



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

June 4, 2019

via E-mail

Public Utility Commission of Oregon
ATTN: Filing Center
201 High Street SE, Suite 100
Salem, OR 97308-1088
nolan.moser@state.or.us

Re: UM 1936 – Staff’s Amended Application to Defer Changes in Avion Water Company, Inc.’s Federal Tax Obligations Resulting from H.R.1 – Tax Cuts and Jobs Act

Enclosed for filing is an amended Application to Defer Changes in Avion Water Company, Inc.’s (Avion) Federal Tax Obligations Resulting from H.R.1 – Tax Cuts and Jobs Act (Application) for the twelve month period beginning March 1, 2019.

Staff is submitting an amended Application following discussions with Avion regarding its concerns about a change in language from Staff’s initial deferral application, which was filed on March 1, 2018 for the subsequent twelve month period, and the request to reauthorize the deferral, which was filed on February 28, 2019 for the twelve month period beginning March 1, 2019.

In conversations with Staff, Avion indicated a discomfort with certain language included in Staff’s reauthorization Application, as it varied from the language in Staff’s initial application. Specifically, Staff’s initial application states “Staff requests to defer, for later ratemaking treatment, the effects of H.R.1 on Avion’s tax liability for the twelve month period beginning with the date of this application.” Staff’s application for reauthorization states “Staff requests to defer, for potential later ratemaking treatment, the difference between Avion’s current retail rates and its currently approved retail rates inclusive of the effects of H.R.1.”

Although the language varies, Staff’s intent to track the benefits to ratepayers from the Tax Cuts and Jobs Act for later ratemaking treatment remains unchanged. However, to be responsive to Avion’s concerns, Staff is submitting an amended application solely for the purpose of making the language consistent between the initial application and the request for

Chief ALJ Nolan Moser

June 4, 2019

Page 2

reauthorization. Amending the language does not impact the methodology that should be used to determine deferred amounts under this Application, nor does it preclude any party from arguing or otherwise litigating what methodology will ultimately be used to calculate tax benefits.

Sincerely,



Sommer Moser
Assistant Attorney General
Business Activities Section

ST7:pir/#9619971

cc: UM 1936 service list and PUC.FilingCenter@state.or.us

1 **II. OAR 860-027-0300(3) requirements.**

2 **A. Expense or Revenue at Issue.**

3 Staff requests to defer, for later ratemaking treatment, the effects of H.R.1 on Avion's tax
4 liability for the twelve month period beginning March 1, 2019. Due to the lengthy and complex
5 nature of the Act and the variability of CIAC, it is not possible at this time to quantify the
6 difference in Avion's federal tax obligations that may be impacted by the passage of the Act.

7 **B. Reason for Deferral.**

8 Staff requests the Commission approve this Application pursuant to ORS 757.259(2)(e),
9 which provides the Commission with discretion to defer "identifiable utility expenses or
10 revenues, the recovery or refund of which the commission finds should be deferred in order to
11 minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately
12 the costs borne by and benefits received by ratepayers." A deferral is necessary to begin tracking
13 the difference in Avion's federal tax obligations resulting from H.R.1. Deferring of the impact
14 of H.R.1 on Avion's federal tax obligations would allow for the appropriate matching of costs
15 borne by and benefits received by customers.

16 For example, prior to the passage of H.R.1, CIAC was not included in a water utility's
17 gross income for state or federal income tax purposes. H.R.1 did not carry this exemption
18 forward. As such, a water utility may be responsible for the tax effects of CIAC. On the other
19 hand, the current version of the Act includes a reduction in the federal corporate tax rate.
20 Avion's current retail rates reflect an effective federal corporate tax rate of approximately 34
21 percent. The corporate tax rate in H.R.1 is 21 percent, which would have an impact to the tax
22 expense customers assume in cost of service, and could also have an impact on the Company's
23 Accumulated Deferred Income Tax (ADIT) balance currently included in rate base. Staff notes,
24 however, that the full effects of H.R.1 are unknown at this time, including whether such changes
25 would result in overall savings to customers.

26 ///

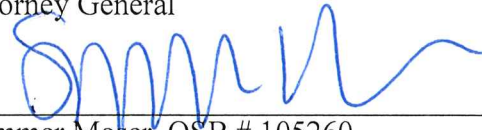
1 **III. Conclusion**

2 For the reasons stated above, Staff respectfully requests that the Commission authorize
3 the deferral of the effects of H.R.1 on Avion's tax liability for the twelve month period beginning
4 March 1, 2019.

5 DATED this 4th day of June, 2019.

6 Respectfully submitted,

7 ELLEN F. ROSENBLUM
8 Attorney General

9 

10 Sommer Moser, OSB # 105260
11 Assistant Attorney General
12 Of Attorneys for Staff of the Public Utility
13 Commission of Oregon
14
15
16
17
18
19
20
21
22
23
24
25
26