

# House Bill 3180

Sponsored by Representative HELM

## SUMMARY

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

Modifies and adds laws related to utilities.

## A BILL FOR AN ACT

Relating to utilities; creating new provisions; amending ORS 469A.005, 469A.020, 469A.052, 469A.055, 469A.060, 469A.100, 469A.120, 469A.147, 469A.170, 469A.200, 469A.210, 756.040, 756.060, 756.062, 756.185, 756.534, 757.612, 758.515, 758.525 and 758.535; and repealing ORS 469A.075.

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

## RENEWABLE PORTFOLIO STANDARDS

(Generally)

**SECTION 1.** ORS 469A.005 is amended to read:

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

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

(a) Already owns, controls or operates an electric light and power system for supplying electricity to the inhabitants of the city and for general municipal purposes;

(b) Provides fair, just and reasonable compensation to the electric company whose service territory is acquired that:

(A) Gives consideration for the service territory rights and the cost of the facility, plant or equipment acquired and for depreciation, fair market value, reproduction cost and any other relevant factor; and

(B) Is based on the present value of the service territory rights and the facility, plant and equipment acquired, including the value of poles, wires, transformers and similar and related appliances necessarily required to provide electric service; and

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

(2) "Banked renewable energy certificate" means a bundled or unbundled renewable energy certificate that is not used by an electric utility or electricity service supplier to comply with a renewable portfolio standard in a calendar year, and that is carried forward for the purpose of compliance with a renewable portfolio standard in a subsequent year.

(3) "BPA electricity" means electricity provided by the Bonneville Power Administration, including electricity generated by the Federal Columbia River Power System hydroelectric projects and electricity acquired by the Bonneville Power Administration by contract.

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

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

3 (a) By an electric utility or electricity service supplier by a trade, purchase or other transfer  
4 of electricity that includes the renewable energy certificate that was issued for the electricity; or

5 (b) By an electric utility by generation of the electricity for which the renewable energy cer-  
6 tificate was issued.

7 (5) “Compliance year” means the calendar year for which the electric utility or electricity ser-  
8 vice supplier seeks to establish compliance with the renewable portfolio standard applicable to the  
9 electric utility or electricity service supplier in the compliance report submitted under ORS  
10 469A.170.

11 (6) “Consumer-owned utility” means a municipal electric utility, a people’s utility district or-  
12 ganized under ORS chapter 261 that sells electricity or an electric cooperative organized under ORS  
13 chapter 62.

14 (7) “Distribution utility” has the meaning given that term in ORS 757.600.

15 (8) “Electric company” has the meaning given that term in ORS 757.600.

16 (9) “Electric utility” has the meaning given that term in ORS 757.600.

17 (10) “Electricity service supplier” has the meaning given that term in ORS 757.600.

18 (11) **“Fossil phase-out facility” means a facility that meets the requirements of section**  
19 **15 of this 2021 Act.**

20 (12)(a) **“Legacy carbon-free electricity” includes electricity, other than electricity de-**  
21 **scribed in ORS 469A.060 (2), that:**

22 **(A) Is generated by a hydroelectric facility or a nuclear facility that:**

23 **(i) Became operational before the effective date of this 2021 Act; and**

24 **(ii) Was being used to serve the load of an electric utility on or before the effective date**  
25 **of this 2021 Act; and**

26 **(B) Does not otherwise constitute qualifying electricity.**

27 **(b) “Legacy carbon-free electricity” does not include the amount of electricity generated**  
28 **by a facility described in paragraph (a) of this subsection that is in excess of the amount of**  
29 **electricity generated by that facility that was historically used to serve the load of an elec-**  
30 **tric utility, calculated based on the lesser of:**

31 **(A) The three-year average amount of electricity generated by that facility and used to**  
32 **serve the load of a utility based on the three most recent years prior to the compliance year**  
33 **in which the electric utility seeks to establish compliance with the renewable portfolio**  
34 **standard; or**

35 **(B) The three-year average amount of electricity generated by that facility and used to**  
36 **serve the load of a utility based on the three most recent years prior to the effective date**  
37 **of this 2021 Act.**

38 [(11)] (13) “Qualifying electricity” means electricity described in ORS 469A.010.

39 [(12)] (14) “Renewable energy source” means a source of electricity described in ORS 469A.025.

40 (15) **“Renewable thermal electricity” means the share of electricity from a fossil phase-**  
41 **out facility that is generated utilizing renewable energy sources described in ORS 469A.025**  
42 **(2)(g) or (7).**

43 [(13)] (16) “Retail electricity consumer” means a retail electricity consumer, as defined in ORS  
44 757.600, that is located in Oregon.

45 [(14)] (17) “Unbundled renewable energy certificate” means a renewable energy certificate for

1 qualifying electricity that is acquired by an electric utility or electricity service supplier by trade,  
 2 purchase or other transfer without acquiring the electricity that is associated with the renewable  
 3 energy certificate.

4 **SECTION 2.** ORS 469A.020 is amended to read:

5 469A.020. (1) Except as provided in this section, electricity may be used to comply with a  
 6 renewable portfolio standard only if the electricity is generated by a facility that becomes opera-  
 7 tional on or after January 1, 1995.

8 (2) Electricity from a generating facility, other than a hydroelectric facility, that became opera-  
 9 tional before January 1, 1995, may be used to comply with a renewable portfolio standard if the  
 10 electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

11 (3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may  
 12 be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency  
 13 upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power  
 14 Administration facility, only that portion of the electricity generation attributable to Oregon's share  
 15 of the electricity may be used to comply with a renewable portfolio standard.

16 (4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility  
 17 that became operational before January 1, 1995, may be used to comply with a renewable portfolio  
 18 standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995,  
 19 by a national certification organization recognized by the State Department of Energy by rule, and  
 20 if the facility is either:

21 (a) Owned by an electric utility; or

22 (b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy  
 23 Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such  
 24 license.

25 (5) Electricity from a generating facility located in this state that uses biomass and that became  
 26 operational before January 1, 1995, may be used to comply with a renewable portfolio standard if  
 27 the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L.  
 28 95-617) on March 4, 2010.

29 (6) A facility located in this state that generates electricity from direct combustion of municipal  
 30 solid waste and that became operational before January 1, 1995, may be used to comply with a  
 31 renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar  
 32 year.

33 **(7) Electricity from a fossil phase-out facility that became operational before, on or after**  
 34 **the effective date of this 2021 Act may be used to comply with a renewable portfolio standard**  
 35 **to the extent that the electricity is renewable thermal electricity.**

36 **SECTION 3.** ORS 469A.052 is amended to read:

37 469A.052. (1) The large utility renewable portfolio standard imposes the following requirements  
 38 on an electric utility that makes sales of electricity to retail electricity consumers in an amount that  
 39 equals three percent or more of all electricity sold to retail electricity consumers:

40 (a) At least five percent of the electricity sold by the electric utility to retail electricity con-  
 41 sumers in each of the calendar years 2011, 2012, 2013 and 2014 must be qualifying electricity;

42 (b) At least 15 percent of the electricity sold by the electric utility to retail electricity con-  
 43 sumers in each of the calendar years 2015, 2016, 2017, 2018 and 2019 must be qualifying electricity;

44 (c) At least 20 percent of the electricity sold by the electric utility to retail electricity con-  
 45 sumers in each of the calendar years [2020, 2021, 2022, 2023 and 2024] **2020 and 2021** must be qual-

1 ifying electricity;

2 [(d) At least 25 percent of the electricity sold by a consumer-owned utility to retail electricity con-  
3 sumers in the calendar year 2025 and subsequent calendar years must be qualifying electricity;]

4 [(e) At least 27 percent of the electricity sold by an electric company to retail electricity consumers  
5 in each of the calendar years 2025, 2026, 2027, 2028 and 2029 must be qualifying electricity;]

6 [(f) At least 35 percent of the electricity sold by an electric company to retail electricity consumers  
7 in each of the calendar years 2030, 2031, 2032, 2033 and 2034 must be qualifying electricity;]

8 [(g) At least 45 percent of the electricity sold by an electric company to retail electricity consumers  
9 in each of the calendar years 2035, 2036, 2037, 2038 and 2039 must be qualifying electricity; and]

10 [(h) At least 50 percent of the electricity sold by an electric company to retail electricity consumers  
11 in the calendar year 2040 and subsequent calendar years must be qualifying electricity.]

12 **(d) At least 25 percent of the electricity sold by an electric utility to retail electricity  
13 consumers in the calendar year 2022 must be qualifying electricity;**

14 **(e) In 2023 and in each following calendar year before 2036, the share of qualifying elec-  
15 tricity sold by an electric utility to retail electricity consumers must increase by a constant  
16 amount such that by 2035, at least 90 percent of electricity sold by the electric utility to re-  
17 tail electricity consumers is qualifying electricity; and**

18 **(f) In 2036 and each following calendar year before 2051, the share of qualifying electricity  
19 sold by an electric utility to retail electricity consumers must increase by a constant amount  
20 such that in 2050 and subsequent calendar years, 100 percent of electricity sold by the elec-  
21 tric utility to retail electricity consumers is qualifying electricity.**

22 (2) If, on June 6, 2007, an electric utility makes sales of electricity to retail electricity consum-  
23 ers in an amount that equals less than three percent of all electricity sold to retail electricity con-  
24 sumers, but in any three consecutive calendar years thereafter makes sales of electricity to retail  
25 electricity consumers in amounts that average three percent or more of all electricity sold to retail  
26 electricity consumers, the electric utility is subject to the renewable portfolio standard described in  
27 subsection (3) of this section. The electric utility becomes subject to the renewable portfolio stand-  
28 ard described in subsection (3) of this section in the calendar year following the three-year period  
29 during which the electric utility makes sales of electricity to retail electricity consumers in amounts  
30 that average three percent or more of all electricity sold to retail electricity consumers.

31 (3) An electric utility described in subsection (2) of this section must comply with the following  
32 renewable portfolio standard:

33 (a) Beginning in the fourth calendar year after the calendar year in which the electric utility  
34 becomes subject to the renewable portfolio standard described in this subsection, at least [*five*]  
35 \_\_\_\_\_ percent of the electricity sold by the electric utility to retail electricity consumers in a  
36 calendar year must be qualifying electricity;

37 (b) Beginning in the 10th calendar year after the calendar year in which the electric utility be-  
38 comes subject to the renewable portfolio standard described in this subsection, at least [*15*]  
39 \_\_\_\_\_ percent of the electricity sold by the electric utility to retail electricity consumers in a  
40 calendar year must be qualifying electricity;

41 (c) Beginning in the 15th calendar year after the calendar year in which the electric utility be-  
42 comes subject to the renewable portfolio standard described in this subsection, at least [*20*]  
43 \_\_\_\_\_ percent of the electricity sold by the electric utility to retail electricity consumers in a  
44 calendar year must be qualifying electricity; and

45 (d) Beginning in the 20th calendar year after the calendar year in which the electric utility be-

1 comes subject to the renewable portfolio standard described in this subsection, at least [25]  
 2 \_\_\_\_\_ percent of the electricity sold by the electric utility to retail electricity consumers in a  
 3 calendar year must be qualifying electricity.

4 **SECTION 4.** ORS 469A.055 is amended to read:

5 469A.055. (1) Except as provided in **subsections (2) to (4) of this section and subject to sub-**  
 6 **sections (5) and (6) of this section**, an electric utility that makes sales of electricity to retail  
 7 electricity consumers in an amount that equals less than three percent of all electricity sold to re-  
 8 tail electricity consumers is not subject to ORS 469A.005 to 469A.210.

9 (2) Beginning in calendar year 2025, at least five percent of the electricity sold to retail elec-  
 10 tricity consumers in a calendar year by an electric utility must be qualifying electricity if the elec-  
 11 tric utility makes sales of electricity to retail electricity consumers in an amount that equals less  
 12 than one and one-half percent of all electricity sold to retail electricity consumers.

13 (3) Beginning in calendar year 2025, at least 10 percent of the electricity sold to retail elec-  
 14 tricity consumers in a calendar year by an electric utility must be qualifying electricity if the elec-  
 15 tric utility makes sales of electricity to retail electricity consumers in an amount that equals or is  
 16 more than one and one-half percent, and less than three percent, of all electricity sold to retail  
 17 electricity consumers.

18 (4) **Beginning in calendar year 2050, 100 percent of the electricity sold to retail electricity**  
 19 **consumers in a calendar year by an electric utility must be qualifying electricity if the elec-**  
 20 **tric utility makes sales of electricity to retail electricity consumers in an amount that equals**  
 21 **less than three percent of all electricity sold to retail electricity consumers.**

22 [(4)] (5) The exemption provided by subsection (1) of this section terminates if an electric utility,  
 23 or a joint operating entity that includes the electric utility as a member, acquires electricity from  
 24 an electricity generating facility that uses coal as an energy source or makes an investment on or  
 25 after June 6, 2007, in an electricity generating facility that uses coal as an energy source. Beginning  
 26 in the calendar year following the year in which an electric utility's exemption terminates under this  
 27 subsection, the electric utility is subject to the renewable portfolio standard described in ORS  
 28 469A.052 (3) and the provisions of ORS 469A.005 to 469A.210 that apply to ORS 469A.052 (3). This  
 29 subsection does not apply to:

30 (a) A wholesale market purchase by an electric utility for which the energy source for the  
 31 electricity is not known;

32 (b) BPA electricity;

33 (c) Acquisition of electricity under a contract entered into before June 6, 2007;

34 (d) A renewal or replacement contract for a contract for purchase of electricity described in  
 35 paragraph (c) of this subsection;

36 (e) A purchase of electricity if the electricity is included in a contract for the purchase of  
 37 qualifying electricity and is necessary to shape, firm or integrate the qualifying electricity;

38 (f) Electricity provided to an electric utility under a contract for the acquisition of an interest  
 39 in an electricity generating facility that was entered into by the electric utility before June 6, 2007,  
 40 or entered into before June 6, 2007, by an electric cooperative organized under ORS chapter 62 of  
 41 which the electric utility is a member, without regard to whether the electricity is being used to  
 42 serve the load of the electric utility on June 6, 2007; or

43 (g) Investments in an electricity generating facility that uses coal as an energy source if the  
 44 investments are for the purpose of improving the facility's pollution mitigation equipment or the  
 45 facility's efficiency or are necessary to comply with requirements or standards imposed by govern-

1 mental entities.

2 [(5)] (6) The exemption provided by subsection (1) of this section terminates for a consumer-  
3 owned utility if the consumer-owned utility acquires service territory of an electric utility without  
4 the consent of the electric utility. Except as provided in subsection [(6)] (7) of this section, beginning  
5 in the calendar year following the year in which a consumer-owned utility's exemption terminates  
6 under this subsection, the consumer-owned utility is subject to the renewable portfolio standard de-  
7 scribed in ORS 469A.052 (3) and the provisions of ORS 469A.005 to 469A.210 that apply to ORS  
8 469A.052 (3).

9 [(6)] (7) If an electric utility acquires service territory of another electric utility without the  
10 consent of the electric utility from which service territory was acquired, then beginning in the cal-  
11 endar year following the acquisition, the percentage of the acquiring electric utility's electricity sold  
12 to all retail electricity consumers of the acquiring electric utility that is sold to retail electricity  
13 consumers that are located in the acquired service territory is subject to the renewable portfolio  
14 standard that is applicable to the electric utility from which service territory was acquired and the  
15 provisions of ORS 469A.005 to 469A.210 that apply to the renewable portfolio standard.

16 [(7)] (8) The provisions of this section do not authorize the acquisition by a municipal electric  
17 utility of service territory of a people's utility district organized under ORS chapter 261.

18 [(8)] (9) The provisions of this section do not affect the requirement that electric utilities offer  
19 a green power rate under ORS 469A.205.

20 **SECTION 5.** ORS 469A.060 is amended to read:

21 469A.060. (1) Electric utilities are not required to comply with the renewable portfolio standards  
22 described in ORS 469A.052 and 469A.055 to the extent that:

23 (a) Compliance with the standard would require the electric utility to acquire electricity in ex-  
24 cess of the electric utility's projected load requirements in any calendar year; and

25 (b) Acquiring the additional electricity would require the electric utility to substitute qualifying  
26 electricity for electricity derived from an energy source other than coal, natural gas or petroleum.

27 (2)(a) Electric utilities are not required to comply with a renewable portfolio standard to the  
28 extent that compliance would require the electric utility to substitute qualifying electricity for  
29 electricity available to the electric utility under contracts for electricity from dams that are owned  
30 by Washington public utility districts and that are located between the Grand Coulee Dam and the  
31 Columbia River's junction with the Snake River. The provisions of this subsection apply only to  
32 contracts entered into before June 6, 2007, and to renewal or replacement contracts for contracts  
33 entered into before June 6, 2007.

34 (b) If a contract described in paragraph (a) of this subsection expires and is not renewed or re-  
35 placed, the electric utility must comply, in the calendar year following the expiration of the con-  
36 tract, with the renewable portfolio standard applicable to the electric utility.

37 **(3)(a) Electric utilities are not required to comply with a renewable portfolio standard to**  
38 **the extent that compliance would require the electric utility to substitute qualifying elec-**  
39 **tricity for legacy carbon-free electricity that is available to the utility by ownership or con-**  
40 **tract. The provisions of this subsection applicable to contracts apply only to contracts**  
41 **entered into before the effective date of this 2021 Act and to renewal or replacement con-**  
42 **tracts for contracts entered into before the effective date of this 2021 Act.**

43 **(b) If a contract described in paragraph (a) of this subsection expires and is not renewed**  
44 **or replaced, or if a legacy carbon-free electricity generating facility is retired or removed**  
45 **from service to retail electricity consumers, beginning in the calendar year following the**

1 expiration, retirement or removal, the electric utility's obligation to comply with the  
 2 renewable portfolio standard applicable to the electric utility may no longer be reduced by  
 3 the amount of legacy carbon-free electricity that was available to the electric utility prior  
 4 to the expiration, retirement or removal.

5 (4)(a) Subject to paragraphs (b) and (c) of this subsection, electric utilities are not re-  
 6 quired to comply with a renewable portfolio standard to the extent that compliance would  
 7 require the electric utility to substitute qualifying electricity for electricity available to the  
 8 utility from an electricity storage facility if:

9 (A) The stored electricity is:

10 (i) Electricity that was generated from a renewable energy source; or

11 (ii) Legacy carbon-free electricity; and

12 (B) The output of the original source of energy is not also used to comply with a  
 13 renewable portfolio standard.

14 (b) Stored electricity that was legacy carbon-free electricity may not be used by an  
 15 electric utility to offset more than two percent of the renewable portfolio standard applicable  
 16 to the electric utility in a compliance year.

17 (c) In order to account for the round-trip efficiency losses in the charging and discharg-  
 18 ing of storage technologies, the amount of electricity available to the utility from an elec-  
 19 tricity storage facility for purposes of this subsection shall be calculated by determining the  
 20 average of:

21 (A) The output of the original source of energy; and

22 (B) The output of the electricity storage facility.

23 [(3)] (5) A consumer-owned utility is not required to comply with a renewable portfolio standard  
 24 to the extent that compliance would require the consumer-owned utility to reduce the consumer-  
 25 owned utility's purchases of the lowest priced electricity from the Bonneville Power Administration  
 26 pursuant to section 5 of the Pacific Northwest Electric Power Planning and Conservation Act of  
 27 1980, P.L. 96-501, as in effect on June 6, 2007. The exemption provided by this subsection applies  
 28 only to firm commitments for BPA electricity that the Bonneville Power Administration has assured  
 29 will be available to a consumer-owned utility to meet agreed portions of the consumer-owned  
 30 utility's load requirements for a defined period of time.

31 **SECTION 6.** Section 7 of this 2021 Act is added to and made a part of ORS 469A.005 to  
 32 **469A.210.**

33 **SECTION 7.** (1) As used in this section, "renewable energy certificates" means bundled  
 34 renewable energy certificates and unbundled renewable energy certificates.

35 (2)(a) The Legislative Assembly declares that the State of Oregon has a substantial state  
 36 interest in:

37 (A) Creating a more resilient supply of electricity used to serve retail electricity con-  
 38 sumers; and

39 (B) Ensuring that efforts to reduce the greenhouse gas emissions attributable to this  
 40 state provide direct environmental benefits in this state.

41 (b) The Legislative Assembly further finds and declares that:

42 (A) Locating low-emissions and no-emissions electricity generating and storage facilities  
 43 close to retail electricity consumers served with the electricity generated or stored by those  
 44 facilities:

45 (i) Increases resilience without causing the harmful side effects of emissions emitted

1 from electricity generating facilities;

2 (ii) Reduces the costs and delays associated with constructing additional transmission  
3 capacity to connect remote electricity generating and storage facilities; and

4 (iii) Reduces the wildfire-related resiliency risks to the electricity grid that increase with  
5 the remoteness of electricity generating and storage facilities; and

6 (B) Replacing electricity generating facilities that utilize petroleum, natural gas or coal  
7 as an energy source with electricity generating and storage facilities that utilize renewable  
8 energy sources can result in the reduction or avoidance of emissions of air contaminants  
9 other than greenhouse gases and can provide particular benefits to historically disadvantaged  
10 communities that have been traditionally and disproportionately burdened with the health,  
11 financial and other adverse impacts associated with air contaminants other than greenhouse  
12 gases emitted from electricity generating facilities and other waste products from power  
13 generation.

14 (3) In pursuit of the substantial state interests set forth in subsection (2)(a) of this sec-  
15 tion and in addition to the requirements of ORS 469A.135:

16 (a) Out of the renewable energy certificates used by an electric utility to meet the  
17 renewable portfolio standard applicable to that electric utility in a compliance year, 50 per-  
18 cent of the renewable energy certificates that were issued for electricity generated by a fa-  
19 cility constructed on or after the effective date of this 2021 Act must be for electricity  
20 generated by a facility that provides direct energy resiliency or environmental benefits in  
21 this state; and

22 (b) Out of the electricity available to an electric utility from an electricity storage facility  
23 and used by the electric utility to offset the renewable portfolio standard in a compliance  
24 year under ORS 469A.060 (4), 50 percent of the stored electricity must be from an electricity  
25 storage facility constructed on or after the effective date of this 2021 Act that provides direct  
26 energy resiliency or environmental benefits in this state.

27 (4) For the purposes of this section, an electricity generating or storage facility provides  
28 direct energy resiliency or environmental benefits in this state if the facility:

29 (a) Provides direct local resiliency benefits to retail electricity consumers through one  
30 or more of the following:

31 (A) Increased reliability in parts of this state that typically experience more frequent or  
32 longer service disruptions or that are more likely to be impacted by a catastrophic event;

33 (B) Greater penetration of electricity generating and storage resources in remote com-  
34 munities;

35 (C) Reduced exposure to the costs of service disruptions;

36 (D) Modernization to the electrical grid in this state;

37 (E) Reduced reliance on long-distance transmission;

38 (F) Investment in communities and households in this state that are least able to afford  
39 technologies that improve the reliability of electricity service; or

40 (G) Other local resiliency augmenting benefits for retail electricity consumers as may  
41 be identified by rule by the State Department of Energy, in consultation with the Public  
42 Utility Commission;

43 (b) Contributes to a reduction in or avoidance of emissions of any air contaminant or  
44 water contaminant in this state other than a greenhouse gas; or

45 (c) Contributes to an improvement in the health of natural and working lands in this



1 **state.**

2 **(5) There is a rebuttable presumption that an electricity generating or storage facility**  
3 **provides direct energy resiliency or environmental benefits in this state for purposes of this**  
4 **section if the facility:**

5 **(a) Is directly interconnected in this state to the electrical grid of an electric utility**  
6 **servicing retail electricity consumers;**

7 **(b) Is directly interconnected to the Bonneville Power Administration transmission grid**  
8 **servicing this state;**

9 **(c) Is used to comply with the requirements of ORS 469A.210;**

10 **(d) Is a community solar project from which electricity is procured pursuant to the pro-**  
11 **gram adopted under ORS 757.386;**

12 **(e) Is a solar energy resource connected behind the meter of a retail electricity consumer**  
13 **that includes battery storage capable of providing temporary electric power in the event of**  
14 **a power outage; or**

15 **(f) Relies on transmission facilities to transmit electricity for no more than 50 miles to**  
16 **reach the contiguous border of this state from an adjoining state in order to serve retail**  
17 **electricity consumers.**

18 **SECTION 8. ORS 469A.075 is repealed.**

19 **SECTION 9. ORS 469A.100 is amended to read:**

20 469A.100. (1) Electric utilities are not required to comply with a renewable portfolio standard  
21 during a compliance year to the extent that the incremental cost of compliance, the cost of unbun-  
22 dled renewable energy certificates and the cost of alternative compliance payments under ORS  
23 469A.180 exceeds four percent of the electric utility's annual revenue requirement for the compli-  
24 ance year.

25 (2) For each electric company, the Public Utility Commission shall establish the annual revenue  
26 requirement for a compliance year no later than January 1 of the compliance year. For each  
27 consumer-owned utility, the governing body of the consumer-owned utility shall establish the annual  
28 revenue requirement for a compliance year.

29 (3) The annual revenue requirement for an electric utility shall be calculated based only on the  
30 operations of the electric utility relating to electricity. The annual revenue requirement does not  
31 include any amount expended by the electric utility for energy efficiency programs for customers  
32 of the electric utility or for low income energy assistance, the incremental cost of compliance with  
33 a renewable portfolio standard, the cost of unbundled renewable energy certificates or the cost of  
34 alternative compliance payments under ORS 469A.180. The annual revenue requirement does in-  
35 clude:

36 (a) The operating expenses of the electric utility during the compliance year, including depre-  
37 ciation and taxes; and

38 (b) For electric companies, an amount equal to the total rate base of the electric company for  
39 the compliance year multiplied by the rate of return established by the commission for debt and  
40 equity of the electric company.

41 (4) For the purposes of this section, the incremental cost of compliance with a renewable port-  
42 folio standard is the difference between the levelized annual delivered cost of the qualifying elec-  
43 tricity and **what** the levelized annual delivered cost of an equivalent amount of [*reasonably available*  
44 *electricity that is not qualifying electricity*] **qualifying electricity would have been if the applicable**  
45 **renewable portfolio standard for the compliance year pursuant to ORS 469A.005 to 469A.210**

1 **(2019 Edition) had continued to be in effect.** For the purpose of this subsection, the commission  
 2 or the governing body of a consumer-owned utility shall use the net present value of delivered cost,  
 3 including:

4 (a) Capital, operating and maintenance costs of generating facilities;

5 (b) Financing costs attributable to capital, operating and maintenance expenditures for gener-  
 6 ating facilities;

7 (c) Transmission and substation costs;

8 (d) Load following and ancillary services costs; *[and]*

9 **(e) Costs associated with compliance with all applicable local, state, regional or federal**  
 10 **laws other than the renewable portfolio standard, including but not limited to laws relating**  
 11 **to emissions pricing, the social cost of carbon, resilience or reliability; and**

12 *[(e)]* (f) Costs associated with using other assets, physical or financial, to integrate, firm or  
 13 shape renewable energy sources on a firm annual basis to meet retail electricity needs.

14 (5) For the purposes of this section, the governing body of a consumer-owned utility may include  
 15 in the incremental cost of compliance with a renewable portfolio standard all expenses associated  
 16 with research, development and demonstration projects related to the generation of qualifying elec-  
 17 tricity by the consumer-owned utility.

18 (6) The commission shall establish limits on the incremental cost of compliance with the  
 19 renewable portfolio standard for electricity service suppliers under ORS 469A.065 that are the  
 20 equivalent of the cost limits applicable to the electric companies that serve the territories in which  
 21 the electricity service supplier sells electricity to retail electricity consumers. If an electricity ser-  
 22 vice supplier sells electricity in territories served by more than one electric company, the commis-  
 23 sion may provide for an aggregate cost limit based on the amount of electricity sold by the  
 24 electricity service supplier in each territory. Pursuant to ORS 757.676, a consumer-owned utility may  
 25 establish limits on the cost of compliance with the renewable portfolio standard for electricity ser-  
 26 vice suppliers that sell electricity in the territory served by the consumer-owned utility.

27 **SECTION 10.** ORS 469A.120 is amended to read:

28 469A.120. (1) Except as provided in ORS 469A.180 (5) **and 469A.200**, all prudently incurred costs  
 29 associated with complying with ORS 469A.005 to 469A.210 are recoverable in the rates of an electric  
 30 company, including interconnection costs, **power purchase costs, energy storage costs**, costs as-  
 31 sociated with using physical or financial assets to integrate, firm or shape renewable energy sources  
 32 on a firm annual basis to meet retail electricity needs, above-market costs and other costs associated  
 33 with transmission and delivery of qualifying electricity to retail electricity consumers.

34 (2)(a) The Public Utility Commission shall establish an automatic adjustment clause as defined  
 35 in ORS 757.210 or another method that allows timely recovery of costs prudently incurred by an  
 36 electric company to construct or otherwise acquire facilities that generate electricity from  
 37 renewable energy sources **or that are fossil phase-out facilities**, costs related to associated elec-  
 38 tricity transmission and costs related to associated energy storage.

39 (b) Notwithstanding any other provision of law, upon the request of any interested person the  
 40 commission shall conduct a proceeding to establish the terms of the automatic adjustment clause  
 41 or other method for timely recovery of costs. The commission shall provide parties to the proceeding  
 42 with the procedural rights described in ORS 756.500 to 756.610, including but not limited to the op-  
 43 portunity to develop an evidentiary record, conduct discovery, introduce evidence, conduct cross-  
 44 examination and submit written briefs and oral argument. The commission shall issue a written  
 45 order with findings on the evidentiary record developed in the proceeding.

1 (3)(a) An electric company must file with the commission for approval of a proposed rate change  
2 to recover costs under the terms of an automatic adjustment clause or other method for timely re-  
3 recovery of costs established under subsection (2) of this section. As part of an electric company's  
4 request for approval under this subsection, the electric company may specify the date or the dates  
5 on which the electric company will begin to include in the electric company's rates, in full or in  
6 part, the costs recoverable under subsection (2) of this section. The commission may accept or reject  
7 the date or dates specified by the electric company.

8 (b) Notwithstanding any other provision of law, upon the request of any interested person the  
9 commission shall conduct a proceeding to determine whether to approve a proposed change in rates  
10 under the automatic adjustment clause or other method for timely recovery of costs. The commission  
11 shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to  
12 756.610, including but not limited to the opportunity to develop an evidentiary record, conduct dis-  
13 covery, introduce evidence, conduct cross-examination and submit written briefs and oral argument.  
14 The commission shall issue a written order with findings on the evidentiary record developed in the  
15 proceeding.

16 (c) A filing made under this subsection is subject to the commission's authority under ORS  
17 757.215 to suspend a rate, or schedule of rates, for investigation.

18 **SECTION 11.** ORS 469A.170 is amended to read:

19 469A.170. (1) Each electric utility and electricity service supplier that is subject to a renewable  
20 portfolio standard shall make an annual compliance report for the purpose of detailing compliance,  
21 or failure to comply, with the renewable portfolio standard applicable in the compliance year. An  
22 electric company or electricity service supplier shall make the report to the Public Utility Com-  
23 mission. A consumer-owned utility shall make the report to the members or customers of the utility.

24 (2) The commission shall review each compliance report filed under this section by an electric  
25 company or electricity service supplier for the purposes of determining whether the company or  
26 supplier has complied with the renewable portfolio standard applicable to the company or supplier  
27 and the manner in which the company or supplier has complied. In reviewing the reports, the com-  
28 mission shall consider:

29 (a) The relative amounts of renewable energy certificates and other payments used by the com-  
30 pany or supplier to meet the applicable renewable portfolio standard, including:

- 31 (A) Bundled renewable energy certificates;
- 32 (B) Unbundled renewable energy certificates;
- 33 (C) Banked renewable energy certificates; and
- 34 (D) Alternative compliance payments under ORS 469A.180.

35 (b) The timing of electricity purchases.

36 (c) The market prices for electricity purchases and unbundled renewable energy certificates.

37 (d) Whether the actions taken by the company or supplier are contributing to long term devel-  
38 opment of generating capacity using renewable energy sources.

39 (e) The effect of the actions taken by the company or supplier on the rates payable by retail  
40 electricity consumers.

41 (f) Good faith forecasting differences associated with the projected number of retail electricity  
42 consumers served and the availability of electricity from renewable energy sources.

43 (g) For electric companies, consistency with the implementation plan filed under [ORS  
44 469A.075] **section 18 of this 2021 Act**, as acknowledged by the commission.

45 (h) Any other factors deemed reasonable by the commission.

1 (3) The commission by rule may establish requirements for compliance reports submitted by an  
 2 electric company or electricity service supplier.

3 **SECTION 12.** ORS 469A.200 is amended to read:

4 469A.200. (1) If an electric company or electricity service supplier that is subject to a renewable  
 5 portfolio standard under ORS 469A.005 to 469A.210 fails to comply with the standard in the manner  
 6 provided by ORS 469A.005 to 469A.210, the Public Utility Commission [*may*] **shall** impose a penalty  
 7 against the company or supplier in an amount determined by the commission **to be sufficient to**  
 8 **deter noncompliance.**

9 (2) A penalty under this section is in addition to any alternative compliance payment required  
 10 or elected under ORS 469A.180 **and may not be recovered in the rates of an electric company.**  
 11 Moneys paid for penalties under this section shall be transmitted by the commission to the non-  
 12 governmental entity receiving moneys under ORS 757.612 (3)(d) and may be used only for the pur-  
 13 poses specified in ORS 757.612 (1).

14 (3) **The commission shall adopt by rule standards and procedures for imposing penalties**  
 15 **under this section.**

16  
 17 (Community-Based Renewable Energy)

18  
 19 **SECTION 13.** ORS 469A.210 is amended to read:

20 469A.210. (1) The Legislative Assembly finds that community-based renewable energy projects,  
 21 including but not limited to marine renewable energy resources that are either developed in ac-  
 22 cordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures  
 23 adjacent to the coastal shorelands, are an essential element of this state’s energy future.

24 (2) For purposes related to the findings in subsection (1) of this section, **and subject to sub-**  
 25 **section (3) of this section,** by [*the*] **calendar** year 2025, at least eight percent of the [*aggregate*  
 26 *electrical capacity of all electric companies that make*] **electricity sold in this state by each electric**  
 27 **company that makes** sales of electricity to 25,000 or more retail electricity consumers in this state  
 28 must be composed of electricity generated by one or [*both*] **more** of the following sources:

29 (a) Small-scale renewable energy projects with a generating capacity of 20 megawatts or less,  
 30 **or that are interconnected with the transmission system owned or managed by the electric**  
 31 **company at a voltage of 115 kilovolts or less, and** that generate electricity utilizing a type of  
 32 energy described in ORS 469A.025; [*or*]

33 (b) Facilities that generate electricity using biomass that also generate thermal energy for a  
 34 secondary purpose[.]; **or**

35 (c) **Small power production facilities as defined in ORS 758.505 that generate electricity**  
 36 **utilizing a type of energy listed in ORS 469A.025 and that:**

37 (A) **Are located, with the consent of the relevant tribal government as defined in ORS**  
 38 **181A.680, within the boundaries of an Indian reservation or land held in trust by the United**  
 39 **States for the benefit of a federally recognized Oregon Indian tribe; or**

40 (B) **Have executed a community benefits agreement with a local government as defined**  
 41 **in ORS 174.116, a school district as defined in ORS 332.002, a local environmental or habitat**  
 42 **conservation organization or another entity that exists for the public benefit as identified**  
 43 **by rule by the Public Utility Commission.**

44 (3)(a) **Out of the facilities described in subsection (2) of this section that generate elec-**  
 45 **tricity used to meet the requirements of subsection (2) of this section, at least 25 percent**

1 **must be:**

2 (A) Located in the electric company's service territory;

3 (B) Directly interconnected with the transmission system owned or managed by the  
4 electric company; or

5 (C) If not directly interconnected with the transmission system owned or managed by the  
6 electric company, designated as a network resource.

7 (b) An electric company must cooperate with the efforts of a facility described in sub-  
8 section (2) of this section to be designated as a network resource.

9 [(3)] (4) Regardless of the facility's nameplate capacity, any single facility described in sub-  
10 section (2)(b) of this section may be used to comply with the requirement specified in subsection (2)  
11 of this section for up to 20 megawatts of capacity.

12  
13 **FOSSIL PHASE-OUT PROVISIONS**

14  
15 **SECTION 14.** Sections 15 and 16 of this 2021 Act are added to and made a part of ORS  
16 chapter 757.

17 **SECTION 15.** (1) As used in this section and section 16 of this 2021 Act:

18 (a) "Allocation of electricity" has the meaning given that term in ORS 757.518.

19 (b) "Capacity factor" means the ratio of the electrical energy production by a generating  
20 unit for a calendar year to the electrical energy that could have been produced by the gen-  
21 erating unit at uninterrupted continuous full power AC nameplate operation during that  
22 same calendar year.

23 (c) "Fossil input run-time limit" means, for a given generating unit, the maximum au-  
24 thorized capacity factor of actual electrical power output that may be produced from the use  
25 of conventional natural gas as a feedstock, assuming operations by the generating unit under  
26 optimal maintenance and operating conditions.

27 (d) "Fossil phase-out facility" means a generating unit that:

28 (A) Is capable of using as a feedstock conventional natural gas and also:

29 (i) Landfill gas or biogas as described in ORS 469A.025 (2)(g); or

30 (ii) Hydrogen gas as described in ORS 469A.025 (7); and

31 (B) Meets the qualifications set forth in this section.

32 (e) "Landfill gas and biogas input run-time limit" means, for a given generating unit, the  
33 maximum authorized capacity factor of actual electrical power output that may be produced  
34 from the use of landfill gas or biogas as described in ORS 469A.025 (2)(g) as a feedstock, as-  
35 suming operations by the generating unit under optimal maintenance and operating condi-  
36 tions.

37 (f) "Natural gas-fired resource" means a conventional natural gas-fired generating unit  
38 or a generating unit that produces electrical power in whole or in part by using conventional  
39 natural gas as a feedstock.

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

41 (2) Except as provided in subsection (3) of this section, a natural gas-fired resource  
42 qualifies as a fossil phase-out facility if:

43 (a) The generating unit, as of the generating unit's in-service date or date of conversion  
44 to a generating unit described in subsection (1)(d)(A) of this section, is limited to:

45 (A) A fossil input run-time limit of no more than five percent; and

1 (B) A landfill gas and biogas input run-time limit of no more than five percent;

2 (b) Beginning on the date that is one year after the generating unit's in-service date, the  
3 date of conversion to a generating unit described in subsection (1)(d)(A) of this section, or  
4 January 1, 2030, whichever is earliest, the fossil input run-time limit is set to decline at a  
5 constant rate of 0.5 percent every other year to a fossil input run-time limit of zero by no  
6 later than the earlier of either:

7 (A) December 31 of the 20th year after the generating unit's in-service date or the date  
8 of conversion; or

9 (B) December 31, 2049; and

10 (c) The owner of the generating unit has signed, recorded in the deed records for the  
11 county where the generating unit is located and has made written proof available of an  
12 irrevocable deed restriction or a conservation easement that:

13 (A) Runs with and burdens in perpetuity the tract of land upon which the generating unit  
14 is located;

15 (B) Prohibits the owner and the owner's successors in interest from operating the gen-  
16 erating unit in a manner that violates the provisions of this section; and

17 (C) Provides to one or more qualified conservation organizations a right of enforcement  
18 in law or in equity of the limitations required under paragraph (b) of this subsection and the  
19 right to conduct inspections at a reasonable time and in a reasonable manner to monitor  
20 compliance with the limitations.

21 (3)(a) Subject to paragraph (b) of this subsection, a generating unit may temporarily ex-  
22 ceed the annual limitations required by subsection (2)(a) and (b) of this section, regardless  
23 of the feedstocks used, and continue to qualify as a fossil phase-out facility if the exceedance  
24 is necessary:

25 (A) To meet reliability standards during a short-term system emergency declared by the  
26 North American Electric Reliability Corporation, the Western Electricity Coordinating  
27 Council, the California Independent System Operator, the Bonneville Power Administration  
28 or the Federal Energy Regulatory Commission or their successor organizations;

29 (B) During a limited period, to meet short-term regional energy demand if the market  
30 prices in relevant markets increase by 200 percent or more relative to the greater of the  
31 prior seven-day average peak price or the average peak price during the same calendar week  
32 during the prior three years; or

33 (C) To conform with prudent electrical practices for the sole purposes of ongoing testing  
34 and facility maintenance.

35 (b) An exceedance permitted under paragraph (a) of this subsection:

36 (A) May not result in a three-year average fossil input run-time limit for the facility that  
37 is three percent or more above the applicable fossil input run-time limits for the facility  
38 during the three most-recent years prior to the year in which the exceedance would occur;  
39 and

40 (B) Is permitted only if the exceedance is not reasonably avoidable by using hydrogen gas  
41 as described in ORS 469A.025 (7) as a feedstock or by utilizing other electricity generating  
42 or storage facilities to address the relevant circumstances described in paragraph (a) of this  
43 subsection.

44 (4)(a) The Public Utility Commission, in consultation with the State Department of En-  
45 ergy, shall adopt by rule standards and procedures for determining whether a generating unit

1 **qualifies as, and maintains qualification as, a fossil phase-out facility for purposes of this**  
 2 **section, ORS 469A.005 to 469A.210 and sections 16 and 26 of this 2021 Act, and may adopt any**  
 3 **other rules necessary for the implementation, administration and enforcement of this sec-**  
 4 **tion.**

5 **(b) Rules adopted under this subsection must, at a minimum, allow for generating units**  
 6 **in service before the effective date of this 2021 Act and that, after the effective date of this**  
 7 **2021 Act, are converted to the use of new feedstocks, are converted to allow for the use of**  
 8 **multiple feedstocks, or are integrated or combined with onsite battery storage, to all qualify**  
 9 **as fossil phase-out facilities if the generating units otherwise meet the requirements of this**  
 10 **section.**

11 **SECTION 16. (1) On or before January 1, 2030, an electric company shall eliminate na-**  
 12 **tural gas-fired resources that are not fossil phase-out facilities from its allocation of elec-**  
 13 **tricity.**

14 **(2)(a) Subject to paragraph (b) of this subsection:**

15 **(A) In 2030, the total annual fossil fuel content of all electricity procured by an electric**  
 16 **company to serve retail electricity consumers in this state may not exceed five percent of**  
 17 **all fuels used to generate the electricity procured by the electric company in that year.**

18 **(B) For 2031 and in each following calendar year before 2051, the total annual fossil fuel**  
 19 **content of all electricity procured by an electric company to serve retail electricity con-**  
 20 **sumers in this state must decline at a constant rate of 0.5 percent every other year such**  
 21 **that, in 2050 and in each following calendar year, the total annual fossil fuel content of all**  
 22 **electricity procured by an electric company to serve retail electricity consumers in this state**  
 23 **is zero percent.**

24 **(b) The total annual fossil fuel content all electricity procured by an electric company to**  
 25 **serve retail electricity consumers in this state may exceed the limits imposed by paragraph**  
 26 **(a) of this subsection if the exceedance would be permitted for a generating unit pursuant**  
 27 **to the provisions of section 15 (3) of this 2021 Act.**

28 **(3) The Public Utility Commission shall require an electric company to submit compliance**  
 29 **reports for the purpose of detailing compliance, or failure to comply, with this section. The**  
 30 **commission, in consultation with the Department of Environmental Quality, shall by rule**  
 31 **establish requirements for compliance reports. Rules adopted under this section may allow**  
 32 **for an electric company to rely, in whole or in part, on the reporting to the department re-**  
 33 **quired under ORS 468A.280 to meet the requirements of this section.**

34 **(4) The commission shall disallow in a prudence review any costs or expenses related to**  
 35 **the construction, on or after the effective date of this 2021 Act, of a new natural gas-fired**  
 36 **resource unless the natural gas-fired resource is a fossil phase-out facility. For purposes of**  
 37 **evaluating the prudence of an investment decision related to the continued operation of a**  
 38 **natural gas-fired resource that will not be converted to a fossil phase-out facility after the**  
 39 **effective date of this 2021 Act, the useful life of the natural gas-fired resource may not be**  
 40 **considered to be any later than January 1, 2030.**

41 **(5) Notwithstanding ORS 757.355, this section does not prevent the full recovery of**  
 42 **prudently incurred costs related to the decommissioning, conversion, remediation or closure**  
 43 **of a natural gas-fired resource at the time those costs are incurred.**

1 **SECTION 17.** Section 18 of this 2021 Act is added to and made a part of ORS chapter 757.

2 **SECTION 18.** (1) As used in this section:

3 (a) “Clean energy standards” means:

4 (A) The renewable portfolio standards described in ORS 469A.052 and 469A.055;

5 (B) The standard set forth in ORS 469A.210; and

6 (C) The requirements of section 16 of this 2021 Act.

7 (b) “Electric company” has the meaning given that term in ORS 757.600.

8 (c) “Qualifying electricity” has the meaning given that term in ORS 469A.005.

9 (d) “Renewable energy certificates” means bundled renewable energy certificates as de-  
10 fined in ORS 469A.005 and unbundled renewable energy certificates as that term is defined  
11 in ORS 469A.005.

12 (e) “Renewable thermal electricity” has the meaning given that term in ORS 469A.005.

13 (f) “Retail electricity consumer” has the meaning given that term in ORS 757.600.

14 (g) “Transportation electrification” has the meaning given that term in ORS 757.357.

15 (2) An electric company shall develop an integrated, clean energy implementation plan  
16 for meeting the requirements of all clean energy standards applicable to the electric com-  
17 pany and file the implementation plan with the Public Utility Commission. Implementation  
18 plans must be revised and updated at least once every two years.

19 (3) At a minimum, an implementation plan must contain:

20 (a) Annual targets for acquisition and use of, as applicable:

21 (A) Qualifying electricity;

22 (B) Electricity generated by sources described in ORS 469A.210 (2); and

23 (C) Renewable thermal electricity.

24 (b) Annual targets for the development, acquisition and use of transmission and grid  
25 interconnection capacity necessary to comply with the clean energy standards applicable to  
26 the electric company, which must consider approaches for meeting the clean energy stan-  
27 dards that reduce new or major transmission line construction and must consider:

28 (A) The status, schedule, cost and timeline risks associated with development and con-  
29 struction of new transmission capacity; and

30 (B) Sourcing of qualifying electricity that is geographically located in a manner that  
31 beneficially utilizes existing grid infrastructure and reduces or diversifies costs or risks, or  
32 that improves grid resiliency.

33 (c) The estimated cost of meeting the annual targets described in paragraphs (a) and (b)  
34 of this subsection, including the cost of transmission, the cost of firming, shaping and inte-  
35 grating qualifying electricity, the cost of alternative compliance payments under ORS  
36 469A.180 and the cost of acquiring renewable energy certificates.

37 (d) A schedule for implementation of the requirements of section 16 of this 2021 Act that  
38 includes separate, nonlinear biennial targets for meeting the requirements of section 16 (1)  
39 and (2) of this 2021 Act.

40 (e) An identification of any need to develop new, or to expand or upgrade existing, bulk  
41 transmission and distribution facilities and an assessment of the timeline to develop, expand  
42 or upgrade those facilities, including an evaluation and identification of:

43 (A) Grid facilities and other solutions that may beneficially mitigate the status, schedule,  
44 cost and timeline risks related to developing new transmission capacity; and

45 (B) The planning, construction, financing and coordination with Bonneville Power Ad-



1 **ministration, and coordination with other regional transmission owners, as is necessary to**  
2 **meet the requirements of ORS 469A.005 to 469A.210.**

3 **(f) An assessment and 10-year forecast of the availability, including the likely and**  
4 **achievable rates of development of, the regional generation and transmission capacity that**  
5 **the electric company intends to rely on to provide and deliver electricity to its retail elec-**  
6 **tricity consumers, which must include:**

7 **(A) An analysis of the status, schedule, cost and timeline risks related to developing new**  
8 **transmission capacity and any other related solutions that are being evaluated, planned or**  
9 **in development; and**

10 **(B) An analysis of how the implementation of the laws of other states or the federal**  
11 **government relating to clean energy, including planned or prospective regional generating**  
12 **facility removals, restrictions or retirements in compliance with those laws and the associ-**  
13 **ated costs and other impacts of the removals, restrictions or retirements, may affect the**  
14 **electric company's ability to adequately and timely procure energy or energy and capacity**  
15 **as necessary to comply with the clean energy standards applicable to the electric company.**

16 **(g) An identification of the generating and storage resources, by individual resource**  
17 **where applicable and generally in all cases by categories of resources and ownership types,**  
18 **that may be acquired to meet the clean energy standards applicable to the electric company,**  
19 **and an evaluation of how each identified resource, and the potential geographic location of**  
20 **the resource, is expected to simultaneously contribute to the electric company meeting its**  
21 **obligations under:**

22 **(A) The applicable clean energy standards; and**

23 **(B) The mandatory and enforceable reliability standards of the North American Electric**  
24 **Reliability Corporation or its successor organization, or any other reliability standards as the**  
25 **commission may require.**

26 **(h) A forecast of distributed energy resources, including those related to transportation**  
27 **electrification, that may be installed by the electric company or the electric company's retail**  
28 **electricity consumers, and an assessment of the effects of those distributed energy resources**  
29 **on the electric company's load, operations and compliance obligations under the clean energy**  
30 **standards applicable to the electric company.**

31 **(i) An identification of the potential cost-effective demand response and load management**  
32 **programs that may be acquired, implemented or supported by the electric company.**

33 **(j) A quantification of the probabilities, during time increments of no longer than five**  
34 **years, of risks including blackouts, market shortfall events, wildfire, facility retirements,**  
35 **facility limitations related to environmental standards, regional load growth and regional**  
36 **capacity availability, a discussion of the cost exposures related to the risks based on the**  
37 **quantification, and a description of the associated risk management and risk mitigation**  
38 **plans.**

39 **(k) An identification and status of additional staffing and other resources necessary for**  
40 **the electric company, the commission or affected stakeholders to facilitate and ensure com-**  
41 **pliance with the clean energy standards applicable to the electric company, including addi-**  
42 **tional staffing and other resources necessary to specifically address:**

43 **(A) Transmission needs;**

44 **(B) Timely generation and storage interconnection by third party facility developers;**

45 **(C) Regional transmission planning and policy development; and**

1 (D) Modeling of generation and transmission solution scenarios, including scenarios for  
 2 the development or installation of distributed energy and capacity resources.

3 (L) An identification of energy efficiency opportunities and a plan for addressing the op-  
 4 portunities in a manner that prioritizes:

5 (A) Mitigating energy costs for low-income and historically disadvantaged retail electric-  
 6 ity consumers; and

7 (B) High-impact opportunities to mitigate utility peak capacity needs, exposures to reli-  
 8 ability risks, and other costs and timeline risks associated with complying with the clean  
 9 energy standards applicable to the electric company.

10 (m) An evaluation of the options, ability, costs and risk mitigation benefits to exceeding  
 11 each of the clean energy standards applicable to the electric company, including as compared  
 12 to the societal costs and risks of noncompliance such as public health risks and the envi-  
 13 ronmental impacts of climate change, particularly for economically or environmentally vul-  
 14 nerable communities.

15 (3) The commission shall acknowledge or reject an implementation plan no later than six  
 16 months after the implementation plan is filed with the commission. The commission may  
 17 acknowledge or reject the implementation plan subject to conditions specified by the com-  
 18 mission.

19 (4)(a) The commission shall adopt rules:

20 (A) Establishing requirements for the content of implementation plans;

21 (B) Establishing the procedure for acknowledgment of implementation plans under this  
 22 section, including provisions for public comment;

23 (C) Providing for the integration of an implementation plan with the integrated resource  
 24 planning guidelines established by the commission for the purpose of planning for the least-  
 25 cost, least-risk acquisition of resources; and

26 (D) Providing for the evaluation of competitive bidding processes that allow for diverse  
 27 ownership of renewable energy sources that generate qualifying electricity.

28 (b) Rules adopted under this subsection shall require the quantification required under  
 29 subsection (2)(j) of this section to:

30 (A) Be conducted as part of the integrated resource planning described in paragraph  
 31 (a)(C) of this subsection; and

32 (B) Be used in setting avoided-cost rates pursuant to ORS 758.525 and other ratemaking  
 33 activities relative to utility load service and reliability assurance planning.

34 (5) An implementation plan filed under this section may include procedures that will be  
 35 used by the electric company to determine whether the costs of constructing a facility that  
 36 generates electricity from a renewable energy source, or the costs of acquiring bundled or  
 37 unbundled renewable energy certificates, are consistent with the renewable portfolio stan-  
 38 dards of the commission relating to least-cost, least-risk planning for acquisition of re-  
 39 sources.

40 **SECTION 19.** An electric company shall first file an implementation plan as required  
 41 under section 18 of this 2021 Act no later than the date that the next implementation plan  
 42 required after the effective date of this 2021 Act would have been due under ORS 469A.075  
 43 (2019 Edition).

44  
 45 **STORAGE REQUIREMENTS**

**SECTION 20.** Section 21 of this 2021 Act is added to and made a part of ORS chapter 757.

**SECTION 21.** (1) As used in this section:

(a) “Clean energy standards” has the meaning given that term in section 18 of this 2021 Act.

(b) “Electric company” has the meaning given that term in ORS 757.600.

(c) “Energy storage system” means a technology that is capable of retaining energy, storing the energy for a period of time and delivering the energy after storage.

(d) “Energy storage technology” means any equipment, system or appliance that is capable of transforming energy into another state for immediate or future use.

(e) “Hybrid power plant” means a facility that combines one or more forms of electricity generation with one or more energy storage systems or energy storage technologies.

(f)(A) “Procure” means to acquire by ownership qualifying energy storage or to acquire by contract the right to use the capacity of or the energy from qualifying energy storage.

(B) “Procure” includes the acquisition of ancillary services that are related to an acquisition described in subparagraph (A) of this paragraph.

(g) “Qualifying energy storage” means one or more energy storage systems or one or more energy storage technologies, alone, in combination or as part of a hybrid power plant, for which at least 90 percent of the energy stored or transformed by the energy storage system or energy storage technology, respectively, is legacy carbon-free electricity or qualifying electricity as those terms are defined in ORS 469A.005.

(h) “Retail electricity consumer” has the meaning given that term in ORS 757.600.

(i) “Transportation electrification” has the meaning given that term in ORS 757.357.

(2) Subject to subsection (3) of this section, an electric company shall, in each of the following years, procure qualifying energy storage of the following types, in sufficient amounts necessary to provide the electric company with a cumulative capacity to store the following percentages of the electric company’s historic single-hour peak load:

(a) By 2024, procure qualifying energy storage that is:

(A) Distributed energy storage in a cumulative capacity to store at least one-quarter of one percent of historic single-hour peak load;

(B) Storage with an average duration of two to four hours, in a cumulative capacity to store at least 2.5 percent of historic single-hour peak load;

(C) Storage with an average duration of four to six hours, in a cumulative capacity to store at least five percent of historic single-hour peak load; and

(D) Storage with an average duration of seven or more hours, in a cumulative capacity to store at least 2.5 percent of historic single-hour peak load.

(b) By 2027, procure qualifying energy storage that is:

(A) Distributed energy storage in a cumulative capacity to store at least one-half of one percent of historic single-hour peak load;

(B) Storage with an average duration of two to four hours, in a cumulative capacity to store at least 2.5 percent of historic single-hour peak load;

(C) Storage with an average duration of four to six hours, in a cumulative capacity to store at least 7.5 percent of historic single-hour peak load; and

(D) Storage with an average duration of seven or more hours, in a cumulative capacity to store at least 7.5 percent of historic single-hour peak load.

(c) By 2030, procure qualifying energy storage that is:

1 (A) Distributed energy storage in a cumulative capacity to store at least two percent of  
2 historic single-hour peak load;

3 (B) Storage with an average duration of two to four hours, in a cumulative capacity to  
4 store at least 2.5 percent of historic single-hour peak load;

5 (C) Storage with an average duration of four to six hours, in a cumulative capacity to  
6 store at least 15 percent of historic single-hour peak load; and

7 (D) Storage with an average duration of seven or more hours, in a cumulative capacity  
8 to store at least 10 percent of historic single-hour peak load.

9 (3)(a) An electric company that makes sales of electricity to 25,000 or more retail elec-  
10 tricity consumers in this state is exempt from the provisions of subsection (2)(a) and (b) of  
11 this section.

12 (b) The Public Utility Commission shall require an electric company subject to this sub-  
13 section to, by 2025, begin making procurements necessary to meet the requirements of sub-  
14 section (2)(c) of this section. In carrying out the provisions of this paragraph, the  
15 commission shall consider the obligations of an electric company subject to this subsection  
16 under the applicable clean energy standards.

17 (4) In addition to the qualifying energy storage procurement standards set forth in sub-  
18 section (2) of this section, the commission, by rule or order:

19 (a) Shall adopt additional standards for the year 2031 and subsequent years, as necessary  
20 to facilitate compliance by electric companies with the applicable clean energy standards  
21 while protecting electric system reliability; and

22 (b) May adopt additional standards for the years 2022 to 2030, if the commission deter-  
23 mines that additional standards are necessary for one or more electric companies to cost-  
24 effectively comply with the clean energy standards applicable to each electric company.

25 (5)(a) To be qualifying energy storage, a distributed energy storage facility must:

26 (A) Serve to alleviate transmission or electrical grid constraints that may impede, delay  
27 or unduly add risk or costs to compliance with the applicable clean energy standards;

28 (B) Support transportation electrification;

29 (C) Increase the ability of a public facility that is critically essential to the public welfare,  
30 particularly a public facility that serves an economically or environmentally vulnerable  
31 community and that may include but need not be limited to a hospital, emergency shelter,  
32 community center or school, to continue to operate at some capacity during a loss of grid-  
33 supplied electricity in an emergency; or

34 (D) Provide residential or commercial backup power during a loss of grid-supplied elec-  
35 tricity in an emergency.

36 (b) An electric company shall balance the cumulative capacity of distributed energy  
37 storage facilities procured in compliance with subsection (2) of this section equally among  
38 the uses identified in paragraph (a) of this subsection.

39 (c) The commission shall adopt by rule additional requirements for distributed energy  
40 storage facilities to be qualifying energy storage, including but not limited to requirements  
41 related to the duration and capacity of distributed energy storage facilities.

42 (6) The commission shall adopt rules necessary for the implementation of this section.  
43 At a minimum, the rules must:

44 (a) Support the potential for qualifying energy storage to provide peaking capacity for  
45 electric companies;

1 (b) Support the diverse ownership of qualifying energy storage facilities;

2 (c) Encourage the location of qualifying energy storage facilities in a manner that pro-  
3 motes the substantial state interests set forth in section 7 of this 2021 Act;

4 (d) Allow for qualifying energy storage to store and discharge energy to and from  
5 wholesale markets in a manner that does not discourage or impede the ownership of quali-  
6 fying energy storage by persons that are not electric companies; and

7 (e) Require electric companies to take the requirements of this section into account as  
8 part of calculating avoided costs for purposes of ORS 758.525.

9  
10 **UTILITY REGULATION GENERALLY**

11  
12 **SECTION 22.** ORS 756.040 is amended to read:

13 756.040. (1) In addition to the powers and duties now or hereafter transferred to or vested in the  
14 Public Utility Commission, the commission shall represent the customers of any public utility or  
15 telecommunications utility and the public generally in all controversies respecting rates, valuations,  
16 service and all matters of which the commission has jurisdiction. In respect thereof the commission  
17 shall make use of the jurisdiction and powers of the office to protect such customers, and the public  
18 generally, from unjust and unreasonable exactions and practices and to obtain for them adequate  
19 service at fair and reasonable rates. The commission shall balance the interests of the utility in-  
20 vestor and the consumer in establishing fair and reasonable rates. Rates are fair and reasonable for  
21 the purposes of this subsection if the rates provide adequate revenue both for operating expenses  
22 of the public utility or telecommunications utility and for capital costs of the utility, with a return  
23 to the equity holder that is:

24 (a) Commensurate with the return on investments in other enterprises having corresponding  
25 risks; and

26 (b) Sufficient to ensure confidence in the financial integrity of the utility, allowing the utility  
27 to maintain its credit and attract capital.

28 **(2) In addition to the duties and powers described in subsection (1) of this section, the**  
29 **commission shall serve the public interest by:**

30 (a) **When deciding or deliberating toward a decision, protecting the customers of any**  
31 **public utility or telecommunications utility, and the public generally, with respect to:**

32 (A) **The provision by the public utility or telecommunications utility of safe and reliable**  
33 **services; and**

34 (B) **The establishment by the public utility or telecommunications utility of safe and re-**  
35 **liable infrastructure;**

36 (b) **Developing and implementing policies and rules that encourage social equity, envi-**  
37 **ronmental justice, the enhancement of the environment, greenhouse gas emissions re-**  
38 **ductions, diversity of the ownership and locations of electricity generation systems,**  
39 **resiliency for emergency conditions including wildfire risks and the fulfillment of the state’s**  
40 **energy and climate policies;**

41 (c) **Allowing and fostering broad participation in the regulatory process; and**

42 (d) **Protecting the 10 percent of residential ratepayers with the lowest incomes from cost**  
43 **increases associated with the consequences of state policies related to the issues described**  
44 **in paragraph (b) of this subsection.**

45 [(2)] (3) The commission is vested with power and jurisdiction to supervise and regulate every

1 public utility and telecommunications utility in this state, and to do all things necessary and con-  
 2 venient in the exercise of such power and jurisdiction.

3 [(3)] (4) The commission may participate in any proceeding before any public officer, commission  
 4 or body of the United States or any state for the purpose of representing the public generally and  
 5 the customers of the services of any public utility or telecommunications utility operating or pro-  
 6 viding service to or within this state.

7 [(4)] (5) The commission may make joint investigations, hold joint hearings within or without  
 8 this state and issue concurrent orders in conjunction or concurrence with any official, board, com-  
 9 mission or agency of any state or of the United States.

10 **SECTION 23.** ORS 756.060 is amended to read:

11 756.060. (1) The Public Utility Commission may adopt and amend reasonable and proper rules  
 12 and regulations relative to all statutes administered by the commission and may adopt and publish  
 13 reasonable and proper rules to govern proceedings and to regulate the mode and manner of all in-  
 14 vestigations and hearings of public utilities and telecommunications utilities and other parties before  
 15 the commission.

16 (2) **In addition to the grounds for review set forth in ORS 183.400 (4), on judicial review**  
 17 **of the validity of a rule adopted under this section, the Court of Appeals shall declare the**  
 18 **rule invalid if it finds the rule to be arbitrary and capricious.**

19 **SECTION 24.** ORS 756.185 is amended to read:

20 756.185. (1)(a) Any public utility which does, or causes or permits to be done, any matter, act  
 21 or thing prohibited by ORS chapter 756, 757 or 758 **or regulations adopted pursuant to ORS**  
 22 **chapter 756, 757 or 758**, or omits to do any act, matter or thing required to be done by such stat-  
 23 utes **or regulations**, is liable to the person injured thereby in the amount of damages sustained in  
 24 consequence of such violation.

25 (b) If the party seeking damages alleges and proves that the wrong or omission **as described**  
 26 **in paragraph (a) of this subsection** was the result of gross negligence or willful misconduct, the  
 27 public utility is liable to the person injured [thereby] **by the wrong or omission** in treble the  
 28 amount of damages sustained in consequence of the violation.

29 (c) **If the wrong or omission as described in paragraph (a) of this subsection was a vio-**  
 30 **lation of any of the following, the public utility is liable to the person injured by the wrong**  
 31 **or omission in treble the amount of damages sustained in consequence of the violation:**

32 (A) **ORS 758.505 to 758.555 or the federal Public Utility Regulatory Policies Act of 1978**  
 33 **(P.L. 95-617);**

34 (B) **A contract entered into pursuant to ORS 758.505 to 758.555 or the federal Public**  
 35 **Utility Regulatory Policies Act of 1978 (P.L. 95-617); or**

36 (C) **A legally enforceable obligation for the purchase by a public utility of energy or en-**  
 37 **ergy and capacity from a qualifying facility, as defined in ORS 758.505.**

38 (d) Except as provided in subsection (2) of this section, the court may award reasonable attor-  
 39 ney fees to the prevailing party in an action under this section.

40 (2) The court may not award attorney fees to a prevailing defendant under the provisions of  
 41 subsection (1) of this section if the action under this section is maintained as a class action pursuant  
 42 to ORCP 32.

43 (3) Any recovery under this section does not affect recovery by the state of the penalty, forfei-  
 44 ture or fine prescribed for such violation.

45 (4) **Damages and attorney fees paid by a public utility to a prevailing party in an action**

1 **under this section may not be recovered in the rates of the public utility.**

2 ~~[(4)]~~ (5) This section does not apply with respect to the liability of any public utility for personal  
3 injury or property damage.

4 **SECTION 25. Section 26 of this 2021 Act is added to and made a part of ORS chapter 757.**

5 **SECTION 26. (1) As used in this section:**

6 (a) “Clean energy standards” has the meaning given that term in section 18 of this 2021  
7 Act.

8 (b) “Consumer-owned utility” has the meaning given that term in ORS 757.600.

9 (c) “Electric company” has the meaning given that term in ORS 757.600.

10 (d) “Fossil phase-out facility” means a facility that meets the requirements of section 15  
11 of this 2021 Act.

12 (e) “Natural gas-fired resources” has the meaning given that term in section 15 of this  
13 2021 Act.

14 (f) “Renewable thermal electricity” means the share of electricity from a fossil phase-out  
15 facility that is generated utilizing renewable energy sources described in ORS 469A.025 (2)(g)  
16 or (7).

17 (2) In order to facilitate investments in generation, storage, transmission and distrib-  
18 ution facilities and other transmission system and grid upgrades necessary to ensure com-  
19 pliance with, and mitigate the risks of compliance with, clean energy standards, the Public  
20 Utility Commission shall establish one or more performance-based ratemaking mechanisms  
21 or other rules to incentivize electric companies to:

22 (a) Acquire power purchase agreements for the purchase of energy or capacity or both,  
23 as further described in subsection (3)(a) of this section;

24 (b) Convert existing generating units to fossil phase-out facilities and acquire cost-  
25 effective renewable thermal electricity resources, as further described in subsection (3)(b)  
26 of this section;

27 (c) Acquire electricity storage facilities that are, at a minimum, charged at least 90 per-  
28 cent by legacy carbon-free electricity or qualifying electricity as those terms are defined in  
29 ORS 469A.005;

30 (d) Offer and seek rate recovery for direct funding and interest-free loans to nonutility  
31 transmission and interconnection customers of the electric company or of the Bonneville  
32 Power Administration that are seeking to serve both the electric company and consumer-  
33 owned utilities, as further described in subsection (3)(c) of this section; and

34 (e) Allow and facilitate the construction, by qualified contractors that are retained by  
35 interconnection customers, necessary to connect to the grid new generation, storage, inter-  
36 connection and grid upgrade facilities, subject to subsection (3)(d) of this section.

37 (3)(a) Incentives described in subsection (2)(a) of this section must:

38 (A) Apply to power purchase agreements for new facilities and existing facilities with  
39 contract terms of not less than 15 years that are executed after the effective date of this  
40 2021 Act and that:

41 (i) Meet the requirements of the federal Public Utility Regulatory Policies Act of 1978  
42 (P.L. 95-617);

43 (ii) Comply with competitive bidding processes described in section 18 (4) of this 2021 Act  
44 and rules adopted pursuant to section 18 (4) of this 2021 Act; or

45 (iii) Are prepaid such that a net benefit to the ratepayer is achieved; and

1 (B) Allow electric companies to capitalize and recover a return on the capacity payments  
 2 and fixed payments under the power purchase agreement in an amount equal to the rate of  
 3 return authorized by the commission for the electric company.

4 (b) Incentives described in subsection (2)(b) of this section shall, at a minimum:

5 (A) Require that fossil phase-out facilities for which the incentives are granted be avail-  
 6 able to meaningfully contribute to an electric company's ability to meet peak load events and  
 7 be capable of meeting the mandatory and enforceable reliability standards of the North  
 8 American Electric Reliability Corporation;

9 (B) Allow electric companies to capitalize and recover a return on the capacity payments  
 10 and fixed payments under a capacity purchase agreement with a capacity purchase term of  
 11 at least 20 years for new generation or a capacity purchase term of at least 10 years for  
 12 existing generation and in an amount not greater than the rate of return authorized by the  
 13 commission for the electric company; and

14 (C) Encourage, to the maximum extent that the commission determines to be reasonably  
 15 prudent, electric companies to convert existing natural gas-fired resources to fossil phase-  
 16 out facilities or to retire existing natural gas-fired resources earlier than the date required  
 17 by section 16 of this 2021 Act.

18 (c) Direct funding or interest-free loans described in subsection (2)(d) of this section  
 19 must, at a minimum:

20 (A) Be made available to fund transmission facilities and network upgrades that are  
 21 necessary to comply with ORS 469A.005 to 469A.210 or 758.505 to 758.555 and for which the  
 22 transmission or interconnection customer is eligible to receive refunds under the electric  
 23 company's open access transmission tariff or comparable Oregon jurisdictional processes,  
 24 tariffs or rules;

25 (B) Be offered on a nondiscriminatory basis to facilities that qualify as qualifying facili-  
 26 ties pursuant to the criteria established under ORS 758.535 and facilities that do not qualify  
 27 as qualifying facilities under the criteria;

28 (C) Be offered to transmission and interconnection customers on a nondiscriminatory  
 29 basis; and

30 (D) Allow electric companies to capitalize and recover a return on the cost of the appli-  
 31 cable transmission or interconnection facility or network upgrade in an amount equal to the  
 32 rate of return authorized by the commission for the electric company.

33 (d) Incentives described in subsection (2)(e) of this section must require an electric  
 34 company to consider a contractor that is qualified to be retained by an electric company to  
 35 construct interconnection and transmission facilities to also be a qualified to be retained by  
 36 an interconnection customer for the purposes described in subsection (2)(e) of this section.

37 (4)(a) In addition to the performance-based ratemaking mechanisms described in sub-  
 38 section (2) of this section, the commission shall adopt a performance-based ratemaking  
 39 mechanism that allows for an electric company to:

40 (A) Receive one or more graduated performance incentives, or to be subject to one or  
 41 more graduated performance disincentives, in the form of an increased or decreased overall  
 42 rate of return, respectively, for overperforming or underperforming relative to the one or  
 43 more of the clean energy standards applicable to the electric company in a calendar year;  
 44 and

45 (B) Pay a performance incentive on specific power purchase agreements applicable to



1 **compliance with the clean energy standards applicable to the electric company if the power**  
 2 **purchase agreements:**

3 (i) **Include social benefit provisions that may include, but need not be limited to,**  
 4 **workforce diversity requirements;**

5 (ii) **Result in an exceedance of the requirements of section 7 of this 2021 Act; or**

6 (iii) **Are for the procurement of electricity at a discount through a prepayment agree-**  
 7 **ment.**

8 (b) **Performance incentives granted to an electric company under paragraph (a)(A) of this**  
 9 **subsection may not:**

10 (A) **Apply to exceedance by more than 15 percent of the renewable portfolio standard**  
 11 **applicable to the electric company in a calendar year; or**

12 (B) **Cumulatively result in more than a five percent increase or decrease in an electric**  
 13 **company's authorized overall rate of return for any calendar year.**

14 (5) **The commission may adopt by rule or order procedures and any other provisions as**  
 15 **necessary for the implementation and administration of this section.**

16 **SECTION 27.** ORS 757.612 is amended to read:

17 757.612. (1) There is established an annual public purpose expenditure standard for electric  
 18 companies and Oregon Community Power to fund new cost-effective energy conservation, new mar-  
 19 ket transformation efforts, the above-market costs of new renewable energy resources and new  
 20 low-income weatherization. The public purpose expenditure standard shall be funded by the public  
 21 purpose charge described in subsection (2) of this section.

22 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-  
 23 cess to retail electricity consumers, except residential electricity consumers, the electric company  
 24 or Oregon Community Power shall collect a public purpose charge from all of the retail electricity  
 25 consumers located within the electric company's or Oregon Community Power's service area until  
 26 January 1, 2026. Except as provided in paragraph [(b)] (c) of this subsection, the public purpose  
 27 charge shall be equal to three percent of the total revenues **described in paragraph (b) of this**  
 28 **subsection.**

29 (b) **The percentage described in paragraph (a) of this subsection shall be of revenues**  
 30 **collected by the electric company, Oregon Community Power or the electricity service supplier from**  
 31 **retail electricity consumers for electricity services, distribution services, ancillary services, meter-**  
 32 **ing and billing, transition charges and other types of costs included in electric rates on July 23,**  
 33 **1999.**

34 [(b)] (c) For an aluminum plant that averages more than 100 average megawatts of electricity  
 35 use per year, the electric company or Oregon Community Power, whichever serves territory that  
 36 abuts the greatest percentage of the site of the aluminum plant, shall collect from the aluminum  
 37 company a public purpose charge equal to one percent of the total revenue from the sale of elec-  
 38 tricity services to the aluminum plant from any source.

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

41 (b) Except as provided in paragraph (e) of this subsection, funds collected through public pur-  
 42 pose charges under subsection (2) of this section shall be allocated as follows:

43 (A) Sixty-three percent for new cost-effective energy conservation and new market transforma-  
 44 tion efforts.

45 (B) Nineteen percent for the above-market costs of constructing and operating new renewable

1 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20  
2 megawatts or less.

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

4 (D) Five percent for deposit in the Housing and Community Services Department Electricity  
5 Public Purpose Charge Fund established by ORS 456.587 (1) for the purpose of providing grants as  
6 described in ORS 458.625 (2).

7 (c) The costs of administering subsections (1) to (6) of this section for an electric company or  
8 Oregon Community Power shall be paid out of the funds collected through public purpose charges.  
9 The commission may require an electric company or Oregon Community Power to direct funds col-  
10 lected through public purpose charges to state agencies responsible for implementing subsections (1)  
11 to (6) of this section in order to pay the costs of administering subsections (1) to (6) of this section.

12 (d) The commission shall direct the manner in which public purpose charges are collected and  
13 spent by an electric company or Oregon Community Power and may require an electric company  
14 or Oregon Community Power to expend funds through competitive bids or other means designed to  
15 encourage competition, except that funds dedicated for new low-income weatherization shall be di-  
16 rected to the Housing and Community Services Department for purposes related to new low-income  
17 weatherization. The commission may also require funds collected through public purpose charges to  
18 be paid to a nongovernmental entity for investment in public purposes described in subsection (1)  
19 of this section. Notwithstanding any other provision of this subsection:

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

23 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated  
24 for new cost-effective energy conservation shall be spent within the service area of Oregon Com-  
25 munity Power.

26 (e)(A) The first 10 percent of funds collected each year by an electric company or Oregon  
27 Community Power under subsection (2) of this section shall be distributed to school districts that  
28 are located in the service territory of the electric company or Oregon Community Power. The funds  
29 shall be distributed to individual school districts according to the weighted average daily member-  
30 ship (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The  
31 commission shall establish by rule a methodology for distributing a proportionate share of funds  
32 under this paragraph to school districts that are only partially located in the service territory of the  
33 electric company or Oregon Community Power.

34 (B) A school district that receives funds under this paragraph shall use the funds first to pay  
35 for energy audits for schools located within the school district or for a fleet audit for the school  
36 district. To the extent practicable, a school district shall coordinate with the State Department of  
37 Energy and incorporate federal funding in complying with this paragraph. Following completion of  
38 an audit, the school district may expend funds received under this paragraph to implement the audit.

39 (C) Once an energy audit has been conducted and completely implemented for each school  
40 within the school district, the school district may expend funds received under this paragraph for  
41 any of the following purposes:

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

45 (ii) Weatherizing school district facilities and upgrading the energy efficiency of school district

1 facilities.

2 (iii) Energy conservation education programs.

3 (iv) Purchasing electricity from environmentally focused sources.

4 (v) Investing in renewable energy resources.

5 (D) Once a fleet audit has been conducted for the school district, the school district may expend  
6 funds received under this paragraph for any of the following purposes:

7 (i) Purchasing or leasing zero-emission vehicles, as defined in ORS 283.398, including buses.

8 (ii) Purchasing or installing electric vehicle charging stations to provide electricity to zero-  
9 emission vehicles.

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

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

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

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

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

25 (D) Annually, arrange for an independent auditor to audit the entity's financial statements, and  
26 direct the auditor to file an audit opinion with the commission for public review.

27 (E) Annually file with the commission the entity's budget, action plan and quarterly and annual  
28 reports for public review.

29 (F) At least once every five years, contract for an independent management evaluation to review  
30 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a  
31 report with the commission for public review.

32 (h) The commission may remove from the board of directors of a nongovernmental entity an of-  
33 ficer or director who fails to provide an annual disclosure of economic interest, or who fails to de-  
34 clare an actual or potential conflict of interest, as described in paragraph (g)(B) and (C) of this  
35 subsection, if the failure is connected to the allocation or expenditure of funds collected through  
36 public purpose charges and paid to the entity.

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

38 (A) Has no further obligation to invest in new cost-effective energy conservation, new market  
39 transformation or new low-income weatherization, or to provide a commercial energy conservation  
40 services program; and

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

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

44 (A) Has no further obligation to invest in new cost-effective energy conservation, new market  
45 transformation or new low-income weatherization, or to provide a commercial energy conservation

1 services program; and

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

3 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at  
4 any site in the prior year shall receive a credit against public purpose charges billed by an electric  
5 company or Oregon Community Power for that site. The amount of the credit shall be equal to the  
6 total amount of qualifying expenditures for new cost-effective energy conservation, not to exceed 68  
7 percent of the annual public purpose charges, and the above-market costs of new renewable energy  
8 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public  
9 purpose charges, less administration costs incurred under this paragraph and paragraphs (b) and (c)  
10 of this subsection. The credit may not exceed, on an annual basis, the lesser of:

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

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

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

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

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

34 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-  
35 agraph unless a subsequent independent audit determines that new conservation investment oppor-  
36 tunities are available. The State Department of Energy may require that a new independent audit  
37 be performed on the site to determine whether new conservation measures are available, provided  
38 that the independent audits occur no more than once every two years.

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

41 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit  
42 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall  
43 adopt rules to determine eligible expenditures and the method by which such credits are accounted  
44 for and used. The State Department of Energy also shall adopt methods to account for eligible public  
45 purpose expenditures made through consortia or collaborative projects.

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

4 (b) The commission shall establish the amount to be collected by each electric company from  
5 retail electricity consumers, and the rates to be charged by each electric company to retail elec-  
6 tricity consumers, so that the forecasted collection by all electric companies in calendar year 2018  
7 is \$20 million. In subsequent calendar years, the commission may not decrease the rates below those  
8 established for calendar year 2018. The commission may temporarily adjust the rates if forecasted  
9 collections or actual collections are less than \$20 million in any calendar year. A retail electricity  
10 consumer may not be required to pay more than \$500 per month per site for low-income electric bill  
11 payment assistance.

12 (c) Funds collected through the low-income electric bill payment assistance charge shall be paid  
13 into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance  
14 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be  
15 used by the Housing and Community Services Department solely for purposes related to low-income  
16 electric bill payment assistance and for the Housing and Community Services Department's cost of  
17 administering this subsection. Funds collected by an electric company or Oregon Community Power  
18 under this subsection shall be expended in the service area of the electric company or Oregon  
19 Community Power from which the funds are collected.

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

24 (B) The Housing and Community Services Department, in consultation with electric companies,  
25 shall investigate and may implement alternative delivery models to effectively reduce service dis-  
26 connections and related costs to retail electricity consumers and electric utilities.

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

29 (D) The Housing and Community Services Department shall maintain records and provide those  
30 records upon request to an electric company, Oregon Community Power and the Citizens' Utility  
31 Board established under ORS chapter 774 on a quarterly basis. Records maintained must include  
32 the numbers of low-income electricity consumers served, the average amounts paid to low-income  
33 electricity consumers and the type of assistance provided to low-income electricity consumers.  
34 Electric companies and Oregon Community Power shall, if requested, provide the Housing and  
35 Community Services Department with aggregate data relating to low-income electricity consumers  
36 served on a quarterly basis to support program development.

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

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

45 **(8)(a) As used in this section, "schedule risk" means the risk that an electric company**

1 will fail to bring sufficient resources online to demonstrate compliance with the clean energy  
 2 standards, as defined in section 18 of this 2021 Act, applicable to the electric company, due  
 3 to a lack of time to develop those resources and to successfully transmit the electricity from  
 4 those resources to load, where the determination of risk considers, at a minimum, the rea-  
 5 sonably projected timelines for the development, acquisition and use of transmission and grid  
 6 interconnection capacity necessary to comply with the clean energy standards.

7 (b) Notwithstanding subsection (3)(f) of this section and in addition to the public purpose  
 8 charge described in subsection (2) of this section, an electric company subject to this section  
 9 may collect a nonbypassable public purpose charge not to exceed three percent of the re-  
 10 venues described in subsection (2)(b) of this section from all of the retail electricity con-  
 11 sumers located within the electric company’s service territory until January 1, 2060.

12 (c) The commission shall authorize a public purpose charge under this subsection if col-  
 13 lection of the public purpose charge is justified to mitigate costs or schedule risk associated  
 14 with an electric company’s obligation to comply with the renewable portfolio standard under  
 15 ORS 469A.005 to 469A.210.

16 (d) Public purpose charges collected under this subsection may be used only to provide  
 17 incentives to retail electricity consumers for the installation of on-system distributed gen-  
 18 eration, storage or energy efficiency resources of up to:

19 (A) 100 percent of the estimated resource cost for a retail electricity consumer enrolled  
 20 in the electric company’s low-income assistance programs; and

21 (B) 50 percent of the estimated resource cost for a retail electricity consumer not de-  
 22 scribed in subparagraph (A) of this paragraph.

23 (e) The commission shall direct the manner in which public purpose charges are collected  
 24 and invested by an electric company under this subsection, and may require the funds col-  
 25 lected through public purpose charges to be paid to the nongovernmental entity described in  
 26 subsection (3)(g) of this section to be invested pursuant to this subsection. The commission  
 27 shall direct the funds to be invested in a manner that encourages ownership of on-system  
 28 distributed generation, storage and energy efficiency resources by members of federally re-  
 29 cognized Oregon Indian tribes and economically and environmentally vulnerable communi-  
 30 ties.

31 [(8)] (9) For purposes of this section, “retail electricity consumers” includes any direct service  
 32 industrial consumer that purchases electricity without purchasing distribution services from the  
 33 electric utility.

34 [(9)] (10) For purposes of this section, funds collected by Oregon Community Power through  
 35 public purpose charges are not considered moneys received from electric utility operations.

36 **SECTION 28.** Section 29 of this 2021 Act is added to and made a part of ORS chapter 757.

37 **SECTION 29.** (1) The Public Utility Commission may not prohibit, or treat as a retail  
 38 purchase or sale, the wholesale purchase of electricity for wholesale resale by an energy  
 39 storage system as defined in section 21 of this 2021 Act.

40 (2) A transmission facility shall facilitate the wholesale purchase of electricity for  
 41 wholesale resale by an energy storage system, subject to reasonable pass-through expenses.

42  
 43 **COGENERATION AND SMALL POWER PRODUCTION FACILITIES**

44  
 45 **SECTION 30.** ORS 758.515 is amended to read:

1 758.515. The Legislative Assembly finds and declares that:

2 (1) The State of Oregon has abundant renewable resources.

3 (2) *[It is the goal of Oregon to:]* **The Public Utility Commission shall:**

4 (a) Promote the development of a diverse array of permanently sustainable energy resources  
5 using the public and private sectors to the highest degree possible; and

6 (b) Insure that rates for purchases by an electric utility from, and rates for sales to, a qualifying  
7 facility shall over the term of a contract be just and reasonable to the electric consumers of the  
8 electric utility, the qualifying facility and in the public interest.

9 (3) It is, therefore, the policy of the State of Oregon to:

10 (a) Increase the marketability of electric energy produced by qualifying facilities located  
11 throughout the state for the benefit of Oregon's citizens; and

12 (b) Create a settled and uniform institutional climate for the qualifying facilities in Oregon.

13 **SECTION 31.** ORS 758.525 is amended to read:

14 758.525. (1) At least once every two years each electric utility shall prepare, publish and file  
15 with the Public Utility Commission a schedule of avoided costs equaling the utility's forecasted in-  
16 cremental cost of electric resources over at least the next [20] **35** years. Prices contained in the  
17 schedules filed by public utilities shall be reviewed and approved by the commission.

18 (2) An electric utility shall offer to purchase energy or energy and capacity whether delivered  
19 directly or indirectly from a qualifying facility. Except as provided in subsection [(3)] **(5)** of this  
20 section, the price for such a purchase shall not be less than the **electric** utility's avoided costs. At  
21 the option of the qualifying facility, exercised before beginning delivery of the energy or energy and  
22 capacity, such prices may be based on:

23 (a) The avoided costs calculated at the time of delivery; or

24 (b) The projected avoided costs calculated at the time the legal obligation to purchase the en-  
25 ergy or energy and capacity is incurred. **Avoided costs calculated under this paragraph shall:**

26 **(A) Not be less than the greater of:**

27 **(i) The equivalent cost for a utility-owned facility that is used as a reference; or**

28 **(ii) The equivalent average pricing for the electric utility's three most recently con-**  
29 **structed facilities of the same resource type and three most recently contracted facilities for**  
30 **which security was posted after power contract execution by a seller that was not an electric**  
31 **utility;**

32 **(B) Be calculated based on the electric utility's long-term avoided costs of acquiring fa-**  
33 **ilities that will be in service a minimum of 20 years or energy under long-term power pur-**  
34 **chase agreements of 20 years of more;**

35 **(C) Account for the scarcity of availability and development of generation and trans-**  
36 **mission given reasonable projections of supply and demand, which must consider the effects**  
37 **of local, state, regional or federal laws relating to clean energy, emissions pricing, the social**  
38 **cost of carbon, resilience or reliability; and**

39 **(D) Account for penalties under ORS 469A.200, performance-based ratemaking mech-**  
40 **anisms under section 26 of this 2021 Act and price premiums under subsection (4) of this**  
41 **section.**

42 **(3) In identifying resource needs through integrated resource planning and in calculating**  
43 **avoided costs, an electric utility shall forecast a reasonable failure rate for qualifying facili-**  
44 **ties as compared to the total amount contracted.**

45 **(4)(a) Subject to paragraph (b) of this subsection, an electric utility shall offer, in all**

1 competitive procurement contracts, standard contracts and rates, to purchase energy or  
 2 energy and capacity from new qualifying facilities at price premiums of up to the following  
 3 percentages of the purchase price otherwise calculated under subsection (2) of this section:

4 (A) One percent for a facility constructed pursuant to contracts that require the facility  
 5 to be constructed by a workforce that exceeds the minority demographic composition of the  
 6 state;

7 (B) One percent for a facility that will contribute to the electric utility overperforming  
 8 relative to the renewable portfolio standard applicable to the electric utility in one or more  
 9 calendar years under ORS 469A.005 to 469A.210;

10 (C) Two percent for a facility constructed using building materials of which at least five  
 11 percent are produced or manufactured in Oregon;

12 (D) One percent for a facility that will be constructed using labor that is cumulatively  
 13 paid, on average, no less than the prevailing rate of wage for an hour's work in the same  
 14 trade or occupation in the locality where the labor is performed;

15 (E) One percent for a facility constructed pursuant to contracts that require the con-  
 16 tractor of the facility to employ apprentices to perform 10 percent of the work hours that  
 17 workers in apprenticeable occupations perform on the facility; and

18 (F) One percent for a solar photovoltaic power generation facility that donates  
 19 photovoltaic solar panels comprising not less than 0.25 percent of the DC nameplate capacity  
 20 of the facility to distributed generation programs and installers in order to offset the con-  
 21 struction costs of distributed generation solar projects sited in the Oregon service territory  
 22 of the electric utility.

23 (b) The total price premium available under this subsection may not exceed five percent  
 24 of the relevant contract or rate.

25 (c) Price premiums under this subsection shall be:

26 (A) Provided for in contracts;

27 (B) Based on the pledges and representations in contracts of the counterparties to the  
 28 electric utility at the time of the legal obligation to purchase the energy or energy and ca-  
 29 pacity is incurred; and

30 (C) Fulfilled by the in-service date of the facility subject to the contracts.

31 (d) The commission shall adopt rules as necessary to implement this subsection. Rules  
 32 adopted under this paragraph shall require an electric utility to offer price premiums for the  
 33 purposes set forth in paragraph (a) of this subsection in amounts that are no less than  
 34 one-half of the maximum price premiums set forth in paragraph (a) of this subsection.

35 [(3)] (5) Nothing contained in ORS 543.610, 757.005 and 758.505 to 758.555 shall be construed to  
 36 require an electric utility to pay full avoided-cost prices for a purchase from a qualifying facility  
 37 on which construction began before November 8, 1978, but the price for a purchase from such a fa-  
 38 cility shall be sufficient to encourage production of energy or energy and capacity.

39 [(4)] (6) The rates of an electric utility for the sale of electricity shall not discriminate against  
 40 qualifying facilities.

41 **SECTION 32.** ORS 758.535 is amended to read:

42 758.535. (1) The Public Utility Commission shall establish minimum criteria that a cogeneration  
 43 facility or small power production facility must meet to qualify as a qualifying facility under ORS  
 44 543.610, 757.005 and 758.505 to 758.555.

45 (2) Except as provided in subsections (4) to (6) of this section, the terms and conditions for



1 the purchase of energy or energy and capacity from a qualifying facility shall:

2 (a) Be established by rule by the commission if the purchase is by a public utility;

3 (b) Be adopted by an electric cooperative or people’s utility district according to the applicable  
4 provision of ORS chapter 62 or 261; and

5 (c) Be established by a municipal utility according to the requirements of the municipality’s  
6 charter and ordinance.

7 (3) The rules or policies adopted under subsection (2) of this section also shall:

8 (a) Establish safety and operating requirements necessary to adequately protect all systems, fa-  
9 cilities and equipment of the electric utility and qualifying facility;

10 (b) Be consistent with applicable standards required by the Public Utility Regulatory Policies  
11 Act of 1978 (P.L. 95-617); and

12 (c) Be made available to the public at the commission’s office.

13 **(4) A public utility shall offer, and the commission shall approve, standard avoided-cost  
14 rates and simple standard contracts for the purchase of energy or energy and capacity from  
15 qualifying facilities with a design capacity of not greater than 80 megawatts alternating  
16 current. The rates and contracts must:**

17 **(a) Facilitate and encourage the investment in and the financing and construction of  
18 qualifying facilities;**

19 **(b) Facilitate achieving the requirements of ORS 758.515 and successful implementation  
20 of the clean energy standards as that term is defined in section 18 of this 2021 Act; and**

21 **(c) Be provided in a written form that facilities ease of use, understanding, completion  
22 and implementation by the developer of a proposed qualifying facility.**

23 **(5)(a) A public utility shall offer long-term contracts for the purchase of all the energy  
24 or energy and capacity offered from a qualifying facility.**

25 **(b) Except as provided in paragraph (c) of this subsection, a long-term contract described  
26 in this paragraph, at a minimum:**

27 **(A) Must provide fixed pricing availability for a term of up to 25 years;**

28 **(B) Must allow for a proposed cogeneration facility or small power production facility to  
29 downsize the proposed capacity of the facility without a penalty prior to the in-service date  
30 of the facility;**

31 **(C) Must allow for a minimum five-year period, from contract execution until the facility  
32 commences supplying energy or energy and capacity to the public utility, that may be ex-  
33 tended as reasonably necessary due to interconnection facility or transmission facility  
34 studies or construction, or for other reasons as may be identified by rule by the commission;**

35 **(D) May not impede the ability of a qualifying facility to sell all the energy or energy and  
36 capacity made available for sale to the public utility based on the location or method of  
37 interconnection or transmission service used to deliver the energy or energy and capacity  
38 to the public utility; and**

39 **(E) May not require provision of financial security by the developer of the proposed  
40 qualifying facility, unless:**

41 **(i) The proposed qualifying facility has a design capacity of greater than 40 megawatts  
42 alternating current;**

43 **(ii) The developer of the proposed qualifying facility is seeking a schedule extension that  
44 is not related to interconnection; and**

45 **(iii) The developer of the proposed qualifying facility is seeking additional legally en-**

1 forceable obligations to address concerns that may include but not be limited to concerns  
2 related to pending available pricing changes or delays on behalf of the public utility that  
3 could impede the parties' abilities to successfully or timely secure a mutually executed power  
4 purchase contract.

5 (c)(A) A long-term contract described in this paragraph may provided for fixed pricing  
6 availability for a term exceeding 25 years if the resources proposed or constructed by the  
7 public utility or procured through competitive solicitations have longer fixed-pricing terms.

8 (B) Any financial security required under paragraph (b)(E) of this subsection:

9 (i) May not be unduly burdensome, deter investment in the development of qualified fa-  
10 cilities or exceed the comparable amount of financial security required, on average, in the  
11 public utility's competitive procurements; and

12 (ii) Must be refundable and released upon confirmation of the viability of development  
13 of the qualifying facility.

14 (6) A public utility shall provide separate standard pricing schedules offering incremental  
15 capacity pricing for storage facilities that are colocated or otherwise incorporated with  
16 qualifying facilities if the storage facilities charge from the qualifying facility. The standard  
17 pricing schedules required under this subsection must include capacity price values for each  
18 hour of the day in each month of the year.

19 (7) A public utility shall act in good faith and with fair dealing in providing, executing and  
20 carrying out agreements for the purchase of energy or energy and capacity from a qualifying  
21 facility and regarding all related interconnection studies and processes. A public utility may  
22 not:

23 (a) Delay or impede contracting requested by the developer of a qualifying facility;

24 (b) Condition the provision of draft agreements or the execution of an agreement on the  
25 completion of interconnection studies, any matter within the public utility's control or any  
26 matter that is solely specified by the developer of the qualified facility; or

27 (c) Assert sole authority for the drafting of an agreement described in this subsection.

28 **SECTION 33.** Section 34 of this 2021 Act is added to and made a part of ORS 758.505 to  
29 758.555.

30 **SECTION 34.** (1) Nothing in ORS 758.505 to 758.555 is intended to provide the legal basis  
31 for assumption by the Public Utility Commission of subject matter jurisdiction over a dispute  
32 between a public utility and a qualifying facility over an executed contract or an established  
33 legally enforceable obligation for the qualifying facility to sell energy or energy and capacity  
34 to the public utility.

35 (2) The commission has subject matter jurisdiction over a complaint brought by a quali-  
36 fying facility against a public utility in order to establish the terms and conditions of a legally  
37 enforceable obligation for the qualifying facility to sell energy or energy and capacity to a  
38 public utility.

39 (3) A qualifying facility seeking a judicial declaration, interpretation or enforcement of  
40 a contract or legally enforceable obligation for the qualifying facility to sell energy or energy  
41 and capacity to a public utility is not required to first seek review by the commission.

42  
43 **CONFORMING AMENDMENTS**

44  
45 **SECTION 35.** ORS 469A.147 is amended to read:

1 469A.147. Unless the exemption provided by ORS 469A.055 (1) terminated for the consumer-  
2 owned utility pursuant to ORS 469A.055 [(5)] (6), a consumer-owned utility described in ORS  
3 469A.052 (2) that is subject to the large utility renewable portfolio standard described in ORS  
4 469A.052 (3) may use, notwithstanding ORS 469A.145 (1), unbundled renewable energy certificates,  
5 including banked unbundled renewable energy certificates, to meet:

6 (1) Up to 100 percent of the standard described in ORS 469A.052 (3)(a); and

7 (2) Up to 75 percent of the standard described in ORS 469A.052 (3)(b) or (c).

8 **SECTION 36.** ORS 756.534 is amended to read:

9 756.534. Except as provided in ORS 756.040 [(4)] (5), the hearing may be held at any place des-  
10 ignated by the Public Utility Commission within this state, or different parts of the hearing may be  
11 held at different places in this state, as shall be designated by the commission. The hearing may be  
12 continued from time to time and place to place as ordered and fixed by the commission.

13 **SECTION 37.** ORS 756.062 is amended to read:

14 756.062. (1) A substantial compliance with the requirements of the laws administered by the  
15 Public Utility Commission is sufficient to give effect to all the rules, orders, acts and regulations  
16 of the commission and they shall not be declared inoperative, illegal or void for any omission of a  
17 technical nature in respect thereto.

18 (2) The provisions of such laws shall be liberally construed in a manner consistent with the di-  
19 rectives of ORS 756.040 (1) **and (2)** to promote the public welfare, efficient facilities and substantial  
20 justice between customers and public and telecommunications utilities.

21  
22 **CAPTIONS**

23  
24 **SECTION 38. The unit captions used in this 2021 Act are provided only for the conven-**  
25 **ience of the reader and do not become part of the statutory law of this state or express any**  
26 **legislative intent in the enactment of this 2021 Act.**