

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE 399 & UM 2114

In the Matter of  
  
PACIFICORP, dba PACIFIC POWER,  
  
Request for General Rate Revision (UE 399)  
  
and  
  
PUBLIC UTILITY COMMISSION OF  
OREGON,  
  
Investigation into the Effects of the  
COVID-19 Pandemic on Utility Customers  
(UM 2114).

ORDER

**DISPOSITION: REALLOCATION OF ISSUE FUNDS DENIED IN PART**

On September 1, 2023, the Small Business Utility Advocates (SBUA) filed a motion for reallocation of issue funds pursuant to the Fourth and Fifth Intervenor Funding Agreements (IFA) approved by Order Nos. 18-017 and 22-506, respectively. On September 18, 2023, the Alliance of Western Energy Consumers (AWEC) and the Oregon Citizens' Utility Board (CUB) filed a response in opposition of SBUA's motion for reallocation of issue funds. On September 25, 2023, SBUA filed a reply to the response of AWEC and CUB opposing SBUA's motion. On October 17, 2023, the ALJ issued a memo, requesting more information about SBUA's proposed reallocation. For the reasons explained below, we reaffirm our decision in Order No. 23-165 granting limited use of PacifiCorp issue funds in docket UE 399 and deny SBUA's amended UM 2114 budget seeking reallocation and approval of funding sources. However, we allow SBUA to submit an amended budget for partial funding of activity in UM 2114 for expenses incurred in 2023 to be funded by 2023 funds, subject to SBUA compliance with the conditions of this order.

**I. INTRODUCTION**

**A. UE 399**

PacifiCorp, dba Pacific Power, filed a general rate revision request, docket UE 399, in February 2022. SBUA filed a petition to intervene on April 13, 2022; opening testimony on June 23, 2022, rebuttal testimony on August 11, 2022, and an opening brief on October 18,

2022. On April 13, 2022, SBUA filed a notice of intent to request an issue fund grant and a petition for case certification. On April 28, 2022, SBUA filed a proposed budget. On August 22, 2022, the Commission granted the petition for case certification but denied SBUA's proposed budget. Subsequently, SBUA filed an amended proposed budget of \$27,650 on October 25, 2022.

On December 16, 2022, the Commission adopted the first, second, and third partial stipulations in UE 399. On February 17, 2023, the Commission adopted the Fourth Stipulation, on which SBUA did not take a position. After investigation, the Commission approved SBUA's proposed budget on May 9, 2023, in Order No. 23-165, but noted that only \$7,311.09 of that budget could be funded due to the availability of issue funds from 2022.

## **B. UM 2114**

On September 4, 2020, the Commission opened docket UM 2114, an Investigation into the Effects of the COVID-19 Pandemic on Utility Customers. SBUA filed a petition to intervene on December 14, 2020. On January 28, 2022, SBUA filed a proposed budget and petition for designation of the docket as an eligible proceeding. On August 19, 2022, the Commission granted SBUA case certification but denied SBUA's proposed budget in Order No. 22-304.<sup>1</sup> On September 1, 2023, SBUA filed an amended proposed budget of \$21,762 with a proposed grant request of \$15,800 for UM 2114.

## **II. DISCUSSION**

### **A. SBUA's Motion for Reallocation**

SBUA makes initial requests:

- (1) payment from funds remaining in PacifiCorp's 2022 issue funds for UE 399;

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<sup>1</sup> In its motion for reallocation and amended proposed budget, SBUA notes that the Commission approved a \$9,000 budget for UM 2114 in Order No. 22-304. It is important to note that the Commission did not approve a budget. Instead, the Commission adopted the Administrative Hearings Division's recommendation that SBUA only receive up to \$9,000 in funding for the entire year across all dockets, which were UG 435, UE 399, and UM 2114. Order No. 22-304 did not say that SBUA was approved to receive this funding; rather, it set the cap for funding. Thus, the Commission never approved a budget for UM 2114.

- (2) reallocation of 2023 PacifiCorp issue funds to cover the remaining balance of SBUA's 2022 budget to account for COVID-19 related costs in the UE 399 rate case;
- (3) approval of 2023 case certification funds from Portland General Electric Company (PGE) to cover the PGE docket ADV 1474 related budget and the PGE portion of SBUA's other UM 2114 costs; and
- (4) approval of 2023 issue funds from Cascade Natural Gas Company, Avista Corporation, dba Avista Utilities (Avista), and Idaho Power Company<sup>2</sup> to pay SBUA UM 2114 costs to cover SBUA activity in UE 399.

In effect, SBUA seeks (1) final payment of \$7,311.09 from PacifiCorp's 2022 issue funds and (2) approval of its amended UM 2114 budget, including (a) a reallocation of the remaining balance of its approved UE 399 budget (that which the remaining 2022 PacifiCorp issue funds did not cover) to UM 2114 to be covered by 2023 PacifiCorp issue funds, and (b) funding from PGE, Cascade Natural Gas, Avista and Idaho Power in UM 2114 to pay for activity in UM 2114 and UE 399.

***1. Final Payment of PacifiCorp's 2022 Issue Funds***

On September 1, 2023, SBUA requested final payment of PacifiCorp's 2022 issue funds in its motion for reallocation of issue funds. PacifiCorp's 2022 issue funds would cover some expenses incurred in UE 399.

In Order No. 23-165, the Commission approved SBUA's proposed budget of \$27,650, with SBUA funding \$5,530. The Commission approved of \$22,120 to be funded by the PacifiCorp Issue Fund. However, the Commission noted that at the time (May 9, 2023), only \$7,311.09 remained in 2022 PacifiCorp funds, limiting SBUA to a payment request of that amount.

In its motion for reallocation of issue funds, SBUA describes the \$7,300 (rounding down the \$7,311.09) from 2022 PacifiCorp issue funds for expenses incurred in UE 399 as "hugely insufficient".

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<sup>2</sup> Initially, SBUA identified that it would seek funding from Idaho Power. *See* Petition of Small Business Utility Advocates for Designation of Docket as an Eligible Proceeding and Proposed Budget Exhibit 1 page 6 (Jan. 28, 2022). SBUA omits Idaho Power in its later request. Given these conflicting filings, we assume SBUA seeks funding from Idaho Power and address that question in this order.

2. *Amended Budget in UM 2114, Reallocation of PacifiCorp Funds from UM 2114 to UE 399*

On September 1, 2023, SBUA requested reallocation of PacifiCorp funds from 2023 in UM 2114 to cover the remaining balance on its approved budget in UE 399, which was not covered by 2022 PacifiCorp issue funds. Put differently, SBUA requested to reallocate a portion of its approved UE 399 budget and expenses to its proposed UM 2114 budget.

Specifically, SBUA seeks to alter budgets to “decrease” the budget in UE 399 from the approved \$22,120 to the available \$7,300 and “increase” the budget in UM 2114 from \$9,000<sup>3</sup> to \$21,762.

By reallocating across dockets, SBUA seeks to recover UE 399 expenses in UM 2114. Importantly, the UE 399 budget was approved for 2022 PacifiCorp issue funds. By contrast, the amended proposed UM 2114 budget would use 2023 PacifiCorp funds as well as 2023 PGE, Cascade Natural Gas, and Avista funds. Thus, this would be a reallocation of funding across years and utilities.

Under the Fifth IFA, reallocation across dockets is permissible, though the agreement is silent on the permissibility of reallocation across dockets when the funding is from different years. To bolster its argument that reallocation is permissible here, SBUA cites to Section 6.7 of the Fourth and Fifth IFA, which provides that “[a]n intervenor with approved proposed budgets in multiple dockets may request to reallocate approved amounts between dockets by filing a request in both dockets.”

SBUA asserts that the Commission granted case certification in UE 399, permitted SBUA to seek intervenor funding in UE 399, and approved its UE 399 proposed budget. Accordingly, if the Commission approves SBUA’s proposed amended budget for UM 2114, SBUA argues that partially reallocating the budget from UE 399 to UM 2114 is permissible.

On September 25, 2022, SBUA responded to a bench request to explain how its previously proposed UM 2114 budget would be allocated across different utilities. In that response, SBUA proposed a proportional allocation of its UM 2114 budget across the Participating Utilities as follows: “27% or \$4,622 to PacifiCorp, PGE, and NW Natural, 13% or \$2,226 to Avista, and 6% or \$1,027 to” Cascade Natural Gas.<sup>4</sup>

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<sup>3</sup> SBUA presents this budget as if it were approved, citing to Order No. 22-304. The Commission, however, never approved a budget for UM 2114. *See* footnote 1.

<sup>4</sup> Response of Small Business Utility Advocates to Bench Request at 8-9. (Feb. 25, 2022).

SBUA has not updated its proportional allocation prediction for its current proposed UM 2114 budget. In its current UM 2114 budget proposal, SBUA points to the February 25, 2022, bench request to explain how the budget would be spread across utilities. However, its current proportional allocation prediction cannot reflect the bench request because its proposed budget and the Participating Utilities have changed since the bench request. Notably, SBUA no longer seeks funding from NW Natural and now seeks funding from Idaho Power.

SBUA explains that it seeks funding from Idaho Power because it has provided education and input to local government resulting in use of American Rescue Plan Act to reduce the arrearages of small commercial customers. Moreover, SBUA explains that it no longer seeks funding from NW Natural because its UM 2114 related costs were resolved with the utility.

## **B. AWEC and CUB's Response**

AWEC and CUB oppose SBUA's motion for reallocation of issue funds on three grounds.

First, AWEC and CUB argue that using 2023 PacifiCorp issue funds in UM 2114 to pay for UE 399 expenses not covered by 2022 PacifiCorp issue funds is impermissibly retroactive. AWEC and CUB point out that Section 4.4 of the Fifth IFA allows advances, but not retroactive advances. To illustrate, the Commission may grant an advance if SBUA previously asked for access to 2023 funds for 2022 expenses in 2022, and if SBUA expected the proceeding to continue from 2022 into 2023. However, AWEC and CUB argue that SBUA may not ask to apply 2023 funds to 2022 expenses in 2023, as this is retroactive. As CUB and AWEC put it, "While the Fifth IFA allows parties to seek an advance of funding from a following year's Issue Fund and to rollover funds from one year to the next, it does not allow a party to request funds in one year for work performed in a docket in a previous year."<sup>5</sup>

Second, AWEC and CUB argue that SBUA should not have access to any 2023 funds in UE 399. As AWEC and CUB contend, the entirety of SBUA's expenses in UE 399 were incurred before 2023. AWEC and CUB note that the only process in UE 399 that occurred in 2023 was litigation regarding the Fourth Partial Stipulation, and SBUA took no position on the Fourth Partial Stipulation.

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<sup>5</sup> Response of the Alliance of Western Energy Consumers and Oregon Citizens' Utility Board to Small Business Utility Advocates at 2 (Sept. 18, 2023).

Third, AWEC and CUB argue that the Commission should not grant the UM 2114 amended proposed budget, which would use 2023 funds from PacifiCorp, PGE, Cascade Natural Gas, Avista, and Idaho Power to fund work performed as far back as 2021. They argue that it is unclear in which year SBUA incurred expenses, as it clumps together expenses without specifying the year. For example, SBUA's amended proposed budget for UM 2114 allocates \$500 for expenses on a "Technical assistant/paralegal" in UM 2114, yet it does not explain when the technical assistant/paralegal worked. Again, though the Fifth IFA permits advances of funding from a future year to the current year, AWEC and CUB argue that the Fifth IFA does not allow retroactive advances of funding from a current year to a past year.

Because SBUA is asking for 2023 funds to cover 2021 or 2022 expenses and the Fifth IFA does not allow for retroactive funding, AWEC and CUB argue that the Commission should not grant the UM 2114 amended proposed budget.

### **C. SBUA's Reply**

In its reply to AWEC and CUB, SBUA confirms that it seeks to recover 2023 funds in UM 2114 for costs incurred in 2021. However, SBUA does not address the retroactive advance issue raised by AWEC and CUB. Arguing that it should have access to 2023 funds in UE 399, SBUA explains that it participated in the docket which continued into 2023 and was required to confirm its position on the Fourth Stipulation.

Similarly, in arguing that it should have access to 2023 funds in UM 2114, SBUA states that "it is abundantly clear" that costs of program implemented in UM 2114 were negotiated in different dockets for different utilities in 2023.<sup>6</sup>

### **D. Resolution**

In our resolution, we are tasked to resolve two main questions.

First, can an intervenor reallocate funding across dockets when the funding in each docket is from different years? In other words, can SBUA reallocate its budget from UE 399—which proposed to use 2022 funding—to UM 2114—using 2023 funding? We find that an intervenor cannot reallocate funding across dockets when the funding in each docket is from different years, outside of the specific procedures authorizing an advance as contemplated in the Fifth IFA. Accordingly, we deny SBUA's request to reallocate its budget from 2022 to 2023.

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<sup>6</sup> Reply to AWEC and CUB of Small Business Utility Advocates at 2 (Sept. 25, 2023).

Second, can an intervenor reallocate a budget from one docket to another when one docket concerns one utility and the other docket concerns multiple other utilities? In other words, can SBUA reallocate part of its budget from UE 399 to UM 2114 when UM 399 is a PacifiCorp case and budget and UM 2114 involves PacifiCorp, PGE, Cascade Natural Gas, Avista, and Idaho Power? We find that an intervenor cannot reallocate a budget from one docket to another when one docket involves one utility and the other docket's budget is funded by multiple other utilities. Accordingly, we deny SBUA's request to reallocate its budget from UE 399 to UM 2114.

We address each of SBUA's requests in more detail below.

***1. Amended Budget in UM 2114***

We re-affirm our decision of Order No. 23-165, which allocated SBUA \$7,311.09 for activity in UE 399. We deny SBUA's amended proposed budget in UM 2114, including its request to shift available allocated funds from UE 399 to its allocation in UM 2114. However, we approve partial funding of 2023 expenses incurred in UM 2114.

***a. Reallocation of PacifiCorp Funds from UE 399 to UM 2114***

SBUA's request to reallocate available allocated funds from UE 399 to its allocation in UM 2114 is denied for two reasons.

First, the requested reallocation of funding across years is inconsistent with the Fifth IFA. Section 4.4 of the Fifth IFA makes clear that the only way funding may be shifted to a future year is through an advance. The Agreement has no provision that would allow for a retroactive advance. With respect to an advance from the issue fund, the Agreement states in relevant part:

An Advance will not be available from any of the Issue Fund – General Accounts or the Issue Fund – Case-Certified Accounts. However, the Commission may approve an Issue Fund Grant from funds that will be made available in the next calendar year when the proceeding for which the Issue Fund Grant is sought is expected to continue into that year and

funds in the current year Issue Fund are inadequate to provide the level of Issue Fund Grants that the Commission determines is appropriate.<sup>7</sup>

Accordingly, only in a specific and limited circumstance can the Commission allow an advance from the Issue Fund or Case-Certified accounts. The funds may be provided, at the outset of a request, where the underlying proceeding is expected to carry forward to the subsequent year. These conditions do not apply to SBUA's reallocation request. SBUA has not requested its advance at the outset, and the activity in UE 399 and UM 2114 will not extend into 2024.

The Agreement does allow for reallocation of expenses from a previous year to the current year, but not in the manner SBUA requests. Section 4.3 of the Fifth IFA makes clear that the only way in which funding may roll over from a previous year to the next is when a balance goes unused. In other words, funding, not expenses, may roll over. With respect to a rollover from an issue fund, the Agreement states in relevant part:

A balance in any of the \* \* \* Issue Fund – General Accounts that is unused in any year during the Term of the Agreement will be carried over at the end of the calendar year and made available for use in succeeding years \* \* \*<sup>8</sup>

The Agreement has no provision for when there are insufficient funds such that a budget or expenses go unpaid, as is the case here. Accordingly, the Commission can only allow a rollover of a previous, unused funding to next year's fund, not a rollover of a previous budget or expenses.

Second, such a shift as SBUA proposes here between utilities fundamentally violates our rules and the Fifth IFA in that it would allocate funding provided by customers of utilities other than PacifiCorp—PGE, Cascade Natural Gas, Avista, and Idaho Power—to fund activity in UE 399, a PacifiCorp-only rate proceeding. Accordingly, to the extent that SBUA seeks to reallocate funds from utilities other than PacifiCorp for any funded activity in UE 399, that request is denied. Customer funds must be used to advocate for customers; small commercial customers of Avista for example do not benefit from SBUA's activities in a PacifiCorp docket.

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<sup>7</sup> *In the Matter of PUBLIC UTILITY COMMISSION OF OREGON, Approval of the Fifth Amended and Restated Intervenor Funding Agreement*, Docket No. UM 2264, Order No. 22-506, Appendix A at 14.

<sup>8</sup> Order No. 22-506, Appendix A, at 12.



*b. UM 2114 Funding Beyond Reallocation*

Given that there was an extended period during which SBUA's request and budget in UE 399 was investigated and resolved, and that SBUA was ultimately approved for a larger budget in that docket than could be accommodated given available funds, we sought to find a way in which to approve funding in UM 2114. Having completed an extensive review of SBUA's request, we do allow some funding for 2023 on a proportional basis from applicable utilities, consistent with funds available, for work completed this year. However, no 2022 funding is available currently. Consistent with the Fifth IFA, all 2022 funding that was available at the end of the year has been rolled over to 2023, this was completed in April of 2023.

We note that no funding may be provided from Idaho Power to SBUA. Consistent with the Idaho Power Company-Oregon Citizens' Utility Board Intervenor Funding Agreement for 2021-2025, as approved in Order No. 20-493, the Idaho Power issue fund is only available to CUB.<sup>9</sup>

To access 2023 UM 2114 funding, SBUA must update its proportional allocation for its current proposed UM 2114 budget, and not merely refer to its February 25, 2022, response to a bench request. As of November 17, 2023, we have the following 2023 funding available:

- (1) \$125,313 in the Northwest Natural Issue fund, and \$10,000 in the Northwest Natural Case Certified Fund.
- (2) \$39,675 in the Cascade Issue fund, and \$2,500 in the Cascade Case Certified Fund.
- (3) \$19,023.68 in the Avista Issue fund, and \$5,000 in the Avista Case Certified Fund.
- (4) \$718 in the PGE Issue fund, and \$1,360<sup>10</sup> in the PGE Case Certified Fund.
- (5) \$7,624.09 in the PacifiCorp Issue fund, and \$10,000 in the PacifiCorp Case Certified Fund.

Nevertheless, we outline several issues with SBUA's various submissions that gave us pause and required additional information and action before any funding may be released to SBUA.

**2. *SBUA Financial and Other Issues***

SBUA sought to provide evidence in fax form of its 20 percent match for its proposed combined budgets. This submission alone contained multiple issues.

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<sup>9</sup> Should SBUA wish to access Idaho Power customer funding, it must develop and execute an agreement for financial assistance consistent with ORS 757.072, which must be then put before the Commission for approval.

<sup>10</sup> This amount depends on whether SBUA's September 25, 2023, petition for certification in UE 416 is granted.

For one, it did not add up as asserted by SBUA. SBUA indicated that through this request it met its \$4,360 match identified for its budget, even listing that number on its submission. However, when the checks were added together, the total was \$3,812. There is no excuse for SBUA's basic mistake on so crucial an issue.

Moreover, this fax seems to indicate that SBUA's attorney, who has repeatedly denied running or retaining financial or other responsibility for the organization, has paid experts with her own funds,<sup>11</sup> rather than SBUA paying experts directly from its own independent funds, which SBUA has previously represented to us that it had in the form of tens of thousands of dollars in unrestricted cash.<sup>12</sup> At the time of its submission SBUA did not explain this clear deviation from what SBUA has consistently communicated is its form and function.

This fact called into question whether SBUA can meet its 20 percent match, as we have previously ruled that the 20 percent match must be met by SBUA and its members, not the organization's contractors, payees, or attorneys given SBUA's history and financial representations before this Commission.

To follow up on these questions, the Administrative Hearings Division contacted SBUA's Executive Director (Pacific NW Chapter), Britt Marra, who confirmed that under a previous arrangement, Diane Henkels, SBUA's attorney was asked to directly pay contractors consistent with these past dockets. Britt Marra communicated that in future SBUA will pay all contractors directly.

It is a serious issue that SBUA's filings are generally confusing and contradictory, and typically do not add up to SBUA's reported totals. SBUA's initial reallocation requests lists a total request of \$21,762, but this is not accurate—the total for SBUA's individual requests as outlined by SBUA is \$21,800. Though \$38 is not a large amount of money, SBUA's requests consistently include numbers that do not fully add up; and this is not the only incorrect budgetary submission.

SBUA stated in exhibit A to its September 1, 2023 request that its total budget was \$21,762 for UM 2114, that its 20 percent match was \$4,360, and that its total issue fund request was

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<sup>11</sup> Commission Administrative Hearings Division employees have discussed this issue multiple times with SBUA – SBUA's counsel asserts she does not manage the finances or direct the Oregon organization and is merely a contractor of the Oregon organization.

<sup>12</sup> See *In the Matter of PORTLAND GENERAL ELECTRIC COMPANY, Request for a General Rate Revision*, Docket No. UE 394, Order No. 22-160.

as a result \$15,800. However, this budget is off significantly. \$21,762 minus \$4,360 is \$17,402, not \$15,800.

In SBUA's response to the most recent memo in this docket, referring to specific dollar entries for activity in specific years, SBUA states that "N/A means SBUA did not request or include funds request for this in either the original or amended budgets." Notably, SBUA put the "N/A" entry in cells for "Executive Director UE 399." However, in its original request, SBUA listed in its budget costs for "Executive Director UM 2114 & UE 399."<sup>13</sup> Contrary to SBUA's assertion in its response to the memorandum, it did in fact list costs for its Executive Director associated with UE 399. This change is not explained.

More glaringly, SBUA's response to Chief ALJ Nolan Moser's memorandum shows another \$6,712 budgetary discrepancy and indicates that SBUA may not have met its 20 percent match associated with its full request for another reason, outside of the fact that its contractor appears to have paid its experts. In its initial allocation request, SBUA had a total budget of \$21,800 (stated as \$21,762) for UM 2114. But in its response to the recent memo, that total budget is now \$28,512, and attorney costs—which go directly to Diane Henkels—have more than doubled. This changes the match requirement from \$4,360 to \$5,703 such that even if Diane Henkels were herself able to meet the match requirement by paying experts, that match has not yet been demonstrated.<sup>14</sup> This major increase in budget is not explained.

### 3. *Expectations for the Future*

Though we deny SBUA's budget in UM 2114 and its request to shift available allocated funds from docket UM 2114 to its allocation in docket UE 399, we do conditionally authorize some funding in UM 2114 from 2023 budgets associated with 2023 expenses to be funded by 2023 funds, as they are available.

We note that in its response to the request for clarification of its budget, SBUA indicated that for UM 2114 activities, the following costs were incurred in 2023: \$1,312 for experts, \$150 for paralegal, \$800 for its executive director, and \$1,250 for its attorney.<sup>15</sup> The total for these 2023 expenses is \$3,512. Therefore, SBUA's total budget for UM 2114, 2023 activity should not be more than \$3,512. The required 20 percent match for such a budget is \$702.40, so the total request should not exceed \$2,809.60.

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<sup>13</sup> See Motion for Reallocation of Issue Funds for Issue Fund Grant of Small Business Utility Advocates Exhibit A of Exhibit 1 (Sept. 1, 2023), cell line 7, "Executive Director UM 2114 & UE 399", 10 hrs., \$200 rate, \$2000.

<sup>14</sup> See Supplemental Budget of Small Business Utility Advocates (Oct. 20, 2023) – totals are \$2,437 for 2021, \$21,138 for 2022, and \$4,937 for 2023 – totaling \$28,512,

<sup>15</sup> See Supplemental Budget of Small Business Utility Advocates (Oct. 20, 2023) exhibit A page 2.

However, to access this funding – SBUA must make a filing with a final, revised budget that adds up to reported totals, outlines expenses per year, and explains why previous submissions were off by thousands of dollars and proposes an allocation amongst utilities and must do so no later than December 1, 2023. Future requests from SBUA must follow the specific requirements of the Fifth IFA or they will be rejected. For these future requests, we highlight the following requirements that SBUA, given its experience, must meet scrupulously:

(1) Requests must be timely.

SBUA must meet the intervenor funding filing requirements associated with specific dockets it seeks funding for.<sup>16</sup>

(2) Requests must be complete.

SBUA should be sure to follow the specific procedures of the IFA and must supply the necessary information required by the agreement. For example, when requesting case certification, SBUA must address all the criteria outlined in section 5.3 of the agreement.

(3) Requests must explain significant organizational or financial changes.

If SBUA experiences significant changes relating to any of the criteria we must review as part of the intervenor funding process, including changes in leadership, its attorney, financial control or status, or other significant changes SBUA should report such information as part of its requests.

(4) Requests must include a reliable, descriptive budget.

SBUA's budgets and financial information are consistently unreliable. SBUA needs to immediately improve in this area. Financial information and budgets that do not add up, or do not provide adequate description of financial conditions, do not justify approval of funding requests.

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<sup>16</sup> For example, the Fifth IFA states that “Any potential intervenor seeking an Issue Fund Grant must file a notice of intent to request an Issue Fund Grant ("Notice of Intent") when it submits its petition to intervene or notice of intervention in the matter or, for matters that do not involve a formal intervention, at such other time as the Commission designates. For proceedings under Article I(e)(v) requiring a Motion to Declare as an Eligible Proceeding for Issue Funds, a Notice of Intent must be filed within 30 days of the Commission ruling upon such motion.” *See* Order No. 22-506, Appendix A, at 18.

- (5) SBUA must demonstrate its 20 percent match.

We impose additional requirements on SBUA, separate from the requirements of our rules or the Fifth IFA:

- (1) SBUA must demonstrate consistent independent policy and financial controls, separate from its contractors, including Diane Henkels.
- (2) SBUA must submit independent financial statements, that is annual statements, prepared by an outside professional accountant or independent board member, on an annual basis, following the end of each fiscal year. This information may be provided to the Administrative Hearings Division no later than May 15 of each year.
- (3) All future payments to SBUA contractors must be made by SBUA. Should SBUA seek recovery from customers of any costs in any budget, SBUA must demonstrate in final reporting that SBUA paid for the asserted services. Evidence must demonstrate that SBUA has directly compensated its contractors. Payments from SBUA contractors to other contractors, providers, employees or for any service performed for SBUA is cause for rejection of SBUA requests for funding, given SBUA's history with our intervenor funding program.

SBUA has been given many chances to comply with the agreements, rules, orders, and to demonstrate professional financial and contractor management. Instead, SBUA consistently provides confusing requests or contradictory financial information. It is not an appropriate use of Commission resources for us to continue to independently investigate SBUA's filings to find good cause for funding, where SBUA has not demonstrated that itself. SBUA is expected to meet the standards outlined in this order without exception for any future funding request.

### **III. ORDER**

IT IS ORDERED that:

1. Order No. 23-165 is re-affirmed and the Small Business Utility Advocates' funding for activity in docket UE 399 is limited to \$7,311.09.
2. The Small Business Utility Advocates' amended proposed budget for UM 2114 is denied.

3. The Small Business Utility Advocates' request for reallocation of issue funds from the approved 2022 budget in UE 399 to the amended proposed 2023 budget in UM 2114 is denied.
4. The Small Business Utility Advocates may submit an amended proposed budget for 2023 activity in docket UM 2114, including corrections to calculations provided in previous responses, consistent with this order. This budget must propose an allocation of its UM 2114 amongst utilities and be filed no later than December 1, 2023.
5. The Small Business Utility Advocates' request for payment of its UE 399 PacifiCorp Issue Fund meets the requirements of the Fourth Amended and Restated Intervenor Funding Agreement, and its request is approved.
6. PacifiCorp, dba Pacific Power, pay \$7,311.09 from the PacifiCorp Issue Fund to the Small Business Utility Advocates within 30 days after receipt of this order, and the grant be assessed to PacifiCorp's Schedule 23 customers.

Made, entered, and effective on Nov 21 2023.

*Megan W Decker*

**Megan W. Decker**  
Chair

*Letha Tawney*

**Letha Tawney**  
Commissioner



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.