

**B-Engrossed**  
**House Bill 4036**

Ordered by the Senate February 29  
Including House Amendments dated February 11 and Senate Amendments  
dated February 29

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Energy and Environment)

**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.

Requires each electric company providing electricity to retail electricity consumers located in this state to eliminate coal-fired resources from electric company's electricity supply.

Changes compliance requirements for renewable portfolio standards. Makes other changes to provisions setting forth renewable portfolio standards.

**Requires, by 2035, eight percent of retail electrical load of electric company to come from certain small-scale renewable energy projects or biomass generating facilities that generate thermal energy for secondary purpose.**

Directs Public Utility Commission to establish stranded costs obligation associated with condemnation of or transaction related to service territory or property of electric company.

*[Directs commission to allow, in public bidding process for procurement of renewable energy generating facility, inclusion of value of long-term access to and use of facility beyond time at which facility is fully depreciated.]*

*[Directs commission to establish means by which electric company may track, and credit or charge customers for, difference between state or federal production tax credits included in rates charged by electric company and actual production tax credits received by electric company.]*

Requires each electric company to file applications with commission for programs to accelerate transportation electrification. Allows return of and return on investment made by electric company for purposes of programs.

Directs commission to establish program for creation of community solar projects.

Repeals minimum solar energy capacity standard for electric companies.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to utility regulation; creating new provisions; amending ORS 469A.005, 469A.020, 469A.052,  
3 469A.055, 469A.060, 469A.075, 469A.100, 469A.120, 469A.135, 469A.140, 469A.145, 469A.210 and  
4 757.375; repealing ORS 757.370; and declaring an emergency.

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

6  
7 **ELIMINATION OF COAL FROM ELECTRICITY SUPPLY**

8  
9 **SECTION 1. (1) As used in this section:**

10 (a) **“Allocation of electricity” means, for the purpose of setting electricity rates, the**  
11 **costs and benefits associated with the resources used to provide electricity to an electric**  
12 **company’s retail electricity consumers that are located in this state.**

13 (b)(A) **“Coal-fired resource” means a facility that uses coal-fired generating units, or that**  
14 **uses units fired in whole or in part by coal as feedstock, to generate electricity.**

15 (B) **“Coal-fired resource” does not include a facility generating electricity that is included**  
16 **as part of a limited duration wholesale power purchase made by an electric company for**

**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 immediate delivery to retail electricity consumers that are located in this state for which the  
2 source of the power is not known.

3 (c) "Electric company" has the meaning given that term in ORS 757.600.

4 (d) "Retail electricity consumer" has the meaning given that term in ORS 757.600.

5 (2) On or before January 1, 2030, an electric company shall eliminate coal-fired resources  
6 from its allocation of electricity.

7 (3)(a) The Public Utility Commission shall adjust any schedule of depreciation approved  
8 by the commission for an electric company's coal-fired resource if:

9 (A) The electric company holds a minority ownership share in only one coal-fired re-  
10 source, with no more than four generating units; and

11 (B) The electric company serves at least 800,000 retail electricity consumers and only  
12 retail electricity consumers that are located in this state.

13 (b) The adjusted depreciation schedule described in paragraph (a) of this subsection must  
14 require the coal-fired resource described in paragraph (a)(A) of this subsection to be fully  
15 depreciated on or before December 31, 2030.

16 (4) Notwithstanding subsections (2) and (3) of this section, for the number of years re-  
17 quested by the electric company, not to exceed five years after the coal-fired resource is fully  
18 depreciated, the commission shall authorize an electric company described in subsection (3)  
19 of this section to include in the company's allocation of electricity the costs and benefits  
20 associated with the coal-fired resource described in subsection (3)(a)(A) of this section if:

21 (a) The electric company requests the commission to authorize the allocation of elec-  
22 tricity; or

23 (b) The owners of the coal-fired resource agree to close the coal-fired resource on or  
24 before the date that is five years after the date the coal-fired resource is fully depreciated.

25 (5) Notwithstanding ORS 757.355, this section does not prevent the full recovery of  
26 prudently incurred costs related to the decommissioning or remediation of a coal-fired re-  
27 source or the closure of a coal-fired resource, at the time those costs are incurred.

28 **SECTION 2.** (1) As used in this section:

29 (a) "Coal-fired resource" has the meaning given that term in section 1 of this 2016 Act.

30 (b) "Electric company" has the meaning given that term in ORS 757.600.

31 (2) The Public Utility Commission may exclude from rates all or any portion of:

32 (a) The costs of an investment made by an electric company in coal-fired resources be-  
33 fore January 1, 2030; and

34 (b) The costs of complying with any state law or rule or federal law or regulation asso-  
35 ciated with a coal-fired resource that is owned or operated by an electric company.

36  
37 **AMENDMENTS TO STATUTES REGULATING**  
38 **RENEWABLE PORTFOLIO STANDARDS**  
39 **(Definitions)**  
40

41 **SECTION 3.** ORS 469A.005 is amended to read:

42 469A.005. As used in ORS 469A.005 to 469A.210:

43 (1) "Acquires service territory" does not include an acquisition by a city of a facility,  
44 plant, equipment or service territory within the boundaries of the city, pursuant to ORS  
45 225.020 or city charter, if the city:

1 (a) **Already owns, controls or operates an electric light and power system for supplying**  
2 **electricity to the inhabitants of the city and for general municipal purposes;**

3 (b) **Provides fair, just and reasonable compensation to the electric company whose ser-**  
4 **vice territory is acquired that:**

5 (A) **Gives consideration for the cost of the facility, plant, equipment or service territory**  
6 **acquired and for depreciation, fair market value, reproduction cost and any other relevant**  
7 **factor; and**

8 (B) **Is based on the present value of the facility, plant, equipment or service territory**  
9 **acquired, including the value of poles, wires, transformers and similar and related appliances**  
10 **necessarily required to provide electric service; and**

11 (c) **Pays any stranded costs obligation established pursuant to section 18 of this 2016 Act.**

12 [(1)] (2) “Banked renewable energy certificate” means a bundled or unbundled renewable energy  
13 certificate that is not used by an electric utility or electricity service supplier to comply with a  
14 renewable portfolio standard in a calendar year, and that is carried forward for the purpose of  
15 compliance with a renewable portfolio standard in a subsequent year.

16 [(2)] (3) “BPA electricity” means electricity provided by the Bonneville Power Administration,  
17 including [all] electricity [from] **generated by** the Federal Columbia River Power System hydro-  
18 electric projects and [other] electricity acquired by the Bonneville Power Administration by con-  
19 tract.

20 [(3)] (4) “Bundled renewable energy certificate” means a renewable energy certificate for quali-  
21 fying electricity that is acquired:

22 (a) By an electric utility or electricity service supplier by a trade, purchase or other transfer  
23 of electricity that includes the **renewable energy** certificate that was issued for the electricity; or

24 (b) By an electric utility by generation of the electricity for which the **renewable energy** cer-  
25 tificate was issued.

26 [(4)] (5) “Compliance year” means the calendar year for which the electric utility or electricity  
27 service supplier seeks to establish compliance with the renewable portfolio standard applicable to  
28 the **electric** utility or **electricity service** supplier in the compliance report submitted under ORS  
29 469A.170.

30 [(5)] (6) “Consumer-owned utility” means a municipal electric utility, a people’s utility district  
31 organized under ORS chapter 261 that sells electricity or an electric cooperative organized under  
32 ORS chapter 62.

33 (7) **“Distribution utility” has the meaning given that term in ORS 757.600.**

34 [(6)] (8) “Electric company” has the meaning given that term in ORS 757.600.

35 [(7)] (9) “Electric utility” has the meaning given that term in ORS 757.600.

36 [(8)] (10) “Electricity service supplier” has the meaning given that term in ORS 757.600.

37 [(9)] (11) “Qualifying electricity” means electricity described in ORS 469A.010.

38 [(10)] (12) “Renewable energy source” means a source of electricity described in ORS 469A.025.

39 [(11)] (13) “Retail electricity consumer” means a retail electricity consumer, as defined in ORS  
40 757.600, that is located in Oregon.

41 [(12)] (14) “Unbundled renewable energy certificate” means a renewable energy certificate for  
42 qualifying electricity that is acquired by an electric utility or electricity service supplier by trade,  
43 purchase or other transfer without acquiring the electricity [for which the] **that is associated with**  
44 **the renewable energy** certificate [was issued].

45

**(Qualifying Electricity)**

**SECTION 4.** ORS 469A.020 is amended to read:

469A.020. (1) Except as provided in this section, electricity may be used to comply with a renewable portfolio standard only if the electricity is generated by a facility that becomes operational on or after January 1, 1995.

(2) Electricity from a generating facility, other than a hydroelectric facility, that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to capacity or efficiency upgrades made on or after January 1, 1995.

(3) Electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the electricity is attributable to efficiency upgrades made on or after January 1, 1995. If an efficiency upgrade is made to a Bonneville Power Administration facility, only that portion of the electricity generation attributable to Oregon's share of the electricity may be used to comply with a renewable portfolio standard.

(4) Subject to the limit imposed by ORS 469A.025 (5), electricity from a hydroelectric facility that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization recognized by the State Department of Energy by rule, and if the facility is either:

(a) Owned by an electric utility; or

(b) Not owned by an electric utility and located in Oregon and licensed by the Federal Energy Regulatory Commission under the Federal Power Act, 16 U.S.C. 791a et seq., or exempt from such license.

~~[(5)(a)]~~ (5) Electricity from a generating facility located in this state that uses biomass and that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard if the facility meets the requirements of the federal Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) on March 4, 2010, *regardless of whether the facility qualifies under the requirements of the Public Utility Commission.*

*[(b) Renewable energy certificates derived from electricity generated by a facility that qualifies under paragraph (a) of this subsection may not be used to comply with a renewable portfolio standard before January 1, 2026. However, renewable energy certificates issued before January 1, 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026.]*

(6) A facility located in this state that generates electricity from direct combustion of municipal solid waste and that became operational before January 1, 1995, may be used to comply with a renewable portfolio standard for up to 11 average megawatts of electricity generated per calendar year. *[Renewable energy certificates derived from electricity generated by a facility described in this subsection may not be used to comply with a renewable portfolio standard before January 1, 2026. However, renewable energy certificates issued before January 1, 2026, may be banked pursuant to ORS 469A.005 to 469A.210 for use on or after January 1, 2026.]*

**(Compliance Requirements for  
Renewable Portfolio Standard)**

**SECTION 5.** ORS 469A.052 is amended to read:

469A.052. (1) The large utility renewable portfolio standard imposes the following requirements

1 on an electric utility that makes sales of electricity to retail electricity consumers in an amount that  
2 equals three percent or more of all electricity sold to retail electricity consumers:

3 (a) At least five percent of the electricity sold by the **electric** utility to retail electricity con-  
4 sumers in each of the calendar years 2011, 2012, 2013 and 2014 must be qualifying electricity;

5 (b) At least 15 percent of the electricity sold by the **electric** utility to retail electricity con-  
6 sumers in each of the calendar years 2015, 2016, 2017, 2018 and 2019 must be qualifying electricity;

7 (c) At least 20 percent of the electricity sold by the **electric** utility to retail electricity con-  
8 sumers in each of the calendar years 2020, 2021, 2022, 2023 and 2024 must be qualifying electricity;

9 *[and]*

10 (d) **At least 25 percent of the electricity sold by a consumer-owned utility to retail elec-**  
11 **tricity consumers in the calendar year 2025 and subsequent calendar years must be qualifying**  
12 **electricity;**

13 *[(d)]* (e) At least ~~[25]~~ **27** percent of the electricity sold by *[the utility to retail electricity consumers*  
14 *in calendar year 2025 and subsequent calendar years must be qualifying electricity.]* **an electric**  
15 **company to retail electricity consumers in each of the calendar years 2025, 2026, 2027, 2028**  
16 **and 2029 must be qualifying electricity;**

17 (f) **At least 35 percent of the electricity sold by an electric company to retail electricity**  
18 **consumers in each of the calendar years 2030, 2031, 2032, 2033 and 2034 must be qualifying**  
19 **electricity;**

20 (g) **At least 45 percent of the electricity sold by an electric company to retail electricity**  
21 **consumers in each of the calendar years 2035, 2036, 2037, 2038 and 2039 must be qualifying**  
22 **electricity; and**

23 (h) **At least 50 percent of the electricity sold by an electric company to retail electricity**  
24 **consumers in the calendar year 2040 and subsequent calendar years must be qualifying elec-**  
25 **tricity.**

26 (2) If, on June 6, 2007, an electric utility makes sales of electricity to retail electricity consum-  
27 ers in an amount that equals less than three percent of all electricity sold to retail electricity con-  
28 sumers, but in any three consecutive calendar years thereafter makes sales of electricity to retail  
29 electricity consumers in amounts that average three percent or more of all electricity sold to retail  
30 electricity consumers, the **electric** utility is subject to the renewable portfolio standard described  
31 in subsection (3) of this section. The **electric** utility becomes subject to the **renewable portfolio**  
32 standard described in subsection (3) of this section in the calendar year following the three-year  
33 period during which the **electric** utility makes sales of electricity to retail electricity consumers in  
34 amounts that average three percent or more of all electricity sold to retail electricity consumers.

35 (3) An electric utility described in subsection (2) of this section must comply with the following  
36 renewable portfolio standard:

37 (a) Beginning in the fourth calendar year after the calendar year in which the **electric** utility  
38 becomes subject to the **renewable portfolio** standard described in this subsection, at least five  
39 percent of the electricity sold by the **electric** utility to retail electricity consumers in a calendar  
40 year must be qualifying electricity;

41 (b) Beginning in the 10th calendar year after the calendar year in which the **electric** utility  
42 becomes subject to the **renewable portfolio** standard described in this subsection, at least 15 per-  
43 cent of the electricity sold by the **electric** utility to retail electricity consumers in a calendar year  
44 must be qualifying electricity;

45 (c) Beginning in the 15th calendar year after the calendar year in which the **electric** utility

1 becomes subject to the **renewable portfolio** standard described in this subsection, at least 20 per-  
2 cent of the electricity sold by the **electric** utility to retail electricity consumers in a calendar year  
3 must be qualifying electricity; and

4 (d) Beginning in the 20th calendar year after the calendar year in which the **electric** utility  
5 becomes subject to the **renewable portfolio** standard described in this subsection, at least 25 per-  
6 cent of the electricity sold by the **electric** utility to retail electricity consumers in a calendar year  
7 must be qualifying electricity.

8 **SECTION 6.** ORS 469A.075 is amended to read:

9 469A.075. (1) An electric company that is subject to a renewable portfolio standard shall develop  
10 an implementation plan for meeting the requirements of the **renewable portfolio** standard and file  
11 the **implementation** plan with the Public Utility Commission. Implementation plans must be revised  
12 and updated at least once every two years.

13 (2) **At a minimum**, an implementation plan must [*at a minimum*] contain:

14 (a) Annual targets for acquisition and use of qualifying electricity; and

15 (b) The estimated cost of meeting the annual targets, including the cost of transmission, the cost  
16 of firming, shaping and integrating qualifying electricity, the cost of alternative compliance pay-  
17 ments and the cost of acquiring renewable energy certificates.

18 (3) The commission shall acknowledge [*the*] **an** implementation plan no later than six months  
19 after the **implementation** plan is filed with the commission. The commission may acknowledge the  
20 **implementation** plan subject to conditions specified by the commission.

21 (4) The commission shall adopt rules:

22 (a) Establishing requirements for the content of implementation plans;

23 (b) Establishing the procedure for acknowledgment of implementation plans under this section,  
24 including provisions for public comment; [*and*]

25 (c) Providing for the integration of [*the*] **an** implementation plan with the integrated resource  
26 planning guidelines established by the commission [*and in effect on June 6, 2007.*] **for the purpose**  
27 **of planning for the least-cost, least-risk acquisition of resources; and**

28 **(d) Encouraging, through competitive bidding processes, diverse ownership of renewable**  
29 **energy sources that generate qualifying electricity.**

30 (5) [*The*] **An** implementation plan filed under this section may include procedures that will be  
31 used by the electric company to determine whether the costs of constructing a facility that gener-  
32 ates electricity from a renewable energy source, or the costs of acquiring bundled or unbundled  
33 renewable energy certificates, are consistent with the **renewable portfolio** standards of the com-  
34 mission relating to least-cost, least-risk planning for acquisition of resources.

35  
36 **(Limits on Cost of Compliance with**  
37 **Renewable Portfolio Standard)**  
38

39 **SECTION 7.** ORS 469A.100 is amended to read:

40 469A.100. (1) Electric utilities are not required to comply with a renewable portfolio standard  
41 during a compliance year to the extent that the incremental cost of compliance, the cost of unbun-  
42 dled renewable energy certificates and the cost of alternative compliance payments under ORS  
43 469A.180 exceeds [*four*] **three** percent of the **electric** utility's annual revenue requirement for the  
44 compliance year.

45 (2) For each electric company, the Public Utility Commission shall establish the annual revenue

1 requirement for a compliance year no later than January 1 of the compliance year. **For each**  
2 **consumer-owned utility**, the governing body of [a] **the** consumer-owned utility shall establish the  
3 annual revenue requirement for [*the consumer-owned utility*] **a compliance year**.

4 (3) The annual revenue requirement for an electric utility shall be calculated based only on the  
5 operations of the **electric** utility relating to electricity. The annual revenue requirement does not  
6 include any amount expended by the **electric** utility for energy efficiency programs for customers  
7 of the **electric** utility or for low income energy assistance, the incremental cost of compliance with  
8 a renewable portfolio standard, the cost of unbundled renewable energy certificates or the cost of  
9 alternative compliance payments under ORS 469A.180. The annual revenue requirement does in-  
10 clude:

11 (a) [All] **The** operating expenses of the **electric** utility during the compliance year, including  
12 depreciation and taxes; and

13 (b) For electric companies, an amount equal to the total rate base of the **electric** company for  
14 the compliance year multiplied by the rate of return established by the commission for debt and  
15 equity of the **electric** company.

16 (4) For the purposes of this section, the incremental cost of compliance with a renewable port-  
17 folio standard is the difference between the levelized annual delivered cost of the qualifying elec-  
18 tricity and the levelized annual delivered cost of an equivalent amount of reasonably available  
19 electricity that is not qualifying electricity. For the purpose of this subsection, the commission or  
20 **the** governing body of a consumer-owned utility shall use the net present value of delivered cost,  
21 including:

22 (a) Capital, operating and maintenance costs of generating facilities;

23 (b) Financing costs attributable to capital, operating and maintenance expenditures for gener-  
24 ating facilities;

25 (c) Transmission and substation costs;

26 (d) Load following and ancillary services costs; and

27 (e) Costs associated with using other assets, physical or financial, to integrate, firm or shape  
28 renewable energy sources on a firm annual basis to meet retail electricity needs.

29 (5) For the purposes of this section, the governing body of a consumer-owned utility may include  
30 in the incremental cost of compliance with a renewable portfolio standard all expenses associated  
31 with research, development and demonstration projects related to the generation of qualifying elec-  
32 tricity by the consumer-owned utility.

33 (6) The commission shall establish limits on the incremental cost of compliance with the  
34 renewable portfolio standard for electricity service suppliers under ORS 469A.065 that are the  
35 equivalent of the cost limits applicable to the electric companies that serve the territories in which  
36 the electricity service supplier sells electricity to retail electricity consumers. If an electricity ser-  
37 vice supplier sells electricity in territories served by more than one electric company, the commis-  
38 sion may provide for an aggregate cost limit based on the amount of electricity sold by the  
39 electricity service supplier in each territory. Pursuant to ORS 757.676, a consumer-owned utility may  
40 establish limits on the cost of compliance with the renewable portfolio standard for electricity ser-  
41 vice suppliers that sell electricity in the territory served by the consumer-owned utility.

42  
43 **(Acquisition of Electric Company**  
44 **Service Territory)**  
45

1        **SECTION 8.** ORS 469A.055 is amended to read:

2        469A.055. (1) Except as provided in this section, an electric utility that makes sales of electricity  
3 to retail electricity consumers in an amount that equals less than three percent of all electricity  
4 sold to retail electricity consumers is not subject to ORS 469A.005 to 469A.210.

5        (2) Beginning in calendar year 2025, at least five percent of the electricity sold to retail elec-  
6 tricity consumers in a calendar year by an electric utility must be qualifying electricity if the elec-  
7 tric utility makes sales of electricity to retail electricity consumers in an amount that equals less  
8 than one and one-half percent of all electricity sold to retail electricity consumers.

9        (3) Beginning in calendar year 2025, at least 10 percent of the electricity sold to retail elec-  
10 tricity consumers in a calendar year by an electric utility must be qualifying electricity if the elec-  
11 tric utility makes sales of electricity to retail electricity consumers in an amount that equals or is  
12 more than one and one-half percent, and less than three percent, of all electricity sold to retail  
13 electricity consumers.

14        (4) The exemption provided by subsection (1) of this section terminates if an electric utility, or  
15 a joint operating entity that includes the **electric** utility as a member, acquires electricity from an  
16 electricity generating facility that uses coal as an energy source or makes an investment on or after  
17 June 6, 2007, in an electricity generating facility that uses coal as an energy source. **Beginning in**  
18 **the calendar year following the year in which an electric utility's exemption terminates un-**  
19 **der this subsection, the electric utility is subject to the renewable portfolio standard de-**  
20 **scribed in ORS 469A.052 (3) and the provisions of ORS 469A.005 to 469A.210 that apply to ORS**  
21 **469A.052 (3).** This subsection does not apply to:

22        (a) A wholesale market purchase by an electric utility for which the energy source for the  
23 electricity is not known;

24        (b) BPA electricity;

25        (c) Acquisition of electricity under a contract entered into before June 6, 2007;

26        (d) A renewal or replacement contract for a contract for purchase of electricity described in  
27 paragraph (c) of this subsection;

28        (e) A purchase of electricity if the electricity is included in a contract for the purchase of  
29 qualifying electricity and is necessary to shape, firm or integrate the qualifying electricity;

30        (f) Electricity provided to an electric utility under a contract for the acquisition of an interest  
31 in an electricity generating facility that was entered into by the **electric** utility before June 6, 2007,  
32 or entered into before June 6, 2007, by an electric cooperative organized under ORS chapter 62 of  
33 which the electric utility is a member, without regard to whether the electricity is being used to  
34 serve the load of the electric utility on June 6, 2007; or

35        (g) Investments in an electricity generating facility that uses coal as an energy source if the  
36 investments are for the purpose of improving the facility's pollution mitigation equipment or the  
37 facility's efficiency or are necessary to comply with requirements or standards imposed by govern-  
38 mental entities.

39        (5)(a) The exemption provided by subsection (1) of this section terminates for a consumer-owned  
40 utility if [*at any time after June 6, 2007,*] the **consumer-owned** utility acquires service territory of  
41 an electric company without the consent of the electric company. **Except as provided in paragraph**  
42 **(b) of this subsection, beginning in the calendar year following the year in which a**  
43 **consumer-owned utility's exemption terminates under this subsection, the consumer-owned**  
44 **utility is subject to the renewable portfolio standard described in ORS 469A.052 (3) and the**  
45 **provisions of ORS 469A.005 to 469A.210 that apply to ORS 469A.052 (3).**





1 (c) **Imposed under an approved open access transmission tariff; or**

2 (d) **Imposed under rules adopted by the commission under ORS 757.600 to 757.689.**

3 **SECTION 10.** ORS 469A.145 is amended to read:

4 469A.145. (1) Except as otherwise provided in this section, unbundled renewable energy certifi-  
5 cates, including banked unbundled renewable energy certificates, may not be used to meet more  
6 than 20 percent of the requirements of the large utility renewable portfolio standard described in  
7 ORS 469A.052 for any compliance year.

8 (2) The limitation imposed by subsection (1) of this section does not apply to **unbundled**  
9 renewable energy certificates [*issued for*] **associated with** electricity generated in [*Oregon*] **this**  
10 **state** from a renewable energy source by a net metering facility, as defined in ORS 757.300, or an-  
11 other generating facility that is not directly connected to a distribution or transmission system.

12 (3) The limitation imposed by subsection (1) of this section does not apply to **unbundled**  
13 renewable energy certificates [*issued for*] **associated with** electricity generated in [*Oregon*] **this**  
14 **state** by a qualifying facility under ORS 758.505 to 758.555.

15 (4) The limitation imposed by subsection (1) of this section does not apply to an electricity ser-  
16 vice supplier **for purposes of meeting the renewable portfolio standard described in ORS**  
17 **469A.065 during compliance years before 2021.**

18  
19 (b) **Recovery of Costs for Complying**  
20 **with Renewable Portfolio Standard)**

21  
22 **SECTION 11.** ORS 469A.120 is amended to read:

23 469A.120. (1) Except as provided in ORS 469A.180 (5), all prudently incurred costs associated  
24 with [*compliance with a renewable portfolio standard*] **complying with ORS 469A.005 to 469A.210**  
25 are recoverable in the rates of an electric company, including interconnection costs, costs associated  
26 with using physical or financial assets to integrate, firm or shape renewable energy sources on a  
27 firm annual basis to meet retail electricity needs, above-market costs and other costs associated  
28 with transmission and delivery of qualifying electricity to retail electricity consumers.

29 (2)(a) The Public Utility Commission shall establish an automatic adjustment clause as defined  
30 in ORS 757.210 or another method that allows timely recovery of costs prudently incurred by an  
31 electric company to construct or otherwise acquire facilities that generate electricity from  
32 renewable energy sources [*and for*], **costs related to** associated electricity transmission **and costs**  
33 **related to associated energy storage.**

34 (b) Notwithstanding any other provision of law, upon the request of any interested person the  
35 commission shall conduct a proceeding to establish the terms of the automatic adjustment clause  
36 or other method for timely recovery of costs. The commission shall provide parties to the proceeding  
37 with the procedural rights described in ORS 756.500 to 756.610, including but not limited to the op-  
38 portunity to develop an evidentiary record, conduct discovery, introduce evidence, conduct cross-  
39 examination and submit written briefs and oral argument. The commission shall issue a written  
40 order with findings on the evidentiary record developed in the proceeding.

41 (3)(a) An electric company must file with the commission for approval of a proposed rate change  
42 to recover costs under the terms of an automatic adjustment clause or other method for timely re-  
43 covery of costs established under subsection (2) of this section. **As part of an electric company's**  
44 **request for approval under this subsection, the electric company may specify the date or the**  
45 **dates on which the electric company will begin to include in the electric company's rates, in**

1 **full or in part, the costs recoverable under subsection (2) of this section. The commission**  
2 **may accept or reject the date or dates specified by the electric company.**

3 **(b) [Notwithstanding any other provision of law,]** Upon the request of any interested person the  
4 commission shall conduct a proceeding to determine whether to approve a proposed change in rates  
5 under the automatic adjustment clause or other method for timely recovery of costs. The commission  
6 shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to  
7 756.610, including but not limited to the opportunity to develop an evidentiary record, conduct dis-  
8 covery, introduce evidence, conduct cross-examination and submit written briefs and oral argument.  
9 The commission shall issue a written order with findings on the evidentiary record developed in the  
10 proceeding.

11 **(c)** A filing made under this subsection is subject to the commission's authority under ORS  
12 757.215 to suspend a rate, or schedule of rates, for investigation.

13  
14 **(Exemption for Purposes of Meeting**  
15 **Reliability Standards of North American**  
16 **Electric Reliability Corporation)**  
17

18 **SECTION 12.** Section 13 of this 2016 Act is added to and made a part of ORS 469A.005 to  
19 **469A.210.**

20 **SECTION 13.** (1) Upon its own motion or at the request of an electric company, the  
21 **Public Utility Commission may open an investigation to determine whether an electric**  
22 **company's compliance with one or more of the requirements of ORS 469A.052 is likely to**  
23 **result in conflicts with or compromises to the electric company's obligation to comply with**  
24 **the mandatory and enforceable reliability standards of the North American Electric Reli-**  
25 **ability Corporation, or compromises to the integrity of the electric company's electrical**  
26 **system. An electric company making a request under this subsection must submit an appli-**  
27 **cation to the commission that includes:**

28 **(a) An explanation of the reliability or integrity issue and how a temporary exemption**  
29 **from complying with one or more of the requirements of ORS 469A.052 will avoid the reli-**  
30 **ability or integrity issue; and**

31 **(b) A plan to achieve full compliance with the requirements of ORS 469A.052.**

32 **(2) In applying for a temporary exemption under this section, an electric company has**  
33 **the burden of demonstrating that compliance with one or more of the requirements of ORS**  
34 **469A.052 is likely to result in:**

35 **(a) Conflicts with or compromises to the electric company's obligation to comply with the**  
36 **mandatory and enforceable reliability standards of the North American Electric Reliability**  
37 **Corporation; or**

38 **(b) Compromises to the integrity of the electric company's electrical system.**

39 **(3) If the commission determines under this section that compliance with one or more**  
40 **of the requirements of ORS 469A.052 is likely to result in conflicts with or compromises to**  
41 **an electric company's obligation to comply with the mandatory and enforceable reliability**  
42 **standards of the North American Electric Reliability Corporation, or compromises to the**  
43 **integrity of the electric company's electrical system, the commission shall issue an order:**

44 **(a) Notwithstanding ORS 469A.052, temporarily exempting the electric company from one**  
45 **or more of the requirements of ORS 469A.052 for an amount of time sufficient to allow the**

1 electric company to achieve full compliance with the requirements of ORS 469A.052;

2 (b) Directing the electric company to file a progress report on achieving full compliance  
3 with the requirements of ORS 469A.052 within six months after issuing the order, or within  
4 an amount of time determined to be reasonable by the commission; and

5 (c) Directing the electric company to take specific actions to achieve full compliance with  
6 the requirements of ORS 469A.052.

7 (4) An electric company may request an extension of a temporary exemption granted  
8 under this section.

9 (5) This section does not permanently relieve an electric company of its obligation to  
10 comply with the requirements of ORS 469A.052.

11  
12 (Small-Scale Community-Based  
13 Renewable Energy Projects)  
14

15 **SECTION 14.** ORS 469A.210 is amended to read:

16 469A.210. (1) The Legislative Assembly finds that community-based renewable energy projects,  
17 including but not limited to marine renewable energy resources that are either developed in ac-  
18 cordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures  
19 adjacent to the coastal shorelands, are an essential element of [*Oregon's*] **this state's** energy  
20 future[, and declares that it is the goal of the State of Oregon that].

21 (2) For purposes related to the findings in subsection (1) of this section, by 2035, [by  
22 2025] at least eight percent of [*Oregon's*] **the** retail electrical load [comes] **of an electric company**  
23 **must come** from:

24 (a) Small-scale renewable energy projects [*with*]:

25 (A) **That are interconnected with a transmission or distribution system located in this**  
26 **state; and**

27 (B) **That have** a generating capacity of 20 megawatts or less.

28 (b) **Any generating facility described in ORS 469A.020 (5) that generates thermal energy**  
29 **for a secondary purpose.**

30 (3) All agencies of the executive department as defined in ORS 174.112 shall establish policies  
31 and procedures promoting the [*goal declared in*] **target established under subsection (2) of this**  
32 **section.**

33  
34 (Renewable Energy Certificates  
35 for Generation of Thermal Energy)  
36

37 **SECTION 15.** Section 16 of this 2016 Act is added to and made a part of ORS 469A.005 to  
38 **469A.210.**

39 **SECTION 16.** If a generating facility described in ORS 469A.020 (5) generates thermal  
40 energy for a secondary purpose, the State Department of Energy, as part of the system es-  
41 tablished under ORS 469A.130, shall provide that renewable energy certificates must be is-  
42 sued for the generation of the thermal energy. For purposes of issuing renewable energy  
43 certificates under this section, 3,412,000 British thermal units are equivalent to one  
44 megawatt-hour.  
45

ACQUISITION OF ELECTRIC COMPANY  
SERVICE TERRITORY OR PROPERTY

**SECTION 17.** Section 18 of this 2016 Act is added to and made a part of ORS chapter 757.

**SECTION 18.** (1) For purposes of this section:

(a) “Electric company” has the meaning given that term in ORS 757.600.

(b) “Electric utility” has the meaning given that term in ORS 757.600.

(c) “Retail electricity consumer” has the meaning given that term in ORS 757.600.

(2) Upon the request of an electric company, the Public Utility Commission shall establish a stranded costs obligation payable by an electric utility to an electric company in association with a condemnation or transaction described in subsection (3) of this section.

(3)(a) An electric utility that condemns the service territory or property of an electric company, or acquires property pursuant to a transaction described in ORS 757.480, must pay the stranded costs obligation established by the commission under subsection (2) of this section.

(b) The purpose of the stranded costs obligation is to prevent shifting the costs associated with the loss of service territory or property of an electric company from the retail electricity consumers of the electric utility to the retail electricity consumers of the electric company.

(4) The commission may determine the stranded costs obligation in accordance with the Federal Energy Regulatory Commission’s current methodology for determining stranded costs under the same or similar circumstances.

(5) This section does not interfere with or supersede the jurisdiction of the Federal Energy Regulatory Commission.

ENERGY EFFICIENCY

**SECTION 19.** (1) As used in this section, “electric company” has the meaning given that term in ORS 757.600.

(2) The Legislative Assembly finds and declares that:

(a) Energy efficiency programs promote lower energy bills, protect the public health and safety, improve environmental benefits, stimulate sustainable economic development, create new employment opportunities and reduce reliance on imported fuels; and

(b) Demand response resources result in more efficient use of existing resources and reduce the need for procuring new power generating resources, which, in turn, reduces energy bills, protects the public health and safety and improves environmental benefits.

(3) For the purpose of ensuring prudent investments by an electric company in energy efficiency and demand response before the electric company acquires new generating resources, and in order to produce cost-effective energy savings, reduce customer demand for energy, reduce overall electrical system costs, increase the public health and safety and improve environmental benefits, each electric company serving customers in this state shall:

(a) Plan for and pursue all available energy efficiency resources that are cost effective, reliable and feasible; and

(b) As directed by the Public Utility Commission by rule or order, plan for and pursue the acquisition of cost-effective demand response resources.

TRANSPORTATION ELECTRIFICATION PROGRAMS

**SECTION 20.** (1) As used in this section:

(a) "Electric company" has the meaning given that term in ORS 757.600.

(b) "Transportation electrification" means:

(A) The use of electricity from external sources to provide power to all or part of a vehicle;

(B) Programs related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph; and

(C) Infrastructure investments related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph.

(c) "Vehicle" means a vehicle, vessel, train, boat or any other equipment that is mobile.

(2) The Legislative Assembly finds and declares that:

(a) Transportation electrification is necessary to reduce petroleum use, achieve optimum levels of energy efficiency and carbon reduction, meet federal and state air quality standards, meet this state's greenhouse gas emissions reduction goals described in ORS 468A.205 and improve the public health and safety;

(b) Widespread transportation electrification requires that electric companies increase access to the use of electricity as a transportation fuel;

(c) Widespread transportation electrification requires that electric companies increase access to the use of electricity as a transportation fuel in low and moderate income communities;

(d) Widespread transportation electrification should stimulate innovation and competition, provide consumers with increased options in the use of charging equipment and in procuring services from suppliers of electricity, attract private capital investments and create high quality jobs in this state;

(e) Deploying electric vehicles should assist in managing the electrical grid, integrating generation from renewable energy resources and improving electric system efficiency and operational flexibility, including the ability of an electric company to integrate variable generating resources;

(f) Deploying electric vehicles in the manner described in paragraph (e) of this subsection creates the opportunity for an electric company to propose, to the Public Utility Commission, that a net benefit for the customers of the electric company is attainable; and

(g) Charging electric vehicles in a manner that provides benefits to electrical grid management affords fuel cost savings for vehicle drivers.

(3) The Public Utility Commission shall direct each electric company to file applications, in a form and manner prescribed by the commission, for programs to accelerate transportation electrification. A program proposed by an electric company may include prudent investments in or customer rebates for electric vehicle charging and related infrastructure.

(4) When determining cost recovery for investments and other expenditures related to a program proposed by an electric company under subsection (3) of this section, the commission shall consider whether the investments and other expenditures:

(a) Are within the service territory of the electric company;

(b) Are prudent as determined by the commission;

(c) Are used and useful as determined by the commission;

1 (d) Enable the electric company to support the electric company's electrical system;

2 (e) Improve the electric company's electrical system efficiency and operational flexibility,  
3 including the ability of the electric company to integrate variable generating resources;

4 (f) Stimulate innovation, competition and customer choice in electric vehicle charging  
5 and related infrastructure and services; and

6 (g) Meet any other factor determined by the commission to be reasonably related to  
7 transportation electrification, including the findings and declarations specified in subsection  
8 (2) of this section.

9 (5)(a) Tariff schedules and rates allowed pursuant to subsection (3) of this section:

10 (A) May allow a return of and a return on an investment made by an electric company  
11 under subsection (3) of this section; and

12 (B) Shall be recovered from all customers of an electric company in a manner that is  
13 similar to the recovery of distribution system investments.

14 (b) A return on investment allowed under this subsection may be earned for a period of  
15 time that does not exceed the depreciation schedule of the investment approved by the  
16 commission. When an electric company's investment is fully depreciated, the commission  
17 may authorize the electric company to donate the electric vehicle charging infrastructure  
18 to the owner of the property on which the infrastructure is located.

19 (6) For purposes of ORS 757.355, electric vehicle charging infrastructure provides utility  
20 service to the customers of an electric company.

21 (7) In authorizing programs described in subsection (3) of this section, the commission  
22 shall review data concerning current and future adoption of electric vehicles and utilization  
23 of electric vehicle charging infrastructure. If market barriers unrelated to the investment  
24 made by an electric company prevent electric vehicles from adequately utilizing available  
25 electric vehicle charging infrastructure, the commission may not permit additional invest-  
26 ments in transportation electrification without a reasonable showing that the investments  
27 would not result in long-term stranded costs recoverable from the customers of electric  
28 companies.

29 **SECTION 21.** For purposes of section 20 of this 2016 Act, electric vehicle charging and  
30 related infrastructure must be installed on or after July 1, 2016.

31  
32 **SOLAR PROGRAM**  
33 **(Community Solar Projects)**  
34

35 **SECTION 22.** (1) For purposes of this section:

36 (a) "Community solar project" means one or more solar photovoltaic energy systems that  
37 provide owners and subscribers the opportunity to share the costs and benefits associated  
38 with the generation of electricity by the solar photovoltaic energy systems.

39 (b) "Electric company" has the meaning given that term in ORS 757.600.

40 (c) "Owner" means a customer of an electric company who has proportionate ownership  
41 of part of a community solar project, such as direct ownership of one or more solar panels  
42 or shared ownership of the infrastructure of the community solar project.

43 (d) "Project manager" means the entity identified as having responsibility for managing  
44 the operation of a community solar project and, if applicable, for maintaining contact with  
45 the electric company that procures electricity from the community solar project. A project

1 manager may be:

2 (A) An electric company; or

3 (B) An independent third party.

4 (e) "Solar photovoltaic energy system" means equipment and devices that have the pri-  
5 mary purpose of collecting solar energy and generating electricity by photovoltaic effect.

6 (f) "Subscriber" means a customer of an electric company who proportionately leases  
7 part of a community solar project for a minimum of 10 years.

8 (2)(a) The Public Utility Commission shall establish by rule a program for the procure-  
9 ment of electricity from community solar projects. As part of the program, the commission  
10 shall:

11 (A) Adopt rules prescribing what qualifies a community solar project to participate in the  
12 program;

13 (B) Certify qualified community solar projects for participation in the program;

14 (C) Prescribe the form and manner by which project managers may apply for certification  
15 under the program; and

16 (D) Require, by rule or order, electric companies to enter into a 20-year power purchase  
17 agreement with a certified community solar project.

18 (b) The commission shall adopt rules under paragraph (a)(A) of this subsection that, at  
19 a minimum:

20 (A) Incentivize consumers of electricity to be owners or subscribers;

21 (B) Minimize the shifting of costs from the program to ratepayers who do not own or  
22 subscribe to a community solar project;

23 (C) Where an electric company is the project manager, protect owners and subscribers  
24 from undue financial hardship; and

25 (D) Protect the public interest.

26 (3) A community solar project:

27 (a) Must have at least one solar photovoltaic energy system with a minimum generating  
28 capacity of 25 kilowatts;

29 (b) Must be located in this state; and

30 (c) May be located anywhere in this state.

31 (4) A project manager may offer ownership in or subscriptions to a community solar  
32 project only to consumers of electricity that are located:

33 (a) In this state; and

34 (b) In the service territory of an electric company.

35 (5)(a) A project manager may offer proportional ownership in or proportional sub-  
36 scriptions to a community solar project in any amount that does not exceed a potential  
37 owner's or potential subscriber's average annual consumption of electricity.

38 (b) Any value associated with the generation of electricity in excess of an offer to own  
39 or subscribe to a community solar project as limited by paragraph (a) of this subsection must  
40 be used by the electric company procuring electricity from the community solar project in  
41 support of low-income residential customers of the electric company.

42 (6)(a) Except as provided in paragraph (b) of this subsection, an electric company shall  
43 credit an owner's or subscriber's electric bill for the amount of electricity generated by a  
44 community solar project for the owner or subscriber in a manner that reflects the resource  
45 value of solar energy. For purposes of this paragraph, the commission shall determine the



1 resource value of solar energy.

2 (b) The commission may adopt a rate for an electric company to use in crediting an  
3 owner's or subscriber's electric bill other than the rate described in paragraph (a) of this  
4 subsection if the commission has good cause to adopt the different rate.

5 (7)(a) Except as otherwise provided in this section, owners and subscribers shall bear the  
6 costs and benefits of constructing and operating a community solar project.

7 (b) Costs incurred by an electric company under the terms of a power purchase agree-  
8 ment entered into pursuant to subsection (2)(a)(D) of this section are recoverable in the  
9 rates of the electric company. Moneys collected pursuant to imposing those rates, under the  
10 terms of a power purchase agreement entered into pursuant to subsection (2)(a)(D) of this  
11 section, may be transferred to a project manager for the purpose of operating a community  
12 solar project.

13 (c) All start-up costs prudently incurred during the development or modification of the  
14 program established under this section are recoverable in the rates of an electric company.

15 (d) Owners and subscribers shall bear all ongoing costs incurred during the continued  
16 administration of the program established under this section.

17 (8) Owners and subscribers own all renewable energy certificates established under ORS  
18 469A.130 that are associated with the generation of electricity by a community solar project,  
19 in proportion to the owner's proportional ownership in or the subscriber's proportional sub-  
20 scription to the community solar project.

21  
22 (Repeal of Minimum Solar Energy  
23 Capacity Standard for Electric Companies)  
24

25 **SECTION 23.** ORS 757.370 is repealed.

26 **SECTION 24.** ORS 757.375 is amended to read:

27 757.375. (1) Any electricity produced from a *[qualifying system under ORS 757.370]* **solar**  
28 **photovoltaic energy system** that is physically located in this state may be used by an electric  
29 company to comply with the renewable portfolio standard established under ORS 469A.005 to  
30 469A.210.

31 (2) For each kilowatt-hour of electricity produced from a qualifying system that first becomes  
32 operational before January 1, 2016, and *[generates at least 500 kilowatts, an electric company will be*  
33 *credited with]* **has a nameplate capacity of between 500 kilowatts and five megawatts of al-**  
34 **ternating current, the Public Utility Commission shall credit the electric company with** two  
35 kilowatt-hours of qualifying electricity toward the **electric** company's compliance with the  
36 renewable portfolio standard under ORS 469A.005 to 469A.210, up to a maximum of 20 megawatts  
37 of capacity.

38  
39 **CONFORMING AMENDMENTS**  
40

41 **SECTION 25.** ORS 469A.140 is amended to read:

42 469A.140. (1) Renewable energy certificates may be traded, sold or otherwise transferred.

43 (2) Renewable energy certificates that are not used by an electric utility or electricity service  
44 supplier to comply with a renewable portfolio standard in a calendar year may be banked and car-  
45 ried forward indefinitely for the purpose of complying with a renewable portfolio standard in a

1 subsequent year. For the purpose of complying with a renewable portfolio standard in any calendar  
2 year:

3 (a) Banked renewable energy certificates must be used, up to the limit imposed by ORS  
4 469A.145, before other certificates are used; and

5 (b) Banked renewable energy certificates with the oldest issuance date must be used to comply  
6 with the **renewable portfolio** standard before banked renewable energy certificates with more re-  
7 cent issuance dates are used.

8 (3) An electric utility or electricity service supplier is responsible for demonstrating that a  
9 renewable energy certificate used to comply with a renewable portfolio standard is derived from a  
10 renewable energy source and that the **electric** utility or **electricity service** supplier has not used,  
11 traded, sold or otherwise transferred the **renewable energy** certificate.

12 (4) [*The same*] **A** renewable energy certificate may be used by an electric utility or electricity  
13 service supplier to comply with **both** a federal renewable portfolio standard and a renewable port-  
14 folio standard established under ORS 469A.005 to 469A.210. An electric utility or electricity service  
15 supplier that uses a renewable energy certificate to comply with a renewable portfolio standard  
16 imposed by [*any other*] **a state other than this** state may not use the same **renewable energy**  
17 certificate to comply with a renewable portfolio standard established under ORS 469A.005 to  
18 469A.210.

19 **SECTION 26.** ORS 469A.060 is amended to read:

20 469A.060. (1) Electric utilities are not required to comply with the renewable portfolio standards  
21 described in ORS 469A.052 and 469A.055 to the extent that:

22 (a) Compliance with the standard would require the **electric** utility to acquire electricity in  
23 excess of the **electric** utility's projected load requirements in any calendar year; and

24 (b) Acquiring the additional electricity would require the **electric** utility to substitute qualifying  
25 electricity for electricity derived from an energy source other than coal, natural gas or petroleum.

26 (2)(a) Electric utilities are not required to comply with a renewable portfolio standard to the  
27 extent that compliance would require the **electric** utility to substitute qualifying electricity for  
28 electricity available to the **electric** utility under contracts for electricity from dams that are owned  
29 by Washington public utility districts and **that** are located between the Grand Coulee Dam and the  
30 Columbia River's junction with the Snake River. The provisions of this subsection apply only to  
31 contracts entered into before June 6, 2007, and to renewal or replacement contracts for contracts  
32 entered into before June 6, 2007.

33 (b) If a contract described in paragraph (a) of this subsection expires and is not renewed or re-  
34 placed, the **electric** utility must comply, in the calendar year following the expiration of the con-  
35 tract, with the renewable portfolio standard applicable to the **electric** utility.

36 (3) A consumer-owned utility is not required to comply with a renewable portfolio standard to  
37 the extent that compliance would require the **consumer-owned** utility to reduce the **consumer-**  
38 **owned** utility's purchases of the lowest priced electricity from the Bonneville Power Administration  
39 pursuant to section 5 of the Pacific Northwest Electric Power Planning and Conservation Act of  
40 1980, P.L. 96-501, as in effect on June 6, 2007. The exemption provided by this subsection applies  
41 only to firm commitments for BPA electricity that the Bonneville Power Administration has assured  
42 will be available to a **consumer-owned** utility to meet agreed portions of the **consumer-owned**  
43 utility's load requirements for a defined period of time.

44  
45 **REPORTS**



1        **SECTION 31.** The unit captions used in this 2016 Act are provided only for the conven-  
2 ience of the reader and do not become part of the statutory law of this state or express any  
3 legislative intent in the enactment of this 2016 Act.

4        **SECTION 32.** This 2016 Act being necessary for the immediate preservation of the public  
5 peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect  
6 on its passage.

7

\_\_\_\_\_