

# House Bill 2253

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Governor Theodore R. Kulongoski for Public Utility Commission)

## 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**.

Requires consumer-owned utilities, telecommunications cooperatives and cable operators to pay to Public Utility Commission fee in amount to be determined annually in order to defray expenses of hearings and oversight related to safety and reliability of consumer-owned utilities, telecommunications cooperatives and cable operators.

Specifies allowable purposes for commission's expenditure of fees paid.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to fees payable to the Public Utility Commission of Oregon; creating new provisions;  
3 amending ORS 756.310, 756.320 and 756.360; and declaring an emergency.

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

5 **SECTION 1.** ORS 756.310 is amended to read:

6 756.310. (1) Subject to the provisions of subsections (3), [*and*] (4), **(5) and (6)** of this section, each  
7 public utility, [*and*] **consumer-owned utility**, telecommunications provider, **telecommunications**  
8 **cooperative and cable operator** shall pay a fee to the Public Utility Commission in each calendar  
9 year. The amount of the fee shall equal the amount that the commission finds and determines to be  
10 necessary, together with the amount of all other fees paid or payable to the commission by such  
11 public utilities, **consumer-owned utilities**, [*and*] telecommunications providers, **telecommuni-**  
12 **cations cooperatives and cable operators** in the current calendar year, to defray the costs of  
13 performing:

14 (a) The duties imposed by law upon the commission with respect to the public utilities and  
15 telecommunications providers[, *and to pay those amounts as may be necessary to obtain matching*  
16 *funds to implement the program referred to in ORS 824.058.*]; **and**

17 (b) **Oversight and hearings related to the safety and reliability of consumer-owned utili-**  
18 **ties, telecommunications cooperatives and cable operators.**

19 (2) In each calendar year the percentage rate of the fee required to be paid by public utilities  
20 **and consumer-owned utilities** shall be determined by orders entered by the commission on or after  
21 March 1 of each year. Notice of the orders shall be given to each utility. The utility shall pay to  
22 the commission the fee or portion thereof so computed upon the date specified in the notice. The  
23 date of payment shall be at least 15 days after the date of mailing of the notice.

24 (3) The fee payable under subsection (1) of this section by each public utility may not be less  
25 than [*\$10*] **\$100**, or more than twenty-five hundredths of one percent of the utility's gross operating  
26 revenues derived within this state in the preceding calendar year. For the purpose of this sub-  
27 section, the gross operating revenues of an electric company do not include revenues from sales of  
28 power for resale to the extent that the revenues from those sales exceed an amount equal to 25

**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 percent of the total revenues received by the electric company from sales of electricity to end users  
 2 in the preceding calendar year.

3 (4)(a) For a telecommunications provider, the fee payable under subsection (1) of this section  
 4 shall be a percentage amount not to exceed twenty-five hundredths of one percent of the provider's  
 5 gross retail intrastate revenue for *[each calendar year]* **a 12-month period the commission speci-**  
 6 **fies by rule**, but may not be less than \$100. The percentage amount shall be determined by order  
 7 of the commission not *[less than 60 days prior to the calendar year upon which the fee is based]* **later**  
 8 **than November 1 of the year preceding the year in which the telecommunications provider**  
 9 **must pay the fee.** The fee shall be payable to the commission not later than April 1 of *[the]* **each**  
 10 year *[following that calendar year]*.

11 (b) A telecommunications provider shall collect the fee payable under subsection (1) of this  
 12 section by charging an apportioned amount to each of the provider's retail customers. The amount  
 13 of the charge shall be described on the retail customer's bill in a manner determined by the pro-  
 14 vider.

15 (c) In the event a telecommunications utility has an approved rate that includes the fee required  
 16 under subsection (1) of this section and separately charges retail customers for the fee described in  
 17 this section, at the time the utility begins collecting the charge the utility shall file with the com-  
 18 mission a rate schedule reducing rates in an amount projected to equal the amount separately  
 19 charged to customers.

20 **(5) The fee payable under subsection (1) of this section by a consumer-owned utility may**  
 21 **not be less than \$100 or more than one hundredth of one percent of the consumer-owned**  
 22 **utility's gross revenue during a 12-month period the commission specifies by rule.**

23 **(6) The fee payable under subsection (1) of this section by a telecommunications cooper-**  
 24 **ative or cable operator may not be less than \$100 or more than one hundredth of one percent**  
 25 **of the telecommunications cooperative's or the cable operator's gross retail revenues derived**  
 26 **within this state during a 12-month period the commission specifies by rule. The commission**  
 27 **by order shall determine the percentage amount not later than November 1 of the year pre-**  
 28 **ceding the year in which the telecommunications cooperative or cable operator must pay the**  
 29 **fee. The telecommunications cooperative or cable operator shall pay the fee not later than**  
 30 **April 1 of each year.**

31 *[(5)]* (7) The commission may use any of its investigatory and enforcement powers provided un-  
 32 der this chapter for the purpose of administering and enforcing the provisions of this section.

33 *[(6)]* (8) As used in this section:

34 (a) **"Cable operator" has the meaning given that term in ORS 30.192.**

35 (b) **"Consumer-owned utility" has the meaning given that term in ORS 757.270.**

36 *[(a)]* (c) "Electric company" means any entity that is a public utility under ORS 757.005 that is  
 37 engaged in the business of distributing electricity to retail electric customers in Oregon.

38 *[(b)]* (d) "Retail customer" does not include a purchaser of intrastate telecommunications ser-  
 39 vices who is a telecommunications provider, telecommunications cooperative, interexchange carrier  
 40 or radio common carrier.

41 (e) **"Telecommunications cooperative" means:**

42 (A) **An unincorporated association or cooperative corporation that provides telecommu-**  
 43 **nications services; or**

44 (B) **An unincorporated association or cooperative corporation that charges joint rates or**  
 45 **that provides a telecommunications service within this state that involves the facilities,**

1 **equipment or services of two or more telecommunications utilities or telecommunications**  
 2 **cooperatives including, but not limited to, intrastate toll or intrastate access service, ex-**  
 3 **tended area service and emergency 9-1-1 service.**

4 [(c)] (f) "Telecommunications provider" means any entity that is a telecommunications utility  
 5 or a competitive telecommunications provider as defined in ORS 759.005.

6 **SECTION 2.** ORS 756.320 is amended to read:

7 756.320. Payment of each fee or portion thereof provided for in ORS 756.310 shall be accompa-  
 8 nied by a statement verified by the public utility, **consumer-owned utility**, [or] telecommunications  
 9 provider, **telecommunications cooperative or cable operator** involved, showing the basis upon  
 10 which the fee or portion thereof is computed. This statement shall be in such form and detail as the  
 11 Public Utility Commission shall prescribe and shall be subject to audit by the commission. The  
 12 commission may refund any overpayment of any such fee in the same manner as other claims and  
 13 expenses of the commission are payable as provided by law.

14 **SECTION 3.** ORS 756.360 is amended to read:

15 756.360. All fees, fines, penalties and other moneys collected by the Public Utility Commission  
 16 under ORS 756.310, 756.320, 756.350, 758.015, 758.400 to 758.475 and ORS chapter 759 shall be paid  
 17 by the commission into the State Treasury within 30 days after the collection thereof, and shall be  
 18 placed by the State Treasurer to the credit of the Public Utility Commission Account and the fees,  
 19 fines, penalties and other moneys collected from:

20 (1) Public utilities shall be used only for the purpose of paying the expenses of the commission  
 21 in performing the duties imposed by law upon the commission in respect to utilities, and for the  
 22 purpose of paying the expenses of the Office of the Governor for its responsibilities in administering  
 23 energy conservation and allocation programs.

24 (2) Telecommunications providers shall be used only for the purpose of paying the expenses of  
 25 the commission in performing the duties imposed by law upon the commission in respect to tele-  
 26 communications providers, and for the purpose of paying the expenses of the Office of the Governor  
 27 for its responsibilities in administering energy conservation and allocation programs.

28 (3) **Consumer-owned utilities, telecommunications cooperatives and cable operators shall**  
 29 **be used only for paying the expenses of the commission in providing hearings and oversight**  
 30 **related to the safety and reliability of the consumer-owned utilities, telecommunications co-**  
 31 **operatives or cable operators.**

32 **SECTION 4.** The amendments to ORS 756.310, 756.320 and 756.360 by sections 1 to 3 of this  
 33 2009 Act set forth fees first payable by consumer-owned utilities, telecommunications coop-  
 34 eratives and cable operators in calendar year 2010.

35 **SECTION 5.** (1) The amendments to ORS 756.310, 756.320 and 756.360 by sections 1 to 3  
 36 of this 2009 Act become operative October 30, 2009.

37 (2) The Public Utility Commission of Oregon may take any action before October 30, 2009,  
 38 that is necessary to enable the commission to exercise, on and after October 30, 2009, all the  
 39 duties, functions and powers conferred on the commission by the amendments to ORS  
 40 756.310, 756.320 and 756.360 by sections 1 to 3 of this 2009 Act.

41 **SECTION 6.** This 2009 Act being necessary for the immediate preservation of the public  
 42 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect  
 43 on its passage.