

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Hildale City and Intermountain)	<u>DOCKET NO. 98-057-01</u>
Municipal Gas Association for an Order granting access)	
for Transportation of Interstate Natural Gas over the)	
pipelines of Questar Gas Company for Hildale, Utah)	<u>REPORT AND ORDER</u>

ISSUED: April 26, 2000

SYNOPSIS

By this Order, the Commission adopts, in its entirety, the October 26, 1999, Stipulation of Questar Gas Company, the Division of Public Utilities, Hildale City and Intermountain Municipal Gas Association (Stipulation). Under the terms of the Stipulation, the parties have agreed that Questar Gas Company will offer natural gas transportation service for certain qualifying municipal gas utilities including a proposed system to be operated by Hildale City under the terms and conditions of Rate Schedule MT, as that schedule is set forth in Exhibit 1 attached to the Stipulation. This Order adopts the rates, charges and terms and conditions set forth in the Stipulation, including the initial MT rate of \$0.23084/Dth plus a facilities balancing charge of \$0.06/Dth. In addition, the MT rate shall be subject to an administrative charge of \$8,000 and a monthly meter-base customer charge. Service under the MT Rate Schedule shall be available for municipal gas systems only and will be subject to the customer classification provisions as set forth in the proposed revisions to the tariff implementing Rate Schedule MT.

Appearances:

Jonathan Duke & Charles Greenhawt, Attorneys	For	Questar Gas Company
Laurie Noda, Assistant Attorney General	"	Division of Public Utilities
J. Craig Smith & Harold A. Ranquist, Attorneys	"	Hildale City & Intermountain Municipal Gas Association
Gary Dodge, Attorney	"	International Gas Resource Corporation

By The Commission:

This docket was initiated to consider an application filed on March 5, 1998, by Hildale City and the Intermountain Municipal Gas Association (Hildale and IMGA respectively) requesting the Commission to order Questar Gas Company (QGC or the Company) to provide certain transportation services. Hildale requested that the Commission order QGC to transport Hildale City's natural gas through QGC's facilities for delivery to an anticipated Hildale City municipal natural gas utility. The municipal natural gas utility would then distribute and sell the natural gas to customers of the Hildale City municipal utility.

On April 24, 1998, the Company filed a Motion for Clarification of Hildale's application; Hildale's Clarification was filed on May 15, 1998. Thereafter, this proceeding was bifurcated so that the Commission could determine whether we have the authority to order the requested service. Hildale filed its Brief on this issue on July 31, 1998. The Company's Response Brief was filed on September 11, 1998, as was the Brief of the Division of Public Utilities (Division or DPU).

Hildale's Reply Brief was filed on September 25, 1998, and Oral Arguments were presented to the Commission on October 1, 1998. We issued our Order on January 15, 1999, concluding that the Commission had authority to require QGC to provide the transportation service requested by Hildale.

In the subsequent phase of this Docket, Questar filed direct testimony on March 3, 1999, and supplemental testimony on April 13, 1999. Hildale and IMGA filed their joint direct testimony on May 10, 1999, with an additional filing made on May 14, 1999, of Robert G. Towers. Additional direct testimony of QGC was filed on July 30, 1999.

The Division submitted its rebuttal testimony in response on August 30, 1999, as did Hildale and IGRC. Surrebuttal testimony was filed by QGC, Hildale and the DPU on October 20, 1999.

On October 26, 1999, the Parties submitted a Stipulation which they characterized as disposing of all the outstanding issues in this case while providing for final resolution and creation of the MT Tariff. A hearing was held on October 27, 1999, so that the Commission could receive testimony in support of this Stipulation and to consider the terms and conditions thereof. The Stipulation is attached to this Order as Attachment No. 1, and the terms and conditions thereof, are incorporated by reference. The Commission acknowledges the efforts of the parties to this proceeding to develop the issues and ultimately resolve them by way of the stipulation filed in this case.

The Commission has reviewed the stipulation, and has, with the benefit of the record, a prefiled testimony exhibit, as well as the testimony presented at the hearing held on October 27, 1999, concerning the stipulation. After careful and extensive review of the record relating to each issue before us, we approve the stipulation and proposed tariff modifications. Accordingly, we make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. QGC is a public utility subject to our regulation pursuant to Utah Code Ann. § 54-4-1, *et seq.*
2. The stipulation has been negotiated in good faith and is the product of serious bargaining by capable and knowledgeable parties.
3. The stipulation and resulting settlement are, in all respects, just and reasonable and in the public interest.
4. The Commission has examined the underlying basis of this stipulation and resulting settlement with an adequate record containing the Company's application, and extensive testimony filed in this case.
5. Pursuant to notice published in the *Salt Lake Tribune* and the *Deseret News*, the public was afforded an opportunity to comment and provide testimony on the Company's application and the settlement. No public witnesses appeared and testified regarding the stipulation.
6. The Commission finds that the individual tariff provisions, including the volumetric charge of \$0.23084/Dth plus a facilities balancing charge of \$0.06/Dth, are just and reasonable for purposes of the MT service to be provided to municipal transportation customers.
7. The Commission finds the administrative charge of \$8,000 and the monthly meter-based customer charge to be just and reasonable. In addition, the Commission finds that the conditions of service for qualifying for the MT Rate Schedule, including the annual load factor requirement of at least 15 percent, are just and reasonable.
8. The Commission recognizes the jurisdictional concerns set forth by the Company and summarized in the stipulation. With regard to this, the Commission adopts the stipulation requirement that before a MT customer extends service beyond the state of Utah or into a 7(f) service area designated by the Federal Energy Regulatory Commission, the conditions and qualifications set forth in the Stipulation shall be complied with.
9. The Commission finds it just and reasonable to restrict MT service to be available only to municipalities for which the Company does not have a franchise or an existing distribution system.

10. The Commission finds that, for municipal customers with usage on more than one rate schedule, the usage qualifying for different schedules must be separately metered.

11. The Commission finds that it is reasonable for the parties to draft a petition or application for filing with the FERC to determine all present and foreseeable jurisdictional issues related to the provision of MT service, as set forth in the Stipulation.

12. The stipulation and resulting settlement have been agreed to by all the parties and are unopposed in this proceeding.

Based on our Findings of Fact and Conclusions of Law, the Commission makes the following:

ORDER

1. Consistent with the Commission's Bench Order of October 26, 1999, the Company was required to submit tariff revisions consistent with the stipulation which were approved and became effective on October 27, 1999.

2. The stipulation and resulting settlement was accepted and the tariff changes shown in the stipulation exhibit were approved, effective October 27, 1999.

3. The Findings and Conclusions are for purposes of the Order in this case. The Commission will not consider this Order as a precedent in future cases because all issues have not been fully litigated.

DATED at Salt Lake City, Utah, this 26th day of April, 2000.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard

Commission Secretary

ATTACHMENT NO. 1

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Date Submitted: October 26, 1999

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of Hildale City and Intermountain
Municipal Gas Association for an Order granting access

DOCKET NO. 98-057-01

STIPULATION

for Transportation of Interstate Natural Gas over the pipelines of Questar Gas Company for Hildale, Utah

Questar Gas Company (QGC or the Company), the Division of Public Utilities (Division), Hildale City and Intermountain Municipal Gas Association (Petitioners) and Industrial Gas Resource Corporation (IGRC), collectively the "Parties", submit this Stipulation as a proposed final resolution and settlement of all of the issues related to the above-entitled docket. On March 5, 1998, a petition was filed by Petitioners requesting that QGC be ordered to transport natural gas for delivery to and resale by Hildale through its municipal natural gas utility. Since the filing of said petition, the Parties have briefed and argued legal issues, and have engaged in settlement negotiations regarding the issues raised in the petition.

In settlement of the Parties' disparate positions and in full and final resolution of all the issues raised in the above-entitled docket, the Parties submit for the Utah Public Service Commission's (Commission) approval the terms and conditions of this Stipulation.

1. The Parties agree and stipulate that QGC will offer natural gas transportation service to Hildale's proposed municipal system under the terms and conditions of Rate Schedule MT as set forth in proposed tariff sheets attached hereto as Stipulation Exhibit 1 and such service will be subject to the Commission's jurisdiction. The Parties agree that provision of such service to other municipalities is subject to the terms, conditions and provisions of the MT Rate Schedule set forth in the attached Exhibit 1.
2. For purposes of this Stipulation, Petitioners agree that the balancing charges applicable under Exhibit 1 will include a \$0.06 Dth charge for all gas volumes transported. As described by QGC witness Alan K. Allred in his July 30, 1999, Direct Testimony and accompanying Exhibit 1.2, QGC believes that this charge will recoup its estimate of the MT customers' share of the Company's No-Notice service and a portion of storage services they believe are used to balance the daily variations in loads between the forecasted usage of MT customers and their actual usage. The Parties have not reached an agreement that this charge is cost-based or an appropriate charge, except in the limited context of this Stipulation. Neither the execution of this Stipulation by the Parties hereto nor the entry of an Order by the Commission approving this Stipulation or the MT Tariff contemplated herein shall constitute an acknowledgment or determination as to the propriety, cost or justification of any such balancing charge or the potential application of any balancing charges to any other schedule or in any other context.
3. As set forth in Exhibit 1, the MT rate shall initially be offered at a volumetric charge of \$0.23084/Dth plus a facilities balancing charge of \$0.06/Dth. In addition, the MT rate shall be subject to an administrative charge of \$8,000 (subject to Section 5.01 of Tariff PSCU 300 regarding multiple meter customers) and a monthly meter-based customer charge as set forth in Exhibit 1 and as defined in Section 8.03 of the Company's current Tariff PSCU 300. The rates, charges and conditions of service stipulated in this Docket shall be subject to the provisions of paragraphs 14 and 17 of this Stipulation.
4. The Parties agree and stipulate that service under Rate Schedule MT shall be available for municipal gas systems only. To receive service under this rate schedule, the municipality must enter into a contract renewable annually specifying its aggregate maximum daily contract demand. If requested by the municipality, QGC will provide the Company's forecast of the maximum daily demand for any contract period. Thereafter, QGC will not be obligated to provide service in excess of the maximum daily contract demand.
5. The Parties agree and stipulate that service under Rate Schedule MT shall be limited to customers with an annual load factor of at least 15 percent, as specified in Subsection (2) of page 37 of Exhibit 1.
6. The Parties agree and stipulate that the Company will not be obligated to redeliver gas under Rate Schedule MT to the customer if the customer's gas has not been tendered to QGC's system. When gas is properly tendered, the balancing provisions of Section 5.08 of QGC Tariff PSCU 300 will apply as set forth in Exhibit 1.
7. The Parties agree and stipulate that receipt points for MT service will be offered on a nondiscriminatory basis vis-a-vis other MT transportation customers. As with any transportation service, MT service receipt points and capacity will

initially be made available subject to capacity requirements of the Company's system supply customers. Whenever possible, MT customers will be able to select receipt points available. However, when necessary, the Company will have the right to designate the receipt points that must be used.

8. The Parties agree and stipulate that service under Rate Schedule MT will be subject to applicable local charges and sales taxes as specified in Section 8.02 of the Company's Tariff PSCU 300 and a fuel reimbursement charge of 1.5 percent of all volumes transported pursuant to Section 5.01 of the Tariff.

9. The Parties agree and stipulate that MT service is not required and will not be available if to do so will subject QGC to regulatory jurisdiction by anyone other than the Commission.

10. An MT customer will be required to notify QGC before it proposes to extend service beyond the state of Utah or into a service area designated by the Federal Energy Regulatory Commission (FERC) pursuant to 7(f) of the Natural Gas Act. Such service extension will be cause for termination of MT service by the Company unless it is demonstrated, prior to service extension, that an order has been issued by the FERC, or any other federal, state or local entity potentially exercising regulatory jurisdiction, showing, respectively, that the Company will not be subject to the regulatory jurisdiction of the FERC or other federal, state or local entity, and, with respect to an order issued by the FERC, that QGC will not lose any Hinshaw status that it may have. The Company may also terminate MT service commenced upon the issuance of any such order described above if the order is stayed or if an administrative or judicial appeal of such order results in a finding that providing the MT service subjects it to the regulatory jurisdiction of the FERC, or other federal, state or local entity, or results in a loss of any Hinshaw status it may have.

11. The Parties agree and stipulate that MT service will only be available for municipalities where QGC does not have a franchise or an existing distribution system.

12. The Parties agree and stipulate that, for municipal customers with usage on more than one rate schedule, the usage qualifying for different rate schedules must be separately metered and subject to the appropriate administrative charges as provided for in the administrative charge paragraph of Section 5.01 of the Company's Tariff PSCU 300.

13. The Parties agree and stipulate that the Parties will draft a Petition or Application for filing with the FERC to determine all present and foreseeable jurisdictional issues relating to the provision of service to Hildale for potential delivery to Colorado City, Arizona, under the proposed MT Rate Schedule. At a minimum, such filing will seek resolution of jurisdictional consequences of (1) transporting natural gas that eventually crosses state lines before end-use, and (2) wholesale transportation where natural gas extends to an existing 7(f) service area for end-use. Such petition will be subject to review and approval by Petitioners, the Division and the Company and will be submitted in the most economical means possible.

14. All negotiations related to this Stipulation are privileged and no party shall be bound by any position asserted in negotiations. Neither the execution of this Stipulation nor the order adopting this Stipulation shall be deemed to constitute an acknowledgment by any party of the validity or invalidity of any principle or practice of ratemaking; nor shall they be construed to constitute the basis of an estoppel or waiver by any party; nor shall they be introduced or used as evidence for any other purpose in a future proceeding by any party to this Stipulation. The parties believe that settlement of these issues through this Stipulation is in the public interest and that the rates, terms and conditions it provides for are just and reasonable.

15. QGC will, and other parties may, present testimony of one or more witnesses available to explain and support this Stipulation. The Division and Petitioners will have a witness available for examination if the need arises.

16. This Stipulation shall remain in effect from the date of the Commission's order approving the Stipulation until the date of a superseding Commission order from a general rate case.

17. This Stipulation is an integrated whole, and any party may withdraw from it if this Stipulation is not approved in its entirety by the Commission. In the event any part, or all, of the Stipulation is not approved by the Commission, then neither the Commission, nor any party to the Stipulation, shall be prejudiced by the terms of this Stipulation, and the Agreement shall be null and void.

IN WITNESS WHEREOF, the parties hereto have executed this Stipulation as of this 26th day of October, 1999.

/s/ Jonathan M. Duke
Attorney for Questar Gas Company

/s/ Laurie Noda
Attorney for Division of Public Utilities

/s/ J. Craig Smith
Attorney for Hildale City and Intermountain Municipal Gas Association

/s/ Gary A. Dodge
Attorney for Industrial Gas Resource Corporation

Stipulation Exhibit 1

Stipulated Tariff Provisions

QUESTAR GAS COMPANY

UTAH NATURAL GAS TARIFF

PSCU 300

NOTE: The Questar Gas Company's Utah Natural Gas Tariff is not filed electronically, those wishing to view copies of said tariff may contact Rea Petersen of the Division of Public Utilities, Department of Commerce, 160 East 300 South, Heber M. Wells Building, 4th Floor, Salt Lake City, Utah, 84111, Phone (801) 530-6652.