–BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH–

IN THE MATTER OF APPLICATION OF DOMINION ENERGY UTAH TO INCREASE DISTRIBUTION RATES AND CHARGES AND MAKE TARIFF MODIFICATIONS	))))))))	**DOCKET NO. 22-057-03** **Exhibit No. DPU 3.0 DIR** **Phase I Direct Testimony**

FOR THE DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE
STATE OF UTAH

Direct Testimony of

Eric Orton

August 26, 2022

INTRODUCTION

Q. PLEASE STATE YOUR NAME, BY WHOM YOU ARE EMPLOYED AND IN WHAT CAPACITY.

A. My name is Eric Orton. I work for the Utah Division of Public Utilities as a Technical Consultant.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS DOCKET?

A. The purpose of my testimony is to provide the Division's position on the increased construction cost of Dominion Energy Utah's (Dominion or the Company) Liquified Natural Gas (LNG) facility and its ongoing Operating and Maintenance (O&M) expenses. The Commission will need to determine if the Company should be allowed to pass the additional cost on to its ratepayers in this General Rate Case (GRC).

Q. PLEASE PROVIDE SOME BACKGROUND ON THE LNG FACILITY.

A. The Company filed for Commission pre-approval to build an LNG plant on April 30, 2018, in Docket No.18-057-03. The Commission denied the application on October 22, 2018 based on the lack of substantial evidence showing that the proposal was the best option for customers. One year to the day later, the Company filed again requesting Commission pre-approval of the proposed LNG facility in Docket No.19-057-13. The Commission found the application contained the evidence required to support approval and approved the application on October 25, 2019, and construction began soon thereafter.

Q. DID THE COMMISSION APPROVE A SPECIFIC DOLLAR AMOUNT FOR THE CONSTRUCTION OF THE LNG FACILITY IN DOCKET NO.19-057-13?

A. Yes. The Commission approved a capital budget of $211,157,304. If the actual cost exceeded the approved amount, the Company would be required to make an additional request to the Commission.

Q. DID THE COMMISSION APPROVE AN OPERATING AND MAINTENANCE BUDGET FOR THE LNG FACILITY?

A. Yes. The Company estimated that the facility would be completed the last quarter of 2022. For the first full year of operation (2023), the Commission allowed an annual operating and maintenance budget of $5,185,343 with an annual escalation rate of 2.7 percent per year going forward.[1]

Q. IN THIS GRC IS DOMINION REQUESTING APPROVAL OF MORE CAPTIAL COSTS THAN IT HAVE ALREADY BEEN APPROVED?

A. Yes. It is asking for Commission approval of an additional $7,406,107 million in capital costs for a total of $218,563,414.

Q. WHAT DOES THE COMPANY CITE AS THE MAJOR COMPONENTS CAUSING THE NEED FOR APPROVAL OF INCREASED CAPITAL COSTS?

A. The Company has identified three primary issues as the reason for the increased cost. A large portion of the cost overrun is related to the COVID pandemic and related supply chain issues. Another issue is a need to change the piles used to stabilize the LNG storage tank from regular cylindrical piles to hemispherical piles. Finally, there were additional costs related to the acquisition of the rights to more land for a thermal exclusion zone[2].

Q. DOES THE DIVISION TAKE ISSUE WITH THE CLAIM THAT THERE ARE ADDITIONAL RECOVERABLE CAPITAL COSTS ASSOCIATED WITH COVID?

A. The supply chain issues associated with COVID have been felt by many contractors. This resulted in many projects being hobbled, and as often happens when the timeframe for a construction project is delayed, the cost for the contractor's clients increases. In this case, the cost increases from this event were unforeseen, unknown, and unknowable to the Company when it received Commission approval

[1] 22-057-03 Exhibit 3.10 line 6 plus Footnote 2 ($4,104,330+$1,081,013=$5,185,343)

[2] Direct Testimony of Kelly B. Mendenhall lines 177-394

to build the facility, so those additional costs could, therefore, justifiably be passed on to ratepayers.

Q. DOES THE DIVISION TAKE ISSUE WITH THE CLAIM OF ADDITIONAL CAPITAL COSTS FROM CHANGING THE TYPE OF PILES?

A. The piles for this project were originally designed as long pillars of steel reinforced concrete, sunk deep in the earth to provide stability for the tank. However, upon further inspection, it was determined that the piles needed to be more earthquake resilient. Some might argue that changing the design of the piles was a contractor, or subcontractor mistake, or miscalculation and therefore the responsibility of the Company and not the responsibility of the captive ratepayers. The Division, however, views the change in the pile design as a work order change brought about by the revelation of more accurate information. The original design was based on the best available information at the time the project was proposed and approved. The new design is based on the best currently available information and is required to ensure stability of the tank. If the updated information had been known when the Company proposed the LNG Plant, it is likely the new design and the associated higher cost would have been approved. Therefore, the Division does not oppose the additional cost revision for the updated piles.

Q. DOES THE DIVISION TAKE ISSUE WITH THE CLAIM OF ADDITIONAL CAPITAL COSTS ASSOICATED WITH OBTAINING THE RIGHTS TO MORE LAND FOR THE THERMAL EXCLUSION ZONE?

A. The Division investigated the Company’s analysis for locating the facility where it did on the site and compared that to other possible locations to determine if it could have mitigated the need for the additional land rights. There did not appear to be a better location the Company could have chosen as an appropriate or viable alternative given the location of the wetlands and the associated construction concerns of building in their proximity on the property. Again, the recovery of costs for this capital project was pre-approved by the Commission and not a normal post-investment capital recovery request made by the utility. Similar to the change to the piles discussed above, had the Company known about these additional costs at the time of filing for approval of the LNG project it arguably would have included them as reasonable construction costs which, given the outcome of the LNG docket, would likely have been approved at that time. Therefore, the Division does not oppose the additional land costs.

Q. DOES THE DIVISION CONTEND THAT THESE ADDITIONAL CAPITAL COSTS BE DISALLOWED IN GENERAL RATES?

A. No. For the reasons stated above, these costs are reasonable and therefore eligible for inclusion in rates.

Q. WHEN THE COMMISION APPROVED THE CAPITAL CONSTRUCTION COSTS, DID THE COMMISSION ALSO APPROVE ESTIMATED ON-GOING O&M EXPENSE AND IS THAT AMOUNT INCLUDED IN THIS APPLICATION?

A. Yes.

Q. HOW MUCH DID THE COMMISSION APPROVE PER YEAR IN O&M EXPENSES?

A. The amount for the test year (2023) is $5,185,343[3] and escalates at a rate of 2.7 percent per year.

Q. IS THAT THE AMOUNT THE COMPANY IS REQUESTING IN THIS GENERAL RATE CASE?

A. Yes. In Company witness Jordan K. Stephenson's testimony, he proposes a $5.1 million increase in O&M expense related to the LNG facility.

Q. DID THE COMPANY PROVIDE DETAIL TO SUPPORT THIS INCREASE IN O&M EXPENSE?

A. The Company provided supporting detail in data request OCS 3.06.

[3] 19-057-13 Highly Confidential DEU Exhibit 1.07, LNG On System 25 year cell E31.

Q. DID THAT SUPPORTING DETAIL JUSTIFY THE O&M LEVEL PROPOSED BY THE COMPANY?

A. The detail supported some of the variable electric and gas costs. However, a comparison of the fixed costs such as labor, consumable materials, replacement parts and tools, rented equipment and vehicles, and outside services suggest a reduction in O&M expense is warranted.

Q. CAN YOU EXPLAIN THE ADJUSTMENT?

A. DEU Exhibit 3.10, line 5 includes an amount of $1,703,130 for fixed cost non labor expenses. Mr. Stephenson also includes LNG labor expense of $1,081,013. The detail in OCS 3.06 includes fixed cost expenses total $2,114,209. Based on this comparison the Division recommends an adjustment of $669,934 to LNG Operating and Maintenance Expenses.

	OCS 3.06		DEU 3.10		Adjustment
Fixed Costs					
Payroll	$1,257,681	1/	$1,081,013	2/	
Consumable Materials	$129,264		$1,703,130	3/	
Replacement Parts and Tools	$456,741				
Rented equipment and vehicles	$76,236				
Outside Services	$194,287				
Total Fixed Costs	$2,114,209		$2,784,143		($669,934)
1/ OCS 3.06					
2/ DEU Exhibit 3.10 footnote 2.					
3/ DEU Exhibit 3.10 line 5 includes $1,703,130 for fixed cost expense.					

Q. IS THE DIVISION RECOMMENDING ANY OTHER ADJUSTMENTS IN THE ON-GOING O&M COSTS OF THE LNG FACILITY?

A. Yes. On line 400 of his testimony Mr. Stephenson states, “If the Commission approves Pass-Through Account treatment of variable electric costs in a separate Pass-Through Account docket, the total amount included in the 2023 Test Period in this docket should be reduced from $4,915,377 to $2,784,143.” This reduction in O&M amounts to $2,131,234.

The Division supported "the Company's request to include the cost of the electricity for the LNG plant in the 191 pass-through since the LNG resource is not intended to be used on a regular and constant basis" and recommended that since these costs are included in the 191 filing, they will need to be removed from the GRC. Accordingly, the Division recommends removal of these costs from this case in the amount of $2,131,234.

Q. PLEASE SUMMARIZE THE DIVISION'S POSITION ON THE COMPANY'S REQUEST FOR RECOVERY COSTS OF THE LNG FACILITY IN THIS CASE

A. The Division recognizes the stated capital cost overruns are reasonably justifiable and recommends inclusion of those additional capital costs in general rates. However, there should be two adjustments in the ongoing expenses. The first is to reduce the O&M costs by $669,934 and the second is to eliminate the cost for electricity by $2,131,234. These adjustments have been included in the Division's adjustments to the Company model to determine the revenue requirement.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes.