

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of)
Stephen and Colette Merrill against) DOCKET NO. 07-057-14
Questar Gas Company) REPORT AND ORDER

ISSUED: March 20, 2008

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 December 3, 2007, Complainants Stephen and Colette Merrill filed a formal complaint against Respondent Questar Gas Company (“Questar”) claiming Questar wrongly estimated gas usage at their residence following the failure of their gas meter. On December 27, 2007, the Division of Public Utilities (“Division”) filed its analysis recommending the complaint be dismissed. On January 11, 2008, Questar filed its Answer and Motion to Dismiss.

This matter came on for duly-noticed hearing before the Administrative Law Judge on February 5, 2008. Complainants failed to appear. Linda Kizerian appeared for Respondent. Questar employees were present and prepared to offer testimony and documentary evidence on behalf of Questar. Therefore, on February 6, 2008, the Commission issued a Report and Order in the above-entitled docket dismissing the subject complaint for failure of Complainants to appear at hearing.

DOCKET NO. 07-057-14

-2-

However, on February 21, 2008, Complainants contacted the Division and stated they had not received the Commission's January 17, 2008, Notice of Hearing ("Notice") setting hearing for February 6, 2008, as the Notice had been mailed to an incorrect address. Subsequent review of Commission records indicated said Notice was indeed mailed to an incorrect address. Therefore, on February 22, 2008, the Commission issued an Order Rescinding Prior Report and Order and Notice of Hearing setting a new hearing for March 12, 2008.

Hearing convened on March 12, 2008, before the Administrative Law Judge. Linda Kizerian appeared and testified for Respondent. Steve Merrill appeared and testified on his own behalf.

BACKGROUND

In April 2006, Questar discovered the gas meter at Complainants' residence was malfunctioning and had failed to properly register gas usage for some unknown period of time. Due to this malfunction, Questar's original monthly billings to Complainants for gas usage from mid-January to mid-April 2006 were as follows:

DATE – Reading	CCF	DECATHERMS	SERVICE AMT
1/12/06-2/10/06	299	27.5	\$334.91
2/10/06-3/13/06	93	8.6	\$98.13
3/13/06-4/17/06	1	0.1	\$6.47
TOTAL	393	36.2	\$439.51

In accordance with its tariff and routine practice when meters are discovered to have malfunctioned, Questar prepared an estimated bill for the dispute period based upon

Complainants' historical gas usage. In preparing such estimates, Questar calculates the amount of gas used by multiplying the number of actual Degree Days¹ in the period of estimation by the Degree Day Factor ("DDF")² and then adds a Base amount of usage to account for the gas typically required for non-seasonal purposes, such as water heating and cooking. In order to determine the appropriate DDF to use in its calculations, Questar referred to Complainant's historical usage for the mid-January to mid-April periods in 2004 and 2005. The DDF for 2005 was .421 while the DDF for 2004 was .368 so Questar used the lower .368 DDF³ to calculate Complainants' estimated usage for the dispute period as follows:

DATE – Reading	CCF	DECATHERMS	SERVICE AMT
1/12/06-2/10/06	361	33.2	\$403.30
2/10/06-3/13/06	368	33.9	\$370.77
3/13/06-4/17/06	246	22.6	\$245.61
TOTAL	975	89.7	\$1019.68

Based on these estimates, on April 27, 2006, Questar issued a billing adjustment of \$580.17 to Complainants.

¹A Degree Day is a unit used in estimating fuel consumption, based upon temperature difference and time. For any day when the daily mean temperature is less than 65 degrees Fahrenheit, there exist as many degree days as there are degrees difference between the daily mean temperature and 65 degrees. For instance, a daily mean temperature of 55 degrees equates to 10 Degree Days.

²Degree Day Factor is an average measurement of gas usage per Degree Day, calculated as the CCF used for heating divided by actual Degree Days. CCF is a measure equal to one hundred cubic feet of gas.

³Use of the lower DDF results in a lower estimated gas usage and therefore a lower gas bill.

DOCKET NO. 07-057-14

-4-

However, Complainants disputed this adjustment, claiming their actual gas usage during the dispute period was much less than that estimated by Questar. Complainants based this claim on the fact that an old, low efficiency furnace in Complainants' residence had stopped functioning in February 2006, leaving Complainants to use a high efficiency furnace installed in 2004, along with several portable electric heaters, to heat their home. In addition, Complainants stated they purposely kept their thermostat set very low during the dispute period and that the number of people living in their residence had decreased from seven in previous years to only two during the dispute period. In fact, Mr. Merrill testified he was gone from the residence during the dispute period such that only one person resided in the house during that time.

In response to this information, Questar re-evaluated its estimated billing, eventually deciding to reduce said billing by 20 percent to account for the decreased usage claimed by Complainants. Questar accomplished this reduction by reinstating its original billing for the period 1/12/06-2/10/06⁴ and reducing the estimated usage for the remaining two months as indicated below:

DATE – Reading	CCF	DECATHERMS	SERVICE AMT
1/12/06-2/10/06	299	27.5	\$334.91
2/10/06-3/13/06	289	26.6	\$292.45
3/13/06-4/17/06	197	18.1	\$198.71
TOTAL	785	72.2	\$825.07

⁴Questar and Complainants now agree Questar's original gas usage measurements for 1/12/06-2/10/06 likely occurred prior to the failure of the gas meter such that the original billing for that period is accurate. Therefore, only the billing for the period 2/10/06 to 4/17/06 remains in dispute.

This new estimate was \$194.61 less than Questar's first estimate so Questar applied a \$194.61 credit to Complainant's account, resulting in a \$385.56 balance owing for the dispute period.

Complainants thereafter made payment in partial satisfaction of this balance such that the amount in dispute was reduced to \$204.41. In August 2006, in an effort to end this dispute, Questar agreed to transfer the remaining \$204.41 to a Disputed Gas Service Agreement and to re-estimate Complainants' January-April 2006 gas usage based on Complainants' actual usage during the upcoming January-April 2007 period. However, Complainants vacated their residence in January 2007 so that no gas usage figures for January-April 2007 could be obtained.

Therefore, in June 2007, Questar cancelled the Disputed Gas Service Agreement and transferred the disputed \$204.41 balance to Complainants' current residential gas account. Because Complainants have, over time, paid approximately \$205.00 for the gas they believe they used during the dispute period, the actual amount now in dispute between the parties is \$180.18. Complainants believe the amount they have paid to date more reasonably approximates the amount of gas they used during the dispute period; they seek to have the remaining \$180.18 owing removed from their account.

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.

The evidence supports the finding that Complainants' gas meter stopped properly registering gas flow sometime after February 10, 2006, such that Complainant's actual gas usage is unknown from that date until the meter was replaced in April, 2006. Questar is therefore permitted to estimate Complainants' usage and bill accordingly. Complainants' do not claim Questar has calculated its gas usage estimate in violation of any statute, Commission rule or tariff. The Administrative Law Judge therefore concludes Questar's estimated billing was generally conducted in accordance with Questar's tariff and established procedures. The problem confronted in this docket then is not whether Questar is entitled to estimate gas usage during the dispute period but how to produce a reasonable estimate given Complainants' stated decreased consumption during this period.

Complainants simply believe Questar's estimate fails to take into account the following facts which make it reasonable to infer a significant decrease in their natural gas consumption during the dispute period compared to similar periods from prior years: failure of the old, inefficient furnace in February 2006; the thermostat controlling the newer, efficient

furnace was kept very low during the dispute period and the majority of Complainants' residence was heated by portable electric heaters; and only one person, rather than seven as in prior years, occupied the residence during the dispute period.

Questar sought payment of \$385.56 as a result of its revised estimated billing. Over time, Complainant has paid \$205.38 toward this balance, resulting in a remaining disputed balance of \$180.18. Complainants argue this \$205.38 payment, representing 53 percent of the amount sought by Questar, most reasonably reflects their actual gas usage during the dispute period. While Complainants admit they do not know precisely how much gas they used during the dispute period, they believe it was significantly less than the amount estimated by Questar. Complainants offer no alternative method to estimate their gas use during the dispute period; instead, they urge the Commission to simply decide that they have paid enough.

While the Administrative Law Judge does not question Complainants' claimed decreased gas usage during the dispute period, there is simply no quantifiable evidence presented to support the conclusion that Complainants' gas usage dropped as drastically as they claim. Indeed, the available evidence supports the opposite conclusion. Complainants' actual usage for the mid-January to mid-April periods in years prior to 2006 was 86.9 decatherms in 2003, 89.2 decatherms in 2004, and 95.6 decatherms in 2005. Having taken into account Complainants' claimed decreased gas usage for the same period in 2006, Questar's estimate of Complainants' gas usage for that period is 72.2 decatherms, representing a usage decrease of 17 percent, 19 percent, and 24 percent, respectively, from that measured in 2003, 2004, and 2005.

In contrast, Complainants effectively argue their gas use for the two months remaining in dispute was roughly 14 and 10 decatherms, respectively, resulting in a claimed total gas usage of 51.5 decatherms from mid-January to mid-April 2006. This figure represents a 41 percent, 42 percent, and 46 percent reduction, respectively, from Complainants' actual 2003, 2004, and 2005 usage during the same period. Such large reductions do not appear reasonable. More to the point, there simply is no evidence presented to support them.

Instead, the Administrative Law Judge finds the decrease recognized by Questar's revised usage estimate reasonably takes into account Complainants' claimed decrease in gas usage during the dispute period. The Administrative Law Judge therefore finds and concludes that Questar's revised billing adjustment was prepared in accordance with all applicable rules and tariff provisions and represents a proper billing adjustment for Complainants' account for the period mid-January to mid-April, 2006. Having found no violation by Questar of statutory, regulatory, or tariff requirements, the Administrative Law Judge recommends this matter be dismissed.

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

DOCKET NO. 07-057-14

-9-

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 20th day of March, 2008.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 20th day of March, 2008, as the Report and Order 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
G#56580