

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE APPLICATION OF)
QUESTAR GAS COMPANY FOR APPROVAL) Docket No. 30010-123-GA-12
OF THE WEXPRO II AGREEMENT) (Record No. 13347)

APPEARANCES

For the Applicants Questar Gas Company (Questar):
COLLEEN LARKIN BELL Corporate Counsel, Salt Lake City, Utah

For the Intervenor Office of Consumer Advocate (OCA):
IVAN H. WILLIAMS, Senior Counsel, Cheyenne, Wyoming.

HEARD BEFORE

Chairman ALAN B. MINIER
Deputy Chairman WILLIAM F. RUSSELL
Commissioner KARA BRIGHTON

J. BLAIR BALES, Assistant Secretary,
Presiding pursuant to a *Special Order* of the Commission

Hearing Held April 11, 2013

MEMORANDUM OPINION, FINDINGS AND ORDER APPROVING THE
WEXPRO II AGREEMENT
(Issued October 16, 2013)

This matter is before the Wyoming Public Service Commission (Commission) upon the application of Questar for approval of the Wexpro II Agreement and the intervention of OCA.

The Commission, having reviewed the application, attached exhibits, the Wexpro Stipulation and Agreement (Wexpro I), the Wexpro II Agreement, and the evidence adduced at the public hearing, its files regarding Questar, applicable Wyoming utility law, and otherwise being fully advised in the premises, FINDS and CONCLUDES:

Introduction

1. On September 18, 2012, Questar filed its application requesting approval of the Wexpro II Agreement entered into between Questar, Wexpro Company (Wexpro), the Wyoming OCA and the Utah Division of Public Utilities (Wexpro II Parties), pursuant to W.S. § 37-2-101 *et seq.* and the Commission's Rules. (Application, p. 1.) Wexpro I was signed in 1981 by Mountain Fuel Supply Company, Questar's predecessor; Wexpro; Utah Department of Business Regulations, Division of Public Utilities; Utah Committee of Consumer Services; and Staff of the Commission. According to the application, Wexpro I has been a substantial benefit of cost-of-

service production to Questar's customers by providing gas at the cost-of-service price, which has historically been lower than the market-based gas price. Further, the application states Wexpro I has provided Questar's customers with a stable source of gas supply and long-term hedge against price volatility. (Application, pp. 1-2.) Under Wexpro I, the cost-of-service gas has saved Questar's Utah and Wyoming customers approximately \$1.3 billion, of which Wyoming's allocation is \$77 million, since 1981. (Transcript of April 11, 2013, public hearing, hereinafter, Tr., p. 14.)

2. In its application, Questar states on September 12, 2012, the Wexpro II Parties entered into the Wexpro II Agreement to enable Wexpro to develop new properties under similar terms and conditions found in Wexpro I. The application states the Wexpro II Agreement sets forth procedures by which Wexpro will purchase new properties at its own risk and submit those properties to the Utah and Wyoming Public Service Commissions for approval to include the properties as Wexpro II properties. The Wexpro II properties would be managed and developed in the same manner as properties under Wexpro I. (Application, pp. 2-3.)

3. The application seeks an *Order* from the Commission approving the Wexpro II Agreement. (Application, p. 4.) Questar supported the application with the written testimony of Barrie L. McKay, Questar's General Manager of State Regulatory Affairs (Ex. 1), and James R. Livsey, Wexpro's Executive Vice President and Chief Operating Officer (Ex. 2).

4. On October 11, 2012, the Commission issued its *Notice of Application* containing a deadline of November 9, 2012, for requests for intervention. The notice was duly published and broadcast on radio. (Ex. 100.)

5. On November 7, 2012, pursuant to W.S. § 37-2-402(a)(i), the OCA intervened in the case. The OCA is an independent division within the Commission, charged by statute with representing the interests of Wyoming citizens and all classes of utility customers in matters involving public utilities.

6. On February 8, 2013, the Commission issued its *Scheduling Order* setting a procedural schedule and a public hearing commencing on April 11, 2013. (Ex. 100.)

7. On March 11, 2013, the OCA filed the direct testimony of Bryce J. Freeman, Administrator of the OCA, in support of the application (Ex. 201).

8. On March 19, 2013, the Commission issued a *Notice and Order Setting Public Hearing*, which was duly published and broadcast on radio. (Ex. 100.)

9. Pursuant to the orders of the Commission and due notice, the public hearing in this matter was held on April 11, 2013, in Cheyenne. At the end of the hearing, the Commission held public deliberations pursuant to W.S. § 16-4-403, and directed the preparation of an order consistent with its decision.

Summary of Decision

10. The Commission grants Questar's request for approval of the Wexpro II Agreement with conditions agreed upon at hearing.

Contentions of the Parties and Resulting Issues

11. Questar contends the Wexpro II Agreement is beneficial to its customers and is in the public interest.

12. OCA is a signatory to the Wexpro II Agreement and supports its approval.

13. The sole issue is whether the Commission should approve the Wexpro II Agreement as being in the public interest.

Findings of Fact

14. Wexpro I was executed in 1981 to resolve an oil sharing dispute between Mountain Fuel Supply and Wexpro. It established a sharing mechanism where 54% of oil profits are credited to Mountain Fuel Supply customers and 46% are credited to Wexpro. The agreement also established a framework for production of natural gas within defined geographic areas at cost-of-service to Mountain Fuel Supply's (now Questar's) customers. (Ex. 2, pp. 1-2; Ex. 201, p. 5.)

15. Since 1981, Wexpro I provided Questar's customers with a stable source of natural gas and a long-term hedge against price volatility. On average, the cost-of-service gas has been lower priced than market-based sources saving Wyoming customers approximately \$77 million over thirty years. Wexpro I provides between one-third and one-half of the natural gas required to supply Questar's customers. (Tr., p. 14; Ex. 1, p. 2.)

16. Because of improvements in exploration and drilling methods, the Wexpro I properties have produced longer and at greater levels than originally anticipated. However, because the geographic area defined in the agreement is limited, it cannot continue to produce at current levels indefinitely. Questar and Wexpro began looking for ways to expand exploration and production beyond the Wexpro I properties so that customers can continue to benefit from cost-of-service gas supplies. The result of those efforts is the Wexpro II Agreement. (Ex. 1, pp. 2-3; Ex. 201, p. 5.)

17. Wexpro II does not replace Wexpro I. Rather, it allows additional properties not eligible for inclusion under Wexpro I to be acquired as cost-of-service gas supplies under the terms of Wexpro II. (Ex. 201, pp. 9-10.) But because Wexpro II is modeled after Wexpro I, Wexpro II properties will be developed and produced under substantially the same terms and conditions set forth in Wexpro I. (Ex. 1, p. 5.)

18. A key provision of Wexpro II is that Wexpro will acquire oil and gas properties at its own risk. Any property acquired within the Wexpro I drilling areas *must* be brought before the

Wyoming and Utah Commissions for the opportunity to include the property in the cost-of-service supplies. This right of first refusal alleviates any concern that Wexpro would not offer its best performing properties, and mitigates the risk that ratepayers will be saddled with underperforming properties. If both Commissions approve the property for inclusion as a Wexpro II property, Wexpro will develop the property for the benefit of Questar's customers as provided in the Wexpro II agreement. (Ex. 1, p. 6; Ex. 201, pp. 7-8.)

19. If Wexpro acquires new properties outside the Wexpro I drilling areas, Questar *may* apply to the Wyoming and Utah Commissions for approval to include them as Wexpro II properties. If approved by both Commissions, those properties will be developed as provided in the Wexpro II agreement. (Ex. 1, p. 6.)

20. When Questar files an application for a new Wexpro II property, the Hydrocarbon Monitor will, within seven business days, file an independent review of the assumptions, data, and analysis used by Wexpro in the purchase of the proposed property, but will not provide a recommendation regarding its inclusion as a Wexpro II property. The OCA and Utah Division of Public Utilities will file responses recommending approval or rejection of the proposed property based on their own analysis and the Hydrocarbon Monitor's evaluation. If the proposed property is not approved by both Commissions within 60 days, Questar may withdraw the property from consideration. (Ex. 1, p. 7.)

21. We find OCA is a focal point for many of the functions in the Wexpro II Agreement and that OCA is committed to communicate with the Commission regarding the processes and substance of the Wexpro II Agreement as may be required. (Tr., p. 157.) We find any OCA reporting requirements will be determined as the interests of the Wexpro II Agreement, the Commission and the OCA may require. (Tr., p. 178.)

22. We find when Questar applies for a property to become a Wexpro II property, all applicable guideline letters shall accompany the application. We find, as agreed to by Questar and OCA, Commission staff shall be involved in the development and approval of the guideline letters as had been done pursuant to Wexpro I. (Tr., pp. 61; 152-153.) We find the guideline letters shall clearly show approval by the entities who are required to approve them, following a format similar to the guideline letters issued under Wexpro I in the 1980s and 1990s. (Tr., pp. 96-97.)

23. We find the public interest would be served by approving the Wexpro II Agreement, with the following agreed upon conditions:

a. Questar shall file the Hydrocarbon and Accounting Monitor Reports as they become available (Tr., p. 48.);

b. Questar shall file the Hydrocarbon Monitor letters documenting certain items which the Hydrocarbon Monitor has the authority to approve (Tr., p. 125.);

c. Questar shall report the results of the Utah technical conference held on May 2, 2013 (Tr., pp. 31-32.);

d. Questar shall clearly separate and identify Wexpro I and II items in its pass-on applications (Tr., p. 45.);

e. Questar shall file annual base rate of return calculations for both Wexpro I and II. The Wexpro II items shall be filed under this docket for tracking purposes; and,

f. OCA will obtain an expert to evaluate potential Wexpro II property purchases, as necessary. (Tr., p. 158.)

24. Any conclusion of law set forth below which includes a finding of fact may also be considered a finding of fact and therefore incorporated herein by reference.

Principles of Law

25. Our basic and overriding standard in this case is the public interest and the desires of the utility are secondary to it. In *PacifiCorp v. Public Service Commission of Wyoming*, 2004 WY 164, 103 P.3d 862 (2004), the Wyoming Supreme Court, 2004 WY 164 at ¶13, quoted with favor *Sinclair Oil Corp. v. Wyoming Public Service Comm'n*, 2003 WY 22, at ¶9, 63 P.3d at 887 (Wyo. 2003):

Speaking specifically of PSC, we have said that PSC is required to give paramount consideration to the public interest in exercising its statutory powers to regulate and supervise public utilities. The desires of the utility are secondary. [Citation omitted.]

26. The Wyoming Administrative Procedure Act, at W.S. § 16-3-107, establishes general procedures in Commission cases, including the giving of reasonable notice. In accord are W.S. §§ 37-2-201, 37-2-202, and 37-3-106. (*See also*, Commission Rule §§ 106 and 115.)

27. W.S. § 37-2-121 authorizes public utilities to initiate proceedings to employ innovative ratemaking methods:

. . . Any public utility may apply to the commission for its consent to use innovative, incentive or nontraditional rate making methods. In conducting any investigation and holding any hearing in response thereto, the commission may consider and approve proposals which include any rate, service regulation, rate setting concept, economic development rate, service concept, nondiscriminatory revenue sharing or profit-sharing form of regulation and policy, including policies for the encouragement of the development of public utility infrastructure, services, facilities or plant within the state, which can be shown by substantial evidence to support and be consistent with the public interest.

28. Public utilities are required to file contracts with the Commission as designated under W.S. § 37-3-111. This statute states, in pertinent part,

Every public utility shall file with the commission copies of contracts, agreements or arrangements to which it may be a party, as the commission may designate. . . .

Commission Rule 218, follows from W.S. § 37-3-111, stating,

Every utility shall file with the Commission one copy of all special contracts which govern the sale by the utility of public utility service or the purchase by the utility of a utility commodity for resale. If the utility has numerous sale or purchase contracts which are in all essentials similar, the utility may request to file a selected one or a few in lieu of filing all such contracts.

Conclusions of Law

29. Questar is a public utility as defined in W.S. § 37-1-101(a)(vi)(D), subject to the jurisdiction of the Commission under W.S. § 37-2-112. The Commission has the general and exclusive jurisdiction to regulate Questar as a public utility in Wyoming. The Commission has duly authorized Questar to provide retail natural gas public utility service in its respective Wyoming service territories under a certificate of convenience and necessity.

30. The Wexpro II Agreement establishes procedures for Questar to file applications with the Utah and Wyoming Commissions to request approval to include proposed properties under the Wexpro II Agreement. Approved Wexpro II properties will benefit Questar's customers by supplying commodity gas at cost-of-service prices or in the case of an oil property, providing for revenue sharing. The Wexpro II Agreement is the governing document setting out the terms and conditions for the potential future acquisition and development of certain oil and gas properties.

31. Based on our findings and conclusions herein, we further conclude that approval of the Wexpro II Agreement is in the public interest.

32. Proper legal notice of this proceeding was given in accordance with the Wyoming Administrative Procedure Act, W.S. § 37-2-203, and Commission Rule Section 106. The public hearing was held and conducted pursuant to W.S. §§ 16-3-107, 16-3-108, 37-2-203, and applicable sections of the Commission's Rules. The intervenor, OCA, was a party to the case for all purposes.

33. Public deliberations were held in compliance with W.S. § 16-4-403.

IT IS THEREFORE ORDERED:

1. The application of Questar Gas Company for approval of the Wexpro II Agreement is hereby approved subject to the following conditions:

- a. All guideline letters applicable to Wexpro I shall also apply to Wexpro II;
- b. All applicable guideline letters shall accompany the application for approval of a Wexpro II property;
- c. Wexpro I and Wexpro II matters shall be separately identified in Questar's pass-on applications;

d. Questar shall file annual base rate of return calculations for both Wexpro I and Wexpro II. The Wexpro II calculations shall be filed under this docket for tracking purposes;

e. Questar shall file quarterly and annual Hydrocarbon and Accounting Monitor Reports as they become available; and

f. Questar shall file all Hydrocarbon Monitor letters relating to Wexpro I and Wexpro II properties.

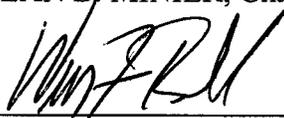
2. This *Order* is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming, on October 16, 2013.

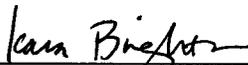
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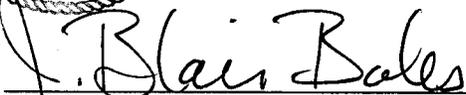
ALAN B. MINIER, Chairman



WILLIAM F. RUSSELL, Deputy Chairman



KARA BRIGHTON, Commissioner



J. BLAIR BALES, Assistant Secretary