A-Engrossed
House Bill 3039

Ordered by the House April 27
Including House Amendments dated April 27

Sponsored by COMMITTEE ON SUSTAINABILITY AND ECONOMIC DEVELOPMENT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[*Requires Public Utility Commission to study qualifying renewable energy projects.*]
[*Sunsets January 2, 2012.*]
Requires each electric company to maintain specified generating capacity from qualifying solar photovoltaic energy systems on or before January 1, 2020. Specifies qualifications for systems.
Allows electric companies to set rates to recover reasonable return on investment in systems.
Allows electric companies to use systems to comply with renewable portfolio standard established by statute. Sunsets provision on January 2, 2014.
Directs Public Utility Commission to establish pilot program for each electric company to demonstrate use and effectiveness of systems. Directs commission to report on implementation of systems to Legislative Assembly on or before January 1, 2011.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to qualifying renewable energy projects; creating new provisions; amending ORS 757.642; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Definitions. As used in sections 1 to 8 of this 2009 Act:

(1) "Electric company" has the meaning given that term in ORS 757.600.

(2) "Nameplate capacity" means the maximum rated output of a generator or other electric power production equipment under specific conditions designated by the manufacturer.

(3) "Qualifying system" means a solar photovoltaic energy system that meets the requirements of section 3 of this 2009 Act. A qualifying system may be either customer-side, as described in section 4 of this 2009 Act, or company-side, as described in section 5 of this 2009 Act.

(4) "Resource value" means the estimated value to an electric company of the electricity delivered from a solar photovoltaic energy system associated with:

(a) The avoided cost of energy, including avoided fuel price volatility, minus the costs of firming and shaping the electricity generated from the facility;

(b) Avoided distribution and transmission cost; and

(c) The renewable energy certificates established under ORS 469A.130.

(5) "Retail electricity consumer" has the meaning given that term in ORS 757.600.

(6) "Solar energy contractor" means a person that is not an electric company or a customer, that owns a solar photovoltaic energy system and produces electricity for sale to a

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

customer or an electric company.

(7) "Solar photovoltaic energy system" means equipment and devices that have the primary purpose of collecting solar energy and generating electricity by photovoltaic effect.

SECTION 2. Statewide solar photovoltaic capacity standard. (1) On or before January 1, 2020, the total solar photovoltaic nameplate generating capacity, from qualifying systems generating at least 500 kilowatts, of all electric companies in this state must be at least 20 megawatts alternating current with no single project greater than five megawatts alternating current.

(2) For the purpose of complying with the solar photovoltaic generating capacity standard established by this section, on or before January 1, 2020, each electric company is required to maintain a minimum generating capacity from qualifying systems. The minimum capacity for each electric company is determined by multiplying 20 megawatts by a percentage equal to the electric company's share of all retail electricity sales made in this state in 2008 by all electric companies.

(3) For the purposes of sections 1 to 8 of this 2009 Act, capacity of a solar photovoltaic energy system is measured on the alternating current side of the system's inverter using the measurement standards set forth in 15 U.S.C. 223, as in effect on the effective date of this 2009 Act. If the system does not use an inverter, the measurement shall be made at the direct current level.

(4) An electric company may satisfy the solar photovoltaic generating capacity requirements established by this section with solar photovoltaic energy systems owned by the company or with contracts for the purchase of electricity from qualifying systems.

(5) The Public Utility Commission shall have the authority to adopt rules implementing and enforcing this section.

SECTION 3. Qualifying systems generally. An electric company may use a solar photovoltaic energy system to comply with the solar photovoltaic generating capacity standard established by section 2 (2) of this 2009 Act if the system:

(1) Meets the electric company's utility customer load service obligation as its primary purpose;

(2) Directly connects to an electric company's electrical system within this state or indirectly connects through the system of an electric company's customer or the electric system of a third party that is not an electric company's customer but whose system is located within this state;

(3) Has meters or other devices in place to monitor and measure the quantity of energy generated by the solar photovoltaic energy system; and

(4) Meets any other siting, design, installation and electric output standards required by the laws of this state.

SECTION 4. Customer-side qualifying systems. (1) An electric company may install a customer-side qualifying system on premises owned or controlled by a customer of the company. Either the customer or the electric company may retain ownership or operation of the customer-side qualifying system.

(2) A customer may:

(a) Own a customer-side qualifying system that the customer installs, operates and maintains; or

(b) Contract for installation of a customer-side qualifying system by an electric company

or a solar energy contractor that is owned, operated and maintained by the company or contractor.

(3) In addition to the requirements of section 3 of this 2009 Act, any customer-side qualifying system located in this state must:

(a) Have a warranty of not less than 10 years to protect against defects and undue degradation of electrical generation output;

(b) Be new or not have been previously placed in service in any other location or for any other application;

(c) Be installed in conformance with the manufacturer's specifications and in compliance with all applicable electrical and building code standards;

(d) Connect to the electric company's electrical system pursuant to an interconnection agreement whose form is approved by the Public Utility Commission or the Federal Energy Regulatory Commission;

(e) Connect to the electric company's electrical system within this state; and

(f) Not disrupt or interfere with the electric company's electric system or the electric system of other customers.

(4) A customer-side qualifying system established under this section must be installed on the premises owned or controlled by a customer receiving retail-level electric service from an electric company in this state.

(5) Electricity generated by a solar photovoltaic energy system under this section must be used first to satisfy the energy requirements of the customer. Net metering as that term is defined in ORS 757.300 is allowed for electricity generated by a solar photovoltaic energy system under this section.

(6) A single customer served by more than one solar photovoltaic energy system may request a waiver from the Public Utility Commission regarding aggregating the systems under a net metering agreement.

SECTION 5. Company-side qualifying systems. (1) An electric company may develop a company-side qualifying system on either:

(a) Premises owned or controlled by the electric company; or

(b) Premises owned or controlled by a customer of the company.

(2) Electricity generated by a company-side qualifying system under this section must be fed into an electric system in this state or into an electric system that is connected directly or indirectly to an electric company's system. The connection must meet the requirements of the applicable state or federal interconnection standard.

(3) A solar energy contractor may own a company-side qualifying system described in this section.

SECTION 6. Cost recovery. (1) Consistent with ORS 469A.120, an electric company may recover all prudently incurred costs for installing, operating and maintaining a qualifying system and may recover a reasonable return on investment through recovery in rates, including but not limited to the following:

(a) 100 percent of all noncapital costs incurred for any qualifying systems and 100 percent of capital costs based on the electric company's most recent commission-approved cost of capital;

(b) Costs related to, and loans made for, the installation, interconnection, controls, operation and maintenance of the qualifying system or demonstration project;

(c) Costs associated with using physical or financial assets to integrate, firm or shape solar energy sources to meet retail electricity needs, and other costs associated with transmission and delivery of solar electricity to retail electricity customers;

(d) Operating costs associated with a qualified system located on property owned or controlled by a customer; and

(e) Reduced revenues resulting from customer-side qualifying systems, excluding the value of renewable energy certificates.

(2) Costs associated with compliance with the solar photovoltaic generating capacity standard established by section 2 (2) of this 2009 Act are not an above-market cost for purposes of ORS 757.600 to 757.689.

(3) Costs incurred by an electric company that are related to a qualifying system, along with associated electricity transmission costs, are eligible for an automatic adjustment clause established by the Public Utility Commission under ORS 469A.120.

(4) Multijurisdictional electric companies may recover all prudently incurred costs for a qualifying system from its customers in this state.

(5) An electric company shall provide complete and transparent reporting of all actions taken under sections 1 to 8 of this 2009 Act as directed by the commission.

(6) The commission shall advise and assist the owners and operators of qualifying systems in identifying and using grants, incentive moneys, federal funding and other sources of noninvestment financial support for the construction and operation of qualifying systems.

SECTION 7. Application to renewable portfolio standard. (1) Any electricity produced from a company-side or customer-side qualifying system under sections 1 to 8 of this 2009 Act that is physically located in this state may be used by an electric company to comply with the renewable portfolio standard established under ORS 469A.005 to 469A.210.

(2)(a) For each kilowatt-hour of electricity produced from a qualifying system generating at least 500 kilowatts, an electric company will be credited with two kilowatt-hours of qualifying energy toward the electric company's compliance with the renewable portfolio standard under ORS 469A.005 to 469A.210 up to a maximum of 20 megawatts of capacity.

(b) The Public Utility Commission may adjust the 20 megawatt capacity maximum set in paragraph (a) of this subsection by any amount up to a maximum of 100 megawatts of capacity based upon the impact of such a change on the amount electricity generated by qualifying systems, the achievement of renewable portfolio standards, the cost to ratepayers and other relevant factors.

SECTION 8. Payment Program. (1) The Public Utility Commission shall establish a pilot program for each electric company to demonstrate the use and effectiveness of volumetric incentive rates and payments for electricity delivered from solar photovoltaic energy systems permanently installed in this state by retail electricity consumers located in this state and served by an electric company with qualifying systems that first become operational after the program begins. The cumulative nameplate capacity of the qualifying systems enrolled in all of the pilot programs may not exceed 25 megawatts alternating current.

(2) The commission by rule shall adopt requirements for the pilot programs described in subsection (1) of this section. Each electric company shall file for commission approval rate schedules for the pilot programs that conform to the requirements.

(3) The commission may establish incentive rates for the pilot programs to enable the development of the most efficient solar photovoltaic energy systems.

(4) A retail electricity consumer participating in a pilot program may receive payments based on the actual electricity generated from solar photovoltaic energy system output for 15 years from the consumer's date of enrollment in the program, at rates in a rate schedule established at the time of enrollment.

(5) The commission may adjust the rate schedule as needed for new pilot program participants for the purpose of meeting the goal established in subsection (1) of this section. Once a retail electricity consumer is enrolled in a program, the rates or rate formula may not be modified.

(6) The commission shall establish pilot programs designed to attain a goal of 75 percent of the energy under each program to be generated by small-scale qualifying systems. The commission by rule shall define the size of a small-scale qualifying system and may adjust the definition of size for small-scale qualifying systems based upon the costs of the energy generated, the feasibility of attaining the goal and other factors. The commission may also adjust the maximum percentage goal of energy generated by small-scale qualifying systems based upon the same factors.

(7) The commission may establish total generator nameplate capacity limits for an electric company so that the rate impact of the pilot program for any customer class does not exceed 0.25 percent of the electric company's revenue requirement in any year.

(8) Ownership of renewable energy certificates established under ORS 469A.130 that are associated with renewable energy generation that is sold to an electric company under the pilot programs must be transferred to the electric company and may be used to comply with the renewable portfolio standard described in ORS 469A.052 or 469A.055.

(9) To the extent that incentive rates paid for electricity delivered to each electric company under a pilot program exceed the resource value, qualifying systems eligible under the pilot programs are not eligible for expenditures under ORS 757.612 (3)(b)(B) or tax credits under ORS 469.160 to 469.180 or 469.185 to 469.225.

(10) Electric companies may claim tax credits under ORS 469.160 to 469.180 or 469.185 to 469.225 on incentive payments made to retail electricity consumers under the pilot programs that exceed the resource value.

(11) All prudently incurred costs associated with compliance with this section are recoverable in the rates of an electric company. The costs associated with the resource value are recoverable in the rates of all retail electricity consumers. Prudently incurred costs in addition to the resource value are recoverable from customer classes eligible for the pilot programs described in subsection (1) of this section.

(12) The pilot programs described in subsection (1) of this section close to new participants on March 31, 2015, or when 25 megawatts of solar photovoltaic energy systems have been permanently installed by retail electricity consumers under the pilot programs, whichever is earlier.

(13) The commission shall submit a report to the Legislative Assembly by January 1 of each odd-numbered year beginning in 2013. The report must evaluate the effectiveness of paying incentive rates under the pilot programs described in subsection (1) of this section compared to incentive rates described in subsection (9) of this section for promoting the use of solar photovoltaic energy systems and reducing system costs. The report must also evaluate the estimated cost of the program to retail electricity consumers.

SECTION 9. The Public Utility Commission shall report to the Legislative Assembly prior

to January 1, 2011, on any recommended legislative changes to better implement the provisions of sections 1 to 8 of this 2009 Act and any adjustments the commission has made by rule as authorized by sections 1 to 8 of this 2009 Act.

SECTION 10. ORS 757.642 is amended to read:

757.642. (1) Not later than March 1, 2002, an electric company shall unbundle the costs of electricity services into power generation, transmission, distribution and retail services.

(2) Every electric company shall maintain separate accounting records for each component of electricity service provided by the electric company to retail electricity consumers. Accounts shall be maintained according to regulations issued by the Federal Energy Regulatory Commission.

(3) Unless required to provide a different accounting under federal requirements, each electric company shall, to a reasonable level of detail, separately identify and account for its costs of:

(a) Generation;

(b) Transmission services;

(c) Distribution services;

(d) Ancillary services;

(e) Consumer service charges levied on retail electricity consumers, including but not limited to metering and billing;

(f) Investment in public purposes; and

(g) State and local taxes paid by retail electricity consumers.

(4) An electric company shall separately identify and account for the costs of any additional components as the Public Utility Commission may require.

(5) The unbundling requirement of this section does not apply to service provided by an electric company through a qualifying system under sections 1 to 8 of this 2009 Act.

SECTION 11. (1) Except as provided in subsection (2) of this section, sections 1 to 8 of this 2009 Act and the amendments to ORS 757.642 by section 10 of this 2009 Act become operative on April 1, 2010.

(2) An electric company may make filings with the Public Utility Commission before the operative date specified in subsection (1) of this section for the purpose of allowing implementation of sections 1 to 8 on the operative date specified in subsection (1) of this section, and the commission may process those filings and take all other actions necessary before the operative date specified in subsection (1) of this section to allow implementation of sections 1 to 8 of this 2009 Act on the operative date specified in subsection (1) of this section.

SECTION 12. Section 7 of this 2009 Act is repealed on January 2, 2014.

SECTION 13. The section captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.

SECTION 14. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.
