Gary G. Sackett (USB 2841)
JONES, WALDO, HOLBROOK & MCDONOUGH, P.C.
170 South Main, Suite 1500
PO Box 45444
Salt Lake City, Utah 84145
Phone: (801) 534-7336
gsackett@joneswaldo.com

Phillip Wm. Lear (USB 1914)
LEAR & LEAR L.L.P.
808 East South Temple
Salt Lake City, UT 84102
Phone: (801) 538-5002
phillip.lear@learlaw.com

Attorneys for El Paso Midstream Investment Company, LLC

Submitted: September 29, 2011

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE PETITION OF INTEGRATED WATER MANAGEMENT LLC FOR A DECLARATORY ORDER	)))))))	Docket No. 11-999-08 RESPONSE OF EL PASO MIDSTREAM INVESTMENT COMPANY, LLC, TO PETITION FOR DECLARATORY ORDER

Pursuant to the Commission's September 7, 2011, scheduling order, EL PASO MIDSTREAM INVESTMENT COMPANY, LLC ("El Paso") responds to the petition of Integrated Water Management, LLC ("IWM") seeking a declaratory order from the Commission in connection with a hypothetical transaction in which El Paso would provide natural gas for the ultimate consumption by IWM at its wastewater treat-

ment facility in Duchesne County, Utah, with Questar Gas Company ("Questar") to act as "intermediary" to the transaction.

El Paso opposes IWM's petition at this time. In support of its opposition, El Paso states:

1. As indicated in its Petition to Intervene in this docket, El Paso is not a Utah "public utility," as defined by Utah statute, and is not subject to the regulatory jurisdiction of the Commission.

2. In that regard, El Paso has no interest in any transaction or any regulatory proceeding that would place its operations under the jurisdiction of the Commission now or in the future.

3. The El Paso-Questar-IWM transaction proposed by IWM did not have the concurrence of El Paso. Although there may be some arrangement in the future among the necessary parties and regulators under which El Paso would be interested in a transaction to provide natural gas to IWM, IWM's current proposal is not among them. However, in no event would El Paso have an interest in such a transaction were it to result in its becoming subject to the Commission's jurisdiction.

4. Utah Code Ann. § 63G-4-503(3)(b) provides that the Commission "may issue a declaratory order that would substantially prejudice the rights of a person who would be a necessary party, *only if* that person consents in writing to the determination of the matter by a declaratory proceeding." (Emphasis added.)

5. A declaration by the Commission concerning:

a. (a) a business transaction in which El Paso has not agreed to participate, and

b. (b) the jurisdictional status of El Paso

could "substantially prejudice" El Paso's rights, as that term is used in Utah Code Ann. § 63G-4-503(3)(b).

6. In that regard, El Paso has not, and does not by its special appearance before the Commission, "consent[ ] in writing to the determination of [this] matter by a declaratory proceeding."

7. IWM's request is based on a speculative, hypothetical sequence of business and regulatory transactions for which there is no demonstrable expectation of fulfilment.

8. At best, IWM's request is substantively premature. Any arrangement that would produce the result contemplated by IWM would need to be much more completely described and negotiated by the affected parties—from contractual, physical and regulatory perspectives.

9. Administrative or judicial declaratory actions are appropriate only for justiciable controversies in which a petitioner wishes to establish its legal rights and obligations before taking steps in advance of the determination of those rights and obligations. Here, nothing has proceeded to the point of generating a justiciable controversy. IWM's petition is in the nature of, "We were just wondering, if we could interest Questar and El Paso in a transaction, ..." That is not a justiciable controversy that warrants a tribunal to expend its time and effort and those of its staff to resolve.

WHEREFORE, El Paso opposes IWM's Petition for Declaratory Order in this docket.

DATED this 29th day of September 2011.

Respectfully submitted,

JONES, WALDO, HOLBROOK & MCDONOUGH, P.C.

Gary G. Sackett

LEAR & LEAR L.L.P.
Phillip Wm. Lear

Attorneys for
El Paso Midstream Investment Company, LLC

CERTIFICATE OF SERVICE

I certify that I have served by U.S. Mail and e-mail the foregoing RESPONSE OF EL PASO MIDSTREAM INVESTMENT COMPANY, LLC, TO PETITION FOR DECLARATORY ORDER on:

Matthew M. Nelson Nelson Law, PLLC 90 South 400 West, Suite 360 Salt Lake City, UT 84101 mattmnelson1@gmail.com	Paul Proctor Office of Consumer Services 160 East 300 South, Fifth Floor Salt Lake City, UT 84111 pproctor@utah.gov
Colleen Larkin Bell Jennifer R. Nelson Questar Gas Company 180 East First South Salt Lake City, UT 84111 jennifer.nelson@questar.com	Patricia Schmidt Marlin Barrow Division of Public Utilities 160 East 300 South, Fourth Floor Salt Lake City, UT 84111 pschmid@utah.gov mbarrow@utah.gov