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June 25, 2021

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem OR 97301

Re: In the Matter of PACIFICORP, dba PACIFIC POWER,
2022 Transition Adjustment Mechanism.
Docket No. UE 390

Dear Filing Center:

Please find enclosed the Response of the Alliance of Western Energy Consumers and Oregon Citizens' Utility Board to the Small Business Utility Advocates' Petition for Case Certification in the above-referenced docket.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Sincerely,

/s/ Jesse O. Gorsuch
Jesse O. Gorsuch

Enclosure

criteria to be eligible for case certification.^{2/} These include a demonstration that the petitioner “is able to effectively represent the particular class of customers it seeks to represent,” and that the petitioner has “the ability to substantively contribute to the record on behalf of customer interests related to rates and the terms and conditions of service.”^{3/}

SBUA’s filed testimony in this docket demonstrates that it has not met these criteria and, therefore, its Petition should be denied. SBUA’s testimony discusses several topics, but fails to articulate an understandable position on these topics or fails to connect them in a rational way to the proceeding at issue. To the extent SBUA makes recommendations, those recommendations are unclear, likely unlawful, or would result in a negative outcome to the customers SBUA purports to represent.^{4/}

For instance, SBUA’s testimony asserts, without any explanation, that “[alternative metering infrastructure] data analysis is needed to determine whether a[rate] increase is just and reasonable.”^{5/} It appears that SBUA may be suggesting here that a just and reasonable rate for Schedule 23 customers must account for these customers’ load characteristics, which allegedly would be available by reviewing AMI data, and that PacifiCorp’s filing does not provide this information because it assigns all costs to energy usage.^{6/} This position fundamentally misunderstands the TAM proceeding. This is not a general rate case where all aspects of

^{2/} Fourth IFA § 5.3.

^{3/} Fourth IFA § 5.3(c), (e).

^{4/} To date, SBUA has not publicly divulged a list of its members.

^{5/} SBUA/100, Wertz/4:5.

^{6/} *See id.* at 3:23-4:2.

customers' rates are under investigation. The TAM establishes PacifiCorp's power costs; thus, there is no rational basis for assigning these costs on anything other than energy usage.

SBUA also refers to the 2020 Protocol. Again, SBUA's testimony demonstrates that it lacks a basic understanding of PacifiCorp's operations and the ratemaking process. SBUA states that the "2020 Protocol is a methodological assumption for the TAM" and that its purpose "was to allocate the amount the Company could recover from rate classes in each state where the Company operates."^{7/} It is neither. It is unclear what SBUA means by its statement that the 2020 Protocol is "a methodological assumption" for the TAM, but, while rates established in the TAM are certainly dependent on the 2020 Protocol, this agreement was not developed for the TAM proceeding. It was developed to establish a comprehensive method for allocating the Company's system-wide costs to each of the six states it serves. Thus, it also does not dictate how PacifiCorp recovers its costs from each rate class in each state – rate spread determinations are outside of the scope of the 2020 Protocol and, in fact, are outside of the scope of the TAM as well. Furthermore, even if SBUA had accurately described the 2020 Protocol, it fails to explain why it is raising this agreement as an issue in the TAM or how it relates to its advocacy on behalf of Schedule 23 customers. Indeed, while SBUA notes that the rates in the TAM are partially dependent on the Load-Based Dynamic Allocation Factors established in the 2020 Protocol, it admits that it has "not yet been able to fully review the file for that information."^{8/}

Finally, SBUA makes a confusing and misguided argument related to the Energy Imbalance Market ("EIM"). It appears to argue that small business customer loads have declined

^{7/} *Id.* at 4:18-25.

^{8/} *Id.* at 5:2.

as a result of the COVID-19 pandemic; this then frees up power to sell into the EIM, the revenues from which should be passed back to Schedule 23 customers as a “discount.”^{9/} SBUA makes no attempt to quantify the amount of such “discount” it recommends. Moreover, its description of the EIM does not reflect how this market, or any power market, works. Revenues from the EIM are dependent on real-time market prices, not loads. While loads may impact market prices, that is due more to on-peak and off-peak regional demand, driven primarily by weather and supply conditions, not annual loads of a single customer class in a single state. Thus, to the extent PacifiCorp earns more revenue in the EIM, that revenue is not due to historical or projected loads of a single customer class. Therefore, revenues should be passed back to all customer classes, not just Schedule 23. In fact, SBUA’s position could argue for a rate *increase* to small business customers – all things being equal, PacifiCorp’s power costs decline on a per-customer basis when loads increase, rather than decrease, because those costs are spread over more kilowatt-hours. If SBUA’s argument was actually somehow applicable to setting power costs in the TAM—which it is not—it could actually serve to harm Schedule 23 customers. Further, to the extent SBUA is arguing for a “discount” to Schedule 23 on the basis of loads that were lower than forecast, this likely constitutes unlawful retroactive ratemaking and, therefore, SBUA is seeking relief the Commission cannot provide.

Ultimately, nothing in SBUA’s testimony demonstrates effective representation of small business customers, nor does it substantively contribute to the record on behalf of these customers, as the Fourth IFA requires. Rather, SBUA’s testimony confuses and burdens the

^{9/} *Id.* at 5:21-25.

record of this proceeding by making unfounded and uninformed statements that have no evidentiary, legal, or policy basis, and are largely unaccompanied by any recommendations that would benefit small business customers. SBUA's testimony identifies no adjustments to PacifiCorp's power costs and requests no relief the Commission can provide.

III. CONCLUSION

For the foregoing reasons, CUB and AWEC recommend that the Commission deny SBUA case certification in this proceeding. SBUA cannot demonstrate effective representation of the customer class it purports to represent in this proceeding, and it is therefore ineligible to be granted case certification under the terms of the Fourth IFA in this proceeding.

Dated this 25th day of June, 2021.

Respectfully submitted,

DAVISON VAN CLEVE, P.C.

/s/ Tyler C. Pepple

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Of Attorneys for the Alliance of Western Energy
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OREGON CITIZENS' UTILITY BOARD

/s/ Michael Goetz

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