

HOUSE AMENDMENTS TO HOUSE BILL 3461

By COMMITTEE ON GENERAL GOVERNMENT AND CONSUMER PROTECTION

April 26

1 On page 1 of the printed bill, delete lines 4 through 27 and delete page 2.

2 On page 3, delete lines 1 through 25 and insert:

3 “**SECTION 1.** ORS 757.736 is amended to read:

4 “757.736. (1) Not more than 30 days after the execution of a final agreement, PacifiCorp must
5 file a copy of the final agreement with the Public Utility Commission along with full and complete
6 copies of all analyses or studies that relate to the rate-related costs, benefits and risks for customers
7 of removing or relicensing Klamath River dams and that were reviewed by PacifiCorp during the
8 decision-making process that led to PacifiCorp’s entering into the final agreement.

9 “(2) PacifiCorp must include with the filing made under subsection (1) of this section tariffs for
10 the collection of two nonbypassable surcharges from its customers for the purpose of paying the
11 costs of removing Klamath River dams as described in subsection (11) of this section.
12 Notwithstanding the commission’s findings and conclusions under subsection (4) of this section, the
13 commission shall require PacifiCorp to begin collecting the surcharges on the date that the filing
14 is made under subsection (1) of this section, or on January 1, 2010, whichever is later, and
15 PacifiCorp shall continue to collect the surcharges pending a final decision on the commission’s or-
16 der under subsection (4) of this section. The surcharges imposed under this section shall be:

17 “(a) A surcharge for the costs of removing the J.C. Boyle Dam; and

18 “(b) A surcharge for the costs of removing the Copco 1 Dam, the Copco 2 Dam and the Iron
19 Gate Dam.

20 “(3) The surcharges imposed under this section may not exceed the amounts necessary to fund
21 Oregon’s share of the customer contribution of \$200 million identified in the agreement in principle.
22 In addition, the total amount collected in a calendar year under both surcharges may not exceed
23 more than two percent of PacifiCorp’s annual revenue requirement as determined in PacifiCorp’s
24 last case under ORS 757.210 decided by the commission before January 1, 2010.

25 “(4) Not more than six months after a filing is made under subsection (1) of this section, the
26 commission shall conduct a hearing under ORS 757.210 on the surcharges imposed under this sec-
27 tion, and shall enter an order setting forth findings and conclusions as to whether the imposition
28 of surcharges under the terms of the final agreement results in rates that are fair, just and reason-
29 able.

30 “(5) Notwithstanding ORS 183.482 (1), jurisdiction for judicial review of any appeal of an order
31 entered under subsection (4) of this section is conferred on the Supreme Court, and a person seeking
32 judicial review of the order must file a petition for review with the Supreme Court in the manner
33 provided by ORS 183.482. ORS 183.482 (3) does not apply to an order entered under subsection (4)
34 of this section. If a petition for review is filed, the surcharges imposed under the terms of the final
35 agreement shall remain in effect pending a final decision on the petition, but shall be refunded if the

1 rates resulting from the surcharges are finally determined not to be fair, just and reasonable. A
2 petition filed under this subsection must indicate on its face that the petition is filed pursuant to
3 this subsection.

4 “(6) The commission may not use any commercially sensitive information provided to the com-
5 mission in a filing made under subsection (1) of this section for any purpose other than determining
6 whether the imposition of surcharges under the terms of the final agreement results in rates that
7 are fair, just and reasonable. Notwithstanding ORS 192.410 to 192.505, the commission may not re-
8 lease commercially sensitive information provided to the commission under this section, and shall
9 require any person participating in a proceeding relating to the surcharge to sign a protective order
10 prepared by the commission before allowing the participant to obtain and use the information.

11 “(7) The surcharges imposed under this section must be of a specified amount per kilowatt hour
12 billed to retail customers, as determined by the commission. The amount of each surcharge shall be
13 calculated based on a collection schedule that will fund, by December 31, 2019, Oregon’s share of
14 the customer contribution of \$200 million identified in the agreement in principle. To the extent
15 practicable, the commission shall set the surcharges so that total annual collections of the sur-
16 charges remain approximately the same during the collection period, **and, when setting the rate**
17 **for the surcharges, the commission shall account for the actual and expected changes in**
18 **energy usage over the collection period and account for the actual and expected changes in**
19 **interest rates on the collected funds over the collection period.** The commission may change the
20 collection schedule if a Klamath River dam will be removed during a year other than 2020.

21 “(8) Except as provided in ORS 757.738 (2), all amounts collected under the surcharges imposed
22 under this section shall be paid into the appropriate trust account established under ORS 757.738.

23 “(9) If the commission determines at any time that amounts have been collected under this sec-
24 tion in excess of those needed, or in excess of those allowed, the commission must:

25 “(a) Direct the trustee of the appropriate trust account under ORS 757.738 to refund these ex-
26 cess amounts to customers or to otherwise use these amounts for the benefit of customers; or

27 “(b) Adjust future surcharge amounts as necessary to offset the excess amounts.

28 “(10) If one or more Klamath River dams will not be removed, the commission shall direct
29 PacifiCorp to terminate collection of all or part of the surcharges imposed under this section. In
30 addition, the commission shall direct the trustee of the appropriate trust account under ORS 757.738
31 to apply any excess balances in the accounts to Oregon’s allocated share of prudently incurred costs
32 to implement Federal Energy Regulatory Commission relicensing requirements. If any excess
33 amounts remain in the trust accounts after that application, the Public Utility Commission shall
34 order that the excess amounts be refunded to customers or otherwise be used for the benefit of
35 customers in accordance with Public Utility Commission rules and policies.

36 “(11) For the purposes of subsection (2) of this section, ‘the costs of removing Klamath River
37 dams’ includes costs of:

38 “(a) Physical removal of the dams;

39 “(b) Site remediation and restoration;

40 “(c) Avoiding downstream impacts of dam removal;

41 “(d) Downstream impacts of dam removal;

42 “(e) Permits that are required for the removal;

43 “(f) Removal and disposal of sediment, debris and other materials, if necessary; and

44 “(g) Compliance with environmental laws.”

45 In line 27, after the period delete the rest of the line and lines 28 through 32 and insert:

1 “(1)(a) The Public Utility Commission shall establish a separate trust account for amounts gen-
2 erated by each of the two surcharges imposed under ORS 757.736. The commission shall establish
3 the trust accounts as interest-bearing accounts:

4 “(A) With an agency of the United States identified in the final agreement;

5 “(B) In a depository that is qualified under ORS 295.001 to 295.108 to receive public funds; or

6 “(C) With the State Treasurer, to be invested as provided in ORS 293.701 to 293.820.

7 “(b) The commission may establish each of the two trust accounts with a different trustee among
8 those listed in paragraph (a) of this subsection.

9 “(c) The commission may authorize transfer of funds from one trust account to another as nec-
10 essary to fund removal of the Klamath River dams.”.

11 In lines 39, 42 and 43, restore the bracketed material and delete the boldfaced material.
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