

D R A F T

SUMMARY

Authorizes local governments to form authorities for purpose of implementing community choice aggregation programs. Places certain requirements on electric companies and Public Utility Commission related to implementation of community choice aggregation programs. Applies certain renewable portfolio standards to community choice aggregation programs implemented by authorities. Includes authorities in list of persons subject to public purpose charge.

A BILL FOR AN ACT

Relating to community choice aggregation; creating new provisions; and amending ORS 469A.005, 469A.065, 469A.210, 757.600, 757.612 and 757.627.

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

COMMUNITY CHOICE AGGREGATION AUTHORITIES

(Definitions)

SECTION 1. Sections 2 to 14 of this 2019 Act are added to and made a part of ORS chapter 757.

SECTION 2. Definitions. As used in sections 2 to 14 of this 2019 Act:

(1) “Allocated territory” has the meaning given that term in ORS 758.400.

(2) “Ancillary services” has the meaning given that term in ORS 757.600.

(3) “Authority” means a community choice aggregation authority formed pursuant to section 3 of this 2019 Act.

(4) “Community choice aggregation program” means a program for

1 **aggregating the loads of eligible retail electricity consumers in order**
2 **to purchase or generate electricity on behalf of the retail electricity**
3 **consumers.**

4 **(5)(a) “Economic utility investment” includes all electric company**
5 **investments, including plants and equipment and contractual or other**
6 **legal obligations, properly dedicated to generation or conservation,**
7 **that were prudent at the time the obligations were assumed but the**
8 **full benefits of which are no longer available to consumers as a direct**
9 **result of creation and operation of an authority pursuant to sections**
10 **2 to 14 of this 2019 Act, absent a cost recovery mechanism adopted**
11 **under section 11 of this 2019 Act.**

12 **(b) “Economic utility investment” does not include costs or ex-**
13 **penses disallowed by the Public Utility Commission in a prudence re-**
14 **view or other proceeding, to the extent of the disallowance, and does**
15 **not include fines or penalties authorized and imposed under state or**
16 **federal law.**

17 **(6) “Electric company” has the meaning given that term in ORS**
18 **757.600.**

19 **(7) “Eligible retail electricity consumer” means a retail electricity**
20 **consumer that is served through the distribution system of an electric**
21 **company.**

22 **(8) “Interim market purchases” means purchases of electricity by**
23 **an electric company in the wholesale power market from an electricity**
24 **generation facility, the cost of which is not included in the rate base**
25 **of the electric company purchasing the electricity.**

26 **(9) “Load” has the meaning given that term in ORS 757.600.**

27 **(10) “Local government” means a city, county, irrigation district**
28 **organized under ORS chapter 545, the Port of Portland established by**
29 **ORS 778.010 or a port organized under ORS 777.005 to 777.725 and 777.915**
30 **to 777.953.**

31 **(11) “Retail electricity consumer” has the meaning given that term**

1 in ORS 757.600.

2 (12)(a) “Uneconomic utility investment” includes all electric com-
3 pany investments, including plants and equipment and contractual or
4 other legal obligations, properly dedicated to generation, conservation
5 and workforce commitments, that were prudent at the time the obli-
6 gations were assumed but the full costs of which are no longer recov-
7 erable as a direct result of creation and operation of an authority
8 under sections 2 to 14 of this 2019 Act, absent a cost recovery mech-
9 anism adopted under section 11 of this 2019 Act.

10 (b) “Uneconomic utility investment” does not include costs or ex-
11 penses disallowed by the Public Utility Commission in a prudence re-
12 view or other proceeding, to the extent of the disallowance, and does
13 not include fines or penalties authorized and imposed under state or
14 federal law.

15
16 (Formation, Governance, Duties, Obligations, Dissolution)

17
18 SECTION 3. Formation of community choice aggregation authority.

19 (1) A local government may, upon its own motion, consider whether
20 it is advisable:

21 (a) To create an authority for the purpose of aggregating all or
22 some of the loads of eligible retail electricity consumers located within
23 the allocated territory of an electric company and within the jurisdic-
24 tional boundaries of the unit of local government, in order to serve the
25 eligible retail electricity consumers through a community choice ag-
26 gregation program; or

27 (b) To agree with one or more other local governments to form an
28 authority described in paragraph (a) of this subsection as a cooperative
29 body between the local governments.

30 (2) If the local government, after public hearing according to the
31 local government’s rules, determines that it is wise and desirable to

1 create in an authority the powers and duties set forth in sections 2 to
2 14 of this 2019 Act, the local government shall by ordinance or resolu-
3 tion create such an authority. The ordinance or resolution shall set
4 forth:

5 (a) The name of the authority.

6 (b) The number of directors of the authority, which must be an odd
7 number not less than five.

8 (c) The names of the initial directors and their initial terms of
9 service, which may not exceed four years.

10 (d) Other provisions that may be appropriate and not inconsistent
11 with sections 2 to 14 of this 2019 Act or the laws of Oregon.

12 (3)(a) An authority shall be deemed established as a municipal cor-
13 poration of the state and as a body corporate and politic exercising
14 public powers:

15 (A) If formed by one local government, upon the adoption of an
16 ordinance or resolution under subsection (2) of this section by the lo-
17 cal government; or

18 (B) If formed by two or more local governments, upon the adoption
19 by ordinance or resolution of an intergovernmental agreement by each
20 of the participating local governments.

21 (b) Notwithstanding any law to the contrary, the authority shall
22 exist as a legal entity separate from the local governments that cre-
23 ated the authority.

24 (4) An authority organized under this section shall have all the
25 powers and duties contained in sections 2 to 14 of this 2019 Act.

26 SECTION 4. Board of directors; rules; quorum; personnel. (1) An
27 authority shall be managed and controlled by a board of directors. The
28 initial board of directors shall be appointed by the local governments
29 that created the authority. Subsequent directors shall be appointed as
30 provided in this section and the rules adopted by the authority.

31 (2) The regular term of a director is four years. The board may es-

1 **tablish special terms for positions that are shorter than four years for**
2 **the purpose of staggering the terms of directors. Before the expiration**
3 **of the term of a director, a successor shall be appointed whose term**
4 **begins on January 1 of the year next following. A director is eligible**
5 **for reappointment but may serve no more than a total of three terms,**
6 **including terms shorter than four years. If there is a vacancy for any**
7 **cause, a new director shall be appointed to complete the unexpired**
8 **term, subject to the requirements of subsection (3) of this section.**

9 **(3)(a) If the authority was created by one local government, the**
10 **board of directors must include at least one director who is also a**
11 **member of the governing body of the local government that created**
12 **the authority.**

13 **(b) An authority created by two or more local governments must:**

14 **(A) Include at least one director who is also a member of the gov-**
15 **erning body of each local government that created the authority; and**

16 **(B) Be comprised such that a majority of the directors are elected**
17 **officials of the local governments that created the authority.**

18 **(4) The board shall hold an annual meeting. The board shall select**
19 **from among themselves at the annual meeting a chairperson, vice**
20 **chairperson, secretary, treasurer and other officers as the board de-**
21 **termines.**

22 **(5) The board shall adopt and may amend rules for calling and**
23 **conducting its meetings and carrying out its business and may adopt**
24 **an official seal. All decisions of the board shall be by motion or re-**
25 **solution and shall be recorded in the board's minute book, which shall**
26 **be a public record. A majority of the directors of the board constitutes**
27 **a quorum for the transaction of business, and a majority is sufficient**
28 **to pass a motion or resolution.**

29 **(6) The board may employ employees and agents as the board deems**
30 **appropriate and provide for their compensation. The employees and**
31 **agents of the authority are not employees or agents of the local gov-**

1 ernment that created the authority.

2 (7) A director is not entitled to compensation for service on the
3 board of an authority.

4 SECTION 5. General powers. (1) An authority shall have all powers
5 necessary to accomplish the purposes of the authority, as set forth in
6 section 3 (1) of this 2019 Act, including without limitation the power
7 to:

8 (a) Sue and be sued, plead and be impleaded in all actions, suits or
9 proceedings brought by or against the authority.

10 (b) Solicit bids and broker and contract for electricity and energy
11 services for eligible retail electricity consumers.

12 (c) Enter into agreements for services to facilitate the sale and
13 purchase of electricity and certain ancillary services.

14 (d) Enter into contracts with any person.

15 (e) Borrow moneys and issue notes and revenue bonds for the pur-
16 pose of carrying out the authority's powers.

17 (f) Invest moneys into property, securities or other instruments.

18 (g) Obtain insurance.

19 (h) Solicit and accept grants, gifts or other assistance from a public
20 or private source.

21 (i) Develop and prepare plans or reports, including but not limited
22 to the implementation plan required under section 9 of this 2019 Act,
23 to evaluate the authority and to guide future improvements to the
24 processes and operations of the authority.

25 (j) Adopt and amend ordinances and resolutions.

26 (2)(a) An authority may automatically enroll all eligible retail
27 electricity consumers located within the service area of the authority
28 to participate in the community choice aggregation program operated
29 by the authority. The authority shall provide eligible retail electricity
30 consumers an opportunity to decline being enrolled as a participant in
31 the program. The authority may not assess a fee or penalty against

1 **an eligible retail electricity consumer that declines to participate in**
2 **the program no later than 60 days following the date that the eligible**
3 **retail electricity consumer became automatically enrolled in the pro-**
4 **gram.**

5 **(b) The authority shall provide notice of automatic enrollment and**
6 **the opportunity to opt out to eligible retail electricity consumers no**
7 **less than:**

8 **(A) Twice during the 60-day period prior to the date that eligible**
9 **retail electricity consumers will automatically become enrolled in the**
10 **program; and**

11 **(B) Twice during the 60-day period following the date that eligible**
12 **retail electricity consumers become automatically enrolled in the pro-**
13 **gram.**

14 **(c) Notice required under paragraph (b) of this subsection may be**
15 **accomplished by means that include but are not limited to direct mail**
16 **to eligible retail electricity consumers or, with the consent of the**
17 **electric company that provides billing to the eligible retail electricity**
18 **consumers, inserts in utility bills. The notice must:**

19 **(A) Inform the eligible retail electricity consumer that they are to**
20 **be automatically enrolled in a community choice aggregation program**
21 **operated by the authority and that the eligible retail electricity con-**
22 **sumer has the opportunity to decline being enrolled as a participant**
23 **and instead continue to receive all electricity services from the electric**
24 **company or its successor in interest;**

25 **(B) Explain the terms and conditions of the services offered by the**
26 **authority; and**

27 **(C) Provide a mechanism for the eligible retail electricity consumer**
28 **to decline being enrolled as a participant in the program, which may**
29 **take the form of a self-addressed return postcard or other simple and**
30 **readily understood mechanism.**

31 **(3) An authority shall register with the Public Utility Commission**

1 pursuant to rules adopted by the commission under section 10 of this
2 2019 Act.

3 (4)(a) An authority shall, no less than once every two years, prepare
4 and submit a power supply plan to the commission for review pursuant
5 to section 10 of this 2019 Act. The power supply plan shall include, at
6 a minimum:

7 (A) A range of forecasts of the loads served by the authority for the
8 year of the report and at least the next following 10 years, based upon
9 economic data and appropriate statistical methods;

10 (B) An assessment of available conservation and efficiency re-
11 sources, and other resources available for meeting loads; and

12 (C) A short-term plan identifying the specific actions that the au-
13 thority will take over the next three years to ensure resource adequacy
14 to meet its projected loads.

15 (b) An authority must publish the power supply plan required by
16 this section in such a manner that it is available to its customers. A
17 power supply plan under this section may not be a basis for legal
18 action against an authority.

19 (5) Nothing in sections 2 to 14 of this 2019 Act shall be construed
20 as authorizing an authority or local government to restrict the ability
21 of a retail electricity consumer to obtain or receive electricity services
22 in any manner consistent with law.

23 SECTION 6. Obligations of authority not obligations of local gov-
24 ernment; exception. (1) Except as provided in subsection (2) of this
25 section, the debts, obligations and other liabilities of an authority are
26 not a general or other obligation or liability of the local governments
27 that created the authority.

28 (2) A local government may incur debt, including the issuance of
29 bonds under any bonding authority available to the local government,
30 on behalf of an authority created by the local government and, by or-
31 dinance or resolution, deem a debt incurred under this subsection to

1 be a general obligation of the local government and a charge upon its
2 tax revenues.

3 **SECTION 7. Exemption from taxation.** (1) Except as provided in
4 subsection (2) of this section, an authority, all assets owned by the
5 authority, the income from the assets and all bonds issued by the au-
6 thority, together with the coupons applicable to the bonds and the
7 income from the bonds, shall be exempt from all taxation in the State
8 of Oregon.

9 (2) The real and personal property owned by the authority and
10 leased to a third party shall be subject to property taxation if the
11 property would be subject to taxation if owned by the lessee.

12 **SECTION 8. Dissolution.** (1) Dissolution of an authority may be in-
13 itiated:

14 (a) By resolution of the board of directors of the authority, filed
15 with the local governments that created the authority, if the board
16 determines that dissolution of the authority is in the best interest of
17 the community served by the authority; or

18 (b) By resolution of each of the local governments that created the
19 authority:

20 (A) If, at the time of the annual meeting of the board, directors
21 have not been appointed to fill vacancies on the board as required by
22 section 4 of this 2019 Act; or

23 (B) If each local government that created the authority determines
24 that dissolution of the authority is in the best interest of residents
25 within the jurisdiction of the local governments.

26 (2) Within five days after a resolution of the board is filed or a re-
27 solution has been adopted by each local government that created the
28 authority as provided in subsection (1)(b) of this section, a copy shall
29 be filed with the secretary of the authority, if any, or with any other
30 officer of the authority who can with reasonable diligence be located.

31 (3) If there are no directors on the board of directors of the au-

1 **thority, the local governments shall act as or appoint a board of**
2 **trustees to act on behalf of the authority to develop and implement a**
3 **plan for dissolution.**

4 **(4) Within 60 days after initiation of the dissolution proceeding, a**
5 **plan of dissolution shall be filed with the office of the clerk of the**
6 **county in which the authority is located and shall be available for in-**
7 **spection by any interested person.**

8 **(5) Upon approval of dissolution by the governing body of each local**
9 **government that created the authority, the authority shall be declared**
10 **dissolved. If a board of trustees has not been appointed under sub-**
11 **section (3) of this section:**

12 **(a) The board of directors shall constitute a board of trustees that**
13 **shall pay the debts or procure releases of the debts and dispose of the**
14 **property of the authority; or**

15 **(b) The board of directors may designate a local government as the**
16 **board of trustees for the purpose of winding up the affairs of the au-**
17 **thority.**

18 **(6) After the affairs of the authority have been fully settled, all**
19 **books and records of the authority shall be deposited by the board of**
20 **trustees in the office of the county clerk of the county in which the**
21 **authority is located. At the same time, the board of trustees shall ex-**
22 **ecute under oath, and file with each local government that created the**
23 **authority, a statement that the authority has been dissolved and its**
24 **affairs liquidated. From the date of the statement, the corporate ex-**
25 **istence of the authority is terminated for all purposes.**

26
27 **(Implementation of Community Choice Aggregation Program)**

28
29 **SECTION 9. Implementation plan. (1) An authority formed pursu-**
30 **ant to section 3 of this 2019 Act shall, prior to implementing a com-**
31 **munity choice aggregation program:**

1 (a) Prepare a proposed implementation plan for the community
2 choice aggregation program that meets the requirements of subsection
3 (3) of this section;

4 (b) Provide notice and the opportunity for public hearing and com-
5 ment on the proposed implementation plan; and

6 (c) After taking into consideration the comments on the proposed
7 implementation plan, adopt the implementation plan by order or re-
8 solution.

9 (2) An authority shall file with the Public Utility Commission an
10 adopted implementation plan and any other information that the
11 commission considers necessary to develop the cost recovery mech-
12 anism required by section 11 of this 2019 Act. An authority may not
13 implement a community choice aggregation program pursuant to the
14 adopted implementation plan until:

15 (a) At least three years after the date that the commission estab-
16 lishes by order the cost recovery mechanism required by section 11 of
17 this 2019 Act if the authority is formed to serve eligible retail elec-
18 tricity consumers located within the boundaries of Multnomah County
19 or a city with a population of 500,000 or more; or

20 (b) At least 90 days after the date that the commission establishes
21 by order the cost recovery mechanism required by section 11 of this
22 2019 Act if the authority is formed to serve eligible retail electricity
23 consumers located anywhere in this state other than the areas de-
24 scribed in paragraph (a) of this subsection.

25 (3) An implementation plan must, at a minimum:

26 (a) Detail the process and consequences of aggregating all or some
27 of the loads of eligible retail electricity consumers located within the
28 boundaries of the authority in a community choice aggregation pro-
29 gram;

30 (b) Describe the organizational structure of the authority;

31 (c) Describe the organizational structure, operations and funding

1 of the community choice aggregation program established by the au-
2 thority;

3 (d) Include provisions for disclosures and due process in setting
4 rates and allocating costs among eligible retail electricity consumers
5 served by the authority;

6 (e) Describe the methods for the authority to enter into and ter-
7 minate agreements with other entities;

8 (f) Describe the procedures established by the authority, pursuant
9 to ORS 469A.065, for the authority to implement the renewable port-
10 folio standards that are applicable to the authority;

11 (g) Detail the rights and responsibilities of program participants,
12 including, but not limited to, procedures for consumer protection,
13 credit issues and electricity shutoff;

14 (h) Include a statement of the authority's intent and methods for
15 furnishing adequate and safe service, equipment and facilities, and for
16 ensuring that the charges made by the authority for any service ren-
17 dered or to be rendered are reasonable and just; and

18 (i) Include detailed procedures for termination of the community
19 choice aggregation program and dissolution of the authority pursuant
20 to section 8 of this 2019 Act.

21 **SECTION 10. Duties of the Public Utility Commission.** (1)(a) The
22 Public Utility Commission shall, no later than 10 days after an au-
23 thority files an adopted implementation plan with the commission
24 under section 9 of this 2019 Act, provide notice of the implementation
25 plan to the electric company furnishing utility service within the al-
26 located territory that includes retail electricity consumers for whom
27 an authority will aggregate load under the implementation plan. The
28 notice required under this subsection must include a copy of the im-
29 plementation plan filed with the commission.

30 (b) The commission shall review the implementation plan for the
31 limited purpose of developing the cost recovery mechanism required

1 by section 11 of this 2019 Act. The commission shall adopt the cost
2 recovery mechanism no later than 180 days after the date that an au-
3 thority files the implementation plan.

4 (2) The commission shall adopt by rule registration requirements
5 for authorities. Rules adopted under this section may include rules for
6 requiring an authority to regularly report to the commission on the
7 procedures of the authority related to consumer protection.

8 (3) The commission shall review a power supply plan submitted by
9 an authority to the commission under section 5 of this 2019 Act for the
10 limited purpose of assessing whether the power supply plan demon-
11 strates adequate resource planning by the authority to ensure that the
12 authority will meet the reasonably forecast loads of eligible retail
13 electricity consumers served by the authority. In assessing whether
14 the power supply plan demonstrates adequate resource planning, the
15 commission shall utilize a process consistent with the commission's
16 process for acknowledgement of an integrated resource plan filed by
17 an electric company.

18 SECTION 11. Cost recovery mechanism. (1) The Public Utility
19 Commission shall, by order and pursuant to a hearing, adopt a cost
20 recovery mechanism for each authority that files an implementation
21 plan with the commission pursuant to section 9 of this 2019 Act. The
22 purpose of the cost recovery mechanism shall be to prevent unwar-
23 ranted shifting of costs to eligible retail electricity consumers not
24 served by the authority.

25 (2) The cost recovery mechanism may take the form of an exit fee,
26 a nonbypassable charge or a credit applied to retail electricity con-
27 sumers served by the authority consistent with the requirements of
28 this section. A cost recovery mechanism adopted under this section
29 shall be calculated to apply for a period of five years following the date
30 that an authority commences service to the authority's first retail
31 electricity consumer under a community choice aggregation program.

1 **The commission may not require a retail electricity consumer to con-**
2 **tinue to pay a charge pursuant to the cost recovery mechanism after**
3 **the five-year period described in this section has elapsed.**

4 **(3) For purposes of developing the cost recovery mechanism, the**
5 **commission shall estimate the net value of the share of all uneco-**
6 **nomic utility investments and all economic utility investments of the**
7 **electric company properly allocated to retail electricity consumers**
8 **whose load will be served by an authority using a calculation that**
9 **meets the following requirements:**

10 **(a) The calculation must be based only on information relevant to**
11 **the period of five years following the date that an authority com-**
12 **mences service to the authority's first retail electricity consumer un-**
13 **der a community choice aggregation program.**

14 **(b) For the period described in paragraph (a) of this subsection, the**
15 **calculation must:**

16 **(A) Compare the value of the output of the electric company's un-**
17 **economic utility investments and economic utility investments at**
18 **projected market prices to an estimate of the revenue requirement of**
19 **the electric company's uneconomic utility investments and economic**
20 **utility investments; and**

21 **(B) Include a credit to the retail electricity consumers served by the**
22 **authority for the avoided costs of new generation investments that**
23 **will be unnecessary for the electric company to undertake due to the**
24 **electric company's loss of load to the authority.**

25 **(c) The calculation may include only the uneconomic utility in-**
26 **vestments and economic utility investments that were incurred by the**
27 **electric company prior to the time the electric company received no-**
28 **tice under section 10 of this 2019 Act.**

29 **(d) The market prices utilized in the calculation must be the prices**
30 **of wholesale electricity at trading hubs commonly used by the electric**
31 **company and of any nonenergy attributes of the electricity. The com-**

1 mission may approve a direct transfer from the electric company to
2 the authority of any nonenergy attributes of the electricity in lieu of
3 including the forecasted value of those nonenergy attributes in the
4 calculation of the cost recovery mechanism, if the commission finds
5 that the nonenergy attributes are reasonably transferrable and may
6 be used or sold by the authority.

7 (e) The calculation shall result in a cost recovery mechanism that
8 is expressed as a volumetric rate assessed per unit of electric energy
9 served to each eligible retail electricity consumer of the authority
10 during the period described in paragraph (a) of this subsection.

11 (4) The commission may not allow recovery of costs under this
12 section by an electric company unless the electric company demon-
13 strates in a proceeding under this section, by clear and convincing
14 evidence, that:

15 (a) The electric company has used and will use all diligent and
16 prudent efforts to mitigate the costs and all included uneconomic
17 utility investments; and

18 (b) The electric company is unable to recover the costs from new
19 retail electricity consumers of the electric company without unrea-
20 sonably increasing the rates of the new retail electricity consumers
21 above the level that would have been charged to the departing retail
22 electricity consumers that are to be served by an authority under the
23 authority's implementation plan.

24 (5)(a) The commission shall reduce the amount to be charged to
25 retail electricity consumers under a cost recovery mechanism estab-
26 lished pursuant to this section as necessary to reflect any credits re-
27 sulting from implementation of 16 U.S.C. 839c(c) as provided for in 18
28 C.F.R. part 301. A reduction under this subsection may be no less than
29 the ratio of the projected amounts recoverable through the cost re-
30 covery mechanism that are related to the costs of the electric
31 company's resources, to the electric company's total cost of resources

1 filed with the Bonneville Power Administration and included in the
2 costs upon which the credits are based, multiplied by the total credits
3 provided to the electric company.

4 (b) The commission shall, consistent with federal law, continue to
5 pass through to the retail electricity consumers served by an authority
6 the credits, if any, that are related to costs that the electric company
7 charges for services provided by the electric company to retail elec-
8 tricity consumers served by the authority.

9 **SECTION 12. Duties of electric companies.** (1) An electric company
10 shall transfer all accounts to be served by the community choice ag-
11 gregation program to the authority that will implement the program
12 no later than 30 days after the close of the most recent normally
13 scheduled monthly metering and billing cycle after the date that the
14 Public Utility Commission issues an order under section 11 of this 2019
15 Act.

16 (2) An electric company shall:

17 (a) Provide transmission services, distribution services and ancil-
18 lary services for retail electricity consumers whose load is served by
19 an authority. The electric company must provide the services de-
20 scribed in this paragraph subject to the same rates, terms and condi-
21 tions that apply for retail electricity consumers whose load is served
22 by the electric company.

23 (b) Continue to provide all metering, billing, collection and cus-
24 tomer service to retail electricity consumers whose load is served by
25 an authority.

26 (c) Indicate as a separate line item on the billing statement for a
27 retail electricity consumer served by an authority the costs attribut-
28 able to the services provided by the authority and any other informa-
29 tion that the authority considers necessary to a retail electricity
30 consumer's understanding of the authority's costs.

31 (d) At the request and expense of an authority and on terms agreed

1 upon between the authority and the electric company, install, main-
2 tain and calibrate metering devices and any associated software or
3 other systems available and reliable, at locations within or adjacent
4 to the authority's boundaries, so long as providing metering at the
5 locations would not require the alteration or modification of a circuit
6 in a manner that would compromise the safety, reliability or opera-
7 tional flexibility of the facilities of the electric company.

8 (e) Serve the load for retail electricity consumers that decline to
9 participate in the community choice aggregation program operated by
10 the authority.

11 (3) Notwithstanding ORS 757.603, an electric company shall serve
12 the load for retail electricity consumers that decline to participate in
13 a community choice aggregation program through interim market
14 purchases until the electric company has planned for, and acquired
15 resources necessary, to provide the retail electricity consumers with
16 a regulated, cost-of-service rate option.

17 (4) On terms and at rates established by the commission, an electric
18 company shall recover:

19 (a) From an authority, all costs that are reasonably attributable to
20 the authority of implementing subsection (1) of this section; and

21 (b) From an authority or the eligible retail electricity consumers
22 served by the authority, all reasonable transaction-based costs of no-
23 tices, billing, metering, collections and customer communications or
24 other services provided by the electric company to the authority or the
25 retail electricity consumers served by the authority.

26 (5) The commission shall adopt rules for requiring electric compa-
27 nies to cooperate fully with any local government or authority in
28 actions taken by the local government or the authority to investigate,
29 pursue or implement a community choice aggregation program. Rules
30 adopted under this subsection shall:

31 (a) Set forth requirements and procedures for an electric company

1 to provide a local government or authority with appropriate and
2 timely billing and load data, including information at a customer-
3 specific level and including, but not limited to, data detailing elec-
4 tricity needs and patterns of usage.

5 (b) Preclude an electric company from marketing or lobbying
6 against a community choice aggregation program using funds col-
7 lected through rates.

8 (c) Prohibit an electric company from using, for marketing or lob-
9 bying purposes not precluded pursuant to paragraph (b) of this sub-
10 section, customer-specific information that is available to the electric
11 company due to the electric company's provision of services to the
12 customers.

13 **SECTION 13. Authority's access to electric company's distribution**
14 **facilities.** (1) Every authority is authorized to use the distribution fa-
15 cilities of an electric company on a nondiscriminatory basis after the
16 date that the authority begins serving retail electricity consumers
17 under a community choice aggregation program.

18 (2) To the extent permissible under federal law, the Public Utility
19 Commission shall ensure that an electric company:

20 (a) Provides an authority with access to the electric company's
21 transmission facilities and distribution system comparable to that
22 provided for the electric company's own use; and

23 (b) Provides an authority with timely access to information about
24 the electric company's transmission facilities and distribution system,
25 metering and loads comparable to that provided to the electric
26 company's own nondistribution divisions, affiliates and related parties.

27 **SECTION 14. Rules and reporting.** (1) The Public Utility Commis-
28 sion shall adopt rules necessary for the commission and electric com-
29 panies to implement the duties of the commission and electric
30 companies under sections 2 to 14 of this 2019 Act.

31 (2) The commission shall, no later than September 15 of each

1 even-numbered year, prepare and submit to the Legislative Assembly
2 a report on the implementation of sections 2 to 14 of this 2019 Act. The
3 report must include a description of:

4 (a) The number of authorities formed under section 3 of this 2019
5 Act serving retail electricity consumers during the two years imme-
6 diately preceding the date of the report;

7 (b) The number of retail electricity consumers in this state served
8 by authorities;

9 (c) The third-party suppliers of energy to authorities;

10 (d) Compliance by authorities and electric companies with the pro-
11 visions of sections 2 to 14 of this 2019 Act;

12 (e) The effectiveness of aggregating the load of retail electricity
13 consumers in community choice aggregation programs established by
14 authorities; and

15 (f) Recommendations, if any, for legislation to increase the effec-
16 tiveness of sections 2 to 14 of this 2019 Act.

17

18 APPLICATION OF RENEWABLE PORTFOLIO STANDARDS

19

20 **SECTION 15.** ORS 469A.005 is amended to read:

21 469A.005. As used in ORS 469A.005 to 469A.210:

22 (1) "Acquires service territory" does not include an acquisition by a city
23 of a facility, plant, equipment or service territory within the boundaries of
24 the city, pursuant to ORS 225.020 or city charter, if the city:

25 (a) Already owns, controls or operates an electric light and power system
26 for supplying electricity to the inhabitants of the city and for general mu-
27 nicipal purposes;

28 (b) Provides fair, just and reasonable compensation to the electric com-
29 pany whose service territory is acquired that:

30 (A) Gives consideration for the service territory rights and the cost of the
31 facility, plant or equipment acquired and for depreciation, fair market value,

1 reproduction cost and any other relevant factor; and

2 (B) Is based on the present value of the service territory rights and the
3 facility, plant and equipment acquired, including the value of poles, wires,
4 transformers and similar and related appliances necessarily required to pro-
5 vide electric service; and

6 (c) Pays any stranded costs obligation established pursuant to ORS
7 757.483.

8 (2) “Banked renewable energy certificate” means a bundled or unbundled
9 renewable energy certificate that is not used by an electric utility or elec-
10 tricity service supplier to comply with a renewable portfolio standard in a
11 calendar year, and that is carried forward for the purpose of compliance with
12 a renewable portfolio standard in a subsequent year.

13 (3) “BPA electricity” means electricity provided by the Bonneville Power
14 Administration, including electricity generated by the Federal Columbia
15 River Power System hydroelectric projects and electricity acquired by the
16 Bonneville Power Administration by contract.

17 (4) “Bundled renewable energy certificate” means a renewable energy
18 certificate for qualifying electricity that is acquired:

19 (a) By an electric utility or electricity service supplier by a trade, pur-
20 chase or other transfer of electricity that includes the renewable energy
21 certificate that was issued for the electricity; or

22 (b) By an electric utility by generation of the electricity for which the
23 renewable energy certificate was issued.

24 **(5) “Community choice aggregation authority” means an authority**
25 **formed pursuant to section 3 of this 2019 Act.**

26 [(5)] (6) “Compliance year” means the calendar year for which the electric
27 utility or electricity service supplier seeks to establish compliance with the
28 renewable portfolio standard applicable to the electric utility or electricity
29 service supplier in the compliance report submitted under ORS 469A.170.

30 [(6)] (7) “Consumer-owned utility” means a municipal electric utility, a
31 people’s utility district organized under ORS chapter 261 that sells electricity

1 or an electric cooperative organized under ORS chapter 62.

2 [(7)] (8) “Distribution utility” has the meaning given that term in ORS
3 757.600.

4 [(8)] (9) “Electric company” has the meaning given that term in ORS
5 757.600.

6 [(9)] (10) “Electric utility” has the meaning given that term in ORS
7 757.600.

8 [(10)] (11) “Electricity service supplier” has the meaning given that term
9 in ORS 757.600.

10 [(11)] (12) “Qualifying electricity” means electricity described in ORS
11 469A.010.

12 [(12)] (13) “Renewable energy source” means a source of electricity de-
13 scribed in ORS 469A.025.

14 [(13)] (14) “Retail electricity consumer” means a retail electricity con-
15 sumer, as defined in ORS 757.600, that is located in Oregon.

16 [(14)] (15) “Unbundled renewable energy certificate” means a renewable
17 energy certificate for qualifying electricity that is acquired by an electric
18 utility or electricity service supplier by trade, purchase or other transfer
19 without acquiring the electricity that is associated with the renewable en-
20 ergy certificate.

21 **SECTION 16.** ORS 469A.065 is amended to read:

22 469A.065. (1) An electricity service supplier must meet the requirements
23 of the renewable portfolio standards that are applicable to the electric util-
24 ities that serve the territories in which the electricity service supplier sells
25 electricity to retail electricity consumers. The Public Utility Commission
26 shall establish procedures for implementation of the renewable portfolio
27 standards for electricity service suppliers that sell electricity in the service
28 territory of an electric company. If an electricity service supplier sells elec-
29 tricity in territories served by more than one electric company, the commis-
30 sion may provide for an aggregate standard based on the amount of
31 electricity sold by the electricity service supplier in each territory.

1 (2) Pursuant to ORS 757.676, a consumer-owned utility may establish
2 procedures for the implementation of the renewable portfolio standards for
3 electricity service suppliers that sell electricity in the territory served by the
4 consumer-owned utility.

5 (3) **A community choice aggregation authority must meet the re-**
6 **quirements of the renewable portfolio standards that are applicable to**
7 **the electric company that serves the territory in which the community**
8 **choice aggregation authority serves the electricity load of retail elec-**
9 **tricity consumers. A community choice aggregation authority shall**
10 **establish procedures for implementation of the renewable portfolio**
11 **standards for the community choice aggregation authority.**

12 **SECTION 17.** ORS 469A.210 is amended to read:

13 469A.210. (1) The Legislative Assembly finds that community-based
14 renewable energy projects, including but not limited to marine renewable
15 energy resources that are either developed in accordance with the Territorial
16 Sea Plan adopted pursuant to ORS 196.471 or located on structures adjacent
17 to the coastal shorelands, are an essential element of this state's energy fu-
18 ture.

19 (2) For purposes related to the findings in subsection (1) of this section,
20 by the year 2025, at least eight percent of the aggregate electrical capacity
21 of all electric companies **and community choice aggregation authorities**
22 that make sales of electricity to 25,000 or more retail electricity consumers
23 in this state must be composed of electricity generated by one or both of the
24 following sources:

25 (a) Small-scale renewable energy projects with a generating capacity of
26 20 megawatts or less that generate electricity utilizing a type of energy de-
27 scribed in ORS 469A.025; or

28 (b) Facilities that generate electricity using biomass that also generate
29 thermal energy for a secondary purpose.

30 (3) Regardless of the facility's nameplate capacity, any single facility de-
31 scribed in subsection (2)(b) of this section may be used to comply with the

1 requirement specified in subsection (2) of this section for up to 20 megawatts
2 of capacity.

3

4

INTERACTION WITH DIRECT ACCESS

5

6 **SECTION 18.** ORS 757.600 is amended to read:

7 757.600. As used in ORS 757.600 to 757.689, unless the context requires
8 otherwise:

9 (1) “Aggregate” means combining retail electricity consumers into a buy-
10 ing group for the purchase of electricity and related services.

11 (2) “Ancillary services” means services necessary or incidental to the
12 transmission and delivery of electricity from generating facilities to retail
13 electricity consumers, including but not limited to scheduling, load shaping,
14 reactive power, voltage control and energy balancing services.

15 (3) “Commission” means the Public Utility Commission.

16 (4) “Consumer-owned utility” means a municipal electric utility, a
17 people’s utility district or an electric cooperative.

18 (5) “Default supplier” means an electricity service supplier or electric
19 company that has a legal obligation to provide electricity services to a con-
20 sumer, as determined by the commission.

21 (6) “Direct access” means the ability of a retail electricity consumer to
22 purchase electricity and certain ancillary services, as determined by the
23 commission for an electric company or the governing body of a consumer-
24 owned utility, directly from an entity other than the distribution utility.

25 (7) “Direct service industrial consumer” means an end user of electricity
26 that obtains electricity directly from the transmission grid and not through
27 a distribution utility.

28 (8) “Distribution” means the delivery of electricity to retail electricity
29 consumers through a distribution system consisting of local area power
30 poles, transformers, conductors, meters, substations and other equipment.

31 (9) “Distribution utility” means an electric utility that owns and operates

1 a distribution system connecting the transmission grid to the retail elec-
2 tricity consumer.

3 (10) “Economic utility investment” means all electric company invest-
4 ments, including plants and equipment and contractual or other legal obli-
5 gations, properly dedicated to generation or conservation, that were prudent
6 at the time the obligations were assumed but the full benefits of which are
7 no longer available to consumers as a direct result of ORS 757.600 to 757.667,
8 absent transition credits. “Economic utility investment” does not include
9 costs or expenses disallowed by the commission in a prudence review or
10 other proceeding, to the extent of such disallowance, and does not include
11 fines or penalties authorized and imposed under state or federal law.

12 (11) “Electric company” means an entity engaged in the business of dis-
13 tributing electricity to retail electricity consumers in this state, but does not
14 include a consumer-owned utility.

15 (12) “Electric cooperative” means an electric cooperative corporation or-
16 ganized under ORS chapter 62 or under the laws of another state if the ser-
17 vice territory of the electric cooperative includes a portion of this state.

18 (13) “Electric utility” means an electric company or consumer-owned
19 utility that is engaged in the business of distributing electricity to retail
20 electricity consumers in this state.

21 (14) “Electricity” means electric energy, measured in kilowatt-hours, or
22 electric capacity, measured in kilowatts, or both.

23 (15) “Electricity services” means electricity distribution, transmission,
24 generation or generation-related services.

25 (16)(a) “Electricity service supplier” means a person or entity that offers
26 to sell electricity services available pursuant to direct access to more than
27 one retail electricity consumer.

28 (b) “Electricity service supplier” does not *include* **mean:**

29 (A) An electric utility selling electricity to retail electricity consumers
30 in its own service territory; **or**

31 (B) A **community choice aggregation authority formed pursuant to**

1 **section 3 of this 2019 Act.**

2 (17) “Governing body” means the board of directors or the commissioners
3 of an electric cooperative or people’s utility district, or the council or board
4 of a city with respect to a municipal electric utility.

5 (18) “Load” means the amount of electricity delivered to or required by
6 a retail electricity consumer at a specific point of delivery.

7 (19) “Low-income weatherization” means repairs, weatherization and in-
8 stallation of energy efficient appliances and fixtures for low-income resi-
9 dences for the purpose of enhancing energy efficiency.

10 (20) “Municipal electric utility” means an electric distribution utility
11 owned and operated by or on behalf of a city.

12 (21) “New renewable energy resource” means a renewable energy resource
13 project, or a new addition to an existing renewable energy resource project,
14 or the electricity produced by the project, that is not in operation on July
15 23, 1999. “New renewable energy resource” does not include any portion of
16 a renewable energy resource project under contract to the Bonneville Power
17 Administration on or before July 23, 1999.

18 (22) “One average megawatt” means 8,760,000 kilowatt-hours of electricity
19 per year.

20 (23) “People’s utility district” has the meaning given that term in ORS
21 261.010.

22 (24) “Portfolio access” means the ability of a retail electricity consumer
23 to choose from a set of product and pricing options for electricity determined
24 by the governing board of a consumer-owned utility and may include product
25 and pricing options offered by the utility or by an electricity service sup-
26 plier.

27 (25) “Power generation company” means a company engaged in the pro-
28 duction and sale of electricity to wholesale customers, including but not
29 limited to independent power producers, affiliated generation companies,
30 municipal and state authorities, provided the company is not regulated by
31 the commission.

1 (26) “Qualifying expenditures” means those expenditures for energy con-
2 servation measures that have a simple payback period of not less than one
3 year and not more than 10 years, and expenditures for the above-market costs
4 of new renewable energy resources, provided that the State Department of
5 Energy by rule may establish a limit on the maximum above-market cost for
6 renewable energy that is allowed as a credit.

7 (27) “Renewable energy resources” means:

8 (a) Electricity generation facilities fueled by wind, waste, solar or
9 geothermal power or by low-emission nontoxic biomass based on solid or-
10 ganic fuels from wood, forest and field residues.

11 (b) Dedicated energy crops available on a renewable basis.

12 (c) Landfill gas and digester gas.

13 (d) Hydroelectric facilities located outside protected areas as defined by
14 federal law in effect on July 23, 1999.

15 (28) “Residential electricity consumer” means an electricity consumer who
16 resides at a dwelling primarily used for residential purposes. “Residential
17 electricity consumer” does not include retail electricity consumers in a
18 dwelling typically used for residency periods of less than 30 days, including
19 hotels, motels, camps, lodges and clubs. As used in this subsection,
20 “dwelling” includes but is not limited to single family dwellings, separately
21 metered apartments, adult foster homes, manufactured dwellings, recre-
22 ational vehicles and floating homes.

23 (29) “Retail electricity consumer” means the end user of electricity for
24 specific purposes such as heating, lighting or operating equipment, and in-
25 cludes all end users of electricity served through the distribution system of
26 an electric utility on or after July 23, 1999, whether or not each end user
27 purchases the electricity from the electric utility.

28 (30) “Site” means a single contiguous area of land containing buildings
29 or other structures that are separated by not more than 1,000 feet, or
30 buildings and related structures that are interconnected by facilities owned
31 by a single retail electricity consumer and that are served through a single

1 electric meter.

2 (31) “Transition charge” means a charge or fee that recovers all or a
3 portion of an uneconomic utility investment.

4 (32) “Transition credit” means a credit that returns to consumers all or
5 a portion of the benefits from an economic utility investment.

6 (33) “Transmission facility” means the plant and equipment used to
7 transmit electricity in interstate commerce.

8 (34) “Undue market power” means the unfair or improper exercise of in-
9 fluence to increase or decrease the availability or price of a service or
10 product in a manner inconsistent with competitive markets.

11 (35) “Uneconomic utility investment” means all electric company invest-
12 ments, including plants and equipment and contractual or other legal obli-
13 gations, properly dedicated to generation, conservation and workforce
14 commitments, that were prudent at the time the obligations were assumed
15 but the full costs of which are no longer recoverable as a direct result of
16 ORS 757.600 to 757.667, absent transition charges. “Uneconomic utility in-
17 vestment” does not include costs or expenses disallowed by the commission
18 in a prudence review or other proceeding, to the extent of such disallowance,
19 and does not include fines or penalties as authorized by state or federal law.

20 **SECTION 19.** ORS 757.627 is amended to read:

21 757.627. (1) An electric company shall permit retail electricity consumers
22 that are eligible for direct access to voluntarily aggregate their electricity
23 loads.

24 (2) A retail electricity consumer that is eligible for direct access may
25 voluntarily aggregate its electricity load with:

26 (a) The electricity load of any other retail electricity consumer that is
27 eligible for direct access[.]; **or**

28 (b) **The electricity load of a community choice aggregation author-**
29 **ity formed under section 3 of this 2019 Act if the retail electricity**
30 **consumer is located within the area served by the community choice**
31 **aggregation authority.**

1 **(3) A direct service industrial consumer may voluntarily aggregate**
2 **its electricity load with the electricity load of a community choice**
3 **aggregation authority if the direct service industrial consumer is lo-**
4 **cated within the area served by the community choice aggregation**
5 **authority.**

6 **SECTION 20.** ORS 757.612 is amended to read:

7 757.612. (1) There is established an annual public purpose expenditure
8 standard for electric companies and Oregon Community Power to fund new
9 cost-effective energy conservation, new market transformation efforts, the
10 above-market costs of new renewable energy resources and new low-income
11 weatherization. The public purpose expenditure standard shall be funded by
12 the public purpose charge described in subsection (2) of this section.

13 (2)(a) Beginning on the date an electric company or Oregon Community
14 Power offers direct access to retail electricity consumers, except residential
15 electricity consumers, the electric company or Oregon Community Power
16 shall collect a public purpose charge from all of the retail electricity con-
17 sumers located within the electric company's or Oregon Community Power's
18 service area until January 1, 2026. Except as provided in paragraph (b) of
19 this subsection, the public purpose charge shall be equal to three percent of
20 the total revenues collected by the electric company, Oregon Community
21 Power [*or*], the electricity service supplier **or the community choice ag-**
22 **gregation authority formed under section 3 of this 2019 Act** from retail
23 electricity consumers for electricity services, distribution services, ancillary
24 services, metering and billing, transition charges and other types of costs
25 included in electric rates on July 23, 1999.

26 (b) For an aluminum plant that averages more than 100 average mega-
27 watts of electricity use per year, the electric company or Oregon Community
28 Power, whichever serves territory that abuts the greatest percentage of the
29 site of the aluminum plant, shall collect from the aluminum company a
30 public purpose charge equal to one percent of the total revenue from the sale
31 of electricity services to the aluminum plant from any source.

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

4 (b) Except as provided in paragraph (e) of this subsection, funds collected
5 through public purpose charges under subsection (2) of this section shall be
6 allocated as follows:

7 (A) Sixty-three percent for new cost-effective energy conservation and new
8 market transformation efforts.

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

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

13 (D) Five percent for deposit in the Housing and Community Services De-
14 partment Electricity Public Purpose Charge Fund established by ORS 456.587
15 (1) for the purpose of providing grants as described in ORS 458.625 (2).

16 (c) The costs of administering subsections (1) to (6) of this section for an
17 electric company or Oregon Community Power shall be paid out of the funds
18 collected through public purpose charges. The commission may require an
19 electric company or Oregon Community Power to direct funds collected
20 through public purpose charges to state agencies responsible for implement-
21 ing subsections (1) to (6) of this section in order to pay the costs of admin-
22 istering subsections (1) to (6) of this section.

23 (d) The commission shall direct the manner in which public purpose
24 charges are collected and spent by an electric company or Oregon Commu-
25 nity Power and may require an electric company or Oregon Community
26 Power to expend funds through competitive bids or other means designed to
27 encourage competition, except that funds dedicated for new low-income
28 weatherization shall be directed to the Housing and Community Services
29 Department for purposes related to new low-income weatherization. The
30 commission may also require funds collected through public purpose charges
31 to be paid to a nongovernmental entity for investment in public purposes

1 described in subsection (1) of this section. Notwithstanding any other pro-
2 vision of this subsection:

3 (A) If an electric company collected the funds, at least 80 percent of the
4 funds allocated for new cost-effective energy conservation shall be spent
5 within the service area of the electric company; or

6 (B) If Oregon Community Power collected the funds, at least 80 percent
7 of the funds allocated for new cost-effective energy conservation shall be
8 spent within the service area of Oregon Community Power.

9 (e)(A) The first 10 percent of funds collected each year by an electric
10 company or Oregon Community Power under subsection (2) of this section
11 shall be distributed to school districts that are located in the service terri-
12 tory of the electric company or Oregon Community Power. The funds shall
13 be distributed to individual school districts according to the weighted aver-
14 age daily membership (ADMw) of each school district for the prior fiscal
15 year as calculated under ORS 327.013. The commission shall establish by rule
16 a methodology for distributing a proportionate share of funds under this
17 paragraph to school districts that are only partially located in the service
18 territory of the electric company or Oregon Community Power.

19 (B) A school district that receives funds under this paragraph shall use
20 the funds first to pay for energy audits for schools located within the school
21 district. A school district may not expend additional funds received under
22 this paragraph on a school until an energy audit has been completed for that
23 school. To the extent practicable, a school district shall coordinate with the
24 State Department of Energy and incorporate federal funding in complying
25 with this paragraph. Following completion of an energy audit for an indi-
26 vidual school, the school district may expend funds received under this par-
27 agraph to implement the energy audit. Once an energy audit has been
28 conducted and completely implemented for each school within the school
29 district, the school district may expend funds received under this paragraph
30 for any of the following purposes:

31 (i) Conducting additional energy audits. A school district shall conduct

1 an energy audit prior to expending funds on any other purpose authorized
2 under this paragraph unless the school district has performed an energy au-
3 dit within the three years immediately prior to receiving the funds.

4 (ii) Weatherizing school district facilities and upgrading the energy effi-
5 ciency of school district facilities.

6 (iii) Energy conservation education programs.

7 (iv) Purchasing electricity from environmentally focused sources.

8 (v) Investing in renewable energy resources.

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

11 (g) If the commission requires funds collected through public purpose
12 charges to be paid to a nongovernmental entity, the entity shall:

13 (A) Include on the entity's board of directors an ex officio member des-
14 igned by the commission, who shall also serve on the entity's nominating
15 committee for filling board vacancies.

16 (B) Require the entity's officers and directors to provide an annual dis-
17 closure of economic interest to be filed with the commission on or prior to
18 April 15 of each calendar year for public review in a form similar to the
19 statement of economic interest required for public officials under ORS
20 244.060.

21 (C) Require the entity's officers and directors to declare actual and po-
22 tential conflicts of interest at regular meetings of the entity's governing body
23 when such conflicts arise, and require an officer or director to abstain from
24 participating in any discussion or voting on any item where that officer or
25 director has an actual conflict of interest. For the purposes of this subpara-
26 graph, "actual conflict of interest" and "potential conflict of interest" have
27 the meanings given those terms in ORS 244.020.

28 (D) Annually, arrange for an independent auditor to audit the entity's fi-
29 nancial statements, and direct the auditor to file an audit opinion with the
30 commission for public review.

31 (E) Annually file with the commission the entity's budget, action plan and

1 quarterly and annual reports for public review.

2 (F) At least once every five years, contract for an independent manage-
3 ment evaluation to review the entity's operations, efficiency and effective-
4 ness, and direct the independent reviewer to file a report with the
5 commission for public review.

6 (h) The commission may remove from the board of directors of a nongov-
7 ernmental entity an officer or director who fails to provide an annual dis-
8 closure of economic interest, or who fails to declare an actual or potential
9 conflict of interest, as described in paragraph (g)(B) and (C) of this sub-
10 section, if the failure is connected to the allocation or expenditure of funds
11 collected through public purpose charges and paid to the entity.

12 (4)(a) An electric company that satisfies its obligations under this section:

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

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

17 (b) Oregon Community Power, for any period during which Oregon Com-
18 munity Power collects a public purpose charge under subsection (2) of this
19 section:

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

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

24 (5)(a) A retail electricity consumer that uses more than one average
25 megawatt of electricity at any site in the prior year shall receive a credit
26 against public purpose charges billed by an electric company or Oregon
27 Community Power for that site. The amount of the credit shall be equal to
28 the total amount of qualifying expenditures for new cost-effective energy
29 conservation, not to exceed 68 percent of the annual public purpose charges,
30 and the above-market costs of new renewable energy resources incurred by
31 the retail electricity consumer, not to exceed 19 percent of the annual public

1 purpose charges, less administration costs incurred under this paragraph and
2 paragraphs (b) and (c) of this subsection. The credit may not exceed, on an
3 annual basis, the lesser of:

4 (A) The amount of the retail electricity consumer's qualifying expendi-
5 tures; or

6 (B) The portion of the public purpose charge billed to the retail electricity
7 consumer that is dedicated to new cost-effective energy conservation, new
8 market transformation or the above-market costs of new renewable energy
9 resources.

10 (b) To obtain a credit under paragraph (a) of this subsection, a retail
11 electricity consumer shall file with the State Department of Energy a de-
12 scription of the proposed conservation project or new renewable energy re-
13 source and a declaration that the retail electricity consumer plans to incur
14 the qualifying expenditure. The State Department of Energy shall issue a
15 notice of precertification within 30 days of receipt of the filing, if such filing
16 is consistent with paragraph (a) of this subsection. The credit may be taken
17 after a retail electricity consumer provides a letter from a certified public
18 accountant to the State Department of Energy verifying that the precertified
19 qualifying expenditure has been made.

20 (c) Credits earned by a retail electricity consumer as a result of qualify-
21 ing expenditures that are not used in one year may be carried forward for
22 use in subsequent years.

23 (d)(A) A retail electricity consumer that uses more than one average
24 megawatt of electricity at any site in the prior year may request that the
25 State Department of Energy hire an independent auditor to assess the po-
26 tential for conservation investments at the site. If the independent auditor
27 determines there is no available conservation measure at the site that would
28 have a simple payback of one to 10 years, the retail electricity consumer
29 shall be relieved of 54 percent of its payment obligation for public purpose
30 charges related to the site. If the independent auditor determines that there
31 are potential conservation measures available at the site, the retail elec-

1 tricity consumer shall be entitled to a credit against public purpose charges
2 related to the site equal to 54 percent of the public purpose charges less the
3 estimated cost of available conservation measures.

4 (B) A retail electricity consumer shall be entitled each year to the credit
5 described in this paragraph unless a subsequent independent audit deter-
6 mines that new conservation investment opportunities are available. The
7 State Department of Energy may require that a new independent audit be
8 performed on the site to determine whether new conservation measures are
9 available, provided that the independent audits occur no more than once
10 every two years.

11 (C) The retail electricity consumer shall pay the cost of the independent
12 audits described in this paragraph.

13 (6) Electric utilities and retail electricity consumers shall receive a fair
14 and reasonable credit for the public purpose expenditures of their energy
15 suppliers. The State Department of Energy shall adopt rules to determine
16 eligible expenditures and the method by which such credits are accounted for
17 and used. The State Department of Energy also shall adopt methods to ac-
18 count for eligible public purpose expenditures made through consortia or
19 collaborative projects.

20 (7)(a) In addition to the public purpose charge provided under subsection
21 (2) of this section, an electric company or Oregon Community Power shall
22 collect funds for low-income electric bill payment assistance in an amount
23 determined under paragraph (b) of this subsection.

24 (b) The commission shall establish the amount to be collected by each
25 electric company from retail electricity consumers, and the rates to be
26 charged by each electric company to retail electricity consumers, so that the
27 forecasted collection by all electric companies in calendar year 2018 is \$20
28 million. In subsequent calendar years, the commission may not decrease the
29 rates below those established for calendar year 2018. The commission may
30 temporarily adjust the rates if forecasted collections or actual collections are
31 less than \$20 million in any calendar year. A retail electricity consumer may

1 not be required to pay more than \$500 per month per site for low-income
2 electric bill payment assistance.

3 (c) Funds collected through the low-income electric bill payment assist-
4 ance charge shall be paid into the Housing and Community Services De-
5 partment Low-Income Electric Bill Payment Assistance Fund established by
6 ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
7 used by the Housing and Community Services Department solely for purposes
8 related to low-income electric bill payment assistance and for the Housing
9 and Community Services Department's cost of administering this subsection.
10 Funds collected by an electric company or Oregon Community Power under
11 this subsection shall be expended in the service area of the electric company
12 or Oregon Community Power from which the funds are collected.

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

18 (B) The Housing and Community Services Department, in consultation
19 with electric companies, shall investigate and may implement alternative
20 delivery models to effectively reduce service disconnections and related costs
21 to retail electricity consumers and electric utilities.

22 (C) Priority assistance shall be directed to low-income electricity con-
23 sumers who are in danger of having their electricity service disconnected.

24 (D) The Housing and Community Services Department shall maintain re-
25 cords and provide those records upon request to an electric company, Oregon
26 Community Power and the Citizens' Utility Board established under ORS
27 chapter 774 on a quarterly basis. Records maintained must include the
28 numbers of low-income electricity consumers served, the average amounts
29 paid to low-income electricity consumers and the type of assistance provided
30 to low-income electricity consumers. Electric companies and Oregon Com-
31 munity Power shall, if requested, provide the Housing and Community Ser-

1 vices Department with aggregate data relating to low-income electricity
2 consumers served on a quarterly basis to support program development.

3 (e) Interest on moneys deposited in the Housing and Community Services
4 Department Low-Income Electric Bill Payment Assistance Fund established
5 by ORS 456.587 (2) may be used to provide bill payment and crisis assistance
6 to electricity consumers whose primary source of heat is not electricity.

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

12 (8) For purposes of this section, “retail electricity consumers” includes
13 any direct service industrial consumer that purchases electricity without
14 purchasing distribution services from the electric utility.

15 (9) For purposes of this section, funds collected by Oregon Community
16 Power through public purpose charges are not considered moneys received
17 from electric utility operations.

18

19

MISCELLANEOUS

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21 **SECTION 21. The Public Utility Commission shall adopt rules under**
22 **sections 10, 11 and 12 of this 2019 Act not later than 180 days after the**
23 **effective date of this 2019 Act. A local government may not take action**
24 **to form a community choice aggregation authority pursuant to section**
25 **3 of this 2019 Act until after the date that the commission adopts rules**
26 **pursuant to this section and sections 10, 11 and 12 of this 2019 Act.**

27 **SECTION 22. The unit and section captions used in this 2019 Act**
28 **are provided only for the convenience of the reader and do not become**
29 **part of the statutory law of this state or express any legislative intent**
30 **in the enactment of this 2019 Act.**

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