

ORDER NO. 23-056

ENTERED Feb 23 2023

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 652

In the Matter of

Rulemaking Regarding Intervenor Funding  
(2021 HB 2475).

ORDER

DISPOSITION: ADMINISTRATIVE HEARING DIVISION'S  
RECOMMENDATION ADOPTED

At its public meeting on February 21, 2023, the Public Utility Commission of Oregon adopted the Administrative Hearing's Division recommendation in this matter. The report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



**Nolan Moser**

Chief Administrative Law Judge



A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. RM 1

**PUBLIC UTILITY COMMISSION OF OREGON  
PUBLIC MEETING REPORT  
PUBLIC MEETING DATE: February 21, 2023**

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

**DATE:** February 16, 2023

**TO:** Public Utility Commission

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

**THROUGH:** Diane Davis

**SUBJECT:** ADMINISTRATIVE HEARINGS DIVISION:  
Docket No. AR 652 – Request to issue notice of proposed rulemaking for rules reflecting the Commission-approved permanent agreement for HB 2475 intervenor funding.

**RECOMMENDATION:**

Issue notice of proposed rulemaking for rules reflecting the Commission-approved agreement for certification and funding for environmental justice and low-income organizations consistent with House Bill (HB) 2475 (2021).

**DISCUSSION:**

Issue

Whether the Commission should issue notice of proposed rulemaking for the proposed rules contained in Attachment 1 to this report. The proposed rules reflect the permanent agreement 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.

Applicable Law

On September 25, 2021, HB 2475 (2021) was enrolled into state law and 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

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customers. The second component of the legislation provides for the Commission to administer intervenor funding agreements that public utilities may enter into with two distinct groups of advocates; those representing “environmental justice communities” and “low-income communities” (together, “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.

### Analysis

#### *Background*

On February 7, 2023 Regular Public Meeting, the Commission adopted AHD’s recommendation to approve the negotiated agreement for funding for Justice Communities consistent with HB 2475; approve the cost recovery provision of the agreement, and to direct AHD to propose rules implementing the terms of the agreement for adoption through a formal rulemaking in docket AR 652. That order, which includes the agreement, is found online at <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>.

#### *Development of Rules Reflecting the Permanent Agreement*

Following Commission approval of the permanent agreement between Rogue Climate, VERDE, CEP, PGE, PacifiCorp, NW Natural, Idaho Power, Avista Utilities, and Cascade Natural Gas, AHD drafted the attached proposed rules reflecting the provisions of permanent agreement. A summary of the proposed new rules set forth in Attachment 1 is provided below.

#### *Next Steps*

Following issuance of the notice, AHD will work with participants to refine these proposed rules and develop templates and guidance for utilizing this funding process, which may be posted to our website and supplied to interested advocates. The objective of this rulemaking is to ensure that these rules accurately reflect the terms of the approved agreement while making the process outlined in that agreement clear to all participants, and the objective of the effort to develop templates and guidance will be to simplify the process for those seeking funding so that it is not overly labor or time

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intensive. Following that engagement, AHD may propose changes to these rules reflecting feedback and comments from participants in this proceeding.

*Summary and Discussion of Proposed Rules*

OAR 860-001-0800

OAR 860-001-0800 provides a purpose statement for the new rules and contains four sections. In addition to the purpose statement, a link is provided to the agreement and an overview of the new rules is presented. Rule sections also clarify that there are two funds available for which Justice Funding Grants may be approved and obtained from participating public utilities, that the Commission may delegate its authority, and that the decisions made by the delegates may be appealed to the Commission.

OAR 860-001-0810

OAR 860-001-0810 contains 11 definitions of terms used in the rules.

OAR 860-001-0820

This rule describes the annual funding amount available in each utility's applicable fund or funds, referencing the agreement, so that if the funding level in the agreement changes in the future the rule language does not need to change. The rule also provides specifics on when and how much funding may be rolled over into a subsequent calendar year for each fund.

OAR 860-001-0830

OAR 860-001-0830 describes the types of proceedings eligible for groups to apply for funding and for which proceedings such funding is specifically prohibited.

OAR 860-001-0840

OAR 860-001-0840 describes the general criteria used by the Commission to determine whether an organization may be eligible to apply for and receive Justice Funding Grants. The proposed rule also contains a section encouraging pre-certified and case-certified grantees to make reasonable efforts to enter into agreements with each other at any time, to collaborate in general, including before submitting proposed budgets or after receiving case fund grants, and to combine their efforts and resources in a case. Such cooperative efforts will not affect the amount of their grants and are encouraged.

OAR 860-001-0850

OAR 860-001-0850 provides several rules governing the Pre-certification Fund. The proposed rules include a limit on how many organizations may be pre-certified each year reflecting the approved agreement, application due dates, a description of the

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application narrative and budget requirements, and the criteria used by the Commission to consider and approve such applications.

OAR 860-001-0860

This rule provides the same information as OAR 860-001-0850, but it governs applications for Case Fund grants. A key difference is that for Case Fund grants, the applicant organization must provide notice of intent to seek such case-specific funding along with a request for case certification. These rules describe what must be included in such requests.

OAR 860-001-0870

This rule lists eligible expenses that may be incurred by fund grantees. Such expenses include attorney and consultant fees, expert witness fees, certain labor, preparation and travel costs, and costs related to participation in workshops and other informal activities along with costs associated with engaging community members on the issues associated with the proceeding in question. In addition, the rule notes that political activities or fundraising are prohibited uses.

OAR 860-001-0890

OAR 860-001-0890 provides instruction on how to apply for payments for eligible expenses from Pre-certification Funds and Case Funds. The rule further describes how such requests will be processed. Finally, this proposed rule requires the submission of a report for prior calendar year activities.

OAR 860-001-0900

This final section reviews cost recovery for Participating Public Utilities. It also allows apportionment of costs among different utility funds in proceedings where more than one Participating Public Utility is involved.

*Conclusion*

We look forward to working with participants on these rules and the guidance and templates that will help advocates and utilities manage engagement in the process to access funding. Our objective is to simplify, clarify, and provide for a timely funding process in this rulemaking.

**PROPOSED COMMISSION MOTION:**

Adopt AHD's recommendation and issue notice of proposed rulemaking for rules reflecting the Commission-approved agreement for certification and funding for Justice Communities consistent with HB 2475.

## **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 participate in matters at the Oregon Public Utility Commission.
- (2) These rules reflect the 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 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) "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).
- (2) "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.
- (3) "Eligible Expenses" are expenses for which Eligible Recipients may request payment of consistent with OAR 860-001-0870.
- (4) "Eligible Proceedings" are proceedings which the Commission has determined meet the requirements of Rule OAR 860-001-0830.
- (5) "Eligible Recipient" means an organization that represents the interests of either low-income residential customers, as described in OAR 860-021-0180, or customers that are members of Environmental Justice Communities as defined below.
- (6) "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.
- (7) "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;
- (8) "Justice Funding Grants" are grants made subject to these rules.
- (9) "Participating Public Utility or Utilities" means 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 Idaho Power Company.
- (10) "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.

(11) “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 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) All Organizations meeting the following criteria may be certified by the Commission to be eligible to receive Justice Fund 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 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.

(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.

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.

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

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

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

(5) 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 matters in which the applicant intends to participate, the nature of that participation, and why these 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.

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

(7) 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>.
- (8) Once Pre-certified, an organization will remain Pre-certified for one year unless the Commission terminates the Pre-certification.
- (9) 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.
- (10) 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.
- (2) 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.
- (3) 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 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.
- (4) 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.
- (5) 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.

(6) A proposed budget must be filed no later than 30 days after the organization and the proceeding have been certified for Justice Fund funding 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.

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

(8) 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.

(9) 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.

(10) 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).

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

(12) 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 approved by the Commission and found online at <https://apps.puc.state.or.us/orders/2023ords/23-033.pdf>.

(13) 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.

(14) 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.

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

(16) 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) 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 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 consistent with 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.

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.

(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