

JENNIFFER NELSON CLARK  
Dominion Energy Utah  
333 S. State Street  
PO Box 45360  
Salt Lake City, Utah 84145-0360  
Tel: (801) 324-5392  
Fax: (801) 324-5935  
[Jennifer.clark@dominionenergy.com](mailto:Jennifer.clark@dominionenergy.com)

LAURA C. KYTE (18038)  
**RAY QUINNEY & NEBEKER P.C.**  
36 South State Street, Suite 1400  
P. O. Box 45385  
Salt Lake City, UT 84145-0385  
Tel: (801) 532-1500  
Fax: (801) 532-7543  
[lkYTE@rqN.com](mailto:lkYTE@rqN.com)

*Attorneys for Questar Gas Company  
dba Dominion Energy Utah*

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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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FORMAL COMPLAINT OF CORY S. OLSEN  
AGAINST DOMINION ENERGY UTAH

**Docket No. 23-057-24**  
**DOMINION ENERGY UTAH'S  
RESPONSE AND MOTION TO  
DISMISS**

Pursuant to the Utah Public Service Commission's (the "Commission" or the "PSC") Notice of Filing and Comment Period (the "Notice") issued on December 19, 2023 in this Docket, Questar Gas Company dba Dominion Energy Utah ("DEU", "Dominion Energy", or "Company") respectfully submits this Response and requests that the Commission dismiss Cory S. Olsen's ("Mr. Olsen") Complaint with prejudice.

## **BACKGROUND**

On December 15, 2023, Cory S. Olsen filed a formal Complaint against Dominion Energy alleging that the Company is improperly profiting from the sale and distribution of gas by improperly increasing its gas rates. On December 19, 2023, the Commission issued the Notice, which provided that Dominion Energy could submit a written response to Mr. Olsen's Complaint by Thursday, January 18, 2024. Accordingly, Dominion Energy submits this Response, along with the attached sworn affidavit of Austin Summers identified as DEU Exhibit 1.0, with accompanying exhibits, all of which are incorporated herein by this reference.

## **RESPONSE AND MOTION TO DISMISS**

Mr. Olsen alleges that Dominion Energy (1) has improperly increased its rates for gas and (2) is improperly profiting from the sale and distribution of gas. The Company responds to the factual allegations set forth in Mr. Olsen's Complaint in the pre-filed Direct Testimony of Austin Summers, attached hereto as DEU Exhibit 1.0, and incorporated herein by this reference.

Additionally, Mr. Olsen's Complaint should be dismissed because (1) the Complaint amounts to an allegation that Dominion Energy's rates are unreasonable, which is not a claim for relief that is available to Mr. Olsen; (2) Dominion Energy is a regulated public utility and has at all times properly complied with Utah law in setting its rates; and (3) Mr. Olsen is procedurally barred from appealing the relevant orders setting Dominion's rates.

### **I. MR. OLSEN HAS FAILED TO STATE A CLAIM FOR WHICH RELIEF CAN BE GRANTED.**

The Public Utilities Act ("PUA") regulates public utilities such as Dominion Energy, including the scope of complaints that can be brought against the Company. *See* Utah Code Ann. § 54-7-9. Under the PUA, the Commission may not entertain a complaint "concerning the

reasonableness of any rates or charges of any gas . . . corporation” unless certain requirements have been met. Utah Code Ann. § 54-7-9(3).

Mr. Olsen’s claim is essentially that Dominion Energy’s rates for gas are unreasonable. But the statutory requirements for bringing such a claim have not been met and therefore Mr. Olsen has not requested relief that can be granted. Mr. Olsen has not specified any act committed or omitted by Dominion Energy that is claimed to be in violation of any law, rule, or order of the Commission. Rather, Mr. Olsen simply summarily states that “Dominion has been increasing rates for gas while whsle [*sic*] cost has been decreasing.” Compl. at ¶ 3. This allegation is not a sufficient basis to challenge Dominion Energy’s rates.

Moreover, even if Mr. Olsen could meet the statutory requirements to challenge the reasonableness of the Company’s rates, such a claim would be futile for the reasons explained in Sections II and III of this Motion. *See Jensen v. IHC Hospitals, Inc.*, 2003 UT 51, ¶ 139, 82 P.3d 1076 (explaining the doctrine of futility). As described in detail below, Dominion Energy charges its rates approved by the Commission, in accordance with all applicable statutes, rules, regulations, and Commission orders. Mr. Olsen did not participate in the properly-noticed dockets when those rates were set, nor did he properly bring a complaint for re-examination of those rates. Therefore, Mr. Olsen’s claim is barred by the PUA and his Complaint must be dismissed with prejudice.

## **II. DOMINION HAS LAWFULLY SET ITS RATES.**

Even if the Commission concludes that Mr. Olsen has a cognizable claim for relief, his Complaint should be dismissed because Dominion Energy has complied with Utah law in setting its rates. The Company’s rates are set by the Commission under terms and conditions set forth in

the PUA. *See* Utah Code Ann. §§ 54-4-4.1 and 54-7-12. Under the PUA, “[t]he commission may, by rule or order, adopt any method of rate regulation that is: (a) consistent with this title; (b) in the public interest; and (c) just and reasonable.” Utah Code Ann. § 54-4-4.1(1); *see also* *Utah Dep’t of Bus. Regul., Div. of Pub. Utils. v. Pub. Serv. Comm’n*, 614 P.2d 1242, 1248 (Utah 1980) (“A just and reasonable rate is one that is sufficient to permit the utility to recover its costs of service and a reasonable return on the value of property devoted to public use.”).

Mr. Olsen alleges that the Company has been improperly increasing its rates “since appx [sic] Oct 2022 or before.” Compl. at ¶ 3. But in setting its rates for 2022 and 2023, Dominion Energy lawfully complied with the PUA as reflected in Dockets 22-057-13 (application for an Adjustment to the Low-Income Assistance/Energy Assistance Rate), 22-057-14 (application to Amortize the Energy Efficiency Deferred Account Balance), 22-057-15 (application to Amortize the Conservation Enabling Tariff Balancing Account), 22-057-16 (Pass-Through application for an Adjustment in Rates and Charges for Natural Gas Service in Utah), 22-057-17 (application for an Adjustment to the Daily Transportation Imbalance Charge) (collectively “the November 2022 Dockets”), 22-057-03 (the “General Rate Case Docket”) and 23-057-03 (the “Pass-Through Docket”).<sup>1</sup> The November 2022 Dockets were approved by the PSC on October 31, 2022, and became effective November 1, 2022. *See* Order, issued Oct. 31, 2022, Docket 22-057-16. The General Rate Case Docket was approved by the PSC on June 26, 2023, and became effective July 1, 2023. *See* Order, issued June 26, 2023, Docket 22-057-03. The Pass-Through Docket was

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<sup>1</sup> Additionally, Section 2 of the Company’s Utah Natural Gas Tariff no. 600 (“Tariff”) describes the Company’s gas rates, including how rates are calculated. *See* <https://cdn-dominionenergy-prd-001.azureedge.net/-/media/pdfs/utah/rates-and-tariffs/utah-tariff.pdf?la=en&rev=1bbb2886e012433a998d7157526ca0d5&hash=92DE98A75C8AAB20BA4091CC125FA870>.

approved by the PSC on February 28, 2023, and became effective March 1, 2023. *See* Order, issued Feb. 28, 2023, Docket 23-057-03.

### ***The November 2022 Dockets***

Dominion Energy lawfully increased its rates as reflected in the five November 2022 Dockets. The Company filed five applications with the PSC on September 30, 2022. Each application proposed “discrete rate changes and modification to [Dominion Energy’s] PSC Tariff No. 500, effective November 1, 2022.” Order, issued Oct. 31, 2022, Docket 22-057-16 at 2. The PSC approved each of the five applications,<sup>2</sup> which resulted in “a total average net increase of \$6.15 or 9.72 percent to the monthly bill of a typical GS residential customer using 70 decatherms (Dth) of natural gas per year.” *Id.* at 1.

Before approving Dominion Energy’s applications and to ensure a “just and reasonable” rate as required by the PUA, the PSC received comments and recommendations from the Division of Public Utilities (DPU) and comments regarding the application for an adjustment to the Low-Income Assistance/Energy Assistance rate from the Office of Consumer Services (OCS). *Id.* at 2. The PSC then held a consolidated hearing where Dominion Energy and the DPU provided witness testimony.<sup>3</sup> No party opposed any of the Company’s applications from the November 2022 Dockets. *See id.* at 4, 6, 7, 12, 13.

In approving Dominion Energy’s rate modification applications in the November 2022 Dockets, the Company and the PSC complied with the PUA. In its order, the PSC identified the

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<sup>2</sup> Dockets 22-057-14, 22-057-16, and 22-057-13 were approved on an interim basis, subject to audit. Dockets 22-057-13 and 22-057-15 were approved as final rates and tariff modifications.

<sup>3</sup> The audio recording of the hearing is located at <https://www.youtube.com/watch?v=0nLw5He6Tg0>.

evidentiary support for each of the proposed rate changes and concluded that the rate changes were “just, reasonable, and in the public interest.” *Id.* at 13–15.

### ***The General Rate Case Docket***

Dominion Energy lawfully increased its rates as reflected in the General Rate Case Docket. The Company filed its application with the PSC to increase its distribution non-gas (“DNG”) retail rate on May 2, 2022, to be effective January 1, 2023. Order, issued Dec. 23, 2022, Docket 22-057-03 at 2.<sup>4</sup> The PSC approved a revenue requirement increase of \$47,756,054 “based on an average test year ending December 31, 2023, an allowed rate of return on equity of 9.60[,] and an overall rate of return of 6.856 percent.” *Id.* at 1. The PSC noted that “[t]he revenue increase is allocated to customer classes to improve alignment of revenue requirement with the cost of service of each customer class, resulting in non-uniform percentage increases to the rate schedules.” *Id.*

The PSC’s approval also contained several other components. The PSC approved separating the Transportation Class into three subclasses, with new rates to be implemented in a series of three steps on January 1, 2023, July 1, 2023, and July 1, 2024.<sup>5</sup> *Id.* Additionally, the PSC approved “the continuation of the infrastructure replacement adjustment tracker (‘Tracker’) program” with its costs rolled into base DNG rates, and with annual adjustments for costs related to replacement infrastructure above a certain amount. *Id.* The PSC also approved the inclusion of

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<sup>4</sup> The PSC issued an Errata Order on January 3, 2023, correcting errors in two of the tables from the December order. Those changes do not alter the analysis here.

<sup>5</sup> The PSC approved the implementation of Step 2 of the modification to the base DNG rate on June 26, 2023, after hearing comments from the Division of Public Utilities. Order, issued June 26, 2023, at 1–2. No other comments or opposition were filed. *Id.* The new base DNG rate went into effect on July 1, 2023. *Id.* at 3.

rural expansion costs of \$23.7 million in the base DNG rates in the Test Year for the Elberta, Goshen, and Green River rural expansions, and to track related estimated costs of investments above a certain amount. *Id.* Finally, the PSC approved Dominion Energy’s proposed modifications to its Utah Natural Gas Tariff PSCU 500. *Id.*

Before approving Dominion Energy’s application and to ensure a “just and reasonable” rate as required by the PUA, the PSC permitted Nucor Steel-Utah, a Division of Nucor Corporation (“Nucor”), the Utah Association of Energy Users (“UAE”), American Natural Gas Council, Inc. (“ANGC”), the Federal Executive Agencies (“FEA”), and the Utah Asphalt Pavement Association (“UAPA”) to intervene. The PSC then bifurcated the schedule for the Docket: “Phase I addressed [Dominion Energy]’s revenue requirement; Phase II addressed cost of service for each customer class, rate design, and [Dominion Energy]’s other proposed tariff changes.” *Id.* at 3. During both phases, the PSC heard direct and rebuttal testimony from the various parties. *See id.* at 3–4. The PSC also held evidentiary and public witness hearings. *See id.*

After considering the evidence presented by the parties, the PSC made numerous findings and conclusions regarding the various components of the base DNG rate, and why certain requests were or were not just and reasonable. *Id.* at 6–56. For each component, the PSC carefully explained why their conclusion was just and reasonable, or in the public interest. *Id.* at 6, 15, 17, 20–21, 22, 24, 25, 26, 27, 28–29, 30, 31, 32, 33–34 (collectively, Phase I), 36–46, 48–52, 56 (collectively, Phase II).

In approving Dominion Energy’s base DNG rate modification application in the General Rate Case Docket, the Company and the PSC complied with the PUA. In its order, the PSC identified and considered the evidentiary support for each of the proposed modifications to

components of the base DNG rate and concluded that the rate modification was just, reasonable, and in the public interest.

### *The Pass-Through Docket*

Dominion Energy lawfully increased its rates as reflected in the Pass-Through Docket. The Company filed two applications with the PSC on February 1, 2023. Order, issued Feb. 28, 2023, Docket 23-057-03 at 1. Each application was filed “on an interim basis, subject to audit, effective March 1, 2023.” *Id.* The PSC approved the applications, which resulted “in an average increase of \$8.33 to the monthly bill of a typical GS residential customer using 70 decatherms (Dth) of natural gas, or an 11.52 percent increase from current rates.” *Id.*

Before approving Dominion Energy’s applications and to ensure a “just and reasonable” rate as required by the PUA, the PSC received comments and recommendations from the DPU. *Id.* The PSC then held a consolidated hearing where Dominion Energy and the DPU provided witness testimony.<sup>6</sup> No other party petitioned to intervene or opposed any of the Company’s applications from the Pass-Through Docket. *See id.* at 1, 8.

In approving Dominion Energy’s rate modification applications in the Pass-Through Docket, the Company and the PSC complied with the PUA. In its order, the PSC identified the evidentiary support for each of the proposed rate changes and concluded that the rate changes were “just, reasonable, and in the public interest,” and approved the rate modification on an interim basis, subject to a final audit by DPU. *Id.* at 8–9.

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<sup>6</sup> The audio recording of the hearing is located at <https://www.youtube.com/watch?v=TPKIHXCtmUw>.

Mr. Olsen has failed to identify any way that the PSC’s approvals in the November 2022 Dockets, the General Rate Case Docket, and the Pass-Through Docket do not comply with the law and Dominion Energy has at all times charged its rates according to PSC approval. Merely providing “proof” that Dominion Energy’s rates are higher than a national average is not enough to justify an investigation. *See* Compl. at ¶ 4.<sup>7</sup> Having higher rates than a national average found on the internet does not support any inference that the Company’s rates are not “just and reasonable,” that they are not “in the public interest,” or that they otherwise violate the law. *See* Utah Code Ann. § 54-4-4.1(1). Mr. Olsen’s request for an investigation would essentially require a process that the PSC has already completed in the forementioned Dockets. For these reasons, Mr. Olsen’s Complaint should be dismissed.

### **III. MR. OLSEN’S CLAIM IS PROCEDURALLY BARRED.**

Mr. Olsen is not a party entitled to appeal the Commission’s orders setting Dominion Energy’s rates for the relevant period, and even if Mr. Olsen were an appropriate party, the time to appeal those Dockets has lapsed. “After any order or decision has been made by the commission, any party to the action or proceeding, any stockholder, bondholder, or other party pecuniarily interested in the public utility affected may apply for rehearing of any matters determined in the action or proceeding.” Utah Code Ann. § 54-7-15(2)(a). Mr. Olsen was not a party to any of the relevant Dockets and he did not seek to intervene in those proceedings. Nor is

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<sup>7</sup> Mr. Olsen has attached a “Henry Hub Natural Gas Spot Price” index to his Complaint, presumptively as what he alleges is “proof” that the Company’s rates are higher than the national average. Dominion Energy does not concede that the index is proof of anything, including the national average for natural gas rates. *See also* testimony of Austin Summers at 2:27–36. But even if it is, it is not enough to justify an investigation into Dominion Energy’s rates because Mr. Olsen has failed to identify any way that the relevant rate-setting processes have not complied with the law.

Mr. Olsen a stockholder, bondholder, or a party pecuniarily interested in Dominion Energy. *See In re Questar Gas Co.*, 2007 UT 79, ¶¶ 53–57, 175 P.3d 545 (holding that ratepayers are not “pecuniarily interested”). Thus, Mr. Olsen is not a party entitled to appeal any of the Dockets at issue.

Moreover, even if Mr. Olsen was entitled to appeal the relevant Dockets, the time to appeal has lapsed. To seek review of the Commission’s orders regarding the Company’s rates, Mr. Olsen needed to request review within thirty days after the orders were issued. Utah Code Ann. § 63G-4-301. The Commission issued its orders for the November 2022 Dockets on October 21, 2022, the General Rate Case Docket on June 26, 2023, and the Pass-Through Docket on February 28, 2023. The thirty-day deadline to request review has well passed on each Docket. Thus, Mr. Olsen is procedurally barred from appealing any of the Dockets at issue.

In addition, it appears that Mr. Olsen’s Complaint may be based, at least in part, on an increase in his bill due to adjustments pursuant to the Company’s Budget Plan. *See Attach. 2 – Informal Compl, Docket*. But Dominion Energy has complied with its Budget Plan (“the Budget Billing Program”) in calculating Mr. Olsen’s bill as explained in the Company’s approved tariff.

Section 8.05 of the Company’s Utah Natural Gas Tariff No. 600 (“Tariff”) describes the Company’s voluntary Budget Billing Program. It provides,

To spread gas bill amounts evenly over the entire year, General Service customers may elect to utilize the Budget Plan and pay a predetermined monthly amount. On the basis of prior usage history or estimated usage, the customer’s annual bill is computed under current rates and divided into 12 equal payments. Actual billings for customers utilizing the Budget Plan will be calculated each month according to the regular provisions of this Tariff. The monthly budget plan payment amounts may be adjusted by the Company during the year if actual and accrued billings deviate substantially or if a rate change of 5% or greater is approved.

If at the end of the Budget Plan Year, there is an overpayment or an underpayment on an account, the customer's projected monthly budget plan payment amount will be adjusted, spreading the difference over the next 12 months, interest free, unless a customer requests an immediate refund or credit.

As set forth in the pre-filed Direct Testimony of Austin Summers, the Company has properly calculated Mr. Olsen's budget bill amount in accordance with the Tariff and its procedures, and consistent with the methodology used to calculate the monthly bill for all other budget billing program participants. The Company was not obligated by Tariff to either notify Mr. Olsen of budget bill increases after he had been on the Budget Billing Program for six months, or to refrain from recalculating the budget bill amount until he had been on the Budget Billing Program for twelve months. Rather, the Tariff expressly provides that such recalculation will occur at the end of the Budget Plan Year. Mr. Summers has testified that monthly bills for all customers on the Budget Billing Program are evaluated at that time, typically in August. Nonetheless, the Company is free to adjust billing during the year "if actual and accrued billings deviate substantially." Mr. Olsen's bill was properly adjusted according to the Company's Budget Billing Program as explained in the approved Tariff and therefore is not a sufficient basis for relief.

For these reasons, Dominion Energy has, at all times, acted in accordance with all applicable statutes, rules, regulations, Tariff provisions, and Commission Orders and therefore Mr. Olsen's Complaint should be dismissed with prejudice.

### **CONCLUSION**

Based upon the foregoing, Dominion Energy respectfully requests that the Commission dismiss Mr. Olsen's Complaint with prejudice. If the Commission declines to dismiss Mr.

Olsen's Complaint, it should deny the Complaint for the reasons set forth herein, and in Mr. Summers's testimony attached as DEU Exhibit 1.0.

DATED this 18<sup>th</sup> day of January, 2024.

RAY QUINNEY & NEBEKER P.C.



Laura C. Kyte  
Jennifer Nelson Clark

*Attorneys for Questar Gas Company  
dba Dominion Energy Utah*

## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **DOMINION ENERGY RESPONSE AND MOTION TO DISMISS** was served upon the following persons by e-mail on the 18<sup>th</sup> day of January, 2024.

Patricia E. Schmid  
Patrick Grecu  
Assistant Attorneys General  
160 East 300 South  
P.O. Box 140857  
Salt Lake City, UT 84114-0857  
[pschmid@ugutah.gov](mailto:pschmid@ugutah.gov)  
[pgrecu@agutah.gov](mailto:pgrecu@agutah.gov)

*Counsel for the Division of Public Utilities*

Robert J. Moore  
Assistant Attorney General  
160 East 300 South  
P.O. Box 140857  
Salt Lake City, UT 84114-0857  
[rmoore@agutah.gov](mailto:rmoore@agutah.gov)

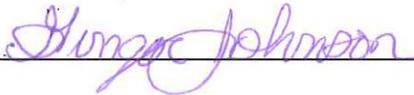
*Counsel for the Office of Consumer Services*

Madison Galt  
Utah Division of Public Utilities  
160 East 300 South  
P.O. Box 146751  
Salt Lake City, UT 84114-6751  
[mgalt@utah.gov](mailto:mgalt@utah.gov)

Michele Beck  
Director  
Alyson Anderson  
Bela Vastag  
Alex Ware  
Jacob Zachary  
Office of Consumer Services  
160 East 300 South  
P.O. Box 146782  
Salt Lake City, UT 84114-6782  
[mbeck@utah.gov](mailto:mbeck@utah.gov)  
[akanderson@utah.gov](mailto:akanderson@utah.gov)  
[bvastag@utah.gov](mailto:bvastag@utah.gov)  
[aware@utah.gov](mailto:aware@utah.gov)  
[jzachary@utah.gov](mailto:jzachary@utah.gov)  
([ocs@utah.gov](mailto:ocs@utah.gov))

Cory S. Olsen  
10249 Dimple View Ln.  
Sandy, Utah 84092  
[corysolsen@comcast.net](mailto:corysolsen@comcast.net)

*Complainant*

  
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