

Colleen Larkin Bell (5253)  
Jenniffer Nelson Clark (7497)  
333 S. State Street  
PO Box 45433  
Salt Lake City, Utah 84145-0433  
(801)324-5556  
(801)324-5935 (fax)  
[Colleen.Bell@questar.com](mailto:Colleen.Bell@questar.com)  
[Jenniffer.Clark@questar.com](mailto:Jenniffer.Clark@questar.com)

Gregory B. Monson  
Stoel Rives LLP  
201 South Main Street, Suite 1100  
Salt Lake City, Utah 84111  
(801)578-6946  
(801)578-6999 (fax)  
gbmonson@stoel.com

*Attorneys for Questar Gas Company*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

---

IN THE MATTER OF THE  
APPLICATION OF QUESTAR GAS  
COMPANY FOR APPROVAL OF THE  
WEXPRO II AGREEMENT

Docket No. 12-057-13

**RESPONSE TO UTAH OFFICE OF  
CONSUMER SERVICES' REQUEST  
FOR PRE-HEARING ORDER AND  
SCHEDULE**

---

Questar Gas Company (Questar Gas), pursuant to Utah Admin. Code R746-100-4.D, responds to the Utah Office of Consumer Services' Request for Pre-hearing Order and Schedule (Request) dated October 2, 2012.

Questar Gas appreciates the Request to the extent the Office of Consumer Services (Office) has identified legal issues it wishes to raise related to the Application filed by Questar Gas in this docket on September 18, 2012, and does not oppose some

aspects of the Request. However, the Request mischaracterizes the Wexpro II Agreement and makes other requests that are inappropriate.

Questar Gas believes the Commission can conduct an orderly, expedited process that will permit resolution of the Office's legal issues and will also allow review and approval of the Wexpro II Agreement on an expedited basis that will permit the parties to realize the potential benefits of entering into a new agreement patterned after the Wexpro Stipulation and Agreement (Wexpro I Agreement) that has brought tremendous benefits to Questar Gas' customers for many years. The Wexpro II Agreement is proposed to allow customers to benefit from current market conditions. If the Commission does not approve the Wexpro II Agreement or if a lengthy process in this docket jeopardizes Wexpro Company's opportunity to take advantage of the current market in a manner designed to benefit customers, Wexpro should be free to pursue those opportunities absent any expectation that customers will benefit from its independent business actions.

Accordingly, Questar Gas proposes that the Commission schedule proceedings in this docket in a manner that will allow the Office to raise and have its legal issues decided, while all interested parties proceed with review of the public interest benefits of the Wexpro II Agreement. To that end, Questar Gas proposes the schedule attached as Exhibit A to this Response.

#### **RESPONSE TO SPECIFIC ITEMS IN OFFICE REQUEST**

Before responding to the specific requests made by the Office, Questar Gas notes that the requests largely raise legal issues regarding the propriety or sufficiency of the Application. As provided in Rule R746-100-9, these issues may be appropriately dealt with through a briefing schedule under which the Office and any party supporting its

position may present argument on its legal position, other parties may respond and the Office and any other party supporting its position may reply. Following such filings, the Commission may rule on the legal issues with or without a hearing as deemed necessary by the Commission. Certainly, before the Commission proceeds very far down the road on the extended proceeding proposed by the Office, it ought to resolve these issue which may either render the balance of the proceeding moot or satisfy any opposition to the Application.<sup>1</sup>

1. Questar Gas has no objection to the Office's request that this docket be designated as a formal adjudicative proceeding. Based on the Request, it is apparent that there are disputed issues associated with the Application. However, Questar Gas objects to the Office's characterization of the Wexpro II Agreement as "an enlargement and extension in perpetuity of the 1981 Wexpro Stipulation and Agreement." Although the Wexpro II Agreement has been patterned after the Wexpro I Agreement, it is a completely new agreement proposed to allow customers to take advantage of current market conditions. Under the Wexpro II Agreement, Wexpro will acquire new exploration and development properties that may be available at favorable prices because of the low current market price of natural gas. Under procedures specified in the Agreement, Questar Gas will provide an opportunity for customers to realize the potential benefits of those acquisitions through including them as Wexpro II Properties and

---

<sup>1</sup> During a public meeting of the Committee of Consumer Services on September 20, 2012, the Director of the Office told members of the Committee and the public that the Office had participated in many meetings regarding the Wexpro II Agreement and agreed in concept that the agreement could provide long-term benefits for Questar Gas' customers. However, she informed those present that the Office did not sign the agreement because of legal issues associated with it.

permitting Questar Gas to receive the gas produced from the properties at cost-of-service rather than market price. The parties will be free to advocate for or against including the acquisitions as Wexpro II Properties. If the Commission rejects inclusion of the properties under the Wexpro II Agreement, Wexpro will be free to develop the properties as it sees fit without any expectation that it has an obligation to Questar Gas or its customers with respect to the properties. On the other hand, if the Commission approves inclusion of the acquisitions as Wexpro II Properties, costs associated with development of the properties will be charged to Questar Gas and included in the rates Questar Gas charges its customers in exchange for the gas being provided to customers at cost-of-service. Thus, there is no basis to characterize the Wexpro II Agreement as the Office does in the Request.

2. Questar Gas opposes the Offices' request that the Commission establish in this docket a repository of all Commission orders, testimony and briefs filed in Case No. 76-057-14 and related dockets. The implication of this request is that this information would somehow be relevant to a determination whether the Wexpro II Agreement is in the public interest. In addition, the request may imply that the Commission is free to reconsider its decision approving or attempt to reopen the Wexpro I Agreement. Both implications are incorrect.

The Commission's rationale and the underlying evidence and argument for approving the Wexpro I Agreement in the circumstances extant in 1981 have nothing to do with whether a new agreement under which Questar Gas would acquire an interest in the development of new properties is in the public interest today. The fact that the new agreement is patterned after the prior agreement does not change this. More importantly,

the Commission approved the Wexpro I Agreement in a final order that was reviewed by the Utah Supreme Court. A specific issue raised in that appeal was whether Wexpro and its shareholders could rely on the finality of the Commission's decision. The Utah Supreme Court unequivocally held that the Commission's order was *res judicata* with regard to properties transferred, benefits and compensation received for those transfers and rights of the parties to future benefits from the properties. *See Utah Dept. of Admin. Servs. v. Public Serv. Comm'n (Wexpro II)*, 658 P.2d 601, 619-621 (Utah 1983). Any thought that the Wexpro I Agreement may be reopened or that the Commission may reconsider its decision to approve that agreement is completely inappropriate.

3 – 4. Questar Gas opposes the Office's request that Questar Gas be required to amend its Application. As applicant, Questar Gas is free to include whatever information it wishes in support of its Application, and the Office or any party is free to contend that the information provided by Questar Gas is insufficient. That is a legal issue. In addition, the Office or any party may discover any factual evidence they deem necessary to presenting their case on the Application during the normal course of the process. It is not necessary for Questar Gas to amend its Application.

5 – 6. Questar Gas views the Office's requests that the Division of Public Utilities ("Division") be required to file testimony in essence explaining why it signed the Wexpro II Agreement as a political more than a legal or factual issue. However, to the extent the Commission deems the Division's authority to enter into the Wexpro II Agreement to be a relevant issue, Questar Gas notes that this is a legal issue that can be resolved through briefing at the outset of this proceeding. Questar Gas also notes that essentially the same issue was decided by the Utah Supreme Court in *Wexpro II*. In that

appeal, the Department of Administrative Services argued that the Division's agreement in the Wexpro I Agreement to dispute resolution through binding arbitration was "an illegal divestiture of the [Division's] statutory powers." The Court squarely rejected that argument. *Id.* at 617.

7 – 8. In accordance with its position on the foregoing requests, Questar Gas opposes the Office's request that the Commission restart the clock on responses to the Application.

9. Questar Gas has no objection to the Office's request that discovery may commence immediately and establish the time within which discovery responses are to be served upon requesting parties.

10. Questar Gas has no objection to the Office's request that the Commission establish an intervention deadline, but opposes the suggestion that the deadline should run from some future filing of an amended application or testimony from the Division.

11. Questar Gas opposes the Office's request that this matter not be expedited and also objects to the Office's mischaracterization of the Wexpro II Agreement for the reasons previously stated. However, Questar Gas agrees that the issues raised by the Office are jurisdictional and statutory issues and thus legal issues which can and should be resolved through initial briefing as proposed in the attached proposed schedule. Questar Gas also disagrees that it has provided no explanation, justification or need for expedited Commission action. As previously noted, the opportunity to enter into the Wexpro II Agreement is based on current market conditions and the opportunity to acquire properties for exploration and development may be short-lived. Failure to act expeditiously on the Application may be the same as rejection of the Application because

the opportunity presented by the Application may not be available several months from now.

### CONCLUSION

For the foregoing reasons, Questar Gas requests that the Commission accept certain aspects of the Office's Request and reject others by entering an order establishing a schedule in this docket consistent with the proposed schedule in Exhibit A.

DATED this \_\_\_\_\_ day of October, 2012.

Respectfully submitted,

QUESTAR GAS COMPANY

---

Colleen Larkin Bell (5253)  
Jenniffer Nelson Clark (7947)  
Attorneys for Questar Gas Company

### CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **RESPONSE TO UTAH OFFICE OF CONSUMER SERVICES' REQUEST FOR PRE-HEARING ORDER AND SCHEDULE** was served upon the following persons by email on

October \_\_\_\_, 2012:

Patricia E. Schmid  
Assistant Attorney General  
160 East 300 South  
P.O. Box 140857  
Salt Lake City, UT 84114-0857  
[pschmid@utah.gov](mailto:pschmid@utah.gov)

Paul H. Proctor  
Assistant Attorney General  
160 East 300 South  
P.O. Box 140857  
Salt Lake City, UT 84114-0857  
[pproctor@utah.gov](mailto:pproctor@utah.gov)

Ivan Williams  
Senior Counsel  
Wyoming Office of Consumer  
Advocate  
2515 Warren Avenue, Suite 304  
Cheyenne, WY 82002  
[Ivan.williams@wyo.gov](mailto:Ivan.williams@wyo.gov)

Bryce Freeman  
Administrator  
Wyoming Office of Consumer  
Advocate  
2515 Warren Avenue, Suite 304  
Cheyenne, WY 82002  
[Bryce.Freeman@wyo.gov](mailto:Bryce.Freeman@wyo.gov)

Michele Beck  
Director  
Office of Consumer Services  
160 East 300 South  
P.O. Box 146782  
Salt Lake City, UT 84114-6782  
[mbeck@utah.gov](mailto:mbeck@utah.gov)

Chris Parker  
Director  
Division of Public Utilities  
160 East 300 South  
P.O. Box 146751  
Salt Lake City, UT 84114-6751  
[chrisparker@utah.gov](mailto:chrisparker@utah.gov)

---