

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 390

In the Matter of

PACIFICORP, dba PACIFIC POWER,

2022 Transition Adjustment Mechanism.

ORDER

DISPOSITION: APPLICATION FOR RECONSIDERATION DENIED

On October 1, 2021, Small Business Utility Advocates (SBUA) submitted a request for us to reconsider Order No. 21-245, which denied SBUA's petition for case certification. Order No. 21-245 determined that SBUA did not demonstrate an ability, in this proceeding, to substantively contribute to the record on behalf of customer interests. The order stated that based on the testimony filed in docket UE 390, SBUA did not meet the criteria.

Specifically, Order No. 21-245 determined that in this particular case SBUA's filed testimony focused on issues outside the scope of the proceeding, demonstrating a fundamental lack of understanding of the power cost considerations in the docket.

In its request for reconsideration, SBUA asserts that the Commission's application of its rules and the terms of the Fourth Amended and Restated Intervenor Funding Agreement are erroneous. SBUA points out that SBUA was case certified in earlier proceedings, such as UE 374 (Pacific Power Request for General Rate Revision). SBUA argues that the testimony of Darren Wertz focused on the impact of COVID-19 on load and issues related to the PacifiCorp 2022 Transition Adjustment Mechanism. SBUA further opines that the Commission's decision to base denial of case certification on SBUA's activity in this case alone is inconsistent with previous applications of intervenor funding rules and agreements. SBUA argues that we applied our rules improperly, because we determined that the testimony did not significantly contribute to the record.

SBUA argues that the Commission must look to other dockets in making a determination about the ability to contribute and that by failing to do so our decision was in error. Finally, SBUA asserts that the Commission's invitation to SBUA to apply for case certification after an additional demonstration of an ability to contribute to the docket was inconsistent with the rules.

We find that the SBUA's application for reconsideration does not demonstrate, as required by OAR 860-001-0720(3)(a) to (c), that there is new evidence, a recent change in law or policy, or an error of law or fact on our part that was essential to our decision. Neither does SBUA show good cause for further examination of an issue essential to our decision.

In applying the relevant intervenor funding rules, and in implementing the agreements, it is appropriate for the Commission to review both activity in other dockets, as well as activity in the docket in which the funding is requested. In this instance, SBUA's opening testimony, filed on June 9, 2021, was not comprehensible, did not include discernable or actionable recommendations relevant to this proceeding, and did not contribute to the record for decision in this case. We acknowledge that it is unusual to review filed documents in the case in question when reviewing a case certification, but the review undertaken here was a necessary element to determine whether the applicant demonstrated an ability to contribute to the development of the record in this case and this testimony provided the most direct and recent example of SBUA's engagement in our processes. To ignore this most recent example and base our decision on past activity exclusively would not be a faithful application of the rules or the agreement.

We reject SBUA's assertion that because we offered SBUA the opportunity to subsequently manifest its contribution in this docket, we failed to follow rules or act consistent with the agreement. Our invitation represented an interpretation of the agreement that would allow an applicant to develop and improve its participation in a docket, and later qualify for funding that we previously rejected. This understanding of the agreement is solicitous to applicants and benefits them by providing a second opportunity to pursue funding, and it is not inconsistent with the letter or intent of the rules and agreements.

ORDER

IT IS ORDERED that the application for reconsideration of Order No. 21-245, submitted by SBUA, is denied.

Made, entered, and effective Nov 22 2021.



Megan W. Decker
Chair



Letha Tawney
Commissioner



Mark R. Thompson
Commissioner



A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.