

Roger J Ball  
Chancellor and Moderator  
Utah Ratepayers Association  
1375 Vintry Lane  
Salt Lake City, Utah 84121  
(801) 998-8511

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of the Consolidated Docket  
of Formal Complaints Against  
Questar Gas Company Relating to Back-billing

Docket No 08-057-11  
  
REQUEST FOR REVIEW, REHEARING,  
AND RECONSIDERATION

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EXPLANATORY NOTE

For simplicity, throughout this *Request* the Utah Ratepayers Association:

may refer to: the Public Service Commission of Utah as “Commission” or “PSC”; the Utah Division of Public Utilities as “Division” or “DPU”; the Utah Committee of Consumer Services as “Committee” or “CCS”; Questar Gas Company as “Questar”, “Company”, or “QGC”; and itself as “Association” or “URA”. Dates that appear without the year are 2008.

will refer to data responses from QGC using the format *DPU1DR01RA*, where: the first set of alpha characters identifies to the requesting entity (Jt refers to a DPU and CCS Joint Data Request); the first numeral refers to the set of requests; *DR* means *Data Request*; the second group of numerals refers to a specific numbered request; *R* means *Response*; and a final letter *A* means an attachment to a response, usually in Acrobat or Excel format. So, in the example given: *DPU1DR01RA* means an attachment to QGC’s response to the first question in the DPU’s First Set of Data Requests. Responses are dated in the format 081230, meaning it was provided on 30 December 2008.

SYNOPSIS

The Utah Ratepayers Association respectfully requests review, rehearing, reconsideration, and clarification of the *Order Approving Settlement Stipulation with Modifications* issued by the Public Service Commission of Utah on 3 December 2008.

The Commission justly and reasonably determined that Questar Gas Company should bear the entire financial responsibility, and ratepayers-at-large none of it, for the costs of gas consumed by

some customers but not timely billed by the utility, and which the Commission has barred the utility from back-billing those customers for.

However, the entire group of customers under- and over-billed has not yet been fully ascertained, and the Commission's determination, while placing reliance upon the Company to identify the remainder, provides a strong financial incentive for it not to do so completely.

The Commission's rules and past philosophy regarding responsibility for mis-billing, as reflected in the precedents quoted by Questar and the Utah Division of Public Utilities in this proceeding, are unjust and unreasonable in effect. They have long benefitted the utility at the expense both of individual customers and of ratepayers-at-large, and this proceeding ought properly to fully address and correct that imbalance. As it is, while the *Order* mitigates the back-billing of 562 identified customers and such others as the utility may now choose to identify, it still unreasonably benefits Questar at the expense of those people. Nor does it adequately address the need to amend the applicable rules to justly balance the various interests going forward.

The complaints about back-billing have high-lighted the fundamental injustice and unreasonableness of the operation of this utility's balancing accounts. Neither the Company nor the Division, charged with auditing its accounts, realised that ratepayers-at-large were being over-charged for years.

The proceeding has been conducted in such a way as to protect Questar and the Division from proper scrutiny of the range of their failures revealed so far, or to examine the reasonable possibility of others more far-reaching. Ratepayers have, therefore, been denied due process.

These defects can only be remedied by the Commission reconsidering its *Order*, or suspending it and scheduling a rehearing to allow the Association to fully argue the matter, something it was not permitted to do during the 22 October hearing on the Stipulation.

#### SCOPE OF MIS-BILLING OF SOME CUSTOMERS AND OVER-CHARGING OF RATEPAYERS-AT-LARGE

QGC's records are far from comprehensive, and the data it has provided in response to requests by the DPU and other parties, even when apparently precise, has been contradictory, inaccurate and unreliable. The Company has been unable to document: its business case for choosing to install transponders; a quality management plan for the project; or that it has monitored the project in any

meaningful way during its implementation. It was not expecting the problems that have come to light, and was slow to realise either how their manifestations were connected or what they indicated. Consequently, the information QGC has provided has been after-the-fact and the Company has not shown it to be comprehensive. On the contrary, the utility has admitted that it lacks records that would demonstrate whether all under- and over-billing has been identified, and the financial effects have mostly been laundered through balancing accounts. Consequently, the Association believes the investigation is incomplete, and the scope of over-charging ratepayers-at-large has not been completely determined.

The Association drew attention in its *Response* and *Reply Comments* to the fact that the Division had placed entire reliance upon Questar to research the extent of mis-billing some customers and over-charging ratepayers-at-large. The DPU hasn't even attempted the forensic examination of the relevant accounts recommended by the Association in April, and its enquiries have glossed over the majority of metering, reporting, and billing errors that QGC has reported.

QUESTAR HAS BEEN UNABLE TO PROVIDE EVIDENCE THAT A BUSINESS CASE WAS MADE PRIOR TO COMMENCEMENT OF THE TRANSPONDER INSTALLATION PROJECT

On 15 April, QGC said "An extensive and thorough evaluation showed that AMR technology would provide a substantial benefit by increasing the efficiency and accuracy of meter reading and reducing costs."<sup>1</sup> But on 25 March and 1 July it was unable to produce any documents to substantiate that claim, and admitted that the earliest it had provided was originally prepared in 2003.<sup>2</sup>

Questar admits that it neither sought regulators' approval nor advised its customers prior to installation.<sup>3</sup>

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<sup>1</sup> *Answer of Questar Gas Company*, 15 April 2008, *In the Matter of the Consolidated Docket of Formal Complaints Against Questar Gas Company Relating to Back-billing*, Docket 08-057-11, (hereinafter, *Answer*): page 3, item 1, *Automated Meter Reading and Transponders*, third sentence.

<sup>2</sup> *Jt1DR01 - 03R and DPU2DR04R*.

<sup>3</sup> *Transcript of Hearing*, 22 October 2008, *In the Matter of the Investigation and the Consolidation of Dockets of the Formal Complaints Against Questar Gas Company Relating to Back-billing*, Docket 08-057-11, (hereinafter, *Transcript*): page 149, line 24, to page 150, line 14.

QUESTAR DOESN'T KNOW WHEN IT STARTED INSTALLING TRANSPONDERS, HOW MANY IT HAS INSTALLED, OR WHEN THEY WERE FITTED

On 8 May, QGC told the DPU and CCS it had agreed with Elster, the manufacturer, in 1995 to install 500 transponders "as a product performance test." QGC observed that "the transponders needed improvement", after which the same 500 meter test was repeated satisfactorily.<sup>4</sup>

On 25 March, QGC said it had installed 500 transponders in 1996 and another 7,500 in 1997; on 15 April, it said it "began installing transponders ... in 1998"; and, on 8 May, that it had installed 1,149 in 1996 and 571 in 1997.<sup>5</sup>

On 25 March, the Company said it had installed 875,000 to the end of 2006, a round number suggestive of estimation, and indeed, by 8 May, the number had fallen to 854,917 (this last number included a very small computational error in the spreadsheet).<sup>6</sup>

The Association asked QGC how many transponders of each type were installed each month since January 1996 but, on 20 June, the Company was unable to provide more than the number of all types combined installed each year and, on 10 July, said that even the yearly numbers were estimated.<sup>7</sup>

QGC has been unable to say, confidently and consistently, exactly when the first, or the last, 3.4, or the first VRT, transponder was installed. On 15 April, the Company told the PSC it had installed 3.4s between 1998 and 2002, when the manufacturer ceased producing them and started making VRTs. "Between 2002 and March 2008," QGC had installed VRTs. On 20 June, the Company said "everything prior to approximately December 2002 was a 3.4 transponder and everything after that date was a VRT"; on 1 July, it said it did not begin installing VRTs until 2002.<sup>8</sup>

Although it is clear that additional transponders were fitted during 2007 and 2008, QGC has never said how many.<sup>9</sup>

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<sup>4</sup> *Jt1DR01R*.

<sup>5</sup> *DPU1DR06RA*; Answer: page 3, item 2, *Transponder Installation*, first sentence; and *Jt1DR25RA*.

<sup>6</sup> *DPU1DR06RA*; and *Jt1DR25RA*.

<sup>7</sup> *URA5DR11R*; and *URA5DR08R*.

<sup>8</sup> Answer: page 4, 1<sup>st</sup> and 3<sup>rd</sup> paragraphs; *URA5DR11R*; and *DPU2DR10R*.

<sup>9</sup> The most recent list of cases of over- and under-billing includes some where the transponder was set during 2007 and 2008; see *DPU3DR01RA*.

QUESTAR HAS BEEN UNCERTAIN ABOUT HOW MANY METERS AND TRANSPONDERS IT HAS INSPECTED, OR INTENDS TO INSPECT, OR WHEN

On 15 April, QGC told the PSC that each transponder had been tested shortly after installation, and those that failed to advance properly were repaired or replaced. The Association asked QGC for data showing the result of these initial inspections, but the Company had no statistics available to identify the number or types of errors found or corrected.<sup>10</sup>

On 25 March, QGC told the DPU that “the MTIP started in 2006”; on 8 May, it told the DPU and CCS that the “MTIP began in the fall of 2006”; on 1 July, QGC told the DPU it “began its Meter and transponder Inspection Program (MTIP)” in July 2006; and, on 5 June, the Association asked QGC for the start date of the MTIP but, although it answered other parts of the data request, the Company did not provide a start date.<sup>11</sup>

On 15 April, QGC told the PSC that about 313,500 meters and transponders had been inspected from July 2006 through January 2008 under the MTIP, claiming that was “greater than one-third of all meters” which, if it were accurate, it would have been. It reiterated the foregoing number inspected and period in a response to the DPU on 1 July but, on 10 July, it told the Association it had inspected 257,635 during that same period, little more than 30% of the Company’s lowest, or 29% of its highest, guesstimate of meter numbers in this proceeding.<sup>12</sup>

On 25 March, QGC told the DPU it had inspected 258,817 meters with transponders by the end of 2007 under the Meter and Transponder Inspection Program (MTIP); on 30 April it told the CCS the number was 257,263; and on 10 July it told the URA it had been 257,635. Each of these numbers is quite precise, but their variation downwards and upwards over less than four months affords no confidence in the accuracy of any of them.<sup>13</sup>

On 25 March, QGC told the DPU it planned to inspect 330,000 during 2008; on 30 April it told the CCS 508,739; and on 28 July it told the CCS 339,307. Work programmes can certainly vary over

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<sup>10</sup> Answer: page 5, item 4; and URA5DR11R.

<sup>11</sup> DPU1DR06R; Jt1DR18R; DPU2DR01R; and URA5DR09R.

<sup>12</sup> Answer: page 6, second complete paragraph; DPU2DR10R; URA5DR09RA; Jt1DR05RA; and Jt1DR03RA; and see the next following section about the uncertain numbers of meters and transponders.

<sup>13</sup> DPU1DR06RA; CCS1DR10RA; and URA5DR09RA1.

time, as resources and demands change, but those are significant swings up and down over little more than four months that undermine confidence in the Company's projections.<sup>14</sup>

On 30 April, QGC told the CCS it had inspected 63,714 in the 1<sup>st</sup> quarter of 2008; on 10 July it told the URA that number had been 63,493; and on 28 July it told CCS it was 63,717.<sup>15</sup> No explanation has been offered for the variability of these different counts of the same thing.

On 30 April, QGC told CCS it expected to make 144,253 inspections during the 2<sup>nd</sup> quarter of 2008, compared with 27,657 during the same period in 2007. On 10 July, QGC told the URA the number of inspections actually completed in the 2<sup>nd</sup> quarter was 34,810; but on 28 July it told CCS the number had been 46,463.<sup>16</sup> It is possible that the late arrival of information from part(s) of the Company at the collation point by the tenth day after the end of the quarter might explain some undercounting, but why represent to the URA that 8,050 inspections had been completed in June, and then tell the CCS the number was really 19,642, without explaining the change to either party?

On 30 April, QGC told CCS it expected to complete 176,608 inspections during the 3<sup>rd</sup> quarter of 2008, compared with 88,691 during the same period in 2007, and 127,164 in the 4<sup>th</sup> quarter, compared with 75,006. By 28 July, it had reduced its 3<sup>rd</sup> quarter estimate to 102,127, but maintained a projection of 127,000 for the 4<sup>th</sup> quarter.<sup>17</sup>

Setting a goal to increase 2<sup>nd</sup> quarter inspections in 2008 by a factor of 5 over 2007 was perhaps overly ambitious; approximately doubling the 3<sup>rd</sup> quarter target less so. In the light of 2<sup>nd</sup> quarter achievement, whether 34,810 or 46,463, it was sensible to reduce the 3<sup>rd</sup> quarter target, albeit to a number that was quite demanding compared with out-turn for the same period in 2007. But did it really make sense to maintain the 4<sup>th</sup> quarter target?

On 25 March, QGC told the DPU it had verified the pre-divide parameters of 94% of its American 2 ft meters during February, and would verify the remaining 6% by the end of March. Yet the list provided to the Division on 23 September indicated that 4 transponders fitted on American 2 ft meters in 2005 and 2006 had been discovered to be under-billing during April and August.<sup>18</sup>

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<sup>14</sup> *DPU1DR06RA; CCS1DR10RA; and CCS2DR02RA.*

<sup>15</sup> *CCS1DR10RA; URA5DR09RA1; and CCS2DR02RA.*

<sup>16</sup> *CCS1DR10RA; URA5DR09RA1; and CCS2DR02RA.*

<sup>17</sup> *CCS1DR10RA; URA5DR09RA1; and CCS2DR02RA.*

<sup>18</sup> *DPU1DR04R; and DPU3DR01RA.*

QGC has been unable to provide any factual data to support its claim that transponders were tested soon after installation, and it has provided contradictory and confusing information about the start of the MTIP. The Company has provided conflicting data, sometimes very close together in time, about the numbers of transponders installed, tested, and scheduled to be tested.

#### QUESTAR HAS BEEN UNCERTAIN ABOUT HOW MANY METERS OR TRANSPONDERS IT HAS

On 25 March, QGC told the DPU it had a total of 880,778 installed meters; on 8 May, it told the DPU and CCS there had been 886,086 active meters at the end of 2007, and 886,188 installed at 30 April.<sup>19</sup>

On 8 May, QGC told the DPU and CCS it had 837,789 meters at the end of 2006 and, separately, that it had installed a total of 854,917 transponders. The excess of 17,128 transponders over meters hasn't been explained.<sup>20</sup>

The 8 May transponder data provided to the DPU and CCS showed that 540,186 had been installed from the beginning of 2002 to the end of 2006. Yet, on 1 July, QGC told the DPU that "approximately 500,000" had been installed between 2002 and March 2008.

Questar has provided no information about the quantity installed in 2007 or 2008, yet 39 of those mal-programmed transponders were installed after 2006.

QGC has vacillated between providing precise numbers with unexplained variations and vague approximations, so that it is impossible to be sure how many meters or transponders have been in service at any time, raising the question of whether the Company itself knows.

#### QUESTAR HAS BEEN UNABLE TO PROVIDE EVIDENCE THAT IT HAS EFFECTIVELY CONTROLLED QUALITY FOR THE TRANSPONDER INSTALLATION PROJECT

QGC told the Association that:

The pre-divide setting indicates the number of revolutions (of the meter drive mechanism) it takes to record 100 cubic feet of gas

and

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<sup>19</sup> *DPU1DR04RA; Jt1DR03RA; and Jt1DR05RA.*

<sup>20</sup> *Jt1DR03RA; and Jt1DR25RA.*

On a two-foot meter, i.e. a meter which is geared such that a single revolution of the meter driver mechanism equates to two cubic feet of gas having passed through its chambers to the meter outlet, it takes 50 revolutions to equal 100 cubic feet of gas; therefore, the pre-divide setting for a transponder on that type of meter should be 50.<sup>21</sup>

On 25 March, QGC said that the pre-divide is initially set by the manufacturer, but can be reset by a field technician with a special transmitting device. On 8 May, it said that transponders had been factory pre-set and needed no change for approximately 98% of meters but might need changing for 2 ft meters, and that new transponders are checked as they arrive from the vendor.<sup>22</sup>

On 8 May, QGC provided data showing that 20,290 of the meters on which VRTs had been installed (535,971) were 2 ft meters made by American Meters. QGC has not quantified the number of 2 ft, as distinct from 1 ft, meters made by other suppliers but, if we assume that the proportions are similar, it has about 5,000 made by Rockwell and Sprague to which VRTs were added. On that basis, we can conclude that the factory pre-set pre-divide actually needed to be changed in about 4.7% of cases when those transponders were fitted to 2 ft meters.<sup>23</sup>

Under-billing occurs when a transponder set at 100 is installed on a 2 ft meter, so that it takes 100 revolutions for the transponder to register 100 cu ft of gas when 200 cu ft has actually passed through the meter.<sup>24</sup>

On 8 May, QGC told the DPU and CCS that the majority of pre-divide problems have occurred with American 2 ft meters, and the most recent list of mis-billings provided by QGC (on 23 September) shows that every one of the 562 cases of under-billing was indeed associated with a 2 ft meter.<sup>25</sup>

On the other hand, the correct setting for a transponder on a 1 ft meter (where 1 revolution equates to 1 cu ft of gas) is 100. QGC told the Association that, if a transponder on a 1 ft meter is incorrectly set at 50, it will register 200 cu ft when the meter has actually passed only 100 cu ft of gas.<sup>26</sup>

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<sup>21</sup> *URA5DR02R*; QGC parentheses.

<sup>22</sup> *DPU1DR01R*; *Jt1DR08R*; *Jt1DR05RA*; and *Jt1DR09R*.

<sup>23</sup> *DPU1DR04RA* and *Jt1DR05RA*.

<sup>24</sup> *DPU1DR01R*, 080325.

<sup>25</sup> *Jt1DR16R*; and *DPU3DR01RA*.

<sup>26</sup> *URA5DR07R*.



To cause over-billing, then, a technician must reset a new transponder, factory-set to 100, to 50 when installing it on a 1 ft meter. (Alternatively, the technician could install a transponder previously used and correctly set for a 2 ft meter, but QGC has made no suggestion that transponders have been recovered from any meters for re-use on others.)

This is a more egregious error, perhaps accounting for the fact that the 23 September list includes so many fewer of them, 102 in fact. 6 were pre-installed in the factory on new American meters! 95 were added by contractors, and 1 by a QGC employee.<sup>27</sup>

But the one remaining instance is puzzling: the only case on the spread-sheet of a transponder added (by a QGC employee) to a 5 ft meter, said to be residential, and one in which the customer was over-billed.

On 8 May, QGC said there are 2 pre-divide settings for residential meters: 50 or 100; and 4 more for commercial and industrial meters: 2, 5, 10, or 20.<sup>28</sup>

The correct setting for a 5 ft meter would have been 20, where 20 revolutions would indicate the passage of 100 cu ft of gas. If the transponder was factory-set at 100, the customer would have been under-billed by a factor of 5. If it had been re-set at 50, under-billing would have been by a factor of 2½. In order to over-bill, the transponder would have had to be set for a meter larger than 5 ft – say a 10, 20, or 50 ft meter, where the setting would have been 10, 5 or 2, respectively.

In those cases, over-billing would have been by factors of 2, 4 or 10. But QGC hasn't offered such details, nor has it disclosed why a residential customer would have a 5 ft meter; another *Covey Apartments*, perhaps?<sup>29</sup>

If a technician fails to reset the pre-divide to 50 when installing a transponder, factory-set to 100, on a 2 ft meter, the transponder will under-report consumption by a factor of 2. If the pre-divide is reset to 50 when a VRT is added to a 1 ft meter (or to 10, 5, or 2 when fitted to a 5 ft meter), the transponder will over-report consumption by a factor of 2 (or of 2, 4, or 10).

This might arise because the installer could not, or did not, differentiate a 2 ft from a 1 ft meter (or a 5ft meter from a 10, 20, or 50 ft one). Education and training would address the “could not”, and

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<sup>27</sup> DPU3DR01RA.

<sup>28</sup> Jt1DR07R.

<sup>29</sup> *In Re Complaint of Covey Apartments Inc vs Questar Corporation*, PSCU Docket 01-057-09, (hereinafter, *Covey*).

supervision and quality control are standard preventative measures for the “did not”, and they clearly were inadequate.

On 30 April, QGC told the CCS that factors such as who installed the transponder seemed to have little correlation to the pre-divide errors found.<sup>30</sup>

However 442 of the meters in under-billing cases were manufactured by American, and in 178 of those instances American had pre-installed the transponder on a new meter. QGC employees added 20 of the mis-set transponders, and contractors the other 364, to existing meters.<sup>31</sup>

If it is particularly difficult to distinguish a 1 ft from a 2 ft American meter, then education and training, supervision and quality control, are even more important, and significantly lacking.

Questar hasn’t said how many contractors it retained to install transponders, or who installed how many, so more granularity of analysis isn’t possible, but it is clear that contractors fitted the great majority (542) of the transponders that under-reported, and American added 178 of those to new meters before they left the factory.

On 1 July, QGC told the DPU that it had “recognized the potential for pre-divide errors and put safeguards in place during the installation process”, yet at least 102 of the transponders fitted to 1 ft, and 562 to 2 ft, meters had the wrong setting. Even 1 fitted to a 5ft meter.<sup>32</sup>

A quality professional would plan to achieve zero defects by striving to identify potential problems at the first, and building mechanisms to avoid them into the project procedures. Every error would be regarded as a cost of poor quality. QGC experienced an error rate in excess of 2% with VRTs fitted to its 2 ft meters. The amount of time it took the Company to realise what had gone wrong, as well as the number of errors, suggests that it hadn’t adequately recognised the potential for this pre-divide error, or put sufficient safeguards in place.

The Association asked QGC to disclose its “policies and procedures regarding the quality management – including but not limited to quality control, quality assurance and audit” of the transponder project. The Company objected on the grounds that the information sought was irrelevant to this proceeding, and the term “quality management” was vague and ambiguous. The

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<sup>30</sup> CCS1DR02R.

<sup>31</sup> DPU3DR01RA.

<sup>32</sup> DPU2DR10R; and DPU3DR01RA.

information was far from irrelevant, and the term would be neither vague nor ambiguous to a quality professional.<sup>33</sup>

QUESTAR HAS BEEN SLOW TO REALISE THERE WAS A ROOT CAUSE FOR MANY BILLING ERRORS, TO RECOGNIZE THAT CAUSE, AND TO IDENTIFY THE AFFECTED CUSTOMERS

We have seen that QGC began to install VRTs sometime in 2002 or 2003. The Company has said:

Some pre-divide problems were discovered prior to the MTIP, generally as a result of a move-in or move-out read that was not consistent with the monthly AMR read. These problems were infrequent and were handled on a case-by-case basis. Questar Gas did not recognize a broader problem until the MTIP began.<sup>34</sup>

QGC's Customer Care and Billing CIS system has monitored customers' usage patterns for significant changes since July 2004. Unusually high or low meter reads are flagged for examination and, if a billing representative determines that a read seems inconsistent with the customer's usage history, the meter and transponder are checked. The Company became aware of a few pre-divide errors that way during 2004 and 2005, but thought they were isolated.<sup>35</sup>

Questar told the DPU on 1 July that it doesn't:

know precisely when the first such error was discovered but the first correction on record due to a pre-divide problem was in August of 2005. The second correction on record was in April of 2006. There may have been others but, prior to the MTIP program, Questar Gas did not record such events, specifically, as pre-divide problems.<sup>36</sup>

The MTIP began in the fall of 2006. Inspection data was collected, and the Company developed analytical tools. By April 2007, it was able to recognize patterns and correlations between the pre-divide problem and meter type, and "became aware of the potential extent of the problem" in late spring 2007. "Prior to that time, the Company ... was unaware of the scope of the issue"<sup>37</sup>

Donald Rumsfeld recently spoke of the "unknown unknowns", popularizing part of Joseph Luft's and Harry Ingham's "Johari Window" model (1955), and the "unskilled and unaware of it" frame of reference used by psychologists and social scientists such as Fagot and O'Brien (1994), Kruger

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<sup>33</sup> *URA3DR07R*.

<sup>34</sup> *DPU2DR09R*.

<sup>35</sup> *CCS1DR05R* 080430; and *DPU2DR10R* 080701.

<sup>36</sup> *DPU2DR09R*.

<sup>37</sup> *Jt1DR18R* 080508; and *Jt1DR17R* 080508.

and Dunning (1999), etc. Mathematician and philosopher Bertrand Russell wrote that “the trouble with the world is that the stupid (uninformed) are cocksure and the intelligent (knowledgeable) are full of doubt.”

We are all entirely reliant upon QGC for the facts in this matter, and the Company doesn’t know what it doesn’t know about pre-divide mistakes that were corrected, for whatever reason, before anyone realised what they were. But ratepayers-at-large have been paying for such under-bills.

For instance, we don’t know how many customers may have moved out of premises with a VRT transponder without anyone realising they had been over- or under-billed. From August 2005 until mid-June 2006, QGC back-billed 64 identified customers no more than 6 months with no informal or formal complaints to attract regulatory attention. How many more might have gone unrecorded as pre-divide errors?<sup>38</sup>

Billing errors sometimes went undetected, either by the Company or by regulators, for ages. In 232 of the 562 under-billing cases it admits to, it took Questar 3 years or more to realise transponders had been under-reporting consumption – 5 years in one case, 4 years or more in another 70. It found only 37 in 1 year or less. Goodness only knows how many more QGC may find in the next 3, 4 or 5 years.<sup>39</sup>

Ratepayers can understand that QGC might never know, but not that we are to be left paying a large slice of the tab.

#### QUESTAR’S IDENTIFICATION OF PROBLEM TRANSPONDERS IS UNRELIABLE AND INCOMPLETE

On 25 March, QGC said it had inspected about one-third of all transponders as part of the MTIP, remotely interrogated 94% of those associated with American 2 ft meters, and consequently discovered pre-divide errors on a total of 496 transponders. But the Company provided a list of only 388 cases, all of under-billing. (On the list QGC provided on 23 September, the Company had apparently discovered 29 cases of over-billing before 25 March;  $388 + 29 = 417$ . However, the 23

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<sup>38</sup> DPU3DR01RA.

<sup>39</sup> DPU3DR01RA.

September list showed that 473 cases of under-billing had been discovered before 25 March; 473 + 29 = 502.)<sup>40</sup>

QGC further said (on 25 March) that it intended to interrogate the remaining 6% of American 2 ft meters by the end of that month, and thereby expected to discover an additional 35 errors (496 + 35 = 531). However, when QGC provided a second list on 8 May, it contained only 517 cases, 31 of over- and 486 of under-billing.<sup>41</sup>

But, by 23 September, the Company had identified a further 76 cases of under-reporting, for a total of 562, and 72 of over-reporting, a total of 103, 665 errors altogether.<sup>42</sup>

On 25 March, QGC said it “anticipates completion” of verifying pre-divides electronically “at year-end.” On 7 August, the Company said it had completed the software inspection of pre-divide settings of “essentially all” installed transponders and corrected errors identified yet, on 23 September, it detailed 4 over- and 3 under-billing cases discovered after that statement.<sup>43</sup>

QGC has been at the leading edge of using transponder technology, and the interrogation software is still less than one year old. It is clear from the quickly changing perception of the issues over the past 18 months that no-one can be entirely certain that they are completely nailed down yet, and equally clear that no-one can be certain the interrogation software is, in fact, identifying all the errors.

And QGC has never represented that its 23 September list is comprehensive. Rather, it wrote:

The number of accounts, the magnitude of the data, and the complexity of the billing process make it difficult to provide complete assurance that all of the presented information is without error. Questar Gas Company will continue to make corrections and adjustments as better or more information becomes available<sup>44</sup>

yet parties have seen nothing further to date.

Questar’s figures show that 65 of 154,911 VRT transponders installed in 2003 (0.04%) were subsequently found to be incorrectly set; 253 of 153,704 (0.16%) in 2004; 121 of 119,594 (0.10%) in 2005; and 187 of 44,467 (0.42%) in 2006.

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<sup>40</sup> DPU1DR04R; DPU1DR09RA; and DPU3DR01RA.

<sup>41</sup> DPU1DR04R; and Jt1DR27RA.

<sup>42</sup> DPU3DR01RA.

<sup>43</sup> DPU1DR04R; and DPU2DR01R.

<sup>44</sup> DPU3DR01R and RA.

The Association does not believe there was any intent on anyone's part to mis-set transponders, and would therefore expect that cases arose on a random basis, so it would expect to see a similar percentage of errors in any batch installed. These figures are not at all similar, indeed the percentages vary by an order of magnitude.

Given all the other inconsistencies between information provided about various things, the Association is concerned that the variation in the percentage of VRTs installed later found to have been wrongly set may demonstrate that all errors have not yet been found.

The Association believes to be possible that the true number of VRTs wrongly set lies somewhere between 665 and 3500 ( $\approx 665 \times 0.42 \div 0.08$ ), perhaps even higher.

THERE HAS BEEN INADEQUATE INVESTIGATION OF TRANSPONDER ERRORS OTHER THAN VRT PRE-DIVIDES

On 25 March (and 8 May), QGC provided the DPU with a spreadsheet showing that it had inspected 297,349 (325,826) of 880,778 (886,188) meters/transponders under the MTIP, and found 1,898 (2,092) problems, of which only 199 (223) were pre-divide errors.<sup>45</sup>

719 (753) were defective indices, and the impact on the individual customers and ratepayers-at-large of those cases where the transponder had not continued to correctly report consumption has not been quantified.

In 477 (482) cases, the transponder was not correctly programmed with the index reading at the time of installation. These errors neither increase nor decrease over time, but their impact on the individual customers and ratepayers-at-large has not been quantified.

In 121 (141) cases, the transponder needed to be replaced for one of a variety of reasons, generally some form of mechanical failure. The impact of these cases on the individual customers and ratepayers-at-large has not been quantified.

In 56 (58) instances, transponders were disassembled, inspected and tested, and subsequently appeared to be functioning correctly. The impact of these cases on the individual customers and ratepayers-at-large has not been quantified.

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<sup>45</sup> *DPU1DR04RA*; and *Jt1DR05RA*.

In 20 (38) cases, the meter was found not to be registering. The impact of these cases on the individual customers and ratepayers-at-large has not been quantified.

Finally, in 264 (355) cases, there were unidentified discrepancies between the transponder and meter reads. On 22 July, QGC said they were being actively investigated, and would be assigned to the other categories as the specific problems were known. No update has been provided, and the impact of these cases on the individual customers and ratepayers-at-large has not been quantified.

In the case of almost 90% of the identified problems, individual customer and ratepayer-at-large impacts have neither been quantified nor included in the settlement recommended by the stipulants.

It is understood that QGC has continued the MTIP since the most recent data were provided on 8 May, but no update has been given.

The 25 March spreadsheet indicated that 66,717 3.4 transponders out of 362,090 installed, and the 8 May one that 79,163 out of 350,217, had been inspected. The point to note is that only 18-22% of the 3.4 transponders had been inspected, and none of them can be remotely interrogated.

THE COMMISSION CANNOT REASONABLY RELY UPON QUESTAR ALONE TO DISCOVER OR TO DISCLOSE ALL CASES OF MIS-BILLING

The Stipulation as filed limited Questar's liability to \$480,000, and therefore provided no incentive – other than further embarrassment for the Company – to not diligently seek out and publicly admit to additional cases of over- and under-billing.

The Modification, just and reasonable as it is (as far as it goes), results in an unlimited liability for the utility, however. Questar is required to refund every over-payment by an over-billed customer, to back-bill every under-billed customer for no more than 6 months, and to reimburse ratepayers-at-large for every bit of over-charging it discovers.

The requirement is appropriate, but the incentive is lacking. Why should Questar vigorously strive to identify every case when it stands only to harm its bottom line by doing so?

THE COMMISSION'S ADOPTION OF THE AMOUNTS STATED IN THE STIPULATION IS IN ERROR

The Association believes that the number of mis-reporting transponders that Questar has admitted to may be only a fraction of the actual. The basis for this belief is not that the URA fundamentally distrusts Questar, as the *Order* (at page 7) says the PSC has concluded, but that the information it has provided is neither reliable nor comprehensive.

Together with the examples quoted herein where the Company's lack of documentation and changing positions regarding the facts of this case are plainly demonstrated, it is clear that none of the parties have yet been in a position to present the Commission with an incontrovertible basis to calculate the extent either of the over- and under-billing of individual customers or the over-charging of ratepayers-at-large.

The PSC goes on to "conclude the projection is reasonable", but there is no projection. The dollar amounts to which the Commission refers in the following paragraph all result directly from the 562 cases in the 23 September list. They make no allowance for even the possibility that there are other cases, either ones that QGC identified after it prepared that list until today, or ones that it may identify in the future. Nor do they make any allowance for cases that the Company may never identify.

ADDITIONAL REMEDIES ARE REQUIRED TO MAKE RATEPAYERS WHOLE

There is no reason to suppose that QGC has yet identified all who have been over- or under-billed, or that it will diligently seek out and admit to any additional cases now its financial responsibility has been delimited. No reason to suppose that the DPU will be more thorough in ensuring that every instance is found than it has so far been in auditing the balancing accounts or investigating back-billing complaints now the PSC has authorised it to supervise QGC privately once more.

The Association urges the Commission to keep this Docket and the investigation open so that ratepayers can be assured of knowing the progress being made towards a full accounting for, and reimbursement of, overcharges.



## BACK-BILLING CUSTOMERS SIX MONTHS FOR A UTILITY'S MISTAKE IS NEITHER GOOD PUBLIC POLICY, NOR IS IT JUST AND REASONABLE

Traditionally, the Commission hasn't held Questar financially responsible for its metering and billing mistakes, and that is reflected in its rules and the Company's Tariff. They have allowed QGC to charge its ratepayers, either individual or at-large, for most of its unmetered and/or unbilled commodity and supplier-non-gas costs. Until this *Order*, most of anything not collected from an individual customer for gas she consumes has automatically been charged to ratepayers-at-large through the balancing account. Moreover, in the past two years, since the introduction of the Conservation Enabling Tariff, ratepayers-at-large have picked it all up.

Each month, ratepayers reimburse Questar the cost of measuring consumption, reading meters, and billing them. We are entitled to have that done accurately and timely. If the Company fails to do so – especially if the failure is with regard to hundreds of customers over a period of years, as it has been in this case – it is effectively taking our money under false pretences.

It cannot be in the public interest, and is most certainly not just and reasonable, for the Commission to hold either individual customers or ratepayers-at-large financially responsible for utility inefficiency.

It is possible for errors to arise, of course, but it is Questar's responsibility to manage its operations so that they are quickly detected and corrected. Metering and billing errors in one cycle should be identified and corrected in the next, ie within one month, and future back-billing should be limited to that period.

If a customer is under-billed for a longer period, they should not be required to pay a back-bill at all, and Questar should bear the costs as in incentive to do better.

On the other hand, Questar should refund all over-billing, with interest, at its own expense. Its responsibility ought not to be diminished by claims that customers should be responsible for checking their actual meter readings against those on their bills. We pay QGC to do it, and it should get it right, first time, every time.

The underlying philosophy appears to have been that, by hook or by crook, ratepayers will make stockholders whole. That's wrong. Ratepayers are increasingly incited to pay attention to their consumption by higher rates in winter (gas) or (summer) rates, and for greater use. Utilities need incentives, too, to perform efficiently.

We compensate stockholders for the additional risks they are said to bear over lenders. One of those risks is that the managers they appoint will blunder and their profits will suffer. A commission that protects a utility from possible losses arising from managerial error insulates the company from commercial reality instead of providing a surrogate for competition. That's not right.

While Questar may be entitled to recover its costs to provide natural gas service from its ratepayers-at-large, it is neither just nor reasonable for it to charge them for its failure to meter and bill individual customers for their consumption due to incompetence, negligence, or other failures of management, employees of the utility, contractors or suppliers.

A 24 month back-bill may be less painful for a customer than a 3, 4 or 5 year one. And a 6 month back-bill may be easier to bear than a 2 year one. But taking years, as QGC did in many instances in this case, or even months, to realise that you are under-billing customers is just incompetent.

In *Covey*, the Commission "concurred with the outcome of (Administrative Law Judge Robert Thurman's) order", based in part upon the outrageous notion that, because "collusion (might occur) between corrupt utility employees and customers", there must be a "hard and fast enforcement" of back-billing rules, even in a case where there is no evidence of wrong-doing by either an employee or a customer.<sup>46</sup>

Guilty, even if proven innocent, just on the off chance. Ducking or burning those accused of witchcraft in mediæval times applied a similar standard: drown or burn up and you were innocent – sorry! – survive and you're guilty, so we're going to execute you. Heads, we win; tails, you lose.

The Association holds no brief for ratepayer impropriety, but expects the PSC to uphold the more usual standard of innocent until found guilty beyond the appropriate standard of proof. And, as in *Covey*, there has been no suggestion in this proceeding that customers did anything culpable, either by themselves or in concert with QGC employees (or contractors).

The *Findings of Fact* in *Covey* make it clear that there was a serious and on-going failure in the education and training, supervision and quality assurance of the work of several (at least three) meter readers.<sup>47</sup> Stockholders should have borne the cost of the mistakes of the managers they appointed to run their company. But Judge Thurman ordered the customer to pay for 24 months of under-billing, ratepayers-at-large to bear most of the cost of almost 6½ years of billing at one-tenth

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<sup>46</sup> *Covey: Report and Order*, dated 9 January 2002, page 3, 4<sup>th</sup> paragraph.

<sup>47</sup> *Covey: Report and Order*, dated 9 January 2002, page 2, items 3 and 4.

of the actual consumption, and Questar was required to bear the burden of only a fraction of the 6½ years of under-billing. And the Commission concurred with that manifestly unjust and unreasonable order.

In the context of ratepayers-at-large bearing much of the under-billed amount not borne by the individual customer, it may have satisfied some tortured logic to back-bill for 24 months a customer who had gone along for nearly ten years thinking it was paying its way. But would the Company have been satisfied to bumble along for that long if it had not been able all along to pass most of the cost of its ineptitude off to ratepayers-at-large through the convenient mechanism of a black-box balancing account?

In the transponder case, QGC could be slow to act even when it realised it had been under-billing. It sometimes took the Company a long time to inform customers that they would be back-billed, more than 11 weeks in certain cases. It doesn't deserve to be cushioned against the impact of its failures, and under-billed customers ought not to have to pay any amount of back-billing.

#### THE COMMISSION'S RULES AND QUESTAR'S TARIFF NEED TO BE CHANGED

There are several instances where the Commission's R746-320-3 protects Questar – at the expense of ratepayers – from the financial consequences of its own poor performance.

The Company is allowed, under R746-320-3.C to install meters that are known to be up to 1% fast or 2% slow. In the case of a typical 115 Dth/year customer, at 1 July 2008 rates, an individual could be overcharged by as much as \$11, or ratepayers-at-large by up to \$22, a year, up from \$4.89 or \$9.78 at 1 July 1996 rates.<sup>48</sup>

Under R746-320-3.E, such a meter may go 10 years before being tested. If it continued to become steadily less accurate, and was 5% fast or slow by that time, the customer might have been over- or under-charged by \$330 at today's rates, but R746-320-3.H.1 would limit the required refund or back-bill to \$27.50.

These provisions unfairly penalise or benefit individual customers and ratepayers-at-large, while the only party with the ability to rectify the inaccuracy is financially unaffected.

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<sup>48</sup> *History of Natural Gas rates*, PSCU Website.

They need to be amended so that Questar pays for defects in its equipment, thus incenting the Company to pay closer attention to remedying them.

Until 2001, more than 5% of all bills were based on estimated readings and over 1% of bills had to be adjusted. In 2007, estimated reads were down to 0.65%, but that still meant that nearly 68,000 bills were estimated during that year, and adjusted bills were down to 0.61%, 62,000 bills adjusted.<sup>49</sup>

Again, ratepayers compensate QGC for metering, reporting, and billing consumption. We are entitled to have it accurately and timely done. Right first time, every time. Zero defects. Spend the money on preventing defects, not fixing them.

THE BLACK-BOX BALANCING ACCOUNTS CONCEALED THE OVER- AND UNDER-BILLING EFFECTS OF TRANSPONDER ERRORS, AS THEY DO OTHER DEFICIENCIES OF QUESTAR'S METERING, CONSUMPTION REPORTING, AND BILLING SYSTEM, AND THEY SHOULD BE THOUGHTFULLY REVIEWED

It was improper for Questar to charge ratepayers-at-large for the under-collections identified in this proceeding through its pass-through balancing account, and it was negligent, incompetent, or otherwise unjust and unreasonable for the Division to fail, over a period of years, to recognise what was taking place and correct it through its periodic audits and pass-through proceedings.

Until two years ago, the Company picked up only a small fraction, about 27%, of under-billing until it became aware of it, so it had some incentive to minimise it, but most, about 73%, was automatically charged to ratepayers-at-large.

Since 1 November 2006, ratepayers-at-large have been saddled with the total amount of under-billing until Questar realised it was happening, so now there is no incentive at all for the Company to avoid under-billing, to be on the look-out for cases that may arise, or to be quick to correct them.

When an error was discovered, the customer concerned was back-billed, but for no more than 24 months. If the under-billing had gone on for longer than that, the difference continued to be charged to ratepayers-at-large and was essentially forgotten about.

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<sup>49</sup> *Jt1DR03RA*.

It is the responsibility of the Division and Commission to regulate Questar in such a way as to encourage it to be efficient and competent, and to hold the Company – not ratepayers – accountable when it fails, and entirely responsible for all under-collections and over-charges.

## INDIVIDUAL CUSTOMERS AND RATEPAYERS-AT-LARGE HAVE BEEN DENIED DUE PROCESS IN THIS PROCEEDING

In its 1 April *Consolidating Order*, the Commission determined “to initiate an investigation to be conducted by the Division of Public Utilities to examine the issues raised by the Committee (of Consumer Services) in its memorandum of March 28, 2008, as well as any other issues deemed appropriate.” The issues specified in the memorandum included:

- a the number of consumers impacted;
- c the volume and costs of gas unbilled due to faulty transponders; and
- d the precise accounting and regulatory treatment of unbilled gas associated with faulty transponders;

The Commission scheduled a procedural conference and promised that “a telephone bridge (would) be provided for those individuals wishing to participate by telephone.”

During the procedural conference, the Association’s representative presented its proposals regarding the scope and timing of the investigation. He expressed the view that the Commission, rather than the Division, should approve the terms of reference, but not limit the scope of the investigation to those terms of reference; that anyone should be able to investigate anything and report on anything.

Administrative Law Judge Steven F Goodwill responded that “the Commission in no way intends to limit the scope of the investigation”.

The Association’s representative expressed a concern that “there’s a possibility this could be confined to the last 24 months ... In our view that isn’t sufficient ... we need to ... look ten years into the past ... we need to go back and find whatever evidence there is to be found ... to make sure that we understand the full extent of what went on, and ... what the impact was.”

A 21 April *Scheduling Order* promised facilities for those wanting to participate in hearings by telephone.

The Division was granted an extension of time to file its *Report*, and QGC objected to several of the Association's data requests on the grounds that they sought information that was "irrelevant to this proceeding and outside the scope of" the *Consolidating Order*.

At a 31 July Status and Scheduling Conference, QGC, the DPU and CCS opposed a request by the Association for additional time to request orders compelling QGC to answer its data requests. QGC drafted a further scheduling order, and the Association wrote to the Commission complaining about it and asking for adequate time to prepare. Specific complaints included that QGC appeared to be trying to narrow the scope of the proceeding, and that the Committee's request (supported by the Association) for a moderated conference bridge for those who wished to participate in the public witness hearing had been omitted.

The Commission's 26 August 4<sup>th</sup> *Scheduling Order* essentially ignored both complaints and the request for adequate time, and calendared hearings for 22 and 23 October.

The Association, dissatisfied with the Division's *Report*, was unable to obtain all the information it felt it needed because of QGC's objections to several of its data requests, and the lack of time to seek orders compelling production or to make further requests, including thoroughly researching what was available, given the level of skills and resources available among its entirely volunteer team. Nevertheless, it did what it could in filing *Response* and *Reply Comments*.

QGC invited the parties to settlement conferences on 29 September and 1 October, and filed a *Stipulation* on 9 October, asking the Commission to use the hearing time on 22-23 October to consider it.

On 10 October, the Association asked the Commission how it intended to conduct the hearing, and pointing out that it intended to oppose the *Stipulation*, including the presentation of "the testimony of one or more witnesses which, altogether, is likely to be extensive."

Formal complainants resident in Santa Clara, Price, and Smithfield, and ratepayers-at-large living distant from Salt Lake City, were effectively economically excluded from the hearing because the Commission not only rejected without explanation the Committee's request for a moderated conference bridge, but offered no telephonic participation whatsoever.

The Association, which was not represented by an attorney and was the only party opposing the stipulation, found it extremely difficult to present its extensive case in the limited time allowed to it.

It was surprised by the Commission's insistence that the hearing be completed in one day, when it understood that two were available.

Numerous objections and attempts to tell its representative what others thought he was trying to accomplish, or how he ought to be presenting the Association's case, were distracting during his cross-examination of the stipulants' witnesses.

Several references to elapsing time, especially during his testimony, added nothing but pressure and effectively prevented him from making several key aspects of the Association's case.

The growing pressure to be quick during cross-examination of the Association's witness, including the refusal to allow him to answer questions fully, created an unnecessarily hostile environment, including a gratuitous insult from the Committee's attorney that was clearly a breach of the Standards of Professionalism and Civility that the Commission now emphasises so much in granting intervention in its proceedings.

Most of the haste was quite unnecessary. The Commission's hours begin at 7:00am, but the hearing was scheduled for 9:30am. Lunch was taken for 90 minutes. The proceeding recessed for 38 minutes at 4:55pm, and adjourned at 5:34pm, when the Commission's hours run until 6:00pm.

## SUMMARY

The Commission justly and reasonably determined that Questar Gas Company should bear the entire financial responsibility, and ratepayers-at-large none of it, for the costs of gas consumed by some customers but not timely billed by the utility, and which the Commission has barred the utility from back-billing those customers for.

The Association has shown that the information provided by QGC regarding the number of meters and transponders, when the latter were installed, the identification of errors, and the financial consequences, etc, is incomplete and contradictory. It is unsafe for the Commission to determine that the dollar amounts presented to it in the *Stipulation* accurately reflect the amount by which ratepayers-at-large have been overcharged.

It is not in the public interest, nor is it just and reasonable, to order that under-billed customers be back-billed for up to six months.

The Commission's rules unfairly burden individual customers and ratepayers-at-large for QGC's error, and they should be amended.

The balancing accounts have been shown to be black boxes that have concealed the inappropriate shifting of costs from QGC to ratepayers-at-large, and their operation should be thoroughly reviewed.

Complainants, ratepayers-at-large, and the Association have not received due process in this proceeding.

The Commission should reconsider its *Order*.

It should find that the dollar amounts in the Stipulation are unreliable, and continue the investigation to undertake a much more thorough exploration of the number of customers over- and under-billed, and the over-charging of ratepayers-at-large.

It should bar the back-billing of the individual customers in this case.

It should amend its rules, inter alia limiting back-billing to 1 month.

It should initiate a review of the operation of QGC's balancing accounts.

If the Commission is unable on the record in this matter, including this *Request*, to grant these reasonable reliefs, it should suspend its *Order* and schedule a re-hearing.

Respectfully submitted on 2 January 2009,

/s/

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Roger J Ball

Chancellor and Moderator, for the Utah Ratepayers Association



## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Reply Comments of the Utah Ratepayers Association in Docket 08-057-11 was e-mailed on 2 January, or will be sent by USPS on 3 January, 2009 to the following:

### QUESTAR GAS COMPANY

Barrie L McKay  
barrie.mckay@questar.com  
Evelyn Zimmerman  
evelyn.zimmerman@questar.com  
Colleen Larkin Bell (5253)  
colleen.bell@questar.com  
Jenniffer Hyde  
jenniffer.hyde@questar.com

### UTAH DIVISION OF PUBLIC UTILITIES

Philip Powlick, Director  
philippowlick@utah.gov  
William Powell  
wpowell@utah.gov  
Dennis Miller  
dennismiller@utah.gov  
Michael Ginsberg (4516)  
mginsberg@utah.gov  
Patricia E Schmid (4908)  
pschmid@utah.gov

### UTAH COMMITTEE OF CONSUMER SERVICES

Eric Orton  
eorton@utah.gov  
Paul Proctor (2657)  
pproctor@utah.gov

### SALT LAKE COMMUNITY ACTION PROGRAM

Betsy Wolf  
bwolf@slcap.org

### FORMAL COMPLAINANTS

Margaret McMain  
by USPS  
Arthur & Shirley Wasek  
awasek@earthlink.net  
Michael Garcia  
mgarcia@skyviewmail.com  
Lori Garcia  
lgarcia@skyviewmail.com  
Unlimited Designs  
frank@unlimiteddesign.com  
Steven Robert Francis  
by USPS  
George & Nancy Mitchell  
nem3747@aol.com  
Paul Kardish  
pkardish@inftech.com  
Brian DeHaan  
brianbonnie70@msn.com  
Russell N Larsen  
by USPS  
Robert & Susan Slattery  
by USPS  
Lawrence Stella  
by USPS

/s/

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Roger J Ball