

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Request of the Division)
of Public Utilities for Enforcement Action) DOCKET NO. 11-057-05
under the Natural Gas Pipeline Safety Act) ORDER APPROVING STIPULATION
Against Questar Gas Company) (CONDITIONAL)

ISSUED: June 23, 2011

SYNOPSIS

The Division of Public Utilities (Division) and Questar Gas Company (Questar) submitted a Stipulation resolving issues raised in this Docket. The Commission conditionally approves the Stipulation, as detailed below.

By The Commission:

The Division and Questar submitted this Stipulation to resolve a pending complaint the Division was to file under the Utah Damage to Underground Utility Facilities Act, Utah Code Ann. §§ 54-8a-2 *et seq.* This matter arose out of an incident that happened on March 24, 2009. Although the proposed Complaint alleges a timeline of events leading up to the gas leak, *See Redacted Settlement Stipulation, Attachment 1, ¶¶ 5-8*, the facts contained in the stipulation are minimal. On March 20, 2009 at 10:29 am, Down Under Construction (Down Under) called Blue Stakes of Utah,¹ requesting marking of underground facilities near 1580 East 400 South, Salt Lake City, at a location where Down Under planned to install fiber optical conduit. The Questar locator, however, did not complete the marking in a timely manner. Four days later, on March 24, 2009, Down Under made a second bore, which bore hit a Questar pipeline, resulting in a gas leak. After the gas leak, “certain roads were closed and several

¹ Blue Stakes of Utah is the association designated to coordinate receipt of proposed excavation activities and to provide notice of those activities to operators of underground facilities.

buildings on the University of Utah campus and others nearby were evacuated and several businesses were closed.” *Stipulation*, ¶ 3. David Hassell, the primary investigator for the Division, “concluded that Questar Gas failed to mark its underground facilities within 48 hours of receiving notice,” in violation of Utah Code Ann. §54-8a-5, and in violation of its Standard Practice 5-00-07, violating Utah Admin. Code 746-409. *Id.*, at ¶ 4.

The parties have been in negotiations since the incident, and Questar has reviewed and revised its Blue Stakes policy. Specifically, Questar has changed its locating practices as detailed in paragraph 8 of the Stipulation. Additionally, Questar implemented additional practices, including expanding its spot check program, conducting additional seasonal training on locating and mapping, and increasing the “frequency and coverage of submitting” tear-out reports. *See Stipulation*, ¶ 9. Questar also agreed to pay a fine as detailed in the Stipulation. *See Stipulation*, ¶ 10.

The Administrative Law Judge (ALJ) of the Commission held a hearing in this matter on May 31, 2011. Jennifer Nelson was counsel for Questar. Barrie McKay was Questar’s witness. Patricia Schmid, assistant attorney general, was counsel for the Division. Al Zadeh was the Division’s witness. The witnesses provided supporting testimony for the approval of the Stipulation and answered questions from the ALJ. *See Transcript*, pp. 5-10.

The ALJ of the Commission asked the parties regarding the provision contained in paragraph 9(c) of the Stipulation. Specifically, if the term “increase the frequency and coverage” of the tear-out reports meant Questar would report damages caused by first- and

second-party dig-ins.² Questar's witness stated that the Stipulation negotiations only covered damages caused by third-parties. *See Transcript*, p.11, ll.2-16. The Division confirmed that the negotiations also covered only third-party dig-ins. *See id.* at ll.19-24. However, the Division also stated that Questar has information available about all dig-ins. *See id.* at ll.21-23. Therefore, Questar has the information available to it to report damages from all dig-ins.

Mr. Zadeh testified that damages from all dig-ins may have serious consequences—not just those from third-party dig-ins. He stated: “an incident involving a natural gas pipeline can affect surrounding populations, property, and the environment, and may result in injuries or fatalities as well as property and environmental damage.” *Id.* at p.5, ll.20-24. Given the type of damage-including fatalities, that can be occasioned as a result of dig-ins, the Commission finds the Stipulation should require Questar to report damages from all dig-ins, including first- and second-party dig-ins.

Therefore, the Commission finds this Stipulation is in the public interest and just and reasonable only if the Stipulation is amended to include the submission of reports from first-, second-, and third-party dig-ins.

ORDER

1. The Stipulation is conditionally approved, with the condition that it be amended to include the submission of reports from first-, second-, and third-party dig-ins;

² First-party dig-ins are those caused directly by Questar. Second-party dig-ins are those caused by entities contracting directly with Questar. Third-party dig-ins are those caused by entities performing work for other than Questar.

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- a. If either party wishes to exercise its option listed in paragraph 14 of the Stipulation and withdraw, it shall notify the Commission of such withdrawal no later than the fifth day from the issuance of this Order;
 - b. If the parties desire more time to negotiate or craft amending language, within five days of the issuance of this order they shall notify the Commission and request additional time. If the parties reach an impasse in negotiations, they shall act pursuant to paragraph 14 of the Stipulation, and/or any other applicable provisions.
2. The parties shall submit an amended Stipulation to the Commission within one week of finalizing such Stipulation.
3. Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirements of Sections 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

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DATED at Salt Lake City, Utah, this 23rd day of June, 2011.

/s/ Ruben H. Arredondo
Administrative Law Judge

Approved and confirmed this 23rd day of June, 2011, as the Order Approving
Stipulation of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
D#207455