Witness OCS – 2D

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Dominion Energy Utah to Increase Distribution Rates and Charges and Make Tariff Modifications	))))))))	 **Docket No. 22-057-03** **Direct Testimony** **John Defever, CPA** **On Behalf of the** **Office of Consumer Services**

August 26, 2022

REDACTED VERSION

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INTRODUCTION

Q. WHAT IS YOUR NAME, OCCUPATION AND BUSINESS ADDRESS?

A. My name is John Defever. I am a Certified Public Accountant, licensed in the State of Michigan. I am a senior regulatory consultant in the firm of Larkin & Associates, PLLC, with offices at 15728 Farmington Road, Livonia, Michigan.

Q. PLEASE DESCRIBE THE FIRM LARKIN & ASSOCIATES, PLLC.

A. Larkin & Associates, PLLC is a Certified Public Accounting and Regulatory Consulting Firm. The firm performs independent regulatory consulting primarily for public service/utility commission staffs and consumer interest groups (public counsels, public advocates, consumer counsels, attorneys general, etc.). Larkin & Associates, PLLC, has extensive experience in the utility regulatory field as expert witnesses in over 800 regulatory proceedings including numerous gas, electric, water/sewer and telephone utilities.

Q. HAVE YOU PREPARED AN EXHIBIT DESCRIBING YOUR QUALIFICATIONS AND EXPERIENCE?

A. Yes. I have attached Appendix JD-1, which summarizes my experience and qualifications.

Q. ON WHOSE BEHALF ARE YOU APPEARING?

A. Larkin & Associates, PLLC was retained by the Office of Consumer Services (“OCS”) to conduct a review of Dominion Energy Utah’s (“DEU" or “Company”) application to increase its distribution rates. Accordingly, I am appearing on behalf of the OCS.

Q. HOW WILL YOUR TESTIMONY BE ORGANIZED?

A. The testimony is organized as follows: Introduction; Overall Financial Summary; Rate Base; and Operating Income.

<u>OVERALL FINANCIAL SUMMARY</u>

Q. HAVE YOU PREPARED ANY EXHIBITS IN SUPPORT OF YOUR TESTIMONY?

A. Yes. I have prepared OCS Exhibit 2.1D, consisting of Schedules A, B, C and D with supporting Schedules B-1 through B-7 and C-1 through C-18, and OCS Exhibit 2.2D consisting of the data requests referenced in my testimony

Q. HAVE YOU INCORPORATED THE RECOMMENDATIONS OF OTHER OCS WITNESSES IN YOUR SCHEDULES?

A. Yes, I have incorporated the capital structure and rate of return recommendations of OCS witness Daniel Lawton. I have also incorporated adjustments regarding the Company's new Liquefied Natural Gas ("LNG") Facility sponsored by OCS witness Alex Ware.

Q. PLEASE DISCUSS SCHEDULE A OF OCS EXHIBIT 2.1D, WHICH IS ENTITLED "OVERALL FINANCIAL SUMMARY."

A. Schedule A presents the overall financial summary for the 2023 test period in this case, incorporating all the adjustments the OCS is recommending and the rate of return sponsored by OCS witness Daniel Lawton. The rate base and operating income amounts for the test period ending December 31, 2023 are taken from Schedules B and C, respectively. The overall rate of return of 6.65% for the 2023 test period as presented in the testimony of OCS Witness Daniel Lawton is provided on Schedule D for convenience. The income deficiency shown on line 5 is obtained by subtracting the achieved operating income on line 4 from the required operating income on line 3.

Q. PLEASE DISCUSS SCHEDULE B OF OCS EXHIBIT 2.1D, WHICH SUMMARIZES RATE BASE, AS ADJUSTED BY THE OCS.

A. The starting point on Schedules B and C is the Company's adjusted rate base taken from DEU Exhibit 4.20 (Report tab) for the test period ending December 31, 2023. All of the adjustments the OCS is recommending to the projected rate base are summarized on OCS Exhibit 2.1D, Schedule B and Schedule C, page 2.

Q. PLEASE DISCUSS SCHEDULE C OF OCS EXHIBIT 2.1D, WHICH SUMMARIZES NET OPERATING INCOME, AS ADJUSTED.

A. The starting point on Schedule C is the Company's adjusted net operating income for the 2023 test period, as found on DEU Exhibit 4.20 (Report tab). The OCS's recommended adjustments to DEU's revenues and expenses for the 2023 test period presented in this testimony are provided on Schedule C. Schedules C-1 through C-18 provide further support and calculations for the revenue and expense adjustments the OCS recommends. The adjustments result in the OCS's recommended net operating income.

Q. BASED ON THE OCS'S REVIEW OF DEU'S FILING, WHAT CHANGE IN REVENUE REQUIREMENT DOES THE OCS RECOMMEND AT THIS TIME?

A. Based on the adjustments that have been quantified to date, coupled with the OCS's recommended overall rate of return of 6.65%, the result is a projected revenue deficiency of $33,635,709 (Utah) for the test period ending December 31, 2023.

RATE BASE

Plant in Service - Contingencies

Q. PLEASE DISCUSS THE COMPANY'S USE OF CONTINGENCIES IN ITS FORECASTED CAPITAL PROJECTS.

A. In response to OCS data requests, the Company stated that it applies a contingency factor in its estimates for "large individual projects like high-pressure installation or replacement projects" and the contingency factor applied ranges between 10% and 20% based on the level of risk associated with the particular project.[1] However, in the response to OCS data request 11.06 Attachment 1, DEU included a project with a 25% contingency.

Q. WHAT LEVEL OF CONTINGENCIES HAS THE COMPANY INCLUDED IN PLANT IN SERVICE FOR RECOVERY IN THE 2023 TEST PERIOD?

A. In the response to OCS 11.06, Attachment 1, the Company provided all contingencies for planned capital projects included in the 2023 test period which totals $29,821,762.

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[1] Docket 22-057-03 DEU Response to OCS Data Requests 3.02 and 8.15.

Q. WHY IS THE INCLUSION OF COSTS FOR CONTINGENCIES AN ISSUE?

A. The Company has the burden to support costs for which it seeks recovery. For contingencies, the costs cannot be supported because, by definition, it is not known whether the costs will occur. If DEU is unsure whether the costs will occur, they cannot be considered to meet the known and measurable standard nor is it a reasonable forecast method on which to set just and reasonable rates.

Q. ARE THERE ANY OTHER CONCERNS WITH THE USE OF CONTINGENCIES?

A. Yes, the Company's projections may include estimates from contractors that also include contingencies which could result in ratepayers paying even more for costs that do not occur.

Q. CAN THE USE OF A CONTINGENCY FACTOR LEAD TO INCREASED PROJECT COSTS?

A. Yes. When the budget is overly inflated with a contingency factor, the incentive to contain costs and to stay within the original budget (i.e., the budget if the contingency is not necessary) is lessened. In essence, the original budget with the added contingency can become the new target budget.

Q. ARE THERE ANY OTHER ISSUES WITH THE RECOVERY OF CONTINGENCIES FROM RATEPAYERS?

A. Yes. DEU has the burden of providing a reasonable forecast of costs. The use of contingencies, instead of providing a reasonable forecast, results in a budget buffer. If the additional costs are necessary, they are automatically funded by ratepayers without additional justification. If the additional costs are not necessary, ratepayers pay unnecessarily. This improperly shifts the burden of risk from the Company to the ratepayers.

Q. WHAT IS YOUR ADJUSTMENT?

A. I recommend removing the contingency amounts the Company has included in its forecasted capital expenditures. I calculated the reduction to plant in service by taking the total contingencies DEU included in its test period capital expenditure forecast and reduced that by 50% to convert that to an average rate base amount. My adjustment results in a reduction of $14,910,881 ($14,463,555 Utah) as shown on OCS Exhibit 2.1D, Schedule B-1.

Q. IS THE REMOVAL OF CONTINGENCIES CONSISTENT WITH RULINGS IN ANY OTHER JURISDICTIONS?

A. Yes. The California Public Utilities Commission stated the following:

> Consistent with ratemaking policy, disallowing these contingencies should motivate SCE to remain within its forecast budgets for these projects. If additional funds become necessary, SCE may seek to establish that necessity in the next GRC.[2]

While this citation is from a different state, the same fundamental ratemaking policy should be upheld in this case. I also agree with the conclusion that if “additional funds become necessary” in this case, DEU could “seek to establish that necessity in the next GRC.”

<u>Capitalized Incentive Compensation</u>

Q. HAS DEU INCLUDED INCENTIVE COMPENSATION IN RATE BASE?

A. Yes. The Company has included $1,530,867 of capitalized incentive compensation related to financial goals in rate base.[3]

Q. WHY SHOULD THIS COST BE REMOVED FROM RATE BASE?

A. DEU has removed the incentive compensation in O&M related to financial goals stating the following:

> In accordance with previous Commission orders in Docket Nos. 93-057-01, 95-057-02, 99-057-20 and 02-057-02, Dominion Energy has removed, for ratemaking purposes, incentive-compensation expenses related to net-income, earnings-per-share, and return-on-equity goals either paid directly by Dominion Energy or allocated from Dominion Energy Services, Inc. (“DES”) for incentive payouts.[4]

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[2] CPUC D.19-05-020 p.152 dated May 16, 2019.

[3] Docket 22-057-03 DEU Response to OCS Data Request 8.38.

[4] Docket 22-057-03 DEU Exhibit 3.0 p.20, citations omitted

Ruling that incentive compensation related to financial goals should be removed from O&M expense, the Utah PSC Report and Order stated the following in Docket No. 93-057-01:

> We find that incentive compensation expense associated with the attainment of purely financial goals should not be recovered in rates.
>
> …
>
> Accountability, responsibility, and motivating employees to pursue goals should guide incentive compensation. Rewarding employees for factors like weather changes reduces incentive compensation to something akin to a general wage or salary increase, as the Division pointed out. To be acceptable for ratemaking purposes, we find that an incentive plan should be based on employee performance alone
>
> …
>
> To summarize, our policy has been to allow recovery of expenses if ratepayer benefit is demonstrated, and is not merely conjectural. We reaffirm this policy here and disallow expenses for financial goals and the net income trigger.[5]

As the same reasoning applies to incentive compensation related to financial goals in rate base, the equivalent adjustment, disallowing expenses related to financial goals, should also be made.

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[5] Docket 93-057-01 Report and Order, p.45-47, 50

Q. THE RESPONSE TO OCS DATA REQUEST 8.38 CLAIMS THAT THE REMOVAL OF INCENTIVE COMPENSATION COSTS RELATED TO FINANCIAL GOALS IN O&M BUT NOT IN RATE BASE IS CONSISTENT WITH APPROVED METHODOLOGY DATING BACK OVER TWO DECADES. SHOULD THIS BE A DETERMINING FACTOR?

A. No. It is presumed that the allowance of incentive compensation related to financial goals in rate base in prior cases is simply because it has not been challenged or contemplated in those cases. DEU has not provided any examples of Utah PSC Orders that explicitly determined that such allowance was appropriate. As explained above, the reasons behind the Commission's Order to disallow this cost in O&M apply equally to disallowing the cost in rate base. A cost should not be allowed simply because it has been unchallenged in prior cases.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT TO RATE BASE FOR INCENTIVE COMPENSATION?

A. The recommended adjustment is the removal of incentive compensation related to financial goals from rate base, a reduction of $1,530,867 ($1,484,941 Utah) as shown on OCS Exhibit 2.1D, Schedule B-3.

<u>Cash Working Capital</u>

Q. PLEASE EXPLAIN YOUR ADJUSTMENT TO CASH WORKING CAPITAL.

A. Due to the possibility of COVID-19 impacts to 2020 collections, DEU used a three-year average for collection lag in its lead lag study.[6] The result was a collection lag of 44.312 days shown in DEU Exhibit 3.29 page 8. The problem with DEU's methodology for using a three-year average to calculate the collection lag days is that two of the three years used in the three-year average are impacted by COVID-19. It would be more appropriate to use 2019 data that is unaffected by COVID-19 instead of the three-year average including the two years that are affected.

Q. WHAT IS THE IMPACT OF USING 2019 DATA FOR THE COLLECTION LAG?

A. By request, DEU recalculated the collection lag using 2019 data resulting in a collection lag of 42.634 days or a reduction of 1.678 days.[7]

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT TO CASH WORKING CAPITAL?

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[6] Docket 22-057-03 DEU Response to OCS Data Request 2.66.

[7] Docket 22-057-03 DEU Response to DPU Data Request 1.15.

A. I recommend using the 2019 data to calculate the collection lag which, coupled with the OCS's flow through adjustment discussed below, reduces working capital by $4,229,739 (Utah). The OCS's working capital adjustment is shown on OCS Exhibit 2.1D, Schedule B-2.

Plant Held For Future Use

Q. HAVE YOU MADE AN ADJUSTMENT TO PLANT HELD FOR FUTURE USE ("PHFFU")?

A. Yes. The Company has included $5,037 in its revenue requirement schedules for PHFFU as shown on Exhibit 3.02 Summaries tab line 31. However, DEU has stated that this was the result of a formulaic issue and there will be none included in 2022 or 2023.[8] As such, this amount should be removed, a revenue requirement reduction of $5,037 (Utah) as shown on OCS Exhibit 2.1D, Schedule B-6.

LNG Prepayments

Q. HAVE YOU REFLECTED AN ADJUSTMENT FOR LNG PREPAYMENTS RECOMMENDED BY OCS WITNESS ALEX WARE?

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[8] Docket 22-057-03 DEU Response to OCS Data Request 8.19.

A. Yes. I have reflected OCS witness Alex Ware's recommendation to remove the LNG prepayments from rate base. This is a reduction of [redacted] as shown on OCS Exhibit 2.1D, Schedule B-7. I have also removed the corresponding amortization expense on OCS Exhibit 2.1D, Schedule C, p. 2.

<u>OPERATING INCOME</u>

<u>Late Fee Revenues</u>

Q. WHAT AMOUNT OF LATE FEE REVENUE HAS THE COMPANY INCLUDED IN THE 2023 TEST PERIOD?

A. DEU has included $1,128,521 in the filing.[9]

Q. HOW WAS THE LATE FEE REVENUE FORECAST CALCULATED?

A. The 2023 test period forecast is the same as the 2021 base period amount. DEU witness Jordan Stephenson stated:

> Other Revenue tends to be consistent from year to year. Because the most recent historical year represents a reasonable expectation for annual revenues going forward, I used the 2021 base period

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[9] Docket 22-057-03 DEU Response to OCS Data Request 3.09.

revenue amounts for the 2023 test period revenue requirement calculation.[10]

Q. IS THERE A FLAW IN DEU'S APPROACH TO FORECASTING LATE FEE REVENUE?

A. Yes. The Company's reliance on 2021 data overlooks the fact that late fees had been waived from 3/16/20 through 4/7/21 as shown in DEU Exhibit 1.0 p. 5. For over three quarters of 2020 and one quarter of 2021, the Company was not collecting late fees which makes both years inappropriate for use in this calculation. As the table below shows, in both 2020 and 2021, the late fees collected were substantially less.

Late Fees	
2017	$2,002,958
2018	$2,153,062
2019	$1,817,056
2020	$612,995
2021	$1,128,521

[11]

Q. WHAT METHOD SHOULD BE USED TO FORECAST LATE FEES?

A. It would be most appropriate to use an average of the three years prior to the period in which the late fees were waived.

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[10] Docket 22-057-03 Direct Testimony of Jordan K. Stephenson for DEU

[11] Docket 22-057-03 DEU Response to OCS Data Request 3.09.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT TO LATE FEE REVENUE?

A. The average of late fees for 2017-2019 is $1,991,025. Using this amount for the 2023 test period is an increase to the late fee revenue of $862,504 (Utah) as shown on OCS Exhibit 2.1D, Schedule C-1.

<u>Gain on Sale of Utility Property</u>

Q. HAS DEU REFLECTED THE GAINS ON THE SALE OF UTILITY PROPERTY?

A. No. However, DEU stated that the Bluffdale Field Office was sold in 2020 with net proceeds of $3,047,347 for a gain of $2,332,765.[12]

Q. SHOULD THIS GAIN BE REFLECTED IN THE CURRENT PROCEEDING?

A. Yes. As stated in the response to the OCS data request, the building had previously been included in rate base. As ratepayers have paid a return on and of this investment, they are entitled to the gain that results from the

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[12] Docket 22-057-03 DEU Response to OCS Data Request 2.16.

sale. If the gain is not reflected, the Company will retain the proceeds to the detriment of ratepayers.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT FOR THE SALE OF THE BLUFFDALE FIELD OFFICE?

A. The OCS recommends amortizing the gain over three years, which increases operating revenues by $777,588 (Utah). This adjustment is shown on OCS Exhibit 2.1D, Schedule C-7.

<u>Directors and Officers Liability Insurance</u>

Q. HAS DEU INCLUDED COSTS FOR DIRECTORS AND OFFICERS LIABILITY INSURANCE (“D&O”)?

A. Yes. The Company has included $273,234 for D&O in the 2023 test period.[13]

Q. WHAT IS THE PURPOSE OF D&O LIABILITY INSURANCE?

A. D&O provides protection to the Company’s directors and officers from lawsuits that may arise as a result of their actions.

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[13] Docket 22-057-03 DEU Response to OCS Data Request 2.10S.

Q. WHO TYPICALLY INSTIGATES LAWSUITS INVOLVING D&O?

A. Lawsuits involving D&O are typically brought by the Company's shareholders. As a result, the shareholders are usually the recipients of any payouts that result from the lawsuits.

Q. WHO BENEFITS FROM D&O?

A. The Company and its directors and officers receive the liability protection provided by D&O and the shareholders receive the proceeds paid out from D&O coverage. As such, the Company and its shareholders are the primary beneficiaries of D&O liability insurance.

Q. AS D&O MAY BE CONSIDERED A LEGITIMATE BUSINESS EXPENSE, SHOULD IT BE FULLY RECOVERED FROM RATEPAYERS?

A. No. Not all legitimate business costs are recovered from ratepayers. For example, lobbying costs and advertising costs related to image building, although common business expenses, are typically excluded from rates.

Q. WHO SHOULD BE RESPONSIBLE FOR THE COSTS?

A. As the Company and its shareholders receive most of the benefits, they should be responsible for most of the costs. A 75/25 sharing of costs between shareholders and ratepayers, respectively, would be appropriate.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT?

A. I recommend the removal of 75% of this cost, a reduction of $204,926 ($198,778 Utah). This adjustment is shown on OCS Exhibit 2.1D, Schedule C-2.

Q. IS THIS ADJUSTMENT CONSISTENT WITH ADJUSTMENTS IN OTHER JURISDICTIONS?

A. Yes. The Connecticut Public Utilities Authority ("PURA") has disallowed 75% of D&O liability insurance cost in Dockets 16-06-04, 13-01-19, and 13-06-08.

<u>Insurance Expense</u>

Q. PLEASE DISCUSS YOUR ADJUSTMENT TO INSURANCE EXPENSE.

A. The adjustment includes reductions to Workers Compensation and Other Insurance. I will address each aspect below.

Workers Compensation

Q. WHAT AMOUNT HAS THE COMPANY INCLUDED FOR WORKERS COMPENSATION?

A. In response to OCS data request 2.31, the Company indicated it has included $171,525 for Workers Compensation. The cost was based on 2021 actual booked amounts inflated to calculate 2023 amounts (Id).

Q. DO YOU AGREE WITH DEU'S FORECASTING METHOD?

A. No. As shown below, Workers Compensation costs fluctuate over time.

Workers Compensation				
2017	2018	2019	2020	2021
$44,929	$125,305	$107,965	$162,748	$164,381

[14]

Because the costs fluctuate, it cannot be assumed that the most recent cost will be the best representative or that it will increase from that amount.

Q. WHAT METHOD WOULD BE MORE APPROPRIATE FOR FORECASTING THIS EXPENSE?

A. The use of a five-year average would be more appropriate. Five years is recent enough to be relevant and long enough to smooth out any low or high years.

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[14] Docket 22-057-03 DEU Response to OCS Data Request 2.31.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT TO WORKERS COMPENSATION?

A. I recommend the use of an average of the costs from 2017-2021. Using the average of $121,066 results in a reduction of $50,459 ($48,945 Utah) to Worker's Compensation.

Other Insurance

Q. PLEASE DISCUSS YOUR ADJUSTMENT TO OTHER INSURANCE.

A. The adjustment to other insurance is very similar to the adjustment to Workers Compensation. The Company based its requested amount on the 2021 costs and the OCS instead recommends the use of a five-year average.

Other Insurance					
2017	2018	2019	2020	2021	2023
$116,929	$35,527	$76,597	$143,411	$119,795	$125,000

[15]

As shown, the cost for Other Insurance also fluctuates. For the reasons stated above, a five-year average is more appropriate for forecasting this cost.

[15] Docket 22-057-03 DEU Response to OCS Data Request 2.31.

Q. WHAT IS YOUR ADJUSTMENT TO OTHER INSURANCE?

A. The use of a five-year average results in a reduction to Other Insurance expense of $26,548 ($25,752 Utah). Together, both adjustments to insurance expense result in a reduction to insurance expense of $77,008 ($74,697 Utah). This adjustment is shown on OCS Exhibit 2.1D, Schedule C-3.

<u>Economic Development</u>

Q. WHAT AMOUNT HAS THE COMPANY REQUESTED FOR ECONOMIC DEVELOPMENT?

A. In the 2023 test period, the Company has included $57,817 for economic development.[16]

Q. WHAT COSTS ARE INCUDED IN ECONOMIC DEVELOPMENT?

A. The DEU response to OCS data request 8.27 states the following:

> Economic development expenses consist of annual contributions to the Economic Development Corporation of UTAH (EDCUtah). In 2021, economic development expense also includes a small contribution to St. George City.

[16] Docket 22-057-03 DEU Response to OCS Data Request 3.33.

Q. DO RATEPAYERS BENEFIT FROM THIS EXPENSE?

A. Very little if at all. In OCS 8.27, the Company was asked how ratepayers benefit from economic development expense. The response stated:

> As a founding member, the Company has long donated to EDCUtah which conducts research and pursues objectives to benefit residents of the state of Utah. From its website: “A private, non-profit organization founded in 1987, the Economic Development Corporation of Utah (EDCUtah) is a catalyst for quality job growth and increased capital investment in the state.
>
> EDCUtah is a statewide economic development organization (EDO) specializing in corporate recruitment, economic research, site selector marketing, and community development. A partner of the Governor’s Office of Economic Opportunity (Go Utah) for corporate recruitment, EDCUtah is supported by state government, local governments, and organizations from the private sector.”
>
> Over the years the Company has benefitted from research and publications released by EDCUtah, particularly concerning where growth and development may occur throughout the Company’s service territory.

The Company’s donations are not providing any benefits to ratepayers. Even when asked directly, the Company was unable to give examples of ratepayer benefits from these donations.

Q. SHOULD THIS EXPENSE BE RECOVERED FROM RATEPAYERS?

A. No. This expense is not necessary for the provision of utility service and ratepayers receive very little, if any, benefit. If the DEU wants to make these contributions, it should be responsible for the costs.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT?

A. The recommended adjustment is the removal of the entire cost, a reduction of $57,817 ($56,082 Utah) as shown on OCS Exhibit 2.1D, Schedule C-4.

<u>Payroll Expense</u>

Q. HOW MANY FULL TIME EMPLOYEES IS THE COMPANY REQUESTING IN THE 2023 TEST PERIOD?

A. The Company has budgeted 924 employees for 2023, 916 of which are full-time.[17]

Q. HAS DEU USED A VACANCY FACTOR IN ITS 2023 FORECAST?

A. No.[18] However, as shown below, the use of a vacancy factor would have been appropriate.

Q. HOW MANY EMPLOYEES DOES THE COMPANY CURRENTLY HAVE?

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[17] Docket 22-057-03 DEU Response to OCS Data Request 8.39.

[18] Docket 22-057-03 DEU Response to OCS Data Request 2.37.

A. In response to OCS data request 2.43, DEU stated that as of May 2022, the Company had 876 employees, of which 868 were full time. This means the Company is planning to increase its full-time employee count by 48 as of January 2023.

Q. CAN IT BE ASSUMED THAT DEU WILL ATTAIN THE BUDGETED NUMBER OF EMPLOYEES?

A. No. The historical record shows that it cannot be assumed that the Company will hire and retain the budgeted number of employees. The chart below shows the budgeted and actual number of full-time employees for the past five years.

Full Time Employee Count			
Year	Budgeted	Avg Actual	Avg Vacancy
2017	943.1	906.1	37.0
2018	901.8	897.3	4.5
2019	890.0	895.6	-5.6
2020	855.9	841.8	14.2
2021	887.3	836.9	50.3

[19]

[19] Docket 22-057-03 DEU Response to OCS Data Request 2.43.

As shown, over the past five years the Company has had significantly less employees than budgeted. DEU has averaged over 20 vacancies per year for the years 2017-2021. This vacancy issue has continued into the current year. In May 2022, the Company budgeted 907 full time employees but had only 868, leaving 39 vacancies.[20]

Q. WHY ARE VACANCIES AN ISSUE?

A. Vacancies represent non-existent employees for which ratepayers pay salaries, benefits and taxes. Ratepayers should only be responsible for the costs of employees that have actually been hired and are engaged in providing utility service.

Q. WHAT NUMBER OF FULL-TIME EMPLOYEES SHOULD BE ALLOWED IN RATES?

A. DEU had 868 full-time employees as of May 2022. As this is the number of actual full-time employees providing service, it is the most known and measurable amount and should be used for the 2023 test period. This is a reduction of 48 employees. DEU has the burden of providing and supporting reasonable forecasts of costs. Based on its historical record of vacancies, DEU has not provided sufficient support that its forecast of a

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[20] Id.

significantly higher employee count would be a more reasonable calculation of its costs.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT TO PAYROLL EXPENSE?

A. The adjustment is the disallowance of all costs related to 48 full-time employees, a reduction of $4,817,870 ($4,673,334 Utah) to test period payroll expense, which is shown on OCS Exhibit 2.1D, Schedule C-5. There are corresponding adjustments to benefits and taxes discussed below.

<u>Employee Cafeteria</u>

Q. WHAT AMOUNT HAS DEU INCLUDED IN THE 2023 TEST PERIOD FOR THE EMPLOYEE CAFETERIA?

A. According to DEU’s response to OCS data request 3.35 the Company has included $196,891 in the 2023 test period for the employee cafeteria.

Q. PLEASE DESCRIBE THE EMPLOYEE CAFETERIA.

A. In OCS 8.36, DEU explained the cafeteria is located within the Company’s Salt Lake Operations Center and is open to all Dominion employees. The cafeteria services are provided by Sodexo Inc. (Id)

The Company subsidizes the employees’ meals. The employees are charged for meals and the Company makes up the difference between

Sodexo's costs and the revenue received. (Id) Sodexo is not charged for the use of the Company's existing café. (Id)

Q. IS THE EMPLOYEE CAFETERIA NECESSARY FOR THE PROVISION OF UTILITY SERVICE?

A. No. The provision of utility service does not require the DEU to offer a cafeteria or subsidize employee meals.

Q. WHO SHOULD BE RESPONSIBLE FOR THESE COSTS?

A. Ratepayers should not be responsible for any of the costs related to employee meals. If the Company wants to subsidize employee meals it should be responsible for the costs.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT FOR THE EMPLOYEE CAFETERIA?

A. I recommend the disallowance of 100% of cafeteria costs, a reduction of $196,891 ($190,984 Utah) as shown on OCS Exhibit 2.1, Schedule C-6.

<u>Supplemental Executive Retirement Plan</u>

Q. HAS DEU INCLUDED COSTS IN THE 2023 TEST PERIOD FOR SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN ("SERP")?

A. The Company is requesting $445,917 for SERP in the 2023 test period.[21]

Q. PLEASE DESCRIBE SERP.

A. Generally, SERP is an additional retirement benefit received by a select few Company executives that exceed limits that the IRS has placed on the size of qualified plans.

Q. PLEASE DESCRIBE DEU'S SERP PLANS

A. The response to OCS data request 2.55 states that the Company has two SERP plans, the Retirement Benefit Restoration Plan (BRP) and the Frozen Executive Supplemental Retirement Plan (Frozen ESRP). The response further states, "The BRP restores benefits that cannot be paid under the Pension Plan due to Code limits." The IRS code limits referred to "are Code Section 401(a)17 which limits the compensation on which qualified pension benefits can be calculated to $305,000 per year in 2022, and Code Section 415(b) which limits the total benefit payable from a qualified plan to $245,000 per year in 2022."[22]

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[21] Docket 22-057-03 DEU Response to OCS Data Request 2.54.

[22] Docket 22-057-03 DEU Response to OCS Data Request 8.42.

The Frozen ESRP covers 25% of final base salary and target annual incentive compensation according to the response to OCS 2.55.

Q. SHOULD RATEPAYERS BE RESPONSIBLE FOR THIS EXPENSE?

A. No. This is a generous benefit which, as stated above, exceeds IRS limits for qualified plans. It should also be noted that this benefit is provided in addition to the retirement benefits that the Company is already providing to these executives. If the Company wants to provide this generous benefit, the costs should be borne by the Company and not the ratepayers.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT FOR SERP?

A. I recommend removing all SERP related costs, a reduction of $445,917 ($432,539 Utah) as shown on OCS Exhibit 2.1D, Schedule C-8.

Q. IS THIS ADJUSTMENT CONSISTENT WITH DECISIONS IN OTHER JURISDICTIONS?

A. Yes. The Connecticut PURA removed 100 percent of SERP in Docket No. 13-02-20. The Decision states on pages 68-69:

> The Authority considers this expense, by its very definition, to be an additional retirement benefit offered to a highly compensated group

> of employees that provides post-retirement benefits above limits set by the IRS for qualified plans. Since these retirement benefits are above limits set by the IRS, the Authority considers them to be excessive. Therefore, the Authority disallows the SERP expense for ratemaking purposes.

I am also aware of total or partial disallowance of SERP costs in rate cases in the following jurisdiction: Arizona[23], District of Columbia[24], Idaho[25], Maryland[26], Nevada[27], Oklahoma[28], Oregon[29], Texas[30], and Washington[31].

<u>**Caregiver Program**</u>

Q. HAS DEU REQUESTED ANY RECOVERY OF CAREGIVER COSTS IN THE 2023 TEST PERIOD?

A. Yes. The Company has included $12,783 of caregiver expense in the 2023 test period.[32]

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[23] Docket No. E-04204A-09-0206, UNS Electric, Order #71914 p.30.
[24] Formal Case No. 939, Potomac Electric Power Company, Order p.128.
[25] Docket No. PAC-E-10-07, Rocky Mountain Power, Order 32196 p.21.

[26] Docket No. 9311, Potomac Electric Power Company, Order p.60.

[27] Docket No. 03-10001, Nevada Power Company, Order p. 103.

[28] Docket No. 200800144, Public Service Company of Oklahoma, Order p.19.
[29] Docket No. UE-116, PacifiCorp, Order 1-787 p.44.
[30] Docket No. 39896, Entergy, Order p.25.
[31] Docket No. UE-090704/UG-090705, Puget Sound Energy, Inc., Order p.32.
[32] Docket 22-057-03 DEU Response to OCS Data Request 8.30.

Q. PLEASE DESCRIBE THE CAREGIVER PROGRAM.

A. The Company describes the program as follows:

> Bright Horizons Back-Up Care™ provides access to urgent back-up care for your children, adult, and elder family members during a lapse or breakdown in your normal care arrangements. The cost of the care is subsidized by Dominion Energy. Eligible family members include children under 13 years of age who qualify as your tax dependent and adult or elderly family members for whom you normally provide regular care. Center-based back-up care is available to eligible children who are not ill and who are current on any required shots, vaccines, and other health guidelines. In-home back-up care is also available for children meeting the same requirements as those eligible for center-based care and includes eligible children who are mildly ill. For adult or elderly family members, only in-home back-up care support is available.[33]

Q. SHOULD THESE COSTS BE RECOVERED FROM RATEPAYERS?

A. No. These costs are not necessary for the provision of utility service, nor an industry standard. In addition, the Company has not provided a link between the costs for this program and any ratepayer benefits. If DEU wants to provide this extra benefit to its employees, it should bear the costs.

Q. HAS THIS EXPENSE BEEN DISALLOWED IN OTHER JURISDICTIONS?

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[33] Docket 22-057-03 DEU Response to OCS Data Request 2.06.

A. Yes. The Massachusetts Department of Public Utilities disallowed these costs in Docket No. 20-120. The Decision stated:

> The Company bears the burden of demonstrating that proposed costs benefit Massachusetts ratepayers, are reasonable, and were prudently incurred.
>
> …
>
> First, the Department must determine whether the costs associated with . . . and Caregiver Program benefit Massachusetts ratepayers. The Department commends the Company for offering programs such as . . . Caregiver Program. Based on the evidence presented, however, the Department is not persuaded that, at this time, ratepayers should be responsible for these costs. . . . Further, the Company has not supported its claims that the Caregiver Program leads to a direct increase in productivity and "further enables the Company to provide safe, reliable, and efficient service to its customers." Moreover, National Grid has not substantiated that it has been unable to attract and retain qualified employees
>
> …
>
> Finally, the Company has not provided evidence demonstrating the industry standard . . . according to the Company, only 14 other utilities offer a benefit like the Caregiver Program to non-union employees (Exhs. AG-JD-1, at 8-10; AG 19-11). Accordingly, the Department finds that the Company has not supported its claims that . . . Caregiver Program provide benefits to ratepayers. While fringe benefits, such as these programs, may benefit ratepayers, a mere conclusory statement that fringe benefits promote employee good D.P.U. 20-120 Page 225 will, by itself will not be sufficient to demonstrate a direct benefit to ratepayers. See D.P.U. 92-78, at 39. Based on the foregoing, the Department disallows . . . $31,611 associated with the Caregiver Program.[34] (Emphasis added)

[34] Decision Massachusetts D.P.U. 20-120 p.223-225

Q. HAS DEU PROVIDED EVIDENCE THAT THE CAREGIVER PROGRAM LEADS TO INCREASED PRODUCTIVITY OR ENABLES THE COMPANY TO PROVIDE SAFE, RELIABLE AND EFFICIENT SERVICE?

A. No, DEU has not demonstrated a link between the caregiver program and productivity or the provision of service.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT FOR THE CAREGIVER PROGRAM?

A. I recommend the removal of the entire amount of caregiver program expense, a reduction of $12,783 ($12,400 Utah) as shown on OCS Exhibit 2.1D, Schedule C-9.

<u>Lobbying Costs</u>

Q. HAS DEU INCLUDED ANY LOBBYING COSTS FOR RECOVERY IN THE 2023 TEST PERIOD?

A. Yes. According to the DEU response to OCS 2.11, while preparing a data request related to dues, the Company found three items related to lobbying that had been coded to utility expense. The three items total $5,729 in the 2023 test period after inflation.

Q. HAVE YOU REMOVED THESE LOBBYING COSTS?

A. Yes, lobbying costs are traditionally disallowed. My understanding is that these costs were included by error and the Company should not object to their removal.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT FOR LOBBYING COSTS?

A. I recommend the removal of all lobbying costs, a reduction of $5,729 ($5,557 Utah) as shown on OCS Exhibit 2.1D, Schedule C-10.

<u>Fitness Center</u>

Q. HAS DEU INCLUDED FITNESS CENTER COSTS IN THE 2023 TEST PERIOD?

A. Yes. The Company has included $16,605 for recovery of fitness center costs[35]. This includes $1,024 allocated for the Utah Center Fitness Center and $15,581 allocated for the fitness center located at the Company's corporate headquarters in Virginia.[36]

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[35] Docket 22-057-03 DEU Response to OCS Data Request 2.17.

[36] Docket 22-057-03 DEU Response to OCS Data Request 10.1.

Q. IS ACCESS TO A FITNESS CENTER NECESSARY FOR PROVIDING UTILITY SERVICE?

A. No.

Q. SHOULD THESE COSTS BE RECOVERED FROM RATEPAYERS?

A. No. If the Company wants to provide a fitness center to its employees in Utah the costs should be its responsibility. Similarly, Utah ratepayers should not be responsible for providing a fitness center for the use of the Company's employees in Virginia.

Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT FOR FITNESS CENTER COSTS?

A. I recommend the removal of all fitness center costs, a reduction of $16,605 ($16,107 Utah) as shown on OCS Exhibit 2.1D, Schedule C-11.

<u>LNG O&M Expense</u>

Q. **HAVE YOU REFLECTED AN ADJUSTMENT FOR VARIABLE O&M ASSOCIATED WITH THE LNG FACILITY IN OCS EXHIBIT 2.1D?**

A. Yes. DEU requested Commission approval to recover the variable electricity costs associated with the LNG Facility to be collected in its Pass-Through Account filing, Docket No. 22-057-08. The Company stated that if the request was approved, the variable electricity costs of $2.1

million (Utah) will be removed from the test period in this case.[37] The Commission approved the DEU's request, therefore we have reflected the removal of these costs on OCS Exhibit 2.1D Schedule C-2, page 2.[38]

<u>Rate Base Flow Through Adjustments</u>

Working Capital

Q. PLEASE DISCUSS YOUR FLOW THROUGH ADJUSTMENT TO WORKING CAPITAL.

A. The adjustment is a flow through from the OCS's adjustments to O&M expenses. OCS's O&M adjustments, coupled with the adjustment to collection lag days, decreases working capital by $4,229,739 (Utah). The OCS's working capital adjustment is shown on OCS Exhibit 2.1D, Schedule B-2.

Accumulated Depreciation

Q. PLEASE DISCUSS YOUR FLOW THROUGH ADJUSTMENT TO ACCUMULATED DEPRECIATION.

A. The adjustment is a flow through from the OCS's adjustments to plant in service and capitalized incentive compensation. OCS's adjustment

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[37] Docket 22-057-03 Direct Testimony Jordan K Stephenson, p. 17.

[38] Docket No. 22-07-08 Order, page 9, July 28, 2022

decreases accumulated depreciation by $280,759 (Utah), as shown on OCS Exhibit 2.1D, Schedule B-4.

Accumulated Deferred Income Taxes

Q. PLEASE DISCUSS YOUR FLOW THROUGH ADJUSTMENT TO ACCUMULATED DEFERRED INCOME TAXES.

A. The adjustment is a flow through from the OCS's adjustments to rate base. OCS's adjustments decrease accumulated deferred income taxes by $263,815 Federal (Utah) and $61,739 State (Utah), as shown on OCS Exhibit 2.1D, Schedule B-5.

<u>Operating Income Flow Through Adjustments</u>

Payroll Taxes

Q. PLEASE DISCUSS YOUR ADJUSTMENT TO PAYROLL TAX.

A. The adjustment is a flow through from the OCS's adjustment to payroll. OCS's adjustment reduces payroll tax by $236,508 (Utah) which is shown on OCS Exhibit 2.1D, Schedule C-12.

Benefits

Q. PLEASE DISCUSS YOUR ADJUSTMENT TO EMPLOYEE BENEFITS.

A. The adjustment is a flow through from the OCS's adjustment to payroll. OCS's adjustment increases employee benefits by $349,644 (Utah) as shown on OCS Exhibit 2.1, Schedule C-13.

Depreciation

Q. PLEASE DISCUSS YOUR ADJUSTMENT TO DEPRECIATION.

A. This adjustment is a flow through from the OCS's adjustment to plant in service and capitalized incentive compensation. OCS's adjustment reduces depreciation expense by $619,168 (Utah), which is shown on OCS Exhibit 2.1D, Schedule C-14.

Property Taxes

Q. PLEASE DISCUSS YOUR ADJUSTMENT TO PROPERTY TAX.

A. The adjustment is a flow through from the OCS's adjustment to plant, and capitalized incentive compensation. OCS's adjustment reduces property tax by $170,085 (Utah) as shown on OCS Exhibit 2.1D, Schedule C-15.

Income Tax

Q. PLEASE DISCUSS YOUR ADJUSTMENT TO INCOME TAX.

A. The adjustment is a flow through from the OCS's adjustment to O&M expenses. OCS's adjustment increases federal income taxes by

$2,042,917 (Utah) and state income taxes by $495,866 (Utah) as shown on OCS Exhibit 2.1D, Schedule C-16.

Interest Synchronization

Q. PLEASE DISCUSS YOUR ADJUSTMENT TO INTEREST SYNCHRONIZATION.

A. The adjustment is a flow through from the OCS's adjustments to rate base. The OCS's adjustments increase interest expense, which increases income tax expense by $438,613 (Utah) as shown on OCS Exhibit 2.1D, Schedule C-17.

Q. DOES THIS COMPLETE YOUR TESTIMONY?

A. Yes, at this time. I reserve the right to supplement my testimony following the receipt of additional information from DEU.

QUALIFICATIONS OF JOHN DEFEVER

Appendix JD-1

John Defever, CPA is a regulatory consultant with Larkin & Associates. As such, Mr. Defever is responsible for the review and analysis of regulatory filings and the preparation of testimony, discovery requests, briefs, schedules, exhibits and reports. Mr. Defever also assists with the annual audit of a Michigan Railroad Company. Mr. Defever has been employed with the firm of Larkin and Associates since 2010.

Mr. Defever has performed work in the field of utility regulation on behalf of public service commission staffs, state attorney generals and consumer groups concerning regulatory matters before regulatory agencies in Alaska, California, Connecticut, District of Columbia, Florida, Hawaii, Iowa, Maine, Maryland, Massachusetts, Mississippi, Oregon, New Hampshire, and Vermont.

Mr. Defever received a Bachelor of Business Administration, Major: Accounting from Eastern Michigan University and an Associate in Applied Science at Schoolcraft College. Mr. Defever is a member of the Michigan Association of Certified Public Accountants and maintains continuing professional education in accounting, auditing, and taxation.

Partial list of utility cases participated in:

Docket No. 10-02-13	Aquarion Water Company of Connecticut Connecticut Department of Utility Control
Docket No. 10-70	Western Massachusetts Electric Company Massachusetts Department of Public Utilities
Docket No. 10-12-02	Yankee Gas Services Company Connecticut Department of Utility Control
Docket No. 11-01	Fitchburg Gas & Electric Light Company Massachusetts Department of Public Utilities
Case No. 9267	Washington Gas Light Company Maryland Public Service Commission

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Case No. 9286	Potomac Electric Power Company Maryland Public Service Commission
Docket No. 13-06-08	Connecticut Natural Gas Corporation Connecticut Public Utility Regulatory Authority
Docket No. 13-90	Fitchburg Gas & Electric Light Company Massachusetts Department of Public Utilities
Docket No. 8190	Green Mountain Power Company Before the Vermont Public Service Board
Docket No. 8191	Green Mountain Power Company Alternative Regulation Before the Vermont Public Service Board
Case No. 9354	Columbia Gas of Maryland, Inc. Maryland Public Service Commission
Docket No. 13-135	Western Massachusetts Electric Company Massachusetts Department of Public Utilities
Docket No. 14-05-06	Connecticut Light & Power Company Connecticut Public Utilities Regulatory Authority
Docket No. 13-85	Massachusetts Electric Company and Nantucket Electric Company D/B/A/ as National Grid Massachusetts Department of Public Utilities
Case No. 9390	Columbia Gas of Maryland, Inc. Maryland Public Service Commission
Docket No. 15-03-01	Connecticut Light & Power Company Connecticut Public Utilities Regulatory Authority
Docket No. 15-03-02	United Illuminating Company Connecticut Public Utilities Regulatory Authority
Docket No. 15-149	Western Massachusetts Electric Company Massachusetts Department of Public Utilities

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Docket No. 8710	Vermont Gas Systems Inc. Before the Vermont Public Service Board
Docket No. 8698	Vermont Gas Systems Inc. Alternative Regulation Before the Vermont Public Service Board
U-15-091 / U-15-092	College Utilities Corporation Golden Heart Utilities, Inc. Regulatory Commission of Alaska
Docket No.16-06-04	United Illuminating Company Connecticut Public Utilities Regulatory Authority
Docket No. 15-05-42	Southern Connecticut Gas Company Connecticut Public Utilities Regulatory Authority
Docket No. 20160251-EI	Florida Power & Light Company Florida Public Service Commission
Docket No. 20170141-SU	KW Resort Utilities Florida Public Service Commission
Application No. A.16-09-001	Southern California Edison California Public Utilities Commission
Case No. 18-0409-TF	Vermont Gas Systems, Inc. Vermont Public Utility Commission
Docket No. 17-10-46	Connecticut Light & Power Company Connecticut Public Utilities Regulatory Authority
Docket No. 2017-0105	Hawaii Gas Company Hawaii Public Utilities Commission
Docket No. 18-03-01	Connecticut Light & Power Company Connecticut Public Utilities Regulatory Authority
Docket No. 18-03-02	United Illuminating Company Connecticut Public Utilities Regulatory Authority

QUALIFICATIONS OF JOHN DEFEVER

Docket No. A.17-11-009	Pacific Gas & Electric California Public Utilities Commission
Docket No. 18-05-16	Connecticut Natural Gas Connecticut Public Utilities Regulatory Authority
Docket No. 18-05-10	Yankee Gas Connecticut Public Utilities Regulatory Authority
Docket No. 18-11-12	Connecticut Light & Power Company Connecticut Public Utilities Regulatory Authority
Docket No. 18-07-10	SJW Group and Connecticut Water Service Connecticut Public Utilities Regulatory Authority
Docket No. RPU-2019-0001	Interstate Power and Light Iowa Utilities Board
Docket No. 2018-0388	Kona Water Service Company Hawaii Public Utilities Commission
Docket No. DE 19-057	Public Service Company of New Hampshire New Hampshire Public Utilities Commission
Docket No. 20-03-01	Connecticut Light & Power Company Connecticut Public Utilities Regulatory Authority
Docket No. 20-03-02	United Illuminating Company Connecticut Public Utilities Regulatory Authority
Application No. A.19-08-013	Southern California Edison Public Utilities Commission
Docket No. D.P.U. 19-120	NSTAR Gas Company d/b/a Eversource Energy Massachusetts Department of Public Utilities
Docket No. 2019-00333	Maine Water Company – Skowhegan Division Public Utilities Commission
Docket No. 20-08-03	The Connecticut Light and Power Company &

QUALIFICATIONS OF JOHN DEFEVER

	The United Illuminating Company Connecticut Public Utilities Regulatory Authority
Docket No. D.P.U. 19-113	Massachusetts Electric Company & Nantucket Electric Company Each d/b/a National Grid
Docket No. D.P.U. 20-120	National Grid Massachusetts Department of Public Utilities
Docket No. 20-12-30	Connecticut Water Connecticut Public Utilities Regulatory Authority