

Secretary of State
NOTICE OF PROPOSED RULEMAKING*
 A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission	860
Agency and Division	Administrative Rules Chapter Number
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RULE CAPTION

In the Matter of Amending OAR 860-038-0480(7) to Correct a Date to Conform to ORS 757.612.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (adopted or renumbered) with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND: 860-038-0480

REPEAL:

RENUMBER:

AMEND and RENUMBER:

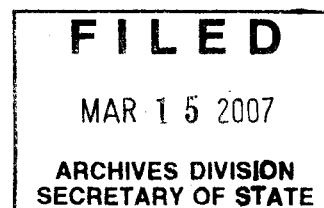
ORS 183, 756 & 757

Stat. Auth:

Other Authority

ORS 756.040 & 757.600 – 757.667

Stats. Implemented:



RULE SUMMARY

The current rule states self-directing customers may not claim a public purpose credit for energy conservation measures that were started prior to January 1, 2000. That date is incorrect and should be July 23, 1999, the date that ORS 757.612 was enacted into law.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

April 23, 2007, 5:00 p.m.

Last day for Public Comment
 Last day to submit written comments to the Commission

Diane Davis

Signature

Diane Davis
 Printed Name

3-15-07
 Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 p.m. on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, by an association with 10 or more members, within 21 days following publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Agency and Division

Public Utility Commission

Administrative Rules Chapter Number

860

In the Matter of Amending OAR 860-038-0480(7) to Correct a Date to Conform to ORS 757.612

Rule Caption: In the Matter of Amending OAR 860-038-0480(7) to Correct a Date to Conform to ORS 757.612

Statutory Authority: ORS 183, 756 & 757

Other Authority:

Stats. Implemented: 756.040 & 757.600 through 757.667

Need for the Rule(s): The current rule states self-directing customers may not claim a public purpose credit for energy conservation measures that were started prior to January 1, 2000. That date is incorrect and should be July 23, 1999, the date that ORS 757.612 was enacted into law. The incorrect date in the rule may have prevented some customers from taking credit when it was due them.

Documents Relied Upon, and where they are available:

Oregon Revised Statutes (ORS) 757.612 (available at www.leg.state.or.us/ors/757.html)

Fiscal and Economic Impact, including Statement of Cost of Compliance:

The potential impact from this change is to ensure self-directing customers are able to claim public purpose credit for measures implemented on or after July 23, 1999, as intended by ORS 757.612. Including the incorrect January 1, 2000, date in the rule may have prevented some customers from taking credit when it was due them, and upon amendment of the rule, such customers would be able to then use their credit against their public purpose charges. Small business is not impacted by this rule amendment.

How were small businesses involved in the development of this rule?

Small business is not impacted by this rule amendment.

Administrative Rule Advisory Committee consulted? No

If not, why?

This is a housekeeping correction to a rule to ensure conformity with ORS 757.612.

Diane Davis
Authorized Signer

Diane Davis
Printed Name

3-15-07
Date

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 for 10 years beginning on the date direct access is first offered.

(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 ~~January 1, 2000~~July 23, 1999. For energy conservation measures that were started on or after ~~January 1, 2000~~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) 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 accounts 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 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) Each electric company will determine by January 1 of each year the allocation of public purpose funds for schools to the Education Service 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 District that contains schools served by the electric company;

- (b) For each of the Education Service Districts, compute the ratio of ADM in schools served by the electric company to total ADM;
- (c) For each Education Service 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 District; and
- (e) Compute the percentage of the total ADMw represented by each Education Service District. These are the percentages that will be used to allocate the public purpose funds for schools to Education Service 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.
- (15) 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.
- (16) 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 Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 through 757.667