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April 14, 2016

Via Electronic Filing

Public Utilities Commission of Oregon
Attn: Filing Center
201 High St. SE, Suite 100
Salem, OR 97308
PUC.FilingCenter@state.or.us

Re: In the Matter of PUBLIC UTILITY COMMISSION OF OREGON
Implementing an Energy Storage Program Guidelines
pursuant to House Bill 2193
Docket No. UM 1751

Dear Filing Center:

Enclosed for filing in the above-referenced docket is the Petition of Small Business Utility Advocates for Case Certification.

Please contact me at dhenkels@cleantechlaw.com or 541-270-6001 if you have any questions. Thank you for your assistance in this matter.

Sincerely,

/s/ Diane Henkels

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Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1751

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	
OREGON)	PETITION OF SMALL BUSINESS
)	UTILITY ADVOCATES FOR CASE
Implementing Energy Storage Program)	CERTIFICATION
Guidelines pursuant to House Bill 2193)	

Pursuant to OAR 860-001-0120, Oregon Public Utility Commission Order No. 14-257, and UM 1751 Order of 3/31/2016, Small Business Utility Advocates (“SBUA”) respectfully submits this petition (“Petition”) to certify this case for the purposes of receiving intervenor funding to participate in this docket. In support of this Petition SBUA represents as follows:

I. Criteria for Certification of Intervenors

Pursuant to Oregon Public Utility Commission Order No. 16-113 entered March 18, 2016, Oregon Administrative Rule 860-001-0120(4), and Order 15-335 including the Third Amended and Restated Intervenor Funding Agreement (“IFA”) Article 5 regarding entities not pre-certified, to be case certified for purposes of receiving intervenor funding, an organization must meet certain criteria set forth in the rule. OAR 860-001-0120(4), IFA 5.3. Specifically, an organization can qualify for certification if “(a) The organization is a nonprofit organization, demonstrates that it is in the process of becoming a non-profit organization, or is comprised of multiple customers of one or more of the utilities that are parties to the agreement and demonstrates that a primary purpose of the organization is to represent broad utility customer interests; (b) The organization represents the interests of a broad class of customers and its participation in the proceedings will be primarily directed at public utility rates or terms and conditions of service affecting those customers, and not narrow interests or issues that are ancillary to the effect of the rates and terms and conditions of service on those customers; (c) The organization demonstrates that it is able to effectively represent the particular class of customers it

seeks to represent; (d) Those members of the organization who are customers of one or more of the utilities that are affected by the proceedings and are parties to the agreement contribute a significant percentage of the overall support and funding of the organization; (e) The organization demonstrates or has demonstrated in past Commission proceedings the ability to substantively contribute to the record on behalf of customer interests related to rates and the terms and conditions of service, including in proceedings in which the organization was case certified and received a grant; (f) The organization demonstrates that: (A) No precertified intervenor participating in the proceedings adequately represents the specific interests of the class of customers represented by the organization; or (B) The specific interests of a class of customers will benefit from the organization's participation; and (g) The organization demonstrates that its request for case certification will not unduly delay the proceedings.”

II. Applicability of Criteria to SBUA

For the reasons set forth below, SBUA meets the criteria for certification set forth in OAR 860-001-0120(4).

(a) Nonprofit Status

SBUA is an Internal Revenue Code Section 501(c)(3) nonprofit organization comprised of multiple smaller nonresidential customers as described in the Petition to Intervene and also herein below. SBUA’s primary purpose is representing the interests of small businesses in utility proceedings.¹ SBUA members in Oregon include ratepayers of Portland General Electric and PacifiCorp d.b.a. Pacific Power, to which HB 2193 applies. HB 2193 (2015), sec. 1.

(b) Broad Representation with Participation Directed at Public Utility Rates or Terms and Condition of Service affecting those Customers, and Not Narrow Interests or Ancillary Issues

SBUA represents small business, which is a broad class of customers, and SBUA’s membership is diverse. Most businesses in Oregon are “small businesses”, that is, those with 100 or fewer employees, as defined by the Oregon Small Business Development Act ORS 285B.123(2).

¹ See www.utilityadvocates.org

Of the 97,494 firms in Oregon in March 2015, 95,471 firms had fewer than 100 employees.² While SBUA may not divulge the identities of its members in this filing, some members are known via testimony previously submitted to the Commission in other dockets. SBUA members do include small businesses from different industries including pest management, commercial cleaning and maintenance, artisanal glass, insurance consult, website hosting, food and beverage, commercial agriculture, jeweler, small business coaching and marketing consulting, residential and commercial construction, energy efficiency, and renewable energy consulting, among others, and members are located in Portland metro, the central coast, Salem, the rural Willamette Valley and Central Oregon.

SBUA participation is directed in this docket primarily at the how the implementation of this energy storage legislation may impact term and conditions and rates affecting small businesses, and not narrow interests or ancillary issues. SBUA is comprised of and represents small businesses generally and exclusively, and as such are distinct from other docket intervenors even if these others present arguments that may apply to ratepayers generally. SBUA would focus on the following themes: application to small business of the proposed technologies, opportunities that implementation of the legislation presents to small business, criteria pertinent to small business to evaluate or range projects, and rate impacts on the small nonresidential customer classes of prudent investments made to implement the legislation. applying specifically to small business in Oregon, and to points not covered by other intervenors. Given the importance of energy storage in relation to providing electric service from different resources including variable renewable energy and other sources, Small business is significant in Oregon and has been under-represented in providing input in electrical regulation and planning process.

c) Demonstrated Effective Representation

SBUA's legal counsel has represented and provided counsel for over ten years to numerous Oregon small businesses and is experienced in energy and utility matters in Oregon. Since SBUA's inception in Oregon, its legal counsel has educated SBUA membership on utility regula-

² State of Oregon Employment Department Oregon Size of Firm Data for 2015 <https://www.qualityinfo.org/-/now-available-oregon-size-of-firm-data-for-2015>

tory matters impacting small business. SBUA was an intervenor in OPUC Dockets UM 1610, UE 294, provided testimony on the energy storage provision in HB 4036 (2016), a precursor provision to the recently enacted SB 1754, and has intervened in UM 1754, for which the Commission granted SBUA case certification. SBUA has demonstrated the ability to represent small business within the scope of its intervention these matters, including preparing comments, expert testimony, filing documents, and participating in docket workshops, settlement negotiations, and other proceedings. SBUA's counsel anticipates providing focused and prompt input on this docket.

(d) Members who are Utility Customers Contribute a Significant Percentage of the Overall Support and Funding of the Organization

SBUA members include electric ratepayers in California and Oregon, and in Oregon, this includes Pacific Power Schedules 23 and 4 and Portland General Electric Schedule 32 ratepayers. Ratepayers from both these electric companies contribute to the overall support and funding to the organization. The budget of SBUA is not large, however, support by Oregon's SBUA membership is broad and consists of various members' money contributions, in-kind professional services, space and capital equipment. SBUA members also support the organization by participating in the organization and attending meetings.

(e) Demonstrated Ability to Substantively Contribute to the Record on Behalf of Customer Interests

SBUA has demonstrated its ability to contribute on behalf of customer interests related to rates, and terms and conditions of service in UE 294, UM 1610, and in UM 1754. In these dockets SBUA obtaining expert testimony informing the Commission on the state of small business in Oregon, the impact of PURPA renewable energy generation projects, comparing rate increases in the recent PGE General Rate Case and participating in discussions leading to settlement, and providing meaningful input on behalf of its members regarding PacifiCorp's renewable portfolio standard compliance. SBUA has an ability to contribute to the record, and has demonstrated for the record statistical familiarity with the state's small business constituency and depth of engagement with small businesses. While not as seasoned as the Citizens' Utility Board, the Indus-

trial Customers of Northwest Utilities, or other veterans of OPUC dockets, SBUA's legal counsel has several years of experience working on utility related issues in Oregon, including advising clients in matters, working at Oregon Department of Energy and intervening in OPUC dockets. Also, SBUA legal counsel participates in technical trainings, including CLEs, in energy storage, electricity pricing, and other related topics.

(f) No Other Adequate Representation and the Specific Interests of the Class will Benefit from Organization's Participation

No party in these proceedings adequately represents the general interests of mall nonresidential customers in Oregon, which are for Pacific Power and PGE the second most numerous ratepayer group. The Citizens' Utility Board represents the residential customer class by statute, and stands to run a conflict given the different proposed rate impacts on Residential and Small Non-residential Customer classes. Precertified Industrial Customers of Northwest Utilities ("ICNU") represents the Large Non-residential Customer class while SBUA represents exclusively small business interests. Such customer class will benefit from SBUA participation since SBUA will bring to the Commission information pertinent to small business that the Commission is not likely to receive from any other source.

(g) Participation will not Unduly Delay the Proceedings

SBUA does not anticipate that its intervention will unduly delay the proceedings.

For the foregoing reasons, SBUA respectfully requests that the Commission grant this Petition for Case Certification.

RESPECTFULLY SUBMITTED April 14, 2016.

/s/ Diane Henkels

Diane Henkels
Of Counsel, Cleantech Law Partners PC
Counsel for Small Business Utility Advocates