

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UG 399

IN THE MATTER OF:	)	
	)	
PACIFICORP DBA PACIFIC POWER	)	OPENING BRIEF OF SMALL BUSINESS
	)	UTILITY ADVOCATES
	)	
Request for General Rate Revision	)	
	)	
	)	

Small Business Utility Advocates (“SBUA”) submit this Opening Brief of SBUA pursuant to the October 6, 2022 Ruling issued by Administrative Law Judge (ALJ) Katharine Mapes in this proceeding. SBUA submits this Opening Brief assuming a favorable ruling under OAR 860-001-0420 pursuant to which SBUA moved the ALJ to grant leave to file out of time.

**I. Background**

PacifiCorp dba Pacific Power (“Company”) filed a Request for General Rate Revision on or about March 1, 2022. In the Company’s opening testimony of Mr. Meredith, the Company proposed a 10.3% Base Rate increase and a proposed 9.5% for net rates for the Schedule 23 rate class.<sup>1</sup> In its opening testimony the Company provided no testimony with regard to sharing costs of COVID-19.<sup>2</sup>

The original scope of SBUA’s representation as described in its Petition to Intervene indicated SBUA would review among other information the justification for the base change of 10.3% with a net change of 9.5% to Schedule 23 rates, and cost allocation methods used by the Company that affect small business, and rate spread and rate design. In addition, SBUA would

---

<sup>1</sup> UE 399 PAC/1110 Meredith/1.

<sup>2</sup> Id.

review rulings regarding COVID-19 deferred costs in UM 2063. 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 was March 30, 2022 when Staff announced its intention to consider amortization of the 2020 and 2021 calendar year deferrals in UE 399.<sup>3</sup> UM 2063 was consolidated with the UE 399 per the April 11, 2022 Ruling by the Administrative Law Judge Alison Lackey ("ALJ"). On May 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.<sup>4</sup> The Company responded on May 27th, 2022 providing for deferred COVID-19 costs a single figure of \$17,386,813.44.<sup>5</sup> There was a public comment hearing on May 24, 2022, that included comment from small business with regard to the rate case asking .<sup>6</sup> No further information was provided in testimony by any party regarding COVID-19 deferred costs or allocation until Staff's testimony filed June 22, 2022.<sup>7</sup> In that testimony COVID-19 costs reflected approximately \$17,000,000.<sup>8</sup>

On June 22, 2022 Parties filed Opening Testimony and SBUA's expert testimony included rate spread, rate design, and also some basic testimony on COVID-19 deferrals related to the standard ratemaking principles of cost recovery.<sup>9</sup> The SBUA expert testimony included

---

<sup>3</sup> 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.

<sup>4</sup> UE 399 Bench Request, May 13, 2022.

<sup>5</sup> UE 399 PacifiCorp's Responses to Bench Request, COVID-19 Costs; \$17,386,813, pg. 5, entered April 11th, 2022.

<sup>6</sup> SBUA's Rebuttal Testimony of William A. Steele (SBUA/200-201/Steele), (SBUA/300-304/Kermode), pp 29-34.

<sup>7</sup> UE 399 Staff/1700 Storm/30-51.

<sup>8</sup> UE 399 Staff/1700 Storm/31.

<sup>9</sup> UE 399 SBUA/100 Steele/21-22.

SBUA's position with regard to COVID-19 costs which position had been documented in previous dockets UM 2114 (Investigation into the Effects of the COVID-19 Pandemic on Utility Customers) and UG 435 (NW Natural Request For a General Rate Revision).<sup>10</sup> 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.<sup>11</sup> To assure fair and reasonable rates with regard to the significant COVID-19 costs SBUA filed rebuttal testimony from two experts on August 11, 2022.<sup>12</sup>

A First Partial Stipulation was filed on August 25, 2022 settling multiple issues related to the Company's proposal to recover in rates certain wildfire mitigation and vegetation management related costs.<sup>13</sup> SBUA did not sign on to this stipulation, but did not then and does not now oppose it.

A Second Partial Stipulation was filed on August 25, 2022 settling multiple issues associated with the Company's proposed 2023 Test Year revenue requirement.<sup>14</sup> SBUA did not sign on to this stipulation, but did not then and does not now oppose it.

A Third Partial Stipulation was filed on September 21, 2022, settling additional issues associated with the Company's proposed 2023 Test Year revenue requirement, rate spread including the rate spread of COVID-19 deferred costs for 2020 and 2021, and other issues. Settlement negotiations took place over several days: July 28, August 10, August 19, 24, 26, 30,

---

<sup>10</sup> Id.

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

<sup>12</sup> UE 399 SBUA/200-201 Steele; SBUA/300-304/Kermode.

<sup>13</sup> UE 399 First Partial Stipulation on Wildfire Mitigation and Vegetation Management Issues (Aug. 25, 2022).

<sup>14</sup> UE 399 Second Partial Stipulation (Aug. 25, 2022).

2022.<sup>15</sup> SBUA supported the Third Partial Stipulation and was a signatory. SBUA’s witnesses William A. Steele and Danny P. Kermode were co-sponsors of joint testimony submitted to support this Third Partial Stipulation.<sup>16</sup>

A Fourth Partial Stipulation was filed on September 30, 2022, with errata filing on October 3, 2022.<sup>17</sup> SBUA did not sign on but did not then and does not now oppose it. Certain other parties did not sign on to the Fourth Partial Stipulation and this remains to be litigated.<sup>18</sup>

SBUA did not oppose a motion filed by the Company to bifurcate the remaining proceedings in the docket into two phases and on October 6, 2022, the ALJ issued a ruling: (1) accepting the Company’s proposal to bifurcate the remainder of the proceedings into two phases, and (2) establishing the remaining schedule for Phase 1 including the First, Second, and Third Partial Stipulations and an additional issue raised by Calpine Energy Solutions.<sup>19</sup>

## **II. Position**

The small commercial customers, Schedule 23, have suffered substantially due to the pandemic experiencing earlier disconnections<sup>20</sup>, operating on thin margins and with high inflation, and at a time when Oregon’s energy policy is removing carbon from the state’s fuel

---

<sup>15</sup> UE 399 Stipulating Parties/100 Steward, Muldoon, Jenks, Mullins, Bieber, Kronauer, Steele, Kermode, Reed, Cebulko, Higgins/4.

<sup>16</sup> UE 399 Stipulating Parties/100 Steward, Muldoon, Jenks, Mullins, Bieber, Kronauer, Steele, Kermode, Reed, Cebulko, Higgins/1-24.

<sup>17</sup> UE 399 Fourth Partial Stipulation, settling multiple issues associated with the Company’s proposed Accelerated Commitment Tariff (ACT).

<sup>18</sup> NewSun Energy remains to litigate an aspect of the Accelerated Commitment Tariff (“ACT”), regarding which SBUA takes no position.

<sup>19</sup> UE 399 ALJ Ruling/Memoranda, October 6, 2022.

<sup>20</sup> UE 399 SBUA/100 Steele/22, SBUA/200 Steele/5.

supply.<sup>21</sup> Also, these ratepayers were subject of a previous general rate case, UE 374,<sup>22</sup> wherein SBUA worked with the Company to receive from the Company information regarding certain behaviors of small commercial customers<sup>23</sup> and supporting more outreach specific to the small commercial customer class Schedule 23.<sup>24</sup>

SBUA as an active participant in the docket generally, and in the Third Partial Settlement especially, but did not oppose the First, Second, or Fourth Settlement. SBUA collaborated with specific focus on rate spread and rate design, and the allocation of COVID-19 costs.

SBUA advocated for and received rate mitigation for the Schedule 23 rate class. The resulting Schedule 23 Base Rate increase is 8.4% is still high but is less than the Company's initial proposal of 10.3% Base Rate increase. The Third Partial Stipulation increased the Net Rates by 5.51% compared to the Company's initial proposed increase of 9.5%. In addition the Company's adding web information specific to small commercial customers will make it easier for these customers to identify and choose their best electricity options. And reporting on schedule 23 customer consumption by industry will help identify best options in future rate cases. Overall the Third Partial Settlement Agreement has resulted in a lower rate increase for SBUA's members and others who take service under Schedule 23 rate class, and movement toward better service for small commercial customers.

---

<sup>21</sup> UE 399 SBUA/200 Steele/5-6, SBUA/200 Steele/9.

<sup>22</sup> UE 374 PacifiCorp dba Pacific Power Request for General Rate Revision, Partial Stipulation, filed August 17, 2020, paragraph 21.

<sup>23</sup> UE 399 Opening Testimony of William A. Steele, SBUA/102 Steele/1-7, filed June 23, 2022.

<sup>24</sup> UE 374 Compliance Filing of Small Business Utility Advocates, filed December 27, 2020.

SBUA does not maintain that the Third Partial Stipulation resolves the question as to the proper allocation of COVID-19 costs, but does find that the agreement is fair, just, and reasonable for the Company's small commercial customers and is in the public interest.<sup>25</sup> SBUA's agreement to the COVID-19 rate spread includes an offsetting reduction for Schedule 23 ratepayers from the general rate spread. The reduction of revenue requirement for these ratepayers is an integral part of SBUA's acceptance which, when taken as a whole, results in a settlement of the COVID-19 costs issue that is fair, just, and reasonable.

### **III Conclusion**

Therefore SBUA asks the Commission to accept the Third Partial Stipulation as a reasonable compromise with regard to the Company's rate spread and rate design with better outreach and offset reduction for the COVID-19 costs and find resulting rates are fair and reasonable for rates beginning January 2023. Additionally, SBUA does not oppose the First, Second, or Fourth Stipulation.

RESPECTFULLY SUBMITTED October 18, 2022.



s/ Diane Henkels

---

Diane Henkels, OSB#000523  
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)

---

<sup>25</sup> UE 399 Stipulating Parties/100 Steward, Muldoon, Jenks, Mullins, Bieber, Kronauer, Steele, Kermode, Reed, Cebulko, Higgins/24.