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On Behalf Of: NewSun Energy
Committee: House Committee On Judiciary
Measure, Appointment or Topic: HB3666

3/20/2025

House Bill 3666 – Safety Certification Bill

House Committee on Judiciary

Dear Chair Kropf, Vice Chair Chotzen, Vice Chair Wallan and Members of the House Committee on Judiciary:

This letter is to oppose HB 3666, which we believe comprises a unique danger to the state of Oregon, its economy, and its citizens.

The limited record and investigative effort – and extremely capacity of the legislature on a matter such as this – which bears the weight of decades of consequences, matters of life and death importance to Oregonians, and generational impacts to the Oregon economy – are completely inconsistent with the gravity of this matter.

Proper examination and analysis of the risks to the state, financial consequences, and the litany of issues affecting tens of billions of dollars of the state’s future economy deserve years of expert financial, administrative, and technical analysis before to properly quantify the dangers and harms and scale of economic consequences. None of which has occurred here.

The Oregon Public Utility Commission (OPUC) cannot be presumed to be competent, sufficiently resourced, nor otherwise adequate to manage the scope and gravity of this matter. Indeed, the opposite should be presumed.

The death, destruction, dismay of recent years should give the legislature and citizens great pause. These horrors exist in the shadow of the prior decades of OPUC “regulation” – and utilities sense of impunity from their regulator.

Oregon should not give the “cure” to this problem to the same regulator and regulated relationship and construct that led Oregon into the current situation. But rather, consider the history and harm as part of the evidence of the reform and broken-ness of this regulator -- which is much closer to a rubber stamp than a serious regulator of utility outcomes and protector against abuses.

The OPUC’s recent history shows a culture of excessive deference to the utilities it exists to protect the public from. The OPUC routinely omits major legal standards from its decisions and has asserted in numerous contexts and in court repeatedly that many of its decisions are outside the ability of courts to review them – even while writing decisions that wholly omit major substantive issues, entire laws of direct relevance.

The history of recent failures includes a spectacular lack of successful progress or implementation of HB 2021, clearly frustrating and impeding the legislative mandate to “ensure rapid reduction of emissions” by the utilities it regulates.

Their deference to these utilities they exist to protect the public from makes their role in this proposed new context fundamentally dangerous – particularly in terms of the

relief from consequences such a process and certification would avail them of. The OPUC cannot be trusted with this role. If it is to be asked to engage in this role, the standards and clarity of obligations must be so express and prescriptive as to prevent any potential for subversion of intended outcomes through agency implementation, non-implementation, and deference to the regulated – else the same failures of HB 2021, Community Solar, and many other matters entrusted to the OPUC meet the same fate. Except here life and death is on the line.

(We are nonetheless sympathetic to electric cooperatives needing assistance on this general front, but they are not OPUC jurisdictional – nor do they suffer from the same profit biases that pervert investor owned utilities biases away from system maintenance.)

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