

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: February 20, 2024**

REGULAR X **CONSENT** _____ **EFFECTIVE DATE** March 1, 2024

DATE: February 7, 2024

TO: Public Utility Commission

FROM: Anna Kim

THROUGH: Bryan Conway and Marc Hellman **SIGNED**

SUBJECT: AVISTA UTILITIES:
(Docket No. ADV 1588/Advice No. 24-01-G)
Revision to Schedule 469 and UM 2254 deferral adjustment request.

STAFF RECOMMENDATION:

Staff recommends the Commission approve Avista Utilities' (Avista or Company) Docket No. ADV 1588 to revise tariff Schedule 469 ("Public Purpose Funding Surcharge – Oregon"), effective with service rendered on and after March 1, 2024, and to transfer the monies deferred through UM 2254 to the Public Purpose Charge (PPC) deferral, Docket No. UM 1979.

DISCUSSION:

Issue

Whether to approve Avista's Docket No. ADV 1588 to modify Schedule 469 and associated UM 2254 deferral adjustment request

Applicable Rule or Law

Executive Order (EO) 20-04 sets statewide greenhouse gas (GHG) emission reduction goals of 45 percent below 1990 levels by 2035 and at least 80 percent below 1990 levels by 2050.¹ Additionally, EO 20-04 directs state agencies to exercise authority and discretion in helping facilitate Oregon's achievement of those goals. For the Oregon Public Utility Commission (PUC), EO 20-04 directs the agency to "prioritize proceedings

¹ See Executive Order 20-04, *Directing State Agencies to take actions to reduce and regulate greenhouse gas emissions*, p. 5, (Mar. 10, 2020), https://www.oregon.gov/gov/eo/eo_20-04.pdf.

and activities, to the extent consistent with other legal requirements, that advance decarbonization in the utility sector, and exercise its broad statutory authority to reduce greenhouse gas emissions...”²

OAR 340 Division 271 Oregon Climate Protection Program (CPP) rules were first adopted by DEQ 27-2021 and effective on December 16, 2021.³ Rules were amended and approved with DEQ 17-2023 and effective on November 16, 2023.⁴

The Commission allowed deferral treatment associated with the cost of compliance with the CPP in Docket No. UM 2254, effective September 13, 2023.⁵

On December 20, 2023, the Oregon Court of Appeals issued an opinion that the CPP rules failed to meet procedural requirements.⁶

Docket No. UM 1979 sets the deferral accounting treatment for Schedule 469, which was most recently reauthorized by the Commission on August 8, 2023.⁷ Under this treatment, Schedule 469 supports the delivery of energy efficiency programs administered by the Energy Trust of Oregon (Energy Trust or ETO) and the Avista Oregon Low-Income Energy Efficiency (AOLIEE) program, as well as a portion of the Company’s administrative costs associated with these programs, in a balancing account. Any unspent funds or uncollected costs are held over the following year, with any deferral becoming effective January 1 of the subsequent year.

Analysis

Avista proposes to modify Schedule 469 to incorporate Schedule 440 Customers (i.e., customers taking service under Schedule 440, Interruptible Natural Gas Service for Large Commercial and Industrial) into the collection and distribution of the Public Purpose Funding Surcharge (PPC). Given the uncertainty of the CPP targets and program, this would provide a long-term funding mechanism to allow the Energy Trust of Oregon to continue offering energy efficiency to interruptible customers.

² See EO 20-04, p. 8.

³ See DEQ Greenhouse Gas Emissions Program 2021 Rulemaking, filed with the Secretary of State, <https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/8581825>.

⁴ See DEQ Climate 2023 Rulemaking, filed with Secretary of State, <https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/9848393>.

⁵ OAR 340-271-0020(15).

⁶ See *Northwest Natural Gas Co. v. Environmental Quality Commission, et al.*, 648 Or. App. 666 (2023), <https://ojd.contentdm.oclc.org/digital/pdf.js/web/viewer.html?file=/digital/api/collection/p17027coll5/id/35371/download#page=1&zoom=auto>.

⁷ See, *Avista Deferral of Energy Efficiency Programs*, Docket No. UM 1979, Order No. 23-286 (Aug. 3, 2023).

To accomplish this, Avista proposes three specific modifications: 1) remove the mention of Schedule 440 from the list of schedules for which Energy Trust's energy efficiency funding will be recovered separately from the PPC, 2) move the deferral of these costs from Docket No UM 2254 to the Company's existing energy efficiency deferral program (Docket No. UM 1979), and 3) add language to provide a provision intended to mitigate the possibility of interruptible customers voluntarily moving to a transportation schedule soon after receiving PPC funds for energy efficiency services.

Avista argues that a more permanent integration into its existing PPC structure is needed given the uncertainty of the CPP targets and program. Also, allowing Schedule 440 customers to have access to energy efficiency services is consistent with existing mandates regarding decarbonization goals and targets.

The CPP, prior to invalidation, required covered entities including Avista to reduce emissions 50 percent by 2035 with annual declining caps. As part of these targets, Avista opened its energy efficiency programs to Schedule 440 customers under recovery mechanism approved In Docket UM 2254. Given the uncertainty of the CPP targets and the program, Avista is forced to make a choice between continuing to offer energy efficiency programs to Schedule 440 customers under Schedule 469 subject to the deferral mechanism approved by Docket No. UM 1979 or to discontinue energy efficiency offerings to these customers.

While interruptible customers are not included in peak day planning for supply or distribution, Avista still must acquire natural gas for these customers. Therefore, it benefits other ratepayers as well as to meet the state's climate goals to reduce usage for these customers through available energy efficiency services.

Given that UM 1979 provides for an existing and permanent deferral mechanism for energy efficient services, Staff sees no reason to exclude interruptible customers taking service on Schedule 440 from the existing energy efficiency services.

Staff agrees with Avista's proposal to modify Schedule 469 into the collection and distribution of PPC funding consistent with state decarbonization mandates. As of December 31, 2023, the cost of providing energy efficiency to interruptible customers is \$342,822 subject to the deferral mechanism in Docket No. UM 2254. Staff agrees with Avista that this amount should be moved to the existing PPC deferral (UM 1979). Any ongoing and future costs to support interruptible customers' participation in Energy Trust's energy efficiency offerings will be part of the process already in place between Energy Trust and Avista. Ongoing costs and the amortization of the \$342,822 will be part of the Company's next funding true-up for its PPC.

Staff agrees with Avista's proposal to remove the reference to Schedule 440 from the list of schedules which Energy Trust's energy efficiency funding will be recovered separately from the PPC. Staff agrees that the following language proposed by Avista should be added to "Special Terms and Conditions" to protect against the possibility of interruptible customers moving to a transportation schedule soon after receiving PPC-funded energy efficiency services.

If a customer moves to a service Schedule not subject to the Public Purpose Funding Surcharge within 12 months of receiving energy efficiency incentives, such incentives may be subject to repayment by the customer.

The Company reviewed this document and had no objections.

Staff anticipates that Alliance of Western Energy Consumers (AWEC) will file comment on this issue.

Conclusion

Staff finds the Avista proposals to be consistent with the State's mandate toward decarbonization and in the best interest of stakeholders. Staff supports the continuation of Avista's interruptible customers to participate in existing gas energy efficiency programs under Schedule 469. Consistent with the PUC's directive in EO 20-04, Staff finds this proposal will help achieve statewide decarbonization goals and reduce GHG emissions in the utility sector.

While approval of this filing permits Avista to continue to defer costs for energy efficiency programs provided to Schedule 440 customers, it does not preclude arguments on cost recovery or earnings review from being raised at amortization.

PROPOSED COMMISSION MOTION:

Approve Avista's Docket No. ADV 1588 filing to revise schedule tariff Schedule 469 ("Public Purpose Funding Surcharge – Oregon"), effective with service rendered on and after March 1, 2024, and to transfer the monies deferred through UM 2254 to the PPC deferral, Docket No. UM 1979.