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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE PETITION OF
INTEGRATED WATER MANAGEMENT LLC FOR A
DECLARATORY ORDER

PETITION FOR DECLARATORY ORDER

DOCKET NO. _____

INTRODUCTION AND BACKGROUND

Integrated Water Management, LLC requests the Commission to issue a declaratory ruling, in accordance with Utah Code §63G-4-503 and Rule R745-101 of the Utah Administrative Code, that Integrated Water Management, LLC may purchase gas from Questar Gas Company where Questar Gas purchases gas from El Paso Midstream Investment Company ("El Paso"), without subjecting El Paso to regulation as a public utility as defined by Utah Code §54-2-1.

Integrated Water Management, LLC ("IWM") owns and operates a wastewater treatment facility in Duchesne County, Utah that stores and processes water produced from oil and gas exploration and production operations. IWM currently uses liquefied propane gas ("LPG") to run equipment that separates residual trace oil from the wastewater. IWM would like to convert its equipment to use natural gas.

El Paso, owns and operates a natural gas gathering network and processing facility in the area. Two El Paso gas lines run though the IWM property. One is a "wet gas" line that carries

unprocessed gas from the gathering network to El Paso's Altamont processing plant. The other is a "dry gas" line carrying processed gas from the Altamont processing plant back to wellheads for use by exploration and production equipment.

IWM proposes to tap the El Paso dry gas line and install a meter. Questar Gas Company would act as an intermediary in the transaction. Questar Gas would buy gas from El Paso at wholesale and in turn sell it to IWM at the regulated tariff rate.

IWM is petitioning the Commission for a declaratory ruling that such a transaction would not subject El Paso to regulation as a Public Utility. Pursuant to Rule R746-101-2(D) of the Utah Administrative Code, petitioner states that no public utility under Commission jurisdiction would be adversely affected by a ruling favorable to the petitioner.

II. ARGUMENT

A. El Paso Would Not Become a Statutory "Gas Corporation" Subject to Regulation because of the Contemplated Transaction.

Public Utilities in Utah are subject to regulation by the Public Services Commission.

Utah statute defines public utilities to include:

- (a) [E]very...gas corporation...where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation...where the gas is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.
- (b)
 - (i) If any...gas corporation...performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.
 - (ii) If a gas corporation...sells or furnishes gas...to any member or consumers with the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

Utah Code §54-2-1(16).

A “gas corporation” is defined as:

[E]very corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:¹

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

- (i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and
- (ii) not for sale to others.

Utah Code §54-2-1(10)

El Paso would not meet the definition of a “gas corporation” because its gas plant is not for “public service” nor would it be “selling or furnishing” gas to a consumer. Instead, it would only be selling and furnishing gas to Questar Gas via private service. It would then be Questar Gas, a statutory “gas corporation” presently regulated as such by the Commission, that would sell to the consumer, IWM, at the tariff rate. The interests of the public would be protected because Questar Gas, a regulated public utility, is handling delivery of gas to the consumer at the tariff rate.

There are 88 companies that have produced gas in Utah in 2011.² However, none are subject to regulation by the Commission because none of them provide gas to the consuming public. El Paso would not be an exception to this general rule. Like the other producers and intermediaries, it would sell gas to on the wholesale market, in this case Questar Gas and not

¹ Note that the statute also excepts from regulation situations where gas is compressed for use as a motor vehicle fuel. See Utah Code §54-2-1(10)(b) & (c). Such situations are not applicable here.

² According to the Utah Division of Oil, Gas and Mining's February 2011 production report dated June 1, 2011. Available at https://fs.ogm.utah.gov/pub/Oil&Gas/Publications/Reports/Prod/Operator/Opr_Feb_2011.pdf

directly to consumer, in this case IWM.

III. Conclusion

El Paso Midstream Investment Company would not be a statutory "gas corporation" subject to Commission regulation as a Public Utility if Questar Gas Company buys natural gas from it and in turn sells the gas to Integrated Water Management, LLC. IWM respectfully requests the Commission to issue a declaratory order finding that the contemplated transaction will not subject El Paso to regulation by the Commission.

Respectfully submitted: July 14, 2011

Integrated Water Management, LLC

Matthew M. Nelson
Nelson Law, PLLC
Attorney for Integrated Water Management, LLC

State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this _____ day of July 2011 by Matthew M. Nelson.

(Signature of Notary)

My commission expires: _____
Residing at: Salt Lake County, UT