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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

AR 465

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| In the Matter of Adoption of Rules |) | |
| Establishing Certification Qualifications |) | ORDER |
| for Intervenors Eligible for Funding and |) | |
| Conditions for Terminating Certification |) | |

DISPOSITION: Rules Adopted

On September 11, 2003, the Public Utility Commission (Commission) initiated this rulemaking proceeding. On September 15, 2003 the Commission filed a Notice of Proposed Rulemaking and Statement of Need and Fiscal Impact with the Secretary of State. Notice of the rulemaking was published in the *Oregon Bulletin* on October 1, 2003.

On November 14, 2003 the Commission filed a Notice of Proposed Rulemaking Hearing. Notice of the hearing was published in the *Oregon Bulletin* on December 1, 2003 and the hearing was set for December 16, 2003. Interested persons were given until December 21, 2003, to file written comments. No comments were filed.

On January 6, 2004, the Commission deliberated this matter at its regular meeting and entered the decisions set out in this order.

ORDER

IT IS ORDERED that:

1. OAR 860-012-0100 and OAR 860-012-0190, as set forth in Appendix A, are adopted.
2. The rules shall be effective upon filing with the Secretary of State.

Made, entered, and effective _____.

Lee Beyer
Chairman

John Savage
Commissioner

Ray Baum
Commissioner

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

860-012-0100

Grant Eligibility (Precertification and Case-Certification)

(1) Definitions:

(a) "Agreement" means a Commission approved agreement under ORS Ch. 234, OR Laws 2003 between a utility providing electricity or natural gas and a not-for-profit organization that represents broad customer interests in Commission regulatory proceedings.

(b) "Grant" means financial assistance to an intervenor under the terms of an agreement.

(2) General. Upon Commission approval of an agreement, the Commission shall apply the qualifications set forth in this rule to determine eligibility for a grant. Only parties that are precertified, or parties that become case-certified for a particular proceeding, will be eligible to receive grants under an agreement. The terms of an agreement will be binding on all organizations seeking a grant under that agreement and will be followed by the Commission in administering the agreement.

(3) Precertification. The Commission will precertify organizations meeting the criteria of subsection (3)(a) or (3)(b) as eligible to receive grants. Once precertified, an organization will remain precertified unless the Commission decertifies the organization under OAR 860-012-0190.

(a) The Citizens' Utility Board of Oregon (CUB), as a representative of residential customers; or

(b) Not-for-profit organizations that meet all of the following criteria:

(A) A primary purpose of the organization is to represent utility customers' interests on an ongoing basis;

(B) The organization represents the interests of a broad group or class of customers and those interests are primarily directed at public utility rates and terms and conditions of service affecting that broad group or class of customers, and not narrow interests or issues that are ancillary to the representation of the interests of customers as consumers of utility services;

(C) The organization demonstrates that it is able to effectively represent the particular class of customers it seeks to represent;

(D) The organization's members, who are customers of one or more of the utilities that are parties to the agreement, contribute a significant portion of the overall support and funding of the organization's activities in the state; and

(E) The organization has demonstrated in past Commission matters the ability to substantively contribute to the record on behalf of customer interests.

(4) Case-Certification. Organizations meeting the following criteria may be case-certified by the Commission to be eligible to receive a grant:

(a) The organization represents the interests of a broad group or class of customers and its participation in the proceeding will be primarily directed at public utility rates and terms and conditions of service affecting that broad group or class of customers, and not

narrow interests or issues that are ancillary to the impact of the rates and terms and conditions of service to the customer group;

(b) The organization demonstrates that it is able to effectively represent the particular class of customers it seeks to represent;

(c) The organization's members who are customers of one or more of the utilities affected by the proceeding that are parties to the agreement contribute a significant percentage of the overall support and funding of the organization;

(d) 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 any proceeding in which the organization was case-certified and received a grant;

(e) The organization demonstrates that:

(A) No precertified intervenor participating in the proceeding adequately represents the specific interests of the class of customers represented by the organization related to rates and terms and conditions of service; or

(B) The specific interests of a class of customers will benefit from the organization's participation; and

(f) The organization demonstrates that its request for case-certification will not unduly delay the schedule of the proceeding.

Stat. Auth.: ORS Ch. 234, OR Laws 2003

Stats. Implemented: ORS Ch. 234, Or Laws 2003

Hist.: New

860-012-0190

Termination of Eligibility – Decertification

(1) Termination of Eligibility. 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 intervenor if it finds that:

(a) The organization has committed fraud, misrepresentation, or misappropriation related to any grant made available under the terms of a Commission-approved agreement;

(b) In a proceeding before the Commission for which grants were awarded to the organization, the organization has failed to represent the interests of the broad class of customers that the organization purported to represent in its application for precertification;

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

(d)The intervenor who is signatory to an agreement has violated terms and conditions of the agreement pertaining to the use and disclosure of information required to be provided by utilities under the agreement;

(e) For the Citizens' Utility Board of Oregon (CUB), there has been a substantial change in or repeal of ORS 774.101 through 774.990; or

(f) A precertified organization other than CUB no longer meets the criteria of OAR 860-012-0100(3).

(2) An intervenor that is decertified under paragraph (1)(d) will be ineligible for future precertification or case-certification under the agreement.

(3) Termination of the precertification or case-certification of an intervenor shall be prospective only.

Stat. Auth.: ORS Ch. 234, OR Laws 2003

Stats. Implemented: ORS Ch. 234, Or Laws 2003

Hist.: New