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February 22, 2022

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY,
Request for a General Rate Revision.
Docket No. UE 394

Dear Filing Center:

Please find enclosed the Response of the Alliance of Western Energy Consumers and the Citizens' Utility Board of Oregon to the Small Business Utility Advocates' Petition for Case Certification in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Jesse O. Gorsuch
Jesse O. Gorsuch

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UE 394

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	RESPONSE OF THE ALLIANCE OF
COMPANY,)	WESTERN ENERGY CONSUMERS
)	AND OREGON CITIZENS' UTILITY
Request for a General Rate Revision.)	BOARD TO SMALL BUSINESS
_____)	UTILITY ADVOCATES
)	

I. INTRODUCTION

Pursuant to OAR 860-001-0420(4), the Oregon Citizens' Utility Board ("CUB") and the Alliance of Western Energy Consumers ("AWEC") file this Response to the Small Business Utility Advocates' ("SBUA") Petition for Case Certification under the Fourth Amended and Restated Intervenor Funding Agreement ("Fourth IFA"), filed February 4, 2022. SBUA's demonstrated advocacy on the record in this and other proceedings does not meet the requirements for case certification under the Fourth IFA. Additionally, on February 14, 2022, CUB and AWEC filed a response to SBUA's request for intervenor funding in Docket UM 2114, which sought, among other things, that SBUA be barred from making further intervenor funding requests through the remaining term of the Fourth IFA, which expires at the end of 2022. CUB and AWEC incorporate by reference their response in UM 2114 into this Response. Therefore, CUB and AWEC recommend that the Commission deny SBUA's Petition.

II. ARGUMENT

The Fourth IFA contains specific requirements that a petitioner for case certification must meet to be eligible for intervenor funding for that case. The petitioner must meet all of the

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criteria to be eligible for case certification.^{1/} These include a demonstration that the petitioner “is able to effectively represent the particular class of customers it seeks to represent,” that the petitioner has “the ability to substantively contribute to the record on behalf of customer interests related to rates and the terms and conditions of service,” and that the “organization’s members who are customers of one or more of the Participating Public Utilities affected by the proceeding contribute a significant percentage of the overall support and funding of the organization.”^{2/} SBUA’s filed testimony in this docket, as well as its contributions to other proceedings, demonstrates that it has not met these criteria and, therefore, its Petition should be denied.

In Docket UE 352, the Commission denied an SBUA petition for case-certification on two grounds. One of these was that “SBUA’s submitted financial information, at this time, does not demonstrate a significant capacity from members to contribute to its operations to participate in our proceedings.”^{3/} The Commission went on to state that:

[I]t is essential that members of an organization qualifying for funding find the organization of enough independent value that members are willing to contribute to its operations significantly through financial donations, membership fees, or in-kind support We observe that entities qualifying for intervenor funding must be *clearly accountable to their members*. This ensures that qualifying organizations understand member goals and priorities in the dockets they participate in, and faithfully represent their perspective in proceedings. In this way, we can be confident that a qualifying intervenor *truly represents a customer class*.^{4/}

In denying reconsideration, the Commission provided specific guidance to SBUA on this issue, stating that “where the question at issue is the capacity of members to contribute to the organization, [SBUA’s] financial statements should clearly indicate the source of various

^{1/} Fourth IFA § 5.3.

^{2/} Fourth IFA § 5.3(c)-(e).

^{3/} UE 352, Order No. 19-133 at 5 (Apr. 16, 2019).

^{4/} Id. (emphasis added).

revenues.”^{5/} This includes “an overall financial capacity that can meet, at a minimum, the 20 percent requirement for an individual case budget.”^{6/}

While the Commission has found that SBUA has previously met these requirements in a PacifiCorp docket, SBUA has never demonstrated that it has similar resources and membership from PGE small business customers. Indeed, SBUA’s statement in its Petition in this docket is nearly identical to its claims of member support in UE 352.^{7/} This consists of unsubstantiated claims that “SBUA members in Oregon includes [*sic*] Portland General Electric Company ratepayers,” that “SBUA members contribute to the overall support and funding of SBUA” which consists of “various members’ money contributions, in-kind professional services, space and capital equipment”^{8/} SBUA has provided no financial statements demonstrating support from members that are *PGE customers*, or any list of members that show PGE customers at all, which the Commission has previously required for SBUA to be case certified for PacifiCorp proceedings.^{9/}

Obviously, PacifiCorp customers have no interest in the outcome of PGE’s rate case. For the reasons the Commission identified in its order in UE 352 denying SBUA case certification, it is crucial that SBUA demonstrate a membership base of PGE customers to be eligible for funding from PGE’s Issue Fund. It ensures that SBUA’s advocacy is “accountable to [its] members” and that SBUA “truly represents a customer class” with an interest in PGE’s rates and

^{5/} UE 352, Order No. 19-262 at 3 (Aug. 8, 2019).

^{6/} Id.

^{7/} *Compare* UE 352, SBUA Petition for Case Certification at 5 (Feb. 19, 2019) *with* UE 394, SBUA Petition for Case Certification at 6 (Feb. 4, 2022).

^{8/} SBUA Petition at 6.

^{9/} The Commission recently issued a Bench Request to SBUA seeking this and other information pertinent to SBUA’s filings in this Docket, as well as in UM 2114, UG 411, and UG 435.

service.^{10/} SBUA's Petition in this case does not meet these criteria and should be denied on this basis alone.

SBUA's Petition and its proposed budget are also untimely. The IFA requires parties seeking an Issue Fund Grant to file a Notice of Intent simultaneously with the party's petition to intervene, and to file proposed budgets within 30 days after the prehearing conference.^{11/} It also requires petitions for case certification to be filed on or before the time the organization files its Notice of Intent.^{12/} Nevertheless, SBUA filed its Notice of Intent to Request an Issue Fund Grant and its Petition for Case-Certification nearly four months after it petitioned to intervene, and a proposed budget on the same day despite the fact that the prehearing conference in this matter was held on August 2, 2021.

Finally, SBUA has failed to substantively contribute to the record and failed to effectively represent PGE's small business customers. SBUA failed to file opening testimony, and its rebuttal testimony was almost entirely dedicated to supporting the three partial stipulations that had been filed in that docket (which were already accompanied by supporting testimony), rather than rebutting any party's position on remaining issues. SBUA's testimony was merely a recap of what had already happened in the docket, and provided no tangible recommendations to advance positions relevant to its customer class. Similarly, SBUA's Prehearing Brief offers no substantive legal argument on any contested issues. It is also confusing and arguably unnecessarily broadens the record of this proceeding by raising PGE's deferral of COVID-19 costs, which are not, and have never been, included in PGE's rate request,

^{10/} Order No. 19-133 at 5.

^{11/} IFA ¶¶ 6.2-6.3.

^{12/} IFA Article 6.2.

and simultaneously agreeing that the exclusion of these costs is appropriate. Ultimately, nothing in SBUA's testimony substantively contributes to the record on behalf of small business customers, as the Fourth IFA requires.

III. CONCLUSION

For the foregoing reasons, CUB and AWEC recommend that the Commission deny SBUA case certification in this proceeding. SBUA has not met the criteria for case certification, and it is therefore ineligible to receive intervenor funding under the terms of the Fourth IFA in this proceeding.

Dated this 22nd day of February, 2022.

Respectfully submitted,

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/s/ Tyler C. Pepple

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