

Senate Bill 87

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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**.

Authorizes Public Utility Commission to modify electricity services public purpose charge for cost-effective energy conservation, new market transformation and above-market costs for new renewable energy resources, if commission makes certain evidentiary findings. Limits frequency and amount of change in public purpose charge.

Eliminates 10-year term of public purpose charge and establishes sunset date for public purpose charge.

A BILL FOR AN ACT

1
2 Relating to electric company public purpose charges; creating new provisions; and amending ORS
3 757.612 and 757.617.

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

5 **SECTION 1.** ORS 757.612 is amended to read:

6 757.612. (1) There is established an annual public purpose expenditure standard for electric
7 companies to fund new cost-effective local energy conservation, new market transformation efforts,
8 the above-market costs of new renewable energy resources and new low-income weatherization. The
9 public purpose expenditure standard shall be funded by the public purpose charge described in sub-
10 section (2) of this section.

11 (2)(a) Beginning on the date an electric company offers direct access to its retail electricity
12 consumers, except residential electricity consumers, the electric company shall collect a public
13 purpose charge from all of the retail electricity consumers located within its service [*area*] **terri-**
14 **tory.** [*for a period of 10 years. Except as provided in paragraph (b) of this subsection,*] **Subject to**
15 **paragraph (c) of this subsection,** the public purpose charge shall be equal to three percent of the
16 total revenues collected by the electric company or electricity service supplier from its retail elec-
17 tricity consumers for electricity services, distribution, ancillary services, metering and billing,
18 transition charges and other types of costs included in electric rates on July 23, 1999.

19 (b) **Notwithstanding paragraphs (a) and (c) of this subsection,** for an aluminum plant that
20 averages more than 100 average megawatts of electricity use per year, [*beginning on March 1,*
21 *2002,*] the electric company whose territory abuts the greatest percentage of the site of the alumi-
22 num plant shall collect from the aluminum company a public purpose charge equal to one percent
23 of the total revenue from the sale of electricity services to the aluminum plant from any source.

24 (c) **The Public Utility Commission may change the percentage level of the public purpose**
25 **charge specified in paragraph (a) of this subsection as follows:**

26 (A) **The commission may change the percentage level of the charge if the commission**
27 **finds, based on evidence developed through public comment and hearings, that the change is**
28 **needed to acquire levels of conservation and renewable energy resources that are consistent**

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 **with meeting customer energy needs at the lowest cost and risk.**

2 **(B) The commission may not change the percentage level of the charge more than once**
3 **every two years.**

4 **(C) The commission may not increase the percentage level of the charge more than one**
5 **percentage point every two years.**

6 **(D) The commission may not change the percentage level of the charge to a level that**
7 **is greater than five percent.**

8 **(E) The commission may not reduce the percentage level of the charge below the level**
9 **described in paragraph (a) of this subsection.**

10 **(F) The commission shall review the percentage level of the charge and assess the need**
11 **for any change at least once every two years.**

12 (3)(a) The *[Public Utility]* commission shall establish rules implementing the provisions of this
13 section relating to electric companies.

14 (b) *[Subject to paragraph (e) of this subsection,]* Funds collected by an electric company through
15 public purpose charges shall be allocated as follows:

16 (A) *[Sixty-three]* **56.7** percent for new cost-effective conservation and new market transformation.

17 (B) *[Nineteen]* **17.1** percent for the above-market costs of new renewable energy resources.

18 (C) *[Thirteen]* **11.7** percent for new low-income weatherization.

19 (D) *[Five]* **4.5** percent shall be transferred to the Housing and Community Services Department
20 Revolving Account created under ORS 456.574 and used for the purpose of providing grants as de-
21 scribed in ORS 458.625 (2). Moneys deposited in the account under this subparagraph are contin-
22 uously appropriated to the Housing and Community Services Department for the purposes of ORS
23 458.625 (2). Interest on moneys deposited in the account under this subparagraph shall accrue to the
24 account.

25 **(E) 10 percent to education service districts, as described in ORS 334.010, that are located**
26 **in the service territory of the electric company, for the purposes described in paragraph (f)**
27 **of this subsection.**

28 (c) **If the commission modifies the percentage level of the public purpose charge under**
29 **subsection (2)(c) of this section, the commission shall allocate the funds collected through**
30 **public purpose charges as follows:**

31 **(A) Funds attributable to the three percent level described in subsection (2)(a) of this**
32 **section shall be allocated under paragraph (b) of this subsection; and**

33 **(B) Funds attributable to an increase in the percentage level in excess of the three per-**
34 **cent level described in subsection (2)(a) of this section shall be allocated:**

35 **(i) To new cost-effective conservation and new market transformation; and**

36 **(ii) To above-market costs of new renewable energy resources.**

37 *[(c)]* **(d)** The costs of administering subsections (1) to (6) of this section **and ORS 757.617 (1)** for
38 an electric company shall be paid out of the funds collected through public purpose charges. The
39 commission may require that an electric company direct funds collected through public purpose
40 charges to the state agencies responsible for implementing subsections (1) to (6) of this section **and**
41 **ORS 757.617 (1)** in order to pay the costs of administering such responsibilities.

42 *[(d)]* **(e)** The commission shall direct the manner in which public purpose charges are collected
43 and spent by an electric company and may require an electric company to expend funds through
44 competitive bids or other means designed to encourage competition, except that funds dedicated for
45 low-income weatherization shall be directed to the Housing and Community Services Department as

1 provided in subsection (7) of this section. The commission may also direct that funds collected by
 2 an electric company through public purpose charges be paid to a nongovernmental entity for in-
 3 vestment in public purposes described in subsection (1) of this section. Notwithstanding any other
 4 provision of this subsection, at least 80 percent of the funds allocated for conservation shall be spent
 5 within the service [area] **territory** of the electric company that collected the funds.

6 [(e)(A) *The first 10 percent of the funds collected annually by an electric company under subsection*
 7 *(2) of this section shall be distributed to education service districts, as described in ORS 334.010, that*
 8 *are located in the service territory of the electric company. The*]

9 **(f)(A) Funds designated for education service districts under paragraph (b)(E) of this**
 10 **subsection** shall be distributed to individual education service districts according to the weighted
 11 average daily membership (ADMw) of the component school districts of the education service dis-
 12 trict for the prior fiscal year as calculated under ORS 327.013. The commission shall establish by
 13 rule a methodology for distributing a proportionate share of funds [under this paragraph] to educa-
 14 tion service districts that are only partially located in the service territory of the electric company.

15 (B) An education service district that receives funds under [this] paragraph **(b)(E) of this sub-**
 16 **section** shall use the funds first to pay for energy audits for school districts located within the ed-
 17 ucation service district. An education service district may not expend additional funds received
 18 under [this] paragraph **(b)(E) of this subsection** on a school district facility until an energy audit
 19 has been completed for that school district, **unless an energy audit was completed within three**
 20 **years of the first receipt of funds under this subsection.** To the extent practicable, an education
 21 service district shall coordinate with the State Department of Energy and incorporate federal fund-
 22 ing in complying with this [paragraph] **subparagraph.** Following completion of an energy audit for
 23 an individual school district, the education service district may expend funds received under [this]
 24 paragraph **(b)(E) of this subsection** to implement the energy audit.

25 (C) Once **subparagraph (B) of this paragraph has been complied with and** an energy audit
 26 has been conducted and completely implemented for each school district within the education ser-
 27 vice district, the education service district may expend funds received under [this] paragraph **(b)(E)**
 28 **of this subsection** for any of the following purposes:

29 (i) Conducting **additional** energy audits. [A school district shall conduct an energy audit prior to
 30 expending funds on any other purpose authorized under this paragraph unless the school district has
 31 performed an energy audit within the three years immediately prior to receiving the funds.]

32 (ii) Weatherization and upgrading the energy efficiency of school district facilities.

33 (iii) Energy conservation education programs.

34 (iv) Purchasing electricity from environmentally focused sources and investing in renewable
 35 energy resources.

36 [(f)] **(g)** The commission may establish a [different] public purpose charge [than] **different from**
 37 the public purpose charge otherwise described in subsection (2) of this section for an individual re-
 38 tail electricity consumer or any class of retail electricity consumers located within the service
 39 [area] **territory** of an electric company, provided that a retail electricity consumer with a load
 40 greater than one average megawatt is not required to pay a public purpose charge, **calculated as**
 41 **a percentage** [in excess of three percent] of its total cost of electricity services, **using a percentage**
 42 **level greater than the percentage level established under subsection (2) of this section.**

43 [(g)] **(h)** The commission shall remove from the rates of each electric company any costs for
 44 public purposes described in subsection (1) of this section that are included in rates. A rate adjust-
 45 ment under this paragraph shall be effective on the date that the electric company begins collecting

1 public purpose charges.

2 (4) An electric company that satisfies its obligations under this section shall have no further
3 obligation to invest in conservation, new market transformation, new renewable energy resources
4 or new low-income weatherization or to provide a commercial energy conservation services program
5 and is not subject to ORS 469.631 to 469.645, 469.860 to 469.900 and 758.505 to 758.555.

6 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
7 any site in the prior year shall receive a credit against public purpose charges billed by an electric
8 company for that site. The amount of the credit shall be equal to the total amount of qualifying
9 expenditures for new energy conservation, not to exceed 68 percent of the annual public purpose
10 charges, and the above-market costs of purchases of new renewable energy resources incurred by
11 the retail electricity consumer, not to exceed 19 percent of the annual public purpose charges, less
12 administration costs incurred under this subsection. The credit may not exceed, on an annual basis,
13 the lesser of:

14 (A) The amount of the retail electricity consumer's qualifying expenditures; or

15 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
16 dedicated to new energy conservation, new market transformation or the above-market costs of new
17 renewable energy resources.

18 (b) To obtain a credit under this subsection, a retail electricity consumer shall file with the
19 State Department of Energy a description of the proposed conservation project or new renewable
20 energy resource and a declaration that the retail electricity consumer plans to incur the qualifying
21 expenditure. The State Department of Energy shall issue a notice of precertification within 30 days
22 of receipt of the filing, if such filing is consistent with this subsection. The credit may be taken after
23 a retail electricity consumer provides a letter from a certified public accountant to the State De-
24 partment of Energy verifying that the precertified qualifying expenditure has been made.

25 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
26 are not used in one year may be carried forward for use in subsequent years.

27 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
28 any site in the prior year may request that the State Department of Energy hire an independent
29 auditor to assess the potential for conservation investments at the site. If the independent auditor
30 determines there is no available conservation measure at the site that would have a simple payback
31 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
32 obligation for public purpose charges related to the site. If the independent auditor determines that
33 there are potential conservation measures available at the site, the retail electricity consumer shall
34 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
35 public purpose charges less the estimated cost of available conservation measures.

36 (B) A retail electricity consumer shall be entitled each year to the credit described in this sub-
37 section unless a subsequent independent audit determines that new conservation investment oppor-
38 tunities are available. The State Department of Energy may require that a new independent audit
39 be performed on the site to determine whether new conservation measures are available, provided
40 that the independent audits shall occur no more than once every two years.

41 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
42 subsection.

43 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
44 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall
45 adopt rules to determine eligible expenditures and the methodology by which such credits are ac-

1 counted for and used. The rules also shall adopt methods to account for eligible public purpose
2 expenditures made through consortia or collaborative projects.

3 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section,
4 [beginning on October 1, 2001,] an electric company shall collect funds for low-income electric bill
5 payment assistance in an amount determined under paragraph (b) of this subsection.

6 (b) The total amount collected for low-income electric bill payment assistance under this section
7 shall be \$10 million per year. The commission shall determine each electric company's proportionate
8 share of the total amount. The commission shall determine the amount to be collected from a retail
9 electricity consumer, except that a retail electricity consumer is not required to pay more than \$500
10 per month per site for low-income electric bill payment assistance.

11 (c) Funds collected by the low-income electric bill payment assistance charge shall be paid into
12 the Housing and Community Services Department Revolving Account created under ORS 456.574.
13 Moneys deposited in the account under this paragraph are continuously appropriated to the Housing
14 and Community Services Department for the purpose of funding low-income electric bill payment
15 assistance. Interest earned on moneys deposited in the account under this paragraph shall accrue
16 to the account. The department's cost of administering this subsection shall be paid out of funds
17 collected by the low-income electric bill payment assistance charge. Moneys deposited in the ac-
18 count under this paragraph shall be expended solely for low-income electric bill payment assistance.
19 Funds collected from an electric company shall be expended in the service [area] **territory** of the
20 electric company from which the funds are collected.

21 (d) The Housing and Community Services Department, in consultation with the federal Advisory
22 Committee on Energy, shall determine the manner in which funds collected under this subsection
23 will be allocated by the department to energy assistance program providers for the purpose of pro-
24 viding low-income bill payment and crisis assistance, including programs that effectively reduce
25 service disconnections and related costs to retail electricity consumers and electric utilities. Priority
26 assistance shall be directed to low-income electricity consumers who are in danger of having their
27 electricity service disconnected.

28 (e) Notwithstanding ORS 293.140, interest on moneys deposited in the Housing and Community
29 Services Department Revolving Account under this subsection shall accrue to the account and may
30 be used to provide heating bill payment and crisis assistance to electricity consumers whose primary
31 source of heat is not electricity.

32 (f) Notwithstanding ORS 757.310, the commission may allow an electric company to provide re-
33 duced rates or other payment or crisis assistance or low-income program assistance to a low-income
34 household eligible for assistance under the federal Low Income Home Energy Assistance Act of
35 1981, as amended and in effect on July 23, 1999.

36 (8) For purposes of this section, "retail electricity consumers" includes any direct service in-
37 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
38 tric utility.

39 **SECTION 2. The amendments to ORS 757.612 by section 1 of this 2007 Act apply to public**
40 **purpose charges billed on or after the effective date of this 2007 Act.**

41 **SECTION 3. A public purpose charge under ORS 757.612 may not be collected for any**
42 **electricity services, as defined in ORS 757.600, provided on or after March 1, 2022.**

43 **SECTION 4.** ORS 757.617 is amended to read:

44 757.617. (1)(a) The Public Utility Commission and the State Department of Energy jointly shall
45 select an independent nongovernmental entity to prepare [a] biennial [report] **reports** to the Legis-

1 lative Assembly describing program spending and results for public purpose requirements under-
2 taken pursuant to ORS 757.612. [*The first report shall be due on January 1, 2003.*]

3 (b) The commission and the department jointly shall select an independent nongovernmental
4 entity to prepare [*a report*] **reports** to the Legislative Assembly describing proposed modifications
5 to public purpose requirements undertaken pursuant to ORS 757.612. The **first** report shall be due
6 on January 1, 2007. **The second report shall be due on January 1, 2013.**

7 (c) The commission and the department jointly shall select an independent nongovernmental
8 entity to prepare a report to the Legislative Assembly recommending whether the public purpose
9 funding requirements under ORS 757.612 should be renewed. The report shall be due on January 1,
10 [*2011*] **2019.**

11 (2) The Housing and Community Services Department shall prepare [*a*] biennial [*report*] **reports**
12 to the Legislative Assembly describing program spending and needs for low-income bill assistance.
13 [*The first report shall be due on January 1, 2003.*]

14