

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

TREE TOP, INC., a Washington Corporation)	DOCKET UG-210745
)	
Complainant,)	
)	
v.)	
)	
CASCADE NATURAL GAS CORPORATION, a Washington Corporation)	
)	
Respondent.)	

REPLY TESTIMONY OF BRADLEY G. MULLINS

ON BEHALF OF

TREE TOP, INC.

May 26, 2022

1 **Q. ARE YOU THE SAME WITNESS THAT FILED DIRECT TESTIMONY IN THIS**
2 **DOCKET?**

3 A. Yes. I previously filed Direct Testimony on behalf of Tree Top, Inc. (“Tree Top”)
4 regarding unreasonable overrun entitlement charges that were assessed to Tree Top in
5 February 2021.

6 **Q. WHAT IS THE PURPOSE OF YOUR REPLY TESTIMONY?**

7 A. I reply to the Response Testimony of Cascade Natural Gas Corporation (“Cascade”)
8 witnesses Robins and Blattner regarding the reasonableness of the \$198,844.87 in
9 overentitlement charges that Cascade assessed to Tree Top in connection with the Stage
10 II Overrun Entitlement period for the period February 12, 2021 through February 16,
11 2021 (the “Overrun Entitlement”).

12 **Q. PLEASE SUMMARIZE YOUR REPLY TESTIMONY.**

13 A. There is no dispute that Tree Top’s entitlement overruns during the Overrun Entitlement
14 resulted in zero costs to Cascade or its gas service customers.¹ Notwithstanding, Cascade
15 argues that the excessive charge that it assessed to Tree Top based on the dysfunctional
16 South of Green River NW (“Green River”) market were reasonable considering potential
17 costs and in order to penalize what Cascade considers to be inappropriate behavior.
18 These arguments, however, miss the mark. Tree Top has not requested that its overrun
19 entitlement charges be abrogated. Tree Top has recommended that the Overrun
20 Entitlement charges be calculated using the Sumas market hub, rather than the Green
21 River market rates because the Green River market prices were driven to excessive levels

¹ Robbins, Exh. CR-1RT at 7:14-16.

1 during the Overrun Entitlement as a result of the 2021 Texas Energy crisis and were not
2 representative of any real or potential cost to Cascade or its customers. The charges
3 Cascade assessed were not fair, just and reasonable. Therefore, I continue to recommend
4 that the Commission require Cascade to refund unreasonable charges to Tree Top in the
5 amount of \$196,633.96, inclusive of interest, as detailed in Table 1 of my Direct
6 Testimony.

7 **Q. DOES CASCADE AGREE THAT IT INCURRED NO ACTUAL COSTS OR**
8 **HARM IN CONNECTION WITH TREE TOP’S ENTITLEMENT OVERRUNS?**

9 A. Yes. Cascade states, for example, that it “has not identified any additional costs it
10 incurred because of Tree Top’s overruns.”² Cascade also states that it “did not incur
11 overrun entitlement charges from Northwest Pipeline and has not identified any
12 additional costs it incurred because of Tree Top’s overruns.”³ Cascade also recognized
13 that the behavior of transportation customers, such as Tree Top, and their marketers
14 contributed to Cascade avoiding costs during the overrun entitlement, noting that “CMS
15 and other marketers delivered more gas to Cascade’s system than their transportation
16 customers used during the February 2021 Entitlement Period.”⁴ Notwithstanding,
17 Cascade continues to insist that the excessive charges were reasonable because of their
18 exemplary effect.

2 Robbins, Exh. CR-1RT at 7:14-16.

3 Blattner, Exh. LB-1T at 17:20-18:5.

4 Blattner, Exh. LB-1T at 17:20-18:5.

1 **Q. ARE OVERRUN ENTITLEMENTS CHARGES A PENALTY?**

2 A. Overrun entitlement charges should not be used as a penalty. While Cascade
3 acknowledges that it did not incur any costs in connection with Tree Top’s entitlement
4 overruns, much of Cascade’s Response Testimony focuses on the reasonableness of
5 penalizing what it views to be inappropriate behavior.⁵ That is, Cascade claims that its
6 actual costs are irrelevant because the overrun entitlement charges are not meant to
7 recover a cost of providing a service, but rather, meant to penalize certain behavior. Such
8 discussion, however, is misplaced. Overrun entitlement charges are in most cases not
9 designed to be a penalty. For purposes of Cascade’s system, Schedule 663 states that
10 “[t]he Company may declare an Entitlement on any day the Company, in its sole
11 discretion, reasonably determines a critical operational condition warrants the need.” As
12 a practical matter, however, the reliable operation of Cascade’s individual system follows
13 the operation of the interstate pipeline. In most cases, including the Overrun Entitlement
14 at issue in this proceeding, it is the pipeline conditions that result in the declaration of an
15 entitlement period. In response to Tree Top Data Request 27, Cascade provided all
16 instances when an entitlement period has been declared since 2017, all of which were
17 declared by the interstate pipeline.⁶

18 In cases where Cascade follows the entitlement declaration of the interstate
19 pipeline, the charge is intended to be a cost-based rate which allows Cascade to recover
20 the cost of overrun entitlement charges assessed by the upstream interstate pipeline in

⁵ Blattner, Exh. LB-1T at 6:3-5.

⁶ Mullins, Exh. BGM-4 at 21-22 (Cascade’s Resp. to Tree Top DR 27).

1 overrun entitlement conditions. Cascade serves transportation customers as the
2 Receiving Party under the interstate pipeline tariff, and therefore, must pay the cost of
3 entitlement overrun charges for its system, including the entitlement overruns caused by
4 transportation customers. The overrun entitlement charges in Schedule 663 were
5 designed to pass through the costs of Cascade serving as the Receiving Party on the
6 transportation customers' behalf. While Cascade may assess an overrun entitlement
7 charge against a customer even if no charges are assessed by the interstate pipeline, the
8 charges still must be fair, just and reasonable.

9 **Q. WHAT FACTORS DOES THE COMMISSION CONSIDER WHEN**
10 **EVALUATING THE REASONABLENESS OF A CHARGE?**

11 A. The Commission generally assesses the reasonableness of rate, toll, rental or charge for
12 any service performed by a public service company based on an evaluation of actual
13 legitimate costs, not based on their exemplary effects. Cascade, however, draws several
14 analogies to instances where the Commission, itself, has assessed penalties to public
15 service companies, suggesting that such cases demonstrate the reasonableness of the
16 overrun entitlement charges assessed to Tree Top.⁷ Those cases, however, are not only
17 irrelevant, but demonstrate the fallacy of Cascade's argument. Cascade fails to recognize
18 that only the Commission has authority to issue penalties. And even if Cascade can
19 assess an exemplary charge, the charge should not be completely divorced from its cost

⁷ See e.g. Blattner, Exh. LB-1T at 21:14-22:18

1 of providing service. And even as penalties go, assessing a penalty, which is over 12.6
2 times the market cost of Tree Top entitlement overruns,⁸ is excessive.

3 **Q. WILL GAS SALES SERVICE CUSTOMERS BE HARMED IF CASCADE IS**
4 **REQUIRED TO REFUND UNREASONABLE OVERRUN ENTITLEMENT**
5 **CHARGES?**

6 A. No. Cascade states that granting Tree Top’s request would “require Cascade to claw
7 back the overrun charge revenues from its core customers through its Purchased Gas
8 Adjustment (PGA) mechanism”⁹ Notwithstanding, since neither Cascade nor its gas
9 service customers incurred any costs with respect to the Overrun Entitlement, refunding
10 the unreasonable charges will not result in any additional cost being incurred by gas
11 service customers. Further, as Cascade acknowledged, transportation customers
12 otherwise provided a benefit to core gas customers by supplying substantially more gas
13 than they consumed during the period of high market prices that occurred
14 contemporaneously to the Overrun Entitlement.

15 **Q. DO THE OVERRUN ENTITLEMENT CHARGES REPRESENT A POTENTIAL**
16 **COST?**

17 A. Cascade also makes a number of statements such as “the purpose of the overrun charges
18 is to modify behavior to *avoid potential harm*, not to impose charges *only* when Cascade
19 or its customers suffer actual harm.”¹⁰ Thus, Cascade implies that the charges are
20 reasonable because it could have potentially incurred a cost in connection with Tree
21 Top’s entitlement overrun. These statements, however, overstate the potential for harm

⁸ Mullins, Exh. BGM-1RT at 28:3.

⁹ Blattner, Exh. LB-1T at 21:14-22:18

¹⁰ Blattner, Exh. LB-1T at 20:21-21:2

1 during an overrun entitlement. Cascade does not balance the interstate pipeline and does
2 not purchase gas for its transportation customers. Cascade does not purchase gas in the
3 spot market to serve its transportation customers. If there is an imbalance during an
4 overrun entitlement, it is the interstate pipeline that incurs the cost to serve the imbalance,
5 not Cascade. Thus, the only potential costs to Cascade—and the reason for having the
6 overrun entitlement provision in the Schedule 663 tariff—is the possibility that the
7 interstate pipeline might assess an overrun entitlement charge as a result of a
8 transportation customer’s entitlement overrun. Yet, given that no such charges were
9 assessed, pricing the transportation customer’s daily entitlement overruns at the 150% of
10 the Sumas market, rather than the Green Market, produces no different effect in avoiding
11 potential cost. As Cascade acknowledged, transportation customers, including Tree Top,
12 dramatically oversupplied the system during the overrun entitlement. They did this even
13 though they were unaware at the time they nominated the gas, that the Green River
14 market would reach the astronomical levels it did. Thus, asserting that there was a
15 potential cost has no bearing on whether it is reasonable to assess the overrun entitlement
16 charges based on 150% of the Sumas market price, as Tree Top recommends.

17 **Q. ARE THE CAUSES OF TREE TOP’S OVERRUN ENTITLEMENT RELEVANT?**

18 A. No. Cascade provides Response Testimony implying that the Overrun Entitlement
19 charges it imposed were reasonable because Tree Top was at fault for its entitlement
20 overruns.¹¹ The causes for Tree Top’s imbalances during the Overrun Entitlement and

¹¹ Robbins, Exh. CR-1RT at 30:3-32:5

1 Cascade's inquiry into whether Tree Top could have done something different to avoid
2 imbalances, however, are a distraction and not relevant to this proceeding. Tree Top is
3 not contesting the fact that it had imbalances during the Entitlement Period, nor is it
4 contesting responsibility to balance daily during an overrun entitlement. Rather, Tree
5 Top is arguing that the charges be recalculated based on market rates that are reasonable,
6 based on the cost of the imbalance gas in regional markets, rather than the dysfunctional
7 Green River market. Thus, the relevant question is not whether Tree Top is at fault, but
8 whether it was reasonable to assess the charges based on the Green River market, which
9 were subject to the effects of the 2021 Texas Energy crisis, an event that had no
10 relationship to any actual or potential cost Tree Top imposed on Cascade or its gas
11 service customers.

12 **Q. COULD TREE TOP HAVE MODIFIED ITS NOMINATIONS OVER THE**
13 **PRESIDENTS DAY WEEKEND?**

14 A. Cascade makes several statements that Tree Top had “numerous opportunities throughout
15 the event to update its nominations.”¹² These statements, however, are inconsistent with
16 the reality of how transportation customers procure their gas requirements. While it is
17 true Tree Top's marketer had several opportunities to update nominations after the fact, it
18 cannot do so if it did not provide corresponding gas supplies in the first place. All of
19 Tree Top's gas is purchased in day ahead markets. Therefore, Tree Top's gas supplies
20 for the entire president's day weekend—Saturday February 13, 2021 through Tuesday,
21 February 16, 2021--had to be secured by 9:00 AM on Friday February 12, 2021. Any

¹² Robbins, Exh. CR-1RT at 4:2-3.

1 potential nomination changes that occur after the fact are therefore limited to gas supplies
2 that have already been procured. Given the timing of the February 2021 Overrun
3 Entitlement, there were a large number of nomination changes being made over a short
4 period of time, so it is possible that some of those were not entered until the weekend, as
5 Cascade suggests.

6 **Q. IS IT REASONABLE TO NET THE OVERRUN ENTITLEMENT CHARGES**
7 **FOR EACH OF TREE TOP'S PLANTS?**

8 A. Yes. In Opening Testimony, I recommended that Tree Top be allowed to net the
9 entitlement overruns at its four plants because it had oversupplied some of its plants,
10 while undersupplying others. Cascade objects to such an approach because it “ignores
11 the physical realities of Cascade’s natural gas distribution system.”¹³ Cascade’s
12 response, however, misses the point. Tree Top accepts that its plants take delivery at
13 different points along Cascade’s lateral on the Northwest Pipeline, and that there are
14 different limitations at the various points. The reason for netting the entitlement
15 overruns, however, is not an operational issue. Netting the entitlement overruns for all
16 points of delivery on Cascade’s system is reasonable because that is the way that
17 Northwest Pipeline assesses overrun entitlement charges to Cascade. Northwest Pipeline
18 assesses overrun entitlement charges on the aggregate nominations for all delivery points
19 on a Receiving Party’s system. The overruns are not calculated individually for each
20 delivery point on Cascade’s lateral. In fact, the fact that the entitlement overruns are
21 netted is one of the reasons why Cascade was able to avoid paying any charges to the

¹³ Robbins, Exh. CR-1RT at 36:10-11.

1 Northwest Pipeline. The gas supplied from transportation customers to various delivery
2 points along its lateral system were netted against Cascade's gas supplies, resulting in
3 Cascade avoiding any overrun entitlements charges.

4 If there were an overrun entitlement declared for only a portion of Cascade's
5 system, such as north of the Zillah Compressor, that would be a reason not to net the
6 entitlement overruns between delivery points subject to the overrun entitlement and those
7 not subject to the overrun entitlement. The overrun entitlement at issue in this case,
8 however, was all points of delivery North of Kemmerer, including Spokane/Wenatchee &
9 Grants Pass, encompassing Cascade's entire system. Therefore, such a distinction is
10 irrelevant.

11 **Q. DOES THIS CONCLUDE YOUR REPLY TESTIMONY?**

12 A. Yes.