REED T. WARNICK (#3391)
Assistant Attorney General
Utah Committee of Consumer Services
MARK L. SHURTLEFF (#4666)
Attorney General
160 East 300 South
P.O. Box 140857
Salt Lake City, Utah 84114-0857
Telephone (801) 366-0353

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Questar Gas Company to Adjust Rates for Natural Gas Service in Utah	Docket No. 04-057-04
In the Matter of the Investigation of Questar Gas Company's Gas Quality	Docket No. 04-057-09
In the Matter of the Application of Questar Gas Company to Adjust Rates for Natural Gas Service in Utah	Docket No. 04-057-11
In the Matter of the Application of Questar Gas Company for a Continuation of Previously Authorized Rates and Charges Pursuant to its Purchased Gas Adjustment Clause	Docket No. 04-057-13
In the Matter of the Application of Questar Gas Company for Recovery of Gas Management Costs in its 191 Gas Cost Balancing Account	Docket No. 05-057-01

RESPONSE OF THE UTAH COMMITTEE OF CONSUMER SERVICES TO REQUEST TO INTERVENE

Pursuant to Utah Administrative Code R746-100-3(I) and Utah Code §63-46B-6, the Utah Committee of Consumer Services ("Committee") here responds to Roger Ball's and Claire Geddes' November 17, 2005 Request to Intervene.

INTRODUCTION

Mr. Ball and Ms Geddes ("Petitioners") seek to intervene in a matter that the participating parties have settled and after that settlement was presented to the Public Service Commission of Utah ("Commission") on October 20, 2005.

The Intervention Request is untimely, and, if granted would impair the existing adjudicative process. The Committee joins with Questar Gas and the Division of Public Utilities, the other participating parties in these proceedings, in urging the Commission to deny the Request to Intervene.

ARGUMENT

Utah law sets out specific requirements which must be met before a non-party may intervene in a formal Utah administrative proceeding:

> The presiding officer shall grant a petition for intervention if the presiding officer determines that:
>
> (a) the petitioner's legal interests may be substantially affected by the formal adjudicative proceeding; and
>
> (b) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention.

I. THE PETITIONERS' INTERVENTION WOULD MATERIALLY IMPAIR THESE PROCEEDINGS.

Intervention in this instance is not an unqualified right. A petitioner must demonstrate his or her intervention will not "materially impair" the "interests of justice" or "the orderly and prompt conduct of the adjudicative proceedings."

It is evident from statements in the Intervention Request itself that the relief the Petitioners' ultimately seek is to frustrate or prolong the litigated proceedings and un-do the settlement reached by the participating parties. They demand that they:

> be permitted to review all of the discovery and all of the proposed testimony and evidence to be offered in support of the Stipulation; . . . to conduct discovery, to testify, to call witnesses of their own, to put on evidence in support of their positions, and to be allowed to cross-examine any and all witnesses, to put on rebuttal evidence and testimony. . .

and that:

> the Commission hold a full evidentiary hearing, and that [the Petitioners] be permitted to fully participate in every sense in such a hearing.

A principal objective of the participating parties in settling their dispute was to avoid the additional time, effort and expense, and the *uncertainty of outcome*, that would necessarily attend a "full evidentiary hearing" which the Petitioners would now seek to impose upon everyone.

Their unbending view is antithetical to an orderly end to these adjudicative proceedings and the "interests of justice" generally, which, as expressed in Utah Code §54-7-1, "encourage[s]" the:

> "informal resolution, by agreement of the parties, of matters before the commission" "as a means to:
>
> I. resolve disputes while minimizing the time and expense that is expended by:
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> (i) public utilities;
>
> (ii) the state; and
>
> (iii) consumers;
>
> II. enhance administrative efficiency; or
>
> III. enhance the regulatory process by allowing the commission to concentrate on those issues that adverse parties cannot otherwise resolve.

The Petitioners would ignore the heavy loss of rate recovery (in excess of $40 million) Questar Gas has accepted in exchange for settlement, as well as the uncertainty that utility ratepayers may have fared worse had the parties pursued a litigated outcome. They do not seek to advance the best interests of a diverse majority. Instead, unhappy with the outcome of a fair and impartial administrative process, they would impose their minority views on the majority of residential consumers and small commercial enterprises statutorily represented by the Committee.

Even if the Intervention Request demonstrated that the Petitioners possessed "considerable expertise about matters important to the Commission's consideration of these dockets" – which it does not, that would still not overcome their extremely tardy application and the deleterious effect such intervention would have on the orderly conduct and resolution of these proceedings.

II. THE INTERVENTION REQUEST DOES NOT SERVE THE INTERESTS OF JUSTICE.

In order to be granted intervention in an administrative proceeding, a petitioner must demonstrate his or her intervention will not impair the "interests of justice." Other than broad and unfounded negative remarks about the interests and abilities of a Committee no longer under the administration of Mr. Ball, the Intervention Request fails to explain how the interests of justice will be served, and not impaired, by Mr. Ball's and Ms Geddes' intervention.

The Petitioners assert that "the Commission has not heard from any party in this matter who has competently, effectively, thoroughly, professionally or vigorously represented the potential impact of QGC's Application on its customers." *See* Intervention Request at 11. However, the petition fails, in any way, to identify or illustrate any views

and arguments that have not been adequately or properly vetted in these proceedings. Serious settlement negotiations of this matter began *only after* the technical conferences the Intervention Request wrongly disparages and *only after* the Committee retained and involved its own expert consultants in analyzing specific technical issues of customer safety, natural gas combustion, pipeline flow mechanics, and coal seam gas' role as an appropriate source of gas supply for Wasatch Front customers of Questar Gas. The Committee retained those expert consultants at considerable expense *not only* to review and question the arguments and evidence presented by the Utility in the technical conferences and its most recent application for rate recovery, but also to technically, and professionally, review and question the hitherto held views of the Committee.

In light of the professional review and advice of its retained technical experts, the Committee concluded it was time to pursue a reasonable settlement of these proceedings. The Committee also determined that the best interests of a majority of residential customers was best met not by mixed messages but by accurately describing the need to adjust customer gas appliances to safely burn lower Btu gas.

Mr. Ball never allowed himself the benefit of that outside professional expertise while he was Committee Director. The Committee's application to solicit and retain technical expertise did not move off his desk for months, despite urgings of staff, counsel and the Committee Chairman that the Committee avail itself of technical expertise in order to credibly present and defend its position.

The outside experts the Division retained to examine the issues, in fact, ALL technical expertise in these proceedings concluded that, unless processed by the CO2 plant on occasion, the coal seam gas – which had now become a needed source of supply for the Wasatch Front, and in any case could not be totally diverted from flowing to the Payson Gate under certain circumstances during the year – would pose a safety risk for utility customers whose appliances had not yet been properly adjusted to burn that gas. That tariffed lower gas quality range is desirable – and the adjustment of customer gas appliances to safely burn gas in that lower range is desirable – independent of the coal seam gas issues in this proceeding. Mr. Ball heard that technical information in the technical conferences the Committee attended even if he was unwilling to have it confirmed or refuted by technical consultants of the Committee's own

choosing.

In summary, it is very difficult to see how the interests of justice would be served in these proceedings by having to further abide uninformed views.

III. THE PETITIONERS HAD EVERY REASONABLE OPPORTUNITY TO TIMELY INVERVENE .

The Petitioners assert that the party discussions and negotiations were closed to outsiders and "not noticed to the public." {Intervention Request at 8]. The Petitioners misstate the circumstances. The proceedings regarding the recovery of CO2 processing costs in rates, in their various ongoing permutations, have been repeatedly noticed up and opened to public participation. The Petitioners could have sought to intervene in the latest proceedings at any time they reasonably wanted. Ms. Geddes, or her group, Utah Taxpayers' Coalition, was an intervenor and participant in the earlier proceedings. At the time Mr. Ball was replaced as Executive Secretary of the Committee, he was aware of the proceedings. The settlement negotiations were *confidential* as all settlement negotiations must be, but that is not to say the Petitioners were excluded. There was time and room for any interested party with a legitimate interest to intervene and participate. As negotiations moved to the final wording of a settlement document, there was no effort or desire by the participating parties to suddenly bring in new voices, but those voices were certainly not unwelcome in the beginning when settlement possibilities were being explored.

It is also unfair to the process in this case to equate Mr. Ball or Ms. Geddes with the general public. As they point out in their Intervention Request, Mr. Ball and Ms. Geddes are "extremely experienced and knowledgeable about utility and regulatory issues generally" and "both very knowledgeable about the specific dockets captioned above from a time even before Docket 98-057-20." *See* Request to Intervene at 2. Both have attended numerous Commission hearings in the past and, in the case of Mr. Ball, numerous meetings and technical conferences on this matter. Moreover, Mr. Ball approved of the early rounds of meetings between the Committee, the Division and Questar Gas which, after his departure as Director of the Committee, led to final negotiations and a settlement. There is, therefore, no valid or acceptable reason why he or Ms. Geddes could not have timely intervened in this matter.

CONCLUSION

The relief the Petitioners seek by intervention is never stated in the Request to Intervene, but their objective appears clear. They want to frustrate and prolong these proceedings and un-do the settlement which participating parties have so laboriously reached and submitted to the Commission for its approval in a properly noticed-up hearing. The Petitioners give no valid reason why they did not seek to timely intervene, nor do they demonstrate their intervention will not "materially impair" the "interests of justice" and "the orderly and prompt adjudication of these proceedings." In fact, the Intervention Request demonstrates the opposite. They seek to reopen discovery, the submission of testimony, and to have the Commission conduct "a full evidentiary hearing." In short, they seek to impair the adjudicative proceedings and the settlement that has been reached by participating parties.

For all the reasons stated above, the Intervention Request must be denied.

Respectfully submitted this __ day of November, 2005.

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Reed T. Warnick,
Assistant Attorney General, and
Counsel for the Utah Committee of
Consumer Services

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **RESPONSE OF THE UTAH COMMITTEE OF CONSUMER SERVICES TO REQUEST TO INTERVENE** was served upon the following by electronic and first-class mail, on November 28, 2005:

Janet I. Jenson
Jenson & Stavros, PLLC
350 South 400 East, Suite 201
Salt Lake City, Utah 84111
jensonstavros@hotmail.com

Michael Ginsberg
Assistant Attorney General

500 Heber Wells Building
160 East 300 South
Salt Lake City, UT 84111
mginsberg@utah.gov

C. Scott Brown
Questar Gas Company
180 East First South
P.O. Box 45360
Salt Lake City, UT 84145
scott.brown@questar.com