

Enrolled
House Bill 3691

Sponsored by COMMITTEE ON SUSTAINABILITY AND ECONOMIC DEVELOPMENT

CHAPTER

AN ACT

Relating to prudently incurred costs associated with compliance with a renewable portfolio standard; amending ORS 469A.120 and 757.370; and declaring an emergency.

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

SECTION 1. ORS 469A.120 is amended to read:

469A.120. (1) Except as provided in ORS 469A.180 (5), all prudently incurred costs associated with compliance with a renewable portfolio standard are recoverable in the rates of an electric company, including interconnection costs, costs associated with using physical or financial assets to integrate, firm or shape renewable energy sources on a firm annual basis to meet retail electricity needs, **above-market costs** and other costs associated with transmission and delivery of qualifying electricity to retail electricity consumers.

[(2) Costs associated with compliance with a renewable portfolio standard are not an above-market cost for the purposes of ORS 757.600 to 757.689.]

[(3)] (2) The Public Utility Commission shall establish an automatic adjustment clause as defined in ORS 757.210 or another method that allows timely recovery of costs prudently incurred by an electric company to construct or otherwise acquire facilities that generate electricity from renewable energy sources and for associated electricity transmission. Notwithstanding any other provision of law, upon the request of any interested person the commission shall conduct a proceeding to establish the terms of the automatic adjustment clause or other method for timely recovery of costs. The commission shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to 756.610, including but not limited to the opportunity to develop an evidentiary record, conduct discovery, introduce evidence, conduct cross-examination and submit written briefs and oral argument. The commission shall issue a written order with findings on the evidentiary record developed in the proceeding.

[(4)] (3) An electric company must file with the commission for approval of a proposed rate change to recover costs under the terms of an automatic adjustment clause or other method for timely recovery of costs established under subsection *[(3)]* (2) of this section. Notwithstanding any other provision of law, upon the request of any interested person the commission shall conduct a proceeding to determine whether to approve a proposed change in rates under the automatic adjustment clause or other method for timely recovery of costs. The commission shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to 756.610, including but not limited to the opportunity to develop an evidentiary record, conduct discovery, introduce evidence, conduct cross-examination and submit written briefs and oral argument. The commission shall issue a written order with findings on the evidentiary record developed in the proceeding. A filing made

under this subsection is subject to the commission's authority under ORS 757.215 to suspend a rate, or schedule of rates, for investigation.

SECTION 2. ORS 757.370 is amended to read:

757.370. (1) On or before January 1, 2020, the total solar photovoltaic generating nameplate capacity, from qualifying systems generating at least 500 kilowatts, of all electric companies in this state must be at least 20 megawatts of alternating current with no single project greater than five megawatts of alternating current.

(2) For the purpose of complying with the solar photovoltaic generating capacity standard established by this section, on or before January 1, 2020, each electric company is required to maintain a minimum generating capacity from qualifying systems. The minimum generating capacity for each electric company is determined by multiplying 20 megawatts by a fraction equal to the electric company's share of all retail electricity sales made in this state in 2008 by all electric companies.

(3) For the purposes of ORS 757.360 to 757.380, capacity of a solar photovoltaic energy system is measured on the alternating current side of the system's inverter using the measurement standards set forth by the Public Utility Commission by rule. If the system does not use an inverter, the measurement shall be made at the direct current level.

(4) An electric company may satisfy the solar photovoltaic generating capacity standard established by this section with solar photovoltaic energy systems owned by the company or with contracts for the purchase of electricity from qualifying systems.

(5) All costs prudently incurred by an electric company to comply with the solar photovoltaic generating capacity standard established by this section, **including above-market costs**, are recoverable in the company's rates and are eligible for an automatic adjustment clause established by the commission under ORS 469A.120.

[(6) Costs associated with compliance with the solar photovoltaic generating capacity standard established by this section are not above-market costs for purposes of ORS 757.600 to 757.689.]

[(7)] (6) The commission may adopt rules implementing and enforcing this section.

SECTION 3. 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

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Chief Clerk of House

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Speaker of House

Passed by Senate February 20, 2010

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President of Senate

Received by Governor:

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

Approved:

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

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Governor

Filed in Office of Secretary of State:

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

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Secretary of State