

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 433

In the Matter of

PACIFICORP dba PACIFIC POWER,

Request for a General Rate Revision.

MEMORANDUM

The purpose of this memorandum is to explain to all participants in this docket the deadlines and requirements for accessing Intervenor Funding specific to this proceeding, and to describe a docket-specific training that will be offered for participants new to the contested case process. At the end of this memorandum, a table of dates is included for quick reference. For questions associated with any portion of this memorandum, you may contact me or the Commission's Administrative Hearing Division. The contact information is below:

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There are two types of Intervenor Funding available to advocates participating in contested case processes, such as this docket, at the Commission: Justice Funding and Intervenor Funding.

If your group seeks funding and represents Environmental Justice Communities or low-income customers, you should request Justice Funding. If your group represents a broad class of customers and is accountable to and represents those customers' interests, then you should request Intervenor Funding under our rules and the Fifth Amended and Restated Intervenor Funding Agreement. These two opportunities, and the requirements for accessing this funding, are described below. If you think your group qualifies for any of this funding, but have questions, please reach out to me or the Hearings Division.

*Justice Funding*

Justice Funding is available to both groups representing Environmental Justice Communities and groups representing the interests of low-income customers. The Commission approved an agreement between Justice advocates and utilities to implement this type of funding in

docket UM 2211. You may find the agreement in Order No. 22-033 here: <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>.

The Administrative Hearings Division has promulgated rules to implement this agreement, which can be found at OAR 860-001-0800 through OAR 860-001-0900. Here is a link to the rules, posted on the secretary of state's website: [Oregon Secretary of State Administrative Rules](#).

There are two types of justice funding available. The first is case funding, which is requested on a docket-by-docket basis. If you think you qualify, you may ask for this funding as you start to participate in this docket. Up to 50 percent of this potential funding is available up-front and for immediate use.

The second is pre-certification grant funding. This is a broader type of funding and is available to interested groups to participate in a variety of dockets. Essentially, this funding can operate as a multi-subject grant for activity at the PUC, and groups can request that this funding be provided up front. Groups request this type of funding one time per year, with the PUC approving funding for up to five requests per year for this more flexible type of funding. The deadline for pre-certification requests in 2024 has passed.<sup>1</sup>

This portion of the memorandum will discuss the requirements and procedures for accessing environmental justice case funding in this docket. If you wish to access environmental case funding, the following guidance should help simplify this process. If you come across this docket after these deadlines, please contact me. You may still be eligible for funding.

#### 1) Notice of Intent

- a. Consistent with OAR 860-001-0860, you must first file a notice of intent to seek case funding to notify the Commission and other parties that you plan to access Justice Funding. Your notice of intent may be filed when you file a petition or notice of intervention in this case or may be filed separately. In all cases however, it should be filed no later than March 14, 2024, for this docket.<sup>2</sup> The notice must identify the utility account from which funding will be requested (in this case, PacifiCorp's account), and should explain why your organization meets the following eligibility criteria, which the Commission will evaluate:
  - i. 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

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<sup>1</sup> For 2025 the deadline will be November 11, 2024, and applications for pre-certification may be submitted in docket UM 2276.

<sup>2</sup> If filed at this date, the notice of intent should include a budget, consistent with the adopted procedural schedule.

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;

- ii. The organization identifies the specific Environmental Justice Community or low-income customers it represents and demonstrates that it is able to effectively represent them;
  - iii. 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;
  - iv. When applicable, the organization has demonstrated in past Commission matters its ability to substantively contribute to the record on behalf of such interests;
  - v. In contested case proceedings such as this docket, the organization demonstrates that its request for funding will not unduly delay the schedule of the proceeding; and
  - vi. In determining whether organizations should be eligible to receive a Justice Fund 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 Fund Grant is sought, so your request may speak to that question.
- b. The notice of intent must also identify if the case is eligible for case certification. Case certification will be granted only for eligible proceedings, which include proceedings before the Commission that affect a participating public utility such as PacifiCorp, its customers, and its Environmental Justice Communities. These include, but are not limited to, named, non-docketed Commission-led processes, rulemakings, 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 adjustment.
- c. Replies to the notice of intent and applications for case certification may be filed by any party no later than 14 days from the filing of the request.

## 2) Budget

- a. Once certified by the Commission, 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. Importantly, you may request up to 50 percent of an overall budget for up-front funding. To avoid making two different filings, you may submit a budget before or simultaneously with a notice of intent and request for certification.

- b. Budgets must be submitted no later than 30 days after the organization is case certified for the specific proceeding but can always be submitted before this date. Early submission is encouraged. Replies to filed budgets may be filed by any party no later than 14 days after the proposed budget is filed.
  - c. The Commission, which reviews budgets for approval, denial, or amendment, will consider whether:
    - i. The proposal is consistent with the breadth and complexity of the issues;
    - ii. 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;
    - iii. The procedural schedule;
    - iv. The dollar magnitude of the issues at stake;
    - v. The qualifications of the organization and experience before the Commission;
    - vi. The level of available Case Funds remaining for the year; and
    - vii. Other Eligible Proceedings in which other Eligible Recipients may seek additional funds consistent with ORS 757.072(2)(c).
- 3) The Commission will review and evaluate the requests, may ask for clarifying information, and will issue a decision following review. The Commission will make its best efforts to act on proposed budgets within 21 days of receipt.

PacifiCorp is the only utility affected by this proceeding. Given the rollover of funding from last year, PacifiCorp's Case Fund account balance, which includes both funds allocated from 2023 and funds from 2024, is at \$113,334 as of the date of this memorandum. Importantly, this funding is available for all PacifiCorp related eligible dockets and is not an amount dedicated solely to this docket.

#### *Intervenor Funding Through the Fifth Amended and Restated Intervenor Funding Agreement*

Funding is available for groups representing broad customer classes, such as residential customers or large commercial or industrial customers. This type of funding, authorized in statute through ORS 757.072, is available to groups consistent with our procedural rules, found at OAR 860-001-0120, and through an agreement between consumer groups and utilities approved in docket UM 2264, the Fifth Amended and Restated Intervenor Funding Agreement. You may find this agreement in Order No. 22-506, here:

<https://apps.puc.state.or.us/orders/2022ords/22-506.pdf>.

Consistent with our rules and the Intervenor Funding agreement, there are two types of funding available. The first is pre-certified funding. The second is case-certified funding, which is available to groups that become case certified in this proceeding. Pre-certified funding is limited to groups that have met the pre-certification criteria and are pre-certified by the Commission. The following section outlines the requirements for this funding. For questions regarding pre-certification, which will not be addressed in this case, you may contact me via the information supplied above, or may contact the Administrative Hearings Division through the filing center.

To access case-certified Intervenor Funding, you must follow the following process. Case-certified organizations may access Issue Funding under this agreement.

1) Notice of Intent

- a. You must file a notice of intent to seek issue funding when you file a petition or notice of intervention in the case. The notice must identify the utility account from which funding will be requested.
- b. An application for case certification must be filed with the notice of intent.
- c. Replies to the notice of intent and applications for case certification may be filed by any party no later than 15 days following an application.

2) Budget

- a. Pre-certified and case-certified organizations must submit budgets. Budgets must include:
  - i. A statement of work to be performed by the intervenor;
  - 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 percent of the Eligible Expenses for the work to be performed for which the intervenor is seeking an Issue Fund Grant.
- b. Budgets must be submitted no later than April 3, 2024. Replies to filed budgets may be filed by any party no later than April 12, 2024.

3) The Commission will review and evaluate the requests, may ask for clarifying information, and will issue a decision following review. The Commission will target

within 14 days of receiving the proposed budgets as the date to issue decisions on all funding requests under the Fifth Amended and Restated Intervenor Funding Agreement.

The factors by which the Commission will review these requests can be found in the rules and order referenced above.

**Table of Dates and Deadlines**

Note: The below dates are deadlines, but we encourage you to file early. This will allow the Commission to consider and issue decisions on your requests faster.

<b>Justice Case Funding</b>	<b>Date</b>
Notice of Intent and Request for Case Certification Due <sup>3</sup>	April 12, 2024.
Response to Notice of Intent Due	April 19, or 14 days after the notice of intent is filed. <sup>4</sup>
Target Date for Commission Certification Decisions	April 26, 2024. <sup>5</sup>
Budget Due	30 days following order granting Certification, no later than May 28. <sup>6</sup>
Responses to Budget Due	14 days after submission of the budget.
Target Date for Commission Decision on Budgets	21 days following submission of the budget.
<b>Intervenor Funding Issue Fund – Case-Certified Funding</b>	<b>Date</b>
Notice of Intent and Request for Case Certification Due	Due at time of intervention or notice of participation.
Response to Notice of Intent Due	15 days following the filing of notice of intent and request for certification.
Target Date for Commission Certification Decisions	April 26, 2024.

*Docket Specific Training on the Contested Case Process*

We will hold a stakeholder training to describe participation in contested cases on March 20, 2024. The agenda for this training will be as follows:

<sup>3</sup> Proposed Budgets may be filed with Notice of Intent and Request for Case Certification.

<sup>4</sup> Responses are due 14 days after the filing of certification requests. Accordingly, if a request is filed prior to March 7, then responses are due 14 days after the filing is made.

<sup>5</sup> The Commission will work to issue decisions on requests 7 days following the close of the period for party responses, 21 days from the day you file your request. Accordingly, we encourage you to file your notice and requests early, as this will provide the Commission the opportunity to issue a decision on funding sooner, rather than later.

<sup>6</sup> As noted in the body, budgets can be submitted before the 30-day deadline.

- 1) Contested Case overview
  - a. Purpose
  - b. Requirements
  - c. Restrictions
- 2) Intervenor Funding
  - a. Review of funding options
  - b. Deadlines and requirements
  - c. Eligibility and eligible activities
- 3) Intervention
  - a. With an attorney
  - b. Without an attorney
- 4) Testimony
  - a. Process and sequence
  - b. Relevant testimony supporting a robust record
- 5) Hearing
  - a. Purpose
  - b. Pre-hearing activities and filings
  - c. Conduct of hearing
  - d. Presenting evidence
- 6) Briefing
  - a. Sequence and purpose of sequences
  - b. Developing a concise, relevant brief
  - c. Legal Argument

Should you have any questions about this agenda, the training, or any suggestion, please contact me directly.

Dated this 19th day of March, 2024, at Salem, Oregon.



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Nolan Moser  
Chief Administrative Law Judge