



October 13, 2017

Heber M. Wells Building  
P. O. Box 45585  
Salt Lake City, UT 84145-0585

*Re: Replacement Infrastructure 2017 Annual Plan and Budget Update –  
Docket No. 16-057-17*

Dear Commissioners:

The Company respectfully submits these reply comments to the Division's Action Request Response regarding Docket No. 16-057-17 dated September 29, 2017. Specifically, the Company disagrees with the Division's analysis and conclusion that Weber County's request to relocate portions of Feeder Line 51 (FL51) is not an exigent circumstance requiring immediate capital expenditures. The Company believes that the vast majority of the Division's conclusions were based on an incomplete presentation and misunderstanding of the evidence surrounding this issue. The Company provides these comments to offer clarification and to further demonstrate that the original request to the Commission is in the public interest and compatible with the objectives and stated requirements of the infrastructure replacement tracker program (Tracker or Program).

## **Introduction**

Replacing Feeder Line 51 this year is due to exigent circumstances and requires immediate capital expenditures and modification of the 2017 budget because: 1) the Company is required to replace a portion of Feeder Line 51 that conflicts with Weber County's road project, 2) Company high-pressure replacement work must occur prior to County crews entering shared workspace in 2017, and 3) the project could not have been included while preparing the 2017 Annual Plan and Budget because a need to relocate had not been identified, the scope of the project was unknown, and the County's timeframe was not established.

The Company addresses and provides additional detail regarding the following ten issues:

1. Type of infrastructure included in the 2017 budget
2. Misunderstanding of Company's accounting system
3. Company's knowledge of County road project in November 2016
4. Official confirmation of conflict on June 29, 2017 and Company requests for information
5. Flexibility of 2017 replacement projects
6. Required completion by year end

7. Communication to regulators
8. Program schedule
9. Written record
10. Exigent circumstance

### **1. Type of infrastructure included in the 2017 budget**

On page 3 of its Action Request Response the Division states that “[it] discovered in DR Response 1.08 that PV0004 is a high pressure Service Line Tap off FL 26, not a Feeder Line; therefore, it should never have been included in the Tracker.” The Division misunderstands the Company’s data request responses. To clarify, the Company has provided a clearly marked map and explanations as DEU Attachment 1. As shown, PV0004 is a regulator station. It was not included in the 2017 budget and the Company has not sought to include it now. The “high pressure service line tap” referred to by the Division is, in actuality, a branch of FL 26 that connects to the PV0004 regulator station. These branches (tap-lines) are part of the feeder line system and have always been included in the official Master List and schedules provided by the Company each year. They are also included in the risk-assessment algorithm developed specifically for the Tracker.

This particular portion of Feeder Line 26 was shown on Page 1 of Exhibit 2 of the 2017 Plan and Budget filed on November 11, 2016. The FL26 footage on this exhibit ties directly to the Master List of footages included in the Tracker.

### **2. Misunderstanding of Company’s accounting system**

On page 5 of its Action Request Response the Division cites to a November 17, 2016 email stating that a purchase order of \$80,000 provides evidence that the Company knew the project would occur in 2017. The document referenced in the email is not a purchase order, it is an email generated within the Company’s accounting program, PeopleSoft, when a capital project number and code is set up. These projects are required so that engineers accurately track their time. This project was initiated to capture potential pre-construction costs such as design, engineering, surveying and drafting. These projects are often setup years in advance of construction and do not indicate that actual construction will begin in any specific year, if at all. Oftentimes, costs in projects do not result in capital construction taking place and the dollars accumulated are written off as an expense. At the time this project was set up it was unknown whether construction would be necessary. The claim that this “demonstrates that the Company had already planned for the work to begin” represents a misunderstanding of the Company’s accounting practices.

### **3. Company’s knowledge of County road project in November 2016**

On page 5 of its Action Request Response the Division suggests that the Company relied upon a November 18, 2016 communication with the County to support its claim that modifying the schedule to include Feeder Line 51 was due to exigent circumstances. In fact, the Company does not consider the November 18, 2016 communication to be an integral component of what makes the 2017 replacement of FL 51 exigent. As noted above, the replacement of FL 51 in 2017 is exigent because the County is requiring an immediate action by the Company and its necessity, cost, and

scope were unknown until midway into 2017. In referencing the November 18, 2016 communication, the Company sought only to provide some historical context to the conversations that were taking place around Feeder Line 51<sup>1</sup>. On that day, the Company notified Weber County by email that it had verbal indications from CRS Engineering, Weber County's hired civil engineering firm, that the county road project might begin in 2017.

The Company did not obtain sufficient information until June 2017 to determine whether FL 51 conflicted with the planned county road project, what the scope of any conflicts would be, or a timeline for the construction. Absent this information, the Company could not include the project in the 2017 budget.

Additionally, on pages 6 and 7 the Division selectively relies on a small subset of the hundreds of emails that were provided by the Company to the Division, and ignores evidence that clearly supports the history provided by the Company. The characterization of the emails the Division quotes in its reply comments is directly contradicted by other emails, and sometimes even within the same emails relied on by the Division.

The Division references Weber County "taking issue with the Company's implication that it may have just been 'given the green light to start design for the next segment'" by quoting a November 21, 2016 email from a Weber County representative. In this email, the Weber County official provided a history of early phases of FL 51 (one of which was completed in 2016 as a Tracker project), and referenced an August 26, 2016 call with a Company representative about getting designs ready for construction in the summer of 2017. The Division failed to provide the Company's emailed responses indicating to Weber County that the Company had not been notified of any conflicts between FL 51 and the planned road project, and that even if the county road project design was underway, a conflict with the Company's facilities needed to exist in order to move forward with a relocation project.

For the Company to understand how much line, if any, needs to be relocated within a given timeframe the project owner, the County in this case, is responsible to identify the sections of line that would be impacted. For the County to identify those sections it engages in a process referred to as potholing. Potholing is the process where underground facilities are uncovered and physically inspected. The County completed its potholing and final determinations about conflicts in June 2017.

The full body of emails shows that potholing continued to be a major bottle-neck in the County's road design well into 2017 and its plans and funding were not definitive. As stated by that same Weber County official in a December 2, 2016 email "Since my last email there has been a wrinkle in funding on our end so we probably won't be starting as early as we thought before. We are hoping for June 2017 at this point but nothing solid right now, I hope to get this wrinkle ironed out by next week..." The prior indication had been April 2017. An email as late as April 27, 2017 indicated that the county would not be finished potholing until the end of Summer of 2017.

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<sup>1</sup> The Company notes that it filed its 2017 Annual Plan and Budget on November 11, 2016. In its July 13, 2017 and August 30, 2017 letters to the Commission the Company mistakenly stated that the budget was filed on November 15, 2016 (which is the date the budget was due).

The Company believes that a full and fair review of the correspondence can confirm that the Company could not determine the scope of the FL 51 relocation until mid-2017. DEU Attachment 2 provides the correspondence between Weber County and the Company from November 2016 to July 2017.<sup>2</sup>

#### **4. Official Confirmation of Conflict on June 29, 2017 and Company Requests for Information**

On page 7 the Division states that “there is no evidence of [the June 29, 2017] confirmation from Weber County officials anywhere in the documents provided by the Company and the Division has no way of verifying the validity of this information. Neither did there appear these ‘requests’ to Weber County that were allegedly not answered concerning the project timeline or scope prior to June 29, 2017.” This statement is incorrect.

In order to provide full transparency around the June 29, 2017 confirmation and the Company’s request to Weber County for a timeline or scope, the Company has provided excerpts from pertinent emails below. These are excerpts of the emails provided in DEU Attachment 2. For context, CRS is the civil engineering firm hired by Weber County to provide engineering for the road project. The Company has highlighted and italicized specific requests for a timeline or scope.

On **November 18, 2016**, following verbal indication that FL51 would need to be relocated in 2017, The Company sent an email to Weber County stating:

“we need a letter from Weber County stating their proposed project and their need for us to relocate our gas pipeline. *Any other information on schedule, scope, and deadlines would also be much appreciated.*”

At this point, the Company did not have information related to scope of work, schedule, or deadlines.

On **December 2, 2016** the Company sent an email stating:

“As it currently stands, Questar Gas will not be able to have the line relocated, if required, prior to April 2017. *We understand CRS is still finalizing plans and conducting pot holing and that we would be receiving the information in a few weeks. Once we receive this information Questar can analyze the effects of this project on our 2017 work load and budget.* We think it would help greatly for us to schedule a meeting with Weber County, CRS and Questar to clarify each other’s expectations and determine a path going forward.”

On **December 2, 2016** Weber County officials confirm that they are working with the Company to provide designs for phase 2 of FL51, stating:

“I understand that *people from Questar have been working with Mary at CRS [County’s hired civil engineering firm] in an effort to get a design put*

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<sup>2</sup> Should the Commission like to review the full 229 pages the Division received the Company will provide them.

*together* in the corridor she has reserved for you as she did on Segment 1.”

On **April 5, 2017** after the timeline or scope had not yet been provided due to delays in Weber County’s potholing, a Company representative sent an email to Weber County stating:

“Personally, I think it might be advantageous, for both parties, to go through your entire corridor and *get the gas line potholes completed first. Once this is done, we can get the ball rolling if a relocation is going to be necessary*, while along a parallel path, you are finishing the rest of your subsurface investigations to finalize your design. I feel like this would give us the time needed to get things one on our end prior to your design being ready for construction. It is a bit difficult to convey these ideas through email so please give me a call to discuss in detail.”

County officials responded to this recommendation that same day, and over the course of more emails this suggestion was discussed.

On **April 11, 2017** a Company representative sent an email to Weber County officials stating:

“I wanted to reach out to you for an update on conversations we had last week. *I was wondering if you could provide me with a tentative schedule for restarting/completing the Questar HP potholes? Also, when we met in person, I was told I could get the preliminary design showing the HP gas line at 4’ deep. If you remember, I wanted this to start conversations within Questar about the potential impact, thinking that as potholes are completed the depth of our line can be updated as well as the impact due to conflicts.* Lastly, are you the best person to remain in contact with for this project?”

Later on that same day, Weber County responded:

“I do not have a schedule on the completion on your potholes. After talking more with my guys doing the potholes, the backfill was only part of the problem. Sounds like there is a strike rule of saturate the ground, suck, saturate, suck, saturate, suck until they reach the line which has been 4-5 feet deep. In an 8 hour day they're only able to get 3 potholes done per day. With 80 between the bridge and 6700 West and who knows how many more from 6700 West to 11000 West we figure it will take most of the summer just to do the gas potholes. For this reason, we've decided to hire out your potholes. Mary with CRS is working in getting those bids. Mary is also the one to contact for the preliminary design. I am the project manager so you're more than welcome to contact me with any question. You can also contact Mary, I've CC'd her in this email, she is a great resource as well.”

On **April 24, 2017** a Company representative sent an email to Weber County stating:

*"I just wondering if I could get an update on the progress with utility design. Our director was asking for some information last week and I didn't have much to tell him. I think he and the PSC are get eager to know if we will have to reallocate budget to relocate the pipeline this year. Any info you can provide would be most helpful. Also, I know that some of the HP gasline has been potholed. I was wondering, of those crossings that have, how many direct conflicts do we have with proposed utilities. Mary, I was wondering if you could send me a draft design PDF showing our pipeline at 4.5 ft deep (except the areas that have been potholed already). This will give me a starting point for the magnitude of potential conflict."*

On **April 27, 2017** a Weber County official responded to this email, stating:

"I apologize, I thought I had explained what was happening on our end a couple weeks ago. Gas potholes have been incredibly difficult at best for my county crew. It takes them an entire day to get 3 potholes done. There are 80 gas pothole between the bridge and 6700 West and who knows how many between 6700 West and the end of the project. If my crew focused on just gas potholes as you requested, it would takes them all summer to just get the gas done. I know there are 100 pothole of other utilities between the bridge and 6700 West and I don't know how many to complete the corridor from there. It just didn't make sense for my crew to struggle through it so CRS did some checking with professional pothole companies. Turns out they can do 9 potholes on a gas line in one day. There were two companies in the area capable of the doing the work, KCI and UMS. Both had previous obligations to complete before they could start on my work, we chose the company who could get to us to the quickest, even though they cost a little more. UMS will be starting next week and at 9 pothole per day, it will take them 9 days to get to 6700 West. Which is where my crew has completed to. My crew is working their way west and UMS will do the same. We will get you information as soon as we have it.

My understanding is that my crew had done 6-10 of the gas pot holes before I stopped them. My surveyor was planning to send me 1 file with all the data to make things easier for CRS. He was going to look after they came in last night and let me know how many gas potholes were done for sure. He can probably let me know the depth of your line when I talk to him but with only a few pothole I'm sure we don't have enough information to tell you if there are conflicts or not.

I know Mary is working on getting you the profile you asked for in the meeting we had. My concern with that profile is that the only confirmed information is going to be the storm drain, everything else is going to be based on as builts. We learned from Segment 1 that those as builts weren't accurate and that's what's led us to the potholing.

I've done everything I can to expedite the potholing and get information to you and CRS as quickly as possible. If you have additional idea for me, I'm open to them. My construction season is getting smaller and smaller by the day."

The representative had previously provided suggestions to speed up the potholing process, this is why the Weber County official asked if he had any additional ideas.

On **May 8, 2017** a Company representative sent an email to Weber County officials stating:

"Was just emailing you for an status update. In the last email you sent on 4/27 you stated that UMS would be starting the QGC potholes in a week. How are things going there? When do they anticipate having things done?"

On that same day a Weber County official responded:

"I watched them out there all week last week, I'll find out what timeline is and get back with you."

On **May 15, 2017** a Weber County official sent an email to the Company stating:

"It sounds like UMS will have your potholes completed today."

Later that same day, the Company representative sent an email in response stating:

"... I was wondering if you could put together a high level schedule showing when you anticipate having a design to me, when you anticipate finalizing your full design, when you propose to start construction, and length of road segment you want to get constructed this year. I am getting pressure on my end because, like you had mentioned, the construction window is quickly closing. We are up against similar constraints as you and if this comes to a relocation on our end, we are going to need time to get a design and get it under contract prior to your construction date. Let me know what you can."

On that same day, the Weber County official responded

"I don't have that yet, I can ask Mary to see if she put something together but honestly, we are still waiting on potholes. You asked me to get yours done first, they should be done today. I still have plenty of other potholes left to do as are working as quickly as possible to get those done. We can get you the pothole information as soon as we get it though."

On **May 18, 2017** the Company representative responded with:

"Thanks ..., I am going to try and put together a preliminary schedule for our pipeline to try and determine when we will need information to complete our project design and construction prior to the road

construction. *Do you have any preliminary dates and/or timeframes that you are targeting for the follow:*  
*Road design ready for questar review*  
*Road design drawings complete*  
*Project bids*  
*Project starts*  
*This will help me evaluate our time frame if this thing comes to a full relocation.”*

On **June 1, 2017** a Company representative sent the following email (edited due to its length):

“...Our existing FL51 pipeline could possibly (yet to be verified) be in conflict at numerous locations along the said widening project...*I am wondering if you plan to bid out and construct this Phase II, 5 mile segment all together or will you be breaking it up into smaller construction segments? And are you still planning to construct this year? I am just trying to gauge the budget, schedule, and resource impact on our end. I'm not sure if we should be thinking about this entire 5 mile segment as a whole or as separate segments, constructed over separate years.* Last, I thought it would be beneficial to you if I put together a preliminary schedule assuming a pipeline relocation were to happen. This would give you an idea of what it will take on our end to get our project ready for construction. For the sake of gauging the duration, I put the first task starting today (6/1/2017). Also, *this schedule assumes that we receive a CAD file similar to last year, which would allow us to accelerate the design phase.* As you can see from the attached schedule, if we were to receive your design today to start evaluating the conflicts, realistically we wouldn't be starting relocation construction until the 4th week in August. Optimistically, this could accelerate a few weeks. Also, this schedule does not include a construct activity and duration since, at this time, I don't know the length of the pipeline segment in conflict.”

Later that same day, a response was forwarded from Weber County's engineering firm responding with:

“He asked about bidding it all out together, and that won't happen. I believe we'll be bidding out 2 miles this fall. The schedule seems reasonable for a utility company and it sounds like there are work arounds.

I just talked to our SL office about the Questar potholes and they are still evaluating. They said to give them until tomorrow afternoon to understand if they are going to be hitting that line significantly enough to relocate it. Can I get back to you on that?”

On **June 1, 2017**, in response to its April 24, 2017 request for information, Weber County sent information received from an underground utility service company. The Company responded over the course of the next week as it analyzed the information.

On **June 13, 2017**, Weber County's engineering firm sent a spreadsheet that defined potential conflicts on 12<sup>th</sup> street in Weber County. The Company sent an email on June 15, 2017 asking if these areas would be bid out in the fall of 2017. The engineering firm responded with: "Yes. There may be a couple conflicts at the very end that we don't touch. Our hope is to get to Station 160 (about 7500 West) with this submittal. The final cut off point has not been determined yet."

On **June 19, 2017** a Company representative sent an email requesting a meeting with the County to go over conflicts and evaluate options, stating:

"After reviewing this information and discussing with my boss, I feel like it would be a good idea to have another coordination meeting. I think it would be very beneficial to discuss and coordinate timelines."

The response from Weber County that same day stating:

"Sounds good. What is your availability the 28th, 29th & 30th?"

The Company responded stating:

"I'm available anytime on the 28th or 29th."

On **June 29, 2017** that meeting was held, options were discussed and evaluated, and it was determined that relocation was the only acceptable remedy. Also on June 29, 2017 a Company representative sent an email to all involved in the meeting (including Weber County) summarizing the key points and action items discussed in the meeting, as follows:

"All,

Thank you for meeting with me today. I feel like it was a very productive meeting. I wanted to send out an email to summarize the key points and action items discussed. Please respond to confirm or add anything I might have missed.

1. I was able receive confirmation today, that roadway construction on 12st street start undoubtedly start this year. Therefore, Dominion Energy will have to relocate its existing 8" pipeline due to conflict with the new roadway, this year.

- a. If the county elects to start construction by CMGC, construction could start as early as mid-August. I expressed concerns with this as there is virtually no way that we can have design and contracting complete let alone enough relocation compete to be out of the road contractors way

- b. If the county elects to bid, construction would more than likely start in November. This is more desirable for us as it will allow for more time to get our construction crews to get out of the way of roadway construction.

2. Mark is going to send me CAD files to assist with accelerating our pipeline relocation design drawings
3. Upon receiving CAD files, I will start design immediately
4. I will be providing a schedule shortly
5. Matt was going to start inviting me to your coordination meetings.

I believe that cover it.

Thanks again,..."

A Weber County official responded to the Company's June 29, 2017 email on **July 10, 2017** stating the following:

"Yes you are correct, the project does need the high pressure gas line to be relocated from the Weber River to 7900 West resulting in approximately 15,100 linear feet of pipe being relocated..."

The Company believes that these emails provide ample evidence that it did indeed request, on numerous occasions, information around the timeline and scope of the project. Once the needed information was received, the Company notified the Commission and worked to complete its final designs and budget. Also, the June 29, 2017 meeting is referenced in multiple emails.

On page 8, the Division states that it "believes it is disingenuous for the Company to blame the County for the apparent delays." The Company does not wish to "blame the County" for any delays. Its purpose in providing this historical context was only meant to share the facts around FL51. This is in no way meant to be critical of Weber County, but it does demonstrate support for why this project constitutes an exigent circumstance.

The Company would also like to reiterate that its ongoing relationship with Weber County remains productive, collaborative, and positive.

##### **5. Funds Already Committed Leaving Little Flexibility**

On page 9 of its Action Request Response, the Division states that the "Company is in the practice of changing FL plans, budgets and schedules" and gives the example that it altered the priority of its first ten feeder lines between April 27, 2017 and May 1, 2017. Although the prioritization model allows the Company to continuously review safety, compliance, and growth in scheduling feeder line replacement, the prioritization change referenced above did not occur, nor did it have any impact on the current year's construction projects. The Division is confusing the results of the HP Replacement Program Evaluation Criteria, which is updated annually and was provided on slide 34 of the April 27, 2017 technical conference presentation, with the current replacement schedule provided as Confidential Attachment 2 of its May 1, 2017 letter to the Commission. These two lists are always different due to the factors listed on slide 36 of the same technical conference presentation.

The Division also gives the example that the Company “changed the total length of the FL 21 replacement from 38,273 LF identified in December 2016 to 54,280.” The Company explained this difference to the Division in the response to DPU 1.09:

“The 38,273 footage amount represents the amount of pipe the Company forecasted to be placed into service in 2017. The 54,280 represents the total amount of pipe to be installed in 2017. The difference represents the amount of pipe installed but not yet in service. This pipe will be placed in service in 2018.”

The Company did not change its forecast as the Division suggests. The forecast remains at 38,273 feet being placed into service/retired in 2017, consistent with the budget figure provided. The 54,280 feet is the amount of footage the Company will work on, or install, but will not necessarily place into service in 2017. The distinction is important because only pipe that is in service impacts the “Master List” from one year to the next and is included in the rate adjustment filings.

As the Division notes, the Company has in year’s past been able to delay or rearrange certain projects in order to accommodate fluctuations. It is important to understand that each construction year is unique. For example, in many previous years, the Company has had multiple feeder line projects in one year that began at different times during the year with differing budget amounts. This year, the Company planned for one significantly large project that began at the beginning of the year and has accounted for the majority of the Tracker budget. Rights-of-way and easements have been secured, permits obtained, work sites established, pipe purchased, and most importantly, neighborhoods disrupted with open trenches along roadways. In this current state, the Company could not reasonably stop work on FL21 in order to mobilize to another project. The Company was able to manage smaller projects to provide \$1.47 million to FL51.

In its review of the easement and rights-of-way agreements, the Division referenced relatively small dollar amounts for temporary construction easements. The Division assumed that the nominal consideration referenced in the easement agreement was the total value of the agreement. However, the easement agreements require the Company to pay “additional consideration.” This additional consideration varies and is the most substantial part of the value of the agreement. Public documents generally do not contain specificity with regard to consideration so parties can maintain confidential negotiations. This also preserves the Company’s bargaining position in future negotiations for temporary and permanent rights of way.

Although the Division notes that the Company took no action to revise the budget, the Company believes that the many emails and correspondence with Weber County to obtain the necessary information to begin to create a budget proves otherwise.

## **6. Required Completion by Year End**

The Division states that it found “no official notification from Weber County requiring replacement of Feeder Line 51 in 2017, or any requirement to finish by year-end from Weber County.” In the emails provided above, there are several that support the 2017 timing.

On June 13, 2017 CRS Engineers provided a spreadsheet that detailed all the potential locations in conflict with FL51 on 12<sup>th</sup> street in Weber County. A Company representative responded on June 15, 2017 stating:

“Thanks for this information. Just to clarify, these conflict points are within the two mile roadway segment planned to bid out this fall?”

The response that same day stated:

“Yes. There may be a couple conflicts at the very end that we don’t touch. Our hope is to get to Station 160 (about 7500 West) with this submittal. The final cut off point has not been determined yet.”

And on June 29, 2017 the Company emailed its notes from a meeting with Weber County officials that day. The notes show that the County was contemplating two potential construction start periods, one in August and one in November. The Company favored November as it provided more time to relocate its line and have its crews out of the County’s way when road construction began.

In addition to these examples, Weber County is very explicit about completing as much as possible in 2017 throughout the correspondence provided. The scope and timing of the project have resulted directly from collaboration with the City and its road plans.

On page 11 of its Action Request Response, the Division also quotes an internal email from a project coordinator to suggest that the Company is pushing for a 2017 completion to earn a return on its investment. However, the Company will file its second and final 2017 rate adjustment on November 1, 2017 for plant that is in service as of October 31, 2017. This filing will not include any FL 51 investment because the investment will not be in service until well after the filing has occurred. While the project coordinator may not have understood the regulatory process for Tracker recovery, it is always appropriate to earn a return on used and useful plant in service.

## **7. Communication to Regulators**

On page 12 of its Action Request Response the Division states that “[t]he Company was aware, had allocated funds, made plans, and should have informed regulators along the way.” The Company believes it provided ample and timely communication to inform the Commission and the Division that Feeder Line 51 may be a capital project as evidenced by the Company’s presentation in the April 27, 2017 Technical Conference. In its letters to the Commission dated July 13, 2017 and August 30, 2017 the Company confirmed the project would occur in 2017. The Partial Settlement Stipulation approved in Docket 13-057-05 provides the framework for communication and reporting. The Company has not only complied with that stipulation, but has provided more communication and updates than required regarding the circumstances around the FL 51 relocation. In any case, disagreements as to timing of communication hold little bearing on determining whether the circumstances for including this project in the 2017 Tracker budget are exigent.

## 8. Program Schedule

On page 12 of its Action Request Response the Division states that FL51 was originally scheduled to be constructed in 2024. The Company agrees. However, as a result of ongoing review and budget limitations it was recently scheduled to be replaced in 2035.

As to the total duration of the Program, the Division states that it “does not believe that the Tracker end date has been extended nor that the order from the rate case has been altered as the Company has implied.” The Company does not believe that a change to the replacement schedule represents an alteration of the order in Docket No. 13-057-05. Exhibit 7 to the settlement stipulation was the “currently-anticipated” replacement schedule at the time and states that “[t]he years scheduled for replacement as set forth above are subject to change, revision and reorganization. Commission approval is not required for such change, revision, or reorganization.” In addition, the language in the Partial Settlement Stipulation approved in that docket introduced Exhibit 7 as the “currently-anticipated” schedule, implying that changes and updates were anticipated.

The Company believes that the history around the Tracker program is helpful to provide context. In Docket No. 09-057-16 the Company defined the type of infrastructure that would be scheduled for replacement under the Tracker. In filed and live testimony and presentations before the Commission, the Company provided examples of the types of high pressure feeder lines that would be replaced. The Company also explained that “[t]his is not one, neat, tidy project that can be identified and completed within the framework described in § 54-7-13.4. Replacing this type of aging infrastructure will take many years and will occur incrementally throughout that period.”<sup>3</sup> The Company explained it was in the process of identifying the specific pipe segments that would be scheduled for replacement and that replacing aging infrastructure was a dynamic process<sup>4</sup>. Parties agreed to tariff language that allowed for schedule and prioritization changes<sup>5</sup>.

Pursuant to Commission Order in Docket No 09-057-16, the Company reported annually which pipelines would be replaced in the upcoming year and how much would be spent on these replacements in comparison to the \$55 million budget. During the three years following this initial implementation (2011-2013), the Company completed the replacement of thousands of feet of high pressure feeder lines and complied with the reporting and spending requirements established in Docket 09-057-16<sup>6</sup>. The Division’s audit of the program following this initial three-year period found that “the Company has fulfilled the reporting requirements as stated in the tariff” and “the program is beneficial to both ratepayers and shareholders.”<sup>7</sup>

Following this initial three-year period, the Tracker was expanded to include 70 miles of specified intermediate high pressure (IHP) belt mains and the annual budget was

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<sup>3</sup> See Docket No. 09-057-16, QGC Exhibit 1.0, Direct Testimony of Barrie L. McKay page 13.

<sup>4</sup> February 10, 2010 Technical Conference, Docket No. 09-057-16.

<sup>5</sup> Tariff Section 2.07.

<sup>6</sup> 2011-2013 spending cap (\$55M plus inflation) was \$183M compared to actual spending of \$172.4MM

<sup>7</sup> Infrastructure Tracker Pilot Program Report, dated June 17, 2013, Division of Public Utilities

increased to \$65M adjusted for inflation. In addition, the parties defined the total scope of work in the program and provided that scope in the “Master Lists” of high pressure (HP) and IHP pipelines, and also developed criteria used in prioritizing replacement schedules. The Master List is updated annually. The Parties also included what was described as a “currently-anticipated” schedule as Exhibit 7. This schedule was calculated based on historical average costs of replacement and was submitted with the statement that “[t]he years scheduled for replacement as set forth above are subject to change, revision and reorganization. Commission approval is not required for such change, revision, or reorganization.”

The Company’s position is that a feeder line replacement schedule is never set in stone. It is an evolving process that includes prioritization based on safety, ongoing PHMSA and environmental compliance, and coordination with our communities, customers, and land owners.

## **9. Written Record**

On page 13 of the Division’s Action Request Response, the Division accuses the Company of “using the Commission as a stick to coerce local governments to compose letters ‘requiring the Company to do’ specific projects.” The Division references two emails (quoted in section 4 above) requesting written confirmation of the project scope or timing in order for the Company to maintain a written record surrounding its Commission approved Tracker mechanism. The Company’s intent was to document its obligation to move a line if it was in conflict with Weber County’s road project. The Company is mindful of the role of the Commission and the role of information to support the Company’s decision making-process. The Division’s ongoing discovery process requesting documentation<sup>8</sup> and this response to the Division’s Action Request Response show the necessity for the Company to request and keep records.

Weber County understands it is under no obligation to wait on Commission approval to begin construction projects. In fact, as provided in its ordinance, Weber County is obligated to give the Company no more than five days’ notice to relocate its facilities. In a December 2, 2016 email, Weber County referred to its ordinance which states: “Any person owning, managing, or operating a utility within, under, along, over or across a county road, highway or right of way, shall hereinafter have full responsibility for the repair, replacement or relocation of the utility where the utility is damaged or a relocation is needed as a result of a rebuilding, reconstruction or realignment of a county road or highway. Within five (5) days after notice from the County, the person owning, managing or operating such utility shall make all the necessary repairs and relocations at his own expense. If the person fails so to do the county may have the work done and the person shall be obligated to pay for it.”

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<sup>8</sup> As part of its discovery in Docket No. 15-057-19, the Division issued data request DPU 4.01 asking the Company to “provide a copy of the document from Weber County ‘requiring that the line be relocated to accommodate a road project’” Such documentation is often part of discovery, and as such the Company seeks to receive written documentation when parties, such as Weber County, communicate to the Company its obligation to relocate infrastructure.

## 10. Exigent Circumstances

Exigent circumstances demand immediate action. Modifying the Tracker schedule to relocate this portion of Feeder Line 51 this year was in response to exigent circumstances that demand immediate action. As shown in the County ordinance provided above, the Company is obligated to replace its Feeder Line.

The Division's conclusions and recommendations are based on an incomplete review and biased presentation of the correspondence in its possession, misunderstanding of Company records, and incorrect assumptions about project flexibility and commitments.

The Company requests that the Commission review all of the evidence provided and, based upon that evidence, approve the Company's requested budget because of exigent circumstances.

Respectfully Submitted,



Barrie L. McKay  
Director  
Rates and Regulation

cc: Division of Public Utilities  
Office of Consumer Services