

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UE 374

In the Matter of	)	
	)	APPLICATION FOR
PACIFICORP, d.b.a. PACIFIC POWER	)	RECONSIDERATION
	)	OF SMALL BUSINESS UTILITY
Request for a General Rate Revision	)	ADVOCATES
_____	)	

**I. INTRODUCTION**

Pursuant to ORS 756.561 and OAR 860-001-0720, Small Business Utility Advocates (“SBUA”) files this Application for Reconsideration (“Application”) of the Public Utility Commission’s (“Commission”) Order Granting Case Certification (“Order”) on the issue of intervenor funding in the above-referenced docket.<sup>1</sup> The Order grants the Petition of Small Business Utility Advocates for Case Certification (“Petition”), but notes that the balance of available funds in the PacifiCorp Issue Fund as of the date of the Order was less than \$100.<sup>2</sup>

SBUA requests that the Commission exercise its authority under 6.5 of the Fourth Amended and Restated Intervenor Funding Agreement to amend its Order by adding a provision that funds not spent from the 2020 and 2019 PacifiCorp issue funds be applied to the SBUA’s Proposed Budget in UE 374 insofar as the Administrative Law Judge (“ALJ”) finds the budget reasonable.

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<sup>1</sup>This Application is timely filed. OAR 860-001-0720(1).

<sup>2</sup>UE 374 In the Matter of PacifiCorp dba Pacific Power Request for General Rate Revision, Order 20-187 entered 6/10/20 <https://apps.puc.state.or.us/orders/2020ords/20-187.pdf> (last accessed 7/19/20).

## II. BACKGROUND

SBUA filed its Petition on March 10, 2020.<sup>3</sup> The filing included as an incorporated attachment a Proposed Budget of approximately \$22,000.<sup>4</sup> The Proposed Budget also included a balance of PacifiCorp Issue Funds available as of the date the Petition was filed, including the Commission staff's spreadsheet of funding levels as of March 10, 2020, which indicated \$144,424.80 in uncommitted funds remaining in the PacifiCorp Issue Fund.<sup>5</sup> SBUA also filed on February 20, 2020 a Notice of Intent to Request Issue Fund Grant.<sup>6</sup> The March 10, 2020 Petition was not opposed. The ALJ issued a Prehearing Conference Memorandum identifying April 27, 2020 as the deadline for Intervenors to file Proposed Budgets.<sup>7</sup> As noted above, SBUA filed its Proposed Budget on March 10, 2020. Besides CUB, SBUA, and AWEC, no other intervenor sought intervention funding in this docket.

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<sup>3</sup> UE 374 In the Matter of PacifiCorp dba Pacific Power Request for General Rate Revision Petition of SBUA for Case Certification, <https://edocs.puc.state.or.us/efdocs/HAO/ue374hao153717.pdf> (last accessed 7/19/2020).

<sup>4</sup> While filing a Proposed Budget is a separate step in the intervenor funding procedure for case certification process of accessing issue fund grants, it is common to file the Proposed Budget with the Petition for Case Certification.

<sup>5</sup> Intervenor Funding: <https://www.oregon.gov/puc/filing-center/Pages/Intervenor-Funding.aspx> (last accessed 3/10/20). Intervenor AWEC acknowledged a level of approximately \$100,000 in its UE 374 Proposed Budget for Issue Fund Grant filed February 25, 2020.

<sup>6</sup> The Notice of Intent of SBUA to seek Issue Fund Grant was filed on February 21, 2020. SBUA acknowledges that the order of filing was not as designated by the rules which provide that the Notice is to be filed after or at same time with the Petition for Case Certification, but also respectfully submits that the timing error should not prejudice SBUA in this instance where all parties were on notice, it is not prejudicial to any party, and the Commission has granted SBUA's Petition.

<sup>7</sup> UE 374 PacifiCorps dba Pacific Power Request For General Rate Revision, Prehearing Conference Memorandum, issued March 6, 2020, p 1, <https://edocs.puc.state.or.us/efdocs/HDA/ue374hda152831.pdf> (last accessed 7/19/20).

On June 10, 2020, three months after the Petition was filed,<sup>8</sup> the Commission granted SBUA’s Case Certification but noted that the Issue Fund balance as of that date was less than \$100. SBUA filed a Public Records Request (“Request”) and the Commission’s staff responded to that Request (“Response”) on June 26, 2020. The Response showed that the Issue Fund spreadsheet had been updated January 5, February 5, 2020, and May 12, 2020.<sup>9</sup> As noted, SBUA filed its Petition and a Proposed Budget on March 10, 2020. The Response also shows when issue fund requests were received and granted, and indicates intervening parties are required to coordinate. Also, SBUA was available to, and did initiate reaching out pursuant to Section 6.6 of the Intervenor Funding Agreement to the Oregon Citizens’ Utility Board (“CUB”) and Alliance of Western Energy Consumers (“AWEC”) to confer regarding cooperation but neither AWEC nor CUB saw opportunity to cooperate with SBUA.

### **III. TIMELINE AND ARGUMENT**

- February 5, 2020—Request to Commission for General Rate Revision filed by PacifiCorp
- February 14, 2020 – Issue Fund spreadsheet updated by Commission Staff
- February 21, 2020 -- Petition to Intervene filed by SBUA
- February 21, 2020 – Notice of Intent to Request Issue Fund Grant filed by SBUA
- March 2, 2020 – Order granting SBUA’s Petition to Intervene
- March 6, 2020—Prehearing Conference Memorandum filed setting April 27, 2020 as deadline to file Proposed Budget for Intervenor Funding
- March 10, 2020 – Petition of SBUA for Case Certification including Proposed Budget
- March 11, 2020—Pre-certified intervenor AWEC submits budget for Issue Fund grant
- March 11-13, 2020—ALJ approves other intervenor proposed budgets totaling \$114,900
- May 12, 2020 – Issue Fund spreadsheet updated by Commission Staff

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<sup>8</sup> The Intervenor Funding Agreement 6.5 identifies a timeframe of 14 days in which the Commission aims to respond to Petitions for intervention funding. SBUA cannot be said to have “slept on its rights” where in addition to the ALJ April 27, 2020 deadline, SBUA did inquire of the Commission staff re the status of the Petition on May 13, 2020. Exhibit A.

<sup>9</sup> Exhibit B: SBUA’s Public Records Request & Commission’s staff’s Response.

- June 6, 2020 – Order by the Commission granting SBUA case certification but noting \$100 remaining in Intervention Funds
- July 29, 2020—Order approving payment of AWEC’s funding grant

As the balance of intervention funds fluctuates it is reasonable to require the ALJ to specify the steps required to enable SBUA, now a case certified intervenor, to access issue grant funding in order to adequately represent the interests of small commercial customers in this general rate case. SBUA has in a previous docket set forth the context of the intervention issue funding purpose to enable effective participation in dockets, and SBUA incorporates this filing by reference.<sup>10</sup> Given that case certification was granted, permitting SBUA to seek intervenor funding, it is fair and equitable to direct that the ALJ allocate issue funds available or made available in the 2020 and the 2019 PacifiCorp Issue Fund accounts to a reasonable SBUA budget in this docket (UE 374).

## **1. Grounds for Reconsideration**

The Commission may review a decision with a consideration of all facts, including those arising since the former hearing, if the original order is in any respect unjust or unwarranted, and the Commission may reverse, change, or modify the same accordingly.<sup>11</sup> Among other possible reasons to grant this Application to reconsider the Order, new evidence relating to intervenor funding was obtained after the Order and good cause supports granting this Application.<sup>12</sup> In this case the Commission should modify its Order granting Case Certification and order that SBUA’s

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<sup>10</sup> UE 352 In the Matter of PacifiCorp dba Pacific Power Renewable Adjustment Clause, Application for Reconsideration of Small Business Utility Advocates, <https://edocs.puc.state.or.us/ef-docs/HAG/ue352hag17539.pdf> (last accessed 7/19/20).

<sup>11</sup> ORS 756.561(3).

<sup>12</sup> OAR 860-001-0720(3)(a) and (d).

reasonable budget be paid from issue grant funds made available from funds remaining in the PacifiCorp Issue Fund accounts for 2020 and 2019.

## **2. Issue Funds Accounting**

SBUA reasonably relied on the spreadsheet posted by Commission staff when SBUA filed its Petition on March 10, 2020. At that time, the spreadsheet reflected an estimate of uncommitted funds of \$144,424.80 in the PacifiCorp Issue Fund.<sup>13</sup> Only after SBUA received its Response did SBUA learn the issue fund spreadsheet had not been updated in the amount of uncommitted PacifiCorp Issue funds between February 5 and May 12, 2020.<sup>14</sup> The Response also shows that after SBUA filed its petition for case certification on March 10, 2020, Alliance of Western Energy Consumers (“AWEC”) filed for its funding request in UE 375 on March 11, 2020. Per AWEC’s request the Issue Fund on March 11, 2020 was estimated at \$21,000 and AWEC requested a budget of almost \$16,000.<sup>15</sup> On March 11, 2020 in Order 20-073 the ALJ also granted in docket UM 2024 an Amended Issue Fund Grant from PacifiCorp Issue Fund to AWEC.<sup>16</sup> As of the date of SBUA’s filing its Petition including its Proposed Budget on March 10, 2020, the level of Issue Funds was presumably somewhere between \$144,424.80 and the amount approved for AWEC’s funds. This amount could have supplied SBUA with all or most of its budget rather than only \$100.

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<sup>13</sup> Intervenor Funding: <https://www.oregon.gov/puc/filing-center/Pages/Intervenor-Funding.aspx> (last accessed 3/10/20).

<sup>14</sup> Exhibit B.

<sup>15</sup> UE 375 In the Matter of PacifiCorp 2021 Transition Adjustment Mechanism, Alliance of Western Consumers’ Proposed Budget Fund Grant, <https://edocs.puc.state.or.us/efdocs/HAH/ue375hah85750.pdf> p 2 (last accessed 7/18/20).

<sup>16</sup> <https://apps.puc.state.or.us/orders/2020ords/20-073.pdf>

### 3. Amending the Case Certification Order

The Commission may amend its Order granting case certification and enable SBUA to access funds from the PacifiCorp Issue Fund account.<sup>17</sup> On July 8, 2020, the ALJ suspended UE 375<sup>18</sup> and in so doing substantially reduced the work entailed in that docket as described in the ALJ's Prehearing Memorandum.<sup>19</sup> Given the material change in that docket's schedule, the Commission should order funds not expended in UE 375 or another PacifiCorp docket, be applied to a reasonable budget presented by SBUA in this docket. In addition, the Commission should order that a reasonable SBUA budget be funded from the reallocation of remaining 2019 PacifiCorp Intervenor Issues Funds, as the Commission has done for other intervenor funding.<sup>20</sup>

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<sup>17</sup> OAR 860-001-0720 and Fourth Amended and Restated Intervenor Funding Agreement, approved by Order 18-017 available at: <https://apps.puc.state.or.us/orders/2018ords/18-017.pdf> (last accessed 07/24/2020).

<sup>18</sup> UE 375 In the Matter of PacifiCorp, dba Pacific Power Transition Adjustment Mechanism, Ruling issued 7/8/20 suspending the docket UE 375, <https://edocs.puc.state.or.us/efdocs/HDA/ue375hda17146.pdf> (last accessed 7/18/20).

<sup>19</sup> UE 375 In the Matter of PacifiCorp, dba Pacific Power Transition Adjustment Mechanism, Prehearing Memorandum, March 4, 2020, <https://edocs.puc.state.or.us/efdocs/HDC/ue375hd-c165031.pdf> (last accessed 7/18/20)(While some time is needed to file the remaining documents required to support the settlement, the settlement eliminates the need for Intervenor Rebuttal Testimony, Cross-exam statements and Hearing, Reply brief and Cross-Answering Brief.)

<sup>20</sup> See Order 19-414 issued 11/25/19 in UM 2024 In the Matter of Alliance of Western Energy Consumers Petition for Investigation Into Long-Term Direct Access Programs, <https://apps.puc.state.or.us/orders/2019ords/19-414.pdf> (last accessed 7/19/20)(Allocating funds remaining from 2019 PacifiCorp Issue Fund to a different docket in 2020).

#### IV. CONCLUSION

SBUA requests the Commission review and reconsider the Commission's timing of commitment of intervenor funding from the PacifiCorp Issue Fund and order that SBUA's reasonable budget be funded from funds remaining from the 2020 and 2019 Issue Funds. SBUA timely filed a petition for Case Certification, which included a Proposed Budget. Other intervenors and the Commission were given notice of SBUA's intent to request issue funds and no party will be prejudiced if the Commission orders funds to be paid. When SBUA filed its intent for issue funds, the Issue Fund estimated uncommitted funds of \$144,424.8.<sup>21</sup> SBUA reasonably relied on the Commission's staff's statement of funds present in the Issue Fund when it requested funding. Also, both the 2019 and the 2020 funding accounts fluctuate. It is fair and equitable that SBUA be able to access this funding. For these reasons SBUA requests the Commission grant this Application.

Respectfully submitted.

August 6, 2020


s/ Diane Henkels

DATE: \_\_\_\_\_

By: \_\_\_\_\_

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<sup>21</sup> Intervenor Funding: <https://www.oregon.gov/puc/filing-center/Pages/Intervenor-Funding.aspx> (accessed 3/10/20).

**From:** Diane Henkels [diane@utilityadvocates.org](mailto:diane@utilityadvocates.org)   
**Subject:** UE 374 Pacificorp Request for General Rate Revision -- re case certification of SBUA  
**Date:** May 13, 2020 at 8:37 AM  
**To:** Diane Davis [diane.davis@state.or.us](mailto:diane.davis@state.or.us)

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DH

Good morning Diane,

Did I miss the Commission Response to this Petition for Case Certification in this docket? I have not seen it issued yet.

Please advise.

Sincerely,



Diane Henkels  
Attorney, Small Business Utility Advocates  
541-270-6001 / [www.utilityadvocates.org](http://www.utilityadvocates.org)

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**From:** Diane Henkels [diane@utilityadvocates.org](mailto:diane@utilityadvocates.org)  
**Subject:** Fwd: Public Records Request :: U000176-062420  
**Date:** August 5, 2020 at 5:20 PM  
**To:**



Begin forwarded message:

**From:** Oregon PUC Public Records <[oregonpuc@govqa.us](mailto:oregonpuc@govqa.us)>  
**Subject:** Public Records Request :: U000176-062420  
**Date:** June 24, 2020 at 11:18:01 AM EDT  
**To:** "[adelaide@utilityadvocates.org](mailto:adelaide@utilityadvocates.org)" <[adelaide@utilityadvocates.org](mailto:adelaide@utilityadvocates.org)>



Dear Adelaide Hardwick:

Thank you for your interest in public records of Oregon Public Utility Commission. Your request has been received and is being processed in accordance with Public Records Law in Oregon.

Your request was received in this office on 6/24/2020 and given the reference number U000176-062420 for tracking purposes.

**Records Requested:** I am requesting all the changes made to the "Intervenor Funding Summary" excel spreadsheet (that is found on this website <https://www.oregon.gov/puc/filing-center/Pages/Intervenor-Funding.aspx>) specific to the PacifiCorp "Pacific" tab from January 1st, 2020 to present. I want to know every time the spreadsheet related to PacifiCorp was updated and how it was updated. Please let me know the estimated costs, if any, of making these records available for inspection or providing copies of record pursuant to OAR 860-001-0060(4). Thank you!

Your request will be forwarded to the relevant department(s) to locate the information you seek and to determine the volume and any costs associated with satisfying your request. You will be contacted about the availability and/or provided with copies of the records in question. PLEASE NOTE: Public Records Law in Oregon does not require a governmental body to create new information, to do legal research, or to answer questions.

You can monitor the progress of your request at the link below and you'll receive an email when your request has been completed. Again, thank you for using the Public Records Center.

Oregon Public Utility Commission

To monitor the progress or update this request please log into the [Public Records Center](#)



The table below shows when proposed budgets were filed for the 2020 PacifiCorp Issues Fund, the order numbers for the orders approving those budgets, and the dates of the orders.

Party	Amount	Budget Order	Docket	Request Date	Order Date
AWEC	\$20,000.00	19-414/20-073	UM 2024	2/19/2020	3/11/2020
CUB	\$12,500.00	20-049	UM 2024	2/11/2020	2/14/2020
CUB	\$7,000.00	20-050	UM 2004	2/11/2020	2/21/2020
CUB	\$54,000.00	20-072	UE 374	2/14/2020	3/11/2020
AWEC	\$40,000.00	20-074	UE 374	2/19/2020	3/11/2020
AWEC	\$13,500.00	20-075	UE 375	3/11/2020	3/11/2020
CUB	\$7,400.00	20-083	UE 375	3/12/2020	3/13/2020
	\$154,400.00				

The tracking spreadsheet posted on the PUC’s website was updated on January 9, 2020, February 5, 2020, and May 12, 2020. The big gap in updates was due to increased workload and other working conditions caused by COVID-19 pandemic.

Under normal working conditions, the process for updating the spreadsheet is to update it when orders are issued addressing the intervenor funding filings.

On February 21, 2020, SBUA filed a Notice of Intent to Request an Issue Fund Grant in UE 374. SBUA filed for case certification on March 10, 2020.

Please note for SBUA’s future information that Section 6.2 of the current applicable intervenor funding agreement (found online at <https://apps.puc.state.or.us/orders/2018ords/18-017.pdf>) states that an intervenor *who is not precertified must apply for case-certification on or before* the time it submits its notice of intent (Order No. 18-017, Appendix A, page 18) (emphasis added). Section 6.6 of the agreement encourages cooperation among the parties seeking intervenor funding.