-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

In the Matter of the Investigation and the Consolidation of Dockets of the Formal Complaints against Questar Gas Company Relating to Back-Billing	))))))	DOCKET NO. 08-057-11 ORDER APPROVING SETTLEMENT STIPULATION WITH MODIFICATION

ISSUED: December 3, 2008

SYNOPSIS

The Commission modifies and approves a Settlement Stipulation resolving billing disputes between Questar Gas Company and customers due to consumption measurement errors arising from faulty transponder installations.

By The Commission:

Before the Commission is a Settlement Stipulation negotiated and entered into by Questar Gas Company (Questar or Company), the Division of Public Utilities (Division), the Committee of Consumer Services (Committee), and the Salt Lake Community Action Program (SLAC) (collectively the Stipulating Parties). The Settlement Stipulation proposes a resolution of billing disputes arising from transponder installation and operation which gave rise to circumstances where some Questar customers were underbilled for the amount of natural gas they actually consumed. The Stipulating Parties urge adoption of the Settlement Stipulation to resolve the individual complaints that were filed by individual customers (and which were consolidated with this docket) and all other customers whose bills were incorrect due to faulty transponder installation and resulting volume reporting errors. Due to errors in the installation of some transponders (specifically, VRT transponders and 3.4 transponders), they failed to accurately indicate the quantity of natural gas passing through the meter and consumed by the customer. There are some instances of over-reporting consumption, but almost all errors under-reported consumption, resulting in Questar underbilling affected customers for one half of their actual consumption. This has been called a pre-divide error in the Settlement Stipulation and in the July 21, 2008, Division Report concerning its investigation of the billing disputes and the use of transponders by Questar. After due notice, on October 22, 2008, proponents and opponents of the Settlement Stipulation were heard as were members of the public who appeared to address the Settlement Stipulation specifically and to provide comments concerning the issues raised in this docket. In addition to the individuals appearing at the October 22, 2008, hearing were Questar, appearing through Colleen Larkin Bell, the Division, appearing through Patricia Schmid, Assistant Attorney General, the Committee, appearing through Assistant Attorney General Paul Proctor, and the Utah Rate Payers Association, appearing through Roger Ball.

THE SETTLEMENT STIPULATION

With no intention to alter any term of the Settlement Stipulation (which is attached to this order) by our description, the operative terms of the Settlement Stipulation, with regards to the transponder and billing error issues raised in this docket and the individual complaint dockets, can be summarized as follows:

1. Customers that have been underbilled due to pre-divide errors would be backbilled for no more than six months prior to the date the error was discovered. These customers will have one year to pay the underbilled amounts. Questar agrees to allow a

reasonable payment period greater than one year as necessary to accommodate an established hardship. So long as the terms of payment are met, interest will not accrue on backbilled amounts.

2. Any Commission order accepting the Settlement Stipulation should preserve all rights available to customers who have filed formal and informal complaints related to backbilling for pre-divide related errors under Questar's tariff or applicable statutes, rules or regulations. If an order in this docket does not resolve all of the issues related to any individual customer's circumstances, such complainants would retain the right to pursue unresolved issues in an individual complaint before the Commission.

3. Questar will record a total of $480,000 as a cost below the line and not pass this amount on to ratepayers. This amount includes approximately $150,000 of unrecorded revenues prior to the implementation of the Conservation Enabling Tariff (CET). Questar will make all required accounting entries necessary to effect this provision of the Settlement Stipulation. The Division will audit and verify compliance with this provision as part of its ongoing audit and review responsibilities.

4. Questar will revise Section 8.02 of its Tariff to reflect (i) that all transponder-related billing errors may be backbilled for no more than six months from the date of discovery, and (ii) that customers may pay such backbilled amounts over the course of twelve months, without interest.

5. Questar will file a report with the Commission upon the conclusion of the initial round of Questar's Meter and Transponder Inspection Program (MTIP). The report will set forth

the complete results reflecting any and all transponder-related errors identified through the initial round of MTIP inspections.

DISCUSSION, FINDINGS AND CONCLUSIONS

Utah law supports settlement stipulations to resolve disputed matters. Stipulations may be approved by the Commission after considering the interests of the public and other affected persons where the proposal is just and reasonable in result and supported by adequate evidence. In reviewing the Settlement Stipulation presented by the Stipulating Parties, we consider a number of interests: the interests of the individual customers who were underbilled, the interests of other customers, the interests of Questar, and the interests of the State in pursuit of its public policies (which may be evidenced in statute, rules or regulatory decisions).

We approve the Settlement Stipulation's terms relating to the period of time for which an affected customer may be backbilled for past consumption that was under-reported due to transponder pre-divide errors. We also approve the terms which would have Questar's tariff clearly reflect this limited backbilling time period. We conclude a six-month backbill period limit, applied to affected customers who were underbilled, is reasonable. We recognize that some of the individual customers who filed individual complaints and some of the group that were underbilled for their actual consumption due to pre-divide errors believe that no backbilling should be allowed. However, regulatory policy and decisions have previously been made to allow billing corrections for service rendered (or natural gas consumed) but not accurately reflected or accounted for in prior bills given to a customer. We find no reason in this record to depart from existing policy.

We have previously had to weigh the interests of an individual customer in regards to circumstances where the payments made by the customer do not account for the actual service provided. We have previously determined that additional compensation may be sought from a customer or a refund made to a customer after the fact or rendition of incorrect bills. Utah Administrative Rule R746-320-3.H already provides that where a gas meter incorrectly indicates the volume of natural gas actually used by a customer by more than three percent, the customer is to be given a refund (if the meter over-reported) or backbilled (if the meter under-reported). This rule reflects a regulatory decision previously made, in balancing the interests of customers and the utility, that incorrect measurement of customer consumption may be rectified after the close of a billing period. There is, however, a time period limitation once an error is recognized. As incorporated in the existing rule, the time period that may be addressed is no more than the six prior months for under-reported consumption and the six prior months (or longer if the error can be shown to originate to a specific date more than six months prior) for over-reported consumption. Even without the Stipulating Parties' agreement on a six month time limitation for pre-divide error backbilling, Rule 746-320-3.H's six month limitation would apply to the individual customers. As the Settlement Stipulation uses a time period limitation consistent with current regulatory policy and the existing rule, we have no difficulty approving a corresponding Settlement Stipulation term. We also conclude it reasonable to allow backbilled customers twelve months, or longer on an individual case basis, in which to pay for the difference between what they were billed and paid compared to the correct amounts. We further concur with the condition in the Stipulating Parties' agreement that no interest should be applied while an affected customer is making payments on the backbilled amount. This is similar to existing Utah Administrative Rule R746-320-8.E's provision allowing payments without incurring interest charges. Accordingly, we approve the corresponding terms of the Settlement Stipulation.

Determining what may be the appropriate time limitation for bill correction is an issue in this case because, usually, pre-divide errors were not discovered until some time had elapsed from when a transponder was installed on a meter and when Questar discovered it was incorrectly reporting the customer's consumption. Information from the Division's July 18, 2008, Report indicates that periods ranged from one to seventy-one months, with the average exceeding twenty-eight months. Information presented at the hearing does not alter the generalization that for an affected customer, usually more than two years passed before a pre-divide error was recognized.

Using Questar's data, the Stipulating Parties calculate that the aggregate amount of unbilled revenues resulting from pre-divide errors, occurring from when the erroneously reporting transponders were installed and their reporting errors recognized, totals $1,081,446. This calculation is based upon a completed survey of all VRT transponders and a forecast or projection of errors anticipated to be identified on the final completion of an ongoing 3.4 transponder survey, based on that ongoing survey's current results. The Utah Rate Payers Association, through Mr. Ball, critiques the parties' calculation of the aggregate amount . He suggests the forecast of 3.4 transponder errors could be flawed and the number of improperly reporting transponders could be greater than projected. He does so selecting some data points and dismissing others, without giving convincing, if any, explanation why some are useful and others not. Apparently, Mr. Ball does not believe any of the calculations so long as the underlying data comes from Questar. However, we do not agree with Mr. Ball that the final 3.4 transponder survey results should vary widely from the projection, nor do we doubt the accuracy of the data provided. We conclude the projection is reasonable, based on the available information. Mr. Ball will need to provide some demonstration beyond his mere suspicion that Questar's data should be rejected as inherently unreliable.

The Stipulating Parties calculate that of the $1,081,446 not billed to affected customers for their actual consumption, and applying a six-month limited backbilling correction, $224,089 will ultimately be recovered from the affected underbilled customers. The Settlement Stipulation proposes that the remaining amount not recovered from the affected customers would be split between Questar ($480,000) and other customers ($377,357). The split would be effectuated by Questar making accounting adjustments to the CET and the 191 accounts totaling $480,000, intending thereby to have Questar bear without any recovery from customers a $480,000 amount. Mr. Ball critiques the Stipulating Parties' agreement through an extension of his critique of their calculation of the $1,081,446. In his view, the $1,081,446 calculation is not the definitive amount actually underbilled. The $480,000 amount to be borne by Questar is definitive, however. He claims any difference between the two will be borne by customers. From his point of view, the actual amount could differ from the $377,357 anticipated by the

Stipulating Parties in their calculations. As we have previously noted, however, Mr. Ball has provided no evidence to establish that the parties' calculations are not reliable. We find their data reliable and the resulting calculations reasonable in quantifying the amounts. Since the Settlement Stipulation requires Questar to provide a final report of all pre-divide errors, any deviation from the calculations, and their magnitude, will come to light and may be addressed as needed.

The Settlement Stipulation's call for explicit accounting adjustments to the CET and 191 accounts, to effectuate the Stipulating Parties' intent that Questar bear a $480,000 burden, arises from the operation of these revenue-expense accounting mechanisms and the distinctive nature of the revenue loss due to pre-divide transponder based errors in consumption measurement. The CET, or Conservation Enabling Tariff Pilot Program, is an ongoing pilot program intended to alleviate what is perceived as a utility's disincentive to support customer conservation activities (sometimes referred to as demand side management or DSM). For a number of years, Questar has observed that, on a per customer basis, its volumes of natural gas sales have generally followed a declining trend. As many of Questar's charges are exacted on a volumetric basis (a rate applied to the volume of gas consumed), reductions in the amount of natural gas consumed by a customer results in a decline in Questar's revenues. Collecting charges and revenues on a volumetric basis is said to give incentive to the utility to encourage its customers to maintain or increase their consumption of natural gas, which is an anathema to the goal of conserving natural gas resources. Despite the self-evident societal benefits and the hoped for support from a good corporate citizen for a public policy to encourage conservation and more efficient use of natural gas resources, the loss of revenues to the utility through customers' decreased usage is said to discourage utility actions to originate, implement and support customer conservation measures.

By application submitted December 16, 2005, in Docket No. 05-057-T01, the Commission was asked to implement a three-year CET pilot program, as a mechanism to overcome the perceived disincentive for Questar to support customer conservation efforts. The CET was presented as an accounting and rate adjustment mechanism by which the Company would be able to receive the same amount of revenues even as its customers implemented conservation measures and decreased the volume of natural gas they consumed. As explained by Questar's witness, "the Company promoted energy efficiency without decoupling too, but with mixed motivation. The Company offered programs promoting energy efficiency while at the same time promoting increased sales. What is needed today and in the future is a consistent message and sustained efforts to affect substantial change in customer-consumption behavior. The CET removes barriers to such action and it should continue." Rebuttal Testimony of Barry McKay, dated August 8, 2007, page 14.

As expressed by the Company's testimony, the purpose of the CET during the pilot period is to overcome Questar's reluctance to support customer DSM efforts and corresponding changes in consumption. There should be "a consistent message and sustained efforts to affect substantial change in customer-consumption behavior." However, pre-divide measurement errors and resulting underbilling of a customer runs counter to the conservation goal. Where a customer is unaware of his actual consumption, implementation of and understanding the results of any DSM effort is frustrated. In the instance of pre-divide errors, the effect is exacerbated as the customer is misinformed of actual consumption. Indeed, this is one of the major complaints of the affected individual customers who provided comment in this case. Because they were informed that their consumption was at one level, while their actual consumption was at a much greater level, they had no idea of their real consumption. They did not have reliable information upon which to consider a change in their consumption pattern, or even to be able to measure a true change in their consumption for whatever actions they did or could have taken.

The decrease in revenues from customers affected by the pre-divide measurement errors and who were underbilled is not from any change in their consumption pattern. The pre-divide errors can be likened to 'false positives.' Whereas these customers' consumption was seemingly being reduced and the reduced consumption successfully being accounted for through the CET, in reality, gas consumption had not been decreased but was twice that reported. The question becomes how to account for a reduction in volumes and revenues that was incorrectly attributed to a change in customer consumption that did not actually exist? The Settlement Stipulation proposes to have affected customers make-up for six months worth, estimated to account for $224,089. The remainder is proposed to be split between Questar and other customers. We conclude, however, that there should be no split and Questar should bear the full remainder.

Where the error results from a measurement error/billing error rather than a change in consumption, we do not understand why any portion would be borne by other customers. Where there is an incorrect reporting of a change in customers' consumption and an incorrect reporting or accounting of corresponding revenues, the entire correction should be reflected in the adjustments made. By analogy, suppose Questar's billing programming had incorrectly placed the decimal point in bills rendered to some customers and affected customers paid only a tenth of what their bills should have been for more than two years before the errors were discovered. And assume affected customers were backbilled, for the natural gas they actually consumed, but limited to gas volumes used during the limited backbilling period permitted in existing rule. Would it be appropriate for Questar to attribute the remaining volumes of natural gas actually consumed, but not billed, as, in fact, reduced consumption by the affected customers? The operation of the CET pilot is an experiment in tracking changes in customer consumption to overcome an alleged utility bias against customer conservation efforts. We do not find it appropriate to be applied to false changes in consumption which, in reality, never occurred.

We conclude the Settlement Stipulation must be modified so that the natural gas volumes, that are not subject to backbilling, are accounted for in a manner to be borne by Questar, rather than the split proposed in the stipulation. As we have noted, the Stipulating Parties have made a reasonable calculation upon which such accounting adjustments can be based and implemented. The Settlement Stipulation also requires Questar to give a final, complete report of the results of the MTIP and any and all transponder errors. Any true up between initial accounting adjustments based on calculations and actual results can be implemented when the MTIP is completed and reviewed.

In summary, we approve the Settlement Stipulation with one modification. For its major operative terms, we conclude it reasonable insofar as it provides that affected customers may be backbilled for up to six months of consumption occurring prior to the discovery of their transponder's pre-divide errors. These customers will have twelve months, and on an individual case basis a longer period of time, in which to pay the backbilled amount. As long as a customer is current in making payments on the backbilled amount, no interest shall accrue on the balance. Questar shall modify its tariff to reflect that transponder related measurement and resulting billing errors are subject to a six-month backbilling limitation, payments may be made over one year and no interest will accrue. Questar will file a final report providing the results of its MTIP and information concerning all transponder related errors discovered. Any individual customer's complaint for transponder reporting errors and related billing that is not resolved by our approval and modification of the Settlement Stipulation may be pursued by the individual customer through a separate complaint proceeding before the Commission as provided for in law, rule or order. We modify the Settlement Stipulation so that the split or sharing aspect term is changed such that the amounts not accounted for by backbilling are borne solely by Questar. The Division will continue to be responsible to audit and verify that the accounting adjustments contemplated by the Stipulating Parties are made, but consistent with the modification we make.

If the Stipulating Parties consider this Order applicable to the last term of the Settlement Stipulation, the Stipulating Parties should meet and discuss this order within five business days of its issuance and attempt in good faith to determine if they are willing to modify the Settlement Stipulation consistent with this order. If any Stipulating Party withdraws from the Settlement Stipulation, they should inform the other Stipulating Parties and the Commission.

Wherefore, we enter this ORDER, wherein we approve and modify the Settlement Stipulation as discussed herein. The Commission's approval of the Stipulation, as in similar cases, is not intended to alter any existing Commission policy nor to establish any precedent by the Commission.

DATED at Salt Lake City, Utah, this 3rd day of December, 2008.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#59739