BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 399

SMALL BUSINESS UTILITY ADVOCATES

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**REBUTTAL TESTIMONY OF**

**William A. Steele**

**August 11, 2022**

## I. Introduction And Purpose of My Testimony

**Q. Please state your name and business address.**

A. My name is William A. Steele. My business address is 9554 Brentford Drive, Highlands Ranch, Colorado.

**Q. Are you the same William A. Steele who submitted response testimony on behalf of the Small Business Utility Advocates (SBUA) on April 23, 2022, in this docket?**

A. Yes.

**Q. What is the purpose of your rebuttal testimony?**

A. I am responding to the Company's rebuttal testimony specifically to their witnesses Ms. Steward PAC/1200, and Mr. Meredith PAC/2100 on the issues of COVID-19, as well as Rate Spread and Alternative Rate Design issues for the Schedule 23 rate class.

## II. COVID-19

**Q. In Ms. Steward's rebuttal testimony does she discuss the topic of COVID-19?**

A. Yes. In PAC/1200 Steward/5, lines 14-22, Ms. Steward states the following:

"Q. Staff has proposed to amortize the Company's COVID-19 deferral in this case. Is that included in the Company's reply revenue requirement?"

"A. No. Over a four-year period, Staff's proposal to amortize the COVID-19 deferral increases the revenue requirement by an additional $4.7 million annually. While the Company is open to Staff's proposal, as I discuss below, this is not a part of the Company's request, so the Company has excluded it from its proposed revenue requirement on reply. The amortization of this deferral through a separate supplemental schedule is, however, included in the Company's pricing models for this case. I discuss the COVID-19 deferral in more detail below."

**Q. Is it your understanding from Ms. Steward's statement above that COVID-19 cost recovery was not included in Company's original filing?**

A. Yes.

**Q. What is the total amount of COVID-19 costs in Staff's proposal?**

A. Staff witness Mr. Fox in his exhibit Staff/200, Fox /29 states the total amount of COVID-19 costs Staff is recommending for cost recovery in UE 399 is approximately $17 million. Staff is also recommending the $17 million be amortized over 3 years which equals $6.1 million on an annual basis.

**Q. Do you consider the $17 million dollar amount for COVID-19 costs a significant dollar amount?**

A. Yes.

**Q. Ms. Steward in PAC/1200 Steward/12 of her rebuttal discusses your concern that the small commercial class of customers will be unfairly saddled with costs created by the residential class as related to COVID-19 costs on the system, would you like to clarify your concerns.**

A. It has been the position of SBUA in other COVID-19 proceedings as well as in my testimony that there should be a clear identification of what COVID-19 costs where imposed the residential versus small commercial rate class. It has been and still is SBUA's position that with the ability of segregating COVID-19 cost between residential and small commercial customer classes due to the longer grace periods given to residential class versus small commercial class. In addition, there is a considerably larger number of residential customers than small commercial customers which means that a much smaller number of the smaller commercial customers would share the costs imposed. Let me provide a simple numeric example of this concept. There are 535,059 residential customers in Mr. Meredith's rate spread calculation as well as 84,329 small commercial customers. If one adds these two classes to gather the figure equals 619,388 customers or small commercial is 13.61% of total. Or residential is 86.39% of the total number of residential and small business customers combined. Without the individual rate class COVID-19 numbers one might assume that spreading all the COVID-19 costs equally across both classes, small commercial having a smaller number of customers could potentially by paying part of residential class's COVID-19 costs.

**Q. Did SBUA ask the company a discovery request in order to try to identify a direct assignment of COVID-19 costs to residential and small commercial classes?**

A. Yes. SBUA asked the following DR:

UE 399 / PacifiCorp

July 26, 2022

**SBUA Data Request Set 3 (012)**

"What allocation methodology does the Company have to ensure COVID-19 costs imposed by the residential (Schedule 4) and small commercial (Schedule 23) rate classes are assigned to those individual cost causer classes? Please provide a copy of this cost allocation methodology."

**Response to SBUA Data Request Set 3 (012)**

"Please refer to the reply testimony of Company witness, Robert M. Meredith beginning on PAC/2100 Meredith/13, line 8, and PAC/2107 Meredith/2. The Company has not proposed a direct assignment of COVID-19 pandemic costs to the residential and small commercial customer classes."

**Q. What did you conclude from reading the Company's response to Set 3 DR 012?**

A. As stated above the Company has not proposed a direct assignment of COVID-19 pandemic costs to the residential and small commercial customer classes.

In summary, I have pursued as far as I can go in a direct assignment of COVID-19 costs to the residential and small commercial class, therefore it now rests with the Commission to make a policy decision whether it wants direct assignment of these costs to the cost causer rate classes or not.

## III. Rate Spread

**Q. In Mr. Meredith's rebuttal testimony in PAC/1200, Meredith/14 he makes the comment that you are suggesting small business receive special treatment over other customers. Do you have a response to this comment by Mr. Meredith?**

A. Yes. The special treatment Mr. Meredith is referring to is my advocating for rate mitigation or gradualism to rate increases to the small commercial class. Rate mitigation or gradualism are long standing regulatory tools which gradually phase in over time the amount of rate increases assigned to any given class. The Company as well as other utilities who are making the transition from fossil fuels to renewable generation in Oregon will be filing additional rate cases over the next few years. Therefore, there will be adequate opportunity to move all rate classes to full cost. Again, what I am advocating for is the small commercial rate class to pay full costs that can be gradualized over the next few rate cases. In summary, gradualism is a regulatory tool commissions often used to mitigate rate shock.

**Q. Is there another party is this proceeding that also shares your concern regarding rate shock?**

A. Staff Muldoon in his Opening Testimony in Staff/100 Muldoon/10, lines 1-8, states the following:

"Staff is concerned that the aggregate rate increase impacts of this general rate case, deferrals, and power costs may constitute rate shock for PacifiCorp's Oregon utility customers, particularly as inflation is outpacing Oregon wages.[1] Further, the U.S. Federal Reserve (Fed) is tightening monetary policy to control this high inflation."

**Q. Did the Commission receive any public comment from small businesses which support your recommendation for rate mitigation to address rate shock?**

A. Yes. Staff witness Mr. Muldoon in his Opening Testimony discussed the public comments received by the Commission regarding the impact of Company's requested rate increase on small businesses. Specifically, Mr. Muldoon discussed comments received from small businesses in Staff/100 Muldoon/15-16 of this testimony with the following:

"Small businesses including employee-owned grocers in Central Oregon indicated that they were currently operating on razor thin margins. The grocers explain that they are large power users because their stores keep food safe at varying temperatures. Moreover, they indicate that PacifiCorp's proposed increase would challenge their ability to operate safely, reliably, and profitably."

## IV. Alternative Rate Design issues for Schedule 23

**Q, Mr. Meredith in his rebuttal testimony takes issue with your recommendation that the Commission should order the Company to propose time of use options for**

**Schedule 23 customers in this case. Would you like to respond to Mr. Meredith's rebuttal testimony?**

A. Yes. In Mr. Meredith's rebuttal he states the Company did not propose a new time of use option for Schedule 23 customers since they already have a time of use option available to them through Schedule 210.

**Q. How would you describe Schedule 210?**

A. Schedule 210 is a standard tariff that offers Time of Use rates for residential and small commercial rate classes. The tariff is based on seasonality and peak and off-peak pricing.

**Q. As part of your earlier testimony in this docket did you discuss the "Oregon Schedule 23 Rate Alternatives Report which was filed in UE 374?**

A. Yes. In fact, I attached a copy of the report as an exhibit to my Opening Testimony.

**Q. Did SBUA ask a discovery request regarding the implementation of the findings in this report?**

A. Yes. SBUA asked for this information contained in the discovery requests 001 and 009 and response contained below:

UE 399 / PacifiCorp

June 21, 2022

**SBUA Data Request Set 2 (001)**

"What steps have been taken to implement the suggested rate design alternatives identified in the Company's Oregon Schedule 23 Rate Design Alternatives Report dated September 2021 provided to the parties in UE 374 General Rate Case pursuant to the Partial Stipulation in that docket. Please describe in detail the steps Company has taken. If no steps have been taken, please explain why no steps have been taken."

**Response to SBUA Data Request Set 2 (001)**

"PacifiCorp has proposed no changes related to the rate design alternatives explored in the Oregon Schedule 23 Rate Design Alternatives Report prepared in September 2021."

UE 399 / PacifiCorp

June 3, 2022

**SBUA 1st Set Data Request 009**

"Refer to the Oregon Schedule 23 Rate Design Alternatives Report produced by the Company and provided to the parties in UE 374 pursuant to the UE 374 Partial Stipulation approved in Order 20-473. This report examines two viable rate design alternatives for Schedule 23 customers. One is for a re-design of the existing portfolio time of use option for Schedule 23 with a cost-based design that has a moderate price signal. According to report, during the winter months of November 1 through March 31, the on-peak period is 6:00 a.m. to 10:00 a.m. and 5:00 p.m. to 8:00 p.m., Monday through Friday excluding holidays. During the summer months of April 1 through October 31, the on-peak period is 4:00 p.m. to 8:00 p.m., Monday through Friday excluding holidays. As the Company states in this report, this option could be modified to better align with more recent information on the value of energy at different time periods and to simplify the periods. In UE-399 has the Company (*sic*)[proposed] this modification in its rate filing and if yes where is it included in the rate filing, and if no, please provide the rational for it not being included?"

**Response to SBUA Data Request 009**

"The Company has not proposed a new time of use (TOU) option in this general rate case (GRC) proceeding. Given the existence of a TOU option for Schedule 23 customers under Schedule

210, proposing a new TOU option for Schedule 23 was not a priority for the Company in this GRC."

**Q. What are your conclusions from you review of these DRSs?**

A. Although the Oregon Schedule 23 Rate Design Alternatives Report discusses additional rate design options for small business customers, it is obvious the Company has no intention of offering any new rate design options for its small business customers.

**Q. Did you ask Company a discovery request on how many Schedule 23 customers are utilizing the TOU offering in Schedule 210?**

A. Yes. SBUA asked in Set 3 Data Request 015 which is contained below:

UE 399 / PacifiCorp

July 26, 2022

**SBUA Data Request Set 3 (015)**

"Please provide the number of customers taking service under Schedule 23 that have utilized the time of use (TOU) Schedule 210 in each of the years 2020 and 2021"

**Response to SBUA Data Request Set 3 (015)**

"On December 31, 2020, there were 229 agreements under Schedule 210."

"On December 31, 2021, there were 218 agreements under Schedule 210."

**Q. What do you do conclude from reviewing the response to the above DR?**

A. Schedule 23 has 84,329 customers. The response above states at maximum only 229 customers had an agreement under Schedule 210. As a percent to the number of customers under Schedule 210 to the total number of customers, is 0.27 percent.

**Q. What could be one of the reasons for such a lower percentage of Schedule 23 signing agreements under Schedule 210?**

A. One of the many possible reasons for such a low participation rate under Schedule 210 is a lack of awareness of small businesses to the option of Schedule 210 TOU. This is one of the many reasons SBUA has advocated the Company needs to perform more customer outreach efforts to small businesses. The other potential reason for a low participation rate of small businesses in Schedule 210 agreements could possibly be that small businesses may not see any advantage to them in participating in Schedule 210. Again, this goes to the point that SBUA has been advocating for and still is advocating for are more alternative rate design options for small business customers.

**Q. Why do you keep bring up this issue?**

A. Although the Company states above proposing a new TOU option for Schedule 23 was not a priority for the Company in this GRC. Running contradictory to the UE 374 Partial Stipulation paragraph 21 commitment, which outlined potential rate design options for the Schedule 23 rate class. SBUA has heard from its members they want rate design options, but Company still only wants to offer the single Schedule 210 rate options to its Schedule 23 small commercial customers. The attached public comments in Exhibit 201 demonstrates the desire of small commercial customers for more rate option choices.

**Q: Why else do you keep bringing up this issue?**

A: If we do not bring up this issue it is clear no-one will. Even though small commercial customers are by far the second largest group of customers Staff has not recommended any change for this customer group even despite the TOU report that was a result of the last UE 374 rate case. With the significant shift towards removing carbon from Oregon’s fuel supply it is important to find ways to mitigate energy prices and reduce energy consumption for the second largest ratepayer class.

**Q: What recommendation do you make regarding this issue of rate design?**

A: In addition to the commitment made in paragraph 21 of the Partial Stipulation in UE 374, SBUA has learned in data request responses in this docket that there may be particular groups of small commercial customers who the Company identifies as sharing the same Standard Industrial Classification or "SIC". I recommend that the Company expand its pilot projects to include a subset of small commercial customers that provides a reasonable opportunity to provide this customer class more options that may reduce the overall costs of serving this customer class.

**Q. Does this conclude your testimony?**

A. Yes.

Date: July 28, 2022

FROM: Matt Muldoon
Manager
Rates, Finance and Audit Division
(Tel: 971-375-5095)

| | |
|---|---|
| GRANT HART | DIANE HENKELS, ATTORNEY |
| LEGAL EXTERN, SMALL BUSINESS UTILITY ADVOCATES | SMALL BUSINESS UTILITY ADVOCATES |
| Oregon office: 621 SW MORRISON ST. SUITE 1025 | 621 SW MORRISON ST. SUITE 1025 |
| PORTLAND, OR 97205 | PORTLAND, OR 97205 |
| grant@utilityadvocates.org | Diane@utilityadvocates.org |

**SBUA Data Request No 12:**

DR 012. Please produce the complete public comment received on May 25, 2022 from the e-mail address les@tobypomeroy.com.

**Staff Response No 12:**

The following is the complete public comment requested:

**From:** les tobypomeroy.com
**To:** PUC PUC.PublicComments * PUC
**Subject:** Pacific Power rate hike, SBUA
**Date:** Wednesday, May 25, 2022 12:48:32 PM

Dear Public Utility Commission,

Between my sister and I, we own and manage multiple jewelry studios and wholesale lines in mid-Willamette Valley (Corvallis) and are Pacific Power customers. Our utilities are essential to keeping our doors open and benches humming. We employ more than 15 people in the local community.

When we learned about the rate hike proposed by Pacific Power we have to wonder why raise rates almost 10% at this time; and are we REALLY going to have fair and reasonable rates after this rate case? The Commission did not include small business in the relief programs offered to residential customers in the COVID-19 pandemic. Fortunately, we were able to stay open and keep our employees, but many other small businesses around us suffered greatly and some closed.

It looks like the utility plans to raise rates more for small commercial customers than others – and we are grateful that SBUA is intervening to support us and challenge this.

After all the work in the last rate case to learn more about small business rate design options, why doesn't the utility include any of that information in proposing a rate design more favorable to small business in this rate case? Why do we have to push for this?

Thank you very much to SBUA for its information and advocacy on behalf of Oregon's small businesses.

Lester Oehler
TOBY POMEROY/Studio 311

Date: July 28, 2022

FROM: Matt Muldoon
Manager
Rates, Finance and Audit Division
(Tel: 971-375-5095)

| | |
|---|---|
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**SBUA Data Request No 13:**

DR 013. Please refer to Staff/100 Muldoon/15 Line 15-16 and Line 18-20. Please produce the public comment(s) from the central Oregon grocers referenced in the testimony on these pages.

**Staff Response No 13:**

The following is the complete public comment requested:

**From:** Lauren G.D. Redman <lauren@newportavemarket.com>
**Sent:** Friday, May 27, 2022 1:50 PM
**To:** MULDOON Matt * PUC <Matt.MULDOON@puc.oregon.gov>
**Subject:** rates

Matt,

As a 100% Employee Owned, three store grocer in Central Oregon, it's crossed my desk there is a proposed rate increase of 10.5% to electricity rates that is being floated by the Pacific Power. As an industry that has been reeling through a global pandemic and now facing rates of inflation that are hard to keep up with, I ask that you consider not adopting or supporting this. Our stores are a large power user given the nature of keeping food safe at varying temperatures. We are an industry that operates on razor thin margins and simply do not have pockets as deep as a Boise Cascade, International Paper, Microsoft and the like to absorb rates increases like this.

This will have a lasting effect on power consumption that simply makes doing business safely, reliably and profitably, a challenge. Please do not support this proposed increase.

Respectfully,

Lauren G. D. Redman
Leader of the Pack (vrrrooom!)/CEO & President

Rudy's Markets Inc.
dba Newport Ave. Market

dba Oliver Lemon’s (Sisters, OR & Terrebonne, OR)

1121 NW Newport Ave.
Bend OR 97703

(541)382-3940 live person
(541)382-7831 old school fax
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Rudy's Inc. Markets
AN EMPLOYEE OWNED COMPANY

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 399

SMALL BUSINESS UTILITY ADVOCATES

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**REBUTTAL TESTIMONY OF**

**Danny Kermode CPA - Retired**

**August 11, 2022**

## I. INTRODUCTION AND SCOPE OF TESTIMONY

**Q. Please state your name and business address.**

A. My name is Danny Kermode. My business address is 5326 75th CT SW, Olympia Washington.

**Q. What is the purpose of your rebuttal testimony?**

A. I am responding to the Staff's opening testimony, specifically to testimony provided by Mr. Storm Staff/1700 addressing the amortization of COVID-19 deferrals and rate Spread.

## II. COVID -19 DEFERRALS AND RATE SPREAD

**Q. Please describe the portion of Mr. Storm's testimony that you will be addressing.**

A. I will be addressing his proposed amortization of PacifiCorp's COVID-19 Deferrals and Rate Spread at issue.[1]

**Q. Could you please summarize what your concerns are with his proposal?**

**A.** Yes. There are three matters that trouble me. The first relates to the cost groupings that Mr. Storm presents. Mr. Storm presents three different COVID-19 cost grouping in Table 17-4. In the table is a group titled "Bill payment assistance program and waived late fees and forgone reconnection charges." This group is clearly made up of three distinct cost types with three distinct cost profiles. They should not be combined as if they were similar simply for expediency.[2]

[1] Storm, Exh Staff/1700 at 30
[2] Storm, Exh Staff/1700 at 30:8-15

Secondly, Mr. Fox proposes a method of allocating costs based on indirect benefits using a multiplier value. This approach, lacking any discussion of foundational ratemaking theory nor journal cites, appears to have no precedent in ratemaking.

Thirdly, Mr. Fox, uses an indirect benefit to allocate costs away from the residential class. However, in deriving the indirect benefit he recognizes that some of those indirect benefits he has identified were accrued by the owners of companies. And that these indirect benefits were not only "potentially" accrued within PacifiCorp's Oregon service area but also, "within Oregon's borders or in different states (or countries)."[3]

## II. BILL PAYMENT ASSISTANCE PROGRAM AND WAIVED LATE FEES AND FORGONE RECONNECTION CHARGES

**Q. Could you discuss more fully your concern with the cost treatment proposed by Mr. Storm for the cost grouping titled "Bill payment assistance program and waived late fees and forgone reconnection charges"?**

A. Mr. Storm has combined dissimilar costs into a single category for allocation ignoring the cost profiles of the costs embedded in the COVID-19 deferrals. The "Bill payment assistance program and waived late fees and forgone reconnection charges" grouping proposed by Staff. Clearly these costs need to be separated since waived late fees forgone reconnection charges benefited all rate classes whereas the Bill Payment Assistance Program benefited only the residential class.

[3] Storm, Exh Staff/1700 at 41:3-13

It is my understanding that when these COVID-19 categories approved in UM 2063, the company was bound by ORS 757.259(2)(e) which, among other things, require an appropriate matching of the costs borne by and benefits received by ratepayers. My opinion as a regulatory accountant is that by combining Bill Payment Assistance Program with the other costs, as proposed, fails to match costs with benefits. Since the Bill Payment Assistance Program is material in amount and only benefited one class of customer, it must stand on. And in my opinion, be fully allocated to the residential rate class.

## III. ALLOCATING COSTS BASED ON INDIRECT BENEFITS USING A MULTIPLIER VALUE

**Q. Could you begin by summarizing Staff's cost allocation and rate spread recommendation it uses for the Bill Payment Assistance Program grouping?**

A. The approach Staff recommends allocates the Bill Payment Assistance Program grouping costs between the customer classes based on a derived measure of the benefits associated with the economic propensity to save or consume among Oregon consumers. Staff's proposed allocation assumes an indirect benefit from residential ratepayers to commercial, industrial customers and its public street lighting customers. Staff also assumes these same residential ratepayers that were struggling to pay their utility bills, takes 10 percent of the credit and saves it.[4] As a result, the Staff model computes an indirect benefit for all the

[4] Storm, Exh Staff/1700 at 44:1-8

non-residential ratepayer classes, for the direct credits and grants received by residential ratepayers.[5] In other words, because some residential customers, which were having financial difficulties because of COVID-19, received the benefit of having all or a portion of their utility bills forgiven, commercial, industrial and public street lighting customers should now all have their rates increased because of an imputed indirect benefit.

**Q. According to Mr. Storm, what do the indirect benefits represent?**

**A.** Mr. Storm states:

> "These indirect effects represent benefits accruing to employees and owners of these organizations who reside outside Oregon, as well as other components of the expenditures approach, both within and outside of Oregon, such as gross private fixed investments, the change in private inventories, government consumption expenditures and gross investment, and the net exports of goods and services."[6].

**Q. As a regulatory expert, what is your professional opinion regarding this proposal?**

A. I believe it should be disregarded by the commission based on sound rate making theory. James C. Bonbright, the author of celebrated book *Principles of Public Utility Rates,* describes the criteria of a sound rate structure which clearly is also applicable to how rates are derived.

First, Bonbright suggests, a rate must be understandable and publicly acceptable. It must be free of controversy, and it must be fair in the apportionment of costs among

[5] Storm, Exh Staff/1700 at 45:12-18
[6] Storm, Exh Staff/1700 at 46:1-6

different consumers.[7] The use of indirect benefits to allocate costs to non-residential ratepayers fails on all points.

The use of a multiplier effect based on a consumer's propensity to consume to derive a measure of the indirect benefit received is not understandable to ratepayers. The idea that small business is being charged more because of some derived indirect benefits accrue to employees and owners that are located "both within and outside of Oregon" is certainly not acceptable.[8] Nor is the proposal free of controversy as reflected in this testimony and testimony in another case before the Commission. Finally, the allocation of COVID-19 costs based on indirect benefits associated with beneficiaries that may not even be customers of PacifiCorp cannot be seen as a fair apportionment of costs among different consumers.

**Q. How aware are small commercial customers of the rate case and the rate impacts they potentially may need to shoulder?**

A. The small business community has been actively involved in the Commission's efforts to provide some relief for small business impacted by effects of the COVID-19 pandemic. The small business community's awareness is reflected in the many public comments received by the Commission (see attached Exhibit SBUA/302 Kermode/1). Their comments not only highlight the difficult times small businesses are continuing to experience but also that the group has an understanding that much of the relief was provided solely to the residential class.

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[7] James C. Bonbright, *Principles of Public Utility Rates* (Virginia: Public Utilities Reports, Inc., 1988), P. 383-384
[8] Storm, Exh Staff/1700 at 46:1-6

From the viewpoint of the small business community that are provided service by PacifiCorp, being assessed higher rates for the recovery of the cost of benefits small business were not allowed participate in, will certainly not be perceived as fair. From a regulatory accounting point of view, the attempt to quantify the effects of indirect costs into a rate design would set a bad precedent and is not supported by any regulatory literature.

**Q: Are there any other reasons to argue against using indirect benefits in allocating additional cost to small commercial customers?**

A: Yes. Beyond the fairness issue, it is pure economics. Based on recent reporting through the COVID-19 docket UM 2114, I have noticed a large negative impact on small commercial customers in certain parts of Oregon. It is important to take steps to mitigate the energy expenses of these customers. I am including as an exhibit a SBUA chart that shows arrearages in zip codes where small commercial customers are served by the Company. See SBUA/303 Kermode/1. The community needs help to work its way back to viability. One option is for the Commission to instruct the Company to begin to make different rate options for Schedule 23 customers a priority.

**Q. Have you expressed your concern regarding small business cross-subsidizing residential customers to the Commission in Docket UM 2114?**

A. Yes, in my November 4, 2021, Comments to the Commission, I stated:

> "There is no question that the commission should allow the deferral of those reasonable and prudently incurred costs reflected in the stipulation. However, my concern focuses on the possibility that small businesses will be saddled with costs

created by the residential class. Specifically, deferred late payment fees, bad debt expenses, and the forgone reconnection fees.

Small businesses, though sometimes equated to the residential class because of similar load demands, is financially different. I would recommend that any deferrals of late payment fees, bad debt, and reconnection fees be clearly segregated between residential and small commercial. While I recognize the severe impact COVID has put on residential customers, it's important we all recognize that the financial viability of the state's local small business continues to be precarious."[9]

**Q. What is your recommendation for the fair allocation of the "Bill payment assistance program and waived late fees and forgone reconnection charges" category?**

A. I strongly recommend that the costs be separated and examined. I would recommend on the cost follows benefit principle of ratemaking that the full cost of the Bill Payment Assistance Program be borne by the residential class since that is the only ratepayer class that received any benefits from the program.

The waived late fees and foregone reconnection charges should be analyzed separately by the company and grouped by the customer class that incurred the cost. Those costs associated with each customer class would then be recovered from that class consistent with the matching principle. The use of historical revenue would be appropriate since these two remaining costs are revenue-based matching the cost that was incurred with the burden of recovery. This approach will prevent interclass subsidies

[9] Exhibit SBUA/304 Kermode/1

where, in this case, small businesses would be providing a subsidy to residential for a theoretical indirect benefit it did not receive.

**Q. Would the above approach be applicable to the Incremental Bad Debt costs also?**

A. Yes, the cost would be separated and grouped by the customer class that incurred the cost.

**Q. Does this conclude your testimony?**

A. Yes.

Danny Kermode Certified Public Accountant - Retired

5326 75th Ct SW | Olympia, WA 98512
dpkermode@gmail.com

## PROFESSIONAL EXPERIENCE

### Washington Utilities and Transportation Commission – Assistant Director for Water and Transportation

March 2015 – December 2020

Managed and directed the economic regulation of Washington investor-owned water companies and certain regulated transportation companies such as the state's investor-owned solid waste and residential recycle haulers, oil pipeline, harbor pilots, passenger ferries, low level radioactive waste and bio-waste transporters. Developed and directed transportation policy regarding rule enforcement and rate setting. Oversaw the use of rate base and operating ratio approaches to ratemaking. Provided expert recommendations include acting as expert witnesses in judicial proceedings.

### Washington Utilities and Transportation Commission – Senior Policy Advisor

April 2010 – March 2015

Provided direct policy and decision-making support to the commissioners and executive director while serving as an expert in policy, economic or technical issues related to regulated electric and gas industries, specifically in the areas renewable technology, power system reliability and cyber security. Projects, assignments and continuing work included formulating, developing, analyzing, communicating, and implementing state, regional or national regulatory and ratemaking policies.

### Washington Utilities and Transportation Commission - Regulatory Analyst

October 1996 – April 2010

Constructed complex computer models to analyze energy and water company financial and accounting data. Reviewed cost data and prepared cost of service models. Audited and analyzed financial data filed in support of tariff revisions. Conducted studies as a team lead and as a team member. Prepare written testimony and exhibits and appear as an expert accounting witness, regarding financial, income tax and accounting issues. Presented recommendations to the commission in public open meetings.

### Rocky Mountain Institute - Controller

June 1994 - October 1996 Snowmass, CO

Responsible for all financial and accounting aspects including budgeting for the institute, which had seven research areas and consolidated revenues of over $5 million. Developed new budgeting approaches and management reports. Responsible for maintaining budgets and required reports for numerous grants and research projects. Responsible for the successful development of new in-house publication-sales data base. Supervised a staff of three.

Kozoman & Kermode CPAs - Partner
February 1986 - September 1993 Phoenix, AZ

Prepared testimony and exhibits supporting rate applications and financing requests. Appeared as an expert accounting witness concerning public utility financial and accounting issues. Prepared corporate, partnership, and not-for-profit tax returns. Provided financial analysis, accounting reviews, systems design and developed positions on tax issues. Development of projections and forecasts, including pro forma financial statements, rate base, and cost of capital analysis used in rate proceedings.

Troupe, Kehoe, Whiteaker & Kent CPAs - Staff Accountant
July 1983 - January1986 Phoenix, AZ

Prepared testimony and exhibits supporting rate applications and financing requests. Appeared as an expert accounting witness concerning public utility financial and accounting issues. Provided management consulting functions which included performing financial analysis of accounting records. Preparation of complex public utility year-end statements and corporate tax returns. Prepared schedules and exhibits used in regulatory proceedings.

## EDUCATION

**San Carlos University - Cebu City, Philippines**
Postgraduate - Management Accounting, Economic Analysis and
Quantitative Business Analysis

**Arizona State University - Tempe, Arizona**
Bachelor of Science in Business Administration, Major in Accounting

**College of Financial Planning – Denver, Colorado**
Professional Education Program

## CERTIFICATIONS

Certified Public Accountant
Certified Financial Planner (inactive)
Senior Follow Institute of Public Utilities, Michigan State University

PUBLICATIONS

**FERC reporting through the XBRL looking glass (2019)**
*Public Utility Fortnightly, Oct 2019*

**The Philippines: An update on the Country's New Feed-In Tariff (2014)**
*Update for: A Handbook for International Energy Regulators (2011) USAID NARUC*

**Transforming Regulated Industries**
*iBR Magazine,* Vol 3 Issue 2 (2013)

**Regulatory Provision of Income Taxes for S Corporations**
*The NRRI Journal of Applied Regulation*, Vol 2 (2004)

**Contributions in Aid of Construction: IRS Final Regulations**
*Journal AWWA, Vol. 94, No. 3 (2002)*

FACULTY MEMBER

**IPU Ratemaking Course**
Institute of Public Utilities at Michigan State University, 2019 - 2021

**Saint Martin's University**
Adjunct Professor – Business Income Tax

**The NARUC Utility Rate School**
Program sponsored by National Association of Regulatory Utility Commissioners (NARUC) and Michigan State University, 2008 - 2013

**Advanced Regulatory Studies Program**
Institute of Public Utilities at Michigan State University, 2009 - 2012, 2020, 2021

**IPU Annual Regulatory Studies Program**
Michigan State University, 1992 and 1993, 2022

*INTERNATIONAL ENERGY REGULATION*
USAid/NARUC Energy Regulatory Partnerships

*Kenya 2019*
*Senegal 2018*
*Zambia 2018*
*Ukraine 2017*
*Ethiopia 2016*
*Tanzania 2016*
*Rwanda 2015*
*Tanzania 2014*
*Philippines 2013*

*NOTABLE* - NARCU Individual Innovator in Regulatory Policy Award 2017 - XBRL

**From:** BOYLE Phil * PUC
**To:** DOUGHERTY Michael * PUC
**Cc:** MENZA Candice * PUC
**Subject:** FW: Oregon Public Utility Commission COVID-19 impacts Special Public Comments
**Date:** Thursday, May 13, 2021 11:51:34 AM

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UM 2114 comments.

**From:** James Parker <jparker@onacc.org>
**Sent:** Thursday, May 13, 2021 10:39 AM
**To:** PUC PUC.PublicComments * PUC <PUC.PUBLICCOMMENTS@puc.oregon.gov>
**Cc:** Janice Mason <janicemason@pacco.org>
**Subject:** Oregon Public Utility Commission COVID-19 impacts Special Public Comments

Public Utilities Commission,

I am writing today to provide public comments regarding small commercial customers, particularly around service to underrepresented, NAtive American, Black, Indigenous, Latino/a/x, Asian and Pacific Islander, and BIPOC communities.

My comments are on behalf of the Community Chamber Coalition of Oregon (CCCO). The Community Chamber Coalition of Oregon consists of culturally specific business chambers Black American Chamber of Commerce (BACC), Jesse Hyatt, Executive Director; Hispanic Metropolitan Chamber of Oregon (HMC), Carmen G. Castro, Executive Director; Oregon Native American Chamber (ONAC), James Alan Parker, Executive Director; and the Philippine American Chamber of Commerce (PACCO), Janice Mason, President.

Small commercial customers have continued to experience impacts of COVID-19 including business closures and restrictions.

The Commission should ask Commission Staff to report a fuller picture of the small commercial customer impacts including all the COVID-19 utility expenses related to just the small commercial customers.

The Commission should ask Commission Staff to focus at a minimum, convene a small commercial focused workshop, on how to eliminate the COVID-19 bad debt of small commercial customers.

Our position aligns with the Small Business Utility Advocates.

Please do not hesitate to reach out for additional information.

Thank you,

**James Alan Parker (Chippewa-Cree)**
4445 SW Barbur blvd, SUITE 102 Portland, Oregon 97239
w:www.ONACC.org | e: jparker@onacc.org | p:503.894.4525
To request an appointment: https://calendly.com/jamesalanparker/30min

**From:** MENZA Candice * PUC
**To:** MENZA Candice * PUC
**Subject:** FW: Public Comment for Public Mtg re COVID-19 Impacts
**Date:** Thursday, June 3, 2021 4:31:42 PM

**From:** Diane Henkels <dhenkels@actionnet.net>
**Sent:** Thursday, June 3, 2021 2:55 PM
**To:** COLLINS Kristi * PUC <Kristi.COLLINS@puc.oregon.gov>; COLLINS Kristi * PUC <Kristi.COLLINS@puc.oregon.gov>
**Subject:** Fwd: Public Comment for Public Mtg re COVID-19 Impacts

Begin forwarded message:

**From:** MaryAnne Harmer <maryanne@benefitcorporationsforgood.com>
**Subject: Public Comment for Public Mtg re COVID-19 Impacts**
**Date:** May 18, 2021 at 3:08:25 PM PDT
**To:** puc.publiccomments@state.or.us

**For the PUC Public Comment Record**

"Benefit Corporations for Good" is a company dedicated to supporting purpose driven small businesses. We certify businesses that have been incorporated as Benefit Companies . Currently we have certified over 60 small businesses from 15 cities throughout the state of Oregon. These include professional services, retail, small high tech companies, BIPOC businesses and manufacturing. We serve as an advocate for their issues and needs as they practice the principles and values of Benefit Companies.

During the past year these businesses have struggled with the realities of COvid, but most have survived. As they strive to stay in business, their revenues have often declined, while many of their expenses such as utilities payments remain. Given this scenario, rate hikes will create an additional negative impact to these small businesses. We hope the Commission understands the consequences of rate hikes on small companies that are already struggling. Access to affordable and stable electricity sources are crucial to the viability and sustainability of most, if not all, small businesses.

"Benefit Corporations for Good" supports Small Business Utility Advocates' (SBUA) recommendation for a PUC staff workshop with stakeholders exclusively on the impact of COVID-19 on small commercial customers. We believe there is concrete data on the impact of COVID-19 on disconnections and arrearages for small commercial customers. The recommendation of SBUA would facilitate valuable insights and foster an important discussion on these matters via workshops with stakeholders and utilities to further explore commercial costs. In this way the Commission will address the impact of COVID-19 from all perspectives, as opposed to only focusing on residential.

We appreciate your consideration on this important matter.

Mary Anne Harmer, Co-founder, Benefit Corporations for Good

Tom Hering, Tom Hering, Co-founder, Benefit Corporations for Good

Benefit Corporations for Good
503-781-5989
www.benefitcorporationsforgood.com

Mary Anne Harmer
Founding Partner & Strategist
Benefit Corporations for Good
503-781-5989
www.benefitcorporationsforgood.com

***To get our new book, "Putting Soul Into Business: How the Benefit Corporation is Transforming American Business for Good" go here***

Oregon Restaurant & Lodging Association

May 13, 2021

Oregon Public Utility Commission
201 High Street SE, Suite 100
Salem, OR 97301-3398

**RE: Relief for Small Businesses**

Chair Decker, Commissioner Tawney and Commissioner Thompson,

For the record, my name is Greg Astley, Director of Government Affairs for the Oregon Restaurant & Lodging Association, writing today on behalf of the over 10,000 food service establishments and over 2000 lodging properties across the state of Oregon.

Oregon's restaurants and lodging properties have been hit particularly hard by the COVID-19 pandemic and the resulting steps taken to help prevent the spread of the disease.

From travel restrictions early on to limits on the number of people able to meet or gather to complete shutdowns of eating establishments, Oregon's hospitality industry has suffered like no other.

According to the Oregon Employment Department, from December 2019 to December 2020, Oregon's Leisure and Hospitality sector lost 38.7% of jobs compared to 9.1% across all other industries.

We hope our state is done with the yo-yoing of counties not able to allow indoor dining for our members, but we can't be sure.

With little to no revenue, restaurants have tried to be innovative to keep employees on payroll and continue to keep their doors open but it has been tremendously difficult for most.

On top of that, fixed costs such as rent, utilities and fees are still due every month.

Relief for small commercial ratepayers like restaurants, bars and lodging properties is another key piece of the recovery puzzle for our members and the hospitality sector as a whole.

Restaurants and lodging properties are not projected to fully recover until at least 2022, maybe 2023, if ever, in some cases. We have already lost approximately 800-1000 restaurants in the last thirteen months who could not survive the impacts of this global pandemic.

At a time when the hospitality sector is still struggling to stay afloat and as we start to make progress toward recovery, we would ask you to consider the following steps to help our operators:

- Place a moratorium on disconnections of service during this public health emergency
    - Much like the commercial foreclosure moratorium passed in the first special session of 2020, Oregon's small businesses need time to recover and bring in revenue in order to pay their bills. A moratorium on disconnections can help provide the window of time needed to accomplish this and allow small businesses to stay in operation and employ workers.
- Convene a workgroup comprised of PUC Commissioners, staff, small business stakeholders and utilities to evaluate the impacts of COVID-19 on these small operators
    - Our understanding is the impacts of COVID-19 on commercial ratepayers is still being determined. Creating a workgroup to more fully vet these impacts and the long-term consequences will not only help provide guidance and direction now but may help in the future if a similar public emergency is declared.
- Develop a plan to help eliminate bad debt incurred by small businesses during the COVID-19 pandemic and the state of emergency
    - With funds available from the federal government through the American Relief Plan Act or other sources, these small business arrearages could be eliminated.

Based on data from the Oregon Department of Energy Biennial Report, restaurants are particularly energy use intensive, and may need additional assistance.

Our neighbors to the north and south, Washington and California respectively, have led the way by declaring moratoriums on commercial disconnections. Oregon should follow suit to protect small business operators and allow them the time needed to pull through this crisis and help Oregon's economy prosper once again.

Thank you.

Greg Astley
Director of Government Affairs
Oregon Restaurant & Lodging Association
Astley@OregonRLA.org
503-851-1330

ORLA
Oregon Restaurant
& Lodging Association

November 29, 2021

Oregon Public Utility Commission
201 High Street SE, Suite 100
Salem, OR 97301-3398

**RE: Follow-up to ORLA Letter dated 5/13/21 – Ongoing Relief for Small Businesses**

Chair Decker, Commissioner Tawney and Commissioner Thompson,

At the recent 11/17/21 meeting of the Public Utilities Commission (PUC), the Oregon Restaurant & Lodging Association (ORLA) reiterated its position as outlined in our letter to the PUC, dated 5/13/21. Namely, ORLA continues to request that the PUC:

• Move cautiously on disconnection of utility services, particularly on small business owners/ employers. All business has been decimated by COVID (including Delta, Mu and future variants). No business segment has been hit harder than Oregon's hospitality industry. That segment lost 38% of jobs compared to 9% job loss across all other segments. Hospitality hiring is trending upwards but remains far behind 2019, pre-COVID, pace.
• Convene workgroups of PUC commission, staff, utility service providers and small business stakeholders (including ORLA), to evaluate the full effects of COVID and the subsequent Orders and Directives of Governor Brown and the Oregon Health Authority, especially as it relates to business disruptions and closures. For restaurants and hotels to fully recover, ORLA is imploring all service providers – including utility service providers – to work closely with these small businesses and ensure the lights stay on, the water keeps running and the inventory is replenished so that these operators can grow their way back to health and prosperity.
• Work closely with the utility service providers, such as PGE, Pacific Power, NW Natural and others and relevant trade associations, such as ORLA, to develop a formulary seeking to cap, eliminate and/or restructure past due amounts and arrearages incurred by small businesses, especially those amounts directly resulting from COVID and ongoing government actions.
• Engage private sector utility counsel and advocates, such as Small Business Utility Advocates (SBUA) in all discussions and workgroups. For example, the expertise of Diane Henkels and Danny Kermode at SBUA will continue to be invaluable to ORLA and its nearly 3,000 members.

We have all learned a great deal over the last twenty months and counting. Those valuable lessons will serve us well in addressing future public health crises. Consideration of past dues and current rate relief, especially for small commercial rate payers like restaurants and hotels, needs to be a key component of ongoing economic recovery.

ORLA recognizes the leadership of the Public Utilities Commission and appreciates the PUC and all utility service providers for their partnership over the course of the last year and a half. Thank you.

Sincerely,

Greg Astley
Director of Government Affairs

| OPUC Impacts of COVID-19 Pandemic on Utilities & Small Commercial Customer: 91+ Days Status by Zip Code | | |
|---|---|---|
| **PACIFIC POWER (Small Commercial Customers)** | | |
| **Zip Code** | **Arrearages (91+ Days)** | **EJ Indicators** |
| 97603 (Klamath Falls, Klamath) | $125,142 (55) | 11 out of 12 (HIGH) |
| 97220 (Portland, Multnomah) | $92,186 (51) | 12 out of 12 (HIGH) |
| 97501 (Medford, Jackson) | $90,660 (54) | 12 out of 12 (HIGH) |
| 97526 (Grants Pass, Josephine) | $72, 827 (45) | 12 out of 12 (HIGH) |
| 97527 (Grants Pass, Josephine) | $54,320 (32) | 12 out of 12 (HIGH) |
| 97211 (Portland, Josephine) | $49,398 (48) | 5 out of 12 (MEDIUM) |
| 97470 (Roseburg, Douglas) | $48,243 (31) | 7 out of 12 (MEDIUM) |
| 97502 (Central Point, Jackson) | $43,607 (35) | 1 out of 12 (LOW) |
| 97523 (Cave Junction, Josephine) | 35,546 (20) | 11 out of 12 (HIGH) |
| 97601 (Klamath Falls, Klamath) | $35,176 (25) | 12 out of 12 (HIGH) |

**OPUC RE 189 Pacific Power COVID-19 Monthly Report May'22:**

https://edocs.puc.state.or.us/efdocs/HAQ/re189haq111140.pdf

**Environmental Justice (EJ ) Indicator Sources:**

**Oregon Health Authority Social Vulnerability Map:**

https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/CLIMATECHANGE/Documents/Social-Vulnerability-Assessment.pdf

**U.S. Environmental Protection Agency EJ Screen Tool:**

https://www.epa.gov/ejscreen/what-ejscreen

**Compilation by: SBUA Guillermo Castillo**

November 4, 2021

Public Utility Commission of Oregon
550 Capitol St. N.E. Suite 215
Salem, OR 97301-2551

Re: UM 2114 Investigation into the Effects of the COVID-19 Pandemic on Utility Customers
Comments of Danny Kermode CPA for the small business utility advocates (SBUA) regarding the impact of certain revenue deferrals and disconnection policy on small commercial customers

Chairperson Decker and Commissioners Tawney and Thompson,

I am submitting the following comments in preparation for the Public Meeting the Commission will hold on November 17, 2021, in Docket No. UM 2114 I would first like to recognize the work done by both the Commission Staff and the utilities to help customers maintain utility service and to keep the State of Oregon's utility systems financially sound.

In its November 5, 2020, Order 20-401, the commission approved a stipulated agreement expressly allowing deferral of four categories of costs and revenues. These were broadly classified as (1) increased direct costs (e.g., PPE cleaning supplies and services), (2) late payments fees, (3) bad debt, and (4) forgone reconnection fees. [Appendix A of Attachment A Stipulated Agreement on Effects of COVID-19 Pandemic on Energy Utility Customers ("Stipulation") pgs. 19-20]

**Small Business Cross- Subsidizing Residential Customers**
There is no question that the commission should allow the deferral of those reasonable and prudently incurred costs reflected in the stipulation. However, my concern focuses on the possibility that small businesses will be saddled with costs created by the residential class. Specifically, deferred late payment fees, bad debt expenses, and the forgone reconnection fees.

Small businesses, though sometimes equated to the residential class because of similar load demands, is financially different. I would recommend that any deferrals of late payment fees, bad debt, and reconnection fees be clearly segregated between residential and small commercial. While I recognize the severe impact COVID has put on residential customers, it's important we all recognize that the financial viability of the state's local small business continues to be precarious.

Though buried in the combine data, it appears that the bad debt burden associated with the residential class is substantially greater than the bad debt burden associated with the small business community. This disparity is not limited to only bad debt, but is the same for deferred late fees and reconnection revenue. It is important that any of the revenue deferrals and bad debt be clearly divided to recognize the differences in class. In this way the commission can prevent added financial burden on small business of the cross-subsidization of small business of residential customers.

**Extended Shutoff and Late Fee Protections Along with Extended Arrearage Payments**
Although most would recognize that small businesses should not be equated to the large commercial, the commission's policy on service disconnections and late fees does just that. Equally, small business should also not be blindly equated to the residential class, instead it is best to recognize that small businesses are a unique class of their own. Shutoff and late fee protections along with extended arrearage payments options should be applied by understanding the needs of the small business community not by reference to another utility service class.

Small business needs longer shutoff protections than currently allowed and extended time for the payback of arrearages to stay financially viable.

It is important that, through regulatory policy, local small business be given every opportunity to continue business in the communities they live and serve until the impact of the pandemic is past us. This is not just for the well-being of those businesses, but also the health of the communities where they are located. A current study of small business found that it is not uncommon for small businesses to have little-to-no cash reserves with their survival depending on the next problematic cash infusion. [1] I strongly urge the commission to allow the state's small business community to have, at the minimum, the same extended protections provided to the residential population.

**Lost Revenue - Creation**
Care must be taken when allowing recovery of lost revenue without a clear understanding of the changes in the related expenses. The commission should recognize by their very nature, the deferral of revenues are not the same as a deferral of an expense. An expense, a debit, is simply moved from the income statement, deferring recognition to a later period, to a regulatory asset account, which is also a debit.

On the other hand, the recognition of "Lost revenue," a credit, requires the creation of a transaction through a journal entry which produces an imputed revenue amount that is deferred as a regulatory asset (a debit). Since no actual transaction exists in the financials, an offsetting credit must also be created. This offsetting credit is as important to understand as the creation of the regulatory asset.

The record is not clear as to the journal entries companies will use to create the deferred lost revenue into a regulatory asset. I would ask the commission staff to clarify the accounting used by the companies for full transparency.

**Lost Revenue – Gross-up**
Is the use of deferred revenue merely a shortcut method for capturing the impact of COVID on the costs the lost revenue is designed to recover? Why not instead identify and defer the actual

[1] In a recent study on the fragility of small business due to COVID found that the median firm with greater than $10,000 in monthly expenses had less than fifteen days of available cash on hand. See Bartik, Alexander, et al. "The Impact of COVID-19 on Small Business Outcomes and Expectations." Proceedings of the National Academy of Sciences 117, no. 30 (July 28, 2020).

costs that are not being recovered by the loss of revenue and recover those costs later like the other costs cited in 25(a) of the stipulation?

The reason the actual expenses are not deferred is that these unique tariff charges are commonly based on two factors, an allocation of labor costs and, importantly, an additional punitive amount to provide a disincentive of late payment.[2] Late fees and reconnection charges are not wholly cost based because they are traditionally designed to act as a disincentive (punishment) for not paying on time. These lost revenue items are creations of rate design not cost of service and are commonly used to generate additional revenue for revenue requirement purposes, not cost recovery per se.

Since late fees and reconnection charges lack a solid cost-basis and logically, no related additional expenses have been incurred by the companies during the moratorium, revenue is the only measure that is available to make the company whole.

The distinction is that these deferrals are revenue, not an expense. When revenues are embedded in rates they are "grossed-up." Which means they include the tax impact of the costs that are being recovered. Therefore, any deferral of revenues in this docket should be "grossed-down" (reduced) to avoid the double collection of taxes when those amounts are amortized into the rate case income statement for recovery. This is distinct from those deferred expenses which are based on specific identifiable costs and are not grossed-up, that is, they do not include any embedded tax impact. As a minimum, carrying costs should be calculated solely on the deferred revenue less taxes.

**Late Fee Deferral Cap**

The maximum accrual of deferred late fees (deferral cap), set out in paragraph 25(b) of the stipulation, states that the accrual cannot exceed the amount of late payment fees included in the utility's last general rate case. However, the deferral cap should also be reduced by the tax gross-up factor to prevent double collection of income taxes when the regulatory asset is amortized into the income statement.

I would also ask that the historical late fees used in the deferral cap be bifurcated between residential and small commercial to prevent any cross-subsidization by small business of the residential class.

Thank you for the opportunity to comment and allowing me to voice my concerns regarding the COVID-19 related deferrals and their impact on the Oregon's small business community.

[2] Traditionally late fees have been used by the general business community to provide a disincentive, i.e., financial punishment, for not paying on time. Late fees and reconnections charges, which have lower costs than the resulting revenues, effectively subsidizes the system's other customers. Regulators are beginning to question their continued use because of their regressive nature (meaning lower-income people are affected more and can end up paying more than those with higher income). *see KY PSC 2020-00085 (Sept 9, 2020)*