

HB 4066-5
(LC 224)
2/10/20 (MAM/ps)

Requested by HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT (at the request of Representative Karin Power)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4066**

1 In line 2 of the printed bill, after “Commission;” insert “creating new
2 provisions; amending ORS 757.259;”.

3 Delete line 4 and insert:

4 **“SECTION 1. Sections 2 to 5 and 8 of this 2020 Act are added to and
5 made a part of ORS chapter 757.”.**

6 After line 25, insert:

7 **“SECTION 3. (1) As used in this section, ‘electric company’ has the
8 meaning given that term in ORS 757.600.**

9 **“(2) An electric company must have and operate in compliance with
10 a risk-based wildfire protection plan approved by the Public Utility
11 Commission.**

12 **“(3) An electric company shall submit a risk-based wildfire pro-
13 tection plan to the commission every three years. The plan must, at
14 a minimum:**

15 **“(a) Identify areas within the service territory of the electric com-
16 pany that are subject to a heightened risk of wildfire.**

17 **“(b) Identify a means for mitigating wildfire risk that is cost effec-
18 tive and reflects a reasonable balancing of mitigation costs with the
19 resulting reduction of wildfire risk.**

20 **“(c) Identify preventive actions and programs that the electric
21 company will carry out to minimize the risk of company facilities**

1 causing a wildfire.

2 “(d) Identify a protocol for the deenergizing of power lines and ad-
3 justing power system operations to mitigate wildfires, promote the
4 safety of the public and first responders and preserve health and
5 communication infrastructure.

6 “(e) Describe the procedures, standards and time frames that the
7 electric company will use to inspect company infrastructure in areas
8 that the company identifies under paragraph (a) of this subsection.

9 “(f) Describe the procedures, standards and time frames that the
10 electric company will use to carry out vegetation management in areas
11 that the company identifies under paragraph (a) of this subsection.

12 “(g) Identify the development, implementation and administration
13 costs for the plan.

14 “(h) Identify the community outreach and public awareness efforts
15 that the electric company will use before, during and after a wildfire
16 season.

17 “(4) The commission, in consultation with the State Forestry De-
18 partment and local emergency services agencies, shall review a
19 wildfire protection plan that an electric company submits under this
20 section. The commission shall:

21 “(a) Approve the submitted plan; or

22 “(b) Disapprove the submitted plan and inform the electric company
23 of the modifications necessary to obtain approval.

24 “(5) The commission shall adopt rules for the implementation of
25 sections 2 and 3 of this 2020 Act.

26 “(6) Nothing in this section prohibits the recovery of costs deferred
27 under ORS 757.259.

28 “SECTION 4. (1) As used in this section, ‘consumer-owned utility’
29 and ‘governing body’ have the meanings given those terms in ORS
30 757.600.

1 “(2) A consumer-owned utility must have and operate in compliance
2 with a risk-based wildfire mitigation plan approved by the governing
3 body of the utility. The utility shall regularly update the risk-based
4 wildfire mitigation plan on a schedule the governing body deems con-
5 sistent with prudent utility practices.

6 “(3) A consumer-owned utility shall conduct a wildfire risk assess-
7 ment of utility facilities. The utility shall review and revise the as-
8 sessment on a schedule the governing body deems consistent with
9 prudent utility practices.

10 “(4) A consumer-owned utility shall submit a copy of the risk-based
11 wildfire mitigation plan approved by the utility governing body to the
12 Public Utility Commission to facilitate commission functions regard-
13 ing statewide wildfire mitigation planning and wildfire preparedness.

14 “SECTION 5. The Public Utility Commission shall periodically con-
15 vene workshops for the purpose of helping electric companies as de-
16 fined in ORS 757.600, consumer-owned utilities as defined in ORS
17 757.600 and operators of electrical distribution systems to develop and
18 share information for the identification, adoption and carrying out of
19 best practices regarding wildfires, including but not limited to risk-
20 based wildfire protection and risk-based wildfire mitigation procedures
21 and standards.

22 “SECTION 6. An electric company shall submit the first risk-based
23 wildfire protection plan required of the company under section 3 of
24 this 2020 Act no later than December 31, 2020.

25 “SECTION 7. A consumer-owned utility shall submit the first risk-
26 based wildfire mitigation plan required under section 4 of this 2020 Act
27 to the utility governing body no later than December 31, 2021.

28 “SECTION 8. (1) As used in this section, ‘electric utility’ has the
29 meaning given that term in ORS 757.600.

30 “(2) The provisions of sections 3 and 4 of this 2020 Act do not affect

1 **the terms or conditions of easements held by an electric utility over**
2 **private land as of the effective date of this 2020 Act.**

3 **“SECTION 9.** ORS 757.259 is amended to read:

4 “757.259. (1) In addition to powers otherwise vested in the Public Utility
5 Commission, and subject to the limitations contained in this section, under
6 amortization schedules set by the commission, a rate or rate schedule:

7 “(a) May reflect:

8 “(A) Amounts lawfully imposed retroactively by order of another govern-
9 mental agency; or

10 “(B) Amounts deferred under subsection (2) of this section.

11 “(b) Shall reflect amounts deferred under subsection (3) of this section if
12 the public utility so requests.

13 “(2) Upon application of a utility or ratepayer or upon the commission’s
14 own motion and after public notice, opportunity for comment and a hearing
15 if any party requests a hearing, the commission by order may authorize
16 deferral of the following amounts for later incorporation in rates:

17 “(a) Amounts incurred by a utility resulting from changes in the whole-
18 sale price of natural gas or electricity approved by the Federal Energy Reg-
19 ulatory Commission;

20 “(b) Balances resulting from the administration of Section 5(c) of the
21 Pacific Northwest Electric Power Planning and Conservation Act of 1980;

22 “(c) Direct or indirect costs arising from any purchase made by a public
23 utility from the Bonneville Power Administration pursuant to ORS 757.663,
24 provided that such costs shall be recovered only from residential and small-
25 farm retail electricity consumers;

26 “(d) Amounts accruing under a plan for the protection of short-term
27 earnings under ORS 757.262 (2); or

28 “(e) Identifiable utility [*expenses*] **costs** or revenues, **including the cost**
29 **of capital**, the recovery or refund of which the commission finds should be
30 deferred in order to minimize the frequency of rate changes or the fluctu-

1 ation of rate levels or to match appropriately the costs borne by and benefits
2 received by ratepayers.

3 “(3) Upon request of the public utility, the commission by order shall al-
4 low deferral of amounts provided as financial assistance under an agreement
5 entered into under ORS 757.072 for later incorporation in rates.

6 “(4) The commission may authorize deferrals under subsection (2) of this
7 section beginning with the date of application, together with interest estab-
8 lished by the commission. A deferral may be authorized for a period not to
9 exceed 12 months beginning on or after the date of application. However,
10 amounts deferred under subsection (2)(c) and (d) or (3) of this section are not
11 subject to subsection (5), (6), (7), (8) or (10) of this section, but are subject
12 to such limitations and requirements that the commission may prescribe and
13 that are consistent with the provisions of this section.

14 “(5) Unless subject to an automatic adjustment clause under ORS 757.210
15 (1), amounts described in this section shall be allowed in rates only to the
16 extent authorized by the commission in a proceeding under ORS 757.210 to
17 change rates and upon review of the utility’s earnings at the time of appli-
18 cation to amortize the deferral. The commission may require that amorti-
19 zation of deferred amounts be subject to refund. The commission’s final
20 determination on the amount of deferrals allowable in the rates of the utility
21 is subject to a finding by the commission that the amount was prudently
22 incurred by the utility.

23 “(6) Except as provided in subsections (7), (8) and (10) of this section, the
24 overall average rate impact of the amortizations authorized under this sec-
25 tion in any one year may not exceed three percent of the utility’s gross
26 revenues for the preceding calendar year.

27 “(7) The commission may allow an overall average rate impact greater
28 than that specified in subsection (6) of this section for natural gas commod-
29 ity and pipeline transportation costs incurred by a natural gas utility if the
30 commission finds that allowing a higher amortization rate is reasonable un-

1 der the circumstances.

2 “(8) The commission may authorize amortizations for an electric utility
3 under this section with an overall average rate impact not to exceed six
4 percent of the electric utility’s gross revenues for the preceding calendar
5 year. If the commission allows an overall average rate impact greater than
6 that specified in subsection (6) of this section, the commission shall estimate
7 the electric utility’s cost of capital for the deferral period and may also
8 consider estimated changes in the electric utility’s costs and revenues during
9 the deferral period for the purpose of reviewing the earnings of the electric
10 utility under the provisions of subsection (5) of this section.

11 “(9) The commission may impose requirements similar to those described
12 in subsection (8) of this section for the amortization of other deferrals under
13 this section, but may not impose such requirements for deferrals under sub-
14 section (2)(c) or (d) or (3) of this section.

15 “(10) The commission may authorize amortization of a deferred amount
16 for an electric utility under this section with an overall average rate impact
17 greater than that allowed by subsections (6) and (8) of this section if:

18 “(a) The deferral was directly related to extraordinary power supply ex-
19 penses incurred during 2001;

20 “(b) The amount to be deferred was greater than 40 percent of the revenue
21 received by the electric utility in 2001 from Oregon customers; and

22 “(c) The commission determines that the higher rate impact is reasonable
23 under the circumstances.

24 “(11) If the commission authorizes amortization of a deferred amount un-
25 der subsection (10) of this section, an electric utility customer that uses more
26 than one average megawatt of electricity at any site in the immediately
27 preceding calendar year may prepay the customer’s share of the deferred
28 amount. The commission shall adopt rules governing the manner in which:

29 “(a) The customer’s share of the deferred amount is calculated; and

30 “(b) The customer’s rates are to be adjusted to reflect the prepayment of

1 the deferred amount.

2 “(12) The provisions of this section do not apply to a telecommunications
3 utility.”.

4 In line 26, delete “3” and insert “10”.

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