

## UTAH COMMITTEE OF CONSUMER SERVICES

### RESPONSE TO THE DIVISION OF PUBLIC UTILITIES' INVESTIGATION ON TRANSPONDER PRE-DIVIDE EXCEPTIONS AND BACK-BILLING ISSUES

#### SUMMARY

The Committee of Consumer Services (Committee) has reviewed the Investigation Report (Report) submitted by the Division of Public Utilities (Division) to the Utah Public Service Commission (Commission) in the matter of the transponder pre-divide exceptions and back-billing issues of Questar Gas Company (Questar or the Company). In addition, the Committee has reviewed the responses to data requests and conducted some independent analysis and investigation. Based upon this review, the Committee believes that the scope of the Division's report is reasonable. Further, the Committee supports the majority of the Division's conclusions and recommendations. In particular, the Division's proposal with respect to the individual's impacted by the back-billing is reasonable and the proposal that the Company should repay some funds to the CET and 191 accounts are well supported.

The Committee also endorses the Division's conclusion that some of Questar's actions cannot be found to be prudent. For that reason, the Committee recommends that the Company should be ordered to credit the 191 and CET accounts for a full 100 percent of the difference between what Questar collects from a six-month back-billing and the total costs associated with the transponder errors (according to the Division's Report Table 13 this would be \$718,663).

The Committee also supports the process improvements recommended by the Division and augments those with some clarifications and additions.

#### COMMITTEE RESPONSE TO THE DIVISION'S REPORT

##### *Overview*

The Committee appreciates the opportunity to have helped frame the scope of the report and the initial discovery questions associated with it. After reviewing the Division's report, the Committee believes that the scope was reasonable and consistent with the manner in which we had envisioned the investigation proceeding. We will address the major aspects of the Division's report (although in a different order) to provide additional comment and supplemental recommendations.

##### *Effect on Individual Customers*

The Division provided an excellent analysis of the distribution of the transponder errors among customer types and bill impacts. After careful consideration, the Division also

recommends that the individual customers impacted by the transponder pre-divide errors should only be back-billed for six months of usage. The Committee believes this recommendation is reasonable<sup>1</sup>. The Committee also supports the administrative changes proposed by the Division designed to facilitate the six-month back-billing and also to allow a full twelve months for the repayment of the back-bills.

The Committee believes that, in most cases, the Division's proposal will result in a just and reasonable outcome. However, since we are unable to review the unique circumstances of each individual case, the Committee believes there may be isolated cases for which a different remedy would be appropriate<sup>2</sup>. Therefore, the Committee recommends that the Commission clearly explain in its Order what process an individual should follow if he believes that individual circumstances justify a different outcome.

Further, the Committee recommends that the Commission order the Company to provide a separate letter correspondence to each customer with the transponder pre-divide problem explaining the outcome of this regulatory process, specifically including the following:

- The Commission's ruling regarding length of allowed back-billing;
- The Commission's ruling regarding the dollar amount to be repaid by Questar to the 191 and CET accounts;
- The dollar amount collected through the 191 and CET accounts that will not be repaid;
- The url for the PSC website through which all documents related to the transponder investigation can be accessed;
- The specific Commission Order language regarding individual customer's ability to seek a different remedy.

The Committee and Division should be able to review and comment on the letter prior to the Company sending it.

#### *Analysis of Reasonableness and Prudence*

The Division examined five separate milestones or decisions to examine whether each could be considered reasonable or prudent. The Division correctly concluded that it was not reasonable for Questar Gas not to have discovered the transponder-related errors for such a long period of time. The Division found no problems with respect to: the decision to deploy transponders on customers' meters, the decision to change from mode 3.4 to VRT transponders, procedures used for installation of transponders and actions taken after discovery of errors. However, it must be emphasized, that these results cannot be interpreted to indicate that Questar was reasonable on four out of five instances and therefore only 20 percent imprudent.

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1 The Committee also notes that in this case, the Commission should also specifically address the manner in which Questar should refund customers who have already paid a full twenty-four months back-bill for the difference between twenty-four and six months of back-billing.

2 For example, in cases of customers with limited income or very large back-bills, more than twelve month repayment schedule may be warranted.

Each of the five points of analysis cannot be given equal weight. For example the decision to change from mode 3.4 to VRT transponders cannot truly be considered a utility action. The Committee's understanding is that the manufacturer changed the models available for Questar's use. Certainly the decision to implement the manufacturer's model change is not on par with failing to discover transmittal errors over the course of several years.

Rather than parsing out each potential decision point, the issue must be looked at in entirety. Therefore the question is a simple one: Were the Company's actions with respect to the transponder problems prudent? Regardless of whether the problem related to installation, insufficient billing software, or any other issues within the Company's control, imprudence is imprudence.

On page 78 of its Report the Division states: "the Division suggests that the Company was imprudent through the failure of its systems and processes to detect errors that have cost ratepayers generally." This is the salient point of the investigation that must be considered by the Commission in determining the final remedy to the transponder problem. In addition to the evidence provided by the Division supporting their conclusion of imprudence, the Committee conducted some analysis that raised related, but different questions. This analysis is attached in Appendix A to these comments.

#### *Potential Adjustments to the CET and 191 Accounts*

The Division proposed that the Company should repay some percentage of the difference between the amount associated with a six month back-billing and the total cost of gas associated with the transponder under-reporting. The Committee agrees. Since imprudence was involved, the level that should be repaid by the Company is one hundred percent.

Consumers other than those with the back bills have already footed the bill<sup>3</sup> for these mistakes as the costs were largely absorbed into the 191 and CET accounts. This is unjust and unreasonable. Consumers should only pay for expenses that are reasonably considered to be prudently incurred by the Company in the course of providing utility service. These expenses were incurred due to imprudence. Consumers at large should not bear these costs. They neither consumed the gas, nor had any control over measures that could be taken to prevent the costs.

The Committee is unconvinced that consumers would be indifferent as to whether the credits are put into the 191 or CET accounts. Therefore, we ask the Division to provide additional support for their assertion of the indifference. Absent that support, the Committee recommends that the credits be placed into the two accounts by a reasonable approximation of the same manner in which they were collected.

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<sup>3</sup> Except for the \$98,000 according to the Division's Report.

The Division also recommended that the Commission order an audit of these accounts after this issue has been finalized. The Committee supports this concept, but proposes a slightly different recommendation. The Committee recommends that the Commission order Questar to provide a report tracing how these funds were originally collected and showing how the accounts were properly credited, both from the six month back-billing collected from individually affected consumers as well as the credits that get ordered for the Company to make. Ordering this report of the Company rightly retains the burden of demonstration to the Company and provides a more transparent evidence of the process for others to review.

### *Potential Process Improvements*

The Division recommends some process improvements for the billing software at Questar and for better documentation. The Committee supports these recommendations. However, the Committee believes that process improvements are also warranted with respect to the work done by the Division.

The Committee did some additional investigation into how the overall process works and the Division's role in resolving consumer complaints. This was done, in part, to try and evaluate the different perceptions of the communication held by Questar and the Division. Based on our discussions with the interested and affected parties, the Committee does not believe there was any wrongdoing on the part of the Division in terms of the communications they had with the Company. Regardless of whose version of the events is a more accurate representation, under no circumstance would it be reasonable and prudent for Questar to make a fundamental policy call in how hundreds of thousands of dollars of backbills are handles based upon informal, verbal conversation with Division employees.

The Division appears to have good informal processes in place that rely upon institutional history. The Committee recommends that these processes could be improved and clarified with more formal policies and procedures. Reliance upon informal processes does not provide the same level of clarity or assurance of consistent treatment. As part of this documentation, any communications with relevance to more than one case need to be publicly accessible.

The Committee has been told that as part of the informal processes in place, occasionally the Division's customer service staff will consult with Commission's counsel or staff for more detail and information on the proper interpretation of policy and law. While this practice may provide useful information, it is nonetheless troubling to the Committee in the context of fair and transparent governmental operations. Therefore, the Committee further recommends that if Commission staff or counsel is consulted in determining a policy or interpretation of law, such communication must also be documented and publicly accessible.

## COMMITTEE RECOMMENDATIONS

The Committee agrees with the majority of the Division's recommendations. In some cases, we would like to see the recommendations expanded or specified more carefully. Therefore, we frame our recommendations in the context of those already presented to the Commission by the Division.

*Division Recommendation #1: For purposes of determining back-billing, transponders should be considered as a single unit with the gas meter. The Commission should also initiate rulemaking to clarify the relationship between natural gas meters and transponders. This rulemaking should also include how to treat future under-billing due to transponder errors and the appropriate time period for back-billing due to such errors.*

The Committee supports this recommendation. However, the Committee also notes that a meter-inspection process currently exists. Our understanding of this process is that it is based on a sampling done on a rather infrequent basis. We therefore would refine this recommendation to clarify that the Company should continue with its more rigorous transponder inspection process.

*Division Recommendation #2: The Commission should order that under-billed customers in this case be back-billed for the six months preceding the date that Questar Gas discovered a transponder pre-divide setting error on their meters.*

The Committee supports this recommendation. However, we also believe that specific situations may exist in which the circumstances warrant examining another possible outcome. We recommend that the Commission clearly state within its Order the specific options available to individual customers affected by the back-billing, in terms of what process to follow if they believe their specific circumstances warrants individual examination.

*Division Recommendation #3: We further recommend that the Commission require that Questar permit back-billed customers in this case to take up to one year to repay their six months of back-billed usage.*

The Committee supports this recommendation. However, we again recommend that a process be clearly identified for those individual customers who may have circumstances (such as income constraints or size of the remaining back-bill) where a longer payback period may be warranted.

*Division Recommendation #4: Questar Gas' tariff on back-billing should be amended to be consistent with Commission rules that permit back-billing repayment periods that are longer than the actual periods of time during which under-billing occurred.*

The Committee supports this recommendation.

*Division Recommendation #5: Questar Gas' billing systems should be modified such that they are more likely to discover the kind of usage or billing anomalies that have been seen in this case.*

The Committee supports this recommendation.

*Division Recommendation #6: Questar Gas should alter its procedures with regard to changes in billing such that they be better documented. Procedures should also be changed to allow more communication between field technicians and billing personnel to better share information that might suggest problems.*

The Committee supports this recommendation.

In addition, the Committee recommends that certain procedures within the Division of Public Utilities and involving the Public Service Commission should be better documented. We recommend that the Division document its policies and procedures related to the handling of complaints and related communications with the utilities. As part of this documentation, any communications with relevance to more than one case need to be publicly accessible. Further, if Commission staff or counsel are consulted in determining a policy or interpretation of law, such communication must also be documented and publicly accessible.

*Division Recommendation #7: Because a substantial portion of the under-collection to the CET and 191 accounts could reasonably have been prevented by Questar Gas, the Commission should enter an accounting order requiring some payment by Questar into these accounts as partial recompense to ratepayers. The Division is not in a position at this time to recommend a specific dollar amount.*

The Committee agrees with the Division conclusion that the under-collection could have been prevented by Questar and was the result of some imprudent actions. The Committee also agrees that the remedy should be payment by Questar reimbursing the CET and 191 accounts. Because of the Company's imprudence, the Committee strongly recommends that the Company be ordered to credit those accounts for 100 percent of the difference between that which was uncollected due to transponder errors and the six-month back-billing that will be repaid by the individually affected customers.

*Division Recommendation #8: Once all of its transponders have been tested for pre-divide errors, Questar Gas should provide to the Division and the Commission updated account and other information that will permit a detailed final accounting in this case.*

The Committee supports this recommendation.

*Division Recommendation #9: Upon completion of transponder testing, the Commission should also require an audit of Questar Gas's customer accounts to ensure that back-billed amounts and any other dollars that are part of a Commission order credited to the proper accounts.*

The Committee supports this recommendation. However, the Committee believes that the Company should also produce a report detailing these transactions to facilitate any audit. A report retains the burden onto the Company and makes the process more transparent to outside observers and interested parties.

In summary, the Committee makes the following recommendations in addition to those already made by the Division:

- Maintain the current transponder inspection process regardless of its definition as part of the meter.
- Clearly indicate the process by which individual consumers can pursue a different remedy when unique circumstances may warrant separate consideration.
- Request that the Division better document its processes related to consumer complaint resolution and related communication with the utilities. Require that this documentation include public accessibility to communications with impact beyond one case and any policy or statutory interpretation received from Commission staff or counsel.
- Order Questar to credit the 191 and CET accounts for 100 percent of the difference between what it collects from six months of back-billing and the total costs of gas associated with the under-reporting stemming from the transponder pre-divide mistakes.
- Require Questar to provide a complete report of these transactions, along with detailed descriptions of their impact on the 191 and CET accounts. This report should be provided approximately one year after the customers are notified of the results of this investigation and should be audited by the Division.