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ACTION REQUEST RESPONSE

To: Public Service Commission of Utah
Ted Boyer, Chair
Ric Campbell, Commissioner
Ron Allen, Commissioner

From: Utah Division of Public Utilities
Phil Powlick, Director
Artie Powell, Energy Section manager

Date: October 1, 2008

Subject: Docket No. 08-057-20, Formal Complaint of US Magnesium against Questar Gas Company.

RECOMMENDATION

The Division recommends that the Commission notice a scheduling conference to establish a schedule allowing for discovery, filing dates, and, if necessary, hearings.

ISSUE

US Magnesium LLC's (US Mag) formal complaint against Questar Gas Company (Questar Gas) contends Questar Gas acted contrary to its tariff and in a discriminatory manner in requiring US Mag for a specific time period to take interruptible and firm gas supplies from an interconnection with Kern River Gas

Transmission Company (Kern River) rather than at a delivery point that required the gas destined for US Mag to be transported across the Salt Lake Valley when certain conditions affecting Questar Gas existed. US Mag requests that the Commission determine that Questar Gas acted improperly and also that the Commission award \$87,000 in damages to US Mag.

US Mag's formal complaint raises legal and factual issues. The primary legal issues are: (1) Were Questar Gas' actions in compliance with its tariff and with applicable statutes and regulations and (2) if such actions were in compliance with applicable tariff provisions, applicable statutes and regulations, were such tariff provisions and applicable statutes and regulations applied in a discriminatory manner. It will be important to discover the pertinent facts pertaining to such issues.

DISCUSSION

On or about July 14, 2008, US Mag filed an informal complaint with the Division of Public Utilities alleging that, "Questar Gas Company required US Magnesium LLC to have its gas delivered to a specific delivery point off Kern River Pipeline and that requirement caused higher cost for natural gas deliveries to US Magnesium in excess of \$87,000".¹ For relief, US Mag requests that, "the utility make US Magnesium whole for the \$87,000 extra cost that was incurred as part of Questar's actions".²

¹ Informal Complaint.

² Informal Complaint.

In response to the informal complaint, on or about July 28, 2008, the Division informed US Mag by letter that it had reviewed QGC's response³ to the complaint and concluded that, QGC had not violated any Public Service Commission (PSC) rule, state statute, or Company tariff.⁴ In its letter to US Mag, the Division provided a copy of QGC's response and offered to facilitate US Mag's filing a formal complaint if it were unsatisfied with either QGC's response or our conclusion.

On or about August 14, 2008, US Mag filed a formal complaint against Questar Gas. In addition to the increased cost due to taking deliveries off of Kern River, US Mag contended that, Questar Gas acted in a discriminatory manner by singling out US Mag "for such actions rather than spreading such restrictions first to all interruptible and firm transport customers as well as interruptible and firm sales customers."⁵ As Questar Gas explained in its response to the informal complaint, Questar Gas requested that US Mag take delivery from Kern River because of work being done on two feeder lines in the Salt Lake Valley. US Mag contends that QGC's actions were discriminatory "because all customers benefited from the work conducted to improve system integrity. All customers could have and should have shared in the cost of reacting to the system delivery restrictions".⁶ Additionally, US Mag claims that Questar Gas could have taken alternative actions that (presumably) would have relieved the operational constraints to QGC's system due to the work being done and mitigated the need for US Mag to shift from its preferred delivery points to points on the Kern River system.

³ Questar Gas' response to the informal complaint is essentially subsumed in its Answer to Complaint discussed herein.

⁴ Informal Complaint.

⁵ Formal Complaint.

⁶ Formal Complaint.

On or about September 15, 2008, in response to the formal complaint filed by US Mag, Questar Gas filed with the Commission its response entitled “Answer of Questar Gas Company” (Answer). With regard to US Mag’s allegation of discriminatory actions, Questar Gas asserts that “U.S. Magnesium’s claims in this case are not supported by the applicable contract language, the Tariff or the applicable statutes, rules and regulations”.⁷

After highlighting sections of its tariff and the two contracts with US Mag – an interruptible transportation or IT Agreement and a firm transportation service or FT-2 agreement – Questar Gas asserts it “has the right (and perhaps the obligation) to take the action it took here, in order to preserve service to its firm sales service customers and to ensure compliance with all safety regulations”.⁸ Questar Gas further argues that, “Because there were no other similarly situated customers in this instance, and because, historically, other similarly situated transportation customers have been subjected to similar treatment, Questar Gas’ actions here were not discriminatory”.⁹

The Division believes that the complaints filed by US Mag and Questar Gas’ Answer raise several legal or factual issues. The primary legal issues are (1) were Questar Gas’ actions consistent with the relative tariff and contractual provisions and (2) if Questar Gas’ actions were consistent with the relevant tariff provisions, were those actions applied in a discriminatory manner. The factual issues center on the reasons for Questar Gas’ actions including, the two feeder lines purportedly under maintenance at the time, the necessity of having US Mag change its delivery points, and the availability and applicability of alternative actions that may have

⁷ Answer, p. 6.

⁸ Answer, p. 5.

⁹ Answer, p. 6.

spread the costs over a wider base relieving US Mag of the obligation of changing its delivery points. Therefore, the Division recommends that the Commission notice a scheduling conference to establish a schedule allowing for discovery, filing dates, and, if necessary, hearings.

CC Lee Brown, US Magnesium
Barrie McKay, Questar Gas Company
Colleen Larkin Bell, Questar Gas Company
Michele Beck, Committee of Consumer Services