

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UE 352

In the Matter of)	
)	PETITION OF SMALL BUSINESS
PACIFICORP, d.b.a. PACIFIC POWER)	UTILITY ADVOCATES FOR
)	CASE CERTIFICATION
2019 Renewable Adjustment Clause)	
_____)	

Pursuant to OAR 860-001-0120(4), Small Business Utility Advocates (“SBUA”) respectfully petitions the Public Utility Commission (“Commission”) to certify this case for the purposes of receiving intervenor funding and to permit SBUA to submit a proposed intervenor funding budget. This docket, UE 352, is a contested case proceeding per Order 19-024 dated 1/23/19, and a contested case is an eligible proceeding for an intervenor to seek an issue fund grant. OAR 860-001-0120(4); Article 1(d), Article 4.2.3, Article 5.3, Fourth Amended and Restated Intervenor Funding Agreement approved January 17, 2018 (“Agreement”).

In support of this Petition for Case Certification SBUA represents as follows:

1. Criteria for Certification of Intervenors

Under the Agreement and Oregon Administrative Rules, to be case certified for purposes of receiving intervenor funding, an organization must meet certain criteria set forth in the rule. *See* 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 nonprofit 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 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 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 PacifiCorp. SBUA’s primary purpose is representing the interests of

small businesses in utility proceedings. See www.utilityadvocates.org. SBUA members in Oregon include several customers of PacifiCorp d.b.a. Pacific Power (“Company”).

(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 large, broad, and diverse class of customers. 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). More than half of Oregon's workforce is employed in small businesses.¹ The U.S. Small Business Administration (“SBA”) statistics show that the number of small businesses in Oregon with twenty or fewer employees numbered approximately 78,000 in 2014.² SBUA represents a broad diversity of these businesses. While SBUA may not divulge the identities of its members in this filing, some members are known via testimony and other filings previously submitted to the Commission. See UE 294³, UM 1751⁴, UM 1773.⁵ SBUA members in Oregon do include small businesses from diverse industries including hair salons, pest management, commercial cleaning

¹ Oregon Secretary of State Office of Small Business Assistance Annual Report (2017), <https://sos.oregon.gov/business/Documents/office-of-small-business-assistance/2017-small-business-annual-report.pdf> (last accessed 2/18/19).

² U.S. Small Business Office of Advocacy 2018 Small Business Profile Oregon, www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-OR.pdf (last accessed 2/18/19).

³ UE 294 SBUA Testimony <https://edocs.puc.state.or.us/efdocs/HTB/ue294htb17027.pdf>;

⁴ UM 1751 SBUA Comments <https://edocs.puc.state.or.us/efdocs/HAC/um1751hac135915.pdf>

⁵ UM 1773 Petition of Small Business Utility Advocates for Case Certification page 3 reference to Confidential Exhibit A including identities of some SBUA members <https://edocs.puc.state.or.us/efdocs/HAH/um1773hah133929.pdf>.

and maintenance, artisanal glass, insurance consult, website hosting and data center operations, wood products milling, food and beverage, commercial agriculture, small business consulting, residential and commercial construction, energy efficiency, and renewable energy consulting, multi-family residential housing, among others. SBUA members in Oregon are located in Portland metro, the central coast, Salem, the rural Willamette Valley and central Oregon. SBUA is comprised of and represents small businesses exclusively and as such SBUA constituents are distinct from the AWEC 's and CUB constituents.

SBUA participation is directed primarily at analyzing whether the Company's request for a renewable energy adjustment for repowering wind turbines and whether the proposed rate design and rate spread are just and reasonable for Schedule 23 ratepayers. Of the Company's approximately 614,000 customers subject of this docket, almost 81,000 are small nonresidential customers, subject to "Schedule 23". UE 352 Exhibit PAC/503 Ridenour/2. This class of customer is subject to a 1.4% increase in base rate under the proposed rate adjustment, and 1.3% increase in net rate. Id. SBUA seeks to examine whether the Company's proposed plan and the proposed adjustment is reasonable and just.

(c) Demonstrated Effective Representation

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 on utility regulatory matters impacting small business. SBUA was an intervenor in OPUC Dockets UM 1610, UE 294, UM 1751, UM 1754, UM 1773, and UM 1790, and SBUA also participated in the 2017 public input process of SB 978 and submitted comments responsive to the Commission's

request in that process. SBUA 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 has filed small business testimony in previous dockets demonstrating for the Commission the impact of increased rates on small nonresidential customers in UE 294, for example, and advocated for small nonresidential customers in dockets evaluating the Company's renewable portfolio plan implementation in UM 1754 and UM 1790, then evaluating utility planning in the context of the then newly enacted SB 1547 increasing the renewable portfolio standard.⁶ In the present docket SBUA counsel would draw from expertise of an experienced electric utility ratemaking consultant, Steele and Associates, also with small business expertise, to help analyze the reasonableness and justness of the Company's adjustment clause as it concerns Schedule 23 ratepayers.

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

SBUA members include the Company's customers in California and Oregon, and in Oregon, this includes Pacific Power ratepayers. Pacific Power ratepayers contribute to the overall support and funding of SBUA. 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. Support also comes in the form of general participation in the organization from SBUA members in Oregon including Pacific Power Schedule 23 ratepayers from Portland metro, central Oregon, the central coast, and

⁶ SBUA Comments available at <http://edocs.puc.state.or.us/efdocs/HAC/um1754hac82346.pdf>

Willamette Valley. SBUA members also support the organization by participating in the organization and attending meetings.

(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 and UM 1610, 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, then participating in settlement negotiations and providing meaningful input on behalf of its members. SBUA contributed substantively to the record in UE 294 docket in 2015.⁷ In SBUA received case certification in 2016 in UM 1751 regarding HB 2193 Implementing an Energy Storage Program Guidelines, in 2016 in UM 1754 regarding the Company's 2017-2021 Renewable Portfolio Standard Implementation Plan for the Company filed in 2015, in 2017 in UM 1790 regarding the Company's 2017-2021 Renewable Portfolio Standard Implementation Plan filed in 2016, and in 2016 in UM 1773 regarding Portland General Electrical Partial Waiver of Competitive Bidding Guidelines, approval of RFP Schedule. SBUA has an ability to contribute to the record in the aforementioned dockets, and has demonstrated for the record statistical familiarity with the state's small business constituency and impact of the proceedings on small business. Further, while not as seasoned as the Citizens' Utility Board, the Alliance of Western Energy Consumers ("AWEC"), or other veterans of OPUC dockets, SBUA's expert, William Steele, has significant experience in electric utility ratemaking as utility commission staff, is a

⁷ See UE 294 SBUA Testimony <https://edocs.puc.state.or.us/efdocs/HTB/ue294htb17027.pdf>.

regular instructor for a nationally recognized electric utility ratemaking training, and also serves on a state advisory board representing small business in utility matters.

SBUA's legal counsel has over 20 years of legal experience, including working on utility related issues in Oregon, advising clients in utility matters, working at Oregon Department of Energy and intervening in OPUC dockets, and counsel has received specialized training in electricity pricing and other topics, including, for example, with recent participation in the New Mexico University Electricity Ratemaking training (2018).

(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 the Company'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 Nonresidential Customer classes. Precertified Alliance of Western Energy Consumers ("AWEC") represents the large non-residential customer classes. SBUA represents exclusively small business interests. Such customer class will benefit from SBUA participation since SBUA will bring to the Commission expertise in analyzing rate adjustments as they pertain to the small nonresidential class of customers and information pertinent to small business that the Commission is not likely to receive from any other source.

//

//

(g) Participation will not Unduly Delay the Proceedings

SBUA acknowledges the schedule that has been established in the Administrative Law Judge's February 14, 2019 Prehearing Conference Memorandum in this docket and participation by SBUA would not cause any delay in proceedings.

For the foregoing reasons, SBUA requests that the Commission grant this Petition.

RESPECTFULLY SUBMITTED February 19, 2019.



s/ Diane Henkels

Diane Henkels
Attorney, Small Business Utility Advocates
www.utilityadvocates.org
621 SW Morrison St. Ste 1025
Portland, OR 97205
541-270-6001
diane@utilityadvocates.org