HB 2021-11
(LC 3683)
4/2/21 (DJ/cpa/ps)

Requested by Representative HELM

PROPOSED AMENDMENTS TO
HOUSE BILL 2021

In line 2 of the printed bill, after the semicolon delete the rest of the line and insert "creating new provisions; amending ORS 469A.005, 469A.052, 469A.060, 469A.100, 469A.120, 469A.170, 469A.200, 469A.210, 756.040, 756.060, 756.062, 756.185, 756.534, 758.515 and 758.525; and repealing ORS 469A.075.".

Delete lines 4 through 11 and insert:

"**RENEWABLE PORTFOLIO STANDARDS**

"**(Acceleration for large utilities;**
legacy carbon-free electricity treatment)

"SECTION 1. ORS 469A.005 is amended to read:

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

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

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

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

"(A) Gives consideration for the service territory rights and the cost of

the facility, plant or equipment acquired and for depreciation, fair market value, reproduction cost and any other relevant factor; and

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

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

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

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

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

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

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

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

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

or an electric cooperative organized under ORS chapter 62.

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

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

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

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

"**(11)(a) 'Legacy carbon-free electricity' includes electricity, other than electricity described in ORS 469A.060 (2), that does not otherwise constitute qualifying electricity and that:**

"(A) Is BPA electricity other than the BPA electricity described in ORS 469A.060 (5); or

"(B) Is generated by a hydroelectric facility or a nuclear facility that is not marketed by the Bonneville Power Administration and that:

"(i) Became operational before the effective date of this 2021 Act; and

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

"(b) 'Legacy carbon-free electricity' does not include the amount of electricity generated by a facility described in paragraph (a) of this subsection that is in excess of the amount of electricity generated by that facility that was historically used to serve the load of an electric utility, calculated based on the lesser of:

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

"(B) The three-year average amount of electricity generated by that facility and used to serve the load of a utility based on the three most

recent years prior to the effective date of this 2021 Act.

"[*(11)*] **(12)** 'Qualifying electricity' means electricity described in ORS 469A.010.

"[*(12)*] **(13)** 'Renewable energy source' means a source of electricity described in ORS 469A.025 **(2)(g) or (7)**.

"[*(13)*] **(14)** 'Retail electricity consumer' means a retail electricity consumer, as defined in ORS 757.600, that is located in Oregon.

"[*(14)*] **(15)** 'Unbundled renewable energy certificate' means a renewable energy certificate for qualifying electricity that is acquired by an electric utility or electricity service supplier by trade, purchase or other transfer without acquiring the electricity that is associated with the renewable energy certificate.

"SECTION 2. ORS 469A.052 is amended to read:

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

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

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

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

"**(d) At least 23 percent of the electricity sold by an electric company to retail electricity consumers in the calendar year 2022 must be qualifying electricity;**

"[*(d)*] **(e)** At least 25 percent of the electricity sold by a consumer-owned

utility to retail electricity consumers in the calendar year 2025 and subsequent calendar years must be qualifying electricity;

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

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

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

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

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

"(g) In 2036 and each following calendar year before 2051, the share of qualifying electricity sold by an electric company to retail electricity consumers must increase by a constant amount such that in 2050 and subsequent calendar years, 100 percent of electricity sold by the electric company to retail electricity consumers is qualifying electricity.

"(2) If, on June 6, 2007, an electric utility makes sales of electricity to retail electricity consumers in an amount that equals less than three percent of all electricity sold to retail electricity consumers, but in any three consecutive calendar years thereafter makes sales of electricity to retail electricity consumers in amounts that average three percent or more of all

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

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

"(a) Beginning in the fourth calendar year after the calendar year in which the electric utility becomes subject to the renewable portfolio standard described in this subsection, at least five percent of the electricity sold by the electric utility to retail electricity consumers in a calendar year must be qualifying electricity;

"(b) Beginning in the 10th calendar year after the calendar year in which the electric utility becomes subject to the renewable portfolio standard described in this subsection, at least 15 percent of the electricity sold by the electric utility to retail electricity consumers in a calendar year must be qualifying electricity;

"(c) Beginning in the 15th calendar year after the calendar year in which the electric utility becomes subject to the renewable portfolio standard described in this subsection, at least 20 percent of the electricity sold by the electric utility to retail electricity consumers in a calendar year must be qualifying electricity; and

"(d) Beginning in the 20th calendar year after the calendar year in which the electric utility becomes subject to the renewable portfolio standard described in this subsection, at least 25 percent of the electricity sold by the electric utility to retail electricity consumers in a calendar year must be qualifying electricity.

"SECTION 3. ORS 469A.060 is amended to read:

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

"(a) Compliance with the standard would require the electric utility to acquire electricity in excess of the electric utility's projected load requirements in any calendar year; and

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

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

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

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

"(b) If a contract described in paragraph (a) of this subsection expires and is not renewed or replaced, or if a legacy carbon-free electricity generating facility is retired or removed from service to retail electricity consumers, beginning in the calendar year following the expiration, retirement or removal, the electric utility's obligation to comply with the renewable portfolio standard applicable to the electric utility may no longer be reduced by the amount of legacy carbon-free electricity that was available to the electric utility prior to the expiration, retirement or removal.

"(4)(a) Subject to paragraphs (b) and (c) of this subsection, electric utilities are not required to comply with a renewable portfolio standard to the extent that compliance would require the electric utility to substitute qualifying electricity for electricity available to the utility from an electricity storage facility if:

"(A) The stored electricity is:

"(i) Electricity that was generated from a renewable energy source; or

"(ii) Legacy carbon-free electricity; and

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

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

"(c) In order to account for the round-trip efficiency losses in the charging and discharging of storage technologies, the amount of electricity available to the utility from an electricity storage facility for purposes of this subsection shall be calculated by determining the average of:

"(A) The output of the original source of energy; and

"(B) The output of the electricity storage facility.

"[*(3)*] **(5)** A consumer-owned utility is not required to comply with a renewable portfolio standard to the extent that compliance would require the consumer-owned utility to reduce the consumer-owned utility's purchases of the lowest priced electricity from the Bonneville Power Administration pursuant to section 5 of the Pacific Northwest Electric Power Planning and Conservation Act of 1980, P.L. 96-501, as in effect on June 6, 2007. The exemption provided by this subsection applies only to firm commitments for BPA electricity that the Bonneville Power Administration has assured will be available to a consumer-owned utility to meet agreed portions of the consumer-owned utility's load requirements for a defined period of time.

"**(Generally)**

"SECTION 4. ORS 469A.100 is amended to read:

"469A.100. (1) Electric utilities are not required to comply with a renewable portfolio standard during a compliance year to the extent that the incremental cost of compliance, the cost of unbundled renewable energy certificates and the cost of alternative compliance payments under ORS 469A.180 exceeds four percent of the electric utility's annual revenue requirement for the compliance year.

"(2) For each electric company, the Public Utility Commission shall establish the annual revenue requirement for a compliance year no later than January 1 of the compliance year. For each consumer-owned utility, the governing body of the consumer-owned utility shall establish the annual revenue requirement for a compliance year.

"(3) The annual revenue requirement for an electric utility shall be calculated based only on the operations of the electric utility relating to electricity. The annual revenue requirement does not include any amount expended by the electric utility for energy efficiency programs for customers

of the electric utility or for low income energy assistance, the incremental cost of compliance with a renewable portfolio standard, the cost of unbundled renewable energy certificates or the cost of alternative compliance payments under ORS 469A.180. The annual revenue requirement does include:

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

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

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

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

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

"(c) Transmission and substation costs;

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

"**(e) Costs associated with compliance with all applicable local, state, regional or federal laws other than the renewable portfolio standard, including but not limited to laws relating to emissions pricing, the social cost of carbon, resilience or reliability; and**

"[*(e)*] **(f)** Costs associated with using other assets, physical or financial, to integrate, firm or shape renewable energy sources on a firm annual basis

to meet retail electricity needs.

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

"(6) The commission shall establish limits on the incremental cost of compliance with the renewable portfolio standard for electricity service suppliers under ORS 469A.065 that are the equivalent of the cost limits applicable to the electric companies that serve the territories in which the electricity service supplier sells electricity to retail electricity consumers. If an electricity service supplier sells electricity in territories served by more than one electric company, the commission may provide for an aggregate cost limit based on the amount of electricity sold by the electricity service supplier in each territory. Pursuant to ORS 757.676, a consumer-owned utility may establish limits on the cost of compliance with the renewable portfolio standard for electricity service suppliers that sell electricity in the territory served by the consumer-owned utility.

"SECTION 5. ORS 469A.120 is amended to read:

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

"(2)(a) The Public Utility Commission shall establish an automatic adjustment clause as defined in ORS 757.210 or another method that allows timely recovery of costs prudently incurred by an electric company to con-

struct or otherwise acquire facilities that generate electricity from renewable energy sources, costs related to associated electricity transmission and costs related to associated energy storage.

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

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

"(b) Notwithstanding any other provision of law, upon the request of any interested person the commission shall conduct a proceeding to determine whether to approve a proposed change in rates under the automatic adjustment clause or other method for timely recovery of costs. The commission shall provide parties to the proceeding with the procedural rights described in ORS 756.500 to 756.610, including but not limited to the opportunity to develop an evidentiary record, conduct discovery, introduce evidence, conduct cross-examination and submit written briefs and oral argument. The commission shall issue a written order with findings on the evidentiary re-

cord developed in the proceeding.

"(c) A filing made under this subsection is subject to the commission's authority under ORS 757.215 to suspend a rate, or schedule of rates, for investigation.

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

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

"(2) The commission shall review each compliance report filed under this section by an electric company or electricity service supplier for the purposes of determining whether the company or supplier has complied with the renewable portfolio standard applicable to the company or supplier and the manner in which the company or supplier has complied. In reviewing the reports, the commission shall consider:

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

"(A) Bundled renewable energy certificates;

"(B) Unbundled renewable energy certificates;

"(C) Banked renewable energy certificates; and

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

"(b) The timing of electricity purchases.

"(c) The market prices for electricity purchases and unbundled renewable energy certificates.

"(d) Whether the actions taken by the company or supplier are contributing to long term development of generating capacity using renewable en-

ergy sources.

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

"(f) Good faith forecasting differences associated with the projected number of retail electricity consumers served and the availability of electricity from renewable energy sources.

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

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

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

"SECTION 7. ORS 469A.200 is amended to read:

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

"**(2)** A penalty under this section is in addition to any alternative compliance payment required or elected under ORS 469A.180 **and may not be recovered in the rates of an electric company**. Moneys paid for penalties under this section shall be transmitted by the commission to the nongovernmental entity receiving moneys under ORS 757.612 (3)(d) and may be used only for the purposes specified in ORS 757.612 (1).

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

"(Siting Criteria: 50 percent for direct energy resiliency or environmental benefits)

"SECTION 8. Section 9 of this 2021 Act is added to and made a part of ORS 469A.005 to 469A.210.

"SECTION 9. (1) As used in this section, 'renewable energy certificates' means bundled renewable energy certificates and unbundled renewable energy certificates.

"(2)(a) The Legislative Assembly declares that the State of Oregon has a substantial state interest in:

"(A) Creating a more resilient supply of electricity used to serve retail electricity consumers; and

"(B) Ensuring that efforts to reduce the greenhouse gas emissions attributable to this state provide direct environmental benefits in this state.

"(b) The Legislative Assembly further finds and declares that:

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

"(i) Increases resilience without causing the harmful side effects of emissions emitted from electricity generating facilities;

"(ii) Reduces the costs and delays associated with constructing additional transmission capacity to connect remote electricity generating and storage facilities; and

"(iii) Reduces the wildfire-related resiliency risks to the electricity grid that increase with the remoteness of electricity generating and storage facilities; and

"(B) Replacing electricity generating facilities that utilize petroleum, natural gas or coal as an energy source with electricity generating and storage facilities that utilize renewable energy sources can result in the reduction or avoidance of emissions of air contaminants other than greenhouse gases and can provide particular benefits to historically disadvantaged communities that have been traditionally

and disproportionately burdened with the health, financial and other adverse impacts associated with air contaminants other than greenhouse gases emitted from electricity generating facilities and other waste products from power generation.

"(3) In pursuit of the substantial state interests set forth in subsection (2)(a) of this section and in addition to the requirements of ORS 469A.135:

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

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

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

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

"(A) Increased reliability in parts of this state that typically experience more frequent or longer service disruptions or that are more likely to be impacted by a catastrophic event;

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

sources in remote communities;

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

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

"(E) Reduced reliance on long-distance transmission;

"(F) Investment in communities and households in this state that are least able to afford technologies that improve the reliability of electricity service; or

"(G) Other local resiliency augmenting benefits for retail electricity consumers as may be identified by rule by the State Department of Energy, in consultation with the Public Utility Commission;

"(b) Contributes to a reduction in or avoidance of emissions of any air contaminant or water contaminant in this state other than a greenhouse gas; or

"(c) Contributes to an improvement in the health of natural and working lands in this state.

"(5) There is a rebuttable presumption that an electricity generating or storage facility provides direct energy resiliency or environmental benefits in this state for purposes of this section if the facility:

"(a) Is directly interconnected in this state to the electrical grid of an electric utility serving retail electricity consumers;

"(b) Is directly interconnected to the Bonneville Power Administration contiguous transmission grid serving this state;

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

"(d) Is a community solar project from which electricity is procured pursuant to the program adopted under ORS 757.386;

"(e) Is a solar energy resource connected behind the meter of a retail electricity consumer that includes battery storage capable of providing temporary electric power in the event of a power outage; or

"(f) Relies on transmission facilities to transmit electricity for no more than 50 miles to reach the contiguous border of this state from

an adjoining state in order to serve retail electricity consumers.

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

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

"**COMMUNITY-BASED RENEWABLE ENERGY**

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

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

"469A.210. **(1) As used in this section:**

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

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

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

"[*(2) For purposes related to the findings in subsection (1) of this section,*

by the year 2025, at least eight percent of the aggregate electrical capacity of all electric companies that make sales of electricity to 25,000 or more retail electricity consumers in this state must be composed of electricity generated by one or both of the following sources:]

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

"(A) By 2030, five percent; and

"(B) by 2035, 10 percent.

"(b) An electric company may comply with paragraph (a) of this subsection through sales of electricity composed of electricity generated by:

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

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

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

"(i) Are located, with the consent of the relevant tribal government as defined in ORS 181A.680, within the boundaries of an Indian reservation or land held in trust by the United States for the benefit of a federally recognized Oregon Indian tribe; or

"(ii) Have executed a community benefits agreement with a local

government as defined in ORS 174.116, a school district as defined in ORS 332.002, a local environmental or habitat conservation organization or another entity that exists for the public benefit as identified by rule by the Public Utility Commission.

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

"(A) Located in the electric company's service territory;

"(B) Directly interconnected with the transmission system owned or managed by the electric company; or

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

"(b) An electric company must cooperate with the efforts of a facility described in subsection (2) of this section to be designated as a network resource.

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

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

"(2) The amendments to ORS 469A.210 by section 12 of this 2021 Act are not intended to modify, delay or alter the timeline for any procurement or request for proposals initiated on, before or after the effective date of this 2021 Act for which rulemaking is not necessary to

determine whether the procurement or request for proposals will count toward compliance by an electric company with ORS 469A.210.

"INTEGRATED CLEAN ENERGY IMPLEMENTATION PLANNING

"SECTION 14. ORS 469A.075 is repealed.

"SECTION 15. Section 16 of this 2021 Act is added to and made a part of ORS chapter 757.

"SECTION 16. (1) As used in this section:

"(a) 'Clean energy standards' means:

"(A) The renewable portfolio standards described in ORS 469A.052 and 469A.055; and

"(B) The standard set forth in ORS 469A.210.

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

"(c) 'Qualifying electricity' has the meaning given that term in ORS 469A.005.

"(d) 'Renewable energy certificates' means bundled renewable energy certificates as that term is defined in ORS 469A.005 and unbundled renewable energy certificates as that term is defined in ORS 469A.005.

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

"(f) 'Transportation electrification' has the meaning given that term in ORS 757.357.

"(2) An electric company shall develop an integrated, clean energy implementation plan for meeting the requirements of all clean energy standards applicable to the electric company and file the implementation plan with the Public Utility Commission. Implementation plans must be revised and updated at least once every two years.

"(3) At a minimum, an implementation plan must contain:

"(a) Annual targets for acquisition and use of, as applicable:

"(A) Qualifying electricity; and

"(B) Electricity generated by sources described in ORS 469A.210 (3).

"(b) Annual targets for the development, acquisition and use of transmission and grid interconnection capacity necessary to comply with the clean energy standards applicable to the electric company, which must consider approaches for meeting the clean energy standards that reduce new or major transmission line construction and must consider:

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

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

"(c) The estimated cost of meeting the annual targets described in paragraphs (a) and (b) of this subsection, including the cost of transmission, the cost of firming, shaping and integrating qualifying electricity, the cost of alternative compliance payments under ORS 469A.180 and the cost of acquiring renewable energy certificates.

"(d) An identification of any need to develop new, or to expand or upgrade existing, bulk transmission and distribution facilities and an assessment of the timeline to develop, expand or upgrade those facilities, including an evaluation and identification of:

"(A) Grid facilities and other solutions that may beneficially mitigate the status, schedule, cost and timeline risks related to developing new transmission capacity; and

"(B) The planning, construction, financing and coordination with Bonneville Power Administration, and coordination with other regional transmission owners, as is necessary to meet the requirements of ORS 469A.005 to 469A.210.

"(e) An assessment and 10-year forecast of the availability, including the likely and achievable rates of development of, the regional generation and transmission capacity that the electric company intends to rely on to provide and deliver electricity to its retail electricity consumers, which must include:

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

"(B) An analysis of how the implementation of the laws of other states or the federal government relating to clean energy, including planned or prospective regional generating facility removals, restrictions or retirements in compliance with those laws and the associated costs and other impacts of the removals, restrictions or retirements, may affect the electric company's ability to adequately and timely procure energy or energy and capacity as necessary to comply with the clean energy standards applicable to the electric company.

"(f) An identification of the generating and storage resources, by individual resource where applicable and generally in all cases by categories of resources and ownership types, that may be acquired to meet the clean energy standards applicable to the electric company, and an evaluation of how each identified resource, and the potential geographic location of the resource, is expected to simultaneously contribute to the electric company meeting its obligations under:

"(A) The applicable clean energy standards; and

"(B) The mandatory and enforceable reliability standards of the North American Electric Reliability Corporation or its successor organization, or any other reliability standards as the commission may require.

"(g) A forecast of distributed energy resources, including those re-

lated to transportation electrification, that may be installed by the electric company or the electric company's retail electricity consumers, and an assessment of the effects of those distributed energy resources on the electric company's load, operations and compliance obligations under the clean energy standards applicable to the electric company.

"(h) An identification of the potential cost-effective demand response and load management programs that may be acquired, implemented or supported by the electric company.

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

"(j) An identification and status of additional staffing and other resources necessary for the electric company, the commission or affected stakeholders to facilitate and ensure compliance with the clean energy standards applicable to the electric company, including additional staffing and other resources necessary to specifically address:

"(A) Transmission needs;

"(B) Timely generation and storage interconnection by third party facility developers;

"(C) Regional transmission planning and policy development; and

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

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

"(A) Mitigating energy costs for low-income and historically disadvantaged retail electricity consumers; and

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

"(L) An evaluation of the options, ability, costs and risk mitigation benefits to exceeding each of the clean energy standards applicable to the electric company, including as compared to the societal costs and risks of noncompliance such as public health risks and the environmental impacts of climate change, particularly for economically or environmentally vulnerable communities.

"(4) The commission shall acknowledge or reject an implementation plan no later than six months after the implementation plan is filed with the commission. The commission may acknowledge or reject the implementation plan subject to conditions specified by the commission.

"(5)(a) The commission shall adopt rules:

"(A) Establishing requirements for the content of implementation plans;

"(B) Establishing the procedure for acknowledgment of implementation plans under this section, including provisions for public comment;

"(C) Providing for the integration of an implementation plan with the integrated resource planning guidelines established by the commission for the purpose of planning for the least-cost, least-risk acquisition of resources; and

"(D) Providing for the evaluation of competitive bidding processes that allow for diverse ownership of renewable energy sources that generate qualifying electricity.

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

"(A) Be conducted as part of the integrated resource planning described in paragraph (a)(C) of this subsection; and

"(B) Be used in setting avoided-cost rates pursuant to ORS 758.525 and other ratemaking activities relative to utility load service and reliability assurance planning.

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

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

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

"CLEAN ENERGY STORAGE

"SECTION 19. Section 20 of this 2021 Act is added to and made a

part of ORS chapter 757.

"SECTION 20. (1) As used in this section, 'energy storage system' means a technology that is capable of retaining energy, storing the energy for a period of time and delivering the energy after storage.

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

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

"UTILITY REGULATION GENERALLY

"SECTION 21. ORS 756.040 is amended to read:

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

"(a) Commensurate with the return on investments in other enterprises having corresponding risks; and

"(b) Sufficient to ensure confidence in the financial integrity of the utility, allowing the utility to maintain its credit and attract capital.

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

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

"(A) The provision by the public utility or telecommunications utility of safe and reliable services; and

"(B) The establishment by the public utility or telecommunications utility of safe and reliable infrastructure;

"(b) Developing and implementing policies and rules that encourage social equity, environmental justice, the enhancement of the environment, greenhouse gas emissions reductions, diversity of the ownership and locations of electricity generation systems, resiliency for emergency conditions including wildfire risks and the fulfillment of the state's energy and climate policies;

"(c) Allowing and fostering broad participation in the regulatory process; and

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

"[*(2)*] **(3)** The commission is vested with power and jurisdiction to supervise and regulate every public utility and telecommunications utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction.

"[*(3)*] **(4)** The commission may participate in any proceeding before any public officer, commission or body of the United States or any state for the purpose of representing the public generally and the customers of the ser-

vices of any public utility or telecommunications utility operating or providing service to or within this state.

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

"SECTION 22. ORS 756.060 is amended to read:

"756.060. **(1)** The Public Utility Commission may adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission and may adopt and publish reasonable and proper rules to govern proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and telecommunications utilities and other parties before the commission.

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

"SECTION 23. ORS 756.185 is amended to read:

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

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

"**(c) If the wrong or omission as described in paragraph (a) of this**

subsection was a violation of any of the following, the public utility is liable to the person injured by the wrong or omission in treble the amount of damages sustained in consequence of the violation:

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

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

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

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

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

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

"**(4) Damages and attorney fees paid by a public utility to a prevailing party in an action under this section may not be recovered in the rates of the public utility.**

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

"**COGENERATION AND SMALL POWER PRODUCTION FACILITIES**

"SECTION 24. ORS 758.515 is amended to read:

"758.515. The Legislative Assembly finds and declares that:

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

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

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

"(b) Insure that rates for purchases by an electric utility from, and rates for sales to, a qualifying facility shall over the term of a contract be just and reasonable to the electric consumers of the electric utility, the qualifying facility and in the public interest.

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

"(a) Increase the marketability of electric energy produced by qualifying facilities located throughout the state for the benefit of Oregon's citizens; and

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

"SECTION 25. ORS 758.525 is amended to read:

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

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

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

"(b) The projected avoided costs calculated at the time the legal obligation to purchase the energy or energy and capacity is incurred. **Avoided**

costs calculated under this paragraph shall:

"(A) Be available to the qualifying facility at fixed rates for:

"(i) A term that is at least 25 years; or

"(ii) If contract term lengths for the electric utility's procurements of comparable or avoided resources exceed 25 years, a longer term as shall be provided for by the commission.

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

"(C) Account for the scarcity of availability and development of generation and transmission given reasonable projections of supply and demand, which must consider the effects of local, state, regional or federal laws relating to clean energy, emissions pricing, the social cost of carbon, resilience or reliability requirements and an electric utility's anticipated or planned acquisitions in light of resource planning or the electric utility's corporate clean energy goals; and

"(D) Account for penalties under ORS 469A.200.

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

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

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

"SECTION 26. Section 27 of this 2021 Act is added to and made a part of ORS 758.505 to 758.555.

"SECTION 27. (1) Nothing in ORS 758.505 to 758.555 is intended to

provide the legal basis for assumption by the Public Utility Commission of subject matter jurisdiction over a dispute between a public utility and a qualifying facility over an executed contract or an established legally enforceable obligation for the qualifying facility to sell energy or energy and capacity to the public utility.

"(2) The commission has subject matter jurisdiction over a complaint brought by a qualifying facility against a public utility in order to establish the terms and conditions of a legally enforceable obligation for the qualifying facility to sell energy or energy and capacity to a public utility.

"(3) A qualifying facility seeking a judicial declaration, interpretation or enforcement of a contract or legally enforceable obligation for the qualifying facility to sell energy or energy and capacity to a public utility is not required to first seek review by the commission.

"RESPONSIBLE LABOR STANDARDS

"SECTION 28. (1) As used in this section:

"(a) 'Direct subsidy' includes any grant, tax credit, construction excise tax waiver, system development charge waiver, fee waiver, tax abatement or other payment or financial benefit received by a person from a state or local government entity for development of a renewable energy generation facility.

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

"(c) 'Owner' means the person that is the owner of a proposed renewable energy generation facility in Oregon at the time of construction of the facility.

"(d) 'Qualified contract' means a contract for construction of a renewable energy generation facility in Oregon, where:

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

"(i) The facility; or

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

"(B) At the time the contract is executed, either:

"(i) A direct subsidy of $750,000 or more has been secured for development of the renewable energy generation facility; or

"(ii) The contract price is estimated to be $30 million or more.

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

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

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

"(b) Provide in all subcontracts the contractor awards for work under a qualified contract in which the contract price for the subcontract exceeds $250,000 that the subcontractor undertake the duties set forth in paragraphs (c) and (d) of this subsection.

"(c) Pay the prevailing rate of wage for an hour's work in the same trade or occupation in the locality where the labor is performed and employ apprentices to perform 15 percent of the work hours that workers in apprenticeable occupations perform under the qualified contract, except that if the proposed renewable energy generation facility will be located in a nonurban county as described in ORS 653.026, then the qualified contract may, unless otherwise prohibited by law,

allow a contractor to either:

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

"(B) Employ apprentices to perform 15 percent of the work hours that workers in apprenticeable occupations perform under the qualified contract.

"(d) Make good-faith efforts to encourage minority individuals, women and service-disabled veterans to perform work under the contract or subcontract. For the purposes of this paragraph, a contractor or subcontractor makes a good-faith effort if the contractor or subcontractor, at a minimum, and without engaging in superficial or pro forma actions:

"(A) Advertises apprenticeship opportunities available with the contractor or subcontractor in general circulation publications, trade association publications, social media websites and other printed and electronic publications that serve an audience or readership that consists primarily of minority individuals, women and service-disabled veterans;

"(B) Provides written notice of apprenticeship opportunities available with the contractor or subcontractor directly to apprenticeship programs in the local area in which work under the qualified contract will occur;

"(C) Follows up on the contractor's or subcontractor's initial solicitations of interest by contacting individuals who responded to the advertisements described in subparagraph (A) of this paragraph or who otherwise expressed interest in becoming an apprentice to determine with certainty whether the individual is interested in the opportunity;

"(D) Advises and assists interested individuals in completing any required application materials or certifications or in providing any other needed evidence of the individual's qualifications to become an

apprentice with the contractor or subcontractor; and

"(E) Uses the services of minority community organizations, minority contractor groups, local, state and federal minority business assistance offices and other organizations that provide assistance in recruiting minority individuals, women or service-disabled veterans into any of the trades or occupations that the contractor or subcontractor employs.

"(4) The provisions of this section may be met through the terms of a community benefits agreement entered into between the prospective contractor and a local government as defined in ORS 174.116, a school district as defined in ORS 332.002, a local environmental or habitat conservation organization of another entity that exits for the public benefit as identified by rule by the Public Utility Commission under ORS 469A.210.

"(5) At least 30 days before making any final payment to a contractor under a qualified contract, an owner shall determine the extent of the contractor's compliance with the requirements set forth in subsection (3) of this section. An owner shall attest or declare, upon penalty of perjury as described in ORCP 1 E, the extent to which the requirements of this section were met during all periods of construction, and shall provide the attestation or declaration to:

"(a) The Bureau of Labor and Industries; and

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

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

"(a) Cause unreasonable expense or delay; or

"(b) Limit the pool of bidders to fewer than three.

"**CONFORMING AMENDMENTS**

"SECTION 29. ORS 756.534 is amended to read:

"756.534. Except as provided in ORS 756.040 [*(4)*] **(5)**, the hearing may be held at any place designated by the Public Utility Commission within this state, or different parts of the hearing may be held at different places in this state, as shall be designated by the commission. The hearing may be continued from time to time and place to place as ordered and fixed by the commission.

"SECTION 30. ORS 756.062 is amended to read:

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

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

"**CAPTIONS**

"SECTION 31. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.".
