



Citizens' Utility Board of Oregon

610 SW Broadway, Suite 308
Portland, OR 97205
(503) 227-1984 • fax (503) 274-2956 • cub@oregoncub.org • www.oregoncub.org

August 5, 2004

Administrative Hearings Division
Public Utility Commission
PO Box 2148
Salem, OR 97308-2148

Re: UM 1158 Energy Trust of Oregon Performance Measures

Dear Chairman and Commissioners,

Thank you, for extending this process to allow everyone, most notably the Trust's Board of Directors, more time to discuss and comment on the proposed Performance Measures. We are glad to see the Commission's interest in the Energy Trust of Oregon (the Trust), and appreciate your willingness to take on the responsibility of general Trust oversight. Judge Grant's memorandum of July 26, 2004 laid out a few issues you would like comments on as you formulate these Performance Measures, and we have laid out our comments in Judge Grant's format.

By way of introduction, our overall view of the Commission's role is one of oversight, not that of an intimately involved or formulating guide, as that is the role of the Trust's Board of Directors. The Trust's Board has a duty to see that the Trust's programs are efficient, effective, and a good value for customers. The Commission's role is to see that the Board's judgment and the Trust's activities are reasonable. The Commission's Performance Measures should be low enough that the Trust does not focus on the Measures at the expense of its mission, though respectable enough that the Commission is comfortable with the Trust's accountability.

Our reasons for this are threefold. First, if the Commission steps into roles also performed by the Board, it will duplicate the Board's efforts at best, and could confuse and constrain the Trust with competing and possibly contradictory goals. Second, the more stringent the Commission's Performance Measures, the more the Trust will shape its activities to meet those measures, and this could hamper the Trust's creativity. Third, the Trust already performs a good deal of administrative work in its accountability to its Board and the Commission; carefully designed Performance Measures would create accountability

without unduly adding to the paperwork burden. It is worth remembering that the Trust currently reports to the Commission on an on-going basis with quarterly and annual updates.

I. Measures v. Conditions

Given the cycles and unpredictable nature of the conservation, efficiency, and renewable business, we would be hesitant to make any of the Commission's Performance Measures absolute conditions. Federal policy, most notably the Production Tax Credit, economic cycles, and state policies can have an enormous impact on the Trust's ability to meet its Performance Measures. However, this does not reflect the Trust's performance; it reflects the environment in which the Trust is working.

If the Commission feels that the Trust Performance Measures need a few absolute conditions to give them respectability, we recommend limiting the conditions to those established in the legislature or the Grant Agreement. Specifically, Performance Standard No. 1: Financial Integrity, which requires that the Trust perform annual financial audits, is established in the Grant Agreement. Should the Trust fail to do this, it would indicate that the Trust's Board was being remiss.

Performance Standard No. 3: Equitable Distribution of Programs – Part 2, which requires the Trust to spend 80% of conservation funds in the service territory where it was collected, is established in ORS 747.612(3)(d). Here too, the Board's oversight should see to this, and the Commission's Performance Measure would act as a backup. We would add one caveat. Large projects or unexpected opportunities can necessitate a large shift in expenditures, so the Commission may want to establish this on a rolling, multi-year average to give the Trust room to maneuver from year to year.

II. Individual Program Performance

Individual Trust programs should not be subject to Commission Performance Measures or conditions. The nitty-gritty oversight of looking at every individual program is the job of the Board; the Commission's oversight should be broader and more encompassing. All good investors know that it is unwise to put all of your eggs in one basket. As the success of an investment portfolio is measured by the portfolio's performance, so should the Trust's program portfolio be measured. There will be sterling programs, there will be mediocre ones, and there will be flops. Some program investments will be made with strong confidence in valuable returns; other program investments will be made, due to the novelty of the program design and approach, with less confidence. If the Trust staff feels on edge with every program, it will constrain their ability to innovate, take risks, and push boundaries.

III. Minimum vs. Superior Performance

As Judge Grant's Memorandum stated, "Staff's proposed targets are set to signal deficient performance that may warrant a Notice of Concern." This seems to be the appropriate place for Commission oversight. It is the Board of Director's job to steer the Trust, push it, and showcase its achievements. The Commission's Performance Measures should be the

minimum, with the assumption and hope that the Board will guide and oversee the Trust such that the Commission's detailed oversight is not necessary.

IV. Grant Agreement

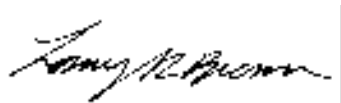
As stated earlier, the conservation, efficiency, and renewable business is an unpredictable one. That the Commission will establish its oversight of the Trust through Performance Measures is a reasonable addition to the Grant Agreement. The specifics of those measures, however, will, no doubt, change over time, and the Grant Agreement is not the place to fine tune the Commission's oversight. Keeping the details of the Performance Measures separate from the Grant Agreement will give the Commission greater flexibility to alter the measures with experience and changing circumstances.

V. Customer Satisfaction

A number of the Performance Measures are conceptually abstract and not definitively measured. Of these, customer satisfaction is the least quantifiable. We recommend working with the Trust Staff and Board to establish a methodology for measuring customer satisfaction and from this determine an acceptable performance level. This is the most squirrely and capricious of the measures, and will be difficult to measure in a solid, meaningful way. It will take time to develop a measurement methodology, and still more time to test it. We would be leery of establishing such an amorphous benchmark prior to development of the measuring instrument.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Lowrey Brown", enclosed in a simple rectangular box.

Lowrey Brown
Utility Analyst
Citizens' Utility Board of Oregon