CREDITS: Tax credits issued between 2006 and 2014 could cost the state $968.1M

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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 Oregon Legislature, which wanted to set prices to ensure the tax incentives would benefit energy projects.

Rules & 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.

Isaksen said the idea came from certified public accountant Ryan Johnson of AKT CPAs and Business Consultants, which has a contract to broker the sales of Salem-Keizer Transit's tax credits. Johnson said he could not recall whether he or Isaksen came up with the idea.

Isaksen wrote in October 2013 that Salem-Keizer Transit's previous finance manager had already presented the deal to the Department of Energy and "you gave you're (sic) okay to proceed."

"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.

BELL: Volunteers at Stanfield Community Senior Center

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53-year-old eyed terra firma about seven feet below. Her seat belt kept her in place. "Now what?" she thought,

As vehicles approached, Bell honked her horn and yelled, then listened in frustration as engine sounds receded into the distance.

"I hung there for two hours until two good Samaritans came along," she said.

The men had spotted the rear end of Bell's car sticking up. One of them flagged down another driver and asked them to drive ahead to find cell phone coverage and call for help. The men used a towel as a sling to support her body until medics arrived. Bell was flown to Oregon Health & Science University in Portland.

Bell had asked the men for their names, so she could find them later, but they refused.

"They wouldn't give me their names and phone numbers because they didn't want to be heroes," she said. "They went out of their way for me."

Surgeries replaced her destroyed vertebrae with plates and screws and repaired her shattered kneecap. She was transported a few weeks ago to the Regency Hermiston Nursing & Rehabilitation Center where she will likely remain for three months or so.

Tuesday found Bell cheerfully working out on an Omnicycle, a device that exercises the both arms and legs — or one leg in Bell's case. Her right leg, encased in a thick aircast, isn't ready for prime time yet. Her therapist, Franz Horvath, kept a watchful eye as she toiled. Together, they moved from station to station, pushing different muscle groups to their limit. Horvath marveled at his patient's transformation. A few weeks ago, he said, he had to lift her from her bed and place her into a wheelchair. Now, she can do that herself. In the therapy room, she tackled each station with enthusiasm, testing her limits.

"She has a very positive attitude," Horvath said. "She's always willing to work. That's very important."

Soon, he said, giving her a lopsided smile, Bell would be executing cartwheels. Bell rolled her eyes.

"I couldn't do a cartwheel on my best day before," she said.

This is the second time Bell has faced long-term physical therapy. The first time came after a stroke in 2007. When she couldn't physically continue working at a St. Helens credit union call center, she moved to Hermiston to be near her father and brother. Still unable to handle a full-time job, Bell instead volunteers at the Stanfield Community/Senior Center, where she works in the kitchen and serves on the board. When she first moved to the area, her father would regularly take Bell to lunch at the center.

Fellow volunteers and friends at the center are organizing a benefit to replace Bell's car. The spaghetti feed and dessert auction is slated for 5-7 p.m., Aug. 21, at the community center, 225 W. Roosevelt. Admission is by donation.

"She is much loved," said Cheryl Tucker, who serves on the board with Bell. "She is an upbeat and sweet person and is in need of the community's help."

When Bell thinks of this effort in her behalf, she tears up instantly.

"I feel guilty," she said. "I can't believe they're doing all that."

Her insurance will pay most of her medical bills, but won't replace her 16-year-old car. Bell said she loved the vehicle, despite its age. The color, a dusty purple, was odd, but she liked it. The license plate, which started with WVV, came to stand for "my Wonderful Violet Vehicle." She won't be driving for a few months in any case.

Bell seems determined to find joy despite her current state of affairs. On the way back to her room from therapy in her wheelchair, she cheerfully greeted a morose-looking man sitting in a wheelchair and challenged another woman to a wheelchair race.

When asked if she has recommendations for others whose lives suddenly jump the tracks, she nodded.

"Smile, don't cry," Bell said. "It will get better."

Contact Kathy Aney at kaney@eastoregonian.com or call 541-966-0810.

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