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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION OF QUESTAR GAS COMPANY TO REMOVE GSS AND EAC RATES FROM COMPANY TARIFF	DOCKET NO. 06-057-T04 RESPONSE OF THE UTAH DIVISION OF PUBLIC UTILITIES TO THE STIPULATION POSITION STATEMENT OF ROGER J. BALL

The following is the Division of Public Utilities' (Division) response to the Position Statement of Roger Ball filed with the Commission. This filing responds in writing to some of the issues raised by Mr. Ball in his Position Statement. Some of the issues will only be addressed in a limited way or not at all, but the Division is prepared to provide a more detailed response if the Commission desires.

The Division believes that the evidence presented by the Division, the Committee, and the Company support the elimination of the GSS and EAC rates. That evidence can be found in the Task Force Report that proposed elimination of these rates and in the testimony, accepted as evidence at the hearing held February 8, 2007, presented by Mr. Barrow, Mr. Gimble, and Mr. Robinson.

I. THE DIVISION HAS STATUTORY AUTHORITY TO ENTER INTO THE STIPULATION

Sections 1 and 2 of Mr. Ball's Position Statement, pp. 2-5, are a general attack on the process used by the parties to enter into this Stipulations and a general attack on the authority of the Division and Committee to enter into stipulations. Mr. Ball claims the parties "clearly contravened" R746-100-10(F)(5)(b) which states: "Before accepting an Offer of Settlement, the Commission may require the parties offering the settlement to show that each party has been notified of, and allowed to participate in, settlement negotiations. Parties not adhering to settlement agreements shall be entitled to oppose the agreements in a manner directed by the Commission." If the Commission desires, the parties will present the process used in notifying the parties of and allowing them to participate in the settlement negotiations. It was done in a manner that allowed Mr. Ball to be notified of the Stipulation and to participate in the negotiations and if he wanted to join the stipulation. U.C.A. § 54-7-1 and the accompanying rules envision that less then all parties can enter into a stipulation. The main issue is if the Stipulation presented here is in the public interest. The referenced rule only addresses what the Commission may do if it desires to look into the process used to adopt the Stipulation, and the cited rule does not mandate any particular result.

Clearly the Division has statutory authority to enter into stipulations. U.C.A. §§ 54-4a-1(i) and 54-4a-1(3) authorize the Division to enter into stipulations and requires that those stipulations be approved by the Commission before they become effective. At least with respect to the Division, the essence of Mr. Ball's claim is that by entering the Stipulation and agreeing to a standard provision in Stipulation to file testimony in

support of the Stipulation, the Division has done something wrong. Mr. Ball's claim has no merit. The Division is and has provided its recommendations and evidence to the PSC as to what is in the public interest in this matter and nowhere is the Division being restricted to provide what information the Commission may request.

With respect to the Committee, Mr. Ball himself as former Director made judgments as to what recommendations the Committee would make to the Commission that are consistent with its statutory mandate. It is not up to the Commission to second-guess the Committee's decisions, but instead to rule if those decisions are in the public interest.

Mr. Ball ends with a request that the Commission disregard any legal issues addressed by the Division and Committee attorneys "because they have demonstrated professional incompetence" in the advice that has been given. It appears unnecessary for Mr. Ball in making the points he wants to make in opposing the Stipulation to attack the professional competence of the Division and Committee attorneys.

II. THE COMMISSION CAN ADRESS THE ELIMINATION OF THE GSS AND EAC RATES OUTSIDE OF A GENERAL RATE CASE

Section 3, p. 6, raises the issue of the Commission's authority to address the effect of the elimination of the GSS and EAC rates outside of a rate case where some customers' rates may increase. This issue has also been raised by questions from the Commission. The Division generally agrees that it would be an exception to allow rates to increase outside of a general rate case or to create a mechanism such as Account 191.8 to keep track of revenues forgone. However, in the case of the elimination of the

GSS and EAC rates, a number of factors justify the mechanism recommended in the Stipulation.

First, when in the past the PSC eliminated a similar rate in another area, the effect of that elimination was addressed outside of a general rate case. The effect of the lost revenue stream was put into the 191 account until an opportunity existed to address those lost revenues in a general rate case. See Exhibit R1.3 of Mr. Robinson's Rebuttal testimony, Case No 7206 Order, December 18, 1981. This Stipulation has proposed a mechanism to address the revenue reduction that occurs by the elimination of the GSS and EAC rates that is consistent with the 1981 Order. Account 191.8 will perform the same function as Account 191 performed in the 1981 Order.

Second, this Commission has already approved a mechanism that will address exactly what the Stipulation accomplishes. The CET tariff would automatically take into account the effect of the elimination of the GSS and EAC rates in essentially the same manner as in the Stipulation. The Stipulation addresses the amortization of the effect of the elimination of these rates in a slightly different way than the CET tariff. The Commission could just eliminate these tariffs if its finds such elimination to be in the public interest and the CET mechanism would have addressed the change in revenues. The Stipulation accomplishes the same result as if the CET mechanism was operating without Account 191.8. The CET mechanism operates outside of a general rate case.

Third, the GSS and EAC rates have a long history to them. They were generally adopted outside of a general rate case. Rates of new customers added to the system were higher then those of other GS-1 customers. In the absence of a general rate case and with the evidence presented that justifies the elimination of the GSS and EAC rates,

it is in the public interest to eliminate these rates as soon as practicable and not to await a general rate case. The Stipulation adopts a reasonable mechanism that allows the elimination of these rates to occur now rather then waiting for a general rate case.

III. SUFFICIENT GROUNDS EXIST SUPPORTING ELIMINATION OF THE GSS AND EAC RATES

In Section 4, p. 7, Mr. Ball argues that the Commission cannot eliminate the GSS and EAC rates on economic development grounds. He argues that the legislature has not delegated responsibility for economic development to the Commission. He points out that the state has other agencies to address economic development. The Division agrees. Other agencies are responsible for economic development. However, the statue authorizing the Commission to set just and reasonable rates specifically allows the Commission to take into account "the cost of providing service to each category of customer, economic impact of charges on each category of customer and on the well being of the state of Utah. "See U.C.A. A. § 54-3-1. Although many of the communities' testimonies addressed the issues of economic development, most important to Mr. Ball's filing is that the Committee, the Division or the Company have not based their recommendation to eliminate these rates on economic development grounds, but have presented to the Commission evidence independent of economic development to justify the elimination of these rates and rolling these customers' rates into the rates charged all other customers.

IV. THE STIPULATION DOES NOT PRODUCE PREFERENTIAL AND DISCRIMINATORY RATES

In Section 5, pp. 8-12, Mr. Ball claims that elimination of these rates would result in rates that would be preferential and discriminatory to other customers. Mr. Ball is

asking the wrong question. The question should be does an unreasonable difference exist between localities in the state such that Commission action is needed. See U.C.A. § 54-3-8(1)(b). The evidence presented shows that such an unreasonable difference does exist and it should be eliminated. The evidence supports that these customers' so-called subsidy from other customers and the differences in GSS and EAC payments each group has made has adequately been addressed by the payments they have made above other GS-1 customers over all of these years.

As to new expansion areas, the rates customers will pay will be the same rate as any other GS-1 customer. The cost to each new customer to expand into a new area will be addressed equally between all new expansion areas. The Commission frequently changes how expansions into new subdivisions will be handled and how expansion into new areas will be addressed. Paragraph 10 of the Stipulation is no different than a tariff provision filed in a rate case that would propose a new method to recover costs for expansion into new areas. All customers similarly situated asking for new service would be treated the same.

V. EXTRANEOUS ISSUES DO NOT SUPPORT REJECTION OF THE STIPULATION

Section 7, pp. 12-18, raises a lot of extraneous issues such as Wexpro, the motivation of the Company on how the expansion areas were structured vs. Nephi, gas purchasing practices, political capital, and HB 320. It appears that the main objection raised by this Section is that the GS-1 customers will be ”on the hook” to make the Company whole while Questar has failed to keep track of its expenses for each expansion area for which it is currently collecting GSS and EAC revenues. As a result

of this failure, it is alleged that the Stipulation should be rejected. It is important to note that the orders establishing the GSS and EAC rates did not require associated revenues and costs to be tracked. Many rate cases have passed since the original GSS and EAC orders were issued where issues revolving around tracking costs could have been raised. No order was violated by not tracking the costs of each project vs. the payments made. The Commission should determine what should take place today and in the future and not keep the GSS and EAC rates in place because of how the costs and revenues were tracked over an extended historical period.

VI. THE STIPULATION DOES NOT VIOLATE THE RULE AGAINST RETROACTIVE RATEMAKING

On p. 18, Mr. Ball briefly claims that the elimination of the GSS and EAC rates would constitute retroactive ratemaking. The gist of his argument appears to be that by shifting the effect of any lost revenues to other customers, which defeats the bargain in each GSS and EAC order, retroactive ratemaking occurs. The costs associated with the expansion areas have been included in rate base since placed in service. Therefore, no past loses are being made up retroactively. The current decision is not how to make up for past loses, but how to collect the current revenue requirement from /

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the GS-1 class and to determine if it is still reasonable that part of the current revenue requirement should be paid by some localities in the state through an extra charge in the form of the GSS and EAC rates.

Respectfully submitted this ____ day of March, 2007.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Response of the Utah Division of Public Utilities to the Stipulation Position Statement of Roger J. Ball was served upon the following by electronic mail or first class mail on March 24th, 2007:

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