

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 394

In the Matter of )  
 )  
PORTLAND GENERAL ELECTRIC ) REPLY OF SMALL BUSINESS UTILITY  
COMPANY ) ADVOCATES  
 )  
Request for General Rate Revision )  
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**1. INTRODUCTION**

Pursuant to OAR 860-001-0420(7) and the March 7, 2022 Administrative Law Judge (“ALJ”) Ruling, Small Business Utility Advocates (“SBUA”) replies to Alliance of Western Energy Consumers (“AWEC”) and Oregon Citizen’s Utility Board of Oregon (“CUB”) (together “AWEC-CUB”) Response to SBUA’s Petition for Case Certification (“Response”).

**2. BACKGROUND**

Portland General Electric Company (“PGE”) filed its Request for General Rate Revision on June 22, 2022, a date approximately mid-year and an unusual time for filing its rate case. SBUA was present at the first procedural conference on August 2, 2022.<sup>1</sup> The memorandum from that conference explicitly required a “Proposal for Process to Conduct Revenue Requirement/ Rate Spread Scenarios”. The process of identifying Rate Spread Scenarios played out throughout

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<sup>1</sup> UE 394 Portland General Electric Company Request for General Rate Revision, August 3, 2021 Procedural Conference Memorandum.

the first half of this docket.<sup>2</sup> SBUA acknowledges filing its Petition to Intervene on October 14, 2021. In its intervention petition SBUA identified as particular focus rate spread which was a focus of its expert in a previous and recent rate case.

On January 3, 2022, SBUA initiated conference in a message to both AWEC and CUB (together “AWEC-CUB”) regarding SBUA’s intent to seek intervenor funding in the docket, which exchange is attached as Exhibit A. SBUA incorporates into this Reply the underlying UE 394 Petition for Case Certification of SBUA filed on February 4, 2022 (“Petition”) pursuant to the Fourth Amended and Restated Intervenor Funding Agreement.<sup>3</sup> On February 16, 2022, the Chief Administrative Law Judge (“ALJ”) filed a Bench Request to SBUA requesting various information be filed by February 25, 2022.<sup>4</sup> On February 22, 2022, CUB and AWEC filed a Response to the Petition. Some of that Response referred to material covered in the publicly filed and in the confidential portions of the Response of SBUA to Bench Request. Specifically the material covered in the Response to Bench Request included response to Request numbers referring to SBUA’s financial capacity and support by customers of Portland General Electric Company (“PGE”) who are members of SBUA in Oregon. SBUA filed its Response to Bench Request on February 25, 2022 (“Response to Bench Request”) which included among other

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<sup>2</sup> UE 394 Staff’s Request to Extend Date for Filing for Process to Conduct Revenue Requirement / Rate Spread Scenarios; Expedited Consideration Requested, filed 8/30/21; the ALJ Ruling of 8/30/21 Memoranda Disposition: Deadline Extended; Staff’s Proposed Process to Conduct Revenue Requirement/Rate Spread Scenarios filed on 9/14/21; Staff’s Corrected Proposed Process to Conduct Revenue Requirement/Rate Spread Scenarios filed on 9/14/21, Staff’s Update to Proposed Process to Conduct Revenue Requirement/Rate Spread Scenarios, filed 11/15/21, and the Chief ALJ Memorandum issued 12/7/21.

<sup>3</sup> Approved by Public Utility Commission of Oregon Order 18-017, and hereinafter (“IFA”).

<sup>4</sup> The UM 2114, UG 435 & UG 411, and UE 394 Bench Request (“Bench Request”) was filed in three dockets: UM 2114, UG 435 & UG 411, and UE 394 dockets where SBUA had filed in 2022 petitions per the IFA pertaining seeking intervenor funding.

information, a response to the request for a breakdown of SBUA's budget in the UE 394 rate case.<sup>5</sup>

### 3. ARGUMENT

A. Information regarding SBUA membership and financial contributions is protected by state and federal law, is confidential and not subject to disclosure.

SBUA incorporates here the contents of its publicly disclosed Response to Bench Request.<sup>6</sup> That Response which incorporates this docket refers to the federal and state law protecting SBUA members from being disclosed in identity and protects the donors to SBUA from being identified. There is good reason to protect this information as disclosure could chill support for the organization, as explained in SBUA's Response to Bench Request.

However, the analysis of SBUA's membership would show that SBUA has many small commercial customer members in PGE territory in all quadrants of Portland and in Multnomah County, Yamhill County, and Washington County, and that SBUA's members do provide significant support for the organization.

B. The timing of SBUA filings are not inconsistent with the IFA for case certification and issue fund grants and should not be the basis for denying the Petition for Case Certification.

SBUA filed its Notice of Intent to Seek Issue Fund Grant on or about February 4, 2022 at the same time or after filing the Petition of SBUA for Case Certification which is in compliance with the IFA 6.2. The provisions regarding timing for filing for issue fund grants provides for a very compressed timing. SBUA acknowledges the language of the IFA 6.2 requiring a

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<sup>5</sup> Response to Bench Request, Exhibit A.

<sup>6</sup> Response to Bench Request pp. 1-3, 7-8.

requirement to file a proposed budget within 30 days after prehearing, and that a Notice of Intent is supposed to be filed with the petition to intervene and at the same time or after the petition for case certification. However, as this docket demonstrates, the IFA provision language that does not provide adequate time for an intervenor to review the work required in the docket and realistically identify the amount of time and expertise required to represent the interests of the broad class of customers that an intervenor like SBUA represents. Certainly in this docket where the rate spread was to be worked out by Staff for three months created a context where it was difficult to determine what kind of expertise and time would be required to represent SBUA's explicitly stated interest in rate spread/rate design, a key issue for SBUA in the docket. Further, it could not be predicted that the fourth Partial Stipulation would be challenged and necessitate further review and support in the recent proceedings that will culminate in a second hearing in the docket partially on the issue of decoupling.<sup>7</sup>

C. SBUA has contributed to the docket and continues to do so.

SBUA's expert is an undisputed expert as a financial analyst in public utility matters<sup>8</sup> and has participated in various settlement discussion, and advised SBUA sin this docket. SBUA's expert testimony was included in the third Stipulation filed on January 18, 2022, and also in the fourth Partial Stipulation filed on February 7, 2022. SBUA's expert also contributed to the Supplemental Joint Testimony filed on March 2, 2022. SBUA has participated in settlement proceedings, and concisely briefed the issues.

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<sup>7</sup> UE 394 Memorandum Regarding Revised Procedural Schedule, issued by ALJ on 3/1/22.

<sup>8</sup> See UE 394 Rebuttal Testimony of William A. Steele SBUA/100 ; SBUA/101 Qualifications of of William A. Steele.

**4. CONCLUSION**

For the foregoing reasons, the Commission should grant SBUA's Petition for Case Certification and permit SBUA to submit the UE 394 Exhibit A SBUA Amended Proposed Budget for Issue Fund Grant as presented in SBUA's Response to Bench Request.

RESPECTFULLY SUBMITTED March 7, 2022.



s/ Diane Henkels

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Diane Henkels  
Attorney, Small Business Utility Advocates  
[www.utilityadvocates.org](http://www.utilityadvocates.org)  
621 SW Morrison St. Ste 1025  
Portland, OR 97205  
541-270-6001  
[diane@utilityadvocates.org](mailto:diane@utilityadvocates.org)



**From:** Mike Goetz mike@oregoncub.org  
**Subject:** Re: UE 394 and intervention funding  
**Date:** January 3, 2022 at 10:43 AM  
**To:** Diane Henkels diane@utilityadvocates.org  
**Cc:** Tyler C. Pepple tcp@dvclaw.com, Bob Jenks bob@oregoncub.org



Hi Diane -

Happy New Year! Thanks for reaching out on this--we appreciate you seeking to find a diplomatic resolution. Unfortunately, in this limited instance pertaining to PGE's current rate case, I am not sure there is much CUB or AWEC can do. As you know, SBUA must first become case-certified to seek intervenor funding in a docket. The case-certification request must comply with the criteria in the Intervenor Funding Agreement, and demonstration of compliance with the criteria must be made to the Commission. Ultimately, the decision to approve or deny case-certification must come from the Commission and there is little AWEC or CUB could or should do on the front end.

Further, as you know, one of the criteria for case-certification is the "ability to substantively contribute to the record on behalf of customer interests." Because SBUA has not contributed to the record in this case, it would be premature for CUB or AWEC to recommend that SBUA receive intervenor funding because there is no work product to point to.

Thanks again, and hopefully this helps.

Best,

Mike

**Michael P. Goetz** (he/him)  
General Counsel



**Oregon CUB**  
610 SW Broadway, Suite 400  
Portland, OR 97205

O: 503-227-1984  
C: 630-347-5053  
[mike@oregoncub.org](mailto:mike@oregoncub.org)  
[www.oregoncub.org](http://www.oregoncub.org)

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On Wed, Dec 29, 2021 at 9:21 AM Diane Henkels <diane@utilityadvocates.org> wrote:

Hello Bob, Mike, and Tyler,

SBUA, as party to UE 394 PGE Rate Case and has worked to keep its participation focused and refined to best use resources. We appreciate the very deep skills, experience, and knowledge that your organizations bring to the rate cases not to mention all PUC matters. Also SBUA acknowledges the interests of the small commercial class of ratepayers to have representation in the remainder of the docket. We would like to apply for intervenor funding to help cover costs of our work in the remaining issues in UE 394. Could you please let me know how you see we could come to agreement on that in advance and prevent avoidable litigation?

There are several matters SBUA will work in, w/known and accepted expertise, before the PUC this coming year specifically among perhaps others, the Northwest Natural rate case, the UM 2114 COVID impacts including related deferral dockets, not to mention implementing the new bills, and it would be preferable to have some understanding on intervention where we can, in order to conserve litigation time

Exhibit A

Hoping to hear back from you soon on this.

And happy holidays.



Diane Henkels  
She/her/hers  
Attorney, Small Business Utility Advocates  
541-270-6001 / [utilityadvocates.org](http://utilityadvocates.org)

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