House Bill 3325

Sponsored by COMMITTEE ON ENERGY AND ENVIRONMENT (at the request of RS Energy, LLC)

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 **as introduced.**

Requires public utility to meet certain requirements for processing applications from nonresidential customer-generators to interconnect to electric distribution system net metering facility that has generating capacity of more than 25 kilowatts but less than two megawatts. Requires Public Utility Commission to adopt rules requiring public utilities to equitably apportion costs of engineering, construction or installation of facilities within public right of way that will allow for safe interconnection of multiple net metering facilities.

A BILL FOR AN ACT

Relating to net metering; creating new provisions; and amending ORS 757.300.

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

SECTION 1. ORS 757.300 is amended to read:

757.300. (1) As used in this section **and section 3 of this 2019 Act**:

(a) "Applicant" means a person who has filed an application to interconnect a net metering facility to an electric distribution system.

[*(a)*] **(b)** "Customer-generator" means a user of a net metering facility.

[*(b)*] **(c)** "Electric utility" means a public utility, a people's utility district operating under ORS chapter 261, a municipal utility operating under ORS chapter 225 or an electric cooperative organized under ORS chapter 62.

(d) "Interconnection facilities study" means a study conducted to identify the types and cost of equipment needed to safely interconnect a net metering facility to an electric distribution system.

[*(c)*] **(e)** "Net metering" means measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator and fed back to the electric utility over the applicable billing period.

[*(d)*] **(f)** "Net metering facility" means a facility for the production of electrical energy that:

(A) Generates electricity using:

(i) Solar power;

(ii) Wind power;

(iii) Fuel cells;

(iv) Hydroelectric power;

(v) Landfill gas;

(vi) Digester gas;

(vii) Waste;

(viii) Dedicated energy crops available on a renewable basis;

(ix) Low-emission, nontoxic biomass based on solid organic fuels from wood, forest or field residues;

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.

(x) Geothermal energy; or

(xi) Renewable marine energy, including wave energy, wave-wind hybrid energy and tidal energy;

(B) Is located on the customer-generator's premises, the territorial sea as defined in ORS 196.405, or the outer continental shelf;

(C) If located on the territorial sea or the outer continental shelf, is directly interconnected to the customer-generator's premises;

(D) Can operate in parallel with an electric utility's existing transmission and distribution facilities; and

(E) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(2) An electric utility that offers residential and commercial electric service:

(a) Shall allow net metering facilities to be interconnected using a standard meter that is capable of registering the flow of electricity in two directions.

(b) May at its own expense install one or more additional meters to monitor the flow of electricity in each direction.

(c) May not charge a customer-generator a fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers in the same rate class as the customer-generator. However, the Public Utility Commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, may authorize an electric utility to assess a greater fee or charge, of any type, if the electric utility's direct costs of interconnection and administration of the net metering outweigh the distribution system, environmental and public policy benefits of allocating such costs among the electric utility's entire customer base. The commission may authorize a public utility to assess a greater fee or charge under this paragraph only following notice and opportunity for public comment. The governing body of a municipal electric utility, electric cooperative or people's utility district may assess a greater fee or charge under this paragraph only following notice and opportunity for comment from the customers of the utility, cooperative or district.

(3)(a) For a customer-generator, an electric utility shall measure the net electricity produced or consumed during the billing period in accordance with normal metering practices.

(b) If an electric utility supplies a customer-generator more electricity than the customer-generator feeds back to the electric utility during a billing period, the electric utility shall charge the customer-generator for the net electricity that the electric utility supplied.

(c) Except as provided in paragraph (d) of this subsection, if a customer-generator feeds back to an electric utility more electricity than the electric utility supplies the customer-generator during a billing period, the electric utility may charge the minimum monthly charge described in subsection (2) of this section but must credit the customer-generator for the excess kilowatt-hours generated during the billing period. An electric utility may value the excess kilowatt-hours at the avoided cost of the utility, as determined by the commission or the appropriate governing body. An electric utility that values the excess kilowatt-hours at the avoided cost shall bear the cost of measuring the excess kilowatt-hours, issuing payments and billing for the excess hours. The electric utility also shall bear the cost of providing and installing additional metering to measure the reverse flow of electricity.

(d) For the billing cycle ending in March of each year, or on such other date as agreed to by the electric utility and the customer-generator, any remaining unused kilowatt-hour credit accumulated during the previous year shall be granted to the electric utility for distribution to customers

enrolled in the electric utility's low-income assistance programs, credited to the customer-generator or dedicated for other use as determined by the commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, following notice and opportunity for public comment.

(4)(a) A net metering facility shall meet all applicable safety and performance standards established in the state building code. The standards shall be consistent with the applicable standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers and Underwriters Laboratories or other similarly accredited laboratory.

(b) Following notice and opportunity for public comment, the commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, may adopt additional control and testing requirements for customer-generators to protect public safety or system reliability.

(c) An electric utility may not require a customer-generator whose net metering facility meets the standards in paragraphs (a) and (b) of this subsection to comply with additional safety or performance standards, perform or pay for additional tests or purchase additional liability insurance. However, an electric utility shall not be liable directly or indirectly for permitting or continuing to allow an attachment of a net metering facility, or for the acts or omissions of the customer-generator that cause loss or injury, including death, to any third party.

(5) Nothing in this section is intended to prevent an electric utility from offering, or a customer-generator from accepting, products or services related to the customer-generator's net metering facility that are different from the net metering services described in this section.

(6) The commission, for a public utility, or the governing body, for a municipal electric utility, electric cooperative or people's utility district, may not limit the cumulative generating capacity of solar, wind, geothermal, renewable marine, fuel cell and microhydroelectric net metering systems to less than one-half of one percent of a utility's, cooperative's or district's historic single-hour peak load. After a cumulative limit of one-half of one percent has been reached, the obligation of a public utility, municipal electric utility, electric cooperative or people's utility district to offer net metering to a new customer-generator may be limited by the commission or governing body in order to balance the interests of retail customers. When limiting net metering obligations under this subsection, the commission or the governing body shall consider the environmental and other public policy benefits of net metering systems. The commission may limit net metering obligations under this subsection only following notice and opportunity for public comment. The governing body of a municipal electric utility, electric cooperative or people's utility district may limit net metering obligations under this subsection only following notice and opportunity for comment from the customers of the utility, cooperative or district.

(7) The commission or the governing body may adopt rules or ordinances to ensure that the obligations and costs associated with net metering apply to all power suppliers within the service territory of a public utility, municipal electric utility, electric cooperative or people's utility district.

[*(8) This section applies only to net metering facilities that have a generating capacity of 25 kilowatts or less, except that the commission by rule may provide for a higher limit for customers of a public utility.*]

(8)(a) For residential customer-generators of a municipal electric utility, electric cooperative or people's utility district, this section applies only to net metering facilities that have a generating capacity of 25 kilowatts or less.

(b) Except as provided in paragraph (c) of this subsection:

(A) For residential customer-generators of a public utility, this section applies to net metering facilities that have a generating capacity of 25 kilowatts or less.

(B) For nonresidential customer-generators of a public utility, this section and section 3 of this 2019 Act apply to net metering facilities that have a generating capacity of two megawatts or less.

(c) The commission by rule may provide for a higher limit than provided for in paragraph (b) of this section for customer-generators of a public utility.

(9) Notwithstanding subsections (2) to (8) of this section, an electric utility serving fewer than 25,000 customers in Oregon that has its headquarters located in another state and offers net metering services or a substantial equivalent offset against retail sales in that state shall be deemed to be in compliance with this section if the electric utility offers net metering services to its customers in Oregon in accordance with tariffs, schedules and other regulations promulgated by the appropriate authority in the state where the electric utility's headquarters are located.

SECTION 2. Section 3 of this 2019 Act is added to and made a part of ORS chapter 757.

SECTION 3. (1) A public utility shall meet the following requirements for processing applications from nonresidential customer-generators to interconnect to an electric distribution system a net metering facility that has a generating capacity of more than 25 kilowatts but less than two megawatts:

(a) A public utility shall notify the nonresidential customer-generator within five days after receiving the application whether additional information is necessary to complete the application.

(b) If the public utility is required under this section or under the rules of the Public Utility Commission to provide an applicant with a good faith cost estimate, the estimate must be accurate to within plus or minus five percent of the actual cost of the activity for which the good faith estimate is provided.

(2)(a) A public utility shall conduct an interconnection facilities study for each completed application from a nonresidential customer-generator to interconnect to an electric distribution system a net metering facility that has a generating capacity of more than 250 kilowatts.

(b) The public utility may assess against the applicant a fee, not to exceed an amount that the commission specifies by rule, for completing the interconnection facilities study. The public utility shall complete the interconnection facilities study no later than 45 days after the date that the applicant pays the fee.

(c) Upon completion of the interconnection facilities study, the public utility shall provide the applicant with the results of the study and an executable interconnection agreement. The interconnection agreement must:

(A) List the conditions and facilities necessary for the net metering facility to safely interconnect with the public utility's electric distribution system and include a nonbinding, good faith cost estimate of the cost of those facilities;

(B) Include the list of vendors or contractors that are approved by the public utility to, at the direction of the public utility, engineer, construct or install the necessary facilities; and

(C) Provide that the public utility is responsible for construction of the necessary facilities such that interconnection of the net metering facility to the electric distribution system may occur no later than six months after the date that the applicant executes the inter-

connection agreement.

(d) An applicant shall be responsible for the actual installed costs of facilities identified in the interconnection facilities study as necessary to safely interconnect with the public utility's electric distribution system. The public utility shall allow an applicant to choose, from the list of vendors or contractors provided under paragraph (c)(B) of this subsection, the vendors or contractors that the applicant wishes to have complete the engineering, construction or installation of necessary facilities. Payment of the actual installed costs by the applicant to the public utility shall be as follows:

(A) 33 percent of the costs shall be due at signing of the interconnection agreement;

(B) 33 percent of the costs shall be due upon substantial completion by the public utility of the engineering, construction and installation of necessary facilities as provided for in the agreement; and

(C) 34 percent of the costs shall be due upon written notice by the public utility to the applicant that the interconnection is approved and that the net metering facility may begin operation.

(3)(a) The commission shall adopt rules requiring public utilities to equitably apportion the costs of the engineering, construction or installation of facilities within a public right of way that will allow for the safe interconnection of multiple net metering facilities. The purpose of the rules shall be to apportion the costs of facilities that will benefit multiple customer-generators in a manner that does not place a greater financial burden on or act as a disincentive for early investments in net metering facilities.

(b) Rules adopted under this subsection must require a public utility, when apportioning the costs of the engineering, construction or installation of facilities within a public right of way or easement, to consider:

(A) Whether the engineering, construction or installation of facilities necessary to safely interconnect a specific net metering facility with the public utility's electric distribution system would have otherwise been carried out as part of the public utility's planned facility maintenance within the near future;

(B) The customer-generator for which the engineering, construction or installation of facilities is being conducted as compared to the current or anticipated future additional customer-generators to be benefitted by the facilities; and

(C) Any other factors that the commission determines are relevant to equitably apportioning the costs.