

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UE 399

IN THE MATTER OF:)	
)	
PACIFIC CORP, dba PACIFIC POWER,)	PROPOSED BUDGET OF SMALL
)	BUSINESS UTILITY ADVOCATES
Request for General Rate Revision)	
(UE 399))	

1. INTRODUCTION

Comes now Small Business Utility Advocates (“SBUA”) to submit this Amended Proposed Budget and Exhibits (“Amended Proposed Budget”) including a confidential filing, and request the Public Utility Commission of Oregon (“Commission”) to review. SBUA submits this Amended Proposed Budget following the Chief Administrative Law Judge (“Chief ALJ”) Ruling of August 22, 2022¹, Commission’s Order 22-161², in addition to the requirements of the Fourth Restated and Amended Intervenor Funding Agreement, adopted by the Commission in Order 18-017 (“IFA”) section 6.7, in order for SBUA to amend its request for intervenor funding for work performed in this above-referenced docket. Materials submitted herein and confidentially support the ALJ revising the limit of SBUA’s access to a total of \$9,000 in intervenor funding for 2022 that the Commission had identified in its Order 22-161. No party has opposed SBUA’s access to intervenor funding in this docket.

¹ Order No. 22-305 granting SBUA’s Petition for Case Certification in this docket, but denying the budget as inconsistent with Commission’s Order 22-304 and Order No. 22-161 (UG 435 NW Natural Gas Request for General Rate Revision and Advice 20-19, Schedule 198 Renewable Natural Gas Recovery Mechanism (ADV 1215)(UG 411)

² Order No. 22-161 granting case certification but denying SBUA’s budget based on submission received from SBUA on February 25, 2022 (UG 435 NW Natural Request for General Rate Revision, entered May 13, 2022).

SBUA submits under seal and with this Amended Proposed Budget a Confidential Statement of SBUA.

2. BACKGROUND

PacifiCorp dba Pacific Power filed an Application for General Rate Revision on March 1, 2022 and this was docketed as UE 399.³ Neither the Company's request filing nor the Company's initial testimony included a request for recovery for COVID-19 deferrals. SBUA filed a Petition to Intervene on April 14, 2022 which the Administrative Law Judge granted on April 19, 2022. SBUA also filed its Notice of Intent to Seek Issue Fund Grant, and, separately, a Petition for Case Certification on April 14, 2022. SBUA filed a Proposed Budget on April 28, 2022 ("Proposed Budget") and provided SBUA's UE 399 Confidential Attachment 1: Statement of Financial Position for 2022 of SBUA in Oregon.

The original scope of SBUA's representation as described in its Proposed Budget indicated SBUA would review return on equity and capital structure, justification for the base change of 10.3% with a net change of 9.5% to Schedule 23 rates, cost allocation methods used by the Company that affect small business, rate spread and rate design, among other issues. First mention of recovering in this rate case costs included in Docket UM 2063 PacifiCorp's Application for Deferred Accounting of Costs Associated with the COVID-19 Public Health Emergency ("UM 2063") was March 30, 2022 when Staff announced its intention to consider amortization of the 2020 and 2021 calendar year deferrals in UE 399.⁴ UM 2063 was consolidated with the UE 399 per the April 11, 2022 Ruling by the Administrative Law Judge Alison Lackey ("ALJ"). On May

³ The UE 399 Request for General Rate Revision

⁴ Staff's Corrected Response to PacifiCorp Motion to Consolidate UE 399, UM 1964, UM 2134, UM 2142, UM 2167, UM 2185, UM 2186, filed March 30, 2022.

13, 2022 the ALJ submitted a Bench Request to the Company to obtain more detail regarding the effects of the amortizations and adjustment mechanisms outside of base rates.⁵ The Company responded on May 27th, 2022 providing among other information a figure of deferred COVID-19 costs of \$17,386,813.44.⁶ There was a public comment hearing on May 24, 2022, that included comment from small business with regard to the rate case.⁷

On June 22, 2022 Parties filed Opening Testimony. Staff filed significant testimony regarding recovery of COVID-19 costs under UM 2063.⁸ SBUA's expert testimony included rate spread, rate design, and also some on COVID-19 deferrals related to the principles of cost recovery and SBUA's position with regard to COVID-19 costs which had been documented in previous dockets UM 2114 (Investigation into the Effects of the COVID-19 Pandemic on Utility Customers) ("UM 2114") and UG 435 (NW Natural Request For a General Rate Revision)("UG 435"). On July 6, 2022, ALJ issued a ruling to correct April 11, 2022 ruling that COVID-19 was NOT consolidated with UE 399, but also stating that parties were not foreclosed from raising the issues.⁹ Despite PacifiCorp's testimony that SBUA had plenty of time to review the COVID-19 issue¹⁰, June 22, 2022 was the first time any testimony regarding recovery of COVID-19 costs

⁵ UE 399 Bench Request, May 13, 2022.

⁶ UE 399 PacifiCorp's Responses to Bench Request, COVID-19 Costs; \$17,386,813.44, pg. 5, entered April 11th, 2022.

⁷ UE 399 Rebuttal Testimony of: William A. Steele submitted by SBUA, entered August 11th, 2022, pg. 29-34.

⁸ UE 399 Staff/1700 Storm/30-51 ("ISSUE 5. AMMORTIZATION (*sic*) OF COVID-19 DEFERRALS AND RATE SPREAD").

⁹ UE 399 Disposition: Correction to April 11, 2022 Ruling on Motions to Consolidate Granted in Part; Denied in Part, July 6, 2022.

¹⁰ UE 399 PAC/1200 Steward/12.

was presented concerning what SBUA's expert had testified was a large amount,¹¹ and July 19, 2022 was the first time the Company presented any testimony on the subject of COVID-19 in the deferral amortization schedules.¹²

Consequently, SBUA's experts offered testimony on a wider scope of issues that anticipated in SBUA's original Petition for Case Certification, and in depth testimony on COVID-19. SBUA conducted discovery and filed Rebuttal testimony on August 11, 2022 including testimony from William A. Steele with regard to rate spread and rate design related to the previous rate case UE 374 among other related topics, and also from Danny P. Kermode with regard to the COVID-19 deferred costs.¹³

SBUA participated in significant settlement discussions on July 28, August 10, August 19, 24, 26, 30, 2022, and costs from COVID-19 deferral from 2020 and 2021, were ultimately settled and included in the Third Partial Stipulation filed.¹⁴ On August 22, 2022, Chief ALJ Moser granted the Petition for Case Certification of SBUA but limited the amount based on the Order 22-161.¹⁵

¹¹ UE 399 SBUA/100 Steele/18-19. In its Response to Bench Request, the Company had provided only the amount of the deferral and no other details.

¹² UE 399 PAC/2004 Cheung/1.

¹³ UE 399 SBUA/200-201/Steele, SBUA/300-304/Kermode.

¹⁴ UE 399 Third Partial Stipulation, dates of SBUA participation in settlement discussions pg. 2, Re COVID-19 Deferred Costs pg. 5. (entered September 21, 2022)

¹⁵ The order granting case certification referred to UG 435 and UM 2114, and noted that SBUA had not filed Amended Budgets in those dockets based on a Commission Order identifying a total limit of \$9,000 for 2022 as a result of its review of SBUA's submission of financial information on . On August 24, 2022 SBUA filed a UG 435 Amended Proposed Budget of SBUA.

In Order 22-161 the Commission stated that: “¹⁶ As described in below paragraphs, SBUA has filed detailed financial information and has demonstrated it is capable of meeting its in-house requirement or outside funding requirement.

Bench Request to SBUA; SBUA Response and Supplement:

On February 16, 2022, the (Chief) Administrative Law Judge had filed a Bench Request asking SBUA to provide certain information regarding membership, financial status of the organization, donations and identities of donors, and various questions regarding SBUA’s participation in this docket and others.¹⁷ SBUA responded timely filing on February 25, 2022 various information publicly and certain information confidentially.¹⁸ SBUA declined to file the identities of donors as such is protected by *Americans for Prosperity v. Bonta*, 594 U.S. _____, 141 S.Ct. 2373 (2021). SBUA also filed at that time and under seal a Statement of Financial Position for SBUA activity in Oregon prepared by a certified tax preparer. The Commission granted SBUA’s Petition for Case Certification on May 13, 2022 in Order 22-161. The Commission denied in that same order, however, SBUA’s proposed budget setting a limit of \$9,000.¹⁹ The Commission did not acknowledge in-kind contributions of SBUA as part of a matching contributions by SBUA members required and allowed under the IFA.²⁰

¹⁶ Order 22-161, p4. Communication from established CPA specializing in nonprofit services indicates audits are very expensive, and include heaving reporting.

¹⁷ UG 435 Chief ALJ Bench Request to SBUA.

¹⁸ Some of the information provided in the Response to Bench Request was filed under seal.

¹⁹ Id. p6.

²⁰ Id. Pp5-6. The IFA 6.3 requires for Issue Fund grants: “(g) a representation that the intervenor will use matching funds in the form of in-house resources or outside funding to account for or pay at least 20% of the Eligible Expenses for the work to be performed for which the intervenor is seeking an Issue Fund Grant.” Respectfully, SBUA points out that Oregon does not require audited financials for non-profits and that SBUA had submitted, confidentially, financial statement prepared by a certified tax preparer.

On or about August 9, 2022 SBUA had submitted for an August 9, 2022 Public Meeting²¹ a supplemental filing to SBUA's February 25, 2022 Response to the Chief ALJ's Bench Request. Information included in that supplemental filing is included here in UE 399 as SBUA's Confidential Exhibit 1. The confidential information includes a certified tax preparer's current at the end of fiscal year 2021-2022 Statement of Financial Position for SBUA, an Oregon registered nonprofit entity.

Intervenor Funding Balance:

Few parties access intervenor funding. In fact, recovery under the IFA has been limited to the Citizens Utility Board of Oregon ("CUB") and the Alliance of Western Energy Consumers ("AWEC", formerly "ICNU" and "IGNU"). CUB represents residential customers by statute.²² Intervenor AWEC represents large commercial and industrial customers in Commission proceedings.²³ SBUA filed for intervenor funding on or about March 10th, 2020 in the preceding Pacific Corp dba Pacific Power general rate case UE 374.²⁴ The Commission granted SBUA case certification in UE 374, however, the Commission noted that there was by that time only \$100 left of the intervenor funding.²⁵

²¹ Commission held a public meeting on August 9, 2022 in docket UM 2114 to consider SBUA's Petition for Designation of Eligible Proceeding that had been filed on January 28, 2022 in that docket. The Chief ALJ had submitted a memorandum for the August 9, 2022 public meeting recommending that the Commission designate UM 2114 a proceeding eligible for SBUA to receive intervenor funding but deny SBUA's budget based on the Commission's decision 22-161 and the Commission adopted that recommendation in Oder 22-304.

²² ORS 774.010 CUB represents "natural persons" that is only residential customers in the PUC proceedings.

²³ See a list of AWEC members in a 2019 filing available at: <https://edocs.puc.state.or.us/efdocs/HAP/um2033hap155454.pdf>

²⁴ UE 374 Pacific Power Request for General Rate Revision, SBUA's Petition for Case Certification entered March 10th, 2020

²⁵ Order No. 21-103 granting case certification but denying SBUA's proposed budget for issue fund grant citing less \$100 remained unallocated in the Pacificcorp Issue Fund, pg. 1, entered April 7th, 2021 (UE 374 Pacificcorp Request for General Rate Revision).

SBUA filed for reconsideration which was opposed by CUB and AWEC, and left without action. Subsequently, the intervenor funding balance of that year was no longer \$0, but rather reads as having \$13,838.18 at the end of the 2020. SBUA having met funding requirements should be allowed to access funds at least up to the end of the year.²⁶ (Exhibit 2).

3. PROPOSED BUDGET

Pursuant to the IFA 6.7, SBUA submits the attached UE 399 Amended Proposed Budget Exhibit A.

4. AMENDMENT OF PROPOSED BUDGET FOR COVID-19 RELATED WORK

SBUA asks the Commission to accept this Amended Proposed Budget and Exhibit A for work done in the docket including the regular base rate and COVID-19 related work SBUA has performed in this docket. “At any time during the proceeding, an intervenor who received Commission approval for an Issue Fund Grant may file to amend its budget and request additional funding due to unforeseen changes in the scope or complexity of issues, positions taken by other parties, changes in the schedule of the case, or other good cause.”²⁷ Addition of significant and detailed COVID-19 costs created changes in the complexity of issues, positions taken by other parties, and changes of the schedule of the case, and there is good cause to accept this Amended Proposed Budget.

The docket has been complex where it has included many issues, most of which have been resolved. SBUA’s involvement has been focused as the Commission has previously ac-

²⁶ Exhibit 2 2020 intervenor funding spreadsheet reported balance 2020 (Last accessed 10/5/22).

²⁷ IFA 6.7.

knowledged it might be.²⁸ An active party in UE 374, SBUA intervened in this docket to ensure small commercial customers or Schedule 23 customers, where the Company's initial filing included nothing for this customer group.²⁹

In addition, the issue of COVID-19 has been complex in many respects. It has involved all the regulated electric and gas utilities, has spanned at least three years and involved many stakeholders, meetings, and involved several dockets for each utility including reporting and deferral dockets, in addition to the UM 2114 (Investigation Into the Effects of the COVID-19 Pandemic on Utility Customers). With regard to the Company's Schedule 23 customers, and small commercial customers generally, the pandemic's impact has been significant. In different rate cases the Commission's Staff's Opening Testimony has sought to spread costs onto the small commercial customer that are more than the costs this customer group has caused to the program.³⁰ It was essential to participate in this rate case with regard to COVID-19 to assure fair and reasonable treatment of the small commercial customer in dealing with COVID-19 costs. The Proposed Budget Exhibit A reflects SBUA's revised budget provided and takes into account the Confidential filing of SBUA to the Commission demonstrating that SBUA meets the 20% contribution required for the Commission to approve this Amended Budget.

There is good cause to grant this Amended Proposed Budget. SBUA has focused its efforts and expertise, has been case certified, and in fact no party has opposed SBUA's budget request. SBUA duly filed for designation of COVID-19 docket UM 2114 as a docket eligible for

²⁸ Order No. 19-262 (UE 352), Order denying Petition for Reconsideration where Commission says SBUA's participation will be necessarily focused, entered August 8th, 2019.

²⁹ UE 399 Opening Testimony of: William A. Steele submitted by SBUA, entered July 23rd, 2022.

³⁰Staff Opening Testimony, xxx xxx; SBUA Testimony of Danny P. Kermode.

intervenor funding, and the Commission did grant that designation in Order 22-304. Now, in this docket, SBUA has put forth substantial effort and expertise to arrive at a settlement with other parties with regard to main subjects of SBUA's testimony including the additional topic of COVID-19 costs in this rate case.³¹

It is fair and reasonable to accept this Amended Proposed Budget. The Commission granted SBUA case certification in UE 374, however, the Commission noted that there was by that time only \$100 left of the intervenor funding.³² Subsequently, the intervenor funding balance of that year was no longer found to be \$0.³³

Further, along with this Amended Proposed Budget in Exhibit A, SBUA has submitted under seal as a confidential Exhibit A a Supplemental of SBUA Oregon as demonstration that SBUA Oregon meets the 20% match required to access intervenor funding grant under the IFA to fund SBUA's budget should the ALJ find it reasonable. The Supplemental demonstrates that SBUA Oregon meets the criteria that required members of an organization have significant capacity to contribute to operations consistent with the Commission's position on this issue in another general rate case. *See* Order 19-262 (Noting that requiring that organizations seeking intervention funding have significant capacity to contribute to the organization's work is consistent with ORS 757.072(2), OAR 860-001-0120(4)(d)).

³¹ The Third Partial Stipulation specifies that such costs are the 2020 and 2021 costs incurred as included in the UM 2063 deferrals.

³² Order No. 21-103 granting case certification but denying SBUA's proposed budget for issue fund grant citing less \$100 remained unallocated in the PacifiCorp Issue Fund, pg. 1, entered April 7th, 2021 (UE 374 PacifiCorp Request for General Rate Revision).

³³ Exhibit 2 2020 PacifiCorp dba Pacific Power intervenor funding spreadsheet reported balance.

SBUA has fully participated in the UE 399 docket regarding the different topics of its originally intended focus and, in addition, COVID-19 deterred costs, including significant time spent in settlement conferences, data requests and responses, providing testimony, and follow up communication and consultation with experts regarding waiver of legal briefings and hearing. In addition to the expertise of William A. Steele in this docket, SBUA has engaged an expert, Danny Kermodé, well-experienced in such proceedings and who has provided consistent testimony regarding COVID-19 in UG 435 Application of NW Natural for a General Rate Revision, and in much of the docket UM 2114 Investigation into the Effects of the COVID-19 Pandemic on Utility Customers, and in this rate case following introduction of Staff's testimony.

The Schedule 23 customers benefit from this participation by SBUA which advocates implementing rate spread, rate design, and small business focused reporting and outreach efforts, and, when it comes to allocating costs of COVID-19, implementing standard rate making principles such as "cost causation", where those who receive the direct benefits pay the costs, thus supporting fair and reasonable rates, and SBUA puts forth public policy concerns for small commercial customers in these proceedings regarding allocating COVID-19 costs.

The particular customer classes that would benefit from SBUA's participating in the proceeding is the Schedule 23 Non-Residential.

(d) Identification of the specific account or accounts from which the intervenor is seeking an Issue Fund Grant and an estimate of the amount of available funds in each account.

The accounts from which SBUA seeks Issue Fund grants is PacifiCorp dba Pacific Power for which the current balance of issue fund grants is \$144,544.18.³⁴

³⁴ The "current available" states \$.09, however, see also the balances of the 2020 Issue Fund that was reported as "less than \$100" in Commission Order 20-187, and is now showing \$13,838.18. Exhibit 2.

(e), (f), and (g) require a budget showing estimated attorney fees, which may include the cost for appropriate support staff and operational support, a budget showing estimated consultant fees and expert witness fees, which may include the cost for appropriate support staff and operational support, and a representation that the intervenor will use matching funds in the form of either in-house resources or outside funding to account for or pay at least 20% of the Eligible Expenses for the work to be performed for which the intervenor is seeking an Issue Fund Grant.

5. CONCLUSION

SBUA submits the information above, attached, and the confidential filing as its Amended Proposed Budget to assist its representation of PacifiCorp dba Pacific Power's small non-residential ratepayers in Oregon. For the reasons provided above, it is only fair and reasonable that the Commission accept SBUA's Amended Proposed Budget.

RESPECTFULLY SUBMITTED October 25, 2022.



/s/Diane Henkels/

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EXHIBIT A

SBUA Amended Proposed Budget for Issue Fund Grant

	Hours	Rate	Cost
Personnel			
Attorney	30	\$225	\$6,750
Data request			
Rebuttal & Cross Answering Brief			
Testimony			
Settlement negotiations			
Docket coordination/planning			
Technical assistance	10	\$50	\$500
Legal Extern	30	\$50	\$1,500
Expert witness	75	\$150	\$11,250
Expert witness 1 re COVID-19	17	\$150	\$2,500
Expert witness 2 re COVID-19	34	\$150	\$5,100
Subtotal			\$27,600
20% of SBUA Funded Expenditures			\$5,520
Total SBUA Amended Issue Fund Grant Proposed Request			\$22,080