

MATT HUNTER
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0318
IDAHO BAR NO. 10655

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Street Address for Express Mail:
11331 W CHINDEN BLVD, BLDG 8, SUITE 201-A
BOISE, ID 83714

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF AVISTA)
CORPORATION'S PETITION FOR LIMITED) **CASE NO. AVU-G-19-08**
WAIVER OF PENALTY TERMS SET FORTH IN)
ITS NATURAL GAS TARIFF) **COMMENTS OF THE**
) **COMMISSION STAFF**
)

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Matt Hunter, Deputy Attorney General, and in response to the Notice of Petition and Modified Procedure issued in Order No. 34500 on December 4, 2019, in Case No. AVU-G-19-08, submits the following comments.

BACKGROUND

On November 14, 2019, Avista Corporation ("Avista" or "the Company") petitioned the Commission to grant a limited waiver of certain penalty provisions in Schedule 146 of Avista's tariff, and authorize settlement discussions between Clearwater Paper ("Clearwater") and Avista to resolve a disputed penalty that arose from Schedule 146.

The Company explains it has a contract with Clearwater to provide Clearwater with natural gas transportation. Schedule 146 is incorporated into the contract.

Schedule 146—Transportation Service for Customer-Owned Gas—provided the terms under which Avista provided natural gas transportation services to commercial and industrial customers with requirements exceeding 250,000 therms of gas per year. Under Schedule 146,

Avista may issue an entitlement order prescribing a maximum amount of gas to be used by a customer per day. Gas used over the prescribed entitlement is subject to an entitlement penalty.

Natural gas prices during the winter of 2018-2019 were volatile because of the Prince George Enbridge (“Enbridge”) pipeline rupture on October 9, 2018. The Company states that in February and March 2019, Northwest Pipeline—the main interstate pipeline that transports natural gas from Sumas south along the I-5 corridor and east to the Rocky Mountains—issued entitlement notices requiring shippers on its pipeline to stay within a certain percentage of their nominated natural gas supplies. In response to these notices, Avista issued entitlement notices to those customers on its distribution system that purchase their own natural gas and procure their own natural gas transportation, of which Clearwater is one.

The Company states Clearwater exceeded its nominated natural gas volumes eight times between February 7, 2019 and March 4, 2019. Avista issued entitlement penalties for the eight exceedances under Schedule 146. The entitlement penalty in Schedule 146 is calculated by the **greater** of \$1.00 per therm **or** 150% of the highest midpoint price at one of a select number of natural gas trading hubs. Avista states that, while the average natural gas price at various non-Sumas trading hubs during the exceedances was \$0.65 per therm, the average price at Sumas during the same period was \$3.59 per therm, with a high price of \$15.93 per therm. Avista states the resulting entitlement penalty against Clearwater is \$926,202.

Clearwater and Avista agree that the entitlement penalty is unduly burdensome. Avista states it was never forced to buy more natural gas to make up for excessive natural gas use by Clearwater. Avista notes “there was no financial harm to any of Avista’s core customers, nor was Avista penalized by Northwest Pipeline.”

Avista states Clearwater wishes to engage in settlement negotiations to determine whether and by what amount the entitlement penalty should be reduced. Avista cannot reduce a schedule-derived penalty without the Commission’s authorization. Therefore, the Company asks the Commission to grant a limited waiver of Schedule 146.

If the Commission authorizes a limited waiver and Clearwater and Avista agree to a modified entitlement penalty, they will jointly file a settlement agreement with the Commission for approval or rejection.

STAFF ANALYSIS

The Company is requesting the Commission's authorization to offer a limited waiver of tariff entitlement penalty provisions under Schedule 146 for reasons described above and to allow Avista and Clearwater to enter into settlement negotiations to determine whether, and by what amount, the entitlement penalty should be reduced. Through Staff's analysis of the mitigating circumstances surrounding the tariff violations, Staff believes it is appropriate to authorize the limited waiver and allow the Company to enter into settlement negotiations. Staff also believes a penalty should be substantial enough to ensure compliance with future entitlement orders.

Staff reviewed the Company's Application, Tariff Schedule 146, Tariff Schedule 182, and production requests. Staff believes that: (1) the penalty of \$926,202 calculated by the Company was correct; (2) Clearwater violated the entitlement terms defined in Tariff Schedule 146; and (3) the Company responded appropriately to pipeline restraints caused by the Enbridge pipeline rupture when it issued the entitlement order.

The entitlement penalty in Schedule 146 is calculated by the *greater* of \$1.00 per therm *or* 150% of the highest midpoint price at one of a select number of natural gas trading hubs. Because of the events surrounding the Enbridge pipeline rupture culminated in anomalous spikes in the price of gas at Sumas, the penalty applied to Clearwater is unduly burdensome. The highest midpoint price at Sumas during the entitlement orders was \$15.93 per therm while the average natural gas price at various non-Sumas trading hubs during the exceedances was \$0.65 per therm. Though the exceedance penalty was calculated correctly based on the terms of Schedule 146, it would be much less under most circumstances.

To ensure that the Company's request is properly limited to Clearwater and should not apply to other Idaho Avista transportation customers, Staff verified Clearwater was the only transportation customer in Idaho that violated entitlement orders and incurred a penalty. Avista's other Idaho transportation customers who were issued entitlement orders complied with those orders. Staff believes that if the Commission authorizes a limited waiver those Idaho transportation customers who may have been impacted by compliance with the issued entitlement orders should be given additional notice by Avista so they may determine if they want to file comments in the case requesting approval of the settlement agreement.

In its Application, the Company stated that no core customers were financially harmed nor was the Company penalized by Northwest Pipeline. Staff verified that during the Enbridge

pipeline event, the Company had a favorable cumulative imbalance on Northwest Pipeline and was able to accommodate the impact of Clearwater's overruns. Staff believes the Company responded appropriately in complying with Northwest Pipeline's entitlement request and therefore did not incur any penalties from the pipeline operator.

STAFF RECOMMENDATIONS

Staff recommends the Commission allow a limited waiver of the penalty terms in Gas Tariff Schedule 146 and allow parties to negotiate a possible penalty reduction. Staff also recommends the Company be required to file for Commission approval of any settlement agreement.

Respectfully submitted this 7th day of January 2020.



Matt Hunter
Deputy Attorney General

Technical Staff: Travis Culbertson
Kevin Keyt

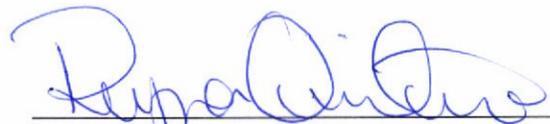
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 7TH DAY OF JANUARY 2020, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. AVU-G-19-08, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

PATRICK EHRBAR
DIRECTOR REGULATORY AFFAIRS
AVISTA CORPORATION
PO BOX 3727
SPOKANE WA 99220-3727
E-mail: patrick.ehrbar@avistacorp.com

MICHAEL G ANDREA
SENIOR COUNSEL
AVISTA CORPORATION
PO BOX 3727
SPOKANE WA 99220-3727
E-mail: michael.andrea@avistacorp.com


SECRETARY