

Efficiency Maine Trust

Board Meeting Minutes

October 24, 2012

Trust Board Members

● Naomi Mermin	● Jim Atwell
● John Rohman	● Ken Fletcher
● Doug Smith	● Margaret Bean (for John Gallagher)
● Al Hodsdon	Brent Boyles
● Glenn Poole	(● = Present)

Efficiency Maine Trust Staff:

- Michael Stoddard
- Dana Fischer
- Elizabeth Crabtree
- Ian Burnes
- Paul Badeau
- Lucia Nixon
- Connie Packard
- Greg Leclair

Other Attendees:

- Avery Day, Pierce Atwood
- James Labrecque
- Calvin Luther, Bangor Hydro
- Steve Ward, representing CAP agencies
- Dylan Voorhees, Natural Resources Council of Maine
- Greg Cunningham, Conservation Law Foundation
- Ron McKinnon, Department of Economic and Community Development
- Adam Gifford, Conservation Services Group

Ms. Mermin called the meeting to order at 9:45.

1. Agenda and Minutes

Motion to approve draft agenda made by Mr. Rohman. Seconded by Mr. Fletcher. Approved unanimously.

Motion to approve the minutes from the September meeting was made and seconded, and approved by unanimous vote.

2. Public Comment

Avery Day, Pierce Atwood, representing Unitil, which supports base funding and requested a change in the Natural Gas Conservation Program so that natural gas residential programs allow for equipment rebates. In other states, such as NH and Massachusetts, this has been found to be effective. In the commercial and industrial sector, Unitil supports the current offerings.

Steve Ward delivered testimony on behalf of the CAP agencies. On behalf of the clients of CAP Association, they expressed their gratitude for the Triennial Plan's proposed programs to help Low income customers. Mr. Ward conveyed his understanding that the statutory goals are aspirational, and noted that this particular goal is attainable. He urged trustees to argue for the highest level of efficiency savings that meets cost-effectiveness tests in the Plan, recognizing that this approach will be evaluated by PUC in that proceeding.

Greg Cunningham of the Conservation Law Foundation provided testimony, and referenced the discussion from last meeting regarding targets and role of targets. He felt the board had the understanding that the plan is consistent with and advances targets. Uncertainty about whether they were achievable long term. Math today and math done 10 years is reality. Those targets are long term goals, and the state should continue to strive toward those long term goals, knowing that having numbers don't ensure you'll get there. A base case scenario doesn't meet standard of 30 percent or all cost effective standard. We should issue a finding or at a minimum have a discussion that base case won't allow you to meet or achieve targets within statutory scheme.

Jim Labrecque distributed testimony. It includes a memo of concurrence from other energy stakeholders expressing concerns about the proposed Triennial Plan. The concerns include that the goals were "out of line with reality;" that the level of savings being achieved through the Trust's programs is not meeting the targets of the statute.

Dylan Voorhees from the Natural Resources Council of Maine testified that the Trust should focus on the law and numbers. He urged considering what the decision about budget levels will mean for ratepayers. The two scenarios – between continued Base Assessment budgets versus a budget increase to capture Maximum Achievable Cost-Effective Efficiency (MACE) -- directly affect ratepayers, and MACE will deliver \$400 million of additional savings to Maine's electricity customers. By practice and law, he said the buck doesn't stop with the Board, but rather it stops at the PUC.

3. Executive Director's Report

Mr. Stoddard delivered the Executive Director's report.

Mr. Fletcher asked how soon Staff will have data from the Low Income electrically-heated home weatherization program and the heat pumps that are being installed through this program. Mr. Stoddard replied that we should have a lot of good data by the end this calendar year, but for the heat pumps useful data will probably not be ready until a year from now.

Mr. Stoddard welcomed Connie Packard to the staff as Controller.

4. Committee Reports

The Finance Report was presented by Glen Poole. The Finance Committee directed Staff to bring forward the Financial Report prepared by the Trust's auditor -- MacDonald Page.

Mr. Poole made the motion to accept the Report, and Mr. Hodsdon seconded the motion. The vote to accept the Report was unanimous.

Mr. Atwell presented the Strategic Planning Committee's recommendation to submit the Triennial Plan to the Board for approval. Mr. Atwell moved to approve the plan, and Mr. Rohman seconded the motion.

Discussion:

Mr. Fletcher mentioned that the board began important discussions about a findings memo last meeting. He commended work done on the Tri Plan. Regarding the targets, he indicated he sees these as goals, not mandates, but is troubled that some stakeholders view them as mandates. This should be tempered with the notion that these goals have to be cost effective. This is an opportune time because the Trust has learned a lot over the last two or three years. Mr. Fletcher encouraged the Trust to make the findings, from the board, part of the tri plan or a separate communication attached to the plan.

Mr. Fletcher also encouraged the Trust to give an indication of the level of attainability of each of the targets, including a brief rationale for why it is or is not achievable.

Ms. Mermin asked whether staff was capable of amending the draft Findings document to include a discussion of the likelihood of achieving the targets.

Mr. Stoddard indicated the Staff's readiness to help develop an amendment to the Findings document to achieve Mr. Fletcher's suggestion.

Mr. Poole said that MACE funding depends on price, forecast and technology. He observed that the timelines for most of the targets is quite long, and urged the discussion to reflect that during that length of time, a lot can change.

Mr. Fletcher agreed, saying he doesn't view this as one time event, but noted the need and responsibility of the Trust to effectively communicate to the PUC what the Trust sees ahead.

Mr. Smith indicated the importance of conveying to the PUC the Trust's findings on the degree to which the targets are achievable.

Mr. Rohman shared his support of giving an indication of the Trust's perspective on how likely the targets are to be attained.

Mr. Hodsdon suggested leaving it to the PUC to evaluate the attainability of the targets and, while recognizing that some of the targets were lofty and were not likely to be attained, preferred to focus on with the simple question of whether the Plan is consistent with goals set by legislature.

Ms. Mermin recalled that the Board had specifically asked staff to look at findings and asked legal counsel to get an opinion the Trust's role.

Mr. Smith added that the Trust's job is not that of a policy maker; he expressed his concern that communications from the Trust to the PUC should not make any false recommendation or appraisals.

Mr. Poole observed that the Trust had received legal counsel from Linda Pistner of the Attorney General's office on some of these issues and asked for an update. Ms. Mermin invited legal counsel, Linda Pistner from the Attorney General's office, to speak. Ms. Pistner said the statute has history. The statute is ambitious. She has rarely seen statute as complex as this that doesn't require fine tuning. She noted that some terms in the statute are not clear. She indicated that part of the rationale of having Trustees is that they have expertise to bring to the challenges of running the organization. Since the targets are something you aim for, it would be useful and appropriate convey the Board's assessment of the likelihood of attaining the targets. If changes in the legislation are warranted, this could be conveyed in the annual report. "Consistent" is a term to keep in mind. All a court would expect is that you are using the targets provided in the statute and that you have not substituted your own targets in their place. But, she said, if the Trust can say that the Plan moving in the direction of goals, no court is going to say that is an impermissible interpretation of the term "consistent." She said that interpretation is an appropriate one for the Board to make.

Mr. Smith agreed that Mr. Fletcher's suggestion is moving in the right direction.

Mr. Atwell offered that the plan, as it is, is consistent with the targets and that the plan makes sense. He noted that the December 1 date limits our time to make recommendations for legislative changes through the Annual Report. Mr. Atwell supported Mr. Fletcher's proposal for the inclusion in the Findings document of short statements about the level of attainability of each target.

Ms. Mermin suggested the amendment read that the board approve the plan and add a conclusory statement about the achievability of targets.

Mr. Fletcher suggested the board approve conditionally subject to the final approval of findings.

Ms. Merman originally suggested that the board vote to approve the motion as stated without amendment because the plan is consistent with being on path toward the goals. Makes sense to have communication that conveys to policymakers goals that they have set.

Mr. Fletcher noted that the Board has had multiple discussions on the issue of targets, and has come a long way with the findings, and he reiterated his preference to see a cover letter or separate document to communicate that the targets are realistic, or not, to the legislature.

Ms. Mermin suggested a friendly amendment that the existing findings meet approval, with the addition of a memo that outlines a further discussion about the attainability of targets, and that the plan be approved as a specific action. Mr. Poole made a motion to add a friendly amendment. Mr. Fletcher seconded the motion.

Mr. Smith reiterated his concern about whether the Plan is consistent with meeting the targets.

Mr. Rohman wanted assurance that the findings memo would represent the views of the board to the PUC. He added that this is a straightforward request. No one has issue with the plan. But if we have a responsibility to make findings, this is simple.

Mr. Fletcher said the plan is an excellent piece, and is easy to understand.

Mr Poole reiterated his understanding that the statute does not require the Trust or the Trust's Plan to actually achieve the targets, but rather "advance" or move "in the direction of" the targets.

Mr. Fletcher said he was on the committee that wrote these goals, and knows the process undertaken. At the time, he said, the committee thought they would simply leave the goals even if they were elusive. Unfortunately, he commented, some people see them as absolutes and mandates.

The amendment to the motion was changed to read that the board would attach a Findings cover letter to the Triennial Plan which specifically outlines the attainability from a technical point for each target in paragraph F and would be drafted by staff and come from the board.

The motion was re-stated:

Upon finding that the Plan as presented complies with the Efficiency Maine Trust Act, the Board of Trustees approves the Plan and directs the Staff to submit the Plan to the Public Utilities Commission, with the caveat that an amended findings document will be first be approved and added to accompany the Plan.

On a motion duly made and seconded, the motion was passed with 8 votes in the affirmative and 1 vote (Mr. Smith) opposed.

Motion to adjourn was made by Mr. Smith, seconded by Mr. Hodsdon.