
Application of Dominion Energy Utah to Extend Service to Green River, Utah	<u>DOCKET NO. 21-057-12</u> <u>ORDER APPROVING SETTLEMENT</u> <u>STIPULATION</u>
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ISSUED: January 19, 2022

SYNOPSIS

The Public Service Commission (PSC) approves a Settlement Stipulation that resolves the Application of Dominion Energy Utah to Extend Service to Green River, Utah.

1. PROCEDURAL HISTORY

On June 11, 2021, pursuant to Utah Admin. Code R746-440-1(2)(a) and 2(b), Dominion Energy Utah (DEU) filed a notice with the PSC of its intent to file a voluntary request for approval of a resource decision under Utah Code Ann. §§ 54-17-401 *et seq.* (“Voluntary Resource Decision Act”) to expand its natural gas distribution system to the rural community of Green River, Utah.

On August 5, 2021, DEU filed its application and supporting testimony and exhibits¹ (“Application”) seeking, among other things, (a) approval of its decision to purchase existing facilities, modify interconnect facilities associated with Northwest Pipeline (“NWP”), and build natural gas infrastructure to extend service to Green River, Utah; (b) a Certificate of Public Convenience and Necessity (“CPCN”) to serve Green River, Utah and surrounding areas; and (c)

¹ DEU Exhibit 1.02 to the Direct Testimony of Austin C. Summers outlines the location of the information that DEU included to meet the requirements of the Voluntary Resource Decision Act. The Application is supported by testimony and exhibits filed by DEU witnesses Austin C. Summers, R. Scott Messersmith, and Jeff Bybee, as well as Green River Mayor Travis Bacon.

permission to recover the associated costs through the rural expansion rate adjustment tracker set forth in Section 9.02 of DEU's Natural Gas Tariff No. 500 (the "Rural Expansion Tracker").

On October 29, 2021, the Division of Public Utilities (DPU) filed the direct testimony and exhibits of Jimmy Betham and Russell Cazier. On November 29, 2021, DEU filed a motion to modify the Amended Scheduling Order to vacate the remaining testimony filing deadlines and change the December 16, 2021 in-person hearing to a virtual one, which the PSC granted. No party filed a petition to intervene.

On December 10, 2021, DEU and DPU jointly submitted a Settlement Stipulation resolving the issues raised in the docket (the "Settlement").

On December 16, 2021, the PSC held a hearing during which DEU and DPU provided testimony in support of the Settlement.

2. BACKGROUND

a. The Application

According to the Application, the proposed Green River infrastructure project includes the (1) purchase of an existing 21.2 mile 16" diameter pipeline that interconnects with NWP, and the (2) construction of approximately 17 miles of additional 6" high pressure (HP) pipeline, two district regulator stations, one on each side of the Green River, and approximately 73,000 feet of intermediate high pressure ("IHP") mains and approximately 24,000 feet of IHP service lines throughout Green River (the "Green River Infrastructure Facilities").²

² The Application, at ¶ 12.

The cornerstone of the Green River Infrastructure Facilities is DEU's purchase of the pipeline that is currently subject to a Hazardous Facilities Order ("HFO") issued April 10, 2019 in Docket No. 18-2602-01, against its then-owner and operator Pacific Energy & Mining Company (the "PEMC pipeline"). DEU requests approval of the related Conversion to Service Plan³ and the discontinuation of the HFO and other pipeline restrictions, as well as a declaration from the PSC that DEU is not responsible to pay the associated HFO fine. DEU explains that upon approval of the Application, the PEMC pipeline and the operation of the line "would be in compliance with all federal and state requirements, and the PEMC [Pipeline] Restrictions would no longer be necessary."⁴ Specifically, DEU states that the twelve violations referenced in the HFO "would either abate immediately upon closing of the purchase of the line ..., or would be fully resolved ... [before] or through the due diligence, investigation, and actions included in [DEU's] Conversion to Service Plan."⁵ Finally, DEU explains that its purchase of the PEMC pipeline and the acquisition of the Green River Infrastructure Facilities is contingent upon approval of all of its requests in the Application.

DEU states it identified Green River as a good candidate for natural gas service in part because "it is in a unique position along I-70 and could see industrial and commercial growth if affordable energy sources were available."⁶ DEU asserts that its personnel can operate the system in the community, and that government leaders support the facilities due to their

³ The Conversion to Service Plan, attached to the Application as Exhibit 2.08, is the framework that DEU will follow to bring the PEMC pipeline back into service and includes pre-design work, investigative field work, final measures before commissioning the line, and steps to be taken to commission the line.

⁴ *Id.*, at ¶ 14.

⁵ *Id.*, at ¶ 15.

⁶ *Id.*, at ¶ 4.

communities' desire for natural gas service and for greater opportunities for growth and economic development.⁷ DEU explains that it confirmed the widespread support for the Green River Infrastructure Facilities through outreach efforts including by hosting meetings, issuing surveys, holding virtual open houses, and other activities, as set forth in more detail in the Application and supporting testimony.

According to DEU, the estimated costs of the Green River Infrastructure Facilities equates to an annual bill impact for customers of \$2.77, or 0.39 percent.⁸ To recover the Green River Infrastructure Facilities' costs, estimated in the confidential testimony and exhibits of DEU witness R. Scott Messersmith, DEU proposes to use the Rural Expansion Tracker.

b. The Settlement

The Settlement resolves all issues raised in the docket. Among other things, the signatories to the Settlement agree that the PSC should (1) approve DEU's resource decision to acquire and construct the Green River Infrastructure Facilities, including the purchase of the PEMC pipeline; (2) grant DEU a CPCN to offer natural gas service to Green River, Utah and the surrounding areas; (3) allow DEU to recover the costs related to the Green River Infrastructure Facilities through the Rural Expansion Tracker; (4) approve the Revised Conversion to Service Plan, attached to the Settlement as Exhibit A; (5) lift the HFO and Pipeline Restrictions; and (6) declare that DEU is not responsible to pay for the fine levied against the operator of the PEMC Pipeline in the HFO.

⁷ *Id.*

⁸ *Id.*, at ¶ 13.

The signatories also agree, among other things, that (1) DEU will file copies of any necessary permits obtained for construction of the facilities; (2) if the costs of the Green River Infrastructure Facilities exceed the confidential cost estimates set forth in Confidential DEU Exhibit 2.14 and in the confidential direct testimony of Mr. Messersmith, DEU will seek PSC approval before including them in the Rural Expansion Tracker, subject to the cost recovery limitations in Utah Code Ann. § 54-17-403(1)(c)(i); and (3) based on the original cost estimates for the facilities included in the direct testimony of Mr. Messersmith, the increase in DEU's base distribution non-gas revenue will not exceed the statutory limits outlined in Utah Code Ann. § 54-17-403(c). Finally, the signatories agree the Settlement is in the public interest and the results are just and reasonable.

c. Testimony at Hearing

At hearing, DEU witness Mr. Summers testified that “[t]hough this would be new infrastructure in a new rural community [of Green River, Utah], the resource decision is nothing more than a continuation of the program that was approved in the Eureka and Goshen docket[s] ... [and that] [t]he only difference in this docket is the purchase of the PEMC pipeline.”⁹ He testified that his direct testimony addresses “the evidentiary requirements for the resource decision, discuss[es] how and why [DEU] chose Green River as the next expansion location, explain[s] how many customers are expected to participate, how costs would be recovered, and [also] provide[s] other relevant financial and operational information.”¹⁰

⁹ December 16, 2021 Hr’g Tr. at 8.

¹⁰ *Id.*

Mr. Summers also testified that DEU witness Mr. Messersmith’s testimony “explains the scope of the project, [the] construction schedule, the cost of the project, [the] commissioning of the PEMC pipeline, and the geographic results of the community’s interest in natural gas.”¹¹ He then briefly described the testimony of Mr. Bybee and Mayor Bacon in support of the Application,¹² asserting that “[t]aken together, the evidence provided shows that the resource decision is just and reasonable in result and that approval of the [A]pplication is in the public interest.”¹³

In regard to the Settlement, Mr. Summers testified that “[it] largely accepts [DEU’s] proposal as filed.”¹⁴ He also summarized key terms and conditions including, without limitation, that the PSC should (1) authorize DEU’s purchase of the PEMC pipeline and its revised Conversion to Service Plan, (2) lift the HFO and the Pipeline Restrictions, and (3) declare that DEU will not be responsible for the fine in the HFO levied against the operator of the PEMC pipeline.¹⁵

DPU witness Mr. Cazier testified that “overall, the infrastructure expansion meets the requirements of [Utah Code Ann. §] 54-17-401, et seq., and is just and reasonable in result and ... in the public interest.”¹⁶ Mr. Cazier also testified “the [Settlement] contains conditions that are just and reasonable in result and in the public interest[,] ... [and that] [DPU] requests the [PSC] approve the [Settlement] as filed.”¹⁷

¹¹ *Id.*

¹² *Id.*, at 9.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*, at 9-10.

¹⁶ *Id.*, at 14.

¹⁷ *Id.*, at 15.

DPU witness Mr. Betham testified that he “participated in [the] docket on behalf of [DPU] and its pipeline safety section[,]”¹⁸ ... [and that they] ... reviewed the [A]pplication[,] ... submitted pipeline-safety-related data requests[,] ... conducted a detailed review, discussion, and analysis of the [A]pplication, testimonies, and pipeline-safety-related data request responses.”¹⁹ Mr. Betham further testified that “[a]s a result of ... settlement discussion[s] [and the Settlement], ... the [Conversion to Service Plan] was revised ... [and DPU] signed the [Settlement].”²⁰ He explained that DEU agreed to all of the recommendations regarding the Conversion to Service Plan that he made in direct testimony, and that “[t]he [S]ettlement satisfactorily resolves the issues in th[e] docket, concerns and conditions identified in [his] testimony,²¹ and makes other improvements to the [A]pplication and the [Conversion to Service Plan] as filed.”²² He testified that “... from the pipeline safety perspective, taken as a whole, the [S]ettlement is just and reasonable in result and in the public interest[,] ... and [that he] recommend[s] the [PSC] approve the [S]ettlement and its [attached] revised [Conversion to Service Plan]”²³

Specifically, Mr. Betham testified that DPU inspects DEU’s procedures and records annually and is confident that the items identified in the HFO are not an issue with DEU since DEU already addresses the items as part of its standard practices,²⁴ and that DPU has worked

¹⁸ *Id.*, at 17.

¹⁹ *Id.*

²⁰ *Id.*, at 19.

²¹ For example, in direct testimony, Mr. Betham stated that the Conversion to Service Plan needed to include additional details regarding the determination of the maximum allowable operating pressure, MAOP, and notification and communications. Hr’g Tr. at 19.

²² *Id.*

²³ *Id.*, at 22.

²⁴ *Id.*, at 20.

with DEU many years and has not encountered the issues that require the imposition of the penalty in the PEMC docket.²⁵ Finally, Mr. Betham testified that to the best of his knowledge, the PEMC pipeline currently does not pose a safety concern.²⁶

The PSC heard no opposition to the Settlement at hearing or otherwise.

3. DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW

a. The Voluntary Resource Decision Act

The Voluntary Resource Decision Act under Utah Code Title 54, Chapter 17, Part 4 gives utility companies the opportunity to seek the PSC's approval of a "resource decision" to acquire a resource that is involved in energy production, transmission or distribution, including "rural gas infrastructure development." *Id.*, at §§ 54-17-401(1)(b)(i)(C) and 54-17-401(1)(c). It requires our approval of the state's share of the costs the utility company incurs to implement the approved resource decision. *See, e.g., id.* at § 54-17-403. To qualify for inclusion in the utility's base rates, the estimated costs of the proposed project must be within the statutory caps set forth in § 54-17-403(1)(c) of the Act. Specifically, the Act limits the inclusion of natural gas infrastructure development costs to no more than a two percent increase in the utility's base distribution non-gas revenue requirement in any three-year period.

In evaluating whether to approve a resource decision, we must determine whether (i) the decision complies with applicable statutes and rules and (ii) is in the public interest. *Id.* at § 54-17-402(3). A utility company must provide, in its request for approval, a description of the proposed rural gas infrastructure development project, an explanation of projected benefits from

²⁵ *Id.*

²⁶ *Id.*, at 23.

the proposed project, the estimated costs of the proposed project, and any other information the PSC requires. *Id.* at § 54-17-402(2)(c).

In specific consideration of the requirements of the Voluntary Resource Decision Act, the PSC finds and concludes DEU filed all of the information required by, and met its burden under, the Act, as confirmed by DEU witness Mr. Summers' direct testimony and his testimony at hearing. In addition, the PSC finds that the proposed costs referenced in the confidential direct testimony and attached exhibits of DEU witness Mr. Messersmith, are within the statutory cap set forth in § 54-17-403(1)(c) of the Act and therefore qualify for inclusion in DEU's base rates, as confirmed by DPU witness Mr. Cazier's direct written testimony and his testimony at hearing, and as further confirmed by the signatories in the Settlement. The evidence also supports our finding that DEU's resource decision to build the Green River Infrastructure Facilities is in the public interest.

b. Hazardous Facilities Order

The PEMC pipeline is subject to the HFO, a subsequent related notice (the "HFO Notice") in Docket No. 18-2602-01, and related restrictions (collectively, the "Pipeline Restrictions").²⁷ In the HFO Notice, we indicated that "[w]hile the HFO contained directives and penalties specific to PEMC, anyone who operates the [PEMC] [p]ipeline without successfully

²⁷ On January 31, 2020, for example, we issued a Second Hazardous Facilities Order in Docket No. 18-2602-01, which we later titled a "Compliance Review Order", indicating that the penalty that was originally assessed against PEMC, was also assessed against Dead Horse Oil Company or any successor owner, in part, because the original HFO proved ineffective at attaining compliance. Later, on March 11, 2020, the PSC issued its Order Denying Dead Horse Oil Company's Motion for Rehearing. In that Order, we confirmed that the operator of the PEMC pipeline was responsible for ensuring the safe operation of the pipeline, concluding, "[a]s the current operator of the [PEMC] pipeline, Dead Horse bears the burden of ensuring the ... [p]ipeline complies with the Natural Gas Pipeline Safety Act's minimum safety requirements."

petitioning the PSC to discontinue the HFO could face new fines and penalties.” (HFO Notice at 3). The evidence provided by both DEU and DPU shows that under DEU’s ownership of the PEMC pipeline, the violations identified in the HFO would either abate immediately upon closing of the purchase of the PEMC pipeline given DEU’s existing standards and policies, employee training, and other operations that are already compliant with federal and state law, or would be fully resolved before operation of the pipeline with the execution of the revised Conversion to Service Plan that parties agreed to in the Settlement.

For example, the revised Conversion to Service Plan generally states that DEU will (1) conduct all necessary work to (a) ensure that all environmental permits and rights of way documents, material test records, hydrotest records are reviewed and in order, and (b) conduct necessary studies and investigations to ascertain the current location, condition, design, and system pressure related to the pipeline to ensure it complies with state and Federal requirements; and (2) take final measures before commissioning the line, including purging natural gas from the NW interconnect, and performing leakage tests, to ensure no leakage is found before the line is commissioned.

The revised Conversion to Service Plan also states that before putting the line in service, DEU will send DPU a completed electronic workbook that summarizes the techniques DEU used to determine the Maximum Allowable Operating Pressure, which is the maximum pressure that a pipeline or a segment thereof can be operated safely and in compliance with Federal requirements. DPU witness Mr. Betham testified at hearing that DPU signed the Settlement based on its familiarity with DEU and inspection of DEU’s procedures and records, and that he

is confident that the violations identified in the HFO are not an issue with DEU since DEU already addresses the items as part of its standard practices. He explains that DPU has worked with DEU many years and has not encountered the issues that required the imposition of the penalty with respect to the PEMC pipeline. Mr. Betham also testified that the PEMC pipeline currently does not pose a safety concern.²⁸

Based on the Application, DEU's commitments in the revised Conversion to Service Plan to ensure that the PEMC pipeline is safe and compliant with state and Federal requirements, including the Natural Gas Pipeline Safety Act, 49 U.S.C.S. § 60102, as implemented by the minimum safety standards under 49 C.F.R. 192.14,²⁹ and as incorporated by reference in Utah Code Ann. § 54-13-2, before commissioning it for service, DPU's written testimony and testimony at hearing specifically indicating that the pipeline currently does not pose a safety concern, DPU's careful consideration of the HFO, and DPU's history with DEU's practices and procedures with its own facilities, we find that the record supports the lifting of the HFO and the Pipeline Restrictions, and conclude that our lifting of both is in the public interest. We also find that DEU's commitments in the revised Conversion to Service Plan obviates the need for assessing the penalty in the HFO to DEU.³⁰ We conclude that execution of the revised Conversion to Service Plan will provide adequate protection against risk to life and property

²⁸ *Supra*, note 26.

²⁹ Some of the safety standards under part 192 were the subject of the HFO's violations.

³⁰ Specifically, our original and accruing penalties were designed to incent compliance and operation of the PEMC pipeline in a manner consistent with the public safety, and were ordered, in part, as a result of DPU's recommendations at the time. The commitments in the revised Conversion to Service Plan include specific steps to ensure that operation of the PEMC pipeline will be compliant with state and federal laws, consistent with the public safety.

posed by the PEMC pipeline, and, therefore, that DEU is not responsible for the fine in the HFO assessed against the prior owners of the PEMC pipeline.

c. Settlements

As set forth in Utah Code Ann. § 54-7-1, settlements of matters before the PSC are encouraged at any stage of a proceeding. The PSC may adopt a settlement after considering the interests of the public and other affected persons, if the PSC finds it is in the public interest.

Having reviewed the Application, the written testimony, the testimony provided at hearing, and in the absence of any opposition to the Settlement, the evidence supports our finding and conclusion that the Settlement is just and reasonable in result.

4. ORDER

Based on the findings of fact and conclusions of law we reference above, we approve the Settlement and the underlying resource decision including the decision to purchase the PEMC pipeline. We also grant a CPCN to DEU to offer natural gas services in Green River, Utah and surrounding areas. DEU is not responsible for the penalty assessed under the HFO, so long as DEU executes the commitments it made in the revised Conversion to Service Plan, including filing all referenced notices with the PSC, and in the Settlement.

DATED at Salt Lake City, Utah, January 19, 2022.

/s/ Yvonne R. Hogle
Presiding Officer

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Approved and Confirmed January 19, 2022 as the Order of the Public Service
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#321957

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this written order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on January 19, 2022, a true and correct copy of the foregoing was served upon the following as indicated below:

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