

Some tax credit sellers allowed to flout pricing rules

By HILLARY BORRUD
Capital Bureau

State regulators allowed some sellers of Oregon energy tax credits to offer buyers deep discounts while forcing others to follow strict state pricing rules.

As a result, those not following the rules were able to more easily sell their credits, and their buyers realized greater value for their investment, while those following the rules were at a competitive disadvantage.

The state offers the tax credits to government and private organizations to help offset the cost of efficiency and renewable energy projects. Recipients can use the credits to reduce their taxes, or sell them to raise capital.

Oregon lawmakers have tried repeatedly to rein in the costly incentives, with bills to reduce the cost of the program and control the price at which the credits could be sold to investors.

But a group of tax credit recipients and brokers set out to find ways to circumvent them.

Conflicting advice

They had help from staff at the Oregon Department of Energy, where employees gave out conflicting advice over the years. Some employees told energy project owners they had to follow state price guidelines required in statute. At the same time, another employee told project owners they could ignore that section of state law.

The Department of Energy also stopped verifying how much corporations and wealthy individuals paid to purchase the tax credits, despite evidence that brokers and project owners were looking for loopholes in state pricing regulations.

In one case, this resulted in the Portland metropolitan area transit agency TriMet selling tax credits with a face value of \$3.6 million for \$2.7 million, or 75 cents on the dollar instead of the 98 cents required under the rules. The deeper the discount, the less money went to the renewable energy and efficiency projects the tax incentives were supposed to reward.

Business energy tax credits issued between 2006 and 2014

could cost the state up to \$968.1 million in tax revenue, including \$703.6 million from tax credits that were sold by recipients to investors, according to an analysis of Department of Energy data.

The EO Media Group/Pamplin Media Group Capital Bureau first reported in June that the Oregon Department of Energy quietly stopped enforcing pricing and other rules on the state tax credits. When people questioned the policy, the Department of Energy responded with a temporary rule change to retroactively eliminate price rules going back to mid-2012.

The temporary rule change, which the department plans to make permanent, would reward people who sold tax credits at deeper discounts than allowed under state rules. It would not help people such as Mel Rumwell, who was told by a state employee that he had to follow the rules. Rumwell is president of the Rock Creek Community Association, which qualified for a business energy tax credit by installing an energy-efficient roof.

“We were told by the state that we could not discount it,” Rumwell said of the tax credit. Rumwell said the association has no use for the credit because it does not owe taxes to the state, and its window to sell the tax credit closed in December.

Energy officials have said they had authority to make a business decision not to enforce the rules, but the policy appears to contradict the intent of the state Legislature which wanted to set prices to ensure the tax incentives would benefit energy projects.

Rules and loopholes

The Department of Energy historically controlled tax credit prices directly, through what was known as the pass-through program. The agency helped match buyers and sellers, set rates at which the credits could be sold and handled the payments.

When people started to negotiate private deals outside the pass-through program, the Legislature stepped in with a 2009 law that required the Department of Energy to develop “a formula to be employed in the determination of prices of (tax) credits” in those sales. Lawmakers reiterated the mandate in a 2011 law.

However, some energy project owners and tax credit brokers found a different section of state law they interpreted as allowing the sale of tax credits at any price negotiated by the buyers and sellers. Anthony Buckley, the Oregon Department of Energy’s chief financial officer, agreed and since at least fall 2014, the agency allowed the private sales at negotiated prices under that same section of Oregon law. It simply states one-time transfers of tax credits are allowed, unless expressly prohibited by other laws.

Jody Wiser is chair of Tax Fairness Oregon, a group which advocates for a progressive tax

code and full enforcement of state tax laws. Wiser said the conflicting advice from Department of Energy employees was a sign the agency lacked leadership.

“Some of them believe in following the law, and some of them don’t believe in following the law,” Wiser said. “And nobody’s telling them, ‘This is the way it will be in our department.’”

Brokers and project owners have for years sought ways around state tax credit price guidelines. In October 2013, Salem-Keizer Transit Finance Manager Jared Isaksen emailed state Energy Incentives Program Manager Maureen Bock to ask if the district could use a side deal to bypass the price guidelines.

The transit district had been awarded energy tax credits worth \$3.7 million, which it could sell under state rules for no less than 97.6 cents on the dollar or a total of nearly \$3.6 million. Isaksen asked Bock if the district could send a rebate of nearly \$876,000 to the buyer of the credits. That would lower the net price of the tax credits to 76 cents on the dollar.

“The underlying question is can the district discount the credits further to make them more attractive to possible pass-through partners?” Isaksen wrote. “If the answer is no, then why not?”

Bock initially referred the question to Joe Colello, who handled tax credits and other renewable energy and efficiency incentives at the agency. Colello wrote back that Salem-Keizer Transit’s proposal was not allowed under state rules.

Isaksen disagreed with Colello’s response, which prompted Bock to step in. She referred to the state law that requires the Department of Energy to set tax credit sales prices, and explained how the agency verified that buyers and sellers were following the rules. Then, she addressed the rebate Isaksen proposed.

“We will not issue a legal opinion on the legality of what

you are contemplating nor will we issue tax advice on whether that side transaction might be a taxable transaction for your partner,” Bock wrote. “Whatever side arrangement you are contemplating with a partner is something over which we have no control. I hope that helps.”

Salem-Keizer Transit did not proceed with the deal, and has not sold the tax credits.

In June 2014, a different tax credit broker, Blue Tree Strategies, pitched a similar deal to TriMet, which had \$3.6 million in energy tax credits.

Instead of sending the rebates directly to the buyers, however, Blue Tree Strategies proposed that TriMet hide the payments in the broker’s commission. Blue Tree Strategies would then send most of the commission — more than \$770,000 — to the tax credit buyers. This would reduce the net price of the tax credits from 95 to 98 cents on the dollar, as required under state rules, to an average of 75 cents on the dollar, according to Blue Tree Strategies’ proposal.

TriMet officials were uncomfortable with the idea, and Blue Tree Strategies’ owner Aaron Berg asked Buckley in an Oct. 20, 2014 email if he would field questions from TriMet and other Blue Tree Strategies clients. Berg provided a copy of Buckley’s answer to the EO Media Group/Pamplin Media Group Capital Bureau.

Buckley, who oversees the agency’s tax incentive, energy grant and loan programs, agreed to Berg’s request.

Although TriMet never went through with the rebate, the transit agency sold its credits at the same steep discount of 75 cents on the dollar earlier this year. TriMet and the buyers waited to complete paperwork until after the Department of Energy’s temporary rule change eliminated price regulations.

The Capital Bureau is a collaboration between EO Media Group and Pamplin Media Group.

ACCUWEATHER® FORECAST FOR ASTORIA

Astoria 5-Day Forecast

Tonight
Mainly clear
54°

Shown is tomorrow's weather. Temperatures are tonight's lows and tomorrow's highs

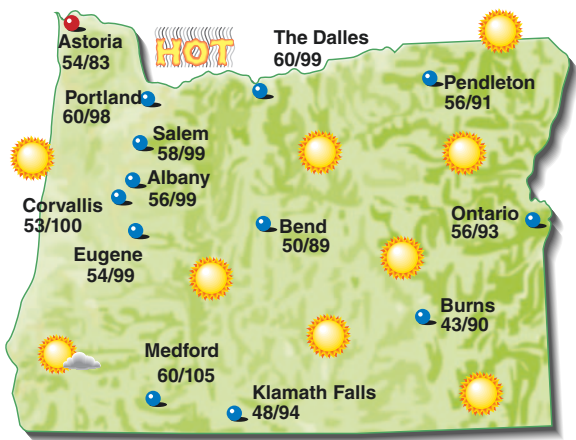
Tuesday
Nice with abundant sunshine
83° 57°

Wednesday
Not as warm with times of clouds and sun
75° 58°

Thursday
Times of clouds and sun
69° 56°

Friday
Partial sunshine
70° 54°

Oregon Weather



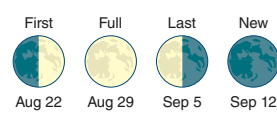
Almanac

Astoria through Sunday.

Temperatures	
High	72°
Low	50°
Normal high	69°
Normal low	53°
Precipitation	
Yesterday	0.00"
Month to date	0.09"
Normal month to date	0.46"
Year to date	27.87"
Normal year to date	37.40"

Sun and Moon

Sunset tonight	8:22 p.m.
Sunrise Tuesday	6:18 a.m.
Moonrise today	9:22 a.m.
Moonset today	9:39 p.m.



Regional Cities

City	Today			Tues.		
	Hi	Lo	W	Hi	Lo	W
Baker City	82	40	s	85	42	s
Bend	84	50	s	89	54	s
Brookings	79	59	s	76	59	pc
Eugene	91	54	s	99	57	s
Ilwaco	70	58	s	75	60	s
Klamath Falls	90	48	s	94	50	s
Medford	99	60	s	105	65	s
Newport	66	51	s	69	53	s
North Bend	69	54	s	72	55	s

City	Today			Tues.		
	Hi	Lo	W	Hi	Lo	W
Olympia	83	49	s	90	53	s
Pendleton	87	56	s	91	60	s
Portland	88	60	s	98	65	s
Roseburg	93	59	s	102	62	s
Salem	90	58	s	99	62	s
Seaside	73	54	s	78	56	s
Spokane	84	59	s	87	60	s
Vancouver	88	57	s	97	62	s
Yakima	92	55	s	94	56	s

Under the Sky

Tonight's Sky: Ursa Major is above the north-west horizon before midnight.

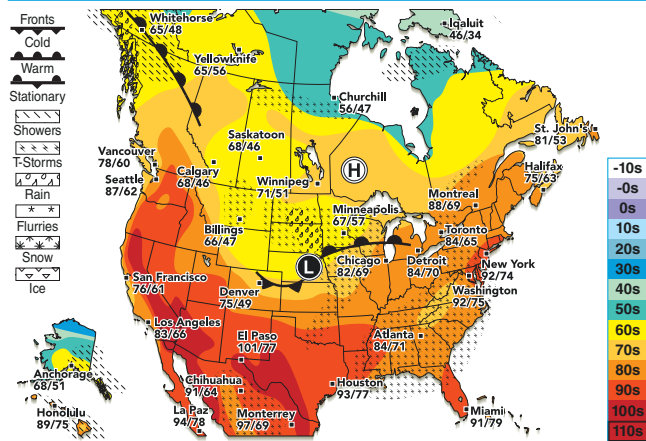
Tomorrow's Tides

Astoria / Port Docks			
Time	High	Time	Low
4:03 a.m.	7.3 ft.	10:18 a.m.	0.3 ft.
4:32 p.m.	7.7 ft.	10:47 p.m.	1.0 ft.

National Cities

City	Today			Tues.		
	Hi	Lo	W	Hi	Lo	W
Atlanta	83	71	t	84	71	t
Boston	92	72	s	88	70	s
Chicago	88	69	t	82	69	c
Denver	80	54	t	75	49	t
Des Moines	78	68	t	75	60	t
Detroit	88	70	s	84	70	t
El Paso	97	76	t	101	77	s
Fairbanks	68	52	sh	59	50	sh
Honolulu	89	75	sh	89	75	sh
Indianapolis	86	67	t	85	69	pc
Kansas City	87	71	t	75	58	t
Las Vegas	109	81	s	107	79	s
Los Angeles	87	68	s	83	66	pc
Memphis	87	72	s	86	73	t
Miami	91	79	t	91	79	t
Nashville	80	70	t	80	71	t
New Orleans	86	77	t	89	78	t
New York	96	78	s	92	74	s
Oklahoma City	93	72	pc	88	66	t
Philadelphia	95	73	s	94	74	t
St. Louis	90	74	t	89	71	t
Salt Lake City	91	60	s	84	59	s
San Francisco	81	60	pc	76	61	pc
Seattle	82	59	s	87	62	s
Washington, DC	98	75	s	92	75	t

Tomorrow's National Weather



Shown are noon positions of weather systems and precipitation. Temperature bands are highs for the day. Forecast high/low temperatures are given for selected cities. Weather (W): s-sunny, pc-partly cloudy, c-cloudy, sh-showers, t-thunderstorms, r-rain, sf-snow flurries, sn-snow, i-ice.

Repairs needed for soccer netting

The Lower Columbia Youth Soccer Association is looking for volunteers with experience mending fishing nets to help repair netting at

the Warrenton Soccer Complex.

“We use fishing nets for our soccer nets. It’s kind of unique,” said Fergus Loughran, the association’s director of coaching. Loughran said they hope to

have the repairs completed before Labor Day weekend.

Those interested in assisting may call Loughran at 503-816-7979 or Jerry Boisvert, LCYSA field maintenance manager, at 503-298-7987.

Deaths

Aug. 13, 2015
MARSCH, Dena Suzanne, 61, of Astoria, died in Astoria. Caldwell’s Luce-Lay-

ton Mortuary in Astoria is in charge of the arrangements.

REKART, Mary Katherine, 66, of Warrenton,

died in Portland. Caldwell’s Luce-Layton Mortuary in Astoria is in charge of the arrangements.

Lotteries

OREGON
Sunday's Pick 4:
1 p.m.: 0-9-1-6
4 p.m.: 3-8-3-6
7 p.m.: 1-1-3-1
10 p.m.: 8-0-4-7
Saturday's Megabucks:
14-21-23-26-34-37
Estimated jackpot: \$6 million.
Saturday's Powerball:
3-13-17-42-52, Powerball: 24
Estimated jackpot: \$70 million.
Saturday's Pick 4:
1 p.m.: 5-1-7-6
4 p.m.: 9-0-1-5
7 p.m.: 6-9-0-8
10 p.m.: 4-0-3-5
Friday's Pick 4:

1 p.m.: 0-0-9-4
4 p.m.: 9-3-2-1
7 p.m.: 8-8-7-7
10 p.m.: 6-3-2-1
WASHINGTON
Sunday's Daily Game:
9-3-4
Sunday's Keno: 03-04-07-10-12-13-14-20-26-29-37-38-41-47-54-56-60-62-69-78
Sunday's Match 4: 07-13-17-24
Saturday's Daily Game:
3-1-7
Saturday's Hit 5: 07-08-21-33-37
Estimated jackpot: \$190,000
Saturday's Keno: 01-02-

04-05-07-14-18-20-23-26-34-40-42-43-55-64-73-74-77-78
Saturday's Lotto: 22-26-28-32-34-36
Estimated jackpot: \$2.4 million
Saturday's Match 4: 12-18-19-21
Friday's Daily Game:
8-3-2
Friday's Keno: 04-08-15-34-35-38-45-51-54-61-63-67-68-73-74-75-77-78-79-80
Friday's Match 4: 05-06-21-24
Friday's Mega Millions:
12-15-20-52-71, Mega Ball: 03
Estimated jackpot: \$30 million.

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Public meetings

MONDAY
Knappa School Board, 5:30 p.m., regular meeting, Knappa High School library, 41535 Old U.S. Highway 30.
Jewell School Board, 6 p.m., Jewell School Library, 83874 Oregon Highway 103.
Astoria City Council, 7 p.m., City Hall, 1095 Duane St.
TUESDAY
Cannon Beach Public Works Committee, 9 a.m., City Hall, 163 E. Gower St., Cannon Beach.
Clatsop County Human Services Advisory Council, 4 to 5:30 p.m., 800 Exchange St., Room 430.
Port of Astoria Commission, 5 p.m., executive session (closed to public), 6 p.m., regular session, old Port offices, 422 Gateway Ave.

Astoria Historic Landmarks Commission, 5:15 p.m., City Hall, 1095 Duane St.
Shoreline Sanitary District Board, 7 p.m., Gearhart Hertig Station, 33496 West Lake Lane, Warrenton.
Seaside Planning Commission, 7 p.m., City Hall, 989 Broadway, Seaside.

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