

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT**

PUBLIC MEETING DATE: December 14, 2021

REGULAR **CONSENT** **EFFECTIVE DATE** October 30, 2021

DATE: November 30, 2021

TO: Public Utility Commission

FROM: John Fox

THROUGH: Bryan Conway and John Crider **SIGNED**

SUBJECT: AVISTA UTILITIES:
(Docket No. UM 2124(1))
Application for Reauthorization to Approve Federal Income Tax Expense
for Certain Plant Basis Adjustments Changes and to Defer Associated
Change in Tax Expense.

STAFF RECOMMENDATION:

Staff recommends that the Commission approve Avista Corporation dba Avista Utilities' (Avista or Company) application for reauthorization of deferred accounting effective for the 12-month period beginning October 30, 2021.

DISCUSSION:

Issue

Whether the Commission should reauthorize deferral of Federal income tax expense from using a flow-through method of accounting for certain plant basis adjustments, including Industry Director Directive No. (IDD 18 #5) and meters, and State income taxes that are being collected from customers that will not be paid until customer rates are updated in the Company's next general rate case.

Applicable Rule or Law

Under ORS 757.259, the Commission may authorize deferred accounting for later incorporation in rates. Specific amounts eligible for deferred accounting treatment with interest authorized by the Commission include:

Identifiable utility expenses or revenues, the recovery or refund of which the commission finds should be deferred in order to 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.

ORS 757.259(2)(e).

Under ORS 757.259, the Commission may authorize deferred accounting for later incorporation in rates. In OAR 860-027-0300(3), the Commission has set forth the requirements for the contents of deferred accounting applications. Applications for reauthorization must include that information along with a description and explanation of the entries in the deferred account to the date of the application for reauthorization and the reason for continuation of deferred accounting. OAR 860-027-0300(4). Notice of the application must be provided pursuant to OAR 860-027-0300(6).

Unless subject to an automatic adjustment clause under ORS 757.210(1), amounts deferred under ORS 757.259(5) and OAR 860-027-0300 are allowed in rates only to the extent authorized by the Commission in a proceeding under ORS 757.210 to change rates and upon a prudence review and review of the utility's earnings. With some exceptions, a company's amortization of amounts deferred under ORS 757.259(5) cannot exceed an amount equal to three percent of the company's gross revenues from the preceding year. ORS 757.259(6).

In Order No. 05-1070, Docket No. UM 1147, the Commission determined that interest may accrue interest on deferred accounts at the authorized rate of return until amortization. Subsequent orders in Docket No. UM 1147 establish the rate during amortization. See Order Nos. 08-263 and 10-279

Analysis

Background

In Order No. 21-131,¹ the Commission approved the following:

- Avista's Application for Authorization to Approve Federal Income Tax Expense for Certain Plant Basis Adjustments Changes, effective May 5, 2021.
- Avista's Application to Defer Associated Changes in Tax Expense, with the clarifications in Avista's supplemental filing, for the twelve-month period beginning October 30, 2020.

¹ See *In the Matter of AVISTA CORPORATION, dba AVISTA UTILITIES, Application for Authorization to Approve Federal Income Tax Expense for Certain Plant Basis Adjustments Changes and to Defer Associated Change in Tax Expense*, Docket No. UM 2124, Order No. 21-131, May 04, 2021.

At that time, the Company estimated that \$19.5 million of accumulated deferred federal income taxes (ADFIT) would be initially available for return to rate payers, as well as \$1.6 million per year of additional ratepayer benefits on an ongoing basis beginning in 2020. Avista also agreed to expressly include in the deferral associated state tax savings in the amount of approximately \$1.3 million per year starting on January 15, 2021, which was the effective date of the base rate increase in the Company's UG 389 rate case.²

Estimated Deferral in Reauthorization Period

Description of Expense

As described above, the amount subject to deferral is the following:

- For federal income taxes, the Company states that it recorded approximately \$21.4 million in May 2021 as a regulatory liability and will be available to offset customers' rates in future general rate cases. Avista will have an annual additional tax benefit each year, beginning in June 2021, which would be available for immediate use to offset customers' rates, estimated to be \$0.4 million.
- For state income taxes, the Company states that it began deferring approximately \$1.3 million annually beginning on January 15, 2021, and will continue to defer these amounts until new rates are set in the Company's next filed general rate case.³

Reason for Deferral

Avista's application requests reauthorization of the deferral in order to appropriately match the costs borne by and benefits received by customers.

Information Related to Future Amortization

- Earnings Review – Prior to amortization, an annual earnings review will be conducted pursuant to ORS 757.259(5).
- Prudence Review – Prior to amortization, a prudence review will be conducted. The prudence review should include verification of the actual tax benefits to determine the amortization balance.
- Sharing – This deferral is not subject to a sharing mechanism.

² See *In the Matter of AVISTA CORPORATION, dba AVISTA UTILITIES, Request for a General Rate Revision*, Docket No. UG 389, Order No. 20-468, Dec 10, 2020.

³ See *In the Matter of AVISTA CORPORATION dba AVISTA UTILITIES, Request for a General Rate Revision*, Docket No. UG 433, filed October 22, 2021.

- Rate Spread/Design – Applicable benefits will be allocated to the appropriate customer classes.
- Three Percent Test (ORS 757.259(6)) – The three percent test measures the annual overall average effect on customer rates resulting from deferral amortizations. The three percent test limits (with exceptions) the aggregated deferral amortizations during a 12-month period to no more than three percent of the utility’s gross revenues for the preceding year.

Staff notes that the deferral amounts requested in the reauthorization application are commensurate with amounts previously approved by the Commission and that the Company has proposed amortization of the same in the Company’s recent general rate case filing.⁴ Staff also notes that the accounting treatment previously approved in Order No. 21-131 provides a significant acceleration of rate payer benefits and that reauthorization of the deferral is necessary for those benefits to be realized.

Conclusion

For the reasons state above, Staff concludes that approval of the deferral and accounting order will benefit Oregon ratepayers and that the proposed change in accounting method is consistent with the requirements of Oregon law regarding deferrals.

PROPOSED COMMISSION MOTION:

Approve Avista’s application for reauthorization of deferred accounting effective for the 12-month period beginning October 30, 2021.

UM 2124(1) Avista Change in Acct Method for Taxes.docx

⁴ *Id.* See *Company Proposal to Return Deferred Customer Credit* (Avista/600, Andrews/9) and *Tax Customer Credit* (Avista/600, Miller/14).