

A-Engrossed
House Bill 4036

Ordered by the House February 11
Including House Amendments dated February 11

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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.

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.052, 469A.055,
3 469A.060, 469A.075, 469A.120, 469A.135, 469A.140, 469A.145 and 757.375; repealing ORS 757.370;
4 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**
17 **immediate delivery to retail electricity consumers that are located in this state for which the**
18 **source of the power is not known.**

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

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

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

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

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

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

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

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

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

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

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

26
27 **AMENDMENTS TO STATUTES REGULATING**
28 **RENEWABLE PORTFOLIO STANDARDS**
29 **(Compliance Requirements for**
30 **Renewable Portfolio Standard)**
31

32 **SECTION 2.** ORS 469A.052 is amended to read:

33 469A.052. (1) The large utility renewable portfolio standard imposes the following requirements
34 on an electric utility that makes sales of electricity to retail electricity consumers in an amount that
35 equals three percent or more of all electricity sold to retail electricity consumers:

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

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

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

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

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

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

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

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

14 (2) If, on June 6, 2007, an electric utility makes sales of electricity to retail electricity consum-
15 ers in an amount that equals less than three percent of all electricity sold to retail electricity con-
16 sumers, but in any three consecutive calendar years thereafter makes sales of electricity to retail
17 electricity consumers in amounts that average three percent or more of all electricity sold to retail
18 electricity consumers, the **electric** utility is subject to the renewable portfolio standard described
19 in subsection (3) of this section. The **electric** utility becomes subject to the **renewable portfolio**
20 standard described in subsection (3) of this section in the calendar year following the three-year
21 period during which the **electric** utility makes sales of electricity to retail electricity consumers in
22 amounts that average three percent or more of all electricity sold to retail electricity consumers.

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

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

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

33 (c) Beginning in the 15th calendar year after the calendar year in which the **electric** utility
34 becomes subject to the **renewable portfolio** standard described in this subsection, at least 20 per-
35 cent of the electricity sold by the **electric** utility to retail electricity consumers in a calendar year
36 must be qualifying electricity; and

37 (d) Beginning in the 20th 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 25 per-
39 cent of the electricity sold by the **electric** utility to retail electricity consumers in a calendar year
40 must be qualifying electricity.

41 **SECTION 3.** ORS 469A.075 is amended to read:

42 469A.075. (1) An electric company that is subject to a renewable portfolio standard shall develop
43 an implementation plan for meeting the requirements of the **renewable portfolio** standard and file
44 the **implementation** plan with the Public Utility Commission. Implementation plans must be revised
45 and updated at least once every two years.

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

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

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

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

9 (4) The commission shall adopt rules:

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

11 (b) Establishing the procedure for acknowledgment of implementation plans under this section,
12 including provisions for public comment; and

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

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

21
22 **(Banking Renewable Energy Certificates)**

23
24 **SECTION 4.** ORS 469A.140 is amended to read:

25 469A.140. (1) Renewable energy certificates may be traded, sold or otherwise transferred.

26 (2) Renewable energy certificates that are not used by [*an electric utility or electricity service*
27 *supplier*] **a consumer-owned utility** to comply with a renewable portfolio standard in a calendar
28 year may be banked and carried forward indefinitely for the purpose of complying with a renewable
29 portfolio standard in a subsequent year. For the purpose of **a consumer-owned utility** complying
30 with a renewable portfolio standard in any calendar year[:],

31 [*(a) Banked renewable energy certificates must be used, up to the limit imposed by ORS 469A.145,*
32 *before other certificates are used; and*]

33 [*(b)*] banked renewable energy certificates with the oldest issuance date must be used to comply
34 with the **renewable portfolio** standard before banked renewable energy certificates with more re-
35 cent issuance dates are used.

36 (3)(a) **Renewable energy certificates issued on or before the effective date of this 2016**
37 **Act that are not used by an electric company or electricity service supplier to comply with**
38 **a renewable portfolio standard in a calendar year may be banked and carried forward indef-**
39 **initely for the purpose of complying with a renewable portfolio standard in a subsequent**
40 **year.**

41 (b) **Except as provided in ORS 469A.020 (5) and (6), for qualifying electricity generated**
42 **from a renewable energy source that becomes operational on or before the effective date of**
43 **this 2016 Act, or for qualifying electricity that is acquired under a contract, having a dura-**
44 **tion of less than 20 years, for the purchase of electricity generated from a renewable energy**
45 **source that becomes operational between the effective date of this 2016 Act and December**

1 31, 2022, renewable energy certificates issued for the qualifying electricity after the effective
2 date of this 2016 Act that are not used by an electric company or an electricity service sup-
3 plier to comply with a renewable portfolio standard in the calendar year in which the
4 renewable energy certificates are issued may be banked and carried forward, for up to five
5 compliance years immediately following the compliance year in which the renewable energy
6 certificates are issued, for the purpose of complying with a renewable portfolio standard in
7 one of those five compliance years.

8 (c) For qualifying electricity generated from a renewable energy source that becomes
9 operational between the effective date of this 2016 Act and December 31, 2022, or for quali-
10 fying electricity that is acquired under a contract, having a duration of 20 years or more, for
11 the purchase of electricity generated from a renewable energy source that becomes opera-
12 tional between the effective date of this 2016 Act and December 31, 2022, renewable energy
13 certificates issued for the qualifying electricity during the five-year period after the date the
14 renewable energy source becomes operational that are not used by an electric company or
15 an electricity service supplier to comply with a renewable portfolio standard in the calendar
16 year in which the renewable energy certificates are issued may be banked and carried for-
17 ward indefinitely for the purpose of complying with a renewable portfolio standard in a sub-
18 sequent year.

19 (d) For qualifying electricity generated from a renewable energy source that becomes
20 operational between the effective date of this 2016 Act and December 31, 2022, or for quali-
21 fying electricity that is acquired under a contract, having a duration of 20 years or more, for
22 the purchase of electricity generated from a renewable energy source that becomes opera-
23 tional between the effective date of this 2016 Act and December 31, 2022, renewable energy
24 certificates issued for the qualifying electricity more than five years after the renewable
25 energy source becomes operational that are not used by an electric company or an electricity
26 service supplier to comply with a renewable portfolio standard in the calendar year in which
27 the renewable energy certificates are issued may be banked and carried forward, for up to
28 five compliance years immediately following the compliance year in which the renewable
29 energy certificates are issued, for the purpose of complying with a renewable portfolio
30 standard in one of those five compliance years.

31 (e) For qualifying electricity generated from a renewable energy source that becomes
32 operational after December 31, 2022, renewable energy certificates issued for the qualifying
33 electricity that are not used by an electric company or an electricity service supplier to
34 comply with a renewable portfolio standard in the calendar year in which the renewable en-
35 ergy certificates are issued may be banked and carried forward, for up to five compliance
36 years immediately following the compliance year in which the renewable energy certificates
37 are issued, for the purpose of complying with a renewable portfolio standard in one of those
38 five compliance years.

39 [(3)] (4) An electric utility or electricity service supplier is responsible for demonstrating that
40 a renewable energy certificate used to comply with a renewable portfolio standard is derived from
41 a renewable energy source and that the **electric** utility or **electricity service** supplier has not used,
42 traded, sold or otherwise transferred the **renewable energy** certificate.

43 [(4)] (5) [*The same*] A renewable energy certificate may be used by an electric utility or elec-
44 tricity service supplier to comply with **both** a federal renewable portfolio standard and a renewable
45 portfolio standard established under ORS 469A.005 to 469A.210. An electric utility or electricity

1 service supplier that uses a renewable energy certificate to comply with a renewable portfolio
2 standard imposed by *[any other]* a state other than this state may not use the same **renewable**
3 **energy** certificate to comply with a renewable portfolio standard established under ORS 469A.005
4 to 469A.210.

5
6 **(Acquisition of Electric Company**
7 **Service Territory)**
8

9 **SECTION 5.** ORS 469A.055 is amended to read:

10 469A.055. (1) Except as provided in this section, an electric utility that makes sales of electricity
11 to retail electricity consumers in an amount that equals less than three percent of all electricity
12 sold to retail electricity consumers is not subject to ORS 469A.005 to 469A.210.

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

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

22 (4) The exemption provided by subsection (1) of this section terminates if an electric utility, or
23 a joint operating entity that includes the **electric** utility as a member, acquires electricity from an
24 electricity generating facility that uses coal as an energy source or makes an investment on or after
25 June 6, 2007, in an electricity generating facility that uses coal as an energy source. **Beginning in**
26 **the calendar year following the year in which an electric utility's exemption terminates un-**
27 **der this subsection, the electric utility is subject to the renewable portfolio standard de-**
28 **scribed in ORS 469A.052 (3) and the provisions of ORS 469A.005 to 469A.210 that apply to ORS**
29 **469A.052 (3).** This subsection does not apply to:

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

32 (b) BPA electricity;

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

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

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

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

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

1 mental entities.

2 *[(5) The exemption provided by subsection (1) of this section terminates for a consumer-owned*
3 *utility if at any time after June 6, 2007, the utility acquires service territory of an electric company*
4 *without the consent of the electric company.]*

5 *[(6) Beginning in the calendar year following the year in which an electric utility's exemption ter-*
6 *minates under subsection (4) or (5) of this section, the utility is subject to the renewable portfolio*
7 *standard described in ORS 469A.052 (3) and related provisions of ORS 469A.005 to 469A.210.]*

8 **(5)(a) If an electric utility acquires service territory of another electric utility without**
9 **the consent of the electric utility from which service territory was acquired, then beginning**
10 **in the calendar year following the acquisition the acquiring electric utility is subject to the**
11 **renewable portfolio standard that is applicable to the electric utility from which service ter-**
12 **ritory was acquired and the provisions of ORS 469A.005 to 469A.210 that apply to that**
13 **renewable portfolio standard.**

14 **(b) Nothing in this subsection authorizes the acquisition of service territory of a people's**
15 **utility district organized under ORS chapter 261 by a municipal electric utility.**

16 *[(7)] (6) The provisions of this section do not affect the requirement that electric utilities offer*
17 *a green power rate under ORS 469A.205.*

18 **SECTION 6.** ORS 469A.060 is amended to read:

19 469A.060. (1) Electric utilities are not required to comply with the renewable portfolio standards
20 described in ORS 469A.052 and 469A.055 to the extent that:

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

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

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

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

35 (3) A consumer-owned utility is not required to comply with a renewable portfolio standard to
36 the extent that compliance would require the **consumer-owned** utility to reduce the **consumer-**
37 **owned** utility's purchases of the lowest priced electricity from the Bonneville Power Administration
38 pursuant to section 5 of the Pacific Northwest Electric Power Planning and Conservation Act of
39 1980, P.L. 96-501, as in effect on June 6, 2007. The exemption provided by this subsection:

40 (a) Applies only to firm commitments for BPA electricity that the Bonneville Power Adminis-
41 tration has assured will be available to a **consumer-owned** utility to meet agreed portions of the
42 **consumer-owned** utility's load requirements for a defined period of time[.]; **and**

43 (b) **Does not apply to a consumer-owned utility that acquires service territory of an**
44 **electric company without the consent of the electric company on or after June 6, 2007.**

45 **SECTION 6a.** As used in ORS 469A.005 to 469A.210, "acquires service territory" does not

1 **include an acquisition by a city of a facility, plant, equipment or service territory within the**
2 **boundaries of the city pursuant to ORS 225.020 or city charter, if the city:**

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

5 **(2) Provides fair, just and reasonable compensation to the electric company whose terri-**
6 **tory is acquired that:**

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

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

13 **(3) Pays any stranded costs obligation established pursuant to section 14 of this 2016 Act.**

14
15 **(Electricity Service Suppliers)**

16
17 **SECTION 7.** ORS 469A.135 is amended to read:

18 469A.135. (1) A bundled renewable energy certificate may be used to comply with a renewable
19 portfolio standard if:

20 (a) The facility that generates the qualifying electricity for which the **bundled renewable en-**
21 **ergy** certificate is issued is located in the United States and within the geographic boundary of the
22 Western Electricity Coordinating Council; and

23 (b) The qualifying electricity for which the **bundled renewable energy** certificate is issued is
24 delivered to:

25 **(A) The Bonneville Power Administration[*to*];**

26 **(B) The transmission system of an electric utility [*or to another*];**

27 **(C) A delivery point designated by [*an*] the electric utility for the purpose of subsequent deliv-**
28 **ery to the electric utility; or**

29 **(D) A delivery point mutually agreed to by a distribution utility and an electricity service**
30 **supplier for the purpose of subsequent delivery to the distribution utility serving the cus-**
31 **tomers of the electricity service supplier.**

32 (2) An unbundled renewable energy certificate may be used to comply with a renewable portfolio
33 standard if the facility that generates the qualifying electricity [*for*] **with** which the **unbundled**
34 **renewable energy** certificate is [*issued*] **associated** is located within the geographic boundary of
35 the Western Electricity Coordinating Council.

36 (3) Renewable energy certificates issued for any electricity that the Bonneville Power Adminis-
37 tration has designated as environmentally preferred power, or has given a similar designation for
38 electricity generated from a renewable resource, may be used to comply with a renewable portfolio
39 standard without regard to the location of the generating facility.

40 **(4) This section does not affect the obligations or requirements:**

41 **(a) Imposed under or agreed to in a contract with a distribution utility;**

42 **(b) Imposed under tariff schedules approved by the Public Utility Commission;**

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

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

45 **SECTION 8.** ORS 469A.145 is amended to read:

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

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

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

12 (4) The limitation imposed by subsection (1) of this section does not apply to an electricity ser-
13 vice supplier **for purposes of meeting the renewable portfolio standard described in ORS**
14 **469A.065 during compliance years before 2021.**

15
16 **(Recovery of Costs for Complying**
17 **with Renewable Portfolio Standard)**
18

19 **SECTION 9.** ORS 469A.120 is amended to read:

20 469A.120. (1) Except as provided in ORS 469A.180 (5), all prudently incurred costs associated
21 with [*compliance with a renewable portfolio standard*] **complying with ORS 469A.005 to 469A.210**
22 are recoverable in the rates of an electric company, including interconnection costs, costs associated
23 with using physical or financial assets to integrate, firm or shape renewable energy sources on a
24 firm annual basis to meet retail electricity needs, above-market costs and other costs associated
25 with transmission and delivery of qualifying electricity to retail electricity consumers.

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

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

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

45 (b) Notwithstanding any other provision of law, upon the request of any interested person the

1 commission shall conduct a proceeding to determine whether to approve a proposed change in rates
2 under the automatic adjustment clause or other method for timely recovery of costs. The commission
3 shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to
4 756.610, including but not limited to the opportunity to develop an evidentiary record, conduct dis-
5 covery, introduce evidence, conduct cross-examination and submit written briefs and oral argument.
6 The commission shall issue a written order with findings on the evidentiary record developed in the
7 proceeding.

8 (c) A filing made under this subsection is subject to the commission's authority under ORS
9 757.215 to suspend a rate, or schedule of rates, for investigation.

10
11 **(Exemption for Purposes of Meeting**
12 **Reliability Standards of North American**
13 **Electric Reliability Corporation)**
14

15 **SECTION 10.** Sections 11 and 12 of this 2016 Act are added to and made a part of ORS
16 469A.005 to 469A.210.

17 **SECTION 11.** (1) Upon its own motion or at the request of an electric company, the
18 Public Utility Commission may open an investigation to determine whether an electric
19 company's compliance with one or more of the requirements of ORS 469A.052 is likely to
20 result in conflicts with or compromises to the electric company's obligation to comply with
21 the mandatory and enforceable reliability standards of the North American Electric Reli-
22 ability Corporation. An electric company making a request under this subsection must sub-
23 mit an application to the commission that includes:

24 (a) An explanation of the reliability issue and how a temporary exemption from comply-
25 ing with one or more of the requirements of ORS 469A.052 will avoid the reliability issue; and

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

27 (2) In applying for a temporary exemption under this section, an electric company has
28 the burden of demonstrating that compliance with one or more of the requirements of ORS
29 469A.052 is likely to result in conflicts with or compromises to the electric company's obli-
30 gation to comply with the mandatory and enforceable reliability standards of the North
31 American Electric Reliability Corporation.

32 (3) If the commission determines under this section that compliance with one or more
33 of the requirements of ORS 469A.052 is likely to result in conflicts with or compromises to
34 an electric company's obligation to comply with the mandatory and enforceable reliability
35 standards of the North American Electric Reliability Corporation, the commission shall issue
36 an order:

37 (a) Notwithstanding ORS 469A.052, temporarily exempting the electric company from one
38 or more of the requirements of ORS 469A.052 for an amount of time sufficient to allow the
39 electric company to achieve full compliance with the requirements of ORS 469A.052;

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

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

45 (4) An electric company may request an extension of a temporary exemption granted

1 under this section.

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

4
5 (Investigation of Future Variable Cost Recovery)
6

7 **SECTION 12.** At the request of an electric company, the Public Utility Commission may
8 open an investigation to determine whether the requirements of ORS 469A.052 (1)(e), (f), (g)
9 or (h), or other requirements under ORS 469A.005 to 469A.210 related to the supply of elec-
10 tricity, necessitate changes to the methodology for recovery of variable costs associated with
11 supplying electricity.

12
13 **GENERAL REGULATORY PROVISIONS**
14 (Series Placement)
15

16 **SECTION 13.** Sections 14, 15 and 16 of this 2016 Act are added to and made a part of ORS
17 chapter 757.

18
19 (Acquisition of Electric Company
20 Service Territory or Property)
21

22 **SECTION 14.** (1) For purposes of this section:

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

24 (b) "Electric utility" has the meaning given that term in ORS 757.600.

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

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

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

33 (b) The purpose of the stranded costs obligation is to prevent shifting the costs associ-
34 ated with the loss of service territory or property of an electric company from the retail
35 electricity consumers of the electric utility to the retail electricity consumers of the electric
36 company.

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

40 (5) This section does not interfere with or supersede the jurisdiction of the Federal En-
41 ergy Regulatory Commission.

42
43 (Valuation of Renewable Energy Resources)
44

45 **SECTION 15.** (1) The Legislative Assembly finds and declares that the Public Utility

1 Commission has the authority to make an estimation and valuation of the long-term benefit
2 of:

- 3 (a) Any renewable energy generating facility;
- 4 (b) Any renewable energy site; or
- 5 (c) Any renewable energy resource acquired by a public utility.

6 (2) The commission shall adopt rules or issue orders that allow, in any public bidding
7 process for the procurement of a renewable energy generating facility, inclusion in the cost
8 of procurement the value to the customers of the public utility of:

9 (a) The long-term access to and use of the renewable energy generating facility,
10 renewable energy site or renewable energy resource beyond the time at which the renewable
11 energy generating facility is fully depreciated; and

12 (b) Potentially repowering, refurbishing or retrofitting the renewable energy generating
13 facility in a manner that ensures the ability of the renewable energy generating facility to
14 continue generating power beyond the expected useful life of the renewable energy generat-
15 ing facility.

16
17 (Tax Credit Tracking)
18

19 **SECTION 16.** (1) As used in this section, “electric company” has the meaning given that
20 term in ORS 757.600.

21 (2) The Public Utility Commission shall establish the means by which an electric company
22 may annually track, and credit or charge customers for, the difference between state or
23 federal production tax credits included in rates charged by the electric company and actual
24 production tax credits received by the electric company.

25 (3) The means by which an electric company may credit or charge customers pursuant
26 to subsection (1) of this section is not subject to ORS 757.259.

27
28 ENERGY EFFICIENCY
29

30 **SECTION 17.** (1) As used in this section, “electric company” has the meaning given that
31 term in ORS 757.600.

32 (2) The Legislative Assembly finds and declares that:

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

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

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

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

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

3
4 **TRANSPORTATION ELECTRIFICATION PROGRAMS**

5
6 **SECTION 18.** (1) As used in this section:

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

8 (b) "Transportation electrification" means:

9 (A) The use of electricity from external sources to provide power to all or part of a ve-
10 hicle;

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

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

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

16 (2) The Legislative Assembly finds and declares that:

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

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

23 (c) Widespread transportation electrification requires that electric companies increase
24 access to the use of electricity as a transportation fuel in low and moderate income com-
25 munities;

26 (d) Widespread transportation electrification should stimulate innovation and competi-
27 tion, provide consumers with increased options in the use of charging equipment and in
28 procuring services from suppliers of electricity, attract private capital investments and cre-
29 ate high quality jobs in this state;

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

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

37 (g) Charging electric vehicles in a manner that provides benefits to electrical grid man-
38 agement affords fuel cost savings for vehicle drivers.

39 (3) The Public Utility Commission shall direct each electric company to file applications,
40 in a form and manner prescribed by the commission, for programs to accelerate transpor-
41 tation electrification that are consistent with the findings and declarations described in
42 subsection (2) of this section. A program proposed by an electric company may include pru-
43 dent investments in or customer rebates for electric vehicle charging and related
44 infrastructure that are:

45 (a) Within the service territory of the electric company;

1 (b) Installed on or after July 1, 2016;

2 (c) Reasonably expected to be used and useful;

3 (d) Reasonably expected to enable the electric company to support the electric company's
4 electrical system; and

5 (e) Reasonably expected to improve the electric company's electrical system efficiency
6 and operational flexibility, including the ability of the electric company to integrate variable
7 generating resources.

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

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

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

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

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

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

28
29 **SOLAR PROGRAMS**

30 **(Community Solar Programs)**

31
32 **SECTION 19. (1) As used in this section:**

33 (a) "Community solar program" means a program by which an electric company procures
34 electricity from community solar projects.

35 (b) "Community solar project" means a project for the generation of electricity that al-
36 lows the customers of an electric company an opportunity to buy solar energy from a shared
37 solar resource and to share in the costs, risks and benefits of solar projects through the
38 customer's electric bill.

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

40 (2) The Public Utility Commission shall require each electric company to implement a
41 community solar program and adopt rules for the implementation of community solar pro-
42 grams. As part of the rules, the commission shall:

43 (a) Establish a program capacity cap for each electric company. The initial community
44 solar program capacity cap for each electric company must be based on the 2015 peak load
45 of the electric company. The commission may adjust the community solar program capacity

1 cap for each electric company.

2 (b) Prescribe what qualifies a community solar project to participate in a community
3 solar program.

4 (c) Certify qualified community solar projects for participation in a community solar
5 program.

6 (d) Require electric companies to enter into 20-year power purchase agreements with
7 certified community solar projects, excepting those circumstances where the parties to a
8 power purchase agreement agree to enter into a power purchase agreement for a shorter
9 duration.

10 (e) Require that subscribers to a community solar project subscribe to the community
11 solar project for a minimum term.

12 (f) Minimize the shifting of costs from community solar programs to ratepayers who do
13 not subscribe to a community solar project.

14 (g) Protect the public interest.

15 (3) A community solar project:

16 (a) Must have a generating capacity between 25 kilowatts and 2 megawatts;

17 (b) May be owned by any person;

18 (c) Must be located in this state; and

19 (d) May be located anywhere in this state.

20 (4) The owner or operator of a community solar project may offer subscriptions for the
21 generation of electricity only to residential and small commercial consumers of electricity.

22 (5)(a) The owner or operator of a community solar project may offer individual sub-
23 scriptions for the generation of electricity, as described in subsection (4) of this section, in
24 any amount that does not exceed the subscriber's annual load.

25 (b) Annually, an electric company shall distribute to the low-income residential custom-
26 ers of the electric company, as part of any low-income assistance program administered by
27 the electric company, any credit to an electric bill as provided for in subsection (6) of this
28 section in excess of the subscriber's average annual load.

29 (6)(a) Except as provided in paragraph (b) of this subsection, an electric company shall
30 credit a subscriber's electric bill for the amount of electricity generated by a community
31 solar project for the subscriber in an amount that equals the resource value of solar. For
32 purposes of this paragraph, the commission shall determine the resource value of solar.

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

36 (7)(a) The costs, risks and benefits of a community solar project shall be borne by the
37 owner, operator or developer of the community solar project and by subscribers to the
38 community solar project.

39 (b) All start-up costs prudently incurred by an electric company during the development
40 of a community solar program are recoverable in the rates of an electric company and are
41 payable by all ratepayers of the electric company.

42 (c) All ongoing costs incurred during the continued administration of a community solar
43 program must be borne by the owner or operator of the community solar project and by
44 subscribers to the community solar project.

45 (8) A subscriber to a community solar project owns all renewable energy certificates

1 provided for in the system established under ORS 469A.130 that are associated with the
2 electricity generated by the community solar project, in proportion to the subscriber's sub-
3 scription.

4 (9) As part of the community solar program established under this section, the commis-
5 sion shall:

6 (a) Identify low-income residential customers of electricity;

7 (b) Determine a methodology by which 10 percent of the total generating capacity of the
8 community solar projects operated under the program will be made available for use by
9 low-income residential customers of electricity; and

10 (c) Periodically review and adjust the percentage described in paragraph (b) of this sub-
11 section.

12 **SECTION 20.** Subject to the provisions of section 19 of this 2016 Act, in establishing by
13 rule the plan for the implementation of a community solar program by each electric company
14 under section 19 of this 2016 Act, the Public Utility Commission shall adopt rules that are
15 consistent with the preferred attributes for the design of community solar programs as re-
16 commended by the commission to the Legislative Assembly on October 26, 2015.

17 **SECTION 21.** On or before July 1, 2019, the Public Utility Commission shall report on the
18 implementation of section 19 of this 2016 Act to the interim committees of the Legislative
19 Assembly related to business and energy. As part of the report, the commission may make
20 recommendations for legislation. The commission shall submit the report in the manner re-
21 quired by ORS 192.245.

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

25
26 **SECTION 22.** ORS 757.370 is repealed.

27 **SECTION 23.** ORS 757.375 is amended to read:

28 757.375. (1) Any electricity produced from a [*qualifying system under ORS 757.370*] **solar**
29 **photovoltaic energy system** that is physically located in this state may be used by an electric
30 company to comply with the renewable portfolio standard established under ORS 469A.005 to
31 469A.210.

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

38
39 **CONFORMING AMENDMENTS**

40
41 **SECTION 24.** ORS 469A.005 is amended to read:

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

43 (1) "Banked renewable energy certificate" means a bundled or unbundled renewable energy
44 certificate that is not used by an electric utility or electricity service supplier to comply with a
45 renewable portfolio standard in a calendar year, and that is carried forward for the purpose of

1 compliance with a renewable portfolio standard in a subsequent year.

2 (2) “BPA electricity” means electricity provided by the Bonneville Power Administration, in-
3 cluding *[all]* electricity *[from]* **generated by** the Federal Columbia River Power System hydroelectric
4 projects and *[other]* electricity acquired by the Bonneville Power Administration by contract.

5 (3) “Bundled renewable energy certificate” means a renewable energy certificate for qualifying
6 electricity that is acquired:

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

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

11 (4) “Compliance year” means the calendar year for which the electric utility or electricity ser-
12 vice supplier seeks to establish compliance with the renewable portfolio standard applicable to the
13 **electric utility** or **electricity service** supplier in the compliance report submitted under ORS
14 469A.170.

15 (5) “Consumer-owned utility” means a municipal electric utility, a people’s utility district or-
16 ganized under ORS chapter 261 that sells electricity or an electric cooperative organized under ORS
17 chapter 62.

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

19 *[(6)]* **(7) “Electric company” has the meaning given that term in ORS 757.600.**

20 *[(7)]* **(8) “Electric utility” has the meaning given that term in ORS 757.600.**

21 *[(8)]* **(9) “Electricity service supplier” has the meaning given that term in ORS 757.600.**

22 *[(9)]* **(10) “Qualifying electricity” means electricity described in ORS 469A.010.**

23 *[(10)]* **(11) “Renewable energy source” means a source of electricity described in ORS 469A.025.**

24 *[(11)]* **(12) “Retail electricity consumer” means a retail electricity consumer, as defined in ORS**
25 **757.600, that is located in Oregon.**

26 *[(12)]* **(13) “Unbundled renewable energy certificate” means a renewable energy certificate for**
27 **qualifying electricity that is acquired by an electric utility or electricity service supplier by trade,**
28 **purchase or other transfer without acquiring the electricity *[for which the]* that is associated with**
29 **the renewable energy certificate *[was issued]*.**

30
31 **MISCELLANEOUS**
32

33 **SECTION 25. The Public Utility Commission shall establish the means by which an elec-**
34 **tric company may annually track the difference between tax credits, and credit or charge**
35 **customers, under section 16 of this 2016 Act on or before October 1, 2016.**

36 **SECTION 26. The Public Utility Commission shall direct each electric company in this**
37 **state to file applications as required by section 18 of this 2016 Act on or before December 31,**
38 **2016.**

39 **SECTION 27. On or before July 1, 2017, the Public Utility Commission shall:**

40 **(1) Require each electric company to implement a community solar program; and**

41 **(2) Adopt rules for the implementation of community solar programs as required by**
42 **section 19 of this 2016 Act.**

43 **SECTION 28. The unit captions used in this 2016 Act are provided only for the conven-**
44 **ience of the reader and do not become part of the statutory law of this state or express any**
45 **legislative intent in the enactment of this 2016 Act.**

1 **SECTION 29.** This 2016 Act being necessary for the immediate preservation of the public
2 peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect
3 on its passage.

4
