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DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

March 2, 2020

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

Re: UM 1936 - Staff's Application for Reauthorization to Defer Changes in Avion Water Company, Inc.'s Federal Tax 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 Avion Water Company, Inc.'s 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 UW 171 service list.

Sincerely,

Sommer Moser
Assistant Attorney General
Business Activities Section

ST7:pjr/#10106536
Enclosures

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1936

In the Matter of

STAFF OF THE PUBLIC UTILITY
COMMISSION OF OREGON,

Application to Defer Changes in Avion Water
Company, Inc.'s Federal Tax Obligations
Resulting from H.R.1 - Tax Cuts and Jobs Act.

APPLICATION FOR REAUTHORIZATION
TO DEFER CHANGES IN AVION WATER
COMPANY, INC.'S FEDERAL TAX
OBLIGATIONS RESULTING FROM H.R.1 -
TAX CUTS AND JOBS ACT

Pursuant to ORS 757.259, OAR 860-036-2170 and OAR 860-027-0300, Staff of the Public Utility Commission of Oregon (Staff) files this Application for Reauthorization to Defer Changes in Avion Water Company, Inc.'s (Avion or Company) Federal Tax Obligations Resulting from Tax Cuts and Jobs Act of 2017 (Application) for the twelve month period beginning with the date of this application.

I. Deferral History

The 115th United States Congress recently passed H.R.1 – Tax Cuts and Jobs Act (H.R.1 or Act).¹ The Act was signed into law on December 22, 2017 by President Donald Trump, with most provisions going into effect on January 1, 2018. The Act contains provisions that impact regulated utilities' federal tax obligations, including a reduction in the corporate income tax rate and the treatment of Contributions in Aid of Construction (CIAC) for water utilities. On March 1, 2018, Staff filed its initial Application for an order authorizing deferred accounting to track the impact, for later ratemaking treatment, of the Tax Act for the twelve-month period beginning March 1, 2018. On February 28, 2019, Staff submitted an application for reauthorization to defer these amounts. The continued deferral of these amounts is necessary in order to ensure future ratemaking treatment for tax benefits and obligations not currently reflected in rates.

¹ The final version of the Act may be accessed at <https://www.congress.gov/bill/115th-congress/house-bill/1/text>.

1 **II. OAR 860-027-0300(3) requirements.**

2 **A. Expense or Revenue at Issue.**

3 Staff requests to defer, for later ratemaking treatment, the effects of H.R.1 on Avion's tax
4 liability for the twelve-month period beginning with the date of this application. Due to the
5 lengthy and complex nature of the Act and the variability of CIAC, it is not possible at this time
6 to quantify the difference in Avion's federal tax obligations that may be impacted by the passage
7 of the Act.

8 **B. Reason for Deferral.**

9 Staff requests the Commission approve this Application pursuant to ORS 757.259(2)(e),
10 which provides the Commission with discretion to defer "identifiable utility expenses or
11 revenues, the recovery or refund of which the commission finds should be deferred in order to
12 minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately
13 the costs borne by and benefits received by ratepayers." A deferral is necessary to begin tracking
14 the difference in Avion's federal tax obligations resulting from H.R.1. Deferring of the impact
15 of H.R.1 on Avion's federal tax obligations would allow for the appropriate matching of costs
16 borne by and benefits received by customers.

17 For example, prior to the passage of H.R.1, CIAC was not included in a water utility's
18 gross income for state or federal income tax purposes. H.R.1 did not carry this exemption
19 forward. As such, a water utility may be responsible for the tax effects of CIAC. On the other
20 hand, the current version of the Act includes a reduction in the federal corporate tax rate.
21 Avion's current retail rates reflect an effective federal corporate tax rate of approximately 34
22 percent. The corporate tax rate in H.R.1 is 21 percent, which would have an impact to the tax
23 expense customers assume in cost of service, and could also have an impact on the Company's
24 Accumulated Deferred Income Tax (ADIT) balance currently included in rate base. Staff notes,
25 however, that the full effects of H.R.1 are unknown at this time, including whether such changes
26 would result in overall savings to customers.

1 **C. Proposed Accounting.**

2 Staff requests that the deferred amounts be recorded in Account 253.1 Regulatory
3 Liabilities.

4 **D. Estimate of Amounts to be Recorded in Deferred Account.**

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

10 **E. Notice.**

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

13 **II. Staff contacts.**

14 Communications regarding this Application should be addressed to:

15 Sommer Moser
16 Oregon Department of Justice
17 1162 Court Street NE
18 Salem, Oregon 97301
19 sommer.moser@state.or.us

 Russell Beitzel
 Public Utility Commission of Oregon
 201 High Street SE, Suite 100
 Salem, Oregon 97301
 russell.beitzel@state.or.us

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1 **III. Conclusion**

2 For the reasons stated above, Staff respectfully requests that the Commission authorize
3 the deferral of the effects of H.R.1 on Avion's tax liability for the twelve-month period
4 beginning with the date of this application.

5 DATED this 2nd day of March, 2020.

6 Respectfully submitted,

7 ELLEN F. ROSENBLUM
8 Attorney General

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

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 UM 1936

4 In the Matter of

5 STAFF OF THE PUBLIC UTILITY
6 COMMISSION OF OREGON,

7 Application to Defer Changes in Avion Water
8 Company, Inc.'s Federal Tax Obligations
9 Resulting from H.R.1 - Tax Cuts and Jobs Act.

NOTICE OF APPLICATION FOR
REAUTHORIZATION TO DEFER CHANGES
IN AVION WATER COMPANY, INC.'S
FEDERAL TAX OBLIGATIONS RESULTING
FROM H.R.1 - TAX CUTS AND JOBS ACT

9 On February 28, 2020, Staff of the Public Utility Commission of Oregon (Staff) filed its
10 Application for Reauthorization to Defer Changes in Avion Water Company, Inc.'s (Avion or
11 Company) Federal Tax Obligations 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 Avion's federal tax
14 obligations. Staff filed its Application in order to defer, for potential later ratemaking treatment,
15 the effects of H.R.1 on Avion's tax liability for the twelve-month period beginning with the date
16 of its Application. Approval of Staff's Application will not authorize a change in Avion's rates,
17 but will permit the Commission to consider allowing such deferred amounts in rates in a
18 subsequent proceeding.

19 Persons who wish to obtain a copy of Staff's Application will be able to access it on the

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1 Public Utility Commission of Oregon's website. Any person who wishes to submit written
2 comments on Staff's Application should do so by April 1, 2020.

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4 DATED this 2nd day of March, 2020.

5 Respectfully submitted,

6 ELLEN F. ROSENBLUM
7 Attorney General

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9 _____
10 Sommer Moser, OSB # 105260
11 Assistant Attorney General
12 Of Attorneys for Staff of the Public Utility
13 Commission of Oregon

UM 1936 - CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the **Notice of Application for Reauthorization to Defer Changes in Avion Water Company, Inc.'s 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 lists for OPUC Dockets UW 171 and UM 1936.

DATED this 2nd day of March, 2020.



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

UM 1936 & UW 171 - SERVICE LIST

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