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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION)	Responsive Post-Hearing Brief
OF QUESTAR GAS COMPANY TO MAKE)	of the Office of Consumer Services
TARIFF MODIFICATION TO CHARGE)	
TRANSPORTATION CUSTOMERS FOR)	Docket No. 17-057-09
PEAK HOUR SERVICES)	

The Office of Consumer Services (“Office”) hereby submits its Responsive Brief (“Responsive Brief”) in Response to the Post-Hearing Brief (“Brief”) submitted by Questar Gas Company (“Questar”) on October 27, 2017.

In its Brief, Questar correctly identifies the two critical issues that the Utah Public Service Commission (“Commission”) should address in this proceeding considering the issues raised and addressed during this proceeding and at hearing. Those issues are:

- Was it prudent for Questar to enter into a contract with Kern River Natural Gas Transmission Company (“Kern River”) to provide the equivalent of 100,000 Dth/day of peak-hour service to Dominion Energy’s system for the 2017-1018 heating season?
- Should an appropriate share of the cost associated with the Kern River peaking service be allocated to transportation customers?

In addressing these issues and the assertions made in Questar’s Brief, the Office provides the following specific responses:

- **What implications, if any, arise from prior IRP discussions and representations made by Questar relating to peaking service needs and possible solutions?**

In its Brief, Questar offers a lengthy discussion about when issues related to the need for additional peaking services may have been addressed and what solutions may have been identified and discussed. While the Office appreciates Questar's presentation of information associated with planning processes, the IRP processes are informational only, providing an opportunity for the utility to discuss its planning decisions. The IRP processes are required in order that the public and the regulatory community might be more fully informed as to what costs a utility is planning to incur, with the purpose that such information "may be used to evaluate the company's request for recovery of gas costs in various proceedings, including pass-through and general rate cases."¹ *No final or advisory Commission opinions result from engaging in the IRP process.* Nor can any evidentiary conclusions be drawn in decisional dockets from representations unilaterally made in an IRP proceeding. Ultimate decisions about prudence and cost recovery are left to the individual pass-through and rate proceedings where such issues can be appropriately raised and resolved.

As was pointed out in the pre-filed surrebuttal testimony of Office witness, Gavin Mangelson, "summary slides and discussions about new resource acquisitions serve as a supplement, not a replacement, for cost-benefit analyses and other evidence filed with the Commission in a docket specifically designed to review the resource acquisition decision and associated costs." (Exhibit OCS-2S Mangelson Surrebuttal, at lines 67-70.)

An IRP docket, with its planning representations and technical conferences, does not provide an opportunity for other parties to raise issues related to the prudence of actions a utility intends to take particularly when resource decisions are not yet final and are not supported with cost

¹ Report and Order on Standards and Guidelines for Questar Gas Company, Docket No. 08-057-02, at page 22.

benefit analysis evaluating various alternatives. Nor is the initial phase of putting interim rates into effect in a generic pass-through proceeding the appropriate forum to question the prudence of a specific contract listed as a supplier non-gas cost since rates are not final and will be scrutinized in the forthcoming audit and review.² Notwithstanding Questar's representations in its Brief, this proceeding provides the first realistic opportunity for other parties to raise issues concerning the prudence of entering into the Kern River contract, a contract identified as providing peaking service for both general service and transportation customers.

As with any tariff filing seeking to have new services and new rates approved, Questar bears the burden of proof that the services being sought and the costs associated with such services meet the required standard of being just and reasonable. Questar's initial application should have provided complete supporting evidence of the reasons this service is being sought, the reasons the Kern River contract was determined to be required to provide this service, and justification for the costs that would be allocated to the service that would be provided transportation customers. While IRP presentations are reasonable inclusions as part of that evidence, providing a full evidentiary explanation only in response to questions raised by other parties in the rebuttal phase is not the proper order for a Commission proceeding and should not be endorsed as a reasonable approach.

- **Was it prudent for Questar to enter into a contract with Kern River Natural Gas Transmission Company ("Kern River") to provide the equivalent of 100,000 Dth/day of peak-hour service to Dominion Energy's system for the 2017-2018 heating season?**

The Office has no objection to having the issue of prudence resolved in this peaking transportation services docket where the costs associated with the proposed new service for

² Not opposing interim rates to become effective in a pass-through proceeding cannot be construed as having waived the right to challenge the prudence of a specific contract identified as a supplier non-gas cost.

transportation customers has raised the question of whether entering into the Kern River contract was prudent. Because a prudence challenge has been raised, the scope of issues related to why the questioned contract was executed, including issues related to underlying assumptions about design day criteria, must be squarely addressed by Questar and the utility must bear the burden of showing its actions were prudent. *Comm. of Consumer Serv. v. Pub. Serv. Comm'n*, 2003 UT 29, ¶¶ 12,14, 75 P.3d 481; *Utah Dep't of Bus. Regulations v Pub. Serv. Comm'n*, 614 P.2d 1242, 1245 (Utah 1980).

This would not only include evidence supporting the rationale for entering into the contract but evidence showing that the cost implications to utility customers would meet just and reasonable standards. In its prefiled testimony and during the hearing, the Office has consistently stated that it had concerns as to whether the evidence showed that it was necessary to enter into the Kern River contract. These concerns were addressed specifically by Office witness, Mierzwa in his prefiled surrebuttal testimony. Specifically, Mr. Mierzwa questioned whether the assumptions used to determine the needs of the design peak day that Questar uses was reasonable.

The Utah Code identifies the legal standard that must be met when the Commission considers the prudence of actions taken by a regulated utility. Section 54-4-4(4)(a) of the Utah Code reads:

If, in the Commission's determination of just, reasonable or sufficient rates, the commission considers the prudence of an action taken by a public utility or an expense incurred by a public utility, the commission shall apply the following standards in making its prudence determination:

- (i) ensure just and reasonable rates for the retail ratepayers of the public utility in this state;
- (ii) focus on the reasonableness of the expense resulting from the action of the public utility judged as of the time the action was taken;
- (iii) determine whether a reasonable utility, knowing what the utility knew or reasonably should have known at the time of the action, would reasonably have incurred all or some portion of the expense, in taking the same or some other prudent action; and

- (iv) apply other factors determined by the commission to be relevant, consistent with the standard specified in this section.

After reviewing the design day criteria and the likelihood of individual events included in the design day analysis occurring simultaneously, Mr. Mierzwa concluded:

Based on my analysis, I conclude that the Company's design day criteria that include both a maximum HDD level plus the highest maximum wind speed and highest average daily wind speed entails reliance on an extreme set of circumstances that statistically, does not have a reasonable likelihood of occurrence. (Exhibit OCS-1S Mierzwa Surrebuttal testimony at lines 81-84)

Mr. Mierzwa's analysis of the peak day design criteria, the extent of the possible problem being identified by Questar, and the possibility of other solutions being brought to bear to address the operational issues, resulted in the Office taking the position that it could not support the prudence of entering into the Kern River contract to address the possible operational issues. References made by Questar in its Brief concerning Mr. Mierzwa's hearing testimony attempt to construe Mr. Mierzwa as supporting the prudence of the Kern River contract. However, Mr. Mierzwa's hearing testimony was not inconsistent with the position of the Office as outlined herein³. Moreover, other parties also questioned the sufficiency of the evidence related to the prudence of Questar's design day planning assumptions as justifying the execution of the Kern River contract. (See cross-examination of Questar's witness, Dave Lanward, Transcript at page 83.)

- **Should an appropriate share of the cost associated with the Kern River peaking service be allocated to transportation customers?**

³ Mr. Mierzwa did acknowledge that the Kern River contract might be one prudent alternative to address the current operational concerns Questar was facing. However, he explicitly opposed the underlying design day criteria Questar presented to support its execution of the Kern River contract. In the event the Commission finds that the recent limitations on the use of upstream pipeline linepack and balancing necessitated Questar entering into the Kern River contract to provide peaking services, any approval of the contract ought to be narrowly circumscribed to those facts and not endorse the design day criteria utilized by Questar which was "statistically [demonstrated as] . . . not hav[ing] a reasonable likelihood of occurrence." *Id.*

The Office reaffirms the position it took in prefiled testimony and during the hearing that, if the Commission finds the Kern River contract prudent, the Office supports an allocation of a portion of the costs associated with current contract levels to transportation customers as part of the new peaking services proposed in this docket. Where the Commission might find the underlying contract to be prudent, any just and reasonable allocation of costs associated with that contract to the peaking service for transportation customers, as sought in this docket, should be made on a final, (not interim) basis.⁴ Dominion has not asked for interim rates for the new peaking transportation services proposed in this docket. Nor is there legal authority that would support such a request.

The applicability of interim rates has been statutorily provided for general rate case proceedings where rates may be placed into effect on an interim basis, subject to final rate determinations and possible refunds. Utah Code § 54-7-12(4)(a)(i)-(iii). Interim rates have also been employed in connection with pass-through proceedings where rates associated with gas costs are subject to audit and to true-up once final rates are set.

Here, Questar has requested tariff approval of a new service to be provided to transportation customers. Scrutiny and approval must first satisfy any challenge of prudence and then be measured by the just and reasonable standard, which, if demonstrated, could merit final approval of the peaking service identified in Questar's application.

⁴ Interim rates should only be allowed in limited, defined circumstances associated with General Rates before rates become final, and gas costs rates that are subject to pass-through proceedings where the audit/review process has not yet been completed.

In this docket, Questar has proposed a new peaking service for transportation customers based on the recently executed Kern River contract. If that contract is prudent, any allocation of costs to transportation customers subject to this new service ought to be considered by the Commission for final approval if the Commission determines the proposed allocation of costs to be just and reasonable. To this end, the Office agrees with the testimonial observations provided by Questar's witness Kelly Mendenhall, as noted in Questar's Post-Hearing Brief at footnote 38, and opposes the company's proposed repudiation of Mr. Mendenhall's testimony.

Respectfully submitted this 17th day of November 2017.

A handwritten signature in cursive script that reads "Steven W. Snarr". The signature is written in black ink and is positioned above a horizontal line.

Steven W. Snarr
Attorney for the Office of Consumer Services