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11
             APPEARING WITH JENNIFFER N. CLARK:
12
             SHALISE MCKINLAY
13
14    Complainant:   Not present
15
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16      ///
17      ///
18      ///
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Page 2

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 1                    I N D E X
 2     ELIA LOPEZ                                    PAGE
 3     Direct Examination by Ms. Clark..............   7
 4     Examination by Mr. Delaney...................  11
 5     Direct Examination by Ms. Clark..............  12
 6     Further Examination by Mr. Delaney...........  14
 7

       JACE GORDON

 8

       Examination by Mr. Delaney...................  18
 9

       Direct Examination by Ms. Clark..............  22
10

11     SEAN GOODFELLOW
12     Examination by Mr. Delaney...................  23
13

                          -o0o-
14

15                  E X H I B I T S
16

       EXHIBIT NO.                                   PAGE
17

       DEU Exhibits A, B, C, D, E, F, G, H, I.......  12
18

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21     ///
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24     ///
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P R O C E E D I N G S

2   MR. DELANEY: Good morning, everyone. My

3   name is John Delaney. I'm the Commission's

4   designated officer for this hearing. Today is

5   August 25th, 2023, and it's approximately 9:21 a.m.,

6   and this is the time that we -- this is the date and

7   time we will have this hearing which was originally

8   scheduled for 9:00 a.m.

9   The hearing is on the formal complaint of

10   Marcia Darger -- I'm not sure how to pronounce that

11   correctly -- d/b/a My M-&-M-s -- that's M&Ms, LLC,

12   against Dominion Energy Utah, in Docket 23-057-09.

13   This hearing is being held pursuant to a

14   notice of hearing and to please be prepared to

15   address the specific questions at this hearing.

16   That notice was issued August 10th, 2023, and it was

17   served on all parties via the method indicated on

18   the Certificate of Service, which, in this case, as

19   it relates to the Complainant, was sent by the

20   United States Postal Service to the address that we

21   had on file relative to the complaint, the physical

22   address in St. George, Utah, as well as to an email

23   address, fleetwood -- fleetwood_matters@yahoo.com,

24   as well as to Dominion -- Jenniffer Nelson Clark and

25   Shalise McKinlay. And also included on the

1   Certificate of Service were two assistant attorney

2   generals, as well as the Division of Public

3   Utilities, as well as some representatives from the

4   Office of Consumer Services.

5   At this point, let's go ahead and take

6   appearances.

7   Applicant, will you make your appearance

8   known, please -- or Complainant. Marcia Darger, are

9   on the call?

10   Counsel for DEU, why don't you go ahead

11   and make your appearance, and why don't you

12   introduce your witnesses, at least.

13   MS. CLARK: I will. Thank you.

14   My name is Jenniffer Clark. I am counsel

15   for Dominion Energy Utah.

16   I brought with me today Elia Lopez, the

17   lead customer relations and energy assistant

18   specialist who will be testifying on behalf of the

19   Company.

20   We have a second witness, Jace Gordon, who

21   is supervisor of gas training development.

22   I also have with me two individuals who

23   are prepared to answer questions that the Commission

24   may have if they arise, and those people are Sean

25   Goodfellow -- he's a senior meter shop technician --

1 and Austin Summers. He is the manager of

2 regulations. And in the room with us we have a few

3 other observers as well.

4   MR. DELANEY: Thank you very much.

5   Well, I'm pausing for a minute because I'm

6 trying to think about, really, how we should do

7 this. Ms. Darger was properly notified of this

8 hearing. It is her complaint. We have no

9 indication at the Public Service Commission that she

10 has withdrawn her complaint or will be withdrawing

11 her complaint.

12   Does DEU have anything in regards to that?

13   MS. CLARK: We do not.

14   MR. DELANEY: So it seems to me that while

15 we're all here and since the complaint is not

16 withdrawn, I do have some questions that I would

17 appreciate Dominion clarifying for purposes of

18 assisting in making a ruling on the complaint.

19   MS. CLARK: Of course. We have some

20 prepared testimony that answers the questions in the

21 notice. We could proceed that way, or if you

22 prefer, we'd be happy just to answer the questions

23 as you ask them.

24   MR. DELANEY: No. I really appreciate

25 your preparation. Why don't we leverage that and

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 1   proceed from there, and if I have follow-ups, we'll
 2   do that.
 3           MS. CLARK:  Okay.
 4           MR. DELANEY:  Okay.  So why don't you call
 5   your first witness -- or, yeah.  We'll just do it in
 6   order as you prefer, and I will swear in the
 7   witness.
 8           MS. CLARK:  Perfect.
 9           Our first witness would be Elia Lopez.
10           MR. DELANEY:  Good morning, Ms. Lopez.
11           John Delaney.
12           MS. LOPEZ:  Good morning.
13           MR. DELANEY:  Do you swear to tell the
14   truth?
15           MS. LOPEZ:  I do.
16           MR. DELANEY:  Okay.  Thank you.
17                   ELIA LOPEZ,
18   was called as a witness, and having been first duly
19   sworn to tell the truth, testified as follows:
20                 DIRECT EXAMINATION
21   BY MS. CLARK:
22      Q.    Ms. Lopez, can you please state your name
23   and business address for the record?
24      A.    Elia Lopez.
25           333 South State Street, Salt Lake City,
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1 Utah 84111.

2   Q.   And what position do you hold with

3 Dominion Energy?

4   A.   I am a lead customer relations and energy

5 assistant specialist.

6   Q.   And, Ms. Lopez, are you familiar with the

7 comments that the Company filed in this docket?

8   A.   Yes.

9   Q.   And do you adopt the content of those

10 comments as your testimony today?

11   A.   Yes.

12   Q.   Are you familiar with the document that

13 was attached to those comments labeled DEU

14 Exhibit A?

15   A.   Yes. This is a customer inquiry note

16 which was saved in Dominion Energy's customer care

17 billing software, documenting the phone call

18 received from Marcia on November 30, 2022.

19   Q.   And are you familiar with the document

20 labeled as DEU Exhibit B?

21   A.   Yes. This is a customer inquiry note

22 which was saved in Dominion Energy's customer care

23 billing software, documenting the call received from

24 Marcia of My M&Ms, LLC, on January 12th of 2023.

25   Q.   Can you identify DEU Exhibit C?

1   A.   Yes. This is a customer inquiry note

2 which was saved in Dominion Energy's customer care

3 billing software, documenting the call received from

4 Marcia of My M&Ms, LLC, on March 10. It also

5 contains notes documenting the call that was made to

6 Marcia on March 24 of 2023.

7   Q.   And are you familiar with the document

8 that has been submitted as DEU Exhibit D?

9   A.   Yes. This is a note contained in Dominion

10 Energy's customer care billing software regarding

11 evaluation of a photograph received of the meter

12 from My M&Ms, LLC, dated March 22, 2023.

13   Q.   And are you familiar with a document

14 identified and submitted as DEU Exhibit E?

15   A.   Yes. This is a note contained in Dominion

16 Energy's customer care billing software regarding a

17 phone call received from Marcia of My M&Ms, LLC, on

18 April 4, 2023.

19   Q.   And can you describe the document that has

20 been labeled and submitted as DEU Exhibit F?

21   A.   This is an order detail that was completed

22 by Dylan Seavey (phonetic) and saved in Dominion

23 Energy's computer system, documenting the service

24 visit at the location of 241 North 2230 East,

25 St. George, Utah, April 11, 2023, to evaluate the

1 operation of the meter at that location.

2   Q.   And can you describe the document labeled

3 and submitted as DEU Exhibit G?

4   A.   This is an order detail of Dominion

5 Energy's customer care billing software, documenting

6 the result of a meter test which was performed on

7 May 2, 2023.

8   Q.   And can you describe what the document

9 labeled DEU Exhibit H is? Oh, I'm sorry.

10   G? No. We did G, yes.

11   There are a lot of exhibits. My

12 apologies. H.

13   A.   These are copies of the bills sent by

14 Dominion Energy to My M&Ms, LLC, each one from

15 November through -- November 2022 through June 2023.

16   Q.   And, finally, can you describe the

17 contents of DEU Exhibit I?

18   A.   Yes. This is a table that was prepared by

19 Dominion Energy Utah for illustration purposes to

20 summarize the charge assessed to My M&Ms, LLC, for

21 gas used, decatherms used, the basic service fees,

22 Utah sales tax, municipal tax, energy assistance,

23 monthly bill total, past due amount, as well as the

24 amount provided by the customer in her complaint.

25   This information was generated by the

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 1   fields provided in Exhibit H and the PSC complaint

 2   filed by Ms. Darger on behalf of My M&Ms, LLC.

 3       Q.    And were each of these documents created

 4   at or near the time that information was gathered or

 5   compiled?

 6       A.    Yes.

 7       Q.    And were they kept in the ordinary course

 8   of Dominion Energy's business?

 9       A.    Yes.

10       Q.    And making these records is a regular

11   practice or activity of Dominion Energy, is it not?

12       A.    Yes.

13             MS. CLARK:  The Company would move for the

14   admission of DEU Exhibits A through I, all of them.

15             MR. DELANEY:  Ms. Darger, are you here?

16             Okay.  So no objections.

17             I want to ask a question quickly on

18   Exhibit H.

19                      EXAMINATION

20   BY MR. DELANEY:

21       Q.    Ms. Lopez, do you represent as a (Webex

22   audio cut out) foundational piece that those

23   represent true and accurate copies of what otherwise

24   would be generated from the billing program that

25   (Webex audio cut out) bills to Dominion customers?
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1   A.   Yes.

2   Q.   Okay. Thank you.

3   A.   These are.

4   MR. DELANEY: Your motion is granted,

5   Counsel. Those exhibits are admitted.

6   (DEU Exhibits A through I admitted.)

7   MS. CLARK: Thank you so much.

8   DIRECT EXAMINATION

9   BY MS. CLARK:

10   Q.   Ms. Lopez, do you know when the old meter

11   at the subject premises was uninstalled for this

12   customer?

13   A.   April 11, 2023.

14   Q.   And do you know when the new meter was

15   installed for this customer?

16   A.   April 11, 2023.

17   Q.   Ms. Lopez, I want you to refer to

18   DEU Exhibit G. Can you please describe what that

19   exhibit shows?

20   A.   It is meter test results found in the

21   customer base.

22   Q.   Can you interpret it for the Commission

23   today?

24   A.   I would like to defer to my co-worker,

25   Sean, who did the actual testing.

1   Q.   Are you familiar with the Utah

2   Administrative Code applicable to meter testing?

3   A.   I am.

4   Q.   And can you describe that as well?

5   A.   I -- okay. Just because the customer was

6   concerned that her meter was working improperly, the

7   meter was sent to Dominion Energy's meter testing

8   facility for testing.

9   Utah Administrative Code R746-320-3(H) and

10 Section 8.01 of the Company's tariff provide that

11 meter testing less than 3 percent fast or 3 percent

12 slow do not require a billing adjustment.

13   Exhibit G is the result of the testing

14 that was performed. It demonstrated that the meter

15 was within the parameters required by the Public

16 Service Commission; therefore, the customer did not

17 qualify for any adjustments to her bill.

18   Q.   Does this conclude your testimony?

19   A.   Yes.

20   MS. CLARK: Ms. Lopez is available for

21 cross-examination or for questions from the

22 commission.

23   MR. DELANEY: Thank you very much.

24   Ms. Darger, have you joined us?

25   Let the record reflect that Ms. Darger

1   still is not here, and, therefore, will be

2   conducting no cross-examination.

3   I have a question, another question for

4   you, Ms. Lopez, but you may defer this if you need

5   to.

6   FURTHER EXAMINATION

7   BY MR. DELANEY:

8   Q.   Your letter is comprehensive, and so

9   that's why I'd like to ask you, but you may not

10 know. What I'm having a hard time understanding is

11 how to read these numbers, and it seems 00 that is,

12 I'm referring to a letter which was part of the

13 informal complaint process. That's your May 19

14 letter; so it's not been designated as an exhibit,

15 but it is part of what Counsel has. Do you have

16 that?

17   A.   We do.

18   Q.   So just to orient you -- and that letter

19 seems to reflect what you just talked about. And

20 what I'm having a hard time understanding is -- so

21 it says, for example, at 100 percent capacity, the

22 meter checked at plus 00.8 and plus 00.6 at 20

23 percent capacity.

24   What I'm trying to understand is are those

25 numbers, the plus 00.8 and the plus 00.6.

1   I understand the 3 percent, I understand

2   the tariff, but what I don't understand is what

3   those numbers mean. And maybe another way to look

4   at this is, if a reading was to violate the tariff

5   -- "violate" is the wrong word. If it was over the

6   3 percent, how would that be expressed? Plus 3.12?

7   Just give me some context because I don't understand

8   what these numbers mean in a vacuum.

9   A.   I would like to defer these questions to

10   Sean Goodfellow, who does the testing.

11   Q.   Okay. Very well. That's just fine.

12   MS. LOPEZ: And if it's convenient, we

13   could have him sworn next and he could just answer

14   the question and we could move to our other witness.

15   MR. DELANEY: You know, that's fine, but I

16   may have another suggestion. Let me just ask one

17   last question because I might have misunderstood

18   you, Ms. Lopez.

19   Q.   (BY MR. DELANEY) My notes reflect that

20   you said that the date of the old meter -- the date

21   the old meter was un- -- uninstalled was 4/23?

22   A.   April 11, 2023.

23   Q.   Let's just go through that again because

24   as I wrote it down it seemed backwards, and I want

25   to make sure the record is clear.

1   So the old meter was uninstalled on

2   April 11th; correct?

3   A.   April 11th. Correct.

4   Q.   And then the new meter was installed on

5   April 23rd; correct?

6   A.   No. No. It was a job done the same day

7   because when they take the meter they would replace

8   it with another one. They wouldn't leave the home

9   with no gas.

10   Q.   Which was going to have me ask another

11   question, but I don't need to ask that one now

12   because I guess I just got the testimony wrong.

13   So to clean this record up, the new meter

14   -- the old meter was uninstalled on 4/11/2023;

15   correct?

16   A.   Correct. Yes.

17   Q.   And the new meter was installed on

18   4/11/2023; correct?

19   A.   Correct. Same job. Correct.

20   Q.   Thank you.

21   MR. DELANEY: I don't have any further

22   questions for Ms. Lopez.

23   What I was going to suggest, Counsel, is I

24   can just ask the questions so we don't have to spend

25   a whole lot of time on the prepared testimony, but I

1   also don't want to do violence (sic) to what you had

2   prepared yourself and your witnesses to do. So

3   what's your preference?

4   MS. CLARK: It may be helpful to know that

5   Mr. Gordon is here to talk about how we handle

6   painting meters and why, and Mr. Goodfellow is here

7   in case you have questions -- and you do -- about

8   interpretation of the numbers in these test results.

9   So that would be the division of expertise amongst

10   the two of them.

11   MR. DELANEY: Great. What I want to do is

12   swear them both now, separately, and then have them

13   sit tight, and I'll post the questions as

14   appropriate. So why don't we start with Mr. Gordon.

15   MS. CLARK: Perfect.

16   MR. DELANEY: You let me know when you're

17   ready, Counsel.

18   MS. CLARK: We're ready. Mr. Gordon is

19   ready, and we're just putting a computer in front of

20   Mr. Goodfellow so you can see his face.

21   MR. DELANEY: Okay. Thank you.

22   Ms. Darger, have you joined us yet?

23   Okay. Hearing nothing, I'll take that as

24   a no.

25   Mr. Gordon, I'm John Delaney. Good to see

1 you.

2   MR. GORDON: Good morning, Mr. Delaney.

3   MR. DELANEY: Good morning. Do you swear

4 to tell the truth?

5   MR. GORDON: Yes, I do.

6   MR. DELANEY: You are sworn in.

7   Mr. Goodfellow? Good morning.

8   MR. GOODFELLOW: Good morning.

9   MR. DELANEY: Do you swear to tell the

10 truth?

11   MR. GOODFELLOW: Yes, I do.

12   MR. DELANEY: Okay. Thank you. You are

13 too sworn in.

14   Let's circle back to Mr. Gordon.

15   JACE GORDON,

16 was called as a witness, and having been first duly

17 sworn to tell the truth, testified as follows:

18   EXAMINATION

19 BY MR. DELANEY:

20   Q.   Mr. Gordon, I want to know that -- I want

21 to know the date that the new meter was painted.

22   A.   So in that case it would depend on what

23 part of the meter set you're actually referring to.

24 Typically, a meter itself, if it's a brand new meter

25 or a refurbished meter, that is typically painted

1 before it is sent out for the tech to use.

2   The actual meter set itself, including the

3 gas pipe, being from the shut-off valve to the

4 customer's home, that's technically painted on-site,

5 and if there's any touch up that's needed on the

6 meter set at the time, they conduct that painting at

7 that time when the meter is installed.

8   Q.   I appreciate that background, that

9 context. Let me tell you where I'm coming from.

10   There's an allegation that, in essence, I

11 think, that painting the meter is causing the

12 problem. And the problem, as alleged, is that

13 there's something wrong -- the meter is reading

14 incorrectly. And, counterintuitively, I think the

15 allegation continues -- the meter was painted and it

16 sped up the dial, so to speak, as opposed to, what

17 I'd say would be counterintuitive. It's

18 counterintuitive because I would think it might

19 stick and therefore slow down the meter.

20   Nonetheless, I'm divining what I've seen

21 in the submissions. We don't have the Complainant

22 here. And so what I'm trying to get at is the

23 impact of painting on this particular and very

24 specific situation -- not generally -- this very

25 specific situation.

1   So having said all of that, maybe the

2   better thing would be to ask, there's an assertion

3   in the response, quote, "Painting a meter does not

4   impair the funtioning of that meter."

5   Why don't we get a response from a witness

6   who is sworn that supports that assertion.

7   A.   So if I can answer that?

8   Q.   Yeah. Mr. Gordon, can you affirm that

9   assertion?

10   A.   Yes. Yes, I can.

11   So the paint is typically applied on the

12   exterior of the meter set.

13   Q.   Mr. Gordon, I want to -- before you start

14   saying, "typically," and "generally," I need you to

15   be specific. And if you can't be specific about

16   this, it's okay. I'd like you to say what you're

17   going to say. But can you be specific about this

18   particular meter?

19   A.   Yes, yes. The meter set -- when we apply

20   paint to a meter set, it is applied on the exterior

21   portion of the meter set. That meter set is a

22   pressure-containing device; so, therefore, the paint

23   would not interfere with the internal workings of

24   the meter set.

25   Q.   Okay. And I guess I'll just close the

1 loop. That rationale that you've just stated

 2 applies to this specific meter at issue in this

 3 case; correct?

 4   A.   Yes.

 5   Q.   Okay. Thank you.

 6   MR. DELANEY: And I think, Counsel, you --

 7 and, please, correct me if I'm wrong -- but it

 8 strikes me that the date of the painting, what was

 9 painted, while helpful, and if you have it, if you

10 can provide -- if your witness can provide that

11 exact testimony, that would be fine, but, if not,

12 then I don't think I need that at this point, but

13 I'll defer to you on that.

14   MS. CLARK: No. That's fine. I don't

15 think we need it either. I think Mr. Gordon's

16 testimony as to the practice suffices.

17   I do have a couple of questions for him.

18   MR. DELANEY: He's your witness.

19 (Mr. Delaney and Ms. Clark speaking simultaneously.)

20   MR. DELANEY: He's your witness. I'm

21 sorry.

22   MS. CLARK: No, that's totally fine.

23   If I may proceed?

24   MR. DELANEY: Please.

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 1                    DIRECT EXAMINATION

 2   BY MS. CLARK:

 3       Q.      Mr. Gordon, does Dominion Energy apply

 4   this practice to all of its meters, this practice of

 5   painting them?

 6       A.      Yes, it does.

 7       Q.      And why does Dominion Energy do that?

 8       A.      The reason why we paint the meters is

 9   because of Regulation 49 CFR 192.479, for

10   atmospheric corrosion control.  So Part 192 requires

11   that Dominion Energy coats each portion of the

12   pipeline that is exposed to the atmosphere with a

13   material that is suitable to prevent atmospheric

14   corrosion.

15       Q.      Thank you.

16               MS. CLARK:  I don't have any further

17   questions.

18               MR. DELANEY:  Okay.  Thank you very much.

19               Sorry I'm dawdling because I wonder if our

20   Complainant will show up and I'll get notice.

21               Thank you very much, Mr. Gordon.

22               Let me talk to Mr. Goodfellow.  I have a

23   few questions for you, Mr. Goodfellow, and, of

24   course, your counsel my have questions as well.

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 1                      SEAN GOODFELLOW,

 2   was called as a witness, and having been first duly

 3   sworn to tell the truth, testified as follows:

 4                      EXAMINATION

 5   BY MR. DELANEY:

 6        Q.    We -- I don't know if you were listening

 7   in earlier with Ms. Lopez's testimony, but we were

 8   talking about a letter that she was the signatory

 9   on, dated May 19th.  Are you familiar with that

10   letter?

11        A.    Yes.  I heard the testimony.

12        Q.    Great.  So that's really what I'm getting

13   at is -- I think I'll just tie it into -- well,

14   let's just tie it into these numbers.

15              So the representations are what they are

16   regarding the plus 00.8 and plus 00.6.

17              I'm having a hard time and need you to

18   explain to me -- teach me how it is that I know from

19   looking at those numbers that they are not above or

20   below the 3 percent tariff threshold.

21        A.    A residential meter passage is 250 cubic

22   feet at four ounce pressure; so that's typically

23   what a house would have.  When we test the meter, we

24   run basically two tests:

25              The full capacity of the meter; so 250
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1 cubic feet. So that first number plus 00.8 is for

2 the full 250 cubic feet going through the meter.

3   The second one is the capacity or

4 20 percent of the -- 20 percent capacity of the

5 meter, which basically simulates if the meter was

6 using, like, a pilot light mode; so just a very

7 small amount of gas.

8   And we run both tests to show the accuracy

9 of the meter itself.

10   The 3 percent that's mentioned here, if

11 the meter was actually running plus or minus

12 3 percent, the test results would show 3.23, or

13 whatever, minus 3.02. Those numbers would show that

14 it would be past that 3 percent threshold.

15   Q.   Okay.

16   A.   In this case, they're running very close

17 to, like, almost zero; so a very accurate meter.

18   Q.   Okay. I suspected as much, but it was not

19 at all clear from the letter. I appreciate your

20 clarification that, if there was a problem here, the

21 letter would have said, "Your reading is plus

22 three-point-something, and therefore you're entitled

23 to a credit currently under the tariff." Something

24 to that effect. I understand now.

25   MR. DELANEY: Those are all the questions

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 1   that I have.
 2            Counsel, if you have follow-up questions,
 3   please feel free, but, otherwise, I don't have any
 4   further questions.
 5            MS. CLARK:  The Company has nothing
 6   further.
 7            MR. DELANEY:  One last call for the
 8   Complainant, Ms. Darger, Marcia Darger, My M&Ms,
 9   LLC.  Are you present?
10            It's currently 9:48 and the Complainant is
11   not present.  Dominion has proffered testimony,
12   live, sworn testimony, as well as previously
13   now-authenticated written exhibits, its response to
14   the complaint.  The complaint has not yet been
15   withdrawn.
16            There's no further questions.  I will take
17   this under advisement, given the record as we have
18   it now, and we'll be adjourned.  We're adjourned.
19                          -o0o-
20            (Hearing concluded at 9:49 a.m.)
21   ///
22   ///
23   ///
24   ///
25   ///
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 1                   REPORTER'S CERTIFICATE
 2   STATE OF UTAH           )
                            ) §§
 3   COUNTY OF SALT LAKE    )
 4        I, ROSE-MARIE ROBINSON, a Utah Certified Court
     Reporter and Registered Professional Reporter,
 5   hereby certify:
 6        THAT I reported the taking of Hearing,
     Docket No. 23-057-09, as noticed by the Public
 7   Service Commission of Utah, commencing on August 25,
     2023, at 9:21 a.m., via Webex videoconference; THAT
 8   I thereafter transcribed my shorthand notes into
     typewriting and that the typewritten transcript of
 9   said deposition is a complete, true, and accurate
     transcription of my shorthand notes.
10
         I further certify that I am in no way related
11   to any of the parties, nor am I in any way
     interested in the outcome thereof.
12
         There were three witnesses questioned in this
13   hearing:  Elia Lopez, Jace Gordon, Sean Goodfellow.
14        ( ) Review and signature was requested.
          ( ) Review and signature was waived.
15        (X) Review and signature was not requested.
16        IN WITNESS THEREOF, I have subscribed my name
     on this 9th day of September, 2023.
17
18
19

20                   Rose-Marie Robinson,
                     Utah CCR 9884984-7801,
21                   California CSR 14132,
                     Nevada CCR 986,
22                   Idaho CSR SRL-1089,
                     NCRA Registered Professional Reporter.
23
24
25

                                            Page 26
```

&	**2023** 1:13 4:5	**4/23** 15:21	**actually** 18:23
& 4:11	4:16 8:24 9:6	**49** 22:9	24:11
0	9:12,18,25	**5**	**address** 4:15,20
	10:7,15 12:13		4:22,23 7:23
00 14:11	12:16 15:22	**530-6724** 2:5	**adjourned**
00.6 14:22	26:7,16	**7**	25:18,18
00.6. 14:25	**22** 3:9 9:12		**adjustment**
23:16	**2230** 1:10 9:24	**7** 3:3	13:12
00.8 14:22,25	**23** 3:12	**8**	**adjustments**
23:16 24:1	**23-057-09** 1:3		13:17
1	4:12 26:6	**8.01** 13:10	**administrative**
	23rd 16:5	**801** 2:5,10	13:2,9
10 9:4	**24** 9:6	**84111** 2:4,9 8:1	**admission**
100 14:21	**241** 1:10 9:24	**84790** 1:10	11:14
1029 1:24	**25** 1:13 26:7	**9**	**admitted** 12:5
1089 26:22	**250** 23:21,25		12:6
10th 4:16	24:2	**986** 1:24 26:21	**adopt** 8:9
11 3:4 9:25	**25th** 4:5	**9884984-7801**	**advisement**
12:13,16 15:22	**28894** 26:19	1:23 26:20	25:17
11th 16:2,3	**3**	**9:00** 4:8	**affirm** 20:8
12 3:5,17		**9:21** 1:14 4:5	**ahead** 5:5,10
12th 8:24	**3** 13:11,11 15:1	26:7	**allegation**
14 3:6	15:6 23:20	**9:48** 25:10	19:10,15
14132 1:23	24:10,12,14	**9:49** 1:14 25:20	**alleged** 19:12
26:21	**3.02.** 24:13	**9th** 26:16	**amount** 10:23
160 2:4	**3.12** 15:6	**a**	10:24 24:7
18 3:8	**3.23** 24:12		**answer** 5:23
19 14:13	**30** 8:18	**a.m.** 1:14,14	6:22 15:13
192 22:10	**300** 2:4	4:5,8 25:20	20:7
192.479 22:9	**324-5392** 2:10	26:7	**answers** 6:20
19th 23:9	**333** 2:9 7:25	**above** 23:19	**apologies** 10:12
2	**4**	**accuracy** 24:8	**appearance** 5:7
		accurate 11:23	5:11
2 10:7	**4** 9:18	24:17 26:9	**appearances**
20 14:22 24:4,4	**4/11/2023**	**activity** 11:11	5:6
2022 8:18	16:14,18	**actual** 12:25	
10:15		19:2	

appearing 2:11
applicable 13:2
applicant 5:7
applied 20:11
20:20
applies 21:2
apply 20:19
22:3
appreciate 6:17
6:24 19:8
24:19
appropriate
17:14
approximately
4:5
april 9:18,25
12:13,16 15:22
16:2,3,5
assertion 20:2
20:6,9
assessed 10:20
assistance
10:22
assistant 5:1,17
8:5
assisting 6:18
atmosphere
22:12
atmospheric
22:10,13
attached 8:13
attorney 5:1
audio 11:22,25
august 1:13 4:5
4:16 26:7

austin 6:1
authenticated
25:13
available 13:20

b

b 1:3,11 3:15
3:17 4:11 8:20
back 18:14
background
19:8
backwards
15:24
base 12:21
basic 10:21
basically 23:24
24:5
behalf 5:18
11:2
better 20:2
bill 10:23 13:17
billing 8:17,23
9:3,10,16 10:5
11:24 13:12
bills 10:13
11:25
brand 18:24
brought 5:16
business 7:23
11:8

c

c 2:1 3:17 4:1
8:25
california 1:23
26:21

call 5:9 7:4
8:17,23 9:3,5
9:17 25:7
called 7:18
18:16 23:2
capacity 14:21
14:23 23:25
24:3,4
care 8:16,22
9:2,10,16 10:5
case 4:18 17:7
18:22 21:3
24:16
causing 19:11
ccr 1:23 26:20
26:21
certificate 4:18
5:1 26:1
certified 26:4
certify 26:5,10
cfr 22:9
charge 10:20
checked 14:22
circle 18:14
city 2:4,9 7:25
clarification
24:20
clarifying 6:17
clark 2:8,11 3:3
3:5,9 4:24 5:13
5:14 6:13,19
7:3,8,21 11:13
12:7,9 13:20
17:4,15,18
21:14,19,22

22:2,16 25:5
clean 16:13
clear 15:25
24:19
close 20:25
24:16
coats 22:11
code 13:2,9
coming 19:9
commencing
26:7
comments 8:7
8:10,13
commission 1:1
2:2,3 5:23 6:9
12:22 13:16,22
26:7
commission's
4:3
company 5:19
8:7 11:13 25:5
company's
13:10
compiled 11:5
complainant
2:14 4:19 5:8
19:21 22:20
25:8,10
complaint 1:3
4:9,21 6:8,10
6:11,15,18
10:24 11:1
14:13 25:14,14
complete 26:9

completed 9:21	**counsel** 5:10,14	**cut** 11:22,25	**depend** 18:22
comprehensive 14:8	12:5 14:15	**d**	**deposition** 26:9
computer 9:23	16:23 17:17	**d** 1:3,11 3:1,17	**describe** 9:19
17:19	21:6 22:24	4:1,11 9:8	10:2,8,16
concerned 13:6	25:2	**darger** 1:3,11	12:18 13:4
conclude 13:18	**counterintuiti...**	4:10 5:8 6:7	**designated** 4:4
concluded	19:17,18	11:2,15 13:24	14:14
25:20	**counterintuiti...**	13:25 17:22	**detail** 9:21 10:4
conduct 19:6	19:14	25:8,8	**deu** 3:17 5:10
conducting	**county** 26:3	**date** 4:6 15:20	6:12 8:13,20
14:2	**couple** 21:17	15:20 18:21	8:25 9:8,14,20
consumer 5:4	**course** 6:19	21:8	10:3,9,17
contained 9:9	11:7 22:24	**dated** 9:12 23:9	11:14 12:6,18
9:15	**court** 26:4	**dawdling** 22:19	**development**
containing	**created** 11:3	**day** 16:6 26:16	5:21
20:22	**credit** 24:23	**decatherms**	**device** 20:22
contains 9:5	**cross** 13:21	10:21	**dial** 19:16
content 8:9	14:2	**defer** 12:24	**direct** 3:3,5,9
contents 10:17	**csr** 1:23,24,24	14:4 15:9	7:20 12:8 22:1
context 15:7	26:21,22	21:13	**divining** 19:20
19:9	**cubic** 23:21	**delaney** 2:3 3:4	**division** 5:2
continues	24:1,2	3:6,8,12 4:2,3	17:9
19:15	**currently** 24:23	6:4,14,24 7:4	**docket** 1:3 4:12
control 22:10	25:10	7:10,11,13,16	8:7 26:6
convenient	**customer** 5:17	11:15,20 12:4	**document** 8:12
15:12	8:4,15,16,21,22	13:23 14:7	8:19 9:7,13,19
copies 10:13	9:1,2,10,16	15:15,19 16:21	10:2,8
11:23	10:5,24 12:12	17:11,16,21,25	**documenting**
correct 16:2,3,5	12:15,21 13:5	18:2,3,6,9,12	8:17,23 9:3,5
16:15,16,18,19	13:16	18:19 21:6,18	9:23 10:5
16:19 21:3,7	**customer's**	21:19,20,24	**documents**
correctly 4:11	19:4	22:18 23:5	11:3
corrosion	**customers**	24:25 25:7	**dominion** 1:4
22:10,14	11:25	**demonstrated**	2:7,8 4:12,24
		13:14	5:15 6:17 8:3

8:16,22 9:2,9 9:15,22 10:4 10:14,19 11:8 11:11,25 13:7 22:3,7,11 25:11

dominionene... 2:10

due 10:23

duly 7:18 18:16 23:2

dylan 9:22

e

e 2:1,1,3 3:1,15 3:17 4:1,1 9:14

earlier 23:7

east 1:10 2:4 9:24

effect 24:24

either 21:15

elia 3:2 5:16 7:9,17,24 26:13

email 4:22

energy 1:4 2:7 2:8 4:12 5:15 5:17 8:3,4 10:14,19,22 11:11 22:3,7 22:11

energy's 8:16 8:22 9:2,10,16 9:23 10:5 11:8 13:7

entitled 24:22

essence 19:10

evaluate 9:25

evaluation 9:11

exact 21:11

examination 3:3,4,5,6,8,9,12 7:20 11:19 12:8 13:21 14:2,6 18:18 22:1 23:4

example 14:21

exhibit 3:16 8:14,20,25 9:8 9:14,20 10:3,9 10:17 11:1,18 12:18,19 13:13 14:14

exhibits 3:17 10:11 11:14 12:5,6 25:13

expertise 17:9

explain 23:18

exposed 22:12

expressed 15:6

exterior 20:12 20:20

f

f 3:17 9:20

face 17:20

facility 13:8

familiar 8:6,12 8:19 9:7,13 13:1 23:9

fast 13:11

feel 25:3

fees 10:21

feet 23:22 24:1 24:2

fields 11:1

file 4:21

filed 8:7 11:2

finally 10:16

fine 15:11,15 21:11,14,22

first 7:5,9,18 18:16 23:2 24:1

fleetwood 4:23 4:23

follow 7:1 25:2

follows 7:19 18:17 23:3

formal 1:3 4:9

found 12:20

foundational 11:22

four 23:22

free 25:3

friday 1:13

front 17:19

full 23:25 24:2

funtioning 20:4

further 3:6 14:6 16:21 22:16 25:4,6 25:16 26:10

g

g 3:17 4:1 10:3 10:10,10 12:18 13:13

gas 1:8 5:21 10:21 16:9 19:3 24:7

gathered 11:4

generally 19:24 20:14

generals 5:2

generated 10:25 11:24

george 1:10 4:22 9:25

getting 23:12

give 15:7

given 25:17

go 5:5,10 15:23

going 16:10,23 20:17 24:2

good 4:2 7:10 7:12 17:25 18:2,3,7,8

goodfellow 3:11 5:25 15:10 17:6,20 18:7,8,11 22:22,23 23:1 26:13

gordon 3:7 5:20 17:5,14 17:18,25 18:2 18:5,14,15,20 20:8,13 22:3

22:21 26:13
gordon's 21:15
granted 12:4
great 17:11
23:12
guess 16:12
20:25

h

h 3:15,17 10:9
10:12 11:1,18
13:9
handle 17:5
happy 6:22
hard 14:10,20
23:17
heard 23:11
hearing 1:7 4:4
4:7,9,13,14,15
6:8 17:23
25:20 26:6,13
held 4:13
helpful 17:4
21:9
hold 8:2
home 16:8 19:4
house 23:23

i

idaho 1:24
26:22
identified 9:14
identify 8:25
illustration
10:19

impact 19:23
impair 20:4
improperly
13:6
included 4:25
including 19:2
incorrectly
19:14
indicated 4:17
indication 6:9
individuals
5:22
informal 14:13
information
10:25 11:4
inquiry 8:15,21
9:1
installed 12:15
16:4,17 19:7
interested
26:11
interfere 20:23
internal 20:23
interpret 12:22
interpretation
17:8
introduce 5:12
issue 21:2
issued 4:16

j

jace 3:7 5:20
18:15 26:13
january 8:24
jdelaney 2:5

jenniffer 2:8,11
4:24 5:14
jenniffer.clark
2:10
job 16:6,19
john 2:3 4:3
7:11 17:25
joined 13:24
17:22
jr 2:3
june 10:15

k

kept 11:7
know 12:10,14
14:10 15:15
17:4,16 18:20
18:21 23:6,18
known 5:8

l

labeled 8:13,20
9:20 10:2,9
lake 2:4,9 7:25
26:3
lead 5:17 8:4
leave 16:8
letter 14:8,12
14:14,18 23:8
23:10 24:19,21
leverage 6:25
light 24:6
listening 23:6
live 25:12
llc 1:4,11 4:11
8:24 9:4,12,17

10:14,20 11:2
25:9
located 1:8
location 9:24
10:1
look 15:3
looking 23:19
loop 21:1
lopez 3:2 5:16
7:9,10,12,15,17
7:22,24 8:6
11:21 12:10,17
13:20 14:4
15:12,18 16:22
26:13
lopez's 23:7
lot 10:11 16:25

m

m 4:11,11
m&ms 1:4,11
4:11 8:24 9:4
9:12,17 10:14
10:20 11:2
25:8
made 9:5
make 5:7,11
15:25
making 6:18
11:10
manager 6:1
march 9:4,6,12
marcia 1:3,11
4:10 5:8 8:18
8:24 9:4,6,17
25:8

marie 1:22 26:4 26:20	**morning** 4:2 7:10,12 18:2,3 18:7,8	**november** 8:18 10:15,15	**owned** 1:11
material 22:13	**motion** 12:4	**number** 24:1	**p**
matters 4:23	**move** 11:13 15:14	**numbers** 14:11 14:25 15:3,8 17:8 23:14,19 24:13	**p** 2:1,1 4:1
mckinlay 2:12 4:25	**municipal** 10:22		**page** 3:2,16
mdt 1:14			**paint** 20:11,20 20:22 22:8
mean 15:3,8	**n**	**o**	**painted** 18:21 18:25 19:4,15 21:9
mentioned 24:10	**n** 2:1,8,11 3:1 4:1	**o** 4:1	**painting** 17:6 19:6,11,23 20:3 21:8 22:5
meter 1:8 5:25 9:11 10:1,6 12:10,14,20 13:2,6,7,7,11 13:14 14:22 15:20,21 16:1 16:4,7,13,14,17 18:21,23,24,24 18:25 19:2,6,7 19:11,13,15,19 20:3,4,12,18,19 20:20,21,21,24 21:2 23:21,23 23:25 24:2,5,5 24:9,11,17	**name** 4:3 5:14 7:22 26:16	**o0o** 2:15 3:13 3:19 25:19	**parameters** 13:15
	ncra 1:25 26:22	**objections** 11:16	**part** 14:12,15 18:23 22:10
	near 11:4	**observers** 6:3	**particular** 19:23 20:18
	need 14:4 16:11 20:14 21:12,15 23:17	**office** 5:4	**parties** 1:16 4:17 26:11
	needed 19:5	**officer** 4:4	**passage** 23:21
	nelson 4:24	**oh** 10:9	**past** 10:23 24:14
	nevada 1:24 26:21	**okay** 7:3,4,16 11:16 12:2 13:5 15:11 17:21,23 18:12 20:16,25 21:5 22:18 24:15,18	**pausing** 6:5
	new 12:14 16:4 16:13,17 18:21 18:24		**people** 5:24
meters 17:6 22:4,8		**old** 12:10 15:20 15:21 16:1,14	**percent** 13:11 13:11 14:21,23 15:1,6 23:20 24:4,4,10,12,14
method 4:17	**north** 1:10 9:24	**operation** 10:1	
minus 24:11,13	**note** 8:15,21 9:1,9,15	**opposed** 19:16	**perfect** 7:8 17:15
minute 6:5	**notes** 9:5 15:19 26:8,9	**order** 7:6 9:21 10:4	**performed** 10:6 13:14
misunderstood 15:17	**notice** 4:14,16 6:21 22:20	**ordinary** 11:7	**phone** 8:17 9:17
mode 24:6	**noticed** 26:6	**orient** 14:18	
monthly 10:23	**notified** 6:7	**originally** 4:7	
		ounce 23:22	
		outcome 26:11	

phonetic 9:22
photograph 9:11
physical 4:21
piece 11:22
pilot 24:6
pipe 19:3
pipeline 22:12
please 4:14 5:8 7:22 12:18 21:7,24 25:3
plus 14:22,22 14:25,25 15:6 23:16,16 24:1 24:11,21
point 5:5 21:12 24:22
portion 20:21 22:11
position 8:2
post 17:13
postal 4:20
practice 11:11 21:16 22:4,4
prefer 6:22 7:6
preference 17:3
premises 12:11
preparation 6:25
prepared 4:14 5:23 6:20 10:18 16:25 17:2
present 2:14 25:9,11

pressure 20:22 23:22
prevent 22:13
previously 25:12
problem 19:12 19:12 24:20
proceed 6:21 7:1 21:23
process 14:13
professional 1:25 26:4,22
proffered 25:11
program 11:24
pronounce 4:10
properly 6:7
property 1:8
provide 13:10 21:10,10
provided 10:24 11:1
psc 11:1
public 1:1 2:2,3 5:2 6:9 13:15 26:6
purposes 6:17 10:19
pursuant 4:13
putting 17:19

q

qualify 13:17
question 11:17 14:3,3 15:14

15:17 16:11
questioned 26:12
questions 4:15 5:23 6:16,20 6:22 13:21 15:9 16:22,24 17:7,13 21:17 22:17,23,24 24:25 25:2,4 25:16
quickly 11:17
quote 20:3

r

r 2:1 4:1
r746-320-3 13:9
rationale 21:1
read 14:11
reading 15:4 19:13 24:21
ready 17:17,18 17:19
really 6:6,24 23:12
reason 22:8
received 8:18 8:23 9:3,11,17
record 7:23 13:25 15:25 16:13 25:17
records 11:10
refer 12:17
referring 14:12 18:23

reflect 13:25 14:19 15:19
refurbished 18:25
regarding 1:8 9:10,16 23:16
regards 6:12
registered 1:25 26:4,22
regular 11:10
regulation 22:9
regulations 6:2
related 26:10
relates 4:19
relations 5:17 8:4
relative 4:21
replace 16:7
reported 1:21 26:6
reporter 1:25 26:4,4,22
reporter's 26:1
represent 11:21,23
representations 23:15
representatives 5:3
requested 26:14,15
require 13:12
required 13:15
requires 22:10

Page 7

residential 23:21	**second** 5:20 24:3	**signatory** 23:8	**state** 2:2,9 7:22 7:25 26:2
response 20:3,5 25:13	**section** 13:10	**signature** 26:14 26:14,15,19	**stated** 21:1
result 10:6 13:13	**see** 17:20,25	**simulates** 24:5	**states** 4:20
results 12:20 17:8 24:12	**seemed** 15:24	**simultaneously** 21:19	**stick** 19:19
review 26:14 26:14,15	**seems** 6:14 14:11,19	**sit** 17:13	**street** 2:9 7:25
robinson 1:22 26:4,20	**seen** 19:20	**site** 19:4	**strikes** 21:8
room 6:2	**senior** 5:25	**situation** 19:24 19:25	**subject** 12:11
rose 1:22 26:4 26:20	**sent** 4:19 10:13 13:7 19:1	**slow** 13:12 19:19	**submissions** 19:21
ruling 6:18	**separately** 17:12	**small** 24:7	**submitted** 9:8 9:14,20 10:3
run 23:24 24:8	**september** 26:16	**software** 8:17 8:23 9:3,10,16 10:5	**subscribed** 26:16
running 24:11 24:16	**served** 4:17	**sorry** 10:9 21:21 22:19	**suffices** 21:16
s	**service** 1:1 2:2 2:3 4:18,20 5:1 6:9 9:23 10:21 13:16 26:7	**south** 2:4,9 7:25	**suggest** 16:23
s 2:1 3:15 4:1 4:11	**services** 5:4	**speak** 19:16	**suggestion** 15:16
sales 10:22	**set** 18:23 19:2,6 20:12,19,20,21 20:21,24	**speaking** 21:19	**suitable** 22:13
salt 2:4,9 7:25 26:3	**shalise** 2:12 4:25	**specialist** 5:18 8:5	**summarize** 10:20
saved 8:16,22 9:2,22	**shop** 5:25	**specific** 4:15 19:24,25 20:15 20:15,17 21:2	**summers** 6:1
saying 20:14	**shorthand** 26:8 26:9	**sped** 19:16	**supervisor** 5:21
says 14:21	**show** 22:20 24:8,12,13	**spend** 16:24	**supports** 20:6
scheduled 4:8	**shows** 12:19	**srl** 1:24 26:22	**sure** 4:10 15:25
sean 3:11 5:24 12:25 15:10 23:1 26:13	**shut** 19:3	**st** 1:10 4:22 9:25	**suspected** 24:18
seavey 9:22	**sic** 17:1	**start** 17:14 20:13	**swear** 7:6,13 17:12 18:3,9
			sworn 7:19 15:13 18:6,13 18:17 20:6 23:3 25:12
			system 9:23

t			
t 3:15	**tests** 23:24 24:8	**true** 11:23 26:9	5:15 8:1 9:25
table 10:18	**thank** 5:13 6:4	**truth** 7:14,19	10:19,22 13:1
take 5:5 16:7	7:16 12:2,7	18:4,10,17	13:9 26:2,4,7
17:23 25:16	13:23 16:20	23:3	26:20
taken 1:16	17:21 18:12	**trying** 6:6	**utah.gov** 2:5
talk 17:5 22:22	21:5 22:15,18	14:24 19:22	**utilities** 5:3
talked 14:19	22:21	**two** 5:1,22	
talking 23:8	**thereof** 26:11	17:10 23:24	v
tariff 13:10	26:16	**typewriting**	**vacuum** 15:8
15:2,4 23:20	**thing** 20:2	26:8	**valve** 19:3
24:23	**think** 6:6 19:11	**typewritten**	**videoconfere...**
tax 10:22,22	19:14,18 21:6	26:8	1:16 26:7
teach 23:18	21:12,15,15	**typically** 18:24	**violate** 15:4,5
tech 19:1	23:13	18:25 20:11,14	**violence** 17:1
technically	**three** 24:22	23:22	**visit** 9:24
19:4	26:12		
technician 5:25	**threshold**	u	w
tell 7:13,19	23:20 24:14	**un** 15:21	**waived** 26:14
18:4,9,17 19:9	**tie** 23:13,14	**under** 24:23	**want** 11:17
23:3	**tight** 17:13	25:17	12:17 15:24
test 10:6 12:20	**time** 4:6,7 11:4	**understand**	17:1,11 18:20
17:8 23:23	14:10,20 16:25	14:24 15:1,1,2	18:20 20:13
24:12	19:6,7 23:17	15:7 24:24	**way** 6:21 15:3
testified 7:19	**today** 4:4 5:16	**understanding**	26:10,11
18:17 23:3	8:10 12:23	14:10,20	**webex** 1:16
testifying 5:18	**total** 10:23	**uninstalled**	11:21,25 26:7
testimony 6:20	**totally** 21:22	12:11 15:21	**withdrawing**
8:10 13:18	**touch** 19:5	16:1,14	6:10
16:12,25 21:11	**training** 5:21	**united** 4:20	**withdrawn**
21:16 23:7,11	**transcribed**	**ups** 7:1	6:10,16 25:15
25:11,12	26:8	**use** 19:1	**witness** 5:20
testing 12:25	**transcript** 26:8	**used** 10:21,21	7:5,7,9,18
13:2,7,8,11,13	**transcription**	**using** 24:6	15:14 18:16
15:10	26:9	**utah** 1:1,4,10	20:5 21:10,18
		1:23 2:2,3,4,7,8	21:20 23:2
		2:9 4:12,22	26:16

witnesses 5:12
  17:2 26:12
wonder 22:19
word 15:5
worker 12:24
working 13:6
workings 20:23
written 25:13
wrong 15:5
  16:12 19:13
  21:7
wrote 15:24

x

x 3:1,15 26:15

y

yahoo.com
  4:23
yeah 7:5 20:8

z

zero 24:17

Utah Rules of Civil Procedure

Part V. Depositions and Discovery

Rule 30

(E) Submission to Witness; Changes; Signing.

Within 28 days after being notified by the officer

that the transcript or recording is available, a

witness may sign a statement of changes to the form

or substance of the transcript or recording and the

reasons for the changes. The officer shall append

any changes timely made by the witness.

in encrypted form and are transmitted in an encrypted
fashion to authenticated parties who are permitted to
access the material. Our data is hosted in a Tier 4
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