

Senate Bill 909

Sponsored by Senator FERRIOLI

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 **as introduced**.

Specifies that public utility that makes sales of electricity may not establish rate for any service that provides public utility with rate of return that exceeds 4.5 percent. Changes procedures by which public utilities that make sales of electricity file rate schedules with Public Utility Commission.

Reduces public purpose charge collected from retail electricity consumers. Makes changes to agreement entered into between commission and nongovernmental entity for purpose of expending moneys collected as part of public purpose charge.

Repeals provisions of law related to collection of surcharge for removal of Klamath River dams removal upon failure of relevant parties to begin dam removal. Directs PacifiCorp to credit electric bill of each customer from which PacifiCorp collected surcharge in amount that equals total amount paid by customer as surcharge, plus four percent.

Prohibits Public Utility Commission from approving rate schedule established by public utility that makes sales of electricity if moneys collected pursuant to imposition of those rates would be used to remediate Superfund site.

Specifies that each Public Utility Commissioner and each employee of commission must enter into noncompetition agreement with state under which commissioner or employee may not be subsequently employed by public utility that makes sales of electricity for two years.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to utility regulation; creating new provisions; amending ORS 757.205, 757.210 and 757.612; repealing ORS 757.732, 757.734, 757.736, 757.738, 757.740, 757.742 and 757.744; and declaring an emergency.

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

RATE OF RETURN

SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 757.

SECTION 2. A public utility that makes sales of electricity may not establish a rate for any service performed, controlled or operated by the public utility in this state, and related to making sales of electricity, that provides the public utility with a rate of return that exceeds 4.5 percent.

SECTION 3. ORS 757.205 is amended to read:

757.205. *[(1)] (1)(a) [Every] Each* public utility shall file with the Public Utility Commission, *within a time to be fixed by the commission,* schedules *[which shall be]* **that are** open to public inspection, showing all rates, tolls and charges *[which it]* **that the public utility** has established and *[which]* **that** are in force at the time for any service performed by *[it within]* the **public utility in this state**, or for any service *[in connection therewith]* **related to a service performed by the public utility in this state**, or for any service performed by any public utility controlled or operated by *[it]* **the public utility**.

(b) Except as provided in paragraph (c) of this subsection, the commission shall deter-

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.

1 **mine by rule or order the date on which schedules must be filed under paragraph (a) of this**
 2 **subsection.**

3 **(c) A public utility that makes sales of electricity shall file all schedules with the com-**
 4 **mission once per year on July 1.**

5 (2) *[Every]* **Each** public utility shall file with and as part of every *[such]* schedule *[all]* **filed**
 6 **pursuant to subsection (1) of this section** the rules and regulations that in any manner affect the
 7 rates charged or to be charged for *[any]* a service. *[Every]* **Each** public utility shall also file with
 8 the commission copies of interstate rate schedules and rules and regulations issued by *[it]* **the public**
 9 **utility** or to which *[it]* **the public utility** is a party.

10 (3) *[Where]* **If** a schedule of joint rates or charges is or may be in force between two or more
 11 public utilities, *[such schedules shall in like manner be printed and]* **the schedule must be** filed with
 12 the commission **as described in subsections (1) and (2) of this section.**

13 **SECTION 4.** ORS 757.210 is amended to read:

14 757.210. (1)(a) Whenever any public utility files with the Public Utility Commission any rate or
 15 schedule of rates stating or establishing a new rate or schedule of rates or increasing an existing
 16 rate or schedule of rates, the commission may, either upon written complaint or upon the
 17 commission's own initiative, after reasonable notice, conduct a hearing to determine whether the
 18 rate or schedule is fair, just and reasonable. **Upon written complaint filed by the public utility,**
 19 **its customers or customers or any other proper party,** the commission shall conduct the hearing
 20 *[upon written complaint filed by the utility, its customer or customers, or any other proper party]* within
 21 60 days of the **public** utility's filing.; *provided that no]* **A hearing does not** need to be held if the
 22 particular rate change is the result of an automatic adjustment clause. At the hearing the **public**
 23 utility *[shall bear]* **bears** the burden of showing that the rate or schedule of rates proposed to be
 24 established or increased or changed is fair, just and reasonable. The commission may not authorize
 25 a rate or schedule of rates that is not fair, just and reasonable.

26 **(b) In lieu of the requirement that a hearing conducted pursuant to paragraph (a) of this**
 27 **subsection be held within 60 days of a public utility's filing, for any public utility that makes**
 28 **sales of electricity, a hearing conducted pursuant to paragraph (a) of this subsection must**
 29 **be held on or before June 30 of the calendar year subsequent to the calendar year in which**
 30 **the public utility filed the rate or schedule of rates.**

31 *[(b)]* **(c)** As used in this subsection, "automatic adjustment clause" means a provision of a rate
 32 schedule that provides for rate increases or decreases or both, without prior hearing, reflecting in-
 33 creases or decreases or both in costs incurred, taxes paid to units of government or revenues earned
 34 by a **public** utility, and that is subject to review by the commission at least once every two years.

35 (2)(a) Subsection (1) of this section does not apply to rate changes under an approved alternative
 36 form of regulation plan, including a resource rate plan under ORS 757.212.

37 (b) Any alternative form of regulation plan shall include provisions to ensure that the plan op-
 38 erates in the interests of **public** utility customers and the public generally and results in rates that
 39 are just and reasonable and may include provisions establishing a reasonable range for rate of re-
 40 turn on investment. In approving a plan, the commission shall, at a minimum, consider whether the
 41 plan:

42 (A) Promotes increased efficiencies and cost control;

43 (B) Is consistent with least-cost resources acquisition policies;

44 (C) Yields rates that are consistent with those that would be obtained following application of
 45 ORS 757.269;

1 (D) Is consistent with maintenance of safe, adequate and reliable service; and

2 (E) Is beneficial to **public** utility customers generally, for example, by minimizing **public** utility
 3 rates.

4 **(c) Prior to implementing a rate change under an alternative form of regulation plan, the**
 5 **public utility shall present a report that demonstrates the calculation of any proposed rate**
 6 **change at a public meeting of the commission.**

7 [(c)] (d) As used in this subsection, “alternative form of regulation plan” means a plan adopted
 8 by the commission upon petition by a public utility, after notice and an opportunity for a hearing,
 9 that sets rates and revenues and a method for changes in rates and revenues using alternatives to
 10 cost-of-service rate regulation.

11 [(d) *Prior to implementing a rate change under an alternative form of regulation plan, the utility*
 12 *shall present a report that demonstrates the calculation of any proposed rate change at a public meeting*
 13 *of the commission.*]

14 (3) Except as provided in ORS 757.212, the commission, at any time, may order a **public** utility
 15 to appear and establish that any, or all, of its rates in a plan authorized under subsection (2) of this
 16 section are in conformity with the plan and are just and reasonable. Except as provided in ORS
 17 757.212, [such] rates **in a plan authorized under subsection (2) of this section**, and the alternative
 18 form of regulation plan under which the rates are set, [also shall be] **are** subject to complaint under
 19 ORS 756.500.

20 (4) Periodically, but not less often than every two years after the implementation of a plan referred to in subsection (2) of this section, the commission shall submit a report to the Legislative
 21 Assembly that shows the impact of the plan on rates paid by **public** utility customers.
 22

23 (5) The commission and staff may consult at any time with, and provide technical assistance to,
 24 **public** utilities, their customers[,] and other interested parties on matters relevant to **public** utility
 25 rates and charges. If a hearing is held with respect to a rate change, the commission’s decisions
 26 shall be based on the record made at the hearing.

27 **SECTION 5. The amendments to ORS 757.205 and 757.210 by sections 3 and 4 of this 2017**
 28 **Act apply to rates and schedules filed with the Public Utility Commission on or after the**
 29 **effective date of this 2017 Act.**

30
 31 **PUBLIC PURPOSE CHARGE**
 32

33 **SECTION 6.** ORS 757.612 is amended to read:

34 757.612. (1) There is established an annual public purpose expenditure standard for electric
 35 companies and Oregon Community Power to fund new cost-effective local energy conservation, new
 36 market transformation efforts, the above-market costs of new renewable energy resources and new
 37 low-income weatherization. The public purpose expenditure standard shall be funded by the public
 38 purpose charge described in subsection (2) of this section.

39 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct access to [its] retail electricity consumers, except residential electricity consumers, the electric company or Oregon Community Power shall collect a public purpose charge from all of the retail electricity consumers located within [its] **the electric company’s or Oregon Community Power’s** service area until January 1, 2026. Except as provided in [paragraph (b)] **paragraphs (b) and (c)** of this subsection, the public purpose charge shall be equal to [three] **1.5** percent of the total revenues collected by the electric company, Oregon Community Power or the electricity service sup-
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1 plier from *[its]* retail electricity consumers for electricity services, distribution **services**, ancillary
 2 services, metering and billing, transition charges and other types of costs included in electric rates
 3 on July 23, 1999.

4 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
 5 per year, *[beginning on March 1, 2002,]* the electric company or Oregon Community Power *[whose]*,
 6 **whichever serves** territory **that** abuts the greatest percentage of the site of the aluminum plant,
 7 shall collect from the aluminum company, **subject to paragraph (c) of this subsection**, a public
 8 purpose charge equal to one percent of the total revenue from the sale of electricity *[services]* to the
 9 aluminum plant *[from any source]*.

10 (c) **A public purpose charge collected under this subsection may not exceed the public**
 11 **purpose charge collected by the electric company, Oregon Community Power or the elec-**
 12 **tricity service supplier from the retail electricity consumer for the 2015 calendar year.**

13 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
 14 section relating to electric companies and Oregon Community Power.

15 (b) *[Subject to paragraph (e)]* **Except as provided in paragraph (e)** of this subsection, funds
 16 collected *[by an electric company or Oregon Community Power]* through public purpose charges **un-**
 17 **der subsection (2) of this section** shall be allocated as follows:

18 (A) Sixty-three percent for new cost-effective **local energy** conservation[,] **and** new market
 19 transformation **efforts**.

20 (B) Nineteen percent for the above-market costs of constructing and operating new renewable
 21 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
 22 megawatts or less.

23 (C) Thirteen percent for new low-income weatherization.

24 (D) Five percent *[shall be transferred to]* **for deposit in** the Housing and Community Services
 25 Department Electricity Public Purpose Charge Fund established by ORS 456.587 (1) *[and used]* for
 26 the purpose of providing grants as described in ORS 458.625 (2).

27 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
 28 Oregon Community Power shall be paid out of the funds collected through public purpose charges.
 29 The commission may require *[that]* an electric company or Oregon Community Power **to** direct funds
 30 collected through public purpose charges to *[the]* state agencies responsible for implementing sub-
 31 sections (1) to (6) of this section in order to pay the costs of *[administering such responsibilities]*
 32 **implementation**.

33 (d) The commission shall direct the manner in which public purpose charges are collected and
 34 spent by an electric company or Oregon Community Power and may require an electric company
 35 or Oregon Community Power to expend funds through competitive bids or other means designed to
 36 encourage competition, except that funds dedicated for **new** low-income weatherization shall be di-
 37 rected to the Housing and Community Services Department *[as provided in subsection (7) of this*
 38 *section]* **for purposes related to new low-income weatherization**. The commission *[may also direct*
 39 *that]* **may also require** funds collected *[by an electric company or Oregon Community Power]* through
 40 public purpose charges **to** be paid to a nongovernmental entity for investment in public purposes
 41 described in subsection (1) of this section. Notwithstanding any other provision of this subsection:

42 (A) **If an electric company collected the funds**, at least 80 percent of the funds allocated for
 43 **new cost-effective local energy** conservation shall be spent within the service area of the electric
 44 company *[that collected the funds]*; or

45 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated

1 for **new cost-effective local energy** conservation shall be spent within the service area of Oregon
2 Community Power.

3 (e)(A) The first 10 percent of *[the]* funds collected *[annually]* **each year** by an electric company
4 or Oregon Community Power under subsection (2) of this section shall be distributed to school dis-
5 tricts that are located in the service territory of the electric company or Oregon Community Power.
6 The funds shall be distributed to individual school districts according to the weighted average daily
7 membership (ADMw) of each school district for the prior fiscal year as calculated under ORS
8 327.013. The commission shall establish by rule a methodology for distributing a proportionate share
9 of funds under this paragraph to school districts that are only partially located in the service ter-
10 ritory of the electric company or Oregon Community Power.

11 (B) A school district that receives funds under this paragraph shall use the funds first to pay
12 for energy audits for schools located within the school district. A school district may not expend
13 additional funds received under this paragraph on a school *[facility]* until an energy audit has been
14 completed for that school *[facility]*. To the extent practicable, a school district shall coordinate with
15 the State Department of Energy and incorporate federal funding in complying with this paragraph.
16 Following completion of an energy audit for an individual school, the school district may expend
17 funds received under this paragraph to implement the energy audit. Once an energy audit has been
18 conducted and completely implemented for each school within the school district, the school district
19 may expend funds received under this paragraph for any of the following purposes:

20 (i) Conducting **additional** energy audits. A school district shall conduct an energy audit prior
21 to expending funds on any other purpose authorized under this paragraph unless the school district
22 has performed an energy audit within the three years immediately prior to receiving the funds.

23 (ii) *[Weatherization]* **Weatherizing school district facilities** and upgrading the energy effi-
24 ciency of school district facilities.

25 (iii) Energy conservation education programs.

26 (iv) Purchasing electricity from *[environmentally focused]* sources **that protect the environ-**
27 **ment.** *[and]*

28 (v) Investing in renewable energy resources.

29 (f) The commission may not establish a different public purpose charge than the public purpose
30 charge described in subsection (2) of this section.

31 (g) If the commission *[directs]* **requires** funds collected through public purpose charges to **be**
32 **paid to** a nongovernmental entity, the entity, **pursuant to an agreement entered into or renewed**
33 **between the commission and the entity** *[shall]*:

34 (A) **Shall** include on the entity's board of directors an ex officio member designated by the
35 commission, who shall also serve on the entity's nominating committee for filling board vacancies.

36 (B) **Shall** require the entity's officers and directors to provide an annual disclosure of economic
37 interest to be filed with the commission on or prior to April 15 of each calendar year for public
38 review in a form similar to the statement of economic interest required for public officials under
39 ORS 244.060.

40 (C) **Shall** require the entity's officers and directors to declare actual and potential conflicts of
41 interest at regular meetings of the entity's governing body when such conflicts arise[,] and **shall**
42 require an officer or director to abstain from participating in any discussion or *[vote]* **voting** on any
43 item where that officer or director has an actual conflict of interest. For the purposes of this sub-
44 paragraph, "actual conflict of interest" and "potential conflict of interest" have the meanings given
45 those terms in ORS 244.020.

1 **(D) May not pay an officer, director or employee of the entity an annual salary that ex-**
 2 **ceeds the Governor's annual salary for the preceding calendar year.**

3 **(E) May not, in any calendar year, provide an officer, director or employee of the entity**
 4 **benefits or any form of compensation in addition to the officer's, director's or employee's**
 5 **salary the aggregate value of which is an amount that exceeds 25 percent of the officer's,**
 6 **director's or employee's annual salary.**

7 [(D)] **(F) Annually, shall** arrange for an independent auditor to audit the entity's financial
 8 statements [*annually,*] and **shall** direct the auditor to file an audit opinion with the commission for
 9 public review.

10 [(E)] **(G) Annually, shall** file with the commission [*annually*] the entity's budget, action plan and
 11 quarterly and annual reports for public review.

12 [(F)] **(H)** At least once every five years, **shall** contract for an independent management evalu-
 13 ation to review the entity's operations, efficiency and effectiveness[,] and **shall** direct the independ-
 14 ent reviewer to file a report with the commission for public review.

15 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
 16 ficer or director who fails to provide an annual disclosure of economic interest **as described in**
 17 **paragraph (g)(B) of this subsection, or who fails to declare an** actual or potential conflict of
 18 interest[,] as described in paragraph [(g)(B) and (C)] **(g)(C)** of this subsection, [*in connection with*]
 19 **if the failure is connected to** the allocation or expenditure of funds collected through public pur-
 20 pose charges and [*directed*] **paid** to the entity.

21 (4)(a) An electric company that satisfies its obligations under this section [*shall have*]:

22 **(A) Has** no further obligation to invest in **new cost-effective local energy** conservation, new
 23 market transformation or new low-income weatherization or to provide a commercial energy con-
 24 servation services program; and

25 **(B)** Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

26 (b) Oregon Community Power, for any period during which Oregon Community Power collects
 27 a public purpose charge under subsection (2) of this section:

28 (A) [*Shall have*] **Has** no [*other*] **further** obligation to invest in **new cost-effective local energy**
 29 conservation, new market transformation or new low-income weatherization or to provide a com-
 30 mercial energy conservation services program; and

31 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

32 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
 33 any site in the prior year shall receive a credit against public purpose charges billed by an electric
 34 company or Oregon Community Power for that site. The amount of the credit shall be equal to the
 35 total amount of qualifying expenditures for new **cost-effective local** energy conservation, not to
 36 exceed 68 percent of the annual public purpose charges, and the above-market costs [*of purchases*]
 37 of new renewable energy resources incurred by the retail electricity consumer, not to exceed 19
 38 percent of the annual public purpose charges, less administration costs incurred under **this para-**
 39 **graph and paragraphs (b) and (c) of** this subsection. The credit may not exceed, on an annual
 40 basis, the lesser of:

41 (A) The amount of the retail electricity consumer's qualifying expenditures; or

42 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
 43 dedicated to new **cost-effective local** energy conservation, new market transformation or the
 44 above-market costs of new renewable energy resources.

45 (b) To obtain a credit under **paragraph (a) of** this subsection, a retail electricity consumer shall

1 file with the State Department of Energy a description of the proposed conservation project or new
2 renewable energy resource and a declaration that the retail electricity consumer plans to incur the
3 qualifying expenditure. The State Department of Energy shall issue a notice of precertification
4 within 30 days of receipt of the filing, if such filing is consistent with **paragraph (a)** of this sub-
5 section. The credit may be taken after a retail electricity consumer provides **to the State Depart-**
6 **ment of Energy** a letter from a certified public accountant [*to the State Department of Energy*]
7 verifying that the precertified qualifying expenditure has been made.

8 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
9 are not used in one year may be carried forward for use in subsequent years.

10 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
11 any site in the prior year may request that the State Department of Energy hire an independent
12 auditor to assess the potential for conservation investments at the site. If the independent auditor
13 determines there is no available conservation measure at the site that would have a simple payback
14 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
15 obligation for public purpose charges related to the site. If the independent auditor determines that
16 there are potential conservation measures available at the site, the retail electricity consumer shall
17 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
18 public purpose charges less the estimated cost of available conservation measures.

19 (B) A retail electricity consumer shall be entitled each year to the credit described in this
20 [*subsection*] **paragraph** unless a subsequent independent audit determines that new conservation
21 investment opportunities are available. The State Department of Energy may require that a new
22 independent audit be performed on the site to determine whether new conservation measures are
23 available, provided that the independent audits [*shall*] occur no more than once every two years.

24 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
25 [*subsection*] **paragraph**.

26 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
27 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall
28 adopt rules to determine eligible expenditures and the [*methodology*] **method** by which such credits
29 are accounted for and used. The [*rules*] **State Department of Energy** also shall adopt methods to
30 account for eligible public purpose expenditures made through consortia or collaborative projects.

31 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an
32 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-
33 ment assistance in an amount [*determined*] **established** under paragraph (b) of this subsection.

34 (b) The commission shall establish the amount to be collected by each electric company in cal-
35 endar year 2008 from retail electricity consumers served by the company, and the rates to be
36 charged to retail electricity consumers served by the company, so that the total anticipated col-
37 lection for low-income electric bill payment assistance by all electric companies in calendar year
38 2008 is \$15 million. In calendar year 2009 and subsequent calendar years, the commission may not
39 change the rates established for retail electricity consumers, but the total amount collected in a
40 calendar year for low-income electric bill payment assistance may vary based on electricity usage
41 by retail electricity consumers and changes in the number of retail electricity consumers in this
42 state. In no event shall a retail electricity consumer be required to pay more than \$500 per month
43 per site for low-income electric bill payment assistance.

44 (c) Funds collected [*by*] **through** the low-income electric bill payment assistance charge shall
45 be paid into the Housing and Community Services Department Low-Income Electric Bill Payment

1 Assistance Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph
 2 shall be used by the Housing and Community Services Department **solely** for [*the purpose of*
 3 *funding*] **purposes related to** low-income electric bill payment assistance[.] **and for the Housing**
 4 **and Community Services** Department's cost of administering this subsection. [*shall be paid out of*
 5 *funds collected by the low-income electric bill payment assistance charge. Moneys deposited in the fund*
 6 *under this paragraph shall be expended solely for low-income electric bill payment assistance.*] Funds
 7 collected [*from*] **by** an electric company or Oregon Community Power **under this subsection** shall
 8 be expended in the service area of the electric company or Oregon Community Power from which
 9 the funds are collected.

10 (d)(A) The Housing and Community Services Department shall determine the manner in which
 11 funds collected under this subsection will be allocated by the **Housing and Community Services**
 12 Department to energy assistance program providers for the purpose of providing low-income bill
 13 payment [*and crisis*] assistance.

14 (B) The **Housing and Community Services** Department, **in consultation with electric com-**
 15 **panies**, shall investigate and may implement alternative delivery models [*in consultation with electric*
 16 *companies*] to effectively reduce service disconnections and related costs to retail electricity con-
 17 sumers and electric utilities.

18 (C) Priority assistance shall be directed to low-income electricity consumers who are in danger
 19 of having their electricity service disconnected.

20 (D) The **Housing and Community Services** Department shall maintain records and provide
 21 those records upon request to an electric company, Oregon Community Power and the Citizens'
 22 Utility Board established under ORS chapter 774 on a quarterly basis. Records maintained must
 23 include the numbers of low-income electricity consumers served, the average amounts paid **to low-**
 24 **income electricity consumers** and the [*type*] **types** of assistance provided **to low-income elec-**
 25 **tricity consumers**. Electric companies and Oregon Community Power shall, if requested, provide
 26 the **Housing and Community Services** Department with aggregate data relating to **low-income**
 27 **electricity** consumers served on a quarterly basis to support program development.

28 (e) Interest on moneys deposited in the Housing and Community Services Department Low-
 29 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-
 30 vide bill payment [*and crisis*] assistance to electricity consumers whose primary source of heat is
 31 not electricity.

32 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon
 33 Community Power to provide reduced rates or other **bill** payment [*or crisis*] assistance or low-income
 34 program assistance to a low-income household eligible for assistance under the federal Low Income
 35 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

36 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-
 37 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
 38 tric utility.

39 (9) For purposes of this section, [*amounts*] **funds** collected by Oregon Community Power through
 40 public purpose charges are not considered moneys received from electric utility operations.

41 **SECTION 7. The amendments to ORS 757.612 (3) by section 6 of this 2017 Act apply to**
 42 **agreements entered into or renewed between the Public Utility Commission and nongovern-**
 43 **mental entities on or after the effective date of this 2017 Act.**

SECTION 8. As used in this section and sections 9 and 10 of this 2017 Act:

(1) “Customer” means a retail electricity customer of PacifiCorp that is located in this state.

(2) “Klamath River dam” means the J.C. Boyle Dam located in Oregon, the Copco 1 Dam located in California, the Copco 2 Dam located in California or the Iron Gate Dam located in California.

SECTION 9. ORS 757.732, 757.734, 757.736, 757.738, 757.740, 757.742 and 757.744 are repealed on January 1, 2018, if the physical act of removing a Klamath River dam has not begun on or before December 31, 2017.

SECTION 10. (1) If the physical act of removing a Klamath River dam has not begun on or before December 31, 2017:

(a) On January 1, 2018, each trust account established by the Public Utility Commission under ORS 757.738 is abolished.

(b) All moneys in each trust account established by the commission under ORS 757.738 are transferred to the General Fund and are available for general governmental purposes.

(c) PacifiCorp shall credit the electric bill of each customer from which PacifiCorp collected a surcharge pursuant to ORS 757.736 in an amount that equals the total amount paid by the customer to PacifiCorp as a surcharge pursuant to ORS 757.736, plus four percent of the total amount paid by the customer to PacifiCorp as a surcharge pursuant to ORS 757.736.

(2) The commission shall adopt by rule a schedule by which PacifiCorp must credit electric bills as described in subsection (1)(c) of this section. The schedule adopted under this subsection must require PacifiCorp to fully credit electric bills as described in subsection (1)(c) of this section no later than January 1, 2019.

SUPERFUND SITES

SECTION 11. Section 12 of this 2017 Act is added to and made a part of ORS chapter 757.

SECTION 12. The Public Utility Commission may not approve any rate schedule established by a public utility that makes sales of electricity if the public utility is proposing to use moneys collected pursuant to the imposition of those rates for the purpose of remediating land listed pursuant to 42 U.S.C. 9605 as a national priority for responding to the release of hazardous substances, pollutants and contaminants on land.

NONCOMPETITION AGREEMENTS

SECTION 13. Section 14 of this 2017 Act is added to and made a part of ORS chapter 756.

SECTION 14. (1) For purposes described in ORS 653.295 (1)(c)(B), each Public Utility Commissioner and each employee of the Public Utility Commission must enter into a non-competition agreement with this state under which the commissioner or employee may not be subsequently employed by a public utility that makes sales of electricity.

(2) Except as otherwise provided by subsection (3) of this section, a noncompetition agreement entered into under this section must comport with the standards and processes set forth in ORS 653.295.

(3) The term of a noncompetition agreement entered into under this section must be two years.

