

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UE 416

In the Matter of	)	
	)	
	)	
PORTLAND GENERAL ELECTRIC	)	MOTION FOR EXTENSION—
COMPANY	)	EXPEDITED CONSIDERATION
	)	REQUESTED
Request for a General Rate Revision; and	)	
2024 Annual Power Cost Update	)	

**I. Introduction**

Pursuant to 860-001-0390, OAR 860-001-0420, Small Business Utility Advocates (“SBUA”) requests an extension of up to September 25, 2023 to file SBUA’s Amended Notice of Intent (“Amended Notice”) and Petition for Case Certification of SBUA (“Petition”) to qualify for Case-Certified intervention funds. The Amended Notice and the Petition are attached herein as Exhibits 1 and 2, respectively.

**2. Background**

The March 10, 2023 Memorandum issued by Chief Administrative Law Judge Moser (“Memorandum”) identified the date of filing a Petition to Intervene as the required date to file a Notice of Intent and a Petition for Case Certification. A grant of case certification in a docket is a necessary step toward obtaining Case-Certified funds as provided in the Fifth Amended and Restated Intervenor Funding Agreement approved in Order No. 22-506 (“IFA”), Article 4.2. Such funds may be used to assist to help pay the costs of an intervenor representing the interests of a broad class of customers. IFA, Recitals.

SBUA filed a Petition for Intervention and a Notice of Intent to seek Issue Fund Grant on March 7, 2023 and March 8, 2023, respectively, but did not specify Case-Certified funds in its Notice of Intent and did not file a Petition for Case Certification at that time.

### **3. Reasons for this Expedited Request for Extension**

There are two main reasons for this request to extend time for filing. At the time of the deadline, March 10, 2023, SBUA had not been able to secure its expert and set priorities based on SBUA's available resources. In the months following, SBUA did identify target areas of focus in the docket and directed its resources accordingly. Recently, SBUA has been able to further adjust its coverage of representation to correspond with SBUA resources and identify its scope in seeking case certification and a budget for a proposed budget for Case-Certified funds.

This request is expedited where the parties have undergone extensive and recent negotiation requiring prompt process. Further, SBUA is requesting Case-Certified funds only in this process and those funds are not accessible to those parties who typically oppose SBUA's requests regarding intervenor funding.

It is just and reasonable to extend the deadline for SBUA's filing. SBUA has represented small commercial customers recently regarding dockets involving the Company in UM 2114, and in other rate cases recently including UE 399 and UG 435. Small commercial customers are an important customer class and in these aforementioned and this rate case.

### **4. Consultation with Parties regarding Expedited Consideration**

SBUA served the parties a copy of this document<sup>1</sup> and the Petition on September 22, 2023 and asked for parties' position on the extension request. The Staff, Company, CalPine, Walmart, Kroger do not object. Community Energy Project takes no position and CUB and AWEC do not oppose expedited consideration but they do oppose the petition for case certification. Community Action Partnership of Oregon ("CAPO") believes that case certified organizations that claim to represent members should be required to divulge the identity of their members

## **5. Conclusion**

For the foregoing reasons, SBUA requests that the Commission grant SBUA's request for extension to file by September 26, 2023 a Petition for Case Certification along with a Proposed Budget and Exhibit to be reviewed should the Petition for Case Certification be granted.

RESPECTFULLY SUBMITTED \_25\_, 2023.



s/ Diane Henkels

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<sup>1</sup> Except this paragraph documenting responses of the parties which has been added since obtaining positions on 9/25/23. CAPO did not opine on the extension request .  
UE 416 MOTION FOR EXTENSION OF SBUA  
-EXPEDITED CONSIDERATION REQUESTED - 3

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UE 416

In the Matter of	)	
	)	
PORTLAND GENERAL ELECTRIC COMPANY	)	AMENDED NOTICE OF INTENT TO SEEK CASE-CERTIFIED FUNDS OF SMALL BUSINESS
Request for General Rate Revision	)	BUSINESS UTILITY ADVOCATES

Pursuant to Administrative Law Judge (“ALJ”) March 10, 2023 Memorandum in this matter, Small Business Utility Advocates (“SBUA”), and where the Commission allows filing of this Amended Notice, SBUA submits its this Amended Notice of Intent to seek Case-Certified funds in the above-referenced proceeding by complying with Articles 4.2 and 6.2 of the Fifth Amended and Restated Intervenor Funding Agreement approved by Order No. 22-506 (“IFA”).

Pursuant to IFA Article 6.2 Participating Public Utility account from which SBUA intends to seek an Issue Fund grant is Portland General Electric (“PGE”).

RESPECTFULLY SUBMITTED September \_22\_, 2023



s/ Diane Henkels

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BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UE 416

In the Matter of	)	
	)	
PORTLAND GENERAL ELECTRIC	)	PETITION FOR CASE CERTIFICATION
COMPANY	)	OF SMALL BUSINESS UTILITY
	)	ADVOCATES
Request for a General Rate Revision	)	
	)	
_____	)	

**1. INTRODUCTION**

Pursuant to the Memorandum of Chief Administrative Law Judge Moser (“Chief ALJ”) issued March 10, 2023, Small Business Utility Advocates (“SBUA”) asks the Public Utility Commission of Oregon (“Commission”) to certify this case for the purpose of SBUA’s being able to submit a Proposed Budget to receive Case-Certified Account intervenor funding in this matter. This docket, a general rate case, is an eligible proceeding for a case-certified party to seek an such funding. OAR 860-001-0830, Article 1(e), Article 5.3. Fifth Amended and Restated Intervenor Funding Agreement approved in Order 22-506 on December 29, 2022 (“IFA”).

**2. CRITERIA FOR CASE CERTIFICATION ARE MET BY SBUA**

To demonstrate that it meets the criteria for case certification for receiving case-certified intervenor funding, SBUA represents as follows:

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## **A. Criteria for Certification of Intervenor**

Under the IFA and Oregon Administrative Rules, to be case-certified, an organization must meet certain criteria set forth in the rule. IFA Article 5.3, OAR 860-001-0120(4).

Specifically, an organization can qualify for case certification if “(a) The organization is a (i) not-for-profit organization; or (ii) demonstrates that it is in the process of becoming a nonprofit organization, or (iii) is comprised of multiple customers of one or more Participating Public Utilities 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 group or class of customers and its participation in the proceedings will be primarily directed at public utility rates or terms and conditions of service affecting that broad group or class of customers, and not narrow interests or issues that are ancillary to the impact of the rates and terms and conditions of service to the customer group; (c) The organization demonstrates that it is able to effectively represent the particular class of customers it seeks to represent; (d) The organization’s members who are customers of one or more of the Participating Public Utilities affected by the proceedings 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 proceeding in which the organization was case-certified and received an Intervenor Funding Grant; (f) The organization demonstrates that: (1) no pre-certified intervenor participating in the proceedings adequately represents the specific interests of the class of customers represented by the organization related to rates and terms and conditions of service; or (2) that 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 proceeding.” IFA Article 5.3.

**B. Applicability of Criteria to SBUA**

For reasons set forth below, SBUA meets the criteria for certification set forth in IFA.

*(a) Nonprofit Status*

SBUA<sup>1</sup> is an Internal Revenue Code Section 501(c)(3) nonprofit organization operating in Oregon and its members include multiple customers of PGE. SBUA’s primary purpose is representing the interests of small businesses in utility proceedings. See <https://utilityadvocates.org/category/oregon-puc/>.

*(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 large, broad, and diverse class of customers. Most businesses in Oregon are “small businesses”. Though definitions may vary, an example, the Oregon Small Business Development Act defines “small business” as those businesses with 100 or fewer employees, ORS 285B.123(2). A February 2023 study performed by the Oregon Office of Small Business Assistance<sup>2</sup> refers to the Oregon Administrative Procedures Act definition of

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<sup>1</sup> National Small Business Utility Council does business in Oregon as NW Small Business Utility Advocates (“SBUA”). <http://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/8999932> (Last accessed 9/21/23).

<sup>2</sup> Office of Small Business Assistance — Small Business Rules Advisory Committee Study February 2023: <https://www.oregon.gov/smallbusiness/Documents/SBRAC-Study-February-2023.pdf> (Last accessed: September 21, 2023.)

“small business” as “a corporation, partnership, sole proprietorship or other legal entity formed for the purpose of making a profit which is independently owned and operated from all other businesses, and which has 50 or fewer employees.” ORS 1.83.310(10). The U.S. Small Business Administration (“SBA”) statistics in 2022 show that the total number of Oregon small businesses amounts to 402,928 (99.4% of Oregon businesses), and more than half of Oregon’s workforce is employed in small businesses (54.4% of Oregon employees)<sup>3</sup>.

While SBUA may not divulge the identities of its members in this filing, some members are known via testimony and other filings previously submitted under seal to the Chief ALJ.<sup>4</sup> SBUA members in Oregon include small businesses from diverse industries and sectors including restaurants and other food and beverage establishments, commercial cleaning and maintenance, artisanal glass, hair salons, bicycling related businesses, wood products milling, apiculture and large scale honey production, commercial photography, small business consulting, residential and commercial construction, hardware stores, jewelry appraisal and manufacturing, energy efficiency and renewable energy consulting, multi-family residential housing, rural general stores, among others. Many SBUA members in Oregon are small commercial customers of the Company. SBUA is comprised of and represents small businesses exclusively and as such SBUA constituents are distinct from constituents of the Alliance of Western Energy Consumers (“AWEC”) and Oregon Citizens’ Utility Board (“CUB”).

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<sup>3</sup> U.S. Small Business Administration Office of Advocacy, <https://advocacy.sba.gov/wp-content/uploads/2022/08/Small-Business-Economic-Profile-OR.pdf> (Last accessed 9/22/23).

<sup>4</sup> See Response of SBUA to Chief ALJ Bench Request in UM 2114, UG 435, and UE 394 filed 2/25/2022.



SBUA participation is directed primarily at ensuring rates and terms of service are fair and reasonable to Oregon’s small businesses, especially the Company’s Schedule 32 customers. SBUA was present at the prehearing, and has focused reviewing the docket for consistency with standard ratemaking principles and treating the small commercial customer fairly with regard to rate spread and rate design. In this docket SBUA’s focus was more specific to distribution, transmission, and future information.

*(c) Demonstrated Effective Representation*

SBUA’s legal counsel has represented and provided counsel for over twenty years to numerous Oregon small businesses, including those businesses certified by the Certification Office of Business Inclusion and Diversity, also known as “COBID”<sup>5</sup> firms, and Oregon Benefit Companies<sup>6</sup>, and is experienced in energy and utility matters in Oregon. Through counsel, SBUA participated in the 2017 public input process of SB 978<sup>7</sup>, and since SBUA’s inception in Oregon, its legal counsel has educated SBUA membership and other small businesses and small business supporters regarding utility regulatory matters impacting small business.

Direct examples where SBUA has recently been granted its petition to intervene and case certification to demonstrate effective representation on behalf of small commercial customers include UE 399 Pacificorp, dba Pacific Power Request for General Rate Revision filed April 13, 2022, UG 435 Northwest Natural Gas Company, dba NW Natural Request for General Rate

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<sup>5</sup> <https://www.oregon.gov/biz/programs/cobid/pages/default.aspx>

<sup>6</sup> A corporation or limited liability company subject to ORS 60.750-ORS 60.770.

<sup>7</sup> SB 978 (2017)(Report available at <https://www.oregon.gov/puc/utilities/Documents/SB978LegislativeReport-2018.pdf> (Last accessed 9/22/23))(Identifying counsel’s previous law firm instead of “SBUA”), p25, 50. In the SB 978 process SBUA identified in public comment use of COBID firm data to quantify impacts of energy policy on small business.

Revision filed February 1, 2022, UE 374 Pacificorp, dba Pacific Power Request for General Rate Revision filed March 10, 2020, and UM 2114 Investigation into the Effects of the COVID-19 Pandemic on Utility Customers.<sup>8</sup> SBUA has fully participated in the aforementioned dockets by intervening, providing expert testimony or comment, filing documents, and participating in workshops, settlement discussions, and other process and proceedings within the cited dockets. SBUA demonstrates accountability towards its small business constituency by producing regular newsletters and information sessions, and meeting at least quarterly with an advisory committee of industry and geographically diverse small business owners and supporters.

In the present docket SBUA counsel draws upon the expertise of Danny P. Kermode C.P.A.-retired, a utility consultant who has managed roles on behalf of the Washington Utilities and Transportation Commission that include serving as a Regulatory Analyst, Assistant Director for Water and Transportation, and Senior Policy Advisor among others. Kermode's qualifications are known to the Commission as he has served as an expert in rate cases in Oregon such as UG 435 and UE 399. SBUA's participation is targeted on rates and terms of services to small commercial customers, and as efficient as practicable and effective.

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

SBUA members in Oregon includes Portland General Electric Company ratepayers. SBUA members contribute to the overall support and funding of SBUA. The budget of SBUA is not large, however, it is growing and includes contributions by members, grants, and other

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<sup>8</sup> In UE 319 (2017) Portland General Rate Case, the SBUA case certification petition was denied, however, it was not decided on the merits.

support. Support by Oregon's SBUA membership is broad and consists of various members' money contributions, in-kind professional services, space and capital equipment. Support also comes in the form of general participation in the organization from SBUA members in Oregon including PGE ratepayers, and members of the SBUA Oregon Advisory Committee. In 2023 SBUA Oregon competed among 11 area nonprofit organizations for the East Portland Chamber of Commerce's Annual Non-profit Spring Showcase and won the people's choice most popular nonprofit prize.

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

SBUA has demonstrated its ability to substantively contribute on behalf of customer interests related to rates, and terms and conditions of service, obtaining expert testimony, informing the Commission on the state of small business and in Oregon, the impact of COVID-19 and related efforts to reduce arrearages. SBUA has participated in settlement negotiations and provided meaningful input on behalf of its members. SBUA contributed substantively to the record in UG 435 and managed to secure a reduction from the proposed rate increase of 9.7% to 9.2% as well as a Company promise to examine possible intra-class subsidy. In regards to UE 399, SBUA similarly secured a reduction from the proposed 10.3% increase in rates to 8.4%. Additionally, within UE 399 SBUA further was able to increase rate design alternatives, specific small business web presence, and commitment by the utility to produce a small commercial customer based Standard Industrial Classification (SIC) report. Though SBUA

did was not a party that signed onto the third stipulation in UM 2114<sup>9</sup>, SBUA represented its consistency fully before and during the docket. SBUA's advocacy for fair and reasonable treatment of small business included focus on fair treatment of deferrals, analyzing utility monthly reporting of small commercial arrearage data throughout the state, and applying an environmental justice lens to overlap with such data as SBUA cites environmental justice communities as a factor to consider based on recent legislation and Commission decisions. Also, SBUA provided substantial input in the AR 653 Division 21 Rulemaking. SBUA advocated for small commercial in reporting, the same notice of disconnection as residential, relief from wildfire or extreme weather, etc. SBUA participated Docket ADV 1474/Advice No 22-45 to achieve resolution in the allocation of the Company's COVID-19 related costs ensuring fairer treatment of COVID-19 costs with regard to schedule 32 customers.<sup>10</sup>

The Commission granted SBUA case certification in several previous dockets besides general rate cases including UM 1751 regarding HB 2193 Implementing an Energy Storage Program Guidelines, UM 1754 regarding the Company's 2017-2021 Renewable Portfolio Standard Implementation Plan for the Company filed in 2015, UM 1790 regarding the Company's 2017-2021 Renewable Portfolio Standard Implementation Plan filed in 2016.

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<sup>9</sup> Approved by Commission Order 20-401, available at: <https://apps.puc.state.or.us/orders/2020ords/20-401.pdf> (Last accessed 9/22/23).

<sup>10</sup> SBUA provided oral and written comment within this proceeding and the Commission had promise a workshop to focus on small commercial following SBUA input during the March 21, 2023 Commission Public Meeting.

Subsequently, SBUA was granted case certification in UG 435<sup>11</sup>, UE 399<sup>12</sup>, and UM 2114<sup>13</sup>.

SBUA demonstrated an ability to contribute to the record in the aforementioned dockets, and has demonstrated for the record statistical familiarity with the state's small business constituency and impact of the proceedings on small business.

*(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 specific interests of small business or the Company's small nonresidential customers. SBUA represents solely these customers. The Citizens' Utility Board ("CUB") represents the residential customer class by statute, and stands to run a conflict given the different proposed rate impacts on Residential and Small Nonresidential Customer classes. Precertified Alliance of Western Energy Consumers ("AWEC") represents the large non-residential customer classes whose interests are also in conflict. SBUA represents exclusively small business interests. Such customer class will benefit from SBUA participation with information pertinent to small business and that the Commission is not likely to receive from any other source.

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<sup>11</sup> Order No. 22-161, available at <https://apps.puc.state.or.us/orders/2022ords/22-161.pdf> and Revised Budget approved in Order 22-507 <https://apps.puc.state.or.us/orders/2022ords/22-507.pdf> (Last accessed 9/22/23).

<sup>12</sup> Order 23-165 in UE 399 available at: <https://apps.puc.state.or.us/orders/2023ords/23-165.pdf> and Revised Budget approved in Order 23-165 <https://apps.puc.state.or.us/orders/2023ords/23-165.pdf> (Last accessed 9/22/23).

<sup>13</sup>UM 2112 Order 22-304 available at <https://edocs.puc.state.or.us/efdocs/HAH/um2114hah164455.pdf> and adopting ALJ recommendation available at <https://edocs.puc.state.or.us/efdocs/HAH/um2114hah164455.pdf> (Last accessed 9/22/23).

*(g) Participation will not Unduly Delay the Proceedings*

SBUA acknowledges the schedule that is established in the ALJ March 10, 2023 Ruling and its request for extension and case certification would not cause any delay in proceedings. SBUA has timely sought to participate and participated in substantive proceedings toward resolution. Even though this request is coming at a later time in the proceedings, this petition is may be considered timely per approval by the Chief ALJ. OAR . SBUA files its Amended Notice of Intent contemporaneous with these proceedings.

**3. CONCLUSION**

For the foregoing reasons, SBUA requests that the Commission grant this Petition and allow SBUA to submit the attached Proposed Budget for consideration.

RESPECTFULLY SUBMITTED September 22, 2023.



s / Diane Henkels

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