

# D R A F T

## SUMMARY

Requires at least 50 percent of public purpose charge funds paid to non-governmental entity to be invested in providing incentives to retail electricity customers for accelerating transportation electrification. Specifies that accelerating transportation electrification qualifies as new market transformation effort for purposes of public purpose charge expenditure standard.

## A BILL FOR AN ACT

Relating to public purpose expenditure standards; amending ORS 757.612.

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

**SECTION 1.** ORS 757.612 is amended to read:

757.612. (1) There is established an annual public purpose expenditure standard for electric companies and Oregon Community Power to fund new cost-effective energy conservation, new market transformation efforts, the above-market costs of new renewable energy resources and new low-income weatherization. The public purpose expenditure standard shall be funded by the public purpose charge described in subsection (2) of this section.

(2)(a) Beginning on the date an electric company or Oregon Community Power offers direct access to retail electricity consumers, except residential electricity consumers, the electric company or Oregon Community Power shall collect a public purpose charge from all of the retail electricity consumers located within the electric company's or Oregon Community Power's service area until January 1, 2026. Except as provided in paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the total revenues collected by the electric company, Oregon Community Power or the electricity service supplier from retail electricity consumers for

1 electricity services, distribution services, ancillary services, metering and  
2 billing, transition charges and other types of costs included in electric rates  
3 on July 23, 1999.

4 (b) For an aluminum plant that averages more than 100 average mega-  
5 watts of electricity use per year, the electric company or Oregon Community  
6 Power, whichever serves territory that abuts the greatest percentage of the  
7 site of the aluminum plant, shall collect from the aluminum company a  
8 public purpose charge equal to one percent of the total revenue from the sale  
9 of electricity services to the aluminum plant from any source.

10 (3)(a) The Public Utility Commission shall establish rules implementing  
11 the provisions of this section relating to electric companies and Oregon  
12 Community Power.

13 (b) Except as provided in paragraph (e) of this subsection, funds collected  
14 through public purpose charges under subsection (2) of this section shall be  
15 allocated as follows:

16 (A) Sixty-three percent for new cost-effective energy conservation and new  
17 market transformation efforts.

18 (B) Nineteen percent for the above-market costs of constructing and op-  
19 erating new renewable energy resources with a nominal electric generating  
20 capacity, as defined in ORS 469.300, of 20 megawatts or less.

21 (C) Thirteen percent for new low-income weatherization.

22 (D) Five percent for deposit in the Housing and Community Services De-  
23 partment Electricity Public Purpose Charge Fund established by ORS 456.587  
24 (1) for the purpose of providing grants as described in ORS 458.625 (2).

25 (c) The costs of administering subsections (1) to (6) of this section for an  
26 electric company or Oregon Community Power shall be paid out of the funds  
27 collected through public purpose charges. The commission may require an  
28 electric company or Oregon Community Power to direct funds collected  
29 through public purpose charges to state agencies responsible for implement-  
30 ing subsections (1) to (6) of this section in order to pay the costs of admin-  
31 istering subsections (1) to (6) of this section.

1 (d)(A) The commission shall direct the manner in which public purpose  
2 charges are collected and spent by an electric company or Oregon Commu-  
3 nity Power and may require an electric company or Oregon Community  
4 Power to expend funds through competitive bids or other means designed to  
5 encourage competition, except that funds dedicated for new low-income  
6 weatherization shall be directed to the Housing and Community Services  
7 Department for purposes related to new low-income weatherization.

8 (B) The commission may also require funds collected through public  
9 purpose charges to be paid to a nongovernmental entity for investment in  
10 public purposes described in subsection (1) of this section.

11 (C) **If the commission requires public purpose charges to be paid**  
12 **as described in subparagraph (B) of this paragraph, the commission**  
13 **shall require that at least 50 percent of the funds paid to the nongov-**  
14 **ernmental entity be invested in providing incentives to retail electric-**  
15 **ity customers for accelerating transportation electrification. For**  
16 **purposes of this section, accelerating transportation electrification is**  
17 **a new market transformation effort.**

18 (D) Notwithstanding any other provision of this subsection:

19 [(A)] (i) If an electric company collected the funds, at least 80 percent  
20 of the funds allocated for new cost-effective energy conservation **and new**  
21 **market transformation efforts** shall be spent within the service area of  
22 the electric company; or

23 [(B)] (ii) If Oregon Community Power collected the funds, at least 80  
24 percent of the funds allocated for new cost-effective energy conservation **and**  
25 **new market transformation efforts** shall be spent within the service area  
26 of Oregon Community Power.

27 (e)(A) The first 10 percent of funds collected each year by an electric  
28 company or Oregon Community Power under subsection (2) of this section  
29 shall be distributed to school districts that are located in the service terri-  
30 tory of the electric company or Oregon Community Power. The funds shall  
31 be distributed to individual school districts according to the weighted aver-

1 age daily membership (ADMw) of each school district for the prior fiscal  
2 year as calculated under ORS 327.013. The commission shall establish by rule  
3 a methodology for distributing a proportionate share of funds under this  
4 paragraph to school districts that are only partially located in the service  
5 territory of the electric company or Oregon Community Power.

6 (B) A school district that receives funds under this paragraph shall use  
7 the funds first to pay for energy audits for schools located within the school  
8 district. A school district may not expend additional funds received under  
9 this paragraph on a school until an energy audit has been completed for that  
10 school. To the extent practicable, a school district shall coordinate with the  
11 State Department of Energy and incorporate federal funding in complying  
12 with this paragraph. Following completion of an energy audit for an indi-  
13 vidual school, the school district may expend funds received under this par-  
14 agraph to implement the energy audit. Once an energy audit has been  
15 conducted and completely implemented for each school within the school  
16 district, the school district may expend funds received under this paragraph  
17 for any of the following purposes:

18 (i) Conducting additional energy audits. A school district shall conduct  
19 an energy audit prior to expending funds on any other purpose authorized  
20 under this paragraph unless the school district has performed an energy au-  
21 dit within the three years immediately prior to receiving the funds.

22 (ii) Weatherizing school district facilities and upgrading the energy effi-  
23 ciency of school district facilities.

24 (iii) Energy conservation education programs.

25 (iv) Purchasing electricity from environmentally focused sources.

26 (v) Investing in renewable energy resources.

27 (f) The commission may not establish a different public purpose charge  
28 than the public purpose charge described in subsection (2) of this section.

29 (g) If the commission requires funds collected through public purpose  
30 charges to be paid to a nongovernmental entity, the entity shall:

31 (A) Include on the entity's board of directors an ex officio member des-

1 ignited by the commission, who shall also serve on the entity's nominating  
2 committee for filling board vacancies.

3 (B) Require the entity's officers and directors to provide an annual dis-  
4 closure of economic interest to be filed with the commission on or prior to  
5 April 15 of each calendar year for public review in a form similar to the  
6 statement of economic interest required for public officials under ORS  
7 244.060.

8 (C) Require the entity's officers and directors to declare actual and po-  
9 tential conflicts of interest at regular meetings of the entity's governing body  
10 when such conflicts arise, and require an officer or director to abstain from  
11 participating in any discussion or voting on any item where that officer or  
12 director has an actual conflict of interest. For the purposes of this subpara-  
13 graph, "actual conflict of interest" and "potential conflict of interest" have  
14 the meanings given those terms in ORS 244.020.

15 (D) Annually, arrange for an independent auditor to audit the entity's fi-  
16 nancial statements, and direct the auditor to file an audit opinion with the  
17 commission for public review.

18 (E) Annually file with the commission the entity's budget, action plan and  
19 quarterly and annual reports for public review.

20 (F) At least once every five years, contract for an independent manage-  
21 ment evaluation to review the entity's operations, efficiency and effective-  
22 ness, and direct the independent reviewer to file a report with the  
23 commission for public review.

24 (h) The commission may remove from the board of directors of a nongov-  
25 ernmental entity an officer or director who fails to provide an annual dis-  
26 closure of economic interest, or who fails to declare an actual or potential  
27 conflict of interest, as described in paragraph (g)(B) and (C) of this sub-  
28 section, if the failure is connected to the allocation or expenditure of funds  
29 collected through public purpose charges and paid to the entity.

30 (4)(a) An electric company that satisfies its obligations under this section:

31 (A) Has no further obligation to invest in new cost-effective energy con-

1 servation, new market transformation or new low-income weatherization, or  
2 to provide a commercial energy conservation services program; and

3 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

4 (b) Oregon Community Power, for any period during which Oregon Com-  
5 munity Power collects a public purpose charge under subsection (2) of this  
6 section:

7 (A) Has no further obligation to invest in new cost-effective energy con-  
8 servation, new market transformation or new low-income weatherization, or  
9 to provide a commercial energy conservation services program; and

10 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

11 (5)(a) A retail electricity consumer that uses more than one average  
12 megawatt of electricity at any site in the prior year shall receive a credit  
13 against public purpose charges billed by an electric company or Oregon  
14 Community Power for that site. The amount of the credit shall be equal to  
15 the total amount of qualifying expenditures for new cost-effective energy  
16 conservation, not to exceed 68 percent of the annual public purpose charges,  
17 and the above-market costs of new renewable energy resources incurred by  
18 the retail electricity consumer, not to exceed 19 percent of the annual public  
19 purpose charges, less administration costs incurred under this paragraph and  
20 paragraphs (b) and (c) of this subsection. The credit may not exceed, on an  
21 annual basis, the lesser of:

22 (A) The amount of the retail electricity consumer's qualifying expendi-  
23 tures; or

24 (B) The portion of the public purpose charge billed to the retail electricity  
25 consumer that is dedicated to new cost-effective energy conservation, new  
26 market transformation or the above-market costs of new renewable energy  
27 resources.

28 (b) To obtain a credit under paragraph (a) of this subsection, a retail  
29 electricity consumer shall file with the State Department of Energy a de-  
30 scription of the proposed conservation project or new renewable energy re-  
31 source and a declaration that the retail electricity consumer plans to incur

1 the qualifying expenditure. The State Department of Energy shall issue a  
2 notice of precertification within 30 days of receipt of the filing, if such filing  
3 is consistent with paragraph (a) of this subsection. The credit may be taken  
4 after a retail electricity consumer provides a letter from a certified public  
5 accountant to the State Department of Energy verifying that the precertified  
6 qualifying expenditure has been made.

7 (c) Credits earned by a retail electricity consumer as a result of qualify-  
8 ing expenditures that are not used in one year may be carried forward for  
9 use in subsequent years.

10 (d)(A) A retail electricity consumer that uses more than one average  
11 megawatt of electricity at any site in the prior year may request that the  
12 State Department of Energy hire an independent auditor to assess the po-  
13 tential for conservation investments at the site. If the independent auditor  
14 determines there is no available conservation measure at the site that would  
15 have a simple payback of one to 10 years, the retail electricity consumer  
16 shall be relieved of 54 percent of its payment obligation for public purpose  
17 charges related to the site. If the independent auditor determines that there  
18 are potential conservation measures available at the site, the retail elec-  
19 tricity consumer shall be entitled to a credit against public purpose charges  
20 related to the site equal to 54 percent of the public purpose charges less the  
21 estimated cost of available conservation measures.

22 (B) A retail electricity consumer shall be entitled each year to the credit  
23 described in this paragraph unless a subsequent independent audit deter-  
24 mines that new conservation investment opportunities are available. The  
25 State Department of Energy may require that a new independent audit be  
26 performed on the site to determine whether new conservation measures are  
27 available, provided that the independent audits occur no more than once  
28 every two years.

29 (C) The retail electricity consumer shall pay the cost of the independent  
30 audits described in this paragraph.

31 (6) Electric utilities and retail electricity consumers shall receive a fair

1 and reasonable credit for the public purpose expenditures of their energy  
2 suppliers. The State Department of Energy shall adopt rules to determine  
3 eligible expenditures and the method by which such credits are accounted for  
4 and used. The State Department of Energy also shall adopt methods to ac-  
5 count for eligible public purpose expenditures made through consortia or  
6 collaborative projects.

7 (7)(a) In addition to the public purpose charge provided under subsection  
8 (2) of this section, an electric company or Oregon Community Power shall  
9 collect funds for low-income electric bill payment assistance in an amount  
10 determined under paragraph (b) of this subsection.

11 (b) The commission shall establish the amount to be collected by each  
12 electric company from retail electricity consumers, and the rates to be  
13 charged by each electric company to retail electricity consumers, so that the  
14 forecasted collection by all electric companies in calendar year 2018 is \$20  
15 million. In subsequent calendar years, the commission may not decrease the  
16 rates below those established for calendar year 2018. The commission may  
17 temporarily adjust the rates if forecasted collections or actual collections are  
18 less than \$20 million in any calendar year. A retail electricity consumer may  
19 not be required to pay more than \$500 per month per site for low-income  
20 electric bill payment assistance.

21 (c) Funds collected through the low-income electric bill payment assist-  
22 ance charge shall be paid into the Housing and Community Services De-  
23 partment Low-Income Electric Bill Payment Assistance Fund established by  
24 ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be  
25 used by the Housing and Community Services Department solely for purposes  
26 related to low-income electric bill payment assistance and for the Housing  
27 and Community Services Department's cost of administering this subsection.  
28 Funds collected by an electric company or Oregon Community Power under  
29 this subsection shall be expended in the service area of the electric company  
30 or Oregon Community Power from which the funds are collected.

31 (d)(A) The Housing and Community Services Department shall determine

1 the manner in which funds collected under this subsection will be allocated  
2 by the Housing and Community Services Department to energy assistance  
3 program providers for the purpose of providing low-income bill payment and  
4 crisis assistance.

5 (B) The Housing and Community Services Department, in consultation  
6 with electric companies, shall investigate and may implement alternative  
7 delivery models to effectively reduce service disconnections and related costs  
8 to retail electricity consumers and electric utilities.

9 (C) Priority assistance shall be directed to low-income electricity con-  
10 sumers who are in danger of having their electricity service disconnected.

11 (D) The Housing and Community Services Department shall maintain re-  
12 cords and provide those records upon request to an electric company, Oregon  
13 Community Power and the Citizens' Utility Board established under ORS  
14 chapter 774 on a quarterly basis. Records maintained must include the  
15 numbers of low-income electricity consumers served, the average amounts  
16 paid to low-income electricity consumers and the type of assistance provided  
17 to low-income electricity consumers. Electric companies and Oregon Com-  
18 munity Power shall, if requested, provide the Housing and Community Ser-  
19 vices Department with aggregate data relating to low-income electricity  
20 consumers served on a quarterly basis to support program development.

21 (e) Interest on moneys deposited in the Housing and Community Services  
22 Department Low-Income Electric Bill Payment Assistance Fund established  
23 by ORS 456.587 (2) may be used to provide bill payment and crisis assistance  
24 to electricity consumers whose primary source of heat is not electricity.

25 (f) Notwithstanding ORS 757.310, the commission may allow an electric  
26 company or Oregon Community Power to provide reduced rates or other bill  
27 payment or crisis assistance or low-income program assistance to a low-  
28 income household eligible for assistance under the federal Low Income Home  
29 Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

30 (8) For purposes of this section, "retail electricity consumers" includes  
31 any direct service industrial consumer that purchases electricity without

1 purchasing distribution services from the electric utility.

2 (9) For purposes of this section, funds collected by Oregon Community

3 Power through public purpose charges are not considered moneys received

4 from electric utility operations.

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