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80<sup>th</sup> LEGISLATIVE ASSEMBLY  
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT

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Committee members had the following questions on House Bill 4067:

- What types of proceeding does intervenor funding currently cover under the language of “broad customers interests” and for how many organizations?
- What would be the impact of narrowing the current language to “economic regulation”?
- Is there a need to have an income limit in the actual bill?

Below is a compilation of responses from the Public Utility Commission (PUC).

**What types of proceeding does intervenor funding currently cover under the language of “broad customers interests” and for how many organizations?**

PUC pointed out that the statute allows the PUC to approve intervenor funding agreements negotiated between energy utilities and customer groups – the agreements themselves provide the various terms governing eligible proceedings.

For example, the primary funding agreement defines “eligible proceedings” as:

- "Eligible Proceeding for Issue Funds" means a proceeding before the Commission to review:
  - general rate case request,
  - the proposed acquisition or merger of one of the Participating Public Utilities,
  - an Integrated Resource Plan,
  - an annual power cost request (such as PGE's Annual Update Tariff or PacifiCorp's TAM) or a purchase gas adjustment request; or
  - any other 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. <https://apps.puc.state.or.us/orders/2018ords/18-017.pdf>

The agreement also provides clarity as to what organizations are eligible. The two customer organizations that negotiated the agreement, the Citizen Utility Board and the Associate of Western Energy Consumers, are automatically qualified; other organizations that meet certain

criteria can become certified as eligible on a case by case basis. The primary agreement sets forth these criteria to become eligible:

- The organization:
  - is a not for profit organization;
  - represents the interests of a broad group or class of customers and its participation in the proceeding will be primarily directed at public utility rates and 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;
  - demonstrates that it is able to effectively represent the particular class of customers it seeks to represent
  - 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 any proceeding in which the organization was case-certified and received an Intervenor Funding Grant;
  - demonstrates that (1) no precertified intervenor participating in the proceeding 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
  - The organization demonstrates that its request for case-certification will not unduly delay the schedule of the proceeding.

Under current agreements, only a couple of organizations have received intervenor funding in addition to CUB and AWEC for specified proceedings. They include the League of Oregon Cities and the Klamath Basis Irrigators.

#### **What would be the impact of narrowing the current language to “economic regulation”?**

Clarifying that the scope is “economic regulation” is consistent with PUC’s work as an economic regulator, they do not see an adverse impact from the proposed amendment. However, that such an amendment may be unnecessary given the likely terms of a new intervenor funding agreement that would be developed under this bill and that would include more specificity as to the scope of work and proceedings.

#### **Does there need to be an amendment to include an eligibility level in the bill?**

In conversations with staff from the Public Utility Commission<sup>1</sup> there was an indication that it was not necessary to have the eligibility level in statute.

House Bill 4067 states:

“SECTION 4. (1) The Public Utility Commission shall, in consultation with relevant state agencies, establish a public process for the purpose of investigating ways to address and mitigate, through

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<sup>1</sup> Telephone call with Robin Freeman, PUC (2/10/2020)

nonbypassable means, differential energy burdens on classes of public utility customers and other inequities of affordability and environmental justice. As part of the public process established under this subsection, the commission shall:

- (a) Investigate the potential for demand response, weatherization and other programs to reduce energy burdens and energy bills;
  - (b) Investigate the potential for mitigation of energy burdens through bill reduction measures or programs that may include, but need not be limited to, establishing a bill credit program, a low-income rate classification or a multifamily rate classification; and
  - (c) Study best practices from around the country for delivery of programs and creation of systems that mitigate differential energy burdens.
- (2) As part of the public process established under subsection (1) of this section, the commission shall provide the public with an opportunity to comment.
- (3) The commission shall incorporate the findings of the public process established under subsection (1) of this section into the commission's report for the year 2021 that the commission is required to provide to the Environmental Justice Task Force and to the Governor under ORS 182.550."

Staff indicated that the PUC has had internal discussion on how section 4 would give them an opportunity to work with other agencies like OHCS to investigate the factors listed out in addition to other things. By not having a specific amount in statute the PUC would have the flexibility to figure out what is the most appropriate parameters, rather than just a certain percentage. For example, PUC's Oregon Lifeline program has the following eligibility criteria:

- Supplemental Nutrition Assistance Program (SNAP);
- Medicaid;
- Supplemental Security Income;
- Federal Public Housing Assistance;
- Veterans or Survivors Pension Benefit; or
- Total household income is at or below 135 percent of federal poverty guidelines.