



State of Utah

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Public Service Commission

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Commissioner

September 10, 2007

Dear Ms. Petersen and members of the Utah Foundation for Open Government Board;

Thank you for your August 13, 2007, letter. The Commissioners of the Utah Public Service Commission appreciate your input and effort to comment on a suggested change to the Commission's procedural rule.

In June, 2007, the Commission solicited comments from any interested person for suggestions for our procedural rule. The Commission's procedural rule has not been modified for a number of years, with the last substantive change originating solely from the Commission itself. The intent underlying the Commission's solicitation is to provide open access to its proceedings, accommodate new and developing technologies and functionalities to improve the extent and ease of disseminating information provided to the Commission, provide easy access to Commission activities, and ensure that appropriate administrative proceedings are conducted by the Commission. The Commission's Agenda Outline for its June 6, 2007, public meeting identified some possible areas that could be explored to achieve these goals. E.g., service of documents through email distribution rather than postal mail, distribution of and access to material through the internet, coordination of intervenors in Commission proceedings, agent representation in Commission proceedings, and conducting more proceedings as informal proceedings, rather than formal proceedings, under the Utah Administrative Procedures Act.

The Commission's existing procedural rule does permit individual customers to participate in our proceedings. A number do so, often appearing as public witnesses during our administrative proceedings or through submission of written comments in our dockets. Our rule also permits individuals to represent themselves and it allows officers or employees of companies to represent their principals. Our practice of allowing this self-representation has been challenged by some, claiming that representation through someone who is not an attorney deprives those so represented of their due process rights. There is some question of whether such representation constitutes the practice of law by those who are not lawyers. It also presents difficulties for those participating in and those presiding over administrative proceedings relative to applying rules of evidence and procedural rules consistent with due process standards for all involved. Currently employee/officer representation of companies has passed muster with the Utah Supreme Court, but the other issues have not been addressed. See, *Beehive Telephone Company vs. Public Service Commission of Utah*, 89 P.3d 131 (Utah 2004).

Unfortunately, some have mischaracterized the solicitation of comments as one driven or initiated by Questar Gas Company to curtail the activity of Mr. Ball. This is not the case. The

Commission requested comments or suggestions relating to our procedural rule. Questar Gas Company did provide suggestions, as did many others, in response to the Commission's broad invitation. Our intent was to solicit any comments/suggestions from as broad a range of interested persons as possible. We have not felt the need to discover the catalyst for any of the suggestions made by either Questar Gas Company, Mr. Ball or any of the other individuals and entities who provided any suggestions. We wish to consider a suggestion on its own intrinsic merit rather than wrapped in a perceived or alleged animus. We have attached a copy of Questar Gas Company's comments for your review. They are not exactly as they apparently have been represented to you. Again, we thank you for taking the time to provide your comments for our consideration.

Sincerely,

Sandy Mooy,
Counsel for the Public Service Commission