

**PUBLIC UTILITY COMMISSION OF OREGON  
ADMINISTRATIVE HEARINGS DIVISION REPORT  
PUBLIC MEETING DATE: April 18, 2023**

REGULAR \_\_\_ CONSENT \_\_\_ RULEMAKING X EFFECTIVE DATE N/A

**DATE:** April 14, 2023

**TO:** Public Utility Commission

**FROM:** Nolan Moser **SIGNED**

**THROUGH:** Diane Davis

**SUBJECT:** ADMINISTRATIVE HEARINGS DIVISION:  
Docket No. AR 652 – Rulemaking Regarding Intervenor Funding (2021  
HB 2475).

**RECOMMENDATION:**

Adopt the proposed rules as revised and and appended to the draft order in Attachment 1 to this report.

**DISCUSSION:**

Issue

Whether the Commission should adopt the rules developed by the Administrative Hearings Division on HB 2475 Intervenor Funding.

Applicable Law and Analysis

Pursuant to ORS 756.060, the Commission “may adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission and may adopt and publish reasonable and proper rules to govern proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and telecommunications utilities and other parties before the commission.”

The attached draft order discusses the background of this rulemaking and reviews the comments of participants in this docket on the proposed rules. The attached draft order addresses the comments and proposes resolutions.

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**PROPOSED COMMISSION MOTION:**

Adopt AHD's proposed rules as revised and appended to the draft order in Attachment 1 to this report.

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 652

In the Matter of

Rulemaking Regarding Intervenor Funding  
(2021 HB 2475.)

ORDERP

DISPOSITION: PROPOSED RULE MODIFICATIONS ADOPTED

**I. SUMMARY**

This order memorializes our decision, made at the April 18, 2023 Regular Public Meeting to adopt the Administrative Hearings Division (AHD)'s recommendations regarding the proposed permanent rules as presented in Attachment 1 of the April 13, 2023 AHD Report. The AHD Report with that recommendation is attached as Appendix A; the adopted rules are attached as Appendix B.

These rules serve to implement the agreement to provide for HB 2475 Justice Funding, which we approved through Order No. 23-033 in docket UM 2211. That agreement was negotiated by Rogue Climate; VERDE; the Community Energy Project (CEP); Portland General Electric Company (PGE); PacifiCorp, dba Pacific Power; Northwest Natural Gas Company, dba NW Natural; Idaho Power Company; Avista Corporation, dba Avista Utilities; and Cascade Natural Gas Corporation.

The rules proposed in the AHD report reflect the provisions of that agreement, taking into account the comments of participants in this docket.

**II. DISCUSSION**

**A. Background**

On September 25, 2021, HB 2475 was enrolled into state law. As enrolled, HB 2475 took effect January 1, 2022. HB 2475 is legislation with two components. One component is designed to address issues associated with energy burden, and it permits utilities and the Commission to take action to relieve energy burden for certain classes of customers. The second component, implemented in sections (3) and (4), expands the types of entities that are eligible for intervenor funding under ORS 757.072 (1). That intervenor funding

statute passed in 2001 provides that an energy utility may enter into a written agreement with organizations that represent "broad customer interests in regulatory proceedings" to govern the manner in which financial assistance may be provided to the organization. HB 2475 expands eligibility for such funding to include organizations that represent the interests of:

- 1) Low-income residential customers; and
- 2) Residential customers that are members of environmental justice communities

HB 2475 requires the PUC to determine, by rule, the qualifications for determining which organizations are eligible for financial assistance and limits the amount of new funding to \$500,000 annually. The PUC is required to establish a process for organizations to access financial assistance and must evaluate and approve intervenor funding agreements. ORS 757.072(4) provides that, for all financial assistance under the intervenor funding law, the Commission shall allow the public utility to recover such financial assistance in rates.

Over the course of 2022, the parties listed above participated in a facilitated negotiation to develop an agreement which would form the basis for rules. After broad principles were reviewed, a draft straw agreement was produced, and principles were reflected in a written agreement. Following this, negotiation sessions were held throughout the year where specific language or sections for the agreement were proposed and reviewed by the parties or proposed and drafted by AHD. Ultimately, parties came to an agreement in principle in late 2022, and final drafting was completed early this year. The Commission approved the agreement at its February 7, 2023 Regular Public Meeting.

On February 16, 2023, AHD filed a public meeting report in docket AR 652 requesting that the Commission issue a notice of proposed rulemaking to develop rules implementing the now-approved agreement. The memo included draft rules. Through Order No. 23-056, the Commission approved that recommendation, and the notice of rulemaking was issued on February 24, 2023.

## **B. Comments on Rules**

The Commission held a Rulemaking Hearing in this docket on March 16, 2023. At the rulemaking hearing, PGE made a substantive comment suggesting several changes to the rules that PGE argued would better reflect the agreement. PGE noted that it planned to explain these oral comments in subsequent written comment. PGE's changes were supported by all the participating utilities in written comments filed on March 28, 2023. In those written comments, the utilities proposed to add language to the purpose statement in the rules to clarify that representation under the agreement and statute can

encompass low-income residential issues. The utilities also proposed changes that would clarify that the obligations imposed by the rules stem from the agreement. Further proposed changes clarify that the limitations on the number of groups that can access pre-certification funding under the agreement is applicable to each participating utility, not in aggregate. The utilities next proposed changes that seek to clarify obligations on confidentiality. Finally, the utilities proposed that the termination provisions of the agreement are also reflected in rules.

On April 6, 2023, Rogue Climate, the Community Energy Project, and the Oregon Citizen’s Utility Board (Justice Advocates) filed joint written comments in response to the utility comments. The Justice Advocates agreed with the utilities that the purpose statement in the rule could be clarified but proposed alternative language; the utilities’ language stated the purpose as funding “for organizations to represent the interests of low-income residential customers or the interests of environmental justice communities in matters at the Oregon Public Utility Commission;” while the Justice Advocates sought a change that would state the purpose of the rules as “guidance for organizations that represent the interests of low-income residential customers or interests of customers that are members of Environmental Justice Communities as described in ORS 757.072 to seek Justice Funding Grants in matters at the Oregon Public Utility Commission.”

The primary difference between these two edits is that the utility edits focus on the purpose of the rules as providing funds for organizations to represent the interests of applicable communities, while the Justice Advocate edits focus on the organizations that represent those interests.

The Justice Advocates stated agreement with the utilities’ proposal to clarify that the obligations imposed by the rules stem from the agreement and further suggested that the rules eliminate direct reference to the current agreement.

The Justice Advocates disagreed with the utilities’ interpretation that the precertification restriction on five groups per year should be by utility, rather than across the whole program. They state that the intent of this restriction was to ensure that relatively large grants could be available to a smaller number of groups.

The Justice Advocates supported the utilities’ proposal to add into the rule language on termination and decertification, as well as changes regarding confidentiality.

Beyond these reactions to the proposed utility changes, the Justice Advocates suggested striking several rule determinations to preserve the flexibility of the negotiated agreement, reflecting a current practice associated with Intervenor Funding Agreement

applicable to broad customer groups. Specifically, they proposed striking the rule on eligible expenses, the rule on payment of grants and reporting, and the cost recovery rule.

Finally, Justice Advocates proposed editing the definition of low-income customers to no longer reference OAR 860-021-0180.

**C. Resolution**

For the rules changes that are jointly agreed to by the utilities and Justice Advocates, AHD has included such changes in its revised proposed rules, and we adopt them. We review the proposed changes that are not jointly agreed upon below:

**1. Purpose Statement**

Finding no substantive difference between the points of emphasis in the two suggested changes to the purpose statement, we adopt alternative language that clarifies the purpose of the rules.

**2. References to the Agreement**

Our expectation is that groups unfamiliar with our process will seek out Justice funding, along with groups that are familiar with our process and the agreement that forms the basis of these rules. Because we expect new groups to be engaged in the operation of these rules, we find that it is important to discuss more information in rules rather than less, in order to provide clarity to groups which may be unfamiliar with our process. In the context of references to the “agreement,” we determine that it is important that groups which may not know of the existence of the agreement be able to find it when reviewing our rules. Accordingly, we decline to make the change to the rules to eliminate references to the agreement as suggested by the Justice Advocates. We note that upon the approval of a new agreement, we can reconsider this approach in the future.

**3. Limitation on Number of Funded Precertification Groups**

The utilities and Justice Advocates diverge on how to interpret the provisions of the agreement limiting the number of groups that can receive funding through precertification. Article 5 of the agreement states that “[n]o more than five eligible organizations will be pre-certified each year.” Given that the utilities’ interpretation of the agreement could result in more than five organizations being granted pre-certification funds in a given year, we adopt the position of the Justice Advocates and limit the pre-certification funding opportunity to five groups per year, for the whole program.

**4. *Elimination of Rule Sections***

For the same reason we decline to eliminate references to the current agreement in rules, we decline to eliminate rules on Eligible Expenses, Payment of Grants and Reporting, and Recovery and Cost Allocation. For the sections on Eligible Expenses and Payment of Grants and Reporting, these rules provide important and valuable information to program participants. Through these rules, they can identify what expenses can be reimbursed under the program and can learn about the procedures to achieve payment from utilities, and the reporting requirements which are part of the program. Such information should be accessible, particularly for new groups who have not received funding before; accordingly, this information should remain in rules. We decline to remove the cost recovery language from for the same reason.

**5. *Low-Income Definition in Rules***

The Commission is responsible for reviewing, approving, and implementing the agreement reached by Justice Advocates and the utilities. When groups apply for funding under the agreement and argue that they represent low-income communities, we must have some way to determine whether a community is low-income. Failing to outline a standard in rule creates confusion and leaves our standard unknown to groups, leaving the determination of a standard to a case-by-case basis. This means that an applicant for funds would have to search through a series of Commission decisions to understand how the Commission defines low-income communities.

We do not think it serves the groups designed to benefit from this new funding opportunity to not be able to determine how the Commission defines low-income communities. Accordingly, though we understand that Justice Advocates do not want us to utilize a definition from elsewhere in our rules for this purpose, we must have some guidance to provide groups and adopt the following definition: “*For the purposes of this rule, a low-income community includes but is not limited to communities with limited or insufficient financial means to cover basic needs and essential services.*”

**III. ORDER**

IT IS ORDERED that:

1. The proposed rule modifications are adopted as set forth in Appendix B to this order.

2. The rule changes become effective upon filing with the Secretary of State.

Made, entered, and effective \_\_\_\_\_.

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**Megan W. Decker**  
Chair

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**Letha Tawney**  
Commissioner

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**Mark R. Thompson**  
Commissioner

A person may petition the Oregon Public Utility Commission for the amendment or repeal of a rule under ORS 183.390. A person may petition the Oregon Court of Appeals to determine the validity of a rule under ORS 183.400.



## OAR 860-001-0800

### Purpose Statement

(1) The purpose of OAR 860-001-0800 through OAR 860-001-0900 is to provide guidance for organizations seeking Justice Funding Grants, made available through ORS 757.072, ~~for organizations to represent the interests of low-income residential customers or the interests of environmental justice communities to participate~~ in matters at the Oregon Public Utility Commission.

(2) These rules ~~facilitate the administration and implementation of~~ reflect the Environmental Justice Communities Funding Agreement adopted by the Commission and found online at <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>.

(3) Under the agreement, two funds are established for Justice Funding Grants, the Pre-certification Fund and Case Fund. These funds are from the Participating Public Utilities, and the grants under each fund are approved by the Commission.

(4) The Commission may delegate its authority set forth in OAR 860-001-0840, OAR 860-001-0850, OAR 860-001-0860, and OAR 860-001-0890. The delegate's decisions may be appealed to the Commission.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

## OAR 860-001-0810

### Definitions

As used in OAR 860-001-0800 through 860-001-0900:

(1) "Agreement" means the Environmental Justice Communities Funding Agreement in Final Order No. 23-033 and found online at <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>.

(2) "Case-certified Organization" means an organization the Commission has designated as meeting the requirements of OAR 860-001-0840 and OAR 860-001-0860(6).

(3) "Case Fund" is a Participating Public Utility fund that is available to a Case-certified organization to reimburse or grant to fund activity in a specific Case-certified matter.

(4) "Eligible Expenses" are expenses for which Eligible Recipients may request payment of consistent with OAR 860-001-0870.

(5) "Eligible Proceedings" are proceedings ~~which~~ the Commission has determined meet the requirements of ~~Rule~~ OAR 860-001-0830.

(6) "Eligible Recipient" means an organization that represents the interests of either low-income residential customers or communities, as described in OAR 860-021-0180, or customers that are members of Environmental Justice Communities as defined below. For the purposes of this rule, a low-income community includes, but is not limited to, communities with limited or insufficient financial means to cover basic needs and essential services.

(7) "Environmental Justice" means equal protection from environmental and health hazards and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality and play.

(8) "Environmental Justice Community or Communities" includes communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure, and other communities traditionally

underrepresented in public processes and adversely harmed by environmental and health hazards, including but not limited to seniors, youth, and persons with disabilities;

(98) “Justice Funding Grants” are grants from either a Pre-certification Fund or Case Fund made subject to these rules.

(109) “Participating Public Utility or Utilities” means any of the following utilities: Northwest Natural Gas Company, dba NW Natural; PacifiCorp, dba Pacific Power; Portland General Electric Company; Cascade Natural Gas Corporation; Avista Corporation, dba Avista Utilities; ~~or~~ and Idaho Power Company.

(110) “Pre-certification Fund” is a Participating Public Utility fund that is available to a Pre-certified Organization to reimburse or grant to fund activity in an Eligible Proceeding.

(124) “Pre-certified Organization” means an organization that the Commission has determined meets the eligibility criteria under ORS 757.072(2)(a)(B) and (C) and the rules below.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

### **OAR 860-001-0820**

#### **Funding Amounts and Rollover**

(1) The amounts to be made available annually for the Pre-certification Fund and the Case Fund for each utility is set forth in the Agreement approved by the Commission and found online at <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>.

(2) A balance in any of the Justice Grant Fund accounts that is unused in any year will be carried over at the end of the calendar year and made available for use in succeeding years, except that the amount rolled over to the next year may not exceed the amounts listed in section (1) of this rule.

(3) Up to seventy-70 percent of any balance remaining in any of the Pre-certified Funds after the annual grants are approved may be used for Case Fund gGrants for that calendar year after approval by the Commission of a request to reallocate these funds.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

### **OAR 860-001-0830**

#### **Eligible Proceedings**

(1) Eligible Proceedings include proceedings before the Commission that affect a Participating Public Utility, its customers and its Environmental Justice Communities including, but not limited to, named, non-docketed Commission led processes, rulemakings, contested cases, declaratory ruling proceedings, contested case proceedings such as rate cases, integrated resource plans and updates, distribution system planning, depreciation dockets, deferrals for projects or pilots and design and implementation of differential rates, the Energy Trust’s budget and planning process, and power or purchased gas adjustments; but they do not include complaint proceedings initiated or caused to be initiated by the Grantee.

(2) Justice Funding Grants will not be made available for proceedings involving telecommunications utilities, water utilities, or wastewater utilities unless the proceedings relate to one or more of the Participating Public Utilities.

Stat. Authority: ORS 757.072  
Stat. Implemented: ORS 757.072

## **OAR 860-001-0840**

### **Justice Funding Eligibility**

(1) ~~All~~ ~~An~~ ~~o~~ Organizations meeting the following criteria may be certified by the Commission to be eligible to receive Justice Funding Grants:

- (a) The organization represents the interests of low-income residential customers or Environmental Justice Communities, and participation in proceedings will be primarily directed at public utility issues affecting those interests, including but not limited to, interests in utility rates and terms and conditions of service, interests in the cost of access and impact from the delivery of services, interest in utility programs, and interest in utility resource planning;
- (b) The organization identifies the specific Environmental Justice Community or low-income customers it represents and demonstrates that it is able to effectively represent them;
- (c) The organization demonstrates that it is able to effectively represent or develop advocacy positions benefitting or informed by the Environmental Justice Community or low-income customers, in the service area of each Participating Public Utility for which funding is sought and demonstrates how it will identify the issues or advocacy positions that are important to those represented;
- (d) When applicable, the organization has demonstrated in past Commission matters its ability to substantively contribute to the record on behalf of such interests; and
- (e) In contested case proceedings, the organization demonstrates that its request for funding will not unduly delay the schedule of the proceeding.

(2) In determining ~~whether if an~~ organizations ~~should be~~ ~~is~~ eligible to receive a Justice Funding Grant, the Commission may also consider whether the organization has significant ties to the Environmental Justice Community or low-income customers in the service area of each Participating Public Utility for which the Justice Funding Grant is sought.

(3) Pre-certified and Case-certified grantees are encouraged to make all reasonable efforts to enter into agreements with each other at any time, including before submitting proposed budgets or after receiving Case Fund Grants, to combine their efforts and resources in a case. Such cooperative efforts shall not affect the amount of their grants.

(4) Upon the filing of a complaint pursuant to ORS 756.500 or upon a Commission investigation or motion pursuant to ORS 756.515, the Commission may terminate the precertification or case-certification of an eligible entity, grantee, or applicant if it finds that:

- (a) The organization has committed fraud, misrepresentation, or misappropriation related to a Justice Funding Grant;
- (b) In a proceeding before the Commission for which Justice Funding Grants were awarded to the organization, the organization has consistently failed to represent the interests of the Environmental Justice Community that the organization purported to represent in its application for pre-certification;
- (c) The organization has failed to comply with Commission orders or rules in material ways;
- (d) The organization no longer meets the criteria established in these rules.

(5) In the event of termination of the pre-certification or case-certification of an organization, such termination shall take effect on a prospective basis only. Organizations that have been decertified may not receive Justice Funding Grants for the term of the agreement. Organizations

that have been decertified may recover Eligible Expenses incurred pursuant to a Commission authorized Justice Funding Grant and incurred before decertification, subject to satisfaction of the requirements for payment of grants set forth in the Agreement and these rules.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

### **OAR 860-001-0850**

#### **Pre-certification Fund**

~~(1) NW Natural, PacifiCorp, and Portland General Electric have Pre-certification Fund accounts.~~

~~(12)~~ ~~N~~No more than five eligible organizations will be Pre-certified each year.

~~(23)~~ Pre-certified Organizations may request an Advance from the Pre-certification accounts in the next year.

~~(34)~~ Applications for Pre-certification for the subsequent year must be filed no later than November 10 in docket UM 2276.

~~(45)~~ Pre-certification requests must include the following elements:

(a) A narrative on why the applicant meets the eligibility criteria set forth in OAR 860-001-0840;

(b) The types of matters in which the applicant intends to participate, the nature of that participation, and why these types of matters are Eligible Proceedings;

(c) The Participating Public Utility account or accounts from which the applicant seeks funds; and

(d) A budget showing estimated Eligible Expenses.

~~(56)~~ Any person may provide a response to an application within 14 days of the filing of the application.

~~(67)~~ The Commission will make best efforts to review and act upon an application for Pre-certification within 45 days of receipt. The Commission may approve or deny, in whole or in part, the application based on any of the following factors:

(a) The breadth and complexity of the issues or the importance of community participation;

(b) The degree to which any policy issues affect the interests of low-income residential customers or the interests of residential customers that are members of Environmental Justice Communities;

(c) The proposed budget; which must include a description of the Participating Public Utility account or accounts from which the applicant seeks funds and how payments should be apportioned.

(d) The eligibility criteria to which the applicant is subject;

(e) The qualifications of the applicant and experience before the Commission; and

(f) The level of available Pre-certified Funds consistent with the Agreement approved by the Commission and found online at <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>.

~~(78)~~ Once Pre-certified, an organization will remain Pre-certified for one year unless the Commission terminates the Pre-certification.

~~(89)~~ A Pre-certification Fund Grant recipient may file a request to amend its budget for good cause. The Commission will make best efforts to act upon the request within 21 days of receiving the proposed amendment or, if applicable, any supplemental information provided in response to the Commission's request. Any person may provide a response to a proposed budget amendment within 14 days of the filing of the request.

~~(910)~~ The Commission may amend an approved Pre-certified grantee's budget if it finds that the approved budget is no longer warranted. If the Commission amends an approved budget, it will

provide notice to the Pre-certification Fund Grant recipient and afford an opportunity to comment and provide a revised budget.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

## **OAR 860-001-0860**

### **Case Fund**

~~(1) NW Natural, PacifiCorp, Portland General Electric, Idaho Power, Avista, and Cascade Natural Gas have Case Fund accounts.~~

~~(12)~~ Applicants seeking a Case Fund Grant must file a notice of intent and request for case certification to request a Case Fund Grant when it files its petition to intervene or notice of participation in the matter or, for matters that do not involve a formal intervention, at such other time as the Commission designates.

~~(23)~~ The notice of intent:

(a) Must identify why the applicant meets the eligibility criteria listed in OAR 860-001-0840, explaining why the matter is an Eligible Proceeding. In the alternative, the applicant may identify any prior order deeming the organization an Eligible grantee and/or deeming the proceeding a Justice **Funding** Grant Eligible Proceeding and granting Case Certification;

(b) Must be served on each affected Participating Public Utility, all Pre-certified Organizations, and all parties of record in the proceeding;

(c) Must identify the Participating Public Utility account or accounts from which the intervening party intends to request a Case Fund Grant.

~~(34)~~ Any party or participant in the matter may provide a response to a request for Case Fund certification within 14 days of the filing of the request.

~~(45)~~ Once certified, a Case Fund certified organization must submit to the Commission a proposed budget for its participation in an Eligible Proceeding. The proposed budget must include a statement of work, estimated eligible expenses, and a description of the Participating Public Utility account or accounts from which the applicant seeks funds and how the initial payment should be apportioned.

~~(56)~~ A proposed budget must be filed no later than 30 days after the organization and the proceeding have been certified for **Justice Case Fund funding grants** or by such other date as the Commission designates. A proposed budget may be filed with the notice of intent and request for case certification.

~~(67)~~ An applicant may submit a combined proposed budget for related proceedings that are being considered concurrently by the Commission.

~~(78)~~ If the recipient expects to incur Eligible Expenses for Case Funds in more than one calendar year, the proposed budget may seek funds that will be made available in the next calendar year. In such cases, the proposed budget should identify the amount of funds requested from each year's fund.

~~(89)~~ Any party or participant in the matter may provide a response to a proposed budget within 14 days of the filing of the proposed budget.

~~(940)~~ The Commission may approve or deny, in whole or in part, an applicant's proposed budget based on any of the following factors:

(a) The proposal is not consistent with the breadth and complexity of the issues;

- (b) The degree to which any policy issues affect the interests of low-income residential customers or the interests of residential customers that are members of Environmental Justice Communities;
- (c) The procedural schedule;
- (d) The dollar magnitude of the issues at stake;
- (e) The qualifications of the organization and experience before the Commission;
- (f) The level of available Case Funds remaining for the year; and
- (g) Other Eligible Proceedings in which other Eligible Recipients may seek additional funds consistent with ORS 757.072(2)(c).

(10~~1~~) The Commission will make best efforts to act upon proposed budgets for Case Fund ~~g~~Grants within 30 days of receiving the proposed budgets.

(11~~2~~) If the Commission receives one or more notices of intent and one or more proposed budgets, then the Commission will determine the amount of Case Fund Grants that will be made available for the Eligible Proceeding and the allocation of that amount among the applicants. The Commission may make these determinations upon the factors described in the ~~A~~agreement ~~approved by the Commission and found online at [https://apps.puc.state.or.us/orders/23-033.pdf](https://apps.puc.state.or.us/orders/2023ords/23-033.pdf).~~

(12~~3~~) At any time during a proceeding, a Case Fund Grant recipient may file to amend its budget and request additional funding due to unforeseen changes in the scope or complexity of issues, positions taken by other parties, changes in the schedule of the case, or other good cause. Grantees with approved budgets in multiple dockets may request to reallocate approved amounts between dockets by filing a request in both dockets. The request must identify the previously approved proposed budget amounts, the amended proposed budget amounts for each docket after reallocation of funds; and the request must explain the purpose for the requested reallocation. Any party or participant in the matter may provide a response to a proposed amendment within 14 days of the filing of the request. The Commission will make best efforts to act upon the request within 21 days of receiving the proposed amendment or, if applicable, any supplemental information provided in response to the Commission's request.

(13~~4~~) The Commission may amend an approved proposed budget if it finds that there has been a material change in the breadth and complexity of the issues, the significance of the policy issues, or the dollar magnitude at stake, such that the initial approved proposed budget is no longer warranted. If the Commission amends an approved proposed budget, it will provide notice to the recipient and afford an opportunity to comment and provide a revised budget. A Commission amendment of an approved proposed budget takes effect on a prospective basis only.

(14~~5~~) Pre-certified organizations and organizations who become Case-certified for a specific proceeding are eligible to receive Case Fund Grants.

(15~~6~~) The Commission may approve a Case Fund Grant from funds that will be made available in the next calendar year when the proceeding for which the Case Fund Grant is sought is expected to continue into that year and funds in the current year Case Fund are inadequate to provide the level grant that the Commission determines is appropriate.

Stat. Authority: ORS 757.072  
Stat. Implemented: ORS 757.072

**OAR 860-001-0870**



### **Eligible Expenses**

(1) Eligible Expenses include:

- (a) Actual attorney and consultant fees, whether in-house or for outside services, directly attributable to participation in the proceeding;
  - (b) Expert witness fees and expenses;
  - (c) Apportioned wages for in-house staff and operational support directly related to participation in the proceeding;
  - (d) The cost of investigations and of preparing and copying studies, data request responses and other discovery materials, exhibits, testimony, briefs, and other filings in the proceeding;
  - (e) Travel costs directly related to participation in the proceeding;
  - (f) Costs of acquiring studies or supplies directly related to the proceeding or court reporter fees and transcripts;
  - (g) Costs for education, organization, preparation for and facilitation of community members' participation in proceedings or an individual community member's participation in a proceeding;
  - (h) Costs of participation in workshops and other informal Commission activities prior to the institution of an Eligible Proceeding; and
  - (i) Cost of contractors and subcontractors conducting activities that would otherwise constitute an eligible expense under this definition had they been directly incurred by the Grantee.
- (2) Justice Funding Grants may not be used political activities or fund raising.
- (3) Pre-certification grants may not be used for complaint proceedings before the Commission.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

### **OAR 860-001-0890**

#### **Payment of Grants and Reporting**

- (1) Upon Commission approval of a Pre-certified Fund grant or approval of a request for payment from a Case Fund, the Participating Public Utilities must pay the amounts granted pursuant to Commission order. The Participating Public Utilities must pay the amount authorized by the Commission no later than 30 days after receipt of the Commission order.
- (2) To receive payment of a Case Fund Grant, a grantee must submit a request for payment of Eligible Expenses to the Commission and serve a copy on the Participating Public Utility from whose account payment is to be made. If the grantee intends to release funds not used, the grantee may file a release of funds.
- (3) A request for payment or notice of release of funds may be made at any time during an Eligible Proceeding, after the Commission has approved the applicable proposed budget, but grantees should file the request for payment and notice of release no later than November 17, at which time the Commission will issue a final notice to grantees requiring all requests for payment and notices of release by December 15. Grantees who fail to file a request for payment or notice of release by December 15 will be deemed to have released any remaining allocated funds back to the applicable Case Fund.
- (4) The request for payment must:
  - (a) Itemize the expenses, payees and hourly rates for amounts to be reimbursed, including billing details, and including separately identified amounts for consultant or expert witness fees and travel expenses;

- (b) Demonstrate that the expenses are reasonable and are directly attributable to issues and positions pursued on behalf of low-income residential customers or Environmental Justice Communities and consistent with the grantee's proposed budget;
- (c) Provide information sufficient to show that the grantee has complied with any condition or requirement of the Case Fund Grant; and
- (d) Specify whether the request for payment is for a progress payment or final payment in full and indicate whether any approved budget amount may be released back to the applicable Case Fund because the grantee does not intend to request payment for the full approved budget amount.
- (5) A request for payment under this section may be made as a progress payment prior to the completion of the activity to be performed consistent with an approved budget; provided that any request for payment prior to completion of the activity may not exceed 50 percent of the applicable approved budget.
- (6) Any person may provide a response to a request for payment of a Case Fund Grant or Pre-certification Fund Grant within 14 days of the filing of the request. Within 30 days of receiving a request for payment of a Case Fund Grant or Pre-certification Fund Grant, the Commission will make best efforts to review the sufficiency of the request and act upon it. The Commission may disallow a request for payment, in whole or in part, if it determines that the request seeks reimbursement for expenses that are not Eligible Expenses or expenses that are inconsistent with the Grantee's Case Fund Grant or Pre-certification Fund Grant, or any conditions placed on the Case Fund Grant or Pre-certification Fund Grant.
- (7) On or before each April 1, each Case-Fund recipient who had, during the prior calendar year, a continuing or newly approved Case Fund Grant or pending proposed budget for an Case Fund Grant request must provide a report the Administrative Hearings Division showing, as of December 31 of the prior calendar year for each Case Fund, their budget requests pending approval, approved budget amounts, requested payments, payments received, amounts actually spent on expenses described in budgets for proceedings in which the intervenor received an Case Fund Grant, and a statement indicating whether any of their approved budget amounts for an Case Fund Grant may be released back to the applicable Case Fund because the grantee does not intend to use the full approved amount.
- (8) Each August 1 during the term of the Agreement, approved by the Commission and found online at <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>, Pre-certified Organizations will provide the Administrative Hearings Division a statement setting forth the manner in which the Pre-certification Fund Grant was spent or intends to be spent, including information sufficient to show that the funds were spent in a manner consistent with the these rules, whether a request for payment for remaining amounts has been filed, the remaining amount outstanding and whether the remaining amount or any initial amount will be released back to the fund. Each Pre-certified Organization will serve a copy of the report it provides under this section on the applicable Participating Public Utility or Utilities.
- (9) Information presented under consistent with this rule OAR 860-001-0890 this rule may be provided by Grantees or Eligible Recipients directly to the Administrative Hearings Division with copies served upon the relevant Participating Public Utilities and may be designated as confidential and protected from public disclosure by the Commission to the maximum extent possible under the Oregon Public Records Law. The confidential designation will not prevent the applicable Participating Public Utility from reviewing the requests, budgets, or reports. If the order approving a budget imposes confidentiality obligations or if the information is provided pursuant to a protective order, the applicable Participating Public Utility will abide by any such



applicable confidentiality obligations. Grantees and eligible Recipients acknowledge that information covered by this rule may be assimilated into reports pursuant to ORS 757.072.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

### **OAR 860-001-0900**

#### **Recovery of Justice Funding Grants and Cost Allocation**

(1) Participating Public Utilities are permitted to recover in rates all amounts paid for Justice Funding Grants.

(a) If a Participating Public Utility seeks rate recovery through a deferred account, the account and amortization of the account is exempt from the amortization caps and earnings test set forth in subsections 5, 6, 7, 8 and 10 of ORS 757.259, as such subsections may be amended from time to ~~time, and~~ time and is not included in any calculation of the amortization cap for other deferred accounts.

(b) Amounts in any deferred account under this rule will include carrying costs at the Participating Public Utility's authorized cost of capital.

(c) If the applicable Eligible Proceeding results in a change of rates, Case Fund gGrants should be incorporated into rates at the same time as the rate change is made.

(d) For Case Fund gGrants that are not recovered in the Eligible Proceeding in which the funds were expended or when recovering Pre-certification gGrants, the timing and amortization period for recovering of such Justice Funding Grants will be left to the discretion of the Participating Public Utility, subject to Commission approval.

(2) In a proceeding involving more than one Participating Public Utility, the Commission will apportion the payment among the affected Participating Public Utilities.

(a) Criteria for making this allocation may include the relative gross revenue of the utilities, load, or other such factors as the Commission determines to be relevant to the matter.

(b) Payment will be apportioned to Avista, Cascade, and Idaho Power solely for Case Fund gGrants for matters affecting low-income residential customers or Environmental Justice Communities in the respective service area.

(c) Case Fund gGrants used to advocate positions on behalf of low-income residential customers or Environmental Justice Communities may be assessed as determined by the Commission.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

## **OAR 860-001-0800**

### **Purpose Statement**

- (1) The purpose of OAR 860-001-0800 through OAR 860-001-0900 is to provide guidance for organizations seeking Justice Funding Grants, made available through ORS 757.072, to represent the interests of low-income residential customers or the interests of environmental justice communities in matters at the Oregon Public Utility Commission.
- (2) These rules facilitate the administration and implementation of the Environmental Justice Communities Funding Agreement.
- (3) Under the agreement, two funds are established for Justice Funding Grants, the Pre-certification Fund and Case Fund. These funds are from the Participating Public Utilities, and the grants under each fund are approved by the Commission.
- (4) The Commission may delegate its authority set forth in OAR 860-001-0840, OAR 860-001-0850, OAR 860-001-0860, and OAR 860-001-0890. The delegate's decisions may be appealed to the Commission.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

## **OAR 860-001-0810**

### **Definitions**

As used in OAR 860-001-0800 through 860-001-0900:

- (1) "Agreement" means the Environmental Justice Communities Funding Agreement in Order No. 23-033 and found online at <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>.
- (2) "Case-certified Organization" means an organization the Commission has designated as meeting the requirements of OAR 860-001-0840 and OAR 860-001-0860(6).
- (3) "Case Fund" is a Participating Public Utility fund that is available to a Case-certified organization to reimburse or grant to fund activity in a specific Case-certified matter.
- (4) "Eligible Expenses" are expenses for which Eligible Recipients may request payment consistent with OAR 860-001-0870.
- (5) "Eligible Proceedings" are proceedings the Commission has determined meet the requirements of OAR 860-001-0830.
- (6) "Eligible Recipient" means an organization that represents the interests of either low-income residential customers or communities, or customers that are members of Environmental Justice Communities as defined below. For the purposes of this rule, a low-income community includes, but is not limited to, communities with limited or insufficient financial means to cover basic needs and essential services.
- (7) "Environmental Justice" means equal protection from environmental and health hazards and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality and play.
- (8) "Environmental Justice Community or Communities" includes communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure, and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including but not limited to seniors, youth, and persons with disabilities;

(9) “Justice Funding Grants” are grants from either a Pre-certification Fund or Case Fund made subject to these rules.

(10) “Participating Public Utility or Utilities” means any of the following utilities: Northwest Natural Gas Company, dba NW Natural; PacifiCorp, dba Pacific Power; Portland General Electric Company; Cascade Natural Gas Corporation; Avista Corporation, dba Avista Utilities; and Idaho Power Company.

(11) “Pre-certification Fund” is a Participating Public Utility fund that is available to a Pre-certified Organization to reimburse or grant to fund activity in an Eligible Proceeding.

(12) “Pre-certified Organization” means an organization that the Commission has determined meets the eligibility criteria under ORS 757.072(2)(a)(B) and (C) and the rules below.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

### **OAR 860-001-0820**

#### **Funding Amounts and Rollover**

(1) The amounts to be made available annually for the Pre-certification Fund and the Case Fund for each utility is set forth in the Agreement.

(2) A balance in any of the Justice Grant Fund accounts that is unused in any year will be carried over at the end of the calendar year and made available for use in succeeding years, except that the amount rolled over to the next year may not exceed the amounts listed in section (1) of this rule.

(3) Up to 70 percent of any balance remaining in any of the Pre-certified Funds after the annual grants are approved may be used for Case Fund grants for that calendar year after approval by the Commission of a request to reallocate these funds.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

### **OAR 860-001-0830**

#### **Eligible Proceedings**

(1) Eligible Proceedings include proceedings before the Commission that affect a Participating Public Utility, its customers and its Environmental Justice Communities including, but not limited to, named, non-docketed Commission led processes, rulemakings, contested cases, declaratory ruling proceedings, contested case proceedings such as rate cases, integrated resource plans and updates, distribution system planning, depreciation dockets, deferrals for projects or pilots and design and implementation of differential rates, the Energy Trust’s budget and planning process, and power or purchased gas adjustments; but they do not include complaint proceedings initiated or caused to be initiated by the Grantee.

(2) Justice Funding Grants will not be made available for proceedings involving telecommunications utilities, water utilities, or wastewater utilities unless the proceedings relate to one or more of the Participating Public Utilities.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

**OAR 860-001-0840**

**Justice Funding Eligibility**

(1) An organization meeting the following criteria may be certified by the Commission to be eligible to receive Justice Funding Grants:

(a) The organization represents the interests of low-income residential customers or Environmental Justice Communities, and participation in proceedings will be primarily directed at public utility issues affecting those interests, including but not limited to, interests in utility rates and terms and conditions of service, interests in the cost of access and impact from the delivery of services, interest in utility programs, and interest in utility resource planning;

(b) The organization identifies the specific Environmental Justice Community or low-income customers it represents and demonstrates that it is able to effectively represent them;

(c) The organization demonstrates that it is able to effectively represent or develop advocacy positions benefitting or informed by the Environmental Justice Community or low-income customers, in the service area of each Participating Public Utility for which funding is sought and demonstrates how it will identify the issues or advocacy positions that are important to those represented;

(d) When applicable, the organization has demonstrated in past Commission matters its ability to substantively contribute to the record on behalf of such interests; and

(e) In contested case proceedings, the organization demonstrates that its request for funding will not unduly delay the schedule of the proceeding.

(2) In determining if an organization is eligible to receive a Justice Funding Grant, the Commission may also consider whether the organization has significant ties to the Environmental Justice Community or low-income customers in the service area of each Participating Public Utility for which the Justice Funding Grant is sought.

(3) Pre-certified and Case-certified grantees are encouraged to make all reasonable efforts to enter into agreements with each other at any time, including before submitting proposed budgets or after receiving Case Fund Grants, to combine their efforts and resources in a case. Such cooperative efforts shall not affect the amount of their grants.

(4) Upon the filing of a complaint pursuant to ORS 756.500 or upon a Commission investigation or motion pursuant to ORS 756.515, the Commission may terminate the precertification or case-certification of an eligible entity, grantee, or applicant if it finds that:

(a) The organization has committed fraud, misrepresentation, or misappropriation related to a Justice Funding Grant;

(b) In a proceeding before the Commission for which Justice Funding Grants were awarded to the organization, the organization has consistently failed to represent the interests of the Environmental Justice Community that the organization purported to represent in its application for pre-certification;

(c) The organization has failed to comply with Commission orders or rules in material ways;

(d) The organization no longer meets the criteria established in these rules.

(5) In the event of termination of the pre-certification or case-certification of an organization, such termination shall take effect on a prospective basis only. Organizations that have been decertified may not receive Justice Funding Grants for the term of the agreement. Organizations that have been decertified may recover Eligible Expenses incurred pursuant to a Commission authorized Justice Funding Grant and incurred before decertification, subject to satisfaction of the requirements for payment of grants set forth in the Agreement and these rules.

Stat. Authority: ORS 757.072  
Stat. Implemented: ORS 757.072

**OAR 860-001-0850**  
**Pre-certification Fund**

- (1) No more than five eligible organizations will be Pre-certified each year.
- (2) Pre-certified Organizations may request an Advance from the Pre-certification accounts in the next year.
- (3) Applications for Pre-certification for the subsequent year must be filed no later than November 10 in docket UM 2276.
- (4) Pre-certification requests must include the following elements:
  - (a) A narrative on why the applicant meets the eligibility criteria set forth in OAR 860-001-0840;
  - (b) The types of matters in which the applicant intends to participate, the nature of that participation, and why these types of matters are Eligible Proceedings;
  - (c) The Participating Public Utility account or accounts from which the applicant seeks funds; and
  - (d) A budget showing estimated Eligible Expenses.
- (5) Any person may provide a response to an application within 14 days of the filing of the application.
- (6) The Commission will make best efforts to review and act upon an application for Pre-certification within 45 days of receipt. The Commission may approve or deny, in whole or in part, the application based on any of the following factors:
  - (a) The breadth and complexity of the issues or the importance of community participation;
  - (b) The degree to which any policy issues affect the interests of low-income residential customers or the interests of residential customers that are members of Environmental Justice Communities;
  - (c) The proposed budget; which must include a description of the Participating Public Utility account or accounts from which the applicant seeks funds and how payments should be apportioned.
  - (d) The eligibility criteria to which the applicant is subject;
  - (e) The qualifications of the applicant and experience before the Commission; and
  - (f) The level of available Pre-certified Funds consistent with the Agreement.
- (7) Once Pre-certified, an organization will remain Pre-certified for one year unless the Commission terminates the Pre-certification.
- (8) A Pre-certification Fund Grant recipient may file a request to amend its budget for good cause. The Commission will make best efforts to act upon the request within 21 days of receiving the proposed amendment or, if applicable, any supplemental information provided in response to the Commission's request. Any person may provide a response to a proposed budget amendment within 14 days of the filing of the request.
- (9) The Commission may amend an approved Pre-certified grantee's budget if it finds that the approved budget is no longer warranted. If the Commission amends an approved budget, it will provide notice to the Pre-certification Fund Grant recipient and afford an opportunity to comment and provide a revised budget.

Stat. Authority: ORS 757.072  
Stat. Implemented: ORS 757.072

**OAR 860-001-0860**

**Case Fund**

- (1) Applicants seeking a Case Fund Grant must file a notice of intent and request for case certification to request a Case Fund Grant when it files its petition to intervene or notice of participation in the matter or, for matters that do not involve a formal intervention, at such other time as the Commission designates.
- (2) The notice of intent:
  - (a) Must identify why the applicant meets the eligibility criteria listed in OAR 860-001-0840, explaining why the matter is an Eligible Proceeding. In the alternative, the applicant may identify any prior order deeming the organization an Eligible grantee and/or deeming the proceeding a Justice Funding Grant Eligible Proceeding and granting Case Certification;
  - (b) Must be served on each affected Participating Public Utility, all Pre-certified Organizations, and all parties of record in the proceeding;
  - (c) Must identify the Participating Public Utility account or accounts from which the intervening party intends to request a Case Fund Grant.
- (3) Any party or participant in the matter may provide a response to a request for Case Fund certification within 14 days of the filing of the request.
- (4) Once certified, a Case Fund certified organization must submit to the Commission a proposed budget for its participation in an Eligible Proceeding. The proposed budget must include a statement of work, estimated eligible expenses, and a description of the Participating Public Utility account or accounts from which the applicant seeks funds and how the initial payment should be apportioned.
- (5) A proposed budget must be filed no later than 30 days after the organization and the proceeding have been certified for Case Fund grants or by such other date as the Commission designates. A proposed budget may be filed with the notice of intent and request for case certification.
- (6) An applicant may submit a combined proposed budget for related proceedings that are being considered concurrently by the Commission.
- (7) If the recipient expects to incur Eligible Expenses for Case Funds in more than one calendar year, the proposed budget may seek funds that will be made available in the next calendar year. In such cases, the proposed budget should identify the amount of funds requested from each year's fund.
- (8) Any party or participant in the matter may provide a response to a proposed budget within 14 days of the filing of the proposed budget.
- (9) The Commission may approve or deny, in whole or in part, an applicant's proposed budget based on any of the following factors:
  - (a) The proposal is not consistent with the breadth and complexity of the issues;
  - (b) The degree to which any policy issues affect the interests of low-income residential customers or the interests of residential customers that are members of Environmental Justice Communities;
  - (c) The procedural schedule;
  - (d) The dollar magnitude of the issues at stake;
  - (e) The qualifications of the organization and experience before the Commission;
  - (f) The level of available Case Funds remaining for the year; and

(g) Other Eligible Proceedings in which other Eligible Recipients may seek additional funds consistent with ORS 757.072(2)(c).

(10) The Commission will make best efforts to act upon proposed budgets for Case Fund grants within 30 days of receiving the proposed budgets.

(11) If the Commission receives one or more notices of intent and one or more proposed budgets, then the Commission will determine the amount of Case Fund Grants that will be made available for the Eligible Proceeding and the allocation of that amount among the applicants. The Commission may make these determinations upon the factors described in the Agreement.

(12) At any time during a proceeding, a Case Fund Grant recipient may file to amend its budget and request additional funding due to unforeseen changes in the scope or complexity of issues, positions taken by other parties, changes in the schedule of the case, or other good cause.

Grantees with approved budgets in multiple dockets may request to reallocate approved amounts between dockets by filing a request in both dockets. The request must identify the previously approved proposed budget amounts, the amended proposed budget amounts for each docket after reallocation of funds; and the request must explain the purpose for the requested reallocation. Any party or participant in the matter may provide a response to a proposed amendment within 14 days of the filing of the request. The Commission will make best efforts to act upon the request within 21 days of receiving the proposed amendment or, if applicable, any supplemental information provided in response to the Commission's request.

(13) The Commission may amend an approved proposed budget if it finds that there has been a material change in the breadth and complexity of the issues, the significance of the policy issues, or the dollar magnitude at stake, such that the initial approved proposed budget is no longer warranted. If the Commission amends an approved proposed budget, it will provide notice to the recipient and afford an opportunity to comment and provide a revised budget. A Commission amendment of an approved proposed budget takes effect on a prospective basis only.

(14) Pre-certified organizations and organizations who become Case-certified for a specific proceeding are eligible to receive Case Fund Grants.

(15) The Commission may approve a Case Fund Grant from funds that will be made available in the next calendar year when the proceeding for which the Case Fund Grant is sought is expected to continue into that year and funds in the current year Case Fund are inadequate to provide the level grant that the Commission determines is appropriate.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

### **OAR 860-001-0870**

#### **Eligible Expenses**

(1) Eligible Expenses include:

(a) Actual attorney and consultant fees, whether in-house or for outside services, directly attributable to participation in the proceeding;

(b) Expert witness fees and expenses;

(c) Apportioned wages for in-house staff and operational support directly related to participation in the proceeding;

(d) The cost of investigations and of preparing and copying studies, data request responses and other discovery materials, exhibits, testimony, briefs, and other filings in the proceeding;

- (e) Travel costs directly related to participation in the proceeding;
  - (f) Costs of acquiring studies or supplies directly related to the proceeding or court reporter fees and transcripts;
  - (g) Costs for education, organization, preparation for and facilitation of community members' participation in proceedings or an individual community member's participation in a proceeding;
  - (h) Costs of participation in workshops and other informal Commission activities prior to the institution of an Eligible Proceeding; and
  - (i) Cost of contractors and subcontractors conducting activities that would otherwise constitute an eligible expense under this definition had they been directly incurred by the Grantee.
- (2) Justice Funding Grants may not be used political activities or fund raising.
- (3) Pre-certification grants may not be used for complaint proceedings before the Commission.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

### **OAR 860-001-0890**

#### **Payment of Grants and Reporting**

- (1) Upon Commission approval of a Pre-certified Fund grant or approval of a request for payment from a Case Fund, the Participating Public Utilities must pay the amounts granted pursuant to Commission order. The Participating Public Utilities must pay the amount authorized by the Commission no later than 30 days after receipt of the Commission order.
- (2) To receive payment of a Case Fund Grant, a grantee must submit a request for payment of Eligible Expenses to the Commission and serve a copy on the Participating Public Utility from whose account payment is to be made. If the grantee intends to release funds not used, the grantee may file a release of funds.
- (3) A request for payment or notice of release of funds may be made at any time during an Eligible Proceeding, after the Commission has approved the applicable proposed budget, but grantees should file the request for payment and notice of release no later than November 17, at which time the Commission will issue a final notice to grantees requiring all requests for payment and notices of release by December 15. Grantees who fail to file a request for payment or notice of release by December 15 will be deemed to have released any remaining allocated funds back to the applicable Case Fund.
- (4) The request for payment must:
- (a) Itemize the expenses, payees and hourly rates for amounts to be reimbursed, including billing details, and including separately identified amounts for consultant or expert witness fees and travel expenses;
  - (b) Demonstrate that the expenses are reasonable and are directly attributable to issues and positions pursued on behalf of low-income residential customers or Environmental Justice Communities and consistent with the grantee's proposed budget;
  - (c) Provide information sufficient to show that the grantee has complied with any condition or requirement of the Case Fund Grant; and
  - (d) Specify whether the request for payment is for a progress payment or final payment in full and indicate whether any approved budget amount may be released back to the applicable Case Fund because the grantee does not intend to request payment for the full approved budget amount.
- (5) A request for payment under this section may be made as a progress payment prior to the completion of the activity to be performed consistent with an approved budget; provided that any



request for payment prior to completion of the activity may not exceed 50 percent of the applicable approved budget.

(6) Any person may provide a response to a request for payment of a Case Fund Grant or Pre-certification Fund Grant within 14 days of the filing of the request. Within 30 days of receiving a request for payment of a Case Fund Grant or Pre-certification Fund Grant, the Commission will make best efforts to review the sufficiency of the request and act upon it. The Commission may disallow a request for payment, in whole or in part, if it determines that the request seeks reimbursement for expenses that are not Eligible Expenses or expenses that are inconsistent with the Grantee's Case Fund Grant or Pre-certification Fund Grant, or any conditions placed on the Case Fund Grant or Pre-certification Fund Grant.

(7) On or before each April 1, each Case-Fund recipient who had, during the prior calendar year, a continuing or newly approved Case Fund Grant or pending proposed budget for an Case Fund Grant request must provide a report the Administrative Hearings Division showing, as of December 31 of the prior calendar year for each Case Fund, their budget requests pending approval, approved budget amounts, requested payments, payments received, amounts actually spent on expenses described in budgets for proceedings in which the intervenor received an Case Fund Grant, and a statement indicating whether any of their approved budget amounts for an Case Fund Grant may be released back to the applicable Case Fund because the grantee does not intend to use the full approved amount.

(8) Each August 1 during the term of the Agreement. Pre-certified Organizations will provide the Administrative Hearings Division a statement setting forth the manner in which the Pre-certification Fund Grant was spent or intends to be spent, including information sufficient to show that the funds were spent in a manner consistent with the these rules, whether a request for payment for remaining amounts has been filed, the remaining amount outstanding and whether the remaining amount or any initial amount will be released back to the fund. Each Pre-certified Organization will serve a copy of the report it provides under this section on the applicable Participating Public Utility or Utilities.

(9) Information presented under this rule may be provided by Grantees or Eligible Recipients directly to the Administrative Hearings Division with copies served upon the relevant Participating Public Utilities and may be designated as confidential and protected from public disclosure by the Commission to the maximum extent possible under the Oregon Public Records Law. The confidential designation will not prevent the applicable Participating Public Utility from reviewing the requests, budgets, or reports. If the order approving a budget imposes confidentiality obligations or if the information is provided pursuant to a protective order, the applicable Participating Public Utility will abide by any such applicable confidentiality obligations. Grantees and eligible Recipients acknowledge that information covered by this rule may be assimilated into reports pursuant to ORS 757.072.

Stat. Authority: ORS 757.072

Stat. Implemented: ORS 757.072

### **OAR 860-001-0900**

#### **Recovery of Justice Funding Grants and Cost Allocation**

(1) Participating Public Utilities are permitted to recover in rates all amounts paid for Justice Funding Grants.

- (a) If a Participating Public Utility seeks rate recovery through a deferred account, the account and amortization of the account is exempt from the amortization caps and earnings test set forth in subsections 5, 6, 7, 8 and 10 of ORS 757.259, as such subsections may be amended from time to time and is not included in any calculation of the amortization cap for other deferred accounts.
  - (b) Amounts in any deferred account under this rule will include carrying costs at the Participating Public Utility's authorized cost of capital.
  - (c) If the applicable Eligible Proceeding results in a change of rates, Case Fund grants should be incorporated into rates at the same time as the rate change is made.
  - (d) For Case Fund grants that are not recovered in the Eligible Proceeding in which the funds were expended or when recovering Pre-certification grants, the timing and amortization period for recovering of such Justice Funding Grants will be left to the discretion of the Participating Public Utility, subject to Commission approval.
- (2) In a proceeding involving more than one Participating Public Utility, the Commission will apportion the payment among the affected Participating Public Utilities.
- (a) Criteria for making this allocation may include the relative gross revenue of the utilities, load, or other such factors as the Commission determines to be relevant to the matter.
  - (b) Payment will be apportioned to Avista, Cascade, and Idaho Power solely for Case Fund grants for matters affecting low-income residential customers or Environmental Justice Communities in the respective service area.
  - (c) Case Fund grants used to advocate positions on behalf of low-income residential customers or Environmental Justice Communities may be assessed as determined by the Commission.

Stat. Authority: ORS 757.072  
Stat. Implemented: ORS 757.072