



MEMORANDUM

EUGENE WATER & ELECTRIC BOARD

Rely on us.

TO: Commissioners Simpson, Brown, Mital, Manning and Helgeson
FROM: Lance Robertson, Public Affairs Manager; and Jason Heuser, Legislative Affairs Coordinator
DATE: November 19, 2014
SUBJECT: EWEB's 2015 State Legislative Agenda
OBJECTIVE: Approval of Resolution No. 1417, EWEB's 2015 Legislative Agenda

Issue Statement

The Oregon Legislature convenes annually – for approximately six months in odd numbered years and two months in even numbered years – to enact laws and to set and adjust the biennial budget for the State of Oregon. EWEB has an active advocacy presence during legislative sessions to protect the interests of EWEB and its customers. The 2015 Oregon Legislative Session will begin Feb. 3, preceded by an orientation period and informational hearings in January.

Background

Prior to the start of each legislative session, the Board adopts general policy directives for advocacy at the Capitol. These directives are approved by a resolution, after a presentation and discussion with the Board. The adopted directives are approved by a resolution, after a presentation and discussion with the Board. The adopted directives guide the work of EWEB's lobbying activities. When political considerations test the applicability of these directives, the General Manager makes a determination as to whether a fundamental shift in direction is required. The Board may be asked to reaffirm its policy or direct staff to make necessary adjustments. This practice is derived from Board Policy GP-13 – Board Role in Legislative Session. EWEB staff will prepare monthly "legislative update" memos to the Board throughout the legislative session that will apprise the Board of the bills or issues that EWEB staff is devoting time and resources toward in support or opposition, the implications of these bills for the utility, and prognostications on the likelihood of these bills advancing in the legislative process.

Discussion

The accompanying resolution provides high level direction and principles for EWEB's advocacy efforts on the variety of legislative proposals that are likely to emerge over the course of the session. At this time, a tentative picture is developing of what stands a good chance of occupying the bulk of bill-reviewing and advocacy for EWEB staff. However, it is very early in the process, and staff has not yet seen actual legislative language or details on most of these issues. These legislative issues may look very different in February, or they may not materialize at all. At the time of this memo, EWEB staff is tracking the following issues:

Carbon Tax Study

SB 306, enacted by the 2013 Legislature, authorized and funded a state carbon tax study on the costs, benefits, and feasibility of a carbon tax in Oregon. An RFP process selected Portland State University's Northwest Economic Research Center, headed by Tom Potiowsky (former State Economist from 1999 through 2011), to perform the study. The study was expected to have been completed by November 15, 2014, but at the time of this memo, the study has not yet been released publicly. EWEB staff met with members of the PSU team in March of this year to discuss study assumptions as far as current conditions and potential future impacts of a carbon tax in consumer-owned utility territories.

A carbon tax has been and will continue to be a topic of much discussion in the legislature. EWEB has repeatedly contributed to the momentum of this ongoing discussion through significant stakeholder outreach efforts by EWEB staff, primarily in sharing EWEB's carbon pricing position paper adopted by Commissioners in April 2013. However, in the months leading up to the 2015 Legislative Session, there has been little sign of a broad-based and committed legislative effort in 2015 towards the enactment of state carbon tax legislation, nor was it a topic that found significant attention in the recent legislative races. Furthermore, signs of action at the federal level may reduce some of the appetite for state carbon tax ambitions. For instance, there are still so many questions about the future implementation of the U.S. Environmental Protection Agency's Clean Power Act ("111(d) Rule"), and uncertainty about the staffing burden for state agencies to formulate a state 111(d) compliance plan that can secure federal approval in 2016.

Although EWEB staff will be actively involved in providing constructive input on Oregon's upcoming state compliance plan formulation, staff will continue to concurrently promote EWEB's carbon pricing position and advocate for carbon abatement policies that are 1) direct; 2) efficient; 3) economy-wide; and 4) market-based.

Cool Schools 2.0

The Cool Schools Program is a four-year pilot program created with the passage in 2011 of HB 2960, championed by Governor John Kitzhaber as a key plank in his 2010 election platform. The intent of the program is to save energy, shift facility operating monies to the classroom, create jobs, and boost student and teacher performance. Under the pilot, the Oregon Department of Energy was authorized to provide technical and business assistance to schools and school districts to the end of deploying energy efficiency measures in school facilities. The program currently has a dedicated state funding source through the tapping of the Energy Efficient Schools Program created by SB 1149 (Oregon's deregulation legislation passed in 1999) and is funded by the public purpose charge paid by Portland General Electric and PacifiCorp (both investor owned utilities) customer. Only public schools served by investor-owned utilities can benefit from public purpose charge funds in paying for energy efficiency measures. The four-year pilot program will expire in 2015.

Governor Kitzhaber and ODOE are proposing to extend the 2015 sunset date, making the program permanent. Additionally they are seeking \$20 million in state lottery funding to back grants for energy efficiency measures in public schools within consumer-owned utility territories, which are currently not eligible to receive public purpose charge funds.

EWEB staff will be closely monitoring this legislation. While state funding to supplement existing energy efficiency investments in school facilities by consumer-owned utilities would seem beneficial, there are questions about what alternative funding sources (ratepayer funding for example) the state would explore if unable to secure adequate lottery funds. Additionally, ODOE might bill administrative costs to the Energy Supplier Assessment paid by EWEB and other Oregon utilities, which could lead to an increase in the annual amount assessment (and as you may be aware, this assessment has been a concern to EWEB for several years). It is also unclear how much benefit would be likely to accrue to local school districts given the significant cumulative deployment of energy efficiency measures in EWEB territory.

Energy Tax Credits

Changes may be proposed to the Residential Energy Tax Credit (covering Renewable Energy and Energy Efficiency) and the Commercial Conservation Energy Incentive Tax Credit in order to reflect market transformation and emerging technology trends. EWEB has traditionally weighed in with recommendations when these programs have been opened up for alterations and will likely do so again on the basis of our expertise with the changing landscape of energy efficiency measures.

Net Metering

No specific proposals are known at this time, but it is likely that advocates of distributed energy resources will make another push to expand net metering requirements for consumer-owned utilities to mirror the more stringent net-metering requirements for investor-owned utilities. Possible changes could include:

- 1) Raising the cap for non-residential systems to 2 mW (up from 25 kW, although EWEB's current policy exceeds current state law, accommodating up to 199 kW).
- 2) Requiring that surplus electricity generated by customers be purchased by a utility at the retail rate, instead of the utilities avoided cost.
- 3) Preempt EWEB's safety and reliability interconnection requirements that include a required manual disconnect switch. EWEB staff opposes the elimination of discretion to require this inexpensive and potentially life-saving equipment.

PERS

Due to the passage of significant PERS legislative changes in 2013, it is not expected that there will be much activity on PERS in 2015, but EWEB will remain engaged with the coalition of PERS employers in monitoring any new PERS legislative proposals and keeping legislators informed of the impact of PERS on the provision of government services.

Public Contracting

EWEB will work again with a coalition of local governments to proactively lobby against the revival of unsuccessful legislation from previous sessions that would prohibit EWEB and other local governments from considering price until AFTER the selection in procuring design services over \$100,000, such as architecture and engineering services.

Federal “Clean Power Plan” and 111(d) of the Clean Air Act

On June 2, 2014, the US Environmental Protection Agency (EPA) issued a proposed rule to reduce carbon dioxide emissions from the existing electric power sector. The rule utilizes section 111(d) of the existing Clean Air Act to authorize EPA to set annual interim carbon dioxide intensity targets for individual states. The average effect is an estimated 30 percent nationwide reduction in carbon dioxide emissions by 2030 for the existing electric power sector. The targets vary state by state and the baseline for the targets is 2012. While EPA has set the targets, states will be ultimately be tasked with creating compliance plans to meet the targets, due for completion by June of 2016, or a year later if partnering with other states in a regional plan. Compliance is set to begin in 2020.

While no legislation pertaining to the rule is expected in 2015, the subject will cast a long shadow over any discussion of state energy policy this session, and will surely be the subject of multiple legislative hearings. These hearings are important because they will foreshadow and shape design choices the state will eventually have to select in the formulation of Oregon 111(d) compliance plan.

EWEB staff will closely monitor and advocate in the dialogue on the 111(d) rule this legislative session. Although EWEB’s power resource portfolio is extremely low in carbon dioxide intensity, the implied carbon liability in EPA’s targets is assessed seemingly to states, not to the owners/operators of specific generation sources. Utilities with a considerable “green” power portfolio, such as EWEB, could be harmed by a state-centric approach. There is no clarity yet on how the burden of meeting EPA targets will be allocated within a state amongst load serving entities or generators. It is paramount that the interests of EWEB and its customers be actively represented in that dialogue.

Recommendation and Requested Board Action

Management recommends that the Board adopt the Resolution No. 1417 as provided.

**RESOLUTION NO. 1417
DECEMBER 2014**

**EUGENE WATER & ELECTRIC BOARD
2015 LEGISLATIVE SESSION**

WHEREAS, the 2015 Oregon Legislative Session will convene on February 3, 2014; and

WHEREAS, the Eugene Water & Electric Board (EWEB) will continue to participate in the legislative process on behalf of its customers; and

WHEREAS, the Board has traditionally adopted positions and guidelines which provide general direction for purposes of supporting or opposing specific legislation; and

WHEREAS, the Board again desires to set forth such legislative directives.

BE IT RESOLVED that the Eugene Water & Electric Board adopts the attached legislative agenda, which includes the following issues and goals:

1. Carbon Pricing: Educate and inform state decision-makers of the advantages and efficiencies of pricing carbon directly rather than indirectly.
2. Net Metering: Preserve local decision making and shield utilities from mandated approaches that do not equitably allocate costs among customers or that do not accurately value distributed generation based on utility specific conditions.
3. Federal Clean Power Act/111(d) Rule: Monitor and Influence the dialogue and planning for future state compliance to fairly represent the interests of EWEB customers and EWEB's low carbon resource portfolio.

WHEREAS, new and unanticipated legislation can emerge each legislative session.

BE IT FURTHER RESOLVED that the Eugene Water & Electric Board goes on record supporting legislation which generally:

1. Preserves and enhances local control;
2. Complements or improves programs that are cost-effective to our customers; and
3. Preserves, conserves, and restores our natural environment in an equitable and cost-effective manner.

BE IT FURTHER RESOLVED that the Eugene Water & Electric Board will oppose legislation which generally:

1. Withdraws the capability of the Board to best serve EWEB's customers;
2. Duplicates existing laws, therefore complicating the execution of the Board's duties by state or federal mandate;
3. Imposes fees, assessments or procedures that impede the Board's ability to provide high-quality and cost effective service.

Dated this 2nd day of December 2014.

THE CITY OF EUGENE, OREGON

Acting by and through the
Eugene Water & Electric Board

President

I, TARYN M. JOHNSON, the duly appointed, qualified, and acting Assistant Secretary of the Eugene Water & Electric Board, do hereby certify that the above is a true and exact copy of the Resolution adopted by the Board at its December 2nd, 2014 Regular Board Meeting.

Assistant Secretary