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January 24, 2020

*Via Electronic Filing*

Public Utility Commission of Oregon  
Attn: Filing Center  
201 High St. SE, Suite 100  
Salem OR 97301

Re: In the Matter of PACIFICORP, dba PACIFIC POWER,  
Request to Initiate an Investigation of Multi-Jurisdictional Issues and Approve an  
Inter-Jurisdictional Cost Allocation Protocol.  
**Docket No. UM 1050**

Dear Filing Center:

Please find enclosed the Response of the Oregon Citizens' Utility Board and the Alliance of Western Energy Consumers to the Small Business Utility Advocates' Petition for Case Certification in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Jesse O. Gorsuch  
Jesse O. Gorsuch

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1050**

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Request to Initiate an Investigation of Multi-Jurisdictional Issues and Approve an Inter-Jurisdictional Cost Allocation Protocol.

RESPONSE OF THE OREGON CITIZENS' UTILITY BOARD AND THE ALLIANCE OF WESTERN ENERGY CONSUMERS

**I. INTRODUCTION**

Pursuant to the Administrative Law Judge's January 10, 2020 Ruling in the above-referenced docket, the Oregon Citizens' Utility Board ("CUB") and the Alliance of Western Energy Consumers ("AWEC") file this Response to the Small Business Utility Advocates' ("SBUA") Petition for Case Certification under the Fourth Amended and Restated Intervenor Funding Agreement ("Fourth IFA"). SBUA has not demonstrated compliance with the Oregon Public Utility Commission's ("Commission") guidance to SBUA in UE 352. Further, SBUA's demonstrated advocacy in this proceeding does not meet the requirements for case certification under the Fourth IFA. Therefore, CUB and AWEC recommend that the Commission deny SBUA's Petition. CUB and AWEC are authorized to represent that PacifiCorp supports this Response.

**II. ARGUMENT**

**A. SBUA has not complied with Commission guidance for case certification.**

SBUA last sought case certification in Docket No. UE 352, PacifiCorp's 2019 Renewable Adjustment Clause. In that docket, the Commission denied SBUA case certification on two grounds: first, that SBUA had not demonstrated that "a significant percentage of overall

support and funding” was provided by its members; and second, that SBUA’s participation in that docket was contingent upon receiving intervenor funding.<sup>1/</sup>

In denying SBUA’s petition in UE 352, the Commission provided guidance to SBUA with respect to the evidentiary demonstration it must make to show that its members contribute a significant percentage of overall support and funding. Specifically, the Commission “recommend[ed] that SBUA develop annual financial statements that conform to traditional non-profit accounting standards,” that these “financial statements should clearly indicate the source of various revenues,” and that these “financial statements should indicate financial capacity that can meet, at a minimum, the 20 percent requirement for an individual case budget.”<sup>2/</sup> The Commission clarified that “if we are presented with a financial statement that indicates financial capacity that cannot meet the 20 percent requirement of a proposed budget, then a finding that OAR 860-001-0120(4)(d) has not been satisfied is inevitable.”<sup>3/</sup>

In its Petition for Case Certification, SBUA provides no indication that it has complied, or can comply, with any of this guidance. SBUA’s explanation of how its members contribute a significant percentage of overall support and funding for the organization is a near-verbatim copy of the same explanation it provided in its Petition for Case Certification in UE 352.<sup>4/</sup> SBUA does not indicate that it has the financial statements the Commission referenced or is prepared to provide them upon request. Simply put, SBUA has not complied with the guidance the Commission itself provided to SBUA, and its Petition should be denied on this basis alone.

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<sup>1/</sup> Docket No. UE 352, Order No. 19-262 at 1 (Aug. 8, 2019).

<sup>2/</sup> Id. at 3.

<sup>3/</sup> Id.

<sup>4/</sup> See Docket No. UE 352, SBUA Petition for Case Certification at 5-6 (Feb. 19, 2019).

**B. SBUA’s advocacy in this docket does not meet the requirements for case certification.**

On January 14, 2020, SBUA filed objections to the stipulation in this docket.

SBUA’s advocacy in its objections was limited solely to a desire to hold more process in this docket (though what process the Commission would hold without being asked to resolve any contested issues is unclear). As the Commission has already determined in its order approving the 2020 Protocol and rejecting SBUA’s objection, “SBUA’s objection does not substantively analyze the [2020 Protocol] or raise any specific disagreement with its provisions.”<sup>5/</sup>

Such advocacy does not constitute “participation ... directed at public utility rates and terms and conditions of service affecting [small business customers].”<sup>6/</sup> Nor does it constitute effective representation of small business customers,<sup>7/</sup> because such representation, if effective at all, is effective with respect to no particular customer class. It is also not a substantive contribution to the record of this proceeding on behalf of small business customers,<sup>8/</sup> as it contributes no substantive evidence to the record. As the Commission held in UE 352, “entities qualifying for intervenor funding must be clearly accountable to their members. This ensures that qualifying organizations understand member goals and priorities in the dockets they participate in, and faithfully represent their perspective in proceedings.”<sup>9/</sup> SBUA’s advocacy in this proceeding does not demonstrate that it is representing small business customer goals and priorities.<sup>10/</sup>

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<sup>5/</sup> Order No. 20-024 at 3 (Jan. 23, 2020).

<sup>6/</sup> Fourth IFA § 5.3(b).

<sup>7/</sup> Id. § 5.3(c)

<sup>8/</sup> Id. § 5.3(e).

<sup>9/</sup> Docket No. UE 352, Order No. 19-133 at 5 (Apr. 16, 2019).

<sup>10/</sup> See, e.g., Docket No. UE 352, Joint Parties’ Response to Petition of Small Business Advocates for Case Certification (AWEC, CUB, and PacifiCorp) (Mar. 6, 2019).

Further, SBUA's stated interests in this docket – to ensure a record that demonstrates the 2020 Protocol will result in fair, just, and reasonable rates generally – is an interest shared by both CUB and AWEC, and an interest both organizations have been effectively representing both in this docket and in the Multi-State Process Workgroup for several years.<sup>11/</sup> CUB and AWEC have literally spent hundreds of hours helping to craft the 2020 Protocol through complex negotiations with stakeholders from six states to help ensure that it is a framework that will result in fair, just, and reasonable rates when implemented. Finally, SBUA's participation in this docket not only unduly delays the schedule of the proceeding, it is specifically intended to delay this proceeding.<sup>12/</sup> That such delay is to no end in particular other than building a more robust record on indeterminate issues demonstrates that this delay would be undue. SBUA's Petition fails several criteria for case certification and should be denied.

### III. CONCLUSION

For the foregoing reasons, CUB and AWEC recommend that the Commission deny SBUA's Petition for Case Certification in this docket.

Dated this 24th day of January, 2020.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

*/s/ Tyler C. Pepple*

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OREGON CITIZENS' UTILITY BOARD

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<sup>11/</sup> Fourth IFA § 5.3(f).

<sup>12/</sup> Id. § 5.3(g).