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**DEPARTMENT OF JUSTICE**  
GENERAL COUNSEL DIVISION

February 11, 2011

Attention: Filing Center  
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Re: *In the Matter of PUBLIC UTILITY COMMISSION OF OREGON Solar Photovoltaic Program Draft*  
PUC Docket No.: UM 1505  
DOJ File No.: 330-030-GN0415-10

Enclosed are an original and one copy of the COMMENTS OF THE OREGON DEPARTMENT OF ENERGY AND THE ENERGY TRUST OF OREGON in the above-captioned docket for filing with the PUC today.

Sincerely,

*JL* Janet L. Prewitt  
Senior Assistant Attorney General  
Natural Resources Section

JLP:mme/#2548928  
c: UM 1505 Service List  
UM 1452 Service List  
AR 538 Service List

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1505

In the Matter of the	)	
	)	
PUBLIC UTILITY COMMISSION OF	)	COMMENTS OF THE OREGON
OREGON	)	DEPARTMENT OF ENERGY AND
	)	THE ENERGY TRUST OF OREGON
Solar Photovoltaic Program Draft	)	
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The Oregon Department of Energy (ODOE) and Energy Trust of Oregon (Energy Trust)<sup>1</sup> appreciate the opportunity to provide comments and recommendations regarding the Solar Photovoltaic Pilot Volumetric Incentive Rate (VIR) program. These comments address our joint recommendations for adjustments to the April 1, 2011, open enrollment period as well as long-term recommendations for future enrollment and reporting periods. In brief, we recommend that the April 1, 2011, enrollment period be carried out as originally scheduled without postponement. We support re-evaluating the incentive rate and transitioning to a lottery based selection process for the October 2011, enrollment period. We also support a more robust reporting of the large scale project bidding results.

**1. Recommendations for the April 1, 2011, Enrollment Period**

For the April 1, enrollment period we recommend that the PUC refrain from significant program changes that may cause delays, undermine the stability of the program and create confusion in the marketplace. In our experience, program stability is key to attracting the investment by consumers and suppliers necessary to support a strong, maturing solar market. The solar industry has been subject to significant changes in the past year due to statutory

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<sup>1</sup> The Energy Trust of Oregon submits these comments as an interested party as permitted in the Prehearing Conference Order filed in this docket on October 14, 2010.

changes in the Business Energy Tax Credit (BETC) program and rule changes in the Residential Energy Tax Credit (RETC) program. We believe the VIR program has in part helped provide stability for the solar industry during these significant changes to the tax credit programs.

The only changes we recommend for the April 1, 2011, enrollment period are those that would improve collection of demand and market price data without delaying the April 1, enrollment date. It was our experience that the delay of the initial VIR program launch from April 1 to July 1, 2010, disrupted the market by causing consumers to wait and see if they preferred the VIR program to Energy Trust and ODOE's programs. The Utility participants indicated in the January 20, 2011, workshop that implementing a lottery system was not possible for the April 1, 2011, enrollment. We recognize the input of the Utility participants and feel that proceeding with the April 1, 2011, enrollment period on schedule is more important than implementing changes that would result in postponement of the enrollment. We feel that changes to the program should be made in a manner that provides adequate time for the utilities to communicate the changes to the solar industry and the public.

We do, however, encourage the utilities to make some changes for the April 1, 2011, enrollment period to collect better data regarding the actual demand for the program. The very fast uptake of the capacity in each enrollment period indicates that the demand for the program outstrips the capacity allocations. We believe that by quantifying this demand, the program will learn how the market responds to different VIR levels, allowing for a more effective comparison with the ODOE and Energy Trust incentive programs. This data will also be valuable in considering future changes to the program including the proposed lottery selection system. .

In anticipation that the capacity once again will be fully subscribed in less than a day, we propose that the enrollment period should be held open for the entire business day on

April 1, 2011, and that the participants be notified of their acceptance status at the end of the business day. Participants should still be selected on a first come first served basis, but delaying the rejection notifications provides an opportunity to collect more data that identifies program demand.

If holding the enrollment period open beyond the capacity allocation is not technically possible to implement without delaying the April 1, 2011, enrollment, we support administering a short survey to the non-winning applicants as an alternate method of collecting true demand data. The survey could be administered on-line via a link provided on the webpage announcing that enrollment has closed. The survey should ask non-winning applicants to report at a minimum the number, location and capacity of all of the projects they had planned to submit in the VIR program. The results could be reported in aggregate by the utilities to protect confidentiality if necessary.

## **2. Support for a change in the participant selection process starting in October 2011**

First, we know that demand for the VIR has outstripped supply of capacity in the program. If the PUC wishes to balance supply and demand in the VIR program, the VIR rate should be reconsidered prior to October based on current market conditions. To date, the VIR program has been constrained by capacity limitations, just as Energy Trust's program has been constrained by budget limitations. In Energy Trust's experience, it is preferable to manage demand in the program by adjusting incentives to respond to changes in the market (for example, to lower incentives as system prices decline) than to have the budget become fully subscribed too quickly. For an effective comparison of the programs, the PUC may wish to take a similar approach with the VIR program.

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Second, we support changing the participant selection process starting with the October 2011, enrollment period. We have heard that the current first come first served process has resulted in many solar contractors and their clients feeling disenfranchised by the program because they have been unable to submit applications quickly enough to win a project. A lottery system applied to a one-day enrollment period, as proposed during the January 20, 2011, workshop, may provide a sense of more equitable distribution of winning projects. If the available capacity is not fully subscribed during the one-day enrollment period, the reservation process could revert to first come, first served and remain open until filled.

**3. Additional data to be reported regarding bid prices for large systems.**

The first report prepared by the PUC for the Legislature provided only the average bid prices for large-scale systems. The average bid price, while being useful, doesn't provide sufficient data to analyze the effectiveness of the VIR program in comparison to state tax credits and Energy Trust incentives. The average price also fails to provide the benchmark necessary to evaluate the program's effectiveness at reducing system costs, as required by statute (ORS 757.365 (13)). In addition to average bid prices, the report should include the number of bids received and the winning and non-winning bids' VIR, system size and location. This data will help the Legislature and other program stakeholders analyze the effectiveness of the VIR bid process. In ODOE's experience with the BETC review process, seeing the wide range of costs for the proposed projects, including those that received a BETC and those that did not, has helped ODOE to better assess the market and technology dynamics.

We acknowledge that reporting this bid data may not follow conventional utility RFP confidentiality practices. However, this is a pilot program, created by the Legislature with certain mandates for data analysis that may justify more transparency.

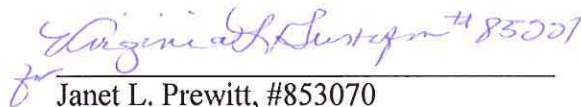
## Conclusion

We appreciate the PUC opening this docket to consider adjustments to the pilot program. We believe significant program adjustments should not be completed until after the April 1, 2011, enrollment period but that there should be a means to collect true demand data during that period. We also support re-evaluating the VIR rate and transitioning to a lottery based selection process for the October enrollment period. Finally we request more robust reporting of the large system bid prices to enable a complete analysis of the program objectives.

DATED: this 11<sup>th</sup> day of February, 2011.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 11<sup>th</sup> day of February 2011, I served the foregoing COMMENTS OF THE OREGON DEPARTMENT OF ENREGY AND THE ENERGY TRUST OF OREGON upon the persons named on the UM 1505 service list, by mailing a full, true and correct copy thereof and to such persons waiving such service by mail who were served at their e-mail address as listed on the service list, and by electronic mail to the UM 1452 and AR 538 service lists pursuant to the prehearing memorandum for UM 1505 issued by ALJ Power on October 14, 2010.

DATED: this 11<sup>th</sup> day of February, 2011

*for Virginia H. Lustig #85201*  
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Janet L. Prewitt, #853070  
Senior Assistant Attorney General