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:pjr/#9619971

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

1	BEFORE THE PUBLIC UTILITY COMMISSION						
2	OF OREGON						
3	UM 1936						
4	In the Matter of						
6	AMENDED APPLICATION FOR REAUTHORIZATION TO DEFER CHANGES IN AVION WATER COMPANY, INC.'S						
7 8	Application to Defer Changes in Avion Water Company, Inc.'s Federal Tax Obligations Resulting from H.R.1 - Tax Cuts and Jobs Act.						
9	Pursuant to ORS 757.259, OAR 860-036-2170 and OAR 860-027-0300, Staff of the						
10	Public Utility Commission of Oregon (Staff) files this Amended Application for Reauthorization						
11	to Defer Changes in Avion Water Company, Inc.'s (Avion or Company) Federal Tax Obligations						
12	Resulting from Tax Cuts and Jobs Act of 2017 (Application) for the twelve month period						
13	beginning March 1, 2019.						
14	I. Deferral History						
15	The 115 th United States Congress recently passed H.R.1 – Tax Cuts and Jobs Act (H.R.1						
16	or Act). The Act was signed into law on December 22, 2017 by President Donald Trump, with						
1,7	most provisions going into effect on January 1, 2018. The Act contains provisions that impact						
18	regulated utilities' federal tax obligations, including a reduction in the corporate income tax rate						
19	and the treatment of Contributions in Aid of Construction (CIAC) for water utilities. On March						
20	1, 2018, Staff filed its initial Application for an order authorizing deferred accounting to track						
21	the impact, for later ratemaking treatment, of the Tax Act for the twelve month period beginning						
22	March 1, 2018. The continued deferral of these amounts is necessary in order to ensure future						
23	ratemaking treatment for tax benefits and obligations not currently reflected in rates.						
24	///						
25							
26 Pag	The final version of the Act may be accessed at https://www.congress.gov/bill/115th-congress/house-bill/1/text . Page 1- UM 1936 – AMENDED APPLICATION FOR REAUTHORIZATION TO DEFER CHANGES IN AVION WATER COMPANY, INC.'S FEDERAL TAX OBLIGATIONS RESULTING FROM HR 1-TAX CUTS AND JOBS ACT						

Department of Justice 1162 Court Street NE Salem, OR 97301-4096 (503) 947-4520 / Fax: (503) 378-3784

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1 II.	OAR 80	50-027-0300(3)	requirements.

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.

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- 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
- of H.R.1 on Avion's federal tax obligations would allow for the appropriate matching of costs
- 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.
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C. Proposed Accounting. 2 Staff requests that the deferred amounts be recorded in Account 253.1 Regulatory Liabilities. 3 4 D. Estimate of Amounts to be Recorded in Deferred Account. 5 Staff will supplement this Application with an estimate of amounts to be deferred as soon as those estimates are available. Because of the lengthy and complex nature of the legislation, the time that will be necessary to analyze the impacts to regulated utility federal taxes, and the unpredictable nature of CIAC contributions, it is not possible to estimate the amounts to be deferred as of the filing of this Application. 10 E. Notice. 11 A copy of the Notice of Application and a list of persons served with Notice are attached to this Application as Exhibit A. II. Staff contacts. 13 14 Communications regarding this Application should be addressed to: 15 Sommer Moser Russell Beitzel Oregon Department of Justice Public Utility Commission of Oregon 16 201 High Street SE, Suite 100 1162 Court Street NE Salem, Oregon 97301 Salem, Oregon 97301 17 russell.beitzel@state.or.us sommer.moser@state.or.us 18 19 /// 20 /// 21 /// 22 /// 23 /// 24 /// 25 /// 26 ///

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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 day of June, 2019.					
6	Respectfully submitted,					
7	ELLEN F. ROSENBLUM					
8	Attorney General					
9	Sommer Moser, OSB # 105260					
10	Assistant Attorney General Of Attorneys for Staff of the Public Utility					
11	Commission of Oregon					
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