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dba Dominion Energy Utah*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

IN THE MATTER OF THE FORMAL COMPLAINT OF ALAN KRUCKENBERG CONSTRUCTION AGAINST DOMINION ENERGY UTAH	Docket No. 19-057-24  <b>MOTION TO STRIKE PORTIONS OF COMPLAINANTS REPLY</b>
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Respondent, Questar Gas Company dba Dominion Energy Utah (“Dominion Energy” or “Company”), respectfully moves the Utah Public Service Commission (“Commission”) to strike portions of *Alan Kruckenberg Construction’s* (“Kruckenberg Construction”) Reply on the basis set forth below.

**PROCEDURAL HISTORY**

1. On June 5, 2019, after having engaged in the informal dispute resolution process at the Division of Public Utilities (“Division”), “Kruckenberg Construction” filed a formal complaint with the Commission. That Complaint was addressed in Docket No. 19-057-15. Dominion Energy filed a response to that Complaint on July 3, 2019 and Kruckenberg Construction failed to file any reply.

2. On August 1, 2019, the Commission issued an Order Dismissing Complaint in Docket No. 19-057-15. On August 12, 2019, Kruckenberg Construction filed a Request for

Review and Rehearing (“Request for Rehearing”). On August 30, 2019, the Commission issued an Order Denying Request for Rehearing based on the belief that Kruckenberg Construction had failed to serve Dominion Energy. Subsequently, the Commission issued a Notice of Filing and Comment Period determining that Kruckenberg Construction’s request for rehearing raises a new issue “pertaining to whether DEU failed to properly fill a trench with sand or other compactable fill,” and determined it would treat the new information as a new complaint. The Commission opened this docket to address that new assertion.

3. On October 4, 2019, Dominion Energy filed its answer to the Kruckenberg Construction complaint filed in Docket No. 19-057-24.

4. On October 21, 2019, Kruckenberg Construction filed its Reply to Dominion Energy’s Answer.

5. In its reply, Kruckenberg Construction included allegations related to settlement discussions between the Company and Kruckenberg Construction.

#### **MOTION TO STRIKE**

Utah Rule of Evidence 408 provides “Evidence of the following is not admissible to prove or disprove liability or the validity or amount of a disputed claim . . . furnishing, promising, or offering – or accepting, promising to accept, or offering to accept – a valuable consideration in order to compromise or attempt to compromise the claim; and . . . conduct or a statement made in compromise negotiations.” Utah R. Evid. 408. Kruckenberg Construction’s reply was replete with just such evidence. Therefore, the Company respectfully requests that the portions of Kruckenberg Construction’s reply and accompanying exhibits be stricken because they contain allegations pertaining specifically to compromise negotiations. All such information is inadmissible in this action under Rule 408 of the Utah Rules of Evidence.

Specifically, Dominion Energy requests that the Commission strike the following from the record:

1. Those paragraphs highlighted in the Kruckenberg Construction Reply which is attached hereto as Exhibit "A."
2. Kruckenberg Construction Reply Exhibits numbered 5, 6, 7, 8, 9, 10, 11, 12, 17, 18, 19 and 20.
3. Kruckenberg Construction Exhibit Number 14, highlighted paragraphs only, as shown in DEU Exhibit "B."

Based on the foregoing, the Company moves to strike all statements related to compromise negotiations in the Request for Rehearing.

DATED: October 25, 2019.



Jenniffer Nelson Clark  
Questar Gas Company dba Dominion Energy Utah  
*Attorney for Dominion Energy Utah*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **DOMINION ENERGY'S MOTION TO STRIKE** was served by email upon the following as set forth below on October 25, 2019:

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