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June 22, 2016

Public Utilities Commission of Oregon
Filing Center
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RE: OPUC Docket UM 1773

Attention Filing Center:

Enclosed for filing in the above-referenced docket are UM 1773 Petition of Small Business Utility Advocates for Case Certification. Confidential information protected under Order No. 16-172 is send via paper copy to Commission and to counsel for signatories of the Order.

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

Sincerely,

Diane Henkels
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Portland, OR 97204
Counsel for SBUA

Enclosure

Cc: James Birkelund

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1773**

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	PETITION OF SMALL BUSINESS
COMPANY)	UTILITY ADVOCATES FOR CASE
)	CERTIFICATION
PGE Partial Waiver of Competitive Bidding)	
Guidelines and Approval of Request for Pro-)	
posals (RFP) Schedule)	

Pursuant to OAR 860-001-0120, Small Business Utility Advocates (“SBUA”) respectfully submits this petition (“Petition”) to certify this case for the purposes of receiving intervenor funding to participate in this docket. In the event such Petition is granted, SBUA requests permission to file a proposed budget.¹ In support of this Petition SBUA represents as follows:

I. Criteria for Certification of Intervenors

Pursuant to Oregon Public Utility Commission Order No. 14-257 entered July 9, 2014, and Oregon Administrative Rule 860-00100120(4), to be case certified for purposes of receiving intervenor funding, an organization must meet certain criteria set forth in the rule. OAR 860-001-0120(4). Specifically, an organization can qualify for certification if “(a) The organization is a nonprofit organization, demonstrates that it is in the process of becoming a non-profit organization, or is comprised of multiple customers of one or more of the utilities that are parties to the agreement and demonstrates that a primary purpose of the organization is to represent broad utility customer interests; (b) The organization represents the interests of a broad class of customers and its participation in the proceedings will be primarily directed at public utility rates or terms and conditions of service affecting those customers, and not

¹SBUA understands that even if the Commission were to grant case certification, SBUA would be required to seek funding from a very limited amount remaining, or possibly an advance on a future year’s funding per 4.4 Third Amended and Restated Intervenor Funding Agreement at <http://apps.puc.state.or.us/orders/2015ords/15-335.pdf>.

narrow interests or issues that are ancillary to the effect of the rates and terms and conditions of service on those customers; (c) The organization demonstrates that it is able to effectively represent the particular class of customers it seeks to represent; (d) Those members of the organization who are customers of one or more of the utilities that are affected by the proceedings and are parties to the agreement contribute a significant percentage of the overall support and funding of the organization; (e) The organization demonstrates or has demonstrated in past Commission proceedings the ability to substantively contribute to the record on behalf of customer interests related to rates and the terms and conditions of service, including in proceedings in which the organization was case certified and received a grant; (f) The organization demonstrates that: (A) No precertified intervenor participating in the proceedings adequately represents the specific interests of the class of customers represented by the organization; or (B) The specific interests of a class of customers will benefit from the organization's participation; and (g) The organization demonstrates that its request for case certification will not unduly delay the proceedings.”

II. Applicability of Criteria to SBUA

For the reasons set forth below, SBUA meets the criteria for certification set forth in OAR 860-001-0120(4).

(a) Nonprofit Status

SBUA is an Internal Revenue Code Section 501(c)(3) nonprofit organization comprised of multiple customers of Portland General Electric Company (“PGE”). SBUA’s primary purpose is representing the interests of small businesses in utility proceedings.² SBUA members in Oregon include PGE ratepayers.

(b) Broad Representation 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 small business which is a broad class of customers, and SBUA’s membership is diverse. 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

² See www.utilityadvocates.org

285B.123(2). Of the 97,494 firms in Oregon in March 2015, 95,471 firms had fewer than 100 employees.³ SBUA's membership is served by PGE and previous dockets have shown that small business can be subject to a higher percentage of rate increases. SBUA also represents a broad diversity of businesses. SBUA may not divulge the identities of its members in this filing, however some members are known via testimony previously submitted to the Commission and via the Confidential Exhibit A of which paper copy is mailed on the date of this filing to those parties signatories to the Protective Order 16-172 of May 5, 2016. SBUA members do include small businesses from different industries including pest management, welding, marketing, insurance and bond consulting, website hosting, commercial cleaning and maintenance, food and beverage, commercial agriculture, small business consulting, residential and commercial construction, energy efficiency, and renewable energy consulting, among others. Also, SBUA members are presently located throughout the State of Oregon, including PGE service territory such as the Portland metro, Salem, and rural Willamette Valley, among other locations. Several of these businesses are of the kind that might be included in such RFPs, and SBUA members include but are not limited to state-certified Emerging Small Business, Minority-Owned Businesses, and Women-Owned Business Enterprises.

SBUA participation is directed primarily at the participation of small businesses in the RFP process, how the request for proposal (RFP) process plan impacts rates affecting small businesses, and not narrow interests or ancillary issues. SBUA is comprised of and represents small businesses exclusively and as such is distinct from the ICNU, CUB, and NIPPC, even if these parties present arguments that may apply to ratepayers generally. Small business is significant in Oregon and under-represented in providing input in this process. Oregon law requires renewable energy buildout, and the statute indicates a ceiling rate increase. Comment in the docket implicates rate impacts, however, where the terms of the RFP will impact the rates required to pay for this buildout.

³ State of Oregon Employment Department Oregon Size of Firm Data for 2015 <https://www.qualityinfo.org/-/now-available-oregon-size-of-firm-data-for-2015>

(c) Demonstrated Effective Representation

SBUA's legal counsel has represented and provided counsel for over twelve 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 on utility regulatory matters impacting small business. SBUA was an intervenor in OPUC Dockets UM 1610, UE 294, UM 1751 and UM 1754, and has recently provided testimony on HB 1547. It participated in these proceedings, and has demonstrated the ability to represent small business within the scope of its intervention these matters, including preparing expert testimony, filing documents, and participating in docket workshops and other proceedings. SBUA's counsel anticipates providing focused and prompt input on this docket as indicated in its Petition to Intervene. SBUA counsel would draw from membership expertise, and other sources as it has in the prior docket to determine the potential impacts PGE's RFP process may have on small business including impact on small nonresidential rates to ensure such rates are fair and reasonable. ORS 756.040.

(d) Members who are Utility Customers Contribute a Significant Percentage of the Overall Support and Funding of the Organization

SBUA members include PGE ratepayers in Oregon. PGE ratepayers have contributed to the overall support and funding to the organization previously and in 2016. 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, not to mention general participation in the organization from SBUA members in Oregon including PGE Schedule 32 and other PGE ratepayers primarily from Salem, Portland metro, and Willamette Valley. SBUA members also support the organization by participating in the organization, attending meetings and contributing expertise in PUC and legislative testimony.

(e) Demonstrated Ability to Substantively Contribute to the Record on Behalf of Customer Interests

SBUA has demonstrated its ability to contribute on behalf of customer interests related to rates, and terms and conditions of service in UE 294, UM 1610 and UM 1754,

obtaining expert testimony informing the Commission on the state of small business in Oregon, the impact of PURPA renewable energy generation projects, comparing rate increases in a general rate case, participating in discussions leading to settlement, and providing meaningful input on behalf of its members. SBUA has received case certification in UM 1754 where SBUA contributed to the record, and SBUA has demonstrated for the record statistical familiarity with the state's small business constituency and depth of engagement with small businesses. SBUA's legal counsel has years of experience working on utility related issues in Oregon, including advising clients in matters, working at Oregon Department of Energy and intervening in OPUC dockets, and counsel participates in CLE trainings in electricity pricing and other topics.

(f) No Other Adequate Representation and the Specific Interests of the Class will Benefit from Organization's Participation

No party in these proceedings adequately represents the specific interests of small business or PGE's Small Nonresidential Customers. The Citizens' Utility Board represents the Residential customer class by statute, and stands to run a conflict given the different proposed rate impacts on Residential and Small Non-residential Customer classes. Precertified Industrial Customers of Northwest Utilities ("ICNU") represents the Large Non-residential Customer class. Despite the numerous ratepayers in the small nonresidential ratepayers classes, the utility does not automatically consider small nonresidential as stakeholders such as general advocacy groups such as Citizens Utility Board (CUB), Industrial Customers of Northwest Utilities (ICNU), and Northwest & Intermountain Power Producers Coalition (NIPPC). See p 2 Q & A, May 18, 2016 Stakeholder and Bidder workshop. Such customer class will benefit from SBUA participation since SBUA will bring to the Commission information pertinent to small nonresidential ratepayers that the Commission is not likely to receive from any other source.

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(g) *Participation will not Unduly Delay the Proceedings*

SBUA has participated in the public meeting in this docket, and communicated with PGE, and is already familiar with the documents and issues presented, and with Commission's Order 16-221 regarding the scheduling of this matter. SBUA does not anticipate that granting case certification or, if allowed, providing a budget will unduly delay the proceedings.

For these reasons, SBUA respectfully requests the Commission to grant this Petition.

RESPECTFULLY SUBMITTED.

June 22, 2016.



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