

April 30, 2025

## **Position on Bills at 2025 Session of Oregon Legislature:**

### **HB 3546: Support, but it should have been improved**



The Consolidated Oregon Indivisible Network (COIN) is a coalition of over 50 local Indivisible groups throughout Oregon that cooperate and amplify their joint efforts to advance important federal and state legislation and engage with elected officials to promote causes for the benefit of all Oregonians.

COIN supports HB 3546, which would require the Oregon Public Utility Commission (OPUC) to create a rate classification for certain large energy use facilities and require regulated utilities to execute contracts with such facilities with provisions intended to protect other ratepayers from increased costs to the utility that the large energy use facilities do not cover.

While this is a laudable goal, HB 3546 as introduced had several problems. These were described in the attached March 7 letter to the members of the House Committee on Climate, Energy, and Environment by Jeff Hammarlund on behalf of COIN. Professor Hammarlund described five problems and offered fixes. Most of which were not included in the adopted -3 amendment. Even with the -3 amendment:

1. The bill still contains an unacceptably vague definition of “facility,” as it does not sufficiently define “adjacent sites.”
2. The -3 amendment does fix the second problem by defining “large energy use facility” to include a facility that “is able to use 20 megawatts or more,” even if the facility does not actually use that amount of capacity.
3. The -3 amendment does not fix the third problem, because it does not specify any minimum amount or percentage of projected energy use that the facility must “take or pay.”
4. As the fourth problem, Professor Hammarlund noted that the bill does not require the OPUC to approve a form contract. The -3 amendment merely deletes the requirement for the OPUC to prepare such a contract.
5. The -3 amendment does not fix the fifth problem, which is that the 10-year contract requirement only applies to large energy use facilities that apply for service on or after the effective date of the bill, not those that were on the system prior to that date.

Thus, while the bill could have been substantially improved by implementing Professor Hammarlund's suggestions, it remains worth supporting.

## **Consolidated Oregon Indivisible Network (COIN)**

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March 7, 2025

Chair Lively, Vice Chairs Gamba and Levy, and the other members of the House Committee on Climate, Energy, and Environment,

I am writing this evening on behalf of Consolidated Oregon Indivisible Network (COIN) and its Climate, Energy, and Environment (CEE) Team to express our support for the intent behind HB 3546, the POWER Act. We agree that large energy users, such as data centers and cryptocurrency outfits, need to take responsibility for paying for the additional infrastructure and delivery costs they add to the power system. Their significant demand for energy gives the utilities no other option to make major new investments in the electric grid even though a large share of the additional costs are born by other ratepayers. This bill is intended to help state regulators assign these high costs to only those customers of investor-owned utilities who are making them necessary in the first place. We have reviewed the valuable testimony provided by Bob Jenks, executive director of Oregon Citizens' Utility Board, and agree with CUB and many others that the issues addressed in this bill are of great importance. However, we wish to offer what we hope will be viewed as "friendly amendments" that we believe will clarify and strengthen the bill.

As a reminder, COIN is a network of over 50 grassroots Indivisible groups located in every part of Oregon. We believe in collaboration to protect democracy and support our treasured Oregon values through voter outreach and education, campaigns, and elections. We seek to hold our elected leaders accountable, and advocate for legislation that best reflects our values. I have the honor of serving as co-chair of COIN's Climate, Energy and Environment (CEE) Team and as a member of its Legislative Team. Prior to my retirement, I taught graduate courses in energy policy and administration for nearly 30 years at Portland State University. Before transitioning to academia, I held senior positions at a major electric utility, a Northwest utility trade association, and the staff of the US Senate Energy Committee. One of the many key members of CEE is Dan Meek, a well-known public interest and energy attorney. Dan provided valuable support in the drafting of our suggested enhancements provided below.

### **Recommended Enhancements that Could Be Offered as Friendly Amendments**

1. The definition of "facility" in Section 2 (1)(b) is too vague. Most notably, it does not explain the meaning of "adjacent sites that are owned or operated by the same person". For example, it appears that Amazon Web Services (AWS) has about 30

data centers in the Boardman area that are owned or at least controlled by AWS. These data centers are located in 6 pods. The longest distance between any two pods is 4.5 miles. Is the electricity usage to be aggregated for all the pods together or separately for each pod? The bill should specify that all data-handling facilities in common (or semi-common) ownership within a radius of X miles (we suggest one mile) should be aggregated.

We recommend a revised definition of "facility" as follows: *"Facility" means all buildings, equipment, structures and other stationary items that are located on a single site or on sites within one mile that are owned or operated by the same person or by any person who controls, is controlled by, or is under common control with such person.*

2. The definition of "large energy use facility" in Section 2(1)(c) is misleading and creates uncertainty. It is expressed as a facility that "uses 20 megawatts or more." However, the term megawatts (MW) does not serve as a measure of energy use. It is a measure of electric capacity. Energy use is measured in megawatt-hours (MWh) rather than megawatts (MW). If one MW is used continuously for a year, the energy use is 8760 MWh. Another way to refer to electric energy usage is "average megawatt" (aMW), which means the output of one MW for a full year of 8760 hours.

We recommend the following definition of "large energy use facility": *"Large energy use facility" means a facility that during full operation of all of its energy-using equipment would use energy equivalent to the output of 20 megawatts of generating capacity or more and is primarily engaged in providing a service described under code 518210 of the 2022 North American Industry Classification System.*

3. Section 2 (2)(a) indicates that the required 10-year contract between the LEUF and the utility "must obligate the retail electricity consumer to pay a minimum amount or percentage, as determined by the commission, based on the retail electricity consumer's projected electricity usage for the term of the contract." The sentence does not indicate a percentage of what. If we assume it means a percentage of the LEUF's projected electricity usage, what is to prevent the LEUF and utility from simply understating that amount?

We suggest a rewording of the 10-year contract requirement as follows: *The*

*term of the contract must be for 10 years or more. The contract must obligate the large energy use facility to pay the utility during the full term of the contract*  
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*minimum charge calculated by applying the rates applicable to the large energy use facility to energy usage equal to not less than 50 percent of the facility's projected electricity usage for the term of the contract. The commission may adjust that percentage upwards. The commission shall determine each facility's projected electricity usage at the time of its initial operation. The utility shall have no obligation to provide more electricity during the term of the contract than the amount projected. The contract may include a charge for excess demand.*

4. Under the current text, the OPUC is not required to approve a form contract or any contract, and there are no required elements in any form contract that the commission might approve.

We suggest this rewording of the "form contract" provisions in Section 2(3) and (4) as follows:

*(3) The commission shall designate a form contract that an electric company must use under subsection (2) of this section. The commission shall ensure that the form contract:*

*(a) Does not result in increased costs or risk to other retail electricity consumers; (b) Provides for equitable contributions to grid efficiency, reliability, and resiliency benefits;*

*(c) Does not impede the electric company's ability to meet the clean energy targets set forth in ORS 469A.410 or reduce the emissions of greenhouse gases consistent with state law; and*

*(d) Meets any other conditions the commission may require in the public interest.*

*(4) The commission shall ensure that the terms of a contract entered into under this section do not result in increased costs or risks to other retail electricity consumers of the electric company.*

5. The 10-year contract requirements of this bill should apply to all LEUFs, not just those that apply for service on or after the effective date of this bill.

Thus, we recommend revising SECTION 3 as follows:

*SECTION 3. Section 2(2) of this 2025 Act applies to all large energy use facilities that operate on or after the effective date of this 2025 Act*

We appreciate this opportunity to testify and to offer these friendly amendments that we believe will help the supporters of HB 3546 achieve the bill's laudable intent.

Respectfully,

Jeff Hammarlund on behalf COIN as a whole, COIN's Legislative Team, and  
COIN's Climate Energy and Environment Team