

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of) DOCKET NO. 98-057-12
QUESTAR GAS COMPANY for Approval of a)
Natural Gas Processing Agreement)

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) DOCKET NO. 99-057-20

In the Matter of the Application of)
QUESTAR GAS COMPANY for a General)
Increase in Rates and Charges)

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) DOCKET NO. 01-057-14

In the Matter of the Application of)
QUESTAR GAS COMPANY to Adjust Rates)
for Natural Gas Service in Utah)

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) DOCKET NO. 03-057-05

In the Matter of the Application of)
QUESTAR GAS COMPANY to Adjust Rates)
for Natural Gas Service in Utah)
) ORDER ON REQUEST FOR
) RECONSIDERATION OR
) CLARIFICATION
)

ISSUED: October 20, 2004

By the Commission:

On September 30, 2004, Questar Gas Company (Questar) filed its Petition for Reconsideration or Clarification of our August 30, 2004, Order (Order). On October 14, 2004, the Committee of Consumer Services (Committee) filed its Response to Questar’s Petition for Reconsideration or Clarification. No other submissions have been made to the Commission.

Questar seeks clarification on three issues and reconsideration of two. With respect to the clarification items, Questar first asks that the Commission clarify that it has made no finding on the quality of coal-seam gas. The Committee responds that it is not necessary that the Commission clarify that the Commission has made no finding of the quality of the gas. The point raised by Questar arises from its concern deriving from Questar’s view of the Committee’s characterization of coal-seam gas and Questar views of how some media coverage of these proceedings has characterized coal-seam gas. The Committee’s response is essentially to claim that Questar’s view of how the

Committee has characterized coal-seam gas is in error.

We believe this issue is driven more by these two parties' clashes, during these proceedings, than by the language contained in our Order. The use of the word "inferior," in our Order, was limited to a quotation of FERC approved terms of the pipeline's tariff. We doubt that we can directly alter how Questar and the Committee may view each other. We are encouraged by all parties' efforts to cooperatively participate in Docket No. 04-057-09, where we are attempting to arrive at reasonable, long-term responses to the delivery of coal-seam gas to Questar's customers. We hope that solutions that may derive from those efforts receive non-conflicting support from all of the participants. We only note that our Order was not intended to disparage or praise coal-seam gas in any way. The only quality aspect of coal-seam gas relating to our decision, was coal-seam gas' variance from Questar's gas standards, and the consequences which Questar identified if this gas were to be commingled with other natural gas transported in the natural gas pipeline and the mixture delivered to Questar customers for use in their gas consuming appliances.

Next, Questar asks that the Commission clarify language in the Order which the company views as reflecting Commission determinations that Questar, to further Questar corporate interests, may have pursued delay of customer change-out or modification of appliances. The Committee argues that it is neither necessary or appropriate to make the requested clarification as the Commission made no specific findings in this regard. The Committee views the company's concerns as overwrought. Again, we consider this point driven more by the parties' views of one another's actions and conduct rather than the language used in the Commission's Order.

The language used in our Order's discussion was used as part of our expression of the regulatory concern of how affiliate interests and corporate relationships can present conflicts to the interests of a utility and its customers. These potential conflicts are why we need adequate evidence to show that these conflicts are recognized and appropriately addressed or dealt with in the utility's actions and course of conduct. We anticipate that where such conflicts can arise and a utility seeks recovery of costs affected with such potential conflicts, the utility understands its burdens of proof and persuasion and takes steps (which enable it to present evidence of its actions) showing how these

conflicts were recognized, were minimized and how the utility prioritized its customers' interests and was not unduly influenced by its affiliate interests in the actions it took. We agree with the Committee; our Order is not intended to make specific findings that Questar actually took specific, calculated steps to delay customer actions with regard to their appliances, to the detriment of customer interests and to the benefit of corporate interests. Our difficulty was in finding substantial evidence that Questar recognized and addressed the conflicts presented by the developing circumstances and that Questar's actions were not unduly influenced by affiliate interests as it took the steps it did and did not consider and follow.

The third area of clarification sought by Questar, and the first point of reconsideration which we address, deals with the time period over which Questar could pursue recovery of CO₂ processing plant expenses in other or future proceedings. Questar seeks clarification that the tariff revisions directed by the Order do not preclude future recovery of processing costs. Questar also seeks reconsideration of the Order, which Questar characterizes as precluding recovery of any processing costs incurred through May of 2004. Questar argues that it may be able to substantiate recovery of some processing costs incurred prior to May, 2004, and should not be precluded from seeking such recovery, in other dockets, by the Order issued in this docket.

The Committee opposes the clarification and reconsideration requests. Relative to the clarification regarding the tariff language, the Committee notes that tariffs are subject to revision and Questar is not precluded from seeking future tariff revisions upon an appropriate showing and finding that changes are justified. The Committee argues that the Order language does not preclude future tariff changes and sees no need to make a clarification for something which is already permitted, *vis* future tariff changes. With regard to the reconsideration request, the Committee argues that Questar has not presented any new evidence which would permit recovery at this time and that it has some difficulty imagining a new factual setting which would warrant recovery of CO₂ processing plant expenses given the Commission's Order. The Committee does not argue that it is impossible or impermissible, only that it may be difficult.

The Order addressed only Questar's failure to substantiate approval of the CO₂ Stipulation in these proceedings and our necessary rejection of the Stipulation, which would have permitted recovery of some processing costs through May of 2004. Our reference to the May, 2004, end date was dictated by the Stipulation's terms and was not intended to have any other preclusive effect on recovery by Questar. In regards to Questar's requests for clarification and reconsideration, we state that our Order does not preclude Questar from seeking recovery of CO₂ processing costs in other dockets. We cannot opine, here, on the likelihood of success for rate recovery of CO₂ processing costs coming in other dockets. However arduous or facile the task may be to support or oppose recovery in other proceedings, it will be that of the participants. We will not prejudge the outcome. We will need to wait for Questar to make whatever arguments and present whatever evidence it deems appropriate in seeking recovery of these costs, whether incurred pre- or post-May, 2004, in whatever dockets Questar may raise the issue.

We now turn to the last item, Questar's request for reconsideration of our decision to deny recovery of any processing costs in our Order. Questar argues that the Commission could, and should, have allowed some level of recovery for CO₂ processing costs incurred by the company. The Committee counters by arguing that Questar's request invites the Commission to commit the same or similar error upon which the Supreme Court overturned our August 11, 2000, Report and Order in *Committee of Consumer Services v. Public Service Commission*, 203 UT 29, 75 P.3d 481. It is clear from the Supreme Court's analysis and discussion, particularly that contained in paragraphs 13 and 15 of the opinion, *supra*, that Questar, and the Commission, must address Questar's "burden of establishing that its [Questar's] decision to enter into the contract and the costs it agreed to were prudent and not unduly influenced by its affiliate relationship" (*Id.*, at ¶13), "hold Questar Gas to its burden of proof" (*id.*, at ¶15) and "find the necessary substantial evidence in support of the proposed rate increase in the record" (*id.*) before any recovery can be considered. The denial of any recovery is the result of the Supreme Court's discussion of what the Commission should do where the utility is held to its burden and fails. Due to our conclusion that Questar failed to establish an adequate evidentiary basis upon which we could conclude that its decision to enter into the processing contract and incur the costs it agreed to were

prudent and not unduly influenced by its affiliate relationships, we see no avenue for recovery, based on this record, while remaining compliant with the Supreme Court's decision.

We conclude that we have provided the clarification sought where Questar has not fully apprehended the intent of our August 30, 2004, Order. In all other respects, and particularly with respect to the specific request for reconsideration of our conclusion denying any rate recovery for CO₂ processing costs, based upon our discussion herein, we deny Questar's Petition for Reconsideration.

DATED at Salt Lake City, Utah, this 20th day of October, 2004.

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

/s/ W. Val Oveson, Commissioner Pro Tem

Attest:

/s/ Julie Orchard
Commission Secretary

G#40907 (Docket No. 98-057-12)

G#40961 (Docket No. 99-057-20)

G#40962 (Docket No. 01-057-14)

G#40963 (Docket No. 03-057-05)