

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of)
Matt McCandless against Questar Gas) DOCKET NO. 15-057-02
Company) ORDER GRANTING QUESTAR GAS
) COMPANY'S MOTION TO DISMISS
)

ISSUED: May 11, 2015

FINDINGS OF FACTS

1. On February 6, 2015, Matt McCandless (Mr. McCandless) filed a formal complaint in this docket against Questar Gas Company (Questar or Company), alleging the Company failed to reinstate service “as soon as possible” pursuant to Utah Admin. Code R746-200-7.¹ Mr. McCandless asserts “Questar made no visible effort to meet this obligation.”² Mr. McCandless requests reimbursement of the \$100 after-hours fee he paid to have his service reinstated.³

2. Upon receiving Mr. McCandless’s complaint the Commission issued an action request to the Division of Public Utilities (Division).⁴

3. On February 26, 2015, in response to the Commission’s action request, the Division filed a memorandum recommending the Commission schedule a hearing in this docket.⁵ In part, the Division states:

It is not apparent that the Company has violated any Commission Administrative Rules, Utah Law, court ruling, Commission ruling or the Company Tariff. However, Mr. McCandless asks the Commission to explain why the after-hours reconnection fee was

¹ See Formal Complaint of Matt McCandless, filed February 6, 2015.

² See *id.*

³ See *id.*

⁴ See Action Request, issued February 6, 2015.

⁵ See Division Memorandum, filed February 26, 2015.

approved. The Company's actions appear to comply with the Commission-approved tariff provisions. If the Commission wishes to change any policies as a result of Mr. McCandless's complaint, it should do so in an appropriate proceeding.⁶

4. On April 1, 2015, the Company filed an answer and motion to dismiss.⁷ The Company argues, in part, that it has acted in accordance with Section 8.03 of its tariff, which specifies the fee charged for after-hours reconnection is \$100.00.⁸ The Company moves to dismiss Mr. McCandless's claim for failure to state a claim upon which relief can be granted.⁹

The Company's motion is based on the following argument:

Questar . . . has acted in accordance with [its] Tariff. . . . Mr. McCandless called on January 30, 2015, and requested [same day] natural gas service. . . . Questar . . . advised Mr. McCandless of the fee to have service connected on January 30, 2015. Mr. McCandless paid the after-hours connection fee, and service was started at [his] [r]esidence.¹⁰

5. The Commission subsequently issued a notice setting forth a response deadline of April 16, 2015, for Mr. McCandless to file a response to Questar's motion.¹¹

6. The April 16, 2015, deadline to respond to Questar's motion has passed, and Mr. McCandless has not responded.

7. Questar's motion to dismiss is now ripe for decision.

⁶ *Id.*

⁷ See Answer of Questar [] Gas Company and Motion to Dismiss, filed April 1, 2015.

⁸ See *id.* at 2, ¶ 7.

⁹ See *id.* at 3.

¹⁰ *Id.*

¹¹ See Notice of Filing of Answer and Motion to Dismiss, issued April 1, 2015.

CONCLUSIONS OF LAW

Rule 12(b)(6) of the Utah Rules of Civil Procedure, which is incorporated by reference by Utah Admin. Code R746-100-1(C), permits a party to file a motion to dismiss for “failure to state a claim upon which relief can be granted.”¹² Questar filed its motion on April 1, 2015. Mr. McCandless was allowed 15 days in which to respond to Questar’s motion, but no response was filed. “Absent a response . . . the Commission may presume that there is no opposition.”¹³ Accordingly, we presume no opposition to Questar’s motion and dismiss the complaint.

ORDER

For the foregoing reasons, the Commission grants the Company’s motion to dismiss Mr. McCandless’s complaint.

DATED at Salt Lake City, Utah, this 11th day of May, 2015.

/s/ Melanie A. Reif
Administrative Law Judge

¹² Utah R. Civ. P. 12(b)(6) (LexisNexis 2013).

¹³ Utah Admin. Code R746-100-4(D).

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Approved and confirmed this 11th day of May, 2015, as the Report and Order of the
Public Service Commission of Utah.

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#266163

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 11th day of May, 2015, a true and correct copy of the foregoing was served upon the following as indicated below:

By E-Mail:

Matt McCandless (mmccandless11@gmail.com)

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