

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: November 6, 2018**

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE November 8, 2018

DATE: October 30, 2018

TO: Public Utility Commission

FROM: Stephanie Yamada 

THROUGH: Jason Eisdorfer,  Bryan Conway,  and Bruce Hellebuyck 

SUBJECT: AVION WATER COMPANY: (Docket No. ADV 832/Advice No. 18-05)  
Establishes a new System Impact Fee.

**STAFF RECOMMENDATION:**

Staff recommends that the Public Utility Commission of Oregon (Commission) allow Avion Water Company's (Avion) Schedule No. 15, establishing a System Impact Fee for developers in the West Pilot Butte Airport area, to go into effect for service rendered on and after November 8, 2018.

**DISCUSSION:**

Issue

Whether the Commission should allow Avion's filed tariff sheets, introducing a new System Impact Fee for the West Pilot Butte Airport area, to become effective.

Applicable Rule or Law

Under ORS 757.205(1)-(2), every public utility must file schedules showing all rates, tolls and charges for any service performed by it within the state and all rules and regulations that in any manner affect its rates. Public utilities must charge and collect for their services in conformance with the schedules that are in effect pursuant to ORS 757.225 and ORS 757.310(1). A public utility may not charge a customer an amount for a service that is different from the amount it charges any other customer for a like and contemporaneous service under substantially similar circumstances, ORS 757.310(2), and may not give undue preference to any particular person or locality, or subject any particular person or locality to undue prejudice, ORS 757.325(1).

Pursuant to OAR 860-036-1310(2), a water utility may charge a reasonable and non-discriminatory main line extension charge if the charge and policy are stated in the water utility's tariff or statement of rates. OAR 860-036-1310(1) defines a main line extension as the extension of a water utility's main line necessary to provide service to a customer when the property does not currently have main line frontage.

OAR 860-036-1310(3) requires a water utility's main line extension policy to list all applicable charges, describe the advance and refund provisions (including a description of the mechanisms for collecting and rebating the amount charged equitably among the customers who paid for the cost of the line), and provide the time period during which the advance and rebate provisions apply.

Pursuant to OAR 860-036-1310(4), the water utility must provide a written breakdown of its main line extension costs and the allocation of those costs upon customer request.

## Analysis

### *Background*

Avion is a water utility serving approximately 13,500 domestic water and 790 irrigation customers in the vicinity of Bend, Oregon. With this filing, Avion proposes to introduce a new System Impact Fee that would apply to developers of Accessory Dwelling Units (ADU), duplexes, and two-parcel partition projects located in the area north and west of the Pilot Butte Airport and south of Bear Creek Road, in Township 18 South, Range 12 East, Section 3 (West Pilot Butte Airport). Avion proposes for the new fee to reside in its tariff under a newly-introduced Schedule 15. This filing was submitted on September 25, 2018, with an effective date of October 25, 2018. Following discussions with Staff, Avion submitted a supplemental filing on October 8, 2018, to make minor housekeeping revisions and to adjust the effective date to November 8, 2018. Avion submitted a second supplemental filing to make additional housekeeping revisions on October 25, 2018.

Avion's proposed Schedule 15 states that the purpose of the proposed System Impact Fee is to "provide funding to upgrade the main service lines in the applicable area to accommodate development without causing undue financial burden upon any one developer." Avion asserts that absent the upgrades described in Schedule 15, "[e]xisting infrastructure is not capable of serving new development without harming the service to existing customers."<sup>1</sup>

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<sup>1</sup> See Attachment A, Avion's response to Staff Information Request 1.

The West Pilot Butte Airport area currently utilizes a dual-source system in which domestic and irrigation water are provided through separate systems.<sup>2</sup> In a telephone conversation with Staff, Avion explained that a large portion of its customers' water usage—particularly in summer months—is attributable to the watering of lawns and other residential landscaping uses. Because much of this demand is diverted to a separate irrigation system in dual-source areas, existing potable domestic main lines in dual-source areas are often small in comparison to those in single-source areas. This is true in the West Pilot Butte Airport area; while the existing main lines serving potable domestic water to the West Pilot Butte Airport area currently have sufficient capacity to meet current domestic demand, Avion states that the current main lines will need to be replaced with higher capacity lines in order to support future development in the West Pilot Butte Airport area.

The Commission previously approved a similar System Impact Fee for Avion's Woodriver Village neighborhood at its February 26, 2008 public meeting. The structure and advance and refund provisions of Avion's proposed System Impact Fee are similar to those of the existing Woodriver Village System Impact Fee. The Commission has more generally discussed such charges, also called Residential Development Charges, in a prior order.<sup>3</sup>

#### *Applicable Charges*

As described in Avion's proposed Schedule 15, Avion proposes a four-phase process to complete the necessary main line upgrades in the West Pilot Butte Airport area. Avion estimates that the combined cost of all four phases will total \$288,000. The four project phases and their associated cost estimates are summarized in the table below.<sup>4</sup>

<b>Phase</b>	<b>Description</b>	<b>Cost Estimate</b>
1	12" line across airstrip	\$90,000
2	8" line up Craven and Myrtlewood	\$88,000
3	8" line continuing up Craven	\$76,000
4	8" line up Waco	\$34,000
	<b>TOTAL</b>	<b>\$288,000</b>

Avion estimates that new development will cause the number of connections in the West Pilot Butte Airport area to increase by 20 percent, or 30 connections, from the present count of 150 connections.<sup>5</sup> Consequently, Avion requests that its new System

<sup>2</sup> See Attachment B, Avion's response to Staff Information Request 6.

<sup>3</sup> See PUC Order No. 07-048, at 5-6, Docket No. UM 1248 (Feb. 10, 2007).

<sup>4</sup> A more detailed description of each project phase can be found in Attachment C, Avion's response to Staff Information Request 2.

<sup>5</sup> See Attachment D, Avion's response to Staff Information Request 3.

Impact Fee for the West Pilot Butte Airport area be set at \$9,600 (\$288,000 total project cost ÷ 30 connections = \$9,600 per connection). Developers in the West Pilot Butte Airport area would pay this Schedule 15 System Impact Fee in lieu of the standard development charges shown in Schedule 7 of Avion's tariff. For developers building outside of the West Pilot Butte Airport area, the standard development charge most comparable to the proposed System Impact Fee would be \$1,000 pursuant to Schedule 7 of Avion's tariff. Development charges in both Schedule 7 and Schedule 15 are also subject to a separate Contributions in Aid of Construction (CIAC) Tax Fee as described in Schedule 8 of Avion's tariff.

*Advance and Refund Provisions*

As described in Avion's proposed Schedule 15, Avion will maintain funds from West Pilot Butte Airport System Impact Fees in a dedicated account that is separate from other Avion funds. Avion will collect \$9,600 from each developer of ADUs, duplexes, and two-parcel partition projects in the West Pilot Butte Airport area until the Phase 1 target of \$90,000 has been collected. At that time, the Phase 1 project cost will be re-estimated. If the revised estimate exceeds the total amount collected, the initiation of Phase 1 will be postponed until sufficient funds have been collected through additional Schedule 15 System Impact Fees. This procedure will be repeated for each project phase until the project is able to be completed. If the actual cost of any phase is less than the collected amount, the excess funds will be maintained in the dedicated account to be used toward the next phase, and any funds remaining after the completion of the final phase will be refunded to developers.<sup>6</sup>

Avion proposes a line share agreement to be effective for a period of ten years following the completion of the final phase of the project. During the line share period, new developers in the West Pilot Butte Airport area will be charged a development fee, and the proceeds from that fee will be refunded to developers that paid a fee previously. Avion's proposed Schedule 15 also provides that Avion will provide annual updates regarding construction and construction funds to Commission Staff by February 1 of each year during the ten-year line share period.

Avion proposes that the development fees paid during the line share period be calculated as follows:

$$Fee_n = \frac{\text{Total Project Cost}}{n}$$

Avion proposes that refunds to previous developers during the line share period be calculated as follows:

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<sup>6</sup> See Attachment E, Avion's response to Staff Information Request 4.

$$Refund = \frac{Fee_n}{n - 1}$$

In each case above,  $n$  represents the total number of contributors to the project.

For example, if the project were to be completed exactly as outlined in the proposed Schedule 15, then each of 30 developers would have paid \$9,600 for a total project cost of \$288,000. If an additional developer were to subsequently build in the applicable area during the line share period, the new total number of contributors would become 31 and the 31<sup>st</sup> developer would be charged a fee of  $\$288,000 \div 31 = \$9,290.32$ . Previous developers would receive a refund of  $\$9,290.32 \div (31 - 1) = \$309.68$ . After refund, the initial 30 developers as well as the new 31<sup>st</sup> developer will each have paid an equal amount of \$9,290.32.

#### *Adjustment Provisions*

Avion's proposed Schedule 15 contains provisions that allow for the implementation order of the four project phases to be adjusted if necessary. Avion states that the order of the phases as proposed in Schedule 15 "is based upon a uniform distribution of ADU development within the applicable zone" and that "[i]t is possible that the pattern of development deviates dramatically from this assumption and concentrates in a certain portion of the applicable area."<sup>7</sup> Avion argues that, in such a scenario, "[i]f changing the order of completion of the phases provides improved service to more customers...it is reasonable and prudent to change the order" of the phases.<sup>8</sup> According to Avion, "[t]he most likely scenario that would require changing the order of the phases would be a concentration of development around Waco Drive. If a large number of homeowners develop ADU's along Waco Drive it may make more sense to complete Phase 4 prior to Phases 2 or 3."<sup>9</sup>

The proposed Schedule 15 also contains provisions to allow for the removal of a phase in the event that the phase is completed separately as an offsite improvement. Avion explains that an "offsite improvement" in this context is "an improvement required to provide water to a development in a location that is not within the geographic boundaries of the development."<sup>10</sup> In other words, it is possible that one or more of the Schedule 15 project phases will need to be completed as part of a separate project that is unrelated to Schedule 15. In the event that a phase is completed separately as part of an offsite improvement, Avion proposes that the phase be removed from consideration under the Schedule 15 tariff and that the next phase commence as

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<sup>7</sup> See Attachment F, Avion's response to Staff Information Request 5.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> See Attachment B, Avion's response to Staff Information Request 6.

described in Schedule 15. In such a scenario, the amount collected from each developer would not change, though the refund period would begin sooner than it would if all four phases were to be completed as part of Schedule 15.

*Charge is Reasonable and Non-Discriminatory*

Because the need for increased main line capacity discussed previously is specifically attributable to new development in the West Pilot Butte Airport area, Staff finds that it is reasonable for Avion to collect the proposed System Impact Fee specifically from developers seeking to add new connections to Avion's system in the applicable area. Although the proposed Schedule 15 System Impact Fee of \$9,600 is considerably higher than the comparable standard development charge of \$1,000 that would apply to developers outside of the West Pilot Butte Airport area, Staff finds that it is appropriate for developers in the West Pilot Butte Airport area to share the cost of main line upgrades necessitated by their development in the area. The proposed Schedule 15 provides that developers will only pay for the actual cost of the necessary upgrades, as any amounts collected by Avion but not used toward Schedule 15 upgrades will be refunded to developers. Furthermore, the advance and refund provisions in Schedule 15 are structured in an equitable manner that results in all developers paying an equal dollar amount under Schedule 15.

Staff notes that because the upgrades described in Avion's proposed Schedule 15 will be paid for by developers, the upgrades will be considered CIAC pursuant to OAR 860-036-2380. As such, any new plant assets added to Avion's system as a result of Schedule 15 will be excluded from rate base for ratemaking purposes. The introduction of the proposed Schedule 15 should have no financial impact on current Avion customers.

Avion has confirmed that it is prepared to provide a written breakdown of its main line extension costs and the allocation of those costs to customers upon request as required by OAR 860-036-1340(4).<sup>11</sup> Avion will also maintain all West Pilot Butte Airport funds in a separate account, and will provide annual construction and construction funds updates to Commission Staff by February 1 of each year for the ten-year line share agreement.

*Housekeeping Changes*

In addition to the introduction of Schedule 15, as discussed previously, this filing also makes minor housekeeping changes to Avion's tariff. These changes include updates to the Table of Contents, the correction of minor typographical errors, and the re-insertion of Schedule 13 (Nottingham Irrigation) into the tariff. Schedule 13 was previously inadvertently overwritten by Schedule 14 (Interruptible Large Irrigation

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<sup>11</sup> See Attachment G, Avion's response to Staff Information Request 7.

Customers) with Advice No. 18-03, effective May 23, 2018. In a telephone conversation with Staff, Avion relayed that it was unaware of this inadvertent deletion and confirmed that it has operated as though Schedule 13 remained effective during the interim period between May 23, 2018, and the present filing's effective date.

### Conclusion

Staff finds that the System Impact Fee proposed in Avion's Schedule 15 is reasonable and non-discriminatory. The proposed Schedule 15 states the applicable charges under the tariff, describes the advance and refund provisions and the mechanisms for collecting and rebating amounts equitably among contributors, and includes the time period during which the advance and rebate provisions apply. Avion will provide a written breakdown of its main line extension costs and the allocation of those costs to customers upon request. Avion's proposed Schedule 15 tariff complies with the requirements of OAR 860-036-1310, and should therefore be approved.

### **PROPOSED COMMISSION MOTION:**

Allow Avion's Schedule No. 15, establishing a System Impact Fee for developers in the West Pilot Butte Airport area, to go into effect for service rendered on and after November 8, 2018.

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- 1) Please explain whether, and if so, why the main service line upgrades shown in the proposed Schedule 15 qualify as a "main line extension," which is defined in OAR 860-036-1310(1) as "the extension of a water utility's main line necessary to provide service to a customer when the property does not currently have main line frontage."

*Response: The mainline upgrades described in Schedule 15 are an extension of the newer, more modern, higher capacity lines needed to serve additional development in the applicable area. Existing infrastructure is not capable of serving new development without harming the service to existing customers. Without this tariff to extend the modern infrastructure, each developer will be responsible to provide the infrastructure on his/her own, with reimbursement coming under a line share agreement.*



- 6) The proposed Schedule 15 lists the steps that will occur “[i]n the event that development for an area outside the applicable area requires completion of one of the phases as an offsite improvement.” Please describe this scenario in further detail and provide a hypothetical or actual example of such an occurrence. Please also explain the meaning of “offsite improvement” in this context.

*Response: The applicable area is a dual source system (domestic and irrigation water are separate systems). Part of the irrigation supply runs through a large lot approximately one mile outside the applicable area that a number of large developers have shown interest in developing. Because of the design of the systems, it could be necessary for Phase 1 to be completed in order for the aforementioned canal to be decommissioned to allow development of the outside property. Avion has no insight into if or when this development might occur, but we believe it is reasonable to include a way to deal with such a scenario in this filing.*

*Another hypothetical scenario would be someone wanting to develop a multi-family apartment within the applicable area. If, for example, Phase 1 were completed and someone wanted to put an apartment building in an area served by Phase 2, they might be required to complete some portion of Phase 2 as a condition of providing service for their project. The language of the Schedule 15 submission dated 10/8/18 has been updated to address the second scenario above (and discussed with staff via telephone conversation).*

*An “offsite improvement” in the context of this tariff is an improvement required to provide water to a development in a location that is not within the geographic boundaries of the development.*

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- 2) For each of the four project phases identified on the proposed Schedule 15, please:
  - a. Describe the necessary upgrades to the main service line(s),
  - b. Explain why the work to be performed during the phase is necessary, and
  - c. Provide documentation for the cost estimate shown on the proposed Schedule 15.

Response:

Phase 1:

*There are currently (2) 4" mainlines crossing the airstrip at either end. This provides sufficient capacity for the current customers west of the airstrip, but it does not provide sufficient capacity to allow for new development without negatively impacting existing customers. The 12" mainline envisioned for phase 1 will connect to existing higher capacity piping on the west side of the airstrip to bring additional capacity into the heart of the neighborhood. The connection for this phase on the east end is existing 10" pipe in Airpark Drive and the connection on the west end is existing 8" line at the intersection of Cessna and Craven. The length of this phase is approximately 1200'. It was estimated at \$75 per foot. This is based upon the projected need to perform significant rock hammering and a mixture of paved and dirt surfaces. The estimated price per foot is based upon Avion's recent completed projects, adjusted for anticipated conditions and other factors such as expected digging conditions, grade, etc. In Central Oregon, the cost of the trench is by far the dominant cost factor in mainline installation.*

Phase 2:

*Phase 2 will supplement existing 1-1/2" mainline, connecting to the new 12" Phase 1 line at the intersection of Craven and Cessna and to an existing 6" line coming from Piper Drive towards Myrtlewood. It is necessary to allow additional development to the corridor served by the existing 1-1/2" mainline. The estimated length of the line is 1100', and the price was estimated at \$80 per foot. This was based upon the fact that the significant rock hammering will be needed and that the entire length is in the pavement.*

Phase 3:

*Phase 3 will supplement existing 1-1/2" mainline, connecting to the new 8" Phase 2 line at the intersection of Craven and Myrtlewood and continuing to the end of Craven Road. It is necessary to allow additional development to the corridor served by the existing 1-1/2" mainline. The estimated length of the line is 950', and the price was estimated at \$80 per foot. This was based upon the fact that the significant rock hammering will be needed and that the entire length is in the pavement.*

Phase 4:

*Phase 4 will supplement existing 2" mainline, connecting from existing 6" line in Waco Drive to existing 6" line in Cessna Drive. It is necessary to allow development to the corridor served by the existing 2" mainline. The estimated length of the line is 430', and the price was estimated at \$80 per foot. This was based upon the fact that the significant rock hammering will be needed and that the entire length is in the pavement.*

- 3) The proposed Schedule 15 states that the "[e]stimated number of new connections in the applicable area is 30 (20% of 150)." Please explain what is meant by the 20% and 150 figures as used in this context of the proposed Schedule 15 and explain why each figure was used.

*Response: 150 is the total number of services in the applicable area. 20% is the estimated total number of lots in the applicable area that will develop accessory dwelling units. Given the high cost of housing in Central Oregon and corresponding rents, we believe 20% is a reasonable, prudent, and conservative number to use for purposes of this tariff. If more than 20% of the land owners in the applicable area elect to develop their properties, the net result will be a reduction in cost to all of the participants. Avion will not retain any of the funds collected under this tariff.*

- 4) The proposed Schedule 15 states that “[i]f the cost of installation is above the collected amount, additional system impact fees will be collected at the rates listed in the above West Pilot Butte Airport System Impact Fee – Schedule A until the new target is reached.” What will happen in the event that the actual cost of the project (or any phase of the project) is *below* the collected amount?

*Response: If the cost of any phase is less than the amount that has been collected, the excess funds will be maintained in the dedicated account for this tariff to be used for the next phase. If the cost of the final phase is less than the funds collected, the funds will be refunded to the developers. Funds collected under this tariff can only be used for the projects listed in the tariff and must otherwise be refunded.*

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- 5) The proposed Schedule 15 states that “[i]f the pattern of development dictates a change in the implementation order for phases 2-4, such change shall be made to maximize the improvement in service provided by the available funds.” Please explain the meaning of “maximize the improvement in service provided by the available funds.”

*Response: The listed order of completion of the phases is based upon a uniform distribution of ADU development within the applicable zone. This is a reasonable assumption for purposes of this tariff. It is possible that the pattern of development deviates dramatically from this assumption and concentrates in a certain portion of the applicable area. If this occurs, it is in the best interest of customers to re-evaluate the order in which the phases are to be completed. If changing the order of completion of the phases provides improved service to more customers (such as the aforementioned hypothetical development concentration), we believe it is reasonable and prudent to change the order rather than blindly following an implementation plan based upon outdated data. The most likely scenario that would require changing the order of the phases would be a concentration of development around Waco Drive. If a large number of homeowners develop ADU's along Waco Drive it may make sense to complete Phase 4 prior to Phases 2 or 3. Since Avion cannot control who develops, it makes sense to structure the tariff with some flexibility that allows us to provide the most benefit to the participants under this tariff.*

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7) Please confirm that, in connection with the proposed Schedule 15, Avion is prepared to comply with OAR 860-036-1310(4), which requires a water utility to provide a written breakdown of its main line extension costs and the allocation of those costs to the customer upon request.

Response: *Yes, Avion is prepared to comply with OAR 860-036-1310(4)*