

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

PCN 6

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Petition for Certificate of Public  
Convenience and Necessity.

ORDER

DISPOSITION: PETITION FOR CASE CERTIFICATION (JUSTICE FUNDING)  
DENIED

**I. SUMMARY**

In this order, we deny the petition for case certification for a “Justice Funding Grant” filed by Kelly Bartholomew on behalf of Save Stafford Road (SSR). We determine, as described below, that this request does not meet the requirements of OAR 860-001-0800 through OAR 860-001-0900, and the request is not consistent with the Justice Funding Agreement adopted by the Commission in docket UM 2211 through Order No. 23-033.<sup>1</sup>

**II. BACKGROUND AND PROCEDURAL HISTORY**

This proceeding, opened on March 27, 2024, concerns authorization for a Petition for a Certificate of Public Convenience and Necessity (CPCN) filed by Portland General Electric for the construction of an overhead, 115-kilovolt transmission line totaling 7.4 miles in length and located primarily within Clackamas County, between two existing substations.

SSR filed a petition to intervene in this proceeding on May 2, 2024. ALJ Mellgren granted SSR’s petition to intervene on May 14, 2024. ALJ Mellgren then issued a procedural schedule for this proceeding on June 21, 2024. The procedural schedule was stayed from August 19, 2024, through August 28, 2024. The procedural schedule as

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<sup>1</sup> On October 1, 2024, in Docket No. UM 2211, Order No. 24-337, we extended the term of this agreement through December 31, 2025.

re-established by the Commission on August 28, 2024, is largely consistent with the original schedule with the exception of some adjustments to certain deadlines for filing testimony.

On September 26, 2024, SSR filed testimony in this docket. On October 10, 2024, SSR filed a request to withdraw as an intervenor, and requested removal from docket PCN 6, stating “[a]t this time, Save Stafford Road is withdrawing as an Intervenor in the above-entitled PUC Docket PCN 6.”

On October 14, 2024, Kelly Bartholomew filed a petition to intervene in this proceeding. On October 15, 2024, Kelly Bartholomew filed a notice of intent to request a Justice Funding case fund grant, request for case certification, and proposed budget.

On October 17, 2024, PGE filed an objection to Ms. Bartholomew’s request. PGE argues that SSR’s advocacy is not directed at public utility issues affecting the interests of Environmental Justice or low-income communities. PGE notes that SSR’s application does not provide any information about the constitution of its membership base, whether they are part of an eligible community, and whether SSR’s outcome-driven, private interest aligns with those of PGE customers. PGE argues that SSR’s testimony was devoid of reference to Environmental Justice or low-income communities. PGE states that SSR’s organizational objectives are analogous to those of a plaintiff in a complaint proceeding, and PGE notes that our rules prohibit Justice Funding in complaint proceedings. PGE also suggests that SSR has not demonstrated an ability to effectively or constructively participate in this proceeding and will unduly delay it.

On October 18, 2024, Ms. Bartholomew submitted as an errata a “Notice to Participate & Request HB 2475 Interim Intervenor Funding of Save Stafford Road.” In her October 18, 2024 filing, Ms. Bartholomew requests that the October 18, 2024 filing “replace the document submitted on 10/14/2014.” Ms. Bartholomew signed the October 18, 2024 filing as an officer of SSR.<sup>2</sup> In the supplemental filing, Ms. Bartholomew requests that the Commission grant SSR’s Notice to Participate in these proceedings as an eligible organization and its request to receive HB 2475 interim intervenor funding. Ms. Bartholomew responds to the concerns about delay and asserts that if SSR is granted funding, it proposes “picking up where we left off and resuming the regular schedule.”

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<sup>2</sup> SSR is a non-profit membership organization (corporation), as described in its petition to intervene, filed May 2, 2024. John Lekas and Ed Wagner were listed as representatives of the organization in the petition to intervene. Kelly Bartholomew was not identified as a representative at that time.

On October 18, 2024, PGE filed a response, arguing that Ms. Bartholomew's October 18, 2024 filing constituted new requests for funding and intervention and sought time to respond. Ms. Bartholomew filed a reply on October 21, 2024. Due to our decision below, there is no need for further response from PGE at this time.

### III. APPLICABLE LAW

Consistent with OAR 860-001-0810(6), an eligible recipient of Justice Funds means “an organization that represents the interests of either low-income residential customers or communities, or customers that are members of Environmental Justice Communities.” Low-income communities include, but are not limited to, communities with limited or insufficient financial means to cover basic needs and essential services.

OAR 8609-001-0810 (8) defines an “Environmental Justice Community or Communities” to include 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.

OAR 860-001-0840 (1) describes the criteria which must be met by the applicant in order to achieve certification:

- (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 if an organization is eligible to receive a Justice Funding 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 Funding Grant is sought.

In reviewing a request for Justice Funding, OAR 860-001-0860 (9) states that the Commission may approve or deny a proposed budget based on 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).

#### IV. RESOLUTION

We deny Ms. Bartholomew’s request for Justice Funding case certification on behalf of SSR. Counsel for SSR served its notice of withdrawal on October 10, 2024. As a result, SSR is no longer a party to this proceeding. Because SSR is no longer a party to this docket, it cannot demonstrate eligibility for Justice Funding. A funding request cannot come before a petition to intervene. Additionally, intervention and party status is essential to robust participation in this proceeding – without that, SSR cannot demonstrate that it will effectively represent the interests of any Environmental Justice or low-income community in this case in order to qualify for funding.<sup>3</sup> The October 18, 2024 filing,

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<sup>3</sup> Under OAR 860-001-0860(1), in a contested case, an “[a]pplicant[] 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.”

which included a “notice to participate” does not confer party status. If Stafford Road seeks to participate in this proceeding, it must request to do so by filing a petition to intervene. That petition to intervene would need to address the concerns addressed in Order No. 24-355 on Portland General Electric Company’s motion to strike.

Additionally, Ms. Bartholomew’s participation in this case is limited to appearing on her own behalf, not as a representative of SSR, consistent with her petition to intervene. Although Ms. Bartholomew represents herself as an officer of SSR in her October 18, 2024 filing, she did not seek to intervene on behalf of SSR in her petition. Justice Funding is only accessible to organizations representing Environmental Justice or low-income communities, not individuals. As an individual, Ms. Bartholomew cannot qualify on her own behalf for Justice Funding. These circumstances alone require denial of the request.

Though we must reject this request for the fundamental deficiencies outlined above, we also will address the requirements for seeking Justice Funding. Our rules governing Justice Funding under HB 2475 are set forth in OAR 860-001-0800 through OAR 860-001-0900. These rules implement the Environmental Justice Communities Funding Agreement that we approved effective February 8, 2023.<sup>4</sup> We note that the October 18, 2024 filing appears to rely upon an interim agreement for HB 2475 funding, which is no longer in effect.<sup>5</sup>

A request for certification for eligibility to receive Justice Funding grants must address each of the eligibility criteria in OAR 860-001-0840(1), set forth above. Each criterion must be addressed with sufficient specificity to allow us to evaluate the application. Without an explanation of how SSR or its members have ties to and “represent the interests of low-income residential customers or Environmental Justice Communities” and how those interests are implicated in this proceeding, we cannot consider the request.

An applicant seeking a Justice Funding case fund grant must also provide a proposed budget, which the Commission reviews, and may approve or deny, in whole or in part based on the factors set forth in OAR 860-001-0860(9). We have concerns about the timing of this request for funding, which was made late in the proceeding – after the filing of opening testimony. In such circumstances, the applicant would need to demonstrate how its proposed budget was consistent with the procedural schedule.<sup>6</sup>

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<sup>4</sup> As noted above, we have since extended the term of this agreement through December 31, 2025.

<sup>5</sup> In Order No. 22-043, we approved an interim agreement for HB 2475 funding to be effective while a more permanent agreement and rules were developed.

<sup>6</sup> OAR 860-001-0860(9).

**V. ORDER**

For the above reasons, Ms. Bartholomew's request for case certification for Save Stafford Road is denied.

Made, entered, and effective Oct 22, 2024.

*Megan W. Decker*

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**Megan W. Decker**  
Chair

*Letha Tawney*

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**Letha Tawney**  
Commissioner



*Les Perkins*

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**Les Perkins**  
Commissioner