

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1696

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON,

Energy Trust of Oregon Cost Effectiveness  
Exception Requests for Manufactured Homes.

ORDER

**DISPOSITION: STAFF'S RECOMMENDATION ADOPTED**

At its public meeting on August 10, 2021, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. Comments on Staff's initial recommendations may be filed at [puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us) by the close of business August 24, 2021. Staff will present the filed comments and its final recommendations to the Commission at the September 7, 2021 Regular Public Meeting. The Staff Report with the recommendation is attached as Appendix A.



BY THE COMMISSION:

A handwritten signature in blue ink, appearing to read "Nolan Moser".

**Nolan Moser**  
Chief Administrative Law Judge

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 10, 2021**

**REGULAR** \_\_\_\_ **CONSENT**   X   **EFFECTIVE DATE**   August 11, 2021  

**DATE:** July 30, 2021

**TO:** Public Utility Commission

**FROM:** Anna Kim

**THROUGH:** Bryan Conway, JP Batmale, and Sarah Hall **SIGNED**

**SUBJECT:** OREGON PUBLIC UTILITY COMMISSION STAFF:  
(Docket No. UM 1696)  
Energy Trust of Oregon Cost Effectiveness Exception Requests for New Buildings.

**STAFF RECOMMENDATION:**

Adopt Staff's proposed schedule for submission of public comments and for Staff's final recommendation on major exception to cost effectiveness on an energy efficiency measure for portions of the New Buildings Program, as requested by Energy Trust of Oregon (Energy Trust).

**DISCUSSION:**

Issue

Whether the Commission should adopt the Schedule for public comments and Staff's presentation of its final recommendation on exception to cost effectiveness on an energy efficiency measure for portions of Energy Trust's New Buildings Program.

Applicable Law

Order No. 94-590 in Docket No. UM 551 establishes guidelines for cost effectiveness of energy efficiency measures. Section 13 of the Order details seven conditions under which exceptions to Oregon's two cost effectiveness tests may be granted by the Commission. The exceptions listed in the Order are as follows:

- A. The measure produces significant non-quantifiable non-energy benefits. In this case, the incentive payment should be set at no greater than the cost effective

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limit (defined as present value of avoided costs plus 10 percent) less the perceived value of bill savings, e.g., two years of bill savings.

- B. Inclusion of the measure will increase market acceptance and is expected to lead to reduced cost of the measure.
- C. The measure is included for consistency with other demand side management (DSM) programs in the region.
- D. Inclusion of the measure helps to increase participation in a cost effective program.
- E. The package of measures cannot be changed frequently and the measure will be cost effective during the period the program is offered.
- F. The measure or package of measures is included in a pilot or research project intended to be offered to a limited number of customers.
- G. The measure is required by law or is consistent with Commission policy and/or direction.<sup>1</sup>

The current process to consider cost effectiveness exceptions was reaffirmed in Docket No. UM 1622 and is as follows;<sup>2</sup>

- For minor exception requests, where the size and scope are limited, Energy Trust provides details to OPUC Staff who review and if appropriate, provide approval through an email. A copy of the email is kept on file by OPUC Staff.
- For major exception requests, Energy Trust provides an official filing and requests an exception. OPUC Staff makes formal recommendations to the Commission at a public meeting. Commissioners then decide on the exception request at the public meeting. For more significant requests, the recommendation presentation and the decision may occur on different meetings to allow more time for comments.

The threshold by which Staff can consider minor exceptions was officially established in

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<sup>1</sup> The cost effectiveness test required under Order No. 94-590 is the Total Resource Cost Test (TRC). *In The Matter Of An Investigation Into The Calculation And Use Of Conservation Cost-effectiveness Levels*, Docket No. UM 551, Order No. 94-590 (April 6, 1994). Energy Trust has used this test since its inception to guide what measures can be offered by Energy Trust programs. Orders entered in Docket No. UM 551 also allow for the use of other cost effectiveness tests. Energy Trust uses the Utility Cost Test (UCT) to set the maximum allowable incentive amount that can be offered to participants.

<sup>2</sup> *In the Matter of Energy Trust of Oregon, Request for Approval of Exceptions to Cost Effectiveness Guidelines*, Docket No. UM 1622, Order No. 14-332 (October 1, 2014).

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Docket No. UM 1696.<sup>3</sup> These orders codified a previous working arrangement in Docket No. UM 1622 whereby Staff could consider measure level cost effectiveness exceptions under the following circumstances:

- The measure's TRC score is below 1 and above 0.8;
- The measure's savings do not comprise more than 5 percent of a program's annual savings; and,
- The measure's cost does not represent more than 5 percent of the program's annual budget.

If a measure does not meet all of the minor exception criteria, the request goes through the Commission's major exception request process.

In January 2020, the Commission granted an initial exception for the New Buildings program, giving the Energy Trust time to work with stakeholders to develop a program re-design.<sup>4</sup>

### Analysis

This analysis will a) provide background to the program and the existing exception; b) outline activities undertaken under the exception to date; c) review the request and rationale; and d) present a proposal for further action.

### *Background*

The Energy Trust's New Buildings Program works with building owners and project developers for new construction buildings and significant retrofits in the commercial and industrial sectors. By getting involved with customers early during the design phase, Energy Trust is able to provide energy-saving recommendations before key design decisions are made that may limit additional opportunities to invest in energy efficiency. Projects may work with the program for 18 months or more, and choose between three different tracks offered by the program:

**Prescriptive Track:** Energy efficiency measure-level incentives for choosing one specific piece of equipment over another.

**Market Solutions Track:** Sets of recommendations based on models that had been established based on specific building types (ex: low-rise multifamily, or a school building).

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<sup>3</sup> *In the Matter of Energy Trust of Oregon, Cost Effectiveness Exception Request for Electric Measures*, Docket No. UM 1696, Order Numbers 17-395 and 17-457.

<sup>4</sup> *In the Matter of Energy Trust of Oregon, Cost Effectiveness Exception Request for Electric Measures*, Docket No. UM 1696, Order Number 20-018.

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**Custom Track:** Recommendations based on modeling an individual building. Energy Trust has both a whole building offering and “Path to Net Zero” approach.

In 2018, Energy Trust completed 462 projects across the three tracks, saving over 47 million kWh and 860,000 therms with a budget of \$6 million. Further, the program contributed approximately 11 percent of total electric savings and 13 percent of total gas savings to Energy Trust in 2018. The New Buildings program works with half or more of the newly constructed buildings in Energy Trust’s service territory. Overall, the program scored a 2.5 UCT and 1.6 TRC in 2018.

In February 2019, Oregon adopted the 2019 Oregon Zero Energy Ready Commercial Code (“2019 Code”) as part of the 2019 Oregon Structural Specialty Code effective October 2019 and replacing the previous 2014 Oregon Energy Efficiency Specialty Code (“2014 Code”).<sup>5</sup> This code update was driven by Executive Order 17-20<sup>6</sup> and results in a significantly higher baseline of efficiency for new construction and major retrofits. This will have lasting benefits, improving energy use for buildings permitted January 1, 2020, and later.<sup>7</sup>

While codes are expected to be updated periodically and often incrementally, the 2019 update resulted in more significant changes between versions than usual. The 2014 Code was based on the 2012 International Building Code and the 2019 Code is based on the American Society of Heating, Refrigerating and Air-Conditioning Engineers (“ASHRAE”) 90.1-2016 standards.

The overall impact of the advances in codes due to the adoption of ASHRAE 90.1-2016 standards is an improvement of the baseline for energy usage in newly designed buildings. Under the 2019 code changes, the Prescriptive Track of Energy Trust’s New Buildings Program continues to operate as before, but with reduced overall savings. Meanwhile, Energy Trust had difficulty adapting the Custom and Market Solutions Tracks to these code changes because the existing approach would not provide clear information about savings and costs at the individual energy efficiency savings measure level.

OPUC Staff recommended an exception for the Custom Track and Market Solutions Track of the New Buildings Program to give Energy Trust time to study and test ways to modify or redesign these tracks to comply with measure-level testing of savings and costs. These exceptions were granted in Order No. 20-018.

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<sup>5</sup> See BCD comments at <https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx>.

<sup>6</sup> Executive Order 17-20 [https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_17-20.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_17-20.pdf).

<sup>7</sup> 2019 Oregon Structural Specialty Code Adoption documentation is available here: <https://www.oregon.gov/bcd/codes-stand/code-adoption/Pages/2019-osscc-adoption.aspx>.

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*Activities Under the Existing Exception*

Under the exception for New Buildings, Energy Trust was directed to:

1. Gather data and test cost effective re-design approaches for the custom track and market solutions track.
2. Dialogue with experts in the field and with Energy Trust's Conservation Advisory Council (CAC) in considering program track changes based on field observations.
3. Propose to the CAC and OPUC design changes to the program and/or changes to OPUC's cost effectiveness test(s) for the custom track and market solutions track.<sup>8</sup>

Energy Trust has followed through on items No. 1 and No. 2 to Staff's satisfaction but has not completed No. 3 at this time.

Over the last 18 months, Energy Trust hosted a series of workshops that included representatives from Oregon Department of Energy (ODOE), Northwest Energy Efficiency Alliance (NEEA), and OPUC Staff. Energy Trust also consulted with additional experts at Department of Consumer and Building Services (DCBS), in industry, and through the Conservation Advisory Council.

Energy Trust worked with stakeholders through workshops to explore different design options, considering a range of alternatives and attempted to pursue options that came closest to determining costs and savings at a measure level. The group concluded that the major challenge was determining the cost of the equipment that would be used in a building if the program did not exist. Energy Trust collected data as advised by stakeholders, and tested a proxy approach on specific building. Energy Trust used prototype buildings and cost estimates from a third-party cost consultant but found results were too variable to support the use of this approach.

As the end of the initial exception period approaches, Energy Trust does not have a new program design to propose, and will not be able to produce one before the exception period ends on December 31, 2021.

At this point, no projects under the new code have been completed, which limits Energy Trust's ability to learn from market practices. It may be until early 2023 before projects are completed. This lack of experience makes it more challenging to develop a program that provides value to the market.

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<sup>8</sup> *In the Matter of Energy Trust of Oregon, Cost Effectiveness Exception Request for Electric Measures*, Docket No. UM 1696, Order No. 20-018.

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*The Exception Request*

Energy Trust requests an extension of exceptions to the Custom Track and Market Solutions Track of the New Buildings Program. This request falls under the major exception category as these tracks had in the past accounted for roughly half the savings through New Buildings.

Energy Trust is requesting the extension because it needs more time to develop a new program design. At the same time, Energy Trust wants to continue supporting the market, which benefits from the stability of Energy Trust's services.

Energy Trust requests the exception under Categories A, B, C, and G, providing the following arguments.

- A. The measure produces significant non-quantifiable non-energy benefits. In this case, the incentive payment should be set at no greater than the cost effective limit (defined as present value of avoided costs plus 10 percent) less the perceived value of bill savings, e.g., two years of bill savings.

These tracks are a long-term investment in building more efficient buildings overall. The program also supports multifamily buildings, which benefits lower income and rural customers. By providing support through these tracks of the New Buildings program, Energy Trust supports the building design and architecture community, and can target communities to benefit from higher efficiency.

- B. Inclusion of the measure will increase market acceptance and is expected to lead to reduced cost of the measure.

An exception to these tracks of the program is expected to lead to increased market acceptance of the range of energy efficiency measures that Energy Trust would recommend through these tracks and is also expected to lead to reduced costs of those recommended measures, as well as reduced costs over time in terms of modeling and estimating impacts.

- C. The measure is included for consistency with other demand side management (DSM) programs in the region.

These tracks are part of state and regional efforts towards more efficient buildings, including Portland Housing Bureau Affordable Housing Green Building Policy, NEEA, and the efforts of Oregon Housing and Community Services in affordable multifamily housing.

- G. The measure is required by law or is consistent with Commission policy and/or direction.

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These exceptions would support Executive Order 17-20 that led to the adoption of the new code changes, and support efficiency in affordable housing. These exceptions would also support Executive Order 20-04 by reducing site-level reductions of greenhouse gases.

Staff agrees with these assessments and believes exception Categories A, B, C, and G are applicable. Overall, Staff believes that an extension to an exception for these program tracks is important for the long-term growth of energy efficiency achievements in Oregon, and Energy Trust requires more time to complete this effort.

*Proposed Action Plan for the Exception*

Staff proposes granting an extension of two years to the exception for the Custom Track and Market Solution Track of the New Buildings Program. The current program offerings will continue to operate and collect information on how customers are responding to the code changes, measures costs, and measures savings under the new codes.

During this time, Energy Trust will continue to work with stakeholders, including CAC, Oregon Department of Energy and NEEA to develop a new program design. Energy Trust will report back to Staff every six months with updates and progress towards new offerings.

Since this request affects a large portion of a program while considering non-traditional cost effectiveness standards, Staff recommends providing an additional period for public comment. Staff proposes the following:

- All stakeholders be given until August 24, 2021, to file comments or contact Staff regarding these recommendations.
- At the September 10, 2021 Public Meeting, Staff will return to the Commission to summarize stakeholder positions and present its final recommendations on the exception request for Commission approval.

Conclusion

Staff concludes that the New Buildings Program Custom Track and Market Solutions Track should be granted exceptions through March 31, 2024, to cost effectiveness requirements so that the program can continue to provide a range of offerings to builders and designers while taking the time to make modifications to the program. Staff proposes that stakeholders have until August 24, 2021, to file comments or contact Staff regarding the recommended major cost effectiveness exceptions. Staff will present stakeholder comments and its final recommendations at the September 10, 2021, Public Meeting.



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**PROPOSED COMMISSION MOTION:**

Adopt Staff's proposed schedule for submission of public comments and for Staff's final recommendation on major exception to cost effectiveness on an energy efficiency measure for portions of Energy Trust's New Buildings Program, as detailed in this memo.

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