

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UE 416

In the Matter of)	
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)	
PORTLAND GENERAL ELECTRIC)	RESPONSE OF SMALL BUSINESS
COMPANY)	UTILITY ADVOCATES TO STAFF'S
)	MOTION TO ADMIT PRE-FILED
Request for a General Rate Revision; and)	TESTIMONY
2024 Annual Power Cost Update)	

I. Introduction

Pursuant to OAR 860-001-0420(4) Small Business Utility Advocates (“SBUA”) responds to Staff’s Motion to Admit Pre-Filed Exhibits, filed September 29, 2023 (“Motion”) objecting to admission of the exhibits unless and until the exhibits include all public comments.

2. Background

The Commission’s Internal Operating Guidelines adopted in Order No. 20-065 in Docket No. UM 2055, in order to provide more transparency about the public comments in contested cases, public comments received are now made part of the Staff’s Opening Testimony. Order No. 20-065¹ On May 3, 2023 the Commission held a public comment hearing in this docket, UE 416, and between May 3-May 9, 2023, at least three comments were submitted properly to the

¹ The availability of the transcript of the UE 416 May 3, 2023 public comment hearing was published on September 28, 2023, which is in stark contrast to the publication of the transcript of public comments hearings in UE 399 PacifiCorp dba Pacific Power Request for General Rate Revision, published on June 8, 2022 within a month of the public comment hearing scheduled for May 24, 2022, and UG 435 NW Natural Request for General Rate Revision public comment hearing transcript published on March 25, 2022, just a few weeks after the March 10, 2022 public comment hearing date.

Commission regarding the small commercial customer. Exhibits 1-3.² On or about June 13, 2023 Staff submitted its Opening testimony. This testimony did not include any public comment stating that the public comment would be included in the docket and provided the url for the docket. SBUA did not file opening testimony but did file on June 13, 2023 a statement reserving the right to file responsive testimony and to participate in other ways. Small commercial customers, Schedule 32, are an important customer class. Staff filed rebuttal testimony and included in Staff/2909 Muldoon/1-84 in an exhibit titled “Public Comments Received After Staff Opening Testimony”. Staff counsel later filed on September 7, 2023, 2023 an errata including the four page Kermode testimony, referred to as “additional public comments inadvertently excluded from the original”. Staff/2909 Muldoon/1-98.

3. Argument

Staff’s Pre-filed Exhibits are not legally complete without including all the public comments and Staff’s Pre-filed Exhibits should not be admitted unless and until Staff complies with the Commission’s requirements to include all of the public comments received. The Guidelines as approved by Order 20-065 say: “The summary will be made part of Staffs written testimony, and the comments themselves will be included as exhibits to that testimony.” Order 20-065 Appendix A, p 18.

a. Staff must comply with the Commission’s requirements to include all public comments in Staff testimony, and Staff acknowledges this requirement.

² SBUA acknowledges one exhibit was not labelled “UE 416” however, it was filed at the time of public comment and clearly regarded proposed rate increase in Portland area.

According to Commission Order 20-065, and as that Order is incorporated into Staff's Opening Testimony, "Public comments are required to be included with Staff's Opening Testimony to be consistent with the Commission's Internal Operating Guidelines adopted in Order No. 20-065 in Docket No. UM 2055, in order to provide more transparency about the public comments in contested cases, public comments received are now made part of the Staff's Opening Testimony." Staff/400-412, Muldoon/19. Staff's Opening Testimony states that "The Commission will post a link or instructions on how the public can see all public comments received, as well as the public comments from the edited transcript for the Public Informational Hearing on Tuesday, May 3, 2023, at <https://apps.puc.state.or.us/edockets/DocketNoLayout.asp?DocketID=236173>. Staff's testimony also states "Written comments received after preparation of Staff's Opening Testimony will be included in subsequent Staff testimony." However, Staff will not be able to testify regarding comments received after Staff prepares its final round of UE 416 testimony." Staff/400 Muldoon/19. The Commission received comments over a month before Staff's filing its Opening Testimony on June 13, 2023. At least some public comment was not included in any of Staff's testimony.

Kermode's and two other small commercial public comments were received between May 3-9, 2023, over a month before the June 13, 2023 opening testimony filing deadline, which is not mentioned in Staff's *errata* filed September . Staff did refer to one small commercial (Zamora) (Staff/400 Muldoon/17) but did not include that comment in either Opening or Responsive testimony, and did not include Kermode's until Staff filed its *errata* "Public Comments" Staff/2909 Muldoon/1-98 on September 7, 2023. Kermode comments were included

³ Last accessed 10/4/23.

in the last four pages, yet these comments had been received in May 2023 and even still, neither the testimony nor the *errata* did not include at least two public comments from the small commercial customers. Exhibits 1 and 2, nor did the *errata* acknowledge receipt of the Kermode testimony on May 3, 2023. Exhibit 3.

Whether or not resulting proposals of the rate case incorporate concerns articulated in public comment does not eliminate the requirement to include the public comment in Staff's testimony.

b. SBUA's Data Request.

Staff is yet unresponsive to SBUA's data request attached herein as Exhibit 1, filed on September 15, 2023. SBUA reminded Staff of the data request and yet Staff remains unresponsive. SBUA reserves the right to file a Motion to Compel Staff's response to the data request should all of the public comments not be filed.

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5. Conclusion

The Commission has also identified that including public comment is an important aspect of transparency and are to be made part of the evidentiary record. Order 20-386, Appendix A, p 18. For the foregoing reasons SBUA requests that the Commission not grant Staff's motion until such time as all public comment received are included as exhibits in Staff's testimony.

RESPECTFULLY SUBMITTED October 4, 2023.



s/ Diane Henkels

Diane Henkels
Attorney, Small Business Utility Advocates
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Portland, OR 97205
541-270-6001
diane@utilityadvocates.org

From: Diane Henkels diane@utilityadvocates.org
Subject: Fwd: UE 416 Public Comment
Date: September 27, 2023 at 12:40 PM
To: Diane Henkels diane@utilityadvocates.org



----- Forwarded message -----

From: **Hector Mejia Zamora** <cafezamorapdx@gmail.com>
Date: Mon, May 8, 2023 at 9:41 PM
Subject: UE 416 Public Comment
To: <PUC.PublicComments@puc.oregon.gov>

Hi,

My name is Hector Mejia Zamora, owner of Cafe Zamora and member of the SBUA. As right now, my lease agreement includes triple net and my landlord covers the electrical bill charges. However, I have been a user of PGE for the last 4 years and in my previous location I was directly responsible for the payment of the electrical expenses.

I am concerned that the increase in the rate is too high and will impact so many already struggling businesses in Portland. As you might be aware, several businesses have closed either temporarily or permanently just this year along, not counting the many that closed since 2020. As a business owner myself, and with conversations I constantly have with other business owners, I can tell you that we are struggling and the ones that are still in business, are in no position for more expenses. We are working hard to survive this economical storm, and hope to be able to recover once better times come our way.

I do not support the increase in the energy rate.

Kind regards,
Hector Mejia Zamora.

Exhibit 1

From: Diane Henkels diane@utilityadvocates.org
Subject: Fwd: Proposed small business rate increase
Date: September 27, 2023 at 12:44 PM
To: Diane Henkels diane@utilityadvocates.org



From: Mike Devlin
Sent: Wednesday, May 3, 2023 2:15 PM
To: PUC.PublicComments@puc.oregon.gov <PUC.PublicComments@puc.oregon.gov>
Subject: Proposed small business rate increase

Dear PUC committee-

As a Real Estate Broker assisting property owners and tenants in Portland area sales/leasing transactions, I oppose the proposed small business PUC rent increase. Such increases would add substantial costs to small business operations along with increasing ownership's costs in providing common area services. Power cost increases would be passed along to business occupants in the form of additional rent, piling on additional expenses to operating costs in office and retail assets.

Respectfully,
Mike Devlin
Devlin Properties

Exhibit 2

[Redacted]

DH

----- Forwarded Message -----

From: "dannykermode@aol.com" <dannykermode@aol.com>
To: "puc.publiccomments@puc.oregon.gov" <puc.publiccomments@puc.oregon.gov>
Cc:
Sent: Thursday, May 4, 2023 at 11:56:00 AM PDT
Subject: SBUA comments in Portland General Electric - UE 416 General Rate Increase

Please find attached comments from Danny Kermode CPA for SBUA in docket UE 416 - Portland General Electric / General Rate Increase.

Public
Comm...red.pdf
291 KB

Exhibit 3

DANNY KERMODE
Certified Public Accountant – Retired
5326 75th Ct SW
Olympia, WA 98512

Oregon Public Utility Commission
PO Box 1088
Salem, OR 97308-1088

RE: Portland General Electric
UE 416 General Rate Increase

Commissioners,

I would first like to thank the Commission for the opportunity to comment on a proposed rate increase that, if approved, will have a major impact on small businesses served by Portland General Electric (PGE).

I am writing on behalf of the Oregon chapter of the Small Business Utility Advocates or SBUA. I reviewed the recent filing made by Portland General Electric (PGE) for increased revenues of \$338 million, or a 14.47% increase over current levels.

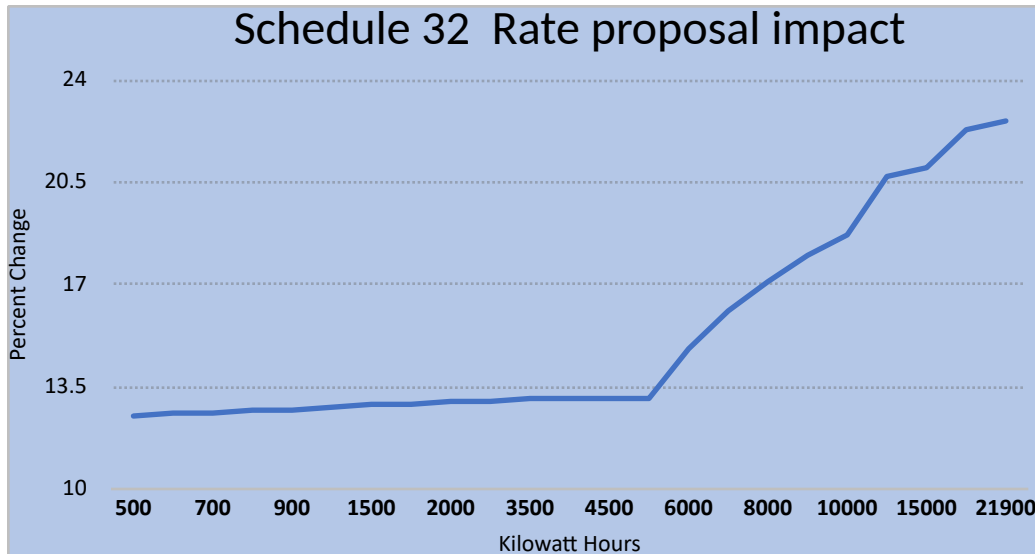
I will address the following:

- The increasing size of the burden of the rate proposal on small nonresidential customers.
- The extraordinary increase in the cost of distribution charges to small nonresidential customers under both schedule 32 customers and schedule 532 small nonresidential – Direct Access Service in excess of 5,000 kWh.
- Small business in Oregon, including those served by PGE, are still recovering from the economic impact of COVID-19.
- Need for a Small Business workshop to discuss and understand the needs of small business being serviced by Oregon’s public utilities.
- **The increasing size of the burden of the increase proposal to small nonresidential customers**

Under the Company’s proposal, small businesses will pay \$34.6 million more for service, a 15.9% increase for service.¹ This sizable increase on to small business is the highest increase over test-year amounts than any other class of service.

¹ Exhibit 1302 page 1

For the small nonresidential ratepayers (rate schedule 32) the proposal increases the average small business energy bill by 12.6%.² What is even more concerning is the proposed increase for small business customers using above 5,000 kWh. For these customers the change in proposed rate climbs to an average of 18.1% for usage from 6,000 to 15,000 kWh and continues to climb as usage increases (see chart below).



- **The extraordinary increase in the cost of distribution charges to small nonresidential customers under both schedule 32 customers and schedule 532**

The climbing costs of energy above 5,000 kWh is due to a proposed 140.5% increase in the company's distribution charge above 5,000 kWh for small commercial consumers!

The current charge of 1.416 cents per kWh skyrockets to 3.406 cents per kWh, under the company's proposal. Effectively a two-cent increase.³ Though some of this rate change appears to be associated with higher costs, the company admits that some of the 3.406 cent rate increase is simply to "provide a transition to" the large nonresidential rates schedule (Schedule 83) for customers whose loads exceed 30 kW⁴ at least twice during the preceding 13 months.⁵

It is important that the Commission and Commission Staff be aware of this arbitrary adjustment to the small nonresidential rate schedule. Not only is there no testimony discussing why PGE believes there is a need for a rate to migrate the impact of how often the migration to the large-

² Using 500 kWh to 5,000 kWh

³ Schedule 532 small nonresidential – Direct Access Service has even a greater impact with the second-tier rate increasing 155%, going from 1.253 per kWh to 3.195.

⁴ kW – Kilowatt (load measure)

⁵ See PGE 1300, Macfarlane – Pleasant at 19:14-18.

user class, but we don't even know how often it happens and indeed if it is even a problem. In his seminal discussion of the criteria of a sound rate structure, James Bonbright discusses, among other things, fairness in rates, there is no discussion of class migration.⁶

An increased rate designed to ease transition to a different customer class, as proposed by the company, simply results in small commercial customers providing either an intra-class or cross-class subsidy to other customers with no other benefits to the small commercial customers that would be burdened with the 140.5% increase in its distribution charges.

A 141% increase is insupportable and must be rejected if for any other reason simply for rate shock. For every kWh used above the 5,000-kWh level, the many small business owners will pay 3.4 cents per kWh for a service that currently costs 1.4 cents per kWh!

A Company witness says it best. "It is important to maintain relative consistency with prior cost studies and temper the amount of change introduced..."⁷ We agree, and we ask the Commission to apply this very principle to this case. Finally, the "ease of migration" reasoning is a solution looking for a problem; a problem that, to our knowledge, has not been raised in prior cases.

- **Small business in Oregon, including those served by PGE, are still recovering from the economic impact of COVID-19.**

Although most, if not all, of the health related COVID mandates are no longer required, small business is now addressing COVID's consequences. Central to small business is the rising costs due to high inflation. Add in the problem many small businesses are having finding employees has causing this sector to remain fragile.

Affordability of utility rates for small business is integral to their survivability. Rising rates can be associated with rising costs but also the recent settlement of parties, including SBUA, and approved by the Commission, that spread a share of the deferred costs of COVID to the small business class.⁸ We have in previous dockets noted this customer class did not directly benefit from Commission approved COVID-19 programs and had little or no indirect benefit. With this filing, the small nonresidential class may end up absorbing a 15.9% increase in its total electric bills; the largest change of any of the other rate classes.⁹ We would ask the Commission to recognize the importance of small business to the communities where they are located and to

⁶ James C Bonbright, *Principles of Public Utility Rates* (Virginia: Public Utilities Reports, Inc., 1988), 382-84.

⁷ See UE 416, Macfarlane-Keene at 4:2-4

⁸ PORTLAND GENERAL ELECTRIC: See Docket No. ADV 1474/Advice No. 22-45 PGE COVID-19 Deferral Amortization; Effective date: April 1, 2023

⁹ Some rate classes such as the large direct access ratepayers are actually seeing total bill reductions. (See *total bill changes for rate schedules 489 and 689*)

Kermode CPA – Retired
May 3, 2023

adjust the proposed rates to help them to fully recover from the economic impacts of the recent pandemic.

- **Need for a Small Business workshop to discuss and understand the unique needs of small business to allow Oregon’s public utilities to better serve them.**

Finally, my involvement with recent rate filings has convinced me of the need to convene a Commission supported small-business workshop. A workshop would provide a forum allowing in-depth discussions with Commission Staff by local small business owners. The discussion would allow parties to better understand what distinguishes small business from other ratepayer classes, especially the large industries and businesses.¹⁰ Commission Staff identified supporting such a workshop at the Commission’s March 21, 2023 public meeting¹¹.

The workshop agenda could include rate structures currently provided only to residential ratepayers that may be appropriate for small businesses. A good example would be arrearage forgiveness for those small commercial customers that have a high Environmental Justice Indicator. Also, unique needs of the small commercial could be discussed by business owners which could be innovative and help develop community growth. Finally, discussion of whether an Oregon uniform cost allocation to small businesses should be looked at and whether there is a need.

I appreciate the opportunity to provide comments to the Commission. The rate setting issues I discussed above are important are requires the Commission’s attention.

Thank you

Danny Kermode CPA - retired

¹⁰ Although small businesses have characteristics closer to the residential rate class, they still are businesses and require a special understanding.

¹¹ OPUC 3/21/23 Public Meeting link: https://oregonpuc.granicus.com/GeneratedAgendaViewer.php?view_id=2&clip_id=1128 (last accessed 5/3/23).