



# Oregon

Kate Brown, Governor

## Public Utility Commission

201 High St SE Suite 100

Salem, OR 97301-3398

**Mailing Address:** PO Box 1088

Salem, OR 97308-1088

503-373-7394

February 23, 2021



BY EMAIL

Avion Water Company

adam@avionwater.com

RE: Advice No. 21-01

At the public meeting on February 23, 2021, the Commission adopted Staff's recommendation in this matter docketed as ADV 1232. The Staff Report, LSN, and a receipted copy of the sheets in your advice filing are attached.

A handwritten signature in blue ink that reads "Nolan Moser".

Nolan Moser

Chief Administrative Law Judge

Public Utility Commission of Oregon

(503) 378-3098

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: February 23, 2021**

**REGULAR**  **CONSENT**  **EFFECTIVE DATE** February 28, 2021

**DATE:** February 11, 2021

**TO:** Public Utility Commission

**FROM:** Stephanie Yamada

**THROUGH:** Bryan Conway, Michael Dougherty, and Bruce Hellebuyck **SIGNED**

**SUBJECT:** AVION WATER COMPANY:  
(Docket No. ADV 1232/Advice No. 21-01)  
Modifies the Schedule 8 CIAC Tax Fee to accommodate potential tax changes.

**STAFF RECOMMENDATION:**

Staff recommends that the Public Utility Commission of Oregon (Commission) allow Avion Water Company's (Avion or Company) proposed changes to its Schedule 8 to go into effect for service rendered on and after February 28, 2021.

**DISCUSSION:**

Issue

Whether the Commission should allow Avion's filed tariff sheet to become effective.

Applicable Rule or Law

Under ORS 757.205(1)-(2), a rate-regulated water 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. The Commission may approve tariff changes if they are deemed to be fair, just, and reasonable.

ORS 757.210. Tariff revisions may be made by filing revised sheets with the information required under the Commission's administrative rules, including OAR 860-036-2010.

Pursuant to ORS 757.220, filings that propose 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 change.

### Analysis

Avion is a rate-regulated water utility serving approximately 14,000 domestic water customers and 790 irrigation customers in the vicinity of Bend, Oregon. With this filing, Avion proposes to revise Schedule 8 of its tariff, which allows Avion to collect from developers the income tax obligation associated with Contributions in Aid of Construction (CIAC). The purpose of this filing is “to accommodate potential midyear changes in state and federal tax rates with retroactive provisions.”<sup>1</sup> The filing was initially submitted on January 21, 2021, with a proposed effective date of February 28, 2021, in compliance with applicable filing requirements.

Schedule 8 of Avion’s tariff initially became effective on February 28, 2018,<sup>2</sup> and has not materially changed since that time. The purpose of Schedule 8 is to address tax changes associated with the Tax Cuts and Jobs Act (TCJA), which became effective in 2018. Specifically, the TCJA eliminated a tax exemption on CIAC that had previously been available to water utilities, requiring water utilities to pay taxes on assets contributed by developers. Avion’s Schedule 8 addresses the associated increase in Avion’s near-term tax obligation by requiring developers to pay a fee equal to the tax obligation associated with Avion’s receipt of the CIAC. The current tariff specifies that, if tax law changes eliminate Avion’s obligation to pay tax on the CIAC, Avion will refund any CIAC tax collected.

With the present filing, Avion proposes to adjust the provisions of its Schedule 8 to account for potential changes to the tax law that may become effective retroactively. Under the proposed revision, if increases in applicable tax rates result in a higher actual tax obligation than what Avion collected from the developer, the developer would pay any additional monies required to pay tax on the CIAC at the new rate. By contrast, if the applicable tax rate is reduced and Avion’s actual tax obligation is lower than the amount collected, Avion would refund any excess portion of the CIAC tax fee to the contributing developer.

At the request of Staff, Avion submitted a revised filing on February 8, 2021. The purpose of the revision was to clarify the applicability of Schedule 8 and to insert a definition for “CIAC Contributor.” The revised filing was accompanied by a Less than

---

<sup>1</sup> Advice letter.

<sup>2</sup> See Docket No. ADV 723.

Avion Docket No. ADV 1232  
February 11, 2021  
Page 3

Statutory Notice (LSN) form due to the revisions being filed less than 30 days prior to the effective date of the filing.

Conclusion

Staff finds that Avion's proposed revisions to its Schedule 8 comply with applicable statutes and Commission rules, and should be approved.

**PROPOSED COMMISSION MOTION:**

Allow Avion's revised Schedule 8 to become effective for service rendered on and after February 28, 2021.

**SCHEDULE NO. 8**

**CIAC TAX FEE**

**AVAILABLE:** To customers of the Utility and developers of projects using the Utility’s water service.

**APPLICABLE:** To customers of the Utility and developers of projects using the Utility’s water service.

Any individual or entity (CIAC Contributor) making a cash (see Schedule 7, 12, 15) or plant contribution (CIAC) to Avion Water Company will be assessed a fee to pay for the associated federal and state income tax consequences to Avion for accepting the CIAC.

If a plant CIAC is being contributed, the developer will provide to Avion Water Company the cost of the CIAC.

The additional fee will be calculated based on the following formula:

$$\text{Fee} = [\text{CIAC}/(1-\text{tax rate})]-\text{CIAC}$$

$$\text{The tax rate} = \text{Federal tax rate} \times (1-\text{Oregon corporate tax rate}) + \text{Oregon corporate tax rate}$$

The fee shall be based upon the actual tax rate that Avion pays on the contributed plant.

If a tax rate change occurs following collection of this Schedule 8 fee, and has a retroactive effective date such that an amount previously collected is not consistent with the tax rate that will actually be paid on the CIAC:

1. Avion will refund to the CIAC Contributor any excess portion of the CIAC tax collected.
2. The CIAC Contributor shall pay any additional monies required to pay the taxes on the contributed plant based on the new tax rate.

Avion will refund to the CIAC Contributor any CIAC tax collected under this schedule if tax law changes do not require Avion to pay the taxes on CIAC.

Issue Date		Effective for Service on or after	February 28, 2021
Issued By	AVION WATER COMPANY, INC.		

**LESS THAN STATUTORY NOTICE APPLICATION      ADV 1232**

This document may be electronically filed by sending it as an attachment to an electronic mail message addressed to the Commission's Filing Center at [puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us).

**BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON**

IN THE MATTER OF THE APPLICATION OF  AVION WATER COMPANY INC. (UTILITY COMPANY)  TO WAIVE STATUTORY NOTICE.	) ) ) ) )	UTILITY L.S.N. APPLICATION  NO. <b>2277</b>  (LEAVE BLANK)
--	-----------------------	--

**NOTE: ATTACH EXHIBIT IF SPACE IS INSUFFICIENT.**

1. GENERAL DESCRIPTION OF THE PROPOSED SCHEDULE(S) ADDITION, DELETION, OR CHANGE. (SCHEDULE INCLUDES ALL RATES, TOLLS AND CHARGES FOR SERVICE AND ALL RULES AND REGULATIONS AFFECTING THE SAME)  
 The proposed changes to Schedule 8 are requested to ensure that Avion and its ratepayers are neither benefitting from nor harmed by retroactive changes to the tax code specifying tax rates on contributed plant and cash CIAC. There are no changes to the rates, tolls, and charges for service specified in the current Schedule 8.

2. APPLICANT DESIRES TO CHANGE THE SCHEDULE(S) NOW ON FILE KNOWN AND DESIGNATED AS: (INSERT SCHEDULE REFERENCE BY NUMBER, PAGE, AND ITEM)  
 ADV 1232, WHICH WAS ORIGINALLY FILED AS AVION ADVICE FILING 21-01 MODIFYING AVION TARIFF NUMBER 7, ORIGINAL SHEET 11 (SCHEDULE 8).

3. THE PROPOSED SCHEDULE(S) SHALL BE AS FOLLOWS: (INSERT SCHEDULE REFERENCE BY NUMBER, PAGE AND ITEM) AS PROVIDED IN ADV 1232, WHICH WAS ORIGINALLY FILED AS AVION ADVICE FILING 21-01 MODIFYING AVION TARIFF NUMBER 7, ORIGINAL SHEET 11 (SCHEDULE 8).

4. REASONS FOR REQUESTING A WAIVER OF STATUTORY NOTICE:  
 The substantive changes to Schedule 8 were previously filed January 21, 2021, with an effective date of 2/28/2021. The changes to this replacement sheet are editorial in nature and made at the suggestion of PUC staff. Avion wishes to incorporate Staff's suggestions while maintaining the original effective date.

5. REQUESTED EFFECTIVE DATE OF THE NEW SCHEDULE(S) OR CHANGE(S):    2/28/2021

**Received  
Filing Center  
FEB 08 2021**

AUTHORIZED SIGNATURE 	TITLE Engineer	DATE 2/18/2021
PUC USE ONLY		
<input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	EFFECTIVE DATE OF APPROVED SCHEDULE(S) OR CHANGE 2/28/2021	
AUTHORIZED SIGNATURE 	DATE 2/23/2021	