

**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.”¹ 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, 2018,² 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

¹ Advice letter.

² 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.