

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**  
3 **AR 538/UM 1452**  
4  
5

6	In the Matter of PUBLIC UTILITY		
7	COMMISSION OF OREGON		Closing Comments
8	Investigation into Pilot Programs to		of the Citizens' Utility Board
9	Demonstrate the Use and Effectiveness of		of Oregon (CUB) in regard to
10	Volumetric Incentive Rates for Solar		Staff's Straw Proposal and
11	Photovoltaic Energy Systems.		the Proposed Rules
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16 The following closing comments are provided by the Citizens' Utility Board of Oregon  
17 (CUB) in regard to the proposed rules generated in Docket AR 538, the straw proposal submitted  
18 by Staff in Docket UM 1452, and other parties' opening comments. CUB will attempt to make  
19 specific references to either the proposed rules or straw proposal as appropriate in making its  
20 points.

21 CUB's closing comments focus on three main areas: 1) recommending that the  
22 Commission charge the Energy Trust of Oregon with administration of the FIT pilot program; 2)  
23 a discussion of the implementation timeline; and 3) a discussion of the system size distribution.  
24 In addition, CUB provides responses to some of the questions posed by the Commission in its  
25 January 22, 2010 Ruling.

26  
27 Support for Other Joint Testimony

28 CUB has worked with other parties to develop ongoing responses to the draft rule and  
29 straw proposal. CUB endorses the closing comments led by the Renewable Northwest Project

1 (RNP) and joined by other parties (referred to as “RNP, et al”). CUB writes separately to  
2 highlight the middle ground which exists between the RNP position and Staff’s position.

3

4 ETO Administration

5 The goals of the feed-in tariff pilot are 1) to test the viability of such a program in  
6 comparison to the existing incentive programs, which are based in tax credits and incentives  
7 from the Energy Trust of Oregon, and 2) to test the potential rate impacts of a feed-in tariff.

8 Given that testing through comparisons runs the risk of undermining the existing programs or  
9 creating confusion in the marketplace, CUB believes the best way to prevent either outcome is to  
10 place responsibility for administering and marketing the program with the Energy Trust. If the  
11 Energy Trust is administering the pilot, it will be able to give consumers information about all  
12 the options available to them and help them make the best decision for their particular situation.

13 This approach will also help fill the legislative requirement in HB 3039 that the PUC “advise and  
14 assist the owners and operators of qualifying systems in identifying and using grants, incentive  
15 moneys, federal funding and other sources of noninvestment financial support for the  
16 construction and operation of qualifying systems.” [HB 3039 – Enrolled; Section 2(11)]

17 Additionally, failure to charge the ETO with the responsibility of administering and marketing  
18 the program may have the unfortunate result of multiple conflicting messages coming from  
19 multiple utilities.

20 But recommending that the Energy Trust be charged with administering the program does  
21 not exclude cooperative efforts with utilities. Much like the Energy Trust’s current programs,  
22 the pilot can be co-branded with the utilities, and the utilities can and should have input into the  
23 program’s implementation. The fact is that the Energy Trust is uniquely positioned to both

1 administer the pilot across multiple utilities and their various territories and to coordinate the  
2 pilot with existing programs so that the pilot is additive rather than duplicative of existing  
3 programs.

4

#### 5 Implementation Timeline

6 The workshops for the feed-in pilot implementation have featured substantial discussion  
7 around an implementation timeline for the pilot program. It is fair to say that two ends of the  
8 spectrum are represented by RNP, et al. and Staff. RNP, et al. propose implementing the pilot  
9 over a two-year timeline. Staff proposes implementing the pilot over a four-year timeline, at  
10 least for residential customers (there is some potential to implement the program for commercial  
11 customers over two years). While CUB has endorsed the RNP, et al. position, CUB also  
12 recommends that the Commission consider a middle path – a three-year implementation – in its  
13 discussions to determine whether that time frame might be the “sweet spot” for balance between  
14 rapid deployment, consumer education and cost management. Additional time in the rulemaking  
15 process might have allowed a fuller examination of this kind of middle path, but the accelerated  
16 process has not permitted it. Hopefully the extended time the Commission may gain from the  
17 legislature will permit the Commissioners to include the three year option in their discussions  
18 and decisions.

19

#### 20 System Size Distribution

21 Another key topic of discussion is the proper capacity allocation among system sizes. At  
22 the center of the debate is the meaning of HB 3039’s requirement that “75 percent of the  
23 energy...be generated by smaller-scale qualifying systems....” What does “smaller-scale”

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1 actually mean, and what proportion refers to “residential” systems? In our opening comments,  
2 CUB advocated that a workable division of system sizes was 0-10 kW; 11-100 kW; and greater  
3 than 100 kW. There seems to be general consensus around this structure, with a few exceptions.  
4 CUB anticipates that the Commission will receive additional guidance from the 2010 session of  
5 the legislature to clarify this breakdown.

6 Staff has proposed allocating 50 percent of the pilot’s 25 MW to systems in the 0-10 kW  
7 range. The reasoning is that “smaller-scale” as outlined in the statute means “less than 100 kW,”  
8 and that residential customers will primarily fall in the 0-10 kW range. Staff has therefore  
9 allocated the preponderance of the 75 percent of “small-scale” systems to that “residential”  
10 segment.

11 This is a reasonable approach. But CUB would like to offer another perspective for the  
12 Commission to consider. A common argument in favor of this breakdown is that current ETO  
13 programs deploy solar primarily in the residential sector. However, the same argument might  
14 suggest that slightly more capacity might be needed in the 11-100 kW range to see if a feed-in  
15 tariff model is a better mechanism to deploy commercial-size systems. While it appears the  
16 current system works well for residential customers, it may not work as well for commercial  
17 customers.

18 CUB also suggests that the Commission explore the balance between capacity allocation  
19 and rate impact, both in the pilot program and for any potential ongoing program. If allocating  
20 50 percent of the pilot’s capacity to residential customers causes an unbalanced rate impact, the  
21 Commission should consider changing that allocation. Compliance with the statute requiring  
22 that 75 percent of the energy come from “smaller-scale” systems would also require that those  
23 systems be less than 100 kW.

1           Questions from the Commission

2           On January 22, 2010, a workshop was held with Commissioners present. At the  
3 conclusion of the workshop, provision was made for the Commissioners to submit questions to  
4 parties, in writing, to be addressed by parties in their closing comments. Attached to the ALJ's  
5 January 22, 2010, ruling was a set of ten questions from the Commissioners. CUB will address  
6 five of those questions:

7  
8           *Question #2: Utility and Affiliate Ownership: Should the Commission allow utilities or*  
9 *their affiliates to own and operate eligible projects as third parties?*

10           CUB believes that the Commission should not allow utilities or their affiliates to own and  
11 operate eligible projects as third parties. With the pilot nature of this program, having such a  
12 provision would introduce complications with issues related to system ownership, return on  
13 investment and for what exactly ratepayers are paying. At this time, utilities and their affiliates  
14 should not be allowed to operate eligible projects.

15  
16           *Question#3: Net Metering Incentives: Some parties are concerned about perverse*  
17 *incentive for owners to waste energy under the net metering approach. Is this a problem?*

18           CUB's opinion is that this is not a significant enough issue to forestall the use of net  
19 metering as part of the pilot project. While customers will be able to afford larger capacity solar  
20 systems than they can today under the net metering approach, they will still be able to balance  
21 generation and usage. The parties should pay attention to this phenomenon for future  
22 consideration during the pilot, but it is not prominent enough to worry about at present.

1 CUB does feel compelled to re-state its notion from its opening comments that the real  
2 “perverse incentive” that needs to be avoided is the investment of disproportionate dollars in  
3 very expensive resources at the expense of an inexpensive resource, such as efficiency.  
4

5 *Question #5: Pilot Testing: What does the Commission need to do for an effective*  
6 *comparative assessment of the feed-in tariff approach versus the current tax credit/subsidy*  
7 *approach?*

8 CUB believes that its recommendation to place administrative and marketing  
9 responsibility in the hands of the Energy Trust would be a key strategy in ensuring that a reliable  
10 comparative assessment of the pilot versus the current approach takes place. Because the ETO is  
11 very focused on evaluating a wide variety of strategies to encourage renewable resources, the  
12 ETO can develop an analytical model to evaluate the pilot in comparison to the current approach.

13 CUB also believes that including some sort of automatic rate regression strategy as CUB  
14 outlined in its opening comments – and that RNP, et al. also detailed – will give the Commission  
15 and parties the tools to determine the effect of prices on consumer acceptance of the program or  
16 the deployment of solar resources, whether those prices are high or low. Between these two  
17 items, the Commission will have a great deal of ability to do a comparative assessment.  
18

19 *Question #6: Carve-outs and/or Rate Differentials: Should the Commission provide*  
20 *carve-outs and/or higher rates for non-profit organizations? Other groups? Why or why not?*

21 CUB believes that there should not be special carve-outs and/or higher rates for non-  
22 profits or other groups. The hope of the feed-in tariff approach is that groups that cannot take  
23 advantage of tax credits will find it easier to be paid for generated energy. The payments for  
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1 generated energy should be relatively equal for all entities, non-profit or not. CUB endorses the  
2 position outlined in the RNP, et al. comments to establish a volumetric incentive rate (VIR) for  
3 entities who would not otherwise be eligible for the federal Investment Tax Credit (ITC).  
4 However, the VIR rates will likely be high enough that this may not be a critical factor in  
5 deploying additional solar resources in the non-profit sector.

6  
7 *Question #9: Rate Adjustments: Should the Commission use a formulaic approach to*  
8 *adjusting rates (eg – hardwired adjustment) or an approach that provides the Commission*  
9 *flexibility in how it adjust rates?*

10 CUB supports the remarks outlined in the RNP, et al. comments regarding this question.  
11 While the Commission needs to provide rate certainty for specific projects, this does not mean  
12 that the Commission should not have a method to rapidly adjust rates if those rates are too high.  
13 CUB outlined a quarterly rate reduction mechanism, based on full deployment of allocated  
14 capacity, in its opening comments. CUB again endorses that mechanism to provide rate certainty  
15 to specific projects, while also providing the opportunity to learn what lower rates may or may  
16 not move the market and allow further deployment of solar resources.

17  
18 Conclusion


19 CUB appreciates the opportunity to offer these closing comments and looks forward to  
20 continuing to participate in the pilot implementation process.

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22 This concludes our comments.

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## AR 538 and UM 1452 – CERTIFICATE OF SERVICE

I hereby certify that, on this 16<sup>th</sup> day of February, 2010, I served CUB's re-filed (adding footer and signature block) **CLOSING COMMENTS OF THE CITIZENS' UTILITY BOARD OF OREGON IN REGARD TO STAFF'S STRAW PROPOSAL AND THE PROPOSED RULES** in docket UM 1452 and Docket AR 538 upon each party listed in the UM 1452 and AR 538 PUC Service Lists by email and upon the Commission by email and by sending 2 copies by U.S. mail, postage prepaid, to the Commission's Salem offices.

**(W denotes waiver of paper service)**

**(C denotes service of Confidential material authorized)**

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