

ORDER NO. 24-228

ENTERED Jul 10 2024

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2254(1)

In the Matter of

AVISTA CORPORATION, dba AVISTA
UTILITIES,

Application for Reauthorization to Defer
the Costs of Compliance with the Climate
Protection Program (CPP).

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on July 9, 2024, 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:



Alison Lackey
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. CA12

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: July 9, 2024**

REGULAR **CONSENT** **EFFECTIVE DATE** _____ **N/A**

DATE: June 3, 2024

TO: Public Utility Commission

FROM: Kathy Zarate

THROUGH: Bryan Conway and Russell Beitzel **SIGNED**

SUBJECT: AVISTA UTILITIES:
(Docket No. UM 2254(1))
Requests reauthorization of Deferred Accounting of Costs Associated with
the Climate Protection Program

STAFF RECOMMENDATION:

Staff recommends the Commission approve Avista Corporation, dba Avista Utilities' (Avista or Company) request for the authorization of deferred accounting for Climate Protection Program (CPP) costs, for the time period beginning on September 22, 2023 through December 20, 2023.

DISCUSSION:

Issue

Whether the Commission should approve the Company's request for reauthorization of deferred accounting of costs associated CCP for the time period beginning on September 22, 2023 through December 20, 2023.

Applicable Law

In accordance with ORS 757.259 and OAR 860-027-0300, Avista Utilities hereby submits for electronic filing an Application for Reauthorization of Deferred Accounting for all costs associated with the Climate Protection Program.

Pursuant to ORS 757.259(2)(e) and OAR 860-027-0300, the Company hereby applies to the Public Utility Commission of Oregon for an order reauthorizing deferred

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accounting treatment for all costs associated with the Company's compliance with the Climate Protection Program.

The Company respectfully requested that the deferral be effective for the 12-month period commencing on September 22, 2023.

Analysis

Background

On December 16, 2021, the Oregon Department of Environmental Quality (ODEQ) adopted the CPP, which are administrative rules that set GHG reduction targets.¹ The CPP sets a declining limit, or cap, on greenhouse gas emissions from fossil fuels used throughout the state of Oregon, including diesel, gasoline, natural gas and propane, used in transportation, residential, commercial and industrial settings (the program is not inclusive of fossil fuel used in electric generation).²

The CPP also regulates site-specific greenhouse gas emissions at large stationary sources, such as emissions from industrial processes. The program baseline is set at average greenhouse gas emissions from covered entities from years 2017–2019.

Reductions from this baseline are set at 50 percent by 2035 and 90 percent by 2050.

The Company is a “covered fuel supplier” under the CPP and is the point of regulation for the emissions associated with natural gas used by its sales and transport customers.

Transport customers purchase the commodity they use directly from marketers and suppliers and have historically only paid Avista for delivery via the distribution system. Covered entities' emissions are reported annually through the existing ODEQ greenhouse gas reporting program and compliance will be demonstrated by each covered entity at the end of each three-year compliance period.

The Company can work to reduce natural gas usage through efficiency measures, introduce renewable and low carbon alternative fuels, trade for additional compliance instruments with other covered entities, or purchase a limited amount of Community Climate Investments (CCIs).³

¹ OAR 340-271-0010 – 9000.

² OAR 340-271-0110.

³ OAR 340-271-0450.

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On September 13, 2022, Avista's filed an application seeking authorization of deferred accounting for CPP costs, for the 12-month period beginning on September 13, 2022. On April 21, 2023, the Commission approved Avista's request per Order No. 23-145.

The rules were invalidated by the Oregon Appeals Court on December 23, 2023, as the Court found that the rules did not comply with ORS 468A.315(1). Avista was one of the petitioners in the suit challenging the CPP administrative rules.

Because the Court of Appeals ruled the CPP rules as invalid, Staff does not support the full time period of the Avista deferral request. Rather, Staff supports deferral of costs that were incurred during the period that the CPP rules were in effect. Avista was making efforts to comply with the CPP rules even though Avista was also challenging the rules in court. Therefore, since the rules were ruled invalid on December 20, 2023, Staff recommends the deferral end (and include) December 20, 2023. At time of amortization, Staff will ensure to include only those costs incurred up to the December date.

Reason for Deferral

In its original application, Avista stated that it will seek amortization of the amounts deferred in a tariff rider filing in 2023, for a rate adjustment that coincides with other annual tariff rider adjustments. Because deferred amounts were not significant for much of 2023, the Company did not seek to recover any deferred amounts. The Company anticipates seeking amortization of the deferred amounts in a tariff rider filing in 2024.

Proposed Accounting

The Company records CPP compliance costs to FERC Account 182.3 (Other Regulatory Assets), crediting FERC Account 407.4 (Regulatory Credits). Interest does not accrue on this balancing account.

Estimate of Amounts

As of October 27, 2023, the total balance in the Regulatory Asset for the CPP account was \$403,638. The deferred amounts incurred were for payments made to the Energy Trust of Oregon for an interruptible customer energy efficiency program. Staff supports Avista's efforts with regard to this program.

Information Related to Future Amortization

- Earnings review – Cost recovery for costs associated with the costs of compliance with the Climate Protection Plan will be subject to an earnings review in accordance with ORS 757.259(5).

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- Prudence Review – A prudence review will be performed by the OPUC Staff no later than the proceeding to authorize amortization of the costs associated with the costs of compliance with the CPP.
- Sharing – No Sharing mechanism.
- Rate Spread/Design – The rate spread/rate design will be determined during the proceeding to authorize amortization of the costs associated with the deferral.
- Three Percent Test (ORS 757.259(6)) – Amortization of the deferred costs will be subject to a three percent test in accordance with ORS 757.259(7) or possible six percent test in accordance with ORS 757.259(8) and with Commission authorization. These tests limit aggregated deferral amortizations during a 12-month period to no more than three or six percent of the utility's gross revenues for the preceding year.

Conclusion

After Staff's review of Avista's application requesting authorization to defer, for future inclusion in customer rates and, because the application also meets the requirements of ORS 757.259 and OAR 860-027-0300, Staff recommends Avista's application be approved with the modification that the deferral be effective through December 20, 2023.

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

PROPOSED COMMISSION MOTION:

Approve Avista's application for authorization to use deferred accounting for Climate Protection Program costs, for the time period beginning on September 22, 2023 through December 20, 2023.

AVA UM 2254(1) CPP Deferral