

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
Diane Davis	PO Box 2148, Salem, OR 97308	(503) 378-4372
Rules Coordinator	Address	Telephone

RULE CAPTION

In the Matter of Revisions to OAR 860-038-0480 to Implement "Cool Schools."

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 rules) with the Administrative Rules Unit prior to filing
ADOPT:

AMEND: 860-038-0480

REPEAL:

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS Ch. 183, 756 and 757

Other Auth.:

Stats. Implemented: ORS 756.040 and 757.600 through 757.667

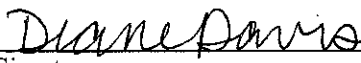
RULE SUMMARY

This rulemaking permanently adopts the temporary amendments (PUC 8-2011) to OAR 860-038-0480 to implement ORS 757.612 as amended by the 2011 House Bill 2960 known as the Governor's Cool Schools Bill. The changes to the rule reflect the change to distributing public purpose funding directly to school districts rather than to education service districts and the requirement that utilities pay the Oregon Department of Energy directly for the administration costs of the program.

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

December 23, 2011, 5:00 p.m.

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

	Diane Davis diane.davis@state.or.us	11/15/11
Signature	Printed name	Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm 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, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice 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, 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.

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter Number

In the Matter of Revisions to OAR 860-038-0480 to Implement "Cool Schools."

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

In the Matter of: Revisions to OAR 860-038-0480 to Implement "Cool Schools"

Statutory Authority: ORS Ch. 183, 756 & 757

Other Authority:

Stats. Implemented: ORS 757.612

Need for the Rule(s): House Bill 2960 (known as the Governor's Cool Schools Bill) passed by the 2011 Legislative Assembly and signed into law to be effective June 23, 2011, amended ORS 757.612 on an emergency basis to allow distribution of public purpose funds to school districts rather than to education service districts. The Oregon Department of Energy administers this program and in the past was paid its administrative costs directly by the 7 education service districts. With the change to distributing funds directly to school districts, of which there are 112 receiving the funds, it is more efficient for the Public Utility Commission to require utilities to pay the Oregon Department of Energy directly for the administration costs for the program. The proposed rule changes address these needs. There are temporary rule changes in place (PUC 8-2011, AR 560) addressing these needs, and the temporary rule changes expire in March 2012.

Documents Relied Upon, and where they are available:

ORS 757.612 available online at <http://www.leg.state.or.us/ors/757.html>House Bill 2960 available online at <http://www.leg.state.or.us/11reg/measpdf/hb2900.dir/hb2960.en.pdf>

Fiscal Impact Statement – HB 2960- B available online at

<http://www.leg.state.or.us/comm/sms/SMS11Frameset.html>

Fiscal and Economic Impact: The fiscal and economic impact is created primarily by the implementation of HB 2960 and not the proposed rule revisions. The fiscal impact statement for the legislation indicated that the fiscal impact of the legislation was indeterminate. The Oregon Department of Energy, the Department of Education, and the electric companies (Portland General Electric Company, and PacifiCorp) will be impacted by the proposed rule amendments to implement the legislation. Under the proposed rule revisions, the Oregon Department of Energy will be able seek reimbursement of program administration costs from Portland General Electric Company and PacifiCorp rather than seven education service districts reducing the volume of its contracting, invoicing and receivables tracking. The Department of Education will be providing specified information about 112 school districts rather than 7 education service districts to electric companies to determine the allocation of public purpose funds. The electric companies will be collecting, analyzing, and managing data from 112 school districts rather than 7 education service districts. While it is projected that existing staff will manage these tasks, the potential magnitude of realized savings or cost increases cannot be estimated at this time because it will depend upon the level of utilization of the program.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

As noted above, the primary impacts to the Oregon Department of Energy, the Department of Education, Portland General Electric Company, and PacifiCorp result from HB 2690, not from the proposed rule changes implementing the law. It is anticipated that projected reporting, recordkeeping and other administrative activities for these entities will be accomplished by existing personnel.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Small businesses are not subject to these rule revisions. The regulated electric companies subject to the rule are Portland General Electric Company and PacifiCorp.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

Small businesses are not subject to these rule revisions.

c. Equipment, supplies, labor and increased administration required for compliance:

Small businesses are not subject to these rule revisions.

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

Small businesses are not subject to these rule revisions and were not involved in the development of the rule revisions.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The Public Utility Commission does not have an Administrative Rule Advisory Committee. Staff worked in concert with the Oregon Department of Energy to develop the proposed revisions. Public comment will be received and considered during the course of the formal rulemaking.

<i>Diane Davis</i>	Diane Davis	November 15, 2011
Signature	Printed name	Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

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 services~~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 D~~school 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 D~~school 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