

HOW TO FIGURE OUT WHERE YOUR SCHOOL'S ELECTRICITY COMES FROM

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www.energyjustice.net/campus/research.html

Is your school public or private? Have electric utilities in your state been deregulated? The answers to these questions have a lot to do with whether you have a right to know the information you're seeking.

Your right to get information

If the school is public, you have a right to receive copies of information you're seeking (energy contracts or electric bills). If the school is private, you have no right to obtain this information.

Nearly all public schools are subject to *state* Open Records laws (sometimes called the Sunshine Act). These laws vary from state-to-state. There are very few *federal* public schools (these are all military academies). These federal schools will be subject to the national Freedom of Information Act (FOIA) rather than state laws.

Figuring out whether your school is public or private:

For a high school or other grade school, it should be pretty obvious whether it's public or private. Just ask around. If there is an elected (or, in some cases, appointed) governmental school board that oversees the school's functioning, it's most likely public. The line between public and private schools has been blurred in recent years, as more quasi-public charter schools are created. You'll need to find out if state open records laws apply to the type of school you're researching.

For colleges and universities, most are also obvious, but some can be confusing. For the most part, you can tell if a university is public if it's listed on one of the following webpages:

[http://dir.yahoo.com/Education/Higher_Education/Colleges_and_Universities/United_States/Public/
www.aascu.org/members/](http://dir.yahoo.com/Education/Higher_Education/Colleges_and_Universities/United_States/Public/www.aascu.org/members/)

However, not all public universities are listed there and not all universities listed there are public. For example, some, like the four "state-related" universities in Pennsylvania (Penn State, U Pitt, Temple U. and Lincoln U.), receive state funding but are exempted from state open records laws. Also, the directories above don't list community colleges, which are often public institutions operated by city or county governments. *State*-level open records laws apply to city and county-run schools.

Know your rights

When researching a public school, it's good to know your rights before you try using them. If school officials try to make things difficult for you, it's good to be certain that the documents you seek *are* public documents, that you have a right to obtain them within a certain number of days and that they can't charge you more than a certain amount for copies. If you want to obtain information that may be available on a computer, you should see if you have a right to request information in electronic formats.

The best resource on state open records laws is the "Tapping Officials' Secrets" website by the Reporters Committee for Freedom of the Press:

www.rcfp.org/tapping/

Click on "browse," choose your state and pay attention to things like which "bodies" the law applies to, fees for records, access to electronic records and how long you must wait (often addressed in sections about appealing a denial).

Some states (like PA¹) have passed updated open records laws since rcfp.org was last updated in 2001. Other (also somewhat outdated) websites with resources on state open records laws are: www.nfoic.org/web/ and <http://foi.missouri.edu/citelist.html>

If you need to put a request in writing (which you should do right away if you can't easily get what you want by asking the proper person nicely), a model request letter can be found on the Student Press Law Center website: www.splc.org/foiletter.asp If you start a paper trail by putting a request in writing, make sure that you sign and date it and ask the secretary to make you a copy of it, so that you have proof. Better yet, see if you can get them to sign and date the letter acknowledging that it was received (and ask for a photocopy of that copy).

Who do you ask?

The matter of who you want to ask and what you're asking for depends a lot on whether your state's electric utility industry is "deregulated" or not.

What is deregulation?

Deregulation is often described in terms of "letting people choose where their electricity comes from." Historically, electricity suppliers were regulated monopolies that owned the generation (power plants) as well as the transmission (big power lines) and distribution networks (the small local wires that go to the end users). Deregulation is a scheme that was advanced nationally by Enron to separate these functions so that different companies could offer their generation mix of electricity (from various power plants) to end users. When this happens, the same transmission and distribution wires are used, but you can choose who will be selling you the power – sort of like how long distance companies can offer different services over the same telephone lines. In the process, the companies involved in transmission and distribution are split apart from those that own the power plants.

California was the first to deregulate in the mid-1990s, followed soon by PA, IL and several other states. Deregulation has many negative consequences, the most obvious being what became known as the California electricity crisis – a scandal where companies like Enron and Reliant deliberately kept power plants off-line, withholding power in order to increase prices, which led to blackouts and billions of dollars being sucked out of California residents into the pockets of a few Texas-based power companies. The massive blackout in the mid-west and northeast in 2003 was also a consequence of deregulation, not a lack of available power.

Deregulation is both bad for consumers *and* bad for the environment. It allows power companies to build power plants without state utility commission approval (mostly benefiting fossil fuel power plants). It allows energy companies to merge (so that we ultimately end up with bigger, more powerful companies). It doesn't end up providing real choices for consumers, since smaller companies get forced out of the market. It also allows power generation companies to increase electricity prices without state agencies making sure that the prices are fair for consumers. More information on the problems with deregulation can be found here: www.citizen.org/cmep/energy_enviro_nuclear/electricity/deregulation/ (see "fact sheets" and "reports" sections on sidebar) and www.democracyandregulation.com

¹ Pennsylvania passed a sweeping new open records law in 2002. Information on it can be found at: www.celdf.org/gats/gats2.asp and www.lgc.state.pa.us/deskbook03/Issues01.pdf

Why does this matter?

If your state is *not* deregulated, your school has only one choice where it can buy its power – the utility company that serves your area of the state. [Note: in a regulated state, a school can still buy Renewable Energy Certificates (RECs), like the wind power certificates sold by various green energy marketers.] In regulated states, your school just pays an electric bill to the utility, just like homeowners would. There may not be any “contract” involved.

In a deregulated state, your school will likely have a contract with one of multiple companies that offer to sell electricity in the area. You’ll need to figure out *which* corporation your school contracts with.

In a regulated state, a state agency (often called a “public utility” or “public service” commission, see www.naruc.org/displaycommon.cfm?an=15) can tell you where a utility gets its power (which will usually be a collection of power plants in their territory). It’s a matter of public record. In a deregulated state, this information isn’t public. You may still be able to find out where a company gets its power, but it’s not as easy and it may change more often.

How do I know if my state is deregulated?

Before the California blackouts, about half of the U.S. states were deregulated and the other half were moving in that direction. Thanks to the awareness and abuse that the crisis brought to light, California and many other states reversed or halted their deregulation plans. Currently, only 16 states and DC are deregulated. They are: CT, DC, DE, IL, MA, MD, ME, MI, NH, NJ, NY, OH, OR, PA, RI, TX and VA.

A map and detailed information on the status of deregulation in each state can be found here: www.eia.doe.gov/cneaf/electricity/chg_str/restructure.pdf

OK, now whom do I ask?

You’ll need to ask around until you find the right person. If you’re in a regulated state, you’ll be looking for the person who “pays the electric bill.” If you’re in a deregulated state, it’ll be more complicated, but you’re looking for whoever can get you information on the school’s “electricity contract.” Where you can start depends on what type of school you’re researching:

- public grade schools: start with the school district administration building
- private grade schools and charter schools: start with the principal’s office or any staff people who might deal with utilities
- private colleges/universities: start with facilities management, “physical plant” or anyone in the administration building. This might be dealt with through an office of purchasing or procurement
- public colleges/universities: start at the same places as private colleges, but don’t be surprised if you soon get passed along to a state-level office. If the school is part of a system with multiple campuses, these other campuses could fall in different service territories, so there could be multiple answers. When you get an answer, make sure you know what locations it applies to. Larger schools can have affiliated research institutions or hospitals as well as other campuses, so make sure you know what facilities are covered and whether these other facilities are getting power from different companies.

At state-run public colleges and universities, a state-level office in your state capital is often responsible for purchasing electricity and other goods. This might be via a central office that runs purchasing issues

for the state universities. Alternatively, the electricity purchase may be through a more general office that buys electricity for all state government institutions. If so, the electricity contract would be in a Department of General Services or some similarly named agency. First, ask people at your school and if they pass you to a state office, see if they can save you time by giving you the name and number of who to speak with at the state level.

Anyone who can't answer your question will probably have some idea who else to ask. Ask for suggestions on whom to ask. If you're sent to another department or agency, ask for names of specific people you should talk to. It's usually easy to have a staff person provide you with the name, title, phone number and office location of the person they're passing you on to. You may get passed from one person to another several times until you reach the right person. Don't hesitate to drop names. Whenever one person refers you to another, introduce yourself by saying "____ in the ____ office referred me and tells me that you're the person to speak with about where the school's electricity comes from." This should get them to take you more seriously, even if they don't know the name you're dropping. Don't let yourself get stuck by non-responsive people. If you feel you're running into dead ends, ask other people and seek out other ways to get to the information.

How to ask for information

Take notes! – Write down the names and titles of everyone you speak to, along with the date/time you spoke with them and notes on what they said.

If you're asking a private institution, you have no rights to information and you have to appear non-threatening and rely on your innocent, smiling face.

At public institutions, even if you're not a student, it's a matter of public record and you can be as strident as necessary in order to obtain information. If they argue that it's not public information, put a request in writing, citing the state open records law and demand a response in writing, spelling out exactly why they feel that the information is exempt from the state law. It's good to send a copy to the president's office as well, so that the school's lawyers can get you a better answer than uncooperative lower-level staff people.

What do I ask for?

- The name of the company the school currently buys electricity from.
- Whether there are other sources of electricity for the school (the school might make some of its own or may buy from multiple sources). Most campus power plants produce steam for heating, but can also be used to make electricity.
- How much electricity the school is buying (get monthly and yearly averages for the amount of kilowatt-hours the school uses) and at what price (usually in cents per kilowatt-hour for the generation portion, plus other fees).
- If the school buys any renewable energy on top of its normal electricity purchases. (Note: the person you'd be asking about the electric bill/contract might not know, since this could be handled by others at the school.)

To be prepared when asking who supplies electricity to the school, it helps to understand the options, which depends entirely on whether you're in a deregulated state...

In regulated states...

If you're in a regulated state, there will be only one power company that supplies electricity to customers in the service territory. Most people who pay their own electric bills in the area can tell you. You can also find out quickly by plugging the school's zip code into EPA's Power Profiler website: www.epa.gov/cleanenergy/powpro/screen1.html

In deregulated states...

If you're in a deregulated state, schools can buy their power from more than one electric generation supplier and – unless the school is public – you don't have a right to know which corporation they've contracted with. Even once you know which supplier the school buys their electricity from, you don't have any right to know which power plants that corporation is selling energy from. Not cool, eh?

A good first step is to know which corporations sell electricity to commercial customers in your area. This will make sure that you get the correct answer. Also, if you go into the process knowing how contracts work, you could come away with more information.

Figuring out who sells electricity in your area

In deregulated states, the number of corporations selling electricity can vary per service territory. There are 3 classes of customers: residential, commercial and industrial. Each sector represents about 1/3rd of electricity demand. Schools are considered commercial. While residential customers may not have many choices of electricity suppliers to choose from, commercial and industrial customers usually have more options. One of the consequences of deregulation is that the "choices" available to consumers are mostly for the business sector, where larger users of electricity are rewarded with lower rates – meaning that residential users end up paying the highest rates, subsidizing big corporate electricity users. Any list of electricity suppliers available to residential customers is probably not the complete list of those available to commercial customers. Get a full list of retail electricity suppliers through your state public utility commission.

Understanding contracts

Most likely, your school actually has a *contract* with the electricity supplier. This is going to be similar to how your school obtains other goods and services, like buying paper. Contracts spell out certain things that are useful to know, such as the contract duration, the price of the product and more.

There are two basic ways that your school can end up with a contract – with or without a competitive bidding process. A competitive bidding process is usually required of public schools for major purchases, like an electricity contract. Private institutions might avoid such a process and just select a company to contract with.

A competitive bidding process works in three basic steps: a request for goods/services, bids and the contract:

- **Request for goods/services:** This is often known as a request for proposals (RFP) or a request for quote (RFQ). This is the document that your school puts out telling companies that the school wants to buy something. It could specify anything from "we want to buy electricity for the coming year" to "we want to buy electricity for the coming year, but 50% must come from wind and solar power within the tri-state area."
- **Bids:** After the RFP/RFQ is sent out, companies that can supply the goods/services requested will submit written bids which provide their proposal (or sometimes just a price quote). Even at public

schools, bids are not considered public documents, until perhaps after the bidding process is over. A bid will include the price that the company is offering. Since universities are large users of electricity, companies will compete to offer lower prices than are available to residential customers. It's possible that the bid document will tell you more background on the company and what they're offering.

- **Contracts:** After the bidding period is over, the school will evaluate the bids according to price and perhaps other criteria. The winning bidder will get a contract, which is a binding legal agreement between the company and the school. Unless the contract terms are broken, the school can't break a contract and start buying power from somewhere else. You must wait until the contract expires. Electricity contracts may be yearly or may be good for a few years. Many contracts (not necessarily electricity contracts) are designed with 1-2 "renewal" periods, meaning that the contract can be extended at the school's discretion. A contract might have an initial one-year term with two renewal periods of one year each. This means that the school could end the contract after the first year or decide to stick with it for 2-3 years. Leading up to the time when a contract expires or comes up for renewal, you'll have a chance to influence the process for the upcoming contract.

Influencing a contract

When asking about energy contracts, find out when the contract expires and if there are renewal options (how many, for how long each). If you want to get into more details, you can ask for contract-related documents, including a copy of the current contract. You can ask if the contract was the result of a competitive bidding process. If so, ask which companies submitted bids and ask to see the bid evaluation as well as past or upcoming RFPs / RFQs. See if they're working on a new RFP or RFQ. If they are, and if – after researching things – you decide that it's worth getting the school to revise what they ask for, you can ask later about how you might have input into the process for developing the next RFP. In that process, you can add in requirements that some of the power come from wind and solar and that the winning bidder must help the school maximize conservation and efficiency efforts. A good model for this is the Performance Based Service Contract, where it the energy company could be made responsible to help the school conserve energy (Rutgers U. in New Jersey has used these effectively).

You might get the wrong answer

Be careful not to walk away with only the name of a company, without confirming that they're a competitive electric supplier in the area. Since deregulation is a relatively new thing to adults who may have dealt with buying electricity for decades, they may be confused about the difference between the traditional utilities who still manage the transmission and distribution "poles and wires" and the companies who sell the power to the school over those wires. These companies can have very similar names like PPL vs. PP&L or FPL vs. FPL Energy.

OK, I have a company name, but which power plants are used to make their electricity?

In regulated states, it's a matter of public record and you should be able to find out from the state public utility commission if not also from the company themselves. In deregulated states, the state public utility commission no longer tracks this information and the company doesn't have to tell you (but they might make the info available anyway).

First, try the company website. Google the company name and make sure that you land on the proper website. Due to deregulation, the new unregulated companies can have many companies with similar names (like FPL vs. FPL Energy vs. FPL Group). You need to find the one that deals with power

generation. They may even have the word “generation” or “supply” in their name. Many generation companies list their power plants on their website. Many also now list some degree of information about proposals for new power plants they’re trying to build (for example, Florida Power and Light’s website mentions specific plans for new coal and natural gas power plants)².

If the company is publicly-held (their stock is traded in the stock market), they’ll also have files publicly available at the U.S. Securities and Exchange Commission (SEC). The SEC runs a searchable database called EDGAR. Visit www.sec.gov/cgi-bin/srch-edgar and type in the company name (less is more when searching). Go through the results until you find the company (they may come up with their name mentioned in other company’s filings, so skip past these until you get to the company you searched for (it’ll be in alphabetic order). When you’ve found the company you want, locate their most recent “10-K” filing and open it up. It’ll be large. Scan through that for a listing of power plants. They’ll most likely list the power plants they own. A 10-K filing could be hundreds of pages, so if you know the name of any one of their power plants, search for it to find where they’re all listed.

If the information isn’t available from the company website, you can also try calling them, but finding a phone number to reach the right person without spending forever in a customer service phone directory can be a challenge. If you spend more than 30 minutes surfing a power company website and EDGAR and can’t find their power plants, call Mike at Energy Justice for help at 215-743-4884.

State utility commissions: If the company won’t release the information and if you’re in a regulated state, you can call the state public utility commission. State utility agencies can be found here: www.naruc.org/displaycommon.cfm?an=15

In some states – mostly deregulated ones – state utility commissions require that companies disclose their mix (often described as a power content label). This doesn’t disclose specific power plants, but gives an overall mix by fuel types (i.e. 50% coal, 20% nuclear, 25% natural gas, 5% hydroelectric). This is inadequate if you want to locate the affected communities or be able to tell exactly how polluting the mix is. For example, most disclosure for non-fossil combustion sources are described as “biomass” and can mean anything from trash incineration to burning toxic landfill gases, with a wide variety of fuels and wastes that can be burned within that category. To see what if any power disclosure rules exist in your state, visit: www.eere.energy.gov/greenpower/markets/disclosure.shtml

Stranded costs / nuclear bail-out charges

If you’re in a deregulated state – especially if there are nuclear reactors in the service territory where the school is – there’s a good chance that the school is also paying for nuclear power, whether it chooses to or not. As part of every deregulation law that passed in the U.S., many existing power utilities were granted special subsidies, allowing them to compete unfairly with new power companies. When state-based deregulation laws were being passed in the late 1990s, many of the existing power utilities still had debts from building power plants (primarily for building very expensive nuclear reactors). These utilities expected to have a captive market of customers who would have no choice but to pay off those debts. They felt it would be unfair if their shareholders had to swallow those multi-billion dollar (mostly nuclear) debts in order to be able to compete with any new power companies. These utility corporations convinced state legislators to allow them to “recover” their “stranded costs.” This meant that if you’re in the service territory of a company that owned nuclear reactors before deregulation, you get to help the company pay off that nuclear debt *even if you switch to another company to buy your power!* This shows up on the electric bills of all customers in that service territory as a “competitive transition charge” (or

² www.fpl.com/about/plant/contents/power_plant_projects.shtml

some similar name), regardless of which energy provider these customers select. Until the charge expires (once the debt is paid off), the only way to avoid paying these charges is to reduce the amount of electricity consumed, so that the amount paid for these nuclear bailouts (“stranded costs”) is reduced somewhat. Stranded costs are like the evil twin of adopt-a-windmill: forced adopt-a-nuke! Pay a mandatory subsidy of a nuclear reactor, in addition to your actual electricity usage, regardless of whether you are getting electricity from those nukes. When describing the power plants that are being supported by the school’s electricity purchases, stranded-cost-supported facilities should be considered part of the mix. For example, “our school is supporting coal and gas plants (standard grid power), wind turbines (clean energy purchase) and a nuclear reactor (stranded costs).”

The quick and easy way to get some general information

If you’re in a regulated state and you only want the most basic information about the fuel mix of the company, you can use the EPA Power Profiler website (www.epa.gov/cleanenergy/powpro/screen1.html) to get a general idea of where your power comes from. It provides the fuel mix (percentages of types of power) and some generic information on three of the pollutants released from the fossil fuel power plants in your service territory. This website won’t tell you about emissions from other types of facilities or about other emissions from fossil fuel plants. It also won’t name the specific power plants that are in the mix. While it provides results from deregulated states, it’s **not** accurately representing the fuel mix of any company in that territory (it’s providing info for the territory as a whole, not the mix of power plants supported by power contracts at your school).

Researching the impacts of power plants

There is much more to know about power plants than the three pollutants covered by Power Profiler. The source for the Power Profiler is an EPA database called “eGRID.” Unfortunately, you can’t search it online, but must download and run it from your computer. It has emissions data for four pollutants released from fossil fuel power plants (carbon dioxide, sulfur dioxide, nitrogen oxides and mercury). Much of the data is estimated and isn’t real, and some of the data is highly inaccurate because of this. Nevertheless many big environmental groups rely heavily on this data. You can find it at www.epa.gov/cleanenergy/egrid/

Another useful database is EPA’s Toxic Release Inventory (TRI). This database tracks toxic releases of 600-some chemicals from certain industries. Coal and oil burning power plants were required to start reporting to this database in 1998. The most recent TRI data available is usually about 2 years old. The best site to use to search TRI data is the Right-to-Know Network’s website: www.rtk.net (click on “databases” then choose TRI). You can look things up by facility if you want to find a specific coal or oil-fired power plant or you can look up the entire electric utility industry in a certain area. If using the industry search, set the SIC code box to 4911 Electric Utilities (that burn coal or oil). Keep in mind that this database doesn’t include natural gas power plants, incinerators, nuclear reactors or other types of power plants. However, it’s much more comprehensive than eGRID in the range of pollutants tracked. It tracks air, water and solid waste emissions (rather than just air) and includes toxic metals, acid gases and other pollutants. Like eGRID, the TRI database is based on data that is self-reported by industry and which is estimated (nearly all of the data is from emissions models, not from actual testing).

Nuclear reactors also have toxic emissions, but are harder to learn about. In their normal operation, nuclear reactors release radioactive pollution into the air and water (in addition to generating radioactive solid wastes). Learn more about these routine radioactive releases at the following websites: www.nirs.org/reactorwatch/routinereleases/rrrhome.htm and www.radiation.org

Digging deeper

If you'd like to research a specific power plant in far more detail than you can find online, there is a wealth of information in your state environmental agency's files. You can find these paper files by scheduling to visit the appropriate regional office of the agency. You have a right to review these files, which can tell you about violations, mishaps, plans for expansions, citizens who have complained and much more. It's a tricky process, so if you'd like to learn how to investigate a facility this way, contact Mike at Energy Justice for advice at 215-743-4884.

Finding community contacts

There are grassroots community groups all over the place, struggling against existing and proposed polluting industries. These groups are often hard to find and it's possible that no watchdog groups exist for a power plant you'd be interested in – especially if it's a power plant that has existed for a long time (more groups tend to form and be active when polluting facilities are first proposed). If you'd like help locating community groups in the areas impacted by certain power plants, contact Mike at Energy Justice at 215-743-4884.

What do we do now?

You have several choices of what to do with the information you'll have gathered if you apply what you've read so far:

- 1) Use the information to campaign to get your school to invest in conservation and efficiency (which can include efficiency standards for new buildings and renovations).
- 2) Use the information to campaign to get your school to pay for wind or solar renewable energy certificates (RECs), or – even better – get them to install solar power on campus and to commit to making it a part of all new buildings.
- 3) Network with organized communities affected by your school's power purchases and find ways to help them.
- 4) Locate community groups that are fighting proposed dirty power plants planned by the school's energy supplier. Find ways to help them stop the power plant, including getting the school to put pressure on (possibly by changing electric suppliers, if that's an option).