

D R A F T

SUMMARY

Establishes ability of retail electricity consumer to purchase electricity generated by eligible renewable energy resources and certain ancillary services directly from entity that is not distribution utility that meets specified conditions.

Changes requirements for entity that is not distribution utility from which retail electricity consumer directly may purchase electricity.

Becomes operative January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to utilities; creating new provisions; amending ORS 59.025, 757.600,
3 757.601, 757.607, 757.622, 757.627, 757.646 and 757.676; and prescribing an
4 effective date.

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

6 **SECTION 1.** ORS 757.600 is amended to read:

7 757.600. As used in ORS 757.600 to 757.689, unless the context requires
8 otherwise:

9 (1) “Aggregate” means combining retail electricity consumers into a buy-
10 ing group for the purchase of electricity and related services.

11 (2) “Ancillary services” means services necessary or incidental to the
12 transmission and delivery of electricity from [*generating*] **electric gener-**
13 **ation** facilities to retail electricity consumers, including [*but not limited to*
14 *scheduling,*] load shaping **services**, reactive power **services**, voltage control
15 **services** and energy balancing services.

16 [(3) “Commission” means the Public Utility Commission.]

17 [(4)] (3) “Consumer-owned utility” means a municipal electric utility, a

1 people's utility district or an electric cooperative.

2 [(5)] (4) "Default supplier" means an electricity service supplier or elec-
3 tric company that has a legal obligation to provide electricity services to a
4 consumer, as determined by the **Public Utility** Commission.

5 [(6)] (5) "Direct access" means the ability of a retail electricity consumer
6 to purchase electricity and certain ancillary services, as determined by the
7 commission for an electric company or the governing body of a consumer-
8 owned utility, directly from an entity **that meets the conditions specified**
9 **in ORS 757.607 (1)**, other than the distribution utility.

10 [(7)] (6) "Direct service industrial consumer" means an end user of elec-
11 tricity that obtains electricity directly from the transmission grid and not
12 through a distribution utility.

13 [(8)] (7) "Distribution" means the delivery of electricity to retail elec-
14 tricity consumers through a distribution system consisting of local area
15 power poles, transformers, conductors, meters, substations and other equip-
16 ment.

17 [(9)] (8) "Distribution utility" means an electric utility that owns and
18 operates a distribution system connecting the transmission grid to the retail
19 electricity consumer.

20 [(10)] (9)(a) "Economic utility investment" means all electric company
21 investments, including plants, [and] equipment and contractual or other le-
22 gal obligations, properly dedicated to generation or conservation, that were
23 prudent at the time the obligations were assumed, but the full benefits of
24 which are no longer available to consumers as a direct result of ORS 757.600
25 to 757.667, absent transition credits.

26 (b) "Economic utility investment" does not include:

27 (A) Costs or expenses disallowed by the commission [*in a prudence review*
28 *or other proceeding,*] to the extent of [*such*] **the** disallowance[, *and does not*
29 *include*]; **or**

30 (B) Fines or penalties [*authorized and*] imposed under state or federal
31 law.

1 [(11)] (10)(a) “Electric company” means an entity engaged in the business
2 of distributing electricity to retail electricity consumers in this state[, *but*].

3 (b) “**Electric company**” does not include a consumer-owned utility.

4 [(12)] (11) “Electric cooperative” means an electric cooperative corpo-
5 ration organized under ORS chapter 62 or under the laws of another state
6 if the service territory of the electric cooperative **corporation** includes a
7 portion of this state.

8 [(13)] (12) “Electric utility” means an electric company or consumer-
9 owned utility that is engaged in the business of distributing electricity to
10 retail electricity consumers in this state.

11 [(14)] (13) “Electricity” means electric energy, measured in kilowatt-
12 hours, or electric capacity, measured in kilowatts, or both.

13 [(15)] (14) “Electricity services” means electricity distribution, trans-
14 mission, generation or generation-related services.

15 [(16)] (15)(a) “Electricity service supplier” means a person [*or entity*] that
16 offers to sell electricity services available pursuant to direct access to more
17 than one retail electricity consumer.

18 (b) “Electricity service supplier” does not include an electric utility sell-
19 ing electricity to retail electricity consumers in [*its own*] **the electric**
20 **utility’s** service territory.

21 (16) “**Eligible renewable energy resource**” means a renewable energy
22 **source, as defined in ORS 469A.005.**

23 (17) “Governing body” means the board of directors or the commissioners
24 of an electric cooperative or people’s utility district, or the council or **other**
25 **governing** board of a city with respect to a municipal electric utility.

26 (18) “**Interim market purchases**” means **purchases of electricity in**
27 **the wholesale power market from an electric generation resource the**
28 **cost of which is not included in the purchasing electric company’s rate**
29 **base.**

30 [(18)] (19) “Load” means the amount of electricity delivered to or required
31 by a retail electricity consumer at a specific point of delivery.

1 [(19)] (20) “Low-income weatherization” means repairs, weatherization and
2 installation of energy efficient appliances and fixtures for low-income resi-
3 dences for the purpose of enhancing energy efficiency.

4 [(20)] (21) “Municipal electric utility” means an electric distribution
5 utility owned and operated by or on behalf of a city.

6 (22) “New commercial load” means:

7 (a) **An increase in the load of a nonresidential retail electricity**
8 **consumer at a specific point of delivery during a calendar year in an**
9 **amount that exceeds five percent of the maximum load of the non-**
10 **residential retail electricity consumer during the previous calendar**
11 **year; or**

12 (b) **The load of one or more nonresidential retail electricity con-**
13 **sumers at a new delivery point that was created through the develop-**
14 **ment of commercial or industrial infrastructure.**

15 [(21)] (23)(a) “New renewable energy resource” means a renewable energy
16 resource project, or [a new] **an** addition to an existing renewable energy re-
17 source project, or the electricity produced by [the] **a renewable energy re-**
18 **source** project, that is not in operation on July 23, 1999.

19 (b) “New renewable energy resource” does not include any portion of a
20 renewable energy resource project under contract to the Bonneville Power
21 Administration on or before July 23, 1999.

22 [(22)] (24) “One average megawatt” means 8,760,000 kilowatt-hours of
23 electricity per year.

24 [(23)] (25) “People’s utility district” has the meaning given that term in
25 ORS 261.010.

26 [(24)] (26) “Portfolio access” means the ability of a retail electricity con-
27 sumer to choose from a set of product and pricing options for electricity
28 determined by the governing [board] **body** of a consumer-owned utility [and
29 *may include product and pricing options*], **whether** offered by the
30 **consumer-owned** utility or by an electricity service supplier.

31 [(25)] (27) “Power generation company” means a company **that is not**

1 **regulated by the commission that is** engaged in the production and sale
 2 of electricity to wholesale customers, including [*but not limited to*] inde-
 3 pendent power producers, affiliated generation companies[,] **and** municipal
 4 and state authorities[, *provided the company is not regulated by the commis-*
 5 *sion*].

6 [(26)] **(28)** “Qualifying expenditures” means those expenditures for energy
 7 conservation measures that have a simple payback period of not less than
 8 one year and not more than 10 years, and expenditures for the above-market
 9 costs of new renewable energy resources, [*provided that*] **subject to any rule**
 10 **adopted by** the State Department of Energy [*by rule may establish*] **estab-**
 11 **lishing** a limit on the maximum above-market cost for renewable energy that
 12 is allowed as a credit.

13 **(29) “Renewable direct access” means the ability of a retail elec-**
 14 **tricity consumer to purchase electricity generated by eligible**
 15 **renewable energy resources and certain ancillary services, as deter-**
 16 **mined by the commission for an electric company or the governing**
 17 **body of a consumer-owned utility, directly from an entity that meets**
 18 **the conditions specified in ORS 757.607 (1) and (2), other than the dis-**
 19 **tribution utility.**

20 [(27)] **(30)** “Renewable energy resources” means:

21 (a) [*Electricity*] **Electric** generation facilities fueled by wind, waste, solar
 22 or geothermal power or by low-emission nontoxic biomass based on solid or-
 23 ganic fuels from wood, forest and field residues.

24 (b) Dedicated energy crops available on a renewable basis.

25 (c) Landfill gas and digester gas.

26 (d) Hydroelectric facilities located outside protected areas as defined by
 27 federal law in effect on July 23, 1999.

28 [(28)] **(31)(a)** “Residential electricity consumer” means an electricity con-
 29 sumer who resides at a dwelling primarily used for residential purposes.

30 **(b)** “Residential electricity consumer” does not include retail electricity
 31 consumers in a dwelling typically used for residency periods of less than 30

1 days, *[including]* **such as** hotels, motels, camps, lodges and clubs.

2 (c) As used in this subsection, “dwelling” includes *[but is not limited to]*
3 single family dwellings, separately metered apartments, adult foster homes,
4 manufactured dwellings, recreational vehicles and floating homes.

5 [(29)] (32)(a) “Retail electricity consumer” means the end user of elec-
6 tricity for specific purposes, such as heating, lighting or operating
7 equipment[, *and*].

8 (b) “Retail electricity consumer” includes all end users of electricity
9 served through the distribution system of an electric utility on or after July
10 23, 1999, *[whether or not each end user purchases]* **even if all end users do**
11 **not purchase** the electricity from the electric utility.

12 [(30)] (33) “Site” means a single contiguous area of land containing
13 buildings or other structures that are separated by not more than 1,000 feet,
14 or **containing** buildings and related structures that are interconnected by
15 facilities **that are** owned by a single retail electricity consumer and that are
16 served through a single electric meter.

17 (34) “Standard direct access” means **direct assess that is not**
18 **renewable direct access.**

19 [(31)] (35) “Transition charge” means a charge or fee that recovers all or
20 a portion of an uneconomic utility investment.

21 [(32)] (36) “Transition credit” means a credit that returns to consumers
22 all or a portion of the benefits from an economic utility investment.

23 [(33)] (37) “Transmission facility” means the plant and equipment used to
24 transmit electricity in interstate commerce.

25 [(34)] (38) “Undue market power” means the unfair or improper exercise
26 of influence to increase or decrease the availability or price of a service or
27 product in a manner **that is** inconsistent with competitive markets.

28 [(35)] (39)(a) “Uneconomic utility investment” means all electric company
29 investments, including plants, *[and]* equipment and contractual or other le-
30 gal obligations, properly dedicated to **electric** generation, conservation and
31 workforce commitments, that were prudent at the time the obligations were

1 assumed, but the *[full costs of which]* **remaining undepreciated costs of**
2 **the investments** are no longer recoverable as a direct result of ORS 757.600
3 to 757.667, absent transition charges, **and cannot be reasonably mitigated**
4 **by the electric company.**

5 (b) “Uneconomic utility investment” does not include:

6 (A) Costs or expenses disallowed by the commission *[in a prudence review*
7 *or other proceeding,]* to the extent of *[such]* **the** disallowance*[, and does not*
8 *include]; or*

9 (B) Fines or penalties *[as authorized by]* **imposed under** state or federal
10 law.

11 **SECTION 2.** ORS 757.601 is amended to read:

12 757.601. (1) All retail electricity consumers of an electric company, other
13 than residential electricity consumers, *[shall]* **must** be allowed *[direct access*
14 *beginning on March 1, 2002. Retail electricity consumers shall not be allowed*
15 *direct access before that date.]* **both standard direct access and renewable**
16 **direct access.**

17 (2) Residential electricity consumers *[shall]* **must** be allowed to purchase
18 electricity from among a portfolio of rate options as described in ORS 757.603
19 *[not later than March 1, 2002].*

20 (3) ORS 757.600 to 757.691 do not apply to an electric company providing
21 electricity services to fewer than 25,000 **retail electricity** consumers in this
22 state unless the electric company offers direct access to any of *[its]* **the**
23 **electric company’s** retail electricity consumers in this state or offers to sell
24 electricity services available under direct access to more than one retail
25 electricity consumer of another electric utility.

26 **SECTION 3.** ORS 757.607 is amended to read:

27 757.607. (1) The Public Utility Commission shall ensure that direct access
28 programs offered by electric companies meet the following conditions:

29 *[(1)]* (a) The provision of direct access to some retail electricity consum-
30 ers *[must]* **of the electric company may** not cause the unwarranted shifting
31 of costs to other retail electricity consumers of the electric company. *[The*

1 *commission may,*] In establishing any rates and charges under ORS 757.600
2 to 757.667, **the commission may** consider and mitigate the rate impact on
3 **retail electricity consumers resulting** from the reduction or elimination of
4 subsidies in existing rate structures[.], **and with respect to renewable di-**
5 **rect access, the commission shall consider the benefit resulting from**
6 **the reduction of emissions and other environmental benefits created**
7 **by using an eligible renewable energy resource instead of a resource**
8 **that is not an eligible renewable energy resource.**

9 [(2)] (b) The direct access, portfolio of rate options and cost-of-service
10 rates may include transition charges or transition credits that reasonably
11 balance the interests of retail electricity consumers [*and*], **electric utility**
12 **investors[.] and electricity service suppliers, including the ability of**
13 **retail electricity consumers to have access to wholesale power markets**
14 **and electric generation from eligible renewable energy resources.** The
15 commission may determine that full or partial recovery of the costs of une-
16 conomic utility investments, or full or partial pass-through of the benefits
17 of economic utility investments to retail electricity consumers, is in the
18 public interest. **In making the determination, the commission shall**
19 **consider:**

20 (A) **The reduction of emissions and other environmental benefits**
21 **created by acquiring electricity from an eligible renewable energy re-**
22 **source instead of from a resource that is not an eligible renewable**
23 **energy resource;**

24 (B) **Retail and wholesale electric competition; and**

25 (C) **Diverse ownership of electric generation resources.**

26 [(3)] (c) The commission shall allow recovery, through a transition
27 charge, of any otherwise unrecoverable costs arising from or related to an
28 electric company's contractual or other legal obligations to the Bonneville
29 Power Administration under ORS 757.663, or arising from or related to a
30 failure of the Bonneville Power Administration to meet its contractual or
31 other legal obligations to the electric company, from those classes of con-

1 sumers for which electric power was purchased from the Bonneville Power
2 Administration.

3 **(d) The commission may not allow recovery, through a transition**
4 **charge, of costs incurred by an electric company unless the electric**
5 **company has demonstrated that the electric company used diligent**
6 **efforts to mitigate the costs.**

7 ~~[(4)]~~ **(e) Notwithstanding ORS 757.355, the commission may allow a return**
8 **on the unamortized balance of an uneconomic utility investment or an eco-**
9 **nomical utility investment that is included in rates[.], but only to the extent**
10 **that the electric company is unable to mitigate the costs on a prudent**
11 **basis or recover the return on the investment from new customers of**
12 **the electric company.**

13 **(2) The commission shall ensure that renewable direct access pro-**
14 **grams offered by electric companies meet the following conditions:**

15 **(a) Electricity generated for a renewable direct access program**
16 **must be generated by an eligible renewable energy resource, except**
17 **that electricity necessary for ancillary services may be generated by**
18 **a resource that is not an eligible renewable energy resource if unbun-**
19 **dled renewable energy certificates, as defined in ORS 469A.005, associ-**
20 **ated with an amount of qualifying electricity, as defined in ORS**
21 **469A.005, that is equivalent to the amount of electricity necessary for**
22 **ancillary services are retired by or on behalf of the electric retail**
23 **consumer that is receiving the electricity.**

24 **(b) Transition charges and transition credits may not be applied to**
25 **any renewable direct access service serving a new commercial load.**

26 **(c) The commission shall adopt by rule a limited term, not to exceed**
27 **five years, after which a customer eligible for renewable direct access**
28 **may not be required to pay any transition charges. Transition charges**
29 **applied before the end of the term may not carry forward any costs**
30 **or expenses beyond the end of the term.**

31 **(d) Electricity sold by an electricity service supplier under a**

1 **renewable direct access program may not be included in the calcu-**
2 **lation of how much electricity the electricity service supplier sold**
3 **during a calendar year for purposes of complying with ORS 469A.005**
4 **to 469A.210.**

5 **SECTION 4.** ORS 757.622 is amended to read:

6 757.622. The Public Utility Commission shall establish the terms and
7 conditions for providing default electricity service for nonresidential elec-
8 tricity consumers in an emergency. **In establishing the terms and condi-**
9 **tions, the commission shall allow default electricity service to be**
10 **provided through interim market purchases of an electric company**
11 **without requiring the electric company to maintain electric capacity**
12 **within the base rate.** The commission also shall establish reasonable terms
13 and conditions for providing default **electricity** service **based on cost-of-**
14 **service** to a nonresidential electricity consumer in circumstances when the
15 **nonresidential electricity** consumer is receiving electricity services
16 through direct access and elects instead to receive [*such*] services through
17 the default **electricity** service, **subject to sufficient prior notice by the**
18 **requesting nonresidential electricity consumer.** The terms and conditions
19 for default **electricity** service established by the commission shall provide
20 for viable competition among electricity service suppliers.

21 **SECTION 5.** ORS 757.627 is amended to read:

22 757.627. (1) An electric company shall permit retail electricity consumers
23 that are eligible for direct access to voluntarily aggregate their electricity
24 loads.

25 (2) A retail electricity consumer that is eligible for direct access may
26 voluntarily aggregate its electricity load with the electricity load of any
27 other retail electricity consumer that is eligible for direct access.

28 **(3) An electric company shall permit retail electricity consumers**
29 **that are eligible for direct access to have standard direct access at any**
30 **specific point of delivery, renewable direct access at any specific point**
31 **of delivery or standard direct access or renewable direct access for any**

1 **portion of a specific point of delivery.**

2 **SECTION 6.** ORS 757.646 is amended to read:

3 757.646. (1) The duties, functions and powers of the Public Utility Com-
 4 mission [*shall*] include developing policies to eliminate barriers to the de-
 5 velopment of a competitive retail market structure, **encourage diverse**
 6 **ownership of electric resources and promote the development of eligi-**
 7 **ble renewable energy resources.** [*The policies shall*] **Policies developed**
 8 **pursuant to this section must** be designed to mitigate the vertical and
 9 horizontal market power of incumbent electric companies, prohibit preferen-
 10 tial treatment, or the appearance of [*such*] **preferential** treatment, of gen-
 11 eration or market affiliates and determine [*the*] **which** electricity services
 12 **are** likely to be competitive. The commission may require an electric com-
 13 pany acting as an electricity service supplier [*do so*] **to act as an electricity**
 14 **service supplier** through an affiliate.

15 (2) The commission shall establish by rule a code of conduct for electric
 16 companies and [*their*] affiliates **of the electric companies** to protect **retail**
 17 **electricity consumers** against **retail** market abuses and anticompetitive
 18 practices. The code [*shall*] **must**, at a minimum:

19 (a) Require an electric company and [*any*] **an affiliate of the electric**
 20 **company** that shares the same name and logo **as the electric company** to
 21 disclose to all consumers the relationship between the **electric** company and
 22 **the** affiliate and to clarify that the affiliate is not the same **entity** as the
 23 electric company and that in order to receive service from the **electric**
 24 company a consumer does not have to purchase the services of the affiliate;

25 (b) Prohibit preferential access by an [*electric company*] affiliate **of an**
 26 **electric company** to confidential consumer information;

27 (c) Prohibit cross-subsidization between competitive operations and regu-
 28 lated operations, including the use of [*electric company*] **the** personnel and
 29 other resources **of an electric company**;

30 (d) Prohibit joint marketing activities and exclusive referral arrange-
 31 ments between an electric company and [*its*] affiliates **of the electric com-**

1 **pany;**

2 (e) Provide the commission with *[all necessary]* **the** access to books and
3 records **of electric companies that the commission determines is nec-**
4 **essary to meet the requirements of this subsection;**

5 (f) Require electric companies to make regular compliance filings; and

6 (g) Require fair treatment of all competitors by a distribution utility.

7 (3) An electric company shall provide the commission access to all books
8 and records necessary for the commission to monitor the electric company
9 and *[its affiliate relationships]* **the affiliates of the electric company.** The
10 commission shall require an electric company biannually to file a report de-
11 tailing compliance with this subsection.

12 **SECTION 7.** ORS 757.676 is amended to read:

13 757.676. The governing body of a consumer-owned utility is authorized to
14 determine whether and under what terms and conditions it will offer its re-
15 tail electricity consumers direct access, portfolio access or other forms of
16 access to electric service suppliers. In making such determination, the gov-
17 erning body of a consumer-owned utility shall consider such factors as it
18 deems appropriate. A consumer-owned utility shall have sole authority to
19 determine:

20 (1) The quality and nature of electric service, including but not limited
21 to different product and pricing options, which shall be made available to its
22 retail electricity consumers.

23 (2) The extent to which products and services will be unbundled and the
24 rates, tariffs, terms and conditions on which they may be offered.

25 (3) Whether one or more pilot programs for direct access, portfolio access
26 or other forms of access to alternative suppliers will be offered.

27 (4) Notwithstanding ORS 757.600 *[(10)]* **(9)** and *[(35)]* **(39)**, what constitutes
28 an economic or uneconomic utility investment, the value of such investments
29 and, in the case of uneconomic utility investments, the manner and means
30 of mitigating such investments.

31 (5) Whether and on what basis a transition charge will be adopted, as-

1 sessed and collected from a retail electricity consumer located within the
2 utility's service territory, including but not limited to a nonbypassable dis-
3 tribution charge, the amount and period of recovery for the charges, the al-
4 location of the charges among retail electricity consumers located within the
5 utility's service territory and the method of collecting such charges including
6 but not limited to whether to impose a nonbypassable distribution charge.

7 (6) The manner of collecting stranded distribution charges, systems bene-
8 fit charges, franchise fees, taxes and payments made in lieu of taxes from
9 retail electricity consumers located within the utility's service territory for
10 electric power transactions using transmission facilities, whether or not such
11 transactions use distribution facilities. The governing body may assign
12 charges on the basis of usage, demand or any combination or method it finds
13 appropriate. Charges need not be assigned to specific facilities.

14 (7) The collection from retail electricity consumers located within the
15 utility's service territory through rates, fees or charges, including the impo-
16 sition of a nonbypassable distribution charge, in amounts sufficient to re-
17 cover 100 percent of stranded costs imposed by, or incurred pursuant to the
18 purchase of cost-based electric power from, the Bonneville Power Adminis-
19 tration. Such stranded cost charges may include the difference in cost asso-
20 ciated with purchasing electric power from the Bonneville Power
21 Administration and the cost of purchasing a like and similar amount of
22 electric power at market prices.

23 (8) The establishment of technical capability requirements, financial re-
24 sponsibility requirements and other protections for retail electricity con-
25 sumers located within the utility's service territory and the consumer-owned
26 utility in dealings with electric service suppliers.

27 (9) Access to or use of the utility's transmission facilities or distribution
28 system by retail electricity consumers or electric service suppliers.

29 (10) The utility's qualification standards for energy service suppliers in
30 addition to any certification standards established by the Public Utility
31 Commission, provided that the qualification standards are uniformly applied

1 to electricity service providers in a nondiscriminatory manner.

2 **SECTION 8.** ORS 59.025 is amended to read:

3 59.025. The following securities are exempt from ORS 59.049 and 59.055:

4 (1)(a) A security issued or guaranteed by the United States or a state, or
5 by a political subdivision, agency or other instrumentality of the United
6 States or a state.

7 (b) Any other security offered in connection with or as part of a security
8 described in paragraph (a) of this subsection, if the security cannot be sev-
9 ered and sold separately from the security in paragraph (a) of this sub-
10 section.

11 (2) A security issued or guaranteed by a foreign government with which
12 the United States is at the time of the sale maintaining diplomatic relations,
13 or by a state, province or political subdivision of the foreign government that
14 has the power of taxation or assessment, if the foreign government, state,
15 province or political subdivision recognizes the security as a valid obli-
16 gation.

17 (3) A security that represents an interest in or a direct obligation of, or
18 is guaranteed by, a national bank, a federal savings and loan association, a
19 federal credit union, a federal land bank or joint stock land bank or a na-
20 tional farm loan association.

21 (4) Any of the following securities:

22 (a) A security that, at the time the security is issued, is listed or approved
23 for listing on the New York Stock Exchange, the American Stock Exchange,
24 the Midwest Stock Exchange, the Pacific Stock Exchange or any other ex-
25 change that the Director of the Department of Consumer and Business Ser-
26 vices recognizes by rule;

27 (b) A security that the NASDAQ Stock Market, NASDAQ Options Market
28 or NASDAQ OMX Futures Exchange has designated or approved for desig-
29 nation at the time the security was issued;

30 (c) Any other security issued by a person or entity that issues a security
31 listed or designated under paragraph (a) or (b) of this subsection, if the other

1 security is of senior or substantially equal rank to the listed or designated
2 security;

3 (d) A security issuable under rights or warrants listed or approved under
4 paragraph (a), (b) or (c) of this subsection; or

5 (e) A warrant or right to purchase or subscribe to any security described
6 in paragraph (a), (b), (c) or (d) of this subsection.

7 (5) A security that maintains a rating that the director approves in a re-
8 cognized securities manual.

9 (6) A security that represents an interest in or a direct obligation of, and
10 that has been or will be issued by, a bank, trust company, savings and loan
11 association or credit union and that is subject to the examination, super-
12 vision and control of a regulatory agency of this state.

13 (7) Commercial paper issued, given or acquired in a bona fide way in the
14 ordinary course of legitimate business, trade or commerce, if the commercial
15 paper is not made the subject of a public offering.

16 (8) A security, the issuance of which the Public Utility Commission
17 supervises, regulates or controls, if the Public Utility Commission supervises,
18 regulates or controls the person or entity that issues the security.

19 (9) Stock or membership certificates that an agricultural cooperative
20 corporation or irrigation association issues, if the agricultural cooperative
21 corporation or irrigation association issues the stock or membership certifi-
22 cate as evidence of membership in the cooperative or association, as a
23 patronage dividend or as evidence of a member's or a patron's respective
24 interests in reserves or patronage dividends. This exemption does not apply
25 to a cooperative or association that expects to engage in or is engaged in
26 producing, processing or marketing forest products.

27 (10) Stock or membership certificates that a fishing cooperative corpo-
28 ration issues to members of the fishing cooperative corporation either for the
29 purpose of showing membership or for the purpose of showing the members'
30 respective interests in reserves or patronage dividends. For purposes of this
31 subsection, a fishing cooperative corporation is an association of persons

1 engaged commercially in harvesting, marketing or processing products of
2 aquatic life from fresh and salt water, that is formed or operated under ORS
3 chapter 62 with the purpose of commercially harvesting, marketing or pro-
4 cessing such products or engaging in group bargaining with respect to the
5 sale of such products.

6 (11) Stock or membership certificates issued by an association of con-
7 sumers that is formed or operated under ORS chapter 62 with the purpose
8 of providing groceries to the association's members, if the association issues
9 the stock or certificates to members either for the purpose of showing mem-
10 bership in the association or for the purpose of showing the members' re-
11 spective interests in patronage dividends or reserves. For purposes of the
12 exemption under this subsection:

13 (a) The price of stock or a membership certificate may not exceed \$300.

14 (b) The benefits must be limited to discounts on purchases or patronage
15 dividends, or any combination of discounts and dividends.

16 (c) The association may issue only one stock or membership certificate
17 to an individual.

18 (12) Subject to conditions that the director adopts by rule, stock or
19 membership certificates that a renewable energy cooperative corporation is-
20 sues to members of the cooperative corporation, if the cooperative corpo-
21 ration issues the stock or certificates to members either to show membership
22 in the cooperative corporation or to show the members' respective interests
23 in or entitlement to assets, reserves or dividends. For the purpose of this
24 subsection, a renewable energy cooperative corporation is an association of
25 persons that is organized as a cooperative corporation under ORS chapter
26 62 with the purpose of developing and operating facilities to generate elec-
27 tricity from renewable energy resources, as defined in ORS 757.600 [(27)(a),
28 **(30)(a)**, (c) and (d), or from a type of energy listed in ORS 469A.025 (1)(c).

29 (13) Any security issued in connection with an employee stock purchase,
30 savings, pension, profit sharing or similar employee benefit plan, provided
31 that:

1 (a) The plan meets the requirements for qualification under section 401
2 of the Internal Revenue Code of 1986; and

3 (b) The terms of the plan are fair, just and equitable to employees under
4 rules of the director.

5 (14) Any security issued by a person that is:

6 (a) Organized and operated exclusively for a religious, educational, be-
7 nevolent, fraternal, charitable or reformatory purpose and not for pecuniary
8 profit;

9 (b) Organized or constituted so that the person's net earnings do not inure
10 to the benefit of any person, private stockholder, or individual; and

11 (c) Designated by rule of the director.

12 (15) Any other security the director exempts by rule.

13 **SECTION 9. (1) The amendments to ORS 59.025, 757.600, 757.601,**
14 **757.607, 757.622, 757.657, 757.646 and 757.676 by sections 1 to 8 of this 2017**
15 **Act become operative on January 1, 2018.**

16 **(2) The Public Utility Commission may take any action before the**
17 **operative date specified in subsection (1) of this section that is neces-**
18 **sary to enable the commission to exercise, on and after the operative**
19 **date specified in subsection (1) of this section, all the duties, powers**
20 **and functions conferred on the commission by the amendments to**
21 **ORS 59.025, 757.600, 757.601, 757.607, 757.622, 757.657, 757.646 and 757.676**
22 **by sections 1 to 8 of this 2017 Act.**

23 **SECTION 10. This 2017 Act takes effect on the 91st day after the**
24 **date on which the 2017 regular session of the Seventy-ninth Legislative**
25 **Assembly adjourns sine die.**

26