ELLEN F. ROSENBLUM Attorney General



FREDERICK M. BOSS Deputy Attorney General

**DEPARTMENT OF JUSTICE** GENERAL COUNSEL DIVISION

December 29, 2017

via E-mail

Public Utility Commission of Oregon Attn: Filing Center 201 High Street SE, Suite 100 Salem, OR 97308-1088 PUC.FilingCenter@state.or.us

#### UM \_\_\_\_\_ Staff's Application to Defer Changes in Avista Utilities' Federal Tax Re: **Obligations Resulting from H.R.1 - Tax Cuts and Jobs Act**

Enclosed for filing is Oregon Public Utility Commission Staff's (Staff) Application to Defer Changes in Avista Utilities' Federal Tax Obligations Resulting from H.R.1 - Tax Cuts and Jobs Act.

A Notice of Application and copy of the Application have been sent to each person on the UG 325 service list.

Sincerely,

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Sommer Moser Assistant Attorney General **Business Activities Section** 

ST7:pjr/#8688754

Enclosures

1	DEFODE THE DIDLIC UTILITY COMMISSION		
2	OF OREGON		
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5	In the Matter of APPLICATION TO DEFER CHANGES IN		
6	STAFF OF THE PUBLIC UTILITYAVISTA UTILITIES' FEDERAL TAXCOMMISSION OF OREGON,OBLIGATIONS RESULTING FROM H.R.1TAX CUTS AND JOBS ACT		
7 8	Application to Defer Changes in Avista Utilities' Federal Tax Obligations Resulting from H.R.1 - Tax Cuts and Jobs Act.		
9	Pursuant to ORS 757.259 and OAR 860-027-0300, Staff of the Public Utility		
10	Commission of Oregon (Staff) files this Application to Defer Changes in Avista Utilities'		
11	(Avista or Company) Federal Tax Obligations Resulting from Tax Cuts and Jobs Act of 2017		
12	(Application).		
13	I. OAR 860-027-0300(3) requirements.		
14	A. Expense or Revenue at Issue.		
15	The 115 <sup>th</sup> United States Congress recently passed H.R.1 – Tax Cuts and Jobs Act (H.R.1		
16	or Act). <sup>1</sup> The Act was signed into law on December 22, 2017 by President Donald Trump, with		
17	most provisions going into effect on January 1, 2018. The Act contains provisions that impact		
18	regulated utilities' federal tax obligations, including reduction to the corporate income tax rate.		
19	Staff requests to defer, for potential later ratemaking treatment, the difference between		
20	Avista's current retail rates and its currently approved retail rates inclusive of the impact of		
21	H.R.1. <sup>2</sup> Due lengthy and complex nature of the Act, it is not possible at this time to identify the		
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24	<sup>1</sup> The final version of the Act may be accessed at <u>https://www.congress.gov/bill/115th-</u>		

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 <sup>25 &</sup>lt;sup>congress/house-bill/1/text.</sup>
 <sup>25</sup> Staff notes that the Commission is currently investigating its legal authority and the policy underlying the deferral of capital costs in docket UM 1909. To the extent that a Commission

<sup>26</sup> determination in that proceeding affects this Application, Staff will revise its Application at that time.

specific changes in Avista's federal tax obligations that may be impacted by the passage of the
 Act.

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## **B.** Reason for Deferral.

4 Staff requests the Commission approve this Application pursuant to ORS 757.259(2)(e), 5 which provides the Commission with discretion to defer "identifiable utility expenses or revenues, the recovery or refund of which the commission finds should be deferred in order to 6 7 minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers." A deferral may be necessary to begin 8 tracking the potential changes to Avista's federal tax obligations, for ratemaking purposes, 9 resulting from H.R.1. Deferral of the impact of H.R.1 on Avista's federal tax obligations 10 assumed for ratemaking purposes would allow for the appropriate matching of costs borne by 11 12 and benefits received by ratepayers.

13 For example, among other provisions, the current version of the Act includes a reduction 14 in the federal corporate tax rate. Avista's current retail rates assume a federal corporate tax rate 15 of 35 percent. The proposed corporate tax rate in H.R.1 is 21 percent, which would have an 16 impact to the tax expense customers assume in cost of service, and could also have an impact on the Company's Accumulated Deferred Income Tax (ADIT) balance currently included in rate 17 base. Absent this deferral, Avista's retail rates would continue to assume a 35 percent corporate 18 tax rate, when the Company's actual liability, for ratemaking purposes, would have been 19 significantly reduced to 21 percent. Staff notes, however, that the effects of H.R.1 are unknown 20at this time, including whether such changes would result in overall savings to customers. 21

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## C. Proposed Accounting.

Staff requests that the deferred amounts be recorded in FERC Account 254, Other
Regulatory Liabilities.

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> 1162 Court Street NE Salem, OR 97301-4096 (503) 947-4520 / Fax: (503) 378-3784

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# D. Estimate of Amounts to be Recorded in Deferred Account.

Staff will supplement this Application with an estimate of amounts to be deferred as soon as those estimates are available. Because of the lengthy and complex nature of the legislation, and the time that will be necessary to analyze the impacts to regulated utility federal taxes, it is not possible to estimate the amounts to be deferred as of the filing of this Application.

6

E. Notice.

A copy of the Notice of Application and a list of persons served with Notice are attached
to this Application as Exhibit A.

9 II. Staff contacts.

10 Communications regarding this Application should be addressed to:

11	Sommer Moser	Marianne Gardner
12	Oregon Department of Justice	Public Utility Commission of Oregon
12	1162 Court Street NE	201 High Street SE, Suite 100
13	Salem, Oregon 97301	Salem, Oregon 97301
	sommer.moser@state.or.us	marianne.gardner@state.or.us
14		

# 15 III. Conclusion

16 For the reasons stated above, Staff respectfully requests that the Commission authorize

17 the deferral of the difference between Avista's current retail rates and its currently approved

18 retail rates inclusive of the impact of H.R.1.

19	10			
20	DATED this $29^{\text{M}}$ day of December,	2017.		
21		Respectfully submitted,		
22		ELLEN F. ROSENBLUM		
23		Attorney General		
24		SWWW		
25		Sommer Moser, OSB # 105260 Assistant Attorney General		
26		Of Attorneys for Staff of the Public Utility Commission of Oregon		
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ST7/pjr/#8687673

Department of Justice 1162 Court Street NE Salem, OR 97301-4096 (503) 947-4520 / Fax: (503) 378-3784

1	<b>BEFORE THE PUBLIC UTILITY COMMISSION</b>			
2	<b>OF OREGON</b>			
3	UM			
4				
5	In the Matter of	NOTICE OF APPLICATION TO DEFER		
6	STAFF OF THE PUBLIC UTILITY COMMISSION OF OREGON,	CHANGES IN AVISTA UTILITIES' FEDERAL TAX OBLIGATIONS RESULTING FROM H.R.1 - TAX CUTS AND JOBS ACT		
7 8	Application to Defer Changes in Avista Utilities' Federal Tax Obligations Resulting from H.R.1 - Tax Cuts and Jobs Act.	TROWTLAT - TAX COTS AND JOBS ACT		
9	On December 29, 2017, Staff of the Public Utility Commission of Oregon (Staff) filed an			
10	Application to Defer Changes in Avista Utilities' (Avista or Company) Federal Tax Obligations			
11	Resulting from Tax Cuts and Jobs Act (Application).			
12	On December 22, 2017, President Trump signed into law H.R.1 – Tax Cuts and Jobs Act			
13	(Act), which contained broad reforms to federal tax laws that will impact Idaho Power's federal			
14	tax obligations. Staff filed its Application in order to defer, for potential later ratemaking			
15	treatment, the difference between Avista's current retail rates and its currently approved retail			
16	rates inclusive of the impact of H.R.1. Approval of Staff's Application will not authorize a			
17	change in Avista's rates, but will permit the Commission to consider allowing such deferred			
18	amounts in rates in a subsequent proceeding.			
19	Persons who wish to obtain a copy of S	taff's Application will be able to access it on the		
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Page 1- UM – NOTICE OF APPLICATION TO DEFER CHANGES IN AVISTA UTILITIES' FEDERAL TAX OBLIGATIONS RESULTING FROM H.R.1 - TAX CUTS AND JOBS ACT ST7/pjr/#8 Department of Justice 1162 Court Street NE Salem, OR 97301-4096

(503) 947-4520 / Fax: (503) 378-3784

1 Public Utility Commission of Oregon's website. Any person who wishes to sub
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2 comments on Staff's Application should do so by January 31, 2018.

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4	DATED this day of December	r, 2017.
5		Respectfully submitted,
6		ELLEN F. ROSENBLUM Attorney General
7 8		Samo in
9		Sommer Moser, OSB # 105260
10		Sommer Moser, OSB # 105260 Assistant Attorney General Of Attorneys for Staff of the Public Utility Commission of Oregon
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# **CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused the Notice of Application to Defer Changes in Avista Utilities' Federal Tax Obligations Resulting from H.R.1 – Tax Cuts and Jobs Act to be served by electronic mail to those parties whose e-mail addresses appear on the attached service list for OPUC Docket UG 325.

Dated this  $29^{4}$  day of December, 2017.

Sommer Moser, OSB # 105260 Assistant Attorney General Of Attorneys for Staff of the Public Utility Commission of Oregon

## SERVICE LIST FOR OPUC DOCKET UG 325

### **AVISTA UG 325**

#### AVISTA CORPORATION

DAVID J MEYER (C) AVISTA CORPORATION

KELLY O NORWOOD (C) AVISTA UTILITIES

CUB UG 325 OREGON CITIZENS' UTILITY BOARD

MICHAEL GOETZ (C) OREGON CITIZENS' UTILITY BOARD

ROBERT JENKS (C) OREGON CITIZENS' UTILITY BOARD

### NWIGU

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EDWARD FINKLEA

CHAD M STOKES **(C)** CABLE HUSTON BENEDICT HAAGENSEN & LLOYD LLP

#### **STAFF UG 325**

MARIANNE GARDNER (C) PUBLIC UTILITY COMMISSION OF OREGON

SOMMER MOSER (C) PUC STAFF - DEPARTMENT OF JUSTICE

JOHANNA RIEMENSCHNEIDER (C) PUC STAFF - DEPARTMENT OF JUSTICE 1411 EAST MISSION PO BOX 3727 SPOKANE WA 99220-0500 dockets@avistacorp.com PO BOX 3727 SPOKANE WA 99220-3727 david.meyer@avistacorp.com PO BOX 3727 SPOKANE WA 99220-3727 kelly.norwood@avistacorp.com

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