

House Bill 2985

Sponsored by Representative HELM (Presession filed.)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes the laws about how the PUC conducts proceedings. (Flesch Readability Score: 72.6).

Modifies provisions relating to the administrative proceedings of the Public Utility Commission.

A BILL FOR AN ACT

1
2 Relating to the Public Utility Commission; creating new provisions; amending ORS 183.315, 183.464,
3 183.471, 469A.120, 469A.445, 756.515, 756.518, 756.558, 756.568, 756.610, 756.990, 757.991, 757.993,
4 757.994, 757.995, 758.020, 758.302, 758.455 and 759.455; and repealing ORS 756.450, 756.512,
5 756.521 and 756.543.

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

7 **SECTION 1.** ORS 183.315 is amended to read:

8 183.315. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452,
9 183.458, 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created
10 pursuant to ORS 199.430, the Department of Revenue, State Accident Insurance Fund Corporation,
11 Department of Consumer and Business Services with respect to its functions under ORS chapters
12 654 and 656, State Board of Parole and Post-Prison Supervision or Psychiatric Security Review
13 Board with respect to its functions under ORS 161.315 to 161.351.

14 (2) This chapter does not apply with respect to actions of the Governor authorized under ORS
15 chapter 240 and ORS 396.125 or actions of the Adjutant General authorized under ORS 396.160 (14).

16 (3) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452, 183.458 and
17 183.460 do not apply to the Employment Appeals Board or the Employment Department.

18 (4) The Employment Department shall be exempt from the provisions of this chapter to the ex-
19 tent that a formal finding of the United States Secretary of Labor is made that such provision con-
20 flicts with the terms of the federal law, acceptance of which by the state is a condition precedent
21 to continued certification by the United States Secretary of Labor of the state's law.

22 (5) The provisions of ORS 183.415 to 183.430, 183.440 to 183.460, 183.470 to 183.485 and 183.490
23 to 183.500 do not apply to orders issued to persons who:

24 (a) Have been committed pursuant to ORS 137.124 to the custody of the Department of Cor-
25 rections or are otherwise confined in a Department of Corrections facility; or

26 (b) Seek to visit an adult in custody confined in a Department of Corrections facility.

27 [(6) ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.460, 183.470 and 183.482 (3) do
28 not apply to the Public Utility Commission. Except as provided in ORS 774.180, judicial review of an
29 order issued by the commission in a contested case may be sought only by a party to the contested
30 case.]

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 [(7)] (6) The provisions of this chapter do not apply to the suspension, cancellation or termi-
 2 nation of an apprenticeship or training agreement under ORS 660.060.

3 [(8)] (7) The provisions of ORS 183.413 to 183.497 do not apply to administrative proceedings
 4 conducted under rules adopted by the Secretary of State under ORS 246.190.

5 **SECTION 2.** ORS 183.464 is amended to read:

6 183.464. (1) Except as otherwise provided in subsections (1) to (4) of this section, unless a hear-
 7 ing officer is authorized or required by law or agency rule to issue a final order, the hearing officer
 8 shall prepare and serve on the agency and all parties to a contested case hearing a proposed order,
 9 including recommended findings of fact and conclusions of law. The proposed order shall become
 10 final after the 30th day following the date of service of the proposed order, unless the agency within
 11 that period issues an amended order.

12 (2) An agency may by rule specify a period of time after which a proposed order will become
 13 final that is different from that specified in subsection (1) of this section.

14 (3) If an agency determines that additional time will be necessary to allow the agency ade-
 15 quately to review a proposed order in a contested case, the agency may extend the time after which
 16 the proposed order will become final by a specified period of time. The agency shall notify the par-
 17 ties to the hearing of the period of extension.

18 (4) Subsections (1) to [(4)] (3) of this section do not apply to [*the Public Utility Commission or*]
 19 the Energy Facility Siting Council.

20 (5) The Governor may exempt any agency or any class of contested case hearings before an
 21 agency from the requirements in whole or part of subsections (1) to [(4)] (3) of this section by
 22 executive order. The executive order shall contain a statement of the reasons for the exemption.

23 **SECTION 3.** ORS 183.471, as amended by section 65, chapter 110, Oregon Laws 2024, is
 24 amended to read:

25 183.471. (1) When an agency issues a final order in a contested case, the agency shall maintain
 26 the final order in a digital format that:

- 27 (a) Identifies the final order by the date it was issued;
- 28 (b) Is suitable for indexing and searching; and
- 29 (c) Preserves the textual attributes of the document, including the manner in which the docu-
 30 ment is paginated and any boldfaced, italicized or underlined writing in the document.

31 (2) The Oregon State Bar may request that an agency provide the Oregon State Bar, or its
 32 designee, with electronic copies of final orders issued by the agency in contested cases. The request
 33 must be in writing. No later than 30 days after receiving the request, the agency, subject to ORS
 34 192.338, 192.345 and 192.355, shall provide the Oregon State Bar, or its designee, with an electronic
 35 copy of all final orders identified in the request.

36 (3) Notwithstanding ORS 192.324, an agency may not charge a fee for the first two requests
 37 submitted under this section in a calendar year. For any subsequent request, an agency may impose
 38 a fee in accordance with ORS 192.324 to reimburse the agency for the actual costs of complying with
 39 the request.

40 (4) For purposes of this section, a final order entered in a contested case by an administrative
 41 law judge under ORS 183.625 (3) is a final order issued by the agency that authorized the adminis-
 42 trative law judge to conduct the hearing.

43 (5) This section does not apply to final orders by default issued under ORS 183.417 (3) or to final
 44 orders issued in contested cases by:

- 45 (a) The Department of Revenue;

- 1 (b) The State Board of Parole and Post-Prison Supervision;
- 2 (c) The Department of Corrections;
- 3 (d) The Employment Relations Board;
- 4 [(e) *The Public Utility Commission of Oregon;*]
- 5 [(f)] (e) The Oregon Health Authority;
- 6 [(g)] (f) The Land Conservation and Development Commission, except for enforcement orders
- 7 under section 3, chapter 110, Oregon Laws 2024;
- 8 [(h)] (g) The Land Use Board of Appeals;
- 9 [(i)] (h) The Division of Child Support of the Department of Justice;
- 10 [(j)] (i) The Department of Transportation, if the final order relates to the suspension, revocation
- 11 or cancellation of identification cards, vehicle registrations, vehicle titles or driving privileges or
- 12 to the assessment of taxes or stipulated settlements in the regulation of vehicle related businesses;
- 13 [(k)] (j) The Employment Department or the Employment Appeals Board, if the final order re-
- 14 lates to benefits as defined in ORS 657.010;
- 15 [(L)] (k) The Employment Department, if the final order relates to an assessment of unemploy-
- 16 ment tax for which a hearing was not held;
- 17 [(m)] (L) The Employment Department, if the final order relates to:
- 18 (A) Benefits, as defined in ORS 657B.010;
- 19 (B) Employer and employee contributions under ORS 657B.150 for which a hearing was not held;
- 20 (C) Employer-offered benefit plans approved under ORS 657B.210 or terminated under ORS
- 21 657B.220; or
- 22 (D) Employer assistance grants under ORS 657B.200; or
- 23 [(n)] (m) The Department of Human Services, if the final order was not related to licensing or
- 24 certification.

25 **SECTION 4.** ORS 756.515 is amended to read:

26 756.515. (1) Whenever the Public Utility Commission believes that any rate may be unreasonable
 27 or unjustly discriminatory, or that any service is unsafe or inadequate, or is not afforded, or that
 28 an investigation of any matter relating to any public utility or telecommunications utility or other
 29 person should be made, or relating to any person to determine if such person is subject to the
 30 commission’s regulatory jurisdiction, the commission may on motion summarily investigate any such
 31 matter, with or without notice.

32 (2) If after making such investigation the commission is satisfied that sufficient grounds exist
 33 to warrant a hearing being ordered upon any such matter, the commission shall furnish any public
 34 utility or telecommunications utility or other person interested a statement notifying it of the mat-
 35 ters under investigation, which statement shall be accompanied by a notice fixing the time and place
 36 for **the** hearing [*upon such matters in the manner provided in ORS 756.512 for notice of complaint*]
 37 **in the manner provided in ORS 183.415.**

38 [(3) *Thereafter proceedings shall be had and conducted in reference to the matters investigated in*
 39 *like manner as though complaint had been filed with the commission relative thereto, and the same*
 40 *orders may be made in reference thereto as if such investigation had been made on complaint.*]

41 **(3) Proceedings under subsection (2) of this section shall be conducted as provided in ORS**
 42 **183.413 to 183.470 and 756.500 to 756.610.**

43 (4) The commission may, after making an investigation on the commission’s motion, but without
 44 notice or hearing, make such findings and orders as the commission deems justified or required by
 45 the results of such investigation. Except as provided in subsections (5) and (6) of this section such

1 findings and orders have the same legal force and effect as any other finding or order of the com-
 2 mission.

3 (5) In addition to any other remedy provided by law, any party aggrieved by an order entered
 4 pursuant to subsection (4) of this section may request the commission to hold a hearing to determine
 5 whether the order should continue in effect. Any such request for hearing shall be submitted to the
 6 commission not later than 15 days after the date of service of the order, and the commission shall
 7 hold the hearing not later than 60 days after receipt of such a request for hearing.

8 (6) If the commission receives a request for hearing pursuant to subsection (5) of this section,
 9 the order is suspended pending the outcome of the hearing unless the commission finds that the
 10 order is necessary for the public health or safety or to prevent the dissipation of assets of a business
 11 or activity subject to the commission's regulatory jurisdiction.

12 **SECTION 5.** ORS 756.518 is amended to read:

13 756.518. *[(1) Except as otherwise provided]* The provisions of ORS **183.413 to 183.470 and** 756.500
 14 to 756.610 apply to and govern all hearings upon any matter or issue coming before the Public
 15 Utility Commission under any statute administered by the commission, whether instituted on the
 16 application, petition or complaint of others or initiated by the commission, together with the orders
 17 of the commission therein and the review thereof in the courts.

18 *[(2) Upon request of any party in a major proceeding before the commission, the commission shall*
 19 *afford the parties an opportunity for oral argument before a final order is issued. There must be a*
 20 *quorum of the commission present at the time the oral argument is made. The commission shall adopt*
 21 *rules that establish criteria for determining which proceedings give rise to a right to oral argument*
 22 *under this subsection. In addition, the commission may adopt rules governing participation in oral ar-*
 23 *guments, cross-examination of witnesses, draft or proposed orders or such other matters as the com-*
 24 *mission deems appropriate.]*

25 **SECTION 6.** ORS 756.558 is amended to read:

26 756.558. (1) At the conclusion of the taking of evidence **in a proceeding held by the Public**
 27 **Utility Commission**, the *[Public Utility]* commission shall declare the taking of evidence concluded.
 28 Thereafter no additional evidence shall be received except upon the order of the commission and a
 29 reasonable opportunity of the parties to examine any witnesses with reference to the additional ev-
 30 idence and otherwise rebut and meet such additional evidence.

31 *[(2) After the completion of the taking of evidence, and within a reasonable time, the commission*
 32 *shall prepare and enter findings of fact and conclusions of law upon the evidence received in the matter*
 33 *and shall make and enter the order of the commission thereon. The findings of fact and conclusions*
 34 *of law may be embodied in the same instrument with the order or may be embodied in a separate in-*
 35 *strument. The findings of fact, conclusions of law and order thereon shall be signed by the commission.*
 36 *The order shall state the date it becomes effective. A copy of the findings of fact and conclusions of law*
 37 *and a copy of the order shall, forthwith upon the entry of the same, be served upon each of the parties*
 38 *to the proceeding.]*

39 *[(3)]* (2) Upon application of any person, the commission shall furnish certified copies, under the
 40 seal of any order made by the commission.

41 **SECTION 7.** ORS 756.568 is amended to read:

42 756.568. The Public Utility Commission may at any time, upon notice to the public utility or
 43 telecommunications utility and after opportunity to be heard as provided in ORS **183.413 to 183.470**
 44 **and** 756.500 to 756.610, rescind, suspend or amend any order made by the commission. *[Copies of the*
 45 *same shall be served and take effect as provided in ORS 756.558 for original orders.]*

SECTION 8. ORS 756.610 is amended to read:

756.610. (1)[(a)] Except as provided in [subsections (2) and (3)] **subsection (2)** of this section, final orders of the Public Utility Commission are subject to judicial review as orders under the provisions of ORS 183.480 to 183.497.

[(b) Binding rulings issued under ORS 756.450 are subject to review in the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in contested cases.]

[(2) ORS 183.482 (3) does not apply to judicial review of an order of the Public Utility Commission. At any time after filing a petition for judicial review of a final order of the commission in a contested case, the petitioner may apply to the Court of Appeals for a stay of the order until the final disposition of the appeal. The court may grant a stay for cause shown. As a condition of granting a stay, the court may require a bond or other security, or impose such other conditions as the court deems appropriate. A stay may be granted only after notice to the commission and opportunity for hearing. Any bond required by the court must be executed in favor of the commission for the benefit of interested persons, and may be enforced by the commission or by any interested person.]

[(3)] **(2)** An order of the Public Utility Commission related to the petition for a certificate of public convenience and necessity under ORS 758.015, where the petitioner also seeks approval from the Energy Facility Siting Council for the proposed transmission line, is subject to judicial review as provided in ORS 758.017.

SECTION 9. ORS 756.990 is amended to read:

756.990. (1) Any public utility or telecommunications utility that fails to comply with an order or subpoena issued pursuant to ORS 756.090 shall forfeit, for each day it so fails, a sum of not less than \$50 nor more than \$500.

(2) Except where a penalty is otherwise provided by law, any public utility, telecommunications utility or other person subject to the jurisdiction of the Public Utility Commission shall forfeit a sum of not less than \$100 nor more than \$10,000 for each time that the person:

- (a) Violates any statute administered by the commission;
- (b) Does any act prohibited, or fails to perform any duty enjoined upon the person;
- (c) Fails to obey any lawful requirement or order made by the commission; or
- (d) Fails to obey any judgment made by any court upon the application of the commission.

(3) Violation of ORS 756.115 is a Class A violation.

(4) Violation of ORS 756.125 is a Class C misdemeanor.

[(5) Violation of ORS 756.543 (1) is a Class A misdemeanor.]

[(6)] **(5)** In construing and enforcing this section, the act, omission or failure of any officer, agent or other person acting for or employed by any public utility, telecommunications utility or other person subject to the jurisdiction of the commission acting within the scope of the person's employment shall in every case be deemed to be the act, omission or failure of such public utility, telecommunications utility or other person subject to the jurisdiction of the commission. With respect to any violation of any statute administered by the commission, any penalty provision applying to such a violation by a public utility or telecommunications utility shall apply to such a violation by any other person.

[(7)] **(6)** Except when provided by law that a penalty, forfeiture or other sum be paid to the aggrieved party, or as provided in ORS 757.994 (1), all penalties or forfeitures or other sums collected or paid under the provisions of any law administered by the commission shall be paid into the General Fund and credited to the Public Utility Commission Account.

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

1 469A.120. (1) Except as provided in ORS 469A.180 (5), all prudently incurred costs associated
 2 with complying with ORS 469A.005 to 469A.210 are recoverable in the rates of an electric company,
 3 including interconnection costs, costs associated with using physical or financial assets to integrate,
 4 firm or shape renewable energy sources on a firm annual basis to meet retail electricity needs,
 5 above-market costs and other costs associated with transmission and delivery of qualifying electric-
 6 ity to retail electricity consumers.

7 (2)(a) The Public Utility Commission shall establish an automatic adjustment clause as defined
 8 in ORS 757.210 or another method that allows timely recovery of costs prudently incurred by an
 9 electric company to construct or otherwise acquire facilities that generate electricity from
 10 renewable energy sources, costs related to associated electricity transmission and costs related to
 11 associated energy storage.

12 (b) Notwithstanding any other provision of law, upon the request of any interested person the
 13 commission shall conduct a proceeding to establish the terms of the automatic adjustment clause
 14 or other method for timely recovery of costs. The commission shall provide parties to the proceeding
 15 with the procedural rights described in ORS **183.413 to 183.470 and** 756.500 to 756.610, including but
 16 not limited to the opportunity to develop an evidentiary record, conduct discovery, introduce evi-
 17 dence, conduct cross-examination and submit written briefs and oral argument. The commission shall
 18 issue a written order with findings on the evidentiary record developed in the proceeding.

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

26 (b) Notwithstanding any other provision of law, upon the request of any interested person the
 27 commission shall conduct a proceeding to determine whether to approve a proposed change in rates
 28 under the automatic adjustment clause or other method for timely recovery of costs. The commission
 29 shall provide parties to the proceeding with the procedural rights described in ORS **183.413 to**
 30 **183.470 and** 756.500 to 756.610, including but not limited to the opportunity to develop an
 31 evidentiary record, conduct discovery, introduce evidence, conduct cross-examination and submit
 32 written briefs and oral argument. The commission shall issue a written order with findings on the
 33 evidentiary record developed in the proceeding.

34 (c) A filing made under this subsection is subject to the commission's authority under ORS
 35 757.215 to suspend a rate, or schedule of rates, for investigation.

36 **SECTION 11.** ORS 469A.445 is amended to read:

37 469A.445. (1) An electric company or an organization that represents broad customer interests
 38 and that has a written agreement with an electric company pursuant to ORS 757.072 may request
 39 that the Public Utility Commission open an investigation to provide accounting for investments
 40 made, costs incurred or forecasted costs estimated by the electric company for the purpose of com-
 41 pliance with ORS 469A.400 to 469A.475. In making a request under this section, the petitioner shall
 42 provide information regarding the investments or costs sufficient to determine whether the invest-
 43 ments or costs contribute to compliance with ORS 469A.400 to 469A.475.

44 (2)(a) The commission shall provide parties to the proceeding with the procedural rights de-
 45 scribed in ORS **183.413 to 183.470 and** 756.500 to 756.610, including the opportunity to develop an

1 evidentiary record, conduct discovery, introduce evidence, conduct cross-examination and submit
 2 written briefs and oral arguments.

3 (b) The petitioner shall have the burden of showing, by a preponderance of the evidence, that
 4 the investment or cost contributes to compliance with ORS 469A.400 to 469A.475.

5 (c) The commission shall issue a written order with findings on the evidentiary record develop-
 6 ment in the proceeding.

7 (d) Except as provided under ORS 756.610, a determination by the commission that an invest-
 8 ment or cost contributes to compliance with ORS 469A.400 to 469A.475 is final and may not be re-
 9 examined.

10 (3) Upon determining that an investment or cost of an electric company contributes to compli-
 11 ance with ORS 469A.400 to 469A.475, the commission shall determine the actual or anticipated rate
 12 impact for the investment or cost on the same basis and with the same treatment for similarly sit-
 13 uated investments or costs in the most recently approved general rate case or other relevant rate
 14 making proceeding. The commission shall use the actual or anticipated rate impact of each invest-
 15 ment or cost to calculate the cumulative rate impact and shall:

16 (a) Cumulatively calculate the rate impact caused by all investments or costs that have been the
 17 subject of a proceeding pursuant to this section, and must be included in calculation for the time
 18 period that the investment or cost would affect rates, as adjusted by any change in net costs ex-
 19 pected or foreseeable at the time of inclusion;

20 (b) Make any adjustments to the cumulative rate impact if the initial rate treatment was cal-
 21 culated on the basis of forecasted rate impact;

22 (c) Allow parties to the proceeding to propose alternative rate or accounting treatment of the
 23 investment or cost to limit the potential rate impact of the investment or cost; and

24 (d) Utilize cost allocation methodologies for attributing rate impacts of investments or costs for
 25 multistate electric companies.

26 (4) Upon a determination that the actual or anticipated cumulative rate impact calculated under
 27 subsection (3) of this section exceeds six percent of the annual revenue requirement for a year, the
 28 commission shall provide an exemption from further compliance with the requirements of ORS
 29 469A.400 to 469A.475. An exemption must be:

30 (a) Narrowly tailored to otherwise give full force and effect to the requirements of ORS 469A.400
 31 to 469A.475 that can be complied with without regard to the cumulative rate impact; and

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

34 (5) A determination by the commission made under this section shall have no effect on and may
 35 not be used as collateral or presumptive evidence in any other proceeding that determines rate re-
 36 covery of the investment or cost, including in a general rate case or in a proceeding under ORS
 37 469A.120.

38 (6) The commission may, on its own motion pursuant to ORS 756.515, open a proceeding under
 39 this section and direct an electric company to make a filing described under subsection (1) of this
 40 section.

41 **SECTION 12.** ORS 757.991 is amended to read:

42 757.991. (1)(a) Any person or municipality, or any agent, lessee, trustee or receiver of the person
 43 or municipality, engaged in the management, operation, ownership or control of facilities for the
 44 transmission or distribution of gas by pipeline, or of facilities for the storage or treatment of gas to
 45 be transmitted or distributed by pipeline, that fails to comply with ORS 757.039, or fails to comply

1 with any order, rule or regulation of the Public Utility Commission made pursuant to ORS 757.039,
 2 is subject to a civil penalty established by rule by the commission.

3 (b) The civil penalty amount for a violation or series of violations described in this section may
 4 not exceed the administrative civil penalty amount set forth in 49 C.F.R. 190.223 for a violation or
 5 series of violations of the applicable federal law described therein.

6 (2) Notwithstanding ORS [183.315 (6),] 183.745 (7)(d) [and 756.500 to 756.610], civil penalties under
 7 this section must be imposed by the commission as provided in ORS 183.745.

8 (3) Civil penalties collected under this section must be paid into the General Fund and credited
 9 to the Public Utility Commission Account as described in ORS 756.990 [(7)] (6).

10 **SECTION 13.** ORS 757.993 is amended to read:

11 757.993. (1) Except as provided in subsection (2) of this section and in addition to all other
 12 penalties provided by law, every person who violates or who procures, aids or abets in the violation
 13 of any rule of the Oregon Utility Notification Center shall incur a penalty of not more than \$1,000
 14 for the first violation and not more than \$5,000 for each subsequent violation.

15 (2) In addition to all other penalties provided by law, every person who intentionally violates
 16 or who intentionally procures, aids or abets in the violation of any rule of the Oregon Utility No-
 17 tification Center shall incur a penalty of not more than \$5,000 for the first violation and not more
 18 than \$10,000 for each subsequent violation.

19 (3) Each violation of any rule of the Oregon Utility Notification Center shall be a separate of-
 20 fense. In the case of a continuing violation, each day that the violation continues shall constitute
 21 a separate violation.

22 (4) Penalties under this section shall not be imposed except by order following complaint as
 23 provided in ORS **183.413 to 183.470 and** 756.500 to 756.610. A complaint must be filed within two
 24 years following the date of the violation.

25 (5) The Public Utility Commission may reduce any penalty provided in this section on such
 26 terms as the commission considers proper if:

27 (a) The defendant admits to the violation or violations alleged in the complaint and makes a
 28 timely request for reduction of the penalty; or

29 (b) The defendant submits to the commission a written request for reduction of the penalty
 30 within 15 days from the date of the penalty order.

31 (6) If the amount of the penalty is not paid to the commission, the Attorney General, at the re-
 32 quest of the commission, shall bring an action in the name of the State of Oregon in the Circuit
 33 Court for Marion County to recover the penalty. The action shall not be commenced until after the
 34 time has expired for an appeal from the findings, conclusions and order of the commission.

35 (7) Notwithstanding any other provision of law, the commission shall pay penalties recovered
 36 under this section to the Oregon Utility Notification Center.

37 (8) The commission shall not seek penalties under this section except in response to a complaint
 38 alleging a violation of a rule or rules adopted by the Oregon Utility Notification Center. The
 39 commission may investigate any such complaint, and the commission shall have sole discretion to
 40 seek penalties under this section.

41 **SECTION 14.** ORS 757.994 is amended to read:

42 757.994. (1) In addition to all other penalties provided by law, a person who violates any statute,
 43 rule or order of the Public Utility Commission related to water utilities is subject to a civil penalty
 44 of not more than \$500 for each violation. The commission may require that penalties imposed under
 45 this section be used for the benefit of the customers of water utilities affected by the violation.

1 (2) Notwithstanding ORS 183.745 (7)(d)[, *183.315 (6) and 756.500 to 756.610*], civil penalties under
2 this section must be imposed by the commission as provided in ORS 183.745.

3 **SECTION 15.** ORS 757.995 is amended to read:

4 757.995. (1) In addition to all other penalties provided by law, violation of ORS 757.963 or a rule
5 adopted pursuant to ORS 757.963 is subject to a civil penalty not to exceed \$10,000.

6 (2) Notwithstanding ORS [*183.315 (6),*] 183.745 (7)(d) [*and 756.500 to 756.610*], civil penalties under
7 this section must be imposed by the Public Utility Commission as provided in ORS 183.745.

8 (3) Civil penalties collected under this section must be paid into the General Fund and credited
9 to the Public Utility Commission Account as described in ORS 756.990 [(7)] (6).

10 **SECTION 16.** ORS 758.020 is amended to read:

11 758.020. (1) The county court, board of county commissioners or the Department of Transporta-
12 tion, when designating the location where poles or other aboveground facilities described in ORS
13 758.010 may be placed on a road or highway which fronts on the ocean or on a river or other body
14 of water and the water frontage of the highway is being developed or maintained for its scenic or
15 recreational value, may require all lines to occupy the opposite side of the right of way, if such joint
16 occupancy can be maintained without undue impairment of service or damage to public life and
17 property.

18 (2) If the owners of such lines are unable to agree on the terms and conditions of joint occu-
19 pancy, such department, court or board shall request the Public Utility Commission to determine the
20 practicability of such joint occupancy and the effect thereof upon adequate and safe service by the
21 prospective joint occupants, the location of the lines, and, if found to be practicable, to fix and
22 prescribe the terms and conditions pursuant to which joint occupancy shall be accomplished. Before
23 making or entering an order, such commission shall hold a hearing and make findings in accordance
24 with ORS **183.413 to 183.470 and** 756.500 to 756.610. The order of the commission is subject to ju-
25 dicial review in the manner provided by ORS 756.610. In fixing terms and conditions pursuant to
26 which joint occupancy shall be accomplished, the Public Utility Commission shall require the in-
27 stallation by each occupant of standards, devices and equipment reasonably necessary to protect the
28 equipment of the other occupants from damage and the public from injury arising from such joint
29 occupancy.

30 (3) The right of any public utility, telecommunications utility or transmission company to con-
31 struct, maintain and operate on a public highway poles or fixtures is contingent on compliance with
32 reasonable requirements established by the Department of Transportation, county courts, boards of
33 county commissioners or the Public Utility Commission under authority of this section and ORS
34 758.010. Such rights are likewise contingent and conditioned on all facilities, equipment and instal-
35 lations being constructed and maintained in strict conformance with modern and approved stan-
36 dards.

37 **SECTION 17.** ORS 758.302 is amended to read:

38 758.302. (1) A water utility may apply to the Public Utility Commission for an order designating
39 an area as an exclusive service territory for the water utility. The commission may designate as an
40 exclusive service territory any area that on the date of application is being served in an adequate
41 manner by the applicant and is not being served by any other water provider.

42 (2) In addition to the area described in subsection (1) of this section, a private water utility may
43 apply for inclusion in an exclusive service territory designated for the private water utility any area
44 adjacent to the area described in subsection (1) of this section if:

45 (a) The applicant plans to extend service to the adjacent area in the six months immediately

1 following the date of the application;

2 (b) The adjacent area is not being served by any other water provider; and

3 (c) The applicant demonstrates that it is more economical and feasible to provide services to the
4 adjacent area by an extension of the applicant's existing facilities than by an extension of the fa-
5 cilities of another water provider or community water supply system.

6 (3) An application under this section must be made on forms provided by the commission, con-
7 tain all information required by commission rule and include a copy of the notice of the filing to
8 be given to all customers of record. The applicant shall, within 30 days after filing an application
9 under this section, give notice of the filing in the manner provided by subsection (5) of this section.

10 (4) Within 30 days after the filing of an application under this section, the commission shall give
11 notice of the filing to all other water providers in the areas adjacent to the area described in the
12 application.

13 (5)(a) A notice given pursuant to this subsection shall be given:

14 (A) By mail or electronic mail to all customers of record of the water utility in the area de-
15 scribed in the application;

16 (B) By press release to news media local to the area described in the application; and

17 (C) By publication in one or more newspapers of general circulation in the area described in the
18 application at least once weekly for two successive weeks.

19 (b) The notice must describe the area of the proposed exclusive service territory and the general
20 rate impact to existing customers.

21 (6) If the commission, on its own motion, chooses, or if any customer or customers of the water
22 utility request a hearing on the application within 30 days of the date notice is given under sub-
23 section (3) of this section, the commission shall hold a hearing. The commission shall give notice
24 of the time and place of the hearing in the manner provided by subsection (5) of this section. If the
25 hearing is held by reason of a customer's request, the commission shall give notice of the hearing
26 within 30 days after the request is received by the commission. The hearing shall be held at a place
27 within or conveniently accessible to the area described in the application.

28 (7) The commission may make such investigations relating to an application under this section
29 as the commission deems proper, including physical examination and evaluation of the facilities and
30 systems of the applicant, estimates of their operating costs and revenues, and studies of such other
31 information as the commission deems relevant.

32 (8) The commission shall enter an order granting or denying an application for an exclusive
33 service territory under this section. The order must contain findings of fact supporting the order.
34 The commission may grant an application subject to such conditions and limitations as the com-
35 mission deems appropriate.

36 (9) ORS **183.413 to 183.470 and** 756.500 to 756.610 govern the conduct of hearings under this
37 section and any appeal of the commission's order.

38 (10) If the commission considers competing applications under subsection (2) of this section to
39 extend exclusive service to the same area, there is a disputable presumption that applicants have
40 an equal ability to extend, improve, enlarge, build, operate and maintain existing or proposed facil-
41 ities.

42 **SECTION 18.** ORS 758.455 is amended to read:

43 758.455. (1) The Public Utility Commission may make such investigations respecting a contract
44 or an application for the allocation of territory as the commission deems proper including the
45 physical examinations and evaluations of the facilities and systems of the parties to the contract,

1 estimates of their operating costs and revenues and studies of such other information as the com-
 2 mission deems pertinent.

3 (2) Insofar as applicable and consistent herewith, the provisions of ORS **183.413 to 183.470 and**
 4 **756.500 to 756.610** shall govern the conduct of hearings.

5 (3) In considering competing applications to serve the same territory, there shall be a disputable
 6 presumption that applicants have an equal ability to extend, improve, enlarge, build, operate and
 7 maintain existing or proposed facilities.

8 **SECTION 19.** ORS 759.455 is amended to read:

9 759.455. (1) Unless exempt from compliance under section 251(f) of the federal Telecommuni-
 10 cations Act of 1996 (47 U.S.C. 251(f)), a telecommunications utility shall not:

11 (a) Discriminate against another provider of retail telecommunications services by unreasonably
 12 refusing or delaying access to the telecommunications utility's local exchange services.

13 (b) Discriminate against another provider of retail telecommunications services by providing
 14 access to required facilities on terms or conditions less favorable than those the telecommunications
 15 utility provides to itself and its affiliates. A telecommunications facility, feature or function is a
 16 required facility if:

17 (A) Access to a proprietary facility, feature or function is necessary; and

18 (B) Failure to provide access to the facility, feature or function would impair a telecommuni-
 19 cations carrier seeking access from providing the services the carrier is seeking to provide.

20 (c) Unreasonably degrade or impair the speed, quality or efficiency of access or any other ser-
 21 vice, product or facility provided to another provider of telecommunications services.

22 (d) Fail to disclose in a timely and uniform manner, upon reasonable request and pursuant to a
 23 protective agreement concerning proprietary information, all information reasonably necessary for
 24 the design of network interface equipment, services or software that will meet the specifications of
 25 the telecommunications utility's local exchange network.

26 (e) Unreasonably refuse or delay interconnections or provide inferior interconnections to an-
 27 other provider of telecommunications services.

28 (f) Use basic exchange services rates, directly or indirectly, to subsidize or offset the cost of
 29 other products or services offered by the telecommunications utility.

30 (g) Discriminate in favor of itself or an affiliate in the provision and pricing of, or extension of
 31 credit for, any telephone service.

32 (h) Fail to provide a service, product or facility in accordance with applicable contracts, and
 33 tariffs and rules of the Public Utility Commission.

34 (i) Impose unreasonable or discriminatory restrictions on network elements or the resale of its
 35 services, except that:

36 (A) The telecommunications utility may require that residential service not be resold as a dif-
 37 ferent class of service; and

38 (B) The commission may prohibit the resale of services the commission has approved for pro-
 39 vision to a not-for-profit entity at rates below those offered to the general public.

40 (j) Provide telephone service to a person acting as a telecommunications provider if the com-
 41 mission has ordered the telecommunications utility to discontinue telephone service to the person.

42 (2) A complaint alleging a violation of subsection (1) of this section shall be heard by the Public
 43 Utility Commission or, at the commission's discretion, by an Administrative Law Judge designated
 44 by the commission. A hearing under this subsection shall be conducted in an expedited manner
 45 consistent with the following:

1 (a) The complaint shall be served upon the telecommunications carrier and filed with the com-
 2 mission.

3 (b) An answer or other responsive pleading to the complaint shall be filed with the commission
 4 not more than 10 days after receipt of the complaint. Copies of the answer or responsive pleading
 5 shall be served upon the complainant and upon the commission.

6 (c) A prehearing conference shall be held not later than 15 days after the complaint is filed.
 7 Hearing on the complaint shall commence not later than 30 days after the complaint is filed. Within
 8 45 days after the complaint is filed, the commission shall either prepare a final decision or approve
 9 as final the decision of the Administrative Law Judge. The final decision shall be issued as an order
 10 of the commission [*in the manner provided under ORS 756.558*].

11 (3) If the commission or Administrative Law Judge finds that a violation of this section has oc-
 12 curred, the commission shall, within five business days, order the telecommunications utility to
 13 remedy the violation within a specified period of time. The commission may prescribe specific action
 14 to be taken by the utility, including but not limited to submitting a plan for preventing future vio-
 15 lations. If the violation continues beyond the time period specified in the commission's order, the
 16 commission on its own motion or upon the motion of an interested party may seek penalties as
 17 provided in ORS 759.990 or otherwise may seek enforcement under ORS 756.160 or 756.180, or both.

18 (4) Total annual penalties imposed on a telecommunications utility under this section and ORS
 19 759.450 shall not exceed two percent of the utility's gross intrastate revenue from the sale of tele-
 20 communications services for the year preceding the year in which the violation occurred.

21 (5) An order of the commission under this section is subject to judicial review in the manner
 22 provided by ORS 756.610.

23 (6) The Court of Appeals shall give proceedings brought before the court under this section
 24 priority over all other matters before the court.

25 **SECTION 20. ORS 756.450, 756.512, 756.521 and 756.543 are repealed.**

26 **SECTION 21. The amendments to ORS 183.315, 183.464, 183.471, 469A.120, 469A.445,
 27 756.515, 756.518, 756.558, 756.568, 756.610, 756.990, 757.991, 757.993, 757.994, 757.995, 758.020,
 28 758.302, 758.455 and 759.455 by sections 1 to 19 of this 2025 Act and the repeal of ORS 756.450,
 29 756.512, 756.521 and 756.543 by section 20 of this 2025 Act apply to hearings and proceedings
 30 held by the Public Utility Commission and orders issued by the commission on or after the
 31 effective date of this 2025 Act.**

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