

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: MATT HUNTER
DEPUTY ATTORNEY GENERAL

DATE: NOVEMBER 21, 2019

SUBJECT: AVISTA CORPORATION'S PETITION FOR LIMITED WAIVER OF PENALTY TERMS SET FORTH IN ITS NATURAL GAS TARIFF; CASE NO. AVU-G-19-08.

On November 14, 2019, Avista Corporation (Avista or the Company) petitioned the Commission to grant a limited waiver of certain penalty provisions in Schedule 146¹ of Avista's tariff, and authorize settlement discussions between Clearwater Paper (Clearwater) and Avista to resolve a disputed penalty that arose from Schedule 146.

BACKGROUND

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 in excess of the prescribed entitlement is subject to an unauthorized overrun charge. As stated in the Schedule, “the unauthorized overrun charge shall be the greater of \$1.00 per therm or 150% of the highest midpoint price at Northwest Wyoming Pool, Northwest south of Green River, Stanfield Oregon, Kern River Opal. El Paso Bondad or Northwest Canadian border (Sumas) supply pricing points...” (Emphasis added).

THE APPLICATION

The Company petitions the Commission to grant a limited waiver to Schedule 146's penalty provisions. Petition at 1. The Company explains it has a contract with Clearwater to

¹ The Commission recently replaced Schedule 146 in Case No. AVU-G-19-05. *See* Order No. 34461. However, Schedule 146 was in effect when the penalties at issue in this case were incurred.

provide Clearwater with natural gas transportation. *Id.* at 2. The terms and conditions in Schedule 146 are incorporated into the contract. *Id.*

Natural gas prices during the winter of 2018-2019 were volatile because of the West Coast 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. *Id.* at 3. 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. *Id.*

The Company states Clearwater exceeded its nominated natural gas volumes eight times between February 7, 2019 and March 4, 2019. *Id.* Avista issued entitlement penalties for the eight exceedances, under Schedule 146. *Id.* As earlier noted, 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. *Id.*; *see* Schedule 146. 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. Petition at 3. Avista states the resulting entitlement penalty against Clearwater is \$926,202. *Id.* at 4.

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

Avista states Clearwater wishes to engage in settlement negotiations to determine whether and by what amount the entitlement penalty should be reduced. *Id.* at 5. Avista notes it cannot reduce a schedule-derived penalty without the Commission’s authorization. *Id.* Therefore, the Company asks the Commission to grant a limited waiver of Schedule 146. *Id.* If Clearwater and Avista agree to a modified entitlement penalty, they will jointly file a settlement agreement with the Commission for approval or rejection. *Id.*

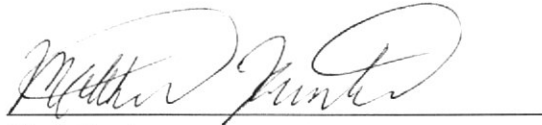
The Company requests its Petition be processed under Modified Procedure. *Id.* at 6.

STAFF RECOMMENDATION

Staff recommends the Commission issue a Notice of Petition and Notice of Modified Procedure setting a January 7, 2020 comment deadline, and a January 14, 2020 reply deadline.

COMMISSION DECISION

Does the Commission wish to issue a Notice of Petition and Notice of Modified Procedure setting a January 7, 2020 comment deadline, and a January 14, 2020 reply deadline?



Matt Hunter
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