ITEM NO. 1

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: February 26, 2019

REGULAR X **CONSENT** ____ **EFFECTIVE DATE** **March 1, 2019**

DATE: February 20, 2019

TO: Public Utility Commission

FROM: John Fox MG for JF

THROUGH: Jason Eisdorfer and Marianne Gardner JE MG

SUBJECT: AVISTA UTILITIES: (ADV 923/Advice No. 19-01-G) Application to pass back the 2018 deferred portion of the benefits attributable to the revisions of the federal income tax code caused by the enactment of the Tax Cuts and Jobs Act signed into law on December 22, 2017.

STAFF RECOMMENDATION:

Approve Avista's amortization of the 2018 ratepayer benefits of $3.8 million associated with the Tax Act beginning March 1, 2019, and ending February 29, 2020, for service rendered on and after March 1, 2019, on less than statutory notice.

DISCUSSION:

Issue

Whether the Commission should approve Avista's Advice No. 19-01-G, implementing Schedule 474, Temporary Federal Income Tax Rate Credit – Oregon, which amortizes 2018 deferred temporary tax benefits attributable to the revisions of the federal income tax code caused by the enactment of the Tax Cuts and Jobs Act signed into law on December 22, 2017.

Applicable Rule or Law

Under ORS 757.205(1), a public utility must file schedules showing all rates, tolls, and charges for service that have been established and are in force at the time. The Commission may approve tariff changes if they are deemed to be fair, just and reasonable. ORS 757.210. Tariff revisions or corrections may be made by filing revised sheets with the information required under the Commission's administrative rules, including OAR 860-022-0005 and OAR 860-022-0025. Filings that make any change in rates, tolls, charges, rules, or regulations must be filed with the Commission at least 30 days before the effective date of the changes. ORS 757.220. The Commission may approve changes in tariffs to be effective on less than statutory notice upon a finding of good cause shown.

OAR 860-022-0025(2) specifically requires that each energy utility changing existing tariffs or schedules must include in its filing a statement plainly indicating the increase, decrease, or other change made with the filing, the number of customers affected by the proposed change and the resulting change in annual revenue; and the reasons or grounds relied upon in support of the proposed change.

Unless subject to an automatic adjustment clause under ORS 757.210(1), amounts deferred are allowed in rates to the extent authorized by the Commission in a proceeding under ORS 757.210 to change rates and upon review of the utility's earnings at the time of application to amortize the deferral. ORS 757.259(4); OAR 860-027-0300(9).

<u>Analysis</u>

Tax Act Deferral Background
On December 22, 2017, President Donald Trump signed H.R.1 – Tax Cuts and Job Act (Tax Act), with most provisions going into effect on January 1, 2018. The Tax Act amends sections of the 1986 code, most notably the reduction in the federal corporate income tax rate from 35 percent to 21 percent. The change in the corporate income tax rate also results in excess deferred income tax (EDIT) assets and liabilities that must be reversed.

On December 29, 2017, the Company filed a deferral application (Docket No. UM 1918) "for an order authorizing it to utilize deferred accounting for the impact to its federal income tax (FIT) expenses due to the revisions of the federal income tax code" with the intent of tracking the net impacts of the Tax Act to pass onto to customers. At the time the Application was filed, the impacts of the Tax Act were unknown.

On December 29, 2017, Staff also filed an application (Docket No. UM 1923) to defer the changes in Avista's federal tax obligations resulting from H.R.1 — Tax Cuts and Jobs Act (Application). Staff filed similar applications for all six energy utilities to ensure ratepayers would benefit from the tax reduction beginning January 1, 2018. Avista responded on April 30, 2018, referring back to the contemporaneous docket and stating the Company did not believe the Commission need rule on Staff's separate application.

Subsequent to the filing of these applications, Avista, Staff, other utilities, and stakeholders participated in a workshop to understand the Tax Act implications, and began working through methodologies to calculate benefits to ratepayers and for passing such benefits on to customers. Since that time, Staff has continued to work with each utility informally to address the deferral and amortization of Tax Act benefits.

On April 12, 2018, the Company supplemented its Application, estimating 2018 benefits of $3.9 million comprised of the following; current and deferred income tax expense and conversion factor $3.151 million, plant-related excess deferred income tax $0.553 million, and non-plant related excess deferred income tax $0.194 million.

On July 12, 2018, the Company supplemented its Application, showing no change in the estimated 2018 benefits of $3.9 million and reporting an interim deferral amount recorded on the Company's books of $2.5 million through June 30, 2018.

On October 10, 2018, the Company supplemented its Application, revising the estimated 2018 benefits upward to $4.0 million due to an upward revision of the non-plant related excess deferred income tax from $0.194 million to $0.284 million. The Company also reported an interim deferral amount recorded on the Company's books of $2.4 million through September 30, 2018.

On January 23, 2019, the Company supplemented its Application, reporting actual deferred permanent and temporary tax benefits for 2018 of $3.7 million dollars. This amount is inclusive of interest on the deferred tax benefit of $158 thousand and increased amortization of plant related excess deferred income taxes from $439 thousand to $496 thousand after filing of the Company's final corporate income tax return for 2017.

On February 14, 2019, the Commission approved Avista's deferral application in Order No. 19- 050.

Advice No. 19-01-G
On February 11, 2019, Avista filed its Advice No. 19-01-G to amortize 2018 deferred tax benefits. Tax benefits will be passed back on an equal percentage of margin revenue basis, applied on a uniform cents per them to the volumetric block rates, from Schedules 410, 420, 424, 440, 444, and 456.

On February 15, 2019, Avista supplemented it Advice No. 19-01-G filing to incorporate the effects of interest during the proposed amortization period increasing the total amortization amount from $3.708 million to $3.837 million, an increase of $129 thousand over the yearlong amortization period. A residential customer using an average of 47 therms a month could expect their bill to decrease by $2.26, or 4.4 percent, for a revised monthly bill of $48.94 effective March 1, 2019.

Staff has reviewed the interest calculations and finds that they have correctly applied the Company's weighted average cost of capital (7.35 percent) for the current deferral that is not under amortization and the Modified Blended Treasury rate (3.74 percent) for current treatment of interest rates described in Order No. 08-263 as modified by Order No. 10-279.

On May 25, 2018, the Company agreed, pursuant to the filing of an all-party stipulation in Docket No. UM 1897, to waive, and not seek to apply, an earnings test to the Tax Act benefits.[1] Even though the Hydro One Merger docket is now defunct, Avista continues to honor the agreement to waive an earnings test related to the Tax Act benefits. Therefore, no additional review of the Company's earnings is necessary prior to amortization, and no sharing between customers and the Company is requested.

The Company has requested amortization of tax benefits on less than statutory notice in order to pass back approved deferred amounts to customers as soon as practicable. Because this filing represents a rate reduction to customers for deferred amounts previously approved, Staff finds that there is good cause to approve amortization on less than statutory notice.

Conclusion

Staff has reviewed the proposed tariff schedule and associated work papers provided by the Company and finds that they are calculated to collect deferred amounts, inclusive of applicable interest, approved in Order No. 19-050, and recommends the Commission approve Avista's proposed Schedule 474.

The Company has reviewed this memo and has no areas of concern.

PROPOSED COMMISSION MOTION:

Approve amortization of the 2018 ratepayer benefits of $3.8 million associated with the Tax Act beginning March 1, 2019, and ending February 29, 2020, for service rendered on and after March 1, 2019 on less than statutory notice.

[1] See *In the Matter of HYDRO ONE LIMITED, Application for Authorization to Exercise Substantial Influence over the Policies and Actions of AVISTA CORPORATION*, Docket No. UM 1897, All-party Stipulation filed May 25, 2018, commitment 42b.