

Requested by Representative OWENS

**PROPOSED AMENDMENTS TO
HOUSE BILL 2021**

1 In line 2 of the printed bill, after the semicolon delete the rest of the line
2 and insert “creating new provisions; amending ORS 469A.005, 469A.180,
3 469A.205, 469A.210, 757.247, 757.603, 757.607, 757.646 and 757.649; repealing
4 ORS 469A.062, 469A.100 and section 3, chapter 100, Oregon Laws 2014; and
5 prescribing an effective date.”.

6 Delete lines 4 through 11 and insert:

7

8

“CLEAN ENERGY TARGETS

9

10 **“SECTION 1. Definitions. As used in sections 1 to 12 of this 2021**
11 **Act:**

12 **“(1) ‘Baseline emissions level’ means the average annual emissions**
13 **of greenhouse gas for the years 2010, 2011 and 2012 associated with the**
14 **electricity sold to retail electricity consumers by a retail electricity**
15 **provider as reported under ORS 468A.280, or rules adopted pursuant**
16 **thereto.**

17 **“(2) ‘Electric company,’ ‘electricity service supplier’ and ‘electric**
18 **utility’ have the meanings given those terms in ORS 757.600.**

19 **“(3) ‘Greenhouse gas’ has the meaning given that term in ORS**
20 **468A.210.**

21 **“(4) ‘Nonemitting electricity’ means electricity that is generated or**

1 stored in a manner that does not emit greenhouse gas into the at-
2 mosphere.

3 “(5) ‘Retail electricity consumer’ means a retail electricity con-
4 sumer, as defined in ORS 757.600, that is located in this state.

5 “(6) ‘Retail electricity provider’ means an electric company or
6 electricity service supplier.

7 **“SECTION 2. Policy. It is the policy of the State of Oregon:**

8 “(1) That retail electricity consumers be supplied only with elec-
9 tricity generated in a manner that produces zero greenhouse gas
10 emissions.

11 “(2) That to the maximum extent practicable, electricity generated
12 in a manner that produces zero greenhouse gas emissions also be
13 generated in a manner that provides additional direct benefits to
14 communities in this state in the forms of creating and sustaining
15 meaningful living wage jobs, promoting workforce equity and increas-
16 ing energy security and resiliency; and

17 “(3) That implementation of sections 1 to 12 of this 2021 Act be done
18 in a manner that minimizes burdens for environmental justice com-
19 munities.

20 **“SECTION 3. Clean energy targets. Retail electricity providers shall**
21 **be subject to clean energy targets that require that:**

22 “(1) By 2040, or sooner if practicable, a retail electricity provider
23 shall seek to provide only nonemitting electricity to the provider’s
24 retail electricity consumers, to the extent actions taken toward meet-
25 ing the targets:

26 “(a) Are consistent with sections 1 to 12 of this 2021 Act;

27 “(b) Are technically and economically feasible;

28 “(c) Are in the public interest; and

29 “(d) Do not adversely impact system reliability.

30 “(2) A retail electricity provider shall reduce the annual greenhouse

1 gas emissions associated with the electricity sold to retail electricity
2 consumers by the provider to the following percentage amounts:

3 “(a) By 2030, 80 percent below baseline emissions level.

4 “(b) By 2035, 90 percent below baseline emissions level.

5 **“SECTION 4. Clean energy plan. (1) A retail electricity provider**
6 **shall develop a clean energy plan for meeting the clean energy targets**
7 **set forth in section 3 of this 2021 Act.**

8 “(2) The retail electricity provider shall submit the provider’s clean
9 energy plan to the Public Utility Commission and a copy of the
10 provider’s clean energy plan to the Environmental Quality Commis-
11 sion.

12 “(3) A clean energy plan must be based on or contained in an inte-
13 grated resource plan filing, except:

14 “(a) A plan developed by a multistate jurisdictional electric com-
15 pany must be based on or contained in other information developed
16 consistent with a methodology approved by the Public Utility Com-
17 mission.

18 “(b) A plan developed by an electricity service supplier must be
19 based on or contained in other information required by the Public
20 Utility Commission.

21 “(4) A clean energy plan must identify actions or investments taken
22 or proposed to be taken by the retail electricity provider that:

23 “(a) Incorporate the clean energy targets set forth in section 3 of
24 this 2021 Act;

25 “(b) Incorporate annual targets and goals set by the retail electric-
26 ity provider that will be used toward meeting the clean energy targets
27 set forth in section 3 of this 2021 Act, including, but not limited to,
28 targets for greenhouse gas reductions, energy efficiency measures,
29 acquisition and use of demand response resources, labor standards and
30 integration of community-based renewable energy projects;

1 “(c) Demonstrate the retail electricity provider is making reason-
2 able progress toward meeting the clean energy targets set forth in
3 section 3 (2) of this 2021 Act;

4 “(d) Demonstrate progress toward the target of 100 percent none-
5 mitting electricity set forth in section 3 (1) of this 2021 Act; and

6 “(e) Result in a more affordable, reliable and clean electric system.

7 “(5) Actions and investments taken in a clean energy plan may in-
8 clude the development or acquisition of clean energy resources, de-
9 velopment of new transmission and other supporting infrastructure,
10 retirement of existing generating facilities, demand response and
11 changes in system operation or any other necessary action.

12 “(6) A retail electricity provider may demonstrate reasonable
13 progress under subsection (4)(c) of this section by demonstrating a
14 projected reduction of annual greenhouse gas emissions associated
15 with the electricity sold to retail electricity consumers by the retail
16 electricity provider of 40 percent below baseline emissions level by 2025.

17 “SECTION 5. Emissions verification; compliance. (1)(a) For the
18 purposes of verifying emissions and determining compliance with the
19 clean energy targets set forth in section 3 (2) of this 2021 Act, the
20 Environmental Quality Commission shall determine, for each retail
21 electricity provider, the provider’s baseline emissions level and the
22 amount of emissions reduction necessary for the provider to meet the
23 clean energy targets set forth in section 3 (2) of this 2021 Act.

24 “(b) The Environmental Quality Commission shall determine
25 greenhouse emissions in the manner described under ORS 468A.280,
26 or any rule adopted thereto, and verify projected greenhouse gas
27 emissions reductions resulting from the provider’s clean energy plan.

28 “(c) The Environmental Quality Commission shall report the Envi-
29 ronmental Quality Commission’s determination and findings to the
30 Public Utility Commission and may participate in a proceeding seeking

1 to acknowledge a clean energy plan by the Public Utility Commission.

2 “(2)(a) The Public Utility Commission shall acknowledge a clean
3 energy plan no later than six months after the clean energy plan is
4 filed with the Public Utility Commission.

5 “(b) The Public Utility Commission shall acknowledge the clean
6 energy plan if the Public Utility Commission finds the plan to be in
7 the public interest and consistent with the clean energy targets set
8 forth in section 3 of this 2021 Act. In evaluating whether a plan is in
9 the public interest, the Public Utility Commission shall consider:

10 “(A) Any reduction of greenhouse gas emissions that is expected
11 through the plan, and any related environmental or health benefits;

12 “(B) The feasibility of the plan;

13 “(C) Any impact on the reliability and resiliency of the electric
14 system;

15 “(D) Availability of federal policy incentives; and

16 “(E) Any other relevant factors as determined by the Public Utility
17 Commission.

18 “(c) The Public Utility Commission may not acknowledge a plan
19 that does not maintain and preserve system reliability.

20 “(3)(a) An electric utility shall report annual greenhouse gas emis-
21 sions associated with the electricity sold to retail electricity consumers
22 by the electric utility in the manner set forth under ORS 468A.280, or
23 rules adopted pursuant thereto.

24 “(b) The Environmental Quality Commission shall use the
25 greenhouse gas emissions reported under paragraph (a) of this sub-
26 section to determine whether or not the electric utility has met the
27 clean energy targets set forth in section 3 (2) of this 2021 Act and re-
28 port the Environmental Quality Commission’s determination and
29 findings to the Public Utility Commission.

30 “SECTION 6. Treatment of renewable energy sources. For the pur-

1 poses of determining compliance with the clean energy targets set
2 forth in section 3 (2) of this 2021 Act, when determining the annual
3 greenhouse gas emissions associated with the electricity sold to retail
4 electricity consumers by a retail electricity provider as reported under
5 ORS 468A.280, or rules adopted pursuant thereto, electricity that is
6 generated from a renewable energy source, regardless of the disposi-
7 tion of the renewable energy certificate associated with the electricity,
8 shall be considered to have the emissions attributes of the underlying
9 renewable energy source.

10 **“SECTION 7. Unexpected greenhouse gas emissions.** In determining
11 whether a retail electricity provider has complied with the clean en-
12 ergy targets set forth in section 3 (2) of this 2021 Act, the Public Utility
13 Commission shall take into account unexpected increases in
14 greenhouse gas emissions reported by a retail electricity provider that
15 are a result of meeting electricity demand where:

16 “(1) The emissions are in excess of forecasted or expected emissions;

17 “(2) Generation of electricity from renewable energy sources fore-
18 casted to meet electricity demand is less than expected as a result of
19 unexpected variability in the renewable energy sources; and

20 “(3) The amount of unexpected emissions is from the generation of
21 electricity necessary to cover for the loss of electricity under sub-
22 section (1) of this section.

23 **“SECTION 8. Reliability pause.** (1) Upon its own motion or at the
24 request of an electric company, the Public Utility Commission may
25 open an investigation pursuant to ORS 756.515 (1) to determine
26 whether to grant a temporary exemption to an electric company’s
27 compliance with one or more of the requirements of ORS 469A.052 or
28 a clean energy plan adopted pursuant to sections 1 to 12 of this 2021
29 Act.

30 “(2) The commission may grant a temporary exemption if compli-

1 **ance:**

2 **“(a) Conflicts with or compromises an electric company’s obligation**
3 **to comply with mandatory reliability standards set by the North**
4 **American Electric Reliability Corporation;**

5 **“(b) Violates or significantly impairs a resource adequacy require-**
6 **ment or obligation adopted by the commission or imposed on an elec-**
7 **tric company by a multistate, regional or national entity;**

8 **“(c) Results, regardless of best efforts to secure cost-effective**
9 **renewable energy resources or funding for energy efficiency and con-**
10 **servation, in the provision of service at other than fair and reasonable**
11 **rates; or**

12 **“(d) Otherwise significantly compromises the power quality or in-**
13 **tegrity of an electric company’s system.**

14 **“(3) An electric company making a request under this section shall**
15 **submit to the commission an application that includes:**

16 **“(a) An explanation of how compliance results in one or more of the**
17 **issues described under subsection (2) of this section;**

18 **“(b) A description of how a temporary exemption from compliance**
19 **with one or more of the requirements of ORS 469A.052 or a clean en-**
20 **ergy plan adopted pursuant to sections 1 to 12 of this 2021 Act will**
21 **avoid the issues identified under paragraph (a) of this subsection; and**

22 **“(c) A plan to achieve full compliance with the requirements of ORS**
23 **469A.052 or a clean energy plan adopted pursuant to sections 1 to 12**
24 **of this 2021 Act, including an estimate of the time needed to achieve**
25 **full compliance.**

26 **“(4) In applying for a temporary exemption under this section, an**
27 **electric company has the burden of demonstrating that the company’s**
28 **compliance will likely result in one or more of the issues described**
29 **under subsection (2) of this section.**

30 **“(5) If, after investigation, the commission determines that com-**

1 **pliance with one or more of the requirements of ORS 469A.052 or a**
2 **clean energy plan adopted pursuant to sections 1 to 12 of this 2021 Act**
3 **will, more likely than not, result in one or more of the issues described**
4 **under subsection (2) of this section, the commission shall:**

5 **“(a) Issue an order exempting the electric company from one or**
6 **more of the requirements of ORS 469A.052 or a clean energy plan**
7 **adopted pursuant to sections 1 to 12 of this 2021 Act for a length of**
8 **time sufficient to allow the electric company to achieve full compli-**
9 **ance in a manner that does not result in one or more of the issues**
10 **described under subsection (2) of this section;**

11 **“(b) Direct the electric company to take specific actions to remedy**
12 **the potential issue or issues identified in the order;**

13 **“(c) Direct the electric company to file within six months from the**
14 **date the order is issued, or within a length of time determined by the**
15 **commission to be reasonable, a report on the company’s progress to-**
16 **ward achieving full compliance with the requirements of ORS 469A.052**
17 **or a clean energy plan adopted pursuant to sections 1 to 12 of this 2021**
18 **Act.**

19 **“(6) An order issued under subsection (5) of this section may not**
20 **impose a penalty, but may require the use of alternative compliance**
21 **rates or payments as provided in ORS 469A.180 during the period of**
22 **time a temporary exemption is in effect.**

23 **“(7) An electric company may request an extension of a temporary**
24 **exemption granted under this section. An electric company shall in-**
25 **clude in the company’s request for an extension the same information**
26 **required under subsection (3) of this section and shall have the burden**
27 **of proof described under subsection (4) of this section.**

28 **“(8) Nothing in this section is intended to permanently relieve an**
29 **electric company of the company’s obligation to comply with the re-**
30 **quirements of ORS 469A.052 or a clean energy plan adopted pursuant**

1 to sections 1 to 12 of this 2021 Act.

2 **“SECTION 9. Cost cap. (1) A retail electricity provider or an or-**
3 **ganization that represents broad customer interests and that has a**
4 **written agreement with a retail electricity provider pursuant to ORS**
5 **757.072 may request that the Public Utility Commission open an in-**
6 **vestigation to provide accounting for investments made, costs incurred**
7 **or forecasted costs estimated by the retail electricity provider for the**
8 **purpose of compliance with sections 1 to 12 of this 2021 Act. In making**
9 **a request under this section, the petitioner shall provide information**
10 **regarding the investment or costs sufficient to determine whether the**
11 **investment or costs are related to compliance with sections 1 to 12 of**
12 **this 2021 Act, to include investments or costs associated with:**

13 **“(a) Clean energy generation facilities that are in advance of need**
14 **for serving retail electricity consumers or in advance of renewable**
15 **energy resources required by ORS 469A.052;**

16 **“(b) Qualifying facilities, as defined in ORS 757.050, community so-**
17 **lar projects, as defined in ORS 757.386, or net metering facilities, as**
18 **defined in ORS 757.300;**

19 **“(c) Distribution system improvements and upgrades necessary to**
20 **permit increased distributed energy resources, including generation**
21 **and storage resources, and communication devices, supervisory con-**
22 **trol and data acquisition equipment or similar management equip-**
23 **ment;**

24 **“(d) Energy efficiency or demand response measures that cannot**
25 **receive an incentive under ORS 757.054 due to lack of cost-**
26 **effectiveness;**

27 **“(e) Capacity resources, including physical and contractual re-**
28 **sources;**

29 **“(f) Accelerated depreciation of fossil-fueled generation resources;**

30 **“(g) Actions taken under a clean energy plan adopted pursuant to**

1 sections 1 to 12 of this 2021 Act; and

2 “(h) Any other investment or cost demonstrated by the petitioner
3 to be made for the purpose of compliance with sections 1 to 12 of this
4 2021 Act.

5 “(2)(a) When a request is received and approved, the commission
6 shall conduct a proceeding to establish whether the investments or
7 costs provided in the request are related to compliance with sections
8 1 to 12 of this 2021 Act. The commission shall provide parties to the
9 proceeding with the procedural rights described in ORS 756.500 to
10 756.610, including the opportunity to develop an evidentiary record,
11 conduct discovery, introduce evidence, conduct cross-examination and
12 submit written briefs and oral arguments.

13 “(b) The petitioner shall have the burden of showing, by a prepon-
14 derance of the evidence, that the investment or cost is related to
15 compliance with sections 1 to 12 of this 2021 Act.

16 “(c) The commission shall issue a written order with findings on the
17 evidentiary record development in the proceeding.

18 “(d) Except as provided under ORS 756.610, a determination by the
19 commission that an investment or cost is related to compliance with
20 sections 1 to 12 of this 2021 Act is final and may not be reexamined.

21 “(3) Upon determining that an investment or cost is related to
22 compliance with sections 1 to 12 of this 2021 Act, the commission shall
23 determine the actual or anticipated rate impact for the investment or
24 cost on the same basis and with the same treatment for similarly sit-
25 uated investments or costs in the most recently approved general rate
26 case or other relevant rate making proceeding. The commission shall
27 use the actual or anticipated rate impact of each investment or cost
28 to calculate the cumulative rate impact and shall:

29 “(a) Cumulatively calculate the rate impact caused by all invest-
30 ments or costs that have been the subject of a proceeding pursuant to

1 this section, and must be included in calculation for the time period
2 that the investment or cost would affect rates, as adjusted by any
3 change in net costs expected or foreseeable at the time of inclusion;

4 “(b) Make any adjustments to the cumulative rate impact if the
5 initial rate treatment was calculated on the basis of forecasted rate
6 impact;

7 “(c) Allow parties to the proceeding to propose alternative rate or
8 accounting treatment of the investment or cost to limit the potential
9 rate impact of the investment or cost; and

10 “(d) Utilize cost allocation methodologies for attributing rate im-
11 pacts of investments or costs for multistate retail electricity providers.

12 “(4) Upon a determination that the actual or anticipated cumulative
13 rate impact calculated under subsection (3) of this section exceeds six
14 percent of the annual revenue requirement for a compliance year, the
15 commission shall provide an exemption from further compliance with
16 the requirements of sections 1 to 12 of this 2021 Act. An exemption
17 must be:

18 “(a) Narrowly tailored to otherwise give full force and effect to the
19 requirements of sections 1 to 12 of this 2021 Act that can be complied
20 with without regard to the cumulative rate impact; and

21 “(b) Limited in duration to only such time as is necessary to allow
22 for additional investments and actual or forecasted costs to be made
23 or incurred without exceeding the cumulative rate impact.

24 “(5) A determination by the commission made under this section
25 shall have no effect on and may not be used as collateral or
26 presumptive evidence in any other proceeding that determines rate
27 recovery of the investment or cost, including in a general rate case
28 or in a proceeding under ORS 469A.120.

29 “(6) The commission may, on its own motion pursuant to ORS
30 756.515, open a proceeding under this section and direct a retail elec-

1 **tricity provider to make a filing described under subsection (1) of this**
2 **section.**

3 **“SECTION 10. Early compliance; incentive. In furtherance of the**
4 **clean energy targets set forth in section 3 of this 2021 Act, the Public**
5 **Utility Commission may apply a performance incentive for early com-**
6 **pliance with one or more of the clean energy targets in a calendar year**
7 **by a retail electricity provider.**

8 **“SECTION 11. No modification to Renewable Portfolio Standards.**
9 **The requirements of sections 1 to 12 of this 2021 Act do not replace or**
10 **modify the requirements of ORS 469A.005 to 469A.210.**

11 **“SECTION 12. Rules. The Public Utility Commission shall adopt**
12 **rules as necessary to implement sections 1 to 12 of this 2021 Act.**

13 **“SECTION 13. Electricity market participation. (1)(a) The Legisla-**
14 **tive Assembly finds that existing and future electricity markets will**
15 **play a critical role in the transformation of the electric sector to**
16 **renewable and nonemitting sources, as well as enabling utilities to**
17 **reduce costs and serve load reliability by accessing resource and load**
18 **diversity.**

19 **“(b) The Legislative Assembly further finds that accounting and**
20 **compliance frameworks designed to further the State of Oregon’s pol-**
21 **icy objectives should support and be consistent with efforts to enhance**
22 **the access to and scope of existing and potential future electricity**
23 **markets.**

24 **“(c) Acknowledging the inherently regional and multistate nature**
25 **of electricity markets, the State of Oregon should coordinate and col-**
26 **laborate with other states to achieve the goal of aligning accounting**
27 **methodologies where possible while also ensuring market rules do not**
28 **undermine state policy objectives.**

29 **“(d) Over time, the evolution of regional wholesale electricity mar-**
30 **kets may necessitate the modification of existing accounting and**

1 **compliance rules to ensure the benefit of market participation are**
2 **preserved.**

3 **“(2) The Department of Environmental Quality may open a**
4 **rulemaking to address issues relating to electric utilities’ participation**
5 **in existing and future electricity markets and the role of markets in**
6 **furthering the requirements and policies of this 2021 Act.**

7 **“SECTION 14. ORS 469A.062 and 469A.100 are repealed.**

8 **“SECTION 14a. ORS 469A.180 is amended to read:**

9 “469A.180. (1) The Public Utility Commission shall establish an alterna-
10 tive compliance rate for each compliance year for each electric company or
11 electricity service supplier that is subject to a renewable portfolio standard.
12 The rate shall be expressed in dollars per megawatt-hour.

13 “(2) The commission shall establish an alternative compliance rate based
14 on the cost of qualifying electricity, contracts that the electric company or
15 electricity service supplier has acquired for future delivery of qualifying
16 electricity and the number of unbundled renewable energy certificates that
17 the company or supplier anticipates using in the compliance year to meet the
18 renewable portfolio standard applicable to the company or supplier. The
19 commission shall also consider any determinations made under ORS 469A.170
20 in reviewing the compliance report made by the electric company or elec-
21 tricity service supplier for the previous compliance year. In establishing an
22 alternative compliance rate, the commission shall set the rate to provide
23 adequate incentive for the electric company or electricity service supplier to
24 purchase or generate qualifying electricity in lieu of using alternative com-
25 pliance payments to meet the renewable portfolio standard applicable to the
26 company or supplier.

27 “(3) An electric company or electricity service supplier may elect to use,
28 or may be required by the commission to use, alternative compliance pay-
29 ments to comply with the renewable portfolio standard applicable to the
30 company or supplier. Any election by an electric company or electricity ser-

1 vice supplier to use alternative compliance payments is subject to review by
2 the commission under ORS 469A.170. [*An electric company or electricity ser-*
3 *vice supplier may not be required to make alternative compliance payments that*
4 *would result in the company or supplier exceeding the cost limitation estab-*
5 *lished under ORS 469A.100.*]

6 “(4) The commission shall determine for each electric company the extent
7 to which alternative compliance payments may be recovered in the rates of
8 the company. Each electric company shall deposit any amounts recovered in
9 the rates of the company for alternative compliance payments in a holding
10 account established by the company. Amounts in the holding account shall
11 accrue interest at the rate of return authorized by the commission for the
12 electric company.

13 “(5) Amounts in holding accounts established under subsection (4) of this
14 section may be expended by an electric company only for costs of acquiring
15 new generating capacity from renewable energy sources, investments in effi-
16 ciency upgrades to electricity generating facilities owned by the company
17 and energy conservation programs within the company’s service area. The
18 commission must approve expenditures by an electric company from a hold-
19 ing account established under subsection (4) of this section. Amounts that
20 are collected from customers and spent by an electric company under this
21 subsection may not be included in the company’s rate base.

22 “(6) The commission shall require electricity service suppliers to establish
23 holding accounts and make payments to those accounts on a substantially
24 similar basis as provided for electric companies. The commission must ap-
25 prove expenditures by an electricity service supplier from a holding account
26 established under this subsection. The commission may approve expenditures
27 only for energy conservation programs for customers of the electricity ser-
28 vice supplier.

29

30 **“COMMUNITY-BASED RENEWABLE ENERGY PROJECTS**

1 **“SECTION 15.** ORS 469A.210 is amended to read:

2 **“469A.210. (1) As used in this section, ‘community-based renewable**
3 **energy project’ means one or more renewable energy systems or stor-**
4 **age systems that:**

5 **“(a) Interconnect to utility distribution assets to assist development**
6 **of microgrids, demand response measures, energy-related**
7 **infrastructure that promotes climate resiliency and other such meas-**
8 **ures;**

9 **“(b) Provide direct benefits to a particular community through**
10 **community-benefits agreement or direct ownership by a local govern-**
11 **ment, nonprofit community organization or federally recognized In-**
12 **dian tribe; and**

13 **“(c) Result in increased resiliency or community stability, local**
14 **jobs, economic development or direct energy cost savings to families**
15 **and small businesses.**

16 **“[(1)] (2) The Legislative Assembly finds and declares that:**

17 **“(a) Community-based renewable energy projects, including but not lim-**
18 **ited to marine renewable energy resources that are either developed in ac-**
19 **cordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or**
20 **located on structures adjacent to the coastal shorelands, are an essential**
21 **element of this state’s energy future[.]; and**

22 **“(b) A goal of this state is to facilitate the development of**
23 **community-based renewable energy projects that, in particular, pro-**
24 **vide direct benefits to rural communities, coastal communities, com-**
25 **munities with above-average concentrations of historically**
26 **disadvantaged or low income households, communities with limited**
27 **infrastructure and federally recognized Indian tribes.**

28 **“[(2)] (3) [For purposes related to the findings in subsection (1) of this**
29 **section] In furtherance of and consistent with the finding and goal set**
30 **forth in subsection (2) of this section, by the year [2025] 2030, at least**

1 eight percent, **and by 2035, at least 10 percent**, of the aggregate electrical
2 [*capacity*] **generation** of all electric companies that make sales of electricity
3 to 25,000 or more retail electricity consumers in this state must be composed
4 of electricity generated by one or both of the following sources:

5 “(a) [*Small-scale*] **Community-based** renewable energy projects with a
6 generating capacity of 20 megawatts or less that generate electricity utilizing
7 a type of energy described in ORS 469A.025; or

8 “(b) Facilities that:

9 “(A) Generate electricity using biomass [*that also*];

10 “(B) Generate thermal energy for a secondary purpose[.];

11 “(C) **Utilize refuse from timber or agriculture as a feedstock;**

12 “(D) **Provide direct community benefit through cogeneration, job**
13 **creation or economic development and do not create substantial harm**
14 **to environmental justice communities;**

15 “(E) **Produce emissions considered equal to or lower than the**
16 **greenhouse gas emissions that would have resulted had a comparable**
17 **quantity and character of biofuel been treated or disposed of in a**
18 **prevailing manner; and**

19 “(F) **Maintain up-to-date maximum available control technology.**

20 “[3] (4) Regardless of the facility’s nameplate capacity, any single facil-
21 ity described in subsection [(2)(b)] (3)(b) of this section may be used to
22 comply with the requirement specified in subsection [(2)] (3) of this section
23 for up to 20 megawatts of [*capacity*] **generation.**

24 “**NOTE:** Section 16 was deleted by amendment. Subsequent sections were
25 not renumbered.

26

27 “**CUSTOMER SUPPORTED RENEWABLES**

28

29 “**SECTION 17. Section 18 of this 2021 Act is added to and made part**
30 **of ORS 757.600 to 757.689.**

1 **“SECTION 18. (1) An electric company may offer retail electricity**
2 **consumers a voluntary renewable energy option that differs from the**
3 **electric company’s regulated, cost-of-service option.**

4 **“(2) The voluntary renewable energy option shall be a program of**
5 **rates or charges that reflect the cost of an electric company program**
6 **to serve retail electricity consumers with electricity:**

7 **“(a) Partially or completely derived from new or existing renewable**
8 **energy resources or nonemitting resources, including supply and**
9 **demand-side resources; or**

10 **“(b) Paired with unbundled renewable energy certificates, as defined**
11 **in ORS 469A.005, from new or existing renewable energy resources.**

12 **“(3)(a) A voluntary renewable energy option may service individual**
13 **electricity consumers or groups of consumers.**

14 **“(b) A voluntary renewable option may service the electricity con-**
15 **sumers within the boundary of a local government in the manner de-**
16 **scribed under subsection (7) of this section.**

17 **“(4) The Public Utility Commission shall allow an electric company**
18 **to file a schedule with the commission that establishes the rates,**
19 **terms and conditions of services offered under the voluntary renewable**
20 **energy tariff. A schedule submitted under this section shall be con-**
21 **sidered in accordance with ORS 757.210 to 757.220. The commission may**
22 **approve the tariff if the tariff:**

23 **“(a) Minimizes cost and risk of shifting to non-participating elec-**
24 **tricity consumers and jurisdictions;**

25 **“(b) Facilitates electricity consumer attainment of renewable en-**
26 **ergy or climate goals.**

27 **“(5)(a) An electric company that proposes a voluntary renewable**
28 **energy option authorized under this section may own the generation**
29 **facilities used to serve electricity consumers or acquire the energy and**
30 **capacity through power purchase agreements.**

1 **“(b) If the electric company uses power purchase agreements, the**
2 **commission shall allow the company to earn an annual incentive that**
3 **is no less than the product of the authorized cost of debt multiplied**
4 **by the operating expense of the electric company under the agreement**
5 **and no more than the product of the authorized rate of return on eq-**
6 **uity multiplied by the operating expense.**

7 **“(6) Notwithstanding any policies developed under ORS 757.646, the**
8 **commission may not prohibit an electric company from entering into**
9 **contracts for the voluntary renewable energy option authorized under**
10 **this section.**

11 **“(7)(a) An electric company may include, as part of a portfolio of**
12 **rate options required under ORS 757.603 and if agreed to in coordi-**
13 **nation with one or more local governments to meet adopted renewable**
14 **and nonemitting energy goals, a program of rates or charges that re-**
15 **fect the cost of an electric company program to serve retail electricity**
16 **consumers within the boundaries of those local governments with**
17 **electricity:**

18 **“(A) Partially or completely derived from new or existing renewable**
19 **energy resources or nonemitting energy resources, including supply**
20 **and demand-side resources; or**

21 **“(B) Paired with unbundled renewable energy certificates, as de-**
22 **finied in ORS 469A.005, from new or existing renewable energy re-**
23 **sources.**

24 **“(b) The commission may approve a rate or charge under this sub-**
25 **section if:**

26 **“(A) The electric company and local government attest that the**
27 **coordination required under paragraph (a) of this subsection occurred;**

28 **“(B) The local government enacts or adopts an ordinance, charter**
29 **provision, resolution or other regulation requiring that eligible retail**
30 **electricity consumers within the boundary of the local government**

1 **must, as determined during the coordination required by paragraph (a)**
2 **of this subsection and conducted in accordance with this paragraph,**
3 **be served with renewable energy resources or nonemitting energy re-**
4 **sources including, but not limited to, at the option of the local gov-**
5 **ernment:**

6 **“(i) Energy from community-based renewable energy projects that**
7 **are capable of providing community energy resiliency benefits, such**
8 **as storage systems, microgrids, in-pipe hydroelectric or micro-**
9 **hydroelectric; or**

10 **“(ii) Energy from renewable energy resources that also provide**
11 **community cobenefits as determined by the local government, such**
12 **as community stability, water savings, species protection, direct cost**
13 **savings or local economic development;**

14 **“(C) The ordinance, charter provision, resolution or other regu-**
15 **lation specifies that all eligible retail electricity consumers served**
16 **within the local government boundary:**

17 **“(i) Are automatically placed on the rate schedule but have an op-**
18 **portunity to decline to be served by the rate option; or**

19 **“(ii) Must opt-in to participate in the program of rates or charges**
20 **adopted pursuant to this subsection;**

21 **“(D) The ordinance, charter provision, resolution or other regu-**
22 **lation includes protections, such as subsidies or bill payment assist-**
23 **ance, for low-income retail electricity consumers affected by the rates**
24 **or charges and provides that these protections are paid for solely by**
25 **retail electricity consumers within the boundaries of the local gov-**
26 **ernment;**

27 **“(E) The electric company has included in the program provisions**
28 **to minimize the shifting of costs from retail electricity consumers to**
29 **other customers who do not participate;**

30 **“(F) The ordinance, charter provision, resolution or other regu-**

1 lation sets forth the duration of the program; and

2 “(G) The electric company utilizes commission-approved procure-
3 ment processes, to the extent those processes apply, to acquire re-
4 sources that serve the program.

5 “(c) After the electric company begins service to retail electricity
6 consumers within the boundaries of the local government according
7 to the program of rates or charges adopted pursuant to this sub-
8 section, the electric company must:

9 “(A) Include information on its monthly bills to participating retail
10 electricity consumers identifying the program’s cost;

11 “(B) Provide notice to participating retail electricity consumers of
12 any change in rate for participation in the program; and

13 “(C) Provide an annual report to the commission and participating
14 local governments summarizing the prior calendar year program ac-
15 tivities.

16 “(d) The commission shall allow the electric company, for purposes
17 of the new or existing renewable energy resources or nonemitting en-
18 ergy resources that serve the program of rates or charges adopted
19 pursuant to this subsection:

20 “(A) To own the facilities or use power purchase agreements and,
21 if the electric company uses power purchase agreements, to earn an
22 annual incentive that is no less than the product of the authorized
23 cost of debt multiplied by the operating expense of the electric com-
24 pany under the agreement and no more than the product of the au-
25 thorized rate of return on equity multiplied by the operating expense,
26 plus any additional amounts justified on the basis of risk as deter-
27 mined by the commission.

28 “(B) To recover part or all of the costs associated with the re-
29 sources that serve the program, including costs associated with re-
30 sources described in subparagraph (A) of this paragraph, from all

1 retail electricity consumers, if:

2 “(i) The electric company can demonstrate that above-market costs
3 of those resources have been paid for by program participants;

4 “(ii) An integrated resource plan conducted by the electric company
5 shows an energy or capacity need and the company demonstrates that
6 such resources are capable of meeting that need, in whole or in part;

7 “(iii) The electric company will use the resources to meet a
8 renewable portfolio standard imposed by ORS 469A.052; or

9 “(iv) All customers will otherwise benefit from inclusion of the
10 costs in rates collected from all customers.

11 “(C) To collect moneys from participating retail electricity con-
12 sumers in excess of the cost of service and defer revenues or costs
13 associated with the program for the purposes of making future in-
14 vestments in resources or renewable energy certificates to serve pro-
15 gram participants and for the purposes of protecting nonparticipating
16 retail electricity consumers should the local government end its par-
17 ticipation in the program.

18 “(D) To recover the costs associated with the resources that serve
19 the program, including costs associated with resources described in
20 subparagraph (A) of this paragraph, from retail electricity consumers
21 within the boundaries of the local government, if the local government
22 ends its participation in the program and the costs are not otherwise
23 recoverable under subparagraph (B) of this paragraph.

24 “(8) As used in this section, ‘local government’ means a city or
25 county.

26 “**SECTION 19.** ORS 757.603 is amended to read:

27 “757.603. [(1)(a)] (1) Except as provided in this [subsection] **section**, an
28 electric company shall provide all retail electricity consumers that are con-
29 nected to the electric company’s distribution system with a regulated, cost-
30 of-service rate option.

1 “[*(b)*] **(2)(a)** The Public Utility Commission by order may waive the re-
2 quirement [*of paragraph (a) of this subsection*] **in subsection (1) of this**
3 **section** for any retail electricity consumer other than residential electricity
4 consumers and small commercial electricity consumers.

5 “**(b)** [*Before*] **Prior to** ordering a waiver under this [*paragraph*] **sub-**
6 **section**, the commission [*shall*] **may** conduct such studies as the commission
7 deems necessary and **shall** provide notice and opportunity for public com-
8 ment and hearings **regarding the proposed waiver**.

9 “**(c)** The commission may order a waiver under this [*paragraph*] **sub-**
10 **section** if the commission finds, based on [*an*] **the** evidentiary record devel-
11 oped through **the conducted studies**, public comment and hearings, that a
12 market exists in which retail electricity consumers subject to the waiver are
13 able to:

14 “(A) Purchase supplies of electricity adequate to meet the needs of the
15 retail electricity consumers;

16 “(B) Obtain multiple offers for electricity supplies within a reasonable
17 period of time;

18 “(C) Obtain reliable supplies of electricity; and

19 “(D) Purchase electricity at prices that are not unduly volatile and that
20 are just and reasonable.

21 “[*(2)*] **(3)** Each electric company shall provide each [*residential*] **retail**
22 electricity consumer that is connected to its distribution system **and whose**
23 **electricity demand at any point of delivery is less than 30 kilowatts** a
24 portfolio of rate options. The portfolio **of rate options** shall include at least
25 the following options:

26 “(a) A rate that reflects significant new renewable energy resources;

27 “(b) A market-based rate; and

28 “(c) If the commission finds, through public comment and hearing or
29 through market research conducted by the electric company, that demand is
30 sufficient to justify the rate, a rate option for electricity associated with a

1 specific renewable energy resource, including solar photovoltaic energy.

2 **“(4) As part of an electric company’s portfolio of rate options re-**
3 **quired under subsection (3) of this section, an electric company may**
4 **offer retail electricity consumers a voluntary renewable energy option**
5 **as described in section 18 of this 2021 Act that differs from the electric**
6 **company’s regulated, cost-of-service rate option.**

7 “[~~(3)(a)~~] **(5)** The commission shall regulate the cost-of-service rate [*option*
8 *under subsection (1) of this section and the portfolio of rate options under*
9 *subsection (2) of this section*] **and portfolio of rate options under this**
10 **section.** The commission:

11 **“(a)** Shall reasonably ensure that the costs and risks of serving each op-
12 tion are reflected in the rates for each option, **where such rates may in-**
13 **clude a monthly flat rate or charge in addition to usage.**

14 **“(b)** [*The commission*] May prohibit or otherwise limit the use of a cost-
15 of-service rate by retail electricity consumers who have been served through
16 direct access[, *and*].

17 **“(c)** May limit switching among **the portfolio of rate** options and the
18 cost-of-service rate [*by residential electricity consumers*].

19 **“(6) Nothing in subsection (3) of this section prohibits an electric**
20 **company from providing retail electricity consumers that are con-**
21 **ected to its distribution system and whose electricity demand at any**
22 **point of delivery is greater than 30 kilowatts a portfolio of rate**
23 **options.**

24 **“(7) Notwithstanding the exemption to ORS 757.600 to 757.691 pro-**
25 **vided by ORS 757.601 (3), an electric company serving fewer than 25,000**
26 **customers in this state may propose a program for approval by the**
27 **commission if the program meets the criteria specified in this section.**

28 **“SECTION 19a.** ORS 469A.205 is amended to read:

29 **“469A.205. (1)** Electric utilities shall allow retail electricity consumers to
30 elect a green power rate. A significant portion of the electricity purchased

1 or generated by a utility that is attributable to moneys paid by retail elec-
2 tricity consumers who elect the green power rate must be qualifying elec-
3 tricity, and the utility must inform consumers of the sources of the
4 electricity purchased or generated by the utility that is attributable to
5 moneys paid by consumers who elect the green power rate. The green power
6 rate shall reasonably reflect the costs of the electricity purchased or gener-
7 ated by the utility that is attributable to moneys paid by retail electricity
8 consumers who elect the green power rate. All prudently incurred costs as-
9 sociated with the green power rate are recoverable in a green power rate
10 offered by an electric company.

11 “(2) Any qualifying electricity procured by an electric utility to provide
12 electricity under a green power rate under subsection (1) of this section or
13 ORS 757.603 [(2)(a)] **(3)(a)** may not be used by the utility to comply with the
14 requirements of a renewable portfolio standard.

15 “(3) The provisions of subsection (1) of this section do not apply to elec-
16 tric companies that are subject to ORS 757.603 [(2)(a)] **(3)(a)**.

17 “(4) An electric utility may comply with the requirements of subsection
18 (1) of this section by contracting with a third-party provider.

19 **“SECTION 19b.** ORS 757.247 is amended to read:

20 “757.247. (1) The Public Utility Commission may authorize a public util-
21 ity, upon application of the utility, to file and place into effect a tariff
22 schedule establishing rates or charges for the cost of energy resource meas-
23 ures provided to an individual property owner or customer pursuant to an
24 agreement entered into between the individual property owner or customer
25 and the public utility. Energy resource measures provided under this section
26 may include:

27 “(a) The installation of renewable energy generation facilities on the
28 property of property owners or the premises of customers;

29 “(b) The implementation of energy conservation measures, including
30 measures that are not cost-effective;

1 “(c) The installation of equipment or devices or the implementation of
2 measures that enable demand reduction, peak load reduction, improved inte-
3 gration of renewable energy generation or more effective utilization of en-
4 ergy resources;

5 “(d) Loans for the purposes described in paragraphs (a) to (c) of this
6 subsection; and

7 “(e) Direct payments to third parties for the purposes described in para-
8 graphs (a) to (c) of this subsection.

9 “(2) Subject to the agreement entered into between the individual prop-
10 erty owner or customer and the public utility, a tariff schedule placed into
11 effect under this section may include provisions for:

12 “(a) The payment of the rates or charges over a period of time;

13 “(b) Except as provided in subsection (5) of this section, a reasonable rate
14 of return on any investment made by the public utility;

15 “(c) The application of any payment obligation to successive owners of
16 the property to which the energy resource measure is attached or to succes-
17 sive customers located at the premises to which the energy resource measure
18 is attached; and

19 “(d) The application of the payment obligation to the current property
20 owner or customer alone, secured by methods agreed to by the property
21 owner or customer and the public utility.

22 “(3) Application of a tariff schedule under this section is subject to ap-
23 proval by the commission.

24 “(4) If a payment obligation applies to successive property owners or
25 customers as described in subsection (2)(c) of this section, a public utility
26 shall record a notice of the payment obligation in the records maintained
27 by the county clerk under ORS 205.130. The commission may prescribe by
28 rule other methods by which the public utility shall notify property owners
29 or customers of such payment obligations.

30 “(5) A public utility may use moneys obtained through a rate established

1 under ORS 757.603 [(2)(a)] **(3)(a)** to provide a renewable energy generation
2 facility to a property owner or customer under this section. A public utility
3 may not charge interest to a property owner or customer for a renewable
4 energy generation facility acquired with moneys obtained through a rate es-
5 tablished under ORS 757.603 [(2)(a)] **(3)(a)**.

6 “(6) Agreements entered into and tariff schedules placed into effect under
7 this section are not subject to ORS 470.500 to 470.710, 757.612 or 757.689.

8 **“SECTION 20.** ORS 757.646 is amended to read:

9 “757.646. (1) The duties, functions and powers of the Public Utility Com-
10 mission shall include developing policies to eliminate barriers to the devel-
11 opment of a competitive retail market [*structure*] **between electricity**
12 **service suppliers and electric companies.** The policies shall be designed
13 to [*mitigate the vertical and horizontal market power of incumbent electric*
14 *companies,*] prohibit preferential treatment, or the appearance of such treat-
15 ment, [*of*] **by the incumbent electric companies toward** generation or
16 market affiliates [*and determine the electricity services likely to be*
17 *competitive*]. The commission may require an electric company acting as an
18 electricity service supplier do so through an affiliate.

19 “(2) The commission shall establish by rule a code of conduct for electric
20 companies and their affiliates to protect against market abuses and anti-
21 competitive practices. The code shall, at a minimum:

22 “(a) Require an electric company and any affiliate that shares the same
23 name and logo to disclose to all consumers the relationship between the
24 company and affiliate and to clarify that the affiliate is not the same as the
25 electric company and that in order to receive service from the company a
26 consumer does not have to purchase the services of the affiliate;

27 “(b) Prohibit preferential access by an electric company affiliate to con-
28 fidential consumer information;

29 “(c) [*Prohibit*] **Minimize** cross-subsidization between competitive oper-
30 ations and regulated operations, including the use of electric company per-

1 sonnel and other resources;

2 “(d) Prohibit joint marketing activities and exclusive referral arrange-
3 ments between an electric company and its affiliates;

4 “(e) Provide the commission with all necessary access to books and re-
5 cords;

6 “(f) Require electric companies to make regular compliance filings; and

7 “(g) Require fair treatment of all competitors by a distribution utility.

8 “(3) An electric company shall provide the commission access to all books
9 and records necessary for the commission to monitor the electric company
10 and its affiliate relationships. The commission shall require an electric
11 company biannually to file a report detailing compliance with this sub-
12 section.

13 **“SECTION 21. (1) Section 3, chapter 100, Oregon Laws 2014, is re-
14 pealed.**

15 **“(2) Any schedules, rates, conditions or tariffs imposed or filed
16 pursuant to section 3 (4), chapter 100, Oregon Laws 2014, before the
17 effective date of this 2021 Act, shall continue in effect or may be ap-
18 proved by the Public Utility Commission.**

19 **“SECTION 22. ORS 469A.005 is amended to read:**

20 **“469A.005. As used in ORS 469A.005 to 469A.210:**

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

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

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

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

1 value, reproduction cost and any other relevant factor; and

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

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

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

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

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

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

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

24 “(5) ‘Compliance year’ means the calendar year for which the electric
25 utility or electricity service supplier seeks to establish compliance with the
26 renewable portfolio standard applicable to the electric utility or electricity
27 service supplier in the compliance report submitted under ORS 469A.170.

28 “(6) ‘Consumer-owned utility’ means a municipal electric utility, a
29 people’s utility district organized under ORS chapter 261 that sells electricity
30 or an electric cooperative organized under ORS chapter 62.

1 “(7) ‘Distribution utility’ has the meaning given that term in ORS 757.600.

2 “(8) ‘Electric company’ has the meaning given that term in ORS 757.600.

3 “(9) ‘Electric utility’ has the meaning given that term in ORS 757.600.

4 “(10) ‘Electricity service supplier’ has the meaning given that term in
5 ORS 757.600.

6 “(11) ‘Qualifying electricity’ means electricity described in ORS 469A.010.

7 “(12) ‘Renewable energy source’ means a source of electricity described
8 in ORS 469A.025.

9 “(13) ‘Retail electricity consumer’ means a retail electricity consumer, as
10 defined in ORS 757.600, that is located in Oregon.

11 “(14) ‘Unbundled renewable energy certificate’ means:

12 “(a) A renewable energy certificate for qualifying electricity that is ac-
13 quired by an electric utility or electricity service supplier by trade, purchase
14 or other transfer without acquiring the electricity that is associated with the
15 renewable energy certificate; or

16 “(b) **A renewable energy certificate that is sold to a retail electricity**
17 **consumer without selling, on a non-cost-of-service basis, the electric-**
18 **ity associated with the renewable energy certificate to the retail elec-**
19 **tricity consumer.**

20

21 **“RESPONSIBLE CONTRACTOR LABOR STANDARDS**

22 **FOR CUSTOMER SUPPORTED RENEWABLES**

23

24 **“SECTION 23. (1) As used in this section, ‘repower’ means replace-**
25 **ment of enough of the original generation equipment or components**
26 **to make an original energy generation facility equivalent to a new**
27 **facility, such that at least 80 percent of the fair market value of the**
28 **facility derives from new generation equipment or components in-**
29 **stalled as part of the replacement project.**

30 “(2) A person who constructs or repowers a renewable energy re-

1 source or nonemitting resource sited in this state that is intended to
2 be used predominately by an electric company to meet projected obli-
3 gations to retail electricity consumer under a voluntary renewable
4 energy option shall, at the time of contract finalization for develop-
5 ment of the resource or delivery of energy from that resource, attest
6 or declare, under penalty of perjury as described in ORCP 1 E, that
7 during all periods of construction, the person:

8 “(a) Will pay employees the prevailing rate of wage for an hour’s
9 work in the same trade or occupation in the locality where the labor
10 is performed;

11 “(b) Will offer employer-paid health care and retirement benefits
12 to the employees performing the labor on the construction project;

13 “(c) Will participate in an apprenticeship program registered with
14 the State Apprenticeship and Training Council or similar apprentice-
15 ship program;

16 “(d) Is licensed and in good standing to perform the work, and is
17 not ineligible to receive a contract or subcontract for public works
18 under ORS 279C.860;

19 “(e) Can demonstrate a history of material compliance with the
20 rules and other requirements of state agencies with oversight regard-
21 ing workers’ compensation, building codes and occupational safety and
22 health;

23 “(f) Can demonstrate a history of compliance with federal and state
24 wage and hour laws; and

25 “(g) Has policies in place that are designed to limit or prevent
26 workplace harassment and discrimination and that promote workplace
27 diversity, equity and inclusion for, including but not limited to,
28 women, veterans and individuals who are Black, Indigenous and other
29 People of Color.

30 “(3) The person constructing or repowering the renewable energy

1 resource or nonemitting resource shall provide the attestation or dec-
2 laration to the Bureau of Labor and Industries and provide notice of
3 such delivery to the purchaser of the resource or of the energy from
4 the resource.

5 **“SECTION 24.** The obligation to provide an attestation or declara-
6 tion pursuant to section 23 of this 2021 Act applies to renewable energy
7 resources and nonemitting resources that begin construction after the
8 effective date of this 2021 Act.

9
10 **“NON-PRICING ATTRIBUTES IN RESOURCE PROCUREMENT**
11 **EVALUATION**

12
13 **“SECTION 25.** The Public Utility Commission may include, as part
14 of the commission’s competitive bidding guidelines, non-pricing attri-
15 butes of a resource as part of the scoring criteria for evaluating utility
16 resource procurement options. Non-price attributes of a resource may
17 include attributes that promote resiliency, provide economic benefit
18 to communities in this state or comply with fair labor standards and
19 practices.

20 **“SECTION 26.** The Public Utility Commission shall submit a report
21 on the use and role of non-price attributes for evaluating utility re-
22 source procurements as described in section 25 of this 2021 Act to an
23 interim committee of the Legislative Assembly related to energy no
24 later than September 15, 2023.

25 **“SECTION 27.** Section 26 of this 2021 Act is repealed on July 1, 2024.

26
27 **“NONBYPASSABILITY OF SOCIAL AND ENVIRONMENTAL COSTS**

28
29 **“SECTION 28.** ORS 757.607 is amended to read:

30 **“757.607. (1)** The Public Utility Commission shall ensure that direct ac-

1 cess programs offered by electric companies meet the following conditions:

2 “[1](a) The provision of direct access to some retail electricity consum-
3 ers [*must*] **may** not cause the unwarranted shifting of costs to other retail
4 electricity consumers of the electric company. The commission may, in es-
5 tablishing any rates and charges under ORS 757.600 to 757.667, consider and
6 mitigate the rate impact on consumers from the reduction or elimination of
7 subsidies in existing rate structures.

8 “[2](b) The direct access, portfolio of rate options and cost-of-service
9 rates may include transition charges or transition credits that reasonably
10 balance the interests of retail electricity consumers and utility investors.
11 The commission may determine that full or partial recovery of the costs of
12 uneconomic utility investments, or full or partial pass-through of the benefits
13 of economic utility investments to retail electricity consumers, is in the
14 public interest.

15 “[3] (2) The commission shall allow recovery[,]:

16 “(a) Through a transition charge, of any otherwise unrecoverable costs
17 arising from or related to an electric company’s contractual or other legal
18 obligations to the Bonneville Power Administration under ORS 757.663, or
19 arising from or related to a failure of the Bonneville Power Administration
20 to meet its contractual or other legal obligations to the electric company,
21 from those classes of consumers for which electric power was purchased from
22 the Bonneville Power Administration.

23 “(b) **Through a charge on retail electricity consumers receiving**
24 **electricity from electricity service suppliers, of costs tied to the eco-**
25 **nomic, environmental, social or equity programs and policies imposed**
26 **on electric companies by state or federal law, regulation or order, in-**
27 **cluding costs associated with attaining the state’s greenhouse gas**
28 **emissions reduction goals specified in ORS 468A.205, that the retail**
29 **electricity consumers may avoid by obtaining electricity through di-**
30 **rect access. A charge authorized under this paragraph:**

1 “(A) Must be calculated on the basis of electricity consumption and
2 bear a direct relationship to costs borne by retail electricity consumers
3 served by the electric company; and

4 “(B) May include above-market costs associated with investments
5 by an electric company in qualifying electricity, as described in ORS
6 469A.010, or other greenhouse gas emissions-free electricity used to
7 serve the electric company’s retail electricity consumers.

8 “[(4)] (3) Notwithstanding ORS 757.355, the commission may allow a re-
9 turn on the unamortized balance of an uneconomic utility investment or an
10 economic utility investment that is included in rates.

11
12 **“PROVIDING INFORMATION ABOUT CLEAN ENERGY PROGRAMS
13 TO CUSTOMERS**

14
15 **“SECTION 29.** ORS 757.649 is amended to read:

16 “757.649. (1)(a) A person or other entity shall not act as an electricity
17 service supplier unless the person or entity is certified by the Public Utility
18 Commission. The commission, by rule, shall establish standards for certi-
19 fication of persons or other entities as electricity service suppliers in this
20 state. The rules shall, at a minimum, address:

21 “(A) The ability of the person or entity to meet the person’s or entity’s
22 obligation to provide electricity services pursuant to direct access; and

23 “(B) The ability of the person or entity to comply with applicable con-
24 sumer protection laws.

25 “(b) The commission may require an electricity service supplier to provide
26 a bond or other security.

27 “(c) The commission may establish a fee, not to exceed \$500, for initial
28 certification and annual recertification of electricity service suppliers.

29 “(d) The commission, at any time, may revoke an electricity service
30 supplier’s certification for failure to comply with applicable statutes and

1 rules.

2 “(e) The commission may require an electricity service supplier to provide
3 information necessary to ensure compliance with ORS 757.612. The commis-
4 sion shall ensure the privacy of all information and the protection of any
5 proprietary information provided.

6 “(2) Every electric utility shall maintain the integrity of its transmission
7 facilities and distribution system and provide safe, reliable service to all re-
8 tail electricity consumers. Nothing in ORS 757.600 to 757.667 or 757.669 to
9 757.687 shall reduce or diminish the statutory or contractual obligations of
10 electric utilities to maintain the safety and reliability of their transmission
11 facilities and distribution system and other infrastructure and equipment
12 used to deliver electricity.

13 “(3) The commission for electric companies, or the governing body for
14 other electric utilities, shall adopt rules, ordinances, policies and service
15 quality standards designed to maintain a reliable, safe and efficient distrib-
16 ution system. The commission shall regulate electrical safety regarding gen-
17 eration, transmission, substation and distribution facilities for electric
18 utilities and other electrical system owners and operators as provided under
19 ORS 757.035.

20 “(4)(a) Every bill to a direct access retail electricity consumer from an
21 electricity service supplier shall contain at least:

22 “[a] (A) The rate and amount due for each service or product that the
23 retail electricity consumer is purchasing and other price information neces-
24 sary to facilitate direct access, as determined by the commission;

25 “[b] (B) The rates and amounts of state and local taxes or fees, if any,
26 imposed on the retail electricity consumer;

27 “[c] (C) The amount of any public purpose charge or credit;

28 “[d] (D) The amount of any transition charge or transition credit; and

29 “[e] (E) Power source and environmental impact information necessary
30 to ensure that all consumers have useful, reliable and necessary information

1 to exercise informed choice, as determined by the commission.

2 “(b) **Information provided under paragraph (a)(E) of this subsection**
3 **must be equivalent to the power source and environmental impact**
4 **information that the commission requires electric companies to dis-**
5 **close to retail electricity consumers, including for power supplied**
6 **through the electricity service supplier’s own generating resources,**
7 **and is not subject to confidentiality.**

8 “(5)(a) A retail electricity consumer of an electric company shall receive,
9 upon request, a separate bill from every individual electricity service sup-
10 plier that provides products or services to the retail electricity consumer. If
11 a retail electricity consumer of an electric company does not request sepa-
12 rate bills, or a consolidated bill from an electricity service supplier as pro-
13 vided in paragraph (c) of this subsection, the electric company shall
14 consolidate the bills for all electricity services into a single statement, and
15 electricity service suppliers shall provide to the electric company the infor-
16 mation necessary to prepare a consolidated statement.

17 “(b) [*The requirement for bill consolidation by an electric company shall*
18 *continue through December 31, 2001, after which time*] The commission may
19 waive the requirement **for bill consolidation by an electric company** if the
20 waiver results in effective billing procedures for retail electricity consumers.

21 “(c) Upon the request of a retail electricity consumer of an electric com-
22 pany, an electricity service supplier shall consolidate the bills for all elec-
23 tricity services into a single statement, and electric utilities and other
24 electricity service suppliers shall provide to the billing electricity service
25 supplier any information necessary to prepare a consolidated statement.

26 “(d) For retail electricity consumers of an electric company, the commis-
27 sion shall adopt by rule provisions relating to the failure of a consumer to
28 make full payment on a consolidated bill. The rules shall address collection
29 of payments, service disconnection and reconnection, and the allocation of
30 costs associated with collection, disconnection and reconnection. A distrib-

1 ution utility shall be solely responsible for actual disconnection and recon-
2 nection.

3

4

“NATURAL GAS PLANTS

5

6 **“SECTION 30. (1) Notwithstanding ORS 469.320, the Energy Facility**
7 **Siting Council may not issue a site certificate for a generating facility**
8 **that produces electric power from fossil fuels, including natural gas,**
9 **petroleum, coal or any form of solid, liquid or gaseous fuel derived**
10 **from such material.**

11 **“(2) Subsection (1) of this section does not apply to a generating**
12 **facility that produces electric power from:**

13 **“(a) Renewable natural gas or biogas subject to continued demon-**
14 **stration of supply contracts that show the purchase of renewable na-**
15 **tural gas or biogas is equal to the amount of gas used; or**

16 **“(b) A synthetic fuel derived exclusively from biomass, including**
17 **but not limited to, grain, whey, potatoes, oilseeds, waste vegetable oil**
18 **or cellulosic biomass.**

19

20

“MISCELLANEOUS

21

22 **“SECTION 31. The unit and section captions used in this 2021 Act**
23 **are provided only for the convenience of the reader and do not become**
24 **part of the statutory law of this state or express any legislative intent**
25 **in the enactment of this 2021 Act.**

26 **“SECTION 32. This 2021 Act takes effect on the 91st day after the**
27 **date on which the 2021 regular session of the Eighty-first Legislative**
28 **Assembly adjourns sine die.”.**

29