

Enrolled
House Bill 3690

Sponsored by COMMITTEE ON SUSTAINABILITY AND ECONOMIC DEVELOPMENT

CHAPTER

AN ACT

Relating to feed-in tariffs on solar photovoltaic energy systems; creating new provisions; amending ORS 757.360 and 757.365; and declaring an emergency.

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

SECTION 1. ORS 757.360 is amended to read:

757.360. As used in ORS 757.360 to 757.380:

- (1) "Electric company" has the meaning given that term in ORS 757.600.
- (2) "Nameplate capacity" means the maximum rated output of a generator or other electric power production equipment under specific conditions designated by the manufacturer.
- (3) "Qualifying system" means:
 - (a) An alternative energy system used for emergency backup power by a state agency or facility that is at least 30 percent more efficient than existing agency or facility sources, including fuel cells; or
 - (b) A solar photovoltaic energy system that:
 - [(A) Meets the electric company's customer load service obligation as its primary purpose;]
 - [(B)] **(A)** Directly connects to an electric company's electrical system within this state or indirectly connects through the system of an electric company's retail electricity consumer or the electric system of a third party that is not an electric company's retail electricity consumer but whose system is located within this state;
 - [(C)] **(B)** Has meters or other devices in place to monitor and measure the quantity of energy generated by the solar photovoltaic energy system; and
 - [(D)] **(C)** Meets any other siting, design, interconnection, installation and electric output standards and codes required by the laws of this state.
- (4) **"Residential qualifying system" means a qualifying system with a nameplate capacity of 10 kilowatts or less.**
 - [(4)] **(5)** "Resource value" means the estimated value to an electric company of the electricity delivered from a solar photovoltaic energy system associated with:
 - (a) The avoided cost of energy, including avoided fuel price volatility, minus the costs of firming and shaping the electricity generated from the facility; **and**
 - (b) Avoided distribution and transmission cost[; and]
 - [(c) The renewable energy certificates established under ORS 469A.130].
 - [(5)] **(6)** "Retail electricity consumer" means a retail electricity consumer, as defined in ORS 757.600, that is located in Oregon and is served by an electric company.
 - (7) "Small commercial qualifying system" means a qualifying system with a nameplate capacity greater than 10 kilowatts and less than or equal to 100 kilowatts.**

[(6)] (8) “Solar photovoltaic energy system” means equipment and devices that have the primary purpose of collecting solar energy and generating electricity by photovoltaic effect.

SECTION 2. ORS 757.365 is amended to read:

757.365. (1) [Prior to April 1, 2010,] The Public Utility Commission shall establish a pilot program for each electric company to demonstrate the use and effectiveness of volumetric incentive rates and payments for electricity **or for the nonenergy attributes of electricity, or both,** [delivered] from solar photovoltaic energy systems that are permanently installed in this state by retail electricity consumers and that first become operational after the program begins. The cumulative nameplate capacity of the qualifying systems enrolled in all of the pilot programs may not exceed 25 megawatts of alternating current. Qualifying systems enrolled in the pilot program may not have nameplate generating capacity greater than 500 kilowatts.

(2) The commission by rule shall adopt requirements for the pilot programs described in subsection (1) of this section. Each electric company shall file for commission approval [rate] **tariff** schedules for the pilot programs that conform to the requirements.

(3) The commission may establish incentive rates for the pilot programs to enable the development of the most efficient solar photovoltaic energy systems.

(4) A retail electricity consumer participating in a pilot program may receive payments based on [the actual] electricity generated from solar photovoltaic energy system output for 15 years from the consumer’s date of enrollment in the program, at rates or through a rate formula in a [rate] **tariff** schedule established at the time of enrollment, **or at rates otherwise established at the time of enrollment.** The consumer thereafter may receive payments based upon [the actual] electricity generated from the qualifying system at a rate equal to the resource value.

(5) The commission may adjust the [rate] **tariff** schedule as needed for new pilot program participants for the purpose of meeting the goal established in subsection (1) of this section. Once a retail electricity consumer is enrolled in a program, the rates or rate formula for determining payments to the consumer may not be modified.

(6) The commission shall establish pilot programs designed to attain a goal of 75 percent of the [energy] **capacity** under each program to be [generated by] **deployed by residential qualifying systems and small commercial qualifying systems.** [smaller-scale qualifying systems within the allowed generating capacity range.] The commission by rule [shall define the size of a small-scale qualifying system and may adjust the definition of size for small-scale qualifying systems] **may adjust the percentage goal for capacity deployed by residential and small commercial qualifying systems** based upon the costs of the energy generated, the feasibility of attaining the goal and other factors. [The commission may also adjust the maximum percentage goal of energy generated by small-scale qualifying systems based upon the same factors.]

(7) The commission may establish total generator nameplate capacity limits for an electric company so that the rate impact of the pilot program for any customer class does not exceed 0.25 percent of the electric company’s revenue requirement for the class in any year.

(8) Ownership of renewable energy certificates established under ORS 469A.130 that are associated with renewable energy generation [that is sold to an electric company] under the pilot programs must be transferred to the electric company and may be used to comply with the renewable portfolio standard described in ORS 469A.052 or 469A.055.

(9) To the extent that [incentive] rates paid [for electricity delivered to each electric company] under a pilot program exceed the resource value, qualifying systems participating in the pilot programs are not eligible for expenditures under ORS 757.612 (3)(b)(B) or tax credits under ORS 469.160 to 469.180 or 469.185 to 469.225.

(10) All prudently incurred costs associated with compliance with this section are recoverable in the rates of an electric company. [The costs associated with the resource value are recoverable in the rates of all retail electricity consumers. Prudently incurred costs in excess of the resource value are recoverable from customer classes eligible for the pilot programs described in subsection (1) of this section.]

(11) The commission shall advise and assist the owners and operators of qualifying systems in identifying and using grants, incentive moneys, federal funding and other sources of noninvestment financial support for the construction and operation of qualifying systems.

(12) The pilot programs described in subsection (1) of this section close to new participants on **the earlier of:**

(a) March 31, 2015[, or when 25 megawatts of alternating current of]; **or**

(b) **The date the cumulative** nameplate capacity of solar photovoltaic energy systems **that** have been permanently installed by retail electricity consumers under the pilot programs[, whichever is earlier] **equals 25 megawatts of alternating current.**

(13) The commission shall submit a report to the Legislative Assembly by January 1 of each odd-numbered year [beginning in 2011]. The report must evaluate the effectiveness of [paying incentive rates under] the pilot programs described in subsection (1) of this section compared to [incentive rates described in subsection (9) of this section] **the effectiveness of expenditures under ORS 757.612 (3)(b)(B) or tax credits under ORS 469.160 to 469.180 or 469.185 to 469.225** for promoting the use of solar photovoltaic energy systems and reducing system costs. The report must also evaluate the estimated cost of the program to retail electricity consumers.

SECTION 3. (1) The Public Utility Commission shall establish the pilot programs described in ORS 757.365 so that they are available to customers no later than July 1, 2010.

(2) The commission shall submit the first report to the Legislative Assembly under ORS 757.365 (13) no later than January 1, 2011.

SECTION 4. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by House February 12, 2010

Received by Governor:

.....M.,....., 2010

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Chief Clerk of House

Approved:

.....M.,....., 2010

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Speaker of House

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Governor

Passed by Senate February 20, 2010

Filed in Office of Secretary of State:

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President of Senate

.....M.,....., 2010

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Secretary of State