

ORDER NO. 11 386

ENTERED SEP 29 2011

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

AR 560

In the Matter of the Adoption of Temporary  
Amendments to OAR 860-038-0480.

ORDER

**DISPOSITION: TEMPORARY RULE AMENDMENT ADOPTED**

In this order, the Public Utility Commission of Oregon (Commission) temporarily amends OAR 860-038-0480, which governs Public Purpose charge monies. The temporary amendments change the recipient of monies for conservation in schools from the Education Service Districts to the school districts. The amended rule, attached as Appendix A, will become effective upon filing with the Secretary of State.

The temporary rule change is necessary to implement House Bill 2960, also known as the "Governor's Cool Schools Bill," passed by the 2011 Legislative Assembly. That bill amended ORS 757.612 on an emergency basis, effective June 23, 2011, to allow distribution of funds to school districts rather than Education Service Districts as quickly as possible. The changes to the rule also establish that the Oregon Department of Energy may request reimbursement from the electric companies for costs associated with administering the public purpose fund expenditures, based on the Commission's authority to require such reimbursement (ORS 757.612(3)(c)).

We conclude that in order to facilitate the distribution of funds to the school districts as quickly as possible, the amendments to OAR 860-038-0480 should be adopted on a temporary basis. The Commission will open a rulemaking to address these changes on a permanent basis in the near future.

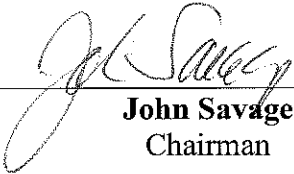
**ORDER**

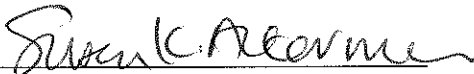
IT IS ORDERED that:

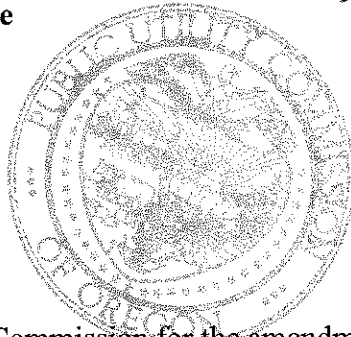
1. The temporary rule amendments set forth in Appendix A, are adopted and become effective upon filing with the Secretary of State.

2. The temporary rule amendments shall be effective for a maximum of 180 days beginning upon filing with the Secretary of State.

Made, entered, and effective SEP 29 2011.

  
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**John Savage**  
Chairman

  
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**Susan K. Ackerman**  
Commissioner



A person may petition the Commission for the amendment or repeal of a rule pursuant to ORS 183.390. A person may petition the Court of Appeals to determine the validity of a rule pursuant to ORS 183.400.

860-038-0480

### Public Purposes

(1) Each electric company that offers direct access to its retail electricity consumers and each electricity service supplier that provides electricity services to direct access consumers in the electric company's service territory will collect a public purpose charge from its retail electricity consumers until January 1, 2026.

(2) Except as provided in section (6) of this rule, electric companies and electricity service suppliers will bill and collect from each of their retail electricity consumers a public purpose charge equal to 3 percent of the total revenues billed to those consumers for electricity services, distribution, ancillary services, metering and billing, transition charges, and other types of costs that were included in electric rates on July 23, 1999.

(3) The electricity service suppliers will remit monthly to each electric company the public purpose charges they collect from the customers of each electric company.

(4) The electricity service suppliers will remit monthly the public purpose charges collected from direct service industrial consumers they serve to the electric company in whose service territory the direct service industrial site is located.

(5) The electric company whose territory abuts the greatest percentage of the site of an aluminum plant that averages more than 100 average megawatts of electricity use per year will collect monthly from the aluminum company a public purpose charge. The aluminum company will remit to the appropriate electric company a public purpose charge equal to 1 percent of the total revenue from the sale of electricity services to the aluminum plant from any source. Annually, the aluminum company will submit to the electric company an affidavit from a certified public accountant verifying that the costs for electricity services at the site of the aluminum plant and the remittance of the public purpose charges are accurate for the previous calendar year.

(6) A retail electricity consumer, including an aluminum plant as described in section (5) of this rule, may receive credits against its public purpose charges for qualifying expenditures incurred for new energy conservation and the above-market costs of new renewable energy resources at any site if the following qualifications for becoming a self-directing consumer are met:

(a) The consumer has used more than one average megawatt of electricity at any such site in the prior calendar year; and

(b) The consumer has received final certification from the Oregon Department of Energy for expenditures for new energy conservation and/or new renewable energy resources.

(7) Self-directing consumers may not claim a public purpose credit for energy conservation measures that were started prior to July 23, 1999. For energy conservation

measures that were started on or after July 23, 1999, but prior to the implementation of direct access, a self-directing consumer may claim a public purpose credit if either of the following conditions is met:

- (a) The energy conservation measure did not receive funding from an electric company conservation program and was certified by the Oregon Department of Energy after July 23, 1999; or
- (b) The energy conservation measure did receive funding from an electric company conservation program and was certified by the Oregon Department of Energy after July 23, 1999, but the self-directing consumer repaid the amount of such funding (cost of audit and incentives plus interest) no later than 90 days following the implementation of direct access; provided that, a self-directing consumer shall not be required to repay the amount of any energy conservation audit related to a conservation measure if the audit was completed prior to January 1, 2000. The cost of an audit that identifies multiple energy conservation measures shall be prorated among such measures.
- (c) For purposes of this subsection, "started" means that a contract has been executed to install or implement an energy conservation measure.
- (8) The Oregon Department of Energy will establish specific rules and procedures that are consistent with these rules for qualifying a self-directing consumer's expenditures.
- (9) The electric company will apply the self-direction credit, determined by the Oregon Department of Energy, toward the consumer's public purpose obligation.
- (10) Each electric company will establish five separate accounts for the public purpose charges to be funded from its collections of public purpose charges as follows:
  - (a) Energy conservation in schools;
  - (b) New cost-effective local energy conservation and new market transformation;
  - (c) Above-market costs of new renewable energy resources;
  - (d) New low-income weatherization; and
  - (e) Construction and rehabilitation of low-income housing.
- (11) Each electric company will allocate the public purpose funds it collects (billed less uncollectible amounts) from electricity service suppliers and consumers to the five public purpose accounts as follows:
  - (a) Energy conservation in schools — 10.0 percent;
  - (b) Local and market transformation conservation — 56.7 percent;

- (c) Above market costs of new renewable energy resources — 17.1 percent;
- (d) Low-income weatherization — 11.7 percent; and
- (e) Low-income housing — 4.5 percent.

(12) Each electric company will adjust the local and market transformation conservation and above market costs of new renewable energy resources accounts specified in subsections 11(b) and (c) of this rule for the credits returned to self-directing customers for conservation or renewable resource expenditures certified by the Oregon Department of Energy.

(13) Each electric company will distribute funds from the public purpose accounts at least monthly as follows:

- (a) The funds for conservation in schools to the ~~education service~~school districts located in its service territory;
- (b) The funds for local and market transformation conservation as directed by the Commission;
- (c) The funds for renewable energy resources as directed by the Commission;
- (d) The funds for low-income weatherization to the Housing and Community Services Department; and
- (e) The funds for low-income housing to the Housing and Community Services Department Revolving Account.

**(14) The Oregon Department of Energy may request reimbursement from electric companies for its costs of administering public purpose funds as described in subsection (3)(e) of ORS 757.612. The Oregon Department of Energy's reimbursement request must be consistent with its legislatively approved budget limitation allotted to administer the schools program. The electric companies must provide the requested reimbursement within 30 days of the Oregon Department of Energy's request.**

(15) Each electric company will **coordinate with the Oregon Department of Energy** to determine, by January 1 of each year, the allocation of public purpose funds for schools to the ~~Education Service~~Dschool districts according to the following methodology:

- (a) From the Department of Education, collect current total weighted average daily membership (ADMw) as defined in ORS 327.013 and average daily membership (ADM) for each ~~Education Service~~Dschool district that contains schools served by the electric company;

- (b) For each of the ~~Education Service Dschool~~ districts, compute the ratio of ADM in schools served by the electric company to total ADM;
- (c) For each ~~Education Service Dschool~~ district, multiply its total ADMw by the ratio of ADM in schools served by the electric company to total ADM. The result is an estimate of ADMw in schools served by the electric company;
- (d) Add the estimates of ADMw for each ~~Education Service Dschool~~ district; and
- (e) Compute the percentage of the total ADMw represented by each ~~Education Service Dschool~~ district. These are the percentages that will be used to allocate the public purpose funds for schools to ~~Education Service Dschool~~ districts for the 12-month period ~~with the exception of 2002 where the funds will be allocated for a 10-month period beginning March 1, 2002. After 2002, the 12-month period will begin~~ on January 1 of each year.

(165) The electric company may be reimbursed for the reasonable administrative costs it incurs to collect and distribute the public purpose funds. Those administrative costs will be deducted from the total amount of public purpose funds collected by the electric company before the funds are allocated to the five public purpose accounts. The electric company will also pay from the total public purpose funds collected or from a specific fund any other administrative costs the Commission directs to be paid for implementation of the public purpose requirements. The entities responsible for administering the public purpose funds will pay for their costs of implementing the public purpose requirements from the public purpose funds they receive from the electric company.

(176) The electric companies and the administrators of the public purpose funds will collect sufficient information so that biennial reports can be made to the Legislature on what has been accomplished with the public purpose funds and how those funds have benefited the consumers of each electric company. Specifically, information must be collected so that the reporting requirements of ORS 757.617 can be fulfilled.

- (a) Each electric company must report the total funds collected by source (that is, electric company customers, electricity service suppliers and self-directing consumers) for public purposes, the amounts distributed to the administrators of each public purpose fund, and its administrative costs;
- (b) Each administrator of public purpose funds must report, at a minimum:
- (A) The amount of funds received;
- (B) The amount of funds spent;
- (C) Its administrative costs; and

(D) Its results, for example, measures installed, projects funded, energy saved, homes weatherized, and low-income homes built/rehabilitated.

Stat. Authority: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 1-2001, f. & cert. ef. 1-5-01; PUC 2-2001, f. & cert. ef. 1-5-01; PUC 11-2002, f. & cert. ef. 3-8-02; PUC 13-2004, f. & cert. ef. 8-31-04; PUC 7-2007, f. & cert. ef. 5-15-07; PUC 13-2007, f. & cert. ef. 12-31-07; PUC 3-2011, f. & cert. ef. 6-17-11