

ORDER NO. 20-460

ENTERED Dec 03 2020

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1631

In the Matter of

AVISTA CORPORATION, dba AVISTA  
UTILITIES,

Application for Partial Waiver of  
OAR 860-021-0410(2), Emergency Medical  
Certificates for Residential Electric and Gas  
Service, and OAR 860-021-0415(2) and (3),  
Time-Payment Agreements for Residential  
Electric and Gas Service.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on December 1, 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:



A handwritten signature in blue ink, appearing to read "Nolan Moser".

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**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: December 1, 2020**

REGULAR  CONSENT  EFFECTIVE DATE \_\_\_\_\_ N/A

**DATE:** November 20, 2020

**TO:** Public Utility Commission

**FROM:** Curtis Dlouhy and Kathy Zarate

**THROUGH:** Bryan Conway, John Crider, and Matt Muldoon **SIGNED**

**SUBJECT:** AVISTA CORPORATION:  
(Docket No. UM 1631)  
Application for a Partial Waiver of OAR 860-021-0410(2) and subsections (2)  
and (3) of OAR 860-021-0415.

**STAFF RECOMMENDATION:**

Approve Avista Corporation's (Avista or Company) request for a partial waiver of OAR 860-021-0410(2) and subsections (2) and (3) of OAR 860-021-0415 through October 1, 2022, to conform to Commission Order No. 20-401.

**DISCUSSION:**

Issues

1. Whether the Commission should approve Avista's request for a partial waiver of OAR 860-021-0410(2) through October 1, 2022. The waiver of the former allows residential utility customers to self-certify for their emergency medical certificates and an additional two months to submit required documents from a qualified medical professional.
2. Whether the Commission should approve Avista's request for a partial waiver of subsections (2) and (3) of OAR 860-021-0415 through October 1, 2022. Waiver of the two subsections allows Avista to offer residential customers time payment arrangements (TPAs) up to 24 months and to not require a down payment for entering into such arrangements.

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### Applicable Rules

OAR 860-021-0410(1) states that an energy utility shall not disconnect residential service if the customer submits certification from a qualified medical professional stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household.

OAR 860-021-0410(2) states that an energy utility must have the oral certification confirmed in writing within 14 days by a qualified medical professional prescribing medical care.

OAR 860-021-0415(2) states that a customer selecting a levelized payment plan must make a down payment:

A customer who selects a levelized payment plan will pay a down payment equal to the average annual bill including the account balance, divided by 12, and a like payment each month for 11 months thereafter.

OAR 860-021-0415(3) states that a customer selecting an equal pay arrearage plan must make down payment as well:

A customer who selects an equal-pay arrearage plan will pay a down payment equal to one-twelfth the amount owed for past electric or gas service (including the overdue amount and any amounts owed for a current bill or a bill being prepared but not yet delivered to the customer) each month, for the next 11 months, an amount equal to the down payment will be added to, and payable with, the current charges due for utility service. If a customer changes service address at any time during the period of an equal-pay arrearage plan, the plan continues. However, the customer must pay any past-due charges and all other applicable charges before the energy utility provides service at the new address.

Under OAR 860-021-0005, the Commission may waive any of Division 21 rules for good cause shown.

### Analysis

#### *Background*

On March 8, 2020, Oregon Governor Kate Brown declared a state of emergency due to the public health threat posed by COVID-19, and directed Oregonians to stay at home to the greatest extent possible in Executive Order No. 20-12 (March 23, 2020). The state of emergency has been extended, most recently in Executive Order 20-59

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(October 27, 2020). Various orders governing social activity and economic activity in light of the pandemic have been issued, the most recent of which is Executive Order 20-65 (November 17, 2020) imposing a limited-duration freeze on certain activities. At the time of the initial declaration, it was expected that the emergency circumstances would cause an added burden to utility customers that need to renew their emergency medical certificates.

On June 9, 2020, the Commission conducted a Special Public meeting on the “Impact to Utility Customers during the COVID-19 Pandemic and Future Economic Recovery.” As a result of this meeting, Docket No. UM 2114 was opened to address the challenges caused by the COVID-19 Pandemic. A stipulated Agreement in Docket No. UM 2114 was approved by the Commission in Order No. 20-401 on November 5, 2020.

*Conditions necessitating a waiver*

The ongoing COVID-19 pandemic has created added difficulty in renewing emergency medical certificates and has created added financial burden on many ratepayers. In Order No. 20-401, the Commission adopted a stipulation addressing the effects of the pandemic on energy utility customers. The terms of this order include a provision, paragraph 14, under which utilities are required to allow customers to initially self-certify for a medical certificates when it is required and submit a confirming certification from a qualified medical professional.<sup>1</sup> This requirement extends through October 1, 2022, though the parties to the stipulation have agreed to confer on or about October 1, 2021, to determine whether to request that the Commission modify the October 1, 2022, end date.

Paragraph 5 of the stipulation adopted in Order No. 20-401 provides:

Each Utility currently offers TPAs of various durations. Each Utility will offer TPAs up to 24 months for residential customers and up to six months for small commercial customers. Utilities may provide additional flexibility on the duration of the TPA that could go beyond 24 months for residential customers or six months for small commercial customers based on the circumstances of a customer’s ability to pay. For residential customers, no down payment is required. For small commercial customers, a minimum 10% down payment is required. For natural gas utilities, TPAs under this paragraph are not available to transportation customers. Utilities must offer extended TPAs until October 1, 2022 under the terms of this paragraph. Parties agree to confer in good faith on or about October 1, 2021 to determine whether to request that the Commission modify the October 1, 2022 end date. Any future adjustments to the

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<sup>1</sup> See UM 2114, Order No. 20-401, Appendix A at 16.

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length and end dates of TPAs will be a subject of discussion in the workshops conducted under paragraph 29.

Under the terms of the stipulation approved in Order No. 20-401, Staff agreed to review relevant administrative rules, including OAR 860-021-0410, and notify a utility if a waiver would be necessary.<sup>2</sup> Staff's report to the Commission presenting the stipulation notes that it had already begun the required review, and that each utility will need to request a waiver of OAR 860-021-0410(2) through October 1, 2022, unless and until any permanent change are made to the rule.

Subsections (2) and (3) of OAR 860-021-0415 require a down payment for a TPA and impose a maximum length of 12 months for a TPA. Under section (4) of OAR 860-021-0415, "The energy utility and customer may agree in writing to alternate payment arrangements, provided the utility first informs the customer of the availability of the payment terms in sections (2) and (3) of this rule." Staff's report to the Commission presenting the UM 2114 stipulation noted, that a utility may wish to request a temporary waiver of sections (2) and (3) of this rule through October 1, 2022, unless and until any permanent changes may be made to this rule.

Staff finds that the requested waivers would indeed ease the burden on residential utility customers as well as being necessary to conform to Order No. 20-401. The COVID-19 pandemic is ongoing and in fact has recently worsened so much that the Governor announced on November 13, 2020, a two- week freeze from November 18, 2020, to December 2, 2020. Staff also notes that Avista is taking the actions suggested by Staff in Docket UM 2114 with regards to OAR 860-021-0410(2), and subsections (2) and (3) of OAR 860-021-0415.

### Conclusion

Based on the circumstances outlined above, Staff concludes that Avista's request for waivers of OAR 860-021-0410(2) and OAR 860-021-0415(2) and (3) to conform to the stipulation adopted in Order No. 20-401 are warranted.

### **PROPOSED COMMISSION MOTION:**

Approve Avista's request for a partial waiver of OAR 860-021-0410(2) and OAR 860-021-0415(2) and 860-021-0415(3) through October 1, 2022, to conform to Commission Order No. 20-401.

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<sup>2</sup> See UM 2114, Order No. 20-401, Appendix A at 34-35.