

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UM 2114

IN THE MATTER OF:	)	PETITION OF SMALL
	)	BUSINESS UTILITY ADVOCATES
INVESTIGATION INTO THE EFFECTS	)	FOR DESIGNATION OF DOCKET
OF THE COVID-19 PANDEMIC ON	)	AS AN ELIGIBLE PROCEEDING
UTILITY CUSTOMERS	)	AND PROPOSED BUDGET
	)	
	)	

**I. INTRODUCTION**

Comes now Small Business Utility Advocates (“SBUA”) to petition the Public Utility Commission (“Commission”) to designate this docket UM 2114 Investigation into the Effects of the COVID-19 Pandemic on Utility Customers as an “eligible proceeding” as defined pursuant to the Fourth Amended and Restated Intervenor Funding Agreement approved January 17, 2018 (“IFA”) for purpose of being able to receive intervenor issue funds under the IFA.<sup>1</sup> Further, SBUA submits a Proposed Budget, attached herein as Exhibit 1, for the purpose of identifying intervenor funding SBUA seeks to help support its work in this docket.

**II. BACKGROUND**

The Commission, as authorized by statute, has set forth a process by which intervenors can seek funding to participate in certain identified proceedings. ORS 757.072. This process is set forth in rule and in the IFA.<sup>2</sup> Utility stakeholders to UM 2114 include the following: Portland General Electric Company (“PGE”), PacifiCorp dba Pacific Power (“PacifiCorp”), Idaho Power Company (“Idaho Power”), Northwest Natural Gas Company (“NW Natural”), Cascade Natural

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<sup>1</sup> OAR 860-001-0120(4) and Article 1(c)(i), Article 4.2.3, Article 5.3, Fourth Amended and Restated Intervenor Funding IFA approved January 17, 2018 (“IFA”).

<sup>2</sup> OAR 860-001-0120.

Gas Company (“Cascade”), and Avista Utilities (“Avista”). All of these utilities except Idaho Power are party to the IFA.

The context of this docket has been described in Commission Staff’s reports which are found in the Commission docket UM 2114 and on a related Commission webpage.<sup>3</sup> A pandemic caused by the COVID-19 virus formed the basis of Oregon Governor Kate Brown’s Executive Order 20-12 (March 23, 2020) which resulted in the closure of many businesses and government offices.<sup>4</sup> SBUA adopts Staff’s comments re the circumstances regarding the beginning of the pandemic, the governor-ordered closures, the voluntary moratoria, the PUC ordered moratoria until December 1, 2021 and the general chronology of moratoria extensions.<sup>5</sup> SBUA took part in the workshops and meetings preceding the opening of this docket and recommended that residential and small commercial be treated similarly.<sup>6</sup> The Commission approved the UM 2114 Stipulated Agreement on the Effects of the COVID-19 Pandemic on Energy Utility Customers (“UM 2114 Stipulated Agreement”) in Order 20-401. While not a party to the UM 2114 Stipulated Agreement, SBUA has participated in proceedings during implementation of the UM 2114 Stipulated Agreement through to the present.<sup>7</sup> In participating, SBUA has provided comment in-

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<sup>3</sup> UM 2114 Staff Report 9/14/2020. See Commission COVID-19 <https://www.oregon.gov/puc/utilities/Pages/COVID-19-Impacts.aspx>, UM 2114 Staff Report 2/15/2020 [sic] for February 23, 2021 Special Public Meeting, UM 2114 Staff Report 5/6/21 MAY 20, 2021, SPECIAL PUBLIC MEETING REVISED; UM 2114 RECOMMENDATIONS; UM 2114 Staff Report of 8/10/21 for Special Public Meeting—Paragraph 28 update; UM 2114 Staff Report 9/1/21; UM 2114 Staff Report 11/10/21,

<sup>4</sup> UM 2114 Staff Report 9/14/2020, p , referring to Executive Order (“EO”) 20-12.

<sup>5</sup> SBUA’s interpretation of impact on small commercial customers has differed from that of Staff’s during the course of this docket as review of SBUA’s comments indicate.

<sup>6</sup> See SBUA comments prior to opening the docket UM 2114: Public Comment of SBUA for 5/13/21 Special Public Mtg re COVID-19 and early comments in COVID-19 related public meeting July 8, 2021 UM 2114 PUC Special Meeting.

<sup>7</sup> After the docket was opened, SBUA continued to participate in proceedings that lead to the UM 2114 Stipulated Agreement.

corporating utility finance expert opinion in addition to comments from industry experts, on several occasions, and other small business groups have commented expressing concern for fair treatment of small commercial customers.<sup>8</sup> SBUA noted that Washington and California both treated small commercial similar to residential for disconnection moratoria.<sup>9</sup> In November 2021, SBUA expert Danny Kermode offered recommendations with regard to how the Commission should consider the small commercial customers in this matter.<sup>10</sup>

### III. DESIGNATION OF DOCKET AS ELIGIBLE PROCEEDING FOR ISSUE FUNDS

The IFA sets out the proceedings which are eligible for the Commission to review for issue funding. IFA Article 1 (c)(v). Eligible proceeding for issue funds includes “any proceeding so designated by the Commission that directly affects one or more of the Participating Utilities and is anticipated to have a substantial impact on utility rates or service, a significant impact on utility customers or the operations of the utility, is likely to result in a significant change in regulatory policy, or raises novel questions of fact or law. (IFA Art. 1 (c)(v)(Emphasis added.)

As the paragraph below will demonstrate, UM 2114 is an eligible proceeding under the IFA for all of these reasons.

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<sup>8</sup> August 17, 2020 SBUA Comments for COVID-19 Workshops; September 8, 2020 SBUA Public Comment for September 8, 2020 Special Public Meeting; SBUA Public Comment on Commission Staff Report on UM 2114 2/23/21; UM 2114 COVID-19 Pandemic Impacts docket—Special Public Meeting Public Comment of SBUA Dated 5/12/21; UM 2114 COVID-19 Pandemic Impacts—6/13/21 Special Public Mtg Public Comment of SBUA filed 7/13/21; 11/5/21 SBUA’s Comments for the 11/17/21 Public Meeting. Several small business groups and organizations aligning with SBUA, such as the Oregon Restaurant and Lodging Association filed comments throughout 2021.

<sup>9</sup> Note SBUA refraining from signing on to the UM 2114 Stipulated Agreement in large part for this reason. SBUA Public Comment filed for November 3, 2020 Public Meeting. California treated small commercial similarly to residential in suspending disconnection on both small commercial and residential through September 30, 2021. See <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M389/K401/389401945.PDF> (Last accessed 1/24/22). Staff was familiar with California and other states’ examples. Staff Report. Other stakeholders did too, see UM 2114 Staff Report filed February 15, 2020 [sic] p7 (Suggesting the Commission align Oregon with California; and UM 2114 Staff Report filed May 6, 2021, p7 recommending “alignment” with Washington regarding disconnections.)

<sup>10</sup> November 4, 2021 Letter of Danny Kermode CPA to the Commission, attached to Comments by Small Business Utility Advocates (SBUA) re UM 2114 COVID-19 filed November 5, 2021 in UM 2114 (hereinafter: “Kermode”).

A) *UM 2114 directly affects one or more of the Participating Utilities.*

The utilities participating in the UM 2114 proceedings and signatories to the UM 2114 Stipulated Agreement are Cascade, Avista, NW Natural, Idaho Power, Pacific Power, and PGE.<sup>11</sup> All of these utilities were present since the beginning the closures and instituted voluntary disconnection moratoria,<sup>12</sup> and are signatory to the UM 2114 Stipulated Agreement approved by the Commission on November 5, 2020 in Order 20-401.<sup>13</sup> As a result, in addition to actively participating in UM 2114 generally, each of these aforementioned utilities has submitted reports to corresponding COVID-19 Monthly Reporting dockets,<sup>14</sup> and as a result of the UM 2114 Stipulated Agreement, each utility submits to the Commission COVID-19 deferred accounting quarterly reports.<sup>15</sup> Also, each of these utilities filed to defer costs the utilities maintain were incurred as a result of COVID-19 pandemic in dockets.<sup>16</sup>

B) *UM 2114 is a proceeding that is anticipated to have a substantial impact on utility rates or service.*

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<sup>11</sup> Order 20-401.

<sup>12</sup> UM 2114 Staff Report dated 9/17/20, p2: Prior to the meeting [June 9, 2020, Special Public Meeting, on the topic of “Impact to Utility Customers during the COVID-19 Pandemic and Future Economic Recovery] *content added*, investor-owned energy utilities had already taken voluntary actions to suspend disconnections of residential and non-residential accounts, stop sending late and final notices, stop assessing late fees, offering more and flexible payment arrangements, and other actions to assist customers impacted by COVID-19.

<sup>13</sup> UM 2114 Stipulated Agreement on Effects of COVID-19 Pandemic on Energy Utility Customers.

<sup>14</sup> RE 188 PGE, RE 189 Pacific Power, RE 187 Idaho Power, RG 94 NW Natural, RG 93 Cascade NGC, and RG 92 Avista.

<sup>15</sup> RE 186 PGE, RE 185 PacifiCorp, RG 90 NW Natural, RG 89 Avista, RG 91 Cascade NGC.

<sup>16</sup> See Commission dockets pertaining to deferral of costs associated with COVID-19: UM 2063 PacifiCorp dba Pacific Power, UM 2064 Portland General Electric, UM 2069 Avista Utilities, UM 2068 Northwest Natural, UM 2067 Idaho Power, UM 2072 Cascade Natural Gas.

Estimated costs of deferrals due to implementation of the UM 2114 Stipulated Agreement are in the range of \$57,371,000.<sup>17</sup> With regard to costs of this implementation, SBUA has introduced expert comment to the Commission that bad debt should be separated out between small commercial and residential and that the small commercial rate payers should not bear the bad debt of residential customers.<sup>18</sup> The pandemic has also had a significant impact on utility rates or service where many customers residential and small commercial have been disconnected. All of the utilities changed their disconnection practices during the pandemic at first to voluntarily cease disconnection, and then were ordered to maintain the moratorium on disconnection procedures until December 2021 for small commercial customers and until July 2021 for residential customers.<sup>19</sup> Implementation of UM 2114 also impacts service where the docket requires review and discussions regarding disconnection procedures rule making for small commercial and other customers.

*C) UM 2114 has a significant impact on utility customers or the operations of the utility.*

The very basis for the docket and the implementation of the UM 2114 Stipulated Agreement and docket activity is to deal with significant impacts of the COVID-19 on utilities and customers of utilities<sup>20</sup>, and as a springboard to implement other changes in strengthening customers protections concerning disconnections.<sup>21</sup>

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<sup>17</sup> UM 2114 Staff Report 11/10/21, p26.

<sup>18</sup> Kermode; UM 2114 Stipulated Agreement, Paragraph 15.

<sup>19</sup> Order 20-401 approving UM 2114 Stipulated Agreement.

<sup>20</sup> Order 20-401.

<sup>21</sup> Order 20-401, Order 21-164, Order 21-236, Order 21-483.

D) *UM 2114 is a docket that is likely to result in a significant change in regulatory policy.*

The docket UM 2114 has seen a substantial shift in regulatory policy with regard to disconnections and disconnection notices, and is also spurring other significant changes in regulatory policy including focusing on low-income and marginalized residential populations.<sup>22</sup> The docket is likely to result in significant change in regulatory policy in the rulemaking that is a direct outcome of the signed Order 20-401 directing Commission Staff to open a rulemaking to revise at least fifteen Commission rules.<sup>23</sup>

This docket also represents a significant change in deferral policy. Staff acknowledges that in describing the treatment of deferrals: “This is a departure from the standard established by the Commission to use the company’s authorized rate of return for deferral balances not yet reviewed for prudence.”<sup>24</sup>

***or***

E) *UM 2114 raises novel questions of fact or law.*

UM 2114 is described as unique and not precedential in any other Commission proceeding as a first in working through the facts of a pandemic in energy utility matters, and the legal impact of this pandemic.<sup>25</sup> For example, Staff describes this as the first time the utilities operated

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<sup>22</sup> Order 20-401 approving the UM 2114 Stipulated Agreement, Order 21-164 extending moratorium on disconnecting certain customers until 7/16/21, and take other measures to protect those customers, Order 21-236 implementing Paragraph 28 of the Stipulated Agreement focusing on Diversity, Equity, and Inclusion directives.

<sup>23</sup> Order 21-483 (Directing Commission Staff to Open a rulemaking docket to begin the informal phase reviewing Oregon Administrative Rules Chapter 860, Division 21 to strengthen customer protections against disconnections; UM 2114 Stipulated Agreement, Paragraph 24.)

<sup>24</sup> UM 2114 Staff Report 9/17/20 p 9.

<sup>25</sup> UM 2114 Staff Report 9/17/2020, p 9.

a large scale bill assistance program that was not exclusively available to low-income customers.<sup>26</sup>

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#### **IV. CONCLUSION**

For the foregoing reasons, SBUA requests that the Commission grant this Petition.

RESPECTFULLY SUBMITTED January 28, 2022.



s/ Diane Henkels

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Diane Henkels  
Attorney, Small Business Utility Advocates  
[www.utilityadvocates.org](http://www.utilityadvocates.org)  
621 SW Morrison St. Ste 1025  
Portland, OR 97205  
541-270-6001  
[diane@utilityadvocates.org](mailto:diane@utilityadvocates.org)

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<sup>26</sup> UM 2114 Staff Report February 15, 2021, p12.





BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UM 2114

IN THE MATTER OF:	)	
	)	
INVESTIGATION INTO THE COVID-19	)	PROPOSED BUDGET
EFFECTS OF THE COVID-19 PANDEMIC)	)	OF SMALL BUSINESS
ON UTILITY CUSTOMERS	)	UTILITY ADVOCATES
_____	)	

**1. INTRODUCTION**

In the event the Commission designates UM 2114 as an eligible proceeding for the purposes of intervenor issue fund grant, Small Business Utility Advocates (“SBUA”) submits this Proposed Budget of SBUA (“Proposed Budget”) which is required to receive an issue fund grant<sup>1</sup> to assist SBUA’s representation in this docket. Matters in this docket are subject of implementing Order 20-401 where the Commission approved the Stipulated Agreement on the Effects of COVID-19 Pandemic on Energy Utility Customers.<sup>2</sup> The background of this Stipulated Agreement, herein after referred to as “Stipulation”, is described in the Petition for Designation as Eligible Proceeding of Small Business Utility Advocates” filed contemporaneously with this Proposed Budget.

**2. REQUIREMENTS FOR AN ISSUE FUND GRANT PROPOSED BUDGET**

The Proposed Budget must include: (a) a statement of work to be performed by the applicant for which the applicant is seeking an Issue Fund Grant; (b) a description of the areas to be

<sup>1</sup> Section 6.3 Fourth Amended and Restated Intervenor Funding Agreement, approved by Order 18-017 (“Agreement”).

<sup>2</sup> Order 201-401 is accessed here: <https://apps.puc.state.or.us/orders/2020ords/20-401.pdf> (Last accessed 1/25/22).

investigated by the intervenor; (c) a description of the particular customer class or classes that will benefit from the intervenor's participation; (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 that account; (e) a budget showing estimated attorney fees, which may include the cost for appropriate support staff and operational support; (f) a budget showing estimated consultant fees and expert witness fees, which may include the cost for appropriate support staff and operational support; and (g) 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.<sup>3</sup>

**(a) A statement of work to be performed by the applicant for which the applicant is seeking an Issue Fund Grant.**

SBUA represents small business including small commercial customers in this docket. This work has entailed and will continue to entail: attending Staff workshops, reviewing and analyzing utility data reports and Staff reporting, submitting public comment based on expert consult, informing constituency and receiving input, preparing public comment, attending and participating at Commission Public Meetings, supply technical assistance to constituency as requested by constituency.

**(b) A description of the areas to be investigated by the applicant.**

1) Analyze and recommend regarding bad debt associated with COVID-19 and reported by the participating utilities. These utilities include: Portland General Electric Company (“PGE”),

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<sup>3</sup> Id.

PacifiCorp d.b.a. Pacific Power (“PacifiCorp”), Idaho Power Company (“Idaho Power”), Northwest Natural Gas (“NW Natural”), Cascade Natural Gas (“Cascade”), Avista Utilities (“Avista”).

2) Costs of utility programs implementing Stipulation<sup>4</sup>:

A. PGE:

- i) 50/50 Plan, the one-time PGE payment to match a customer payment of an equal amount;
- ii) Three-month payment match—PGE match of customer payment of equal amount for three months or when total balance reaches \$0;
- iii) Extended match program where PGE matches residential customer payments for up to 12 months or when total account balance reaches \$0;
- iv) A one-time payment by PGE for up to \$500 for a customer to get current;
- v) One-time PGE bill payment matching customer’s payment to reconnect disconnected customers.

B. PacifiCorp:

- i) One-time grant of \$500 to be used to pay arrears, reconnect service or set up deferred payment;
- ii) Extended payment match receiving a monthly payment match up to \$1,000.

C. Idaho Power:

- i) 40/60 balance split program with the utility paying up to 60 percent or \$1,500 and customers pays 40 percent of customer’s past due balance;

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ii) Payment arrangement match with the utility paying up to a cumulative total of \$1,500;

iii) Instant Grant payment of up to \$100.

D. NW Natural:

i) Instant Grant of one-time grant up to \$100;

ii) 50/50 Matching Grant, a one-time grant up to \$300 in the form of a credit to the account, eliminating a balance;

iii) Time Payment Arrangement with Matching Grant matching customer's monthly payments not to exceed \$1,200.

E. Avista:

i) Automatic grant one-time grant to forgive arrearages, not to exceed \$1,500 to customers with proven history of low-income program eligibility;

ii) Arrearage forgiveness grant—One-time grant to forgive arrearage balances, not to exceed \$1,500 for customers not previously receiving Energy Assistance in last 24 months but expressing hardship due to COVID-19.

F. Cascade:

i) Automatic hardship grant of up to \$1,500 for customers with history of low-income program eligibility;

ii) Financial Hardship Grant for customers who verbally express financial hardship will receive assistance based on a benefit calculator.

3) Analyze and present recommendations concerning rulemaking<sup>5</sup>:

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<sup>5</sup> Stipulation, Provision 24. e,

- a. OAR 860-021-0125, Due and Payable Period;
  - b. OAR 860-021-0126, Late Payment Charge;
  - e. OAR 860-021-0210, Interest on Deposits for Residential and Nonresidential Service by Rate-Regulated Utilities;
  - f. OAR 860-021-0215, Refund of Deposits;
  - g. OAR 860-021-0305, Grounds for Involuntary Disconnection;
  - h. OAR 860-021-0326, Disconnection of Gas or Electric Service to Tenants;
  - j. OAR 860-021-0330, Reconnection Fee for Utility Service;
  - o. OAR 860-021-0505, Disconnection Procedures for All Commercial Electric and gas Utility Customers;
- 4) Analyze late fees and reconnection costs according to applicable rules.
  - 5) Identify policies to mitigate differential energy burdens, and other inequities of affordability, including rate design for small businesses;
  - 6) Review information regarding amounts received from the sources outside of ratepayers including the Joint Legislative Emergency Board for additional taxpayer funded energy bill payment assistance payment funding (\$30 - \$50 million request if federal funds become available), any increase in the “low income” assistance charge on utility bills;
  - 7) Perform other tasks that arise as relevant to supporting small commercial customers and assuring fair and reasonable process.

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**(c) A description of the particular customer class or classes that will benefit from the intervenor's participation.**

The particular customer class that would benefit from SBUA's participating in the proceeding is the small nonresidential<sup>6</sup> ratepayer class, known as PGE's Schedule 32 Small Nonresidential Standard Service, PacifiCorp's Schedule 23 General Service Small Nonresidential, Idaho Power's Schedule 7 Small General Service, NW Natural's Schedule 3 Basic Firm Sales Nonresidential and Schedule 31 Non-Residential Firm Sales and Firm Transportation Service, Cascade's Schedule 104 General Commercial Service Rate, and Avista's Schedule 420 General Natural Gas Service. Other customers are also likely to benefit.

**(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 and the corresponding total available balance currently reported as of January 22, 2022, are as follows: PGE: \$4,755.00, Pacific Power: \$9,590, Idaho Power: \$49,493, NW Natural: \$275,821, Cascade NGC: \$45,782, Avista N/A.<sup>7</sup>

**(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**

<sup>6</sup> "Small commercial". See Stipulation, Section 38.

<sup>7</sup> Intervenor Funding: <https://www.oregon.gov/puc/filing-center/Pages/Intervenor-Funding.aspx> (last accessed 1/22/22).

**least 20% of the Eligible Expenses for the work to be performed for which the intervenor is seeking an Issue Fund Grant.**

In response to these requirements “e”, “f”, and “g”, SBUA submits the attached UM 2114 Proposed Budget of SBUA Exhibit A as a Budget for the Issue Fund Grant requested.

### **3. CONCLUSION**

SBUA submits the information above and attached as its Proposed Budget to represent small business and small non-residential ratepayers for the Commission’s consideration of SBUA’s request for designation of this docket as an eligible proceeding and permitting SBUA to access issue funds in this docket.

RESPECTFULLY SUBMITTED January 28, 2022.



s/ Diane Henkels

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Diane Henkels  
Attorney, Small Business Utility Advocates  
www.utilityadvocates.org  
621 SW Morrison St. Ste 1025  
Portland, OR 97205  
541-270-6001  
diane@utilityadvocates.org





UM 2114

EXHIBIT A

Proposed Budget of SBUA for Issue Fund Grant

Personnel	Hours	Rate	Cost
<i>Attorney Fees</i>			
Attorney	25	\$205	\$5,150
Associate attorney	10	\$190	\$1,900
Administrator/paralegal	30	\$60	\$1,800
Expert Witness*	66	\$150	\$10,000
Small business sector expertise	20	\$100	\$2,000
Executive Director	2	\$250	\$500
<i>Other Expenses</i>			
Travel – Expert			\$0
Other—printing/postage			\$50
Subtotal			\$21,400
20% of SBUA Funded Expenditures			\$4,280
Total SBUA Issue Fund Grant Proposed Request			\$17,120

Hours are based on 2021 # of hours spent in 2021 on UM 2114 & estimated # of hours for 2022.

\*Hours based on: review of docket reports, separate related dockets' data in reporting and deferrals; estimate of time to identify & propose / participate in meetings, analysis of rule makings pertinent to small commercial, and other actions as directed in the UM 2114 Stipulation.

