



SPENCER J. COX  
Governor

DEIDRE M. HENDERSON  
Lieutenant Governor

# UTAH DEPARTMENT OF COMMERCE

## Division of Public Utilities

MARGARET W. BUSSE  
Executive Director

CHRIS PARKER  
Division Director

## Comments

**To:** Public Service Commission of Utah

**From:** Utah Division of Public Utilities

Chris Parker, Director  
Brenda Salter, Assistant Director  
Doug Wheelwright, Utility Technical Consultant Supervisor  
Matt Pernichele, Utility Analyst

**Date:** January 4, 2024

**Re:** **Docket No. 23-057-23** In the Matter of the Application of Dominion Energy Utah for Renewal of the Low-Income Assistance Program Portal

## Recommendation (Approval)

The Division of Public Utilities (Division) has reviewed Dominion Energy Utah's (Dominion or Company) Application<sup>1</sup> ('23 Application) for the Renewal of the Low-Income Assistance Program Portal (Portal). The Division believes that the '23 Application meets the reporting criteria (Requirements) established by the Public Services Commission (Commission) in its November 17, 2022, Order<sup>2</sup> (Order) and satisfies Utah Admin. Code R.746-460 protecting the privacy of utility customers and should be approved.

## Issue

The Order allowed Dominion to set up the Low-Income Assistance Program Portal but denied Dominion's request to waive portions of Utah Admin. Code R.746-460 that require a customer's express consent to share their utility data. The Order also incorporated 5 recommendations on ways to protect customer privacy from Dominion's '22 Application<sup>3</sup>

---

<sup>1</sup> Application, Docket no. 23-057-23, December 1, 2023.

<https://pscdocs.utah.gov/gas/23docs/2305723/331082Aplctn12-1-2023.pdf>.

<sup>2</sup> Order Granting In Part and Denying In Part Motion for Waiver, Docket no. 22-057-19, November 17, 2022. <https://pscdocs.utah.gov/gas/22docs/2205719/3261872205719ogipadipmfw11-17-2022.pdf>.

<sup>3</sup> Application, Docket no. 22-057-19, October 24, 2022, pp. 2-3.

<https://pscdocs.utah.gov/gas/22docs/2205719/325940Aplctn10-24-2022.pdf>.

and 6 more from the Division's Comments.<sup>4</sup>

The Order requires Dominion to re-apply annually for the first three years of the program. These applications must "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."<sup>5</sup> The Division evaluated Dominion's compliance with this, and the other 10 Requirements established by the Order.

## **Background**

Dominion filed an application<sup>6</sup> in 2022 ('22 Application) stating that many customers who applied for low-income assistance with energy costs (Applicants) from various aid providers were unable to obtain aid because they failed to provide copies of their gas bills. Dominion proposed setting up the Low-Income Assistance Program Portal (Portal) to give authorized aid providers (Agencies) direct, online access to Applicant's bills.

The '22 Application asked the Commission to waive the express consent requirement of §R746-406 and proposed 5 Requirements to protect Applicant's security. The Division endorsed Dominion's Requirements and proposed 6 additional Requirements but suggested against waiving the requirement for Applicants to give express consent.<sup>7</sup> The Commission's resulting Order incorporated all 11 Requirements and rejected Dominion's request to waive §R746-406-3's requirement to obtain the Applicant's express consent to share bills with a third party.<sup>8</sup>

On December 1, 2023, Dominion filed its '23 Application to renew the program and 4 supporting exhibits.<sup>9</sup> The Commission posted a Notice of Filing and Comment Period on

---

<sup>4</sup> *Comments from the Division of Public Utilities*, Docket No. 22-057-19, November 10, 2022, p. 4. <https://pscdocs.utah.gov/gas/22docs/2205719/326087DPUCmmnts11-10-2022.pdf>. Incorporated into Order, p. 4.

<sup>5</sup> *Id.* pp. 4-5.

<sup>6</sup> *Application*, October 24, 2022.

<sup>7</sup> See, *Comments from the Division of Public Utilities*, pages 4-5.

<sup>8</sup> See, *Order*, pages 4-5.

<sup>9</sup> These can be found at <https://psc.utah.gov/2023/12/02/docket-no-23-057-23/>.

December 5, 2023.<sup>10</sup> No Action Request was filed.

The Division found that the *Portal Access and Confidentiality Agreement* (Agreement)<sup>11</sup> and the *Gas Assistance Portal Acknowledgement Page* (Acknowledgement)<sup>12</sup> provide excellent standards for the Portal to comply with the Requirements but were not sufficient to prove actual compliance. On January 2, 2024, The Division requested that Dominion provide further evidence of actual compliance with Requirement's 2 through 5 showing actual compliance in the design and use of the Portal. These were provided by Dominion during a virtual meeting on January 4, 2024.

## Discussion

The Division reviewed the '23 Application and the associated documents from the Agencies for compliance with each of the 11 Requirements established in the Order. Further information was provided through discussions with Dominion.

### Requirement 1

"The Company will enter into an agreement with each of the Agencies before providing access to the portal. Under those agreements, each Agency will agree 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."<sup>13</sup>

The preamble to the *Portal Access and Confidentiality Agreement* (Agreement) states that only Agency employees can be given login access to the Portal and that Applicant information from the Portal can only be used "for the purpose of administering funds to be distributed through the program."<sup>14</sup>

The relevant provisions of the Agreement are repeated on the *Gas Assistance Portal*

---

<sup>10</sup> *Notice of Filing and Comment Period*, Docket No. 23-057-23, December 5, 2023.

<https://pscdocs.utah.gov/gas/23docs/2305723/3311372305723nofacp12-5-2023.pdf>.

<sup>11</sup> *Portal Access and Confidentiality Agreement*, DEU-Exhibit 1, Docket 23-057-23, December 1, 2023. <https://pscdocs.utah.gov/gas/23docs/2305723/331083DEUExhbt1PrtlAcsAgrmnt12-1-2023.pdf>.

<sup>12</sup> *Gas Assistance Portal Login Acknowledgment Page*, Exhibit 2, Docket No. 23-057-23, December 1, 2023. <https://pscdocs.utah.gov/gas/23docs/2305723/331084DEUExhbt2GAPLogin12-1-2023.pdf>.

<sup>13</sup> *Application*, October 24, 2022, p. 2.

<sup>14</sup> *Portal Access and Confidentiality Agreement*, DEU-Exhibit 1, Docket 23-057-23, December 1, 2023. <https://pscdocs.utah.gov/gas/23docs/2305723/331083DEUExhbt1PrtlAcsAgrmnt12-1-2023.pdf>.

*Acknowledgement Page* (Acknowledgement) which states that use of the Portal is subject to the terms and conditions of the Agreement and specifies that it may be used “for the sole purpose of verifying customer eligibility for utility payment support.” The Acknowledgement also states, “Only authorized users can use this Portal.”<sup>15</sup>

The Division examined the list of Portal users and found that they all had Agency issued email addresses and used this as their Portal username. The Acknowledgment is displayed and must be accepted before logging into the Portal.

This adequately fulfills Requirement 1.

### **Requirement 2**

"Require the Agencies to notify the Company when any employee with access leaves the Agency's employment."<sup>16</sup>

Paragraph 7(b)(ii) of the Agreement obliges the Agency to “promptly notify Dominion Energy by email to [conserv@dominionenergy.com](mailto:conserv@dominionenergy.com) whenever Agency needs to add one (1) or more new Users or edit existing User records.”<sup>17</sup> This could be more explicit.

The Division was able to review records of users being properly and promptly deactivated from the system and the Division finds that it is an effective way to limit access only to active Agency employees. Access requires an email address issued by the Agency and two factor authentication is through that email address. Dominion also proactively contacts each Agency every two months to check the list of Portal users with the Agency's list of employees using the Portal. This acts as an additional check on Portal access.

This adequately fulfills Requirement 2.

### **Requirement 3**

The Agency shall allow access to the portal only via “an Agency-issued email and

---

<sup>15</sup> *Gas Assistance Portal Login Acknowledgment Page*, Exhibit 2, Docket No. 23-057-23, December 1, 2023. <https://pscdocs.utah.gov/gas/23docs/2305723/331084DEUExhbt2GAPLogin12-1-2023.pdf>.

<sup>16</sup> *Application*, October 24, 2022, p. 2.

<sup>17</sup> *Portal Access and Confidentiality Agreement*, December 1, 2023, p. 3.

password, with two factor authentication.”<sup>18</sup>

Paragraph 7(a) of the Agreement requires Agencies to create Portal login credentials using Agency issued email addresses and passwords and that they use two-factor authentication.<sup>19</sup>

The Division examined the list of authorized Portal users and confirmed that they all had usernames that were email addresses issued by their employing Agency. The Division also witnessed the Portal log in procedure and can confirm that it requires two factor authentication with a code being sent to the Agency issued email address.

This adequately fulfills Requirement 3.

#### **Requirement 4**

“When an individual ceases to be employed by the Agency, they will no longer have an email to receive a code for two factor authentication to access the portal.”<sup>20</sup> This would effectively prohibit Agency employees from using the portal after they have left the Agency.

Paragraph 7(a) of the Agreement requires Agencies to issue Agency email addresses to Portal users that “are needed for two-factor authentication” necessary to access the Portal.<sup>21</sup> Paragraph 7(b)(ii) requires Agencies to notify Dominion “within twenty-four (24) hours of when a User ceases to require access to the Portal for any reason.”<sup>22</sup>

The Division confirmed that Portal log in credentials were terminated after the Agencies notified Dominion of a user leaving their job. The Division was not able to confirm that these notifications were sent within 24 hours of the user leaving their job because this would have involved examining confidential employee information belonging to an Agency not regulated by the Division.

As discussed in Requirement 2, Dominion regularly and proactively checks with Agencies to

---

<sup>18</sup> *Application*, October 24, 2022, p. 3.

<sup>19</sup> *Portal Access and Confidentiality Agreement*, December 1, 2023, p. 3.

<sup>20</sup> *Application*, October 24, 2022, p. 3.

<sup>21</sup> *Portal Access and Confidentiality Agreement*, December 1, 2023, p. 3.

<sup>22</sup> *Id.*

confirm that everyone with active Portal login credentials is still qualified to have them.

This adequately fulfills Requirement 4.

### **Requirement 5**

Dominion must ensure each “user created password will expire every 60 days.”<sup>23</sup> Paragraph 7(a) of the Agreement require passwords to expire “at a minimum every sixty (60) days.”<sup>24</sup>

The Division examined user logs and can confirm that passwords are being changed every 60 days.

This adequately fulfills Requirement 5.

### **Requirement 6**

“The Company must 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.”<sup>25</sup>

The Application and attached exhibits do not directly address the effectiveness of the customer data safeguards. The Division pointed this out to Dominion, who responded “There have been no reported or discovered breaches of confidentiality and no concerns raised by customers or agencies. Based on our experience thus far we have no additional safeguards or recommendations to the portal at this time.” The lack of any known breaches or other problems with the Portal adequately shows compliance with conditions 1 and 2 of Requirement 6.

The *Gas Assistance Portal Tracking Access Report 12-1-2023*<sup>26</sup> (Report) fulfills condition 3 of Requirement 6. The Report shows the number of Applicant inquiries made and the

---

<sup>23</sup> *Application*, October 24, 2022, p. 3.

<sup>24</sup> *Portal Access and Confidentiality Agreement*, December 1, 2023, p. 3.

<sup>25</sup> *Comments from the Division of Public Utilities*, p. 4.

<sup>26</sup> *Gas Assistance Portal Tracking Access Report 12-1-2023*, DEU-Exhibit 3, Docket No. 23-057-23, December 1, 2023. Non-confidential version at <https://psc.utah.gov/2023/12/02/docket-no-23-057-23/>.

registered user who made them. The Division suggests that Dominion include the Agency making each request in future reports. This Requirement is otherwise ambiguous about exactly how Dominion would show “how the program is functioning.”

The Order does not provide a due date or schedule for this filing, so the Division has no opinion on its timeliness but notes that it was filed less than one year after the Portal was first used.

This adequately fulfills Requirement 5.

### **Requirement 7**

“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”<sup>27</sup>

DEU Exhibit 4 provides a list of Agencies that have active Agreements with Dominion.<sup>28</sup> Each of the Agencies listed in Requirement 7 are listed in this exhibit except the Ute Tribe. Dominion has stated that the Ute Tribe is not using the Portal.

---

<sup>27</sup> *Comments from the Division of Public Utilities*, pp. 4-5.

<sup>28</sup> *Agency Portal Agreements*, DEU-Exhibit 4, Docket No. 23-057-23, December 1, 2023.  
<https://pscdocs.utah.gov/gas/23docs/2305723/331087DEUExhbt4AgencyPrtlAgrmnts12-1-2023.pdf>.

DEU Exhibit 4 adequately fulfills Requirement 7.

### **Requirement 8**

The development costs of the Portal must be paid for by Dominion or its Low-Income Customer Assistance Fund.<sup>29</sup>

Dominion stated in an email to the Division that “We haven’t incurred any additional costs to develop or administer the portal. All development was done by our in-house IT department and is being administered by our internal energy assistance group.”

This adequately fulfills Requirement 8.

### **Requirement 9**

Dominion must make every reasonable effort “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.”<sup>30</sup>

Paragraph 5(b) of the Agreement prohibits Portal information from being used for “marketing products or services by Agency, Dominion Energy, or any affiliated or ancillary companies or organizations.”<sup>31</sup> The restrictions imposed by paragraph 3 of the Agreement on the use and dissemination of customer data from the Portal also prohibit this data from being used by anyone for marketing purposes.<sup>32</sup> These restrictions are discussed further below. The Division found no evidence of any Portal information being used for marketing purposes.

This adequately fulfills Requirement 9.

### **Requirement 10**

Dominion must make every reasonable effort “to ensure that none of the customer data be retained by the Agency or ancillary companies or organizations for any purpose other than

---

<sup>29</sup> *Comments from the Division of Public Utilities*, p.5.

<sup>30</sup> *Id.*

<sup>31</sup> *Portal Access and Confidentiality Agreement*, p. 2.

<sup>32</sup> *Id.*



to fulfill their respective responsibility pertaining to the program.”<sup>33</sup>

Paragraph 3 of the Agreement adequately limits the use, retention, and dissemination of customer data by Agencies to the program’s purpose, defined in paragraph 1 as “administering funds to be distributed through the Program.” Paragraph 3 also notifies Agencies that they are still subject to consumer data protection laws and may not collect any more customer information from the Portal than is necessary for the purposes of the Program.<sup>34</sup>

The Acknowledgement prohibits the Agency from recording of any information from the Portal and limits its use to the Purpose established in the Agreement.<sup>35</sup>

This adequately fulfills Requirement 10.

#### **Requirement 11**

Each Agency with access to the Portal must sign a non-disclosure agreement annually covering all information gained through the Portal. Copies of these agreements must be retained by Dominion and the agreements will expire after 12 months.<sup>36</sup>

Section 5 of the Agreement fulfills Requirement 11 because it contains all the terms and conditions that would be found in a valid, separate non-disclosure agreement. Section 5 defines the information to be protected, limits its use to the purposes of the agreement, imposes minimum standards on how the information is to be protected, gives the usual exceptions and limits to accommodate court orders, limits copies, and sets a rule for how long the information can be retained.<sup>37</sup>

This adequately fulfills Requirement 11.

#### **Express Consent**

The Commission’s Order declined to waive the requirement of Utah Admin. Code R.746-

---

<sup>33</sup> *Comments from the Division of Public Utilities*, p.5.

<sup>34</sup> *Portal Access and Confidentiality Agreement*, p. 1.

<sup>35</sup> *Gas Assistance Portal Login Acknowledgment Page*.

<sup>36</sup> *Comments from the Division of Public Utilities*, p.5.

<sup>37</sup> *Portal Access and Confidentiality Agreement*, pp. 2-3.

460 that requires Dominion to obtain a utility customer's express consent before it can share that customer's information with an "affiliate, licensee, or third party." For a customer to give express consent to have his or her utility information shared, Utah Admin. Code R.746-460-2(1) requires "(a) explaining that the customer need not consent to the release of information in order to obtain utility service; (b) explaining that the customer may subsequently opt out of such sharing of information in the future by contacting the utility; and (c) providing clear instructions explaining how a customer may subsequently opt out of such sharing of information in the future."

Restriction (a) does not apply here because the issue is whether an Applicant will receive financial assistance, not whether an applicant can obtain gas service.

Restrictions (b) and (c) pertain to a utility's ongoing and or repeated sharing of customer information. Applications for assistance through the Agencies that use the Portal all call for a one-time sharing of customer information that must be re-submitted each year.

For these reasons the Division believes that R.746-460-2(1) does not require express consent for a one-time release of customer information to include subsections (a), (b), and (c). These subsections are irrelevant to programs served by the Portal.

Applicants don't interact with the Portal. Agencies use it to look up Applicants' bills. So, an Applicant must give express consent to the Agency for it to access the Applicant's bills. For the Division to ensure that Agencies couldn't get confidential customer information without getting the express consent of the Applicant, it had to check that the Agencies were adequately noticing and recording express consent.

Most of the Agencies using the Portal are administering funds from the Utah HEAT Program and use its program application. Express consent to release customer information can be found in the Declaration immediately above the signature line of the application. The declaration is a single, large paragraph that includes the sentence "I give permission for my utility companies to provide my billing and usage information to the state of Utah and to

local HEAT/Water agencies to determine eligibility.”<sup>38</sup>

The Paiute Indian Tribe uses funds from LIHEAP, which also uses the Utah HEAT Application to determine eligibility for utility bill aid. The Paiute website also requires copies of an Applicant’s most recent utility bills, stating that an application will not be considered without them.<sup>39</sup>

The Agencies not using the HEAT application are the Salvation Army and The Southeastern Idaho Community Action Program (SEICAA). The Salvation Army of Utah uses its own application form with a more protective and complete section on express consent than the HEAT application.<sup>40</sup> SEICAA also provides utility bill assistance through LIHEAP but uses its own application. The Participant Certification section contains the waiver “I hereby authorize my utility vendor(s) to provide my billing and usage data to the representative of IDHW and/or this agency or their designee.”<sup>41</sup>

All of these applications provide acceptable express consent to release customer information.

## Conclusion

The Division recommends that the Commission approve the ‘23 Application because Dominion’s system for managing the Portal meets the requirements established by the Order and the Agencies various application forms fulfill the express consent requirements of Utah Admin. Code R746-460.

---

<sup>38</sup> State of Utah, Department of Workforce Services, *HEAT Program/HELP/EAF Instructions (Home Energy Assistance Target) AND WATER ASSISTANCE PROGRAM*, DWS-HCD 873, Rev. 03/2023, p. 5, accessed on December 26, 2023, [https://jobs.utah.gov/housing/scso/seal/documents/873\\_874.pdf](https://jobs.utah.gov/housing/scso/seal/documents/873_874.pdf).

<sup>39</sup> Paiute Indian Tribe of Utah, *LIHEAP/LIHWAP Low Income Home Energy and Water Assistance Program Instructions*, accessed on December 23, 2023, <https://pitu.gov/liheap/#:~:text=Low%20Income%20Home%20Energy%20Assistance,Benefits%2C%20Child%20Support%2C%20etc.>

<sup>40</sup> Salvation Army of Salt Lake City, *UTAH SOCIAL SERVICES ASSISTANCE APPLICATION*, p. 4, accessed on December 26, 2023, [https://s3-us-west-1.amazonaws.com/usw-cache.salvationarmy.org/ec1c41bc-8182-453d-bdc6-aa49fed26da8\\_TSA+Client+Intake+ENG+updated+Nov+22.pdf](https://s3-us-west-1.amazonaws.com/usw-cache.salvationarmy.org/ec1c41bc-8182-453d-bdc6-aa49fed26da8_TSA+Client+Intake+ENG+updated+Nov+22.pdf).

<sup>41</sup> Idaho Department of Health and Welfare, *Application for Energy Assistance Programs*, REV 09/27/202, p. 6, accessed on December 26, 2023, <https://seicaa.org/wp-content/uploads/LIHEAP-App-English.pdf>.

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