Policy Committee of the Energy Trust Board of Directors

October 13, 2009, 3:00 – 5:00 p.m.

Attending: Jason Eisdorfer, Margie Harris, Pete Catching, Amber Cole, Kim Crossman, Steve Lacey, John Volkman and Peter West; by telephone: Caddy McKeown and Roger Hamilton

1. NEEA contract. At the July meeting, the board authorized a commitment letter supporting the NEEA Business Plan and pledging in principle up to $39,356,800 for the 2010-2014 period. The board resolution conditioned funding on Energy Trust receiving adequate assurance of supplemental efficiency funding from utilities, and negotiation of a contract consistent with the board resolution. John and Fred have negotiated a funding agreement with NEEA without involving Margie, who is on the NEEA board. The agreement commits NEEA to deliver 200 average megawatts (aMW) of total regional energy savings of which 100 aMW are net market effects energy savings; and an estimated 20 aMW of net market effects energy savings in Energy Trust service territory. The contract would also commits Energy Trust to pay $39,356,800 (on a defined payment schedule), but Energy Trust may reduce its funding commitment if it does not receive adequate assurance of funds from its funding utilities. The committee endorsed the proposal.

2. Waive self-direct policy for service incentives for an industrial pilot. Under Energy Trust's Industrial Energy Improvement project, a two-year pilot, we have a contractor that provides energy management services for two groups of 10-12 industrial customers. In 2009, these services were characterized for accounting purposes as PDC costs. PDC costs are not assigned to particular customers and so not treated as incentives covered by the self-direct policy. Energy Trust's Finance Department has (appropriately) reclassified these costs as “service incentives” in 2010. Service incentives are covered by the self-direct policy. Average value per participant for these services is expected to be about $40,000 per site. In order to correctly account for these services without greatly increasing complexity of administration or damaging the outcomes of this last year of a 2 year pilot, we propose to waive the application of the policy to these services for a limited number (not more than three) of well-qualified self-directors that are participating in year two. The waiver would apply only to service incentives; staff would apply the 50% self-direct reduction to cash incentives for energy savings. The committee concurred in the proposed waiver, for board action in December.

3. Routine reviews:

- Waiving PE program funding cap. This policy is scheduled for routine review. The current policy requires board approval for any incentive that exceeds the relevant program incentive cap. The only change staff recommended is to clarify that no program incentive cap may exceed $500,000, which is consistent with past and current Energy Trust practice. See attachment 1. The committee concurred, and suggested that the same principle apply to all programs.

- Consent agenda procedure (attachment 2). Staff recommended no change. The committee concurred.
- Oregon preference (attachment 3). Staff recommended no change. The committee concurred.
- Biopower eligible fuels (attachment 4). Staff recommends no change at present. However, the 2007 Oregon Renewable Energy Act uses a narrower definition of biomass than SB 1149 does. The 2007 Act doesn't recognize municipal solid waste projects, for example, and so green tags from these projects do not qualify under the Oregon renewable portfolio requirements. Although we have no projects raising this problem now, it could arise and may suggest a new policy on whether we should fund biopower projects that would not produce RPS-eligible green tags. The committee concurred with keeping the policy as it is.
- Above-market cost policy follow-up: The policy committee reviewed this policy in May and recommended no change. At the July board meeting, Alan Meyer asked if the utility-scale provisions of the policy should be deleted. The renewable program continues to apply those provisions to projects that come in through the PGE and PacifiCorp IRP processes and recommends that they be retained. The committee concurred.

4. ARRA "Build America" proposal: Energy Trust has been working with the Vermont and Wisconsin energy efficiency programs on a joint proposal for federal stimulus funds to research and test innovative approaches to achieve deep savings in existing homes – current measures go as far as 30% savings; this project would test the idea of reaching 50% or even net-zero. Staff thought it would make sense to leverage EEAST pilots, the Portland Clean Energy Works pilot and others to explore these issues. The grant opportunity is $5 million per year for five years. It requires 20% cost-share and, if funded, will entail a significant amount of work. We would provide our match by in-kind services, leveraging activity that we have underway, and would probably hire new positions funded by the grant specifically for this work. Margie noted that an award would require significant changes in our accounting and management practices. If we take more than $500,000 per year in federal money in total, for example, we will expose ourselves to OMB audit and related federal requirements; we have budgeted for this additional work. The committee discussed how accounting for these dollars might work, and how much it would raise our OPUC administrative cost performance measure. The committee also observed that these kinds of requirements may accompany any use of revenues stemming from other legislation, e.g., allocation of carbon allowances under the federal climate bills. Margie will quantify some of these impacts and present it at the next board meeting. Absent a significant effect on administrative cost, the committee was inclined to support the proposal.

5. Utility representation on Energy Trust board. Jason reviewed a draft report on the idea of utility representation on the board. He intends it to be a public document, and would welcome editorial suggestions from John and Margie. The committee appreciated the detailed analysis, which leads clearly to the conclusions. Jason would like Rick's reaction to the discussion of the strategic roundtable. Jason invited comments from the committee and staff within a couple of days, particularly on the roundtable idea. Other stakeholders were not delighted at the idea of a utility roundtable, but thought they could live with it. The board needs to understand that this will put additional time demands on the board. The committee would like to make a recommendation at the November 4

board meeting. Before the meeting, Jason will give the utilities a draft and touch base with the PUC and other interest groups.

6. Risk Assessment. The committee earlier decided that Energy Trust should perform a risk assessment process starting early next year. Staff suggested the idea of doing a scaled-down risk assessment (perhaps in January), to see how it works, and then decide whether we need a more sophisticated process. In brief, the simplified process would consist of three meetings, staged so that staff can gather relevant information between meetings. The committee thinks a scoping meeting makes sense. Risk assessment can be applied to various questions that may be posed by emerging legislation and other federal initiatives. We should consider whether we have any friends who might help with this kind of process. Margie has an acquaintance who might fit. Margie is concerned about risks that might sneak up on us, and having a way to anticipate and evaluate them would be helpful. A potential schedule.

- First meeting (1½ hours): Define the scope of the assessment: what types of risk should be assessed. Political threats? Major policy shifts? Fraud or bad management? Legal or other risks?
- Second meeting (2½ hours):
  - List and characterize risks
  - Assess:
    - Likelihood that a given threat will materialize
    - Severity of consequences if it occurs
  - Sort and prioritize risks:

Insignificant Impact **High Likelihood** Medium-low risk	**Significant Impact** **High Likelihood** High risk
Insignificant Impact **Low Likelihood** Low risk	**Significant Impact** **Low Likelihood** Medium-high risk

- Third meeting (2½ hours): How to minimize exposure

The committee endorsed the idea, would like to start in January, wrap it up within a month or so, and fit the second meeting around the February board meeting if possible.

7. Meeting time. Future committee meetings will start at 4 and end by 5:30.

8. SB 838 supplemental efficiency filing. Steve is pushing the electric utilities to file their SB 838 rate schedules as soon as possible. They will have an important effect on our budget, and the strategic plan. The committee emphasized the value of having the OPUC commissioners engaged in the issue. The OPUC also may specify that Energy Trust should spend utility revenues only in the utility's service territory, which would necessitate larger, utility-specific fund reserves.

ATTACHMENT 1

4.20.000P Policy on Waiving Program ~~Production Efficiency Program Funding~~Incentive Caps

History			
Source	Date	Action/Notes	Next Review Date
Board Decision	Oct. 1, 2003	Approved (R 212)	Oct. 2006
Board Decision	Nov. 8, 2006	Approved (R412)	Nov 2009

~~***Introduction***~~

~~Recognizing the Energy Trust's long-term goals to attain 300 average megawatts of electricity and 19 million annual therms of natural gas, and that there are opportunities in the industrial sector to secure substantial energy savings at low acquisition cost, the Energy Trust board has given staff flexibility to waive the incentive cap for extraordinarily cost effective industrial projects.~~

~~***Policy***~~

The board may approve exceptions to ~~the Production Efficiency, Building Efficiency and New Building Efficiency~~ program incentive limits (which may exceed $500,000 per incentive only with board approval) for projects that meet the following criteria:

1. **Exemptions require suspension of self-direction for a minimum of 3 years.**
2. **Exemptions will be approved only if there is available incentive budget.**
3. **Projects are expected to save energy at a cost per annual unit of energy saved ($ per annual kilowatt-hour/therm) to Energy Trust that is less than the current incentive levels for the applicable program.**

RESOLUTION

BE IT RESOLVED: That the Energy Trust of Oregon, Inc., Board of Directors authorizes staff to offer an industrial process program that provides marketing, project scoping assistance, technical studies, and incentives for electric efficiency measures. The program will include incentives:

- **Up to 100% of the cost of technical studies provided the energy user installs efficiency measures as specified in the detailed program design.**
- **Per unit for a limited range of equipment measures.**

- **For cost-effective custom hardware to lower the payback to 18 months.**
- ***Incentives for operations and maintenance-sensitive measures may be set up differently to encourage persistent efficiency.***
- ***Special promotional incentives will be offered in 2003 to encourage rapid startup in the current economic environment. This limited-time offer will pay on the basis of $/first year megawatt hour.***
- **Limited to 50% of the cost of the efficiency measures and to $500,000 per business per year.**
- **For self-directing energy users, adjusted from values consistent with Energy Trust self-direction policy.**

Over the course of the program, Energy Trust staff may revise these incentives as necessary to optimize program response. Program implementation will be coordinated with utility transition activities, early adopters and Energy Trust Building Efficiency program, where appropriate.

Moved by: Cheryl Perrin Seconded by: John Reynolds

Vote: 7 in favor; 0 opposed; 0 abstained

Adopted on March 5, 2003, by the Energy Trust of Oregon, Inc., Board of Directors.

ATTACHMENT 2
2.01.001-A Consent Agenda Procedure

History			
Source	Date	Action/Notes	Next Review Date
Board Decision	November 5, 2003	Approved (R221)	11/06
Policy Committee	October 19, 2006	Reviewed – no changes	11/09

Consent agenda procedures. Margie said the proposed resolution is basically the same as the one the board discussed earlier. Jason Eisdorfer said the board must trust that staff will self-identify non-controversial and routine items for inclusion in a consent agenda. He advised staff to err on the side of caution in that determination. However, he supports the consent agenda concept, especially because it provides the same amount of information as standard board resolutions, and will help streamline future board meetings.

Jason added that the board asked the Policy Committee to review the proposal, and determine if it should include a cap on the dollar amount. The committee decided that was not necessary. He said the committee also underscored that the conflict of interest policy will pertain to consent agenda items. Board members clarified that the board will decide if there should be public discussion of proposed consent agenda items, and that consent agenda items may be moved to the regular agenda only at the request of a board member. The board agreed to place consent agenda items after the public comment portion of future board meetings, to allow members of the public to raise any issues of concern before the board considers the consent agenda items.

Resolution

BE IT RESOLVED: That Energy Trust of Oregon, Inc., Board of Directors hereby approves the option of placing board action items on a consent agenda, according to the following guidelines:

1. **Action items brought forward through the renewable energy open solicitation program will follow the process approved by the board specifically for that program.**

2. **Written decision documents on consent agenda items will follow the same format and contain the same information as provided for regular agenda items.**

3. **Where appropriate, consent agenda items will meet the following criteria:**

   - **Involve routine and non-controversial matters**

- **Conform with a previously adopted board policy or implement a project previously approved by the board in a formal resolution**
- **Involves a cost-effective action as documented by pertinent financial information, energy savings/production, or other outcomes**
- **Can be accomplished within the board-approved budget with clearly specified budget authority**
- **No board or public comment is anticipated regarding the proposed action**

4. **If the consent agenda item authorizes an increase in expenditures under a previously existing contract, the resolution must include but not be limited to:**

   - **The original amount of the contract**
   - **The number and amount of prior increases**
   - **The amount of the current proposed increase**
   - **The reason for the increase, and**
   - **The resulting total contract amount**

5. **The existing conflict of interest rules apply to votes of all items on the consent agenda.**

6. **Any item on the consent agenda will be moved to the regular agenda upon request from any board member.**

ATTACHMENT 3
4.14.000-P Policy on Oregon Preference

History			
Source	Date	Action/Notes	Next Review Date
Board Decision	October 1, 2003	Approved (R207)	October 2006
Policy Committee	September 21, 2006	No changes	October 2009

Purpose

To adopt a policy on giving preference to Oregon contractors for major Energy Trust contracts.

Background and Relation to Strategic Plan/Action Plan

Goal 4 of the Energy Trust strategic plan speaks to promoting a healthy business climate for Oregon's renewable energy and energy efficiency businesses. Having enlisted nearly 200 trade allies to date, the Energy Trust clearly is making progress toward this goal. In response to inquiries about our policy on giving preference to Oregon contractors, we conducted a legal review and engaged our advisory councils in discussion of the matter.

The pertinent provisions of Oregon Revised Statutes (ORS) cover public contracting. They provide:

> (1) In all public contracts, the public contracting agency shall prefer goods or services that have been **manufactured** or **produced** in this state if price, fitness, availability and quality are otherwise equal. (emphasis added).
> . . . .
>
> ORS 279.021
>
> (1) After the bids are opened . . . and after a determination is made that a contract is to be awarded, the public contracting agency shall award the contract to the lowest responsible bidder.
> (2) In determining the lowest responsible bidder, a public contracting agency shall: . . .
> (b) For the purpose of awarding the contract, add a percent increase on the bid of the nonresident bidder equal to the percent, if any, of preference given to that bidder in the state in which that bidder resides.
> . . . .
>
> ORS 279.029

Since the Energy Trust is not subject to Oregon public contracts law, Energy Trust is not bound to the above provisions.

Committee/Public Review

As a starting point for discussion, staff made reference to the above provisions in meetings of the Renewable Energy Advisory Council and Conservation Advisory Council September 17, 2003, and the Policy Committee meeting September 22, 2003.

In examining the above provisions of ORS, it was clear that most participants in these meeting do not support provisions of ORS 279.029 that could penalize out-of-state bidders. There was general support for the concept expressed in ORS 279.021 to give preference to an Oregon contractor if competing bidders score equally on other selection criteria. There was no consensus however, on the wording of such a policy. Participants expressed concern that the terms "manufactured" or "produced" may be too restrictive.

Recommendation

Given the general support for giving preference to Oregon bidders if competitors are equal in other respects, staff recommends the Energy Trust board endorse a policy to grant such a preference if price, fitness, availability and quality are otherwise equal, to bidders whose goods or services are produced, acquired, or available in the State of Oregon. For administrative efficiency, we propose applying the policy to contracts valued in excess of $500,000.

Resolution

BE IT RESOLVED: That Energy Trust of Oregon, Inc., Board of Directors adopts as Energy Trust policy that, if price, fitness, availability and quality are otherwise equal, Energy Trust will give preference to a bidder whose goods or services are produced, acquired, or available in the State of Oregon.

ATTACHMENT 4

4.23.000-P
Biopower Eligible Fuels Policy

History			
Source	Date	Action/Notes	Next Review Date
Board	10/4/06	Adopted (R403)	10/09

APPROVING A NEW 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.**