ORDER NO. 21-327

ENTERED Oct 06 2021

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2188

In the Matter of AVION WATER COMPANY, INC, Application to Defer Costs Associated with the COVID-19 Public Health Emergency.	ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on October 5, 2021, 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.

ITEM NO. CA8

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 5, 2021

REGULAR ____ **CONSENT** __X__ **EFFECTIVE DATE** ____**August 10, 2021**____

DATE: September 9, 2021

TO: Public Utility Commission

FROM: Scott Shearer

THROUGH: Bryan Conway, Michael Dougherty, and Bruce Hellebuyck **SIGNED**

SUBJECT: AVION WATER COMPANY:
(Docket No. UM 2188)
Request for Authorization to Defer Expenses Related to the COVID-19 Health Emergency.

STAFF RECOMMENDATION:

Staff recommends that the Public Utility Commission of Oregon (Commission) approve Avion Water Company's (Avion or Company) application for deferred accounting of COVID-19 related costs for the 12-month period beginning August 10, 2021.

DISCUSSION:

Issue

Whether the Commission should approve Avion's application for the authorization of deferred accounting of costs from the COVID-19 Public Health Emergency for the 12-month period beginning August 10, 2021.

Applicable Law

ORS 757.259(2)(e) allows the Commission to authorize deferred accounting for later incorporation into rates. Specific amounts eligible for deferred accounting treatment with interest authorized by the Commission include "[i]dentifiable 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 or the fluctuations of rate levels or to match appropriately the costs borne by and benefits received by ratepayers."

In OAR 860-036-2170, the Commission directs water utilities to comply with the deferred account rule for energy and telecommunications utilities in OAR 860-027-0300. Under OAR 860-027-0300(3), the Commission sets the requirements for the contents of deferred accounting applications. Notice of the application must be provided pursuant to OAR 860-027-0300(6).

Under ORS 757.295(6), unless subject to an automatic adjustment clause under ORS 757.210(1), amounts deferred under ORS 757.259(5) and OAR 860-027-0300 are allowed in rates only to the extent authorized by the Commission in a proceeding under ORS 757.210 to change rates and upon a prudence review and review of the utility's earnings. With some exceptions, a company's amortization of amounts deferred under ORS 757.295(5) cannot exceed an amount equal to three percent of the company's gross revenues from the preceding year.

Analysis

Background

On March 8, 2020, Oregon Governor Kate Brown declared a statewide state of emergency due to the public health threat posed by the novel infectious coronavirus, COVID-19.[1] Several extensions of that order have been issued, and the state of emergency is currently extended to December 31, 2021.[2]

On March 27, 2020, Avion filed UM 2076, requesting the Commission authorize the Company to defer for later ratemaking treatment costs from the COVID-19 public health emergency.

On June 9, 2020, the Commission held a Special Public Meeting on the impacts of COVID-19. As a result of the Special Public Meeting, the Commission opened an investigation into the effects of COVID-19, which would later be docketed as UM 2114. The purpose of the investigation was to:

a. Develop and share relevant information concerning actions taken by utilities concerning COVID-19;
b. Ensure the PUC takes an integrated, timely approach to COVID-19 related issues, and that all relevant aspects of the challenge are considered;
c. Ensure stakeholder engagement, input, and awareness; and
d. Provide information that will inform other, related dockets and Commission process.

[1] EO 20-03 (March 8, 2020).
[2] EO 21-15 (June 25, 2021).

Staff, five water utilities, and interested stakeholders participated in a series of workshops and meetings, leading to the creation of a Water Term Sheet representing agreement in principle by Mountain Lakes Water, Cline Butte Water, Sunriver Water, Salmon Valley Water, Avion Water, Staff, Citizens' Utility Board (CUB), and Community Action Partnership of Oregon (CAPO).

On September 24, 2020, the Commission held a Special Public Meeting, at which Staff requested the Commission's approval to execute a stipulation incorporating the Water Term Sheet developed during the Commission's investigation. At the Public Meeting, the Commission authorized the Parties to execute a stipulation incorporating the Water Term Sheet.[3] Docket No. UM 2120 has been opened for this purpose.

Among the items addressed in the Water Term Sheet is the affected utilities' applications for deferred accounting related to COVID-19 costs and benefits.

Water Term Sheet - Deferrals

The five water utilities have filed applications for deferred accounting of costs and benefits resulting from the COVID-19 health epidemic. As such, the utilities deferral applications are a referenced in the Water Term Sheet. The following terms summarize the Parties' agreement on the deferral applications.

- The Parties agree that the Utilities' applications for deferred accounting of COVID-19 related costs and benefits should be submitted with an approval recommendation to the Commission, and recovery of those amounts deferred will be subject to a future Commission prudence review. The prudence review proceeding will assure deferrals are either directly related to this Term Sheet or are related to other increased costs due to COVID-19. These COVID-19 related deferrals shall consist of the following:

    - Direct costs for reasonable measures taken by the Utility in response to the COVID-19 pandemic, including, but not limited to: incremental personal protective equipment, cleaning supplies and services, contact tracing, medical testing, financing costs to secure liquidity including carrying costs associated with TPAs, information technology updates and administration needed to enact the stipulation, and equipment needed for remote work options. Direct costs are net of credits, payments, cost savings, or other benefits received by the Utility from shareholder contributions or a federal, state, or local government that are directly

[3] UM 2114, Order No. 20-324.

related to a COVID-19 direct cost, including federal, state, or local tax credits or benefits. Due to the unprecedented nature of the COVID-19 pandemic, not all costs may be known at this time. Utilities are not limited to deferring costs that are expressly enumerated above; provided, however, that all such costs are subject to a future Commission prudence review proceeding.

- The amount of late payment fees not assessed to customers between March 1, 2020, and when the Utility resumes collection activity and disconnections. The amount of late payment fees not assessed shall be calculated assuming only one late payment fee is assessed per customer, (if such customer would have been charged a late payment fee over the March through November 2020 time period) with such late payment amount equal to the current bill and any past due amounts (up to November 30, 2020) excluding the effects of any compounding of interest charges.

- For bad debt expense, the amount that is currently being collected from customers for bad debt, as determined in its last general rate proceeding, would be the baseline. Any amount of bad debt expense incurred above this baseline in would be deferred for later recovery.

- The amount of forgone reconnection charges, field visits that do not result in disconnection, and field connection charges not assessed to customers between March 1, 2020 and December 1, 2020. These forgone reconnection charges and field connection charges shall not exceed the difference between the actual charges recorded by the utility in 2020 and the authorized annual level of reconnection charges and field connection charges authorized in the Utility’s last rate case.

- The amount of forgone reconnection charges incurred through November 15, 2020, related to customers that may have been disconnected prior to the March 13, 2020, suspension of disconnects. Forgone reconnection fees shall not exceed the amount equal to one reconnection fee per customer who was reconnected to service without charge. The reconnection fee shall be calculated using the applicable reconnection fee available in the Utility’s tariff for reconnection during regular working hours for the reconnected customer.

- o The deferral balance, whether being accrued or being amortized, shall accrue the same interest rate, and equal to the blended Treasury rate plus 100 basis points. To the extent the amortization of the deferral is more than two years for a utility, the utility may request a larger basis point spread reflecting the pattern of interest rates in the then current yield curve for Treasury securities.

- Each Utility that has requested regulatory assets for costs associated with COVID-19 shall provide the Commission with the following reports that itemize the utility costs resulting from COVID-19 described in the previous paragraphs. The first report will be for the period between March 1, 2020 and September 30, 2020, and shall be filed by December 1, 2020. The second report will be for the period between October 1, 2020 and December 31, 2021, and shall be filed by February 26, 2022.

On November 5, 2020, the Commission issued Order No. 20-406 in Docket No. UM 2076, approving Avion's original application for deferral of COVID-19 related expenses for 12 months, beginning March 27, 2020.

On March 23, 2021, Staff contacted Avion to find out about their plans for COVID-19 expenses beyond the original deferral period. At the time, Avion believed that the impacts of the pandemic were beginning to ease and Avion's expectation was that expenses associated with COVID-19 would begin to decline.

On August 10, 2021, Avion filed this new request for deferred accounting related to COVID-19 expenses, stating, "…with the resurgence of COVID-19 and emergence of increasingly contagious and dangerous variants, Avion believes that a deferral for COVID-19-related expenses is once again appropriate and necessary."[4]

Description of Expense
As described above, the amount subject to deferral are the direct costs for reasonable measures taken by the utility in response to the COVID-19 pandemic, net of credits, payments, direct cost savings or other benefits received by the utility from a federal, state, or local government that are directly related to a COVID-19 direct cost, including federal state, or local tax credits or benefits.

Reason for Deferral
Avion's filing requests authorization of this deferral in order to 1) appropriately match the costs borne by and benefits received by customers; 2) because of the potential

[4] UM 2188, Avion's application, page 2.

magnitude, extended duration, and unprecedented nature of the COVID-19 public health emergency; and 3) the associated risks of the COVID-19 public health emergency are outside reasonable business risk for the Company.[5]

Proposed Accounting
Avion is proposing to record the deferral as a regulatory asset in NARUC Account 186.2 (Other Miscellaneous Deferred Debits) and credit the appropriate NARUC accounts associated with the expense or waived fee, such as NARUC Account 670 (Bad Debt Expense).

Estimated Deferrals in Authorization Period
The actual amount subject to deferral is dependent on the outcomes of the COVID-19 pandemic. As it is unknown what the full ramifications of the COVID-19 pandemic will be in Avion's service area, including the duration and scale of the impact, the Company notes that they cannot estimate the deferral balance at this time.[6]

Information Related to Future Amortization

- Earnings Review – Prior to amortization, an annual earnings review will be conducted pursuant to ORS 757.259(5).

- Prudence Review – Prior to amortization, a prudence review will be conducted. The prudence review will include the verification of the accounting methodology used to determine the final amortization balance, as well as a review of all costs proposed for amortization (including any offsetting cost savings). For this deferral, prudence reviews will be conducted annually.

- Interest Rate - The deferral balance, whether being accrued (pre-prudence), found to be prudent in an annual prudence review (pre-amortization), or being amortized, shall accrue the same interest rate, equal to the Blended Treasury rate plus 100 basis points.[7] To the extent the amortization of the deferral is more than two years for a utility, that utility may request that the Commission authorize a larger basis point spread. For regulatory and ratemaking purposes, the financing of the deferral will not be included in the capital structure of the utility.

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[5] UM 2188, Avion's Application, page 3.
[6] UM 2188, Avion's Application, page 3.
[7] The Modified Blended Treasury rate is updated annually by the Commission as authorized by Order Nos. 08-263 and 09-065. For 2021, the Modified Blended Treasury rate is equal to 1.24 percent.

- Sharing - This deferral is not subject to a sharing mechanism. However, as described above, Avion has agreed to accrue interest on this deferral equal to the blended treasury rate plus 100 basis points.[8] This is a departure from the standard established by the Commission to use the Company's authorized rate of return for deferral balances not yet reviewed for prudence.[9] This is a substantive interest differential and materially benefits customers by reducing the amounts recoverable by the utilities.

- Three Percent Test (ORS 757.259(6)) – The three percent test measures the annual overall average effect on customer rates resulting from deferral amortizations. The three percent test limits (with exceptions) the aggregated deferral amortizations during a 12-month period to no more than three percent of the utility's gross revenues for the preceding year.

Conclusion

Based on Staff's review of Avion's application, Staff concludes that the proposal represents an appropriate use of deferred accounting under ORS 757.259. Further, Staff believes that the Company's application, in light of the provisions of the Water Term Sheet stipulation executed by the Parties, supports Staff's goals of ensuring that both customers and the Company are sufficiently protected from the impacts of the COVID-19 pandemic.

The Company has reviewed this memo and agrees with or expresses no objections to Staff's recommendation.

PROPOSED COMMISSION MOTION:

Approve Avion's application for deferred accounting of COVID-19 related costs for the 12-month period beginning August 10, 2021.

UM 2188 – Avion Deferral of COVID-19 Pandemic Related Expenses

[8] UM 2114, Order No. 20-324.
[9] Avion's current authorized rate of return is 7.0 percent as approved in Commission Order No. 20-488, Docket No. UW 181.