

House Bill 3540

Sponsored by Representative LEVY B; Representative BOICE

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: Provides for a single limit on the cost for a power company to comply with both an RPS and the clean energy targets. (Flesch Readability Score: 62.1).

Provides for a single limit on the cost of compliance for an electric utility that is required to comply with a renewable portfolio standard and the statutory clean energy targets. Applies to compliance years beginning on or after the effective date of the Act.

A BILL FOR AN ACT

1
2 Relating to the costs of compliance with electric energy standards for electric utilities; creating new
3 provisions; and amending ORS 469A.100, 469A.180 and 469A.445.

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

5 **SECTION 1.** ORS 469A.100 is amended to read:

6 469A.100. (1)(a) **An electric utility that is subject to a renewable portfolio standard and**
7 **the requirements in ORS 469A.400 to 469A.475 is not required to comply with the renewable**
8 **portfolio standard during a compliance year to the extent that the cost of compliance with**
9 **the renewable portfolio standard and ORS 469A.400 to 469A.475 exceeds the amount described**
10 **under ORS 469A.445.**

11 (b) [*Electric utilities are*] **An electric utility that is subject to a renewable portfolio standard**
12 **and is not subject to the requirements in ORS 469A.400 to 469A.475 is not required to comply**
13 **with [a] the renewable portfolio standard during a compliance year to the extent that the incre-**
14 **mental cost of compliance, the cost of unbundled renewable energy certificates and the cost of al-**
15 **ternative compliance payments under ORS 469A.180 exceeds four percent of the electric utility's**
16 **annual revenue requirement for the compliance year as determined under subsections (2) to (6)**
17 **of this section.**

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

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

29 (a) The operating expenses of the electric utility during the compliance year, including depre-

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 ciation and taxes; and

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

5 (4) For the purposes of this section, the incremental cost of compliance with a renewable port-
6 folio standard is the difference between the levelized annual delivered cost of the qualifying elec-
7 tricity and the levelized annual delivered cost of an equivalent amount of reasonably available
8 electricity that is not qualifying electricity. For the purpose of this subsection, the commission or
9 the governing body of a consumer-owned utility shall use the net present value of delivered cost,
10 including:

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

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

14 (c) Transmission and substation costs;

15 (d) Load following and ancillary services costs; and

16 (e) Costs associated with using other assets, physical or financial, to integrate, firm or shape
17 renewable energy sources on a firm annual basis to meet retail electricity needs.

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

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

31 **SECTION 2.** ORS 469A.180 is amended to read:

32 469A.180. (1) The Public Utility Commission shall establish an alternative compliance rate for
33 each compliance year for each electric company or electricity service supplier that is subject to a
34 renewable portfolio standard. The rate shall be expressed in dollars per megawatt-hour.

35 (2) The commission shall establish an alternative compliance rate based on the cost of qualifying
36 electricity, contracts that the electric company or electricity service supplier has acquired for future
37 delivery of qualifying electricity and the number of unbundled renewable energy certificates that the
38 company or supplier anticipates using in the compliance year to meet the renewable portfolio
39 standard applicable to the company or supplier. The commission shall also consider any determi-
40 nations made under ORS 469A.170 in reviewing the compliance report made by the electric company
41 or electricity service supplier for the previous compliance year. In establishing an alternative com-
42 pliance rate, the commission shall set the rate to provide adequate incentive for the electric com-
43 pany or electricity service supplier to purchase or generate qualifying electricity in lieu of using
44 alternative compliance payments to meet the renewable portfolio standard applicable to the company
45 or supplier.

1 (3) An electric company or electricity service supplier may elect to use, or may be required by
 2 the commission to use, alternative compliance payments to comply with the renewable portfolio
 3 standard applicable to the company or supplier. Any election by an electric company or electricity
 4 service supplier to use alternative compliance payments is subject to review by the commission un-
 5 der ORS 469A.170. An electric company or electricity service supplier may not be required to make
 6 alternative compliance payments that would result in the company or supplier exceeding the cost
 7 limitation established under ORS 469A.100 **or 469A.445.**

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

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

20 (6) The commission shall require electricity service suppliers to establish holding accounts and
 21 make payments to those accounts on a substantially similar basis as provided for electric companies.
 22 The commission must approve expenditures by an electricity service supplier from a holding account
 23 established under this subsection. The commission may approve expenditures only for energy con-
 24 servation programs for customers of the electricity service supplier.

25 **SECTION 3.** ORS 469A.445 is amended to read:

26 469A.445. (1) An electric company or an organization that represents broad customer interests
 27 and that has a written agreement with an electric company pursuant to ORS 757.072 may request
 28 that the Public Utility Commission open an investigation to provide accounting for investments
 29 made, costs incurred or forecasted costs estimated by the electric company for the purpose of com-
 30 pliance with **any applicable renewable portfolio standard described in ORS 469A.052 or**
 31 **469A.055 or established under ORS 469A.065 and 469A.400 to 469A.475.** In making a request under
 32 this section, the petitioner shall provide information regarding the investments or costs sufficient
 33 to determine whether the investments or costs contribute to compliance with **an applicable**
 34 **renewable portfolio standard and ORS 469A.400 to 469A.475.**

35 (2)(a) The commission shall provide parties to the proceeding with the procedural rights de-
 36 scribed in ORS 756.500 to 756.610, including the opportunity to develop an evidentiary record, con-
 37 duct discovery, introduce evidence, conduct cross-examination and submit written briefs and oral
 38 arguments.

39 (b) The petitioner shall have the burden of showing, by a preponderance of the evidence, that
 40 the investment or cost contributes to compliance with **an applicable portfolio standard and ORS**
 41 **469A.400 to 469A.475.**

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

44 (d) Except as provided under ORS 756.610, a determination by the commission that an invest-
 45 ment or cost contributes to compliance with **an applicable portfolio standard and ORS 469A.400**

1 to 469A.475 is final and may not be reexamined.

2 (3) Upon determining that an investment or cost of an electric company contributes to compli-
3 ance with **an applicable portfolio standard and** ORS 469A.400 to 469A.475, the commission shall
4 determine the actual or anticipated rate impact for the investment or cost on the same basis and
5 with the same treatment for similarly situated investments or costs in the most recently approved
6 general rate case or other relevant rate making proceeding. The commission shall use the actual
7 or anticipated rate impact of each investment or cost to calculate the cumulative rate impact and
8 shall:

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

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

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

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

19 (4) Upon a determination that the actual or anticipated cumulative rate impact calculated under
20 subsection (3) of this section exceeds six percent of the annual revenue requirement for a year, the
21 commission shall provide an exemption from further compliance with the **applicable renewable**
22 **portfolio standard and** requirements of ORS 469A.400 to 469A.475. An exemption must be:

23 (a) Narrowly tailored to otherwise give full force and effect to the **applicable renewable port-**
24 **folio standard and** requirements of ORS 469A.400 to 469A.475 that can be complied with without
25 regard to the cumulative rate impact; and

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

28 (5) A determination by the commission made under this section shall have no effect on and may
29 not be used as collateral or presumptive evidence in any other proceeding that determines rate re-
30 recovery of the investment or cost, including in a general rate case or in a proceeding under ORS
31 469A.120.

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

35 **SECTION 4. The amendments to ORS 469A.100, 469A.180 and 469A.445 by sections 1 to 3**
36 **of this 2025 Act apply to compliance years beginning on or after the effective date of this 2025**
37 **Act.**

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