Policy Committee of the Energy Trust Board of Directors

May 15, 2012

1. 45-Mile Hydro Project. A dispute has arisen involving a hydropower project. *Background*: The board authorized a $2 million incentive for the 45-Mile Hydro Project near Bend in September, 2010. We negotiated a funding agreement with the developer, Earth by Design, promising to pay the incentive in five equal installments annually. In July, 2011, we amended the funding agreement to update certain milestones, which were not being met. The commercial operation date was not extended. On March 7, 2012, at the request of Earth by Design, Energy Trust staff asked the board to change the schedule for paying incentives for the project. The board agreed to allow a larger payment at the time the project reaches commercial operation -- $1 million instead of $400,000. This was conditioned on the developer's posting security sufficient to avoid increasing Energy Trust's risk. *The dispute*: In late March, staff discovered that Earth by Design no longer plans to use standard turbine technology for the project, and instead use relatively untested technology for which it has secured US Department of Energy research-and-development grant. In addition, the project appeared unable to reach its May 1, 2012, commercial operation date. Under our funding agreement failing to achieve that date is grounds for terminating the agreement. At this point, staff thinks this is a different and riskier project than the one the board authorized. Staff is also uncertain of the impacts of the $1.5 million US DOE grant on the project's above market costs. Accordingly, staff asked for updated project information which, to date, the developer has not provided. Staff has advised the developer that we intend to terminate the funding agreement, while remaining open to exploring a new one, with appropriate board review. The developer has said it intends to attend the May 23rd board meeting to make its objections known. The committee endorsed staff's approach.

2. Savings-Within-Reach Moderate-Income Loan Program. This agenda item concerns a new financing option that does not require committee or board action, but which we believe will be of interest to the board. *Background*: Energy Trust has a moderate-income program called Savings Within Reach. For purposes of this program, "moderate income" is 185%-250% of federal poverty level (66% - 89% of Oregon income). Incentives are about 40% higher than the usual program. Even with our incentives, energy efficiency projects can be a budget challenge for moderate-income families. *Loan program:* In 2011, 440 Savings-Within-Reach projects had an average project cost of $2,989, offset by an incentive of $1,159, leaving the out-of-pocket customer cost of $1,830. Staff has developed a loan option to help these families and reach more energy savings: Loans would be available to PGE, PAC and NW Natural customers, by Craft3 (a lender) at 5.99% interest, with 10-year terms, repaid on the borrower's utility bill. Energy Trust would consider an EEAST pilot. The program would cost Energy Trust $300 per loan transaction (paid from program incentives), plus $300,000 to capitalize 50% of the initial $600,000 loan pool (we will earn 1% interest on the loan pool, Craft3 will contribute the other $300,000), and another $45,000 toward a loan-loss reserve. We expect the average consumer utility bill to increase no more than $5 per month. Staff will evaluate the pilot in a variety of ways. The project requires no board action, but is being brought forward by the Finance Committee. The committee thought the 5.99% loan rate is reasonable for this type of project.

3. OPUC fuel-switching docket. Under current Energy Trust policy (Attachment 1), Energy Trust does not advocate fuel-switching, but may provide fuel-neutral information on efficiency options and offer incentives for efficient equipment even if a customer decides to change fuels. In 2009, our data and analysis showed our incentive wasn't a factor in most people's decisions to buy high-efficiency gas furnaces and, after consulting with the Conservation Advisory Council, we discontinued the gas furnace incentive. NW Natural argues that because Energy Trust offers incentives for electric heat pumps and not high-efficiency gas furnaces, we are encouraging people to switch from furnaces to heat pumps. Energy Trust has never managed incentives to reflect cross-fuel considerations and because doing so would raise public policy issues, we suggested that the OPUC is a more appropriate forum for this argument. NW Natural asked the OPUC to open a docket to consider the problem, and the Commission did so in late 2011, in UM 1565. Here are the issues in the docket as the OPUC staff has framed them (these are supported by some but not all the parties, and the OPUC could change them):

   - What are the Energy Trust's policies and practices regarding residential fuel switching related to space conditioning? What outreach and messaging does the Energy Trust engage in related to this type of fuel-switching?
   - Is fuel switching actually occurring?
   - Do the answers to Issues 1 and 2 indicate a need to modify Energy Trust policies or practices or ratepayer-funded messaging?

   The administrative law judge has outlined a schedule for the process that would have Energy Trust and OPUC staff offering joint opening testimony June 4. There would be multiple rounds of testimony offered by the parties between late June and late September. During this time, we anticipate significant demands for information by all the parties, including Energy Trust.

   Staff has talked to utilities to see if there are reasonable changes we could make that might resolve the docket. One change would involve Energy Trust not offering a heat-pump incentive to customers with a gas furnace. This would involve about 200 customers per year. Staff would take this idea to the CAC and vet it as we do with other incentive changes. It would change our position, although it would not necessarily conflict with the fuel-switching policy. Other changes have to do with marketing (i.e., not marketing heat pump incentives to gas customers), and offering other gas incentives to help with gas furnace sales.

4. Reserve Policy. Energy Trust maintains two types of financial reserves. At the May 23 board meeting, we propose to describe how we have used these reserves, and clarify how to manage them. We are also briefing the Finance Committee on this. We will ask the board to act on this recommendation, anticipating that it will want the Policy or Finance Committee to develop a policy on it. *Background*: In 2006, the Board recommended that Energy Trust maintain a cash reserve as a guard against revenue fluctuations. We set the reserve amount at roughly 10% of revenues during each of the four winter months of a two-year revenue cycle. This reserve has been funded with interest income generated by other accounts. We will refer to them as "interest reserves." These reserves are available for any purpose, whether energy efficiency or renewable energy. This reserve is reviewed annually in the budget process. If this reserve were inadequate, Energy Trust has a line of credit that it could draw on. In 2007 the legislature authorized the utilities, with OPUC approval, to collect additional funds for energy efficiency. These funds cannot be used for large energy users or renewable energy projects. Funding is negotiated annually with each utility. As

these negotiations have occurred, the OPUC suggested that revenues from each utility should include a 5% cushion. We call these "program reserves." These reserve accounts vary by utility. *Managing reserves*: Staff proposes no change in the purposes for which these reserves are maintained. Staff could reduce program reserves by 50% without advance approval, and report it to the board after the fact. Staff could not reduce the program reserves by more than 50% without board approval. Staff would seek board approval before drawing on interest reserve. The committee saw no problem with this approach.

5. Routine Policy Reviews. Staff has no substantive changes to suggest in the following policies, which are before you for their routine, three-year review:
   - Above-market cost methodology (Attachment 2). The committee has some issues it would like to pursue. This will be slated for discussion at the next policy committee meeting.
   - Open solicitation: we propose to change the name of the policy to the "Other Renewables Program" policy and update it with the project types that are included in the program (Attachment 3).
   - Biopower-eligible fuels (Attachment 4).
   - Authority to commit incentive funds for future years (Attachment 5).

6. Status Reports.
   a. Retreat agenda. With input from the Board/OPUC/ODOE Strategic Planning Committee, we have developed the following agenda for the June 8-9 board retreat. Day one will begin with a presentation by Margie, followed by three discussion topics, each of which would involve a short (15-20 minute) staff presentation and lengthier board discussion:

      Part 1 is on how we are doing and where we may be going in energy efficiency; this will include a description of how we work with financing entities, and policy ideas such as energy efficiency power purchase agreements.

      Part 2 will describe the renewable energy industry in Oregon, how Energy Trust fits into it, and issues that will help determine where we go in the future.

      Part 3 is on the idea of Energy Trust consulting.

      We also have a placeholder to account for the possibility that the Governor's energy plan may be issued shortly before the retreat. We expect the presentations above will anticipate the major ideas in the Governor's plan. The full agenda is Attachment 6.

   b. Data transfer rules. In 2008, Energy Trust began exploring with the utilities and other parties the idea of revising the OPUC rules that determine what data the utilities must provide to Energy Trust to allow us to run programs. Between then and 2010, we worked with the parties, and the OPUC organized several working meetings involving interested parties, to develop consensus on data-transfer rules. Personnel changes and other factors slowed the process, and the OPUC has only recently begun a formal process to consider the consensus rules. In the meantime, some parties may have backed away from the consensus. We are working with the OPUC and the utilities to see if the consensus holds, and plan to testify in favor of the consensus rules on May 21. Our comments will strongly support the proposed rules, and suggest several ways to clarify them (Attachment 7).

c. Risk assessment. In 2009, the Policy Committee began exploring how Energy Trust anticipates and manages for risk in its energy programs. Over the intervening three years, the committee and staff carried out a three-part assessment:

Strategic/policy risk, such as eroding political or constituent support, major shifts in law or industry structure, or major internal failures: In early 2010, we convened a small group of board members and senior staff to plot risks of this kind in terms of severity and likelihood. We concluded that, while it was a good way for board and staff to communicate, we didn't see risks that we wouldn't have seen in our normal strategic planning processes.

Market-related risk associated with programs in particular sectors. Energy Trust industrial, commercial and residential programs encounter uncertainties specific to their particular markets. During the summer of 2010, we used our sector planning process to probe the risks posed by these uncertainties. The sector plans revealed several, primarily risks relating to changing tax credits, codes and standards; the down economy, which particularly hits high-capital efficiency measures; and the growing complexity of our programs. Identifying these risks allowed sector managers to develop responses in sector plans, which in turn shape programs and budgets.

An empirical risk assessment: We surveyed our organizational structures to see how, on paper, we are organized to deal with risk. We then subjected these paper structures to a test, asking whether and where we had encountered problems that we had thought these structures would avoid. We did not turn up many issues in this part of the exercise, but we did learn some important lessons: we need to be quicker to identify patterns of inferior work by contractors, and want earlier indicators of when measures are not working as expected.

Staff has come to three conclusions: (1) We do not need a new process to assess strategic/policy risk, we can rely on strategic planning for this. (2) It is useful to build risk assessment into sector-specific plans to ensure that risk is factored into programs and budgeting. (3) It is worth periodically assessing where problems have actually arisen notwithstanding risk management controls. We think we learned enough from these exercises to take them into further rounds of strategic planning, sector planning and empirical testing.

Attachment 1

Fuel-Switching Policy

Summary:
The Energy Trust Board needs to provide guidance to the staff on a number of issues that will be important in designing Trust programs. This decision memo addresses fuel-switching. In their discussions, the Conservation Advisory Council and the Energy Policy Committee concluded that these guidelines are consistent with the PUC guidelines and advance Trust objectives.

Purpose:
Give Trust staff guidance on technical and policy issues as it develops new Energy Trust programs.

Policy:
- This policy applies only to energy efficiency measures, not to solar-thermal, geothermal or other renewable energy systems.
- Energy Trust should not advocate fuel-switching, but may provide fuel-neutral technical information on efficiency options. That is, Energy Trust may undertake technical studies to identify efficiency opportunities and make recommendations for making an application more efficient for an energy source specified by the energy user. If the energy user expresses interest in converting to another energy source, Energy Trust may perform analysis showing the economics of alternative systems, including the savings and incentives for installing high-efficiency options for the energy source. This type of assistance should help customers consider the merits of their options.
- However, the Energy Trust should not provide financial incentives for converting or replacing electric or gas equipment to another fuel.
- Energy Trust should work with gas and electricity suppliers who wish to provide efficiency information and/or incentives for conversion, where the customer deems that appropriate.
- Energy Trust should revisit the Policy periodically to assess whether the Energy Trust is missing compelling opportunities.

Attachment 2

Energy Trust of Oregon Policy: Procedures for Evaluating the Above-Market Cost of a Renewable Resource Project

Utility-scale Renewable Resources

The utility-scale renewable resources are identified in competitive requests for proposals and other processes. The Energy Trust will work with the utilities in the design of the RFPs and the RFPs will describe the Energy Trust's above-market payment program.

1. **Review project proposals:** Proposals must provide the technical, resource, financial and project information and operating characteristics typical for responses to a utility-scale RFP. The Energy Trust will independently review this information. As applicable, the Energy Trust will work with the utility to seek agreement on the analytical methodologies and the assumptions about the costs, discount rates, and other key factors that affect the analyses. Staff will ensure that assumptions and methodologies align with approaches approved for utility integrated planning and OPUC rulings and will document this as part of any approval process. The Energy Trust will also work with the utility in their RFP processes as mutually agreed to review projects for above-market funding.
2. **Independent review:** The Energy Trust will independently evaluate the projects. This review will evaluate whether the proposed costs are consistent with the usual and customary costs for similar projects, the economic and technical feasibility of the projects, and credit and other financial factors. Detailed analyses will be prepared of the net present value of the power that would be generated over the life of the project. As appropriate, the evaluation will include integration, delivery, ancillary, shaping and transmission costs, and any other relevant costs or credits. The staff will compare these costs to the utilities' market cost of electricity and calculate the net-present value of the above-market payment. For bids that do not include integration or transmission, the Energy Trust will evaluate the lowest-cost alternatives available for providing these services.
3. **Definition of market cost:** Based on the Oregon Administrative Rules (OAR) definition of above-market cost, the Energy Trust will compare the renewable resource costs to the market value that is used by the utility to acquire non-renewable resources, provided the market value was developed using methods consistent with the utility's latest Integrated Resource Plan and the Commission-approved acquisition process. The market value will typically be an updated forward price curve or marginal non-renewable resource selected through a competitive bidding process. The market cost will be adjusted to match the expected daily and seasonal delivery schedule of the renewable resource if necessary.
4. **Calculate the above-market cost:** The defined market costs will be compared to the delivered price for the renewable resource for each year of operation. The difference between the two will define the above- or below-market cost for that year. The net-present value for these costs over the life of the project (or the contract term in the case of a Power Purchase Agreement) will be calculated using the appropriate utility's discount rate. If the net present value is positive, then this amount would define the maximum above-market cost that the Energy Trust could pay. If the net present value is zero or less, then there would be no above-market cost payments.
5. **Payment:** The Energy Trust can pay up to 100% of the above-market cost. The actual amount of the payment is determined on a case-by-case basis after considering the amount of funding available, the funding needed to develop the project, the benefits of the project, and the potential of the project to reduce renewable resource costs, provide replicable benefits, address a resource with significant potential, or meet other considerations related to achieving the objectives of the Energy Trust Strategic Plan. If the above-market payments are made to a developer, the Energy Trust will provide information to the utility so that the forecasted utility payments to the developer do not exceed the net present value of the market cost of the power over the expected life of the project. The Energy Trust will also provide this information to the Commission. Payments may be made up-front or on a periodic basis over time based on production or other factors. Payments made over time may reflect the discounted time-value of those funds.

Mid to Small-Scale Renewable Resources

The Energy Trust will evaluate medium and small-scale renewable resource projects that are submitted under the Energy Trust programs.

1. **Review Project Proposals:** The Energy Trust will review the costs submitted by project sponsors. Whether through standard processes or RFPs, proposals must provide sufficient information to evaluate the project, including at least technical specifications, resource characteristics, energy delivery, integration, transmission, development timelines, operating plans, financial detail, tax benefits, risks, and personnel. The Energy Trust will evaluate the responses and compare these to the usual and customary costs and specifications for similar resources. For complex projects, independent consultants may be used to help with this review and due diligence. Information requirements will vary by program.
2. **Definition of Market Cost:** Based on the OAR definition of above-market cost, the Energy Trust will compare the renewable resource costs to the market value that is used by the utility to acquire non-renewable resources, provided the market value was developed using methods consistent with the utility's latest Integrated Resource Plan and the Commission-approved acquisition process. The market value will typically be an updated forward price curve, QF tariff, Commission-approved avoided cost filings, or marginal non-renewable resource selected through a competitive bidding process. The market price will be adjusted to match the expected daily and seasonal delivery schedule of the renewable resource if necessary.
3. **Calculate the above-market cost:** The defined market costs will be compared to the delivered price for the renewable resource for each year of operation. The difference between the two will define the above or below market cost for that year. The net-present value for these costs over the life of the project (or the contract term in the case of a Power Purchase Agreement) will be calculated using industry-standards to determine the maximum above-market payment, if any, from the Energy Trust. The Energy Trust staff will document these assumptions as part of the review and the Energy Trust's approval processes, which will include a review of what was used in the developers bid compared to what is standard in the industry for rates of return and competitive cost of capital. If the net present value is positive, then this amount would define the maximum above-market cost that the Energy Trust could pay. If the net present value is zero or less, then there would be no above-market cost payments.
4. **Payment:** The Energy Trust can pay up to 100% of the above-market cost. The actual amount of the payment is determined on a case-by-case basis after considering the amount of funding available, the funding needed to develop the project, the benefits of the project, and the potential of the project to reduce renewable resource costs, provide replicable benefits, address a resource with significant potential, or meet other considerations related to achieving the objectives of the Energy Trust Strategic Plan. Payments to applicants for projects generating for own-use may be capped at the calculated net present value when comparing the cost of the project to the proposer's retail rate, if this results in a lower above-market funding from the Energy Trust than provided in step 3 above. Payments may be made up-front or on a periodic basis over time based on production or other factors. Payments made over time may reflect the discounted time-value of those funds.

Standard-Offer Resources

The Energy Trust will have some programs that require a standard offer for all projects of a similar type. Standard offers can be necessary for market development to signal consistency for long range planning and investment, or because projects tend to have uniform costs. In such instances re-calculating the incentive for each project would be a barrier to the market development and unnecessary.

For programs that have been authorized by the board to offer a standard incentive, staff will follow the procedures outlined for mid to small-scale projects. The calculation will be based on the latest available data on average costs for projects in Oregon. This calculation will be updated at least once per year with incentives adjusted, if necessary.

Other Considerations

1. **Implementation of the Above-Market Methodology:** The procedures and analyses will determine the above-market cost based on the best information available at the time of the decision; the payment will be fixed based on this information and will not be adjusted for future changes. The Energy Trust will work with the utility and others to include the most current information in the calculation of the above-market costs.
2. **Energy Trust Payments:** The payment can be made to the developer, investors, lenders, utility or other parties. The Energy Trust may make a one-time payment, establish escrow accounts, or structure other arrangements.
3. **Modifications to the Procedures:** If the Energy Trust staff determines that these procedures hinder project acquisitions or that it could be in the ratepayers' interest to modify the procedure for evaluating above-market costs, the staff may request that the board make an exception to the procedures. Prior to doing this, Energy Trust staff will consult with the utilities, the Commission staff and, within the constraints of confidentiality and timing, also with the Renewable Advisory Council. The rationale for any case-specific modifications would be documented as part of the evaluation process for board approval.

Attachment 3

ESTABLISHING TWO TRACKS FOR OTHER RENEWABLES PROGRAM PROJECT APPROVAL

WHEREAS:

1) **The Other Renewables Program was established by the board in 2002 to deal with unusual technologies or applications; because of their novelty, these projects undergo more extensive review than established technologies and applications;**
2) **In recent years, the Other Renewables Program has focused on more established technologies such as hydropower generation. Because these projects are relatively well understood, it is appropriate to re-configure the program to reflect different levels of review for different project types.**

Therefore, BE IT RESOLVED: That the Energy Trust of Oregon, Inc., Board of Directors:

1) **Authorizes two tracks for approval of projects within the Other Renewables Program and not covered by other Energy Trust renewable energy programs:**
   a. **Mature technologies, i.e., traditional hydropower projects (approved by board resolution 513 on May 6, 2009), wind projects (approved by board resolution 524 on Sept. 2, 2009), and such other technologies as the board may designate in the future: The executive director may approve projects involving incentives less than $500,000; board approval is required for projects involving $500,000 or more.**
   b. **Other projects:**
      i. **Projects involving incentives of $50,000 or less may be approved by the executive director. A summary of any such project will be provided subsequently to the board and Renewable Advisory Council.**
      ii. **Projects entailing incentives of $50,000 to $125,000 require review by the Renewable Advisory Council and will be placed on a consent agenda for board action unless a member of the board asks to have the project placed on the regular agenda.**
      iii. **Projects involving incentives of more than $125,000 will be reviewed by the Renewable Advisory Council and placed on the regular agenda for board approval.**

Attachment 4

ENERGY TRUST POLICY ON ELIGIBLE FUELS, EMISSIONS AND TOXICITY REQUIREMENTS FOR THE BIOPOWER PROGRAM

WHEREAS:

1. **Oregon law allows Energy Trust funds to be used to offset the above-market cost of renewable energy resources including "low-emission nontoxic biomass based on solid organic fuels from wood, forest and field residues."**

2. **In 2006, Energy Trust consulted with its Renewable Advisory Council (RAC) on whether this definition should include liquid fuels, and what emissions and toxicity standards apply.**

3. **Gases and liquids have been treated as biomass in government energy programs. State and federal regulators have developed comprehensive regulations for emissions and toxicity that would apply to biomass projects. Toxicity standards have been adopted by organizations such as Green-E.**

It is therefore RESOLVED that the Energy Trust board of directors adopts the following policies:

1. **The Energy Trust will treat projects using non-solid biomass that is derived from solid organic fuels from wood, forest and field residue as eligible to apply for Energy Trust funding.**
2. **The Energy Trust will use the following standards for biomass project emissions and toxicity:**
   - **biomass projects that receive all applicable state and federal air quality permits are eligible to apply for Energy Trust funding unless they raise emission concerns not addressed in the regulatory process, in which case Energy Trust may investigate such concerns; and**
   - **biomass projects will be deemed non-toxic if the proposed fuel meets toxicity standards of applicable state and federal regulatory programs and use no more than a de minimus level of treated or painted wood.**

Attachment 5

Authorizing Commitment of Incentive Funds for Payment of Energy Efficiency Projects in Future Years

WHEREAS:

1. **Energy Trust continues to identify improved ways of managing program budgets and maintain accountability.**

2. **Beginning in 2005, the board approved changes to the annual budget process, program monitoring and reporting of savings and budget expenditures and provided staff the flexibility to shift funds within programs.**

3. **Staff has proposed an additional improvement to best serve customers with complex multi-year projects and incentive payment requirements in future years.**

It is therefore RESOLVED:

1. **For the Production Efficiency, Building Efficiency, New Building Efficiency, Home Energy Savings-Multifamily Initiative and Efficient New Homes programs, staff is granted authority to commit and reserve:**
   - **up to 75% of the financial incentive funds projected to be available in the following year; and**
   - **using these projected incentive funds as a base line, up to 25% toward projects expected to be funded in the third year.**
2. **This authority is subject to the following requirements: (a) such commitments shall be consistent with milestones or conditions in any reservation, tracking or other systems or requirements applicable to these programs; (b) funding commitments and reservation of future financial incentives shall be made for no more than two years; (c) financial incentive commitments will be tracked and reflected in forecasting reports; and (d) all future financial incentive commitments will be displayed by program and incorporated into the annual budget process.**

Attachment 6

JUNE 8-9 STRATEGIC PLANNING RETREAT

1. **Introduction: A Changing Energy Landscape**
   a. Purposes of meeting: (1) Review the past year; (2) Start thinking about the upcoming 2013-2014 action plan; and (3) Give us all, especially the board, a chance to interact

   b. This retreat builds from last year's discussions of where we are on our strategic plan trajectory: what has changed since then, the BETC uncertainty, what lessons we can learn from our 2011 success, and other questions

   c. Our current position:
      - 2011 success and how we look in relation to strategic plan
      - Renewable projects
      - New pressure points: stringency in OPUC performance measures; effects of BETC changes on efficiency pipeline (anecdotal); QF policy
      - Innovation -- in financing and other areas

   d. Continuing innovation will be key, the landscape is changing politically and culturally and the next generation of energy conservation will be broader, more diverse, and encompass values and benefits beyond energy.

   e. We see some of this in the Governor's 10-year plan, and today's presentations will highlight several of the plan's major themes . . .

2. **Changing perspectives on efficiency in resource planning**
   a. Where we were compared to strategic plan goals last year and where we are now

   b. Background:
      - How efficiency resource curves have changed historically
      - How *known* resources may plateau and then decline
      - What *unknown* resources we would need to fill the gap

   c. Since last year:
      - The large-energy user funding constraint is closer
      - Additional market-transformation savings materialized in 2011
      - Pilots
      - New technologies
      - Working with utilities on how to think of next-generation resources

      [Introduce the issue parking lot: policy issues under discussion with the OPUC regarding cost-effectiveness, fuel switching and other matters that could impact our programs but which are not yet ripe enough for board discussion]

   d. Next-generation resources:
      - Behavioral measures
      - Emerging technology
      - Deep-retrofits, net-zero (overlaps with solar and other renewables)
      - Financing strategies
        - New and ongoing Energy Trust approaches: lender allies, Savings-Within-Reach financing product, CEWO
        - Energy-efficiency power purchase agreements

        - Potential Energy Trust role: risk pool, etc., for approaches that: (1) aim at people who can't get other financing; (2) offer better terms.

e. How we expect energy savings to compare to the strategic plan and through 2017

f. Questions for discussion:
    - Energy Trust role in financing: Should we be more active? Are the "Financing strategies" criteria (above) about right?
    - Most of our effort in innovation (say 75%) is in innovative service delivery, and the other 25% in technology. Are those proportions about right?
    - Are there areas in which Energy Trust should be more or less assertive?

3. <u>Renewable energy</u>

a. There is much continuity between this year's renewable energy discussion and last year's. At the same time, we will spend more time on context this time – on renewable energy in Oregon generally, and how Energy Trust fits in.

b. Generally
    - How the industry and policy are structured and how it is working:
        - Supply: resource mix, developers, manufacturers, installers, qualified and net-metered facilities
        - Demand: what has driven growth? RPS, tax credits, early-stage market support, etc.
    - Issues: integration, foreign manufacturing, renewable portfolio standards in neighboring states – especially California
    - What's coming? Wave, energy storage, integration, grid optimization, innovation?

c. Energy Trust role:
    - Our scope: above-market cost, <20 MW, standard and custom approaches; where we have succeeded and where we have challenges
    - Issues:
        - Solar: with cost curve bending down, how long to provide incentives?
        - Impacts if projects had to choose between Energy Trust incentives and standard QF rates and terms
        - Impacts of lower tax credits; implications for OPUC performance measures
        - Different resources in Pac and PGE territories

d. What's missing in the < 20 MW market?
    - Governor's energy plan goal to quantify value of having generation near load: avoided transmission and distribution line losses; RPS carve-outs
    - Utility obligations – RPS, solar capacity requirements
    - Community energy requirements
    - Utility green power programs

e. Questions for discussion:
    - Do you see opportunities for ETO to participate in broader renewable energy issues in the state, staying within our mandate and budget? (<20MW, above-market cost, ~ $14M/yr)
    - From "what's missing" where do you see Energy Trust leading? Following? Low-priority participation?
    - What should be our highest priority considering our budget and mandate?
        - Continue to focus on success areas only?
        - Broaden/shift resources to challenges – what's missing category?

4. **<u>Energy Trust consulting</u>**
    - PSU report on market opportunity
    - Margie recommendation
    - Board discussion

5. **<u>Other items in Governor's plan</u>** (we expect earlier discussions to address the major elements of the Governor's plan, but will reserve time in case other issues arise)

DRAFT AGENDA

Friday, June 8, Edgefield Manor

8:00 am	Welcome, review agenda, intros
8:15-8:45	Changing energy landscape (Margie)
8:45-10:00	Changing perspectives on efficiency
10:00	*Break*
10:15-12:00	Changing perspectives on efficiency
12:00-12:45	*Lunch*
1:00-2:30	Renewable energy program
2:30	*Break*
2:45-4:00	Energy Trust consulting
4:15-4:30	Letters to 2022

Saturday, June 9

8:30	Recap of day one
8:45	Board discussion: Energy Trust role in Governor's plan (if needed), other issues

Attachment 7

Draft Comments on Data-Transfer Rules

Oregon Public Utility Commission
Filing Center
PO Box 2148
Salem, Oregon 97308-2418

Re: OPUC Docket AR 564, *In the Matter of Data Transfer of Customer Information for Public Purposes*

Dear Sir or Madam:

Thank you for the opportunity to comment on proposed data transfer rules, docket AR 564. In these comments, we first discuss the reasons that lead us to support the rules, and then suggest minor clarifications.

A. Energy Trust supports the proposed rules
As you know, Energy Trust has operated under the existing information transfer rule almost since its inception. In that time, we have identified a number of areas in which we could provide better service to energy users at lower cost if data transfer procedures were streamlined. In this section of our comments, we review these areas and how the proposed rules would address them:

The proposed rules would make four major changes:

- For consumers using less than one average megawatt of energy, the proposed electric rule would oblige utilities to share certain information with Energy Trust without an opt-out process like that required by the current electric rule.
- For electric consumers using more than one average megawatt per year, utilities would provide certain basic information to Energy Trust – an improvement on the current rule – and more if a consumer opts in to broader data transfer.
- Energy Trust would be obliged to share its information more freely with utilities than is permitted by current Energy Trust policy.
- Energy Trust could reach out directly to utility customers without the constraints imposed by the current rule, yet in coordination with utilities.

We believe these changes will serve ratepayers in many ways:

1. Freer exchange of information between Energy Trust and its funding utilities will serve customers more efficiently.
The current rule limits Energy Trust's ability to respond to customer requests in several ways. For example, Energy Trust does not receive customer names from PGE and NW Natural and so, when one of those utilities' customers asks Energy Trust for help, it may take weeks for a customer to submit a utility bill demonstrating that they are a customer for an eligible utility. This time is simply lost because in the meantime, Energy Trust has no information with which to assess a customer's efficiency options. Similarly, if a PacifiCorp customer opts out of information transfer and then seeks Energy Trust help, Energy Trust cannot respond until the opt-out is documented and cleared with the utility. Under the proposed rules, Energy Trust would have all utility customer names in its data base, there would be no opt-out process, and when a customer requests service, Energy Trust can respond promptly.

The proposed rules would also facilitate transfer of information from Energy Trust to utilities in implementing public-purpose programs. Current Energy Trust policy protects all information collected from Energy Trust program participants, with limited exceptions: For non-residential programs, Energy Trust may report to the legislature, the Oregon Public Utility Commission

(OPUC), other state agencies or the Bonneville Power Administration if necessary to meet Energy Trust responsibilities, the following information:

- Energy Trust program participant names
- City or county of participants' business
- Energy Trust services or incentive payments provided to the participant
- Energy saved or generated as a result of Energy Trust services or incentives.

Because this information comes from Energy Trust program participants and not utilities, it is not subject to the current OPUC rule. Under this policy, Energy Trust provides utilities with information about program participants only if utility personnel sign non-disclosure agreements. This requirement constrains collaboration between Energy Trust and the utilities. Under the proposed rules, utility access to this information for purposes of helping to provide Energy Trust services would be streamlined.

Streamlining these processes will save ratepayers money. The cost of a single opt-out process for a single utility is in the tens of thousands of dollars, which the proposed rules would save. We cannot readily quantify the attrition caused by the delay while customers look for utility bills to submit to verify eligibility, or go through the steps need to opt back into the information transfer process. However, we have no doubt that making it easier for customers to engage Energy Trust programs will increase program uptake and lead to significant cost savings.

2. <u>The proposed electric rule will allow better documentation of compliance with legal restrictions on supplemental energy efficiency funds for large electric customers</u>.
Energy Trust programs use SB 1149 public purpose funds to benefit all utility customer classes, residential, commercial and industrial. However, supplemental energy efficiency funds authorized under section 46 of the 2007 Oregon Renewable Energy Act (SB 838) may not be used to benefit customers that use more than one average megawatt.* Because not all large users have opted into information transfer under the current rule, Energy Trust does not have a full list of large users. Energy Trust estimates that these "missing" customers represent roughly 20-30% of electric utility consumption, based on total consumption reported to Energy Trust compared to total retail sales reported to the OPUC.

To help document compliance with SB 838 despite our lack of knowledge about "missing" customers, Energy Trust determines the proportion of SB 1149 incentives paid to over-1-aMW sites in the prior year and compares it to the proportion paid pre-SB 838. If the post-SB 838 proportion of over-1-aMW customer becomes higher, Energy Trust will reduce marketing to sites. Tracking this is complicated and imprecise because loads change, some customers are over 1 aMW one years and not another, we may not know if a new building is over 1 aMW until it is constructed, etc. All these factors limit our ability to ensure compliance with SB 838.

* "(1) In addition to the public purpose charge established by ORS 757.612, the Public Utility Commission may authorize an electric company to include in its rates the costs of funding or implementing cost-effective energy conservation measures implemented on or after the effective date of this 2007 Act. The costs may include amounts for weatherization programs that conserve energy.
(2) The commission shall ensure that a retail electricity consumer with a load greater than one average megawatt:
(a) Is not required to pay an amount that is more than three percent of the consumer's total cost of electricity service for the public purpose charge under ORS 757.612 and any amounts included in rates under this section; and
(b) Does not receive any direct benefit from energy conservation measures if the costs of the measures are included in rates under this section."

Under the proposed rule, Energy Trust would know which customers use more than an average megawatt. With this information, Energy Trust will be able to use SB 838 funds to continue to serve customers who use less than a megawatt, and better assure SB 838 compliance.

3. The proposed rules will allow Energy Trust to offer service to more ratepayers
The current rule, OAR 860-038-0540(2)(f), prohibits Energy Trust from using information derived from utility furnished customer usage date to direct mailing or telemarketing to reach potential program participants. Energy Trust reaches potential residential program participants through advertising, publicity, utility mailings, or direct outreach not using utility data. While Energy Trust does not seek authority to telemarket, the prohibition on direct mail means that it cannot communicate directly to potential program participants about how they can save energy or generate renewable energy with help from Energy Trust programs. Energy Trust believes this is a real barrier to deeper energy savings. By eliminating the restriction on direct mail, the proposed rules would help ensure that those who pay the public purpose charge know how to benefit from it through Energy Trust programs.

4. The proposed rules would address a variety of problems caused by incomplete information
Self-direction: Under Energy Trust policy, only large energy users who agree not to use self-direction credits against their public purpose charge for 36 months receive full Energy Trust incentives (see http://www.energytrust.org/library/policies/4.10.000.pdf). However, because the current rule does not require utilities to transfer self-direction information, and because Energy Trust has only limited information about which sites may be using such credits, it is hard for Energy Trust to ensure that full incentives are not provided to sites where self-direction credits are being used. The proposed electric rule would remedy this problem by requiring utilities to provide self-direct information where available.

Savings estimates and evaluation: Under the current rule, Energy Trust does not receive utility data for all customers. In that case, the customer must sign a release form authorizing Energy Trust to receive utility information. This slows down the process for analyzing the data by roughly a week, sometimes longer if the data provided by utilities is incomplete. Energy Trust must verify that this billing data is complete through benchmarking, billing analysis and the Energy Use Index. The proposed rules would remedy this problem by providing more readily available, precise information.

Low-income eligibility: With information about whether a utility customer qualifies for low-income assistance (if the utility has this information) Energy Trust could ensure that callers are informed not only about Energy Trust programs, but also eligibility for low-income programs.

5. The proposed rules will not compromise the privacy of utility customers or Energy Trust program participants
Currently, all utility consumer usage information is stored in Energy Trust databases: one data base contains only utility consumer usage data; a second database called FastTrack contains utility usage data plus data that Energy Trust obtains directly from program participants; and a third, called Goldmine collects information directly from program contacts. All of these databases are protected by firewalls.

To gain direct access to these databases, Energy Trust employees and program management and delivery contractors must first sign a non-disclosure agreement (see Appendix A). Energy Trust does not allow trade allies to gain access to participant data without consent of the participant.

Energy Trust program management and delivery contractors and contractor-employees who need only indirect, partial access to confidential information (that is, reports containing confidential information) are subject to separate confidentiality commitments. These confidentiality commitments begin in the form of company-contractor agreements, shown in Appendix B, which

require Energy Trust program management and delivery contractors, their employees and sub-contractors, to maintain the confidentiality of information contained in such reports. Program management and delivery contractors who wish to disclose confidential information to others within their organization must notify recipients of the confidential nature of the information, require agreements of non-disclosure, and maintain documentation of such agreements. This documentation would be available to Energy Trust and its auditors on request. This approach reflects a change from the current rule, OAR 860-038-0540(2)(e), which requires Energy Trust itself to secure and maintain records of contractor-employees' individual non-disclosure agreements.

Energy Trust program participants may gain access to information about their own energy use via internet, subject to certain conditions and procedures.

The Energy Trust Information Technology Department manages the databases and ensures that employees and contractors sign non-disclosure agreements as a condition of direct access. The Energy Trust Legal Department ensures that Energy Trust program management and delivery contractors who require indirect access agree to protect the information's confidentiality.

These processes provide ample protection for utility customers' and Energy Trust program participants' privacy.

B. Suggested clarifications

1. Customers using over one average megawatt and industrial gas customers who have previously opted in or consented to data transfer

   Proposed OAR 860-086-0030(9) would require an electric company to "notify in writing customers whose usage is 1 aMW or greater (over-1 aMW customer) of the opportunity to opt in to the information transfer." Similarly, the gas rule, proposed OAR 860-086-0040(1)(b) provides that a gas utility must transfer only name, address, rate schedules and account numbers of industrial customers.

   A number of over-1 aMW customers and industrial gas customers have already opted in and/or consented to data transfer in connection with their participation in Energy Trust programs. We suggest that the OPUC order adopting the rules clarify that: (a) prior opt-ins and consents to data transfer remain in effect under the new rules; (b) electric utilities are not required to provide OAR 860-086-0030(9) notice to customers who have already opted in or consented to data transfer; and (3) gas utilities should continue to provide the Administrator full information for industrial customers who have already consented, notwithstanding OAR 860-086-0040(1)(b).

2. Do-not-contact lists and trade allies.

   Energy Trust does not provide its trade allies with access to utility customer data, many of which have their own sales and outreach methods. While it may be implicit in OAR 860-086-0030(15)(c) and 860-086-0040(10)(c), we suggest that the OPUC order clarify that these do-not-contact provisions do not apply to or restrict trade allies.

3. Deadline for negotiating data-transfer agreements

   Proposed OAR 860-086-0030(6) and 860-086-0040(4) require the utilities and Energy Trust to negotiate data-transfer agreements governing "the manner by which the required information is transferred." In order to ensure a timely and orderly transition to the new rules, Energy Trust suggests the OPUC consider a deadline for the completion of such agreements:

   OAR 860-086-0030 (6). The manner by which the required information is transferred will be governed by an Information Transfer Agreement, to be executed within ____ days of the adoption of this rule, and maintained by an electric company and the Administrator. An Information Transfer Agreement must acknowledge the Administrator's obligations to protect proprietary

customer information per this rule and the Administrator's policy or policies adopted under section 15 of this rule and must specify

OAR 860-086-0040 (4) The manner by which such information is transferred and used will be governed by an Information Transfer Agreement, to be executed within ____ days of the adoption of this rule, and maintained by a gas utility and the Administrator.

4. Interaction between the proposed gas rule and docket UM 1565, Investigation into Fuel Switching and Cross Fuel Efficiency Issues
   Since the parties agreed to the data transfer rules in 2010, an OPUC docket has been opened to address fuel-switching issues, UM 1565. The gas rule, OAR 860-086-0040(4)(A), provides that Information Transfer Agreements must acknowledge that the public purpose fund Administrator may use utility data for direct marketing provided the marketing activities do not promote fuel-switching. There is no fuel-switching restriction in the electric rule. Whether or not the Commission chooses to align the electric and gas rules so they mirror each other in this or other respects, we suggest the Commission clarify that the gas data transfer rule is premised on current fuel-switching policy (http://energytrust.org/library/policies/4.03.000-P.pdf), unless the Commission alters it in docket UM 1565 or otherwise.

5. Gas industrial customers
   The gas rule requires utilities to provide detailed information for residential and commercial customers (OAR 860-086-0040(1)(a)). In contrast, only limited information would be provided for industrial customers:

   (I) A gas utility that offers energy conservation programs through the Administrator must transfer to the Administrator proprietary customer information for gas utility company customers as follows:
   * * *
   (b) Name, address, rate schedules and account numbers of its industrial customers.

OAR 860-086-0040(1)(b).

Since the gas rule was negotiated in 2010, Energy Trust and NW Natural have established a highly successful industrial gas demand-side management program. The program was pilot-tested in 2009 and adopted on an ongoing basis in 2011. Under the agreement that governs this program, Energy Trust and NW Natural have agreed to share consumer information.[1] While the program is called the Industrial Demand-Side Management Program, the customers who participate in the program buy gas under industrial and commercial rate schedules (32 CSF, 32 CSI, 3 I, 31 ISF, 31 ISI, 32 ISF, 32 ISI).

Because the proposed gas rule uses the term "industrial customers" to describe the customers for which only limited information will be provided, it would fundamentally complicate the industrial DSM program: the prospect is for the program to get full information for some but not all participants, and such limited information for "industrial" customers that it will be difficult to serve them efficiently.

To avoid these complications and leave industrial DSM intact, we suggest the Commission clarify that OAR 860-086-0040(1)(b) is not meant to affect gas customers eligible to participate in the NW Natural industrial demand-side management program and, in addition, leave the same option open for Cascade Natural Gas. This could be done either by so noting in the Commission's order adopting the gas rule, and/or by adding the following language to OAR 860-086-0040(1)(b):

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1 NW Natural provides monthly updates of the following information for all firm sales customers served on NW Natural's Schedules 3, 31, and 32, interruptible sales customers served on NW Natural's Schedules 31 and 32, commercial customers receiving firm sales or interruptible sales that are served on Schedule 32, and combination service customers where neither service type is transportation:

- Revenue Year/Month
- Customer Account Number
- Premise Number
- Rate Schedule
- Billing Cycle
- Premise Connect Date
- Building Type
- Premise Zip Code
- SIC Code
- Therm Monthly Usage
- Current Meter Read Date
- Current Meter Read Type
- Premise Address (Non-Industrial only)
- Premise City (Non-Industrial only)
- Premise State (Non-Industrial only)
- Meter Number

Energy Trust provides the above information for any industrial customers who have received Energy Trust services, together with:

- Customer name
- Alternative names
- Street address
- Total therms saved
- Total incentive received by customer
- Date of last incentive payment
- Estimated amount of subsequent incentives committed to customer
- Estimated date customer will receive subsequent incentives
- Contractor name
- Description of work completed

"Name, address, rate schedules and account numbers of its industrial customers, and such additional information as Energy Trust and the utility have otherwise agreed."

6. Direct marketing
   Energy Trust is not raising issues about the rules' direct marketing provisions, but we do wish to respond to a Cascade Natural Gas Company comment. Cascade suggests it should have approval rights over any Energy Trust direct marketing to customers in Cascade territory. This question was addressed during the 2010 negotiation that produced the proposed gas rule. Energy Trust fully intends to coordinate direct marketing with all the utilities, and the utilities control bill inserts. However, Energy Trust marketing deals with a range of programs in different territories and it would be impractical to require advance approval by each utility.

Conclusion

Energy Trust strongly supports the proposed rules. The rules will help ensure that public-purpose funds are efficiently administered, the ratepayers who pay public-purpose charges benefit from them, and that Oregon gets the full benefit of the public-purpose programs administered by Energy Trust.

Very truly yours,

Margie Harris
Executive Director