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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION OF QUESTAR GAS COMPANY TO INCREASE DISTRIBUTION NON-GAS RATES AND CHARGES AND MAKE TARIFF MODIFICATIONS	Docket No. 07-057-13
	RESPONSE OF QUESTAR GAS TO REQUEST OF ROGER J. BALL

Questar Gas Company (“Questar Gas” or the “Company”), pursuant to Utah Code Ann. § 63-46b-9 and Utah Administrative Code R746-100-4 and R746-100-7, hereby responds to the “Request for Publication of Notice of Application to Increase Rates and of Hearings; to Subdivide Intervention; to Expedite Test Period Intervention and the Exchange of Data; and to Intervene” (“Request”) filed by Roger J. Ball on December 24, 2007. The Request is procedurally irregular in that it raises issues previously raised by Mr. Ball in a Scheduling Conference before the Commission issued its Scheduling Order on December 27, 2007. Many

aspects of the Request have been rendered moot by the Scheduling Order. With regard to those matters not resolved by the Scheduling Order, Questar Gas has complied with all requirements, but is willing to publish notice of its Application if that is deemed necessary by the Commission, suggests that discovery responses be provided only to parties requesting them to avoid waste, and suggests that if the Commission determines to grant Mr. Ball intervention, it may wish to condition the grant consistent with prior practice and make clear that the intervention is for Mr. Ball's representation of his own positions consistent with Commission rules.

INTRODUCTION

Questar Gas filed its Application in this docket on December 19, 2007. The Application was supported by the sworn testimony of nine witnesses. Prior to filing the Application, Questar Gas filed a non-binding notice of intent to file a general rate case on November 8, 2007 and notice of intent to file a general rate case on December 4, 2007. Extensive notice of all of these filings was provided to the news media and to all parties to Questar Gas' prior general rate case.

The Commission issued a Notice of Scheduling Conference on December 13, 2007 and held the Scheduling Conference on December 20, 2007. Counsel for the Utah Industrial Energy Consumers ("UIEC") filed a protest to the Scheduling Conference on December 18, 2007. Prior to the Scheduling Conference, the Division of Public Utilities ("Division") and the Commission circulated proposed schedules for review by interested persons. The Division and Committee appeared at the Scheduling Conference. In addition, counsel for UIEC and the UAE Intervention Group ("UAE") and Mr. Ball participated in the Scheduling Conference. UAE filed a petition to intervene on December 21, 2007. Mr. Ball filed the Request on December 24, 2007, addressing the same issues raised in the Scheduling Conference.

The Commission issued its Scheduling Order on December 27, 2007. The Scheduling Order addresses most of the issues raised by Mr. Ball. In addition to these requests, Mr. Ball

requests that the Commission require Questar Gas to publish notice of the Application and of all hearings in particular ways and each party to serve copies of discovery requests and responses on all persons who request intervention by January 11, 2008. Mr. Ball also requests that he be granted intervention in the docket “with full rights as a party to protect his interests and perhaps those of other similarly situated Questar Gas ... customers, as they may appear.” Request at 7.

DISCUSSION

I. QUESTAR GAS HAS ALREADY PROVIDED EXTENSIVE NOTICE OF THE APPLICATION, BUT WILL COMPLY WITH ANY ORDER OF THE COMMISSION REGARDING PUBLICATION OF NOTICE.

As noted in the Request, Rule R746-100-4.C requires a public utility to publish notice of the filing of a request for a rate increase “in the form and within the times *as the Commission may order*, in a newspaper of general circulation in the area of the state in which the parties most likely to be interested are located.” (Emphasis added.) Questar Gas will certainly comply with any order of the Commission directing it to publish notice of the Application in accordance with this rule.

In determining whether to order Questar Gas to publish notice, Questar Gas believes the Commission may wish to consider certain matters. First, Mr. Ball clearly has actual notice of the Application and participated in the Scheduling Conference. Therefore, with regard to his personal interests, no additional notice is necessary.

Second, Questar Gas has already provided extensive notice to the media regarding its Application, and the Application was widely reported in the media. Questar Gas’ notice of intent to file a general rate case was reported in The Salt Lake Tribune on November 15, 2007, as the lead story in the business section. Questar Gas also issued a press release on December 19, 2007. That evening and the following morning, the Application received extensive television and radio news coverage. In addition, the following newspapers published articles about the

proposed rate increase: The Salt Lake Tribune, The Deseret Morning News, The Ogden Standard Examiner, The Provo Daily Herald, The Logan Herald Journal, The Daily Spectrum and other local papers in Questar Gas' service area. A media packet was provided to the Commission and media outlets. These new reports may be more effective in providing actual notice to customers than paid publication or advertisement in a newspaper.¹

Third, a link to the Application is available on both the Commission's and the Company's websites.

Fourth, there is a significant difference between the imposition of a new or increased fee by a special district, cited in the Request, and a rate increase by a public utility regulated by the Commission. The Legislature has provided representation for customers in proceedings before the Commission, including rate cases. The Division is charged by statute with representing the public interest generally, including the interest of customers in "continued quality and adequate levels of service at the lowest cost consistent with other provisions of Subsection (4)." Utah Code Ann. § 54-4a-6(4). The Committee is charged by statute with advocating "positions most advantageous to a majority of residential consumers ... and those engaged in small commercial enterprises." *Id.* § 54-10-4(3). No similar governmental agencies have been created and charged

¹ The statute cited in the Request indicates that the Legislature may have concluded, as have many others, that publication of legal notices as legal notices is actually a rather poor way to provide actual notice to the public. *See* Utah Code Ann. § 17B-1-643(2)(b)(i)(C) ("The notice may not be placed in that portion of the newspaper where legal notices and classified advertisements appear."). *See also* Martin, Shannon E., "States Begin to Permit Web Posting for Legal Ads, Public Notices," *Newspaper Research Journal* (Fall 2003), http://findarticles.com/p/articles/mi_qa3677/is_200310/ai_n9274687 ("The key concern now most frequently mentioned is that *actual notice may be less certain* when newsprint publication of legal notice is the primary means of distribution.") (emphasis added). In addition, there appears to be little evidence to support the view that placing the same legal notice in another part of the newspaper in larger type in the form of an advertisement improves the likelihood of actual notice. *See* Finding of Record and Closure, Investigative Report, State of Alaska Ombudsman Complaint A098-0738 (Jun. 8, 1999), <http://www.state.ak.us/local/akpages/LEGISLATURE/ombud/agsale.htm>.

with representation of the interests of those subject to new or increased fees assessed by local districts.

Fifth, ratemaking is not a taxing function as stated in the Request. Taxation is the levying of monies by the government from the public to support the cost of governmental functions.² Ratemaking is the process by which the Commission, acting as a substitute for competitive market forces, assures that the prices charged by a public utility for utility service are fair to both the utility and its customers.³

Questar Gas has exceeded all applicable requirements with regard to notice and believes the public already has actual notice of this proceeding. Nonetheless, Questar Gas will provide any additional notice required by the Commission.

II. SERVICE OF DISCOVERY REQUESTS AND RESPONSES SHOULD BE LIMITED TO ANY PARTY APPROPRIATELY ASKING FOR A COPY TO AVOID WASTE.

As the Commission is well aware, the volume of discovery in a general rate case is typically enormous. For example, the responses to Master Data Request A provided by Questar Gas with its Application in this case is estimated to be over 400 pages in length, and the discovery file in Questar Gas' prior general rate case, Docket No. 02-057-02, consisted of approximately 7,000 pages. While Questar Gas is certainly willing to provide this volume of discovery to the party requesting it and to any other party that appropriately asks for a copy, it

² *Garrett Freight Lines v. State Tax Comm'n*, 135 P.2d 523, 526 (Utah 1943) ("Taxation ... is ... a way of apportioning the *costs of government* among those who in some measure are privileged to enjoy its benefits and must bear its burdens.") (emphasis added). There are a variety of lawful ways of imposing taxes, such basing them on income, property values, or the cost of purchases made by the public.

³ See, e.g. *Utah Dep't of Business Regulation v. Public Service Comm'n*, 720 P.2d 420 (Utah 1986); *Utah Dep't of Business Regulation v. Public Service Comm'n*, 614 P.2d 1242, 1248 (Utah 1980).

would be wasteful for Questar Gas to provide this discovery to any person that seeks to intervene even if the person has not requested the information.

The Request is also unnecessary. In an effort to avoid wasting resources, Questar Gas is posting its master data request responses and will be posting non-confidential responses to subsequent discovery requests on a website that will be available to any party in this docket. Thus, any party, including Mr. Ball if he is granted intervention, will have appropriate access to non-confidential discovery responses through the website. Confidential discovery responses will be made available to any party appropriately requesting them consistent with the terms of the Protective Order issued by the Commission on December 17, 2007.

III. IF THE COMMISSION GRANTS MR. BALL INTERVENTION, IT MAY WISH TO CONDITION THE INTERVENTION AND SHOULD MAKE CLEAR THAT HIS INTERVENTION IS ONLY TO REPRESENT HIS OWN INTERESTS CONSISTENT WITH COMMISSION RULES.

Questar Gas takes no position on whether the Commission should grant intervention to Mr. Ball in his role as an individual residential customer. Although the Committee is charged with representing the interests of residential and small commercial customers, the Commission has previously granted intervention to an individual residential customer in a general rate case. *See Order Granting Intervention with Conditions, In the Matter of the Request of U S WEST Communications, Inc. for Approval of an Increase in Its Rates and Charges, Docket No. 95-049-05 (Utah PSC Jul. 3, 1995).* Recognizing the potential issues posed by potential multiple interventions by individual customers, the Commission conditioned the intervention in ways designed to minimize possible disruption to the prompt and orderly conduct of the proceeding and to assure that participation was not duplicative of the Committee's efforts. *Id. See also Order on Request to Intervene, Docket Nos. 04-057-04, 04-057-11, 04-057-13, 04-057-09 and*

05-057-01 (Utah PSC Jan. 6, 2006), *affirmed*, *Ball v. Public Service Comm'n*, 2007 UT 79, ___ P.3d ___, 588 Utah Adv. Rep. 10, 2007 WL 2963675.

In the concluding sentence of the Request, Mr. Ball “request[s] leave to intervene and participate in this proceeding with full rights as a party to protect [his] interests, *and perhaps those of other similarly situated ... customers.*” Request at 7 (emphasis added). Commission rules require representation of parties by a licensed attorney except that an individual party, not an attorney, may represent his or her own interests and officers or employees of a party may represent their principal’s interests. Utah Admin. Code R746-100-6.B. Therefore, the Commission should make clear in any order granting intervention to Mr. Ball that his intervention is only to represent his own interests and must be consistent with Commission rules.

CONCLUSION

Questar Gas believes the public already has actual notice of this proceeding, but is willing to publish notice of the Application as directed by the Commission. Questar Gas suggests that discovery questions and responses be served only on parties requesting them in the interests of efficiency and economy. If the Commission determines to grant Mr. Ball intervention, it may wish to condition the grant consistent with past practice to assure the orderly and prompt conduct of the proceeding and should make clear that the intervention is only to represent Mr. Ball’s own interests consistent with Commission rules.

RESPECTFULLY SUBMITTED: January 8, 2008.

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **RESPONSE OF QUESTAR GAS TO REQUEST OF ROGER J. BALL** was served upon the following persons by email on January 8, 2007:

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