

HB 2021 -1, -3 STAFF MEASURE SUMMARY

House Committee On Energy and Environment

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Meeting Dates: 3/22, 3/29, 4/7

WHAT THE MEASURE DOES:

Directs the Public Utility Commission to conduct a study of laws related to clean energy and provide the results of the study in a report to the interim committees of the Legislative Assembly no later than September 15, 2022. Repeals study of laws related to clean energy on January 2, 2023. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

Clean energy targets

-1 Establishes as state policy that electricity supplied to retail electricity consumers 1) produces zero greenhouse gas emissions; 2) is generated in a manner that provides additional direct benefits to communities in this state in the forms of creating and sustaining meaningful living wage jobs, promoting workforce equity, and increasing energy security and resiliency; and 3) that policy implementation is done in a manner that minimizes burdens for environmental justice communities. Requires retail electricity providers to seek to provide only nonemitting electricity to the provider's retail electricity consumers by 2040. Requires retail electricity providers to create a clean energy plan to the Public Utility Commission (PUC) and to the Environmental Quality Commission (EQC), and to reduce annual greenhouse gas emissions associated with the electricity sold to retail electricity consumers by 80 percent below baseline emissions level by 2030 and by 90 percent below baseline emissions level by 2035. Requires the EQC to determine and verify retail electricity providers' baseline emissions level and the amount of emissions reduction necessary to meet the established clean energy targets in the state policy. Requires the EQC to report retail electricity providers' baseline emissions level to the PUC. Requires the PUC to acknowledge the clean energy plans no later than six months after plan is filed and evaluate the plans' 1) related environmental or health benefits; 2) feasibility of plan; 3) impacts on reliability and resiliency of electric system; 4) availability of federal policy incentives; and other relevant factors. Requires retail electricity provider to report electricity that is generated from the underlying renewable energy source. Requires the PUC to consider unexpected greenhouse gas emissions when determining whether a retail electricity provider has complied with clean energy targets in the policy. Authorizes the PUC to grant temporary exemption for a specific amount of time to an electric company that cannot comply with targets outlined in clean energy plan if certain criteria are met, and require alternative compliance rates or payments during temporary exemption period. Authorizes retail electricity providers to request PUC to open an investigation to provide accounting for investments made, costs incurred or forecasted costs estimated by the retail electricity provider in order to comply with clean energy targets. Requires PUC to provide retail electricity providers an exemption from further compliance with clean energy targets upon determination that the actual or anticipated cumulative rate impact exceeds six percent of the annual revenue requirement for a compliance year. Authorizes PUC to apply a performance incentive for early compliance with one or more of the clean energy targets in a calendar year by a retail electricity provider. Establishes that the clean energy targets in the policy do not modify the requirements of Renewable Portfolio Standards. Requires PUC to adopt rules to implement clean energy targets.

Electricity market participation

Requires the State of Oregon to coordinate and collaborate with other states to achieve the goal of aligning accounting methodologies where possible while also ensuring market rules do not undermine state policy objectives. Authorizes Department of Environmental Quality (DEQ) to open a rulemaking to address issues relating to electric utilities' participation in existing and future electricity markets and the role of markets in furthering the state's clean energy policy. Repeals temporary exemption for purposes of meeting reliability standards of North American Electric Reliability Corporation and limits on cost of compliance with renewable portfolio standard (469A.062, 469A.100). Repeals authorization for an electric company or electricity service supplier requirement to make alternative compliance payments that would result in the company or supplier exceeding the cost limitation established under renewable portfolio standard (469A.100).

Study on small scale renewable energy projects

Requires State Department of Energy (DOE) to convene a work group comprised of various stakeholders to examine opportunities to encourage development of small-scale renewable energy projects in this state that contribute to economic development and local energy resiliency. Requires State DOE to report on current status and trends for small-scale renewable energy development in this state and may include recommendations to an interim committee of the Legislative Assembly related to energy no later than September 30, 2022. Repeals requirement for small-scale renewable energy development report on December 31, 2022.

Customer-supported renewables

Authorizes electric companies to offer retail electricity individual consumers or groups of consumers a voluntary renewable energy option that differs from the electric company's regulated, cost-of-service option, which is a program of rates or charges that reflect the cost of an electric company program to serve retail electricity consumers with electricity: 1) partially or completely derived from new or existing renewable energy resources or nonemitting resources; or 2) paired with unbundled renewable energy certificates, from new or existing renewable energy resources. Requires PUC to allow an electric company to file a schedule with the commission that establishes the rates, terms and conditions of services offered under the voluntary renewable energy tariff, if the tariff minimizes cost and risk of shifting to non-participating electricity consumers and jurisdictions; and facilitates electricity consumer attainment of renewable energy or climate goals. Authorizes an electric company to offer retail electricity consumers a voluntary renewable energy option that differs from the electric company's regulated, cost-of-service rate option. Requires PUC to regulate the portfolio of rate options under a voluntary renewable energy option and reasonably ensure that the costs and risks of serving each option are reflected in the rates for each option, where such rates may include a monthly flat rate or charge in addition to usage. Authorizes an electric company serving fewer than 25,000 customers in this state to propose a program for approval by the commission if the program meets certain criteria.

Contractor labor standards for customer-supported renewables

Requires a person who constructs or repowers a renewable energy resource or nonemitting resource sited in this state that is intended to be used predominately by an electric company to meet projected obligations to retail electricity consumer under a voluntary renewable energy option to attest or declare that during all periods of construction the person will follow contractor labor standards, including, but not limited to, paying employees the prevailing rate of wage for an hour's work in the same trade or occupation in the locality where the labor and offer employer-paid health care and retirement benefits to the employees performing the labor on the construction project.

Non-pricing attributes to resource procurement evaluation

Authorizes PUC to include, as part of the commission's competitive bidding guidelines, non-pricing attributes, which promote resiliency, provide economic benefit to communities in this state or comply with fair labor standards and practices, of a resource as part of the scoring criteria for evaluating utility resource procurement

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options. Requires PUC to submit a report on the use and role of non-price attributes for evaluating utility resource procurements to an interim committee of the Legislative Assembly related to energy no later than September 15, 2023. Repeals PUC non-price attributes reporting requirement on July 1, 2024.

Nonbypassability of social and environmental costs

Requires PUC to allow recovery of costs through a charge on retail electricity consumers receiving electricity from electricity service suppliers, of costs tied to the economic, environmental, social or equity programs and policies imposed on electric companies by state or federal law, regulation or order, that the retail electricity consumers may avoid by obtaining electricity through direct access.

Providing information about clean energy programs to customers

Requires electricity service supplier to provide in every bill to a direct access retail electricity consumer, among other information, power source and environmental impact information necessary—equivalent to the power source and environmental impact information that the commission requires electric companies to disclose to retail electricity consumers, including for power supplied through the electricity service supplier's own generating resources, and is not subject to confidentiality—to ensure that all consumers have useful, reliable, and necessary information to exercise informed choice. Authorizes PUC to waive the requirement for bill consolidation by an electric company if the waiver results in effective billing procedures for retail electricity consumers.

Natural gas plants

Prohibits Energy Facility Siting Council from issuing a site certificate for a generating facility, with some exceptions, that produces electric power from fossil fuels, including natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

Takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Renewable portfolio standards

-3 Requires that **the following percentages** of the electricity sold in the calendar years **listed** to retail electricity consumers by electric utilities that makes sales of electricity to retail electricity consumers in an amount that equals three percent or more of all electricity sold to retail electricity consumers must be qualifying electricity to meet the large utility renewable portfolio standard requirements: 1) **at least 20 percent** in each of the calendar years **2020 and 2021**; 2) **at least 23 percent by 2022**; 3) **at least 90 percent by 2035**; and 4) **100 percent by 2050** and subsequent calendar years. Permits electric utilities to not comply with a renewable portfolio standard to the extent that compliance would require the electric utility to substitute qualifying electricity for legacy carbon-free electricity that is available to the utility by ownership or existing, renewal, or replacement contracts entered into before the effective date of this 2021 Act, unless the contract expires and is not renewed or replaced, or if a legacy carbon-free electricity generating facility is retired or removed from service to retail electricity consumers, beginning in the calendar year following the expiration, retirement, or removal. Requires Public Utility Commission (PUC) or the governing body of a consumer-owned utility to use the net present value of delivered cost, including: costs associated with compliance with all applicable local, state, regional, or federal laws other than the renewable portfolio standard, including but not limited to laws relating to emissions pricing, the social cost of carbon, resilience or reliability. Requires PUC to adopt by rule standards and procedures for imposing penalties and impose a penalty, not recoverable in the rates of an electric company, against the company or supplier in an amount determined by the commission to be sufficient to deter noncompliance if an electric company or electricity service supplier that is subject to a renewable portfolio standard fails to comply with the standard.

Direct energy resiliency or environmental benefits

Requires **50 percent** of the electric utility's renewable energy certificates used to meet the renewable portfolio standard applicable to that electric utility in a compliance year **must be for electricity generated by a facility that provides direct energy resiliency or environmental benefits** in this state. Requires **50 percent** of the **stored electricity** out of the electricity available to an electric utility from an electricity storage facility and used by the electric utility to offset the renewable portfolio standard must be from an electricity storage facility constructed on or after the effective date of this 2021 Act that **provides direct energy resiliency or environmental benefits** in this state. Prohibits PUC from causing delay, due to the pendency of any rulemaking or other proceeding, any procurement or request for proposals that will result in the procurement by an electric utility of electricity from a facility that meets statutory criteria.

Community-based renewable energy

Incorporates goal for community-based renewable energy projects (ORS 469A.210) into and made a part of Utility Regulation Generally (ORS chapter 757). Requires each electric company that makes sales of electricity to 25,000 or more retail electricity consumers in this state to be composed of electricity generated by **small-scale renewable energy projects** that meet certain criteria, to generate the following percentages of electricity sold in this state: **1) five percent by 2030 and 2) 10 percent by 2035.**

Integrated clean energy implementation planning

Repeals implementation plan for electric companies, annual reports, and rules (ORS 469A.075). Requires electric companies to develop an integrated, clean energy implementation plan for meeting the requirements of all clean energy standards applicable to the electric company and file the implementation plan with the PUC and updated every two years.

Clean energy storage

Disallows PUC from prohibiting, or treating as a retail purchase or sale, the wholesale purchase of electricity for wholesale resale by an energy storage system. Requires a transmission facility to facilitate the wholesale purchase of electricity for wholesale resale by an energy storage system, subject to reasonable pass-through expenses.

Utility Regulation Generally

Requires PUC to serve the public interest by: 1) When deciding or deliberating toward a decision, protecting the customers of any public utility or telecommunications utility, and the public generally; 2) Developing and implementing policies and rules that encourage social equity, environmental justice, the enhancement of the environment, greenhouse gas emissions reductions, diversity of the ownership and locations of electricity generation systems, resiliency for emergency conditions including wildfire risks, and the fulfillment of the state's energy and climate policies; 3) Allowing and fostering broad participation in the regulatory process; and 4) Protecting the 10 percent of residential ratepayers with the lowest incomes from cost increases associated with the consequences of state policies. Requires the Court of Appeals to declare a rule adopted by the PUC invalid if it finds the rule to be arbitrary and capricious. Creates liability for a public utility to a person injured by a wrong or omission in certain instances if the public utility does, or causes or permits to be done, any matter, act or thing prohibited by various Oregon Revised Statutes, with damages and attorney fees paid by a public utility to a prevailing party in an action under this section prohibited from being recovered in the rates of the public utility. Requires PUC to establish one or more performance-based ratemaking mechanisms or other rules to incentivize electric companies to: 1) Earn an annual margin of profit on power purchase agreements for the purchase of energy or energy and capacity that is at a rate determined by the commission not to exceed the rate of return allowed on assets owned by an electric company; and 2) Acquire electricity storage facilities that are, at a minimum, charged at least 90 percent by legacy carbon-free electricity or qualifying electricity. Requires PUC to adopt a performance-based ratemaking mechanism that allows for an electric company to: 1) Receive one or more graduated performance incentives, or to be subject to one or more graduated performance disincentives, in

the form of an increased or decreased overall rate of return, respectively, for overperforming or underperforming relative to the one or more of the clean energy standards applicable to the electric company in a calendar year; and 2) pay a performance incentive on specific power purchase agreements applicable to compliance with the clean energy standards applicable to the electric company if the power purchase agreements meet certain criteria. Requires electric companies to offer, in all competitive procurement contracts, standard contracts and rates, to purchase energy or energy and capacity at price premiums of up to specific percentages of the purchase price. Authorizes PUC to adopt by rule or order procedures and any other provisions as necessary to require an electric company to offer price premiums in amounts that are no less than one-half of the maximum price premiums of specific percentages of the purchase price.

Cogeneration and small power production facilities

Requires PUC to 1) promote the development of a diverse array of permanently sustainable energy resources using the public and private sectors to the highest degree possible; and 2) insure that rates for purchases by an electric utility from, and rates for sales to, a qualifying facility shall over the term of a contract be just and reasonable to the electric consumers of the electric utility, the qualifying facility, and in the public interest. Requires electric utilities at least once every two years to prepare, publish, and file with the PUC a schedule of avoided costs equaling the utility's forecasted incremental cost of electric resources over at least the next **35** years. Requires PUC to review and approve prices contained in the schedules of avoided costs filed by public utilities. Requires electric utilities' calculate avoided costs to 1) be available to the qualifying facility at fixed rates for a specific amount of time; 2) not be less than the equivalent cost for a utility-owned facility that is, if applicable, appropriately used as a reference facility; 3) account for the scarcity of availability and development of generation and transmission given reasonable projections of supply and demand, which must consider the effects of local, state, regional or federal laws relating to clean energy, emissions pricing, the social cost of carbon, resilience, or reliability; and 4) account for penalties and performance-based ratemaking mechanisms and certain price premiums. Requires an electric utility to forecast a reasonable failure rate for qualifying facilities as compared to the total amount contracted in identifying resource needs through integrated resource planning and in calculating avoided costs. Requires a public utility to offer, and PUC to approve, standard avoided-cost rates and simple standard contracts, that meet certain criteria, for the purchase of energy or energy and capacity from qualifying facilities with a design capacity of not greater than 80 megawatts alternating current. Requires a public utility to offer long-term contracts, that meet certain terms, for the purchase of all the energy or energy and capacity offered from a qualifying facility. Requires PUC to provide separate standard pricing schedules, including capacity price values for each hour of the day in each month of the year, offering incremental capacity pricing for storage facilities that are co-located or otherwise incorporated with qualifying facilities if the storage facilities charge from the qualifying facility. Requires PUC to act in good faith and with fair dealing in providing, executing, and carrying out agreements for the purchase of energy or energy and capacity from a qualifying facility and regarding all related interconnection studies and processes. Prohibits a public utility from: 1) delaying or impeding contracting requested by the developer of a qualifying facility; 2) conditioning the provision of draft agreements or the execution of an agreement on the completion of interconnection studies, any matter within the public utility's control or any matter that is solely specified by the developer of the qualified facility; or 3) asserting sole authority for the drafting of such agreements. Provides PUC subject matter jurisdiction over a complaint brought by a qualifying facility against a public utility in order to establish the terms and conditions of a legally enforceable obligation for the qualifying facility to sell energy or energy and capacity to a public utility. Authorizes a qualifying facility seeking a judicial declaration, interpretation, or enforcement of a contract or legally enforceable obligation for the qualifying facility to sell energy or energy and capacity to a public utility without first seeking review by the PUC.

BACKGROUND:

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Clean energy policies support the development and implementation of renewable energy projects, often with the dual goals of replacing fossil fuel resources and reducing greenhouse gas emissions. As recently as 2019, 11 states and territories and approximately 200 local jurisdictions have made commitments to 100 percent clean energy policies in the United States. The Oregon Legislature has taken significant steps to invest in the deployment of renewable energy resources in the state. Since 1977, the Legislature has passed a number of energy-related bills promoting the development of local renewable resources.

House Bill 2021 would direct the Public Utility Commission to conduct a study of laws related to clean energy and provide the results of the study in a report to the interim committees of the Legislative Assembly. The Bill would take effect on 91st day following adjournment sine die.