

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of	DOCKET PG-230917
AVISTA CORPORATION d/b/a AVISTA UTILITIES,	ORDER 01
Emergency Response to Damage to Northwest Pipeline	GRANTING EXEMPTIONS

**BACKGROUND**

- 1 On November 8, 2023, Avista Corporation d/b/a Avista Utilities (Avista or Company) reported to the Washington Utilities and Transportation Commission (Commission) that significant damage occurred to a Northwest Pipeline interstate lateral in the area of Pullman, Washington (William’s Northwest Pipeline).<sup>1</sup>
- 2 Commission staff (Staff) began investigating the site of the incident that same day.
- 3 On November 9, 2023, the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) wrote Staff regarding the same incident. PHMSA “recognizes the downstream local distribution company Avista may experience significant service outages and may be faced with responding to emergencies under resource constraints, requiring the service of pipeline personnel that may not fully meet PHMSA and State regulatory requirements for operator qualification (OQ) and drug & alcohol (D&A) testing.” PHMSA “would not object to your granting requests from intrastate operators for emergency waivers of the OQ requirements (49 C.F.R. §§ 192.801-192.809), provided such waivers are appropriately limited to the situation presented by the service outage and limited to 30 days in duration (with potential extensions).” Similarly, PHMSA “would not object to your granting a request from an intrastate operator for an emergency waiver of § 199.105, provided the waiver is limited to the duration of the emergency caused by service outage, not to exceed 30 days (with potential extensions).” PHMSA waived the requirement for the State to provide prior

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<sup>1</sup> This pipeline is also referred to as the Lewiston Lateral.

notice of its intent to waive these pipeline regulations, provided that any waivers granted by the Commission do not exceed 30 days in duration.

4 PHMSA nonetheless encouraged pipeline operators to fully utilize the flexibility provided in 49 C.F.R. pt. 199 regarding pre-employment and random drug testing.

5 Staff has not yet completed its investigation of the incident or the damage to the Williams' Northwest Pipeline facilities. However, given the significant service outages and Avista's need to respond to this emergency under resource constraints, Staff recommends that the Commission grant waivers of pipeline safety regulations adopted by the State pursuant to a certification under 49 U.S.C. § 60105.

6 Staff therefore recommends that the Commission grant Avista exemptions from the following regulatory provisions for 30 days, beginning with the date of the entry of this Order, for purposes of responding to the Williams' Northwest Pipeline incident:

- The OQ requirements of 49 C.F.R. §§ 192.801-192.809, and
- The D&A testing requirements of 49 C.F.R. § 199.105.

## DISCUSSION

7 We agree with Staff that Avista, as an intrastate pipeline operator, should be granted 30-day exemptions from the OQ and D&A testing requirements to respond to this pressing emergency.

8 Pursuant to WAC 480-07-110(4), “[i]n the event of a state of emergency and for good cause shown, the commission may enter an order on its own motion, or upon the motion of any person or public service company affected by the rule, exempting public service companies, the commission, and all affected persons from complying with the requirements of specific rules in this title.”

9 Similarly, pursuant to WAC 480-07-620, the Commission may conduct an emergency adjudicative proceeding “in any situation involving an immediate danger to the public health, safety, or welfare requiring immediate commission action within the commission's jurisdiction.”

10 As relevant here, 49 U.S.C. § 60105 provides that the U.S. Secretary of Transportation may not enforce certain regulatory standards for intrastate pipelines or intrastate pipeline

operators when a state authority has adopted those same standards and properly submitted a certification to the U.S. Secretary of Transportation. Pursuant to WAC 480-93-999, the Commission has adopted these regulations, specifically parts 190.221, 190.223, 191, 192, 193, 196, 198, and 199 of Title 49 Code of Federal Regulations, including all appendices and amendments thereto.

11 The Williams' Northwest Pipeline incident and its resulting outages constitute an immediate danger to the public health, safety, or welfare requiring immediate action. We find that these circumstances warrant an emergency adjudication as provided under our rules.

12 We further find that the public interest supports granting Avista, as an intrastate pipeline operator, exemptions from the OQ and D&A testing requirements in federal rules for a limited period, to respond effectively and promptly to this emergency situation. These time-limited exemptions are not opposed by PHMSA and would seek to help support a prompt and appropriate response to this pipeline incident. We therefore grant Avista the exemptions as set forth and limited in paragraph 6 of this Order.

### FINDINGS AND CONCLUSIONS

13 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including natural gas companies and gas pipeline companies.

14 (2) Avista is a natural gas company, a gas pipeline company, and a public service company subject to Commission jurisdiction.

15 (3) WAC 480-07-620 allows the Commission to conduct an emergency adjudication in any situation involving an immediate danger to the public health, safety, or welfare requiring immediate commission action within the commission's jurisdiction.

16 (4) Staff has begun its investigation of the Williams' Northwest Pipeline incident that occurred on November 8, 2023, and Staff recommends that the Commission grant exemptions from OQ and D&A requirements on an emergency basis.

17 (5) The Commission should address and rule on Staff's request in the context of an emergency adjudication.

- 18 (6) After considering Staff's recommendation, PHMSA's November 9, 2023 letter, and giving due consideration to all relevant matters and for good cause shown, the Commission finds that it is in the public interest to grant Avista the exemptions as set forth in paragraph 6 of this Order.

**ORDER**

**THE COMMISSION ORDERS:**

- 19 (1) The Commission grants Avista Corporation d/b/a Avista Utilities the exemptions set forth in paragraph 6 of this Order for 30 days from the entry of this Order, for purposes of responding to the Williams' Northwest Pipeline incident.
- 20 (2) The Commission retains jurisdiction over the subject matter and Puget Sound Energy to effectuate the provisions of this Order.

DATED at Lacey, Washington, and effective November 9, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVE W. DANNER, Chair

ANN E. RENDAHL, Commissioner

MILTON H. DOUMIT, Commissioner