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IDAHO PUBLIC UTILITIES COMMISSION

JOHN R. HAMMOND, JR.
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0357
IDAHO BAR NO. 5470

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

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

AVISTA CORPORATION'S PETITION FOR)	
APPROVAL OF A SETTLEMENT)	CASE NO. AVU-G-20-02
AGREEMENT BETWEEN CLEARWATER)	
PAPER CORPORATION AND AVISTA)	
CORPORATION)	COMMENTS OF THE
)	COMMISSION STAFF
)	

The Staff of the Idaho Public Utilities Commission submits the following comments regarding the above referenced case.

BACKGROUND

On April 7, 2020, Avista Corporation (“Company”) filed a Petition seeking approval of a settlement agreement (“Agreement”) with Clearwater Paper Corporation (“Clearwater”) pursuant to Commission Rule of Procedure 53. IDAPA 31.01.01.053. The proposed Agreement resolves a dispute over a penalty that could have been imposed on Clearwater under the Company’s Idaho Natural Gas Tariff, Schedule 146 – Transportation Service for Customer-Owned Gas (“Tariff”). The Company requested that the Petition be processed by Modified Procedure. *Petition* at 6.

The Company and Clearwater agreed that the amount of the penalty was unduly burdensome due to the unique circumstances that existed when it was incurred. *Id.* at 4. As a result, the Company asked the Commission for a limited waiver of certain penalty provisions in

the Tariff and permission to enter into settlement discussions with Clearwater. *Id.*; *see also* Order No. 34549.

After settlement negotiations the Company and Clearwater agreed to a reduced Penalty of \$500,000. *Id.* at 5. The Company asserts this amount strikes a reasonable balance between providing meaningful deterrence due to the large dollar amount but not so high as to become unduly burdensome when there was significant turmoil in natural gas markets. *Id.* Further, the Company contends there was no financial harm to the Company's core customers, nor was it penalized by Northwest Pipeline. *Id.*

STAFF ANALYSIS

Pursuant to Order No. 34549 that granted a limited waiver of certain penalty provisions in Schedule 146, the Company and Clearwater have reached a settlement agreement on the amount of entitlement penalties levied by the Company against Clearwater. Staff has reviewed the Agreement, prior Commission orders, and provisions under the Company's natural gas tariffs. Based on its review, Staff recommends the Commission approve the Agreement.

On October 9, 2018, the Enbridge-owned West Coast Pipeline experienced a rupture that reduced natural gas flows to the Sumas natural gas trading hub for the entire 2018-2019 wintertime period. The rupture, coupled with Jackson Prairie system maintenance and outages, resulted in unusually high prices and volatility at Sumas. In February and March 2019, Northwest Pipeline issued certain entitlement notices requiring shippers on their pipeline to stay within a certain percentage of their nominated natural gas supplies. The Company issued the same entitlement notices to Clearwater and other transportation customers. Despite these notifications Clearwater exceeded its nominated natural gas volumes eight times between February 7, 2019 and March 4, 2019. Those eight exceedances led to imposition of \$926,202 entitlement penalties under the Company's Tariff.

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 the events surrounding the Enbridge pipeline rupture culminated in anomalous spikes in the price of gas at Sumas, the penalties levied on Clearwater were unduly burdensome. As a result, the Company asked the Commission for a limited waiver of certain penalty provisions in the Tariff and permission to enter into settlement discussions with Clearwater; *see* Order No. 34549.

In Order No. 34549, the Commission stated:

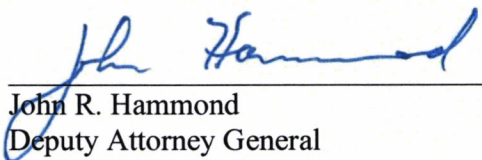
This limited waiver does not authorize the Company to forgive the penalty or to negotiate a nominal penalty. We approve the limited waiver here for one reason – no one appears to have been harmed by Clearwater’s exceedances. Avista was not penalized by Northwest Pipeline, and no other transportation customers appear to have been harmed.

The two parties meet on February 21, 2020 and on March 2, 2020 and reached an agreement on a reduced penalty of \$500,000. Staff believes the agreed-upon penalty complies with Order No. 34549 and strikes a reasonable balance whereby the penalty is sizeable enough to discourage future entitlement violations, while at the same time is not so high that it is unduly burdensome. No other customers were harmed by Clearwater’s entitlement violations, and the Company was not penalized by Northwest Pipeline. The penalty is passed through the Company’s annual purchased gas adjustment mechanism as an offset to deferred gas costs.

STAFF RECOMMENDATION

Staff recommends the Commission approve the Agreement between the Company and Clearwater reducing the entitlement penalties levied against Clearwater from \$926,202 to \$500,000.

Respectfully submitted this 3rd day of June 2020.



John R. Hammond
Deputy Attorney General

Technical Staff: Travis Culbertson
Bentley Erdwurm

i:umisc:comments/avug20.2jhtncbe comments

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 3rd DAY OF JUNE 2020, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. AVU-G-20-02, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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

PATRICK EHRBAR
DIR OF REGULATORY AFFAIRS
AVISTA CORPORATION
PO BOX 3727
SPOKANE WA 99220-3727
E-MAIL: patrick.ehrbar@avistacorp.com
avistadockets@avistacorp.com

/s/ Reyna Quintero
SECRETARY