

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UG 490

In the Matter of)	
)	
NORTHWEST NATURAL GAS)	PETITION FOR CASE CERTIFICATION
COMPANY)	OF FAIR OREGON UTILITY RATES
)	FOR SMALL BUSINESS
Request for a General Rate Revision)	
_____)	

I. INTRODUCTION

Pursuant to the Memorandum of Chief Administrative Law Judge Moser’s (“Chief ALJ”) issued on February 6, 2024 (“Memorandum”), Fair Oregon Utility Rates for Small Business (“FOUR”) petitions the Oregon Public Utility Commission (“Commission”) to case certify FOUR in this docket, a Request for a General Rate Revision filed by Northwest Natural Gas Company (“Company” or “NW Natural”) , for the purpose of receiving intervenor funding. Docket UG 490 is a contested case proceeding and a contested case is an eligible proceeding for an intervenor to seek an issue fund grant pursuant to Commission rules and requirements. OAR 860-001-0120(4), Article 1(d), Article 4.2.3, Article 5.3, Fifth Amended and Restated Intervenor Funding Agreement approved in Order 22-506 on December 29, 2022 (“IFA”), Administrative Law Judge Spruce (“ALJ”) UG 490 Prehearing Conference Memorandum; Request for Comments issued February 5, 2024, p3 and attachment (“Prehearing Conference Memorandum”), and Chief Administrative Law Judge Moser Memorandum issued February 6, 2024 (“Memorandum”).

Pursuant to the Memorandum, FOUR submits a Proposed Budget, attached as Exhibit A.¹

II. CRITERIA FOR CASE CERTIFICATION ARE MET BY FOUR

To demonstrate that it meets the criteria for case certification pursuant to the Memorandum, pp 4-5 and Commission requirements referenced in the Memorandum², FOUR represents as follows:

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¹ Memorandum, p4.

² Id., OAR 860-001-0120(4) and IFA.

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 nonprofit organization, or is comprised of multiple customers of one or more of the utilities that are parties to the agreement and demonstrates that a primary purpose of the organization is to represent broad utility customer interests; (b) The organization represents the interests of a broad class of customers and its participation in the proceedings will be primarily directed at public utility rates or terms and conditions of service affecting those customers, and not narrow interests or issues that are ancillary to the effect of the rates and terms and conditions of service on those customers; (c) The organization demonstrates that it is able to effectively represent the particular class of customers it seeks to represent; (d) Those members of the organization who are customers of one or more of the utilities that are affected by the 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 FOUR

For reasons set forth below, FOUR meets the criteria for certification as required in the Memorandum and Commission requirements set forth in the IFA and OAR 860-001-0120(4):

(a) Nonprofit Status and organization is made up of multiple customers of IFA parties

FOUR is a nonprofit organization registered in the State of Oregon and is in the process of becoming a 501(c)3 nonprofit. FOUR’s Board members include multiple customers of the utilities that are parties to the IFA agreement including NW Natural. This primary purpose is central to the FOUR bylaws.³ In addition to its Board members, FOUR has many supporters who

³Fair Oregon Utility Rates for Small Business Bylaws “Section 4. This Corporation holds its primary purposes to include increasing the presence of small business utility customers before regulatory bodies, uplift the interests of small business utility customers, advocate for fair and reasonable utility rates and terms of service for Oregon’s small business and educate small business customers, utilities, and the government on the energy and water behavior and needs of small businesses.”

are customers of the parties to the IFA. FOUR is a public benefit nonprofit whose adopted mission is to serve all small businesses in Oregon.

(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

FOUR represents the small business commercial customer class which is a large, broad, and diverse class of customers. Most businesses in Oregon are “small businesses”.⁴ As defined in Oregon’s Administrative Procedures Act, small business “means a corporation, partnership, sole proprietorship or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses, and which has 50 or fewer employees.” ORS 183.310(10).⁵ Almost 400,000 businesses in Oregon have fewer than 20 employees according to the U.S. Small Business Administration (“SBA”) 2023 Oregon profile.⁶ FOUR’s 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,⁷ with specific focus on the Company’s Rate Schedule 3—Basic Firm Sales Service Non-Residential.⁸

(c) Demonstrated Effective Representation

Those duly chosen by FOUR to support and represent the small nonresidential customer class in this docket UG 490 have demonstrated effective representation in other Commission rate cases and in natural gas proceedings including rate cases and, in particular, in the Company’s directly previous Oregon general rate case, UG 435. In that docket those same legal counsel and expert filed documents, provided expert testimony, participated in settlement conferences, and briefed the issues representing the constituency that is small business and represented the RS 03C in oral argument before the Commission.

⁴See Oregon Secretary of State Office of Small Business Assistance OSBA Report: “Multiple Definitions Cause Confusion for Oregon Small Businesses November 2021,” available at: <https://www.oregon.gov/smallbusiness/Documents/OSBA-Small-Business-Definitions-Report.pdf> (Last accessed 2/26/24).

⁵See Office of Small Business Assistance Report 2023-01 regarding the Small Business Rules Advisory Committee, published February 2023, p. 1, available at: <https://www.oregon.gov/smallbusiness/Documents/SBRAC-Study-February-2023.pdf> (Last accessed 2/26/24). The statutory definition specifically excludes coordinated care organizations. Id.

⁶ U.S. Small Business Administration Office of Advocacy 2023 Small Business Profile Oregon: <https://advocacy.sba.gov/wp-content/uploads/2023/11/2023-Small-Business-Economic-Profile-OR.pdf>

⁷ FOUR Bylaws, on file with the organization.

⁸ See <https://www.nwnatural.com/about-us/rates-and-regulations/oregon-tariff-book> (Last accessed 02/27/24). file:///Users/dianehenkels/Downloads/253ai_2023%20(1).pdf

In this docket FOUR will rely on the expertise of GDS Associates Inc. (“GDS”), and in particular Danny P. Kermode C.P.A. (“Kermode”) and Steven Hunt C.P.A. (« Hunt »). Kermode has substantial experience including serving as a Regulatory Analyst, Assistant Director for Water and Transportation, and Senior Policy Advisor with the Washington Utilities and Transportation Commission (“WUTC”) for many years, among other relevant positions in WUTC, and elsewhere. Kermode’s qualifications are known to the Commission as he has served as an expert in recent Oregon rate cases UG 435 and UE 399. In UG 435, Kermode supported the provision in the First Stipulation to review an intraclass subsidy from small business to large users due to the costs generated by the latter, who make up a smaller portion of the rate class.⁹ Hunt is GDS Principal for Rates & Regulatory and has 18 years of experience at the Federal Energy Regulatory Commission (« FERC ») including almost three as FERC Chief Accountant.¹⁰

Counsel Diane Henkels of Henkels Law LLC has represented small businesses generally in Oregon since approximately 2000, and has represented the interests of small nonresidential customers of investor-owned utilities before the Commission since approximately 2014, participating as legal counsel in all aspects of the dockets and achieving case certification and intervenor funding in several dockets.

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

FOUR receives financial and advisory support from small businesses and small businesses and small business focused organizations across the state. FOUR is a public benefit nonprofit whose adopted mission is to serve all small businesses in Oregon of which there are approximately 60,000 small commercial customers of the Company.¹¹

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

The perspective of the FOUR Board and docket staff has demonstrated ability to contribute to the record.

The staff chosen by FOUR to support and represent the small commercial customer class in this docket UG 490 have demonstrated ability to substantively contribute to the record on behalf of customer interests. The expert team, GDS, chosen by FOUR to support the organization, includes an expert already acknowledged through prior case certification by this

⁹ UG 435 NW Natural-Staff-CUB-AWEC-SBUA/100 Kravitz, Fjeldheim, Gehrke, Mullins, and Kermode/50 *citing* SBUA/100 Kermode 12-13.

¹⁰ See <https://www.gdsassociates.com/steven-hunt/>

¹¹ UG 490 NW Natural Request for General Rate Revision NW Natural/1801 Wyman/Page 1.

Commission for his representation in other Commission dockets including a prior rate case of this Company. The expert team GDS includes indisputable expertise for this rate case. Counsel for FOUR has long represented small business in various business law matters, and has represented the small nonresidential ratepayer class in Commission dockets for over a decade achieving case certification for a small business nonprofit in many dockets including a recent rate case by the Company.

FOUR Board members are small business owners themselves, working in the professional services, restaurant, and real estate industries. The Board members have demonstrated their ability to contribute to the Record on behalf of customer interests. These members come from a broad range of industries representing significant constituencies. Todd Kimball, FOUR's President is a realtor who uses a power wheelchair and has an eighteen-year career in the staffing and human resource industry. FOUR's Secretary Chelsea Alatraste Martinez from Newport, Oregon, grew up working the restaurants her family owns and operates in Newport and Corvallis, and is a law student in Eugene, Oregon. William Tsongiri, Board member, works in professional services, in translation services and is Vice Chair/Chair-elect, Emergency Preparedness Council of Clackamas County.

(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 commercial customers. FOUR represents solely these customers. The Citizens' Utility Board ("CUB") represents the residential customer class by statute¹², and runs a conflict given the different proposed rate impacts on Residential and Small commercial customer classes. Precertified Alliance of Western Energy Consumers ("AWEC") represents the large non-residential customer classes¹³ whose interests are also in conflict. Petitioners include the Coalition for Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club represent environmental, climate, environmental justice, and social justice organizations.¹⁴ These last are also known as "Environmental Intervenors".¹⁵ FOUR represents exclusively small business interests, and in particular Rate Schedule 03. Such customer class will benefit from

¹² ORS 774.010 & ORS 774.180.

¹³ UG 490 Alliance of Western Energy Consumers' ("AWEC") Petition to Intervene, filed January 3, 2024. AWEC is a non-profit association with membership consisting of 40 end users of natural gas with major facilities in the State of Oregon and other states. Id.

¹⁴ UG 490 Petition to Intervene by Coalition of Communities of Color, Climate Solutions, Verde, Columbia Riverkeeper, Oregon Environmental Council, Community Energy Project, and Sierra Club, filed January 26, 2024.

¹⁵ Prehearing Conference Memorandum, p1.

FOUR participation with information pertinent to small business and that the Commission is unlikely to receive from any other source.

(g) Participation will not Unduly Delay the Proceedings

FOUR acknowledges the schedules set forth in the Prehearing Conference Memorandum¹⁶ and in the Memorandum¹⁷ and FOUR's participation and request for case certification would not cause undue delay in proceedings.

III. CONCLUSION

For the foregoing reasons, FOUR requests that the Commission grant this Petition and grant FOUR case certification.

Respectfully submitted,

March 13 2024

s/ Diane Henkels

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¹⁶ See Prehearing Conference Memorandum p2 at link included here for convenience: <https://edocs.puc.state.or.us/efdocs/HDA/ug490hda326590032.pdf>.

¹⁷ See Memorandum p6, at link included here for convenience: <https://edocs.puc.state.or.us/efdocs/HDA/ug490hda326602023.pdf>.

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UG 490

IN THE MATTER OF:)	
)	
NORTHWEST NATURAL GAS)	PROPOSED BUDGET
COMPANY)	OF FAIR OREGON UTILITY
)	RATES FOR SMALL BUSINESS
Request for a General Rate Revision)	
_____)	

I. INTRODUCTION

Pursuant to the Chief Administrative Law Judge Memorandum issued February 6, 2024 (“Memorandum”) and Section 6.3 Fifth Amended and Restated Intervenor Funding Agreement, approved by Order 22-506 (“IFA”), Fair Oregon Utility Rates for Small Business (“FOUR”) submits this Proposed Budget as required documentation to receive an issue fund grant and case certified funding to assist FOUR’s representation in this docket.¹

II. REQUIREMENTS FOR AN ISSUE FUND GRANT PROPOSED BUDGET

Per the Memorandum and the IFA, the Proposed Budget must include: (i) a statement of work to be performed by the applicant for which the applicant is seeking an Issue Fund Grant; (ii) a description of the areas to be investigated by the intervenor; (iii) a description of the particular customer class or classes that will benefit from the intervenor's participation; (iv) 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; (v) a budget showing estimated attorney fees, which may include the cost for appropriate support staff and operational support; (vi) a budget showing estimated consultant fees and expert witness fees, which may include the cost for appropriate support staff and operational support; and (vii) 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.²

¹ IFA Section 4.2.

² Memorandum, p5-6, IFA 6.3.

(i) A statement of work to be performed by the applicant for which the applicant is seeking an issue fund grant.

FOUR represents small business including small non-residential customers in this docket. FOUR will participate in events identified on page two of the Administrative Law Judge (“ALJ”) Prehearing Conference Memorandum; Request for Comments issued February 5, 2024 (“Prehearing Conference Memorandum”), including settlement conferences and other meetings, data requests and responses, providing testimony, legal briefings, and if necessary, hearing and oral argument. FOUR has engaged experts from GDS Associates, Inc., including consultants Danny Kermode C.P.A.-retired and Steven Hunt C.P.A., well experienced in such proceedings.

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

FOUR proposes to investigate the following in this rate case:

- Adjustments proposed by the Company to support the Company’s proposed rate increase;
- Cost of service of the the Rate Schedule 03C (“RS 3C”) customer that the Company uses to justify an increase of 17% or and average increase of approximately \$48³ in this customer class monthly bill;
- Follow up on the RS 3C cost study performed by the Company pursuant to the applicable stipulation in the directly previous rate case;⁴ and
- Other topics as appropriate to ensure fair and reasonable rates and terms of service for the small non-residential customer.

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

The rate payer class that would benefit from FOUR’s participating in the proceeding is the customers in Rate Schedule 3 Basic Firm Sales Service Non-Residential.⁵

(iv) 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 each account.

The accounts from which FOUR seeks issue fund grant funding are NW Natural issue fund which has an amount of available funds was \$113,334 as of February 6, 2024⁶ and, per the

³ UG 490 NW Natural’s Exhibit A to Executive Summary, filed December 29, 2023.

⁴ UG 435 NW Natural Request for General Rate Revision and Advice 20-19, Schedule 198 Renewable Natural Gas Recovery Mechanism (ADV 1215) (UG 411) Stipulation Regarding Revenue Requirement, Rate Spread and Certain Other Issues, filed May 31, 2022, p11.

⁵ Also known as “small commercial”. See <https://www.nwnatural.com/about-us/rates-and-regulations/oregon-tariff-book> (Last accessed 2/26/24); See also “Commercial Sales Firm 03C” available at: UG 490 NW Natural Request for General Rate Revision NW Natural/1801 Wyman/Page 1.

⁶ Memorandum page 4.

intervenor funding spreadsheet as posted on March 12, 2024, \$302,601.39,⁷ and on March 13, 2024, there was \$116,601 in the Issue Fund and \$10,000 in the case certified fund.⁸

(v), (vi), and (vii) 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”, FOUR submits the attached UG 490 Proposed Budget of FOUR Exhibit A as a budget schedule for the issue fund grants requested.

III. CONCLUSION

FOUR submits the information above and attached as its Proposed Budget to represent small business and small commercial ratepayers for the Commission’s consideration of FOUR’s Petition for Case Certification and permitting FOUR to access either or both issue grant funds and case certification funds in this docket.

Date: March 13, 2024

s/ Diane Henkels

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⁷ Link to currently posted “Intervenor Funding Summary” posted at this site: <https://www.oregon.gov/puc/filing-center/pages/intervenor-funding.aspx> (Last accessed 03/12/24).

⁸ As of March 13, 2024 per Commission response to FOUR counsel email inquiry including residential and small nonresidential customer requests for this docket.

UG 490 Fair Oregon Utility Rates for Small Business Proposed Budget

EXHIBIT A

Personnel	Hours	Rate	Cost
Expert witness	70	\$280	\$19600
Attorney	16	\$300	\$4800
Technical support/Administrative	12	\$50	\$600
Board	0	\$0	\$0
Law Clerk (for credit only)			\$0
<i>Other Expenses</i>			
Travel (remote only per UG 490 ALJ Memorandum of 2/28/24)			\$0
Other—printing/postage			\$0
Subtotal			\$25,000
20% of FOUR Funded Expenditures			\$5,000
Total issue fund grant request			\$20,000