

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 27, 2009**

REGULAR X **CONSENT** **EFFECTIVE DATE** November 1, 2009

DATE: October 5, 2009

TO: Public Utility Commission

FROM: Deborah Garcia

THROUGH: Lee Sparling, Ed Busch, and Judy Johnson

SUBJECT: AVISTA UTILITIES: (Docket No. UG 171(1)/Advice No. 09-07-G)
Implements Senate Bill 408 refund for the 2007 tax year and withdraws
claim of confiscatory rates.

STAFF RECOMMENDATION:

I recommend the Commission approve Avista Utilities' filing as submitted.

DISCUSSION:

The purpose of this filing is two-fold. The first is that Avista Utilities (Avista or company) proposes to revise Tariff Sheet 408 - Income Tax Adjustment – Oregon, for the purpose of refunding to customers, in accordance with the provisions of Senate Bill 408, approximately \$2.4 million in taxes and interest related to Avista's 2007 tax report (2007 Tax Year Refund). The tariff would apply to bills issued November 1, 2009 through December 31, 2009. Avista requests this tariff be approved on a conditional basis, as discussed below.

The second is that Avista withdraws its claim in Docket No. UG 171(1) that a requirement to implement the 2007 Tax Year Refund results in confiscatory rates. This withdrawal is also conditional.

An all-Party Settlement has been reached in Avista's latest general rate case, docketed as UG 186. This fact is relevant to this discussion because components of the UG 186 Settlement also act to settle the outstanding issue in UG 171(1) related to Avista's claim that implementing the 2007 Tax Year Refund would result in confiscatory rates. Specifically, the Settlement calls for (among other things) a general rate increase of approximately \$8.8 million, effective November 1, 2009; Avista to implement the 2007

Tax Year Refund beginning November 1, 2009; and, Avista to withdraw its claim in UG 171 (1) that implementing the 2007 Tax Year Refund results in confiscatory rates. These Settlement provisions are all contingent on Commission adoption of the Settlement.

To comply with the Settlement, Avista had to make this filing to ensure that rate changes related to the 2007 Tax Year refund and the general rate case could take effect simultaneously on November 1, 2009, should the Commission approve the Settlement. Avista was also required to withdraw its claim of confiscatory rates in UG 171(1) as a condition of the Settlement.

Consistent with the Settlement requirements, the Sheet 408 rate adjustments related to the 2007 Tax Year refund have been allocated to rate schedules on an equal percent of margin as would have happened had the refund taken place over a 12-month period. An average residential customer using 72 therms in November, and 97 therms in December, would experience refunds of approximately \$8.26 and \$11.13, respectively.

Staff expects that an order on the Settlement in UG 186 will be issued before the date of this public meeting. However, Staff's attorney advises that if the order is not out by then, the Commission can still approve this filing, contingent on the decision in UG 186. Although it is unusual for the Commission to approve a tariff, or acknowledge a utility's withdrawal of a claim of confiscatory rates, conditional on a decision that it may make in another docket, Staff recommends that the Commission do so here if necessary because this is the last opportunity to act in a scheduled public meeting before the proposed November 1 effective date.

PROPOSED COMMISSION MOTION:

Avista's Advice No. 09-07-G be approved as filed.