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February 9, 2017

Public Utility Commission of Oregon
Filing Center
POB 1088
Salem, OR 97308-1088
Puc.filingcenter@state.or.us

Re: In the Matter of PUBLIC UTILITY COMMISSION OF OREGON
First Amended and Restated Intervenor Funding Agreement
Docket No. UM 1357

Dear Filing Center:

Enclosed for filing in the above-referenced docket is the Petition for Precertification of Small Business Utility Advocates.

Please contact me at dhenkels@cleantechlaw.com or 541-270-6001 if you have any questions. Thank you for your assistance in this matter.

Sincerely,

/s/ Diane Henkels

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Enclosure

Copy: UM 1357 Service list
James Birkelund, SBUA President

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

UM 1357

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	
OREGON)	PETITION OF SMALL BUSINESS
)	UTILITY ADVOCATES FOR
The First Amended and Restated Intervenor)	PRECERTIFICATION
Funding Agreement)	

Pursuant to OAR 860-001-0120, Oregon Public Utility Commission Order No. 14-257, Small Business Utility Advocates (“SBUA”) respectfully submits this petition for precertification (“Petition”) for the purposes of seeking intervenor funding to participate in current and future dockets. In support of this Petition SBUA represents as follows:

I. Criteria for Precertification of Intervenor

Pursuant to Oregon Public Utility Commission Order No. 15-335 entered October 20, 2015 including Appendix A: Third Amended and Restated Intervenor Funding Agreement (“IFA”), and Oregon Administrative Rule 860-001-0120(3)(b), regarding entities not pre-certified, to be precertified for purposes of receiving intervenor funding, an organization must meet certain criteria set forth in the rule. OAR 860-001-0120(3)(b), IFA 5.2(b). Specifically, an organization can qualify for Precertification if it is “a nonprofit organization that meets the following criteria: (1) A primary purpose of the organization is to represent utility customers' interests on an ongoing basis; (2) The organization represents the interests of a broad class of customers and those interests are primarily directed at public utility rates or terms and conditions of service affecting those customers, and not narrow interests or issues that are ancillary to the representation of those customers as consumers of utility services; (3) The organization demonstrates that it is able to effectively represent the particular class of customers it seeks to represent; (4) The organization’s members are customers of one or more of the utilities that are

parties to the applicable agreement and contribute a significant portion of the overall support and funding of the organization's activities in the state; and (5) The organization has demonstrated in past Commission proceedings the ability to substantively contribute to the record on behalf of customer interests.” Id.

II. Applicability of Criteria to SBUA

SBUA is an Internal Revenue Code Section 501(c)(3) nonprofit organization and meets the criteria for precertification set forth in OAR 860-001-0120(3)(b) and Order No. 15-335.

(1) Primary purpose

SBUA’s primary purpose is representing the interests of small businesses in utility proceedings,¹ and has been representing small business in Oregon on an on-going basis since 2012.

(2) Broad Representation of a Class of Customers as Consumers of Utility Services with Participation Directed at Public Utility Rates or Terms and Condition of Service affecting those Customers, and Not Narrow Interests or Ancillary Issues

SBUA represents the small business community as a whole, which is a broad class of customers, and SBUA’s membership is diverse. Most SBUA members in Oregon are ratepayers of Portland General Electric or PacifiCorp d.b.a. Pacific Power. These utilities each had at least 74,000 commercial and industrial customers each in 2015,² of which many of these were smaller commercial. Most businesses in Oregon are “small businesses”, that is, those with 100 or fewer employees, as defined by the Oregon Small Business Development Act ORS 285B. 123(2). The Oregon Employment Department reports that in March 2016, 97,210 firms in Oregon had 50 or fewer employees.³ These firms in March 2016 made up 96% of firms with em-

¹ See www.utilityadvocates.org

² <http://www.puc.state.or.us/docs/statbook2015WEB.pdf>, p 19.

³ See <https://www.qualityinfo.org/documents/10182/79531/111616+-+Businesses+by+Size+of+Firm+50+or+Fewer+Employees?version=1.1>

ployees in March 2016 and employed 40% of the workforce. The Employment Department also reports that the share of small employers is stable over time in Oregon and does not change much during the year or from year to year. The Oregon Secretary of State states that, “Small businesses account for 98% of Oregon firms, employ over half the state's workforce and play a vital role in our economy. That's especially true for rural Oregon, which depends on small business for economic growth.”⁴

While SBUA may not share the identity of its members, these include small businesses from different industries including pest management, artisanal glass, insurance consult, bonding, website hosting, multi-family dwelling ownership and management, youth recreation, food and beverage, commercial agriculture, fine jewelry, small business coaching, marketing consulting, residential and commercial construction, energy efficiency, and renewable energy consulting, among others. SBUA's Oregon members are located in Portland metro area, the central coast, Salem, the rural Willamette Valley and central Oregon.

SBUA participation in Commission dockets focuses primarily on how energy regulation may impact terms and conditions and rates affecting small businesses, and not narrow interests or ancillary issues. This manifests in rates that small business pay directly or indirectly for electricity, and how small business is impacted as a workforce from implementation of energy infrastructure related projects such as building new generation.

(3) Ability to Effectively Represent this Class of Customers

SBUA's legal counsel has represented and provided counsel for over ten years to numerous Oregon small businesses and is experienced in energy and utility matters in Oregon. Since SBUA's inception in Oregon, its legal counsel has educated SBUA membership regularly on utility regulatory matters impacting small business. SBUA has intervened on behalf of Oregon's small businesses in Commission Dockets UM 1610 regarding Public Utility Regulatory Policy Act (“PURPA”) methodology, UE 294 Portland General Electric General Rate Case,

⁴ Oregon Secretary of State <http://sos.oregon.gov/business/Pages/office-small-business-assistance.aspx>

provided testimony on behalf of small business before the Oregon Legislature on HB 4036 (2016) precursor to SB 1547 (2016), intervened and provided small business testimony in UM 1773 Partial Waiver of Competitive Bidding Guidelines and Approval of RFP Schedule, has intervened and provided comments in dockets UM 1754 and UM 1790 focused on Renewable Portfolio Standard Implementation Plans, and is intervenor in UM 1751 regarding implementing HB 2193 regarding energy storage projects. The Commission granted SBUA case certification in dockets UM 1754, UM 1790, UM 1751 and UM 1773. SBUA has demonstrated the ability to represent small business within the scope of its intervention these matters, including preparing comments, expert testimony regarding the subject matter and its constituency, filing documents, and participating in docket workshops, settlement negotiations, and other proceedings. SBUA focuses on fair rates and workforce opportunity or participation, with additional emphasis on energy related best practices implemented by small business community. SBUA anticipates maintaining similar focus in dockets going forward.

(4) Members who are Participating Public Utility Customers and Contribute a Significant Percentage of the Overall Support and Funding of the Organization in the State

In Oregon, most SBUA members are customers of participating utilities of PacifiCorp dba Pacific Power and Portland General Electric Company. In Oregon, this includes Pacific Power Schedules 23 and 4 and Portland General Electric Schedule 32 ratepayers, among others. Oregon based ratepayers from both these utilities contribute to the overall support and funding of the organization. SBUA members include electric ratepayers in California, Oregon, and Washington, however, the vast majority of support for SBUA comes from Oregon-based members and their resources. The budget of SBUA is not large, however, support by Oregon's SBUA membership is broad and consists of various members' money contributions, in-kind professional services, space and capital equipment. SBUA members also support the organization by participating in the organization and attending meetings, and providing expertise in proceedings.

(5) Demonstrated Ability in Past Matters to Substantively Contribute to the Record on Behalf of Customer Interests

SBUA has demonstrated its ability to contribute to Commission on behalf of customer interests related to rates, and terms and conditions of service in UE 294, UM 1610, UM 1754, UM 1773, UM 1751, and UM 1790. In all of these dockets, SBUA has contributed relevant reports and publicly available statistics and other information, and testimony informing the Commission on small business in Oregon and impact on these ratepayers of General Rate Case, PURPA renewable energy generation projects, energy storage projects, utility requests for proposals and competitive bidding, and renewable portfolio standard compliance implementation planning. In 2016, the Commission found that SBUA qualified for case-certification in UM 1754 (Order 16-113), UM 1773 (Order 16-256), UM 1751 (Order 16-266), and UM 1790 (Order 16-428). Prior to that the Commission did find that SBUA had contributed substantively to UM 1610 (UE 294, Order 15-144). SBUA continues to participate in related dockets, some carrying through from 2016, such as UM 1751, AR 600/UM 1776 regarding allowances for diverse ownership of renewable energy resources, and AR 603 regarding Community Solar Rulemaking as these dockets impact rates and workforce issues for small business.

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SBUA has an ability to contribute to the record, and has demonstrated for the record statistical familiarity with the state's small business utility customers, familiarity with utility filings and data request responses regarding impact of utility matters on small business, and depth of engagement with small businesses and utility matters. SBUA's legal counsel has expertise working on utility related issues in Oregon, including advising clients in energy and utility and business matters, intervening in OPUC dockets, and employment with the Oregon Department of Energy. Also, SBUA legal counsel participates regularly in technical trainings, including CLEs, in energy storage, electricity pricing, and other related topics.

For the foregoing reasons, SBUA respectfully requests that the Commission approve this Petition for Precertification.

RESPECTFULLY SUBMITTED February 9, 2017.

/s/ Diane Henkels



Of Counsel, Cleantech Law Partners PC
Counsel for Small Business Utility Advocates