

A-Engrossed
Senate Bill 784

Ordered by the Senate April 23
Including Senate Amendments dated April 23

Sponsored by Senator BEYER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Authorizes public utility to seek rate recovery for operating expenses and capital costs associated with resiliency measures **from retail electricity consumers or natural gas consumers.**

Directs Public Utility Commission to establish voluntary emission reduction program for public utilities that furnish natural gas.

Authorizes electric company to include as part of portfolio of rate options, program of rates or charges reflecting costs of serving retail electricity consumers within boundaries of local governments with electricity derived from renewable energy sources or paired with unbundled renewable energy certificates.

[Requires Public Utility Commission to allow recovery of certain social and environmental costs from retail electricity consumers receiving electricity from electricity service suppliers.]

Modifies certain laws related to competitive retail market for electricity.

Requires responsible contractor labor standards *[for]* **in construction or repowering of large-scale renewable energy generation or storage facilities or large-scale renewable natural gas processing facilities.**

A BILL FOR AN ACT

1
2 Relating to energy; creating new provisions; and amending ORS 469A.005, 469A.205, 757.247, 757.603,
3 757.646, 757.649 and 757.659.

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

5
6 **RESILIENCY**

7
8 **SECTION 1. Sections 2 and 2a of this 2021 Act are added to and made a part of ORS**
9 **chapter 757.**

10 **SECTION 2. (1) As used in this section:**

11 **(a) "Emergency" includes:**

12 **(A) Naturally caused and intentionally and unintentionally human-caused disruptions to**
13 **the provision of utility service, where the disruptions are serious, unexpected and require**
14 **immediate response; and**

15 **(B) Events specified in ORS 401.025.**

16 **(b) "Natural gas consumer" means any end user served by a public utility's natural gas**
17 **distribution system, regardless of whether the end user purchases natural gas from the**
18 **public utility.**

19 **(c) "Resiliency measure" means equipment or programs utilized by a public utility on the**
20 **utility's generation, transmission or distribution system, or by the utility or a customer of**
21 **the utility on the customer's side of the utility's metering infrastructure, that is intended**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 to:

2 (A) Provide an increased ability of the utility system to withstand and recover from a
3 major disruption in delivery or transmission of natural gas or electricity, including a major
4 disruption from an emergency;

5 (B) Prepare for or adapt to changing conditions, or anticipated changed conditions, as-
6 sociated with effects of climate change or other, similar, landscape level environmental
7 changes, including assumed land use changes;

8 (C) Provide utility customers and their communities with limited or temporary utility
9 service in the event of an emergency; or

10 (D) Reduce the magnitude and duration of a potentially disruptive emergency.

11 (d) "Retail electricity consumer" has the meaning given that term in ORS 757.600.

12 (2) A public utility may seek rate recovery for operating expenses and capital costs as-
13 sociated with a resiliency measure from all retail electricity consumers or natural gas con-
14 sumers of the public utility through a filing under ORS 757.210 to 757.220. The Public Utility
15 Commission may allow rate recovery for resiliency measures that provide for one or more
16 of the following:

17 (a) Increase the ability of a public facility, a facility eligible for assistance under 44 C.F.R.
18 206.220 et seq. or a public service that is critically essential to the public welfare, including
19 but not limited to a fire station, public safety location, municipal water facility or
20 community-identified emergency assembly and gathering location, to continue to operate at
21 some capacity during a loss of grid-supplied electricity or natural gas in an emergency;

22 (b) Provide distribution system efficiencies and grid services, such as flexible load pro-
23 grams, demand management programs or dispatchable standby capacity, that operate both
24 to serve customers during normal service and can be used to assist utility operations or
25 provide utility service during emergencies;

26 (c) Provide electricity or other utility service during emergencies in microgrids or at
27 centrally located community facilities, including solar photovoltaic energy systems coupled
28 with storage or smart inverters; and

29 (d) Seek to address the needs of potentially affected communities, including low-income
30 customers, or investments that incorporate social equity and energy burden concerns.

31 (3) For purposes of implementing this section:

32 (a) A resiliency measure provides utility service to customers of a public utility for pur-
33 poses of ORS 757.355 if the resiliency measure is capable of providing the service for which
34 it was designed during an emergency.

35 (b) In determining the prudence of an investment in a resiliency measure, the commis-
36 sion shall consider, among other things:

37 (A) The cost to customers of the resiliency measure;

38 (B) The probability and potential impact of the risk to be addressed;

39 (C) Whether the investment is supported by a prioritized risk mitigation assessment; and

40 (D) Whether the resiliency measure provides benefits directly to customers and to the
41 electricity grid or natural gas system generally.

42 (c) A public utility seeking rate recovery for resiliency measures shall, to the extent ap-
43 plicable, utilize information gained from any processes conducted by the commission that
44 relate to emergency and resiliency planning and investment in making a filing under this
45 section.

1 (d) A public utility may propose different business models associated with the operating
2 expenses and capital costs including joint ownership and leasing.

3 (e) If the commission authorizes a public utility to recover costs from customers for in-
4 vestments in resiliency measures, the resiliency measures must, regardless of ownership of
5 the resiliency measure and pursuant to agreement with the customer, allow the utility to
6 manage the measure for grid and emergency services.

7 (f) The commission may authorize cost recovery for one or more resiliency measures
8 from retail electricity customers of a public utility based on the benefits received by those
9 customers from the resiliency measures.

10
11 **VOLUNTARY EMISSION REDUCTION PROGRAM**

12
13 **SECTION 2a.** (1) As used in this section, “emission” means any anthropogenic gas, such
14 as carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur
15 hexafluoride.

16 (2) The Public Utility Commission shall establish a voluntary emission reduction program
17 for the purposes of incentivizing public utilities that furnish natural gas to invest in projects
18 that reduce emissions and providing benefits to customers of public utilities that furnish
19 natural gas.

20 (3) As part of the emission reduction program, the commission shall establish eligibility
21 criteria for projects. The eligibility criteria must include:

22 (a) That the public utility requesting the project be a public utility that furnishes natural
23 gas and that the project involve the provision of natural gas;

24 (b) That the project directly or indirectly reduces emissions;

25 (c) That the project benefit customers of the public utility as identified by the commis-
26 sion by rule or order;

27 (d) That the public utility, without the emission reduction program, would not invest in
28 the project in the ordinary course of business;

29 (e) That the public utility, prior to filing an application under subsection (4) of this sec-
30 tion, involve stakeholders as required by the commission by rule or order; and

31 (f) That the rate impact of the aggregate of all projects undertaken by a public utility
32 under this section not exceed an amount established by the commission by rule or order.

33 (4) For each project that a public utility proposes under this section, the public utility
34 must file with the commission an application. An application filed under this subsection must
35 include:

36 (a) A description of the project;

37 (b) The projected amount of capital and operating costs necessary to complete and op-
38 erate the project;

39 (c) The projected amount of reduced emissions created by the project;

40 (d) The potential of the project to reduce emissions not identified in paragraph (c) of this
41 subsection;

42 (e) The projected date on which the project will become operational;

43 (f) A requested method, as described in subsection (8) of this section, for recovery of
44 costs incurred and investments made and for the receipt of additional incentives;

45 (g) An explanation of why the public utility, without the emission reduction program,

1 would not invest in the project in the ordinary course of business;

2 (h) Proof of stakeholder involvement;

3 (i) The projected rate impact of the project;

4 (j) The projected aggregate rate impact of all projects proposed by the public utility under
5 this section and approved by the commission for the public utility under this section;

6 (k) An explanation of how the public utility will provide the commission with progress
7 updates during the life of the project, including updates on costs and reduced emissions as-
8 sociated with the project; and

9 (L) Any other information required by the commission by rule or order.

10 (5)(a) The commission shall establish a two-tiered process for submitting a project pro-
11 posal under the emission reduction program. For the purpose of establishing the tiers, the
12 commission shall:

13 (A) Establish a threshold for overall project cost; and

14 (B) Establish a threshold for overall project cost per metric ton of reduced emissions.

15 (b) If a proposed project meets both the threshold described in paragraph (a)(A) of this
16 subsection and the threshold described in paragraph (a)(B) of this subsection, the project is
17 a tier one project subject to the requirements of subsection (6) of this section. If a proposed
18 project does not meet the threshold described in paragraph (a)(A) of this subsection or the
19 threshold described in paragraph (a)(B) of this subsection, the project is a tier two project
20 subject to the requirements of subsection (7) of this section.

21 (6) For tier one projects, the commission shall:

22 (a) Provide interested parties with an opportunity to submit written comment in re-
23 sponse to the proposed project;

24 (b) Hold a public hearing to address all submitted written comments; and

25 (c) Issue a final order on the proposed project within 90 days of receiving the application
26 for the project, or at a later time as authorized by the public utility.

27 (7) For tier two projects, the commission shall:

28 (a) By rule or order, provide interested parties with an opportunity to submit testimony
29 in response to the proposed project and be heard; and

30 (b) Issue a final order on the proposed project within 180 days of receiving the application
31 for the project, or at a later time as authorized by the public utility.

32 (8) If a final order issued under subsection (6)(c) or (7)(b) of this section authorizes a
33 project, the order shall specify:

34 (a) The type of ratepayer from whom the public utility that submitted the project pro-
35 posal may recover costs incurred and investments made and receive any allowed additional
36 incentives. A public utility may recover costs incurred and investments made and receive
37 any allowed additional incentives from a type of ratepayer under this paragraph only if the
38 commission makes a finding that the type of ratepayer receives a benefit from the project.
39 If the commission makes a finding that more than one type of ratepayer receives a benefit
40 from the project, the commission shall allow recovery of costs incurred and investments
41 made and receipt of any allowed additional incentives from each type of ratepayer in an
42 amount that is proportionate to the proportion of the benefit received, as determined by the
43 commission, by the type of ratepayer.

44 (b) The method by which the public utility that submitted the project proposal may re-
45 cover costs incurred and investments made and receive any allowed additional incentives,

1 and the amount that the public utility may recover and receive. Methods of recovery and
2 receipt include:

3 (A) Payment per unit of reduced emissions;

4 (B) Preapproval for inclusion in the public utility's rates of costs prudently incurred and
5 of investments prudently made;

6 (C) Return of investment and return on investment; and

7 (D) Any other method approved by the commission by rule or order.

8 (9) For purposes related to the emission reduction program established under this sec-
9 tion, the commission may consider the amount of reduced emissions created by a project or
10 the value of reduced emissions created by a project.

11 (10) The commission shall establish a rate cap for each public utility for which a project
12 is authorized under this section. The rate cap must limit the cost of the public utility's
13 projects authorized under this section to an amount that does not exceed a percentage of the
14 public utility's revenue requirement as identified by the commission by rule or order. A vol-
15 untary emission reduction program described under subsection (11) of this section shall not
16 count towards the rate cap.

17 (11) A voluntary emission reduction program developed in coordination with a local gov-
18 ernment to reduce emissions on behalf of customers within the boundaries of the local gov-
19 ernment is subject to the tier one process set forth in subsection (6) of this section and is
20 exempted from the thresholds described in subsection (5)(a) of this section.

21 (12) The commission shall biennially conduct a study on whether federal law or regulation
22 or other state laws or rules provide adequate incentives for public utilities that furnish na-
23 tural gas to invest in projects that reduce emissions in the ordinary course of business. The
24 commission shall report the results of a study conducted under this subsection, and may
25 make recommendations for legislation, to the Legislative Assembly in the manner described
26 in ORS 192.245 not later than February 1 of each odd-numbered year.

27
28 **GREEN TARIFFS FOR LOCAL GOVERNMENTS**

29
30 **SECTION 3.** ORS 757.603 is amended to read:

31 757.603. (1)[(a) *Except as provided in this subsection,*] An electric company shall provide all retail
32 electricity consumers that are connected to the electric company's distribution system with a regu-
33 lated, cost-of-service rate option.

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

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

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

44 (A) Purchase supplies of electricity adequate to meet the needs of the retail electricity con-
45 sumers;

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

2 (C) Obtain reliable supplies of electricity; and

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

4 [(2)] (3) Each electric company shall provide each [*residential*] **retail** electricity consumer that
5 is connected to its distribution system **and whose electricity demand at any point of delivery is**
6 **less than 30 kilowatts** a portfolio of rate options. The portfolio of rate options shall include at
7 least the following options:

8 (a) A rate that reflects significant new renewable energy resources;

9 (b) A market-based rate; and

10 (c) If the commission finds, through public comment and hearing or through market research
11 conducted by the electric company, that demand is sufficient to justify the rate, a rate option for
12 electricity associated with a specific renewable energy resource, including solar photovoltaic en-
13 ergy.

14 [(3)(a)] (4) The commission shall regulate the cost-of-service rate [*option under subsection (1) of*
15 *this section and the portfolio of rate options under subsection (2) of this section*] **and portfolio of rate**
16 **options under this section.** The commission:

17 (a) Shall reasonably ensure that the costs [*and risks*], **risks and benefits** of serving each option
18 are reflected in the rates for each option, **and that such rates may include a monthly flat rate**
19 **or charge in addition to usage.**

20 (b) [*The commission*] May prohibit or otherwise limit the use of a cost-of-service rate by retail
21 electricity consumers who have been served through direct access[, *and*].

22 (c) May limit switching among **the portfolio of rate** options and the cost-of-service rate [*by*
23 *residential electricity consumers*].

24 (5)(a) **As used in this subsection, “government” means a city, county, irrigation district,**
25 **ditch improvement district, water control district or government of a federally recognized**
26 **Indian tribe in this state.**

27 (b) **An electric company may file, as part of the portfolio of rate options required by**
28 **subsection (3) of this section and if agreed to in coordination with one or more governments**
29 **to meet adopted renewable and nonemitting energy goals, a program of rates or charges that**
30 **reflect the cost of an electric company program to serve retail electricity consumers within**
31 **the boundaries of those governments with electricity:**

32 (A) **Derived from new or existing renewable energy resources or nonemitting energy re-**
33 **sources, including supply and demand-side resources; or**

34 (B) **Paired with unbundled renewable energy certificates, as defined in ORS 469A.005,**
35 **from new or existing renewable energy resources.**

36 (c) **The commission may approve a rate or charge under this subsection if:**

37 (A) **The government attests that the coordination required under paragraph (b) of this**
38 **subsection occurred and the electric company includes the attestation in the filing for a**
39 **program of rates or charges;**

40 (B) **The government enacts or adopts an ordinance, charter provision, resolution or other**
41 **regulation requiring that retail electricity consumers within the boundaries of the govern-**
42 **ment must, as determined during the coordination required by paragraph (b) of this sub-**
43 **section and conducted in accordance with this paragraph, be served with renewable energy**
44 **resources or nonemitting energy resources, including, at the option of the government, re-**
45 **sources such as:**

1 (i) Energy from community-based resources, including but not limited to, solar
2 photovoltaic, storage, microgrids, irrigation district-owned projects, in-pipe hydroelectric or
3 micro-hydroelectric, that provide community energy cobenefits, such as:

4 (I) Community stability;

5 (II) Community reinvestment;

6 (III) Ownership by a nonprofit organization or renewable energy cooperative that re-
7 presents an environmental justice community;

8 (IV) Ownership by the government;

9 (V) Disaster resiliency;

10 (VI) Water savings;

11 (VII) Species protection;

12 (VIII) Direct cost savings to customers; or

13 (IX) Local economic development and jobs; and

14 (ii) Renewable and non-emitting energy resources acquired through government-specified
15 procurement criteria which may include goals for local or diverse ownership;

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

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

20 (ii) Retail electricity consumers within the boundaries of the government that are con-
21 nected to the distribution system and whose electricity demand at any point of delivery is
22 greater than 30 kilowatts may choose to opt in and be placed on the rate schedule, if the
23 electric company determines that electricity demand at the consumer's point of delivery is
24 greater than 30 kilowatts because of additional demand resulting from electrification of
25 transportation or other services, including electric vehicle charging stations, after the ef-
26 fective date of this 2021 Act;

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

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

33 (F) The ordinance, charter provision, resolution or other regulation sets forth the dura-
34 tion of the program; and

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

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

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

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

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

3 (D) Provide an annual report to the commission and participating governments summa-
4 rizing the program activities in the prior calendar year.

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

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

9 (B) To recover part or all of the costs associated with the resources that serve the pro-
10 gram, including costs associated with resources described in subparagraph (A) of this para-
11 graph, from all retail electricity consumers not served by an electricity service supplier, if:

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

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

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

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

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

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

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

34 (7) Notwithstanding the exemption to ORS 757.600 to 757.691 provided by ORS 757.601 (3),
35 an electric company serving fewer than 25,000 customers in this state may propose a pro-
36 gram for approval by the commission if the program meets the criteria specified in this
37 subsection.

38 **SECTION 4.** ORS 469A.005 is amended to read:

39 469A.005. As used in ORS 469A.005 to 469A.210:

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

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

45 (b) Provides fair, just and reasonable compensation to the electric company whose service ter-

1 ritory is acquired that:

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

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

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

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

13 (3) "BPA electricity" means electricity provided by the Bonneville Power Administration, in-
14 cluding electricity generated by the Federal Columbia River Power System hydroelectric projects
15 and electricity acquired by the Bonneville Power Administration by contract.

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

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

20 (b) By an electric utility by generation of the electricity for which the renewable energy cer-
21 tificate was issued.

22 (5) "Compliance year" means the calendar year for which the electric utility or electricity ser-
23 vice supplier seeks to establish compliance with the renewable portfolio standard applicable to the
24 electric utility or electricity service supplier in the compliance report submitted under ORS
25 469A.170.

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

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

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

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

32 (10) "Electricity service supplier" has the meaning given that term in ORS 757.600.

33 (11) "Qualifying electricity" means electricity described in ORS 469A.010.

34 (12) "Renewable energy source" means a source of electricity described in ORS 469A.025.

35 (13) "Retail electricity consumer" means a retail electricity consumer, as defined in ORS
36 757.600, that is located in Oregon.

37 (14) "Unbundled renewable energy certificate" means:

38 (a) A renewable energy certificate for qualifying electricity that is acquired by an electric
39 utility or electricity service supplier by trade, purchase or other transfer without acquiring the
40 electricity that is associated with the renewable energy certificate; or

41 (b) **A renewable energy certificate that is sold to a retail electricity consumer without**
42 **selling, on a non-cost of service basis, the electricity associated with the renewable energy**
43 **certificate to the retail electricity consumer.**

44
45 **ELECTRIC POWER RESTRUCTURING MODERNIZATION**

1 **SECTION 5.** ORS 757.646 is amended to read:

2 757.646. (1) The duties, functions and powers of the Public Utility Commission shall include de-
3 veloping policies to eliminate barriers to the development of a competitive retail market [*structure*]
4 **between electricity service suppliers and electric companies.** The policies shall be designed to
5 [*mitigate the vertical and horizontal market power of incumbent electric companies,*] prohibit prefer-
6 ential treatment, or the appearance of such treatment, **by the incumbent electric companies to-**
7 **ward** [*of*] generation or market affiliates [*and determine the electricity services likely to be*
8 *competitive*]. The commission may require an electric company acting as an electricity service sup-
9 plier do so through an affiliate.

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

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

17 (b) Prohibit preferential access by an electric company affiliate to confidential consumer infor-
18 mation;

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

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

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

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

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

26 (3) An electric company shall provide the commission access to all books and records necessary
27 for the commission to monitor the electric company and its affiliate relationships. The commission
28 shall require an electric company biannually to file a report detailing compliance with this sub-
29 section.

30 **SECTION 6.** ORS 757.649 is amended to read:

31 757.649. (1)(a) A person or other entity shall not act as an electricity service supplier unless the
32 person or entity is certified by the Public Utility Commission. The commission, by rule, shall es-
33 tablish standards for certification of persons or other entities as electricity service suppliers in this
34 state. The rules shall, at a minimum, address:

35 (A) The ability of the person or entity to meet the person's or entity's obligation to provide
36 electricity services pursuant to direct access; and

37 (B) The ability of the person or entity to comply with applicable consumer protection laws.

38 (b) The commission may require an electricity service supplier to provide a bond or other se-
39 curity.

40 (c) The commission may establish a fee, not to exceed \$500, for initial certification and annual
41 recertification of electricity service suppliers.

42 (d) The commission, at any time, may revoke an electricity service supplier's certification for
43 failure to comply with applicable statutes and rules.

44 (e) The commission may require an electricity service supplier to provide information necessary
45 to ensure compliance with ORS 757.612. The commission shall ensure the privacy of all information

1 and the protection of any proprietary information provided.

2 (2) Every electric utility shall maintain the integrity of its transmission facilities and distrib-
3 ution system and provide safe, reliable service to all retail electricity consumers. Nothing in ORS
4 757.600 to 757.667 or 757.669 to 757.687 shall reduce or diminish the statutory or contractual obli-
5 gations of electric utilities to maintain the safety and reliability of their transmission facilities and
6 distribution system and other infrastructure and equipment used to deliver electricity.

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

12 (4)(a) Every bill to a direct access retail electricity consumer from an electricity service sup-
13 plier shall contain at least:

14 [(a)] (A) The rate and amount due for each service or product that the retail electricity con-
15 sumer is purchasing and other price information necessary to facilitate direct access, as determined
16 by the commission;

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

19 [(c)] (C) The amount of any public purpose charge or credit;

20 [(d)] (D) The amount of any transition charge or transition credit; and

21 [(e)] (E) Power source and environmental impact information necessary to ensure that all con-
22 sumers have useful, reliable and necessary information to exercise informed choice, as determined
23 by the commission.

24 (b) **The commission shall require an electricity service supplier to publicly disclose a**
25 **summary of the aggregated energy supply mix and associated emissions of the power sources**
26 **that serve the direct access retail electricity consumers of the electricity service supplier,**
27 **or any other aggregated information comparable to information provided by electric compa-**
28 **nies to retail electricity consumers as the commission may require.**

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

36 (b) [*The requirement for bill consolidation by an electric company shall continue through December*
37 *31, 2001, after which time*] The commission may waive the requirement **for bill consolidation by an**
38 **electric company** if the waiver results in effective billing procedures for retail electricity consum-
39 ers.

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

44 (d) For retail electricity consumers of an electric company, the commission shall adopt by rule
45 provisions relating to the failure of a consumer to make full payment on a consolidated bill. The

1 rules shall address collection of payments, service disconnection and reconnection, and the allo-
2 cation of costs associated with collection, disconnection and reconnection. A distribution utility
3 shall be solely responsible for actual disconnection and reconnection.

4
5 **RESPONSIBLE CONTRACTOR LABOR STANDARDS**

6
7 **SECTION 7. (1) For purposes of this section:**

8 **(a) "Large-scale project" means:**

9 **(A) A renewable energy generation or storage facility with a capacity rating greater than**
10 **10 megawatts.**

11 **(B) A facility that processes renewable natural gas, as defined in ORS 757.392, where the**
12 **total capital costs are \$1 million or more.**

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

17 **(2)(a) A person who constructs or repowers a large-scale project sited in Oregon shall,**
18 **at the time of contract finalization for development of the project or delivery of energy from**
19 **that project, attest or declare, under penalty of perjury as described in ORCP 1 E, that**
20 **during all periods of construction, the person:**

21 **(A) Will pay employees the prevailing rate of wage for an hour's work in the same trade**
22 **or occupation in the locality, as defined in ORS 279C.800, where the labor is performed;**

23 **(B) Will offer employer-paid health care and retirement benefits to the employees per-**
24 **forming the labor on the construction project;**

25 **(C) Will participate in an apprenticeship program registered with the State Apprentic-**
26 **ship and Training Council in a manner consistent with the respective apprenticeship training**
27 **programs, such that 15 percent of the total work hours on a given large-scale project is**
28 **performed by workers in apprenticeable occupations;**

29 **(D) Is licensed and in good standing to perform the work, and is not ineligible to receive**
30 **a contract or subcontract for public works under ORS 279C.860;**

31 **(E) Has demonstrated a history of material compliance with the rules and other re-**
32 **quirements of state agencies with oversight regarding workers' compensation, building codes**
33 **and occupational safety and health;**

34 **(F) Has demonstrated a history of material compliance with federal and state wage and**
35 **hour laws; and**

36 **(G) Has policies in place that are designed to limit or prevent workplace harassment and**
37 **discrimination and that promote workplace diversity, equity and inclusion of communities**
38 **who have been traditionally underrepresented in the renewable energy sector including, but**
39 **not limited to, women, veterans and Black, Indigenous and People of Color, with an**
40 **aspirational goal of having at least 15 percent of the total work hours performed by individ-**
41 **uals from those communities.**

42 **(b) In addition to the requirements described in paragraph (a) of this subsection, the**
43 **person shall attest or declare, under penalty of perjury as described in ORCP 1 E, to:**

44 **(A) The megawatt capacity and acreage footprint of the project;**

45 **(B) The geographical location of the project;**

1 (C) The estimated workforce requirements of the project; and

2 (D) A description of any policies for ensuring the person meets the requirements in this
3 section.

4 (3)(a) The person constructing or repowering the large-scale project shall provide the
5 attestation or declaration to the State Department of Energy and provide notice of such de-
6 livery to the purchaser of the project or of the energy from the project.

7 (b) In lieu of an attestation or declaration to the requirements described in subsection
8 (2)(a) of this section, a person may provide a copy of a project labor agreement that contains
9 the requirements described in subsection (2)(a) of this section.

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

12 (b) Notwithstanding any provisions of ORS 192.345 or 192.355 to the contrary, an
13 attestation or declaration filed under this section is subject to public record disclosure and
14 the department shall provide a copy of the attestation or declaration upon request.

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

18 **SECTION 8.** The obligation to provide an attestation or declaration pursuant to section
19 7 of this 2021 Act applies to large-scale projects contracted for after the effective date of this
20 2021 Act.

21
22 **CONFORMING AMENDMENTS**
23

24 **SECTION 9.** ORS 469A.205 is amended to read:

25 469A.205. (1) Electric utilities shall allow retail electricity consumers to elect a green power
26 rate. A significant portion of the electricity purchased or generated by a utility that is attributable
27 to moneys paid by retail electricity consumers who elect the green power rate must be qualifying
28 electricity, and the utility must inform consumers of the sources of the electricity purchased or
29 generated by the utility that is attributable to moneys paid by consumers who elect the green power
30 rate. The green power rate shall reasonably reflect the costs of the electricity purchased or gener-
31 ated by the utility that is attributable to moneys paid by retail electricity consumers who elect the
32 green power rate. All prudently incurred costs associated with the green power rate are recoverable
33 in a green power rate offered by an electric company.

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

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

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

41 **SECTION 10.** ORS 757.247 is amended to read:

42 757.247. (1) The Public Utility Commission may authorize a public utility, upon application of the
43 utility, to file and place into effect a tariff schedule establishing rates or charges for the cost of
44 energy resource measures provided to an individual property owner or customer pursuant to an
45 agreement entered into between the individual property owner or customer and the public utility.

1 Energy resource measures provided under this section may include:

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

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

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

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

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

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

15 (a) The payment of the rates or charges over a period of time;

16 (b) Except as provided in subsection (5) of this section, a reasonable rate of return on any in-
17 vestment made by the public utility;

18 (c) The application of any payment obligation to successive owners of the property to which the
19 energy resource measure is attached or to successive customers located at the premises to which
20 the energy resource measure is attached; and

21 (d) The application of the payment obligation to the current property owner or customer alone,
22 secured by methods agreed to by the property owner or customer and the public utility.

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

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

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

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

36 **SECTION 11.** ORS 757.659 is amended to read:

37 757.659. According to the applicable provisions of ORS 756.060 and ORS chapter 183, the Public
38 Utility Commission shall adopt such rules as are necessary to implement ORS 757.600 to 757.667.
39 Rules adopted by the commission shall address at least the following:

40 (1) Requirements and methodologies for each electric company to provide unbundled rates and
41 services pursuant to ORS 757.642.

42 (2) Requirements for each electric company allowing aggregation of electricity loads pursuant
43 to ORS 757.627, which may include aggregation of demand for other services available under direct
44 access.

45 (3) Requirements for consumer protection. Consumer protection rules adopted by the commission

1 that relate to electricity service suppliers shall be applicable throughout this state and shall, at a
2 minimum, contain provisions for the disclosure of price, power source and environmental impact in
3 contract offers and marketing information.

4 (4) Market valuation methodologies for determining the amount and recovery of the costs of
5 uneconomic utility investment and the amount of and credit for economic utility investment.

6 (5) Requirements for each electric company to offer a portfolio of rate options under ORS
7 757.603.

8 (6) The method of determining a default supplier for those consumers who are not eligible to
9 participate in a portfolio program under ORS 757.603 in a manner that provides for viable competi-
10 tion among electricity service suppliers and among power generation companies. The commission
11 may condition the use of a default service option by requiring reasonable notice and commitment
12 from a consumer who intends to use the default service option in nonemergency situations.

13 (7) Requirements for [*market structure*] **the competitive retail market** described in ORS
14 757.646.

15 (8) Requirements for public purpose charges and credits under ORS 757.612.

16 (9) Requirements for meters, metering services, billing and collection services, and customer
17 response functions.

18
19 **CAPTIONS**

20
21 **SECTION 12. The unit captions used in this 2021 Act are provided only for the conven-**
22 **ience of the reader and do not become part of the statutory law of this state or express any**
23 **legislative intent in the enactment of this 2021 Act.**