

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UE 394

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	PETITION FOR CASE CERTIFICATION
COMPANY)	OF SMALL BUSINESS UTILITY
)	ADVOCATES
Request for a General Rate Revision.)	

I. INTRODUCTION

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 reasonable Proposed Budget attached herein as Exhibit 1. This docket, UE 394, is a contested case proceeding 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 (“IFA”).

II. CRITERIA FOR CASE CERTIFICATION ARE MET BY SBUA.

To demonstrate that it meets the criteria for case certification, SBUA represents as follows:

A. Criteria for Certification of Intervenors

Under the IFA 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. 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 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.”

B. 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).

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(a) Nonprofit Status

SBUA is an Internal Revenue Code Section 501(c)(3) nonprofit organization registered in Oregon. SBUA's primary purpose is representing the interests of small businesses in utility proceedings.¹

(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". The definitions vary² but, as one example, the Oregon Small Business Development Act defines "small business" as those businesses with 100 or fewer employees. ORS 285B.123(2). Federal statistics show that over 99% of Oregon's businesses are small businesses.³ More than half of Oregon's workforce is employed in small businesses.⁴ 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

¹ See www.utilityadvocates.org.

² Oregon Secretary of State Office of Small Business Assistance, *OSBA Report Multiple Definitions Cause Confusion for Oregon Small Businesses*, by Matthew Tenney, 11/18/2021 (Describing the several provisions in Oregon law defining "small business"). See <https://www.oregon.gov/smallbusiness/Documents/OSBA-Small-Business-Definitions-Report.pdf> (Last accessed 1/25/22).

³ U.S. Small Business Administration Office of Advocacy 2021 Small Business Profile of Oregon, <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/08/30143123/Small-Business-Economic-Profile-OR.pdf> Last accessed 1/25/22.

⁴ Id.

other filings previously submitted to the Commission. *See* UE 294⁵, UM 1751⁶, UM 1773.⁷

SBUA members in Oregon do include small businesses from diverse industries including hair salons, restaurants and other food and beverage establishments, commercial cleaning and maintenance, artisanal glass, bicycling related businesses, wood products milling, apiculture and large scale honey production, commercial photography, small business consulting, residential and commercial construction, jewelry appraisal and manufacturing, energy efficiency, and renewable energy consulting, multi-family residential housing, among others. Many SBUA members in Oregon are small commercial customers of the Company. SBUA is comprised of and represents small businesses exclusively and as such SBUA constituents are distinct from constituents of the Alliance of Western Energy Consumers (“AWEC”) and Oregon Citizens’ Utility Board (“CUB”).

SBUA participation is directed primarily at ensuring rates and terms of service are fair and reasonable to Oregon’s small businesses, especially the Company’s small commercial customers, with focus on the Company’s Schedule 32 customers. SBUA was present at the prehearing, and has focused reviewing the docket for consistency with standard ratemaking principles regarding deferrals and treating the small commercial customer fairly with regard to rate spread and rate design.

⁵ UE 294 SBUA Testimony <https://edocs.puc.state.or.us/efdocs/HTB/ue294htb17027.pdf>.

⁶ UM 1751 SBUA Comments <https://edocs.puc.state.or.us/efdocs/HAC/um1751hac135915.pdf>.

⁷ 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>.

(c) Demonstrated Effective Representation

SBUA's legal counsel has represented and provided counsel for over twenty years to numerous Oregon small businesses, including those businesses certified by the Certification Office of Business Inclusion and Diversity, also known as "COBID" firms⁸, and Oregon Benefit Companies⁹, 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 intervened and provided testimony or comment in Commission Dockets UM 1610, UE 294, UM 1751, UM 1754, UM 1773, UM 1790, and represented its constituency, small nonresidential customers, fully as an intervening party in general rate cases UE 294, UE 374, and this docket UE 394¹⁰. While not party to the first and second Partial Stipulations in this docket,¹¹ SBUA has followed the docket, monitored the Process to Conduct Revenue Requirement/Rate Spread Scenarios and deferral requests and amortizations, has contributed testimony of review that has been adopted in the Third Partial Stipulation, and supplied testimony in the docket.¹²

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

⁸ See information re COBID: <https://www.oregon.gov/biz/programs/COBID/Pages/default.aspx>.

⁹ See information re Oregon's Benefit Companies: <https://sos.oregon.gov/business/pages/benefit-company.aspx>.

¹⁰ UE 394 Portland General Electric Request for General Rate Revision is still in process and SBUA is unable to comment further at this time.

¹¹ UE 394 Portland General Electric Request for General Rate Revision, and Joint Testimony in Support of Stipulation) filed 9/30/21, and Stipulating Parties' (Staff, CUB, AWEC, Kroger, Walmart, PGE) Joint Testimony in Support of a Partial Stipulation filed 12/2/21.

¹² UE 394 Portland General Electric Company Request for General Rate Revision, Motion to Admit Third Partial Stipulation, and Joint Testimony and Exhibits, filed 1/18/22.

ability to represent small business within the scope of its intervention these matters, including general rate cases, including preparing expert testimony, filing documents, and participating in docket workshops, settlement discussions, and other process and proceedings. SBUA is representing its constituency fully in UM 2114 which includes relates in part to certain issues in this docket, such as deferrals.

In the present docket SBUA counsel draws upon the expertise of William A. Steele fo Steele and Associates (“Steele”). Steele’s qualifications are known to the Commission through the Testimony of Joint Parties submitted to support the Third Partial Stipulation in this docket.¹³ Also, Steele served as expert in a very recent electric utility rate case in Oregon, UE 374, and compliance with the Partial Stipulation the Commission approved in that docket.¹⁴

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

SBUA members in Oregon includes Portland General Electric Company ratepayers. SBUA members contribute to the overall support and funding of SBUA. The budget of SBUA is not large, however, it is growing and includes contributions by members and grants. 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 PGE ratepayers.

¹³ UE 394 Rebuttal Testimony of Small Business Utility Advocates SBUA/101 Qualifications of William A. Steele filed 1/13/22.

¹⁴ UE 374 PacifiCorp Request for General Rate Revision, SBUA’s Compliance letter filed 12/28/21.

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

Customer Interests

SBUA has demonstrated its ability to substantively contribute on behalf of customer interests related to rates, and terms and conditions of service, obtaining expert testimony, informing the Commission on the state of small business and in Oregon, the impact of COVID-19 and related efforts to reduce arrearages. SBUA has participated in settlement negotiations and provided meaningful input on behalf of its members. SBUA contributed substantively to the record in UE 374 PacifiCorp dba Pacific Power Request for General Rate Revision in 2020 and complied fully with the collaboration required by the Partial Stipulation approved by the Commission in Order 20-473.¹⁵

The Commission granted SBUA case certification in several previous dockets including UE 374 PacifiCorp dba Pacific Power Request for General Rate Revision, UM 1751 regarding HB 2193 Implementing an Energy Storage Program Guidelines, UM 1754 regarding the Company's 2017-2021 Renewable Portfolio Standard Implementation Plan for the Company filed in 2015, and in 2017 in UM 1790 regarding the Company's 2017-2021 Renewable Portfolio Standard Implementation Plan filed in 2016. SBUA demonstrated 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.

¹⁵ See UE 374 PacifiCorp dba Pacific Power Request for General Rate Revision, Compliance filing of Small Business Utility Advocates, filed 12/28/21, to review SBUA's collaboration with PacifiCorp dba Pacific Power and September 28, 2021 meeting between the two regarding development of that electric utility's Marketing Outreach & Education plan for small business customers, and the meet and confer regarding the informational report regarding Schedule 23 Advanced Metering Information ("AMI") data obtained.

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 legal counsel has several 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, including the New Mexico University Electricity Ratemaking (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. SBUA represents solely these customers. The Citizens' Utility Board ("CUB") 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 whose interests are also in conflict. SBUA represents exclusively small business interests. Such customer class will benefit from SBUA participation with information pertinent to small business and 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 is established in the ALJ January 24, 2022 Ruling and its request for case certification would not cause any delay in proceedings. Even though this request is coming at a later time in the proceedings, SBUA has complied with the schedule set forth in ALJ August 3, 2021 Procedural Conference Memorandum, the ALJ October 25, 2021

Ruling, the October 27, 2021 Ruling, and ALJ January 6, 2022 Ruling. The timing of the request for case certification is later than usual yet this should not cause delay in proceedings. SBUA files its Notice of Intent contemporaneous with these proceedings.

III. CONCLUSION

For the foregoing reasons, SBUA requests that the Commission grant this Petition and allow SBUA to submit a reasonable budget for consideration.

RESPECTFULLY SUBMITTED February 4, 2022.



s/ Diane Henkels

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UE 394

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	PROPOSED BUDGET OF SMALL
)	BUSINESS UTILITY ADVOCATES
Request for General Rate Revision)	
_____)	

1. INTRODUCTION

In the event the Commission grants Small Business Utility Advocates (“SBUA”) Petition for Case Certification, SBUA submits this Proposed Budget of SBUA (“Proposed Budget”) which is required to receive an issue fund grant¹ to assist SBUA’s representation in this docket.

2. REQUIREMENTS FOR AN ISSUE FUND GRANT PROPOSED BUDGET

The Proposed Budget must include: (a) a statement of work to be performed by the applicant for which the applicant is seeking an Issue Fund Grant; (b) a description of the areas to be investigated by the intervenor; (c) a description of the particular customer class or classes that will benefit from the intervenor's participation; (d) identification of the specific account or accounts from which the intervenor is seeking an Issue Fund Grant and an estimate of the amount of available funds in that account; (e) a budget showing estimated attorney fees, which may include the cost for appropriate support staff and operational support; (f) a budget showing estimated consultant fees and expert witness fees, which may include the cost for appropriate support staff and operational support; and (g) a representation that the intervenor will use

¹ Section 6.3 Fourth Amended and Restated Intervenor Funding Agreement, approved by Order 18-017 (“Agreement”).

matching funds in the form of either in-house resources or outside funding to account for or pay at least 20% of the Eligible Expenses for the work to be performed for which the intervenor is seeking an Issue Fund Grant.²

(a) A statement of work to be performed by the applicant for which the applicant is seeking an Issue Fund Grant.

SBUA represents small business including small nonresidential customers, that is Portland General Electric (“PGE”) Schedule 32 rate payers, in this docket. Prior to intervention SBUA attended the prehearing on August 2, 2021, and tracked the status of the Process to Conduct Revenue Requirement/Rate Spread Scenarios, identified first in the July 12, 2021 ALJ Scheduling Memorandum and the September 1, 2022 ALJ Bench Request requesting of the Company a list of the Company’s deferrals and amortizations. SBUA petitioned for intervention on October 14, 2021 and the ALJ granted SBUA’s intervention on October 20, 2021. As demonstrated in SBUA’s expert’s testimony, SBUA has reviewed the different stipulations, testimony, and much of the discovery and testimony pertinent to issues of focus, and also information pertinent to ensuring the cost of capital, return on equity, are within the zone of reasonableness. SBUA has fully participated fully in settlement discussions since the December 3, 2021 Partial Stipulation, and in addition filed rebuttal testimony, and accessed data requests and responses, and is participating in remaining proceedings including briefings and hearing. SBUA has engaged an expert, William A. Steele, who has also participated in these proceedings.

(b) A description of the areas to be investigated by the applicant.

² Id.

To ensure fair and reasonable rates for small businesses, SBUA has reviewed this case from the beginning to ensure fair process regarding deferrals and rate spread and rate design especially, and particular aspects of these same such as potential treatment of requested COVID-19 proposed deferrals. SBUA's expert has reviewed PGE's initial testimony and joint testimony supporting the September 30, 2021 Partial Stipulation in this matter regarding cost of capital and debt, the December 2, 2021 Partial Stipulation and supporting testimony regarding rate case adjustments.³ As the ALJ directed Staff to conduct a rate spread and rate design analysis, SBUA has tracked the development of that process. SBUA participated in review of relevant information and the negotiation of the Third Partial Stipulation⁴ and since then SBUA has participated on behalf of small nonresidential customers in negotiations.⁵

(c) A description of the particular customer class or classes that will benefit from the intervenor's participation.

The particular customer classes that would benefit from SBUA's participating in the proceeding is the Schedule 32 Nonresidential Standard Service.

(d) Identification of the specific account from which the intervenor is seeking an Issue Fund Grant and an estimate of the amount of available funds in each account.

SBUA seeks an Issue Fund grant from the PGE account of which an estimated available amount is \$4,755 pursuant to the IFA 4.3 rollover, and also issue grant funds allocated for 2022.

³ UE 394 Portland General Electric Company Request for General Rate Revision, SBUA/100 Steele/7-15.

⁴ Id.

⁵ While not authoritative precedent for this docket, SBUA is mindful of Commission Order 21-429 in seeking intervenor funding.

(e), (f), and (g) require a budget showing estimated attorney fees, which may include the cost for appropriate support staff and operational support, a budget showing estimated consultant fees and expert witness fees, which may include the cost for appropriate support staff and operational support, and a representation that the intervenor will use matching funds in the form of either in-house resources or outside funding to account for or pay at least 20% of the Eligible Expenses for the work to be performed for which the intervenor is seeking an Issue Fund Grant.

In response to these requirements “e”, “f”, and “g”, SBUA submits the attached UE 394 Proposed Budget of SBUA Exhibit A as a Budget for the Issue Fund Grant requested.

3. CONCLUSION

SBUA submits the information above and attached as its Proposed Budget to represent small business and small non-residential ratepayers for the Commission’s consideration of SBUA’s request for designation of this docket as an eligible proceeding and permitting SBUA to access issue funds in this docket.

RESPECTFULLY SUBMITTED February 4, 2021.



s/ Diane Henkels

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EXHIBIT A

SBUA Proposed Budget for Issue Fund Grant

Personnel	Hours	Rate	Cost
<i>Attorney Fees</i>			
Attorney	30	\$225	\$6,750
Associate attorney	10	\$190	\$1,900
Administrator/paralegal	10	\$75	\$750
Expert Witness	87	\$150	\$13,050
Executive Director	2	\$250	\$500
<i>Other Expenses</i>			
Travel — Expert			\$0
Other — printing/postage			\$20
Subtotal			\$22,970
20% of SBUA Funded Expenditures			\$4,594
Total SBUA Issue Fund Grant Proposed Request			\$18,376

