

ORDER NO. 20-398

ENTERED Nov 05 2020

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2042

In the Matter of

AVISTA CORPORATION, dba AVISTA
UTILITIES,

Application for Deferral of Costs for the
Oregon Corporate Activities Tax.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on November 3, 2020, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:

Nolan Moser
Chief Administrative Law Judge



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT**

PUBLIC MEETING DATE: November 3, 2020

REGULAR ____ **CONSENT** X **EFFECTIVE DATE** January 1, 2020

DATE: October 20, 2020

TO: Public Utility Commission

FROM: John Fox

THROUGH: Bryan Conway and John Crider **SIGNED**

SUBJECT: AVISTA UTILITIES:
(Docket No. UM 2042)
Application for Deferral of Costs for the Oregon Corporate Activities Tax.

STAFF RECOMMENDATION:

Approve Avista Utilities' (Avista or Company) application for deferral of costs for the Oregon Corporate Activities Tax (CAT) estimated to be \$800,000, for the 12-month period beginning January 1, 2020.

DISCUSSION:

Issue

Whether the Commission should approve Avista's application to defer for later rate-making treatment costs associated with the Oregon Corporate Activities Tax, initially estimated to be approximately \$800,000 for tax-year 2020.¹

Applicable Rule or Law

Beginning with the date of the Application, the Commission may approve the deferral of identifiable utility expenses or revenues, the recovery or refund of which the Commission finds should be deferred in order to minimize the frequency of rate changes for the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers. ORS 757.269(2)(e) and (4). Unless subject to an automatic adjustment clause under ORS 757.210(1), amounts deferred are allowed in rates to the extent authorized by the Commission in a proceeding under ORS 757.210

¹ Application at 2.

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to change rates and upon review of the utility's earnings at the time of application to amortize the deferral. ORS 757.259(4); OAR 860-027-0300(9). The Commission's final determination on the amount of deferrals allowable in the rates of the utility is subject to a finding by the Commission that the amount was prudently incurred by the utility. ORS 757.259(5).

Analysis

Background

The 2019 Oregon Legislative Assembly approved a new Corporate Activity Tax effective January 1, 2020.

The tax is imposed on the privilege of doing business in Oregon, based on Oregon-sourced commercial activities and is not a transactional tax nor an income tax—it is a modified gross-receipts tax. However, apportionment and tax administration will occur pursuant to existing income tax statutes.

The tax is in addition to any other taxes or fees imposed by the State of Oregon and will be imposed at a rate of \$250 plus 0.57 percent of taxable commercial activity in excess of \$1 million each year. Taxable commercial activity is defined as commercial activity sourced in this state less a subtraction for 35 percent of the greater of “cost inputs” or “labor costs.”²

On March 16, 2020, the Company filed a request for a general rate revision including \$800,000 of CAT expenses in base rates effective January 16, 2021.³ No party objected to the proposed rate treatment and the CAT tax is included in the stipulated revenue requirement pending Commission approval.⁴

Description of Expense and Reason for Deferral

The Company states:

Avista has not otherwise included any forecast or estimate of the Oregon CAT in customer prices through a general rate case or any other proceeding, as this is a new tax, to which Avista had not previously been subjected.⁵

And further states:

² ORS 317A.125 and 317A.119.

³ UG 389 - Avista/500, Brandon/34.

⁴ UG 389 - Parties' Third Partial Settlement Stipulation executed by Avista, Staff, CUB and AWECC (Sep 3, 2020).

⁵ Application at 2.

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The imposition of this tax was unforeseen and unpredictable, thus Avista was unable to include this in a prior forecast or include in a prior rate proceeding. In the Company's view this request is not dissimilar from its deferral request in December 2017 related to the Tax Cuts and Jobs Act (Federal Tax Reform), whereby an unforeseen change in taxation was approved for deferral and later inclusion in customer rates. Granting this Application will minimize the frequency of rate changes and match appropriately the costs borne by and benefits received by customers.⁶

Proposed Accounting

Avista proposes to record the deferred amount as a regulatory asset by debiting FERC account 182.3 (Regulatory Asset), and crediting FERC Account 407.4 (Regulatory Credit). Avista estimates the amount to be deferred during the 12-month period subsequent to the filing to be approximately \$800,000 dollars. Interest will be accrued on the balance at the approved blended treasury rate.

Estimated Deferral in Authorization Period

Avista estimates the deferred amount to be approximately \$800,000 for calendar year 2020.

Information Related to Future Amortization

- Earnings Review – The Commission reviews earnings prior to amortization.
- Prudence Review – The prudence review should include verification of the taxes paid to determine the amortization balance.
- Sharing – One hundred percent of the deferred balance is subject to utility recovery, pending a prudence review and earnings review.
- Rate Spread/Design – Applicable costs will be allocated to the appropriate customer classes.

Conclusion

Staff concludes that approval of this deferral for calendar year 2020 is consistent with the ongoing resolution of the CAT in the Company's request for a general rate revision, and that deferral of these amounts will match costs borne by and benefits received by ratepayers.

Staff notes that deferred amounts typically earn interest at the Company's authorized rate of return (AROR) until such time as the Commission authorizes amortization. Accordingly, Staff's understanding is the modified blended treasury rate (MBT) stated in

⁶ Application at 3.

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the Company's application will be applied prospectively once amortization is approved in a future proceeding.

PROPOSED COMMISSION MOTION:

Approve Avista's application to defer for later rate-making treatment costs associated with the Oregon Corporate Activities Tax, initially estimated to be approximately \$800,000 for tax-year 2020.

UM 2042 Avista CAT Deferral.docx