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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UM 1169

In the Matter of	)	
	)	ORDER
An investigation related to the	)	
implementation of ORS 757.612.	)	

**DISPOSITION: APPLICATION FOR CASE CERTIFICATION  
DENIED.**

At the November 2, 2004, prehearing conference, NW Energy Coalition submitted a petition to intervene and a "Notice of Intent to Seek an Issue Fund Grant for Case-Certification." The petition to intervene was conditionally granted in the prehearing conference report. In this order, we deny the application for case-certification.

The Commission established intervenor funding in Order No. 03-388. The Intervenor Funding Agreement (IFA), set out as Attachment B and incorporated as Appendix A to the order, spelled out who was eligible for funding and under what circumstances. Section 6.2 requires that a party submit its notice of intent to request an issue fund grant when it submits its petition to intervene and that "[a]n intervenor that is not precertified must apply for case-certification on or before the time it submits its Notice of Intent." NW Energy Coalition complied with this requirement.<sup>1</sup>

Section 5.3 of the IFA sets out the criteria for case-certification. To be eligible to receive an issue fund grant, the organization must "represent[] the interests of a broad group or class of customers," and "[t]he organization's members *who are customers of one or more of the Participating Public Utilities* affected by the proceeding must contribute a significant percentage of the overall support and funding of the organization." (Emphasis added.) The wording of the section clearly indicates that an organization's members are required to be actual customers of the utility, not another group representing customers, and that those customers must also be a "broad group or class."

NW Energy Coalition asserts that it "is a coalition of over one hundred consumer, low income, good government and environmental groups, businesses and progressive utilities in the Northwest." Of those groups, more than half are Oregon groups. Further, NW Energy Coalition states, "Most of those groups \* \* \* are directly, or represent indirectly, customers of Oregon's regulated utilities." Later in the petition, it states,

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<sup>1</sup> We note that Section 6.2 also requires, "The Notice of Intent must be served on each affected Participating Public Utility, all precertified organizations, and all parties of record in the proceeding or, if no such list has been established, to such other persons as the Commission designates." Even though no service list for this docket had yet been established, the Notice of Intent should have been accompanied by a certificate of service indicating that the participating utilities and other precertified organizations had been served. In the future, such a service list would be required to comport with the Commission's rules of service.

"Our membership includes many such groups, including the Community Action Directors of Oregon, the Oregon Energy Coordinators Association, Oregon Heat, Oregon Energy Partnership and Multnomah County Weatherization."

By its own admission, NW Energy Coalition represents groups. While the constituencies of those groups appear to make *those groups* eligible for intervenor funding, NW Energy Coalition cannot be eligible under the agreement as it is currently written because it is one step removed from the constituents. To the extent that the groups are directly customers of Oregon utilities, as the Coalition asserts, we imagine that the headquarters of these organizations have utility needs, but that does not make them a "broad group or class" of customers as specified in the IFA.

Even though NW Energy Coalition is not currently eligible for intervenor funding as the IFA is now written, we value the organization's participation in Commission dockets and its "focus \* \* \* on residential, especially low-income, customers." We regard the exclusion of NW Energy Coalition from eligibility for intervenor funding as a flaw and ask the parties to the IFA to modify the agreement accordingly.

**ORDER**

IT IS ORDERED that NW Energy Coalition's application for case-certification is denied.

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

\_\_\_\_\_  
**Lee Beyer**  
Chairman

\_\_\_\_\_  
**John Savage**  
Commissioner

\_\_\_\_\_  
**Ray Baum**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.