

**Efficiency Maine Trust
Board Meeting Minutes
December 13, 2017**

Trust Board Members:

- David Barber
- Dan Brennan
- Brent Boyles, Treasurer (via phone)
- Herbert Crosby, Secretary
- Ken Fletcher, Chair
- Al Hodsdon
- Don Lewis
- Steven McGrath
- David Stapp, Vice Chair

Efficiency Maine Trust (EMT) Staff:

- Ian Burnes
- Emily Cushman
- Peter Eglinton
- Monté Haynes
- Greg Leclair
- James Leyko
- Michael Stoddard

Other Attendees:

- Sue Ely, NRCM
- Todd Grisct, Preti Flaherty
- Michelle Marean, DNV GL
- Christine Rogers, Alodyne

1.0 Welcome and Introductions

Mr. Fletcher called the meeting to order at 9:33 a.m.

2.0 Approve Agenda and Minutes

ACTION: Upon a motion duly made (Mr. Lewis) and seconded (Mr. Barber), the Board voted unanimously to approve the agenda and the November Board Meeting Minutes.

3.0 Public Comment on Agenda Items

None.

4.0 Executive Director's Report

Mr. Stoddard summarized the Executive Director's Report. Following are items highlighted during his presentation:

- EMT Staff filed the FY2017 Annual Report with the Legislature at the end of November. EMT Staff will be submitting a separate report to the Legislature in January regarding FY2018 year-to-date financials.
- Mr. Stoddard noted that the press continues to cover pieces on getting homes ready for winter. These stories served as earned (free) media opportunities for EMT. Mr. Stoddard was interviewed by Maine Public, WGME, and others.

- Mr. Stoddard attended an informational meeting at the Legislature regarding a carryover bill about microgrids (LD 257). He said that the discussion covered a wide range of topics, from utility siting rules to solar power and battery storage. In light of recent storms and extended electricity outages, proponents also stressed the resiliency benefits of microgrids. Mr. Stoddard noted that there was a lack of discussion regarding costs and economics. He said that EMT is following these proceedings due to potential overlap with the non-transmission alternative (NTA) issue. He informed the Board that, although the Commissioners at the Public Utilities Commission (PUC) rejected PUC Staff's recommendation on the NTA Coordinator docket, another carryover bill from last year will likely continue discussion of the issues at the Legislature.
- EMT filed a protest at the Federal Energy Regulatory Commission (FERC) regarding the Independent System Operator (ISO) New England estimate of the Trust's qualified capacity resources in the twelfth Forward Capacity Auction.
- The Small Business Initiative (SBI) is modifying its Energy Assessment Tool, which will address some of the cost-effectiveness issues discussed in the FY2017 Annual Report.
- The Home Energy Savings Program (HESP) experienced an interruption in service at the firm that performs underwriting and loan servicing. The cause of the interruption was found to be staffing changes and posting of wrong phone numbers at Renew Financial. EMT Staff is reaching out to impacted customers to get loans back on track.
- The Consumer Products Program continues to focus on special off-shelf product placement. Mr. Lewis asked why EMT is prioritizing this approach, given the drop in sales in recent months. Mr. Eglinton explained that off-shelf space becomes more competitive during the holiday season, which pushed out LEDs from this preferred placement. EMT expects activity to return to normal in the new year.
- EMT presented at the Arrearage Management Program (AMP) Stakeholder Group meeting at the PUC. EMT Staff reported that EMT's do-it-yourself kits help provide energy savings, though not at a large scale compared with customer debt. The utilities reported that AMP's overall recidivism rate is high. Organizers will submit a report with these findings to the Legislature in January. Mr. Stoddard said organizers are eager to have EMT get more involved in helping participants reduce energy usage; he stressed, however, that EMT has reservations about linking large investments to ratepayers who are not paying their bills. Mr. Stapp asked if there is a distinguishing factor about these homes that is leading to such high energy use. Mr. Stoddard explained that at this time Staff has not determined what the distinguishing factor is, but noted that we predict some AMP participants are using electric resistance for space heating during the winter months. Mr. Fletcher encouraged Staff to do more analysis of customer usage data to see if distinguishing features can be identified.
- EMT is working with organizers of a new AmeriCorps initiative targeting energy efficiency in low-income homes. In addition to spreading the word about EMT

Programs, it is hoped that AmeriCorps workers will assist with direct installations in low-income homes.

- EMT's Confidential Information Management System (CIMS) Policy has been updated to cover Board members. Mr. Stoddard will circulate the document for signature in January.
- EMT recently hired Cecil Gardner as the new Sales and Marketing Assistant.
- Mr. Stapp asked how EMT's Behavioral Pilot (through Innovation) interacts with AMP. Mr. Stoddard explained that they are unrelated; the Behavioral Pilot is attempting to demonstrate that Central Maine Power's Energy Manager dashboard can encourage low-income customers to reduce energy usage.

5.0 Committee Report

(a) Finance Committee

i. UPDATE on Monthly Financial Reports

Mr. Leclair reported that EMT's revenues are on pace with forecasts. Mr. Eglinton identified some expenditure areas that Staff is watching carefully, including the need to ramp up HESP marketing and expand low-income natural gas efforts. EMT will collaborate with the Department of Health and Human Services (DHHS) to reach thousands of customers that qualify for various income-eligible programs.

ii. UPDATE on Regional Greenhouse Gas Initiative (RGGI) Auction

Mr. Stoddard reported that the December RGGI auction generated \$3.17 million, putting EMT ahead of budget for these revenues in FY2018. Due to declining revenues in FY2017, EMT had made a conservative forecast to avoid overcommitting funds. The surplus is also helpful in meeting the PUC's directive that EMT disburse \$2.5 million to Affected Customers in the first two quarters of the year. Staff will propose budget adjustments to the Board at the January meeting.

iii. MOTION to Authorize Acceptance of Funds from the Maine Department of Transportation (DOT)

Mr. Stoddard provided background on the Volkswagen settlement, as detailed in his December 13, 2017 memo. Under the terms of the settlement, states may dedicate up to 15% of the funds to electric vehicle (EV) charging infrastructure. The Maine DOT recommended that EMT administer these funds and the related grant program. Mr. Stapp asked about the implications for staff time. Mr. Stoddard said it will depend on the chosen program approach. The priority will likely be establishing the EV corridor between Quebec and southern Maine. Given that this is a fairly remote stretch, it may require more Staff effort.

ACTION: Upon a motion duly made (Mr. Lewis) and seconded (Mr. Hodsdon), the Board voted unanimously to authorize the Executive Director to accept and receive VW settlement funding from the Maine DOT for the purpose of administering a program to promote the installation of EV charging stations pursuant to the "Maine Environmental Mitigation Plan Pursuant to Volkswagen 2.0 L Vehicle Partial Consent Decree, Appendix D" and to deposit such funds into a separate account for that purpose.

(b) Program Committee

i. PRESENTATION on the GEO Energy Plan

Mr. McGrath provided an overview of the State Energy Plan. Maine statute directs GEO to update this plan every two years. Working with E2Tech, GEO has held several stakeholder meetings to gather input from experts in the field. The plan involves eight focus areas: Home Heating, Renewables, C&I, Transportation, Wind, State Government, Greenhouse Gas (GHG) Emissions, and Electricity/Efficiency. Within each focus area, the plan provides a general profile, reviews the previous plan's policy recommendations, highlights recent accomplishments, and lays out policy recommendations. Mr. McGrath highlighted the plan's overarching themes for Maine: 1) we need to lower electricity and gas rates, 2) we are losing industry to low-cost states, 3) EMT programs pay back, 4) free subsidies are expensive to someone, 5) New England has become heavily dependent on natural gas and pipeline capacity for Maine is blocked, 6) heat pumps save money and reduce emissions, and 7) we need to partner with Canada for cheap energy.

Mr. Hodsdon asked if the plan considers fixed-price transmission and distribution charges for residential applications. Mr. McGrath said the plan proposes rate design changes generally. Mr. Lewis suggested GEO look at the economics of stand-by facilities and their relationship with intermittent renewable power. Mr. Stapp asked if, when quantifying GHG reductions, GEO accounts for efficiency losses from suboptimal uses of baseload generators during peak renewable generation hours. Mr. Brennan asked if the plan will report on MaineHousing's weatherization activity. Mr. McGrath suggested he and Mr. Brennan meet to ensure appropriate coverage of the topic.

ii. REVIEW Updated Analysis and Options and APPROVE Approach to Handling Custom Efficiency Proposals at Medical Marijuana Facilities

Mr. Stoddard provided an overview of the Board's recent discussion regarding whether and how medical marijuana facilities could participate in EMT programs, as detailed in his December 6, 2017 memo to the Board. Pursuant to the action at the September Board meeting, a delegation of EMT Staff and Board members met with the Attorney General's (AG's) Office in November. The AG staff then submitted a written summary of its analysis of the legal implications of accepting or rejecting efficiency projects on the basis of a customer's status as a medical marijuana business. This analysis indicated that, should EMT provide incentives to these customers, the perceived risk of an enforcement consequence is extremely low. First, federal law currently restricts federal enforcement on state medical marijuana laws (see Rohrabacher-Blumenauer Amendment and Cole Memo). Second, other Maine agencies (e.g. DHHS, Maine Revenue Service) are more directly involved in licensing and regulating medical marijuana operations; EMT's involvement would be tangential. The AG's analysis also stated that, should EMT refuse to provide incentives to these customers, the risk of legal consequences is similarly low. AG Staff said that the statute does not provide medical marijuana facilities with a "cause of action" that might lead to financial damages. Rather, the AG suggested that a more likely outcome would be a "remedy in equity," compelling EMT to provide an incentive to qualifying projects. Customers would also have to argue that EMT incentives constitute a "right

or privilege” that EMT denied them solely on the grounds that they are medical marijuana businesses.

Mr. Stoddard explained that the touchstone for eligibility of a project turns on cost-effectiveness. In the case of projects associated with medical marijuana operations, the question is how reasonable is it for EMT to assume that these projects will remain in place long enough to reach cost-effectiveness?

Mr. Stoddard reviewed three potential Board actions on this issue. Option 1 would be to exclude from eligibility any measures located at medical marijuana businesses on the grounds that uncertainty about federal enforcement prevents EMT from determining that long-lived projects are reasonably likely to persist long enough to reach cost-effectiveness. Option 2 would be to treat these businesses as eligible, but require them to provide a security interest to mitigate the risks of stranded costs that may result from closures due to federal enforcement. Option 3 would be for EMT to seek specific guidance from the Legislature.

Mr. Stapp voiced his concern that current medical growers are likely to expand to the recreational space. Mr. Hodsdon asserted that the current volume of medical marijuana production in Maine far exceeds patient demand, resulting in diversion of product to the recreational market. Mr. Lewis said that taking a security interest does not seem like a practical solution. Instead, he suggested EMT pay out incentives in installments over the life of the project if it is concerned about longevity. Mr. Lewis also stated that, should the Board decide that these customers are not eligible for incentives, it should not limit this restriction to the C&I Custom Program. He asserted that many grow operations use heat pumps, which are eligible for incentives through CIP.

Mr. Stoddard noted that the Staff is already planning to make heat pumps ineligible in all indoor grow operations (regardless of the product) because they do not represent an appropriate application of the technology. He also expressed concern over the administrative challenges involved in screening customers through EMT’s retail programs. Mr. Stapp suggested the motion target those programs that involve an EMT review.

The Board discussed whether the restriction should exclude office or retail space and apply to indoor grow facilities specifically; it ultimately decided to restrict all aspects of the marijuana business from receiving incentives. Finally, Mr. Barber, Mr. Stapp and Mr. Fletcher agreed that if marijuana were legalized at the federal level, the Board would have to reconsider its action and allow full access to EMT programs.

ACTION: Upon a motion duly made (Mr. Stapp) and seconded (Mr. Lewis), the Board voted (Mr. Brennan abstained) to direct Staff to exclude from eligibility for the C&I Custom Program, the C&I Prescriptive Program, and the Small Business Initiative any project located at a business that is engaged in activity under the Maine Medical Use of Marijuana Act (MMUMA) for reasons that include but are not limited to:

1. The federal law that currently restricts federal enforcement of state-authorized medical marijuana business sunsets and must be reauthorized annually to remain in effect;
2. It is not clear at this time whether the restriction against federal enforcement will be extended and if so, for how long it will be extended; and,

3. Uncertainty about federal enforcement prevents EMT from determining at this time that long-lived project measures at businesses operating under authority of the MMUMA are reasonably likely to persist long enough to reach cost-effectiveness.

6.0 New Business

Mr. Stoddard noted that the January Board meeting would include a discussion of RGGI funding allocation and an annual presentation from MaineHousing.

7.0 Next Meeting Agenda and Scheduling

The next Board meeting is scheduled for January 24, 2018.

ACTION: Upon a motion duly made (Mr. Lewis) and seconded (Mr. Hodsdon), the Board voted unanimously to adjourn the Board meeting at 11:59 p.m.