
**Response to Questions from Joint Committee on Ways and Means
Natural Resources Subcommittee
February 19, 2013**

List of Questions:

- 1) What is being done to respond to the Secretary of State's audit on use of SB 1149 (1999) Public Purpose Charge funds in schools? What is the Department doing to address the one recommendation directed at the agency? Please explain the gap between recommended and installed measures. Is there a way to better address cost-effectiveness of measures that schools implement? What actions have been taken to address the recommendations the Secretary of State made to the Legislature? (Co-chair Unger)
- 2) Regarding the Energy Supplier Assessment, please provide information on percentage increase collected, dollars, and uses? (Representative Hanna and Co-chair Unger)
- 3) The department agreed to provide a list of known Federal Fund sources included in the 2013-15 Governor's Budget. Also, please provide information about the impact of federal budget sequestration on the Department's federal funds. (Co-chairs Edwards and Unger)
- 4) Please share the Department's current list of vacant positions? (Representative Hanna)
- 5) Is Peak Sun Solar Manufacturing included in the loan default statistics presented in slide 22? Were ODOE's enhanced underwriting standards applied to the SoloPower facility that was in the news over the weekend? When there is a loan default, how are those losses covered? (Co-chairs Edwards and Unger)
- 6) Slide 32 mentions the data for the State Energy Efficient Design Program (for new state buildings and major renovations) were "adjusted for measure life." What does this mean? Do the savings factor in the cost of the state agency borrowing any money to install the energy efficiency measures? (Co-chair Unger)
- 7) How many projects occurred as a result of the 1630 audits within schools? How many projects resulted from the audits and what factors influence whether projects are completed? (Co-chair Senator Edwards)

Question #1: Regarding the Secretary of State’s Audit of the SB 1149 (1999) public purpose charge funds for schools.

The Secretary of State’s Audit of the SB 1149 schools program made four recommendations. To the Oregon Department of Energy it recommended that it revise the payback methodology in the SB 1149 Schools Program Guidelines to incorporate a measure’s expected life.

The ODOE schools program already incorporates cost-effectiveness and tracks measure life. We are currently taking a hard look at industry standards in order to update the measure life values in the schools database.

The audit recommended to the Legislature that it:

1. *Confer stronger authority to the Department of Energy to review and approve school districts’ planned energy measures.*

ORS 757.612 states “To the extent practicable, a school district shall coordinate with the State Department of Energy and incorporate federal funding in complying with this paragraph.” The Oregon Public Utility Commission, in Order No. 12-485 in Docket UM 1632, re-affirmed specific ODOE authorities and functions to retain administration of the SB 1149 Energy Efficient Schools Program. The proceeding arose from HB 2960 (2011), which transferred Public Purpose Charge funds collected for energy efficiency in schools directly to 112 school districts, instead of 16 Educational Service Districts (ESDs) as in the past. The Public Purpose Charge is collected on the bills of customers of Portland General Electric and Pacific Power, utilities regulated by the Public Utility Commission.

2. *Provide more specific guidance on cost-effectiveness results or other desired outcomes for the measures.*

The Oregon Department of Energy defines three tiers of cost-effective measures in SB 1149 guidelines: Tier 1 has a simple payback of less than 20 years, Tier 2 is 20-to-40 years, and Tier 3 is 40-to-50 years. The Secretary of State’s audit also considered measures with a payback of more than 50 years. ODOE recommends Tier 1 measures to be the most prudent for schools to do.

3. *Revise the methodology for allocating energy surcharge funds to prioritize high energy use school buildings or providing the Oregon Department of Energy (ODOE) with authority to reallocate future.*

ORS 757.612 (SB 1149 in 1999 and HB 2960 in 2011) requires the funds to be distributed to individual school districts according to the weighted average daily membership of each school district for the prior fiscal year as calculated under ORS 327.013.

ORDER NO. 12 485

ENTERED DEC 19 2012

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1632

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

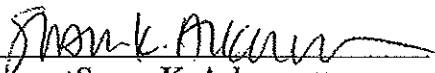
Assessment of OREGON DEPARTMENT
OF ENERGY's Administrative Functions to
Implement the Energy Efficient Schools
Program.

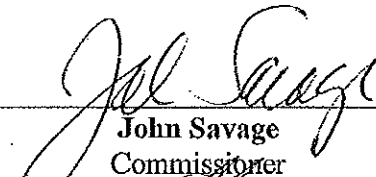
ORDER


DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at the Public Meeting on
December 18, 2012, to adopt Staff's recommendation in this matter. The Staff Report with
the recommendation is attached as Appendix A.

Dated this 19th day of Dec., 2012, at Salem, Oregon.


Susan K. Ackerman
Chair


John Savage
Commissioner


Stephen M. Bloom
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request
for rehearing or reconsideration must be filed with the Commission within 60 days of the date
of service of this order. The request must comply with the requirements in OAR 860-001-
0720. A copy of the request must also be served on each party to the proceedings as provided
in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with
the Court of Appeals in compliance with ORS 183.480 through 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: December 18, 2012**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: December 10, 2012

TO: Public Utility Commission

FROM: Juliet Johnson

THROUGH: Jason Eisdorfer and Maury Galbraith

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1632) Assessment of ODOE's administrative functions to implement the Energy Efficient Schools program.

STAFF RECOMMENDATION:

As required in Order 12-085, Oregon Public Utility Commission Staff (Staff) recommends the Commission acknowledge this report of activities Oregon Department of Energy (ODOE) will perform to assist school districts under Oregon Revised Statute (ORS) 757.612(3) and the expected amount of funds needed by ODOE to perform those activities.

DISCUSSION:

Commission Order 12-085 was entered into March 13, 2012, in AR 561 in the matter of revisions to Oregon Administrative Rules (OAR) 860-038-0480 to implement House Bill 2960 (Cool Schools). The order directed Staff to 1) facilitate workshops to identify activities ODOE will perform to assist the school districts under ORS 757.612(3), and then 2) present a report of the identified activities, along with information as to the expected amount of funds needed by ODOE to perform those activities, to the Commission for acknowledgement.

Additionally, Order 12-085 specifies that on March 1st of each year, ODOE must provide to the Commission an accounting of the reimbursements received the preceding calendar year for administrative activities performed under ORS 757.612(3)(e).

Staff held a workshop to discuss ODOE's administrative functions on October 29, 2012. In attendance were representatives from ODOE, OPUC, PacifiCorp, Portland General Electric (PGE), Citizens' Utility Board (CUB) and at least 11 different school districts.

UM 1632 ODOE's Administration of Energy Efficient Schools
December 10, 2012
Page 2

The group discussed ODOE's administrative functions for ORS 757.612(3) programs. In general, utilities had some questions about ODOE's explicit statutory authority, how projects are prioritized, and if and how Energy Trust has a role in delivering energy efficiency in schools. School districts were very supportive of ODOE's efforts in working with them on energy efficiency. Representatives of numerous districts shared their experiences and gratitude for ODOE. All attendees generally agreed with the characterization of functions ODOE is performing and expressed an understanding of ODOE's expected costs to carry out those functions. Below is a summary of the administrative functions that are performed by ODOE.

Summary of ODOE's administrative functions

ADMINISTRATIVE SERVICES – DATA

- **Reporting** – As required by Senate Bill 1149 (SB1149), ODOE reports biennially to the Legislature. These reports are posted on the OPUC website, alongside the Energy Trust of Oregon data.
- **Database** – ODOE designed and administers the Schools Interactive Database (SID) and reporting tools; these are accessible via the Internet to Districts. ODOE makes upgrades to the database as needed to add features that match updated guidelines.

ADMINISTRATIVE SERVICES – DISBURSEMENT OF FUNDS

- **Eligibility evaluation** – ODOE determines eligibility for all Schools that can utilize ORS 757.612 funds, differentiating between instructional and non-instructional facilities through a manual waiver process.
- ODOE calculates the distribution of funds by District, based on the Legislation and sends the calculation of the distribution by district to PGE, PacifiCorp and the OPUC by the end of each year.

ADMINISTRATIVE SERVICES – AUDIT PROCESSES

- **Audit procedure and report format** - ODOE develops and maintains the Program Guidelines which set forth procedures and formats for energy audits and other ORS 757.612 program requirements. Qualified energy auditors are required to use these procedures and formats as set forth in the Guidelines and in the ODOE contracts for qualified energy auditors.
- **Qualified energy audit and commissioning firms list** – ODOE established, published, and maintains a list of qualified firms from which School Districts and educational service districts (ESDs) select to perform the required level of energy audit.
- **Calculation of energy use index** – The first required audit is the collection of energy use data and the calculation of the energy use Index (the building's annual energy usage divided by the building's current square footage) for each instructional facility

UM 1632 ODOE's Administration of Energy Efficient Schools

December 10, 2012

Page 3

in districts. Districts whose energy use fits within a specified range receive an audit recommendation of "no investments required at this time."

- Energy audit and measures review – ODOE determines the eligibility of all energy audits and the eligibility of measures recommended in the energy audit. Energy efficiency measures and their eligibility are tracked in the SID (database).

ADMINISTRATIVE SERVICES – QUALITY CONTROL

- ODOE performs energy audit quality control reviews randomly and when issues are raised for Level I, Level II and Level III energy audits performed by qualified energy auditors. ODOE also reviews the first two energy audits completed by new qualified energy auditors. ODOE focuses on the quality of energy savings estimates.
- School districts may request ODOE to review of particular energy audit in addition to the basic quality control review required performed by ODOE.
- Completed project quality control - ODOE also performs quality control review and inspections on a sample of implemented/completed projects that utilize ORS 757.612 funds. The reviews are selected based on regions and timeframes of implementation.

ADMINISTRATIVE SERVICES – PROGRAM SUPPORT

- Program support – ODOE provides training to districts, qualified energy auditors and schools advocates on program requirements and guidelines. Responds to questions about program requirements and measure eligibility from the districts, including mechanisms for reimbursement of funds and the requirements for documentation.
- ODOE reviews scopes of work for energy audits to manage costs and provide the most effective analysis and must give approval before Level III energy audits are contracted for.
- Maintains communications through emails, website and newsletters pertaining to the ORS 757.612 program.
- Order of investments – ODOE assists schools districts in creating a district-wide plan for energy efficiency measure implementation project or implementation plan prioritization. The purpose of this work is to ensure the effectiveness and cost efficiency of energy efficiency investments.
- Project cost review – ODOE reviews final project costs entered into SID for all implemented measures. Although ODOE does not purport to be an expert in cost estimation, ODOE tracks similar projects and cost envelopes and can suggest that a district review project costs estimates with other contractors before proceeding with district approval of projects.
- Additional services include: (1) ODOE helps districts communicate with other partners with respect to other sources of funds to be utilized on projects, (2) ODOE seeks program improvements that enable school districts to implement

UM 1632 ODOE's Administration of Energy Efficient Schools
December 10, 2012
Page 4

the most effective energy efficient measures, and (3) ODOE will facilitate training in efficiency or energy conservation education/curricula if sufficient interest is identified across districts.

Expected funds needed to perform activities

Based on revisions to OAR 860-038-0480, funds for the administration of the ORS 757.612 Energy Efficient Schools program are paid to ODOE directly from PacifiCorp and PGE as monthly reimbursements. OAR 860-038-0480 specifies that ODOE's total reimbursement for administering its responsibilities under ORS 757.612(3) is limited by ODOE's legislatively approved budget allocation for the SB1149 Energy Efficient Schools program. For the 2011-13 biennium, this allocation is set at \$701,000. ODOE's proposed 2013-15 budget allocation will be the 2011-13 budget adjusted for inflation.

These budgets include staff time and allocated indirect costs, as well as ORS 757.612 program specific costs such as information technology professional services, attendance at schools professional conferences, handouts/publications, ORS 757.612 specific training and stakeholder outreach, and minor or legislatively required program changes. Program expenditures unique to the 2011-13 biennium included engaging in OPUC proceedings and transferring the schools database to ODOE from its host location at an ESD. Program expenditures unique to the 2013-15 biennium will include updating audit information and implementation plans stored in the database to align with the Secretary of State's recommendation to utilize measure life as part of the eligibility determination.

Additional party comments

Beaverton School District, Salem-Keizer School District, and Gervais School District provided written comments in support of ODOE's role in administering ORS 757.612 schools programs. PacifiCorp also provided comments.

Beaverton School District supports ODOE's efforts but stated that ODOE appears to have been understaffed at times. Beaverton suggests that some school districts need more support in program execution than others, based on significantly different resources available to them. They suggest that ODOE retain statewide management of K-12 school programs, but develop a new model for supporting small school districts. In their comments, Beaverton School District also responded to an issue raised in the Secretary of State's audit regarding the sequence of energy efficiency measures implemented.

UM 1632 ODOE's Administration of Energy Efficient Schools
December 10, 2012
Page 5

Salem-Keizer School District and Gervais School District stated they were impressed with ODOE's support thus far. Salem-Keizer School District recommends that ODOE's role in administering these programs be expanded to: a) fund and add more staff to increase their services; b) use funds to provide building operator certification; c) maintain a pool of effective energy/performance management tools; and, d) provide statewide on-site troubleshooting and training. Gervais School District recommend that ODOE offer a menu of services that districts could purchase if they chose to, such as expanded assistance with the audit process and support with review of audit results.

PacifiCorp also submitted comments. PacifiCorp referred to the issue of ODOE's statutory authority to carry out the functions currently performed for the school districts under the auspices of ORS 757.612. PacifiCorp emphasized that statutory authority questions are important and should be considered part of the discussion of the Cool Schools programs, whether as part of the current review of ODOE's functions or in future reviews. PacifiCorp points to the May 2012 Secretary of State's audit that also called out issues of ODOE's statutory authority.

Staff's recommendation

Staff has reviewed parties' comments and reviewed and assessed ODOE's administrative functions and believes they are prudent and necessary for the successful delivery of the Energy Efficient Schools program described in ORS 757.612(3). Staff has also reviewed projected funding levels and believes they are also prudent and commensurate with the tasks being accomplished. Staff recommends the Commission acknowledge these functions and expected costs.

PROPOSED COMMISSION MOTION:

Acknowledge activities ODOE will perform to assist school districts under ORS 757.612(3), as summarized in this memo and the expected level of funding needed to perform those activities.

UM 1632 ODOE's Administration of Energy Efficient Schools

Question #2: Regarding the Energy Supplier Assessment, please provide information on percentage increase collected, dollars and uses.

Answer:

Energy Supplier Assessment revenues are expected to increase by \$370,000 -- from \$10.76 million in 2011-13 to \$11.13 million for the 2013-15 Governor's Balanced Budget. This is a 3.4% increase.

Background:

The Energy Supplier Assessment is a statutorily-defined source of funds for the Department of Energy. ORS 469.421(8) provides the Oregon Department of Energy with authority to charge energy suppliers an assessment against annual gross operating revenue derived in Oregon, up to five-tenths of one percent, to fund specific statutory authorities of the department. The Department's 2011-13 Legislatively Approved Budget assumed an assessment of 0.085%. However, because of accrued savings, the assessment was reduced to 0.07% in the second year of the biennium. The Energy Supplier Assessments collected in 2011-13 totaled \$10.76 million.

ORS 469.421 (8) describes the Energy Supplier Assessment. "...each energy resource supplier shall pay to the State Department of Energy annually its share of an assessment to fund the activities of the Energy Facility Siting Council, the Oregon Department of Administrative Services and the State Department of Energy, determined by the Director of the State Department of Energy ..."

The statute describes that the revenues required from the assessment are to be based on the Legislatively Approved Budget, as adjusted through Emergency Board actions, for the Department of Energy (the statute also lists the Energy Facility Siting Council, which is part of the Department, and also the Department of Administrative Services, which no longer has any programs funded through the assessment). There is an exclusion in the statute that states "However, an assessment under this section may not be used to derive revenue for funding State Department of Energy activities related to the energy efficiency and sustainable technology loan program described in ORS chapter 470."

ORS 469.421(8) (h) states that in determining the amount of revenues that must be derived from the assessment, the director shall take into account all other known or readily ascertainable sources of revenue to the Department of Energy, including, but not limited to, fees, federal funds, and beginning balances. The Department's budget is structured in such a way that there are essentially only three sources of limited funding: fees for programs that allow for cost recovery, federal funds, and Energy Supplier Assessment. As described above, the Energy Supplier Assessment is used to fund the activities of the Department. We are committed to prudent and efficient administration while ensuring we meet statutory requirements (list attached in supplemental materials).

The assessment rate for 2013-15 will depend upon a number of factors including ending balances, declines in other agency revenue sources (fees and Federal Funds), and the gross operating revenues of energy suppliers derived in Oregon. The Governor's Balanced Budget for 2013-15 originally assumed Energy Supplier Assessment revenues of \$12.8 million, including a net \$1.1 million in Energy Supplier Assessment revenues in the policy option packages. After taking into consideration the latest information on beginning balance, postponing the agency's consolidation of its two leased offices housing Salem staff and reducing the ending balance reserve from six months to four months, the revised Energy Supplier Revenues needed to fund the Governor's budget have been recalculated at \$11.13 million. This equates to a target rate of .08%.

In the coming days, staff will work with Michelle Deister in the Legislative Fiscal Office to provide more specific details about how the Department's expenditures are funded with Energy Supplier Assessment.

Question #3: Federal Fund Sources in the 2013-15 Governor's Balanced Budget & Impact of Federal Budget Sequestration

ODOE staff is continuing work on this response and will forward to the subcommittee on February 20.



Question #4: Currently Vacant Positions

The department reports quarterly to the Department of Administrative Services on all vacancies that have been unfilled for 6 months or longer; the last report was December 31, 2012. This information is updated to reflect positions filled in 2013.

Long-term Vacancy Report Updated February 19, 2013 (supersedes information in supplemental materials packet.)

Position	Reason for Vacancy
Purchasing Coordinator (PCS 2)	Position used for Permanent Financing.
Energy Policy Analyst (PA3)	Position vacant. Governor's Budget makes full time.
Planning, Policy and Technical Analysis Division Administrator (PEM F)	Filled position effective 1/7/13.
Residential Energy Analyst (PA3)	Anticipated fill date 4/1/13.
Energy Rules and Policy Coordinator (OPA3)	Filled position. Employee to start 2/27/13.
Senior Energy Efficiency Policy Analyst (OPA4)	Filled position. Employee to start 03/11/13.
Director's Executive Assistant (EA)	Filled position effective 1/1/13.

Current vacancies -- all have been vacant for less than six months.

Short-term Vacancy Report as of February 19, 2013

Position	Reason for Vacancy
Siting Division Assistant (AS 1)	Employee retired; open for recruitment
Energy Conservation Manager (PEM E)	Employee resigned; selection in process; anticipated fill date 03/15/13.
Human Resource Analyst (HRA 2)	Filled effective 03/11/13
Energy Conservation Assistant (AS 1)	Employee resigned; recruitment pending hiring of Energy Conservation Manager
Siting Analyst – Hermiston LD (UEA 2)	Employee resigned; employee selection pending
Siting Rules Coordinator (OPA 3)	Employee promoted; filled with job rotation
Siting Applications Analyst (OPA 1)	Employee promoted; filled with job rotation
Internal Auditor (IA 3)	Employee resigned; recruitment pending
Energy Incentives Program Assistant LD (OPA 2)	Position revised to include biomass tax credit responsibility; filled with job rotation
Mail Services Assistant (OS 1)	Hold for vacancy savings
Energy Development Services Division Administrator (PEM G)	Filled with job rotation.
Accounting Technician 3 (AT 3)	Hold for vacancy savings
Procurement & Contracts Specialist 1 (PCS 1)	Hold for vacancy savings

Question #5: Regarding the Small-Scale Energy Loan Program (SELP)

1. Default rate: ODOE calculates this rate using the historical activity, whereas commercial banks calculate default rates on an annual basis. The volume of SELP loan activity impacts our ability to use the annual method of calculation, as some years would show 0% and others, such as the year Cascade Grain filed bankruptcy, would show a rate of 10% or greater.
 - a. PeakSun was not included in the current calculation based on the fact that 1) ODOE recently initiated foreclosure proceedings, the firm has continued to present (albeit, unacceptable) proposals to cure the delinquency and 2) once the foreclosure has gone through the courts we will have a better estimate of the amount needed to write off and include in the default calculation.
 - b. If one were to include all loans currently in delinquent status, but not defaulted, the rating would be 6.35% (note, this is still less than the Federal Reserve national average of 8%).
2. Underwriting standards and timing: The enhanced standards were developed during the same time the SoloPower loan was being negotiated. The first action barring construction lending was imposed in 2010. Subsequent enhancements have occurred since then. SoloPower moved forward based on loan guarantees from the U.S. Department of Agriculture and the City of Wilsonville at the time the loan was approved, subsequent loan guarantee from the City of Portland Development Commission, and restructuring requirements imposed by the State Energy Loan Program.
 - a. Regarding the structure of the SoloPower loan, ODOE is in first lien position (ahead of Portland Development Commission). Further, \$197 million of federal funds cannot be accessed until the SELP loan is paid off, allowing the federal government to take senior loan position. The collateral value underlying this loan was also based on conservative valuations. In the event machinery and equipment must be liquidated to address default, and in conjunction with the Portland Development Commission loan guarantee, SELP is strongly positioned to achieve full recovery on the current \$10 million outstanding balance.
 - b. SELP also requires that SoloPower secure loan guarantees on the full \$20 million commitment prior to any additional disbursements beyond the initial \$10 million loan.
3. Loan defaults are contained within the SELP. However the loans are funded with general obligation bonds and as such carry the full faith and commitment pledge of the State. The Oregon Constitution provides that any default on bonds requires the State to cure with either General Fund dollars or ad valorem taxing authority. In anticipation of the need to meet our SELP obligations, the Governor's Balanced Budget includes in Policy Option Package 090, a request to sell \$5 million in Lottery-backed bonds to allow us to begin building a prudent reserve. If this Policy Option Package is approved, the proceeds from the sale of the bond will be deposited into a reserve account for the SELP and future Department budgets will include requests for Lottery-funded debt service payments associated with this \$5 million investment.

Question #6: Regarding adjusted measure life for State Energy Efficient Design Program

The \$11 million estimated savings per year figure listed on the Accomplishments slide (slide 32) refers to the Department's State Energy Efficiency Design (SEED) program for new and remodeled state buildings, which began in 1991. It does not factor in the cost of the state agency borrowing any money to install the efficiency measures. This is an annual cumulative savings estimate calculated from the start of the program, adjusted to account for the life of the measures installed in the 188 projects. Energy efficiency measures from 20 years ago have probably come to the end of their useful life and are no longer calculated as savings.

Question #7: Regarding the number of projects resulting from school audits and factors influencing project development.

Audits conducted on school facilities identify potential energy savings and efficiency measures that could be installed. One audit may call out multiple potential projects and a single measure may be as significant as changing out lighting throughout an entire school district.

1. Under SB 1149 Public Purpose Charge Schools program, 1,616 audits have been conducted on 769 facilities, resulting in 2,311 installed projects. The cost of those installed projects is \$93.1 million producing annual energy savings of \$6.1 million.
2. Under the Cool Schools effort, 70 audits were conducted on 70 facilities, resulting in 305 installed projects. The cost of those installed projects is \$21 million with annual energy savings of \$1.3 million.

Over the 10-year life of the SB 1149 Schools program we have found that not all measures are installed under the program for a variety of reasons including:

- The school is hesitant to take on debt because this is a reimbursement program.
- The school is too new.
- The payback is too long.
- The school is scheduled to be closed within two years.
- The school doesn't have the capacity to manage project construction and does not have the personnel to run a new energy system, such as digital controls.
- The facility is leased.
- The school is awaiting a bond measure.
- The school can't afford the measures. We know of one school that only receives \$60 a month in public purpose funds.