

SENATE AMENDMENTS TO SENATE BILL 784

By COMMITTEE ON ENERGY AND ENVIRONMENT

April 23

- 1 On page 1 of the printed bill, line 3, delete “757.607.”
- 2 In line 8, delete “Section 2 of this 2021 Act is” and insert “Sections 2 and 2a of this 2021 Act
3 are”.
- 4 After line 14, insert:
- 5 “(b) ‘Natural gas consumer’ means any end user served by a public utility’s natural gas distrib-
6 ution system, regardless of whether the end user purchases natural gas from the public utility.”
- 7 In line 15, delete “(b)” and insert “(c)”.
- 8 In line 20, after “of” insert “natural gas or”.
- 9 On page 2, line 2, delete “(c)” and insert “(d)”.
- 10 In line 4, after “consumers” insert “or natural gas consumers”.
- 11 In line 6, delete “, at a minimum” and insert “provide for one or more of the following”.
- 12 In line 7, delete “or” and insert “, a facility eligible for assistance under 44 C.F.R. 206.220 et
13 seq. or a”.
- 14 In line 10, after “electricity” insert “or natural gas”.
- 15 In line 17, after the semicolon insert “and”.
- 16 Delete lines 18 through 28 and insert:
- 17 “(d) Seek to address the needs of potentially affected communities, including low-income cus-
18 tomers, or investments that incorporate social equity and energy burden concerns.
- 19 “(3) For purposes of implementing this section:
- 20 “(a) A resiliency measure provides utility service to customers of a public utility for purposes
21 of ORS 757.355 if the resiliency measure is capable of providing the service for which it was de-
22 signed during an emergency.”
- 23 In line 35, after “grid” insert “or natural gas system”.
- 24 Delete lines 36 through 39 and insert:
- 25 “(c) A public utility seeking rate recovery for resiliency measures shall, to the extent applicable,
26 utilize information gained from any processes conducted by the commission that relate to emergency
27 and resiliency planning and investment in making a filing under this section.
- 28 “(d) A public utility may propose different business models associated with the operating ex-
29 penses and capital costs including joint ownership and leasing.
- 30 “(e) If the commission authorizes a public utility to recover costs from customers for invest-
31 ments in resiliency measures, the resiliency measures must, regardless of ownership of the resiliency
32 measure and pursuant to agreement with the customer, allow the utility to manage the measure for
33 grid and emergency services.
- 34 “(f) The commission may authorize cost recovery for one or more resiliency measures from retail
35 electricity customers of a public utility based on the benefits received by those customers from the

1 resiliency measures.

2
3 **“VOLUNTARY EMISSION REDUCTION PROGRAM**

4
5 **“SECTION 2a. (1) As used in this section, ‘emission’ means any anthropogenic gas, such**
6 **as carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur**
7 **hexafluoride.**

8 **“(2) The Public Utility Commission shall establish a voluntary emission reduction pro-**
9 **gram for the purposes of incentivizing public utilities that furnish natural gas to invest in**
10 **projects that reduce emissions and providing benefits to customers of public utilities that**
11 **furnish natural gas.**

12 **“(3) As part of the emission reduction program, the commission shall establish eligibility**
13 **criteria for projects. The eligibility criteria must include:**

14 **“(a) That the public utility requesting the project be a public utility that furnishes na-**
15 **tural gas and that the project involve the provision of natural gas;**

16 **“(b) That the project directly or indirectly reduces emissions;**

17 **“(c) That the project benefit customers of the public utility as identified by the commis-**
18 **sion by rule or order;**

19 **“(d) That the public utility, without the emission reduction program, would not invest in**
20 **the project in the ordinary course of business;**

21 **“(e) That the public utility, prior to filing an application under subsection (4) of this**
22 **section, involve stakeholders as required by the commission by rule or order; and**

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

25 **“(4) For each project that a public utility proposes under this section, the public utility**
26 **must file with the commission an application. An application filed under this subsection must**
27 **include:**

28 **“(a) A description of the project;**

29 **“(b) The projected amount of capital and operating costs necessary to complete and op-**
30 **erate the project;**

31 **“(c) The projected amount of reduced emissions created by the project;**

32 **“(d) The potential of the project to reduce emissions not identified in paragraph (c) of**
33 **this subsection;**

34 **“(e) The projected date on which the project will become operational;**

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

37 **“(g) An explanation of why the public utility, without the emission reduction program,**
38 **would not invest in the project in the ordinary course of business;**

39 **“(h) Proof of stakeholder involvement;**

40 **“(i) The projected rate impact of the project;**

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

43 **“(k) An explanation of how the public utility will provide the commission with progress**
44 **updates during the life of the project, including updates on costs and reduced emissions as-**
45 **sociated with the project; and**

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

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

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

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

7 “(b) If a proposed project meets both the threshold described in paragraph (a)(A) of this
8 subsection and the threshold described in paragraph (a)(B) of this subsection, the project is
9 a tier one project subject to the requirements of subsection (6) of this section. If a proposed
10 project does not meet the threshold described in paragraph (a)(A) of this subsection or the
11 threshold described in paragraph (a)(B) of this subsection, the project is a tier two project
12 subject to the requirements of subsection (7) of this section.

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

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

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

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

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

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

22 “(b) Issue a final order on the proposed project within 180 days of receiving the applica-
23 tion for the project, or at a later time as authorized by the public utility.

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

26 “(a) The type of ratepayer from whom the public utility that submitted the project pro-
27 posal may recover costs incurred and investments made and receive any allowed additional
28 incentives. A public utility may recover costs incurred and investments made and receive
29 any allowed additional incentives from a type of ratepayer under this paragraph only if the
30 commission makes a finding that the type of ratepayer receives a benefit from the project.
31 If the commission makes a finding that more than one type of ratepayer receives a benefit
32 from the project, the commission shall allow recovery of costs incurred and investments
33 made and receipt of any allowed additional incentives from each type of ratepayer in an
34 amount that is proportionate to the proportion of the benefit received, as determined by the
35 commission, by the type of ratepayer.

36 “(b) The method by which the public utility that submitted the project proposal may re-
37 cover costs incurred and investments made and receive any allowed additional incentives,
38 and the amount that the public utility may recover and receive. Methods of recovery and
39 receipt include:

40 “(A) Payment per unit of reduced emissions;

41 “(B) Preapproval for inclusion in the public utility’s rates of costs prudently incurred and
42 of investments prudently made;

43 “(C) Return of investment and return on investment; and

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

45 “(9) For purposes related to the emission reduction program established under this sec-

1 tion, the commission may consider the amount of reduced emissions created by a project or
2 the value of reduced emissions created by a project.

3 **“(10) The commission shall establish a rate cap for each public utility for which a project
4 is authorized under this section. The rate cap must limit the cost of the public utility’s
5 projects authorized under this section to an amount that does not exceed a percentage of the
6 public utility’s revenue requirement as identified by the commission by rule or order. A vol-
7 untary emission reduction program described under subsection (11) of this section shall not
8 count towards the rate cap.**

9 **“(11) A voluntary emission reduction program developed in coordination with a local
10 government to reduce emissions on behalf of customers within the boundaries of the local
11 government is subject to the tier one process set forth in subsection (6) of this section and
12 is exempted from the thresholds described in subsection (5)(a) of this section.**

13 **“(12) The commission shall biennially conduct a study on whether federal law or regu-
14 lation or other state laws or rules provide adequate incentives for public utilities that furnish
15 natural gas to invest in projects that reduce emissions in the ordinary course of business.
16 The commission shall report the results of a study conducted under this subsection, and may
17 make recommendations for legislation, to the Legislative Assembly in the manner described
18 in ORS 192.245 not later than February 1 of each odd-numbered year.”.**

19 On page 3, line 30, delete “and risks” and insert “, risks and benefits”.

20 In line 31, delete “where” and insert “and that”.

21 Delete lines 37 through 45 and delete page 4.

22 On page 5, delete lines 1 through 25 and insert:

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

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

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

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

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

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

39 **“(B) The government enacts or adopts an ordinance, charter provision, resolution or other reg-
40 ulation requiring that retail electricity consumers within the boundaries of the government must,
41 as determined during the coordination required by paragraph (b) of this subsection and conducted
42 in accordance with this paragraph, be served with renewable energy resources or nonemitting en-
43 ergy resources, including, at the option of the government, resources such as:**

44 **“(i) Energy from community-based resources, including but not limited to, solar photovoltaic,
45 storage, microgrids, irrigation district-owned projects, in-pipe hydroelectric or micro-hydroelectric,**

1 that provide community energy cobenefits, such as:

2 “(I) Community stability;

3 “(II) Community reinvestment;

4 “(III) Ownership by a nonprofit organization or renewable energy cooperative that represents
5 an environmental justice community;

6 “(IV) Ownership by the government;

7 “(V) Disaster resiliency;

8 “(VI) Water savings;

9 “(VII) Species protection;

10 “(VIII) Direct cost savings to customers; or

11 “(IX) Local economic development and jobs; and

12 “(ii) Renewable and non-emitting energy resources acquired through government-specified pro-
13 curement criteria which may include goals for local or diverse ownership;

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

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

18 “(ii) Retail electricity consumers within the boundaries of the government that are connected
19 to the distribution system and whose electricity demand at any point of delivery is greater than 30
20 kilowatts may choose to opt in and be placed on the rate schedule, if the electric company deter-
21 mines that electricity demand at the consumer’s point of delivery is greater than 30 kilowatts be-
22 cause of additional demand resulting from electrification of transportation or other services,
23 including electric vehicle charging stations, after the effective date of this 2021 Act;

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

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

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

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

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

38 “(A) Prior to commencing the program, receive acknowledgement from the government to pro-
39 ceed with the program as approved by the commission and, if the government declines, shall file to
40 suspend the rates and charges under the program;

41 “(B) Include information on its monthly bills to participating retail electricity consumers iden-
42 tifying the program’s cost;

43 “(C) Provide notice to participating retail electricity consumers of any change in rate for par-
44 ticipation in the program; and

45 “(D) Provide an annual report to the commission and participating governments summarizing the

1 program activities in the prior calendar year.

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

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

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

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

11 “(ii) An integrated resource plan conducted by the electric company shows an energy or ca-
12 pacity need and the electric company demonstrates that those resources are capable of meeting that
13 need, in whole or in part;

14 “(iii) The electric company will use the resources to meet a renewable portfolio standard im-
15 posed by ORS 469A.052; or

16 “(iv) All customers will otherwise benefit from inclusion of the costs in rates collected from all
17 customers.

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

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

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

31 “(7) Notwithstanding the exemption to ORS 757.600 to 757.691 provided by ORS 757.601 (3), an
32 electric company serving fewer than 25,000 customers in this state may propose a program for ap-
33 proval by the commission if the program meets the criteria specified in this subsection.”.

34 On page 6, delete lines 32 through 45.

35 On page 7, delete lines 1 through 23.

36 In line 27, delete “6” and insert “5”.

37 On page 8, line 11, delete “7” and insert “6”.

38 On page 9, delete lines 5 through 9 and insert:

39 “(b) The commission shall require an electricity service supplier to publicly disclose a summary
40 of the aggregated energy supply mix and associated emissions of the power sources that serve the
41 direct access retail electricity consumers of the electricity service supplier, or any other aggregated
42 information comparable to information provided by electric companies to retail electricity consumers
43 as the commission may require.”.

44 Delete lines 33 through 45.

45 On page 10, delete lines 1 through 22 and insert:

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

2 **“(a) ‘Large-scale project’ means:**

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

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

7 **“(b) ‘Repower’ means replacement of enough of the original generation equipment or**
8 **components to make an original energy generation facility equivalent to a new facility, such**
9 **that at least 80 percent of the fair market value of the facility derives from new generation**
10 **equipment or components installed as part of the replacement project.**

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

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

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

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

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

25 **“(E) Has demonstrated a history of material compliance with the rules and other re-**
26 **quirements of state agencies with oversight regarding workers’ compensation, building codes**
27 **and occupational safety and health;**

28 **“(F) Has demonstrated a history of material compliance with federal and state wage and**
29 **hour laws; and**

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

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

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

39 **“(B) The geographical location of the project;**

40 **“(C) The estimated workforce requirements of the project; and**

41 **“(D) A description of any policies for ensuring the person meets the requirements in this**
42 **section.**

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

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

4 “(4)(a) The department shall retain an attestation or declaration filed with the depart-
5 ment in a manner consistent with the department’s record retention policies.

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

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

12 “SECTION 8. The obligation to provide an attestation or declaration pursuant to section
13 7 of this 2021 Act applies to large-scale projects contracted for after the effective date of this
14 2021 Act.”.

15 In line 26, delete “10” and insert “9”.

16 In line 43, delete “11” and insert “10”.

17 On page 11, line 38, delete “12” and insert “11”.

18 On page 12, line 23, delete “13” and insert “12”.

19