–BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH–

IN THE MATTER OF THE JOINT APPLICATION OF QUESTAR GAS COMPANY DBA DOMINION ENERGY UTAH, AND ENBRIDGE QUAIL HOLDINGS, LLC FOR APPROVAL OF THE PROPOSED SALE OF FALL WEST HOLDCO, LLC TO ENBRIDGE QUAIL HOLDINGS, LLC	))))))))))))	**DOCKET NO. 23-057-16** **Exhibit No. DPU 1.0 DIR**

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

Direct Testimony of

Casey J. Coleman

February 5, 2024

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INTRODUCTION

Q. PLEASE STATE YOUR NAME, EMPLOYER, AND BUSINESS ADDRESS.

A. My name is Casey J. Coleman. I am employed by the Division of Public Utilities (DPU or Division) for the State of Utah. My business address is 160 East 300 South Salt Lake City, UT 84114.

Q. BRIEFLY OUTLINE YOUR EMPLOYMENT BACKGROUND.

A. I have worked for the Division for over twenty-three years, working as both a Utility Analyst and Utility Technical Consultant. One of my primary responsibilities as Utility Technical Consultant for the Division has been testifying before the Public Service Commission of Utah (Commission) on financial and policy issues.

Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I received a Bachelor of Science degree in Finance from Weber State University in 1996 and a Master of Business Administration from Utah State University in 2001. In May of 2022, I received the Certified Rate of Return Analyst certification from the Society of Utility and Regulatory Financial Analysts.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION?

A. Yes. I have testified before the Commission as an expert witness in a number of telecommunications, water, and energy dockets, including Docket Nos. 02-049-82, 03-049-49, 03-049-50, 05-053-01, 05-2302-01, 07-2476-01, 08-2469-01, 10-049-16, 10-2521-01, 10-2526-01, 08-046-01, 15-042-01, 15-2302-01, 17-098-01, 19-057-02, 20-035-04, and 21-035-53. The most recent testimony I have filed with the Commission was in Docket No. 22-057-03.

SUMMARY

Q. BRIEFLY SUMMARIZE THE WORK AND INVESTIGATIONS THAT YOU HAVE PERFORMED IN THIS MATTER.

A. I reviewed and analyzed the Joint Application of Questar Gas Company dba Dominion Energy Utah (DEU or Questar Gas) and Enbridge Quail Holdings, LLC (EQ Holdings). DEU and EQ Holdings (Applicants) filed, as part of the Joint Application, Direct Testimony from Michele Harradence, Christopher Johnston, James Sanders, and Judd E. Cook. The Applicants also filed additional exhibits, including Questar Gas' Financial Statements, Commitment Matrix, Certificate of Formation of Fall West, Pre-Closing of Questar Gas Organizational Chart, Post-Closing Organizational Chart, Dominion Energy Inc. Form 10-K, Enbridge Form 10-K, and Purchase and Sale Agreement.

Q. PLEASE SUMMARIZE AND DESCRIBE THE PURPOSE OF YOUR TESTIMONY.

A. I will provide comments on the proposed merger, the process that interested parties followed to evaluate the application, and other areas of interest, such as ring-fencing guidelines and general observations about the merger. Mr. Eric N. Orton will provide his lessons learned from past utility mergers and provide the Division's recommendations on commitments that applicants should agree to, thereby ensuring the merger will not harm DEU's current customers. Mr. Orton and I will not attempt to discuss all the individual details of the merger transaction, but we will address specific areas of interest the Division believes are important for the Commission to understand when reviewing the proposed merger.

Q. PLEASE SUMMARIZE THE DIVISION'S POSITION AND CONCLUSIONS CONCERING THE PROPOSED MERGER OF DEU AND EQ HOLDINGS.

A. DEU and EQ Holdings have the burden of proof to demonstrate that the proposed merger will result in a net benefit to Utah ratepayers, as required by past Commission order and by statute (as discussed below). While the Applicants have demonstrated expertise to operate DEU, and this expertise helps to meet the public interest standard, it is unclear whether more is needed to meet the positive net benefit requirement. In the Dominion Energy Inc. and Questar Gas Company merger, Dominion committed as a shareholder cost, to contribute $75,000,000 toward the full funding of the pension and retirement plans.[1] This was a specific commitment that had a defined monetary value that the Commission and other parties could point to when evaluating the positive net benefits condition. From the information provided, the Division is not able to point to a clear monetary benefit of the merger.

In this proceeding, the Division is uncertain if managerial, financial, and operational expertise is sufficient to meet the net positive benefit standard. If a specific benefit that shows measurable benefits to the State is the required standard, then it seems, the Applicants have not met the requirements and would need to demonstrate to the Commission that the merger provides a net positive benefit to Utah customers. If instead the net positive benefit criteria does not have a specific measurable benefit requirement, then the Applicants are likely to have met the standards to approve the merger.

If the merger is approved, Questar Gas appears to be positioned to become a stronger and more resilient utility. This stronger and more resilient utility is a direct benefit of the managerial, operational, and financial expertise Enbridge brings to the local utility.

Q. PLEASE BRIEFLY SUMMARIZE THE WORK AND INVESTIGATION THAT HAS BEEN PERFORMED IN THIS CASE.

A. The Division has reviewed the testimony of the Applicants' witnesses along with the attachments and exhibits. To better understand the information submitted by DEU and EQ Holdings, the Division, OCS, and other interested parties participated in a technical conference held by the Commission on December 7, 2023. In addition to the Commission-ordered Technical Conference, the Division and OCS held meetings with the Applicants on December 13, 2023, January 3, 2024, January 9, 2024, January 18, 2024, and January 30, 2024. These meetings provided the opportunity for interested parties to discuss and analyze several important topics of

[1] Utah Public Service Commission Order, Questar Corporation and Dominion Resources, Inc. Merger, Docket No. 16-057-01, September 14, 2016, page 7, Commitment 11.

the merger. These meetings were beneficial in allowing the Division to gain additional insight and understanding of the proposed merger.

JURISDICTION AND STANDARD OF REVIEW

Q. WHAT ARE THE JURISDICTION AND LEGAL STANDARDS THAT SHOULD APPLY WITH THIS MERGER?

A. I'm not an attorney, so my comments are made from the perspective of a Utility Consultant who has participated in and reviewed prior merger dockets before the Commission. In the previous merger between Questar Gas Company and Dominion Energy Inc., the Commission discussed the legal standard that applies in a merger. In the Order in Docket No. 16-057-01, the Commission States:

> "[T]he Commission applies the [following] legal standard…namely that:
>
> Utah Code Ann. §§ 54-4-1, -25, -28, -29 and 30 may apply in determining whether our approval of the proposed merger is required by Utah law; and
>
> - The relevant legal standards for approval are that:
>
>   1. The merger is in the public interest, meaning it must provide a net positive benefit to the public; and
>   2. The Joint applicants have the necessary financial, managerial, and technical qualifications to operate the public utility."[2]

Q. SHOULD THE COMMISSION CONSIDER ANY ADDITIONAL CRITERIA WHEN APPROVING A MERGER?

A. Yes. Although it is not explicitly stated in the Utah Code, the public interest standard should include the concept that Utah customers will not be adversely impacted by the merger. Additionally, as much as possible, the conditions of the merger should

[2] Utah Public Service Commission Order, Questar Corporation and Dominion Resources, Inc. Merger, Docket No. 16-057-01, September 14, 2016, page 5.

have little to no impact on consumers. The preference is, from the Division's and a customer's perspective, that the day-to-day operations will not materially change.

Q. DOES ENBRIDGE HAVE THE NECESSARY MANAGERIAL AND TECHNICAL QUALIFICATIONS TO OPERATE DEU?

A. Yes. Enbridge Gas Inc. (Enbridge) and other affiliates of Enbridge have over 175 years of experience developing a culture that emphasizes delivering safe, reliable, and affordable energy.[3] Enbridge has completed the merger of Ontario's two largest natural gas utilities to create North America's largest natural gas utility by volume delivered, and the third largest natural gas utility by customer count.[4] As the natural gas provider for more than 75 percent of Ontario homes, Enbridge has provided service with a reliability of more than 99.99 percent to its customers.[5] Similar to the current situation with DEU, Enbridge has experienced a growing customer base with approximately 45,000 new customers added per year.[6]

Enbridge also sees the purchase of DEU as a complimentary opportunity for its organization.[7] Enbridge believes the energy industry is transforming, and natural gas has a critical role to play in that transformation.[8] The citizens of Utah will benefit from an organization that supports natural gas as a critical component of the energy industry. As stated by Enbridge, "Questar will benefit from its affiliation with Enbridge."[9] These benefits outlined by Enbridge include "access to resources and best practices, collaboration on enhancement to safety, integrity, construction and operational programs, and a shared strong commitment to safety, customers, communities, and its employees."[10]

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[3] See Enbridge Inc.'s presentation to the Utah Public Service Commission for the Technical Conference December 7, 2023, slide number 7.
[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*
[7] *Ibid.* slide number 14.
[8] *Ibid.*
[9] *Ibid.*
[10] *Ibid.*

The Division's analysis concludes that the benefits outlined by Enbridge seem to complement the current operations of DEU. Enbridge has demonstrated a deep and thorough understanding of the natural gas industry. Because Enbridge has been providing natural gas to customers for more than a century, Enbridge has a wealth of expertise that is directly applicable to DEU. Additionally, the merger of Enbridge and DEU seems likely to create a stronger and more resilient distribution company. A stronger and more resilient utility is in the public interest of Utah customers.

Q. DOES ENBRIDGE HAVE THE FINANCIAL RESOURCES AND EXPERTISE TO MANAGE DEU?

A. Yes. Enbridge has indicated that it has a strong balance sheet with investment-grade credit ratings and access to significant liquidity. Additionally, Enbridge has over $131.5B in total assets and $39B annual operating revenue, and Enbridge represents it has access to $16B in credit facilities. With this strong balance sheet and operating revenue, Enbridge believes it has the financial capacity to fund organic growth and to invest in DEU.[11]

Enbridge has obtained funding for the Questar Gas Transaction through a variety of different methods. These include completing the sale of common shares for $3.3B and $3.5B subordinated notes. The balance of the funding for the purchase will be secured through ongoing capital recycling, an at-the-market share offering program, dividend reinvestment, subordinated debt (hybrid capital), and long-term debt.[12]

To verify the statements made by Enbridge regarding its financial position, the Division reviewed the application, Enbridge's form 10-K, and other financial documents. Additionally, the Division had numerous meetings and conversations with the parties to discuss financing and the fiscal health of Enbridge.

From the Division's review of the pertinent financial documents, it agrees that Enbridge has the financial resources and expertise to operate DEU. The one area of

[11] *Ibid* slide 23.
[12] *Ibid* slide 24.

concern worth mentioning after reviewing Enbridge’s financial information is goodwill. Because Enbridge has been involved in several mergers and acquisitions over the last few years, Enbridge has accrued goodwill (an asset) on its financial statements. For a company involved in several mergers and acquisitions, it is not uncommon for a company to record goodwill as part of an acquisition of an asset.

Significant goodwill can change the capital structure of a company. Goodwill is an intangible accounting asset. Because of this fact, if one were to adjust for goodwill, the debt-to-equity calculation numbers are significantly different. From Enbridge’s form 10-K filed with the Securities and Exchange Commission, the Division calculated the debt-to-equity ratio for Enbridge at the end of the third quarter 2023 to be 46.9 percent equity and 53.1 percent debt. When the same calculation is done, adjusting for goodwill, the numbers change to 32.2 percent equity and 67.8 percent debt.

Considering the effect goodwill has on the debt-to-equity ratio, it appears that Enbridge may be more leveraged than other companies. This adjusted “leverage” position is something the Commission, Division, and other interested parties should be aware of and continue to monitor. The Division is not uncomfortable with the financial position of Enbridge and the rating agencies have been silent on this topic. The Division felt it was important to make the Commission aware of this financial issue. The Division’s Exhibit 1.1, Enbridge Inc.’s Ratio Analysis, includes the income statement, balance sheet, and ratio analysis information from Enbridge for the periods 2017 through the third quarter of 2023. This information has been compiled from the 10K and 10Q filings and has been included for reference.

Q. DOES THE SALE OF DEU TO ENBRIDGE MEET THE PROPOSED CRITERIA OF MINIMALLY IMPACTING THE CUSTOMERS OF UTAH?

A. Yes, generally speaking, it appears Enbridge is taking steps to minimize the impact on customers as much as possible. It is the Division’s understanding that the day-to-day operations and employees dealing with the responsibilities of managing a natural gas distribution utility will remain in Utah. Dominion Energy Inc. currently has some job functions that are in Richmond, Virginia. Although there have not been specific decisions or commitments made by Enbridge, it appears that some corporate responsibilities like accounting, billing, and information technology could be returned to Utah. If Enbridge decides to locate some corporate duties in Utah, the Division will see this as a net benefit to customers.

Enbridge has provided commitments in the following areas:

- Corporate Structure—Local Presence
- Regulatory—Jurisdiction of the Commission and Compliance with Law
- Ratemaking—Accounting
- Shared Services—Affiliate Transactions
- Community
- Operations
- Customer Satisfaction
- Financial and Ring-Fencing
- Employees, and
- Clean Energy.

It appears from the variety of commitments and areas discussed that Enbridge is committed to keeping things as close to “business as usual” for the citizens of Utah.

Q. CAN YOU PROVIDE A HIGH-LEVEL EXAMPLE OF BUSINESS AS USUAL FROM ENBRIDGE’S COMMITMENTS?

A. Yes. In Joint Exhibit 5.0—Commitment Matrix, Enbridge specifically indicated that Transaction Costs associated with the Transaction will not be recovered through rates of Questar Gas.[13] In any merger there will be specific costs and services that occur due to the merger. Any transaction cost incurred by the merger should not be passed on to customers but instead should be paid by Enbridge. Because Enbridge has committed that transaction costs will not be recovered through the rates of Questar Gas, this is one general example that merger commitments are attempting to keep things as close to “business as usual.”

[13] Joint Exhibit 5.0 EQ Holdings and Questar Gas Commitments Matrix, Docket No. 23-057-16 Commitment 11.

RING-FENCING CONDITIONS

Q. PLEASE DISCUSS WHAT RING-FENCING IS AND ITS PURPOSES.

A. For years in merger proceedings,[14] the Division has advocated ring-fencing provisions. Ring-fencing can be defined as structural and operational practices and concepts imposed on a utility operating company that insulate the utility from the operations and financial results of affiliates or a parent holding company. The utility can be said to be "fenced-off" from businesses of the parent company or from the parent itself. Ring-fencing procedures and practices are designed to protect the utility and its customers from negative effects of financial or other distress in affiliates or a parent company. Regulators are concerned about protecting the utility's credit standing in the marketplace, the effects of going concern/bankruptcy of affiliates or even the parent, and affiliate transaction issues.

Q. WHAT ARE SOME OF THE BEST PRACTICES FOR RING-FENCING THAT ARE RECOMMENDED BY THE DIVISION?

A. The following is a list of "best practices" that can be gleaned from Standard & Poor's and Fitch rating services. This "best practices" list is not exhaustive of the items that could be included by regulators for their purposes in a ring-fence, such as extending conditions on transactions with affiliates.[15]

1. The regulated utility is a corporate subsidiary in a holding structure
2. The regulated utility is placed in a Special Purpose Entity, which is legally separate from the non-regulated affiliates of the parent
3. The provision of so-called "nonpetition" (bankruptcy) language by the parent.
4. The utility is managed separately and has a separate board of directors
5. The utility's books and records are kept separate from any affiliates
6. The utility has its own bank accounts and credit facilities, its own separate debt and has its own separate credit rating
7. Limits imposed on capital structure, e.g. setting a minimum common equity percentage in the capital structure

[14] For a more complete discussion of ring-fencing and the position advocated by the Division see Peterson, Charles E., and Elizabeth M. Brereton, *Report on Ring-Fencing*, Utah Division of Public Utilities, September 2005 filed as Exhibit D in Docket No. 16-057-01.
[15] Peterson, Charles E., and Elizabeth M. Brereton, *Report on Ring-Fencing*, Utah Division of Public Utilities, September 2005, pp. 19-21.

8. Limits on inter-company guarantees and loans—including loans to money pools
9. Limits on dividends
10. A written Affiliate Code of Conduct is in place
11. Finally, violations of these practices are supported by clear penalties from regulatory authorities

Mr. Charles E. Peterson, when reviewing a paper prepared by the National Association of Regulatory Utility Commissioners' (NARUC) Subcommittee on Accounting and Finance, outlined five areas of possible ring-fencing measures:[16]

1. Commission authority to restrict and mandate use and terms of sale of utility assets. This includes restrictions against using utility assets as collateral or guarantee for any non-utility business
2. Commission authority to restrict dividend payments to a parent company to maintain financial viability of the utility. This may include, but is not limited to, maintenance of a minimum equity balance
3. Commission authority to authorize loans, loan guarantees, engagement in money pools and large supply contracts between the utility and affiliate companies
4. Commission authority over establishment of a holding company structure involving a regulated utility
5. Expand commission authority over security applications to include the ability to restrict type and use of financing

Q. CAN YOU SUMMARIZE THE MAIN POINTS THE DIVISION IS TRYING TO ACHIEVE WITH ITS RING-FENCING RECOMMENDATIONS WITH THIS MERGER?

A. Yes. In Docket No. 16-057-01, the Division suggests that "at a minimum the following points need to be achieved for this proposed acquisition of Questar Gas

[16] *Ibid*.

Company (QGC) to be in the public interest. The following bullet points describe the principal purposes of the Division's proposed ring-fencing provisions."[17]

- QGC must be a legally separate corporation with its own accounting system, debt, preferred stock (if any should be issued), and credit rating, with its own management and board of directors. QGC should be headquartered in Salt Lake City, Utah. The books and records of QGC should be located in Salt Lake City

- There should be an independent director in a special service entity that has the power to veto putting QGC into bankruptcy. There should be sufficient protections of QGC that would prevent the distress in affiliates or Enbridge Inc. as a whole from forcing QGC into bankruptcy

- Transactions between QGC and affiliates should be arm's length. It should be recognized that the Commission and the Division of Public Utilities have authority to audit these transactions and receive any requested information concerning inter-affiliate transactions and relationships with QGC

- In order to protect the financial integrity of QGC, there are potential restrictions on dividends, capital structure, and the selling of assets or reorganizing or selling QGC without Commission approval[18]

The Division supports ring-fencing proposals that incorporate these recommendations.

Q. CAN YOU DISCUSS THE PROPOSED RING-FENCING STEPS TAKEN BY ENBRIDGE INC.?

A. Yes. As part of the Applicants' Joint Filing, Exhibit 5.0—Commitment Matrix was submitted to the Commission. Commitment numbers 24 through 32 deal specifically

[17] Utah Division of Public Utilities Direct Testimony Charles E. Peterson, Docket No. 16-057-01, July 7, 2016.
[18] *Ibid*

with ring-fencing. The Division has reviewed the specific commitments and supports the items listed by Enbridge. It appears that the structure of the transaction follows most of the points listed above by the Division. Generally, the Division agrees that Enbridge has taken the appropriate steps to ring-fence and protect the assets of Questar Gas.

CONCLUSIONS AND RECOMMENDATIONS

Q. DO YOU BELIEVE YOUR CONCLUSIONS AND RECOMMENDATIONS ARRIVE AT JUST AND REASONABLE RESULTS THAT ARE IN THE PUBLIC INTEREST?

A. Generally, yes. As indicated previously, Enbridge has the technical, managerial, and financial expertise to operate Questar Gas. Merging into the one of largest North American natural gas utilities is likely to be a benefit to Utah citizens and is in the public interest. Enbridge has provided specific ring-fencing commitments that help to protect DEU and are also in the public interest for the State of Utah. These two items are positive to customers of the Utility, but it is difficult to quantify in any material aspect the impact of these benefits.

The Division can see several intangible benefits of this merger, such as:

- having the financial resources of one of the largest North American Natural Gas Utilities,
- a parent company that has extensive knowledge of the natural gas industry, and
- the managerial expertise and customer service knowledge of the parent company.

Each of these items is a positive for DEU as well as the customers of Utah. The dilemma faced by the Division is its uncertainty about whether a specific dollar amount is required to satisfy the net positive benefit requirement. If a clear monetary benefit is needed for Enbridge to satisfy the net positive benefit requirement, then there is little the Division can find in the application to suggest Enbridge has met this requirement.

If a specific dollar amount is not required to meet the net positive benefits standard, then the Applicants have demonstrated enough in its application to meet this condition. If the merger is approved, Questar Gas appears to be positioned to become a stronger and more resilient utility. This stronger and more resilient utility is a direct benefit of the managerial, operational, and financial expertise Enbridge brings to the local utility.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.