

Board Decision

Amending the Board Policy on Balanced Competition

April 9, 2008

Purpose

Energy Trust will want to contract with utilities to carry out marketing activities for programs pursuant to the supplemental energy efficiency funding authorized by the 2007 Renewable Energy Act. An amendment to section three of the Balanced Competition Policy would recognize this contingency.

Background

- Energy Trust's Balanced Competition Policy is meant to ensure that there is fair competition for Energy Trust program management contracts.
- Section 3 of the policy (see below) provides that individuals in regulated utilities cannot perform work under an Energy Trust program management contract *and* perform work as part of the utility.
- In 2007, the Oregon Renewable Energy Act authorized electric utilities to supplement energy efficiency funding. Energy Trust, PacifiCorp and PGE either have or are negotiating agreements for Energy Trust to provide services with these additional funds. In both cases, the utilities will be doing additional marketing work in coordination with Energy Trust.
- In some cases, the best way to coordinate marketing will involve utility personnel work under contract with Energy Trust.

Recommendation

Amend the Energy Trust Balanced Competition Policy to make clear that the policy anticipates that Energy Trust may contract with regulated utilities to perform work in connection with the 2007 Renewable Energy Act supplemental energy efficiency activities.

RESOLUTION #470

AMENDING THE ENERGY TRUST BALANCED COMPETITION POLICY

WHEREAS:

- I. Energy Trust's Balanced Competition Policy is meant to ensure that there is fair competition for Energy Trust program management contracts.**

2. **Section 3 of the policy provides that individuals in regulated utilities cannot perform work under an Energy Trust program management contract and perform work as part of the utility.**
3. **In 2007, the Oregon Renewable Energy Act authorized electric utilities to supplement energy efficiency funds.** Energy Trust and these utilities are negotiating agreements for Energy Trust to provide services using these additional funds, and in some cases the best way to coordinate Energy Trust and utility work will involve utility personnel working under contract with Energy Trust.

It is therefore RESOLVED that the Energy Trust of Oregon, Inc., Board of Directors amends the balanced competition policy as follows:

1. *Arrangements for regulated utility information and referrals.* The Energy Trust will arrange directly with regulated utilities for information and referrals that help the Energy Trust reach the public, and come as a byproduct of the regulated role. The Energy Trust and utilities will work together to determine what activities and information will be made available with or without fee. Examples:
 - Coordination of 1-800 response for household and business efficiency inquiries
 - Qualification of leads coming from utility/customer relationships and referral to programs
 - Access to historic energy usage data as requested by utility customers
 - Access to utility-generated consumer demographic information for evaluation and/or marketing purposes
 - Utility customer representative role in marketing

Thus, these capabilities will not influence selection of program management contractors.

Rationale

These are services that stem from the natural monopoly role of the utility. They are unique and real assets, but not appropriate for the competitive bid.

2. *Limitation on number of program management contracts awarded to a single contractor.* No single firm, including other companies under the same ownership and affiliates, will be a contractor (prime or subcontractor) for more than two concurrent program management contracts. This limitation does not apply to subcontracts for installation or technical work (studies, commissioning, etc.) that are awarded to multiple contractors as part of implementation of a single program.

Rationale

Energy Trust needs to maintain a competitive market for program management. If one competitor wins all slots, others will not develop the skills, nor are they likely to bid in the future.

3. *Limitations on participation of regulated personnel in competitions for program management contracts.* With the exception of utility work for which Energy Trust contracts in connection with supplemental energy efficiency activities pursuant to the 2007 Renewable Energy Act, An individual within a regulated utility cannot perform work under an Energy Trust contract for program management and perform work as part of the regulated utility (i.e., functions billed to ratepayers) in Oregon.

Rationale

- *Regulated utilities have their own objectives, which in some cases include maintaining and building load. It would be difficult to manage employees who also report to a regulated utility and its objectives as “first boss.”*
 - *To have ratepayers pay for part of the cost of an FTE that was used for competitive Energy Trust work would make it difficult for others to compete.*
4. *No review of work of related companies.* Neither a program management contractor to the Energy Trust nor organizations under the same ownership or affiliates may perform work under separate contract that would be submitted to the program management contractor for review on behalf of the Energy Trust. This type of work includes recommendation of efficiency measure brands, models or performance, technical analysis of savings, or equipment installation or commissioning.

Rationale

Avoids having program management contractors review their own work. Reduces consumer confusion about roles.

Moved by: _____ Seconded by: _____

Vote: _____ in favor _____ opposed _____ abstained

Adopted on (date) _____ by Energy Trust of Oregon, Inc.,
Board of Directors.