

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

TREE TOP, INC., a Washington
Corporation,

Complainant

v.

CASCADE NATURAL GAS
CORPORATION, a Washington
Corporation,

Respondent.

DOCKET UG-210745

DECLARATION OF BRIAN
CUNNINGTON

I, Brian Cunnington, declare under penalty of perjury under the laws of the state of Washington:

1 My name is Brian Cunnington, my business address is 8113 West Grandridge Boulevard, Kennewick, Washington 99336. I am employed by Cascade Natural Gas Corporation (“Cascade” or “Company”) and my present position is Manager, Industrial Services. I make this declaration in support of Cascade’s Motion for Summary Determination (“Motion”), which it filed on December 17, 2021.

2 Tree Top, Inc. (“Tree Top”) receives natural gas transportation service at four different Tree Top facilities in Washington under Cascade’s Schedule 663, including two facilities in Selah (“Ross Plant” and “Juice Plant”), one in Prosser, and one in Wenatchee.

3 Schedule 663 requires Tree Top to provide in writing to Company the name and telephone number of Tree Top’s agent who has authority to nominate natural gas supplies on Company’s distribution system for delivery on Tree Top’s behalf. Tree Top provided such

written notice to Company on or about June 19, 2018, notifying Company that Tree Top had made Cost Management Services, Inc. (“CMS”), a Washington corporation, its exclusive agent to act on behalf of Tree Top “in all natural gas matters, including but not limited to, the supply, the procurement and the billing of natural gas for and on behalf of [Tree Top] for services commencing April 1, 2019.” A true and correct copy of that written notice is attached as Attachment 1.

4 On February 10, 2021, Cascade notified all its Schedule 663 natural gas transportation customers whose gas is transported through the system of Cascade’s upstream provider, Northwest Pipeline, that Cascade was initiating a Stage II (eight percent) overrun entitlement period starting gas day February 12, 2021, and continuing through gas day February 16, 2021. This group of customers included Tree Top and all its facilities that receive natural gas transportation service from Cascade. A true and correct copy of that notice is attached as Attachment 2.

5 On March 15, 2021, I emailed Tree Top’s agent CMS’ employee Ted Lehman advising CMS that Cascade was planning to invoice multiple Cascade customers for whom CMS acts as the agent (including Tree Top) for overrun charges related to the February 2021 overrun entitlement periods. My email included a spreadsheet detailing the overrun charges by customer, location or facility, date, and amount, and indicated Cascade’s intent to bill Tree Top for overrun charges totaling \$198,844.87. A true and correct copy of that email and of the referenced spreadsheet is attached as Attachment 3.

6 On March 17, 2021, I emailed Tree Top’s agent CMS’ employee Ted Lehman advising CMS that Cascade would send an attached letter—which explained the purpose of the overrun

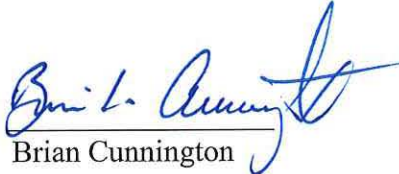
charges—with each of the overrun charge invoices it was sending out. A true and correct copy of that email and of the attached letter is attached as Attachment 4.

7 On or about June 21, 2021, Cascade received from Tree Top its payment of \$198,844.87 for the February 2021 overrun charges and a letter explaining that Tree Top was paying under protest. A true and correct copy of that letter and of Tree Top's check is attached as Attachment 5.

8 Cascade has declared entitlement periods approximately 18 times since 2016 and Tree Top incurred overrun or underrun charges for at least one of its facilities—and sometimes multiple facilities—during nine of those 18 entitlement periods. Cascade has never negotiated or reduced any of these entitlement charges and Tree Top paid the full amount of each of the charges it incurred.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in this proceeding and is subject to penalty for perjury.

Dated this 16th day of December 2021, at Kennewick, Washington.

Signed: 
Brian Cunningham