

ENERGY TRUST BIOPOWER PROJECTS

This document describes a general framework for the development and implementation of biopower projects that qualify for evaluation for possible Energy Trust funding assistance. Although this document highlights areas that will be addressed in any contract with Energy Trust, this document is not an offer or agreement and is not meant to establish legal rights or obligations of any kind. Rather, it describes the subjects typically addressed in contract for these projects.

ENERGY TRUST'S ROLE IN DEVELOPMENT OF A BIOPOWER PROJECT

Typically, a project proponent will develop a project proposal in response to an Energy Trust request for proposals or other solicitation. Unless specifically agreed otherwise in writing, the project proponent bears all costs related to its proposal. After proposals are received and before contract negotiations, projects may be reviewed by the Energy Trust Renewable Energy Advisory Council (RAC) and Board of Directors. Once given preliminary approval, Energy Trust will negotiate the specific terms of an agreement governing how it will help fund a project.

Energy Trust provides an increment of financing for renewable energy projects that, in Energy Trust's judgment, is sufficient to reduce the cost of energy from a renewable project to the cost of comparable non-renewable energy available on the market. (For further information, request a copy of Energy Trust's "Procedures for Evaluating the Above-Market Costs of a Renewable Resource.") Large energy users (who use more than one megawatt at a site) who wish to direct their own energy efficiency or renewable energy projects at a site under ORS 757.612(5) are subject to certain other restrictions. (For further information, request a copy of Energy Trust's Self-Direction Policy).

To develop, install, operate and maintain a biopower project, a project owner and/or developer will have several contractual relationships (e.g., a financing contract, a power purchase agreement with a utility or other purchaser, etc.), of which an Energy Trust agreement is only one. An Energy Trust contract will typically interact with these other contracts. In particular, Energy Trust anticipates that its payment obligations to the biopower project would often be tied to the delivery of electric power from the project to a purchaser. Accordingly, an agreement would in those cases likely be tied to a power purchase agreement with a third party. Some contract terms may simply reference terms in a power purchase (or other) agreement.

In addition to addressing Energy Trust funding, an Energy Trust contract will establish other rights and obligations between it and the biopower project developer, including the following:

PROJECT DEVELOPER RESPONSIBLE FOR PROJECT DEVELOPMENT

Identifies, selects and oversees project designers and builders.

Secures designs, drawings, permits and regulatory clearance.

Arranges all non-Energy Trust financing.

Secures fuel.

Obtains preliminary and final certificates from the Oregon Department of Energy that the system qualifies for a business energy tax credit, and seeks any other state and federal tax credits that may be available.

PROJECT DEVELOPER RESPONSIBLE FOR INSTALLATION

Responsible for overseeing general and sub-contractors, installing systems, commissioning, etc.

Ensures that the system meets Energy Trust technical requirements.

Ensures that project and systems are installed in accordance with all federal, state, and/or local specifications and requirements.

Allows Energy Trust to inspect the project/systems during and after installation.

Ensures that the project achieves commercial operation by a specified date.

Provides Energy Trust with copies of all final documentation relating to the project/system (e.g., a list of total project costs, a copy of the signed agreement with participating utility and site owner, net metering agreement, system specifications, schematics and operating manuals, warranties for equipment and workmanship, all state and local notices verifying that the system passed all relevant inspections, etc.).

ENERGY TRUST PAYMENT

Energy Trust generally calculates its funding contribution for renewable energy projects assuming that the project will operate for a defined number of years from the initial commercial operation date. Energy Trust ensures sufficient funds to meet such obligations, provided project owner agrees to own, maintain and operate the system for this period.

“Green tags” are tradable certificates created when a renewable energy facility generates electricity and displaces fuels such as coal, oil and gas. Energy Trust owns green tags generated by the system over its operating life, in proportion to Energy Trust funding of the project’s above-market costs. Developer/owner cooperates fully with Energy Trust to register or otherwise perfect Energy Trust rights in green tags, and report such rights.

PROJECT DEVELOPER/OWNER RESPONSIBLE FOR SYSTEM OPERATION AND MAINTENANCE

Operates, maintains and/or repairs the system in compliance with manufacturers' and the installers' instructions to ensure all warranties stay in force.

If any portion of the system’s physical structure is repaired, replaced or modified, the system is removed and reinstalled by an appropriate contractor and returned to full commercial operation within a certain time.

Pays all taxes associated with the project.

Grants Energy Trust access to the system, site(s), meter(s), utility account(s) energy usage data, and any other relevant data for inspection and evaluation purposes, and reports such data to Energy Trust upon reasonable request.

Maintains, at owner's expense, all insurance at full replacement value; notifies Energy Trust of any substantial modification of insurance.

Agrees not to sell or transfer the system without Energy Trust's written consent; pro rata repayment due if the system is sold, assigned, repossessed, permanently shut down, or does not produce electricity for a certain time.

Energy Trust may assign its rights if asked to do so by the Oregon PUC.

MARKETING AND PROMOTIONS

Project owner and/or developer acknowledge Energy Trust contributions in marketing, educational, and/or promotional materials or events.

Energy Trust and project developer/owner work cooperatively to support public awareness and promotion of the project in press releases, press events, case studies, web identification, and other promotional opportunities.

PROGRAM EVALUATIONS

Parties involved in the installation and operation of the project agree to be available for brief interviews by independent third-party evaluators under contract to Energy Trust for the purpose of assessing the performance of the Biopower program and improving it.