

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF DEFERRED ) CASE NO. GNR-U-20-03**  
**ACCOUNTING OF INCREMENTAL COSTS ) (including Consolidated Case Nos.**  
**ASSOCIATED WITH THE COVID-19 ) AVU-E-20-03; AVU-G-20-03; FLS-**  
**PUBLIC HEALTH EMERGENCY ) W-20-02; GSW-W-20-01; IPC-E-**  
) **20-19; and PAC-E-20-04)**  
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 ) **ORDER NO. 34718**

On March 13, 2020, Idaho’s Governor declared a state of emergency and provided directives to combat the spread of COVID-19, provide essential services, and limit public exposure (the “Emergency”). Thereafter, several Idaho public utilities—including Idaho Power Company, PacifiCorp dba Rocky Mountain Power, Falls Water Company, Gem State Water Company, and Avista Corporation dba Avista Utilities—applied to the Commission for authority to account for the unanticipated, Emergency-related expenses by booking them as regulatory assets for possible recovery through future rates. The requested deferrals do not seek to increase rates currently. *See* Case Nos. AVU-E-20-03 and AVU-G-20-03 (Avista electric and gas); FLS-W-20-02 (Falls Water); GSW-W-20-01 (Gem State Water); IPC-E-20-19 (Idaho Power), and PAC-E-20-04 (Rocky Mountain Power).

Given the Emergency and the utilities’ applications for an accounting order to address Emergency-related costs (collectively, the “Applications”), Commission Staff recommended the Commission consolidate the above-cited cases into a general docket to address whether and to what extent the utilities should be authorized to defer incremental Emergency-related expenses for possible future recovery. Staff recommended the docket be processed by Modified Procedure.

The Commission took up the matter at its April 14, 2020 open meeting. The Commission then opened this generic docket and consolidated the above-cited cases into it for purposes of issuing a single order that would apply to the utilities that filed the Applications. The Commission also specified that, besides Avista, Idaho Power, Rocky Mountain Power, Falls Water, and Gem State Water, any utility that submitted timely comments requesting similar authority would be eligible for any deferred accounting treatment authorized by the final order in this case.

On April 23, 2020, the Commission issued a Notice of Application and Notice of Modified Procedure, setting deadlines for public comments and for other regulated utilities to request deferred accounting treatment. The Commission also set a date for reply comments from the utilities that filed the Applications. Order No. 34643.

Idaho Conservation League (“ICL”), Industrial Customers of Idaho Power (“ICIP”), and Monsanto intervened as parties to this proceeding. ICIP and Monsanto also intervened by becoming parties to cases that were consolidated into this case by Order No. 34643.

Staff and ICL submitted comments. Additionally, Suez Water and Intermountain Gas Company filed comments requesting deferred accounting treatment. Avista, Rocky Mountain Power, Falls Water, and Gem State Water then filed reply comments.

Having reviewed the record, including the Applications, comments, and reply comments, the Commission enters this Order describing the Emergency-related expenses that may be deferred and the conditions for their deferral.

### **THE APPLICATIONS**

In the Applications, Avista, Idaho Power, Rocky Mountain Power, Falls Water, and Gem State Water asked to defer certain Emergency-related costs into a regulatory asset for possible future recovery. These costs were not anticipated when the Commission set the utilities’ revenue requirements and base rates. The utilities now seek to account for these costs in a way that would allow the utilities to advocate for their recovery in later rate cases. The prudence and how the utilities can ultimately recover any deferred Emergency-related costs would be determined in future proceedings.

In response to the Emergency, certain public utilities suspended disconnections and waived late payment fees to assist customers facing unprecedented economic pressures. These utilities expect to incur significant incremental costs by responding to the Emergency in this manner. Further, some Emergency-related costs are still unknown, and their full extent cannot yet be determined or reasonably estimated. The utilities anticipate a significant increase in past-due bills and ultimately bad debt expense as they write off uncollectible accounts associated with the suspension of disconnects and late payment fees.

Due to current economic conditions and the Governor’s stay-at-home order indirectly affecting commercial and industrial (“C&I”) electricity and gas demand, several utilities also expect they will not sell as much electricity and gas as they would under normal circumstances.

## THE COMMENTS

Staff, ICL, Suez Water, and Intermountain Gas each filed comments. Avista Utilities, Rocky Mountain Power, Falls Water, and Gem State Water each filed reply comments.

### **A. Staff Comments**

Staff's comments focused on the utilities' requests to book Emergency-related expenses as a regulatory asset for deferred accounting treatment. Staff recommended generally that the Commission grant authority to utilities to book Emergency-related expenses as regulatory assets. Staff proposed using a sub-account in Federal Energy Regulatory Commission ("FERC") Account 182.3—Other Regulatory Assets. Staff also recommended the Commission include Suez and Intermountain Gas in whatever decision it makes regarding Emergency-related deferred accounting treatment.

Staff noted that all utilities expect an increase in bad debt expenses resulting from higher than average levels of write-offs of uncollectible accounts. Staff agreed with Rocky Mountain Power that the utilities should use 2019 as a base year for bad debt expenses. Staff continued that these expenses, exceeding 2019 levels, should be recorded in the deferral account. Staff also discussed the addition of incremental Operations & Maintenance ("O&M") expenses for unplanned cleaning and other Personal Protective Equipment ("PPE") expenses<sup>1</sup> plus new hardware/software expenses required to comply with the stay-at-home order. Staff recommended the utilities be allowed to defer these expenses, with the caveat that the utilities must prove prudence of the expense prior to recovery.

Staff also mentioned utility costs for items like employee training, travel, and fuel for fleet vehicles may decrease under the Emergency. Staff recommended the utilities quantify these and any other Emergency-related cost decreases and use them to offset the deferral balance.

Staff's comments also addressed: (a) Late Payment Fees; (b) Reduction in Customer Usage; (c) Carrying Charges; (d) and the Coronavirus Aid, Relief, and Economic Security ("CARES") Act.

#### **a. Late Payment Fees**

Staff recommended the Commission not allow the utilities to recover all late fees that were waived due to the Emergency. Staff stated that late fees are generally considered revenue and

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<sup>1</sup> Staff mentioned PPE, sanitizer, and cleaning supplies plus new hardware and software in its comments regarding incremental O&M expenses to protect the health and safety of employees and customers.

used to offset the utilities' revenue requirement during rate cases. Staff opined that, absent the Emergency, the utilities would expect no additional revenue from late fees. However, Staff believed the utilities should book late fees up to their 2019 level as a regulatory asset to account for what they would have collected under normal circumstances.

**b. *Reduction in Customer Usage***

Staff opposed requests that would allow any utility to defer costs of decreased electric and gas revenues due to a reduction in sales. Staff's main concern with these requests was that the utilities making the requests—Avista and Idaho Power—both have Fixed Cost Adjustment (“FCA”) mechanisms that compensate them for decreased customer use in certain classes. Staff interpreted these requests as efforts to “recover lost revenues or implement a de facto decoupling mechanism to recover fixed costs included in the volumetric rate for C&I customers.” Staff opposed any authorization that would allow any utility to recover lost revenues from customers whose operations had been shut down. Staff stated these requests prompt the same concerns that Staff has raised in FCA cases because they would effectively allow utilities to recover fixed costs outside the purpose of the FCA. Accordingly, allowing these requests could exacerbate the problems Staff's comments have discussed in FCA cases.

**c. *Carrying Charges***

Idaho Power and Rocky Mountain Power requested the ability to accrue interest on any authorized deferral balance at the customer deposit rate (2%). Avista, on the other hand, stated it did not intend to accrue interest on the deferral balance, and Gem State and Falls Water were silent on the issue. Staff stated that absent the authority to book deferred expenses as a regulatory asset, a utility would be unable to collect its Emergency-related expenditures from customers. Staff also noted the Commission has regularly denied carrying charges on deferral balances for expenses a utility otherwise could not collect from customers. Staff thus recommended the Commission deny a carrying charge on deferred expenses here.

**d. *CARES Act***

Staff noted the CARES Act allows companies with taxable net operating losses (“NOL”) for years 2018 through 2020 to carry those losses back to the five previous tax years. Avista proposed using these tax benefits to offset any deferred expenses in the regulatory asset account. Staff recommended all utilities determine whether the CARES Act's NOL provision creates similar tax benefits for them and that they then use those benefits to offset Emergency-

related deferred expenses. Any remaining balance would be returned to customers in a future proceeding.

**B. Idaho Conservation League Comments**

ICL recommended the Commission issue an order:

(1) Providing clear guidelines for utilities to continue the current practice of suspending disconnections and waiving late fees for a “time period that is tied to the public health and economic situation faced by Idahoans;”

(2) Directing utilities to facilitate customer access to payment assistance and other conservation programs. ICL suggested this could include providing that any customer who is eligible for public assistance is also eligible for utility sponsored programs. Additionally, ICL suggested the Commission could encourage utilities to partner with other community organizations to lobby the legislature to address the state’s distribution of federal funding for energy efficiency assistance programs;

(3) Directing utilities to distinguish costs incurred to ensure that customers continue to receive reliable utility service during the Emergency from costs included in risks that are part of the normal business cycle; and

(4) Developing methods to enable utilities to recoup prudently incurred expenses through low cost financing, possibly including Energy Cost Recovery Bonds (“ECR Bonds”) under *Idaho Code* §§ 61-1501-1507, and recovery of deferred expenses over a long amortization period.

**REPLY COMMENTS**

**A. Rocky Mountain Power**

Rocky Mountain Power’s reply comments responded to positions taken by both Staff and ICL.

Regarding Staff’s positions, Rocky Mountain Power stated its Application and reply comments took no position on lost revenues. But if the Commission authorizes a deferral of lost revenues, Rocky Mountain Power requested authority to defer such qualifying expenses. Rocky Mountain Power continued that its request for approval of a carrying charge for Emergency-related deferred costs was not intended to provide the company a return, but to account for the lost time value of that money. Rocky Mountain Power stated it even used the more conservative value in its request—the customer deposit rate—as opposed to the higher weighted average cost of capital.

In response to ICL's recommendation to use ECR Bonds to recover deferred costs related to the Emergency, Rocky Mountain Power suggested that the ECR Bonds appear to offer assistance for recovery of commodity related costs, while Rocky Mountain Power is primarily seeking deferral of uncollectible bad debt expenses and incremental O&M costs. Rocky Mountain Power continued that such proposals for specific recovery mechanisms were also premature because at this point the company is only seeking authority to defer Emergency-related costs.

### **B. *Avista Utilities***

Avista submitted reply comments in response to positions taken by both Staff and ICL.

Avista agreed that 2019 was a reasonable baseline for authorized levels of uncollectible bad debt and late fees for certain utilities, but the levels set in its most recent rate cases<sup>2</sup> (December 1, 2019 for electric and January 1, 2018 for gas) would be more appropriate for Avista. Avista reasoned these bad debt expenses have already been audited by Staff and are recovered in rates.

Avista stated its concerns with the narrowness of Staff's recommendation for which incremental O&M costs could be deferred. Avista proposed that the Commission should not limit the expenses that can be deferred at this time but instead direct Commission Staff to analyze the prudence of the expenses when a utility seeks recovery of deferred costs.

Avista also continued to advocate for authority to defer lost revenues from reduced sales from customers not tracked in the FCA, including C&I customers.

In response to ICL's recommendation that the utilities look into ECR Bonds, Avista stated that it has the necessary financial standing to fund its operations and that the ECR Bonds appear to be specifically for energy costs whereas the Emergency-related costs relate to bad debt and other non-energy related costs. Avista stated it would be open to a longer amortization period as suggested by ICL.

### **C. *Falls Water and Gem State Water***

Falls Water and Gem State Water generally agreed with Staff's comments but pointed out the Emergency will affect different utility sectors in different ways. This will also be true of different geographical areas of the State. Falls Water and Gem State Water also noted that categories of O&M expenses identified in Staff's comments were illustrative, not comprehensive.

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<sup>2</sup> AVU-E-19-04 and AVU-G-17-01

They requested the Commission not limit the types of incremental O&M costs that can be deferred. Falls Water and Gem State Water acknowledged they must show their costs were prudently incurred before recovery would be allowed.

### **COMMISSION DISCUSSION AND FINDINGS**

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-401, 61-501, 61-502, and 61-503. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provision of law, and to fix the same by order. *Idaho Code* §§ 61-502 and 61-503. Further, public utilities shall furnish tabulations, computations, and other information in the manner as prescribed by the Commission. *Idaho Code* § 61-401.

The Commission has reviewed the record in this matter, including the Application, comments, and reply comments. The Commission has considered the utilities' requests for authority to defer their Emergency-related expenses into a regulatory asset account. The Commission understands that the full extent of Emergency-related expenses are unknown and no one knows when the Emergency will end. Given the uncertainty of the situation and the need to grant authority for booking Emergency-related expenses, the Commission finds it fair, just, and reasonable to permit all utilities that have applied—or those that submitted comments and requested authority—to book Emergency-related expenses to FERC Account 182.3, as described below.

The utilities must analyze the CARES Act NOL provision and apply any available benefit to offset any amount booked in FERC Account 182.3. Any remaining benefit will be examined in a separate rate recovery proceeding for refund to customers. Additionally, any utilities booking Emergency-related expenses must track reductions in expenses related to the stay-home-order. These costs include, but are not limited to, reductions in employee training, travel, and reduced fleet vehicle fuel costs. Any reduction in expenses will also be examined in a separate rate proceeding and used to offset the amount booked in the deferral account.

The Commission is aware that the utilities have large customer accounts receivable from past-due bills and additional past-due amounts will continue to increase due to the Emergency. Past-due bills are expected to result in increased uncollectible bad debts from the suspension of disconnections due during the Emergency. The Commission supports the utilities'

efforts to ensure customers have continued access to safe and reliable service during these unprecedented times. Although there is no set end-date to the Emergency, the Commission will allow the utilities to defer uncollectible bad debt expenses. Utilities can defer only those bad debts incurred exceeding the 2019 levels of uncollectible bad debt.<sup>3</sup> Any utility deferring uncollectible bad debts related to the Emergency must also file a report with the Commission by December 31, 2020 detailing its current deferral amount and projections for additional deferrals if the utility is still suspending disconnections at the time of reporting. Additionally, we remind the utilities that authority to defer does not guarantee recovery. Actual recovery amounts and terms of recovery will be determined after a review of the prudence and reasonableness of these deferred expenses in the next rate proceeding.

Utilities may book uncollected late fees at 2019<sup>3</sup> levels to FERC Account 182.3. We realize late fees are usually collected and accounted for as revenue. However, during the ongoing suspension of late fee collections, the utilities will not realize any revenue from late fees. While it would be hard to quantify the amount that would have been collected during the Emergency absent suspension, we believe the most equitable way to account for these unrealized revenues is to use 2019 as a baseline for the late fees.

Idaho Power and Avista requested authority to defer normal business costs associated with decreased sales to certain customers. On reply, Rocky Mountain Power requested similar treatment. We believe that reduced sales are a risk inherent in a utility's business model. This risk can adversely alter the demand of a utility's product at times and does not automatically mean a utility can recover the loss from reduced sales. At the same time, we realize this Emergency does not necessarily represent the type of risk a utility usually plans for or anticipates. We realize there may be a significant decrease in customer demand from certain classes, but without any information to begin quantifying the effect of shifting customer demand to other classes, we are not comfortable allowing utilities to book potential lost revenues into the regulatory asset account at this time. With certain conditions, we will allow any interested utility to track its reduced revenues from customer classes not included in a FCA<sup>4</sup> during the Emergency. We think the best way to proceed into this unknown arena is to allow for tracking with the potential to move the lost revenues to the deferral account later. For the time being, we find tracking is the best available

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<sup>3</sup> Avista will be allowed to use the levels set in its most recent rate cases: AVU-E-19-04 and AVU-G-17-01.

<sup>4</sup> Rocky Mountain Power does not have a Fixed Cost Adjustment mechanism.

option in the event future state or federal relief is made available to help offset the losses incurred from decreased sales. Otherwise we are reluctant to offer deferral of these lost revenues into the regulatory asset account because of the accounting implications involved if we deny recovery at a later date. Any utility tracking lost revenues must report its lost revenues to the Commission by December 31, 2020. The report must show revenues for all classes in 2019 and 2020. The report must also project whether and to what extent future lost revenues are expected due to the Emergency.

For clarity, the Commission notes the Emergency-related O&M expenses listed in Staff's comments represent a non-exhaustive list. The utilities may defer other types of Emergency-related O&M expenses that the utilities believe are appropriate to defer. The Commission will determine the appropriateness and prudence of any deferred O&M expenses when the utility seeks recovery of the deferred expenses.

Finally, utilities will not be allowed to apply a carrying charge to the Emergency-related deferral balance. No law directs the Commission to allow a carrying charge on deferral accounts, other than in the situation identified in *Idaho Code* § 61-502A (which does not apply to the present case). *See* Order No. 30235. The Commission thus uses its discretionary authority to determine whether to approve a carrying charge on the deferral accounts created in this Order. The Supreme Court affirmed the Commission's discretionary authority in *Idaho Power Company v. Idaho State Tax Commission*, 141 Idaho 316, 109 P.3d 170 (2005). One issue in that case was the nature of a deferral account as a regulatory asset. In *Idaho Power Company v. Idaho State Tax Commission*, the Supreme Court stated, "a regulatory asset is an accounting convention designed to enable [a utility] to defer an otherwise current expense," and that before a regulatory asset can be created it must first be authorized by the Commission. *Id.* The Court went on to state "the treatment of regulatory assets (i.e. whether or not rates of return or carrying charges are allowed on them) is subject to the discretion of the [Commission]." *Id.* The circumstances giving rise to the utilities' requests for deferral authority in this case justify the Commission's decision to deny a carrying charge. Because the Commission has discretion on whether to authorize a carrying charge on regulatory accounts, and because the deferral amounts and any recovery terms are still unknown, the Commission declines to authorize the utilities to apply a carrying charge to any amounts booked to the regulatory asset during the deferral period

## **ORDER**

IT IS HEREBY ORDERED that Idaho Power, Avista Utilities, Rocky Mountain Power, Intermountain Gas, Suez Water, Falls Water, and Gem State Water are granted authority to account for the unanticipated, Emergency-related expenses due to the Covid-19 public health emergency by booking the expenses as regulatory assets for possible recovery through future rates, as detailed herein.

IT IS FURTHER ORDERED that the utilities must analyze the CARES Act NOL provision and apply any benefit to offsetting the deferral account created for Emergency-related expenses. The utilities must also account for the decreases in expenses related to reduced employee travel and training, etc. due to the stay-at-home order, with any reduction in these expenses being applied to offset the deferral account balance.

IT IS FURTHER ORDERED that the utilities may not apply a carrying charge to their Emergency-related deferral accounts during the deferral period.

IT IS FURTHER ORDERED that the utilities may book incremental uncollectible bad debts incurred during the Emergency and stemming from the suspension of late payment fees and disconnections. In determining the incremental amounts to be booked to the regulatory asset, utilities should use 2019 levels as their baseline—except Avista as described in this Order. Any amounts above 2019 levels may be booked in the regulatory asset account.

IT IS FURTHER ORDERED that the utilities may book any additional incremental O&M expenses related to the Emergency into the regulatory asset account.

IT IS FURTHER ORDERED that the utilities may include in the regulatory asset account the 2019 level of late fees for the period that late fees were waived, representing the revenue from late fees that would have otherwise been received absent the Emergency.

IT IS FURTHER ORDERED that the utilities may track costs related to reduced sales for customer classes that are not included in the FCA—if the utility has an FCA.

IT IS FURTHER ORDERED that the utilities must file a report with the Commission by December 31, 2020 detailing the expenses deferred and any reduced sales revenues tracked.

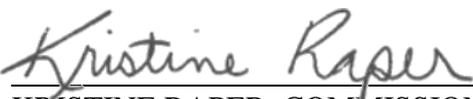
IT IS FURTHER ORDERED that before any utility may recover expenses booked in the regulatory asset account they must come before the Commission for a prudency review of those expenses the utility seeks to recover.

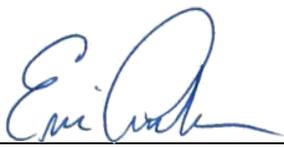
THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order regarding any matter

decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

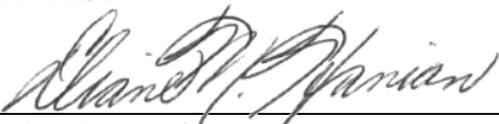
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 7<sup>th</sup> day of July 2020.

  
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PAUL KJELLANDER, PRESIDENT

  
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KRISTINE RAPER, COMMISSIONER

  
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ERIC ANDERSON, COMMISSIONER

ATTEST:

  
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Diane M. Hanian  
Commission Secretary

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