

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1713

In the Matter of PUBLIC UTILITY  
COMMISSION OF OREGON, Investigation  
into Large Customer Energy Efficiency  
Limitations.

Opening Comments of the NW  
Energy Coalition

**I. Introduction**

SB 838 authorized the Oregon Public Utility Commission (OPUC) to approve the collection of additional energy efficiency funds from PacifiCorp and Portland General Electric (PGE) customers using less than one average megawatt per year (in addition to funds collected under SB 1149). Customers with annual loads in excess of one average megawatt (“large customers”) were not required to pay additional energy efficiency funds and, consequently, the legislation required that these customers subsequently receive no additional benefit from the additional “838” monies [ORS 757.689(2)(b)].

Energy Trust of Oregon (ETO), along with input from the regulated electric companies, the OPUC, and stakeholders, established a method to ensure that exempt customers would not benefit from SB 838 dollars by shifting expenditures under SB1149 to large customers. This methodology was based on establishing a cap for energy efficiency expenditures under SB 1149, calculated using the historical average of ETO efficiency payments for three years prior to the passage of SB 838.

**II. Are customers with loads greater than 1 aMW receiving a direct benefit from conservation measures funded by amounts collected pursuant to SB 838?**

Yes. The NW Energy Coalition would argue that the current system for determining ETO expenditures on energy efficiency is violating **ORS 757.689(2)(b)**. Funds invested in energy efficiency resources pursuant to SB 838 are acquiring least cost resources for PacifiCorp and Portland General Electric. Therefore, all customers are directly benefitting from lower overall system costs as a result of these investments. Please see the following section, which goes into more detail describing the NW Energy Coalition’s interpretation of “direct benefit.”

### **III. What is the meaning of “any direct benefit” as used in ORS 757.689(2)(b)?**

In the context of the power system, the main direct benefits are those that accrue to customers as a result of investments in energy efficiency – direct power system benefits. In Oregon, energy efficiency is treated as a resource. Acquisition of the least cost resource is the primary rationale behind investment in cost-effective energy efficiency; energy efficiency creates a direct benefit to all customers of a utility in the form of lower costs (avoided costs) for energy services provided by that utility. Energy efficiency is a least cost resource and as such, under the current system of establishing rates, all customers are benefiting from energy efficiency’s reduction to load and subsequent lower system costs.

The Energy Trust of Oregon, and other parties to the discussions surrounding SB 838 implementation, used another “direct benefit” to determine a methodology for ensuring that large customers did not benefit from SB 838 payments. Those parties established a cap, above which funds from SB 1149 could not be expended on incentive payments to large customers, in order to prevent a shifting of funds for small customer energy efficiency incentives to SB 838 funds, which would have resulted in supplementing energy efficiency incentive payments to large customers.

The NW Energy Coalition is uncertain as to why parties decided that incentives, which benefit only some customers (participants), are the direct benefits that should have been prevented under the statutory language contained in ORS 757.689 (2)(b). While the current cap may be a just measure to prevent benefits from flowing to customers that are not paying into SB 838 funds, it certainly does nothing to prevent the direct power system benefit from accruing to all large customers. Consequently, the current method for preventing direct benefits to large customers from SB 838 is not preventing a significant direct benefit from accruing to those customers.

While the current system may be preventing a direct benefit from accruing to some large customers, the law clearly says that these customers cannot accrue “any direct benefit.” The NW Energy Coalition asserts that the direct benefit to all customers from the acquisition of the least cost resource, in the form of lower power rates, is a direct benefit that is accruing to large customers under the current system and therefore, the current system is in contravention of existing statute.

### **IV. Are there any barriers that prevent the ETO from obtaining all cost-effective energy efficiency?**

Based on several presentations to the ETO’s Conservation Advisory Committee, Board of Directors, and material presented for a special meeting called by ETO to discuss this issue on January 31, 2014, the Energy Trust of Oregon has been very close to PGE’s cap for several years. Based on information submitted by ETO in response to the Industrial Customers of Northwest Utilities data request 09 filed in this docket, ETO may have hit the cap in 2014 and could potentially hit the cap again in 2015. This means that ETO

expects that, in 2014 and again this year, it will be using 18% or more of the collected SB1149 dollars for projects at large customers sites. As a result, the ETO will be required to curtail energy efficiency projects starting in 2015 or 2016 for customers above one average megawatt, even though cost effective energy efficiency projects are identified and requested by those customers.

**V. If such barriers exist, what other options exist to gain all cost effective energy efficiency, including from customers with loads greater than 1 aMW?**

The Coalition is aware of only three proposed solutions to solve this problem. The first is a solution that has been informally raised by some individuals to change the agreed to cap for Portland General Electric. CUB proposed the second solution in the PGE general rate case UE 283. The third is a legislative solution to amend SB 838 so that adequate energy efficiency funds are collected from large customers in order to acquire all cost effective conservation opportunities. Each of the solutions is discussed below, along with the general perspective of the NW Energy Coalition.

1) Adjusting the Cap

Adjusting the 18% cap for PGE to some arbitrary but higher number theoretically would solve the immediate problem and allow ETO to pursue additional amounts of energy efficiency among large customers. However, the fundamental problem with this proposed solution is that it is a violation of existing law (SB 838) in two ways. First, it allows direct program participant benefits to large customers by allowing those customers to receive additional SB 1149 funds to pay for energy efficiency incentives among those customers, requiring larger amounts of SB 838 dollars to pay for energy efficiency incentives among residential and commercial customers, thus allowing large customers to benefit from SB 838. Second, it continues to allow direct system benefits, in the form of lower power rates, to large customers without those customers paying the costs associated with those benefits.

2) CUB's Proposal

CUB proposed in PGE's last general rate case, UE 283, to include energy efficiency in the generation marginal cost of service study. Through this method, the utility would be able to allocate the benefits associated with energy efficiency directly to the customer class in proportion to their costs.

Energy efficiency, as the lowest cost resource, is also the first resource that should be used to meet new load. From this perspective, it makes sense to include energy efficiency as a part of the marginal cost of service study. CUB has presented a method for effectively assigning benefits in correlation to payment for a particular resource. This method could allow ETO to capture all cost effective resources because only the customer classes that pay for those resources will receive the benefits in rates, thus ensuring that the additional investment in large customer energy efficiency does not violate the legal prohibition for large customers to benefit from SB 838 residential and small

commercial energy efficiency incentive payments. While this idea would likely solve the problem at hand, it is not the Coalition's preferred solution to the issue. This solution is complicated and will be difficult to implement. An easier, cleaner solution is to address the root problem, which is the exemption for large customers for paying for all cost effective energy efficiency.

### 3) Legislative Solution

Authorizing the OPUC to approve expenditures for utilities to acquire all cost effective conservation, from all customers, regardless of customer size, is the best solution to this problem.

## **VI. Should the ETO approach to funding energy efficiency be flexible to take advantage of energy efficiency savings brought about by changes in technology and the economy?**

Yes. Authorizing the OPUC to approve expenditures for utilities to acquire all cost effective conservation and to collect monies in a fair and equitable manner to fund this energy efficiency would allow more flexibility to invest in all cost effective energy efficiency.

## **VII. Should there continue to be a cap on energy efficiency funding provided by the ETO to PGE and PAC customers with loads greater than 1 aMW, and if so, what criteria should be used to set such a cap?**

Under SB 1149, ETO allocated program funding where it was most cost effective, regardless of the source of the funding. However, this approach assumes that all customers are contributing equitably to the resource in question. The problem arises when one customer class is allowed to pay less for a resource relative to other customer classes.

Ideally, if a utility were able to collect funds from all customer classes based on the total amount of available cost effective conservation as a percentage of the utilities total cost for these resources, there would be no need for a cap on energy efficiency funding provided by any particular customer class or segment.

## **VIII. Conclusion**

In summary, it is critical that we address this constraint on energy efficiency acquisition before ETO finds it necessary to curtail cost effective programs. PGE is facing significant resource needs in their next Integrated Resource Plan with the replacement of Boardman and probable loss of several hydropower contracts. Any strategy that is least cost/least risk must incorporate all cost effective energy efficiency. Leaving low cost energy efficiency on the table at this juncture is unacceptable. PGE has consistently

demonstrated excellent results in securing a least cost/least risk portfolio that maximizes clean energy resources. It is imperative that we remove the current constraints on energy efficiency acquisition, so that the Company is able to fully realize this resource's contribution to its near-term resource needs.

Respectfully submitted this 21<sup>st</sup> day of April 2015,

*/s/Wendy Gerlitz*

Wendy Gerlitz  
Policy Director

Summary Report

UM 1713 INVESTIGATION INTO LARGE CUSTOMER ENERGY EFFICIENCY

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Law Judge(s): KIRKPATRICK, TRACI (503) 378-6683

SERVICE LIST:

OPUC DOCKETS
CITIZENS' UTILITY BOARD OF OREGON
610 SW BROADWAY, STE 400
PORTLAND OR 97205

OREGON DOCKETS
PACIFICORP, DBA PACIFIC POWER
825 NE MULTNOMAH ST, STE 2000
PORTLAND OR 97232

STEPHANIE S ANDRUS
PUC STAFF--DEPARTMENT OF JUSTICE
BUSINESS ACTIVITIES SECTION
1162 COURT ST NE
SALEM OR 97301-4096

RENEE M FRANCE
\*OREGON DEPARTMENT OF JUSTICE
NATURAL RESOURCES SECTION
1162 COURT ST NE
SALEM OR 97301-4096

WENDY GERLITZ
NW ENERGY COALITION
1205 SE FLAVEL
PORTLAND OR 97202

DEBBIE GOLDBERG MENASHE
ENERGY TRUST OF OREGON
421 SW OAK ST, STE. 300
PORTLAND OR 97204

FRED GORDON
ENERGY TRUST OF OREGON
421 SW OAK ST, STE 300
PORTLAND OR 97204

ROBERT JENKS
CITIZENS' UTILITY BOARD OF OREGON
610 SW BROADWAY, STE 400
PORTLAND OR 97205

JESS KINCAID
\*OREGON DEPARTMENT OF ENERGY
625 MARION ST NE
SALEM OR 97301

ETTA LOCKEY
PACIFICORP
825 NE MULTNOMAH ST., STE 1800
PORTLAND OR 97232

BRADLEY MULLINS
MOUNTAIN WEST ANALYTICS
333 SW TAYLOR STE 400
PORTLAND OR 97204

TYLER C PEPPE
DAVISON VAN CLEVE, PC
333 SW TAYLOR SUITE 400
PORTLAND OR 97204

**Summary Report**

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ELANIE PRAUSE  
PUBLIC UTILITY COMMISSION OF OREGON  
3930 FAIRVIEW INDUSTRIAL DR SE  
SALEM OR 97302

MARTY STIPE  
\*OREGON DEPARTMENT OF ENERGY  
1162 COURT ST NE  
SALEM OR 97301-4096

SOMMER TEMPLET  
CITIZENS' UTILITY BOARD OF OREGON  
610 SW BROADWAY, STE. 400  
PORTLAND OR 97205

DOUGLAS C TINGEY  
PORTLAND GENERAL ELECTRIC  
121 SW SALMON 1WTC1301  
PORTLAND OR 97204

JAY TINKER  
PORTLAND GENERAL ELECTRIC  
121 SW SALMON ST 1WTC-0702  
PORTLAND OR 97204

S BRADLEY VAN CLEVE  
DAVISON VAN CLEVE PC  
333 SW TAYLOR - STE 400  
PORTLAND OR 97204

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused **Opening Comments of the NW Energy Coalition in UM1713** to be served by electronic mail to those parties whose email addresses appear on the attached service list.

DATED this 21<sup>st</sup> day of April, 2015.

*/s/Wendy Gerlitz*

**Wendy Gerlitz  
Policy Director  
NW Energy Coalition  
Portland, Oregon**