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Office of Consumer Services

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To: The Public Service Commission of Utah

From: The Office of Consumer Services

Michele Beck, Director
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Date: March 15, 2021

Subject: Docket 19-057-02 Comments

In the Matter of: Prudence Review of Investments Related to Dominion Energy Utah's Infrastructure Program

INTRODUCTION

In Docket No. 19-057-02, the Office of Consumer Services ("OCS") asked the Utah Public Service Commission ("PSC") to clarify the intent and timing of the prudence review of investments related to Dominion Energy Utah's ("DEU") Infrastructure Tracker Program ("ITP"). In the February 25, 2020 Report and Order, the PSC found this request reasonable as the only guidance on the subject had been part of an approved Stipulation in Docket No. 09-057-16.

In accordance with the PSC's January 13, 2021 Request for Comments, the OCS submits these comments and recommendations regarding the prudence review of investments related to DEU's Infrastructure Tracker Program.

DISCUSSION

Overview of OCS Concerns

The ITP was designed to allow DEU to track and recover costs, outside of a general rate case, directly related to the replacement of aging infrastructure through an incremental surcharge. In Docket No. 09-057-16, the PSC issued an order outlining an evaluation plan for the ITP to be completed by the Utah Division of Public Utilities (“DPU”). One of the criteria requested, “[I]dentification of when the prudence of the Company’s investments covered under the Infrastructure Tracker will be reviewed and evaluated.”¹

The OCS is genuinely unclear on the intended details of the prudence review and the appropriate timing of the review and asked the PSC for clarification. For example, the OCS has not been able to determine when the prudence review will occur, as required by the PSC order in Docket No. 09-057-16 cited above.

The OCS is concerned that at least in some cases, statements about future prudence reviews are being used as a fail-safe. These statements appear to imply that an affirmative prudence review will be conducted on all ITP investments prior to being included in base rates (i.e. in a general rate case), though that does not appear to be the case based on the DPU’s actual statements in various dockets. For example, in the most recent Action Request Response issued December 8, 2020 regarding the DEU Infrastructure 2021 Annual Plan and Budget, the DPU states that its recommendations should not be construed as “an endorsement or preapproval that these costs are prudently incurred or should be recovered in the ITP”² As another example, the DPU memo analyzing the 2018 filing of the updated master project list stated, “this recommendation should not be construed in any way as an endorsement or preapproval that these costs or actions are prudent, necessary or in the public interest”³

To date, there have been two audits completed by the DPU which are filed under the general rate case dockets of 09-057-16 and 13-057-05. The June 28, 2016 Audit Memorandum suggested “at the time of the next general rate case the costs associated with the Tracker be included, subject to final prudence review, in general rates.”⁴ The more recent August 14, 2019 Audit Memorandum indicated “The

¹ Docket No. 09-057-16 Order on Infrastructure Tracker Pilot Program Evaluation Plan, March 11, 2013, page 5, Appendix A IX.

² Docket No. 20-057-22 DPU Action Request Response, December 8, 2020.

³ Docket No. 17-057-25 DPU Action Request Response, June 22, 2018.

⁴ Docket Nos. 09-057-16 and 13-057-05, DPU Audit of Questar Infrastructure Tracker Pilot Program, June 28, 2016, page 5.

Division recommends the costs reported in the Tracker be included in rates, subject to a final prudence review in the next general rate case.”⁵ It is not clear whether this statement from the DPU’s August 14, 2019 memo referred to the rate case that DEU had recently filed (Docket No. 19-057-02) or a future rate case. Presumably the June 28, 2016 audit memo did refer to the 2019 rate case as it was the only general rate case filed since the date of the memo. Either way, the DPU did not file any testimony in Docket No. 19-057-02 that directly addressed prudence⁶ of previous ITP investments.

General Rate Case, Docket No. 19-057-02

Due to the ambiguity described above, the OCS inquired the DPU about the prudence review specifics during the last DEU general rate case, Docket No. 19-057-02. The OCS’s data request 1.1 asked which investments would be reviewed for prudence in that docket. The DPU responded by stating, “The parties remain able to review all investments under the tracker since the past general rate case for prudence.” The data request further inquired about what the prudence review would entail, to which the DPU responded:

“The Division reviews the semi-annual Tracker filings and makes judgmental determinations about whether to make a more in-depth review of the program or specific projects. In the event such a more in-depth review is undertaken, the Division would make additional requests for information from the utility. It would evaluate the utility’s actions and determine whether, in the Division’s opinion, they were prudent. That prudence determination may involve reviewing engineering decisions, project timing and priority decisions, expenditure levels, and others.”⁷

Finally, the data request also asked the DPU to provide conclusions from any prudence reviews of ITP investments conducted by the DPU. The DPU responded that its conclusions were included in the memos and testimony filed with the PSC,

⁵ Docket Nos. 09-057-16 and 13-057-05, DPU Audit of DEU Infrastructure Tracker, August 14, 2019, page 2 and 5.

⁶ In Docket, 19-057-02, DPU witness Jeffrey Einfeldt indicated that, “The Division reserved the right to suggest adjustments to the Pilot Program costs subject to further overall prudence review conducted during the general rate case” (Direct Testimony, lines 57-59), but no witness testified regarding actual prudence of investments made through the ITP.

⁷ Docket No. 19-057-02 OCS to DPU Data Request 1.1.

and “[t]he Division does not prepare findings or a report of general prudence reviews that do not involve a request for action by the Public Service Commission.”⁸ It was for this reason, the OCS asked the PSC to clarify the intent and timing of a prudence review of ITP investments.

Overview of Process

The process of reporting and analyzing ITP investment is not as straight forward as it could be. The OCS’s current understanding of how the ITP is addressed in various dockets is as follows.

- *Integrated Resource Plan*: The ITP is only addressed at a high level and is not treated consistently across different years’ IRP filings.
- *Annual Plan and Budget*: DEU files the Annual Plan and Budget no later than November 15 of each year. The PSC docket the filing and issues an Action Request to the DPU for review of compliance and recommendations. As discussed above, the recommendations are subject to a final prudence review in the next general rate case.
 - DEU then provides the Master List of Projects by June 30 (previously April) and requests that a technical conference be scheduled.
 - DEU files quarterly progress/variance reports showing the actual ITP expenditures compared to the budget and describing any material differences from the current budget and schedule.
- *Tariff Rate Adjustment Filings*: The Infrastructure Rate Adjustment Tracker tariff provides that DEU may file semi-annually, but at least annually, adjustments to the ITP surcharge.⁹ Each of these filings is docketed separately.
- *General Rate Case*: When DEU files a general rate case the previous ITP investment recovered through the surcharge is put into base rates and the ITP tracker is reset.

At this point, stakeholders other than the DPU would need to analyze the various plans, budgets and master lists previously filed in separate dockets to gain an understanding

⁸ Docket No. 19-057-02 OCS to DPU Data Request 1.2.

⁹ DEU Utah Natural Gas Tariff PSCU 500, Section 2.07, page 2-16.

of the details of the ITP. To be fair, the process has evolved over time and the OCS did not attempt to document all of the changes.

The OCS believes that in totality DEU is likely providing adequate information on the ITP, and the DPU is likely conducting sufficient analysis. However, the result does not serve the public interest in providing an adequate or comprehensive review of the ITP investments. For example, there has been no formal affirmative statement on the prudence of the ITP investment. In addition, the reporting/review process is neither easy to follow nor consistently transparent. Given the significant dollars that are being added to DEU's rate base through this tracker, the PSC should ensure that the review is better documented and easier for interested stakeholders to understand and follow.

Ideas for Enhancing the Process

In the general rate case in Docket No. 09-057-16 DEU explained that “[r]eplacing this type of aging infrastructure will take many years and will occur incrementally through that period.”¹⁰ For this reason, a multi-step prudence review would be appropriate. This process could involve both pre-construction and post construction review for prudence, with a final determination of prudence in a general rate case.

Following Docket No. 13-057-05, DEU agreed to “further enhance the reporting of pipeline replacement and scheduling as it developed its “Master Lists” of high pressure (“HP”) and IHP pipelines and criteria used in developing replacement schedules.”¹¹ After the OCS sorting through the various dockets, it appears that DEU is reporting the information necessary to evaluate the ITP, albeit straddling calendar years and sometimes in different dockets. Additionally, based on what OCS has learned from discussions with DEU it appears that the DPU is already conducting a rigorous review of the ITP, though not reporting its work in a way that is accessible to other stakeholders such as the OCS.

The OCS recommends that process improvements could include the following:

- DEU should update its tariff to include the new deadline for provision of the Master List of Projects, and add text to explain the complete process rather than simply reference multiple filings in different paragraphs of the tariff.

¹⁰ Docket No. 09-057-16, QGC Direct Testimony of Barrie L McKay, page 13.

¹¹ Docket No. 19-057-02 Direct Testimony of Kelly B. Mendenhall, lines 470-472.

- After the DPU reviews the Annual Plan and Budget and/or the updated Master List of Projects, it should file with the PSC a specific assessment of the prudence and appropriateness of the plan. Such assessment would not constitute recommendation of pre-approval and would be subject to DEU's prudent implementation of the projects and appropriate cost accounting, both of which would be reviewed in subsequent dockets.
- The DPU audits could be clarified that they relate solely to the accounting (of costs?), if indeed that is the case.
- Whether DEU's implementation of ITP projects is prudent could be reviewed in part when DEU files updates in its quarterly reports and/or in the following year's Annual Plan and Budget. (The tariff could clarify when such information is reported.)

The OCS envisions that a final determination of prudence will remain in the general rate case, but would be less cumbersome when incremental reviews are performed prior to the rate case. Both the PSC and other stakeholders would benefit from additional information gathered from the review conducted at the time of filings, which could both point to areas that warrant additional attention in the rate case and provide confidence that in total the oversight has been appropriate to the level of costs. The OCS acknowledges that prudence does not mean that every aspect of every ITP project is scrutinized, but enhancing the transparency and reporting of the prudence review that is conducted would be an improvement to ensuring the public interest is maintained. Finally, the OCS notes that its recommendations for process improvements represent its best understanding of what takes place. It may be that DEU or DPU could propose specific changes that better meet the public interest. In the end, the OCS simply seeks a process that provides transparency into the prudence reviews that are being conducted as well as sufficient oversight to justify the large amount of investments coming into rates through a tracker rather than in a general rate case.

RECOMMENDATIONS

The OCS recommends that the PSC take the following actions:

- Provide guidance on the proper timing and filings for the DPU to review prudence of the ITC projects, possibly in a multi-step process;

- Require the DPU to provide more transparent reporting of the prudency reviews it conducts;
- Require DEU to update its Infrastructure Rate Adjustment Tracker tariff to incorporate a better description and timeline of all related filings.

cc: Docket 19-057-02 Service List