

Requested by Representative HELM

**PROPOSED AMENDMENTS TO
HOUSE BILL 3180**

1 On page 1 of the printed bill, line 2, after “469A.005,” delete the rest of
2 the line and insert “469A.052,”.

3 In line 3, delete “469A.147,”.

4 In line 4, delete “757.612, 758.515, 758.525 and 758.535” and insert “758.515
5 and 758.525”.

6 Delete lines 6 through 32 and delete pages 2 through 35 and insert:

7

8 **“RENEWABLE PORTFOLIO STANDARDS**

9 **“(Acceleration for large utilities;**

10 **legacy carbon-free electricity treatment)**

11

12 **“SECTION 1.** ORS 469A.005 is amended to read:

13 “469A.005. As used in ORS 469A.005 to 469A.210:

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

17 “(a) Already owns, controls or operates an electric light and power system
18 for supplying electricity to the inhabitants of the city and for general mu-
19 nicipal purposes;

20 “(b) Provides fair, just and reasonable compensation to the electric com-
21 pany whose service territory is acquired that:

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

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

8 “(c) Pays any stranded costs obligation established pursuant to ORS
9 757.483.

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

15 “(3) ‘BPA electricity’ means electricity provided by the Bonneville Power
16 Administration, including electricity generated by the Federal Columbia
17 River Power System hydroelectric projects and electricity acquired by the
18 Bonneville Power Administration by contract.

19 “(4) ‘Bundled renewable energy certificate’ means a renewable energy
20 certificate for qualifying electricity that is acquired:

21 “(a) By an electric utility or electricity service supplier by a trade, pur-
22 chase or other transfer of electricity that includes the renewable energy
23 certificate that was issued for the electricity; or

24 “(b) By an electric utility by generation of the electricity for which the
25 renewable energy certificate was issued.

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

30 “(6) ‘Consumer-owned utility’ means a municipal electric utility, a

1 people’s utility district organized under ORS chapter 261 that sells electricity
2 or an electric cooperative organized under ORS chapter 62.

3 “(7) ‘Distribution utility’ has the meaning given that term in ORS 757.600.

4 “(8) ‘Electric company’ has the meaning given that term in ORS 757.600.

5 “(9) ‘Electric utility’ has the meaning given that term in ORS 757.600.

6 “(10) ‘Electricity service supplier’ has the meaning given that term in
7 ORS 757.600.

8 “(11)(a) **‘Legacy carbon-free electricity’ includes electricity, other**
9 **than electricity described in ORS 469A.060 (2), that does not otherwise**
10 **constitute qualifying electricity and that:**

11 “(A) **Is BPA electricity other than the BPA electricity described in**
12 **ORS 469A.060 (5); or**

13 “(B) **Is generated by a hydroelectric facility or a nuclear facility**
14 **that is not marketed by the Bonneville Power Administration and**
15 **that:**

16 “(i) **Became operational before the effective date of this 2021 Act;**
17 **and**

18 “(ii) **Was being used to serve the load of an electric utility on or**
19 **before the effective date of this 2021 Act.**

20 “(b) **‘Legacy carbon-free electricity’ does not include the amount**
21 **of electricity generated by a facility described in paragraph (a) of this**
22 **subsection that is in excess of the amount of electricity generated by**
23 **that facility that was historically used to serve the load of an electric**
24 **utility, calculated based on the lesser of:**

25 “(A) **The three-year average amount of electricity generated by that**
26 **facility and used to serve the load of a utility based on the three most**
27 **recent years prior to the compliance year in which the electric utility**
28 **seeks to establish compliance with the renewable portfolio standard;**
29 **or**

30 “(B) **The three-year average amount of electricity generated by that**

1 **facility and used to serve the load of a utility based on the three most**
2 **recent years prior to the effective date of this 2021 Act.**

3 “[~~(11)~~] **(12)** ‘Qualifying electricity’ means electricity described in ORS
4 469A.010.

5 “[~~(12)~~] **(13)** ‘Renewable energy source’ means a source of electricity de-
6 scribed in ORS 469A.025 **(2)(g) or (7)**.

7 “[~~(13)~~] **(14)** ‘Retail electricity consumer’ means a retail electricity con-
8 sumer, as defined in ORS 757.600, that is located in Oregon.

9 “[~~(14)~~] **(15)** ‘Unbundled renewable energy certificate’ means a renewable
10 energy certificate for qualifying electricity that is acquired by an electric
11 utility or electricity service supplier by trade, purchase or other transfer
12 without acquiring the electricity that is associated with the renewable en-
13 ergy certificate.

14 **“SECTION 2.** ORS 469A.052 is amended to read:

15 “469A.052. (1) The large utility renewable portfolio standard imposes the
16 following requirements on an electric utility that makes sales of electricity
17 to retail electricity consumers in an amount that equals three percent or
18 more of all electricity sold to retail electricity consumers:

19 “(a) At least five percent of the electricity sold by the electric utility to
20 retail electricity consumers in each of the calendar years 2011, 2012, 2013 and
21 2014 must be qualifying electricity;

22 “(b) At least 15 percent of the electricity sold by the electric utility to
23 retail electricity consumers in each of the calendar years 2015, 2016, 2017,
24 2018 and 2019 must be qualifying electricity;

25 “(c) At least 20 percent of the electricity sold by the electric utility to
26 retail electricity consumers in each of the calendar years [~~2020, 2021, 2022,~~
27 ~~2023 and 2024~~] **2020 and 2021** must be qualifying electricity;

28 “(d) **At least 23 percent of the electricity sold by an electric com-**
29 **pany to retail electricity consumers in the calendar year 2022 must be**
30 **qualifying electricity;**

1 “[(d)] (e) At least 25 percent of the electricity sold by a consumer-owned
2 utility to retail electricity consumers in the calendar year 2025 and subse-
3 quent calendar years must be qualifying electricity;

4 “[(e) *At least 27 percent of the electricity sold by an electric company to*
5 *retail electricity consumers in each of the calendar years 2025, 2026, 2027, 2028*
6 *and 2029 must be qualifying electricity;*]

7 “[(f) *At least 35 percent of the electricity sold by an electric company to*
8 *retail electricity consumers in each of the calendar years 2030, 2031, 2032, 2033*
9 *and 2034 must be qualifying electricity;*]

10 “[(g) *At least 45 percent of the electricity sold by an electric company to*
11 *retail electricity consumers in each of the calendar years 2035, 2036, 2037, 2038*
12 *and 2039 must be qualifying electricity; and]*

13 “[(h) *At least 50 percent of the electricity sold by an electric company to*
14 *retail electricity consumers in the calendar year 2040 and subsequent calendar*
15 *years must be qualifying electricity.*]

16 “(f) **In 2023 and in each following calendar year before 2036, the**
17 **share of qualifying electricity sold by an electric company to retail**
18 **electricity consumers must increase by a constant amount such that**
19 **by 2035, at least 90 percent of electricity sold by the electric company**
20 **to retail electricity consumers is qualifying electricity; and**

21 “(g) **In 2036 and each following calendar year before 2051, the share**
22 **of qualifying electricity sold by an electric company to retail electric-**
23 **ity consumers must increase by a constant amount such that in 2050**
24 **and subsequent calendar years, 100 percent of electricity sold by the**
25 **electric company to retail electricity consumers is qualifying electric-**
26 **ity.**

27 “(2) If, on June 6, 2007, an electric utility makes sales of electricity to
28 retail electricity consumers in an amount that equals less than three percent
29 of all electricity sold to retail electricity consumers, but in any three con-
30 secutive calendar years thereafter makes sales of electricity to retail elec-

1 tricity consumers in amounts that average three percent or more of all
2 electricity sold to retail electricity consumers, the electric utility is subject
3 to the renewable portfolio standard described in subsection (3) of this sec-
4 tion. The electric utility becomes subject to the renewable portfolio standard
5 described in subsection (3) of this section in the calendar year following the
6 three-year period during which the electric utility makes sales of electricity
7 to retail electricity consumers in amounts that average three percent or more
8 of all electricity sold to retail electricity consumers.

9 “(3) An electric utility described in subsection (2) of this section must
10 comply with the following renewable portfolio standard:

11 “(a) Beginning in the fourth calendar year after the calendar year in
12 which the electric utility becomes subject to the renewable portfolio stand-
13 ard described in this subsection, at least five percent of the electricity sold
14 by the electric utility to retail electricity consumers in a calendar year must
15 be qualifying electricity;

16 “(b) Beginning in the 10th calendar year after the calendar year in which
17 the electric utility becomes subject to the renewable portfolio standard de-
18 scribed in this subsection, at least 15 percent of the electricity sold by the
19 electric utility to retail electricity consumers in a calendar year must be
20 qualifying electricity;

21 “(c) Beginning in the 15th calendar year after the calendar year in which
22 the electric utility becomes subject to the renewable portfolio standard de-
23 scribed in this subsection, at least 20 percent of the electricity sold by the
24 electric utility to retail electricity consumers in a calendar year must be
25 qualifying electricity; and

26 “(d) Beginning in the 20th calendar year after the calendar year in which
27 the electric utility becomes subject to the renewable portfolio standard de-
28 scribed in this subsection, at least 25 percent of the electricity sold by the
29 electric utility to retail electricity consumers in a calendar year must be
30 qualifying electricity.

1 **“SECTION 3.** ORS 469A.060 is amended to read:

2 “469A.060. (1) Electric utilities are not required to comply with the
3 renewable portfolio standards described in ORS 469A.052 and 469A.055 to the
4 extent that:

5 “(a) Compliance with the standard would require the electric utility to
6 acquire electricity in excess of the electric utility’s projected load require-
7 ments in any calendar year; and

8 “(b) Acquiring the additional electricity would require the electric utility
9 to substitute qualifying electricity for electricity derived from an energy
10 source other than coal, natural gas or petroleum.

11 “(2)(a) Electric utilities are not required to comply with a renewable
12 portfolio standard to the extent that compliance would require the electric
13 utility to substitute qualifying electricity for electricity available to the
14 electric utility under contracts for electricity from dams that are owned by
15 Washington public utility districts and that are located between the Grand
16 Coulee Dam and the Columbia River’s junction with the Snake River. The
17 provisions of this subsection apply only to contracts entered into before June
18 6, 2007, and to renewal or replacement contracts for contracts entered into
19 before June 6, 2007.

20 “(b) If a contract described in paragraph (a) of this subsection expires and
21 is not renewed or replaced, the electric utility must comply, in the calendar
22 year following the expiration of the contract, with the renewable portfolio
23 standard applicable to the electric utility.

24 **“(3)(a) Electric utilities are not required to comply with a renewable**
25 **portfolio standard to the extent that compliance would require the**
26 **electric utility to substitute qualifying electricity for legacy carbon-**
27 **free electricity that is available to the utility by ownership or contract.**
28 **The provisions of this subsection applicable to contracts apply only to**
29 **contracts entered into before the effective date of this 2021 Act and to**
30 **renewal or replacement contracts for contracts entered into before the**

1 effective date of this 2021 Act.

2 “(b) If a contract described in paragraph (a) of this subsection ex-
3 pires and is not renewed or replaced, or if a legacy carbon-free elec-
4 tricity generating facility is retired or removed from service to retail
5 electricity consumers, beginning in the calendar year following the
6 expiration, retirement or removal, the electric utility’s obligation to
7 comply with the renewable portfolio standard applicable to the electric
8 utility may no longer be reduced by the amount of legacy carbon-free
9 electricity that was available to the electric utility prior to the expi-
10 ration, retirement or removal.

11 “(4)(a) Subject to paragraphs (b) and (c) of this subsection, electric
12 utilities are not required to comply with a renewable portfolio stand-
13 ard to the extent that compliance would require the electric utility to
14 substitute qualifying electricity for electricity available to the utility
15 from an electricity storage facility if:

16 “(A) The stored electricity is:

17 “(i) Electricity that was generated from a renewable energy source;
18 or

19 “(ii) Legacy carbon-free electricity; and

20 “(B) The output of the original source of energy is not also used to
21 comply with a renewable portfolio standard.

22 “(b) Stored electricity that was legacy carbon-free electricity may
23 not be used by an electric utility to offset more than two percent of
24 the renewable portfolio standard applicable to the electric utility in a
25 compliance year.

26 “(c) In order to account for the round-trip efficiency losses in the
27 charging and discharging of storage technologies, the amount of elec-
28 tricity available to the utility from an electricity storage facility for
29 purposes of this subsection shall be calculated by determining the av-
30 erage of:

1 expended by the electric utility for energy efficiency programs for customers
2 of the electric utility or for low income energy assistance, the incremental
3 cost of compliance with a renewable portfolio standard, the cost of unbun-
4 dled renewable energy certificates or the cost of alternative compliance
5 payments under ORS 469A.180. The annual revenue requirement does include:

6 “(a) The operating expenses of the electric utility during the compliance
7 year, including depreciation and taxes; and

8 “(b) For electric companies, an amount equal to the total rate base of the
9 electric company for the compliance year multiplied by the rate of return
10 established by the commission for debt and equity of the electric company.

11 “(4) For the purposes of this section, the incremental cost of compliance
12 with a renewable portfolio standard is the difference between the levelized
13 annual delivered cost of the qualifying electricity and **what** the levelized
14 annual delivered cost of an equivalent amount of [*reasonably available elec-*
15 *tricity that is not qualifying electricity*] **qualifying electricity would have**
16 **been if the applicable renewable portfolio standard for the compliance**
17 **year pursuant to ORS 469A.005 to 469A.210 (2019 Edition) had continued**
18 **to be in effect.** For the purpose of this subsection, the commission or the
19 governing body of a consumer-owned utility shall use the net present value
20 of delivered cost, including:

21 “(a) Capital, operating and maintenance costs of generating facilities;

22 “(b) Financing costs attributable to capital, operating and maintenance
23 expenditures for generating facilities;

24 “(c) Transmission and substation costs;

25 “(d) Load following and ancillary services costs; [*and*]

26 “(e) **Costs associated with compliance with all applicable local,**
27 **state, regional or federal laws other than the renewable portfolio**
28 **standard, including but not limited to laws relating to emissions pric-**
29 **ing, the social cost of carbon, resilience or reliability; and**

30 “[*e*] (f) Costs associated with using other assets, physical or financial,

1 to integrate, firm or shape renewable energy sources on a firm annual basis
2 to meet retail electricity needs.

3 “(5) For the purposes of this section, the governing body of a consumer-
4 owned utility may include in the incremental cost of compliance with a
5 renewable portfolio standard all expenses associated with research, develop-
6 ment and demonstration projects related to the generation of qualifying
7 electricity by the consumer-owned utility.

8 “(6) The commission shall establish limits on the incremental cost of
9 compliance with the renewable portfolio standard for electricity service
10 suppliers under ORS 469A.065 that are the equivalent of the cost limits ap-
11 plicable to the electric companies that serve the territories in which the
12 electricity service supplier sells electricity to retail electricity consumers. If
13 an electricity service supplier sells electricity in territories served by more
14 than one electric company, the commission may provide for an aggregate cost
15 limit based on the amount of electricity sold by the electricity service sup-
16 plier in each territory. Pursuant to ORS 757.676, a consumer-owned utility
17 may establish limits on the cost of compliance with the renewable portfolio
18 standard for electricity service suppliers that sell electricity in the territory
19 served by the consumer-owned utility.

20 **“SECTION 5.** ORS 469A.120 is amended to read:

21 “469A.120. (1) Except as provided in ORS 469A.180 (5) **and 469A.200**, all
22 prudently incurred costs associated with complying with ORS 469A.005 to
23 469A.210 are recoverable in the rates of an electric company, including
24 interconnection costs, **power purchase costs, energy storage costs**, costs
25 associated with using physical or financial assets to integrate, firm or shape
26 renewable energy sources on a firm annual basis to meet retail electricity
27 needs, above-market costs and other costs associated with transmission and
28 delivery of qualifying electricity to retail electricity consumers.

29 “(2)(a) The Public Utility Commission shall establish an automatic ad-
30 justment clause as defined in ORS 757.210 or another method that allows

1 timely recovery of costs prudently incurred by an electric company to con-
2 struct or otherwise acquire facilities that generate electricity from renewable
3 energy sources, costs related to associated electricity transmission and costs
4 related to associated energy storage.

5 “(b) Notwithstanding any other provision of law, upon the request of any
6 interested person the commission shall conduct a proceeding to establish the
7 terms of the automatic adjustment clause or other method for timely recov-
8 ery of costs. The commission shall provide parties to the proceeding with the
9 procedural rights described in ORS 756.500 to 756.610, including but not
10 limited to the opportunity to develop an evidentiary record, conduct discov-
11 ery, introduce evidence, conduct cross-examination and submit written briefs
12 and oral argument. The commission shall issue a written order with findings
13 on the evidentiary record developed in the proceeding.

14 “(3)(a) An electric company must file with the commission for approval
15 of a proposed rate change to recover costs under the terms of an automatic
16 adjustment clause or other method for timely recovery of costs established
17 under subsection (2) of this section. As part of an electric company’s request
18 for approval under this subsection, the electric company may specify the date
19 or the dates on which the electric company will begin to include in the
20 electric company’s rates, in full or in part, the costs recoverable under sub-
21 section (2) of this section. The commission may accept or reject the date or
22 dates specified by the electric company.

23 “(b) Notwithstanding any other provision of law, upon the request of any
24 interested person the commission shall conduct a proceeding to determine
25 whether to approve a proposed change in rates under the automatic adjust-
26 ment clause or other method for timely recovery of costs. The commission
27 shall provide parties to the proceeding with the procedural rights described
28 in ORS 756.500 to 756.610, including but not limited to the opportunity to
29 develop an evidentiary record, conduct discovery, introduce evidence, con-
30 duct cross-examination and submit written briefs and oral argument. The

1 commission shall issue a written order with findings on the evidentiary re-
2 cord developed in the proceeding.

3 “(c) A filing made under this subsection is subject to the commission’s
4 authority under ORS 757.215 to suspend a rate, or schedule of rates, for in-
5 vestigation.

6 **“SECTION 6.** ORS 469A.170 is amended to read:

7 “469A.170. (1) Each electric utility and electricity service supplier that is
8 subject to a renewable portfolio standard shall make an annual compliance
9 report for the purpose of detailing compliance, or failure to comply, with the
10 renewable portfolio standard applicable in the compliance year. An electric
11 company or electricity service supplier shall make the report to the Public
12 Utility Commission. A consumer-owned utility shall make the report to the
13 members or customers of the utility.

14 “(2) The commission shall review each compliance report filed under this
15 section by an electric company or electricity service supplier for the pur-
16 poses of determining whether the company or supplier has complied with the
17 renewable portfolio standard applicable to the company or supplier and the
18 manner in which the company or supplier has complied. In reviewing the
19 reports, the commission shall consider:

20 “(a) The relative amounts of renewable energy certificates and other
21 payments used by the company or supplier to meet the applicable renewable
22 portfolio standard, including:

23 “(A) Bundled renewable energy certificates;

24 “(B) Unbundled renewable energy certificates;

25 “(C) Banked renewable energy certificates; and

26 “(D) Alternative compliance payments under ORS 469A.180.

27 “(b) The timing of electricity purchases.

28 “(c) The market prices for electricity purchases and unbundled renewable
29 energy certificates.

30 “(d) Whether the actions taken by the company or supplier are contrib-

1 uting to long term development of generating capacity using renewable en-
2 ergy sources.

3 “(e) The effect of the actions taken by the company or supplier on the
4 rates payable by retail electricity consumers.

5 “(f) Good faith forecasting differences associated with the projected
6 number of retail electricity consumers served and the availability of elec-
7 tricity from renewable energy sources.

8 “(g) For electric companies, consistency with the implementation plan
9 filed under [ORS 469A.075] **section 16 of this 2021 Act**, as acknowledged
10 by the commission.

11 “(h) Any other factors deemed reasonable by the commission.

12 “(3) The commission by rule may establish requirements for compliance
13 reports submitted by an electric company or electricity service supplier.

14 **“SECTION 7.** ORS 469A.200 is amended to read:

15 “469A.200. **(1)** If an electric company or electricity service supplier that
16 is subject to a renewable portfolio standard under ORS 469A.005 to 469A.210
17 fails to comply with the standard in the manner provided by ORS 469A.005
18 to 469A.210, the Public Utility Commission [*may*] **shall** impose a penalty
19 against the company or supplier in an amount determined by the commission
20 **to be sufficient to deter noncompliance.**

21 “**(2)** A penalty under this section is in addition to any alternative com-
22 pliance payment required or elected under ORS 469A.180 **and may not be**
23 **recovered in the rates of an electric company.** Moneys paid for penalties
24 under this section shall be transmitted by the commission to the nongov-
25 ernmental entity receiving moneys under ORS 757.612 (3)(d) and may be used
26 only for the purposes specified in ORS 757.612 (1).

27 “**(3) The commission shall adopt by rule standards and procedures**
28 **for imposing penalties under this section.**

29

30

“(Siting Criteria: 50 percent for

1 direct energy resiliency or environmental benefits)

2
3 **“SECTION 8. Section 9 of this 2021 Act is added to and made a part**
4 **of ORS 469A.005 to 469A.210.**

5 **“SECTION 9. (1) As used in this section, ‘renewable energy certif-**
6 **icates’ means bundled renewable energy certificates and unbundled**
7 **renewable energy certificates.**

8 **“(2)(a) The Legislative Assembly declares that the State of Oregon**
9 **has a substantial state interest in:**

10 **“(A) Creating a more resilient supply of electricity used to serve**
11 **retail electricity consumers; and**

12 **“(B) Ensuring that efforts to reduce the greenhouse gas emissions**
13 **attributable to this state provide direct environmental benefits in this**
14 **state.**

15 **“(b) The Legislative Assembly further finds and declares that:**

16 **“(A) Locating low-emissions and no-emissions electricity generating**
17 **and storage facilities close to retail electricity consumers served with**
18 **the electricity generated or stored by those facilities:**

19 **“(i) Increases resilience without causing the harmful side effects**
20 **of emissions emitted from electricity generating facilities;**

21 **“(ii) Reduces the costs and delays associated with constructing ad-**
22 **ditional transmission capacity to connect remote electricity generating**
23 **and storage facilities; and**

24 **“(iii) Reduces the wildfire-related resiliency risks to the electricity**
25 **grid that increase with the remoteness of electricity generating and**
26 **storage facilities; and**

27 **“(B) Replacing electricity generating facilities that utilize petro-**
28 **leum, natural gas or coal as an energy source with electricity gener-**
29 **ating and storage facilities that utilize renewable energy sources can**
30 **result in the reduction or avoidance of emissions of air contaminants**

1 other than greenhouse gases and can provide particular benefits to
2 historically disadvantaged communities that have been traditionally
3 and disproportionately burdened with the health, financial and other
4 adverse impacts associated with air contaminants other than
5 greenhouse gases emitted from electricity generating facilities and
6 other waste products from power generation.

7 “(3) In pursuit of the substantial state interests set forth in sub-
8 section (2)(a) of this section and in addition to the requirements of
9 ORS 469A.135:

10 “(a) Out of the renewable energy certificates used by an electric
11 utility to meet the renewable portfolio standard applicable to that
12 electric utility in a compliance year, 50 percent of the renewable en-
13 ergy certificates that were issued for electricity generated by a facility
14 constructed on or after the effective date of this 2021 Act must be for
15 electricity generated by a facility that provides direct energy resiliency
16 or environmental benefits in this state; and

17 “(b) Out of the electricity available to an electric utility from an
18 electricity storage facility and used by the electric utility to offset the
19 renewable portfolio standard in a compliance year under ORS 469A.060
20 (4), 50 percent of the stored electricity must be from an electricity
21 storage facility constructed on or after the effective date of this 2021
22 Act that provides direct energy resiliency or environmental benefits
23 in this state.

24 “(4) For the purposes of this section, an electricity generating or
25 storage facility provides direct energy resiliency or environmental
26 benefits in this state if the facility:

27 “(a) Provides direct local resiliency benefits to retail electricity
28 consumers through one or more of the following:

29 “(A) Increased reliability in parts of this state that typically expe-
30 rience more frequent or longer service disruptions or that are more

1 likely to be impacted by a catastrophic event;

2 “(B) Greater penetration of electricity generating and storage re-

3 sources in remote communities;

4 “(C) Reduced exposure to the costs of service disruptions;

5 “(D) Modernization to the electrical grid in this state;

6 “(E) Reduced reliance on long-distance transmission;

7 “(F) Investment in communities and households in this state that

8 are least able to afford technologies that improve the reliability of

9 electricity service; or

10 “(G) Other local resiliency augmenting benefits for retail electricity

11 consumers as may be identified by rule by the State Department of

12 Energy, in consultation with the Public Utility Commission;

13 “(b) Contributes to a reduction in or avoidance of emissions of any

14 air contaminant or water contaminant in this state other than a

15 greenhouse gas; or

16 “(c) Contributes to an improvement in the health of natural and

17 working lands in this state.

18 “(5) There is a rebuttable presumption that an electricity generat-

19 ing or storage facility provides direct energy resiliency or environ-

20 mental benefits in this state for purposes of this section if the facility:

21 “(a) Is directly interconnected in this state to the electrical grid of

22 an electric utility serving retail electricity consumers;

23 “(b) Is directly interconnected to the Bonneville Power Adminis-

24 tration contiguous transmission grid serving this state;

25 “(c) Is used to comply with the requirements of ORS 469A.210;

26 “(d) Is a community solar project from which electricity is procured

27 pursuant to the program adopted under ORS 757.386;

28 “(e) Is a solar energy resource connected behind the meter of a re-

29 tail electricity consumer that includes battery storage capable of pro-

30 viding temporary electric power in the event of a power outage; or

1 “(f) Relies on transmission facilities to transmit electricity for no
2 more than 50 miles to reach the contiguous border of this state from
3 an adjoining state in order to serve retail electricity consumers.

4 “SECTION 10. (1) The Public Utility Commission may not cause to
5 delay, due to the pendency of any rulemaking or other proceeding
6 necessary to implement one or more provisions of section 9 of this 2021
7 Act, any procurement or request for proposals that will result in the
8 procurement by an electric utility of electricity from a facility that
9 meets the statutory criteria set forth in section 9 (5) of this 2021 Act.

10 “(2) The enactment of section 9 of this 2021 Act is not intended to
11 modify, delay or alter the timeline for any procurement or request for
12 proposals initiated on, before or after the effective date of this 2021
13 Act for which rulemaking is not necessary to determine whether the
14 procurement or request for proposals will count toward compliance by
15 an electric utility with section 9 of this 2021 Act.

16
17 “COMMUNITY-BASED RENEWABLE ENERGY
18

19 “SECTION 11. ORS 469A.210 is added to and made a part of ORS
20 chapter 757.

21 “SECTION 12. ORS 469A.210 is amended to read:

22 “469A.210. (1) As used in this section:

23 “(a) ‘Electric company’ has the meaning given that term in ORS
24 757.600.

25 “(b) ‘Retail electricity consumer’ has the meaning given that term
26 in ORS 757.600.

27 “[(1)] (2) The Legislative Assembly finds that community-based renewable
28 energy projects, including but not limited to marine renewable energy re-
29 sources that are either developed in accordance with the Territorial Sea Plan
30 adopted pursuant to ORS 196.471 or located on structures adjacent to the

1 coastal shorelands, are an essential element of this state’s energy future.

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

7 “**(3)(a) For purposes related to the findings in subsection (2) of this**
8 **section, by the following years the following percentages of electricity**
9 **sold in this state by each electric company that makes sales of elec-**
10 **tricity to 25,000 or more retail electricity consumers in this state must**
11 **be composed of electricity generated by one or more of the sources**
12 **described in paragraph (b) of this subsection:**

13 “**(A) By 2030, five percent; and**

14 “**(B) by 2035, 10 percent.**

15 “**(b) An electric company may comply with paragraph (a) of this**
16 **subsection through sales of electricity composed of electricity gener-**
17 **ated by:**

18 “[*a*] **(A) Small-scale renewable energy projects with a generating ca-**
19 **capacity of 20 megawatts or less, or that are interconnected with a trans-**
20 **mission or distribution system at a voltage of 115 kilovolts or less, and**
21 **that generate electricity utilizing a type of energy described in ORS**
22 **469A.025; [*or*]**

23 “[*b*] **(B) Facilities that generate electricity using biomass that also**
24 **generate thermal energy for a secondary purpose[.]; or**

25 “**(C) Small power production facilities as defined in ORS 758.505 that**
26 **generate electricity utilizing a type of energy listed in ORS 469A.025**
27 **and that:**

28 “**(i) Are located, with the consent of the relevant tribal government**
29 **as defined in ORS 181A.680, within the boundaries of an Indian reser-**
30 **vation or land held in trust by the United States for the benefit of a**

1 **federally recognized Oregon Indian tribe; or**

2 **“(ii) Have executed a community benefits agreement with a local**
3 **government as defined in ORS 174.116, a school district as defined in**
4 **ORS 332.002, a local environmental or habitat conservation organiza-**
5 **tion or another entity that exists for the public benefit as identified**
6 **by rule by the Public Utility Commission.**

7 **“(4)(a) Out of the facilities described in subsection (3) of this section**
8 **that generate electricity used to meet the requirements of subsection**
9 **(3) of this section, at least 25 percent must be:**

10 **“(A) Located in the electric company’s service territory;**

11 **“(B) Directly interconnected with the transmission system owned**
12 **or managed by the electric company; or**

13 **“(C) If not directly interconnected with the transmission system**
14 **owned or managed by the electric company, designated as a network**
15 **resource.**

16 **“(b) An electric company must cooperate with the efforts of a fa-**
17 **cility described in subsection (2) of this section to be designated as a**
18 **network resource.**

19 **“[(3)] (5) Regardless of the facility’s nameplate capacity, any single facil-**
20 **ity described in subsection [(2)(b)] (3)(b)(B) of this section may be used to**
21 **comply with the requirement specified in subsection [(2)] (3) of this section**
22 **for up to 20 megawatts of capacity.**

23 **“SECTION 13. (1) The Public Utility Commission may not cause to**
24 **delay, due to the pendency of any rulemaking or other proceeding**
25 **necessary to implement one or more provisions of ORS 469A.210, any**
26 **procurement or request for proposals that will result in the procure-**
27 **ment by an electric company of electricity generated from a facility**
28 **described in ORS 469A.210 (3)(b)(A), (B) or (C)(i).**

29 **“(2) The amendments to ORS 469A.210 by section 12 of this 2021 Act**
30 **are not intended to modify, delay or alter the timeline for any pro-**

1 curement or request for proposals initiated on, before or after the ef-
2 fective date of this 2021 Act for which rulemaking is not necessary to
3 determine whether the procurement or request for proposals will
4 count toward compliance by an electric company with ORS 469A.210.

5
6 **“INTEGRATED CLEAN ENERGY IMPLEMENTATION PLANNING**

7
8 **“SECTION 14. ORS 469A.075 is repealed.**

9 **“SECTION 15. Section 16 of this 2021 Act is added to and made a**
10 **part of ORS chapter 757.**

11 **“SECTION 16. (1) As used in this section:**

12 **“(a) ‘Clean energy standards’ means:**

13 **“(A) The renewable portfolio standards described in ORS 469A.052**
14 **and 469A.055; and**

15 **“(B) The standard set forth in ORS 469A.210.**

16 **“(b) ‘Electric company’ has the meaning given that term in ORS**
17 **757.600.**

18 **“(c) ‘Qualifying electricity’ has the meaning given that term in ORS**
19 **469A.005.**

20 **“(d) ‘Renewable energy certificates’ means bundled renewable en-**
21 **ergy certificates as that term is defined in ORS 469A.005 and unbundled**
22 **renewable energy certificates as that term is defined in ORS 469A.005.**

23 **“(e) ‘Retail electricity consumer’ has the meaning given that term**
24 **in ORS 757.600.**

25 **“(f) ‘Transportation electrification’ has the meaning given that**
26 **term in ORS 757.357.**

27 **“(2) An electric company shall develop an integrated, clean energy**
28 **implementation plan for meeting the requirements of all clean energy**
29 **standards applicable to the electric company and file the implementa-**
30 **tion plan with the Public Utility Commission. Implementation plans**

1 **must be revised and updated at least once every two years.**

2 **“(3) At a minimum, an implementation plan must contain:**

3 **“(a) Annual targets for acquisition and use of, as applicable:**

4 **“(A) Qualifying electricity; and**

5 **“(B) Electricity generated by sources described in ORS 469A.210 (3).**

6 **“(b) Annual targets for the development, acquisition and use of**
7 **transmission and grid interconnection capacity necessary to comply**
8 **with the clean energy standards applicable to the electric company,**
9 **which must consider approaches for meeting the clean energy stan-**
10 **dards that reduce new or major transmission line construction and**
11 **must consider:**

12 **“(A) The status, schedule, cost and timeline risks associated with**
13 **development and construction of new transmission capacity; and**

14 **“(B) Sourcing of qualifying electricity that is geographically located**
15 **in a manner that beneficially utilizes existing grid infrastructure and**
16 **reduces or diversifies costs or risks, or that improves grid resiliency.**

17 **“(c) The estimated cost of meeting the annual targets described in**
18 **paragraphs (a) and (b) of this subsection, including the cost of trans-**
19 **mission, the cost of firming, shaping and integrating qualifying elec-**
20 **tricity, the cost of alternative compliance payments under ORS**
21 **469A.180 and the cost of acquiring renewable energy certificates.**

22 **“(d) An identification of any need to develop new, or to expand or**
23 **upgrade existing, bulk transmission and distribution facilities and an**
24 **assessment of the timeline to develop, expand or upgrade those facili-**
25 **ties, including an evaluation and identification of:**

26 **“(A) Grid facilities and other solutions that may beneficially miti-**
27 **gate the status, schedule, cost and timeline risks related to developing**
28 **new transmission capacity; and**

29 **“(B) The planning, construction, financing and coordination with**
30 **Bonneville Power Administration, and coordination with other re-**

1 regional transmission owners, as is necessary to meet the requirements
2 of ORS 469A.005 to 469A.210.

3 “(e) An assessment and 10-year forecast of the availability, includ-
4 ing the likely and achievable rates of development of, the regional
5 generation and transmission capacity that the electric company in-
6 tends to rely on to provide and deliver electricity to its retail elec-
7 tricity consumers, which must include:

8 “(A) An analysis of the status, schedule, cost and timeline risks
9 related to developing new transmission capacity and any other related
10 solutions that are being evaluated, planned or in development; and

11 “(B) An analysis of how the implementation of the laws of other
12 states or the federal government relating to clean energy, including
13 planned or prospective regional generating facility removals, re-
14 strictions or retirements in compliance with those laws and the asso-
15 ciated costs and other impacts of the removals, restrictions or
16 retirements, may affect the electric company’s ability to adequately
17 and timely procure energy or energy and capacity as necessary to
18 comply with the clean energy standards applicable to the electric
19 company.

20 “(f) An identification of the generating and storage resources, by
21 individual resource where applicable and generally in all cases by cat-
22 egories of resources and ownership types, that may be acquired to
23 meet the clean energy standards applicable to the electric company,
24 and an evaluation of how each identified resource, and the potential
25 geographic location of the resource, is expected to simultaneously
26 contribute to the electric company meeting its obligations under:

27 “(A) The applicable clean energy standards; and

28 “(B) The mandatory and enforceable reliability standards of the
29 North American Electric Reliability Corporation or its successor or-
30 ganization, or any other reliability standards as the commission may

1 require.

2 “(g) A forecast of distributed energy resources, including those re-
3 lated to transportation electrification, that may be installed by the
4 electric company or the electric company’s retail electricity consum-
5 ers, and an assessment of the effects of those distributed energy re-
6 sources on the electric company’s load, operations and compliance
7 obligations under the clean energy standards applicable to the electric
8 company.

9 “(h) An identification of the potential cost-effective demand re-
10 sponse and load management programs that may be acquired, imple-
11 mented or supported by the electric company.

12 “(i) A quantification of the probabilities, during time increments
13 of no longer than five years, of risks including blackouts, market
14 shortfall events, wildfire, facility retirements, facility limitations re-
15 lated to environmental standards, regional load growth and regional
16 capacity availability, a discussion of the cost exposures related to the
17 risks based on the quantification, and a description of the associated
18 risk management and risk mitigation plans.

19 “(j) An identification and status of additional staffing and other
20 resources necessary for the electric company, the commission or af-
21 fected stakeholders to facilitate and ensure compliance with the clean
22 energy standards applicable to the electric company, including addi-
23 tional staffing and other resources necessary to specifically address:

24 “(A) Transmission needs;

25 “(B) Timely generation and storage interconnection by third party
26 facility developers;

27 “(C) Regional transmission planning and policy development; and

28 “(D) Modeling of generation and transmission solution scenarios,
29 including scenarios for the development or installation of distributed
30 energy and capacity resources.

1 **“(k) An identification of energy efficiency opportunities and a plan**
2 **for addressing the opportunities in a manner that prioritizes:**

3 **“(A) Mitigating energy costs for low-income and historically disad-**
4 **vantaged retail electricity consumers; and**

5 **“(B) High-impact opportunities to mitigate utility peak capacity**
6 **needs, exposures to reliability risks, and other costs and timeline risks**
7 **associated with complying with the clean energy standards applicable**
8 **to the electric company.**

9 **“(L) An evaluation of the options, ability, costs and risk mitigation**
10 **benefits to exceeding each of the clean energy standards applicable to**
11 **the electric company, including as compared to the societal costs and**
12 **risks of noncompliance such as public health risks and the environ-**
13 **mental impacts of climate change, particularly for economically or**
14 **environmentally vulnerable communities.**

15 **“(4) The commission shall acknowledge or reject an implementation**
16 **plan no later than six months after the implementation plan is filed**
17 **with the commission. The commission may acknowledge or reject the**
18 **implementation plan subject to conditions specified by the commis-**
19 **sion.**

20 **“(5)(a) The commission shall adopt rules:**

21 **“(A) Establishing requirements for the content of implementation**
22 **plans;**

23 **“(B) Establishing the procedure for acknowledgment of implemen-**
24 **tation plans under this section, including provisions for public com-**
25 **ment;**

26 **“(C) Providing for the integration of an implementation plan with**
27 **the integrated resource planning guidelines established by the com-**
28 **mission for the purpose of planning for the least-cost, least-risk ac-**
29 **quisition of resources; and**

30 **“(D) Providing for the evaluation of competitive bidding processes**

1 that allow for diverse ownership of renewable energy sources that
2 generate qualifying electricity.

3 “(b) Rules adopted under this subsection shall require the
4 quantification required under subsection (3)(i) of this section to:

5 “(A) Be conducted as part of the integrated resource planning de-
6 scribed in paragraph (a)(C) of this subsection; and

7 “(B) Be used in setting avoided-cost rates pursuant to ORS 758.525
8 and other ratemaking activities relative to utility load service and re-
9 liability assurance planning.

10 “(6) An implementation plan filed under this section may include
11 procedures that will be used by the electric company to determine
12 whether the costs of constructing a facility that generates electricity
13 from a renewable energy source, or the costs of acquiring bundled or
14 unbundled renewable energy certificates, are consistent with the
15 renewable portfolio standards of the commission relating to least-cost,
16 least-risk planning for acquisition of resources.

17 “SECTION 17. An electric company shall first file an implementa-
18 tion plan as required under section 16 of this 2021 Act no later than
19 the date that the next implementation plan required after the effective
20 date of this 2021 Act would have been due under ORS 469A.075 (2019
21 Edition).

22 “SECTION 18. The repeal of ORS 459A.075 by section 14 of this 2021
23 Act and the enactment of section 16 of this 2021 Act are not intended
24 to modify, delay or alter the timeline for any procurement or request
25 for proposals initiated by an electric company on, before or after the
26 effective date of this 2021 Act for the acquisition and use of qualifying
27 electricity as defined in ORS 469A.005 or electricity generated by
28 sources described in ORS 469A.210 (3)(b)(A), (B) or (C)(i).

29

30

“CLEAN ENERGY STORAGE

1 **“SECTION 19. Section 20 of this 2021 Act is added to and made a**
2 **part of ORS chapter 757.**

3 **“SECTION 20. (1) As used in this section, ‘energy storage system’**
4 **means a technology that is capable of retaining energy, storing the**
5 **energy for a period of time and delivering the energy after storage.**

6 **“(2) The Public Utility Commission may not prohibit, or treat as a**
7 **retail purchase or sale, the wholesale purchase of electricity for**
8 **wholesale resale by an energy storage system.**

9 **“(3) A transmission facility shall facilitate the wholesale purchase**
10 **of electricity for wholesale resale by an energy storage system, subject**
11 **to reasonable pass-through expenses.**

12
13 **“UTILITY REGULATION GENERALLY**

14
15 **“SECTION 21. ORS 756.040 is amended to read:**

16 **“756.040. (1) In addition to the powers and duties now or hereafter trans-**
17 **ferred to or vested in the Public Utility Commission, the commission shall**
18 **represent the customers of any public utility or telecommunications utility**
19 **and the public generally in all controversies respecting rates, valuations,**
20 **service and all matters of which the commission has jurisdiction. In respect**
21 **thereof the commission shall make use of the jurisdiction and powers of the**
22 **office to protect such customers, and the public generally, from unjust and**
23 **unreasonable exactions and practices and to obtain for them adequate service**
24 **at fair and reasonable rates. The commission shall balance the interests of**
25 **the utility investor and the consumer in establishing fair and reasonable**
26 **rates. Rates are fair and reasonable for the purposes of this subsection if the**
27 **rates provide adequate revenue both for operating expenses of the public**
28 **utility or telecommunications utility and for capital costs of the utility, with**
29 **a return to the equity holder that is:**

30 **“(a) Commensurate with the return on investments in other enterprises**

1 having corresponding risks; and

2 “(b) Sufficient to ensure confidence in the financial integrity of the util-
3 ity, allowing the utility to maintain its credit and attract capital.

4 **“(2) In addition to the duties and powers described in subsection (1)
5 of this section, the commission shall serve the public interest by:**

6 **“(a) When deciding or deliberating toward a decision, protecting the
7 customers of any public utility or telecommunications utility, and the
8 public generally, with respect to:**

9 **“(A) The provision by the public utility or telecommunications
10 utility of safe and reliable services; and**

11 **“(B) The establishment by the public utility or telecommunications
12 utility of safe and reliable infrastructure;**

13 **“(b) Developing and implementing policies and rules that encourage
14 social equity, environmental justice, the enhancement of the environ-
15 ment, greenhouse gas emissions reductions, diversity of the ownership
16 and locations of electricity generation systems, resiliency for emer-
17 gency conditions including wildfire risks and the fulfillment of the
18 state’s energy and climate policies;**

19 **“(c) Allowing and fostering broad participation in the regulatory
20 process; and**

21 **“(d) Protecting the 10 percent of residential ratepayers with the
22 lowest incomes from cost increases associated with the consequences
23 of state policies related to the issues described in paragraph (b) of this
24 subsection.**

25 “[2] (3) The commission is vested with power and jurisdiction to super-
26 vise and regulate every public utility and telecommunications utility in this
27 state, and to do all things necessary and convenient in the exercise of such
28 power and jurisdiction.

29 “[3] (4) The commission may participate in any proceeding before any
30 public officer, commission or body of the United States or any state for the

1 purpose of representing the public generally and the customers of the ser-
2 vices of any public utility or telecommunications utility operating or pro-
3 viding service to or within this state.

4 “[4] (5) The commission may make joint investigations, hold joint
5 hearings within or without this state and issue concurrent orders in con-
6 junction or concurrence with any official, board, commission or agency of
7 any state or of the United States.

8 “**SECTION 22.** ORS 756.060 is amended to read:

9 “756.060. (1) The Public Utility Commission may adopt and amend rea-
10 sonable and proper rules and regulations relative to all statutes administered
11 by the commission and may adopt and publish reasonable and proper rules
12 to govern proceedings and to regulate the mode and manner of all investi-
13 gations and hearings of public utilities and telecommunications utilities and
14 other parties before the commission.

15 “(2) **In addition to the grounds for review set forth in ORS 183.400**
16 **(4), on judicial review of the validity of a rule adopted under this sec-**
17 **tion, the Court of Appeals shall declare the rule invalid if it finds the**
18 **rule to be arbitrary and capricious.**

19 “**SECTION 23.** ORS 756.185 is amended to read:

20 “756.185. (1)(a) Any public utility which does, or causes or permits to be
21 done, any matter, act or thing prohibited by ORS chapter 756, 757 or 758 **or**
22 **regulations adopted pursuant to ORS chapter 756, 757 or 758,** or omits
23 to do any act, matter or thing required to be done by such statutes **or reg-**
24 **ulations,** is liable to the person injured thereby in the amount of damages
25 sustained in consequence of such violation.

26 “(b) If the party seeking damages alleges and proves that the wrong or
27 omission **as described in paragraph (a) of this subsection** was the result
28 of gross negligence or willful misconduct, the public utility is liable to the
29 person injured [thereby] **by the wrong or omission** in treble the amount of
30 damages sustained in consequence of the violation.

1 “(c) If the wrong or omission as described in paragraph (a) of this
2 subsection was a violation of any of the following, the public utility
3 is liable to the person injured by the wrong or omission in treble the
4 amount of damages sustained in consequence of the violation:

5 “(A) ORS 758.505 to 758.555 or the federal Public Utility Regulatory
6 Policies Act of 1978 (P.L. 95-617);

7 “(B) A contract entered into pursuant to ORS 758.505 to 758.555 or
8 the federal Public Utility Regulatory Policies Act of 1978 (P.L. 95-617);
9 or

10 “(C) A legally enforceable obligation for the purchase by a public
11 utility of energy or energy and capacity from a qualifying facility, as
12 defined in ORS 758.505.

13 “(d) Except as provided in subsection (2) of this section, the court may
14 award reasonable attorney fees to the prevailing party in an action under
15 this section.

16 “(2) The court may not award attorney fees to a prevailing defendant
17 under the provisions of subsection (1) of this section if the action under this
18 section is maintained as a class action pursuant to ORCP 32.

19 “(3) Any recovery under this section does not affect recovery by the state
20 of the penalty, forfeiture or fine prescribed for such violation.

21 “(4) Damages and attorney fees paid by a public utility to a pre-
22 vailing party in an action under this section may not be recovered in
23 the rates of the public utility.

24 “[(4)] (5) This section does not apply with respect to the liability of any
25 public utility for personal injury or property damage.

26
27 **“COGENERATION AND SMALL POWER PRODUCTION FACILITIES**

28
29 **“SECTION 24.** ORS 758.515 is amended to read:

30 “758.515. The Legislative Assembly finds and declares that:

1 “(1) The State of Oregon has abundant renewable resources.

2 “(2) *[It is the goal of Oregon to:]* **The Public Utility Commission shall:**

3 “(a) Promote the development of a diverse array of permanently
4 sustainable energy resources using the public and private sectors to the
5 highest degree possible; and

6 “(b) Insure that rates for purchases by an electric utility from, and rates
7 for sales to, a qualifying facility shall over the term of a contract be just
8 and reasonable to the electric consumers of the electric utility, the qualify-
9 ing facility and in the public interest.

10 “(3) It is, therefore, the policy of the State of Oregon to:

11 “(a) Increase the marketability of electric energy produced by qualifying
12 facilities located throughout the state for the benefit of Oregon’s citizens;
13 and

14 “(b) Create a settled and uniform institutional climate for the qualifying
15 facilities in Oregon.

16 “**SECTION 25.** ORS 758.525 is amended to read:

17 “758.525. (1) At least once every two years each electric utility shall pre-
18 pare, publish and file with the Public Utility Commission a schedule of
19 avoided costs equaling the utility’s forecasted incremental cost of electric
20 resources over at least the next [20] **35** years. Prices contained in the
21 schedules filed by public utilities shall be reviewed and approved by the
22 commission.

23 “(2) An electric utility shall offer to purchase energy or energy and ca-
24 pacity whether delivered directly or indirectly from a qualifying facility.
25 Except as provided in subsection [(3)] **(4)** of this section, the price for such
26 a purchase shall not be less than the **electric** utility’s avoided costs. At the
27 option of the qualifying facility, exercised before beginning delivery of the
28 energy or energy and capacity, such prices may be based on:

29 “(a) The avoided costs calculated at the time of delivery; or

30 “(b) The projected avoided costs calculated at the time the legal obli-

1 gation to purchase the energy or energy and capacity is incurred. **Avoided**
2 **costs calculated under this paragraph shall:**

3 **“(A) Be available to the qualifying facility at fixed rates for:**

4 **“(i) A term that is at least 25 years; or**

5 **“(ii) If contract term lengths for the electric utility’s procurements**
6 **of comparable or avoided resources exceed 25 years, a longer term as**
7 **shall be provided for by the commission.**

8 **“(B) Not be less than the equivalent cost for a utility-owned facility**
9 **that is, if applicable, appropriately used as a reference facility;**

10 **“(C) Account for the scarcity of availability and development of**
11 **generation and transmission given reasonable projections of supply**
12 **and demand, which must consider the effects of local, state, regional**
13 **or federal laws relating to clean energy, emissions pricing, the social**
14 **cost of carbon, resilience or reliability requirements and an electric**
15 **utility’s anticipated or planned acquisitions in light of resource plan-**
16 **ning or the electric utility’s corporate clean energy goals; and**

17 **“(D) Account for penalties under ORS 469A.200.**

18 **“(3) In identifying resource needs through integrated resource**
19 **planning and in calculating avoided costs, an electric utility shall**
20 **forecast a reasonable failure rate for qualifying facilities as compared**
21 **to the total amount contracted.**

22 **“[(3)] (4) Nothing contained in ORS 543.610, 757.005 and 758.505 to 758.555**
23 **shall be construed to require an electric utility to pay full avoided-cost**
24 **prices for a purchase from a qualifying facility on which construction began**
25 **before November 8, 1978, but the price for a purchase from such a facility**
26 **shall be sufficient to encourage production of energy or energy and capacity.**

27 **“[(4)] (5) The rates of an electric utility for the sale of electricity shall**
28 **not discriminate against qualifying facilities.**

29 **“SECTION 26. Section 27 of this 2021 Act is added to and made a**
30 **part of ORS 758.505 to 758.555.**

1 **“SECTION 27. (1) Nothing in ORS 758.505 to 758.555 is intended to**
2 **provide the legal basis for assumption by the Public Utility Commis-**
3 **sion of subject matter jurisdiction over a dispute between a public**
4 **utility and a qualifying facility over an executed contract or an es-**
5 **tablished legally enforceable obligation for the qualifying facility to**
6 **sell energy or energy and capacity to the public utility.**

7 **“(2) The commission has subject matter jurisdiction over a com-**
8 **plaint brought by a qualifying facility against a public utility in order**
9 **to establish the terms and conditions of a legally enforceable obli-**
10 **gation for the qualifying facility to sell energy or energy and capacity**
11 **to a public utility.**

12 **“(3) A qualifying facility seeking a judicial declaration, interpreta-**
13 **tion or enforcement of a contract or legally enforceable obligation for**
14 **the qualifying facility to sell energy or energy and capacity to a public**
15 **utility is not required to first seek review by the commission.**

16
17 **“RESPONSIBLE LABOR STANDARDS**
18

19 **“SECTION 28. (1) As used in this section:**

20 **“(a) ‘Direct subsidy’ includes any grant, tax credit, construction**
21 **excise tax waiver, system development charge waiver, fee waiver, tax**
22 **abatement or other payment or financial benefit received by a person**
23 **from a state or local government entity for development of a**
24 **renewable energy generation facility.**

25 **“(b) ‘Electric company’ has the meaning given that term in ORS**
26 **757.600.**

27 **“(c) ‘Owner’ means the person that is the owner of a proposed**
28 **renewable energy generation facility in Oregon at the time of con-**
29 **struction of the facility.**

30 **“(d) ‘Qualified contract’ means a contract for construction of a**

1 **renewable energy generation facility in Oregon, where:**

2 **“(A) At the time of construction under the contract, the owner is**
3 **an electric company or has executed an agreement with an electric**
4 **company to sell to the electric company:**

5 **“(i) The facility; or**

6 **“(ii) Bundled or unbundled renewable energy certificates, as those**
7 **terms are defined in ORS 469A.005, associated with electricity that will**
8 **be generated by the facility; and**

9 **“(B) At the time the contract is executed, either:**

10 **“(i) A direct subsidy of \$750,000 or more has been secured for de-**
11 **velopment of the renewable energy generation facility; or**

12 **“(ii) The contract price is estimated to be \$30 million or more.**

13 **“(2) An owner may not award a qualified contract to a prospective**
14 **contractor unless the prospective contractor is a training agent as**
15 **defined in ORS 660.010.**

16 **“(3) Except as provided in subsection (6) of this section, an owner,**
17 **in all qualified contracts, shall require contractors to:**

18 **“(a) Award each subcontract with an estimated cost of at least**
19 **\$250,000 only to a subcontractor who is a training agent as defined in**
20 **ORS 660.010.**

21 **“(b) Provide in all subcontracts the contractor awards for work**
22 **under a qualified contract in which the contract price for the subcon-**
23 **tract exceeds \$250,000 that the subcontractor undertake the duties set**
24 **forth in paragraphs (c) and (d) of this subsection.**

25 **“(c) Pay the prevailing rate of wage for an hour’s work in the same**
26 **trade or occupation in the locality where the labor is performed and**
27 **employ apprentices to perform 15 percent of the work hours that**
28 **workers in apprenticeable occupations perform under the qualified**
29 **contract, except that if the proposed renewable energy generation fa-**
30 **cility will be located in a nonurban county as described in ORS 653.026,**

1 then the qualified contract may, unless otherwise prohibited by law,
2 allow a contractor to either:

3 “(A) Pay the prevailing rate of wage for an hour’s work in the same
4 trade or occupation in the locality where the labor is performed; or

5 “(B) Employ apprentices to perform 15 percent of the work hours
6 that workers in apprenticeable occupations perform under the quali-
7 fied contract.

8 “(d) Make good-faith efforts to encourage minority individuals,
9 women and service-disabled veterans to perform work under the con-
10 tract or subcontract. For the purposes of this paragraph, a contractor
11 or subcontractor makes a good-faith effort if the contractor or sub-
12 contractor, at a minimum, and without engaging in superficial or pro
13 forma actions:

14 “(A) Advertises apprenticeship opportunities available with the
15 contractor or subcontractor in general circulation publications, trade
16 association publications, social media websites and other printed and
17 electronic publications that serve an audience or readership that con-
18 sists primarily of minority individuals, women and service-disabled
19 veterans;

20 “(B) Provides written notice of apprenticeship opportunities avail-
21 able with the contractor or subcontractor directly to apprenticeship
22 programs in the local area in which work under the qualified contract
23 will occur;

24 “(C) Follows up on the contractor’s or subcontractor’s initial solici-
25 tations of interest by contacting individuals who responded to the
26 advertisements described in subparagraph (A) of this paragraph or who
27 otherwise expressed interest in becoming an apprentice to determine
28 with certainty whether the individual is interested in the opportunity;

29 “(D) Advises and assists interested individuals in completing any
30 required application materials or certifications or in providing any

1 other needed evidence of the individual's qualifications to become an
2 apprentice with the contractor or subcontractor; and

3 “(E) Uses the services of minority community organizations, mi-
4 nority contractor groups, local, state and federal minority business
5 assistance offices and other organizations that provide assistance in
6 recruiting minority individuals, women or service-disabled veterans
7 into any of the trades or occupations that the contractor or subcon-
8 tractor employs.

9 “(4) The provisions of this section may be met through the terms
10 of a community benefits agreement entered into between the prospec-
11 tive contractor and a local government as defined in ORS 174.116, a
12 school district as defined in ORS 332.002, a local environmental or
13 habitat conservation organization of another entity that exists for the
14 public benefit as identified by rule by the Public Utility Commission
15 under ORS 469A.210.

16 “(5) At least 30 days before making any final payment to a con-
17 tractor under a qualified contract, an owner shall determine the ex-
18 tent of the contractor's compliance with the requirements set forth in
19 subsection (3) of this section. An owner shall attest or declare, upon
20 penalty of perjury as described in ORCP 1 E, the extent to which the
21 requirements of this section were met during all periods of con-
22 struction, and shall provide the attestation or declaration to:

23 “(a) The Bureau of Labor and Industries; and

24 “(b) If a direct subsidy was secured for the development of the
25 renewable energy generation facility, the state or local government
26 entity that provided the direct subsidy.

27 “(6) The requirements of subsection (3) of this section do not apply
28 to a qualified contract if the owner determines that compliance with
29 the requirements would, with respect to the qualified contract:

30 “(a) Cause unreasonable expense or delay; or

1 **“(b) Limit the pool of bidders to fewer than three.**

2
3 **“CONFORMING AMENDMENTS**

4
5 **“SECTION 29.** ORS 756.534 is amended to read:

6 “756.534. Except as provided in ORS 756.040 [(4)] (5), the hearing may be
7 held at any place designated by the Public Utility Commission within this
8 state, or different parts of the hearing may be held at different places in this
9 state, as shall be designated by the commission. The hearing may be contin-
10 ued from time to time and place to place as ordered and fixed by the com-
11 mission.

12 **“SECTION 30.** ORS 756.062 is amended to read:

13 “756.062. (1) A substantial compliance with the requirements of the laws
14 administered by the Public Utility Commission is sufficient to give effect to
15 all the rules, orders, acts and regulations of the commission and they shall
16 not be declared inoperative, illegal or void for any omission of a technical
17 nature in respect thereto.

18 “(2) The provisions of such laws shall be liberally construed in a manner
19 consistent with the directives of ORS 756.040 (1) **and (2)** to promote the
20 public welfare, efficient facilities and substantial justice between customers
21 and public and telecommunications utilities.

22
23 **“CAPTIONS**

24
25 **“SECTION 31.** The unit captions used in this 2021 Act are provided
26 **only for the convenience of the reader and do not become part of the**
27 **statutory law of this state or express any legislative intent in the**
28 **enactment of this 2021 Act.”.**