

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
|
|

TEST YEAR TESTIMONY OF

ROGER J BALL

28 JANUARY 2008

1 Q Who are you, what is your address, and what are your qualifications?

2 A I am Roger J Ball, and my address is 1375 Vintry Lane, Salt Lake City, Utah 84121. My
3 academic and professional qualifications and professional experience are shown in RJB
4 Exhibit 1.1.

5 Q What is the purpose of your testimony?

6 A To comply with the requirement in the Commission's 27 December 2007 Scheduling
7 Order in this proceeding that non-Company parties file direct testimony regarding test
8 period issues by 28 January 2008.

9 Q Have you read the Application filed by Questar Gas Company (Questar, or QGC, or
10 Company, or utility) on 19 December 2007 in this Docket?

11 A Yes. The Company claims that, compared with the 11.2% Return on Equity (RoE)
12 allowed by the Commission in the utility's last general rate case, Docket 02-057-02, since
13 30 December 2002, it experienced "an annualized deficiency of \$2.1 million for the 12-
14 months ending June 30, 2007."¹ QGC bases its request for an increase in its retail rates
15 in Utah of almost \$27M annually upon a projected revenue deficiency during the twelve
16 months ending 30 June 2009. It alleges that "(t)his test period is provided for by statute in
17 Utah Code Ann. § 54-4-4(3)."²

18 Q Has the Company indicated its interpretation of §54-4-4?

19 A Yes. In its Application, Questar writes:

20 The Company's present rates and charges authorized by the Commission *will* no
21 longer provide the Company the opportunity to recover the costs of providing
22 natural gas service while earning a reasonable rate of return. They *are*, therefore,
23 not "just and reasonable".³ (Emphases added.)

24 As mentioned above, the utility considers that its requested projected test period ending
25 30 June 2009 is "provided for by statute" in §54-4-4.

26 Questar Gas Company President, CEO, and witness Allred testifies that:

27 General rate cases are an eight-month process. *We must look forward to 2008*
28 *returns to determine the need for a general rate case.* As shown in QGC Exhibit
29 2.9, without rate relief, 2008 returns *will* fall to 7 percent.⁴ (Emphasis added.)

¹ QGC's *Application*, 19 December 2007, in this Docket, 07-057-13 (hereinafter *Application*): II C *Necessity for Relief*, second paragraph, on page 4.

² *Idem*: II D *Basis for Determination of Rate Relief*, first paragraph, on page 4.

³ *Application*: II C *Necessity for Relief*, first paragraph, on page 3.

⁴ *Application*: *Ex 2.0 Allred Direct*, lines 326-328, on page 12.

1 Q Have you an opinion about the utility's interpretation?

2 A §54-4-4(1)(a) provides that "the commission shall take an action described in Subsection
3 (1)(b), *if* the commission finds after a hearing that" rates *are* insufficient. (Emphasis
4 added.) Questar has not demonstrated that current rates *are* insufficient to allow it to
5 earn its presently authorised RoE, only claiming that they *will* be, so the Commission is
6 not *required* to determine new rates under the provisions of §54-4-4(1). It may, under
7 §54-4-4(2), *choose* to proceed with an investigation and establish revised rates.

8 No particular test period is "provided for by statute" as asserted by the utility. §54-4-
9 4(3)(a) provides that "the commission shall select a test period that, on the basis of
10 evidence, the commission finds best reflects" conditions during the rate effective period.

11 Q What evidence has QGC provided regarding its RoE?

12 A Exhibit 2.9 accompanying Mr Allred's Direct Testimony indicates that, since its last
13 general rate increase, Questar has earned almost all the RoE authorised by the
14 Commission. In the 12 months ended 30 June 2007, the Company appears to have
15 earned 96.25% of its authorised return.⁵ Its average earnings over the four preceding
16 (calendar?) years appear to have been 95.27%.

17 Q Would you like to make any observations about that evidence?

18 A The Company calculates that its RoE for June 2007 was less than 1% below its 2006
19 number. Returns earned in 2004 and 2005 were 7.46% and 1.66% below those earned
20 in 2006. If Questar management thought those returns sufficiently reasonable not to
21 warrant a rate increase, why does the slightly lower June 2007 out-turn justify one? If the
22 10.05% RoE earned during the 2004 didn't demand a rate case in 2005, why does 2007's
23 forecasted 10.78% demand one in 2008? The answer to both questions is the same: it
24 doesn't. The utility's case is entirely predicated upon projected returns for future periods.
25 As quoted above, Mr Allred writes that "(w)e must look forward to 2008 returns to
26 determine the need for a general rate case." Clearly, Questar Gas Company's rates do
27 allow it the opportunity to earn its authorised rate of return. That they may not in some
28 future period is beside the point as far as §54-4-4 is concerned.

29 Q Does the forecast test year requested by the Company align with the likely rate effective
30 period?

⁵ Year ending 30 June 2006, 96.96%; 30 June 2005, 95.36; 30 June 2004, 89.73; and 30 June 2003, 99.02%.

1 A Given that QGC filed its Application on 19 December 2007, its proposed increase will take
2 effect after 240 days, or on 15 August 2008, unless the Commission has previously
3 issued an order granting or revising it.⁶ The 27 December 2007 Scheduling Order in this
4 Docket appears to have been crafted to make it possible for Phase I, the Revenue
5 Requirement portion of the proceeding, at least to have progressed sufficiently to enable
6 the Commission to reach a decision in that regard no later than 15 August 2008.
7 However, hearings in Phase II, the Cost of Service portion, were not scheduled until
8 October, so it is clear that a final order will not issue by 15 August. If the utility reaches
9 agreement on a settlement of this case, it is not impossible that new rates could be
10 implemented significantly before 15 August. However, it also seems to lie within the
11 Commission's UCA §54-7-12(3)(c) authority to revise Questar Gas Company's proposed
12 increase to go into effect well after that date. So, at this point, the beginning date of the
13 rate effective period is quite uncertain. It appears that the Company has merely picked a
14 test period ending 30 June 2009 as a close approximation to the rate effective period it
15 has requested, and not because it "best reflects" conditions the utility will encounter
16 during that uncertain actual rate effective period. The Commission is required to select
17 the test period "on the basis of evidence", however.⁷ The Utah Supreme Court applied
18 the following standard in the Wage Case: "Some deference to management judgment is,
19 of course, proper. The commission may not, however, defer to bald assertions by
20 management."⁸

21 Q What evidence has the Company adduced in opposition to the use of an historic test
22 period?

23 A Questar Gas Company's Manager of State Regulatory Affairs and witness McKay testifies
24 that "in a period of rising costs ... using a historical test period virtually guarantees that
25 the Company will not have a reasonable opportunity to earn its authorized return."⁹ Mr
26 Allred testifies that "(i)nvestors require a sufficient and fair return in order to provide the

⁶ UCA §54-7-12(3)(c).

⁷ UCA §54-4-4(3)(a).

⁸ *Utah Department of Business Regulation, Division of Public Utilities, v Public Service Commission of Utah*, No 16241, 19 June 1980, 614 P.2d 1247, quoting *State v Jager*, Alaska, 537 P.2d 1100, 1113-1114 (1975).

⁹ *Application: Ex 1.0 McKay Direct*, lines 158-160, on page 6.

1 needed capital”, and “(o)ur shareholders expect and are entitled to a sufficient and fair
2 rate of return.”¹⁰

3 Q What countervailing evidence would you like to offer?

4 A The provision in §54-7-12(3)(c) effectively requiring the Commission to decide a rate case
5 within 240 days of its filing (which the Company rests upon in its request C on page 7 of
6 its Application) has been in effect for many years, significantly limiting a utility’s risk in this
7 regard.

8 Utilities have been compensated for their limited risk from regulatory lag and the use of an
9 historic test year in the rates of return on equity they have been granted an opportunity to
10 earn. The Commission has repeatedly over many years in many cases found that rates
11 resulting from historic test years were just and reasonable and QGC has generally
12 accepted that its rates set in accordance with that theory were just and reasonable at the
13 time.

14 During the 2003 General Session of the Utah Legislature, Questar deployed the same
15 argument now advanced by Mr McKay to obtain passage in Senate Bill 61 (Bill) of the
16 amendment of UCA 54-4-4(3)(a) to its present reading.

17 However, regulatory lag affects ratepayers, too, and there is no statutory limit on their
18 risk: when a utility is over earning, ratepayers must wait for reduced rates as long as it
19 takes for the ratemaking process to operate. Not only has the Bill tilted the playing field in
20 favour of utilities in rising-cost times, but it has made it much more problematic for
21 ratepayers to obtain a fair deal in falling-cost periods.

22 For some reason, regulators seem to have decided that the Bill requires the determination
23 whether a utility is over or under earning to be based upon projected rather than actual
24 numbers. Although §54-4-4(3)(a) doesn’t require that, the perception that it does has
25 apparently already deflected regulators from initiating at least one case seeking a
26 decrease in QGC’s rates.

27 Regulators and ratepayers cannot know, independent of data obtained from a utility, what
28 its true earnings position is. If regulators will not even consider a detailed audit to
29 establish whether earnings in a past period exceeded the authorised level when a utility
30 offers only under-earning projections, then ratepayers are in a “heads, you win; tails, I
31 lose” game with the utilities.

¹⁰ *Application: Ex 2.0 Allred Direct*, lines 13-14 and 16-17, on page 1.

1 Additionally, in any investigation initiated by the Commission or as a result of a complaint
2 brought by regulatory agencies or ratepayers themselves, §54-4-4(3)(a) is likely to
3 impose a projected test period on the determination of future rates.

4 As then Commission chairman Campbell observed during a hearing in a previous
5 proceeding concerning this Company, “if I were an employee of the Company, I
6 guarantee you I could give you a forecast every time that shows I'm not over earning.”¹¹

7 Q Has this Commission previously set rates for Questar on the basis of a projected test
8 year?

9 A No. In previous Questar Gas Company general rate cases, the Commission determined
10 RoE based upon the risk to which stockholders were exposed when future rates were
11 based upon historic test periods. The evenhanded balancing of the utility's interest in
12 increasing its earnings with the ratepayers' interest in paying no more than just and
13 reasonable rates suggests that If the Commission, in selecting a test year in this
14 proceeding in accordance with revised UCA 54-4-4(3), chooses to adopt anything other
15 than an historic test year, it should balance this shift of risk by commensurately reducing
16 RoE.

17 Q Is there anything more that you would like to say about the use of an historic v a projected
18 test period?

19 A The Company has actually used an historic test period – the twelve months ending 30
20 June 2007 – as a basis to forecast the test period requested in its Application.
21 Consequently every other party must not only examine the Company's historic data, but
22 the validity of the factors the Company has chosen to use in projecting its figure forward
23 24 months and the accuracy of its calculations. It is to be expected that a utility which has
24 decided to seek an increase will want to see it in rates as soon as possible, and that it will
25 advance every argument it can think of to promote that objective, but this is all extra work
26 to be squeezed into 240 days and budgets that cannot be passed on to someone else as
27 regulatory expenses.

28 Q Does the move from an historic to a projected test year carry any monetary value?

¹¹ *Transcript of Proceedings*, 17 May 2006, in Docket 05-057-T01 *Joint Application of Questar Gas Company, the Division of Public Utilities and Utah Clean Energy for the Approval of the Conservation Enabling Tariff Adjustment Option and Accounting Orders*: page 146, lines 21-23.

1 A In its Application, Questar Gas Company apparently values the 24 month forward
2 projection at almost \$27M. In requesting a test year ending 30 June 2009, the Company
3 is asking the Commission to transfer risk to the value of that amount from its stockholders
4 to its ratepayers. If the Commission does select a test period and determine revenue
5 requirement in this proceeding, rather than looking at a black box stipulation with most, if
6 not all, parties recommending approval, it will be the first time that it has tackled the
7 transition from historical to projected test period.

8 Q Do you have a recommendation for the Commission?

9 A Yes. The Commission should deny Questar Gas Company's Application because the
10 utility has not demonstrated that, in accordance with §54-4-4(1)(a), its rates *are*
11 insufficient.

12 In the alternative, should the Commission decide to continue with this proceeding, it
13 should make an adjustment sufficient to ensure that the transfer of risk from stockholders
14 to ratepayers implicit in the use of a future test period is balanced by a reduction on
15 Return on Equity. For instance, if the Commission selects the test period recommended
16 by Questar Gas Company in this Docket, it should adjust RoE downwards by about \$27M
17 to restore that balance.

18 That concludes my pre-filed written direct test year testimony, thank you.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Test Year Testimony of Roger J Ball in Docket 07-057-13 was served upon the following by electronic mail on 28 January 2008:

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