

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of)
Steve Sorenson vs. Questar) DOCKET NO. 06-057-05
) REPORT AND ORDER
)

ISSUED: August 23, 2006

SYNOPSIS

Complainants having failed to demonstrate a violation by Questar Gas Company of any statute, rule, or tariff provision, the Commission dismissed the complaint.

By The Commission:

PROCEDURAL HISTORY

On May 15, 2006, Complainants Steve C. Sorenson and Darlene M. Sorenson filed a formal complaint against Respondent Questar Gas Company (“Questar”) disputing Questar’s adjustments to Complainants’ March and April 2006 natural gas bills and requesting that they be charged as originally billed by Questar for those months.

On May 25, 2006, Questar filed its Answer and Motion to Dismiss stating the disputed billing adjustments were made in accordance with Commission rule and Questar’s tariff and requesting dismissal.

On June 14, 2006, the Division of Public Utilities (“Division”) filed a memorandum recommending the Commission dismiss the complaint based on its conclusion that Questar’s actions had violated no provision of statute, rule, or tariff.

On June 16, 2006, the Commission issued a Notice of Hearing setting hearing to commence before the Commission’s Administrative Law Judge on June 29, 2006.

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On June 23, 2006, Complainants sent an email to the Commission expanding their complaint to seek reimbursement for a claimed overcharge by Questar in Complainants' January 2006 bill.

Hearing commenced at the appointed time on June 29, 2006. Complainants represented themselves and testified on their own behalf. Jenniffer N. Byde, in-house counsel, represented Questar. Linda Kizerian, Questar Consumer Affairs representative, testified on behalf of Questar.

On July 18, 2006, the Administrative Law Judge ("ALJ") requested additional information from Questar regarding Questar's revised billing adjustment calculations. The ALJ requested said information be filed as supplemental sworn testimony of Linda Kizerian, notified the parties he intended to enter said testimony into evidence, and gave Complainants ten calendar days from the filing of said testimony to file any comments in rebuttal. Questar filed said testimony on August 2, 2006, as the Supplemental Testimony of Linda Kizerian. Complainants having failed to file any comments or objections in response, said testimony is hereby entered into evidence as Post-Hearing Exhibit 1.

BACKGROUND

Complainants testified that, in response to recent gas price increases, beginning in December 2005, they undertook several natural gas conservation measures, including maintaining their thermostat at 65 degrees or below, using electric space heaters to heat areas of their residence, and operating their furnace only two to three hours per evening. Complaints

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testified they are typically out of the home all day, for periods up to ten hours, and have made a conscious effort to conserve and thereby lower their fuel bill.

Complainants' original monthly natural gas bills from Questar for the period December 2005 to April 2006 were as follows:

DATE – Reading	CCF	DECATHERMS	SERVICE AMT
12/07/05 – 5351	207	19.1	\$233.32
01/10/06 – 5602	251	23.1	\$290.88
02/07/06 – 5783	181	16.6	\$206.47
03/09/06 – 5848	65	5.9	\$70.81
04/07/06 – 5896	48	4.4	\$52.81
TOTAL	752	69.1	\$854.29

The meter readings shown in the first column above are the result of actual readings, except for the amount shown for April 7, 2006, which represents a Questar billing system automated estimate. On April 7, 2006, the meter reading was 5848, the same as the previous reading on March 9, 2006. Therefore, suspecting a problem with Complainants' meter, Questar's billing department prepared an automated estimate of Complainants' usage between March 9 and April 7, 2006, resulting in the 5896 automated "reading" indicated above, and billed Complainants accordingly.

Because the identical meter readings of March 9 and April 7, 2006, indicated a possible meter malfunction, Questar conducted another meter read on April 17, 2006, that also resulted in a reading of 5848. Based on these readings, Questar determined the meter or its associated equipment was malfunctioning. Questar replaced the meter on April 19, 2006, and,

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upon examination, concluded the transponder and index were malfunctioning such that gas could flow through the meter but neither the transponder nor the index would register the flow of said gas.

Therefore, on April 27, 2006, Questar issued a billing adjustment in the amount of \$194.94 for the period February 7 through April 19, 2006. Questar adjusted Complainants' bill back to February 7, 2006, because, based on the meter readings during this period, Questar believed February 7 represented the last accurate meter reading prior to transponder and index malfunction. Questar's adjustment, based on Complainants' usage during the same time period in 2005, adjusted for 2006 weather factors, resulted in the following billed amounts and the overall billing adjustment of \$194.94:

DATE – Reading	CCF	DECATHERMS	SERVICE AMT
12/07/05 – 5351	207	19.1	\$233.32
01/10/06 – 5602	251	23.1	\$290.88
02/07/06 – 5783	181	16.6	\$206.47
03/09/06 – 5962	179	16.4	\$184.66
04/07/06 – 6094	132	12.1	\$134.90
TOTAL	950	87.3	\$1050.23

However, on May 10, 2006, in response to Complainants' informal complaint filed with the Division on May 3, 2006, Questar recalculated the billing adjustment to account for Complainants' claimed conservation activities during the disputed period. Questar employed Complainants' measured usage following replacement of the gas meter on April 19, 2006, as the basis for its new estimates and adjusted those estimates using weather factors from the March-

April 2006 time frame¹, resulting in a revised billing adjustment of \$141.54, a \$54.40 reduction from Questar's original billing adjustment, for usage estimated as follows:

DATE – Reading	CCF	DECATHERMS	SERVICE AMT
12/07/05 – 5351	207	19.1	\$233.32
01/10/06 – 5602	251	23.1	\$290.88
02/07/06 – 5783	181	16.6	\$206.47
03/09/06 – 5932	149	13.7	\$154.69
04/07/06 – 6039	107	9.8	\$110.47
TOTAL	895	23.5	\$995.83

Although this represents a 28% reduction from the April 27, 2006, billing adjustment, Complainants reject this adjustment and urge the Commission to require Questar to bill Complainants as originally billed on March 9 and April 7, 2006, believing these billing amounts best represent the results of their conservation efforts.

To demonstrate the extent of their conservation, Complainants point to electricity usage records for the period supplied by their electricity provider, Murray City. These records show Complainant's reduced their electricity consumption by 44% during December 2005 over December 2004, by 27% in January 2006 compared to January 2005, and by 18% during March 2006 compared to March 2005.² Complainants argue their demonstrated electricity conservation

¹In its post-hearing supplemental testimony, Questar states it employed the usage and weather factors from March-April 2006 rather than from January-February 2006 because use of the former resulted in a lower revised billing for Complainants. If Questar had used the January-February 2006 factors in its calculations, the revised billing amount forwarded to Complainants on May 10, 2006, would have changed very little from that previously calculated on April 27, 2006.

²These records also show Complainants' electricity usage increased by 6% during February 2006 compared to February 2005.

during this period would have been even greater had they not been using electric space heaters to heat their residence. In any event, because their gas furnace and clothes dryer use electricity to operate, Complainants believe it is reasonable to infer a significant decrease in natural gas consumption from their decreased electricity usage during the disputed period. For this reason, Complainants argue it is simply wrong for Questar to estimate their gas usage during February and March 2006 using consumption data from February and March 2005, a period during which Complainants were not actively conserving natural gas. Likewise, Complainants do not accept Questar's second billing adjustment as a valid estimate of their gas consumption because said estimate is based on their measured gas use for a different, warmer period of time than the February-March time period in dispute.

Claimants offer no alternative method to estimate their gas use during this period; instead, they urge the Commission to require Questar to bill according to the actual meter readings taken on March 9, 2006, and the automated estimate entered on April 7, 2006. Complainants admit they used natural gas during February and March 2006, but they argue Questar has not presented sufficient evidence to prove that their gas meter was malfunctioning during this period to justify its later billing adjustments. Finally, based on the conservation they believe is evidenced by their January 2006 electricity bill, Complainants' also seek an unspecified adjustment to their January 2006 gas bill, believing their gas meter must have registered more gas usage than they actually consumed during that billing period.

Questar, on the other hand, argues that its automated usage estimate of April 7, 2006, was low because it relied on the prior month's usage (calculated using the March 9, 2006,

meter reading) which itself appears to be low. In other words, Questar argues the meter stopped registering gas flow sometime between February 7 and March 9, 2006, resulting in a March 9 reading of 5848 and a calculated consumption of 5.9 decatherms which is significantly lower than one would expect for the month of February and demonstrably less than Complainants' measured usage of 16.6 decatherms during January 2006. Therefore, using this "low" March 9, 2006, reading as a basis in estimating Complainant's March 2006 usage produced an artificially low automated estimate on April 7, 2006. Questar argues its meter was properly tested and found to be malfunctioning, and that its revised billing estimate for the disputed February-March 2006 period is in accordance with Commission rule and reasonably takes into account Complainants' claimed conservation efforts.

DISCUSSION, FINDINGS, AND CONCLUSIONS

Commission Rule 746-320-3(H), *Billing Adjustments for Meter Variance*, provides at Subsection (3) "[w]hen there is a nonregistering meter, the customer may be billed on an estimate based on previous bills for similar use. The estimated period shall not exceed three months." Questar Gas Company Utah Natural Gas Tariff PSCU 400 ("Questar's Tariff"), § 8.01 states:

If the [gas] meter fails to register at any time, the gas delivered or used by the customer during such failure, in the absence of a more accurate basis, may be determined using consumption from the nearest corresponding equal period of use by the particular customer at the premises when there was no such failure.

Section 8.02 of Questar's Tariff further states that when an incorrect billing occurs Questar has the right to make billing corrections regardless of the cause of the billing error. In the case of a

nonregistering meter, Section 8.02 repeats the R746-320-3(H)(3) requirement that the estimated billing period may not exceed three months.

Having reviewed the facts presented, we find and conclude that Questar's efforts to estimate Complainants' usage for the March 9 and April 7, 2006, billing cycles have been in accordance with Commission rule and Questar's own tariff. The evidence supports the conclusion that Complainants' gas meter stopped registering gas flow sometime after February 7, 2006, such that Complainant's actual gas usage is unknown from that date until the meter was replaced on April 19, 2006. Questar is therefore permitted to estimate Complainants' usage and bill them accordingly. The problem confronted in this docket is how to produce a reasonable estimate given Complainants' stated conservation efforts during this period.

As proof of said conservation, Complainants point to their reduced electricity consumption during this period. However, other than stating their "common sense" conclusion that reduced furnace and gas clothes dryer operation reduces both gas and electricity usage, Complainants have shown no correlation between electricity use and natural gas consumption that Questar could reasonably rely upon to estimate Complainants' natural gas usage³. We therefore decline to rely on Complainants' reduced electricity usage in resolving this matter.

We agree with Complainants that, given their undisputed conservation efforts, February-March 2005 does not represent a comparable usage period for estimating Complainants' February-March 2006 gas consumption. Questar's agreement on this point is

³In fact, Mr. Sorenson testified he spoke with a representative of his electric utility who advised him that furnace operation would represent a small portion of the total electricity consumed at his residence, making his argument of any correlation between electricity and natural gas consumption less tenable.

demonstrated by its use of March-April 2006 data rather than data from 2005. While use of factors and usage data from January-February 2006 may have more closely matched the time period in dispute in this case, doing so may not have adequately accounted for Complainants' demonstrated conservation measures. On the other hand, by using factors and usage data from March-April 2006 Questar was able to account for Complainants' conservation efforts and thereby lower their estimated billing while complying with all applicable rules and tariff provisions. We therefore find and conclude that Questar's revised billing adjustment of May 10, 2006, was prepared in accordance with all applicable rules and tariff provisions and represents a proper billing adjustment for Complainants' account for the period February 7 to April 19, 2006. Having found no violation by Questar of statutory, regulatory, or tariff requirements, we determine to dismiss this matter.

Wherefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters the following proposed

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. The complaint filed herein is dismissed.
2. Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 20 days after

the filing of a request for review or rehearing, 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 *Utah Code Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 23rd day of August, 2006.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 23rd day of August, 2006, as the Report and Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#50201