million in 2020 for those three projects.

Q. You think all of the projects in '19 are different than all of the ones on '20?

A. No. You'll have some -- we say "blanket-type projects" that you do from year to year. You have feeder line projects that you do. You know, some of them will be blanket-type projects that occur year to year, but some would pertain to specific projects in that year.

Q. Okay. So I think if at the end of this, if I understand your testimony correctly, your objection is primarily that you didn't feel like you got enough information early enough along in this process; is that

your primary objection?

A. Yes. It is my view the company didn't provide us information early enough to do a more thorough analysis of this substantial annual increase in capital expenditures.

Q. Okay. Not with the underlying substance or the amounts that the company has provided?

A. No. Again, I was unable to really analyze or do a deep analysis of the underlying amounts in that.

Q. Okay. Thank you. I'm going to move on to inflation now, a couple questions about inflation.

You noted in your summary that the company had reduced costs in the year since the merger, at least that's my understanding of what your statement said; is that right?

A. Yes, the ones that I said had declined.

Q. And that was, in fact, something the company represented would happen as a result of the merger; isn't that right?

A. That is my understanding, yes.

Q. Okay. So even if that were true, which it is, even though that is true, it is also true that this doesn't mean that inflation isn't still affecting the company's costs; isn't that right?

A. Yeah.

Q. The company is saving money. That doesn't mean that they've reversed inflation. Right?

A. No. It would mean there were productivities and other cost savings that more than offset the impact of inflation on cost.

Q. Right. And you don't submit any evidence in your testimony that inflation has not caused nonlabor O&M costs to increase since the last rate case?

A. No, because, presumably, inflation still impacts the company's spending. It's just that productivity is another cost savings that more than offsets that inflation.

Q. Right. And in that respect, wouldn't you agree the company ought to be applauded that it has made efforts to save customers money?

A. Oh, yes, I think I've pointed out in my testimony that, yes, that that is a very good thing that they have been able to do.

Q. Okay. And the Global Insight factors, the ones that company uses that's assigned to each FERC account, those have reflected that inflation is, in fact -- they have accounted for inflation and reflected that inflation is, in fact, impacting those nonlabor O&M expense items. Right?

A. Well, yeah, those are estimates by FERC account of the inflationary impacts by account.

Q. But those Global Insight factors, the point is, they show that inflation -- that they are accounting for inflation or representing that inflation is, in fact, taking place in those categories. Right?

A. Yes.

Q. Okay. And in that respect, the company has complied and followed the prior precedence of -- that has been used in prior proceedings by including inflation in its revenue requirement; isn't that right?

A. Yes, it has.

Q. Okay. And so what you're proposing, to eliminate inflation, would be a break in precedent, not what the company is proposing here?

A. Again, as discussed in my opening summary and in my testimony, it should be looked at on a case-by-case basis. It shouldn't just be automatically applied. At the time I wrote my direct testimony, the company budget reflected significant reduction of O&M costs below what was experienced in 2018.

And in those circumstances, coupled with the regular declines in O&M expenses that the company has been able to achieve, which is wonderful, I didn't view that the company had demonstrated that its overall O&M expenses are likely to increase, consistent with

inflation factors.
That's a long answer but, hopefully, it was responsive to what you're asking.
Q. Kind of. I mean, as I read your testimony, you don't provide any evidence that inflationary factors are not continuing to impact the company's nonlabor costs?
A. No, I don't.
Q. So to the extent they are, don't you agree with me the company ought to recover them because they're costs the company will actually have to pay?
A. They may or may not have to actually pay it, because, again, you are looking at overall O&M expenses, and there are all of other items and factors that impact those expenses.
Q. And subject to check, it is true the company has underearned since the last rate case; isn't that right?
A. That is what the company contends.
Q. Any basis to dispute that?
A. No, but, again, they were in a stay-out agreement as part of the merger stipulation, is my understanding, so the extent to which inflation may or may not have caused that -- I wouldn't agree that any underearnings that they may or may not have had was

caused by inflation because the company itself presented numbers showing that the O&M expenses had been declining, not increasing, during that period.

Q. The stay-out wouldn't have been applicable until after the stipulation and merger, so '14, '15, '16. Right? That wouldn't have impacted that?

A. Yeah. And to be honest, as I sit here today, I don't know what your earnings were in those years.

Q. Okay. Last subject I want to talk about, your very favorite topic, the pension account. We can hear the collective groan, but as you said, it is an issue that needs to be addressed in this proceeding.

So I think if I understood you correctly earlier today, you said that as of 1999, the asset balance in the pension trust was $2.3 million; is that right?

A. That's the amount that was provided by the company in response to a data request.

Q. I guess I want to know, do we have any disagreement on that number?

A. Not on that number, no.

Q. Okay. And so you sent a data request to the company, asking the company to provide the balance in the pension account from the earliest date it could, and it provided it from 1999 forward, at least?

A. It did not provide the amount of the prepaid pension asset or potential pension liability for any of those historic periods beyond the 1999 year in rate case. I did ask for the amount of prepaid pension asset or pension liability on the company's books as of December 31st for historic years, as far as the company had and that wasn't provided to me. The only number provided to me with regard to the prepaid pension asset was the amount from that 1999 rate case.

Q. Well, I guess I'm going to make clear, so I agree with you that you didn't have information that went back all the way to where you requested and some of that information was not available. But as of 1999 forward, you were provided, were you not, with the pension expense in each year in since 1999, as well as the balance in the trust account, the contribution amount -- the contribution total that was in that account?

A. I was provided the amount of pension expense and the amount of cash contribution to the account, but I wasn't provided what the prepaid pension liability or the prepaid pension asset -- what the pension liability or prepaid pension asset on the company's books was in each of those years, and I had asked for that.

Q. So the company, though, had provided you, didn't it, that the 1999 prepaid pension account total

was $3.2 million. Right?

A. Yes.

Q. Okay. So I want you to have that number in mind as we go throughout our questioning on this point. Okay?

A. Okay.

Q. Isn't it true that since that 1999 -- from 1999 forward, with the exception of two years, in every year since that time, the contribution provided by shareholders has exceeded the amount of expense that the customers have had to pay?

A. Again, as discussed in my testimony, I don't agree necessarily that that has been provided by shareholders. As explained in my testimony, there is no tracker here in Utah that, shall we say, tracks pension expense and rates compared to pension expenses booked on the company's books.

It is my opinion you can't conclude if it's ratepayers or shareholders that are funding that amount without all the information needed to make that determination.

Q. Would you open up to your -- it's OCS 11.5, and it is attached to your surrebuttal as -- page 20 and 21 of your surrebuttal is the data response that was provided by the company on that question. Tell me when

you get there. It is your Exhibit --
A. 2.7S, perhaps?
Q. Yes.
A. And it is page 20 and 21?
Q. 20 and 21. Do you see that Data Request 11.04 and then 11.05?
A. Yes, I have that.
Q. Okay. And the second page of that response provides -- from 1998 forward, it provides the contribution amount and it also provides the precap expense or the customer -- that would be the expense in each year for the pension account. Right?
A. The precap -- by precap expense, is that --
Q. Let me represent --
A. -- the total net periodic benefit cost before a portion of it has been removed for capitalization?
Q. Let me represent to you that that is the annual expense amount to pay all of the pension costs in that year.
A. I just want to make sure I'm getting the right number because terminology with pensions is very, very tricky. I want to make sure I'm agreeing to -- I'm not saying I disagree with you. I just want to make sure that your understanding of what this is, is my understanding, based on my responses. So give me just a

moment.

Q. Sure. Absolutely. Take your time.

A. Okay. Yes, I see here that this would be the total net periodic pension cost before application of the capitalization factor. So it wouldn't necessarily be what his expense on the company's book, but it would be the pension cost recorded on the company's books. Maybe if I can explain --

Q. I would sure love that because I don't understand what you just said.

A. You go through -- the outside actuarial firm will go through the pension calculation, and as a result of those calculations, you come up with a net periodic benefit cost. Sometimes people refer to that as the "pension expense," but it is the total annual cost. And then when the company books that cost on its books, a portion of that is expensed and a portion of that would go to capital.

So say the capital projects that are added to construction work in progress during the year, and according to the first page of that data response, which is on page 20 of that exhibit, it indicates that between 50 and 70 percent of the pension cost has been expensed. So you would take each of these amounts on this exhibit and --

Q. Part of it would be --

A. -- apply a factor, and that factor anywhere from 50 to 70 percent, and that would result in the amount of expense recorded on the company's books that year.

Q. So the expense would actually be lower, in your explanation, that is booked on the company's --

A. Yes, the amount booked -- it will all be booked on the company's records.

Q. Sure.

A. But the amount that is booked to expense would be lower.

Q. And my point to you is that if we compare the columns, there is a column called "Contribution" and there is a column called "Precap expense." Right?

A. Correct.

Q. The column on contribution, with the exception of 1998 and 2000, in every other year, except those two years until you get to 2016, I will come to that in a moment, the contribution portion has exceeded the expense, and in most years, substantially exceeded the expense total in each of those years?

A. Well, I wouldn't say, "in most years, substantially exceeded," but once you hit the mid-2000s -- yeah, the amount contributed to the plan exceeded the amount of net periodic benefit costs.

Q. Okay. And then starting in the 2011 period, would you agree that there, it substantially exceeds it --

A. Yes.

Q. -- from that point forward?

A. Yes, I would agree that the amount of cash contribution to the pension plan exceeded the cost by quite a bit.

Q. Okay. Now, do you have any evidence that customers paid any portion of that excess contribution amount over and above what expenses were?

A. I would need an extra column to make that determination. I would want to know the amount included in revenue requirement and the rate cases that occurred during this time frame, to then compare the amount of contributions to the amount in rates to determine if it was funded by customers or shareholders.

Q. And you had that information available to you when you prepared your surrebuttal testimony; isn't that right? When you created your chart that you referred to in your summary earlier, where you've gone from 2014 forward, you actually had all the information you needed at your disposal to go back to 1999 and actually calculate, if you wanted to, how much of that had been

funded by shareholders and how much of that had been funded by --

A. I seem to recall, I wrote data requests to try to obtain the information to do that, and I didn't receive all the information I would have needed to do so.

Q. You just told me you would need to know what customer rate was on those. Right? That would have been available to you by looking at any rate case information over that time period?

A. No, and here is why: If you go back a couple more pages to page 22 of that same exhibit, we had asked for the amount of pension -- one of the things we asked for in that was the amount of pension expense requested by the company for inclusion and the amount of pension expense included in the Commission's order, if it could be derived.

Q. Sorry, where were you referring to?

A. The very next -- I'm sorry, yes, the very next page. So flip from where we were to page 22 of my surrebuttal, Exhibit OCS 2.7S.

Q. Okay. In some of those instances, there were settlements where nobody knows, and some of those instances that you could derive it. Right?

A. Yes, there are many where it's silent in the order and the company indicates that the amount in the request in expense is unavailable, so I don't know if that means -- I assume that means they didn't have the records to tell what was in their filing in that case for the requested amount.

So really, we don't have the amount of expense requested or the amount included in revenue requirements until the 2013 docket.

Q. Let me just ask, as we sit here today, you don't have any basis to say that these contributions that far exceeds the expense in this one we have been looking at, that that did, in fact, come from shareholders?

A. No, nor do I have the information needed to tell if it came from ratepayers. I do know that the $75 million contribution by Dominion Energy, Incorporated, under the merger commitments, did contribute to that net pension asset fairly substantially.

Q. Sure. Now we agree that it's $112 million asset for DEU that is in that pension account?

A. That's what the company has indicated, yes. I have no reason to dispute that that's what's recorded on their books as the prepaid pension asset.

Q. Right. And so the only way to know -- when we talk about a prepaid pension asset, that's the cumulative contributions from the time over the life of the pension trust; isn't that right?

A. That prepaid pension asset is a difference between the cash contributions compared to the amount of net periodic pension cost booked by the company.

Q. Right. My only point is, it's the cumulative total from the beginning of the trust forward?

A. Yes.

Q. Right? The difference there that you just highlighted?

A. Yes.

Q. Okay. So when you did your chart, you only started in 2014. You did not go back any earlier. So that chart is incomplete, in the fact that it doesn't take into account all of the contributions that took place prior to that time?

A. I don't believe my chart was intended to show what has been funded by shareholders versus ratepayers over that time frame. In fact, let me find my chart. And, again, this chart is in my surrebuttal testimony at page 45. I believe it is line 965.

Q. Right. That is where I'm at.

A. That shows the information from 2014 to 2019. And, again, that charts the amount of pension expense included in rate in that chart would need to be changed based on Mr. Felsenthal's correction.

Q. Right. I was going to follow up with you.

You agree --

A. Go ahead.

Q. Sorry, go ahead.

A. I was going to say, it's explained here in the testimony, I'm just showing in recent years how the amount of pension has been recorded in the company's books compared to the amounts incorporated in rates charged to customers. In these rates, it would cover the period during which that $75 million contribution by Dominion Energy shareholders would have occurred.

Q. Right. I understood. And I don't want to spend a lot of time on the chart, other than to point out it would need, at this point, to be updated and corrected. Right?

A. Yeah, and it would be easy to do. You could just take -- replace the 8 million with the 5.6 million. I don't know if I agree it needs to be updated because I'm not recommending any adjustments based off this. I didn't adjust for this amount.

Q. I'm saying, if you were going to be relying on it, the numbers in there are not currently accurate. That's right, isn't it?

A. Yeah, the total cumulative difference from 2014 to 2019 would be still be significant but lower than that $46.65 million number.

Q. And this chart also doesn't take into account the $75 million contribution; isn't that right too? It would be inaccurate in that respect as well?

A. No. What this chart shows is the difference between the pension expense included in rates and the pension expense recorded on the company's books. This chart doesn't provide the cash contributions or what happened to that pension asset during that time frame.

This chart is just showing the difference between what has been booked on the company for the pension plan cost and what has been included in the expense and rates.

Q. And then I'm going to switch subtopics.

MR. SABIN: But I want to move to admit Hearing Exhibits 11 and 12 into the record at this point.

COMMISSIONER LEVAR: Does anyone object to the motion? Please indicate to me.

Okay. The motion is granted.

(Hearing Exhibits DEU 11 and 12 were marked for identification.)

MR. SABIN: May I approach?

COMMISSIONER LEVAR: Yes.

(Exhibits handed out.)

BY MR. SABIN:

Q. Okay. I would like to ask you if you recognize Exhibits 13 and 14.

A. Just to make sure I have the numbering correct, is 13 the OCS data request 10.12?

Q. Yes.

A. And that was 13?

Q. That's correct.

A. Okay. Then the 14 would be the response to OCS 11.12. Yes, I do recognize this.

Q. Okay. And these were responses to OCS data requests. Correct?

A. Yes, they are.

Q. I would like to talk first about 10.12 for a moment. The request here was that as it relates to Mr. Stephenson's testimony on the total O&M budget, the questions were, "Please provide the amount included in the 151.6 million total O&M for energy efficiency expenses."

Then B was, "Please provide the amount included in the 151.6 million total O&M for pension expense or pension credit."

Do you see that?

A. Yes.

Q. As it relates to Item B, the answer was, "The amount included in the 2020 O&M budget for pension is a

credit of $2.8 million."

Right?

A. Yes.

Q. That is not the number you have used in your adjustments or your proposed adjustments in this case; isn't that right?

A. That's correct. My numbers are based on what the company provided in the filing, which was not revised in its rebuttal filing. So the amounts included in my testimony is reversing the company's adjustment for that 5. -- I believe 4.66 million.

Q. Understood. So I want to make clear, so the company has disclosed to you that the actual credit amount as of the date of this discovery response was 2.8, not 5.4, which is what you are using?

A. Yes. Again, this was provided after the company's rebuttal testimony was filed. The company didn't update the rebuttal testimony, so I didn't seek data requests. If they had changed it, I would have asked for more information. Like, for example, the information provided from the external actuarial firm calculating that difference in change.

But no, I did not update the number in my surrebuttal.

Q. The company didn't update, isn't it true,

because the company didn't agree with any of your adjustment on this total?

A. I don't know why they did or didn't update because they do have the amount in the test year and then they reversed that amount. They didn't update that, no.

Q. You had this information but you didn't update your amount that you included in your adjustment. That's right?

A. That's right. This response was provided November 25th. My testimony was due December 5th. I wouldn't have had an opportunity to seek the actuarial information that demonstrates what caused that change.

Q. But if --

A. So I didn't include it because I didn't have enough information to do so.

Q. If the Commission were to approve your proposal on that point, there would have been an additional $2 million over and above what is actually in the credit today. Right?

A. Well, not today because we are in 2019. What's currently budgeted for the 2020 is this 2.8 million.

Q. Right.

A. And I have no way to, like I said, affirm the accuracy of that.

Q. Did you ask a follow-up to ask whether it was accurate or not or seek any further information on that point?

A. I didn't. Part of it was the timing of which I received the company's rebuttal testimony. As quickly as I could, I got out data requests. The response came in November 25th and my testimony was due December 5th.

Q. It was a five-day business turnaround, so you had time to ask follow-up questions if you wanted; isn't that right?

A. I could have asked, but I'm not sure I would have got a response in time.

Q. Why do you think that? Had the company failed to provide any responses in a timely fashion up to that point?

A. No, they didn't.

Q. Okay.

A. And I'm not saying that that is not what the number is going to be. I just have no way of confirming it.

Q. Okay. Now I want to go to Exhibit 14 for a moment. This is a response to OCS 11.12. And the relevant information I want to talk about there is you were -- you asked a question relative to the pension.

It says, "In the last rate case, Docket No.

13-057-05, DEU included and the Commission approved a pension accrual amount of 8.18 million."

Then you ask, "Please provide the source of the documentation." You ask to provide a citation to the Commission order where it says that. And you ask to provide the sections of the company's filing that show the amount of that pension.

And in response, the company provided to you that Attachment 1, the settlement model from the general rate case for that case, and it showed that the 8.1 million discussed by Mr. Felsenthal is shown in the tab labeled "Forecast" in Cell G-11. But then it goes on to state, "In that case, an adjustment of negative 3,805,815 was made to the pension and O&M expense and settlement. This adjustment is discussed in the partial settlement statement on page 4, Paragraph B."

Then it says, "This stipulation is attached at OCS 11.12, Attachment 2, and the orders in the case can be found at the Public Service Commission website," and they've provided you with a link; isn't that right?

A. Yes, they did.

Q. So prior to your filing your surrebuttal, you had this information as well and you didn't include it in your surrebuttal?

A. I guess I misunderstood this response when I read it. I didn't realize when I read this response that that was an attempt to correct Mr. Felsenthal's testimony at that time. So I misunderstood the response the company provided.

Q. Okay.

MR. SABIN: I move to admit DEU Hearing Exhibits 13 and 14.

COMMISSIONER LEVAR: Does anybody object to the motion? Please indicate to me.

I'm not seeing any objection in the room, so the motion is granted.

(Hearing Exhibits DEU 13 and 14 were marked for identification.)

BY MR. SABIN:

Q. Okay. Last couple of points I want to cover. I want to understand, under your proposal, if the Commission were to accept your pension proposal, you have not adjusted it down to the 2. -- what did we say it was? $2.8 million credit number, you kept the 5.4 number, so under your proposal, if the Commission accepted that, 5.4 million would be included in this rate case to reduce the revenue requirement the company is seeking in this matter; do I have that correctly?

A. Yes. If they included the amount recommended in my testimony that was based off the company's filing, it would be a $5.4 million -- well, it would be less than 5.4 million in revenue requirement because you apply the Utah factor. I believe it is around 5.2 million, roughly.

Q.   Thank you for the clarification. But I have the gist, essentially, right, don't I?

A.   Yes.

Q.   Okay. So the company's cost -- that revenue requirement represents the company's total cost of service. Right?

A.   Yes, the total revenue requirement, the total amount of revenue it needs to bring in to achieve the ultimate rate of return found to be appropriate by the Commission.

Q.   So if we subtract that out of the revenue requirement, that leaves the company in a position where it has a cost of service that is X and an actual recovery from customers that is X minus $5.4 million. Right?

A.   I'm sorry, could you repeat that? Are you saying that because -- repeat the question. I'm not sure I understood it.

Q.   I will. If the Commission accepted your proposal, the company's cost of service would not change. Right?

A.   Uh-huh. Correct.

Q. But the revenue requirement would be reduced by $5.4 million?

A. No. I guess we are -- I consider the cost of service to be a revenue requirement, and the revenue requirement, in my opinion, is 5.4 million less than what the company contends.

Q. Fair point.

A. Because on its books and records, it is going to record a pension credit in 2020.

Q. Let me clarify then. Using your terminology, if we say the company's revenue requirement -- if the cost of service, if that were X, whatever number that happens to be, your proposal would say that customers are actually -- the company is actually going to be able to recover from customers X, that total minus $5.4 million?

A. No. I'm saying what X should be is -- the X amount should include that adjustment to remove 5.4 million because that is part of the company's overall revenue requirements.

Q. So we do disagree about the difference of what the company's actual cost of services and revenue requirement is then?

A. I guess. If you are talking about cash -- if we were to sit down and calculate revenue requirement based on cash coming in and cash coming out of the company, most numbers in this case would change. So I don't equate cost of service to cash accounting.

Q. Let me do it this way. Let's say the company had payroll expense of $20 million. Under your theory, they would have a $20 million expenditure, and that is what they actually have to pay out to employees. Right? But because the company, under your scenario, would not be able to collect that full 20, it is only going to get to collect 14.4, there is a gap between what the company will incur in costs and what it will recover from customers of $5.4 million. Right?

A. I don't agree. That is way too simplistic of a comparison. There are a lot of items included in the revenue requirement that aren't based on the cash flow and where the cash is going. Two prime examples are incomes taxes. There are a number of years where there was zero incomes taxes being paid to the federal government under bonus depreciation, yet appropriately, income tax expense was included in rate, so that isn't tied to cash.

Depreciation expense, the company, when it books depreciation expense isn't paying out a cash expense of that amount. Under accrual accounting, there are many areas where the accrual basis and cash basis differ and rates and revenue requirements aren't set on a cash basis of accounting. They are set on the accrual basis of accounting in every jurisdiction I'm familiar with.

Q. I don't really think that we have a quibble, but I want to make sure we are clear. The company has represented that its cost of service, its revenue requirement that it needs to recover in order to pay all of its costs is X. You follow?

A. Yes.

Q. You're saying that the company's position ought to be reduced by $5.4 million?

A. For this one item. There are many other adjustments.

Q. I understand. All other things being equal, you are saying that the company should not recover $5.4 million of what it believes its cost of service is?

A. Of what it believes its cost of service is, which differs from what I believe the cost of service is.

Q. And if the company is right, that that is what it costs, it costs it to serve these customers, it will have a gap of $5.4 million that it needs to come up with from some place. Right?

A. I disagree, again, because we are not determining rates based on the cash basis of accounting. There are other areas that are not based on cash basis.

You are not going through every expense item by item to figure out what the cash amount is. So I think we are going to have to agree to disagree on this.

Q. All other things being equal, it is true you are asking to reduce by $5.4 million?

A. I'm saying that the company's revenue requirements are overstated by $5.2 million.

Q. Okay. 5.4 is my understanding.

A. Well, 5.4 is the total company basis. I guess I'm focusing on the Utah jurisdictional amount.

Q. Okay. If the company is right and it needs that money to pay its costs, it will have to get that money from someplace else. Right? If it can't get it from customers in rates, it has to recover it from some other location?

A. Yes. And, again, it is my opinion that the total revenue requirements recommended by the Office in this case will allow the company the opportunity to meet its full revenue requirements.

Q. I know that is your position. I understand and I don't want to quibble anymore.

So the only other source the company would have at that point to recover that money would be to get it from shareholders; isn't that right?

A. I don't know what sources. For example, depreciation expenses included in rates, so the company is collecting revenues based on that depreciation expense, it can use that amount to contribute toward new capital additions, to pay dividends to shareholders, to pay back debt or to help maintain its operations.

You don't go through and determine revenue requirements and how those revenue requirements are funded on an item-by-item-by-item basis.

Q. You don't do single item ratemaking is what you are saying?

A. Well, we don't take payroll expense and say, "That is being paid from these funds." I mean, it is covered by the revenue requirement.

Q. You are picking out one item, though, in your approach and, essentially, wanting it treated exactly the way you are telling me that we don't normally do it. You are picking out an issue of pension and saying, "Customers will be overpaying," or if --

MR. SNARR: Is there a question or are we just making comments here?

MR. SABIN: Yes, there is a question coming if I can finish my comment.

BY MR. SABIN:

Q. You are picking out one item, and you are saying that that's in a bucket of a bunch of things.

Right? And that one thing you are picking out and saying that customers are going to overpay on, that one item, when, in fact, the company has under-recovered since the last rate case.

So my question is, that is precisely what the company is saying, isn't it? That you shouldn't be isolating this one item and saying that customers should get that, subtract it off of the top?

A. And, again, I'm not subtracting that one item. It's the company that removed that amount that it is going to record on its books and records in its filing. I just added it back in. It is the company that initially picked out that one item and removed it from its revenue requirement, and I disagree that it should be removed.

COMMISSIONER LEVAR: I will respond to Mr. Snarr's objection. I think we are pretty far into asked and answered territory at this point.

MR. SABIN: I will move on. Sure, great.

BY MR. SABIN:

Q. The company's proposal is to take all pension items out of the revenue requirement. Correct?

A. Yes.

Q. And in doing that, the company has not proposed to charge customers anything for a pension

expense, even if it is taking out the credit. In other words, the company is not -- by not including the credit, it is not turning around to customers and saying, "You need to pay a pension expense." Correct?

A. Because there is no positive pension expense in 2020. So I would agree, the company -- the company isn't increasing revenue requirement to add pension expense. It is just taking it to zero.

Q. What I'm saying is even by taking out the credit. They are taking out the credit. Even in taking out the credit, they are not turning around and at the same time, charging customers a pension expense. Correct?

A. Correct. They are not -- they are including zero for pension expense for their revenue requirement in this case.

Q. And those funds that are in the asset account, the pension asset itself, including the money that the company has contributed, will defray customer expenses, any pension expense for customers for the foreseeable future. Correct?

A. Yes, the total amount in the pension fund served to reduce or what would otherwise be the pension expense.

Q. No further questions. Thank you.

COMMISSIONER LEVAR: Any redirect, Mr. Snarr?
MR. SNARR: Yes, just two or three questions.

REDIRECT EXAMINATION

BY MR. SNARR:

Q. Ms. Ramas, do you recall the date of the filing of Dominion's rebuttal testimony?

A. I have it right here, if you give me a moment.

Q. All right.

A. November 14, 2019.

Q. Okay. In reference to Dominion Energy Hearing Exhibit 13, what is the date of the response that was provided to the OCS request, in that particular data request?

A. November 25, 2019.

Q. And so as of November 25, 2019, if we are looking at Answer B, there is an item there that is at least contended to result in a change of information of data; is that right?

A. Correct.

Q. And also referring to Exhibit No. 14 that was presented, what was the date of the response provided by Dominion Energy in that situation?

A. November 26.

Q. And that was the one that was disclosed in

the answer of this adjustment that Mr. Felsenthal made in his testimony earlier -- was that today or yesterday? In this hearing. Right?

A.   Yes. Yes, it discusses that 8.2 million included in the original, and it indicates there's an adjustment to that. It doesn't provide the revised adjustment that was provided earlier today by Mr. Felsenthal.

Q.   As far as you know, did Dominion make any corrective, amended or supplemental filings to reflect these changes in their application or their rebuttal position between the date of filing the rebuttal and the commencement of this hearing?

A.   Not that I'm aware of.

Q.   Thank you. No further questions.

COMMISSIONER LEVAR: Any recross?

MR. SABIN: No.

COMMISSIONER LEVAR: Okay. Commissioner Clark, any questions?

EXAMINATION

BY COMMISSIONER CLARK:

Q.   I have a question about pension expense.

A.   Okay.

Q.   And I really do, I'm sorry.

A.   I have been doing this for 28 years and pension accounting is probably one of the most complex areas of accounting that I deal with.

Q. So setting aside intergenerational equity concerns, am I right in thinking about this credit that it's really not -- if we were to allow the company to do what it wants to do, in other words, to bring it to zero and not recognize in this revenue requirement determination, to credit the $5.4 million credit, if we were to do that, would we deprive customers of the benefit of the credit or just defer to some future time when there is a positive expense? Wouldn't that credit be recognized in rates, assuming we're setting pension rates at regular intervals -- or assuming the revenue requirement at regular intervals?

A. No, that would never be made up for in the future because in a future rate case, the actuarial firm will work with the company to determine the pension expense in that case, and it will be how the numbers fall out at that time based on a lot of factors.

But there is nothing that would defer this 5.4 or 5.2 on a Utah jurisdictional basis that would defer that credit to get it back to customers in the future. It would just be gone.

Q. Let's simplify this further and say that in 2021, there's a $5.2 million expense and the

existing -- I'm thinking of it as a surplus in the account. Maybe that is the wrong way to think about it. But that surplus wouldn't then offset the need for additional expense in the next year?

A. No. I believe you may be confusing the amount of assets in the pension plan and how that impacts the expense.

Q. I'm sure I'm confusing --

A. So when determining the annual amount of net periodic pension costs, one of the factors used in determining that amount is that you apply the company's anticipated return on its pension plan assets. This is a simplified analysis because in the actuarial calculations, you get into market value of assets and you may amortize gains and losses into that. So you don't take actually the amount in the pension plan and apply that 8.75, but that is a reasonable way to estimate the impact in this case.

So in the next rate case, you still have assets in that plan. Some may have been paid out to retired employees, but you will have other assets in there that, hopefully, would have grown if the company has had a good return on that and then some, and so by the next rate case, you then recalculate the actual recalculate pension cost. And that will still be a component, so you will still apply the estimated return used in the pension calculations to the pension funds, essentially.

So ratepayers will still continue to get the benefit of the actual earnings on the cash in that plan as a reduction or an offset to future pension expense as part of a component of calculating that expense.

And I'm sorry that is a long answer, but pension accounting -- we could sit here for a week and talk about little intricacies about it and different items impact it differently, but I hope that was responsive.

Q. Thank you. That concludes my questions. Thank you.

EXAMINATION

BY COMMISSIONER LEVAR:

Q. Okay. I think I have just one or two brief questions. I'm looking at page 62 of your direct and let me just get there.

A. I'm there.

Q. Okay. So toward the end of page 61, beginning of page 62, I just want to make sure I understand both of the points you are making with respect to LNG case legal costs.

I mean, I understand your second point when

you look at just the very top of page 62 -- or starting at the bottom of page 61. "The cost associated with DEU's to tip to gain pre-approval of the LNG facility should not be passed on to ratepayers and should not be incorporated in annual base rates to be charged to Utah ratepayers."

And then you go on to explain the second part it. So the second part of it is clear to me. You are making the case that those amounts should be removed from the 2020 test year.

What do you mean by the first part, when you say, "should not be passed on to ratepayers"?

A. Yes. In my direct testimony, the recommendation that these be removed was twofold. I believe I explained this in my direct, that at that point, the company, in the 2018 docket -- and I believe I might have cited or discussed the Commission order where it was rejected, partly because of not being supportive. And then the company turned around again and filed the 2019 case with additional information.

And at that point, the decision in that 2019 case hadn't come out. The Office was opposed to that project. So that was one reason for removal. I didn't view it as reasonable to past costs associated on with that, particularly at that point in time when the 2018 docket had been rejected and prior to the decision of the 2019 case.

Since that time, by the time I wrote my surrebuttal, the project had -- and I might be getting the -- mincing the language a little bit, but pre-approval from the Commission to proceed with that project.

But it's still my opinion as expressed -- I don't know if I expressed this in my direct answer surrebuttal. It should be removed because it is not reflective of your typical annual level of legal expenditures that you would incur.

Q. Okay. And that second part that you said, I think, is clear in your testimony and in your positions. I'm trying to make sure. Are you articulating in an argument that any unsuccessful application should create a presumption that the cost associated with the application are -- somehow should not be passed on to ratepayers? That is the phrase I'm trying to understand of your testimony.

A. In general, no, I wouldn't argue that. I have argued in a rate case, in a different jurisdiction, that when the company submitted a filing that wasn't supported and, basically, shouldn't have been filed, and the Commission agreed that they shouldn't recover the cost associated with that case.

And I don't remember which -- it was a long time ago in a different jurisdiction, and the Commission had agreed those costs shouldn't be passed on to customers.

But that -- I'm not saying that in this case. At the time I wrote my testimony, it had been rejected in 2018, and then the company filed the application again. But no, I'm not recommending that.

Q. Okay. So at the risk of doing an asked and answered myself, the phrase, "The cost of the LNG facilities," quote, "should not be passed on to ratepayers," should I interpret that in your direct only to be referring to you suggesting to remove it from the test year? Are you saying any more than that?

A. Not in that sense, no.

Q. Okay. That is the only question I have.

Commissioner White?

COMMISSIONER WHITE: I have no questions, thank you.

THE WITNESS: You're welcome.

COMMISSIONER LEVAR: Thank you for your testimony this afternoon.

THE WITNESS: You're welcome.

COMMISSIONER LEVAR: We're ready for the next witness.

MR. MOORE: The Office calls Daniel Lawton and ask that he be sworn in.

DIRECT EXAMINATION

DANIEL LAWTON,

called as a witness, having been first duly sworn, was examined and testified as follows:

BY MR. MOORE:

Q. Could you state your name and occupation for the record?

A. Sure. My name is Daniel Lawton, and I'm an economist who does rate consulting and also I'm a practicing attorney, and I'm here today as a consultant.

Q. On whose behalf are you testifying today?

A. Today I'm providing cost of capital testimony on behalf of the Office of Consumer Services.

Q. Have you viewed the DEU's application in this case for various filings?

A. I didn't hear the question.

Q. I'm sorry, have you viewed the application in this case of the parties' various filings?

A. I have indeed.

Q. Have you prepared or caused to be filed direct testimony on October 17, 2019, with Exhibits 3.1 to 3.14?

A. Yes.

Q. Have you also supplied surrebuttal on December 5th with Exhibit 3.1S to 3.11?

A. Yes.

Q. And you also filed Exhibit 3.13; is that correct?

A. Could you repeat that?

Q. There was a supplemental exhibit filed, 3.13?

A. I believe so. I believe the Office did it to correct some copying errors.

Q. Do you have any changes in your testimony you would like to make today?

A. None that I'm aware of.

Q. If I asked you the same question in your written testimony, would your answer be the same today?

A. They would indeed.

Q. You adopt this testimony as your testimony today?

A. I do.

MR. MOORE: The Office would ask to admit the testimony and accompanying exhibits.

COMMISSIONER LEVAR: Does anyone object to the motion? Please indicate to me.

I'm not seeing any objection, so the motion is granted.

MR. MOORE: Thank you.

(Hearing Exhibits OCS 3 and 3S, plus attachments, were marked for identification but not received by court reporter.)

BY MR. MOORE:

Q. Are you prepared to give a summary today of your testimony?

A. I am, and it will be a brief one as well. Commissioners, you know, the details are certainly in the direct and the surrebuttal testimony. My testimony here today addresses the issue of cost of capital. That is the company's capital structure, the company's cost rates for debt and equity. And when it comes down to it, the only issue that I dispute in this case is the cost of equity.

The company, and you have heard testimony from company witness Hevert, recommended a range of, I think, 9.9 to 10.75, ultimately estimated 10.5 percent.

I have proposed in my testimony, both direct and updated in my surrebuttal, a cost of equity capital of 9.1 percent. Now, this is an important issue. You heard a lot of numbers thrown around, so I'm going to try to just hit the highlights.

But the difference between 9.1 percent return on equity and a 10.5 percent return on equity is about

$17.7 million of revenue requirement. Subtract off an amount for income taxes, that's about 14.4 million in profits. So that' the -- what's at stake with regard to the numbers.

But given that my only dispute with the company on the cost of capital in this case is the cost of equity, I'm going to focus on the highlighted differences between the company's proposed 10.5 percent and my 9.1 percent recommendation. Now our starting point for this case is 9.85 percent. That is the authorized equity return from this Commission in the 2013 case. I think the decision was made at the end of the year. Let's start at 2014.

Since that time, what has happened to the capital market? Treasury rates at that time for U.S. 30-year yields, for U.S. Treasuries, were about 3.4 percent. Today, if you looked them up this morning, they would have been at 2.2 percent. Cost of equity authorized by Commissions around the country since you've made your last decision have always come down, albeit a lot less. The cost of equity seems to come down a little more slowly than some of the interest rates.

But if you look at my OCS Exhibit 3.10, I will just give you a quick reference, the authorized rates of return in 2014 were 9.78 percent, and if you look at them in 2018, to get a full year, apples to apples, they are about 9.59 percent. So you have about a 20 basis point swing in the authorized equity return over the period since the last case.

Now I address in my testimony that the company's 10.5 percent request in this case is 65 basis points above what you last authorized, yet the cost of capital has been coming down since you made your last decision. And another interesting point of reference for you in analysis of this case is that we have five parties, including the Division, submit costs of equity in this case. They have already said the company's at 10.5 percent. All of the other parties -- if you assume a 55 percent capital structure for equity, all of the other parties are between 9 percent and 9.25 percent. There is a cluster on one end.

So the other consideration is all the parties in this case employ the same financial models. You have heard about the discounted cash flow, the capital asset pricing model, the bond yield risk premium and I won't go through the detail of the model but everybody used them. Yet you have one group in the 9 to 9.25 percent range and one outliers at 10.5 percent, which seems to be the company's position.

So to figure out what's happening here,

because everybody is using market data, to look at the models -- and I have looked at and I pointed out in my testimony where Mr. Hevert's models differ substantially from what everybody else is doing in this case. I start off by looking at -- and it is in my directive role, as my surrebuttal testimony addresses most of these issues.

But in this DCF analysis, Mr. Hevert calculated results as high as 28.83 percent cost of equity. Well, that's just not reasonable. No Commission is going to authorize that. Rather than exclude it, what did he do? He averaged it.

And it's my position when you have outliers like that, you try to average them away. All you do is end up with a bad average. And you can go through his DCFs and find a number of things. I highlight the 28.83 percent, and if you look at a surrebuttal, that number changed to over 30 percent. That is just not reasonable.

The second problem with Mr. Hevert's models is with regard to CAPM and his estimated capital asset pricing model. In both of those and in his direct testimony, he uses forecast of yields of over 4 percent. Nobody is forecasting -- those forecasts have come down and I think that inflates as a result.

But the key thing in those models is part of that analysis that Mr. Hevert conducted, he had to do a calculation of what's the market premium. And he estimated the discounted cash flow from all the 500 companies in the S&P 500. Some of those companies, he estimated a DCF that these investments would expect, some of those numbers were as low as a negative 16 percent. Some of those numbers were as high as a 115 percent return on equity.

What does he do again? Mr. Hevert puts them in his average. And I just think you have to sit back, as an analyst, look at that kind of result and remove it. When you correct his analysis, it truly comes out to about 8.8 percent. When you correct his DCF analysis, it comes out around 9.5 percent, and when you correct his risk premium where he used the forecasted yields, it comes out about 9 percent. Overall, he would be closer to the group that I talked about earlier.

And it's just that an analyst has to use his judgment. Mr. Hevert's judgment is to employ averages, and I just don't think that does it and I think the results in this case kind of show that.

Now, I would like to move on to bond ratings and financial metrics. It is my position that a 9.1 percent return on equity will provide ample financial metrics and cash flow. It is not only my position but if you look at Mr. Hevert's rebuttal in this case, he agrees with me.

And in my surrebuttal, I pointed out what Mr. Hevert claims is that Mr. Lawton's 9.1 percent doesn't provide enough cushion, enough profit cushion, because if we don't -- if our costs go up or we don't earn enough, we may fall out of that benchmark area.

Well, Commissioners, I have to totally disagree with that because the profit cushion he is asking for in this case is the difference between 9.1 and 10.5. That's $14.4 million.

I don't know how you tell customers that we recovered the cost -- we allowed the Commission to recover the cost -- the company to recover their cost but we had to give them a little extra cushion on profit. I have never heard of such a thing, but that's in his testimony and I address that in my surrebuttal.

Lastly, we have DEU's business and financial risk. This company, and it is shown in a number of exhibits in this case, has an infrastructure tracker, it has a weather normalization, as well as decoupling and these kinds of factors certainly protect cash flows. And let me give you one example, and I pointed it out in my testimony.

The infrastructure tracker alone, the projections are that from the end of this rate case over the next few years, they will have $240 million of investment, roughly, under the tracker and -- I guess four years. And over that time, this company will be allowed, on an interim basis, to increase its rates over $30 million, no matter what you do in this case. As long as that infrastructure exists, the tracker, and they have this investment, customers rates are going to go up over $30 million over the next three, four years.

Lastly, capital structure. I agreed with the company's 55 percent capital structure in this case, and I also pointed out that capital structure was a little high. It is an anonymous result. Since the Tax Reform Act at the end of 2017, companies across the country have been boosting equity ratio because of the cash flow impact. And more recently in 2018, a settlement was reached and order passed by this Commission allowing the company to increase their equity ratios beyond what was agreed to in the merger/acquisition agreement in those ring fencing provisions.

So I felt that if I adjusted the capital structure -- I mean, what was the point of the settlement -- and I know parties were not bound by that settlement, but I just felt that you just made that order, let's leave it at 55 percent, allow them to improve those cash flows but let's set the rate of return at the level it should be, at the market cost.

Last point before my conclusions, we've heard a lot about the recent authorized equity returns are about 9.7 percent. Actually, that exhibit, the AGA, America Gas Association for 2019, it is 9.68. Well, that's with a 52.52 percent capital -- equity capital structure on average.

If you want to compare to a company with a 55 percent capital structure, that 9.68 percent has to be adjusted downward by about 35 basis points, so it is truly about 9.33. If you adjust for capital structure because that reduces financial risk of the company.

So we have a cluster, just to conclude, of all the parties and the 9 to 9.25 range, the recent authorized returns for 2019, the evidence in the record indicate about 9.33 percent when you assume a 55 percent equity ratio, and then you have the company at 10.5, which can't be explained other than the points I brought up earlier. And that concludes my summary.

Thank you.

MR. MOORE: Mr. Lawton is now available for cross and questions from the Commission.

COMMISSIONER LEVAR: Okay. I think it's a good time for a ten-minute break right now, and then we will come back and do any cross-examination questions.

(Whereupon, a break was taken.)

COMMISSIONER LEVAR: Okay. Looks like we are ready to start.

And we are ready for cross-examination of Mr. Lawton; is that right, Mr. Moore?

MR. MOORE: That's correct.

COMMISSIONER LEVAR: I will start with Major Kirk, I think. Do you have any questions for this witness.

MAJOR KIRK: Yes, sir, I do have a couple questions.

CROSS-EXAMINATION

BY MAJOR KIRK:

Q. Good afternoon, sir.

A. Good afternoon, sir.

Q. I have a couple questions for you on your capital structure in this case.

A. Yes, sir.

Q. You indicated in your summary that you didn't make any changes to the company's 55 percent capital structure; is that correct?

A. That is correct. I retained the 55 equity ratio, 45 debt.

Q. And that 55 percent equity ratio, that was

based off of a settlement in the acquisition case that took place approximately three years ago; is that correct?

A. No, not quite. The company, DEU, requested an amendment to the acquisition requirements and -- to go above 55 percent, and I think that was decided in 2018. I forget which month. And it was recently decided, so I wasn't going to change it. I mean, what was the point of that exercise and the Commission's efforts?

Q. You would agree that we now have test year for 2020 numbers. Right?

A. I do.

Q. And so you could have performed analysis based off the 2020 test year numbers to determine what would be a fair equity ratio?

A. I did not, other than to say -- I mean, typically, the equity ratios that you see coming in are for gas utilities are around 52, 52.5 percent. I pointed out in my testimony that this equity ratio is somewhat of an anomaly because of the tax impacts. And I expect it to go the other way, and that is why I just chose 55 percent.

Q. By "tax impact," you mean the Tax Cuts and Job Act impact?

A. Yes. Yes, sir.

Q. And other utilities are impacted by that same act. Correct?

A. That is true. And some of them have higher equity ratios. Most of them have lower.

Q. And the current average, you agree, was around 51 or 52 percent?

A. 52 to 52.5, somewhere in that range. Yes, sir.

Q. But in this case, you still support your opinion of 55 percent capital structure?

A. Yes. As I stated in my testimony, as well as my summary, that the recent decision by the Commission, the settlement of all the parties, albeit nobody is bound in a rate case, that decision was just made for the purpose of improving cash flows. So I said, "Why change it now?"

Q. Thank you.

A. You're welcome, sir.

COMMISSIONER LEVAR: Mr. Mecham, any questions?

MR. MECHAM: I have none, thank you.

COMMISSIONER LEVAR: Mr. Russell?

MR. RUSSELL: No, thank you.

COMMISSIONER LEVAR: Mr. Jetter?

MR. JETTER: I have no questions, thank you.

COMMISSIONER LEVAR: Ms. Clark or Mr. Sabin?
MR. SABIN: Yes, thank you.
CROSS-EXAMINATION
BY MR. SABIN:
Q. I appreciate you being here today.
A. Oh, thank you. Good to meet you.
Q. Good to meet you. Would you open up your -- there is a binder there behind you that has the testimony for the parties in this proceeding -- or for the Office -- or excuse me, I apologize.
A. This one?
Q. You have our own -- do you have your direct testimony someplace there?
A. I do.
Q. Just refer to that. That will be easier.
A. When you say "that," that is --
Q. Your direct testimony, good clarification. When you get your direct testimony, would you open it up to page 34?
A. I am there.
Q. Okay. I will start at the very top of the page, line 801. Your question is: "Have you reviewed credit research reports for the company regarding credit quality and corporate financial metrics?"
And the answer you provided is: "Yes, the

company's credit quality is not threaten or under pressure of downgrade. I have discussed these issues earlier with regard to a recent Moody's and S&P credit reports."

That is what your testimony states there. Right?

A. Yes, that is what it states.

Q. Yes. You're aware of having been in these proceedings to some extent, that there was, in fact, a credit downgrade?

A. There was indeed by, I believe, A2 to A1 -- or A3. Excuse me, A3. I was going the other way. I was off.

Q. That's okay.

A. But it was A2 to A3. There was a slight downgrade, but that was to be expected, given, as I recall, you were on negative watch throughout that time.

Q. Yes.

A. That is the ultimate result sometimes.

Q. Understood. Now if you grab that binder, in that binder, there are three that -- actually, I will do two exhibits. If you grab that, I will point you directly to what I want to talk about.

A. Okay. Give me a tab number then.

Q. So it should be DEU Exhibit 1.05, which is

attached to Mr. Mendenhall's direct testimony.

A. And what was the number again, sir?

Q. Exhibit DEU 1.05. You may actually have it right there. Is that --

A. This is the Moody's. I just went to Tab 5 and it looks like there is an R after it, so that would be the rebuttal. Is that right?

Q. It's probably Tab 5 after the first -- it might be that one you are looking at right there.

A. Okay.

Q. Is that dated January?

A. No. August 19, 2019.

Q. You are going to have to -- I apologize, you are in the rebuttal testimony. If you move a little bit forward to Mr. Mendenhall's direct testimony, it will be Tab 5 to that.

A. I apologize.

Q. No, that is okay. It is a little confusing.

A. I'm there now.

Q. Okay. Perfect. This is a January 2019 Moody's report?

A. Yes, sir.

Q. And I want to just turn -- if you could turn to page 2, I want to focus on the factors that could lead to a downgrade. One of those -- the top factor was cash

flow to debt metrics below 20 percent on a sustainable basis. Right?

A. I see that.

Q. And it was after this that there was a downgrade; that is right, isn't it?

A. Yes.

Q. And one of the factors cited by Moody's for the downgrade was this factor was not satisfied, there wasn't cash available, the cash flow to debt metrics was below 20 percent during that period of time?

A. I don't recall. Do you want me to look at the --

Q. We will go there in a second.

A. Okay.

Q. Suffice it to say here, Moody's wants to see -- to maintain this credit status, Moody's wants to see sustained cash flow that is above 20 percent?

A. 20 percent or above.

Q. Or above. Thank you.

A. You are welcome.

Q. 20 percent or above. Right?

A. Yes.

Q. And now if you would turn with me to -- now go to the rebuttal testimony there, and there, it's Exhibit 1.01R, also to Mr. Mendenhall's testimony. It's

the rebuttal testimony there.

A. I think that is the one I had a moment ago.

Q. Yup, I believe that is right.

A. The August 19th opinion?

Q. Correct. That is the one.

A. Got it.

Q. Turn to the second page. I want to highlight the "Factors that could lead to a certain downgrade." Can you see that?

A. Yes.

Q. One of them is cash flow to debt metrics below 16 percent on a sustained basis?

A. Yes, because we are one notch below lower.

Q. Right. So do you agree with me that Moody's expectation appears to be that if you want to be up in the A2 category where you were, you need to have cash to debt ratio of 20 percent or higher, and if you want to maintain the A3, you better be at 16 percent or higher?

A. Based on the analysis or the statements from the prior Moody's and this Moody's, the answer is yes.

Q. Okay.

A. But you are in a fine place as it is at A3.

Q. Understood. Let's go now to your testimony. Your direct testimony, you had an Exhibit 3.11.

A. I'm there.

Q. Okay. This is a chart you prepared as part of your analysis; is that correct?
A. It is.
Q. I want to go down to the bottom half of the page. There is a chart there that has an A, B, and C Columns. Do you see that?
A. Yes.
Q. My understanding is the A Column is intended to represent the company's requested capital structure and a 10.35 percent ROE?
A. No.
Q. No?
A. It is actually 10.5. I think the 10.35 is somewhat incorrect, and the 9.2 next to it, it should be 9.1.
Q. Okay.
A. So I did have corrections.
Q. Okay. I was going to ask you both of those things, so I appreciate you clarifying.
So Column B is what you proposed; isn't that right?
A. That's correct.
Q. So now if I go down to line 11 --
A. Yes, I'm there.
Q. -- that is intended to be the cash to debt

ratio number. Right?

A. Yes.

Q. So if we followed your proposal -- or let me just say apparently, some of the other proposals might be the same, but your proposal would result in a cash to debt ratio of 15.61 percent?

A. That's cash flow from -- less dividends over debt.

Q. But you, essentially, leave the company -- at the end of the day, your operating cash would be -- to debt ratio is 15.61?

A. Right.

Q. Right. Which is below what we just read in Moody's would be required to maintain A3 status. Correct?

A. I'm not clear which one -- sir, if you don't mind, let's stay with my Exhibit OCS 3.11, and on lines 10 and 11, we have two cash flow to debt calculations. One excludes dividends, that is the one on line 11, and the one on line 10 doesn't. I don't know which cash flow to debt ratio that we are referring to when we read that part of the Moody's report, so maybe you can help me.

Q. Well, let me back up for a second. Do you understand or can you accept, subject to check, that the company has not issued any dividends?

A. I think I can accept that.

Q. Okay. So if you want to flip now back to the Moody's report --

A. I'm there. Which one?

Q. I'm talking about the one in August with the downgrade.

A. Yes.

Q. And we are on page 2.

A. Yes.

Q. It just says, "Cash flow to debt metrics below 16 percent on a sustained basis." So we are not dealing with dividends at all. What we are talking about is the operating cash to debt ratio; isn't that right?

A. Right. And I took dividends out. On line 11, I presumed a dividend payment with a payout ratio, as I recall, of 60 percent in that calculation.

Q. Okay. And why did you make that assumption?

A. Because most utilities do, in fact, pay dividends, and this company will push dividends up to its parent at different intervals as cash is available. And so I just used an average payout ratio. I employed 60 percent, and that is what I took out on both line 11 Columns D and I.

Q. And so --

A. So if we want to get to a realistic

comparable number, then we should only be looking at line 10 and -- because you said the company is not paying out dividends, and so we are at 24 percent and 22 percent, meeting all the requirements for even an A2.

Q. Now, even if we were to dividend up, as has been suggested by some of the other parties, to bring the equity ratio down from its actual ratio at 60 percent, down to something closer to 50 or 52 percent, which is what some of the other expert witnesses have testified about, that would employ your line 11, wouldn't it? At that point --

A. Not necessarily. It just depends on how you're going to do it over time and what kind of payout ratio you are going to employ and --

Q. What did you assume? What did you assume on line 11?

A. I assumed 60 percent. I also assumed 55 percent equity ratio in this case so you wouldn't have to go to this. I mean, I'm on your side on that issue.

Q. And you'll notice, I'm not quibbling with you on that issue.

My point is, if you are going to payout some dividends and take that cash out of the operating business to pay dividends, you are going to drop -- the ratio of cash to debt will go down?

A. It should, yes.

Q. And it could -- if we were to do what other parties are suggesting, you could, in fact, be below the 16 percent, which is what would be required to sustain A3 status?

A. Yes. Lots of things could happen. You are asking, did I speculate? I don't know what is going to happen. I mean --

Q. Right. Okay. And I think you agree with me on this. So you agree that the tax act has had a significant impact on the available cash that -- the company's availability of cash to do what it maybe would have done in the past?

A. That's a tricky question. You used the word "significant" which is a very ambiguous term. The tax act had an impact on cash flows, but whether it's significant or not depends on the utilities.

Q. Do you have an opinion here about the reduction, how much it affected the company's performance?

A. In -- I think it's not as bad as some utilities were hit by it, but it was impacted by the tax act. And what we have to remember is the tax act is turning around. In other words, DEU is going to have a bigger rate base in the future because of the tax act, because there is less deferred taxes -- that's when you are going to start seeing that cash come back to DEU after a few years.

Q. Right. Perhaps in the next rate case. Right?

A. I am looking.

Q. Okay. All right. I don't have any other questions. Thank you.

COMMISSIONER LEVAR: Any redirect?

MR. MOORE: No redirect.

COMMISSIONER LEVAR: Commissioner White, do you have any questions?

COMMISSIONER WHITE: I have no questions, thank you.

THE WITNESS: Thank you, Commissioner.

COMMISSIONER LEVAR: Commissioner Clark?

COMMISSIONER CLARK: No questions. Thanks for bringing us up to date on your equity ratio, given what you've sat through the last two days. Thank you.

THE WITNESS: Thank you, sir.

COMMISSIONER LEVAR: I don't have anything else. Thank for your testimony this afternoon.

THE WITNESS: Thank you, Mr. Chairman. May I be excused?

COMMISSIONER LEVAR: Yes.

Does the Office have any witnesses?

MR. MOORE: The Office has no more witnesses, thank you.

COMMISSIONER LEVAR: Mr. Russell?

MR. RUSSELL: The UAE calls Mr. Kevin Higgins.

DIRECT EXAMINATION

KEVIN HIGGINS

called as a witness, having been first duly sworn,
was examined and testified as follows:

BY MR. RUSSELL:

Q. Good afternoon, Mr. Higgins. Would you tell us your name and on whose behalf you are testifying?

A. My name is Kevin C. Higgins. I'm here on behalf of Utah Association of Energy Users intervention group.

Q. And did you prepare and cause to be filed direct and surrebuttal testimony in this docket?

A. Yes, I did.

Q. And just to be more specific, direct testimony, along with UAE Exhibit 1.1 through 1.8, and surrebuttal testimony, along with UAE Exhibit 1.1S; is that right?

A. That is correct.

Q. And do you adopt that pre-filed testimony as

your testimony in this proceeding?

A. Yes, I do.

Q. Do you have any proposed -- do you have any changes to propose to that testimony?

A. I do not.

Q. Okay.

MR. RUSSELL: At this point, I will move for the admission of Mr. Higgins pre-filed direct and surrebuttal testimony, along with the associated exhibits.

COMMISSIONER LEVAR: Okay. Please indicate to me if anyone objects to the motion.

I am not seeing any objections, so the motion is granted.

(Hearing Exhibits UAE 1 and 1S, plus attachments, were marked for identification but not received by court reporter.)

BY MR. RUSSELL:

Q. Mr. Higgins, before I have you provide us with a summary of testimony, there is one line of questions that I have for you. You have, I gather, listened to the testimony, either on the audio feed or live here in the hearing room; is that right?

A. That is correct.

Q. And have you listened to the testimony of

Mr. Felsenthal and also Ms. Ramas today regarding the amount of pension expense that has been included in rates since the 2013 general rate case?

A. Yes, I have.

Q. I would like to turn your attention to your direct testimony, page 12 of your direct testimony, line 219. Do you have that?

A. Yes, I do.

Q. Okay. We will give everybody else a moment to catch up.

In that line, you indicate that Dominion's current Utah rates include $7.9 million per year in pension expense based on projected FASB's pension costs at the time rates were last set in 2014. Do you have a correction to make to that number?

A. I do not.

Q. Okay. And now we have heard Mr. Felsenthal correct his testimony regarding the number that was included in his pre-filed testimony, and that was not the same as the number that you have here.

Do you want to explain why you think this number is correct?

A. Yes. I do believe that Mr. Felsenthal's original number was incorrect, so I do believe correcting it was appropriate. However, I don't -- I do not believe he corrected it to the right number. The $7.9 million referenced in my direct testimony cites to a Phase I technical conference handout that the company had provided.

However, I also corroborated that number with my own records from that case, in which I was a witness. And, in fact, I participated in the settlement agreement in that case. And based on my experience in that case and my knowledge of that case, the correct number, as I understand it, in terms of what is the amount of pension expense in a rates currently, is approximately $7.9 million.

And if folks want to check the math on that, I suggest they look at the company's response to DPU 19.03, Attachment 3 that was provided in that case. And in that case, that attachment will show that the company's original filed Utah revenue requirement for pension expense was approximately $10.8 million.

And the company updated that number with more current information during that case, and the update was approximately $7 .9 million. And in that case, I made an adjustment. I recommended an adjustment to simply move to the updated number. It was not a complicated adjustment. It was simply the difference between the original filing and the updated filing.

And that adjustment was the adjustment that was accepted in the settlement agreement that was approved by the Commission. The adjustment was $2.9 million approximately.

So as I understand the record of that case and my participation in that case, my belief is that the correct number that represents what is in rates today, that customers pay for pension expense, is $7.9 million. I believe the number that Mr. Felsenthal originally used that was incorrect was simply the Questar Gas portion of pension expense, which was $8.18 million.

However, pension expense also includes an allocation of Questar Gas Corporate pension costs, and that is why the total number that was in the revenue requirement was, in fact, about 10.8 million, and the updated number was 7.9 million, and the adjustment simply corrected to move to the updated number.

Q. Thank you for that. Have you prepared a summary of your pre-filed testimony?

A. Yes, I have.

Q. Go ahead with that, please.

A. Good afternoon, Mr. Chairman and Commissioners, I'm recommending several adjustments to DEU's requested revenue requirement.

First, I recommend adjusting Dominion's

nonlabor O&M expense to remove the inflation component. In my opinion, utilities should not be rewarded for their choice to use a future test period by being allowed to build indexed inflation projections into their O&M expense.

The primary justification for using a future test period is to allow a utility with expanding rate base the ability to avoid regulatory lag. This is a significant benefit to the utilities. This benefit should not be further enhanced through a cost cushion that allows Dominion to immolate its baseline cost by applying an index inflation factor through the end of 2020.

Instead, ratemaking should signal to Dominion that it should strive to try to control its O&M cost through increased operating efficiencies. Indeed, over the past several years, in between rate cases, Dominion has done just that. Now that we are in a rate case, it is not reasonable to simply gross up the company's base period cost by an inflation factor and pass these higher projected costs onto customers. My adjustment reduces the Utah revenue requirement by approximately $1.9 million.

No. 2, I recommend a revenue requirement adjustment of approximately $5.3 million to account for the negative pension expense that Dominion is expected to experience in 2020. Sound ratemaking requires that my adjustment be made. Dominion proposes that pension expense be set at zero in this case, rather than recognizing the negative pension expense in rates.

In Utah, and in most jurisdictions in my experience, pension expense for ratemaking is based on net periodic pension costs, calculated in accordance with General Accepted Accounting Principles, or GAAP, with some adjustments for capitalized labor. Dominion's proposal would be a significant ad hoc departure from this standard practice.

The company seems to -- appears to be seeking a long-term arrangement in which customers would pay for pension expense in rates when GAAP pension costs are positive but would go without a credit in rates when GAAP pension costs are negative. Such an asymmetrical long-term arrangement is not reasonable.

Over the life of a pension plan, the cumulative sum of GAAP pension cost, including negative pension cost, is expected to equal the cumulative sum of the company's funding contributions. This means that setting customer pension cost responsibility in rate equal to GAAP pension costs as is currently done ensures that, by and large, customer rates will fully fund the pension plan costs over the life of the plan.

Now, I use the qualifier "by and large," simply to call out or recognize what we all know, which is that rates are not reset every year, so that the pension expenses that is set in rates is -- doesn't change until the next rate case. So that it's not going to -- because of that and because of that alone, setting pension expense equal -- pension expense in rates equal to the GAAP pension cost will not exactly match the contributions by customers over the life of the plan. But if you did reset rates every year, it would.

So conceptually, the practice of setting pension expense in rates equal to the GAAP pension cost will achieve the desired outcome of having customers fund the pension plan, over the life of the pension plan. Selectively, zeroing out pension expense rate when GAAP pension cost is negative, as proposed by the company, will cause customers to overpay for pension cost over the life of the pension plan. Embarking on such a practice of systemic adverse selection is not reasonable.

Now in the alternative, if Dominion were proposing to eliminate negative and positive pension expense from ratemaking on a permanent basis, then I believe the company's proposed treatment would be worth consideration. However, the company indicates that it is not supportive of such a permanent change. Therefore, in the absence of such a commitment by the company, my recommended adjustment should be adopted.

No. 3, the Commission should approve my recommendations related to excess deferred income tax, or E-D-I-T or EDIT, most of which, Dominion accepted in its rebuttal testimony, including any recommendation to credit customers with the amortization of plant-related EDIT occurring between January 2019 and February 2020, through an extension of Tax Reform Surcredit 3, which I refer to as Tax Reform Surcredit 4 in my testimony.

One of my objectives of addressing EDIT in this case was to ensure the benefit to customers from amortizing plant-related EDIT, between January 2019 and February 2020, did not slip through the cracks. This goal was accomplished through the extension of the surcredit.

A second objective was to change the going-forward amortization of non-plant EDIT from 30 years, as initially proposed by the company in this case, to ten years, to ensure more timely recognition of these benefits to customers. But as I looked into these two issues, I realize there were a couple of housekeeping items relating to EDIT that also needed to be addressed. Namely, A., updating the 2020 plant-related amortization to DEU's latest estimate; and B., restating rate base to reflect EDIT amortization starting January 1, 2018.

Dominion responded to my EDIT recommendations in a very forthright and helpful manner, which is my way of saying they accepted most of my proposal. The only remaining difference between Dominion and UAE on this issue is the amortization period for non-plant EDIT. DEU is recommending 12 years, while I continue to recommend that non-plant EDIT be amortized over a period not to exceed ten years.

My recommended base revenue requirement EDIT adjustment increases the Utah distribution non-gas revenue requirement by about $478,000. But it is packaged with a 12-month extension of a tax reform surcredit, beginning June 1, 2020, that would provide customers with a credit of approximately $3.6 million over that period.

No. 4, I recommend that outside contractor expenses be removed from the revenue requirement, as identified in my testimony, and it is identified as a confidential amount. The project that these expenses pertain to are not related to distribution. No non-gas service as far as I can tell. For that reason, it should be removed from the distribution non-gas service revenue requirement.

In addition to my revenue requirement adjustment, I recommend the infrastructure tracker pilot program remain at $7.2 million level for 2020 and that annual expenditures continue to be capped at that level, without future adjustments for inflation, in order to provide reasonable cost containment for the tracker mechanism.

This cap does not preclude Dominion from making prudent investments and replacing high pressure feeder lines if the investment costs are in excess of the cap. It merely restricts the amount of expenditures that are eligible for tracker recovery.

And inflation adjustment is not needed because this program consists of a series of unique feeder replacement projects. The Commission should deny the request to add automatic increases to the annual expenditure amount that is eligible for single-issue ratemaking treatment. As I believe, such mechanism should be sparingly, if at all, and that concludes my summary.

Q. Thank you.

MR. RUSSELL: Mr. Higgins is available for cross-examination and Commission questioning.

COMMISSIONER LEVAR: Mr. Mecham, do you have any questions for Mr. Higgins?

MR. MECHAM: I do not, thank you.

COMMISSIONER LEVAR: Thank you. Major Kirk?

MAJOR KIRK: Yes, sir, just briefly.

CROSS-EXAMINATION

BY MAJOR KIRK:

Q. Good afternoon, Mr. Higgins.

A. Good afternoon.

Q. In your testimony, you had recommended an ROE of 9.7; is that correct?

A. That is not correct.

Q. That is not correct?

A. No. In my testimony, I presented what I call a placeholder ROE or 9.7 percent and indicated that it was not intended to supplant traditional cost of capital analysis.

I did include it, however, as a placeholder because not having some representation of potential adjustment to return an equity distorts the revenue requirement recommendation. And so for that reason, I felt it was useful to put a placeholder, in which was simply a median ROE that had been approved in the prior 12 months for distribution of gas utilities.

Q. So you didn't perform any analysis in coming to that rate?

A. As I said, it was based on simply the median of the approved returns on equity for distribution gas utilities over the preceding 12 months. So there is a minimal amount of analysis in determining what the median was, but I did not present it as a specific recommendation, nor did I present it as being, you know, intended to supplant the traditional cost of capital analysis.

Q.   Thank you for that. The other parties that do a cost of capital study analysis, have you reviewed their testimony?

A.   Only generally.

Q.   Okay. You have no reason to disagree with their conclusions in this case?

A.   I have not offered an opinion on the quality or conclusions of those other -- of those other witnesses.

Q.   Thank you.

COMMISSIONER LEVAR: Mr. Moore or Mr. Snarr, any questions?

MR. MOORE: No questions, thank you.

COMMISSIONER LEVAR: Mr. Jetter?

MR. JETTER: I have no questions, thank you.

COMMISSIONER LEVAR: Okay. Ms. Clark or Mr. Sabin?

MR. SABIN: We don't have any question, so let the celebration begin.

COMMISSIONER LEVAR: Commissioner Clark?

COMMISSIONER CLARK: No questions.

COMMISSIONER LEVAR: Commissioner White?

COMMISSIONER WHITE: I have no questions, thank you.

COMMISSIONER LEVAR: I don't think I have anything else for you. Thank you for your testimony here this afternoon.

THE WITNESS: Thank you.

COMMISSIONER LEVAR: Anything further from anyone? Okay. We will then take the Phase I issues under advisement.

I hope no one is anticipating a Phase I order before the Phase II hearing. If you are, please get your reasons in writing to us ASAP because that is not what we are anticipating.

But we will see all of you next month at the beginning of the Phase II hearing.

Thank you. We are adjourned.

(The hearing was adjourned at 3:40 P.M.)

REPORTER'S CERTIFICATE

State of Utah)
)
County of Salt Lake)

I hereby certify that the witnesses in the foregoing hearing were duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said hearing was taken at the time and place herein named;

That the testimony of said witnesses were reported by me in stenotype and thereafter transcribed into typewritten form.

I further certify that I am not of kin or otherwise associated with any of the parties of said cause of action and that I am not interested in the events thereof.

IN WITNESS WHEREOF, I set my hand this 29th day of December, 2019.

____

Kellie Peterson, RPR

2

D

E

F

S