Policy Committee of the Energy Trust Board of Directors

October 21, 2008, 3:00-5:00 pm

Attending: Rick Applegate (by telephone), Jason Eisdorfer, Roger Hamilton (by telephone), John Reynolds, Margie Harris, Fred Gordon, Steve Lacey, Sue Meyer Sample, Kacia Brockman and John Volkman

1. Preliminary budget outlook. Margie provided the committee with highlights of the preliminary 2009 budget and 2009-2010 action plan. The 2009 budget anticipates using carryover to ramp up energy efficiency programs to save as much energy as resources and market conditions allow, and to use up renewable energy carryover over 2009-2010. This would be consistent with utility integrated resource plans and, staff believes, OPUC priorities. There is a fair chance that the economic downturn will dampen program opportunities, in which case we would not save or generate as much as we hope and would not use up the carryover in 2009. If we are able to use the full budget, we will need either to seek more efficiency funds to maintain efficiency programs at the same level in 2010, or ramp 2010 programs down. The preliminary budget will show both scenarios.

The new levelized cost performance measure (see next item) will allow Energy Trust more leeway to achieve savings goals, given the expectation that efficiency savings will be more expensive as we exhaust cheaper savings. If Energy Trust does need more funding for 2010, there will be an opportunity to seek more rate funding in August, 2009.

2. Developments associated with upcoming legislature. Jason reported that the Governor's office has asked for help on ideas for increasing public purpose funding. A legislator is exploring the idea of transferring some Energy Trust funds to utilities to help with a particular solar venture. Yet another legislator is working with a small group aiming to aggregate public and private funding for clean energy, and has asked for Energy Trust help.

3. Gresham-Tioga commercial solar project. Staff is completing negotiations for a 420 kilowatt government-sponsored solar photovoltaic facility to be developed by Tioga Solar, LLC, and installed on the roof of a building owned by the City of Gresham. The LLC members are Tioga Power (which is bringing in outside investors) and the City of Gresham, which will buy the facility's power. Energy Trust would pay $570,761 into escrow and, if the facility is in commercial operation within 12 months, pay it to the LLC in installments over the first five years of commercial operation, based on project production. The incentive is comparable to what we pay for commercial solar. Incentives would be reduced if production falls below expected production. Board action is required because the incentive is greater than $500,000. Negotiations are still underway, and if we tie things up this week, the project will go to the board at the November meeting. The committee asked how much of the building's needs the project will supply, and for more information on the building's location and configuration. The committee supports the project.

4. OPUC performance measures. Earlier today, the OPUC adopted performance measures for 2008 and 2009 that were developed in consultation with Energy Trust staff: for electric efficiency programs, a 3-year rolling average of 31 aMW (2007 was 20 aMW) and levelized cost of 3.5 cents (2007 was 2 cents). Staff thinks Energy Trust can meet these numbers (e.g., best-case projection for the 2009 budget is 43 aMW). The new measures will require us to change the way we plan. E.g., the increase to 31 aMW means that our "conservative case" projections (75% of best case) could be lower than the performance measure. The gas levelized cost is still a bit low. The performance measures also require us

to report on SB 838 money and savings incrementally. Margie will send a copy of the measures to the board.

4. Information transfer issues. At the last policy committee meeting, staff briefed the committee on draft proposals to streamline how we obtain and share information on utility customers and Energy Trust participants (see Attachments 1 & 2):

- Change the OPUC administrative rule to (a) eliminate the opt-out and opt-in processes that utilities are now supposed to go through before giving us customer information; and (b) allow Energy Trust to do direct outreach, (not including residential telemarketing), and
- Change Energy Trust policy to allow it to share our information more freely with the utilities.

Since the committee last discussed this, we have talked to utilities, OPUC staff and ICNU, and are trying to schedule meetings with others:

- The utilities generally do not object to eliminating the opt-in/out-out procedures if their customers don't raise significant objections.
- ICNU thought this would not be an important matter to its members (large energy users).
- PGE wants to use Energy Trust information to pursue its own energy efficiency and renewable energy ideas. We include language in the proposal (Attachment 2, section 6) allowing this as long as it is "coordinated" with Energy Trust.
- PacifiCorp wants to be satisfied that commercially-sensitive information is protected. We think our system does this, evidenced by six years of experience without significant issues.
- PacifiCorp wants us to coordinate our customer outreach with them, recognizing that they would have no veto.
- PGE and PacifiCorp were concerned about being restricted from using Energy Trust information to evaluate Energy Trust programs. They would like to use this information in customer satisfaction surveys like those by JD Power. The committee is leery about this.
- The OPUC rule encompasses only "electric companies." In order to join in the process, NW Natural would need to be addressed either in the rule or by amendment of the OPUC order approving the settlement agreement from which NW Natural funding stems.

Next steps are to review these proposals with CAC on October 22, meet with a few remaining parties, and then meet with the OPUC staff to discuss rulemaking. Board action to amend the Energy Trust policy would not be required until the OPUC is prepared to act, we hope in December. The committee encouraged meetings with CUB (scheduled for Oct. 27) and AOI.

5. Office space. In April, staff briefed the committee on office space options if, as seems likely, Energy Trust needs more space in the next 1-2 years. Staff is working with a broker on existing buildings (new buildings in the downtown core are likely too costly). Staff has also been exploring an option called the Living Building Initiative. The discussions began in spring 2008, with several groups interested in building or refurbishing space jointly. The discussions are now focused on the concept of a model "green" building with zero-net energy. Each group would own the space it occupies and there would be shared space for events and meetings. The developer Gerding/Edlin is participating and a non-profit group has been organized to pursue the project. There are two leading sites, one near the PSU campus and one in Old Town near the Chinatown gate. Between now and January, the Initiative plans to select a site, negotiate an MOU with the developer, complete preliminary drawings, identify occupant requirements, start raising funds, organize a development structure and develop a pro-forma of costs. No financial commitment has been required to participate so far, but Energy Trust may need to commit funds as soon as January 2009, if it wants to continue participating. If the policy committee is supportive at this point, staff would expect to come back late this year with cost and other information. If a long-term financial commitment is required, the full board would need to approve and the OPUC would have to be given notice, with 45 days in which to object. The committee sees value in developing a zero-net

energy building, both for the learning value and for the example it could set. More information is needed to make a judgment, and staff should scrub the cost projections. We also need to be aware that there could be political effects. Roger said that we need to balance the non-quantifiable value of such a building versus the cost, but also view the economics from a long-term perspective.

6. Status reports:

a. CAC membership. The committee approved Paul Case, nominated by the Oregon Remodelers' Association upon the retirement of Paul Olsen, and Holly Meyer, nominated by NW Natural upon the departure of Steve Bicker.

b. NEET. Last June, the Northwest Energy Efficiency Task Force (NEET) asked six technical workgroups to identify ways to create, market, deliver and measure energy efficiency. Last week, the workgroups submitted recommendations:

- Invest in getting data to help identify new efficiency technologies, costs and how much energy they would save.
- Focus research and development on technologies and solutions at the end-user level, take a longer-term view, and build more coordination in the region.
- Identify high-impact initiatives for business, homeowners and vulnerable customers. Include devices that can plug into electrical outlets to manage loads; efficiency opportunities in new-home construction and commercial data centers; greater enforcement of codes and standards and improved educational and behavior programs.
- Develop a regional marketing effort to advance energy-efficiency and enhance utility efforts, including partnerships with state/local government, private-sector businesses and industries.
- Build the energy efficiency workforce of the future.
- Promote policies, incentives and regulations that are easy to navigate, encourage customer involvement and innovation and minimize costs to individuals, the environment and utilities.

Margie noted that NEET is not of one mind about including gas and electric efficiency. She is encouraging the group to distinguish among regional, state and local responsibilities in making recommendations. The hope is that the process will generate a handful of initiatives that can be implemented regionally. NEET expects to issue a report on Jan. 9, 2009. See http://www.nwcouncil.org/energy/neet/Default.asp.

b. Avista. We plan to end our services to Avista customers effective 2009, at Avista's request. Staff endorses the idea because the program has been so narrowly focused that it is not possible to achieve the economies of scale that are possible when a range of programs is offered. In addition, the cost of savings has been high because of the slump in the housing market. Providing services for such a small number of customers is costly. Margie will debrief this with Avista and maintain our cordial relationship.

c. NW Natural in Washington: A stipulation was filed earlier today endorsing the idea of proceeding with NW Natural's proposal to have Energy Trust deliver programs in Clark County, Washington. The stipulation proposes an 18-month pilot program, which could be extended if results are satisfactory. The proposal will be reviewed by the Washington UTC in mid-November. After that, NW Natural and Energy Trust would scope an implementation study in consultation with a Washington advisory group. If the board and NW Natural agree to proceed with implementation based on this study, Energy Trust would likely begin delivering services in fall, 2009.

d. Increasing production efficiency incentive cap. Staff is proposing to change the production efficiency incentive level. The change would allow multiple incentives at a given site up to a total of $1 million per year. Payments of more than $500,000 per incentive application would still require board approval, so there would be no policy change. Staff will brief the CAC on Oct. 22.

Attachment 1: OAR 860-038-0540, Consumer Information

(1) Subject to Commission approval, an electric company shall determine the proprietary consumer information that will be made available to its competitive operations, ESSs, affiliates and aggregators. An electric company shall file and maintain a tariff with the Commission that specifies the types of information, along with the prices, terms, conditions, and consent procedures associated with the transfer of such information to the entities described in this section. The provisions of section (1) do not apply to information transferred pursuant to section (2) of this rule.

(2) An electric company shall transfer to the entity that administers the conservation and renewable public purpose funds described in ORS 757.612(3)(b)(A) and (B), hereinafter known as the Administrator, proprietary consumer information for electric company consumer consumers.

(a) At a minimum, electric companies shall transfer, if available: consumer name; service address (including apartment/unit/suite number); mailing address; building type (e.g. multifamily) and business type (e.g. SIC code); rate code; 18 months of the most recent historical usage data provided on a per-month basis (energy and demand); meter number and other point-of-delivery identification numbers; rate schedule for each consumer; whether consumer qualifies for low-income programs (if known); whether consumer is applying self-direct credits against its energy efficiency and/or renewable public purpose charge during each billing period; information about any energy efficiency program participation and type of space heat used by consumer to the extent that such information is available in the electric company's records; and updates for all of the usage data and revisions to the underlying database information on a periodic basis under subsection (3)(d) of this rule. For unmetered accounts (e.g. street lights, cell towers, phone booths, and electric utility service buildings etc.), electric companies shall transfer contracted kilowatt-hour consumption rather than actual billed consumption.

(b) An electric company shall not transfer social security numbers, billing and payment history, credit information, tax identification numbers, driver license numbers, life support information, or any medical information.

(3) The manner by which such information is transferred shall be governed by an Information Transfer Agreement, which is executed and maintained by an electric company and the Administrator. An Information Transfer Agreement shall specify:

(a) The necessary database format and information that will be transferred;

(b) The billing period, payment arrangements, and estimations of incremental costs incurred by an electric company for the transfer of the information;

(c) Timelines for an electric company to ~~notify consumers and~~ transfer information to the Administrator;

(d) Timelines for an electric company to provide updates to the Administrator for all of the usage data and revisions to the underlying database information;

(e) Acknowledge the Administrator's obligations to protect proprietary consumer in accordance with the Administrator's policy or policies adopted pursuant to Section 7, below ~~A general non-disclosure statement as well as a specific non-disclosure agreement that each Administrator~~

~~employee and contractor employee shall sign prior to having access to consumer information, including proprietary consumer information~~.

(f) That the proprietary consumer information will be used by the Administrator to implement, administer, and evaluate energy efficiency and renewable energy programs and will not be used for telemarketing ~~or direct mailings~~ to residential consumers; the Administrator shall regularly apprise electric companies of these activities;

(g) That the release of proprietary consumer information by the Administrator for any other purpose or to any ~~other~~ party who has not signed an agreement to treat such information confidentially pursuant to Section 7(b), below, shall not be made without consent of the consumer; and

(h) Provisions for modification of the Information Transfer Agreement. If the Administrator and an electric company cannot agree on the terms and conditions of an Information Transfer Agreement, the Commission shall set the terms and conditions based upon input from the Administrator and electric company.

(~~3~~5) If the Administrator notifies an electric company that the proprietary information supplied by an electric company is insufficient, incomplete, or not usable, the Administrator and electric company will attempt to resolve the issue and if necessary, modify the Information Transfer Agreement. If the Administrator and electric company cannot resolve the issue, the electric company and the Administrator shall promptly seek Commission resolution of the dispute. ~~An electric company shall, at a minimum, transfer the following proprietary consumer information to the Administrator: consumer name, service address, 18 months of the most recent historical usage data provided on a per-month basis, point of delivery identification number, and rate schedule for each consumer. An electric company shall also provide information about any energy efficiency program participation and type of space heat used by consumer to the extent that such information is available in the electric company's records. An electric company shall not provide social security numbers, billing and payment history, credit information, tax identification numbers, driver license numbers, life support information, or any medical information. An electric company shall also provide the Administrator with updates for all of the usage data and revisions to the underlying database information on a periodic basis subject to subsection (2)(d) of this rule.~~ [moved to section 2].

~~(4) An electric company shall provide consumers whose demand is less than 1MW an opportunity to opt-out of the information transfer. An electric company shall notify the consumers of the opt-out option by direct mail, company newsletter, or other acceptable communication as set forth in the Information Transfer Agreement. The notification shall at a minimum:~~

~~(a) Identify and explain the role of the Administrator;~~

~~(b) Identify the type of proprietary consumer information to be transferred by an electric company; and~~

~~(c) Describe the nature and use of the proprietary consumer information by the Administrator.~~

~~(5) An electric company shall notify in writing consumers whose demand is 1MW or greater (over 1MW consumer) to provide an opportunity to opt-in to the information transfer. Consumers shall be considered an over 1 MW consumer pursuant to criteria established by an electric company through its billing process. The notice provided by an electric shall comply with the requirement of section (4) of this rule. For consumers without a usage history, demand may be estimated by an electric company for~~

~~the purpose of this provision and those consumers projected to meet the 1MW or greater demand shall be included. Consumers having multiple accounts may have their accounts treated as a group for the purpose of this rule and may include or exclude all accounts through one notification process. If the over 1MW consumer does not opt in to the information transfer, all accounts shall be excluded from the information sharing process. The transfer of proprietary consumer information shall be in accordance with section (2) of this rule and the Information Transfer Agreement. An electric company shall also provide periodic opt-in notification for the over 1MW consumers either as a part of a standard consumer contact discussion or in writing pursuant to the timelines agreed upon in the Information Transfer Agreement and set forth in subsection (2)(c) of this rule.~~

(6) When an electric company has provided proprietary consumer information to the Administrator in accordance with this rule, an electric company shall not be charged with at-fault complaints filed with Commission's Consumer Services Division with respect to the provision of proprietary consumer information if the Commission finds that the electric company did not violate its tariff, Oregon Administrative Rules, Oregon Revised Statutes, or a Commission Order.

(7) Before an electric company provides the Administrator with proprietary consumer information pursuant to this rule, the Administrator shall:

(a) Develop and adopt in an open process a policy or policies ensuring that the confidentiality of the proprietary consumer information it receives from electric companies is protected;

(b) Agree to require its employees and contractors to agree to specific non-disclosure requirements in order to gain access to proprietary consumer information; and

(c) Establish a process by which consumers may require the Administrator not to use the proprietary consumer information to make unsolicited contact with the consumer.

Attachment 2: Policy on Information Submitted by Utilities, Program Participants, Contractors and Bidders

History			
Source	Date	Action/Notes	Next Review Date
Policy Committee	5/24/04	Review and discussion	8/24/04
Policy Committee	8/24/04	Reviewed for board action	9/9/04
Board	9/9/04	Action postponed pending further review and discussion	9/21/04
Board	7/6/05	Approved (R345)	7/08
Board	5/9/07	Amended (R438)	5/2010

Purpose: Energy Trust and its contractors acquire information from utilities, program participants and others. This document establishes Energy Trust policy on collection, use and disclosure of information about program participants. This policy also addresses confidentiality of contracts and bid information. The policy does not apply to information that is in the public domain.

1. **Energy Trust will inform ~~participants~~ the public of this policy**.

~~Participants in~~ Energy Trust will inform the public~~programs will be advised~~ of ~~the contents of~~ this policy by ~~appropriate means (e.g.,~~ providing summaries or references ~~o~~in Energy Trust program ~~application~~ forms, posting the policy on the Energy Trust web site, ~~and oral communications~~and making it available on request~~)~~,. ~~Energy Trust and its contractors will offer participants a copy of this policy.~~

~~A~~2.**Participant Information covered by this policy**. Utilities provide Energy Trust with information about their energy consumers pursuant to rules of the Oregon Public Utility Commission (see OAR 860-038-0540). Energy Trust and its contractors also acquire information directly from participants in Energy Trust programs. Insofar as information from either source refers to program participants or utility customers by name, address, or other personally identifiable characteristics, it is ~~Definition of Participant Information:~~ "Participant Information" under this policy. ~~means information obtained from program participants that refers specifically to the participant by name, address, or other personally identifiable characteristics~~.

~~B~~3.**Protecting Participant Information generally**.

A. Energy Trust employees, contractors and sub-contractors will use Participant Information only for Energy Trust purposes.

B. Energy Trust will protect the confidentiality of all Participant Information by requiring all Energy Trust employees, contractors and sub-contractors to agree to specific non-disclosure requirements in order to gain access to Participant Information.

C. Contractors who receive Participant Information from Energy Trust may not:

a. Disclose such information to any other party unless required by law or the other party has by contract or other written agreement agreed to protect such information consistent with this policy; or
b. Use such information for any purpose other than implementation of Energy Trust programs.

~~Energy Trust employees, contractors and sub-contractors will use Participant Information only for Energy Trust purposes. Contractors who receive Participant Information from Energy Trust may not disclose it to any other party unless required by law or the other party has by contract or other written agreement agreed to protect such information consistent with this Energy Trust policy. Contractors will consult with their Energy Trust contract manager when in doubt.~~

4. **Collaborative analysis**. Energy Trust analyzes Participant Information and aggregates it with other information to plan, evaluate and report on Energy Trust programs. If consistent with section 3 and if the shared data do not reveal Participant Information, Energy Trust may share such aggregated information with other analysts, recognizing that some of these analysts work for organizations with their own information disclosure policies and requirements.

5. **Using Participant Information in marketing**.

A. Before using Participant Information in case studies, brochures, press releases, advertisements~~, marketing~~ or other publicity material, Energy Trust and/or its contractors will obtain participant approval.

B. Energy Trust will not conduct telemarketing to residential participants or customers, but may use Participant Information for other outreach or marketing activities relating to Energy Trust programs. Energy Trust will establish a process by which participants and customers may opt-out of such marketing and outreach and ensure that Energy Trust or its contractors do not use Participant Information to make unsolicited contact with a participant or customer.

6. **Information provided to utilities**. Energy Trust will share Participant Information with utilities: (a) as part of coordinated energy efficiency or renewable energy activities; (b) if such Information is limited to the particular utility's customers; and (c) involves the particular utility's product or service. Energy Trust will not share one utility customer's energy use with another utility. Utilities may use such information in connection with routine customer service surveys, but not otherwise to evaluate Energy Trust programs.

7. **Participant Information provided to government ~~entities~~**

A. Energy Trust will treat residential program Participant Information as confidential. Energy Trust may report individual residential Participant Information if it does not identify the participant by name, address, telephone or other information that would allow identification of the individual.

B. For non-residential programs, Energy Trust may include the following information in reports to the Bonneville Power Administration, the legislature, the Oregon Public Utility Commission ("OPUC") and other state agencies as necessary to meet Energy Trust responsibilities:

- participant name
- city or county of business
- Energy Trust services or incentive payments provided to the participant, or
- energy saved or generated as a result of Energy Trust services or incentives.

C. Before providing Participant Information other than information listed in section ~~3.E(2)~~6.B, Energy Trust will obtain participant approval.

8. Contracts

A. Except for contracts that concern personnel matters, contracts to which Energy Trust is a party will not be treated as confidential. For purposes of this policy "contract" does not mean program application materials.

B. If a contract specifically identifies as confidential sensitive business records or financial or commercial information that is not customarily provided to business competitors, Energy Trust will treat such information as confidential. However, Energy Trust may disclose all other information in the contract.

C. Subject to litigation or other legal disclosure and/or audit requirements, Energy Trust will not disclose information marked as confidential and submitted in response to requests for proposals or other solicitations. However, the fact that a company submitted a bid will not be considered confidential.

9. Audit

Energy Trust will afford auditors full access to Participant Information for purposes of audit.

10. Resolving issues

In the event the OPUC requests from Energy Trust information that a participant has reasonably designated as Confidential Information, Energy Trust will follow the procedure specified in section 3.c of the Grant Agreement between Energy Trust and the OPUC (available at http://www.energytrust.org/Pages/about/who_we_are/puc_funding_agreement.PDF).