

**PROPOSED AMENDMENTS TO
SENATE BILL 477**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and delete line 3 and insert “amending ORS 757.522, 757.531,
3 757.533 and 757.536.”.

4 Delete lines 5 through 30 and delete pages 2 through 5 and insert:

5 **“SECTION 1.** ORS 757.522 is amended to read:

6 “757.522. As used in ORS 757.522 to 757.536:

7 “[*(1) ‘Additional interest’ means:*]

8 “[*(a) The acquisition, by the holder of an interest in a generating facility*
9 *located in Oregon, of a separate interest in that generating facility that is*
10 *producing energy and is in service for tax purposes, commercially operable or*
11 *in rates on July 1, 2010; and]*

12 “[*(b) The renewal of an existing contract of five or more years that includes*
13 *the acquisition of baseload electricity for an additional term of five or more*
14 *years where the expected greenhouse gas emissions profile of the contract re-*
15 *newal is substantially similar to that of the previous contract.]*

16 **“(1) ‘Additional interest’ means the acquisition, by the holder of an**
17 **interest in a generating facility located in this state, of a separate in-**
18 **terest in that generating facility that:**

19 **“(a) Is producing energy;**

20 **“(b) Is in service for tax purposes, commercially operable or in rates**
21 **on July 1, 2010; and**

22 **“(c) Is subject to an enforceable commitment to cease coal-fired**

1 **operations by December 31, 2020.**

2 “(2) ‘Annual plant capacity factor’ means the ratio of the electricity
3 produced by a generating facility during one year, measured in kilowatt-
4 hours, to the electricity the generating facility could have produced if it had
5 been operated at its rated capacity throughout the same year, expressed in
6 kilowatt-hours.

7 “(3)(a) ‘Baseload electricity’ means electricity produced by a generating
8 facility that is designed and intended, at the time a site certificate is issued
9 to the owner of the facility or a permit authorizing the construction and
10 operation of the facility is issued to the owner of the facility by another
11 state or country, to provide electricity on a continuous basis at an annual
12 plant capacity factor of at least 60 percent.

13 “(b) ‘Baseload electricity’ does not include electricity from:

14 “(A) A qualifying facility under the federal Public Utility Regulatory
15 Policies Act of 1978, 16 U.S.C. 2601 to 2645;

16 “(B) A generating source that uses natural gas or petroleum distillates
17 as a fuel source and that is primarily used to serve either peak demand or
18 to integrate energy from a renewable energy source described in ORS
19 469A.025; or

20 “(C) A generating facility that:

21 “(i) Previously used coal as the facility’s primary fuel source;

22 “(ii) Is owned in whole or in part by an electric company; and

23 “(iii) Currently uses natural gas or another resource as the facility’s pri-
24 mary fuel source.

25 “(4) ‘Construction’ has the meaning given that term in ORS 469.300.

26 “(5) ‘Consumer-owned utility’ has the meaning given that term in ORS
27 757.600.

28 “(6) ‘Electric company’ has the meaning given that term in ORS 757.600.

29 “(7) ‘Electricity service supplier’ has the meaning given that term in ORS
30 757.600.

1 “(8) ‘Generating facility’ includes one or more jointly operated electricity
2 generators that use the same fuel type, have the same in-service date and
3 operate at the same location as described in ORS 469.300.

4 “(9) ‘Governing board’ means the legislative authority of a consumer-
5 owned utility.

6 “(10)(a) ‘Long-term financial commitment’ means [*an*] **the acquisition of**
7 **an ownership interest in, a capital** investment in or upgrade of a gener-
8 ating facility that produces baseload electricity, or a contract with a term
9 of more than five years, beginning on the date on which the contract is ex-
10 ecuted **or renewed**, that includes acquisition of baseload electricity.

11 “(b) ‘Long-term financial commitment’ does not include:

12 “(A) Routine or necessary maintenance;

13 “[*B*] *Installation of emission control equipment;*]

14 “[*C*] **(B)** Installation, replacement or modification of equipment that
15 improves the heat rate of the facility or reduces a generating facility’s
16 pounds of greenhouse gases per megawatt-hour of electricity;

17 “[*D*] **(C)** Installation, replacement or modification of equipment [*where*]
18 the primary purpose **of which** is to maintain [*reliable generation output ca-*
19 *pability and not to extend the life of the generating facility, and that does not*
20 *increase the heat input or fuel usage as specified in existing generation air*
21 *quality permits, but that may result in incidental increases in generation ca-*
22 *capacity*] **voltage and frequency support without generating energy;**

23 “[*E*] **(D)** Repairs necessitated by sudden and unexpected equipment fail-
24 ure, **provided that the repairs are limited to the restoration of capacity**
25 **lost because of sudden and unexpected equipment failure; or**

26 “[*F*] **(E)** An acquisition of an additional interest.

27 “(11) ‘Output-based methodology’ means a greenhouse gas emissions
28 standard that is expressed in pounds of greenhouse gases emitted per
29 megawatt-hour, factoring in the useful thermal energy employed for purposes
30 other than the generation of electricity.

1 “(12) ‘Routine or necessary maintenance’ means generally accepted
2 industry practices for maintaining generating facilities that are
3 scheduled to occur at routine intervals for a period of time that does
4 not exceed 10 years.

5 “[(12)] (13) ‘Site certificate’ has the meaning given that term in ORS
6 469.300.

7 “[(13)] (14) ‘Upgrade’ means any modification made for the primary pur-
8 pose of increasing the electric generation capacity of a baseload facility.

9 “**SECTION 2.** ORS 757.531 is amended to read:

10 “757.531. (1)(a) An electric company or electricity service supplier may
11 not enter into a long-term financial commitment unless the baseload elec-
12 tricity [*acquired under*] **subject to** the commitment is produced by a gener-
13 ating facility that complies with a greenhouse gas emissions standard
14 established under ORS 757.524.

15 “(b) A generating facility complies with the greenhouse gas emissions
16 standard established under ORS 757.524 if the rate of emissions of the facility
17 does not exceed the emissions standard.

18 “(c) In determining whether a generating facility complies with the
19 emissions standard, the total emissions associated with producing baseload
20 electricity at the generating facility are included in determining the rate of
21 emissions of greenhouse gases. The total emissions associated with produc-
22 ing electricity at the generating facility do not include emissions associated
23 with transportation, fuel extraction or other life-cycle emissions associated
24 with obtaining the fuel for the facility.

25 “(2) Notwithstanding subsection (1) of this section, the emissions standard
26 does not apply to greenhouse gas emissions produced by a generating facility
27 owned by an electric company or electricity service supplier or contracted
28 through a long-term financial commitment if the emissions:

29 “(a) Come from a facility powered exclusively by renewable energy
30 sources described in ORS 469A.025;

1 “(b) Come from a cogeneration facility in this state that is fueled by nat-
2 tural gas, synthetic gas, distillate fuels, waste gas or a combination of these
3 fuels, and that is producing energy, in service for tax purposes, commercially
4 operable, or in rates as of July 1, 2010, until the facility is subject to a new
5 long-term financial commitment; or

6 “(c) Come from a generating facility that has in place a plan, as deter-
7 mined by the Public Utility Commission, to be a low-carbon emissions re-
8 source, pursuant to sufficient technical documentation, within seven years
9 of commencing plant operations.

10 “(3) Notwithstanding ORS 757.524 and subsection (1) of this section, the
11 commission may exempt a long-term financial commitment by an electric
12 company or an electricity service supplier from the greenhouse gas emissions
13 standard if the commission finds that the commitment is a necessary and
14 prudent response to:

15 “(a) Unanticipated electricity system reliability needs; or

16 “(b) Catastrophic events or threat of significant financial harm that may
17 arise from unforeseen circumstances.

18 “(4) Notwithstanding subsection (1) of this section, an electric company
19 may enter into a long-term financial commitment that does not meet the
20 emissions standard established under ORS 757.524 if the electric company
21 does not seek recovery of the costs in retail sales in this state.

22 “(5) The commission by rule shall establish:

23 “(a) Standards for identifying contracts for electricity for which the
24 emissions cannot readily be determined with any specificity; and

25 “(b) Emissions to be attributed to such contracts for purposes of deter-
26 mining compliance with the emissions standard established under ORS
27 757.524.

28 “**SECTION 3.** ORS 757.533 is amended to read:

29 “757.533. (1)(a) A governing board of a consumer-owned utility may not
30 enter into a long-term financial commitment unless the baseload electricity

1 [acquired under] **subject to** the commitment is produced by a generating fa-
2 cility that complies with a greenhouse gas emissions standard established
3 under ORS 757.528.

4 “(b) A generating facility complies with the greenhouse gas emissions
5 standard established under ORS 757.528 if the rate of emissions of the facility
6 does not exceed the emissions standard.

7 “(c) In determining whether a generating facility complies with the
8 emissions standard, the total emissions associated with producing baseload
9 electricity at the generating facility shall be included in determining the rate
10 of emissions of greenhouse gases. The total emissions associated with
11 producing electricity at the generating facility do not include emissions as-
12 sociated with transportation, fuel extraction or other life-cycle emissions
13 associated with obtaining the fuel for the facility.

14 “(2) Notwithstanding subsection (1) of this section, the emissions standard
15 does not apply to greenhouse gas emissions produced by a generating facility
16 owned by a consumer-owned utility or contracted through a long-term fi-
17 nancial commitment if the emissions:

18 “(a) Come from a facility powered exclusively by renewable energy
19 sources described in ORS 469A.025;

20 “(b) Come from a cogeneration facility in this state that is fueled by na-
21 tural gas, synthetic gas, distillate fuels, waste gas or a combination of these
22 fuels, and that is producing energy, in service for tax purposes, commercially
23 operable, or in rates as of July 1, 2010, until the facility is subject to a new
24 long-term financial commitment; or

25 “(c) Come from a generating facility that has in place a plan to be a
26 low-carbon emission resource, as determined by the State Department of
27 Energy, pursuant to sufficient technical documentation, within seven years
28 of commencing plant operations.

29 “(3) The governing board may provide an exemption for an individual
30 generating facility from the emissions performance standard to address:

1 “(a) Unanticipated electricity system reliability needs;

2 “(b) Catastrophic events or threat of significant financial harm that may
3 arise from unforeseen circumstances; or

4 “(c) Long-term financial commitments between members of a joint oper-
5 ating entity recognized under federal law or the joint operating entity’s
6 predecessor organization, or with the joint operating entity for a baseload
7 resource that the consumer-owned utility had an ownership interest in prior
8 to July 1, 2010.

9 “(4) A governing board shall report to the consumer-owned utility’s cus-
10 tomers or members and to the State Department of Energy information on
11 any case-by-case exemption from the emissions performance standard granted
12 by the governing board.

13 “(5) For purposes of ORS 757.522 to 757.536, a long-term financial com-
14 mitment for a consumer-owned utility does not include agreements to pur-
15 chase electricity from the Bonneville Power Administration.

16 “(6) The department by rule shall establish:

17 “(a) Standards for identifying contracts for electricity for which the
18 emissions cannot readily be determined with any specificity; and

19 “(b) Emissions to be attributed to such contracts for purposes of deter-
20 mining compliance with the emissions standard established under ORS
21 757.528.

22 “**SECTION 4.** ORS 757.536 is amended to read:

23 “757.536. (1)(a) The Public Utility Commission may not acknowledge in
24 an integrated resource plan, or allow in customer rates, the costs of a long-
25 term financial commitment by an electric company or by an electricity ser-
26 vice supplier unless the baseload electricity proposed to be [*acquired under*]
27 **subject to** the commitment is produced by a generating facility that com-
28 plies with the greenhouse gas emissions standard established under ORS
29 757.524.

30 “(b) The commission shall revoke the certification under ORS 757.649 of

1 an electricity service supplier entering into a long-term financial commit-
2 ment to serve customers in this state if baseload electricity [*acquired*
3 *under*] **subject to** the commitment is produced by a generating facility that
4 does not comply with the greenhouse gas emissions performance standard
5 established under ORS 757.524.

6 “(2) Pursuant to ORS 756.040, the commission shall adopt rules for the
7 implementation of this section.

8 “(3) Within 90 days of application by an electric company or electricity
9 service supplier, the commission shall determine whether the electric
10 company’s or electricity service supplier’s proposal to enter into a long-term
11 financial commitment complies with the greenhouse gas emissions standard
12 established under ORS 757.524. The commission may not decide in a pro-
13 ceeding under this subsection issues involving the actual costs to construct
14 and operate the selected resource, cost recovery or other issues reserved by
15 the commission for decision in a general rate case or other proceeding for
16 recovery of the resource or contract costs.”.

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