

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

IN THE MATTER OF THE APPLICATION OF)	
ENBRIDGE GAS UTAH TO INCREASE DISTRIBUTION)	
RATES AND CHARGES AND MAKE TARIFF)	
MODIFICATIONS)	
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DOCKET No. 25-057-06
DPU Phase I – Response to
Commission Notice Issued October 1,
2025

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

Written Witness Testimony of

Eric Orton

October 15, 2025

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1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND TITLE.**

3 A. My name is Eric Orton. My business address is 160 East 300 South, Salt Lake City,
4 Utah 84114. I am a Technical Consultant in the Utah Division of Public Utilities
5 (“Division”).

6 **Q. ARE YOU THE SAME ERIC ORTON WHO PROVIDED DIRECT TESTIMONY**
7 **IN PHASE I OF THIS PROCEEDING?**

8 A. Yes.

9 **TESTIMONY SUMMARY**

10 **Q. PLEASE SUMMARIZE THE PURPOSE OF YOUR TESTIMONY.**

11 A. The purpose of my testimony is to respond to the Public Service Commission’s
12 (“Commission” or “PSC”) Notice issued October 1, 2025.

13 **Q. PLEASE DESCRIBE THE NOTICE YOU ARE REFERENCING.**

14 A. On October 1, 2025, the Commission issued a Notice directing parties to the
15 Stipulation to provide written testimony regarding “[t]he analysis supporting why PSC
16 approval of the terms of the Phase I Settlement Stipulation is (1) in the public
17 interest, and (2) just and reasonable in result.”¹

18 **Q. WHAT IS THE STATED PURPOSE OF THE TESTIMONY REQUESTED BY**
19 **THE COMMISSION?**

20 A. The Commission stated that the purpose of the testimony submitted by the
21 stipulating parties is to “appropriately prepare the Commissioners for the Phase I
22 evidentiary hearing scheduled for October 22, 2025, and specifically to help focus

¹ Notice (Oct. 1, 2025) at 2.

23 the discussion regarding the proposed Phase I Settlement Stipulation to be
24 considered that day”²

25 **Q. PLEASE PROVIDE SOME BACKGROUND OF THIS CASE.**

26 A. On May 1, 2025, Enbridge Gas Utah (“Enbridge” or “Company”) filed its General
27 Rate Case Application. On May 13, 2025, the Commission issued the Scheduling
28 Order which bifurcated the issues into Phase I and Phase II and set forth dates for
29 testimony and hearings for each phase.³ As specified in the Scheduling Order,
30 Phase I addresses all issues necessary to determine Enbridge’s revenue
31 requirement, while Phase II addresses cost of service and rate design issues.⁴ On
32 August 26, 2025, the Division provided the Commission with the Phase I written
33 direct testimony of five witnesses stating the Division’s positions on certain issues.⁵
34 Other parties in this proceeding also filed Phase I direct testimony.⁶ After engaging
35 in settlement negotiations, the parties to the Phase I Settlement Stipulation
36 (“Stipulation”) executed the agreement, filing with the Commission the Stipulation
37 and EGU Phase I Settlement Stipulation Exhibit 1 – Depreciation Rates on
38 September 26, 2025. This Stipulation reflects a “black box” settlement of the issues
39 in which the parties agreed only to a total revenue requirement and certain issues
40 outlined in the settlement proposal.

41 **Q. PLEASE PROVIDE A SUMMARY OF THE DIVISION’S INVOLVEMENT IN THE**
42 **NEGOTIATIONS THAT LEAD TO THE STIPULATION.**

43 A. On September 16, 2025, the parties in this proceeding began settlement discussions
44 in earnest. As a result of these good-faith discussions and arm’s-length negotiations,
45 the Division has reached an agreement with certain other parties on an appropriate
46 revenue requirement amount for Phase I. This number was presented to the

² *Id.* at 1.

³ Scheduling Order, Notice of Technical Conferences, Notice of Public Witness Hearings, and Notice of Hearings (May 13, 2025).

⁴ *Id.* at 1.

⁵ This includes the direct testimonies of Eric Orton, Casey J. Coleman, Jeremy Hirschi, David Williams, and Roxie McCullar.

⁶ The other parties include the Office of Consumer Services (“OCS”), Utah Association of Energy Users (“UAE”), and the Federal Executive Agencies (“FEA”).

47 Commission on September 26, 2025, in the filed Stipulation.⁷ As provided in the
48 Stipulation, “[a]ll negotiations related to this Phase I Settlement Stipulation are
49 privileged and confidential”⁸ The Division provides its rationale based on the
50 conditions set forth in the Stipulation and the statutory provisions encouraging the
51 settlement of issues by the parties.⁹ The Division will not address any confidential
52 settlement discussions.

53 **Q. PLEASE SUMMARIZE THE DIVISION’S POSITION REGARDING THIS**
54 **STIPULATION.**

55 A. The Division concludes that the Stipulation is just and reasonable in result and that
56 the evidence in the record in this proceeding supports a finding that the settlement
57 proposal is just and reasonable in result. The Division made this determination
58 based on its evaluation of the evidence available to it and the terms and conditions
59 of the Stipulation. The focus on the agreed-upon revenue requirement number is
60 proper because in the revenue requirement phase of this case the Commission’s
61 task is to set a just and reasonable revenue requirement number. While the universe
62 of parties’ suggested adjustments and other expense and revenue components is
63 important to that determination, not every item requires full adjudication to determine
64 justness and reasonableness. In this case, the Stipulation accurately recognizes the
65 forest, without fully detailing all its trees. The Stipulation is just and reasonable and
66 in the public interest.

67 **GENERAL COMMENTS ON SETTLEMENT**

68 **Q. HOW CAN THE COMMISSION DETERMINE WHETHER A SETTLEMENT**
69 **STIPULATION IS IN THE PUBLIC INTEREST?**

70 A. Settlements are encouraged by Utah Code section 54-7-1, which aims to enhance
71 the Commission’s efficiency, reduce costs, and allow the Commission to concentrate

⁷ The stipulated revenue requirement is \$604 million. Stipulation at 3.

⁸ *Id.* at 6. See also Utah Code Ann. § 54-7-1(2)(b) (“The commission shall reserve to the parties the right to maintain appropriate confidentiality in the negotiation process even when the commission uses a settlement proposal to resolve a disputed matter.”).

⁹ Utah Code Ann. § 54-7-1.

72 on issues that cannot be resolved through negotiations.¹⁰ Under section 54-7-1, the
73 Commission may approve and adopt a settlement proposal if the Commission finds
74 that the proposed settlement is just and reasonable in result and the evidence in the
75 record of the proceeding supports that finding.¹¹ When considering whether to adopt
76 a settlement proposal, the Commission is tasked with considering the “significant
77 and material facts related to the case”¹² and “the interests of the public and other
78 affected persons to use a settlement proposal to resolve a disputed matter.”¹³ In
79 addition, the rates resulting from the settlement must be just and reasonable.¹⁴

80 Although the stipulating parties haven’t agreed on each component comprising the
81 revenue requirement, they have reached agreement on the Company’s total revenue
82 requirement number that should be approved in this case. The Commission has
83 previously approved similar settlement stipulations in past proceedings.¹⁵

84 **Q. PLEASE EXPLAIN THE DIVISION’S APPROACH TO SETTLEMENT OF**
85 **MATTERS BEFORE THE COMMISSION.**

86 A. The Division’s interests are different from other parties who represent individuals or
87 stakeholder organizations. Utah Code section 54-4a-6 requires the Division to
88 maintain the financial integrity of the utility, promote efficient management and
89 operation of the utility, protect the long-range interest of consumers, provide for fair
90 apportionment of the total cost of service among customer categories, and promote
91 stability in rate levels for customers and the revenue requirement for the utility.¹⁶
92 The Division has worked in good faith to fulfill its statutory directives in order to
93 determine the appropriate outcome for this case. As the Division weighed its
94 positions set forth in direct testimony and the positions of other parties, it found that

¹⁰ *Id.*

¹¹ Utah Code Ann. § 54-7-1(3)(d)(i).

¹² Utah Code Ann. § 54-7-1(3)(d)(ii).

¹³ Utah Code Ann. § 54-7-1(2)(a).

¹⁴ Utah Code Ann. § 54-4-4.

¹⁵ See, e.g., *Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations*, Docket No. 10-035-124, Report and Order (Sept. 13, 2011).

¹⁶ Utah Code Ann. § 54-4a-6.

95 settling on the bottom line could achieve the result of just and reasonable rates and
96 avoid the necessity and uncertainty of a full hearing on each issue in this phase of
97 the case.

98 **Q. PLEASE SUMMARIZE HOW THE DIVISION DETERMINES WHETHER**
99 **ENTERING INTO A SETTLEMENT IS JUST, REASONABLE, AND IN THE**
100 **PUBLIC INTEREST.**

101 A. The Division generally considers how the Commission might rule in each category
102 presented by the various parties in this case and what the result of those
103 recommendations and orders could mean for the ratepayers and the utility. The
104 Division was aware of the potential for a wide range of outcomes and considered this
105 in its negotiations, knowing that the Commission would review each potential
106 adjustment and the impact on the Company and its customers. The public interest, in
107 essence, is an alignment of the interests of the utility and its customers with the
108 public as a whole. In this case, the advocacy of the parties in testimony and
109 discussions revealed the appropriate just and reasonable result, now embodied in
110 the Stipulation.

111 **Q. IS THERE ONE PARTICULAR METHOD FOR DETERMINING JUST AND**
112 **REASONABLE RATES?**

113 A. No. While “[a] just and reasonable rate is one that is sufficient to permit a utility to
114 recover its costs of service and earn a reasonable return for its enterprise [.]”¹⁷ there
115 is no one particular method for determining just and reasonable rates. Based on its
116 analysis of the evidence presented in this case, the Division believes the Stipulation
117 represents just and reasonable rates. Thus, each party might believe the result is
118 appropriate for various reasons.

¹⁷ *Am. Salt Co. v. W.S. Hatch Co.*, 748 P.2d 1060, 1063 (Utah 1987).

119 **THE DIVISION'S EVALUATION**

120 **Q. PLEASE SUMMARIZE THE DIVISION'S POSITION REGARDING THE TERMS**
121 **OF THIS PHASE I STIPULATION.**

122 A. As noted above, the Division's conclusion is that the Stipulation is just and
123 reasonable in result and the stipulated revenue requirement results in just and
124 reasonable rates and is in the public interest. The Stipulation is the product of arms-
125 length negotiations in light of voluminous filed testimony and other evidence.

126 **Q. PLEASE SUMMARIZE SOME OF THE BACKGROUND WORK THE DIVISION**
127 **DID IN COMING UP WITH A REASONABLE REVENUE REQUIREMENT**
128 **NUMBER.**

129 A. The Division reviewed the Company's application and the information presented by
130 Enbridge and other parties in this Phase I. Division staff investigated the Company's
131 requested revenue requirement increase and the information supporting that
132 proposed increase. To date, the Division has submitted well over 200 questions in
133 28 sets of data requests to Enbridge to which the Company has been generally
134 responsive in its replies. In addition, the Division has met with Enbridge on a
135 frequent and regular basis to ask specific questions. This has provided the Division
136 with the opportunity to better understand the issues, and in greater detail, than it
137 would through standard data request responses alone. Based on its analysis of the
138 information obtained in this case, the Division determined that the agreed upon
139 revenue requirement amount was a reasonable outcome. Further, the revenue
140 requirement in the Stipulation falls within the ranges presented in various parties'
141 testimony.

142 **Q. PLEASE SUMMARIZE THE REVENUE REQUIREMENT IN THE TERMS AND**
143 **CONDITIONS OF THE STIPULATION.**

144 A. The Stipulation proposes to provide Enbridge with a total revenue requirement of
145 \$604 million on an annual basis beginning on January 1, 2026. This represents an
146 increase of \$62 million based on the model Enbridge provided. The Division and

147 other parties have agreed to only a total revenue requirement amount and do not
148 agree on individual adjustments to any revenue requirement components. A few
149 smaller items are specifically mentioned. The revenue requirement amount does not
150 include acceptance or rejection of any parties' recommendation (except for
151 depreciation as discussed below) and does not specify any particular cost of capital
152 figure¹⁸ or any specific revenue requirement issue that should be included or
153 excluded from the total revenue requirement.

154 **Q. PLEASE SUMMARIZE THE DEPRECIATION TOPIC IN THE TERMS AND**
155 **CONDITIONS OF THE STIPULATION.**

156 A. As part of its application, Enbridge submitted a new depreciation study conducted by
157 Gannett Fleming based on 2022 plant balances. Following a thorough examination
158 of the depreciation study, the Division provided its recommendation in Phase I
159 written direct testimony of Roxie McCullar. The Division has agreed that the
160 depreciation rates as modified in the Phase I written direct testimony of Utah Office
161 of Consumer Services (OCS) witness David Garrett are a reasonable balance
162 between the Division's recommendation and Enbridge's depreciation study. In an
163 area such as depreciation rates there is no single, discernable absolute truth about a
164 correct rate. The selection of the OCS's recommendation was a negotiated item. The
165 OCS's recommendation is reasonable and therefore should be adopted.

166 **Q. IS IT REASONABLE TO ADOPT A STIPULATION THAT DOES NOT**
167 **SPECIFICALLY IDENTIFY AN ALLOWED RATE OF RETURN, WITH RETURN**
168 **ON EQUITY, CAPITAL STRUCTURE, AND OTHER ITEMS UNRESOLVED?**

169 A. Yes. The amount of revenue provided through rates must be just and reasonable.
170 That is the statutory command found in Section 54-4-4. Below is a chart showing
171 that a range of Return on Equity (ROE) perspectives that might lead to the stipulated
172 revenue requirement. The chart shows a range of ROEs from 9.0% to 9.68% with
173 other adjustments for depreciation and additional items that could result in the

¹⁸ Note that the Stipulation does address the use of current rates of return for trackers and certain gas procured under the Wexpro agreement. This is discussed below.

174 stipulated revenue requirement number. The use of these ROEs is purely illustrative
175 and not intended to be actual numbers from specific parties submitted in this case.
176 The last column represents the average ROE for settled gas cases decided for the
177 first six months of 2025. This data comes from S&P Global RRA Regulatory Focus
178 Quarterly Update July 25, 2025, and shows an average ROE of 9.68% for year-to-
179 date 2025. This calculated value has been included only as a reference point, not
180 because the Division or any other party represents it to be a true measure of
181 Enbridge’s cost of equity.

182

Description	Amount	Amount	Amount	Amount	Amount
EGU Utah - Application Deficiency	\$ 114,669,749	\$ 114,669,749	\$ 114,669,749	\$ 114,669,749	\$ 114,669,749
ADJUSTMENT - Depreciation	(\$12,500,000)	(\$12,500,000)	(\$12,500,000)	(\$12,500,000)	(\$12,500,000)
ADJUSTMENT - ROE	(\$36,340,411)	(\$31,798,087)	(\$27,255,698)	(\$22,713,244)	(\$20,896,244)
ADJUSTMENT - Black Box	(\$3,829,338)	(\$8,371,662)	(\$12,914,051)	(\$17,456,505)	(\$19,273,505)
Settlement Deficiency	\$ 62,000,000	\$ 62,000,000	\$ 62,000,000	\$ 62,000,000	\$ 62,000,000
Return On Equity	9.00%	9.20%	9.40%	9.60%	9.68%
Weighted Ave Cost of Capital	6.77%	6.87%	6.98%	7.08%	7.13%

183

184 **Q. PLEASE DISCUSS THE IMPACT OF THE RATE OF RETURN ON THE**
185 **INFRASTRUCTURE TRACKER PROGRAMS AND OTHER AGREEMENTS**
186 **CURRENTLY IN PLACE.**

187 A. One of the largest components in utility rate setting is the determination of the
188 appropriate rate of return the utility is allowed to recover on its investment. The
189 Company’s rate of return is not specifically enumerated in this Stipulation. However,
190 there are a few of Enbridge’s programs that require the specification of a rate of
191 return. The language of those programs generally refers to the most recent allowed
192 rate of return.¹⁹ In the interest of clarity, the Stipulation addresses those items by

¹⁹ See Wexpro II Agreement at 6 (“The weighted average of the then current Utah and Wyoming Commission-allowed rates of return”); Enbridge Gas Utah Natural Gas Tariff 2.07, Infrastructure Rate Adjustment Tracker at 2-15; Enbridge Gas Utah Natural Gas Tariff 9.02, New or Additional Service at 9-5.

193 retaining the current rate of return, which is the most recent allowed by the
194 Commission. In agreeing to this, the Division considered the known ways in which
195 this would affect rates and revenues. In the totality of the circumstances, it is
196 reasonable for the Commission to use as the pretax rate of return for those few
197 programs the Commission-allowed rate of return approved in Docket No. 22-057-03,
198 the 2022 general rate case. This rate is referenced in the Company's existing
199 Infrastructure Rate Adjustment Tracker, Rural Expansion Rate Adjustment Tracker,
200 and the Wexpro II Agreement. The Division also notes that with regard to the
201 Wexpro component, this is part of the calculation of the cost of gas, not a return to
202 the utility itself.

203 **Q. DO THE TERMS AND CONDITIONS OF THE STIPULATION IMPACT PHASE**
204 **II OF THIS GENERAL RATE CASE?**

205 A. No, this Stipulation has no impact on the issues properly addressed in Phase II of
206 this case.

207 **CONCLUSION**

208 **Q. PLEASE SUMMARIZE THE DIVISION'S POSITION AND**
209 **RECOMMENDATION.**

210 A. The Division has carried out an extensive investigation and analysis of the
211 Company's revenues and expenses presented in this case, conducted considerable
212 discovery to obtain the needed information, and reached the conclusions presented
213 in its testimony based on its analysis of this information. Further discussion with
214 other parties and consideration of the time, expense, and uncertainty of litigation
215 suggested settlement might achieve a just and reasonable result. Based on its
216 analysis and preparation for adjudicating this case, the Division determined that the
217 Stipulation, taken as a whole, was just and reasonable and the terms and conditions
218 of the Stipulation would result in just and reasonable rates for Utah customers. The
219 Division recommends the Commission approve the terms of the Stipulation and find
220 that the proposed rates are just and reasonable in result and are therefore in the
221 public interest.

222 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

223 A. Yes, it does.