

**Enrolled**  
**House Bill 2021**

Sponsored by Representatives MARSH, PHAM, Senators BEYER, DEMBROW; Representatives ALONSO LEON, CAMPOS, CLEM, DEXTER, FAHEY, GRAYBER, HELM, HOLVEY, HUDSON, KOTEK, KROPF, NERON, NOSSE, POWER, REARDON, REYNOLDS, SALINAS, SCHOUTEN, SMITH WARNER, VALDERRAMA, WILDE, Senators GELSER, PATTERSON

CHAPTER .....

AN ACT

Relating to clean energy; creating new provisions; amending ORS 469A.005, 469A.205, 469A.210, 757.247, 757.603, 757.646 and 757.649; repealing ORS 469A.062; and prescribing an effective date.

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

**CLEAN ENERGY TARGETS**

**SECTION 1. Definitions.** As used in sections 1 to 15 of this 2021 Act:

(1) “Baseline emissions level” means:

(a) For an electric company, the average annual emissions of greenhouse gas for the years 2010, 2011 and 2012 associated with the electricity sold to retail electricity consumers as reported under ORS 468A.280, or rules adopted pursuant thereto.

(b) Except as provided in paragraph (c) of this subsection, for an electricity service supplier, 0.428 metric tons of carbon dioxide equivalent per megawatt-hour associated with the electricity sold by the electricity service supplier to retail electricity consumers as reported under ORS 468A.280, or rules adopted pursuant thereto.

(c) For an electricity service supplier that is first certified under ORS 757.649 on or after the effective date of sections 1 to 15 of this 2021 Act, the baseline emissions level defined in paragraph (b) of this subsection shall be adjusted downward in the certification of the electricity service supplier under ORS 757.649 to a level that:

(A) Reflects the continual progress made by other electricity service suppliers toward meeting the clean energy targets set forth in section 3 of this 2021 Act, as demonstrated under section 5 (3) of this 2021 Act; and

(B) Prevents the creation of a competitive disadvantage among electricity service suppliers.

(2) “Community-based renewable energy” means one or more renewable energy systems that interconnect to utility distribution or transmission assets and may be combined with microgrids, storage systems or demand response measures, or energy-related infrastructure that promotes climate resiliency or other such measures, and that:

(a) Provide a direct benefit to a particular community through a community-benefits agreement or direct ownership by a local government, nonprofit community organization or federally recognized Indian tribe; or

(b) Result in increased resiliency or community stability, local jobs, economic development or direct energy cost savings to families and small businesses.

(3) "Electric company," "electricity service supplier" and "electric utility" have the meanings given those terms in ORS 757.600.

(4) "Environmental justice" means equal protection from environmental and health hazards and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality and play.

(5) "Environmental justice communities" includes communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including seniors, youth and persons with disabilities.

(6) "Greenhouse gas" has the meaning given that term in ORS 468A.210.

(7) "Nonemitting electricity" means electricity, including hydroelectricity, that is generated and may be stored in a manner that does not emit greenhouse gas into the atmosphere.

(8) "Retail electricity consumer" means a retail electricity consumer, as defined in ORS 757.600, that is serviced by a retail electricity provider and located in this state.

(9) "Retail electricity provider" means an electric company or electricity service supplier.

**SECTION 2. Policy.** It is the policy of the State of Oregon:

(1) That retail electricity providers rely on nonemitting electricity in accordance with the clean energy targets set forth in section 3 of this 2021 Act and eliminate greenhouse gas emissions associated with serving Oregon retail electricity consumers by 2040;

(2) That electricity generated in a manner that produces zero greenhouse gas emissions also be generated, to the maximum extent practicable, in a manner that provides additional direct benefits to communities in this state in the forms of creating and sustaining meaningful living wage jobs, promoting workforce equity and increasing energy security and resiliency;

(3) That, under existing federal and state law, the state engages in meaningful consultation with federally recognized Indian tribes. This includes consultation on the siting, permitting and construction of new energy facilities as defined in ORS 469.300, and new projects subject to the policy specified in 18 C.F.R. 2.1c, prior to such actions that are likely to adversely impact designated sites of archeological significance as defined in ORS 358.905, or properties of traditional, cultural and religious importance under the National Historical Preservation Act and the 36 C.F.R. 800 implementing regulation; and

(4) That implementation of sections 1 to 15 of this 2021 Act be done in a manner that minimizes burdens for environmental justice communities.

**SECTION 3. Clean energy targets.** (1) A retail electricity provider shall reduce greenhouse gas emissions, measured for an electric company as greenhouse gas emissions reported under ORS 468A.280, and measured for an electricity service supplier as greenhouse gas emissions per megawatt-hour as reported under ORS 468A.280, to the extent compliance is consistent with sections 1 to 15 of this 2021 Act, by the following targets:

(a) By 2030, 80 percent below baseline emissions level.

(b) By 2035, 90 percent below baseline emissions level.

(c) By 2040, and for every subsequent year, 100 percent below baseline emissions level.

(2) Nothing in sections 1 to 15 of this 2021 Act may be construed as establishing a standard that requires a retail electricity provider to track electricity to end use retail customers.

**SECTION 4. Clean energy plans; electric companies.** (1) An electric company shall develop a clean energy plan for meeting the clean energy targets set forth in section 3 of this 2021 Act concurrent with the development of each integrated resource plan.

(2) The electric company shall submit the clean energy plan to the Public Utility Commission and the Department of Environmental Quality.

(3)(a) A clean energy plan must be based on or included in an integrated resource plan filing made no earlier than January 1, 2022, and filed no later than 180 days after the integrated resource plan is filed, or developed within an integrated resource planning process and incorporated into the integrated resource plan filed with the commission.

(b) Notwithstanding paragraph (a) of this subsection, a clean energy plan developed by a multistate jurisdictional electric company must be based on or contained in other information developed consistent with a cost-allocation methodology approved by the commission.

(4) A clean energy plan must:

(a) Incorporate the clean energy targets set forth in section 3 of this 2021 Act;

(b) Include annual goals set by the electric company for actions that make progress towards meeting the clean energy targets set forth in section 3 of this 2021 Act, including acquisition of nonemitting generation resources, energy efficiency measures and acquisition and use of demand response resources;

(c) Include a risk-based examination of resiliency opportunities that includes costs, consequences, outcomes and benefits based on reasonable and prudent industry resiliency standards and guidelines established by the Public Utility Commission;

(d) Examine the costs and opportunities of offsetting energy generated from fossil fuels with community-based renewable energy;

(e) Demonstrate the electric company is making continual progress within the planning period towards meeting the clean energy targets set forth in section 3 of this 2021 Act, including demonstrating a projected reduction of annual greenhouse gas emissions; and

(f) Result in an affordable, reliable and clean electric system.

(5) Actions and investments proposed in a clean energy plan may include the development or acquisition of clean energy resources, acquisition of energy efficiency and demand response, including an acquisition required by ORS 757.054, development of new transmission and other supporting infrastructure, retirement of existing generating facilities, changes in system operation and any other necessary action.

(6) The commission shall ensure that an electric company demonstrates continual progress as described in subsection (4)(e) of this section and is taking actions as soon as practicable that facilitate rapid reduction of greenhouse gas emissions at reasonable costs to retail electricity consumers.

**SECTION 5. Emissions verification; compliance.** (1)(a) For the purposes of verifying emissions and determining compliance with the clean energy targets set forth in section 3 of this 2021 Act, the Department of Environmental Quality shall determine:

(A) For each electric company, the electric company's baseline emissions level; and

(B) For each retail electricity provider, the amount of emissions reduction necessary for the retail electricity provider to meet the clean energy targets set forth in section 3 of this 2021 Act.

(b) The department shall use the method of measuring greenhouse gas emissions set forth in ORS 468A.280 to verify the projected greenhouse gas emissions reductions forecasted in a clean energy plan of an electric company or the information provided by an electricity service supplier under subsection (3) of this section.

(c) The department shall report the department's findings under paragraph (b) of this subsection to the Public Utility Commission and the electric company seeking acknowledgement of a clean energy plan by the commission.

(2) The Public Utility Commission shall acknowledge the clean energy plan if the commission finds the plan to be in the public interest and consistent with the clean energy targets set forth in section 3 of this 2021 Act. In evaluating whether a plan is in the public interest, the commission shall consider:

(a) Any reduction of greenhouse gas emissions that is expected through the plan, and any related environmental or health benefits;

(b) The economic and technical feasibility of the plan;

- (c) The effect of the plan on the reliability and resiliency of the electric system;
  - (d) Availability of federal incentives;
  - (e) Costs and risks to the customers; and
  - (f) Any other relevant factors as determined by the commission.
- (3) In addition to the emissions report required under subsection (4) of this section, an electricity service supplier shall report to the commission:
- (a) An estimate of annual greenhouse gas emissions associated with electricity sold by the electricity service supplier to retail electricity consumers for the current year and following three years;
  - (b) Annual goals set by the electricity service supplier for actions described under paragraph (c)(A) of this subsection, including a projected reduction of annual greenhouse gas emissions associated with the electricity sold to retail electricity consumers by the electricity service supplier;
  - (c) Other information necessary, as determined by the commission, to demonstrate the electricity service supplier's anticipated ability to meet the clean energy targets set forth in section 3 of this 2021 Act, including:
    - (A) Actions to make continual progress toward meeting the clean energy targets that are consistent with providing affordable, reliable, and clean electricity service; and
    - (B) Anticipated actions to facilitate rapid reductions of greenhouse gas emissions at reasonable costs to retail electricity consumers served by the electricity service supplier; and
  - (d) The commission shall review the information supplied by an electricity service supplier under this subsection for the purposes of determining whether the electricity service supplier is making continual and reasonable progress toward compliance with the clean energy targets set forth in section 3 of this 2021 Act.
- (4)(a) A retail electricity provider shall report annual greenhouse gas emissions associated with the electricity sold to retail electricity consumers by the retail electricity provider to the Department of Environmental Quality in the manner set forth under ORS 468A.280, or rules adopted pursuant thereto.
- (b) The Public Utility Commission shall use the greenhouse gas emissions reported to the department under paragraph (a) of this subsection and provided to the commission to determine whether or not the retail electricity provider has met the clean energy targets set forth in section 3 of this 2021 Act.

**SECTION 6. Utility Community Benefits and Impacts Advisory Group.** (1) An electric company that files a clean energy plan under section 4 of this 2021 Act shall convene a Community Benefits and Impacts Advisory Group. The members of the electric company's Community Benefits and Impacts Advisory Group will be determined by the electric company with input from stakeholders that represent the interests of customers or affected entities within the electric company's service territory. Members must include representatives of environmental justice communities and low-income ratepayers and may include representatives from other affected entities within the electric company's service territory.

- (2)(a) The electric company shall develop, in consultation with the Community Benefits and Impacts Advisory Group, a biennial report that assesses the community benefits and impacts of the electric company and shall file the biennial report with the Public Utility Commission. The biennial report must include a description of the following:
- (A) Energy burden and disconnections for residential customers and disconnections for small commercial customers;
  - (B) Opportunities to increase contracting with businesses owned by women, veterans or Black, Indigenous, or People of Color;
  - (C) Actions within environmental justice communities within the electric company's service territory intended to improve resilience during adverse conditions or facilitate investments in the distribution system, including investments in facilities that generate non-emitting electricity;

(D) Distribution of infrastructure or grid investments and upgrades in environmental justice communities in the electric company's service territory, including infrastructure or grid investments that facilitate the electric company's compliance with the clean energy targets set forth in section 3 of this 2021 Act;

(E) Social, economic or environmental justice cobenefits that result from the electric company's investments, contracts or internal practices;

(F) Customer experience, including a review of annual customer satisfaction surveys;

(G) Actions to encourage customer engagement; and

(H) Other items as determined by the electric company and the electric company's Community Benefits and Impacts Advisory Group.

(b) The electric company may engage the Community Benefits and Impacts Advisory Group to advise on other matters, including but not limited to:

(A) The development and equitable implementation of a clean energy plan as determined in section 4 of this 2021 Act;

(B) The development and equitable implementation of a distribution system plan;

(C) Equitable contracting practices; and

(D) Best practices and strategies for reducing energy burden and disconnections in the electric company's service territory.

(3) The commission shall establish a process for an electric company to contemporaneously recover the cost associated with the development of biennial reports and the costs associated with compensation or reimbursement for time and travel of members of a Community Benefits and Impacts Advisory Group.

**SECTION 7. Treatment of generation resources; greenhouse gas emissions accounting.** For the purposes of determining compliance with sections 1 to 15 of this 2021 Act, electricity shall have the emission attributes of the underlying generating resource.

**SECTION 8. Determining compliance with clean energy targets.** (1)(a) In determining whether a retail electricity provider has complied with the clean energy targets set forth in section 3 of this 2021 Act, the Public Utility Commission shall take into consideration unplanned emissions in excess of the amount projected in an electric company's clean energy plan submitted under section 4 of this 2021 Act or the information provided by an electricity service supplier under section 5 (3) of this 2021 Act, to the extent:

(A) The emissions are in excess of the clean energy targets set forth in section 3 of this 2021 Act;

(B) Generation of electricity from nonemitting resources forecasted to meet electricity demand is less than expected, including variability in the generation, transmission, constraints or other causes; and

(C) The additional emissions are from the generation of electricity necessary to meet load.

(b) A retail electricity provider that continues to be out of compliance with the clean energy targets set forth in section 3 of this 2021 Act for more than 12 months as a result of unplanned emissions as described in paragraph (a)(A) to (C) of this subsection shall include a detailed plan on how the retail electricity provider will return to compliance as soon as practicable, subject to approval by the commission, for an electric company, in a subsequent clean energy plan or, for an electricity service supplier, in a subsequent submission to the commission under section 5 (3) of this 2021 Act.

(2) Greenhouse gas emissions associated with electricity acquired from net metering of customer resources or a qualifying facility under the terms of the Public Utility Regulatory Policies Act shall be excluded from the determination of the retail electricity provider's total greenhouse gas emissions.

(3) For purposes of determining whether a retail electricity provider has complied with the clean energy targets set forth in section 3 of this 2021 Act, electricity, other than unspecified market power, purchased from the Bonneville Power Administration for delivery

to retail electricity consumers shall be deemed to have the Bonneville Power Administration asset controlling supplier emission factor reported to the Department of Environmental Quality under ORS 468A.280, or rules adopted pursuant thereto.

(4)(a) For an electric company subject to ORS 469A.052, the commission shall initiate a process to update the avoided costs calculated pursuant to ORS 758.525 for a qualifying facility under ORS 758.505 to ensure avoided costs accurately reflect the characteristics of generators that contribute to compliance with sections 1 to 15 of this 2021 Act.

(b) The process initiated by the commission under paragraph (a) of this subsection may commence no sooner than two calendar years before the calendar year identified in the electric company's acknowledged integrated resource plan that shows the electric company will meet or exceed the requirements described in ORS 469A.052 (1)(h) and must conclude no later than the calendar year identified in the acknowledged integrated resource plan that shows the electric company will meet or exceed the requirements described in ORS 469A.052 (1)(h).

**SECTION 9. Reliability pause.** (1) Upon its own motion or at the request of an electric company, the Public Utility Commission may open an investigation pursuant to ORS 756.515 (1) to determine whether to grant a temporary exemption to an electric company's compliance with one or more of the requirements of ORS 469A.052 or a clean energy plan adopted pursuant to sections 1 to 15 of this 2021 Act.

(2) The commission may grant a temporary exemption if compliance:

(a) Conflicts with or compromises an electric company's obligation to comply with mandatory reliability standards set by the North American Electric Reliability Corporation;

(b) Violates or significantly impairs a resource adequacy requirement or recommendation of a multistate, regional or national entity;

(c) Violates or significantly impairs an electric company's ability to comply with a Balancing Authority Area declaration of an energy emergency alert under categories 1 through 3, as designated by the North American Electric Reliability Corporation, or successor categories adopted after the effective date of this 2021 Act;

(d) Results, regardless of best efforts to secure cost-effective nonemitting energy resources or funding for energy efficiency and conservation, in the provision of service at other than fair and reasonable rates; or

(e) Otherwise compromises the power quality or integrity of an electric company's system.

(3) An electric company making a request under this section shall submit to the commission an application that includes:

(a) An explanation of how compliance results in one or more of the issues described under subsection (2) of this section;

(b) A description of how a temporary exemption from compliance with one or more of the requirements of ORS 469A.052 or a clean energy plan adopted pursuant to sections 1 to 15 of this 2021 Act will avoid the issues identified under paragraph (a) of this subsection; and

(c) A plan to achieve full compliance with the requirements of ORS 469A.052 or a clean energy plan adopted pursuant to sections 1 to 15 of this 2021 Act, including an estimate of the time needed to achieve full compliance.

(4) In applying for a temporary exemption under this section, an electric company has the burden of demonstrating that the company's compliance will likely result in one or more of the issues described under subsection (2) of this section.

(5) If, after investigation, the commission determines that compliance with one or more of the requirements of ORS 469A.052 or a clean energy plan adopted pursuant to sections 1 to 15 of this 2021 Act will, more likely than not, result in one or more of the issues described under subsection (2) of this section, the commission shall:

(a) Issue an order exempting the electric company from one or more of the requirements of ORS 469A.052 or a clean energy plan adopted pursuant to sections 1 to 15 of this 2021 Act

for a length of time sufficient to allow the electric company to achieve full compliance in a manner that does not result in one or more of the issues described under subsection (2) of this section.

(b) Direct the electric company to take specific actions to remedy the potential issue or issues identified in the order.

(c) Direct the electric company to file within six months from the date the order is issued, or within a length of time determined by the commission to be reasonable, a report on the company's progress toward achieving full compliance with the requirements of ORS 469A.052 or a clean energy plan adopted pursuant to sections 1 to 15 of this 2021 Act.

(6) An order issued under subsection (5) of this section may not impose a penalty but may require the use of alternative compliance rates or payments, if applicable, as provided in ORS 469A.180 during the period of time a temporary exemption is in effect.

(7) An electric company may request an extension of a temporary exemption granted under this section. The electric company shall include in the company's request for an extension the same information required under subsection (3) of this section and shall have the burden of proof described under subsection (4) of this section.

(8) The commission shall provide the same opportunity to an electricity service supplier as provided an electric company under this section to receive a temporary exemption from compliance with one or more of the requirements of ORS 469A.052 or 469A.065 or sections 1 to 15 of this 2021 Act, or extension of such a temporary exemption, based on comparable procedures and criteria, to the extent the procedures and criteria under this section apply to an electricity service supplier as applied to an electric company under this section.

(9) The commission may grant an electric company or electricity service supplier a temporary exemption that is comparable to a temporary exemption granted to another electric company or electricity service supplier without conducting a separate investigation under subsection (1) of this section, if the commission determines that the conditions that resulted in the granted temporary exemption holds for the electric company or electricity service supplier.

(10) Nothing in this section is intended to permanently relieve an electric company or electricity service supplier of the obligation to comply with the requirements of ORS 469A.052 or 469A.065 or sections 1 to 15 of this 2021 Act.

**SECTION 10. Cost cap for electric companies.** (1) An electric company or an organization that represents broad customer interests and that has a written agreement with an electric company pursuant to ORS 757.072 may request that the Public Utility Commission open an investigation to provide accounting for investments made, costs incurred or forecasted costs estimated by the electric company for the purpose of compliance with sections 1 to 15 of this 2021 Act. In making a request under this section, the petitioner shall provide information regarding the investments or costs sufficient to determine whether the investments or costs contribute to compliance with sections 1 to 15 of this 2021 Act.

(2)(a) The commission shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to 756.610, including the opportunity to develop an evidentiary record, conduct discovery, introduce evidence, conduct cross-examination and submit written briefs and oral arguments.

(b) The petitioner shall have the burden of showing, by a preponderance of the evidence, that the investment or cost contributes to compliance with sections 1 to 15 of this 2021 Act.

(c) The commission shall issue a written order with findings on the evidentiary record development in the proceeding.

(d) Except as provided under ORS 756.610, a determination by the commission that an investment or cost contributes to compliance with sections 1 to 15 of this 2021 Act is final and may not be reexamined.

(3) Upon determining that an investment or cost of an electric company contributes to compliance with sections 1 to 15 of this 2021 Act, the commission shall determine the actual

or anticipated rate impact for the investment or cost on the same basis and with the same treatment for similarly situated investments or costs in the most recently approved general rate case or other relevant rate making proceeding. The commission shall use the actual or anticipated rate impact of each investment or cost to calculate the cumulative rate impact and shall:

- (a) Cumulatively calculate the rate impact caused by all investments or costs that have been the subject of a proceeding pursuant to this section, and must be included in calculation for the time period that the investment or cost would affect rates, as adjusted by any change in net costs expected or foreseeable at the time of inclusion;
- (b) Make any adjustments to the cumulative rate impact if the initial rate treatment was calculated on the basis of forecasted rate impact;
- (c) Allow parties to the proceeding to propose alternative rate or accounting treatment of the investment or cost to limit the potential rate impact of the investment or cost; and
- (d) Utilize cost allocation methodologies for attributing rate impacts of investments or costs for multistate electric companies.

(4) Upon a determination that the actual or anticipated cumulative rate impact calculated under subsection (3) of this section exceeds six percent of the annual revenue requirement for a year, the commission shall provide an exemption from further compliance with the requirements of sections 1 to 15 of this 2021 Act. An exemption must be:

- (a) Narrowly tailored to otherwise give full force and effect to the requirements of sections 1 to 15 of this 2021 Act that can be complied with without regard to the cumulative rate impact; and
- (b) Limited in duration to only such time as is necessary to allow for additional investments and actual or forecasted costs to be made or incurred without exceeding the cumulative rate impact.

(5) A determination by the commission made under this section shall have no effect on and may not be used as collateral or presumptive evidence in any other proceeding that determines rate recovery of the investment or cost, including in a general rate case or in a proceeding under ORS 469A.120.

(6) The commission may, on its own motion pursuant to ORS 756.515, open a proceeding under this section and direct an electric company to make a filing described under subsection (1) of this section.

**SECTION 11. Cost cap for electricity service suppliers.** The Public Utility Commission shall provide the same opportunity to an electricity service supplier as provided an electric company under section 10 of this 2021 Act to receive a comparable exemption from further compliance with the requirements of sections 1 to 15 of this 2021 Act. A comparable exemption shall be provided based on comparable procedures and criteria, to the extent the procedures and criteria apply to an electricity service supplier as applied to an electric company under section 10 of this 2021 Act and adjusted to reflect applicable differences between electricity service suppliers and electric companies.

**SECTION 12. Early compliance; incentive.** In furtherance of the clean energy targets set forth in section 3 of this 2021 Act, the Public Utility Commission may apply a performance incentive for early compliance with one or more of the clean energy targets.

**SECTION 13. No modification to Renewable Portfolio Standards.** The requirements of sections 1 to 15 of this 2021 Act do not replace or modify the requirements of ORS 469A.005 to 469A.210.

**SECTION 14. Rules.** (1) The Public Utility Commission may adopt rules as necessary to implement sections 1 to 15 of this 2021 Act.

(2) The commission shall review and identify costs incurred by electric companies for obligations not similarly imposed on electricity service suppliers to comply with sections 1 to 15 of this 2021 Act that retail electric consumers served by electricity service suppliers may avoid by obtaining electric power through direct access and ensure that the identified

costs are recovered from all retail electricity consumers, are calculated and recovered on the basis of electricity consumption and bear a direct relationship to costs borne by retail electricity consumers served by electric companies.

**SECTION 15. Electricity market participation.** (1)(a) The Legislative Assembly finds that existing and future electricity markets will play a critical role in the transformation of the electric sector to nonemitting sources, as well as enabling load serving entities to reduce costs and serve load reliably by accessing resource and load diversity.

(b) The Legislative Assembly further finds that accounting and compliance frameworks designed to further the State of Oregon's policy objectives should support and be consistent with efforts to enhance the access to and scope of existing and potential future electricity markets.

(c) Acknowledging the inherently regional and multistate nature of electricity markets, the State of Oregon should coordinate and collaborate with other states to achieve the goal of aligning accounting methodologies where possible while also ensuring market rules do not undermine state policy objectives.

(d) Over time, the evolution of regional wholesale electricity markets may necessitate the modification of existing accounting and compliance rules to ensure the benefit of market participation are preserved.

(2) The Department of Environmental Quality may periodically review and update its calculation under ORS 468A.280 of the greenhouse gas emissions rates assigned to unspecified power purchases and purchases of power dispatched by centralized market operators to reflect the current resource mix and associated emissions of such purchases. The department shall ensure that the calculation of emissions rates under this section takes into account the potential for the energy imbalance market and other centralized market operations across a wide geographic area to increase the availability of nonemitting resources to serve load in the state.

**SECTION 16.** ORS 469A.062 is repealed.

**SECTION 17.** Sections 1 to 15 of this 2021 Act do not apply to an electric company, as defined in ORS 757.600, that serves electricity to 25,000 or fewer retail electricity consumers, as defined in ORS 757.600, located in this state.

## STUDY ON SMALL SCALE RENEWABLE ENERGY PROJECTS

**SECTION 18.** (1) The State Department of Energy shall convene a work group to examine opportunities to encourage development of small scale and community-based renewable energy projects in this state that contribute to economic development and local energy resiliency. The work group shall include:

- (a) One state representative appointed by the Speaker of the House;
- (b) One senator appointed by the President of the Senate; and
- (c) Individuals who represent:
  - (A) Renewable energy developers;
  - (B) Investor-owned electric utilities in this state;
  - (C) Consumer-owned utilities in this state;
  - (D) Electricity service suppliers;
  - (E) Residential, commercial and industrial rate payers;
  - (F) Cities and counties;
  - (G) Tribal governments;
  - (H) Business Oregon;
  - (I) The Department of Land Conservation and Development;
  - (J) The renewable energy workforce;
  - (K) Environmental justice communities;
  - (L) The Public Utility Commission;

- (M) The Public Purpose Fund Administrator described in ORS 470.555; and
  - (N) The Bonneville Power Administration.
- (2) The work group shall study and examine:
- (a) Potential barriers to project development in both investor-owned and consumer-owned utility service territory, including land use, local and state utility regulations, transmission capacity, contracts or obligations under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), implementation and costs or financing;
  - (b) Potential economic benefits of small-scale renewable energy projects;
  - (c) Potential contributions of small-scale renewable energy projects to local energy resiliency;
  - (d) Access and ownership opportunities for low-income communities, Black, Indigenous and People of Color communities, tribal communities and rural and coastal communities with limited infrastructure;
  - (e) Opportunities for diverse models of ownership by local governments, nonprofit organizations and cooperatives of community members;
  - (f) Potential rate impacts; and
  - (g) Potential legislation that could encourage development of small scale and community-based renewable energy projects in this state.
- (3) Members of the work group shall comply with requests from the State Department of Energy for data related to the work group's study and work under this section.
- (4) The State Department of Energy shall submit a report describing the current status and trends for small scale and community-based renewable energy development in this state based on the findings made under subsection (2) of this section and may include recommendations to an interim committee of the Legislative Assembly related to energy no later than September 30, 2022.

**SECTION 19.** Section 18 of this 2021 Act is repealed on December 15, 2022.

#### CUSTOMER SUPPORTED RENEWABLES

**SECTION 20.** ORS 757.603 is amended to read:

757.603. [(1)(a)] (1) Except as provided in this [subsection] **section**, an electric company shall provide all retail electricity consumers that are connected to the electric company's distribution system with a regulated, cost-of-service rate option.

[(b)] (2)(a) The Public Utility Commission by order may waive the requirement [*of paragraph (a) of this subsection*] **in subsection (1) of this section** for any retail electricity consumer other than residential electricity consumers and small commercial electricity consumers.

(b) [Before] **Prior to** ordering a waiver under this [*paragraph*] **subsection**, the commission [shall] **may** conduct such studies as the commission deems necessary and **shall** provide notice and opportunity for public comment and hearings **regarding the proposed waiver**.

(c) The commission may order a waiver under this [*paragraph*] **subsection** if the commission finds, based on [*an*] **the** evidentiary record developed through **the conducted studies**, public comment and hearings, that a market exists in which retail electricity consumers subject to the waiver are able to:

(A) Purchase supplies of electricity adequate to meet the needs of the retail electricity consumers;

(B) Obtain multiple offers for electricity supplies within a reasonable period of time;

(C) Obtain reliable supplies of electricity; and

(D) Purchase electricity at prices that are not unduly volatile and that are just and reasonable.

[(2)] (3) Each electric company shall provide each [*residential*] **retail** electricity consumer that is connected to its distribution system **and whose electricity demand at any point of delivery is less than 30 kilowatts** a portfolio of rate options. The portfolio **of rate options** shall include at least the following options:

- (a) A rate that reflects significant new renewable energy resources;
  - (b) A market-based rate; and
  - (c) If the commission finds, through public comment and hearing or through market research conducted by the electric company, that demand is sufficient to justify the rate, a rate option for electricity associated with a specific renewable energy resource, including solar photovoltaic energy.
- [*(3)(a)*] (4) The commission shall regulate the cost-of-service rate option under subsection (1) of this section and the portfolio of rate options under [*subsection (2) of*] this section. The commission:
- (a) Shall reasonably ensure that the costs, [*and*] risks **and benefits** of serving each option are reflected in the rates for each option, **and such rates may include a monthly flat rate or charge in addition to usage**.
  - (b) [*The commission*] May prohibit or otherwise limit the use of a cost-of-service rate by retail electricity consumers who have been served through direct access[*, and*].
  - (c) May limit switching among **the portfolio of rate options** and the cost-of-service rate [*by residential electricity consumers*].
- (5)(a) As used in this subsection, “government” means a city, county, irrigation district, ditch improvement district, water control district, or government of a federally recognized Indian tribe in Oregon.
- (b) An electric company may file, as part of a portfolio of rate options required under this section and if agreed to in coordination with one or more governments to meet adopted renewable and nonemitting energy goals, a program of rates or charges that reflect the cost of an electric company program to serve retail electricity consumers within the boundaries of those governments with electricity:
- (A) Derived from new or existing renewable energy resources or nonemitting energy resources, including supply and demand-side resources; or
  - (B) Paired with unbundled renewable energy certificates, as defined in ORS 469A.005, from new or existing renewable energy resources.
- (c) The commission may approve a rate or charge under this subsection if:
- (A) The government attests that the coordination required under paragraph (b) of this subsection occurred and the electric company includes the attestation in the filing for a program of rates or charges;
  - (B) The government enacts or adopts an ordinance, charter provision, resolution or other regulation requiring that retail electricity consumers within the boundaries of the government must, as determined during the coordination required by paragraph (b) of this subsection and conducted in accordance with this paragraph, be served with renewable energy resources or nonemitting energy resources, including at the option of the government, resources such as:
- (i) Energy from community-based resources, including solar photovoltaic, storage, microgrids, irrigation district-owned projects, in-pipe hydroelectric, or micro-hydroelectric, that provide community cobenefits, such as:
    - (I) Community stability;
    - (II) Community reinvestment;
    - (III) Ownership by a nonprofit organization or renewable energy cooperative that represents an environmental justice community;
    - (IV) Ownership by the government;
    - (V) Disaster resiliency;
    - (VI) Water savings;
    - (VII) Species protection;
    - (VIII) Direct cost savings to customers; or
    - (IX) Local economic development and jobs; and
  - (ii) Renewable and nonemitting energy resources acquired through government specified procurement criteria which may include goals for local or diverse ownership;

(C) The ordinance, charter provision, resolution or other regulation specifies that:

(i) All eligible retail electricity consumers served within the boundaries of the government are placed on the rate schedule by the electric company, upon commission approval, but have an opportunity to decline to be served by the rate option; and

(ii) Retail electricity consumers within the boundaries of the government that are connected to the distribution system and whose electricity demand at any point of delivery is greater than 30 kilowatts may choose to be placed on the rate schedule, if the electric company determines that electricity demand at the consumer's point of delivery is greater than 30 kilowatts because of additional demand resulting from electrification of transportation or other services, including electric vehicle charging stations, after the effective date of this 2021 Act;

(D) The ordinance, charter provision, resolution or other regulation includes protections, such as subsidies or bill payment assistance, for low-income retail electricity consumers affected by the rates or charges and provides that these protections are paid for solely by retail electricity consumers within the boundaries of the government;

(E) The electric company has included in the program provisions to minimize the shifting of costs from retail electricity consumers to other customers who do not participate;

(F) The ordinance, charter provision, resolution or other regulation sets forth the duration of the program; and

(G) The electric company utilizes commission-approved procurement processes, to the extent those processes apply, and the procurement criteria agreed to with the government in subparagraph (B)(ii) of this paragraph.

(d) After the electric company receives approval to serve retail electricity consumers within the boundaries of the government according to the program of rates or charges adopted pursuant to this subsection, the electric company must:

(A) Prior to commencing the program, receive acknowledgement from the government to proceed with the program as approved by the commission and, if the government declines to proceed, shall file to suspend the rates and charges under the program;

(B) Include information on its monthly bills to participating retail electricity consumers identifying the program's cost;

(C) Provide notice to participating retail electricity consumers of any change in rate for participation in the program; and

(D) Provide an annual report to the commission and participating governments summarizing the program activities in the prior calendar year.

(e) The commission shall allow the electric company, for purposes of the new or existing renewable energy resources or nonemitting energy resources that serve the program of rates or charges adopted pursuant to this subsection:

(A) To own the facilities or use power purchase agreements.

(B) To recover part or all of the costs associated with the resources that serve the program, including costs associated with resources described in subparagraph (A) of this paragraph, from all retail electricity consumers not served by an electricity service supplier, if:

(i) The electric company can demonstrate that above-market or incremental costs of those resources have been paid for by program participants;

(ii) An integrated resource plan conducted by the electric company shows an energy or capacity need and the company demonstrates that such resources are capable of meeting that need, in whole or in part;

(iii) The electric company will use the resources to meet a renewable portfolio standard imposed by ORS 469A.052;

(iv) The resources help the electric company comply with section 3 of this 2021 Act; or

(v) All customers will otherwise benefit from inclusion of the costs in rates collected from all customers.

**(C) To collect moneys from participating retail electricity consumers in excess of the cost of service and defer revenues or costs associated with the program for the purposes of making future investments in resources or renewable energy certificates to serve program participants and for the purposes of protecting nonparticipating retail electricity consumers should the government end its participation in the program.**

**(D) To recover the costs associated with the resources that serve the program, including costs associated with resources described in subparagraph (A) of this paragraph, from retail electricity consumers within the boundaries of the government other than those served by electricity service suppliers, if the government ends its participation in the program and the costs are not otherwise recoverable under subparagraph (B) of this paragraph.**

**(6) Nothing in subsection (3) of this section prohibits an electric company from providing retail electricity consumers that are connected to its distribution system and whose electricity demand at any point of delivery is greater than 30 kilowatts a portfolio of rate options.**

**(7) Notwithstanding the exemption to ORS 757.600 to 757.691 provided by ORS 757.601 (3), an electric company serving fewer than 25,000 customers in this state may propose a program for approval by the commission if the program meets the criteria specified in this section.**

**SECTION 21.** ORS 469A.205 is amended to read:

469A.205. (1) Electric utilities shall allow retail electricity consumers to elect a green power rate. A significant portion of the electricity purchased or generated by a utility that is attributable to moneys paid by retail electricity consumers who elect the green power rate must be qualifying electricity, and the utility must inform consumers of the sources of the electricity purchased or generated by the utility that is attributable to moneys paid by consumers who elect the green power rate. The green power rate shall reasonably reflect the costs of the electricity purchased or generated by the utility that is attributable to moneys paid by retail electricity consumers who elect the green power rate. All prudently incurred costs associated with the green power rate are recoverable in a green power rate offered by an electric company.

(2) Any qualifying electricity procured by an electric utility to provide electricity under a green power rate under subsection (1) of this section or ORS 757.603 [(2)(a)] (3)(a) may not be used by the utility to comply with the requirements of a renewable portfolio standard.

(3) The provisions of subsection (1) of this section do not apply to electric companies that are subject to ORS 757.603 [(2)(a)] (3)(a).

(4) An electric utility may comply with the requirements of subsection (1) of this section by contracting with a third-party provider.

**SECTION 22.** ORS 757.247 is amended to read:

757.247. (1) The Public Utility Commission may authorize a public utility, upon application of the utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of energy resource measures provided to an individual property owner or customer pursuant to an agreement entered into between the individual property owner or customer and the public utility. Energy resource measures provided under this section may include:

(a) The installation of renewable energy generation facilities on the property of property owners or the premises of customers;

(b) The implementation of energy conservation measures, including measures that are not cost-effective;

(c) The installation of equipment or devices or the implementation of measures that enable demand reduction, peak load reduction, improved integration of renewable energy generation or more effective utilization of energy resources;

(d) Loans for the purposes described in paragraphs (a) to (c) of this subsection; and

(e) Direct payments to third parties for the purposes described in paragraphs (a) to (c) of this subsection.

(2) Subject to the agreement entered into between the individual property owner or customer and the public utility, a tariff schedule placed into effect under this section may include provisions for:

- (a) The payment of the rates or charges over a period of time;
- (b) Except as provided in subsection (5) of this section, a reasonable rate of return on any investment made by the public utility;
- (c) The application of any payment obligation to successive owners of the property to which the energy resource measure is attached or to successive customers located at the premises to which the energy resource measure is attached; and
- (d) The application of the payment obligation to the current property owner or customer alone, secured by methods agreed to by the property owner or customer and the public utility.

(3) Application of a tariff schedule under this section is subject to approval by the commission.

(4) If a payment obligation applies to successive property owners or customers as described in subsection (2)(c) of this section, a public utility shall record a notice of the payment obligation in the records maintained by the county clerk under ORS 205.130. The commission may prescribe by rule other methods by which the public utility shall notify property owners or customers of such payment obligations.

(5) A public utility may use moneys obtained through a rate established under ORS 757.603 [(2)(a)] (3)(a) to provide a renewable energy generation facility to a property owner or customer under this section. A public utility may not charge interest to a property owner or customer for a renewable energy generation facility acquired with moneys obtained through a rate established under ORS 757.603 [(2)(a)] (3)(a).

(6) Agreements entered into and tariff schedules placed into effect under this section are not subject to ORS 470.500 to 470.710, 757.612 or 757.689.

**SECTION 23.** ORS 757.646 is amended to read:

757.646. (1) The duties, functions and powers of the Public Utility Commission shall include developing policies to eliminate barriers to the development of a competitive retail market [*structure*] **between electricity service suppliers and electric companies**. The policies shall be designed to mitigate the vertical and horizontal market power of incumbent electric companies[,] **and** prohibit preferential treatment, or the appearance of such treatment, [of] **by the incumbent electric companies toward** generation or market affiliates [*and determine the electricity services likely to be competitive*]. The commission may require an electric company acting as an electricity service supplier do so through an affiliate.

(2) The commission shall establish by rule a code of conduct for electric companies and their affiliates to protect against market abuses and anticompetitive practices. The code shall, at a minimum:

(a) Require an electric company and any affiliate that shares the same name and logo to disclose to all consumers the relationship between the company and affiliate and to clarify that the affiliate is not the same as the electric company and that in order to receive service from the company a consumer does not have to purchase the services of the affiliate;

(b) Prohibit preferential access by an electric company affiliate to confidential consumer information;

(c) [*Prohibit*] **Minimize** cross-subsidization between competitive operations and regulated operations, including the use of electric company personnel and other resources;

(d) Prohibit joint marketing activities and exclusive referral arrangements between an electric company and its affiliates;

(e) Provide the commission with all necessary access to books and records;

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

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

(3) An electric company shall provide the commission access to all books and records necessary for the commission to monitor the electric company and its affiliate relationships. The commission

shall require an electric company biannually to file a report detailing compliance with this subsection.

(4) Notwithstanding subsection (1) of this section, the commission shall ensure that policies developed to mitigate the vertical and horizontal market power of incumbent electric companies do not limit or delay electric companies from offering programs or services or making prudent investments in furtherance of the clean energy targets established by section 3 of this 2021 Act or a program established under ORS 757.603 (5), or that otherwise aid in reducing statewide emissions of greenhouse gases consistent with state policies, including ORS 283.398 and 468A.205.

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

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

(1) "Acquires service territory" does not include an acquisition by a city of a facility, plant, equipment or service territory within the boundaries of the city, pursuant to ORS 225.020 or city charter, if the city:

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

(b) Provides fair, just and reasonable compensation to the electric company whose service territory is acquired that:

(A) Gives consideration for the service territory rights and the cost of the facility, plant or equipment acquired and for depreciation, fair market value, reproduction cost and any other relevant factor; and

(B) Is based on the present value of the service territory rights and the facility, plant and equipment acquired, including the value of poles, wires, transformers and similar and related appliances necessarily required to provide electric service; and

(c) Pays any stranded costs obligation established pursuant to ORS 757.483.

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

(3) "BPA electricity" means electricity provided by the Bonneville Power Administration, including electricity generated by the Federal Columbia River Power System hydroelectric projects and electricity acquired by the Bonneville Power Administration by contract.

(4) "Bundled renewable energy certificate" means a renewable energy certificate for qualifying electricity that is acquired:

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

(b) By an electric utility by generation of the electricity for which the renewable energy certificate was issued; **or**

(c) **By an electricity service supplier by retirement by an electric company where the renewable energy certificate satisfied paragraph (a) or (b) of this subsection prior to such retirement and was retired on behalf of the electricity service supplier on behalf of a retail electricity consumer that pays transition adjustments to the electric company.**

(5) "Compliance year" means the calendar year for which the electric utility or electricity service supplier seeks to establish compliance with the renewable portfolio standard applicable to the electric utility or electricity service supplier in the compliance report submitted under ORS 469A.170.

(6) "Consumer-owned utility" means a municipal electric utility, a people's utility district organized under ORS chapter 261 that sells electricity or an electric cooperative organized under ORS chapter 62.

(7) "Distribution utility" has the meaning given that term in ORS 757.600.

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

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

- (10) "Electricity service supplier" has the meaning given that term in ORS 757.600.
- (11) "Qualifying electricity" means electricity described in ORS 469A.010.
- (12) "Renewable energy source" means a source of electricity described in ORS 469A.025.
- (13) "Retail electricity consumer" means a retail electricity consumer, as defined in ORS 757.600, that is located in Oregon.
- (14) "Unbundled renewable energy certificate" means:
  - (a) A renewable energy certificate for qualifying electricity that is acquired by an electric utility or electricity service supplier by trade, purchase or other transfer without acquiring the electricity that is associated with the renewable energy certificate; **or**
  - (b) **A renewable energy certificate that is sold to a retail electricity consumer without selling, on a non-cost-of-service basis, the electricity associated with the renewable energy certificate to the retail electricity consumer.**

#### **PROVIDING INFORMATION ABOUT CLEAN ENERGY PROGRAMS TO CUSTOMERS AND THE PUBLIC**

##### **SECTION 25.** ORS 757.649 is amended to read:

757.649. (1)(a) A person or other entity shall not act as an electricity service supplier unless the person or entity is certified by the Public Utility Commission. The commission, by rule, shall establish standards for certification of persons or other entities as electricity service suppliers in this state. The rules shall, at a minimum, address:

- (A) The ability of the person or entity to meet the person's or entity's obligation to provide electricity services pursuant to direct access; and
- (B) The ability of the person or entity to comply with applicable consumer protection laws.
- (b) The commission may require an electricity service supplier to provide a bond or other security.
- (c) The commission may establish a fee, not to exceed \$500, for initial certification and annual recertification of electricity service suppliers.
- (d) The commission, at any time, may revoke an electricity service supplier's certification for failure to comply with applicable statutes and rules.
- (e) The commission may require an electricity service supplier to provide information necessary to ensure compliance with ORS 757.612. The commission shall ensure the privacy of all information and the protection of any proprietary information provided.
- (f) **The commission shall require an electricity service supplier to publicly disclose a summary of the aggregated energy supply mix and associated emissions of the power sources that serve the direct access retail electricity consumers of the electricity service supplier, or such other aggregated information comparable to information provided by electric companies to retail electricity consumers as the commission may require.**

(2) Every electric utility shall maintain the integrity of its transmission facilities and distribution system and provide safe, reliable service to all retail electricity consumers. Nothing in ORS 757.600 to 757.667 or 757.669 to 757.687 shall reduce or diminish the statutory or contractual obligations of electric utilities to maintain the safety and reliability of their transmission facilities and distribution system and other infrastructure and equipment used to deliver electricity.

(3) The commission for electric companies, or the governing body for other electric utilities, shall adopt rules, ordinances, policies and service quality standards designed to maintain a reliable, safe and efficient distribution system. The commission shall regulate electrical safety regarding generation, transmission, substation and distribution facilities for electric utilities and other electrical system owners and operators as provided under ORS 757.035.

(4) Every bill to a direct access retail electricity consumer from an electricity service supplier shall contain at least:

(a) The rate and amount due for each service or product that the retail electricity consumer is purchasing and other price information necessary to facilitate direct access, as determined by the commission;

(b) The rates and amounts of state and local taxes or fees, if any, imposed on the retail electricity consumer;

(c) The amount of any public purpose charge or credit;

(d) The amount of any transition charge or transition credit; and

(e) Power source and environmental impact information necessary to ensure that all consumers have useful, reliable and necessary information to exercise informed choice, as determined by the commission.

(5)(a) A retail electricity consumer of an electric company shall receive, upon request, a separate bill from every individual electricity service supplier that provides products or services to the retail electricity consumer. If a retail electricity consumer of an electric company does not request separate bills, or a consolidated bill from an electricity service supplier as provided in paragraph (c) of this subsection, the electric company shall consolidate the bills for all electricity services into a single statement, and electricity service suppliers shall provide to the electric company the information necessary to prepare a consolidated statement.

(b) The requirement for bill consolidation by an electric company shall continue through December 31, 2001, after which time the commission may waive the requirement if the waiver results in effective billing procedures for retail electricity consumers.

(c) Upon the request of a retail electricity consumer of an electric company, an electricity service supplier shall consolidate the bills for all electricity services into a single statement, and electric utilities and other electricity service suppliers shall provide to the billing electricity service supplier any information necessary to prepare a consolidated statement.

(d) For retail electricity consumers of an electric company, the commission shall adopt by rule provisions relating to the failure of a consumer to make full payment on a consolidated bill. The rules shall address collection of payments, service disconnection and reconnection, and the allocation of costs associated with collection, disconnection and reconnection. A distribution utility shall be solely responsible for actual disconnection and reconnection.

## **RESPONSIBLE CONTRACTOR LABOR STANDARDS**

### **SECTION 26. (1) As used in this section:**

(a) "Apprentice" and "apprenticeable occupation" have the meanings given those terms in ORS 660.010.

(b) "Apprenticeship training program" means the total system of apprenticeship that a particular local joint committee, as defined in ORS 660.010, operates, including the local joint committee's registered standards and all other terms and conditions for qualifying, recruiting, selecting, employing and training apprentices in an apprenticeable occupation.

(c) "Construction" includes on-site and off-site construction and fabrication and covers 30 days after project completion.

(d) "Large-scale project" means a renewable energy generation, sequestration or storage facility with a capacity rating of 10 megawatts or greater.

(e) "Minority individual" and "woman" have the meanings given those terms in ORS 200.005.

(f) "Repower" means replacement of enough of the original generation equipment or components to make an original energy generation facility equivalent to a new facility, such that at least 80 percent of the fair market value of the facility derives from new generation equipment or components installed as part of the replacement project.

(g) "Veteran" has the meaning given that term in ORS 408.225.

(2) A person who constructs or repowers a large-scale project sited in this state shall, at the time of contract finalization for development of the project or execution of a contract

for delivery of energy from the project, provide a signed attestation or declaration stating to the best of their knowledge and belief, subject to penalty of perjury as described in ORS 162.065, that during all periods of construction all contractors and subcontractors working on the construction or repowering project will:

(a) Participate in an apprenticeship program registered with the State Apprenticeship and Training Council and with graduation rates equal to or higher than the national average for each respective trade in a manner consistent with the respective apprenticeship training programs, such that 15 percent of the total work hours on a given large-scale project is performed by workers in apprenticeable occupations;

(b) Establish and execute a plan for outreach, recruitment and retention of women, minority individuals, veterans and people with disabilities to perform work under the contract, with the aspirational target of having at least 15 percent of total work hours performed by individuals in one or more of those groups;

(c) Have policies in place that are designed to limit or prevent workplace harassment and discrimination and that promote workplace diversity, equity and inclusion for communities who have been underrepresented in the clean energy sector, including women, veterans and Black, Indigenous and People of Color;

(d) Demonstrate good faith with meeting the requirements described in paragraphs (a) to (c) of this subsection by providing documented and verifiable information including:

(A) Internet addresses of employment advertisements or job announcements;

(B) Dates, times, Internet addresses and attendance lists of a prejob conference with apprenticeship, preapprenticeship and workforce providers in construction;

(C) Contacts requesting workers with an apprenticeship program approved by the Bureau of Labor and Industries including the date, time, telephone contact, email contact and whether a response was provided within 48 hours of the request; and

(D) Contacts requesting workers from a union hall including the date, time, telephone contact, email contact and whether a response was provided within 48 hours of the request;

(e) Maintain a license and good standing to perform the work and remain eligible to receive a contract or subcontract for public works under ORS 279C.860;

(f) Materially demonstrate a history of material compliance in the previous seven years, or provide available history for new businesses, with the rules and other requirements of state agencies with oversight regarding workers' compensation, building codes and occupational safety and health;

(g) Materially demonstrate a history of compliance, in the previous seven years, or provide available history for new businesses, with federal and state wage and hour laws; and

(h) Provide quarterly reporting and recordkeeping to the project owner or electric utility and respond to records requests and verification.

(3) In addition to the requirements in subsection (2) of this section, a person constructing or repowering a large-scale project shall require all contractors and subcontractors working on the construction or repowering project to:

(a) Pay the area wage standard for an hour's work in the same trade or occupation in the locality where the labor is performed. Area wage standard includes the calculation of wages and fringe benefits per trade and locality and will be treated as standards defined in ORS 279C.800 et seq.

(b) Offer health care and retirement benefits to the employees performing the labor on the project.

(c) Provide quarterly reporting and recordkeeping to the project owner or electric utility and respond to records requests and verification.

(4) A person constructing or repowering a large-scale project shall provide the attestation or declaration and good faith effort documentation described in subsection (2) of this section to the State Department of Energy within 30 days from the date construction begins and provide notice of such delivery to the purchaser of the project or of the energy

from the project. In addition to the requirements described in subsection (2) of this section, an attestation must include the following information:

- (a) The megawatt capacity and physical footprint in acres of the project;
- (b) The geographic location of the project;
- (c) The estimated workforce requirements of the project;
- (d) A collated list of good faith effort documentation; and
- (e) A description of any policies in place for ensuring the person meets the requirements in this section.

(5)(a) In lieu of providing an attestation or declaration described in subsection (2) of this section, a person may provide a copy of a project labor agreement, if a project labor agreement is used on the large-scale project and shall be exempted from the requirements described in subsection (2) of this section.

(b) As used in this subsection, “project labor agreement” means a prehire collective bargaining agreement as described in 29 U.S.C. 158 (f) that establishes the terms and conditions of employment for a specific construction project or contract.

(c) A project labor agreement may include additional provisions that:

(A) Prohibit discrimination based on race, national origin, religion, gender, sexual orientation, political affiliation or membership in a labor organization in hiring and dispatching workers for the project.

(B) Permit qualified contractors and subcontractors to bid for and be awarded work on the project without regard to whether they are otherwise parties to a collective bargaining agreement.

(C) Permit and promote qualified business enterprises owned by women, minorities, veterans and disadvantaged individuals without regard to whether the individuals are otherwise parties to a collective bargaining agreement.

(D) Guarantee against work stoppages, strikes, lockouts and similar disruptions of the project.

(6)(a) The department shall retain an attestation or declaration filed with the department in a manner consistent with the department's record retention policies.

(b) Notwithstanding any provisions of ORS 192.345 or 192.355, an attestation or declaration provided to the department pursuant to this subsection is subject to public records disclosure and the department shall provide a copy of the attestation or declaration upon request.

(c) An attestation or declaration filed under this section is for reporting purposes only and the department may not use an attestation or declaration to investigate, regulate or enforce matters addressed in the attestation or declaration.

**SECTION 27.** The obligation to provide an attestation or declaration pursuant to section 26 of this 2021 Act applies to large-scale project contracts finalized or executed on or after the effective date of this 2021 Act.

## NATURAL GAS PLANTS

**SECTION 28.** Notwithstanding ORS 469.320 and 469.405, the Energy Facility Siting Council may not:

(1) Issue a site certificate for a new generating facility that produces electric power from fossil fuels, including natural gas, petroleum, coal or any form of solid, liquid or gaseous fuel derived from such material, unless the council determines that a new generating facility will generate only nonemitting electricity as defined in section 1 of this 2021 Act; or

(2) Approve the amendment of a site certificate for an energy facility described under subsection (1) of this section that was granted prior to the effective date of this 2021 Act in a manner that would significantly increase the gross carbon dioxide emissions that are reasonably likely to result from the operation of the energy facility.

## COMMUNITY RENEWABLE ENERGY PROJECT GRANT PROGRAM

### **SECTION 29. Definitions.** As used in sections 29 to 32 of this 2021 Act:

(1) "Community renewable energy project" means one or more renewable energy systems, storage systems, microgrids or energy-related infrastructures that promote energy resilience, increase renewable energy generation or renewable energy storage capacity and provide a direct benefit to a particular community in the form of increased community energy resilience, local jobs, economic development or direct energy costs savings to families and small businesses.

(2) "Community energy resilience" means the ability of a specific community to maintain the availability of energy needed to support the provision of energy-dependent critical public services to the community following nonroutine disruptions of severe impact or duration to the state's broader energy systems.

(3) "Community energy resilience project" means a community renewable energy project that includes utilizing one or more renewable energy systems to support the energy resilience of structures or facilities that are essential to the public welfare.

(4) "Consumer-owned utility" means a municipal electricity utility, a people's utility district organized under ORS chapter 261 that sells electricity or an electric cooperative organized under ORS chapter 62.

(5) "Energy resilience" means the ability of energy systems, from production through delivery to end-users, to withstand and restore energy delivery rapidly following nonroutine disruptions of severe impact or duration.

(6) "Planning costs" means the costs related to planning paid by an applicant described under section 30 of this 2021 Act.

(7) "Project cost" means the actual cost of the acquisition, construction and installation of a renewable energy system incurred by an applicant described under section 30 of this 2021 Act for the system, before considering utility incentives.

(8) "Public body" means a public body as defined in ORS 174.109.

(9) "Qualifying community" means a community that qualifies as an environmental justice community as defined in section 1 of this 2021 Act.

(10) "Renewable energy system" includes:

(a) A system that uses biomass, solar, geothermal, hydroelectric, wind, landfill gas, biogas or wave, tidal or ocean thermal energy technology to produce energy.

(b) One or more energy storage systems paired with an existing or newly constructed system described in paragraph (a) of this subsection.

(c) One or more vehicle charging stations paired with an existing or newly constructed system described in paragraph (a) of this subsection.

(d) Microgrid enabling technologies, including microgrid controllers and any other related technologies needed to electrically isolate a community energy resilience project from the electric grid so that the project is capable of operating independently from the electric grid.

### **SECTION 30. Grants for community renewable energy projects; application; standards; rules.** (1) The Community Renewable Investment Program is established for the purpose of:

(a) Offsetting the cost of planning and developing community renewable energy projects;

(b) Making community renewable energy projects economically feasible for qualifying communities;

(c) Promoting small-scale renewable energy projects; and

(d) Providing direct benefits to communities across this state in the form of increased community energy resilience, local jobs, economic development or direct energy cost savings to families and small businesses.

(2)(a) A federally recognized Oregon Indian tribe, public body or consumer-owned utility may submit to the State Department of Energy an application for grant moneys from the

**Community Renewable Investment Fund established under section 33 of this 2021 Act for the purpose of planning or developing a community renewable energy project.**

(b) An applicant may partner with a federally recognized Oregon Indian tribe, public body, nonprofit entity, private business with a business site in this state or owner of rental property in this state, but a grant for an approved application will only be awarded and released to an applicant that is a federally recognized Oregon Indian tribe, public body or consumer-owned utility. Any federally recognized Oregon Indian tribe, public body, nonprofit entity, private business or owner of rental property that partners with the applicant must be listed in the application.

(c) An application must be drafted in consultation with electric utilities that have customers in the communities covered by a community renewable energy project that is in the application and regional stakeholders for the purpose of ensuring feasibility.

(3) An application for a grant for planning a community renewable energy project must demonstrate that the planning:

(a) Is for a project located in this state but outside a city with a population of 500,000 or more;

(b) Will be completed within six months of execution of the performance agreement or a reasonable time frame if good cause to extend the deadline is demonstrated as determined by rule;

(c) Will result in a proposal for developing a community renewable energy project; and

(d) Incorporates feedback from:

(A) Members of qualifying communities served by the community renewable energy project;

(B) Businesses located in the communities served by the community renewable energy project;

(C) Electric utilities that have customers in the communities served by the community renewable energy project; and

(D) Other regional stakeholders.

(4)(a) An application for a grant for developing a community renewable energy project must be on a form prescribed by the department and contain:

(A) A detailed description of the project's systems and the systems' operation;

(B) Information showing that the project's systems will operate as represented in the application and, if the project is for producing electricity, remain in operation for at least five years or for at least a period of time established by the Director of the State Department of Energy by rule;

(C) The anticipated total project cost;

(D) Information on the number and types of jobs directly connected to the awarding of the grant that will be:

(i) Created by the project; and

(ii) Sustained throughout construction, installation and operation of the project;

(E) Information demonstrating that the project will comply with applicable state and local laws and regulations and obtain required licenses and permits;

(F) Information demonstrating that the project will be located in and benefit a community in this state but outside a city with a population of 500,000 or more; and

(G) Any other information the director considers necessary to determine whether the project is in compliance with sections 29 to 32 of this 2021 Act and any applicable rules or standards adopted thereunder.

(b) An application for developing a community renewable energy project must demonstrate that the project:

(A) Is located in this state but outside a city with a population of 500,000 or more;

(B) Will begin construction within 12 months of execution of the performance agreement and be completed within 36 months of execution of the performance agreement or a reasonable time frame if good cause to extend the deadline is demonstrated as determined by rule;

(C) Results in increased community energy resilience, local jobs, economic development or direct energy cost savings to families and small businesses;

(D) Complies with applicable state and local laws and regulations and has the required licenses and permits;

(E) Does not exceed 20 megawatts of nameplate capacity, if the project is for generating renewable energy; and

(F) Will operate for at least five years, if the project is for producing electricity, or for at least a period of time established by the director by rule.

(5) Upon receipt of an application submitted under this section, the department shall review and determine whether the applicant is eligible to receive a grant from the Community Renewable Investment Program established under this section. The department may approve an application if the department finds that:

(a) The planning or development proposal meets the requirements listed in subsection (3) or (4) of this section;

(b) The proposal meets the standards described in subsection (10) of this section;

(c) The proposal meets any standards adopted by rule under subsection (11) of this section;

(d) The proposal is technically feasible; and

(e) Any federally recognized Oregon Indian tribe, public body, private business or owner of rental property partnered with the applicant is listed in the application.

(6)(a) The department shall issue separate opportunity announcements for each calendar interval that funding is available for the following categories:

(A) Planning a community renewable energy project that qualifies as a community energy resilience project;

(B) Developing a community renewable energy project that qualifies as a community energy resilience project;

(C) Planning a community renewable energy project that does not qualify as a community energy resilience project; and

(D) Developing a community renewable energy project that does not qualify as a community energy resilience project.

(b) Upon receiving an application, the director shall determine whether the application is for a community renewable energy project that qualifies as a community energy resilience project based on the definition of "community energy resilience project" in section 29 of this 2021 Act and any applicable rules adopted under this section.

(7)(a) The department shall allocate, out of the initial moneys appropriated for the Community Renewable Investment Program under section 34 of this 2021 Act:

(A) 50 percent or more for grants to be awarded for planning or developing community renewable energy projects that qualify as community energy resilience projects.

(B) 50 percent or more for grants to be awarded for planning or developing community renewable energy projects that primarily serve one or more qualifying communities.

(b) The department shall allocate, out of any subsequent and additional moneys appropriated to the Community Renewable Investment Program, percentage amounts for grants in a manner consistent with paragraph (a) of this subsection.

(c) After two years of issuing announcements of available funding opportunities from the initial moneys appropriated to the Community Renewable Investment Program and after consultation with the Advisory Committee on Community Renewable Investment described in section 32 of this 2021 Act, the department may, by rule, reallocate the percentage of available funds across project categories.

(8) The department shall review and competitively score applications separately for each funding opportunity announcement.

(9) If the department approves an application under this section, the department and the applicant may enter into a performance agreement that meets the requirements set forth in section 31 of this 2021 Act.

(10) In approving applications and awarding grant moneys, the department shall prioritize planning and development proposals that:

(a) Include community energy resilience projects.

(b) Demonstrate significant prior investments in energy efficiency measures at the project location or will result in aggregate improvements to demand response capabilities.

(c) Are for projects located in qualifying communities across the state.

(d) When applicable, are for projects constructed in part or in whole by disadvantaged business enterprises, emerging small businesses or businesses that are owned by minorities, women or disabled veterans.

(e) Include inclusive hiring and promotion policies for workers working on the projects.

(f) Incorporate equity metrics developed in coordination with the Environmental Justice Task Force established by ORS 182.538 for evaluating the involvement of and leadership by people of low income, Black, Indigenous or People of Color, members of tribal communities, people with disabilities, youth, people from rural communities and people from otherwise disadvantaged communities in the siting, planning, designing or evaluating of the proposed community renewable energy projects.

(g) Help the applicants achieve goals included in the applicants' natural hazard mitigation plans as approved by the Federal Emergency Management Agency.

(11) The department shall adopt rules, in consultation with Business Oregon, to carry out sections 29 to 32 of this 2021 Act. The rules must:

(a) Define the planning and project costs eligible to be covered by a grant provided under section 31 (1) and (2) of this 2021 Act.

(b) Adopt a methodology to identify qualifying communities and assess the geographic diversity of the approved planning and development projects compared with the other planning and development project applications for which grants have been requested in each opportunity announcement.

(c) Establish guidelines for significant, unforeseeable or uncontrollable delays that will constitute good cause for extending the time lines agreed upon in performance agreements.

(12) The department may adopt rules capping the amount of grant funds that may be paid to individual consultants and contractors in each round of funding opportunity announcements if the department finds such limitations necessary to ensure broad distribution of funds and opportunity for emerging small businesses as defined in ORS 200.005.

**SECTION 31. Performance agreements; requirements.** (1)(a) A performance agreement for planning a community renewable energy project entered into between the State Department of Energy and an applicant under section 30 (9) of this 2021 Act must provide, at a minimum:

(A) A grant in an amount described in paragraph (b) of this subsection that covers up to 100 percent of the reasonable planning costs including, but not limited to, costs associated with:

(i) Consulting fees.

(ii) Load analysis.

(iii) Siting, excluding property acquisition.

(iv) Ensuring code compliance.

(v) Interconnection studies.

(vi) Transmission studies.

(vii) Other reasonable expenditures made in the community renewable energy project planning process as determined by the department by rule.

(B) A grant may not be used to cover any fixed costs the applicant would incur in the applicant's normal course of business such as existing staff salaries or overhead costs.

(C) The department may recover grant moneys if a project fails to abide by the performance agreement or if planning is not completed within six months of execution of the performance agreement or a reasonable time frame if good cause to extend the deadline is demonstrated as determined by rule.

(b) The department may establish differing limits on the maximum amount of grants for planning community renewable energy projects based on the scope and attributes of the planning applications not to exceed an amount of \$100,000 per grant.

(c) Notwithstanding paragraph (a) of this subsection, the department may provide a grant that covers up to 100 percent of the reasonable planning costs only if the application demonstrates the planning proposal is for a community renewable energy project that:

(A) If for producing energy:

(i) Will make use of an adequately available renewable energy resource to produce the energy;

(ii) Has a specific market for the energy; and

(iii) Will reasonably and efficiently connect or transmit the energy to the specific community identified in the application under section 30 (3) of this 2021 Act; or

(B) If for increasing energy resilience:

(i) Will increase the energy resilience of a specific structure or facility or collection of structures or facilities essential to the public welfare; and

(ii) Will provide energy resilience benefits to the specific structure or facility or to the collection of structures or facilities.

(2) A performance agreement for developing a community renewable energy project entered into between the State Department of Energy and an applicant under section 30 (9) of this 2021 Act must provide, at a minimum:

(a) For a community renewable energy project that qualifies as a community energy resilience project, a grant that covers up to 100 percent of the project cost not to exceed \$1 million. The department shall reduce the grant amount, if the grant combined with other incentives and grants received by the applicant exceeds 100 percent of the total costs associated with the project.

(b) For a community renewable energy project that does not qualify as a community energy resilience project, a grant that covers up to 50 percent of the project cost not to exceed \$1 million. The department shall reduce the grant amount, if the grant combined with other incentives and grants received by the applicant exceeds 100 percent of the total costs associated with the project.

(c) The department may release up to 30 percent of the grant moneys provided for in a performance agreement, not to exceed 30 percent of project cost, upon entering into a performance agreement with an applicant for developing a community renewable energy project, with the remaining grant moneys to be released upon project completion under the terms of the performance agreement, if upon entering the performance agreement the applicant demonstrates having:

(A) Taken meaningful steps to seek site control, including but not limited to an option to lease or purchase the site or an executed letter of intent or exclusivity agreement to negotiate an option to lease or purchase the site;

(B) Filed a request for interconnection with a host utility or appropriate transmission provider; and

(C) Met any other requirements provided by the department by rule, such as filing a request for a power purchase or net metering agreement.

(d) The department may recover grant moneys if:

(A) The project fails to abide by the performance agreement;

(B) The project fails to begin construction within 12 months of execution of the performance agreement or a reasonable time frame if good cause to extend the deadline is demonstrated as determined by rule; or

(C) The project is not completed within 36 months of execution of the performance agreement or a reasonable time frame if good cause to extend the deadline is demonstrated as determined by rule.

(3) The department shall gather information from grantees necessary to evaluate indicators of success as determined by rule.

**SECTION 32. Advisory committee.** The Director of the State Department of Energy may appoint an Advisory Committee on Community Renewable Investment to provide consultation on the implementation of sections 29 to 32 of this 2021 Act. A committee appointed under this section shall consist of:

(1) A member of the Environmental Justice Task Force;

(2) A representative of Business Oregon;

(3) A representative of electric companies;

(4) A representative of consumer-owned utilities;

(5) A representative from an organization that represents community renewable energy development;

(6) A representative from a federally recognized Oregon Indian tribe;

(7) Three representatives of local government to represent the interests of counties, cities and special districts;

(8) Representatives from nongovernmental organizations that represent communities of low income or disadvantaged households; and

(9) Representatives from relevant state and federal emergency management or response agencies.

**SECTION 33. Community Renewable Investment Fund; uses.** (1) The Community Renewable Investment Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Community Renewable Investment Fund shall be credited to the fund. The fund consists of:

(a) Moneys appropriated or otherwise transferred to the fund by the Legislative Assembly;

(b) Moneys received from federal, state or local sources;

(c) Gifts, grants or other moneys contributed to the fund; and

(d) Other amounts deposited in the fund from any source.

(2) Moneys in the fund are continuously appropriated to the State Department of Energy for the purpose of providing grants to applicants approved under section 30 of this 2021 Act.

(3) The department may use reasonable amounts from the fund necessary, but no more than 10 percent of the fund, to administer the Community Renewable Investment Program described in section 30 of this 2021 Act.

(4) The Director of the State Department of Energy shall submit a biennial report to the Legislative Assembly in the manner provided by ORS 293.640 regarding the expenditures of moneys deposited in the Community Renewable Investment Fund and status of ongoing projects funded by the moneys, including but not limited indicators of program success.

(5) Upon the expenditure of all grant moneys in the Community Renewable Investment Fund or four years from the effective date of this 2021 Act, whichever occurs earlier, the director shall submit a report to the Legislative Assembly regarding the expenditures of moneys deposited in the Community Renewable Investment Fund and status of ongoing projects that have received moneys from the fund, including but not limited to indicators of program success.

**SECTION 34. Appropriations.** In addition to and not in lieu of any other appropriations, there is appropriated to the State Department of Energy, for the biennium beginning July

1, 2021, out of the General Fund, the amount of \$50,000,000 for deposit into the Community Renewable Investment Fund established in section 33 of this 2021 Act.

**SECTION 35. Department of Energy; other funds limitation.** Notwithstanding any other law limiting expenditures, the amount of \$26,960,291 is established for the biennium beginning July 1, 2021, as the maximum limit for payment of expenses by the State Department of Energy for community renewable energy project grants from the Community Renewable Investment Fund established by section 33 of this 2021 Act.

**SECTION 36. Operative date.** (1) Sections 30 and 31 of this 2021 Act become operative on January 1, 2022.

(2) The State Department of Energy may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the department to exercise, on or after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the department by sections 30 and 31 of this 2021 Act.

## SMALL-SCALE RENEWABLE ENERGY PROJECTS

**SECTION 37.** ORS 469A.210 is amended to read:

469A.210. (1) The Legislative Assembly finds that community-based renewable energy projects, including but not limited to marine renewable energy resources that are either developed in accordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures adjacent to the coastal shorelands, are an essential element of this state's energy future.

(2) For purposes related to the findings in subsection (1) of this section, by the year [2025] 2030, at least [eight] 10 percent of the aggregate electrical capacity of all electric companies that make sales of electricity to 25,000 or more retail electricity consumers in this state must be composed of electricity generated by one or both of the following sources:

(a) Small-scale renewable energy projects with a generating capacity of 20 megawatts or less that generate electricity utilizing a type of energy described in ORS 469A.025; or

(b) Facilities that generate electricity using biomass that also generate thermal energy for a secondary purpose.

(3) Regardless of the facility's nameplate capacity, any single facility described in subsection (2)(b) of this section may be used to comply with the requirement specified in subsection (2) of this section for up to 20 megawatts of capacity.

## MISCELLANEOUS

**SECTION 38.** Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1 (1), chapter \_\_\_\_\_, Oregon Laws 2021 (Enrolled House Bill 5032), for the biennium beginning July 1, 2021, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Public Utility Commission, for the utility program, is increased by \$1,867,217, for the implementation of this 2021 Act.

**SECTION 39.** The unit and section captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

**SECTION 40.** This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

**Passed by House June 25, 2021**

**Received by Governor:**

.....M.,....., 2021

**Approved:**

.....M.,....., 2021

Timothy G. Sekerak, Chief Clerk of House

Tina Kotek, Speaker of House

**Passed by Senate June 26, 2021**

Kate Brown, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2021

Peter Courtney, President of Senate

Shemia Fagan, Secretary of State