

APPLICATION OF DOMINION ENERGY UTAH

Docket No. 19-057-02

PHASE I HEARING

December 18, 2019

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1 BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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3)
4)Docket No. 19-057-02

5 In re: Application of)
6 Dominion Energy Utah to)
7 Increase Distribution Rates)
8 and Charges and Make Tariff)
9 Provisions.)

10 CONTINUATION OF PHASE I HEARING

11 Taken on Wednesday, December 18, 2019

12 at 9:00 A.M.

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14
15 At The Public Service Commission of Utah

16 160 East 300 South

17 4th Floor

18 Salt Lake City, Utah 84111

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22 Reported by: Kellie Peterson, RPR, CSR

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1 December 18, 2019 9:00 A.M.

P R O C E E D I N G S

2

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

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

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

18 Did you have a comment?

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

1 do that.

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

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

6 COMMISSIONER LEVAR: Yes.

7 (Exhibit passed out.)

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

10 COMMISSIONER LEVAR: Yes.

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

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

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

24 MS. CLARK: Thank you.

25 The company would move for the admission of

1 DEU Hearing Exhibit 7R.

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

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

6 (Hearing Exhibit DEU 7 was
7 marked for identification.)

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

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

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

15 MS. CLARK: Thank you.

16 REDIRECT EXAMINATION

17 BY MS. CLARK:

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

22 A. Yes.

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

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

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

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

19 For example, if you are installing a feeder
20 line, and this has been something I think we have seen in
21 the feeder line tracker budget line process that we
22 report on thoroughly in our feed line tracker program.
23 There's costs that we don't necessarily know a year and a
24 half in advance. For example, if we start digging a
25 trench and find contamination in the soil and have to

1 incur costs to clean it up and dismantling costs go up
2 significantly, those items are all very difficult to
3 project when you're a year and a half out.

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

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

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

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

1 costs and I want to follow up on that a little bit.

2 With regard to professional services, I
3 believe you testified that there are services like
4 engineering analysis and legal work; is that right?

5 A. That's correct.

6 Q. And doesn't the capital budget for 2020
7 include large projects like the Southern System
8 Expansion, which I think is a \$20 million item, and the
9 current gauge station, which is a \$14 million item; is
10 that correct?

11 A. That's correct.

12 Q. Would you expect projects like that to need
13 professional services like engineering analysis and legal
14 work?

15 A. Yes.

16 Q. Mr. Stephenson, I also want to talk to you
17 about the transponders and dismantling cost. You recall
18 discussing that with Mr. Snarr yesterday?

19 A. Yes.

20 Q. And do you recall offering to provide or
21 write a diagram or a chart that could help explain it?

22 A. Yes.

23 Q. Have you prepared such a chart?

24 A. I have.

25 MS. CLARK: May I approach?

1 COMMISSIONER LEVAR: Yes.

2 (Exhibit handed out.)

3 BY MS. CLARK:

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

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

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

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

22 And in my test period, I had used a system
23 total factor for dismantling that I calculated using a
24 three-year average of total dismantling cost historically
25 over total retirement costs, and I applied that to all

1 retirements, including transponder retirements. And as
2 Ms. Ramas pointed out in her testimony, historically, the
3 transponders had not incurred -- or shown on the books
4 dismantling costs.

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

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

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

23 And so to estimate how much would be left in
24 the construction work in process and not be included in
25 rate base, I used a systemwide factor based on five years

1 of history of total capital spend versus total amount
2 left in the 107 Account, which is construction work in
3 process. And that five-year history showed a 29.15
4 percent average amount of capital spend that stays in
5 CWIP so it wouldn't be close to rate base.

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

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

20 So my Row 2 of this exhibit, Hearing Exhibit
21 8, reflects the update in that construction work in
22 process factor, and it actually increases the rate base
23 amount that will be close to investment by \$2.3 million.
24 When you add those items together, we have a net
25 reduction of \$1.3 million in rate base, and then I also

1 have a reduction related to depreciation expense. And
2 these -- these adjustments are shown in Column D, and
3 this is what I would propose being a reasonable amount to
4 adjust our test period by.

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

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

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

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

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

16 COMMISSIONER LEVAR: Any other --

17 MS. CLARK: I do, please.

18 BY MS. CLARK:

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

23 A. Yes.

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

1 merger proceeding before this Commission; do you recall
2 that?

3 A. Yes.

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

7 Can you speak to what you understand that to
8 be?

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

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

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

25 And the 75 million was derived simply by

1 applying the expected return on those plant assets, which
2 I believe at the time was 7 percent, by the \$75 million
3 amount to derive a benefit.

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

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

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

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

22 A. So we had referred to an exhibit, and I'll
23 just open that back up again. It was included in
24 Ms. Ramas' direct testimony, and it was Exhibit 2.16D,
25 OCS 2.16D, and that is a data request that had been asked

1 by the Office. And we had identified that there's a \$3
2 million credit amount --

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

5 A. Yes, absolutely. It is page 22.

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

10 If you were to identify -- rather than
11 identifying a specific credit amount, you want to
12 identify a specific asset amount today, we know that the
13 total asset balance we included in the test period was
14 112 million.

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

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

25 **Q. Please.**

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

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

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

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

25 COMMISSIONER LEVAR: Okay. Thank you.

1 Mr. Jetter, any recross?

2 RECROSS EXAMINATION

3 BY MR. JETTER:

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

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

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

17 A. So I would have to do the math, but I believe
18 the expected return on that contribution at the time was
19 7 percent. Right now, it's 8.75 percent, so I guess if
20 you compare that to the return on rate base -- I believe
21 Mr. Felsenthal may have done that comparison in his
22 testimony, and I think he showed that the return included
23 in rate base was actually slightly less than the return
24 on plant assets that reduces the pension expense, so that
25 it did have a slight benefit to customers to do that.

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

3 A. No, that's correct.

4 **Q. Okay.**

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

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

15 **I have no further questions. Thank you.**

16 COMMISSIONER LEVAR: Mr. Snarr?

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

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

22 MR. SNARR: Okay. Thank you.

23 (Whereupon, a break was taken.)

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

1 Mr. Snarr?

2 MR. SNARR: Thank you.

3 RE CROSS EXAMINATION

4 BY MR. SNARR:

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

9 A. Yes.

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

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

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

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

24 A. No, that's not true.

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

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

3 A. Yes.

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

6 A. I do.

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

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

14 At the time this funding contribution was
15 made, 65 percent of that total pie came to Dominion
16 Energy Utah, the utility. The \$112 million amount is
17 after the 65 percent has already been allocated, so that
18 112 million exits on Questar Gas books as a Dominion
19 Energy portion of the pension. The 112 million is not a
20 total corporate asset. It's already allocated.

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

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

3 A. That is.

4 Q. And what was the source of that information?

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

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

10 MS. RAMAS: Ramas.

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

14 BY MR. SNARR:

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

17 A. I believe so, yes.

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

21 A. Right.

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

25 A. Yes.

1 Q. I would like to direct your attention to line
2 9 of Exhibit 3.2 of your rebuttal testimony. Do you have
3 that there?

4 A. You said 3.9?

5 Q. 3.2, excuse me.

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

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

10 A. That is correct.

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

17 A. That is correct.

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

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

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

1 part of your rebuttal testimony. Do you see that?

2 A. Yes.

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

5 A. That's correct.

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

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

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

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

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

17 A. That's right.

18 Q. And where is that amount today?

19 A. If the amount remains in the 101, and it will
20 be adjusted, along with the dismantling. So the update
21 to dismantling costs will include a movement from the 101
22 Account to the 108 Account, the accumulated depreciation.
23 So the net impact rate base of that adjustment is zero.
24 It's a reassociation from a positive 101 balance to the
25 108 balance.

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

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

6 **Q. The \$3,705,545.**

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

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

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

19 A. Yes, that's correct.

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

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

25 Do you have anything you want to add to that

1 motion?

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

4 COMMISSIONER LEVAR: Do you want to add
5 anything?

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

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

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

22 Do you want to make any final remark?

23 MS. CLARK: I do. While I appreciate this is
24 information that we discussed with Mr. Snarr and his
25 client -- or provided to them yesterday. It was provided

1 in response to some cross-examination from Mr. Snarr
2 himself. And if we look back at the record, you will see
3 that Mr. Stephenson offered to use a white pad to provide
4 exactly this information, and Mr. Snarr sort of invited
5 it.

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

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

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

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

23 COMMISSIONER LEVAR: I think the way I'm
24 going to rule on the motion -- I don't see this as any
25 different than if the witness had verbally presented this

1 information in redirect. I think we are going to treat
2 this as such, with your objections noted. However, I
3 think, considering that it is within the scope of the
4 cross-examination, I don't see a basis to deny the
5 motion, so I'm going to grant the motion, to admit it as
6 a redirect exhibit related to his redirect testimony.

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

10 (Hearing Exhibit DEU 8 was
11 marked for identification.)

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

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

18 MR. SNARR: Thank you.

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

21 MAJOR KIRK: No questions, sir.

22 COMMISSIONER LEVAR: Mr. Mecham?

23 MR. MECHAM: No, thank you.

24 COMMISSIONER LEVAR: Mr. Russell?

25 MR. RUSSELL: No, thank you.

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

3 MS. CLARK: I do not, thank you.

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

6 COMMISSIONER CLARK: I do.

7 EXAMINATION

8 BY COMMISSIONER CLARK:

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

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

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

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

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

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

5 A. In 2018?

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

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

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

21 A. So it's other types of costs. So I believe
22 the reason why the 2018 costs became a question was that
23 there was a docket on those -- on that particular issue
24 that required some legal costs. However, the scope of
25 those services, include preparing -- for example,

1 preparing requests for proposal on a scope of work on
2 hiring contractors. Also doing engineering-type analysis
3 and whether or not there's a special docket involved
4 related to that or an approval needed, those kinds of
5 preparations and analyses would need to be conducted.

6 So, for example, with the gate station, it's
7 large enough where we will need legal services to prepare
8 a request for proposal for that particular project, as
9 well as for the southern system expansion project and it
10 will be a similar scope of work to what we had to do in
11 2018.

12 **Q. Similar to the feeder line project?**

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

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

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

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

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

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

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

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

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

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

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

23 Another is related to the Clean the Air
24 legislative effort that the company's responding to, that
25 would be filed on December 31st of this year, is the

1 plan, and that would extend into 2020 as well.

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

4 A. Right.

5 Q. And the expansion in southern --

6 A. Yeah.

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

9 EXAMINATION

10 BY COMMISSIONER LEVAR:

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

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

25 I'm trying to think if I can recall another

1 specific project in 2018.

2 **Q. That answers my question.**

3 A. Okay.

4 **Q. Thank you.**

5 COMMISSIONER LEVAR: Commissioner White?

6 COMMISSIONER WHITE: I have no questions,
7 thank you.

8 COMMISSIONER LEVAR: Thank you,
9 Mr. Stephenson.

10 THE WITNESS: Thank you.

11 COMMISSIONER LEVAR: Anything further from
12 Dominion Energy?

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

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

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

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

22 COMMISSIONER LEVAR: Good morning, Mr.
23 Gorman.

24 DIRECT EXAMINATION

25 MICHAEL GORMAN,

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

3 BY MAJOR KIRK:

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

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

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

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

19 In this case, my testimony concerned
20 developing a fair return, a rate of return for the
21 company. I made several adjustments to the company's
22 proposed rate of return, which was based on a capital
23 structure with a 55 percent common equity ratio and a
24 return of common equity of 10.5 percent. I found that
25 the company's proposed overall rate of return is

1 excessive, principally for two reasons. First, I believe
2 that the ratemaking capital structure with the 55 percent
3 common equity ratio is far more expensive than necessary
4 in order to maintain their financial integrity credit
5 standing and ability to attract capital under reasonable
6 terms and prices.

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

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

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

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

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

19 Adjusting the equity ratio from 55 percent to
20 52 percent I believe will maintain the financial
21 integrity of the utility but do so at a much lower cost
22 to the utility. I also encourage the Commission to
23 consider the cost of capital as a discretionary cost that
24 the utility management does have control over.

25 The actual mix of debt and equity for the

1 utility is made by explicit decisions on behalf of
2 management. To the extent that the capital structure mix
3 with in a result of unreasonable cost, I believe it is
4 appropriate to adjust those costs down to a reasonable
5 level for ratemaking purposes.

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

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

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

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

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

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

19 And by that, I'm simply referring to
20 uncertainty about the market about where the economy is
21 going, going forward, whether we are heading for a data
22 recession or whether or not the market is overinflated.
23 When the market conditions kind of signal that, the
24 markets generally moves investments into lower risk,
25 stable investments, which utilities are included within

1 the category of, and that has the effect of increasing
2 prices and lowering costs for low-risk sectors in the
3 marketplace, which include the utility industry.

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

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

18 I also took issue with Mr. Hevert's capital
19 asset pricing model, largely because it reflected an
20 expected return on the market, which produced an
21 overstated market risk premium, which is a major factor
22 within the capital asset pricing model. The outlook for
23 the expected market risk premium simply was not a
24 rationale outlook for what the expected return on the
25 market as a whole was, and correcting that would adjust

1 his CAPM return estimates down to a level more consistent
2 with my own capital asset return model.

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

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

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

25 The empirical CAPM analysis is generally

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

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

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

18 One example is comparison of treasury bonds
19 and utility bonds in around 2013, 2014 to where they are
20 today. Treasury bond yields around that time period were
21 around 2. -- around 3.5 percent. That compares to around
22 2.3 percent today, so that is about a 120 basis point
23 drop. Utility bonds have also dropped. A-rated utility
24 bonds have declined from around 4.5 percent around that
25 time, around the 2013, 2014 time period, to around 3.5

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

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

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

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

23 And I looked at the yield spread between
24 utility stocks and utility bond yields, and it showed
25 that the utility stock prices are adjusting in line

1 with -- to adjust the utility stock yield to conform to
2 changes in utility bond interest rates. So the utility
3 stock yield components, that DCF analysis, is
4 economically logical in comparison to utility bond
5 yields.

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

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

24 But the need -- that sustainable growth rate
25 kicker likely will be mitigated over time and sustained

1 levels of large capital investments by utility companies
2 have the effect of growing rate base slower over time,
3 you know. For example, if there is a sustained level of
4 capital investments by the utility, that can grow rate
5 base fast initially but the growth and rate base will
6 slow over time as imbedded rate base grows.

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

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

22 So the combination, the relatively
23 competitive yield on stock prices right now with high
24 levels of growth, which are producing indicator returns
25 on the market of less than 9 percent in the DCF model is

1 clear evidence to me of the economic logic finding that
2 the DCF model is measuring the fair market return on
3 equity to being around 9 percent and, frankly, a little
4 bit less than that right now.

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

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

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

23 While the policy implemented by most
24 Regulatory Commissions, I think, is sound in managing and
25 maintaining the proper balance between investors and

1 customers, that same balance, I think, supports a
2 continued reduction in the authorized return on equity
3 relative to what we have seen over the last three to four
4 years.

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

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

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

1 least in the intermediate period.

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

10 That concludes my summary.

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

14 A. It is, yes.

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

18 A. Yes.

19 **Q. Thank you.**

20 MAJOR KIRK: At this point, I would like to
21 move for admission of FEA Exhibit 1.0, as well as the
22 accompanying Exhibit FEA Exhibit 1.01 through 1.19 and
23 FEA Exhibit 3.01 -- 3.0SR and accompanying FEA Exhibit
24 3.01SR.

25 COMMISSIONER LEVAR: If anyone objects to

1 that motion, please indicate to me.

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

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

7 MAJOR KIRK: Thank you.

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

10 MR. MECHAM: I do not.

11 COMMISSIONER LEVAR: Mr. Russell?

12 MR. RUSSELL: I do not.

13 COMMISSIONER LEVAR: Mr. Snarr or Mr. Moore?

14 MR. MOORE: No questions, thank you.

15 COMMISSIONER LEVAR: Mr. Jetter?

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

17 COMMISSIONER LEVAR: Ms. Clark or Mr. Sabin?

18 MR. SABIN: Thank you.

19 CROSS-EXAMINATION

20 BY MR. SABIN:

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

25 A. I do, yes.

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

4 A. I'm there.

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

12 Did I read that correctly?

13 A. You did, yes.

14 Q. You still agree with that position?

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

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

22 A. 1.02R?

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

1 company.

2 A. Utility -- I have it.

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

5 A. I do.

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

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

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

14 A. It did, yes.

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

18 A. His direct testimony?

19 Q. Yes. I know there's a lot of paper here,
20 1.05.

21 A. I'm there.

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

24 A. Yes.

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

1 credit analysis?

2 A. Yes.

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

6 That's right, isn't it?

7 A. Yes. As of January 2019, yes.

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

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

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

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

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

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

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

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

22 Now, the actual cash flow strength of utility
23 during the historical period -- this was a period where
24 there was a transition related to the acquisition, which
25 may include integration cost into the Dominion system and

1 possibly short-term debt purchases, you know, I don't
2 know, because I didn't look at the historical financial
3 metrics of the utility. Instead, I looked at the
4 ratemaking capital structure cost of service metrics for
5 the utility in the forecasted test year.

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

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

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

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

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

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

1 **rating agency has improved since January 2019?**

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

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

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

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

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

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

24 A. I see no comment by Moody's about
25 moving -- well, they do indicate opportunities to move up

1 and down but my --

2 Q. Yes, but --

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

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

13 A. Yes.

14 Q. It is a common resource. Right?

15 A. It is.

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

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

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

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

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

5 Do you have any basis to dispute that?

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

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

10 A. I did hear that testimony.

11 Q. Do you have any basis to dispute that?

12 A. I do not.

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

16 A. They are.

17 Q. And your proposing 52 percent?

18 A. I am.

19 Q. So if the company is -- financially, the
20 company is operating at 60 percent equity and they're
21 proposing 55, can you explain to me, wouldn't the company
22 want to move down its equity portion at some point?
23 Wouldn't it desire -- wouldn't that be a good thing to
24 do? Because it's actually asking for 55 but operating at
25 60, and there is a cost to the shareholders of that 5

1 percent differential; isn't that right?

2 A. I would agree with that.

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

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

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

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

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

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

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

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

16 **Q. That's right.**

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

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

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

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

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

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

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

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

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

11 A. I have not.

12 **Q. I have no further questions at this time.**

13 COMMISSIONER LEVAR: Major Kirk, any
14 redirect?

15 MAJOR KIRK: No, sir.

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

18 COMMISSIONER WHITE: I have no questions,
19 thank you.

20 COMMISSIONER LEVAR: Commissioner Clark?

21 EXAMINATION

22 BY COMMISSIONER CLARK:

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

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

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

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

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

23 Moody's initially put the utility industry on
24 a negative outlook because it wasn't quite sure what the
25 impact on cash flows would be, but that negative outlook

1 was revised more recently to a stable outlook,
2 recognizing that cash flows have been reduced. The cash
3 flows are still relatively strong for the industry as a
4 whole.

5 Authorized returns on equity and the 9.6 to
6 9.7 over the last five years have supported strong credit
7 outlooks, have supported access to significant amounts of
8 capital under reasonable terms and prices to support very
9 large capital programs and costs to the industry in
10 general.

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

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

24 I also note that the ratemaking capital
25 structures that aligned with those authorized returns on

1 equity have included common equity ratios that were
2 around 49 to 50 percent. There are very few that go much
3 above 52 percent for ratemaking purposes. Again, that is
4 notable and observable evidence of what the market finds
5 to be appropriate ratemaking decisions by Regulatory
6 Commissions that support the utilities credit standings
7 and ability to support very large capital programs.

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

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

21 So from an industry standpoint, recognizing
22 what the trend in authorized rates of return on, from
23 return on equity and common equity ratio, they are
24 meeting the Hope and Bluefield standards of maintaining
25 credit, maintaining the utility access to capital,

1 maintaining financial integrity, and most importantly,
2 doing so under just and reasonable prices to retail
3 customers.

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

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

20 It's important to know what bond rating was
21 rated as negative by Moody's and what bond rating is
22 rated as stable by Moody's and how that bond rating
23 relate to other utilities within the industry. And an A3
24 Moody's bond rating is a very strong bond rating, and
25 right now, Moody's believes it to be stable. And they

1 believe it to be stable where the credit metrics were
2 impacted by whatever was going on with this utility as it
3 transitioned from the acquisition of Questar to Dominion
4 Energy Resources.

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

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

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

22 And most of those Regulatory Commissions now
23 are starting to move under the 9.6 to 9.7 ROE that have
24 been in place for the last five years. And I believe
25 that is, in part, because market participants have now

1 moved away from the expectation of increasing capital
2 market costs over the next five years and now embrace
3 that capital market cost levels are low today, are going
4 to stay low for at least the next five to ten years.

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

6 A. Thank you.

7 COMMISSIONER LEVAR: Thank you.

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

10 THE WITNESS: Thank you.

11 COMMISSIONER LEVAR: Anything else, Major?

12 MAJOR KIRK: No, sir. Thank you.

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

17 (Whereupon, a break was taken.)

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

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

22 COMMISSIONER LEVAR: Good morning,
23 Mr. Oliver.

24 DIRECT EXAMINATION

25 BRUCE OLIVER,

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

3 BY MR. MECHAM:

4 Q. Good morning, Mr. Oliver.

5 A. Good morning.

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

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

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

16 A. I did.

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

20 A. I did.

21 Q. Do you have any corrections to that
22 testimony?

23 A. Just one. On the cover of the surrebuttal
24 testimony, it inadvertently referenced class cost of
25 service and rate structure issues. It should state

1 rate -- return on equity and capital structure issues.

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

4 A. I don't believe so.

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

7 A. I am.

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

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

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

21 I have served in management positions for two
22 major investor-owned utilities, the Pacific Gas and
23 Electric Company and the Potomac Electric Power Company,
24 and I have held senior consultant management and
25 executive positions in three consulting firms. I have

1 testified in over 300 regulatory proceedings spread
2 across 25 jurisdictions, from Arizona to Vermont to
3 California to the mid-Atlantic states and many states in
4 between.

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

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

25 In addition, I advise a large number of

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

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

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

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

21 DEU's proposed capital structure in this
22 proceeding places unnecessary and inappropriate cost
23 burdens on the company's ratepayers in Utah. The
24 company's actual capital structure is even worse.
25 Despite the company's representations to the contrary,

1 its actual capital structure is of little relevance for
2 ratemaking purposes in this proceeding. The ratemaking
3 purposes, the equity component of DEU's capital
4 structure, should be set to reflect a more optimal use of
5 the company's capital resources and to minimize the cost
6 of capital borne by Utah ratepayers but do so in a manner
7 consistent with sound financial management.

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

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

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

1 in his ROE recommendations.

2 The upward bias in witness Hevert's ROE
3 recommendations must be recognized. My direct testimony
4 documents the basis for this upward bias in ANGC Exhibit
5 1.02. That exhibit indicates that on average, witness
6 Hevert's ROE recommendations have been 78 basis points
7 above the levels that the Commissions, in the cases in
8 which he testified, made determinations.

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

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

19 This Commission must make an ROE
20 determination in this case on the basis of the record
21 presented in this case and not regulator's determinations
22 in other cases. Reliance solely or primarily on
23 determinations by regulators in prior proceedings does
24 not properly account for differences in financial and
25 operating characteristics of utilities, nor does it

1 address the influence of more recent changes in financial
2 markets such as the decline in U.S. Treasury bond yields
3 that I previously referenced. Witness Hevert also relies
4 inappropriately on data for holding companies.

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

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

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

24 The experience of Northwest Natural Holding
25 Company cited in my direct testimony provides

1 demonstration of the importance of this difference. In
2 2017, Northwest Natural Holdings incurred \$198 million
3 write-off in a nonutility gas storage operation.
4 Although the regulated gas distribution utility
5 operations within Northwest Natural Gas were the
6 company's primary source of earnings, the write-off
7 related to its nonutility gas storage operations was
8 large enough to equate to more than three times the
9 annual earnings from its gas distribution utility
10 operations.

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

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

1 available.

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

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

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

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

1 changes in debt ratings.

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

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

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

22 A key shortcoming in the company's
23 presentation in this case is that nowhere do they address
24 the impacts of their capital structure decisions on
25 ratepayers and the costs that they impose on ratepayers,

1 yet that is a key role of the Regulatory Commission in
2 evaluating an appropriate capital structure. You have a
3 fiduciary responsibility to ensure that rates charged to
4 customers are just and reasonable. And if the equity
5 percentage is inflated and the overall costs of capital
6 are much higher because you don't control the percentage
7 of equity, then that's the Commission's responsibility.

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

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

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

23 The holding company has decided that they
24 want to keep extra equity within this entity. The
25 presumption is that the holding company's -- you know,

1 and we talked about shareholders, but Dominion Energy
2 Utah only has one shareholder and that's Dominion Energy,
3 Inc. And Dominion Energy -- the presumption is that
4 Dominion Energy, Inc.'s, shareholders could get a better
5 return in another investment. But is that the case?
6 Would they have put 60 percent equity into Dominion
7 Energy Utah if they could get a better return on their
8 other investments? I don't think so.

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

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

22 Now, why has the company used such a
23 disproportionate amount of equity in the most recent
24 period? Well, you could argue, and we have heard
25 arguments in this proceeding, that when a company has

1 credit problems, one way to address that is by increasing
2 the equity percentage. Right? But over the last several
3 years, Dominion Energy has increased their equity
4 percentage. But their credit concerns haven't gone away.
5 Why is that? Well, it's because Dominion Energy has used
6 its retained earnings and its equity diffusions
7 disproportionately to fund its capital expansion and left
8 itself with insufficient liquidity.

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

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

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

1 have vastly higher debt costs."

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

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

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

21 This Commission needs to act and act
22 significantly to lower the cost of the return on equity,
23 the cost of equity in this case, and reduce the amount of
24 equity in the company's capital structure for ratemaking
25 purposes. The company can maintain whatever it believes

1 is appropriate for its operational purposes, for its own
2 company strategy purposes, but for ratemaking purposes,
3 the equity percentage needs to be reduced.

4 Thank you.

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

7 A. It does.

8 MR. MECHAM: Then I would move the admission
9 of ANGC Exhibit 1, with Attachment A and -- ANGC Exhibits
10 1.01 through 1.05, and ANGC 1SR.

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

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

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

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

20 COMMISSIONER LEVAR: Thank you.

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

23 MAJOR KIRK: No questions, thank you.

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

1 MR. RUSSELL: No.

2 COMMISSIONER LEVAR: Mr. Snarr or Mr. Moore?

3 MR. MOORE: No questions, thank you.

4 COMMISSIONER LEVAR: Mr. Jetter?

5 MR. JETTER: I have no questions.

6 COMMISSIONER LEVAR: Ms. Clark or Mr. Sabin?

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

8 COMMISSIONER LEVAR: Commissioner White?

9 COMMISSIONER WHITE: No questions, thank you.

10 COMMISSIONER LEVAR: Commissioner Clark?

11 COMMISSIONER CLARK: No questions, thank you.

12 EXAMINATION

13 BY COMMISSIONER LEVAR:

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

16 A. Yes.

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

20 A. Absolutely, yes.

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

23 A. It is exhaustive for the time period.

24 Q. Exhaustive for the time period?

25 A. Yes.

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

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

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

8 A. Yes.

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

12 A. No, it does not.

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

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

18 Q. There are probably some exceptions?

19 A. Yes.

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

22 A. Thank you.

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

25 MR. MECHAM: No, that's it.

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

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

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

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

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

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

19 COMMISSIONER LEVAR: Good morning,
20 Mr. Wheelwright.

21 DIRECT EXAMINATION

22 DOUGLAS WHEELWRIGHT,

23 called as a witness, having been first duly sworn,

24 was examined and testified as follows:

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

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

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

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

9 COMMISSIONER LEVAR: This?

10 MR. JETTER: Yes.

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

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

15 (Exhibit was previously marked.)

16 MR. JETTER: Thank you, Mr. Chairman.

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

19 COMMISSIONER LEVAR: Yes, he has.

20 MR. JETTER: Great.

21 BY MR. JETTER:

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

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

1 Public Utilities.

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

6 A. Yes, I did.

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

10 A. Yes.

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

14 A. Yes, they would.

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

17 A. Yes, I would.

18 Q. Okay.

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

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

25 I'm not seeing any objection in the room, so

1 the motion is granted.

2 MR. JETTER: Thank you.

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

6 BY MR. JETTER:

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

10 A. Yes, I have.

11 Q. Please go ahead.

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

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

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

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

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

19 The two remaining adjustments total \$18.1
20 million, which calculates a revenue surplus of \$1.1
21 million. In this proceeding, the Division will provide
22 witnesses to address each of the a specific adjustments.
23 David Thomson will address the lead lag adjustment, Jeff
24 Einfeldt will address the tracker program, and Eric Orton
25 will address the proposed increase in the tracker budget

1 and capital expenditures, and Casey Coleman will address
2 the return on equity calculation.

3 And that concludes my summary.

4 **Q. Thank you.**

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

8 COMMISSIONER LEVAR: Thank you.

9 Mr. Moore, any questions?

10 MR. MOORE: No questions, thank you.

11 COMMISSIONER LEVAR: Major Kirk?

12 MAJOR KIRK: No questions, sir.

13 COMMISSIONER LEVAR: Mr. Mecham?

14 MR. MECHAM: No, thank you.

15 COMMISSIONER LEVAR: Ms. Russell?

16 MR. RUSSELL: No questions.

17 COMMISSIONER LEVAR: Ms. Clark?

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

20 COMMISSIONER LEVAR: Commissioner Clark?

21 COMMISSIONER CLARK: No questions, thank you.

22 COMMISSIONER LEVAR: Commissioner White?

23 COMMISSIONER WHITE: No questions for me,
24 thank you.

25 COMMISSIONER LEVAR: None for me either.

1 Thank you for your testimony,
2 Mr. Wheelwright.

3 Your next witness?

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

6 COMMISSIONER LEVAR: Good morning,
7 Mr. Thomson.

8 DIRECT EXAMINATION

9 DAVID THOMSON,

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

12 BY MR. JETTER:

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

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

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

22 A. I have.

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

1 **No. 4.0 through 4.8 direct?**

2 A. Yes, I did.

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

6 A. They would.

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

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

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

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

18 MR. JETTER: Thank you.

19 BY MR. JETTER:

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

22 A. I do.

23 **Q. Please go ahead.**

24 A. Good morning, Commissioners, and thank you
25 for the opportunity to briefly review the Division's

1 changes to the Company's lead lag factor used to estimate
2 cash for capital in this rate case.

3 In my direct testimony, I stated that the
4 company should file lead lags indicating that lag days of
5 7.258 should be adjusted to show negative lag days of
6 .828.

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

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

16 **Q. Thank you.**

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

20 COMMISSIONER LEVAR: Thank you.

21 Mr. Moore or Mr. Snarr?

22 MR. MOORE: No questions, thank you.

23 COMMISSIONER LEVAR: Major Kirk?

24 MAJOR KIRK: No questions, thank you.

25 COMMISSIONER LEVAR: Mr. Mecham?

1 MR. MECHAM: No, thank you.

2 COMMISSIONER LEVAR: Mr. Russell?

3 MR. RUSSELL: No questions, thank you.

4 COMMISSIONER LEVAR: Ms. Clark?

5 MS. CLARK: No, thank you.

6 COMMISSIONER LEVAR: Commissioner White?

7 COMMISSIONER WHITE: No questions.

8 COMMISSIONER LEVAR: Commissioner Clark?

9 COMMISSIONER CLARK: No questions.

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

12 Thank you for your testimony this morning.

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

15 COMMISSIONER LEVAR: Good morning,
16 Mr. Einfeldt.

17 DIRECT EXAMINATION

18 JEFFREY EINFELDT,

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

21 BY MR. JETTER:

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

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

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

5 A. Yes.

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

10 A. Yes.

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

14 A. Yes.

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

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

20 A. No.

21 Q. Thank you.

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

25 COMMISSIONER LEVAR: If anyone objects to the

1 motion, please let me know.

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

4 MR. JETTER: Thank you.

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

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

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

14 Commissioner White, do you have any
15 questions?

16 COMMISSIONER WHITE: No questions, thank you.

17 COMMISSIONER LEVAR: Commissioner Clark?

18 COMMISSIONER CLARK: No questions.

19 COMMISSIONER LEVAR: I don't have any either.
20 Thank you for your testimony this morning.

21 THE WITNESS: Thank you.

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

24 COMMISSIONER LEVAR: Good morning, Mr. Orton.

25 DIRECT EXAMINATION

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

4 BY MR. JETTER:

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

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

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

13 A. The application filed by the company?

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

16 A. I did.

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

22 A. I did.

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

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

1 direct testimony.

2 **Q. Please go ahead -- actually, let me hold off**
3 **until everyone that is interested is ready.**

4 **Please go ahead.**

5 A. Line 351 currently references Columns L and
6 M. They should reference Columns K and L.

7 Also, the next page, line 354, I need to
8 delete the reference in parentheses, so we would remove
9 paren, line 2, Column L, and close paren. Those are all
10 the corrections I'm aware of.

11 **Q. Thank you.**

12 MR. JETTER: With that, I would like to move
13 to enter the direct surrebuttal testimony, along with the
14 exhibits into the record.

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

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

19 (Hearing Exhibit DPU 2 and 2S, with
20 attachments, were marked for identification
21 but not received by court reporter.)

22 MR. JETTER: Thank you.

23 BY MR. JETTER:

24 **Q. Have you prepared a brief summary of your**
25 **testimony?**

1 A. I have.

2 **Q. Please go ahead.**

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

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

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

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

1 19-057-25 docket ordered just two weeks ago.

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

4 **Q. Thank you.**

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

7 COMMISSIONER LEVAR: Thank you.

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

10 MR. MOORE: No questions.

11 COMMISSIONER LEVAR: Major Kirk?

12 MAJOR KIRK: No questions.

13 COMMISSIONER LEVAR: Mr. Mecham?

14 MR. MECHAM: None for me.

15 COMMISSIONER LEVAR: Mr. Russell?

16 MR. RUSSELL: No questions.

17 COMMISSIONER LEVAR: Thank you. Ms. Clark?

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

20 May I approach and just provide you with
21 both?

22 COMMISSIONER LEVAR: Yes.

23 MS. CLARK: Thank you.

24 (Exhibit was handed out.)

25 CROSS-EXAMINATION

1 BY MS. CLARK:

2 Q. Mr. Orton, I just provided you with two
3 exhibits. One is labeled as DEU hearing Exhibit 9 and
4 another is labeled at DEU hearing Exhibit 10.

5 I would like to draw your attention to
6 Hearing Exhibit 9. It is a PowerPoint presentation. Do
7 you recognize that?

8 A. I have that, uh-huh.

9 Q. And do you recognize that? Can you describe
10 what it is?

11 MR. SNARR: Excuse me, might we have a copy
12 or two?

13 MS. CLARK: I'm sorry.

14 BY MS. CLARK:

15 Q. Mr. Orton, would you please describe DEU
16 Exhibit 9?

17 A. It appears to be a printed copy of the slide
18 deck of a feeder line technical conference ten years ago.

19 Q. In Docket 09-057-16; is that correct?

20 A. That is what it looks like, yes.

21 Q. And would you agree, subject to check, that
22 this was presented within that docket?

23 A. I assume it was.

24 Q. Can I have you turn to pages 20 and 21 of
25 Hearing Exhibit 9?

1 A. I have it.

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

5 A. If you say it does, I assume.

6 Q. Subject to check?

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

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

12 A. It is not.

13 Q. It is not?

14 A. It is.

15 Q. It is? Okay.

16 A. I was looking at the wrong column.

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

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

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

25 A. I have seen several of these, yes. It's when

1 the company files, on an annual basis at least, the
2 schedule for their feeder line replacements.

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

6 A. It is probably right.

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

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

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

16 A. That is true.

17 Q. And is it your recollection also that in
18 2013, the belt lines in the company system were also
19 added?

20 A. Yes.

21 Q. And so you would agree the feeder line
22 replacement program is larger in scope than it was in
23 2009?

24 A. It is larger in scope.

25 MS. CLARK: I would move to admit DEU Hearing

1 Exhibits 9 and 10?

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

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

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

12 MS. CLARK: That is correct.

13 COMMISSIONER LEVAR: It is not confidential?

14 MS. CLARK: It is not confidential. Correct.

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

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

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

21 MS. CLARK: Thank you.

22 BY MS. CLARK:

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

1 A. That is right.

2 Q. Would you agree that the capital budget for
3 2020 is approximately \$44 million higher than the prior
4 capital budget?

5 A. I think that is about right.

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

9 A. Right.

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

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

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

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

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

25 A. I have not.

1 Q. Okay.

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

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

4 COMMISSIONER LEVAR: Any redirect,

5 Mr. Jetter?

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

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

9 COMMISSIONER CLARK: No questions, thank you.

10 COMMISSIONER LEVAR: Commissioner White?

11 COMMISSIONER WHITE: No questions, thank you.

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

14 THE WITNESS: Thank you.

15 COMMISSIONER LEVAR: Mr. Jetter?

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

18 COMMISSIONER LEVAR: Good morning.

19 DIRECT EXAMINATION

20 CASEY COLEMAN,

21 called as a witness, having been first duly sworn,

22 was examined and testified as follows:

23 BY MR. JETTER:

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

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

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

8 A. Yes.

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

14 A. Yes.

15 Q. And did you also cause to create and cause to
16 be filed with the Commission surrebuttal testimony with
17 three exhibits that are DPU Exhibit No. 3.0SR through
18 3.2SR?

19 A. Yes.

20 Q. And I would like to correct the first
21 question that I asked you, if there were 12 exhibits with
22 3.0 being the first one. That would be 13 exhibits;
23 would that be correct?

24 A. That is correct, yes.

25 Q. If I were to ask you the same questions

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

3 A. Yes.

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

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

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

14 Q. Thank you.

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

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

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

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

1 BY MR. JETTER:

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

4 A. I have.

5 Q. Please go ahead.

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

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

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

25 Q. Thank you.

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

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

6 MR. MOORE: No questions, thank you.

7 COMMISSIONER LEVAR: Major Kirk?

8 MAJOR KIRK: No questions, thank you.

9 COMMISSIONER LEVAR: Mr. Mecham?

10 MR. MECHAM: No questions, thank you.

11 COMMISSIONER LEVAR: Mr. Russell?

12 MR. RUSSELL: No questions.

13 COMMISSIONER LEVAR: Ms. Clark or Mr. Sabin?

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

15 COMMISSIONER LEVAR: Commissioner White?

16 COMMISSIONER WHITE: No questions, thank you.

17 COMMISSIONER LEVAR: Commissioner Clark?

18 EXAMINATION

19 BY COMMISSIONER CLARK:

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

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

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

6 So there's been a lot of discussion here of
7 what the appropriate capital structure would be. Our
8 9.25 percent was in consideration of a capital structure
9 of the 55-45. And as we said in there, if there was some
10 changes in the capital structure, that you may want to
11 look at a rate of return that would reflect the amounts
12 that would be appropriate with that.

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

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

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

22 **A. Okay.**

23 EXAMINATION

24 BY COMMISSIONER LEVAR:

25 **Q. Just one question about your Exhibit 3.02.**

1 Do you have that in front of you?

2 A. And that would be --

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

6 A. Okay. Surrebuttal, okay.

7 Q. Yes, 3.02SR.

8 A. Yes, I have that.

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

11 A. Yes.

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

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

22 If the Commission would like us to, though,
23 we can go back and provide what the return on equities
24 were or what the changes were because I believe that
25 information -- actually, I guess, I'm not accurate

1 because I have -- let me restate this. There is a lot of
2 different elements and information in that, but I
3 don't -- I put in there what I believe was the most
4 appropriate as far as return on equity, but I don't think
5 that information provides what the previous ones were.

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

8 A. Sure.

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

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

13 COMMISSIONER LEVAR: Okay, thank you.

14 Mr. Moore?

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

17 DIRECT EXAMINATION

18 ALYSON ANDERSON,

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

21 BY MR. MOORE:

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

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

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

4 A. I have.

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

7 A. I did.

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

10 A. No.

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

13 A. They would.

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

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

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

20 (Hearing Exhibit was marked but not

21 identified or received by court reporter.)

22 BY MR. MOORE:

23 Q. Have you prepared a summary of your
24 testimony?

25 A. I have.

1 **Q. Please proceed.**

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

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

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

13 In surrebuttal, the Office is recommending a
14 reduction in the company's revenue requirement of
15 \$11,468,230 based on the CET allowed revenue.

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

22 The annual expenditure level adjusted for
23 inflation is projected to be 72.2 million in 2020. The
24 Office's concern with the size and scope of the
25 infrastructure tracker and the intent of the prudence

1 review specified in the Commission's infrastructure
2 tracker evaluation plan. The Office requested that the
3 Commission clarify the intent and timing of the prudence
4 review of the infrastructure tracker investments, as well
5 as continue to monitor the size and scope of the tracker
6 going forward.

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

11 This conclude my summary.

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

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

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

18 COMMISSIONER LEVAR: Thank you. Major Kirk?

19 MAJOR KIRK: No questions, thank you.

20 COMMISSIONER LEVAR: Mr. Mecham?

21 MR. MECHAM: No questions, thank you.

22 COMMISSIONER LEVAR: Mr. Russell?

23 MR. RUSSELL: No questions, thank you.

24 COMMISSIONER LEVAR: Ms. Clark?

25 MS. CLARK: No questions, thank you.

1 COMMISSIONER LEVAR: Commissioner White?
2 COMMISSIONER WHITE: No questions, thank you.
3 COMMISSIONER LEVAR: Commissioner Clark?
4 COMMISSIONER CLARK: No questions, thank you.
5 COMMISSIONER LEVAR: And I don't either.

6 Thank you for your testimony this morning.

7 Mr. Moore or Mr. Snarr?

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

10 COMMISSIONER LEVAR: Good morning, Ms. Ramas.

11 DIRECT EXAMINATION

12 DONNA RAMAS,

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

15 BY MR. SNARR:

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

18 A. Donna Ramas.

19 Q. And what is your usual employment?

20 A. I'm a regulatory consultant.

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

23 A. Yes, I have.

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

1 A. Yes, I did.

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

4 A. Yes.

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

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

13 Q. Would you do that, please?

14 A. Yes. The first would be, that I would like
15 to address first, would be in my surrebuttal testimony,
16 going to page 44, line 259 -- I'm sorry, page 44, line
17 959. I discuss that Mr. Felsenthal indicated that the
18 Commission approved 8.18 million of pension expense in
19 the last rate case. And on this stand yesterday, he
20 corrected that amount and said the amount should be
21 5,612,000. I haven't been able to verify the correction
22 of that number because it goes back to the 2013 rate
23 case, and I don't have those files with me but I have no
24 reason to dispute his correction.

25 But then if you also turn to the next page,

1 on page 45 of my surrebuttal testimony, there is a table
2 at the top where I provided comparison of the pension
3 expense that the company contends are included in base
4 rate from the 2013 docket to the amount of pension
5 expense actually booked by the company.

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

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

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

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

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

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

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

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

21 A. Yes.

22 **Q. All right.**

23 MR. SNARR: I would like to offer Ms. Ramas'
24 exhibit into evidence. It would include her direct
25 testimony filed on October 17th, along with Exhibits 2.1D

1 through 2.17D, as well as her surrebuttal testimony
2 submitted on December 5th, including Exhibits 2.1S
3 through 2.7S.

4 I would like to offer those into evidence.

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

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

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

12 BY MR. SNARR:

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

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

19 Yes, I do have a summary.

20 **Q. Please proceed.**

21 A. Good morning, Commissioners, Chairman. The
22 facts and circumstances of this case show that Dominion
23 Energy Utah's rate should be reduced and not increased.
24 As indicated in my surrebuttal testimony, rates currently
25 being collected, based on the conservation enabled

1 allowed tariff revenue, should be reduced by \$11,468,230.
2 This reduction is based on impacts of the adjustments
3 recommended in my testimony, coupled with impacts of the
4 rate of return equity recommended by the Office witness
5 Daniel Lawton in this case.

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

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

20 The first area is the area of projected
21 capital expenditures. The company's calculation of the
22 projected tester plant in service balances assumes a
23 substantial increase in the annual level of capital
24 expenditure, increasing from a 2018 base year level of
25 212.2 million to forecasted amounts of approximately 232

1 million for 2019 and 277.7 million for 2020.

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

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

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

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

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

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

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

22 The next area is the transponder retirements.
23 As the Commission is likely aware, the company's
24 experienced multiple problems with transponders that were
25 manufactured by Elster that caused the early retirement

1 or early replacement of those transponders from what was
2 originally projected. This replacement program began in
3 2015 and is projected to be completed in 2020. As
4 pointed out in my direct and surrebuttal testimonies, DEU
5 has acknowledged several problems with its accounting for
6 the dismantlement and retirement for Elster transponders
7 on its books.

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

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

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

1 this case.

2 I recommended that rate base be reduced by
3 3.6 million, which would remove the double counting of
4 these costs. I also recommended the depreciation expense
5 be reduced by \$166,263, to remove the inappropriate
6 depreciation that was applied to the dismantling cost for
7 those replaced transponders. This still remains my
8 position today with regards to this issue.

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

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

22 The next area regards cash working capital.
23 While the company has agreed to substantially reduce the
24 net lag days using -- in cash working capital
25 requirement, one issue still remains in dispute in my

1 opinion. The revised lag days adapted in the company's
2 rebuttal testimony still includes the impact of
3 depreciation and deferred income taxes in the
4 determination of the net lead lag days.

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

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

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

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

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

14 As background, energy efficiency program
15 costs are not collected in distribution based rate, so
16 once nonrecurring employee severance payments and the
17 energy efficiency program cost are removed from the
18 operation and maintenance expenses, the amount of
19 operations and maintenance expenses incurred by the
20 company in the first six months of 2019 were actually
21 1.65 percent lower than the O&M costs, excluding those
22 efficiency programs, for the first six months of 2018.

23 Given the reduction O&M expenses and the
24 continued reduction occurring after the base year, which
25 would be the 2018 time period, I recommend that those

1 base year nonlabor O&M costs not be inflated in this
2 case. Removal of the inflation factors from the
3 company's rate case model reduces revenue requirement by
4 approximately \$1.9 million. And, again, the exact impact
5 would be dependent on other adjustments made by the
6 Commission and the model because they flow automatically
7 through the model.

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

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

23 And that is, in large part, due to
24 considerations or factors such as interjurisdictional
25 equity issues and the fact that the plant-related access

1 deferred income taxes are being flowed back over an
2 extremely lengthy period as necessary under IRS rules.
3 So as explained in my testimony, I recommend that at
4 least for this item that is a small portion of the total
5 amount owed to customers, that that be done on a quicker
6 basis than what the company has proposed.

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

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

24 If the Commission would like, at some point
25 while I'm on the stand, for me to point out which lines

1 of that exhibit specifically I removed in coming up with
2 the amount on the confidential adjustment I have, I
3 believe I can do that in a public way by walking through
4 that exhibit without being too specific.

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

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

21 For financial reporting purposes, the accrual
22 basis of accounting has been required for pension since
23 1987, so for over 30 years, they have been accounted for
24 in the company's books and records on that accrual basis
25 of accounting. And so the best of my knowledge, it has

1 also been incorporated in Utah in base rate cases that
2 have occurred since that 1987 time frame on the accrual
3 basis as well.

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

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

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

1 for several years now.

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

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

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

23 As the Commission is well aware, the company
24 recently merged with Dominion Energy, Incorporated. And
25 under the settlement and stipulation in that merger

1 docket, which was approved by this Commission, Dominion
2 Energy agreed to contribute 75 million in funding to
3 Questar Corporation's retirement plan. That settlement
4 stipulation specified that this contribution was to be
5 made by Dominion Energy as a, quote, "shareholders cost,"
6 unquote.

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

12 In fact, the testimonies filed by the joint
13 applicants in the merger proceedings indicated that the
14 \$75 million contribution to the plant assets would
15 translate directly to a reduction in pension costs formed
16 by customers.

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

25 And part of the reason for that is as you're

1 applying a rate of return on that amount, which includes
2 a higher equity return than the interest rate, using
3 determining pension expense as well as tax gross up for
4 that equity return.

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

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

18 Thank you.

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

24 A. Yes, I do.

25 **Q. Now, recognizing that there was a correction**

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

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

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

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

21 This exhibit -- I mean, now the company is
22 coming in and adjusting the timing application of quip in
23 a lot of different adjustments that need to be made to
24 the rate case model if this revised approach is
25 considered. But even that, even if that were to be

1 accepted, which I don't recommend be done, there is the
2 error for the 2020 amount or, at least, the fact that it
3 is inconsistent with what is contained in
4 Mr. Stephenson's Exhibit 3.2R for 2020.

5 But you also have the fact that there
6 is -- according to Mr. Stephenson's Exhibit 3.2R, there
7 is also \$3.7 million of plant in service that was booked
8 to plant in service associated with the dismantlement
9 costs of the Elster transponders that were replaced from
10 2016 through 2018. Those are still in that plant in
11 service balance, even with this revised calculation that
12 was presented by the company today.

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

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

25 And, again, as I indicated, if I had this

1 information sooner before I filed my surrebuttal
2 testimony, I suspect my adjustment would have been even
3 higher than what I'm recommending in this case.

4 **Q. Thank you.**

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

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

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

12 (Whereupon, a break was taken.)

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

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

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

18 COMMISSIONER LEVAR: Mayor Kirk?

19 MAJOR KIRK: No questions.

20 COMMISSIONER LEVAR: Mr. Mecham?

21 MR. MECHAM: No questions, thank you.

22 COMMISSIONER LEVAR: Ms. Russell?

23 MR. RUSSELL: No questions, thank you.

24 COMMISSIONER LEVAR: Ms. Clark or Mr. Sabin?

25 MR. SABIN: We do have questions, and in the

1 words of Sesame Street, which one of these things are not
2 like the others.

3 CROSS-EXAMINATION

4 BY MR. SABIN:

5 Q. Good afternoon, Ms. Ramas.

6 A. Good afternoon.

7 Q. I want to focus first on the plant -- your
8 objections to the capital budget for plant, for the
9 2020 -- for the revenue requirement portion that is
10 associated with that.

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

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

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

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

23 Q. For your reference, if you looked at DPU
24 7.04, which is attached to your surrebuttal, it is
25 included in the Exhibit 2.7S and it is page 1.

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

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

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

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

19 **Q. Okay.**

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

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

25 A. Yes, I did. If you give me a moment, I

1 thought it was included.

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

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

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

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

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

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

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

21 Q. Right. Okay. And you'd agree with me that
22 was subsequently updated by the company when it did its
23 2020 budget?

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

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

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

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

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

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

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

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

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

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

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

15 A. Yes, I can't speak to this -- the last
16 litigated rate case I didn't participate in. That was a
17 '13 docket. I had begun my review of the last rate case
18 that ended up being settled as part of the merger
19 proceeding, and as it I sit here today, I don't recall
20 the level of detail.

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

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

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

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

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

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

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

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

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

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

8 A. No, I did not.

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

14 A. Yes, that's my recollection.

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

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

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

25 In other words, let me rephrase, if the

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

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

12 COMMISSIONER LEVAR: Want to respond to the
13 objection?

14 MR. SABIN: Sure. She is challenging the
15 \$277 million amount, claiming that it somehow is
16 unreliable or that is an improper basis and that
17 customers could somehow be hurt from that. That is what
18 her testimony says.

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

21 MR. SNARR: I continue the objection.

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

24 I see the question is relevant to her
25 testimony. I can't -- I don't think I can rule that it's

1 not relevant to the testimony she's already provided, so
2 I'm going to allow the question to be answered.

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

8 I don't believe that it's appropriate for the
9 company to just say, "Well, we are going to split" -- if
10 the company had said 400 million, "We are going to spend
11 \$400 million this year," does that mean it is not
12 appropriate for the regulators and interveners to be able
13 to look at what makes up that 400 million to decide: Is
14 it prudent? Is it appropriate to include in the future
15 test year? And is it likely that they are going to spend
16 that much in the future test year? Because, again, we
17 are dealing with future test year, not a historic test
18 year here.

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

24 BY MR. SABIN:

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

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

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

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

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

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

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

1 filed its rebuttal.

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

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

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

10 **Q. But I should be more --**

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

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

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

24 **Q. Sure.**

25 MR. SABIN: May I approach?

1 COMMISSIONER LEVAR: Yes.

2 (Exhibit handed out.)

3 BY MR. SABIN:

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

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

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

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

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

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

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

1 A. Yes.

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

8 BY MR. SABIN:

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

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

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

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

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

25 A. Yes. These data request references the

1 company's rebuttal testimony, which is when it provided
2 the listing of projects, and they are responsive to the
3 questions asked in the data request.

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

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

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

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

15 Q. Right. Okay.

16 A. Uh-huh.

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

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

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

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

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

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

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

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

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

25 **Q. Okay. Or its amounts. Right?**

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

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

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

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

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

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

1 A. Yes, I have.

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

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

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

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

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

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

1 your primary objection?

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

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

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

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

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

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

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

20 A. That is my understanding, yes.

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

25 A. Yeah.

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

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

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

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

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

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

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

25 A. Well, yeah, those are estimates by FERC

1 account of the inflationary impacts by account.

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

6 A. Yes.

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

11 A. Yes, it has.

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

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

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

1 inflation factors.

2 That's a long answer but, hopefully, it was
3 responsive to what you're asking.

4 **Q. Kind of. I mean, as I read your testimony,**
5 **you don't provide any evidence that inflationary factors**
6 **are not continuing to impact the company's nonlabor**
7 **costs?**

8 A. No, I don't.

9 **Q. So to the extent they are, don't you agree**
10 **with me the company ought to recover them because they're**
11 **costs the company will actually have to pay?**

12 A. They may or may not have to actually pay it,
13 because, again, you are looking at overall O&M expenses,
14 and there are all of other items and factors that impact
15 those expenses.

16 **Q. And subject to check, it is true the company**
17 **has underearned since the last rate case; isn't that**
18 **right?**

19 A. That is what the company contends.

20 **Q. Any basis to dispute that?**

21 A. No, but, again, they were in a stay-out
22 agreement as part of the merger stipulation, is my
23 understanding, so the extent to which inflation may or
24 may not have caused that -- I wouldn't agree that any
25 underearnings that they may or may not have had was

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

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

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

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

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

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

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

21 A. Not on that number, no.

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

1 A. It did not provide the amount of the prepaid
2 pension asset or potential pension liability for any of
3 those historic periods beyond the 1999 year in rate case.
4 I did ask for the amount of prepaid pension asset or
5 pension liability on the company's books as of December
6 31st for historic years, as far as the company had and
7 that wasn't provided to me. The only number provided to
8 me with regard to the prepaid pension asset was the
9 amount from that 1999 rate case.

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

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

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

1 was \$3.2 million. Right?

2 A. Yes.

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

6 A. Okay.

7 Q. Isn't it true that since that 1999 -- from
8 1999 forward, with the exception of two years, in every
9 year since that time, the contribution provided by
10 shareholders has exceeded the amount of expense that the
11 customers have had to pay?

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

18 It is my opinion you can't conclude if it's
19 ratepayers or shareholders that are funding that amount
20 without all the information needed to make that
21 determination.

22 Q. Would you open up to your -- it's OCS 11.5,
23 and it is attached to your surrebuttal as -- page 20 and
24 21 of your surrebuttal is the data response that was
25 provided by the company on that question. Tell me when

1 you get there. It is your Exhibit --

2 A. 2.7S, perhaps?

3 Q. Yes.

4 A. And it is page 20 and 21?

5 Q. 20 and 21. Do you see that Data Request
6 11.04 and then 11.05?

7 A. Yes, I have that.

8 Q. Okay. And the second page of that response
9 provides -- from 1998 forward, it provides the
10 contribution amount and it also provides the precap
11 expense or the customer -- that would be the expense in
12 each year for the pension account. Right?

13 A. The precap -- by precap expense, is that --

14 Q. Let me represent --

15 A. -- the total net periodic benefit cost before
16 a portion of it has been removed for capitalization?

17 Q. Let me represent to you that that is the
18 annual expense amount to pay all of the pension costs in
19 that year.

20 A. I just want to make sure I'm getting the
21 right number because terminology with pensions is very,
22 very tricky. I want to make sure I'm agreeing to -- I'm
23 not saying I disagree with you. I just want to make sure
24 that your understanding of what this is, is my
25 understanding, based on my responses. So give me just a

1 moment.

2 **Q. Sure. Absolutely. Take your time.**

3 A. Okay. Yes, I see here that this would be the
4 total net periodic pension cost before application of the
5 capitalization factor. So it wouldn't necessarily be
6 what his expense on the company's book, but it would be
7 the pension cost recorded on the company's books. Maybe
8 if I can explain --

9 **Q. I would sure love that because I don't**
10 **understand what you just said.**

11 A. You go through -- the outside actuarial firm
12 will go through the pension calculation, and as a result
13 of those calculations, you come up with a net periodic
14 benefit cost. Sometimes people refer to that as the
15 "pension expense," but it is the total annual cost. And
16 then when the company books that cost on its books, a
17 portion of that is expensed and a portion of that would
18 go to capital.

19 So say the capital projects that are added to
20 construction work in progress during the year, and
21 according to the first page of that data response, which
22 is on page 20 of that exhibit, it indicates that between
23 50 and 70 percent of the pension cost has been expensed.
24 So you would take each of these amounts on this exhibit
25 and --

1 Q. Part of it would be --

2 A. -- apply a factor, and that factor anywhere
3 from 50 to 70 percent, and that would result in the
4 amount of expense recorded on the company's books that
5 year.

6 Q. So the expense would actually be lower, in
7 your explanation, that is booked on the company's --

8 A. Yes, the amount booked -- it will all be
9 booked on the company's records.

10 Q. Sure.

11 A. But the amount that is booked to expense
12 would be lower.

13 Q. And my point to you is that if we compare the
14 columns, there is a column called "Contribution" and
15 there is a column called "Precap expense." Right?

16 A. Correct.

17 Q. The column on contribution, with the
18 exception of 1998 and 2000, in every other year, except
19 those two years until you get to 2016, I will come to
20 that in a moment, the contribution portion has exceeded
21 the expense, and in most years, substantially exceeded
22 the expense total in each of those years?

23 A. Well, I wouldn't say, "in most years,
24 substantially exceeded," but once you hit the
25 mid-2000s -- yeah, the amount contributed to the plan

1 exceeded the amount of net periodic benefit costs.

2 Q. Okay. And then starting in the 2011 period,
3 would you agree that there, it substantially exceeds
4 it --

5 A. Yes.

6 Q. -- from that point forward?

7 A. Yes, I would agree that the amount of cash
8 contribution to the pension plan exceeded the cost by
9 quite a bit.

10 Q. Okay. Now, do you have any evidence that
11 customers paid any portion of that excess contribution
12 amount over and above what expenses were?

13 A. I would need an extra column to make that
14 determination. I would want to know the amount included
15 in revenue requirement and the rate cases that occurred
16 during this time frame, to then compare the amount of
17 contributions to the amount in rates to determine if it
18 was funded by customers or shareholders.

19 Q. And you had that information available to you
20 when you prepared your surrebuttal testimony; isn't that
21 right? When you created your chart that you referred to
22 in your summary earlier, where you've gone from 2014
23 forward, you actually had all the information you needed
24 at your disposal to go back to 1999 and actually
25 calculate, if you wanted to, how much of that had been

1 **funded by shareholders and how much of that had been**
2 **funded by --**

3 A. I seem to recall, I wrote data requests to
4 try to obtain the information to do that, and I didn't
5 receive all the information I would have needed to do so.

6 Q. You just told me you would need to know what
7 customer rate was on those. Right? That would have been
8 available to you by looking at any rate case information
9 over that time period?

10 A. No, and here is why: If you go back a couple
11 more pages to page 22 of that same exhibit, we had asked
12 for the amount of pension -- one of the things we asked
13 for in that was the amount of pension expense requested
14 by the company for inclusion and the amount of pension
15 expense included in the Commission's order, if it could
16 be derived.

17 Q. Sorry, where were you referring to?

18 A. The very next -- I'm sorry, yes, the very
19 next page. So flip from where we were to page 22 of my
20 surrebuttal, Exhibit OCS 2.7S.

21 Q. Okay. In some of those instances, there were
22 settlements where nobody knows, and some of those
23 instances that you could derive it. Right?

24 A. Yes, there are many where it's silent in the
25 order and the company indicates that the amount in the

1 request in expense is unavailable, so I don't know if
2 that means -- I assume that means they didn't have the
3 records to tell what was in their filing in that case for
4 the requested amount.

5 So really, we don't have the amount of
6 expense requested or the amount included in revenue
7 requirements until the 2013 docket.

8 **Q. Let me just ask, as we sit here today, you**
9 **don't have any basis to say that these contributions that**
10 **far exceeds the expense in this one we have been looking**
11 **at, that that did, in fact, come from shareholders?**

12 A. No, nor do I have the information needed to
13 tell if it came from ratepayers. I do know that the \$75
14 million contribution by Dominion Energy, Incorporated,
15 under the merger commitments, did contribute to that net
16 pension asset fairly substantially.

17 **Q. Sure. Now we agree that it's \$112 million**
18 **asset for DEU that is in that pension account?**

19 A. That's what the company has indicated, yes.
20 I have no reason to dispute that that's what's recorded
21 on their books as the prepaid pension asset.

22 **Q. Right. And so the only way to know -- when**
23 **we talk about a prepaid pension asset, that's the**
24 **cumulative contributions from the time over the life of**
25 **the pension trust; isn't that right?**

1 A. That prepaid pension asset is a difference
2 between the cash contributions compared to the amount of
3 net periodic pension cost booked by the company.

4 **Q. Right. My only point is, it's the cumulative**
5 **total from the beginning of the trust forward?**

6 A. Yes.

7 **Q. Right? The difference there that you just**
8 **highlighted?**

9 A. Yes.

10 **Q. Okay. So when you did your chart, you only**
11 **started in 2014. You did not go back any earlier. So**
12 **that chart is incomplete, in the fact that it doesn't**
13 **take into account all of the contributions that took**
14 **place prior to that time?**

15 A. I don't believe my chart was intended to show
16 what has been funded by shareholders versus ratepayers
17 over that time frame. In fact, let me find my chart.
18 And, again, this chart is in my surrebuttal testimony at
19 page 45. I believe it is line 965.

20 **Q. Right. That is where I'm at.**

21 A. That shows the information from 2014 to 2019.
22 And, again, that charts the amount of pension expense
23 included in rate in that chart would need to be changed
24 based on Mr. Felsenthal's correction.

25 **Q. Right. I was going to follow up with you.**

1 **You agree --**

2 A. Go ahead.

3 **Q. Sorry, go ahead.**

4 A. I was going to say, it's explained here in
5 the testimony, I'm just showing in recent years how the
6 amount of pension has been recorded in the company's
7 books compared to the amounts incorporated in rates
8 charged to customers. In these rates, it would cover the
9 period during which that \$75 million contribution by
10 Dominion Energy shareholders would have occurred.

11 **Q. Right. I understood. And I don't want to**
12 **spend a lot of time on the chart, other than to point out**
13 **it would need, at this point, to be updated and**
14 **corrected. Right?**

15 A. Yeah, and it would be easy to do. You could
16 just take -- replace the 8 million with the 5.6 million.
17 I don't know if I agree it needs to be updated because
18 I'm not recommending any adjustments based off this. I
19 didn't adjust for this amount.

20 **Q. I'm saying, if you were going to be relying**
21 **on it, the numbers in there are not currently accurate.**
22 **That's right, isn't it?**

23 A. Yeah, the total cumulative difference from
24 2014 to 2019 would be still be significant but lower than
25 that \$46.65 million number.

1 **Q. And this chart also doesn't take into account**
2 **the \$75 million contribution; isn't that right too? It**
3 **would be inaccurate in that respect as well?**

4 A. No. What this chart shows is the difference
5 between the pension expense included in rates and the
6 pension expense recorded on the company's books. This
7 chart doesn't provide the cash contributions or what
8 happened to that pension asset during that time frame.

9 This chart is just showing the difference
10 between what has been booked on the company for the
11 pension plan cost and what has been included in the
12 expense and rates.

13 **Q. And then I'm going to switch subtopics.**

14 MR. SABIN: But I want to move to admit
15 Hearing Exhibits 11 and 12 into the record at this point.

16 COMMISSIONER LEVAR: Does anyone object to
17 the motion? Please indicate to me.

18 Okay. The motion is granted.

19 (Hearing Exhibits DEU 11 and 12
20 were marked for identification.)

21 MR. SABIN: May I approach?

22
23 COMMISSIONER LEVAR: Yes.

24 (Exhibits handed out.)

25 BY MR. SABIN:

1 Q. Okay. I would like to ask you if you
2 recognize Exhibits 13 and 14.

3 A. Just to make sure I have the numbering
4 correct, is 13 the OCS data request 10.12?

5 Q. Yes.

6 A. And that was 13?

7 Q. That's correct.

8 A. Okay. Then the 14 would be the response to
9 OCS 11.12. Yes, I do recognize this.

10 Q. Okay. And these were responses to OCS data
11 requests. Correct?

12 A. Yes, they are.

13 Q. I would like to talk first about 10.12 for a
14 moment. The request here was that as it relates to
15 Mr. Stephenson's testimony on the total O&M budget, the
16 questions were, "Please provide the amount included in
17 the 151.6 million total O&M for energy efficiency
18 expenses."

19 Then B was, "Please provide the amount
20 included in the 151.6 million total O&M for pension
21 expense or pension credit."

22 Do you see that?

23 A. Yes.

24 Q. As it relates to Item B, the answer was, "The
25 amount included in the 2020 O&M budget for pension is a

1 credit of \$2.8 million."

2 Right?

3 A. Yes.

4 Q. That is not the number you have used in your
5 adjustments or your proposed adjustments in this case;
6 isn't that right?

7 A. That's correct. My numbers are based on what
8 the company provided in the filing, which was not revised
9 in its rebuttal filing. So the amounts included in my
10 testimony is reversing the company's adjustment for that
11 5. -- I believe 4.66 million.

12 Q. Understood. So I want to make clear, so the
13 company has disclosed to you that the actual credit
14 amount as of the date of this discovery response was 2.8,
15 not 5.4, which is what you are using?

16 A. Yes. Again, this was provided after the
17 company's rebuttal testimony was filed. The company
18 didn't update the rebuttal testimony, so I didn't seek
19 data requests. If they had changed it, I would have
20 asked for more information. Like, for example, the
21 information provided from the external actuarial firm
22 calculating that difference in change.

23 But no, I did not update the number in my
24 surrebuttal.

25 Q. The company didn't update, isn't it true,

1 because the company didn't agree with any of your
2 adjustment on this total?

3 A. I don't know why they did or didn't update
4 because they do have the amount in the test year and then
5 they reversed that amount. They didn't update that, no.

6 Q. You had this information but you didn't
7 update your amount that you included in your adjustment.
8 That's right?

9 A. That's right. This response was provided
10 November 25th. My testimony was due December 5th. I
11 wouldn't have had an opportunity to seek the actuarial
12 information that demonstrates what caused that change.

13 Q. But if --

14 A. So I didn't include it because I didn't have
15 enough information to do so.

16 Q. If the Commission were to approve your
17 proposal on that point, there would have been an
18 additional \$2 million over and above what is actually in
19 the credit today. Right?

20 A. Well, not today because we are in 2019.
21 What's currently budgeted for the 2020 is this 2.8
22 million.

23 Q. Right.

24 A. And I have no way to, like I said, affirm the
25 accuracy of that.

1 Q. Did you ask a follow-up to ask whether it was
2 accurate or not or seek any further information on that
3 point?

4 A. I didn't. Part of it was the timing of which
5 I received the company's rebuttal testimony. As quickly
6 as I could, I got out data requests. The response came
7 in November 25th and my testimony was due December 5th.

8 Q. It was a five-day business turnaround, so you
9 had time to ask follow-up questions if you wanted; isn't
10 that right?

11 A. I could have asked, but I'm not sure I would
12 have got a response in time.

13 Q. Why do you think that? Had the company
14 failed to provide any responses in a timely fashion up to
15 that point?

16 A. No, they didn't.

17 Q. Okay.

18 A. And I'm not saying that that is not what the
19 number is going to be. I just have no way of confirming
20 it.

21 Q. Okay. Now I want to go to Exhibit 14 for a
22 moment. This is a response to OCS 11.12. And the
23 relevant information I want to talk about there is you
24 were -- you asked a question relative to the pension.

25 It says, "In the last rate case, Docket No.

1 13-057-05, DEU included and the Commission approved a
2 pension accrual amount of 8.18 million."

3 Then you ask, "Please provide the source of
4 the documentation." You ask to provide a citation to the
5 Commission order where it says that. And you ask to
6 provide the sections of the company's filing that show
7 the amount of that pension.

8 And in response, the company provided to you
9 that Attachment 1, the settlement model from the general
10 rate case for that case, and it showed that the 8.1
11 million discussed by Mr. Felsenthal is shown in the tab
12 labeled "Forecast" in Cell G-11. But then it goes on to
13 state, "In that case, an adjustment of negative 3,805,815
14 was made to the pension and O&M expense and settlement.
15 This adjustment is discussed in the partial settlement
16 statement on page 4, Paragraph B."

17 Then it says, "This stipulation is attached
18 at OCS 11.12, Attachment 2, and the orders in the case
19 can be found at the Public Service Commission website,"
20 and they've provided you with a link; isn't that right?

21 A. Yes, they did.

22 Q. So prior to your filing your surrebuttal, you
23 had this information as well and you didn't include it in
24 your surrebuttal?

25 A. I guess I misunderstood this response when I

1 read it. I didn't realize when I read this response that
2 that was an attempt to correct Mr. Felsenthal's testimony
3 at that time. So I misunderstood the response the
4 company provided.

5 **Q. Okay.**

6 MR. SABIN: I move to admit DEU Hearing
7 Exhibits 13 and 14.

8 COMMISSIONER LEVAR: Does anybody object to
9 the motion? Please indicate to me.

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

12 (Hearing Exhibits DEU 13 and 14
13 were marked for identification.)

14 BY MR. SABIN:

15 **Q. Okay. Last couple of points I want to cover.**
16 **I want to understand, under your proposal, if the**
17 **Commission were to accept your pension proposal, you have**
18 **not adjusted it down to the 2. -- what did we say it was?**
19 **\$2.8 million credit number, you kept the 5.4 number, so**
20 **under your proposal, if the Commission accepted that, 5.4**
21 **million would be included in this rate case to reduce the**
22 **revenue requirement the company is seeking in this**
23 **matter; do I have that correctly?**

24 **A. Yes. If they included the amount recommended**
25 **in my testimony that was based off the company's filing,**

1 it would be a \$5.4 million -- well, it would be less than
2 5.4 million in revenue requirement because you apply the
3 Utah factor. I believe it is around 5.2 million,
4 roughly.

5 **Q. Thank you for the clarification. But I have**
6 **the gist, essentially, right, don't I?**

7 A. Yes.

8 **Q. Okay. So the company's cost -- that revenue**
9 **requirement represents the company's total cost of**
10 **service. Right?**

11 A. Yes, the total revenue requirement, the total
12 amount of revenue it needs to bring in to achieve the
13 ultimate rate of return found to be appropriate by the
14 Commission.

15 **Q. So if we subtract that out of the revenue**
16 **requirement, that leaves the company in a position where**
17 **it has a cost of service that is X and an actual recovery**
18 **from customers that is X minus \$5.4 million. Right?**

19 A. I'm sorry, could you repeat that? Are you
20 saying that because -- repeat the question. I'm not sure
21 I understood it.

22 **Q. I will. If the Commission accepted your**
23 **proposal, the company's cost of service would not change.**
24 **Right?**

25 A. Uh-huh. Correct.

1 **Q. But the revenue requirement would be reduced**
2 **by \$5.4 million?**

3 A. No. I guess we are -- I consider the cost of
4 service to be a revenue requirement, and the revenue
5 requirement, in my opinion, is 5.4 million less than what
6 the company contends.

7 **Q. Fair point.**

8 A. Because on its books and records, it is going
9 to record a pension credit in 2020.

10 **Q. Let me clarify then. Using your terminology,**
11 **if we say the company's revenue requirement -- if the**
12 **cost of service, if that were X, whatever number that**
13 **happens to be, your proposal would say that customers are**
14 **actually -- the company is actually going to be able to**
15 **recover from customers X, that total minus \$5.4 million?**

16 A. No. I'm saying what X should be is -- the X
17 amount should include that adjustment to remove 5.4
18 million because that is part of the company's overall
19 revenue requirements.

20 **Q. So we do disagree about the difference of**
21 **what the company's actual cost of services and revenue**
22 **requirement is then?**

23 A. I guess. If you are talking about cash -- if
24 we were to sit down and calculate revenue requirement
25 based on cash coming in and cash coming out of the

1 company, most numbers in this case would change. So I
2 don't equate cost of service to cash accounting.

3 Q. Let me do it this way. Let's say the company
4 had payroll expense of \$20 million. Under your theory,
5 they would have a \$20 million expenditure, and that is
6 what they actually have to pay out to employees. Right?
7 But because the company, under your scenario, would not
8 be able to collect that full 20, it is only going to get
9 to collect 14.4, there is a gap between what the company
10 will incur in costs and what it will recover from
11 customers of \$5.4 million. Right?

12 A. I don't agree. That is way too simplistic of
13 a comparison. There are a lot of items included in the
14 revenue requirement that aren't based on the cash flow
15 and where the cash is going. Two prime examples are
16 incomes taxes. There are a number of years where there
17 was zero incomes taxes being paid to the federal
18 government under bonus depreciation, yet appropriately,
19 income tax expense was included in rate, so that isn't
20 tied to cash.

21 Depreciation expense, the company, when it
22 books depreciation expense isn't paying out a cash
23 expense of that amount. Under accrual accounting, there
24 are many areas where the accrual basis and cash basis
25 differ and rates and revenue requirements aren't set on a

1 cash basis of accounting. They are set on the accrual
2 basis of accounting in every jurisdiction I'm familiar
3 with.

4 Q. I don't really think that we have a quibble,
5 but I want to make sure we are clear. The company has
6 represented that its cost of service, its revenue
7 requirement that it needs to recover in order to pay all
8 of its costs is X. You follow?

9 A. Yes.

10 Q. You're saying that the company's position
11 ought to be reduced by \$5.4 million?

12 A. For this one item. There are many other
13 adjustments.

14 Q. I understand. All other things being equal,
15 you are saying that the company should not recover \$5.4
16 million of what it believes its cost of service is?

17 A. Of what it believes its cost of service is,
18 which differs from what I believe the cost of service is.

19 Q. And if the company is right, that that is
20 what it costs, it costs it to serve these customers, it
21 will have a gap of \$5.4 million that it needs to come up
22 with from some place. Right?

23 A. I disagree, again, because we are not
24 determining rates based on the cash basis of accounting.
25 There are other areas that are not based on cash basis.

1 You are not going through every expense item by item to
2 figure out what the cash amount is. So I think we are
3 going to have to agree to disagree on this.

4 **Q. All other things being equal, it is true you**
5 **are asking to reduce by \$5.4 million?**

6 A. I'm saying that the company's revenue
7 requirements are overstated by \$5.2 million.

8 **Q. Okay. 5.4 is my understanding.**

9 A. Well, 5.4 is the total company basis. I
10 guess I'm focusing on the Utah jurisdictional amount.

11 **Q. Okay. If the company is right and it needs**
12 **that money to pay its costs, it will have to get that**
13 **money from someplace else. Right? If it can't get it**
14 **from customers in rates, it has to recover it from some**
15 **other location?**

16 A. Yes. And, again, it is my opinion that the
17 total revenue requirements recommended by the Office in
18 this case will allow the company the opportunity to meet
19 its full revenue requirements.

20 **Q. I know that is your position. I understand**
21 **and I don't want to quibble anymore.**

22 **So the only other source the company would**
23 **have at that point to recover that money would be to get**
24 **it from shareholders; isn't that right?**

25 A. I don't know what sources. For example,

1 depreciation expenses included in rates, so the company
2 is collecting revenues based on that depreciation
3 expense, it can use that amount to contribute toward new
4 capital additions, to pay dividends to shareholders, to
5 pay back debt or to help maintain its operations.

6 You don't go through and determine revenue
7 requirements and how those revenue requirements are
8 funded on an item-by-item-by-item basis.

9 **Q. You don't do single item ratemaking is what
10 you are saying?**

11 A. Well, we don't take payroll expense and say,
12 "That is being paid from these funds." I mean, it is
13 covered by the revenue requirement.

14 **Q. You are picking out one item, though, in your
15 approach and, essentially, wanting it treated exactly the
16 way you are telling me that we don't normally do it. You
17 are picking out an issue of pension and saying,
18 "Customers will be overpaying," or if --**

19 MR. SNARR: Is there a question or are we
20 just making comments here?

21 MR. SABIN: Yes, there is a question coming
22 if I can finish my comment.

23 BY MR. SABIN:

24 **Q. You are picking out one item, and you are
25 saying that that's in a bucket of a bunch of things.**

1 Right? And that one thing you are picking out and saying
2 that customers are going to overpay on, that one item,
3 when, in fact, the company has under-recovered since the
4 last rate case.

5 So my question is, that is precisely what the
6 company is saying, isn't it? That you shouldn't be
7 isolating this one item and saying that customers should
8 get that, subtract it off of the top?

9 A. And, again, I'm not subtracting that one
10 item. It's the company that removed that amount that it
11 is going to record on its books and records in its
12 filing. I just added it back in. It is the company that
13 initially picked out that one item and removed it from
14 its revenue requirement, and I disagree that it should be
15 removed.

16 COMMISSIONER LEVAR: I will respond to
17 Mr. Snarr's objection. I think we are pretty far into
18 asked and answered territory at this point.

19 MR. SABIN: I will move on. Sure, great.

20 BY MR. SABIN:

21 Q. The company's proposal is to take all pension
22 items out of the revenue requirement. Correct?

23 A. Yes.

24 Q. And in doing that, the company has not
25 proposed to charge customers anything for a pension

1 expense, even if it is taking out the credit. In other
2 words, the company is not -- by not including the credit,
3 it is not turning around to customers and saying, "You
4 need to pay a pension expense." Correct?

5 A. Because there is no positive pension expense
6 in 2020. So I would agree, the company -- the company
7 isn't increasing revenue requirement to add pension
8 expense. It is just taking it to zero.

9 Q. What I'm saying is even by taking out the
10 credit. They are taking out the credit. Even in taking
11 out the credit, they are not turning around and at the
12 same time, charging customers a pension expense.

13 Correct?

14 A. Correct. They are not -- they are including
15 zero for pension expense for their revenue requirement in
16 this case.

17 Q. And those funds that are in the asset
18 account, the pension asset itself, including the money
19 that the company has contributed, will defray customer
20 expenses, any pension expense for customers for the
21 foreseeable future. Correct?

22 A. Yes, the total amount in the pension fund
23 served to reduce or what would otherwise be the pension
24 expense.

25 Q. No further questions. Thank you.

1 COMMISSIONER LEVAR: Any redirect, Mr. Snarr?

2 MR. SNARR: Yes, just two or three questions.

3 REDIRECT EXAMINATION

4 BY MR. SNARR:

5 Q. Ms. Ramas, do you recall the date of the
6 filing of Dominion's rebuttal testimony?

7 A. I have it right here, if you give me a
8 moment.

9 Q. All right.

10 A. November 14, 2019.

11 Q. Okay. In reference to Dominion Energy
12 Hearing Exhibit 13, what is the date of the response that
13 was provided to the OCS request, in that particular data
14 request?

15 A. November 25, 2019.

16 Q. And so as of November 25, 2019, if we are
17 looking at Answer B, there is an item there that is at
18 least contended to result in a change of information of
19 data; is that right?

20 A. Correct.

21 Q. And also referring to Exhibit No. 14 that was
22 presented, what was the date of the response provided by
23 Dominion Energy in that situation?

24 A. November 26.

25 Q. And that was the one that was disclosed in

1 the answer of this adjustment that Mr. Felsenthal made in
2 his testimony earlier -- was that today or yesterday? In
3 this hearing. Right?

4 A. Yes. Yes, it discusses that 8.2 million
5 included in the original, and it indicates there's an
6 adjustment to that. It doesn't provide the revised
7 adjustment that was provided earlier today by
8 Mr. Felsenthal.

9 Q. As far as you know, did Dominion make any
10 corrective, amended or supplemental filings to reflect
11 these changes in their application or their rebuttal
12 position between the date of filing the rebuttal and the
13 commencement of this hearing?

14 A. Not that I'm aware of.

15 Q. Thank you. No further questions.

16 COMMISSIONER LEVAR: Any recross?

17 MR. SABIN: No.

18 COMMISSIONER LEVAR: Okay. Commissioner
19 Clark, any questions?

20 EXAMINATION

21 BY COMMISSIONER CLARK:

22 Q. I have a question about pension expense.

23 A. Okay.

24 Q. And I really do, I'm sorry.

25 A. I have been doing this for 28 years and

1 pension accounting is probably one of the most complex
2 areas of accounting that I deal with.

3 Q. So setting aside intergenerational equity
4 concerns, am I right in thinking about this credit that
5 it's really not -- if we were to allow the company to do
6 what it wants to do, in other words, to bring it to zero
7 and not recognize in this revenue requirement
8 determination, to credit the \$5.4 million credit, if we
9 were to do that, would we deprive customers of the
10 benefit of the credit or just defer to some future time
11 when there is a positive expense? Wouldn't that credit
12 be recognized in rates, assuming we're setting pension
13 rates at regular intervals -- or assuming the revenue
14 requirement at regular intervals?

15 A. No, that would never be made up for in the
16 future because in a future rate case, the actuarial firm
17 will work with the company to determine the pension
18 expense in that case, and it will be how the numbers fall
19 out at that time based on a lot of factors.

20 But there is nothing that would defer this
21 5.4 or 5.2 on a Utah jurisdictional basis that would
22 defer that credit to get it back to customers in the
23 future. It would just be gone.

24 Q. Let's simplify this further and say that in
25 2021, there's a \$5.2 million expense and the

1 existing -- I'm thinking of it as a surplus in the
2 account. Maybe that is the wrong way to think about it.
3 But that surplus wouldn't then offset the need for
4 additional expense in the next year?

5 A. No. I believe you may be confusing the
6 amount of assets in the pension plan and how that impacts
7 the expense.

8 Q. I'm sure I'm confusing --

9 A. So when determining the annual amount of net
10 periodic pension costs, one of the factors used in
11 determining that amount is that you apply the company's
12 anticipated return on its pension plan assets. This is a
13 simplified analysis because in the actuarial
14 calculations, you get into market value of assets and you
15 may amortize gains and losses into that. So you don't
16 take actually the amount in the pension plan and apply
17 that 8.75, but that is a reasonable way to estimate the
18 impact in this case.

19 So in the next rate case, you still have
20 assets in that plan. Some may have been paid out to
21 retired employees, but you will have other assets in
22 there that, hopefully, would have grown if the company
23 has had a good return on that and then some, and so by
24 the next rate case, you then recalculate the actual
25 recalculate pension cost. And that will still be a

1 component, so you will still apply the estimated return
2 used in the pension calculations to the pension funds,
3 essentially.

4 So ratepayers will still continue to get the
5 benefit of the actual earnings on the cash in that plan
6 as a reduction or an offset to future pension expense as
7 part of a component of calculating that expense.

8 And I'm sorry that is a long answer, but
9 pension accounting -- we could sit here for a week and
10 talk about little intricacies about it and different
11 items impact it differently, but I hope that was
12 responsive.

13 Q. Thank you. That concludes my questions.
14 Thank you.

15 EXAMINATION

16 BY COMMISSIONER LEVAR:

17 Q. Okay. I think I have just one or two brief
18 questions. I'm looking at page 62 of your direct and let
19 me just get there.

20 A. I'm there.

21 Q. Okay. So toward the end of page 61,
22 beginning of page 62, I just want to make sure I
23 understand both of the points you are making with respect
24 to LNG case legal costs.

25 I mean, I understand your second point when

1 you look at just the very top of page 62 -- or starting
2 at the bottom of page 61. "The cost associated with
3 DEU's to tip to gain pre-approval of the LNG facility
4 should not be passed on to ratepayers and should not be
5 incorporated in annual base rates to be charged to Utah
6 ratepayers."

7 And then you go on to explain the second part
8 it. So the second part of it is clear to me. You are
9 making the case that those amounts should be removed from
10 the 2020 test year.

11 What do you mean by the first part, when you
12 say, "should not be passed on to ratepayers"?

13 A. Yes. In my direct testimony, the
14 recommendation that these be removed was twofold. I
15 believe I explained this in my direct, that at that
16 point, the company, in the 2018 docket -- and I believe I
17 might have cited or discussed the Commission order where
18 it was rejected, partly because of not being supportive.
19 And then the company turned around again and filed the
20 2019 case with additional information.

21 And at that point, the decision in that 2019
22 case hadn't come out. The Office was opposed to that
23 project. So that was one reason for removal. I didn't
24 view it as reasonable to past costs associated on with
25 that, particularly at that point in time when the 2018

1 docket had been rejected and prior to the decision of the
2 2019 case.

3 Since that time, by the time I wrote my
4 surrebuttal, the project had -- and I might be getting
5 the -- mincing the language a little bit, but
6 pre-approval from the Commission to proceed with that
7 project.

8 But it's still my opinion as expressed -- I
9 don't know if I expressed this in my direct answer
10 surrebuttal. It should be removed because it is not
11 reflective of your typical annual level of legal
12 expenditures that you would incur.

13 **Q. Okay. And that second part that you said, I**
14 **think, is clear in your testimony and in your positions.**
15 **I'm trying to make sure. Are you articulating in an**
16 **argument that any unsuccessful application should create**
17 **a presumption that the cost associated with the**
18 **application are -- somehow should not be passed on to**
19 **ratepayers? That is the phrase I'm trying to understand**
20 **of your testimony.**

21 **A.** In general, no, I wouldn't argue that. I
22 have argued in a rate case, in a different jurisdiction,
23 that when the company submitted a filing that wasn't
24 supported and, basically, shouldn't have been filed, and
25 the Commission agreed that they shouldn't recover the

1 cost associated with that case.

2 And I don't remember which -- it was a long
3 time ago in a different jurisdiction, and the Commission
4 had agreed those costs shouldn't be passed on to
5 customers.

6 But that -- I'm not saying that in this case.
7 At the time I wrote my testimony, it had been rejected in
8 2018, and then the company filed the application again.
9 But no, I'm not recommending that.

10 **Q. Okay. So at the risk of doing an asked and**
11 **answered myself, the phrase, "The cost of the LNG**
12 **facilities," quote, "should not be passed on to**
13 **ratepayers," should I interpret that in your direct only**
14 **to be referring to you suggesting to remove it from the**
15 **test year? Are you saying any more than that?**

16 A. Not in that sense, no.

17 **Q. Okay. That is the only question I have.**
18 **Commissioner White?**

19 COMMISSIONER WHITE: I have no questions,
20 thank you.

21 THE WITNESS: You're welcome.

22 COMMISSIONER LEVAR: Thank you for your
23 testimony this afternoon.

24 THE WITNESS: You're welcome.

25 COMMISSIONER LEVAR: We're ready for the next

1 witness.

2 MR. MOORE: The Office calls Daniel Lawton
3 and ask that he be sworn in.

4 DIRECT EXAMINATION

5 DANIEL LAWTON,

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

8 BY MR. MOORE:

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

11 A. Sure. My name is Daniel Lawton, and I'm an
12 economist who does rate consulting and also I'm a
13 practicing attorney, and I'm here today as a consultant.

14 Q. On whose behalf are you testifying today?

15 A. Today I'm providing cost of capital testimony
16 on behalf of the Office of Consumer Services.

17 Q. Have you viewed the DEU's application in this
18 case for various filings?

19 A. I didn't hear the question.

20 Q. I'm sorry, have you viewed the application in
21 this case of the parties' various filings?

22 A. I have indeed.

23 Q. Have you prepared or caused to be filed
24 direct testimony on October 17, 2019, with Exhibits 3.1
25 to 3.14?

1 A. Yes.

2 Q. Have you also supplied surrebuttal on
3 December 5th with Exhibit 3.1S to 3.11?

4 A. Yes.

5 Q. And you also filed Exhibit 3.13; is that
6 correct?

7 A. Could you repeat that?

8 Q. There was a supplemental exhibit filed, 3.13?

9 A. I believe so. I believe the Office did it to
10 correct some copying errors.

11 Q. Do you have any changes in your testimony you
12 would like to make today?

13 A. None that I'm aware of.

14 Q. If I asked you the same question in your
15 written testimony, would your answer be the same today?

16 A. They would indeed.

17 Q. You adopt this testimony as your testimony
18 today?

19 A. I do.

20 MR. MOORE: The Office would ask to admit the
21 testimony and accompanying exhibits.

22 COMMISSIONER LEVAR: Does anyone object to
23 the motion? Please indicate to me.

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

1 MR. MOORE: Thank you.

2 (Hearing Exhibits OCS 3 and 3S, plus
3 attachments, were marked for identification
4 but not received by court reporter.)

5 BY MR. MOORE:

6 Q. Are you prepared to give a summary today of
7 your testimony?

8 A. I am, and it will be a brief one as well.
9 Commissioners, you know, the details are certainly in the
10 direct and the surrebuttal testimony. My testimony here
11 today addresses the issue of cost of capital. That is
12 the company's capital structure, the company's cost rates
13 for debt and equity. And when it comes down to it, the
14 only issue that I dispute in this case is the cost of
15 equity.

16 The company, and you have heard testimony
17 from company witness Hevert, recommended a range of, I
18 think, 9.9 to 10.75, ultimately estimated 10.5 percent.

19 I have proposed in my testimony, both direct
20 and updated in my surrebuttal, a cost of equity capital
21 of 9.1 percent. Now, this is an important issue. You
22 heard a lot of numbers thrown around, so I'm going to try
23 to just hit the highlights.

24 But the difference between 9.1 percent return
25 on equity and a 10.5 percent return on equity is about

1 \$17.7 million of revenue requirement. Subtract off an
2 amount for income taxes, that's about 14.4 million in
3 profits. So that' the -- what's at stake with regard to
4 the numbers.

5 But given that my only dispute with the
6 company on the cost of capital in this case is the cost
7 of equity, I'm going to focus on the highlighted
8 differences between the company's proposed 10.5 percent
9 and my 9.1 percent recommendation. Now our starting
10 point for this case is 9.85 percent. That is the
11 authorized equity return from this Commission in the 2013
12 case. I think the decision was made at the end of the
13 year. Let's start at 2014.

14 Since that time, what has happened to the
15 capital market? Treasury rates at that time for U.S.
16 30-year yields, for U.S. Treasuries, were about 3.4
17 percent. Today, if you looked them up this morning, they
18 would have been at 2.2 percent. Cost of equity
19 authorized by Commissions around the country since you've
20 made your last decision have always come down, albeit a
21 lot less. The cost of equity seems to come down a little
22 more slowly than some of the interest rates.

23 But if you look at my OCS Exhibit 3.10, I
24 will just give you a quick reference, the authorized
25 rates of return in 2014 were 9.78 percent, and if you

1 look at them in 2018, to get a full year, apples to
2 apples, they are about 9.59 percent. So you have about a
3 20 basis point swing in the authorized equity return over
4 the period since the last case.

5 Now I address in my testimony that the
6 company's 10.5 percent request in this case is 65 basis
7 points above what you last authorized, yet the cost of
8 capital has been coming down since you made your last
9 decision. And another interesting point of reference for
10 you in analysis of this case is that we have five
11 parties, including the Division, submit costs of equity
12 in this case. They have already said the company's at
13 10.5 percent. All of the other parties -- if you assume
14 a 55 percent capital structure for equity, all of the
15 other parties are between 9 percent and 9.25 percent.
16 There is a cluster on one end.

17 So the other consideration is all the parties
18 in this case employ the same financial models. You have
19 heard about the discounted cash flow, the capital asset
20 pricing model, the bond yield risk premium and I won't go
21 through the detail of the model but everybody used them.
22 Yet you have one group in the 9 to 9.25 percent range and
23 one outliers at 10.5 percent, which seems to be the
24 company's position.

25 So to figure out what's happening here,

1 because everybody is using market data, to look at the
2 models -- and I have looked at and I pointed out in my
3 testimony where Mr. Hevert's models differ substantially
4 from what everybody else is doing in this case. I start
5 off by looking at -- and it is in my directive role, as
6 my surrebuttal testimony addresses most of these issues.

7 But in this DCF analysis, Mr. Hevert
8 calculated results as high as 28.83 percent cost of
9 equity. Well, that's just not reasonable. No Commission
10 is going to authorize that. Rather than exclude it, what
11 did he do? He averaged it.

12 And it's my position when you have outliers
13 like that, you try to average them away. All you do is
14 end up with a bad average. And you can go through his
15 DCFs and find a number of things. I highlight the 28.83
16 percent, and if you look at a surrebuttal, that number
17 changed to over 30 percent. That is just not reasonable.

18 The second problem with Mr. Hevert's models
19 is with regard to CAPM and his estimated capital asset
20 pricing model. In both of those and in his direct
21 testimony, he uses forecast of yields of over 4 percent.
22 Nobody is forecasting -- those forecasts have come down
23 and I think that inflates as a result.

24 But the key thing in those models is part of
25 that analysis that Mr. Hevert conducted, he had to do a

1 calculation of what's the market premium. And he
2 estimated the discounted cash flow from all the 500
3 companies in the S&P 500. Some of those companies, he
4 estimated a DCF that these investments would expect, some
5 of those numbers were as low as a negative 16 percent.
6 Some of those numbers were as high as a 115 percent
7 return on equity.

8 What does he do again? Mr. Hevert puts them
9 in his average. And I just think you have to sit back,
10 as an analyst, look at that kind of result and remove it.
11 When you correct his analysis, it truly comes out to
12 about 8.8 percent. When you correct his DCF analysis, it
13 comes out around 9.5 percent, and when you correct his
14 risk premium where he used the forecasted yields, it
15 comes out about 9 percent. Overall, he would be closer
16 to the group that I talked about earlier.

17 And it's just that an analyst has to use his
18 judgment. Mr. Hevert's judgment is to employ averages,
19 and I just don't think that does it and I think the
20 results in this case kind of show that.

21 Now, I would like to move on to bond ratings
22 and financial metrics. It is my position that a 9.1
23 percent return on equity will provide ample financial
24 metrics and cash flow. It is not only my position but if
25 you look at Mr. Hevert's rebuttal in this case, he agrees

1 with me.

2 And in my surrebuttal, I pointed out what
3 Mr. Hevert claims is that Mr. Lawton's 9.1 percent
4 doesn't provide enough cushion, enough profit cushion,
5 because if we don't -- if our costs go up or we don't
6 earn enough, we may fall out of that benchmark area.

7 Well, Commissioners, I have to totally
8 disagree with that because the profit cushion he is
9 asking for in this case is the difference between 9.1 and
10 10.5. That's \$14.4 million.

11 I don't know how you tell customers that we
12 recovered the cost -- we allowed the Commission to
13 recover the cost -- the company to recover their cost but
14 we had to give them a little extra cushion on profit. I
15 have never heard of such a thing, but that's in his
16 testimony and I address that in my surrebuttal.

17 Lastly, we have DEU's business and financial
18 risk. This company, and it is shown in a number of
19 exhibits in this case, has an infrastructure tracker, it
20 has a weather normalization, as well as decoupling and
21 these kinds of factors certainly protect cash flows. And
22 let me give you one example, and I pointed it out in my
23 testimony.

24 The infrastructure tracker alone, the
25 projections are that from the end of this rate case over

1 the next few years, they will have \$240 million of
2 investment, roughly, under the tracker and -- I guess
3 four years. And over that time, this company will be
4 allowed, on an interim basis, to increase its rates over
5 \$30 million, no matter what you do in this case. As long
6 as that infrastructure exists, the tracker, and they have
7 this investment, customers rates are going to go up over
8 \$30 million over the next three, four years.

9 Lastly, capital structure. I agreed with the
10 company's 55 percent capital structure in this case, and
11 I also pointed out that capital structure was a little
12 high. It is an anonymous result. Since the Tax Reform
13 Act at the end of 2017, companies across the country have
14 been boosting equity ratio because of the cash flow
15 impact. And more recently in 2018, a settlement was
16 reached and order passed by this Commission allowing the
17 company to increase their equity ratios beyond what was
18 agreed to in the merger/acquisition agreement in those
19 ring fencing provisions.

20 So I felt that if I adjusted the capital
21 structure -- I mean, what was the point of the
22 settlement -- and I know parties were not bound by that
23 settlement, but I just felt that you just made that
24 order, let's leave it at 55 percent, allow them to
25 improve those cash flows but let's set the rate of return

1 at the level it should be, at the market cost.

2 Last point before my conclusions, we've heard
3 a lot about the recent authorized equity returns are
4 about 9.7 percent. Actually, that exhibit, the AGA,
5 America Gas Association for 2019, it is 9.68. Well,
6 that's with a 52.52 percent capital -- equity capital
7 structure on average.

8 If you want to compare to a company with a 55
9 percent capital structure, that 9.68 percent has to be
10 adjusted downward by about 35 basis points, so it is
11 truly about 9.33. If you adjust for capital structure
12 because that reduces financial risk of the company.

13 So we have a cluster, just to conclude, of
14 all the parties and the 9 to 9.25 range, the recent
15 authorized returns for 2019, the evidence in the record
16 indicate about 9.33 percent when you assume a 55 percent
17 equity ratio, and then you have the company at 10.5,
18 which can't be explained other than the points I brought
19 up earlier. And that concludes my summary.

20 Thank you.

21 MR. MOORE: Mr. Lawton is now available for
22 cross and questions from the Commission.

23 COMMISSIONER LEVAR: Okay. I think it's a
24 good time for a ten-minute break right now, and then we
25 will come back and do any cross-examination questions.

1 (Whereupon, a break was taken.)

2 COMMISSIONER LEVAR: Okay. Looks like we are
3 ready to start.

4 And we are ready for cross-examination of
5 Mr. Lawton; is that right, Mr. Moore?

6 MR. MOORE: That's correct.

7

8 COMMISSIONER LEVAR: I will start with Major
9 Kirk, I think. Do you have any questions for this
10 witness.

11 MAJOR KIRK: Yes, sir, I do have a couple
12 questions.

13 CROSS-EXAMINATION

14 BY MAJOR KIRK:

15 Q. Good afternoon, sir.

16 A. Good afternoon, sir.

17 Q. I have a couple questions for you on your
18 capital structure in this case.

19 A. Yes, sir.

20 Q. You indicated in your summary that you didn't
21 make any changes to the company's 55 percent capital
22 structure; is that correct?

23 A. That is correct. I retained the 55 equity
24 ratio, 45 debt.

25 Q. And that 55 percent equity ratio, that was

1 based off of a settlement in the acquisition case that
2 took place approximately three years ago; is that
3 correct?

4 A. No, not quite. The company, DEU, requested
5 an amendment to the acquisition requirements and -- to go
6 above 55 percent, and I think that was decided in 2018.
7 I forget which month. And it was recently decided, so I
8 wasn't going to change it. I mean, what was the point of
9 that exercise and the Commission's efforts?

10 Q. You would agree that we now have test year
11 for 2020 numbers. Right?

12 A. I do.

13 Q. And so you could have performed analysis
14 based off the 2020 test year numbers to determine what
15 would be a fair equity ratio?

16 A. I did not, other than to say -- I mean,
17 typically, the equity ratios that you see coming in are
18 for gas utilities are around 52, 52.5 percent. I pointed
19 out in my testimony that this equity ratio is somewhat of
20 an anomaly because of the tax impacts. And I expect it
21 to go the other way, and that is why I just chose 55
22 percent.

23 Q. By "tax impact," you mean the Tax Cuts and
24 Job Act impact?

25 A. Yes. Yes, sir.

1 Q. And other utilities are impacted by that same
2 act. Correct?

3 A. That is true. And some of them have higher
4 equity ratios. Most of them have lower.

5 Q. And the current average, you agree, was
6 around 51 or 52 percent?

7 A. 52 to 52.5, somewhere in that range. Yes,
8 sir.

9 Q. But in this case, you still support your
10 opinion of 55 percent capital structure?

11 A. Yes. As I stated in my testimony, as well as
12 my summary, that the recent decision by the Commission,
13 the settlement of all the parties, albeit nobody is bound
14 in a rate case, that decision was just made for the
15 purpose of improving cash flows. So I said, "Why change
16 it now?"

17 Q. Thank you.

18 A. You're welcome, sir.

19 COMMISSIONER LEVAR: Mr. Mecham, any
20 questions?

21 MR. MECHAM: I have none, thank you.

22 COMMISSIONER LEVAR: Mr. Russell?

23 MR. RUSSELL: No, thank you.

24 COMMISSIONER LEVAR: Mr. Jetter?

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

1 COMMISSIONER LEVAR: Ms. Clark or Mr. Sabin?

2 MR. SABIN: Yes, thank you.

3 CROSS-EXAMINATION

4 BY MR. SABIN:

5 Q. I appreciate you being here today.

6 A. Oh, thank you. Good to meet you.

7 Q. Good to meet you. Would you open up
8 your -- there is a binder there behind you that has the
9 testimony for the parties in this proceeding -- or for
10 the Office -- or excuse me, I apologize.

11 A. This one?

12 Q. You have our own -- do you have your direct
13 testimony someplace there?

14 A. I do.

15 Q. Just refer to that. That will be easier.

16 A. When you say "that," that is --

17 Q. Your direct testimony, good clarification.

18 When you get your direct testimony, would you open it up
19 to page 34?

20 A. I am there.

21 Q. Okay. I will start at the very top of the
22 page, line 801. Your question is: "Have you reviewed
23 credit research reports for the company regarding credit
24 quality and corporate financial metrics?"

25 And the answer you provided is: "Yes, the

1 company's credit quality is not threaten or under
2 pressure of downgrade. I have discussed these issues
3 earlier with regard to a recent Moody's and S&P credit
4 reports."

5 That is what your testimony states there.

6 Right?

7 A. Yes, that is what it states.

8 Q. Yes. You're aware of having been in these
9 proceedings to some extent, that there was, in fact, a
10 credit downgrade?

11 A. There was indeed by, I believe, A2 to
12 A1 -- or A3. Excuse me, A3. I was going the other way.
13 I was off.

14 Q. That's okay.

15 A. But it was A2 to A3. There was a slight
16 downgrade, but that was to be expected, given, as I
17 recall, you were on negative watch throughout that time.

18 Q. Yes.

19 A. That is the ultimate result sometimes.

20 Q. Understood. Now if you grab that binder, in
21 that binder, there are three that -- actually, I will do
22 two exhibits. If you grab that, I will point you
23 directly to what I want to talk about.

24 A. Okay. Give me a tab number then.

25 Q. So it should be DEU Exhibit 1.05, which is

1 attached to Mr. Mendenhall's direct testimony.

2 A. And what was the number again, sir?

3 Q. Exhibit DEU 1.05. You may actually have it
4 right there. Is that --

5 A. This is the Moody's. I just went to Tab 5
6 and it looks like there is an R after it, so that would
7 be the rebuttal. Is that right?

8 Q. It's probably Tab 5 after the first -- it
9 might be that one you are looking at right there.

10 A. Okay.

11 Q. Is that dated January?

12 A. No. August 19, 2019.

13 Q. You are going to have to -- I apologize, you
14 are in the rebuttal testimony. If you move a little bit
15 forward to Mr. Mendenhall's direct testimony, it will be
16 Tab 5 to that.

17 A. I apologize.

18 Q. No, that is okay. It is a little confusing.

19 A. I'm there now.

20 Q. Okay. Perfect. This is a January 2019
21 Moody's report?

22 A. Yes, sir.

23 Q. And I want to just turn -- if you could turn
24 to page 2, I want to focus on the factors that could lead
25 to a downgrade. One of those -- the top factor was cash

1 flow to debt metrics below 20 percent on a sustainable
2 basis. Right?

3 A. I see that.

4 Q. And it was after this that there was a
5 downgrade; that is right, isn't it?

6 A. Yes.

7 Q. And one of the factors cited by Moody's for
8 the downgrade was this factor was not satisfied, there
9 wasn't cash available, the cash flow to debt metrics was
10 below 20 percent during that period of time?

11 A. I don't recall. Do you want me to look at
12 the --

13 Q. We will go there in a second.

14 A. Okay.

15 Q. Suffice it to say here, Moody's wants to
16 see -- to maintain this credit status, Moody's wants to
17 see sustained cash flow that is above 20 percent?

18 A. 20 percent or above.

19 Q. Or above. Thank you.

20 A. You are welcome.

21 Q. 20 percent or above. Right?

22 A. Yes.

23 Q. And now if you would turn with me to -- now
24 go to the rebuttal testimony there, and there, it's
25 Exhibit 1.01R, also to Mr. Mendenhall's testimony. It's

1 the rebuttal testimony there.

2 A. I think that is the one I had a moment ago.

3 Q. Yup, I believe that is right.

4 A. The August 19th opinion?

5 Q. Correct. That is the one.

6 A. Got it.

7 Q. Turn to the second page. I want to highlight

8 the "Factors that could lead to a certain downgrade."

9 Can you see that?

10 A. Yes.

11 Q. One of them is cash flow to debt metrics

12 below 16 percent on a sustained basis?

13 A. Yes, because we are one notch below lower.

14 Q. Right. So do you agree with me that Moody's

15 expectation appears to be that if you want to be up in

16 the A2 category where you were, you need to have cash to

17 debt ratio of 20 percent or higher, and if you want to

18 maintain the A3, you better be at 16 percent or higher?

19 A. Based on the analysis or the statements from

20 the prior Moody's and this Moody's, the answer is yes.

21 Q. Okay.

22 A. But you are in a fine place as it is at A3.

23 Q. Understood. Let's go now to your testimony.

24 Your direct testimony, you had an Exhibit 3.11.

25 A. I'm there.

1 Q. Okay. This is a chart you prepared as part
2 of your analysis; is that correct?

3 A. It is.

4 Q. I want to go down to the bottom half of the
5 page. There is a chart there that has an A, B, and C
6 Columns. Do you see that?

7 A. Yes.

8 Q. My understanding is the A Column is intended
9 to represent the company's requested capital structure
10 and a 10.35 percent ROE?

11 A. No.

12 Q. No?

13 A. It is actually 10.5. I think the 10.35 is
14 somewhat incorrect, and the 9.2 next to it, it should be
15 9.1.

16 Q. Okay.

17 A. So I did have corrections.

18 Q. Okay. I was going to ask you both of those
19 things, so I appreciate you clarifying.

20 So Column B is what you proposed; isn't that
21 right?

22 A. That's correct.

23 Q. So now if I go down to line 11 --

24 A. Yes, I'm there.

25 Q. -- that is intended to be the cash to debt

1 ratio number. Right?

2 A. Yes.

3 Q. So if we followed your proposal -- or let me
4 just say apparently, some of the other proposals might be
5 the same, but your proposal would result in a cash to
6 debt ratio of 15.61 percent?

7 A. That's cash flow from -- less dividends over
8 debt.

9 Q. But you, essentially, leave the company -- at
10 the end of the day, your operating cash would be -- to
11 debt ratio is 15.61?

12 A. Right.

13 Q. Right. Which is below what we just read in
14 Moody's would be required to maintain A3 status.
15 Correct?

16 A. I'm not clear which one -- sir, if you don't
17 mind, let's stay with my Exhibit OCS 3.11, and on lines
18 10 and 11, we have two cash flow to debt calculations.
19 One excludes dividends, that is the one on line 11, and
20 the one on line 10 doesn't. I don't know which cash flow
21 to debt ratio that we are referring to when we read that
22 part of the Moody's report, so maybe you can help me.

23 Q. Well, let me back up for a second. Do you
24 understand or can you accept, subject to check, that the
25 company has not issued any dividends?

1 A. I think I can accept that.

2 Q. Okay. So if you want to flip now back to the
3 Moody's report --

4 A. I'm there. Which one?

5 Q. I'm talking about the one in August with the
6 downgrade.

7 A. Yes.

8 Q. And we are on page 2.

9 A. Yes.

10 Q. It just says, "Cash flow to debt metrics
11 below 16 percent on a sustained basis." So we are not
12 dealing with dividends at all. What we are talking about
13 is the operating cash to debt ratio; isn't that right?

14 A. Right. And I took dividends out. On line
15 11, I presumed a dividend payment with a payout ratio, as
16 I recall, of 60 percent in that calculation.

17 Q. Okay. And why did you make that assumption?

18 A. Because most utilities do, in fact, pay
19 dividends, and this company will push dividends up to its
20 parent at different intervals as cash is available. And
21 so I just used an average payout ratio. I employed 60
22 percent, and that is what I took out on both line 11
23 Columns D and I.

24 Q. And so --

25 A. So if we want to get to a realistic

1 comparable number, then we should only be looking at line
2 10 and -- because you said the company is not paying out
3 dividends, and so we are at 24 percent and 22 percent,
4 meeting all the requirements for even an A2.

5 Q. Now, even if we were to dividend up, as has
6 been suggested by some of the other parties, to bring the
7 equity ratio down from its actual ratio at 60 percent,
8 down to something closer to 50 or 52 percent, which is
9 what some of the other expert witnesses have testified
10 about, that would employ your line 11, wouldn't it? At
11 that point --

12 A. Not necessarily. It just depends on how
13 you're going to do it over time and what kind of payout
14 ratio you are going to employ and --

15 Q. What did you assume? What did you assume on
16 line 11?

17 A. I assumed 60 percent. I also assumed 55
18 percent equity ratio in this case so you wouldn't have to
19 go to this. I mean, I'm on your side on that issue.

20 Q. And you'll notice, I'm not quibbling with you
21 on that issue.

22 My point is, if you are going to payout some
23 dividends and take that cash out of the operating
24 business to pay dividends, you are going to drop -- the
25 ratio of cash to debt will go down?

1 A. It should, yes.

2 **Q. And it could -- if we were to do what other**
3 **parties are suggesting, you could, in fact, be below the**
4 **16 percent, which is what would be required to sustain A3**
5 **status?**

6 A. Yes. Lots of things could happen. You are
7 asking, did I speculate? I don't know what is going to
8 happen. I mean --

9 **Q. Right. Okay. And I think you agree with me**
10 **on this. So you agree that the tax act has had a**
11 **significant impact on the available cash that -- the**
12 **company's availability of cash to do what it maybe would**
13 **have done in the past?**

14 A. That's a tricky question. You used the word
15 "significant" which is a very ambiguous term. The tax
16 act had an impact on cash flows, but whether it's
17 significant or not depends on the utilities.

18 **Q. Do you have an opinion here about the**
19 **reduction, how much it affected the company's**
20 **performance?**

21 A. In -- I think it's not as bad as some
22 utilities were hit by it, but it was impacted by the tax
23 act. And what we have to remember is the tax act is
24 turning around. In other words, DEU is going to have a
25 bigger rate base in the future because of the tax act,

1 because there is less deferred taxes -- that's when you
2 are going to start seeing that cash come back to DEU
3 after a few years.

4 **Q. Right. Perhaps in the next rate case.**
5 **Right?**

6 A. I am looking.

7 **Q. Okay. All right. I don't have any other**
8 **questions. Thank you.**

9 COMMISSIONER LEVAR: Any redirect?

10 MR. MOORE: No redirect.

11 COMMISSIONER LEVAR: Commissioner White, do
12 you have any questions?

13 COMMISSIONER WHITE: I have no questions,
14 thank you.

15 THE WITNESS: Thank you, Commissioner.

16 COMMISSIONER LEVAR: Commissioner Clark?

17 COMMISSIONER CLARK: No questions. Thanks
18 for bringing us up to date on your equity ratio, given
19 what you've sat through the last two days. Thank you.

20 THE WITNESS: Thank you, sir.

21 COMMISSIONER LEVAR: I don't have anything
22 else. Thank for your testimony this afternoon.

23 THE WITNESS: Thank you, Mr. Chairman. May I
24 be excused?

25 COMMISSIONER LEVAR: Yes.

1 Does the Office have any witnesses?

2 MR. MOORE: The Office has no more witnesses,
3 thank you.

4 COMMISSIONER LEVAR: Mr. Russell?

5 MR. RUSSELL: The UAE calls Mr. Kevin
6 Higgins.

7 DIRECT EXAMINATION

8 KEVIN HIGGINS

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

11 BY MR. RUSSELL:

12 Q. Good afternoon, Mr. Higgins. Would you tell
13 us your name and on whose behalf you are testifying?

14 A. My name is Kevin C. Higgins. I'm here on
15 behalf of Utah Association of Energy Users intervention
16 group.

17 Q. And did you prepare and cause to be filed
18 direct and surrebuttal testimony in this docket?

19 A. Yes, I did.

20 Q. And just to be more specific, direct
21 testimony, along with UAE Exhibit 1.1 through 1.8, and
22 surrebuttal testimony, along with UAE Exhibit 1.1S; is
23 that right?

24 A. That is correct.

25 Q. And do you adopt that pre-filed testimony as

1 your testimony in this proceeding?

2 A. Yes, I do.

3 Q. Do you have any proposed -- do you have any
4 changes to propose to that testimony?

5 A. I do not.

6 Q. Okay.

7 MR. RUSSELL: At this point, I will move for
8 the admission of Mr. Higgins pre-filed direct and
9 surrebuttal testimony, along with the associated
10 exhibits.

11 COMMISSIONER LEVAR: Okay. Please indicate
12 to me if anyone objects to the motion.

13 I am not seeing any objections, so the motion
14 is granted.

15 (Hearing Exhibits UAE 1 and 1S, plus
16 attachments, were marked for identification
17 but not received by court reporter.)

18 BY MR. RUSSELL:

19 Q. Mr. Higgins, before I have you provide us
20 with a summary of testimony, there is one line of
21 questions that I have for you. You have, I gather,
22 listened to the testimony, either on the audio feed or
23 live here in the hearing room; is that right?

24 A. That is correct.

25 Q. And have you listened to the testimony of

1 Mr. Felsenthal and also Ms. Ramas today regarding the
2 amount of pension expense that has been included in rates
3 since the 2013 general rate case?

4 A. Yes, I have.

5 Q. I would like to turn your attention to your
6 direct testimony, page 12 of your direct testimony, line
7 219. Do you have that?

8 A. Yes, I do.

9 Q. Okay. We will give everybody else a moment
10 to catch up.

11 In that line, you indicate that Dominion's
12 current Utah rates include \$7.9 million per year in
13 pension expense based on projected FASB's pension costs
14 at the time rates were last set in 2014. Do you have a
15 correction to make to that number?

16 A. I do not.

17 Q. Okay. And now we have heard Mr. Felsenthal
18 correct his testimony regarding the number that was
19 included in his pre-filed testimony, and that was not the
20 same as the number that you have here.

21 Do you want to explain why you think this
22 number is correct?

23 A. Yes. I do believe that Mr. Felsenthal's
24 original number was incorrect, so I do believe correcting
25 it was appropriate. However, I don't -- I do not believe

1 he corrected it to the right number. The \$7.9 million
2 referenced in my direct testimony cites to a Phase I
3 technical conference handout that the company had
4 provided.

5 However, I also corroborated that number with
6 my own records from that case, in which I was a witness.
7 And, in fact, I participated in the settlement agreement
8 in that case. And based on my experience in that case
9 and my knowledge of that case, the correct number, as I
10 understand it, in terms of what is the amount of pension
11 expense in a rates currently, is approximately \$7.9
12 million.

13 And if folks want to check the math on that,
14 I suggest they look at the company's response to DPU
15 19.03, Attachment 3 that was provided in that case. And
16 in that case, that attachment will show that the
17 company's original filed Utah revenue requirement for
18 pension expense was approximately \$10.8 million.

19 And the company updated that number with more
20 current information during that case, and the update was
21 approximately \$7 .9 million. And in that case, I made an
22 adjustment. I recommended an adjustment to simply move
23 to the updated number. It was not a complicated
24 adjustment. It was simply the difference between the
25 original filing and the updated filing.

1 And that adjustment was the adjustment that
2 was accepted in the settlement agreement that was
3 approved by the Commission. The adjustment was \$2.9
4 million approximately.

5 So as I understand the record of that case
6 and my participation in that case, my belief is that the
7 correct number that represents what is in rates today,
8 that customers pay for pension expense, is \$7.9 million.
9 I believe the number that Mr. Felsenthal originally used
10 that was incorrect was simply the Questar Gas portion of
11 pension expense, which was \$8.18 million.

12 However, pension expense also includes an
13 allocation of Questar Gas Corporate pension costs, and
14 that is why the total number that was in the revenue
15 requirement was, in fact, about 10.8 million, and the
16 updated number was 7.9 million, and the adjustment simply
17 corrected to move to the updated number.

18 **Q. Thank you for that. Have you prepared a**
19 **summary of your pre-filed testimony?**

20 A. Yes, I have.

21 **Q. Go ahead with that, please.**

22 A. Good afternoon, Mr. Chairman and
23 Commissioners, I'm recommending several adjustments to
24 DEU's requested revenue requirement.

25 First, I recommend adjusting Dominion's

1 nonlabor O&M expense to remove the inflation component.
2 In my opinion, utilities should not be rewarded for their
3 choice to use a future test period by being allowed to
4 build indexed inflation projections into their O&M
5 expense.

6 The primary justification for using a future
7 test period is to allow a utility with expanding rate
8 base the ability to avoid regulatory lag. This is a
9 significant benefit to the utilities. This benefit
10 should not be further enhanced through a cost cushion
11 that allows Dominion to immolate its baseline cost by
12 applying an index inflation factor through the end of
13 2020.

14 Instead, ratemaking should signal to Dominion
15 that it should strive to try to control its O&M cost
16 through increased operating efficiencies. Indeed, over
17 the past several years, in between rate cases, Dominion
18 has done just that. Now that we are in a rate case, it
19 is not reasonable to simply gross up the company's base
20 period cost by an inflation factor and pass these higher
21 projected costs onto customers. My adjustment reduces
22 the Utah revenue requirement by approximately \$1.9
23 million.

24 No. 2, I recommend a revenue requirement
25 adjustment of approximately \$5.3 million to account for

1 the negative pension expense that Dominion is expected to
2 experience in 2020. Sound ratemaking requires that my
3 adjustment be made. Dominion proposes that pension
4 expense be set at zero in this case, rather than
5 recognizing the negative pension expense in rates.

6 In Utah, and in most jurisdictions in my
7 experience, pension expense for ratemaking is based on
8 net periodic pension costs, calculated in accordance with
9 General Accepted Accounting Principles, or GAAP, with
10 some adjustments for capitalized labor. Dominion's
11 proposal would be a significant ad hoc departure from
12 this standard practice.

13 The company seems to -- appears to be seeking
14 a long-term arrangement in which customers would pay for
15 pension expense in rates when GAAP pension costs are
16 positive but would go without a credit in rates when GAAP
17 pension costs are negative. Such an asymmetrical
18 long-term arrangement is not reasonable.

19 Over the life of a pension plan, the
20 cumulative sum of GAAP pension cost, including negative
21 pension cost, is expected to equal the cumulative sum of
22 the company's funding contributions. This means that
23 setting customer pension cost responsibility in rate
24 equal to GAAP pension costs as is currently done ensures
25 that, by and large, customer rates will fully fund the

1 pension plan costs over the life of the plan.

2 Now, I use the qualifier "by and large,"
3 simply to call out or recognize what we all know, which
4 is that rates are not reset every year, so that the
5 pension expenses that is set in rates is -- doesn't
6 change until the next rate case. So that it's not going
7 to -- because of that and because of that alone, setting
8 pension expense equal -- pension expense in rates equal
9 to the GAAP pension cost will not exactly match the
10 contributions by customers over the life of the plan.
11 But if you did reset rates every year, it would.

12 So conceptually, the practice of setting
13 pension expense in rates equal to the GAAP pension cost
14 will achieve the desired outcome of having customers fund
15 the pension plan, over the life of the pension plan.
16 Selectively, zeroing out pension expense rate when GAAP
17 pension cost is negative, as proposed by the company,
18 will cause customers to overpay for pension cost over the
19 life of the pension plan. Embarking on such a practice
20 of systemic adverse selection is not reasonable.

21 Now in the alternative, if Dominion were
22 proposing to eliminate negative and positive pension
23 expense from ratemaking on a permanent basis, then I
24 believe the company's proposed treatment would be worth
25 consideration. However, the company indicates that it is

1 not supportive of such a permanent change. Therefore, in
2 the absence of such a commitment by the company, my
3 recommended adjustment should be adopted.

4 No. 3, the Commission should approve my
5 recommendations related to excess deferred income tax, or
6 E-D-I-T or EDIT, most of which, Dominion accepted in its
7 rebuttal testimony, including any recommendation to
8 credit customers with the amortization of plant-related
9 EDIT occurring between January 2019 and February 2020,
10 through an extension of Tax Reform Surcredit 3, which I
11 refer to as Tax Reform Surcredit 4 in my testimony.

12 One of my objectives of addressing EDIT in
13 this case was to ensure the benefit to customers from
14 amortizing plant-related EDIT, between January 2019 and
15 February 2020, did not slip through the cracks. This
16 goal was accomplished through the extension of the
17 surcredit.

18 A second objective was to change the
19 going-forward amortization of non-plant EDIT from 30
20 years, as initially proposed by the company in this case,
21 to ten years, to ensure more timely recognition of these
22 benefits to customers. But as I looked into these two
23 issues, I realize there were a couple of housekeeping
24 items relating to EDIT that also needed to be addressed.
25 Namely, A., updating the 2020 plant-related amortization

1 to DEU's latest estimate; and B., restating rate base to
2 reflect EDIT amortization starting January 1, 2018.

3 Dominion responded to my EDIT recommendations
4 in a very forthright and helpful manner, which is my way
5 of saying they accepted most of my proposal. The only
6 remaining difference between Dominion and UAE on this
7 issue is the amortization period for non-plant EDIT. DEU
8 is recommending 12 years, while I continue to recommend
9 that non-plant EDIT be amortized over a period not to
10 exceed ten years.

11 My recommended base revenue requirement EDIT
12 adjustment increases the Utah distribution non-gas
13 revenue requirement by about \$478,000. But it is
14 packaged with a 12-month extension of a tax reform
15 surcredit, beginning June 1, 2020, that would provide
16 customers with a credit of approximately \$3.6 million
17 over that period.

18 No. 4, I recommend that outside contractor
19 expenses be removed from the revenue requirement, as
20 identified in my testimony, and it is identified as a
21 confidential amount. The project that these expenses
22 pertain to are not related to distribution. No non-gas
23 service as far as I can tell. For that reason, it should
24 be removed from the distribution non-gas service revenue
25 requirement.

1 In addition to my revenue requirement
2 adjustment, I recommend the infrastructure tracker pilot
3 program remain at \$7.2 million level for 2020 and that
4 annual expenditures continue to be capped at that level,
5 without future adjustments for inflation, in order to
6 provide reasonable cost containment for the tracker
7 mechanism.

8 This cap does not preclude Dominion from
9 making prudent investments and replacing high pressure
10 feeder lines if the investment costs are in excess of the
11 cap. It merely restricts the amount of expenditures that
12 are eligible for tracker recovery.

13 And inflation adjustment is not needed
14 because this program consists of a series of unique
15 feeder replacement projects. The Commission should deny
16 the request to add automatic increases to the annual
17 expenditure amount that is eligible for single-issue
18 ratemaking treatment. As I believe, such mechanism
19 should be sparingly, if at all, and that concludes my
20 summary.

21 **Q. Thank you.**

22 MR. RUSSELL: Mr. Higgins is available for
23 cross-examination and Commission questioning.

24 COMMISSIONER LEVAR: Mr. Mecham, do you have
25 any questions for Mr. Higgins?

1 MR. MECHAM: I do not, thank you.

2 COMMISSIONER LEVAR: Thank you. Major Kirk?

3 MAJOR KIRK: Yes, sir, just briefly.

4 CROSS-EXAMINATION

5 BY MAJOR KIRK:

6 Q. Good afternoon, Mr. Higgins.

7 A. Good afternoon.

8 Q. In your testimony, you had recommended an ROE
9 of 9.7; is that correct?

10 A. That is not correct.

11 Q. That is not correct?

12 A. No. In my testimony, I presented what I call
13 a placeholder ROE or 9.7 percent and indicated that it
14 was not intended to supplant traditional cost of capital
15 analysis.

16 I did include it, however, as a placeholder
17 because not having some representation of potential
18 adjustment to return an equity distorts the revenue
19 requirement recommendation. And so for that reason, I
20 felt it was useful to put a placeholder, in which was
21 simply a median ROE that had been approved in the prior
22 12 months for distribution of gas utilities.

23 Q. So you didn't perform any analysis in coming
24 to that rate?

25 A. As I said, it was based on simply the median

1 of the approved returns on equity for distribution gas
2 utilities over the preceding 12 months. So there is a
3 minimal amount of analysis in determining what the median
4 was, but I did not present it as a specific
5 recommendation, nor did I present it as being, you know,
6 intended to supplant the traditional cost of capital
7 analysis.

8 Q. Thank you for that. The other parties that
9 do a cost of capital study analysis, have you reviewed
10 their testimony?

11 A. Only generally.

12 Q. Okay. You have no reason to disagree with
13 their conclusions in this case?

14 A. I have not offered an opinion on the quality
15 or conclusions of those other -- of those other
16 witnesses.

17 Q. Thank you.

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

20 MR. MOORE: No questions, thank you.

21 COMMISSIONER LEVAR: Mr. Jetter?

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

23 COMMISSIONER LEVAR: Okay. Ms. Clark or
24 Mr. Sabin?

25 MR. SABIN: We don't have any question, so

1 let the celebration begin.

2 COMMISSIONER LEVAR: Commissioner Clark?

3 COMMISSIONER CLARK: No questions.

4 COMMISSIONER LEVAR: Commissioner White?

5 COMMISSIONER WHITE: I have no questions,
6 thank you.

7 COMMISSIONER LEVAR: I don't think I have
8 anything else for you. Thank you for your testimony here
9 this afternoon.

10 THE WITNESS: Thank you.

11 COMMISSIONER LEVAR: Anything further from
12 anyone? Okay. We will then take the Phase I issues
13 under advisement.

14 I hope no one is anticipating a Phase I order
15 before the Phase II hearing. If you are, please get your
16 reasons in writing to us ASAP because that is not what we
17 are anticipating.

18 But we will see all of you next month at the
19 beginning of the Phase II hearing.

20 Thank you. We are adjourned.

21 (The hearing was adjourned at 3:40 P.M.)

22

23

24

25

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

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