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# UTAH DEPARTMENT OF COMMERCE

## Division of Public Utilities

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## Comments

**To:** Public Service Commission of Utah

**From:** Utah Division of Public Utilities

Chris Parker, Director  
Artie Powell, Manager  
Doug Wheelwright, Utility Technical Consultant Supervisor  
Eric Orton, Utility Technical Consultant

**Date:** November 10, 2022

**Re:** **Docket No. 22-057-19**, Application of Dominion Energy Utah for a Waiver of Utah Admin. Code R746-460 to Allow Sharing with Low Income Assistance Program Administrators.

## Recommendation (Approval With Conditions)

The Division of Public Utilities (Division) has reviewed Dominion Energy Utah's (Dominion or Company) application to waive the requirements of Utah Administrative Code § R746-460 pertaining to "Rules Governing Customer Information and Marketing for Large-Scale Electric and Gas Utilities." (Rule). This application is basically two requests in one filing. First, the Company wants permission to share Customer Data (as defined in the Rule) with certain Low Income Assistance Program Administrators (Agencies). Second, the Company wants permission to not be required to obtain Express Consent (as defined in the Rule) and to not be required to retain records of the Express Consent. Regarding the first request, the Division recommends that the Public Service Commission of Utah (Commission) provide conditional approval for sharing limited Customer Data if the six additional safeguards listed below are included and deny the second request to waive the requirement to receive Express Consent and retain that record.

Division of Public Utilities

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## **Issue**

Dominion is asking the Commission waive portions of its requirements to abide by the section of Utah Admin. Code § R746-406, which prohibits sharing customer data. Specifically, it wants to be allowed “to share customer usage and billing information with governmental agencies and non-profit entities administering low-income-assistance programs.” It also does not want to be required to obtain Express Consent from the customer and retain a record of that consent.

## **Background**

Dominion frequently interacts with government and non-profit organizations that assist low-income customers with their natural gas bills. Part of the service the Agencies provide is the remitting of payments to Dominion and applying for payment assistance for the customers. To enable the Agencies to provide this assistance, the customer needs to provide “the customer’s account number and a copy of the most recent bill.” According to the Company, it is common for a customer to provide its “account number but fail to provide a copy of the bill.” When this happens, the Agencies contact Dominion for “the current usage and billing information.”

According to the Company, this “is becoming administratively burdensome for both the Agencies and Dominion Energy.” This filing is an effort to reduce the burden by streamlining the process for both the Company and the Agencies. In order to facilitate this streamlining, the Company is “developing and deploying a software portal through which the Agencies can take a customer’s account number, log in, and obtain current usage and billing information.” Dominion is seeking Commission approval for enabling these Agencies to have access to its system that will provide the necessary customer information.

The Company is also asking the Commission to waive its requirement to obtain and retain Express Consent from the customer for this limited purpose as mentioned above. It does not deem it necessary to adhere to this section of the rule, which requires the Company to identify which customers are helped by one of the above listed Agencies.

On October 24, 2022, Dominion filed this application and on October 26, 2022, the Commission issued its Notice of Filing and Comment Period providing interested persons until November 10, 2022, to file comments. This memo represents the Divisions comments and recommendations.

## **Discussion**

According to the Company, the situation of customers not readily providing their respective billing and use data to these Agencies “is becoming administratively burdensome for both the Agencies and Dominion Energy.” This request is the Company’s effort to reduce the burden by streamlining the process for both the Company and the Agencies.

Dominion is asking for a waiver of Utah Admin. Code § R746-460-3, which limits large utilities’ sharing of customer information. The utility is allowed to share data, like billing and usage information “only if the customer provides Express Consent . . .” in writing and requiring that this document be retained by the utility. Dominion’s proposal is a software-based solution which could, “arguably, run afoul of the aforementioned rule.” It wants a limited waiver in order to give these Agencies access to a portal it is developing that accesses the customer usage and billing data. Dominion is also requesting expedited treatment by the Commission because “customer need for funding may soon become more urgent.” This urgency is in part a result of the Company filing this request so late in the season.

The rules referenced by the Company are designed “to establish and enforce certain uniform practices governing”, among other things “Customer Usage Data by Large-Scale Utilities with utility affiliates or third parties” when the utility is given, (and retains) “Express Consent” to share the customer’s usage and billing data. The Company is not requesting to share more information than customer usage and billing data.

### **DOMINION PROPOSED CUSTOMER DATA SAFEGUARDS**

Dominion proposes to implement the following security measures into this program to safeguard the customer’s data by having each Agency:

- 1) “enter into an agreement ... to provide log-in access only to its employees and only for purposes of administering funds to be distributed through a low-income assistance program.”
- 2) "require the Agencies to notify the Company when any employee with access leaves the Agency’s employment.”
- 3) allow access to the portal via “an Agency-issued email and password, with two factor authentication.”
- 4) disable the Agency email address of individuals who are no longer employed by the respective Agency, thereby denying the individual an Agency email address “to receive a code for two factor authentication to access the portal.”
- 5) ensure each “user created password will expire every 60 days.”

#### DIVISION PROPOSED ADDITIONAL CUSTOMER DATA SAFEGUARDS

The Division appreciates the safeguards proposed by Dominion. However, in consultation with Dominion, the Division recommends the following additional safeguards be implemented as soon as practicable on condition of approval of the Company’s Application.

1. The Company re-apply annually for at least the first three years of the program. In these filings the Company should provide 1) evidence showing the effectiveness of these customer data safeguards and/or 2) recommendations for additional safeguards or alterations to the program. And 3) an annual report showing how the program is functioning, including the number of customers these Agencies are accessing the portal on behalf of.
2. Only the following agencies be allowed access to the portal without prior Commission approval (ones Dominion currently works with):
  - I. State of Utah (UT HEAT)
  - II. Bear River Association of Governments (UT HEAT)

- III. Five County Association of Governments (UT HEAT)
  - IV. Futures Through Training (UT HEAT)
  - V. Mountainland Association of Governments (UT HEAT)
  - VI. Six County Association of Governments (UT HEAT)
  - VII. Southeastern Utah Association of Local Governments (UT HEAT)
  - VIII. Uintah Basin Association of Governments (UT HEAT)
  - IX. Utah Community Action Program (UT HEAT)
  - X. Ute Indian Tribe (UT LIHEAP)
  - XI. Paiute Indian Tribe (UT LIHEAP)
  - XII. Southeastern Idaho Community Action Agency (ID LIHEAP)
  - XIII. The Salvation Army (UT REACH) non-profit organization
3. Although this program is touted as a time- and therefore money-saving effort, if there are any incremental costs in either the development and/or administration of the program they should be covered by the Company's Low Income Assistance Fund or should be borne by the Company.
4. Every reasonable effort should be made by the Company to ensure that none of this customer data is used to market products or services by either the Agencies, Dominion, or any of their affiliated or ancillary companies or organizations.
5. Every reasonable effort should be made by the Company to ensure that none of the customer data be retained by the Agency or ancillary companies or organizations for any purpose other than to fulfil their respective responsibility pertaining to the program.
6. Non-Disclosure Agreements' (NDA) are signed annually by each agency allowed access to the Portal, and these NDAs are retained by the Company.

## DIVISION PROPOSED EXPRESS CONSENT AND RECORD RETENTION RECOMMEDATION

As part of this application, the Company asked the Commission to waive its requirement to obtain and retain express consent of the customer for this limited purpose. The Division does not support that portion of the application. The request for waiver of this portion of the Rule does not have substantial justification. The Rules should be adhered to by the utilities and convincing evidence should be provided if and when one or more of the Rules are temporarily or permanently waived by the Commission. Such evidence was not presented by Dominion in its application and the Division is unconvinced that compliance with this requirement is burdensome. According to the Rule 746-460-2-1, Express Consent can be obtained “via electronic communication”. Express Consent is still necessary and can be reasonably obtained. After extensive communication with the Company, the Division has concluded that the retention of the Express Consent requirement could be sufficiently fulfilled by the Company through the customer giving the Agency its account information. The Company’s record retention requirement can be fulfilled in its current record keeping policies. Therefore, the Company can obtain Express Consent and retain that information as required by the Rule.

### **Conclusion**

The Division recommends that the Commission conditionally waive a portion of Utah Admin. Code § R746-460 to allow Dominion Energy to share customer’s current billing and usage data with the above listed Agencies. The sole purpose of this waiver is to allow administering Agencies the ability to better assist customers in paying outstanding Dominion bills. However, express consent should still be obtained and retained as required in the Rules and as specified above.

The Division notes that the objective of this program is to streamline the Agency’s ability to obtain the customer data it needs to assist in the administration of the existing programs. The current method apparently causes unnecessary work for the Company, Agencies, and customers when a more streamlined remedy is becoming available via electronic data access.

The Company requests the Commission act upon this Application on an expedited basis.  
This filing is not requesting any change in the Company's current rates.

cc: Kelly B. Mendenhall, Dominion Energy Utah  
Michele Beck, Office of Consumer Services