

Requested by Representative OWENS

**PROPOSED AMENDMENTS TO
HOUSE BILL 2021**

1 In line 2 of the printed bill, after the semicolon delete the rest of the line
2 and insert “creating new provisions; amending ORS 469A.005, 469A.180,
3 469A.205, 757.247, 757.603, 757.646 and 757.649; repealing ORS 469A.062 and
4 469A.100; and prescribing an effective date.”.

5 Delete lines 4 through 11 and insert:
6

7 **“CLEAN ENERGY TARGETS**
8

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

11 **“(1) ‘Baseline emissions level’ means:**

12 **“(a) For an electric company, the average annual emissions of**
13 **greenhouse gas for the years 2010, 2011 and 2012 associated with the**
14 **electricity sold to retail electricity consumers as reported under ORS**
15 **468A.280, or rules adopted pursuant thereto.**

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

21 **“(c) For an electricity service supplier that is first certified under**

1 **ORS 757.649 on or after the effective date of sections 1 to 15 of this 2021**
2 **Act, the baseline emissions level defined in paragraph (b) of this sub-**
3 **section shall be adjusted downward in the certification of the elec-**
4 **tricity service supplier under ORS 757.649 to a level that:**

5 **“(A) Reflects the continual progress made by other electricity ser-**
6 **vice suppliers toward meeting the clean energy targets set forth in**
7 **section 3 of this 2021 act, as determined under section 5 (3) of this 2021**
8 **Act; and**

9 **“(B) Prevents the creation of a competitive disadvantage among**
10 **electricity service suppliers.**

11 **“(2) ‘Community-based renewable energy’ means one or more**
12 **renewable energy systems and storage systems that:**

13 **“(a) Interconnect to utility distribution assets to assist in develop-**
14 **ment of microgrids, demand response measures, energy-related**
15 **infrastructure that promotes climate resiliency, and other such**
16 **measures;**

17 **“(b) Provide a direct benefit to a particular community through a**
18 **community-benefits agreement or direct ownership by a local govern-**
19 **ment, nonprofit community organization or federally recognized In-**
20 **dian tribe; and**

21 **“(c) Result in increased resiliency or community stability, local**
22 **jobs, economic development or direct energy cost savings to families**
23 **and small businesses.**

24 **“(3) ‘Electric company,’ ‘electricity service supplier’ and ‘electric**
25 **utility’ have the meanings given those terms in ORS 757.600.**

26 **“(4) ‘Environmental justice’ means equal protection from environ-**
27 **mental and health hazards and meaningful public participation in de-**
28 **isions that affect the environment in which people live, work, learn,**
29 **practice spirituality and play.**

30 **“(5) ‘Environmental justice communities’ means communities of**

1 color, communities experiencing lower incomes, tribal communities,
2 rural communities, coastal communities, communities with limited
3 infrastructure and other communities traditionally underrepresented
4 in public processes and adversely harmed by environmental and health
5 hazards, including but not limited to, seniors, youth and persons with
6 disabilities.

7 “(6) ‘Greenhouse gas’ has the meaning given that term in ORS
8 468A.210.

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

12 “(8) ‘Retail electricity consumer’ means a retail electricity con-
13 sumer, as defined in ORS 757.600, that is serviced by a retail electricity
14 provider and located in this state.

15 “(9) ‘Retail electricity provider’ means an electric company or
16 electricity service supplier.

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

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

21 **“(1) That retail electricity providers rely on nonemitting electricity**
22 **to meet the clean energy targets set forth in section 3 of this 2021 Act**
23 **and eliminate greenhouse gas emissions associated with serving**
24 **Oregon retail electricity consumers by 2040.**

25 **“(2) That electricity generated in a manner that produces zero**
26 **greenhouse gas emissions also be generated, to the maximum extent**
27 **practicable, in a manner that provides additional direct benefits to**
28 **communities in this state in the forms of creating and sustaining**
29 **meaningful living wage jobs, promoting workforce equity and increas-**
30 **ing energy security and resiliency; and**

1 **“(3) That implementation of sections 1 to 15 of this 2021 Act be done**
2 **in a manner that minimizes burdens for environmental justice com-**
3 **munities.**

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

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

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

13 **“(c) By 2040, 100 percent below baseline emissions level.**

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

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

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

24 **“(3)(a) A clean energy plan must be based on or included in an in-**
25 **tegrated resource plan filing made no earlier than January 1, 2022 and**
26 **filed no later than 180 days after the integrated resource plan is filed,**
27 **or developed within an integrated resource planning process and in-**
28 **corporated into the integrated resource plan filed with the commis-**
29 **sion.**

30 **“(b) Notwithstanding paragraph (a) of this subsection, a clean en-**

1 **ergy plan developed by a multistate jurisdictional electric company**
2 **must be based on or contained in other information developed con-**
3 **sistent with a cost-allocation methodology approved by the commis-**
4 **sion.**

5 **“(4) A clean energy plan must:**

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

8 **“(b) Include annual goals set by the electric company for actions**
9 **that make progress towards meeting the clean energy targets set forth**
10 **in section 3 of this 2021 Act, including but not limited to acquisition**
11 **of nonemitting generation resources, short and long duration energy**
12 **storage, energy efficiency measures and acquisition and use of demand**
13 **response resources;**

14 **“(c) Demonstrate the electric company is making continual**
15 **progress within the planning period towards meeting the clean energy**
16 **targets set forth in section 3 of this 2021 Act, including but not limited**
17 **to demonstrating a projected reduction of annual greenhouse gas**
18 **emissions; and**

19 **“(d) Result in an affordable, reliable and clean electric system.**

20 **“(5) Actions and investments proposed in a clean energy plan may**
21 **include the development or acquisition of clean energy resources, ac-**
22 **quisition of energy efficiency and demand response, including but not**
23 **limited to an acquisition required by ORS 757.054, development of new**
24 **transmission and other supporting infrastructure, retirement of ex-**
25 **isting generating facilities, short and long duration energy storage,**
26 **changes in system operation and any other necessary action.**

27 **“(6) The commission shall ensure that an electric company demon-**
28 **strates continual progress as described in subsection (4)(c) of this**
29 **section and is taking actions as soon as practicable that facilitate**
30 **rapid reduction of greenhouse gas emissions at reasonable costs to**

1 retail electricity consumers.

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

6 **“(A) For each electric company, the electric company’s baseline**
7 **emissions level; and**

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

11 **“(b) The department shall verify the projected greenhouse gas**
12 **emissions reductions as a result of a clean energy plan by using the:**

13 **“(A) Method of measuring greenhouse gas emissions for an electric**
14 **company set forth in ORS 468A.280; or**

15 **“(B) Information provided by an electricity service supplier under**
16 **subsection (3) of this section.**

17 **“(c) The department shall report the department’s findings to the**
18 **Public Utility Commission and the electric company seeking acknowl-**
19 **edgement of a clean energy plan by the commission.**

20 **“(2) The Public Utility Commission shall acknowledge the clean**
21 **energy plan if the commission finds the plan to be in the public in-**
22 **terest and consistent with the clean energy targets set forth in section**
23 **3 of this 2021 Act. In evaluating whether a plan is in the public inter-**
24 **est, the commission shall consider:**

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

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

28 **“(c) The effect of the plan on the reliability and resiliency of the**
29 **electric system;**

30 **“(d) Availability of federal incentives;**

1 “(e) Costs and risks to the customers; and

2 “(f) Any other relevant factors as determined by the commission.

3 “(3) In addition to the emissions report required under subsection
4 (4) of this section, an electricity service supplier shall report to the
5 commission:

6 “(a) An estimate of annual greenhouse gas emissions associated
7 with electricity sold by the electricity service supplier to retail elec-
8 tricity consumers for the current year and following three years;

9 “(b) Annual goals set by the electricity service supplier for actions
10 described under paragraph (c)(A) of this subsection, including but not
11 limited to a projected reduction of annual greenhouse gas emissions
12 associated with the electricity sold to retail electricity consumers by
13 the electricity service supplier;

14 “(c) Other information necessary, as determined by the commis-
15 sion, to demonstrate the electricity service supplier’s anticipated abil-
16 ity to meet the clean energy targets set forth in section 3 of this 2021
17 Act, including:

18 “(A) Actions to make continual progress toward meeting the clean
19 energy targets that are consistent with providing affordable, reliable,
20 and clean electricity service; and

21 “(B) Anticipated actions to facilitate rapid reductions of greenhouse
22 gas emissions at reasonable costs to retail electricity consumers served
23 by the electricity service supplier.

24 “(d) The commission shall review the information supplied by an
25 electricity service supplier under this subsection for the purposes of
26 determining whether the electricity service supplier is making con-
27 tinual and reasonable progress toward compliance with the clean en-
28 ergy targets set forth in section 3 of this 2021 Act.

29 “(4)(a) A retail electricity provider shall report annual greenhouse
30 gas emissions associated with the electricity sold to retail electricity

1 consumers by the retail electricity provider to the Department of En-
2 vironmental Quality in the manner set forth under ORS 468A.280, or
3 rules adopted pursuant thereto.

4 “(b) The Public Utility Commission shall use the greenhouse gas
5 emissions reported to the department under paragraph (a) of this
6 subsection and provided to the commission to determine whether or
7 not the retail electricity provider has met the clean energy targets set
8 forth in section 3 of this 2021 Act.

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

20 “(2)(a) The electric company shall develop, in consultation with the
21 Community Benefits and Impacts Advisory Group, a biennial report
22 that assesses the community benefits and impacts of the utility and
23 shall file the biennial report with the Public Utility Commission. The
24 biennial report must include a description of the following:

25 “(A) Energy burden and disconnections for residential customers
26 and disconnections for small commercial customers;

27 “(B) Opportunities to increase contracting with businesses owned
28 by women, veterans or Black, Indigenous, or People of Color;

29 “(C) Actions within environmental justice communities within the
30 electric company’s service territory intended to improve resilience

1 **during adverse conditions or facilitate investments in the distribution**
2 **system;**

3 **“(D) Distribution of infrastructure or grid investments and up-**
4 **grades in environmental justice communities in the electric company’s**
5 **service territory;**

6 **“(E) Social, economic or environmental justice cobenefits that re-**
7 **sult from the electric company’s investments, contracts or internal**
8 **practices;**

9 **“(F) Customer experience, including a review of annual customer**
10 **satisfaction surveys;**

11 **“(G) Actions to encourage customer engagement; and**

12 **“(H) Other items as determined by the electric company and the**
13 **electric company’s Community Benefits and Impacts Advisory Group.**

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

17 **“(A) The development and equitable implementation of a clean en-**
18 **ergy plan as determined in section 4 of this 2021 Act;**

19 **“(B) The development and equitable implementation of a distrib-**
20 **ution system plan;**

21 **“(C) Equitable contracting practices; and**

22 **“(D) Best practices and strategies for reducing energy burden and**
23 **disconnections in the electric company’s service territory.**

24 **“(3) The commission shall establish a process for an electric com-**
25 **pany to contemporaneously recover the cost associated with the de-**
26 **velopment of biennial reports and the costs associated with**
27 **compensation or reimbursement for time and travel of members of a**
28 **Community Benefits and Impacts Advisory Group.**

29 **“SECTION 7. Treatment of generation resources; greenhouse gas**
30 **emissions accounting. For the purposes of determining compliance**

1 with sections 1 to 15 of this 2021 Act, electricity shall have the emis-
2 sion attributes of the underlying generating resource or resources.

3 **“SECTION 8. Determining compliance with clean energy targets.**

4 **(1)(a) In determining whether a retail electricity provider has complied**
5 **with the clean energy targets set forth in section 3 of this 2021 Act,**
6 **the Public Utility Commission shall take into consideration unplanned**
7 **emissions in excess of the projection in the development of an electric**
8 **company’s clean energy plan submitted under section 4 of this 2021**
9 **Act or the information provided by an electricity service supplier un-**
10 **der section 5 (3) of this 2021 Act, to the extent:**

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

13 **“(B) Generation of electricity from nonemitting resources fore-**
14 **casted to meet electricity demand is less than expected, including but**
15 **not limited to, variability in the generation, transmission or other**
16 **causes; and**

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

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

28 **“(2) Greenhouse gas emissions associated with electricity acquired**
29 **from net metering of customer resources, a community solar project**
30 **as defined in ORS 757.386 or a qualifying facility under the terms of**

1 the Public Utility Regulatory Policies Act shall be excluded from the
2 determination of the retail electricity provider's total greenhouse gas
3 emissions.

4 “(3) For purposes of determining whether a retail electricity pro-
5 vider has complied with the clean energy targets set forth in section
6 3 of this 2021 Act, electricity acquired from power purchases from the
7 Bonneville Power Administration for delivery to Oregon retail elec-
8 tricity consumers shall be deemed nonemitting electricity.

9 “(4)(a) For a retail electricity provider that makes sales of elec-
10 tricity to retail electricity consumers in an amount that equals three
11 percent or more of all electricity sold to retail electricity consumers,
12 the commission shall initiate a process to update the avoided costs
13 calculated pursuant to ORS 758.525 for a qualifying facility under ORS
14 758.505 to ensure avoided costs accurately reflect the characteristics
15 of generators that contribute to compliance with sections 1 to 15 of
16 this 2021 Act.

17 “(b) The process initiated by the commission under paragraph (a)
18 of this subsection may commence no sooner than two calendar years
19 before the calendar year identified in the retail electricity provider's
20 acknowledged integrated resource plan that shows the retail electricity
21 provider will meet the requirements described in ORS 469A.052 (h) and
22 must conclude no later than the calendar year identified in the ac-
23 knowledged integrated resource plan that shows the retail electricity
24 provider will meet the requirements described in ORS 469A.052 (h).

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

1 **Act.**

2 **“(2) The commission may grant a temporary exemption if compli-**
3 **ance:**

4 **“(a) Conflicts with or compromises an electric company’s obligation**
5 **to comply with mandatory reliability standards set by the North**
6 **American Electric Reliability Corporation;**

7 **“(b) Violates or significantly impairs a resource adequacy require-**
8 **ment or recommendation of a multistate, regional or national entity;**

9 **“(c) Violates or significantly impairs an electric company’s ability**
10 **to comply with a Balancing Authority Area declaration of an energy**
11 **emergency alert under categories 1 through 3, as designated by the**
12 **North American Electric Reliability Corporation, or successor catego-**
13 **ries adopted after the effective date of this 2021 Act.**

14 **“(d) Results, regardless of best efforts to secure cost-effective non-**
15 **emitting energy resources or funding for energy efficiency and con-**
16 **servation, in the provision of service at other than fair and reasonable**
17 **rates; or**

18 **“(e) Otherwise compromises the power quality or integrity of an**
19 **electric company’s system.**

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

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

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

28 **“(c) A plan to achieve full compliance with the requirements of ORS**
29 **469A.052 or a clean energy plan adopted pursuant to sections 1 to 15**
30 **of this 2021 Act, including an estimate of the time needed to achieve**

1 full compliance.

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

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

11 “(a) Issue an order exempting the electric company from one or
12 more of the requirements of ORS 469A.052 or a clean energy plan
13 adopted pursuant to sections 1 to 15 of this 2021 Act for a length of
14 time sufficient to allow the electric company to achieve full compli-
15 ance in a manner that does not result in one or more of the issues
16 described under subsection (2) of this section;

17 “(b) Direct the electric company to take specific actions to remedy
18 the potential issue or issues identified in the order;

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

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

29 “(7) An electric company may request an extension of a temporary
30 exemption granted under this section. The electric company shall in-

1 **clude in the company’s request for an extension the same information**
2 **required under subsection (3) of this section and shall have the burden**
3 **of proof described under subsection (4) of this section.**

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

12 **“(9) The commission may grant an electric company or electricity**
13 **service supplier a temporary exemption that is comparable to a tem-**
14 **porary exemption previously granted to another electric company or**
15 **electricity service supplier without conducting an investigation under**
16 **subsection (1) of this section, if the commission determines that the**
17 **conditions that resulted in the previously granted temporary ex-**
18 **emption holds for the electric company or electricity service supplier.**

19 **“(10) Nothing in this section is intended to permanently relieve an**
20 **electric company or electricity service supplier of the obligation to**
21 **comply with the requirements of ORS 469A.052 or 469A.065 or sections**
22 **1 to 15 of this 2021 Act.**

23 **“SECTION 10. Cost cap for electric companies. (1) An electric com-**
24 **pany or an organization that represents broad customer interests and**
25 **that has a written agreement with an electric company pursuant to**
26 **ORS 757.072 may request that the Public Utility Commission open an**
27 **investigation to provide accounting for investments made, costs in-**
28 **curred or forecasted costs estimated by the electric company for the**
29 **purpose of compliance with sections 1 to 15 of this 2021 Act. In making**
30 **a request under this section, the petitioner shall provide information**

1 regarding the investments or costs sufficient to determine whether the
2 investments or costs contribute to compliance with sections 1 to 15 of
3 this 2021 Act.

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

9 “(b) The petitioner shall have the burden of showing, by a prepon-
10 derance of the evidence, that the investment or cost contributes to
11 compliance with sections 1 to 15 of this 2021 Act.

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

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

17 “(3) Upon determining that an investment or cost of an electric
18 company contributes to compliance with sections 1 to 15 of this 2021
19 Act, the commission shall determine the actual or anticipated rate
20 impact for the investment or cost on the same basis and with the same
21 treatment for similarly situated investments or costs in the most re-
22 cently approved general rate case or other relevant rate making pro-
23 ceeding. The commission shall use the actual or anticipated rate
24 impact of each investment or cost to calculate the cumulative rate
25 impact and shall:

26 “(a) Cumulatively calculate the rate impact caused by all invest-
27 ments or costs that have been the subject of a proceeding pursuant to
28 this section, and must be included in calculation for the time period
29 that the investment or cost would affect rates, as adjusted by any
30 change in net costs expected or foreseeable at the time of inclusion;

1 “(b) Make any adjustments to the cumulative rate impact if the
2 initial rate treatment was calculated on the basis of forecasted rate
3 impact;

4 “(c) Allow parties to the proceeding to propose alternative rate or
5 accounting treatment of the investment or cost to limit the potential
6 rate impact of the investment or cost; and

7 “(d) Utilize cost allocation methodologies for attributing rate im-
8 pacts of investments or costs for multistate electric companies.

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

15 “(a) Narrowly tailored to otherwise give full force and effect to the
16 requirements of sections 1 to 15 of this 2021 Act that can be complied
17 with without regard to the cumulative rate impact; and

18 “(b) Limited in duration to only such time as is necessary to allow
19 for additional investments and actual or forecasted costs to be made
20 or incurred without exceeding the cumulative rate impact.

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

26 “(6) The commission may, on its own motion pursuant to ORS
27 756.515, open a proceeding under this section and direct an electric
28 company to make a filing described under subsection (1) of this sec-
29 tion.

30 “SECTION 11. Cost cap for electricity service suppliers. The Public

1 Utility Commission shall provide the same opportunity to an electric-
2 ity service supplier as provided an electric company under section 10
3 of this 2021 Act to receive a comparable exemption from further com-
4 pliance with the requirements of sections 1 to 15 of this 2021 Act. A
5 comparable exemption shall be provided based on comparable proce-
6 dures and criteria, to the extent the procedures and criteria apply to
7 an electricity service supplier as applied to an electric company under
8 section 10 of this 2021 Act and adjusted to reflect applicable differences
9 between electricity service suppliers and electric companies.

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

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

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

19 **“(2) The commission shall review and identify costs incurred by**
20 **electric companies for obligations not similarly imposed on electricity**
21 **service suppliers to comply with sections 1 to 15 of this 2021 Act that**
22 **retail electric consumers served by electricity service suppliers may**
23 **avoid by obtaining electric power through direct access and ensure**
24 **that the identified costs are recovered from all retail electricity con-**
25 **sumers, are calculated and recovered on the basis of electricity con-**
26 **sumption and bear a direct relationship to costs borne by retail**
27 **electricity consumers served by electric companies.**

28 **“SECTION 15. Electricity market participation.** (1)(a) The Legisla-
29 tive Assembly finds that existing and future electricity markets will
30 play a critical role in the transformation of the electric sector to

1 nonemitting sources, as well as enabling load serving entities to re-
2 duce costs and serve load reliably by accessing resource and load di-
3 versity.

4 “(b) The Legislative Assembly further finds that accounting and
5 compliance frameworks designed to further the State of Oregon’s pol-
6 icy objectives should support and be consistent with efforts to enhance
7 the access to and scope of existing and potential future electricity
8 markets.

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

14 “(d) Over time, the evolution of regional wholesale electricity mar-
15 kets may necessitate the modification of existing accounting and
16 compliance rules to ensure the benefit of market participation are
17 preserved.

18 “(2) The Department of Environmental Quality may periodically
19 review and update its calculation under ORS 468A.280 of the
20 greenhouse gas emissions rates assigned to unspecified power pur-
21 chases and purchases of power dispatched by centralized market op-
22 erators to reflect the current resource mix and associated emissions
23 of such purchases. The department shall ensure that the calculation
24 of emissions rates under this section takes into account the potential
25 for the energy imbalance market and other centralized market oper-
26 ations across a wide geographic area to increase the availability of
27 nonemitting resources to serve load in the state.

28

29 “(Conforming amendments)

30

1 **“SECTION 16. ORS 469A.062 and 469A.100 are repealed.**

2 **“SECTION 17.** ORS 469A.180 is amended to read:

3 “469A.180. (1) The Public Utility Commission shall establish an alterna-
4 tive compliance rate for each compliance year for each electric company or
5 electricity service supplier that is subject to a renewable portfolio standard.
6 The rate shall be expressed in dollars per megawatt-hour.

7 “(2) The commission shall establish an alternative compliance rate based
8 on the cost of qualifying electricity, contracts that the electric company or
9 electricity service supplier has acquired for future delivery of qualifying
10 electricity and the number of unbundled renewable energy certificates that
11 the company or supplier anticipates using in the compliance year to meet the
12 renewable portfolio standard applicable to the company or supplier. The
13 commission shall also consider any determinations made under ORS 469A.170
14 in reviewing the compliance report made by the electric company or elec-
15 tricity service supplier for the previous compliance year. In establishing an
16 alternative compliance rate, the commission shall set the rate to provide
17 adequate incentive for the electric company or electricity service supplier to
18 purchase or generate qualifying electricity in lieu of using alternative com-
19 pliance payments to meet the renewable portfolio standard applicable to the
20 company or supplier.

21 “(3) An electric company or electricity service supplier may elect to use,
22 or may be required by the commission to use, alternative compliance pay-
23 ments to comply with the renewable portfolio standard applicable to the
24 company or supplier. Any election by an electric company or electricity ser-
25 vice supplier to use alternative compliance payments is subject to review by
26 the commission under ORS 469A.170. [*An electric company or electricity ser-*
27 *vice supplier may not be required to make alternative compliance payments that*
28 *would result in the company or supplier exceeding the cost limitation estab-*
29 *lished under ORS 469A.100.]*

30 “(4) The commission shall determine for each electric company the extent

1 to which alternative compliance payments may be recovered in the rates of
2 the company. Each electric company shall deposit any amounts recovered in
3 the rates of the company for alternative compliance payments in a holding
4 account established by the company. Amounts in the holding account shall
5 accrue interest at the rate of return authorized by the commission for the
6 electric company.

7 “(5) Amounts in holding accounts established under subsection (4) of this
8 section may be expended by an electric company only for costs of acquiring
9 new generating capacity from renewable energy sources, investments in effi-
10 ciency upgrades to electricity generating facilities owned by the company
11 and energy conservation programs within the company’s service area. The
12 commission must approve expenditures by an electric company from a hold-
13 ing account established under subsection (4) of this section. Amounts that
14 are collected from customers and spent by an electric company under this
15 subsection may not be included in the company’s rate base.

16 “(6) The commission shall require electricity service suppliers to establish
17 holding accounts and make payments to those accounts on a substantially
18 similar basis as provided for electric companies. The commission must ap-
19 prove expenditures by an electricity service supplier from a holding account
20 established under this subsection. The commission may approve expenditures
21 only for energy conservation programs for customers of the electricity ser-
22 vice supplier.

23

24 **“STUDY ON SMALL SCALE RENEWABLE ENERGY PROJECTS**

25

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

1 “(a) One state representative appointed by the Speaker of the
2 House;

3 “(b) One senator appointed by the President of the Senate; and

4 “(c) Individuals who represent:

5 “(A) Renewable energy developers;

6 “(B) Investor-owned electric utilities in this state;

7 “(C) Consumer-owned utilities in this state;

8 “(D) Electricity service suppliers;

9 “(E) Residential, commercial and industrial rate payers;

10 “(F) Cities and counties;

11 “(G) Tribal governments;

12 “(H) Business Oregon;

13 “(I) The Department of Land Conservation and Development;

14 “(J) The renewable energy workforce;

15 “(K) Environmental justice communities; and

16 “(L) The Bonneville Power Administration.

17 “(2) The work group shall study and examine:

18 “(a) Potential barriers to project development in both investor-
19 owned and consumer-owned utility service territory, including land
20 use, local and state utility regulations, transmission capacity, con-
21 tracts or obligations under the Public Utility Regulatory Policies Act
22 of 1978 (16 U.S.C. 2601 et seq.), implementation and costs or financing;

23 “(b) Potential economic benefits of small-scale renewable energy
24 projects;

25 “(c) Potential contributions of small-scale renewable energy
26 projects to local energy resiliency;

27 “(d) Access and ownership opportunities for low-income communi-
28 ties, Black, Indigenous and People of Color communities, tribal com-
29 munities and rural and coastal communities with limited
30 infrastructure;

1 “(e) Opportunities for diverse models of ownership by local govern-
2 ments, nonprofit organizations and cooperatives of community mem-
3 bers;

4 “(f) Potential rate impacts; and

5 “(g) Potential legislation that could encourage development of small
6 scale and community-based renewable energy projects in this state.

7 “(3) The State Department of Energy shall submit a report de-
8 scribing the current status and trends for small scale and
9 community-based renewable energy development in this state based
10 on the findings made under subsection (2) of this section and may in-
11 clude recommendations to an interim committee of the Legislative
12 Assembly related to energy no later than September 30, 2022.

13 “SECTION 19. Section 18 of this 2021 Act is repealed on December
14 15, 2022.

15
16 “CUSTOMER SUPPORTED RENEWABLES
17

18 “SECTION 20. ORS 757.603 is amended to read:

19 “757.603. [(1)(a)] (1) Except as provided in this [subsection] section, an
20 electric company shall provide all retail electricity consumers that are con-
21 nected to the electric company’s distribution system with a regulated, cost-
22 of-service rate option.

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

27 “(b) [*Before*] Prior to ordering a waiver under this [*paragraph*] sub-
28 section, the commission [*shall*] may conduct such studies as the commission
29 deems necessary and shall provide notice and opportunity for public com-
30 ment and hearings regarding the proposed waiver.

1 “(c) The commission may order a waiver under this *[paragraph]* **sub-**
2 **section** if the commission finds, based on *[an]* **the** evidentiary record devel-
3 oped through **the conducted studies**, public comment and hearings, that a
4 market exists in which retail electricity consumers subject to the waiver are
5 able to:

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

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

10 “(C) Obtain reliable supplies of electricity; and

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

13 “*[(2)]* **(3)** Each electric company shall provide each *[residential]* **retail**
14 electricity consumer that is connected to its distribution system **and whose**
15 **electricity demand at any point of delivery is less than 30 kilowatts** a
16 portfolio of rate options. The portfolio **of rate options** shall include at least
17 the following options:

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

19 “(b) A market-based rate; and

20 “(c) If the commission finds, through public comment and hearing or
21 through market research conducted by the electric company, that demand is
22 sufficient to justify the rate, a rate option for electricity associated with a
23 specific renewable energy resource, including solar photovoltaic energy.

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

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

30 “(b) *[The commission]* May prohibit or otherwise limit the use of a cost-

1 of-service rate by retail electricity consumers who have been served through
2 direct access[, *and*].

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

5 **“(5)(a) As used in this subsection, ‘government’ means a city,**
6 **county, irrigation district, ditch improvement district, water control**
7 **district, or government of a federally recognized Indian tribe in**
8 **Oregon.**

9 **“(b) An electric company may file, as part of a portfolio of rate**
10 **options required under ORS 757.603 and if agreed to in coordination**
11 **with one or more governments to meet adopted renewable and none-**
12 **mitting energy goals, a program of rates or charges that reflect the**
13 **cost of an electric company program to serve retail electricity con-**
14 **sumers within the boundaries of those governments with electricity:**

15 **“(A) Derived from new or existing renewable energy resources or**
16 **nonemitting energy resources, including supply and demand-side re-**
17 **sources; or**

18 **“(B) Paired with unbundled renewable energy certificates, as de-**
19 **fin ed in ORS 469A.005, from new or existing renewable energy re-**
20 **sources.**

21 **“(c) The commission may approve a rate or charge under this sub-**
22 **section if:**

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

26 **“(B) The government enacts or adopts an ordinance, charter pro-**
27 **vision, resolution or other regulation requiring that retail electricity**
28 **consumers within the boundaries of the government must, as deter-**
29 **mined during the coordination required by paragraph (a) of this sub-**
30 **section and conducted in accordance with this paragraph, be served**

1 **with renewable energy resources or nonemitting energy resources, in-**
2 **cluding at the option of the government, resources such as:**

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

7 **“(I) Community stability;**

8 **“(II) Community reinvestment;**

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

11 **“(IV) Ownership by the government;**

12 **“(V) Disaster resiliency;**

13 **“(VI) Water savings;**

14 **“(VII) Species protection;**

15 **“(VIII) Direct cost savings to customers; or**

16 **“(IX) Local economic development and jobs; and**

17 **“(ii) Renewable and nonemitting energy resources acquired through**
18 **government specified procurement criteria which may include goals**
19 **for local or diverse ownership;**

20 **“(C) The ordinance, charter provision, resolution or other regu-**
21 **lation specifies that:**

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

26 **“(ii) Retail electricity consumers within the boundaries of the gov-**
27 **ernment that are connected to the distribution system and whose**
28 **electricity demand at any point of delivery is greater than 30 kilowatts**
29 **may choose to be placed on the rate schedule, if the electric company**
30 **determines that electricity demand at the consumer’s point of delivery**

1 is greater than 30 kilowatts because of additional demand resulting
2 from electrification of transportation or other services, including
3 electric vehicle charging stations, after the effective date of this 2021
4 Act;

5 “(D) The ordinance, charter provision, resolution or other regu-
6 lation includes protections, such as subsidies or bill payment assist-
7 ance, for low-income retail electricity consumers affected by the rates
8 or charges and provides that these protections are paid for solely by
9 retail electricity consumers within the boundaries of the government;

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

13 “(F) The ordinance, charter provision, resolution or other regu-
14 lation sets forth the duration of the program; and

15 “(G) The electric company utilizes commission-approved procure-
16 ment processes, to the extent those processes apply, and the procure-
17 ment criteria agreed to with the government in subparagraph (B)(ii)
18 of this paragraph.

19 “(d) After the electric company receives approval to serve retail
20 electricity consumers within the boundaries of the government ac-
21 cording to the program of rates or charges adopted pursuant to this
22 subsection, the electric company must:

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

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

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

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

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

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

9 **“(B) To recover part or all of the costs associated with the re-**
10 **sources that serve the program, including costs associated with re-**
11 **sources described in subparagraph (A) of this paragraph, from all**
12 **retail electricity consumers not served by an electricity service sup-**
13 **plier, if:**

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

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

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

22 **“(iv) The resources help the electric company comply with section**
23 **3 of this 2021 Act; or**

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

26 **“(C) To collect moneys from participating retail electricity con-**
27 **sumers in excess of the cost of service and defer revenues or costs**
28 **associated with the program for the purposes of making future in-**
29 **vestments in resources or renewable energy certificates to serve pro-**
30 **gram participants and for the purposes of protecting nonparticipating**

1 retail electricity consumers should the government end its partic-
2 ipation in the program.

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

10 “(6) Nothing in subsection (3) of this section prohibits an electric
11 company from providing retail electricity consumers that are con-
12 nected to its distribution system and whose electricity demand at any
13 point of delivery is greater than 30 kilowatts a portfolio of rate
14 options.

15 “(7) Notwithstanding the exemption to ORS 757.600 to 757.691 pro-
16 vided by ORS 757.601 (3), an electric company serving fewer than 25,000
17 customers in this state may propose a program for approval by the
18 commission if the program meets the criteria specified in this section.

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

20 “469A.205. (1) Electric utilities shall allow retail electricity consumers to
21 elect a green power rate. A significant portion of the electricity purchased
22 or generated by a utility that is attributable to moneys paid by retail elec-
23 tricity consumers who elect the green power rate must be qualifying elec-
24 tricity, and the utility must inform consumers of the sources of the
25 electricity purchased or generated by the utility that is attributable to
26 moneys paid by consumers who elect the green power rate. The green power
27 rate shall reasonably reflect the costs of the electricity purchased or gener-
28 ated by the utility that is attributable to moneys paid by retail electricity
29 consumers who elect the green power rate. All prudently incurred costs as-
30 sociated with the green power rate are recoverable in a green power rate

1 offered by an electric company.

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

6 “(3) The provisions of subsection (1) of this section do not apply to elec-
7 tric companies that are subject to ORS 757.603 [(2)(a)] **(3)(a)**.

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

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

11 “757.247. (1) The Public Utility Commission may authorize a public util-
12 ity, upon application of the utility, to file and place into effect a tariff
13 schedule establishing rates or charges for the cost of energy resource meas-
14 ures provided to an individual property owner or customer pursuant to an
15 agreement entered into between the individual property owner or customer
16 and the public utility. Energy resource measures provided under this section
17 may include:

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

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

22 “(c) The installation of equipment or devices or the implementation of
23 measures that enable demand reduction, peak load reduction, improved inte-
24 gration of renewable energy generation or more effective utilization of en-
25 ergy resources;

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

28 “(e) Direct payments to third parties for the purposes described in para-
29 graphs (a) to (c) of this subsection.

30 “(2) Subject to the agreement entered into between the individual prop-

1 erty owner or customer and the public utility, a tariff schedule placed into
2 effect under this section may include provisions for:

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

4 “(b) Except as provided in subsection (5) of this section, a reasonable rate
5 of return on any investment made by the public utility;

6 “(c) The application of any payment obligation to successive owners of
7 the property to which the energy resource measure is attached or to succes-
8 sive customers located at the premises to which the energy resource measure
9 is attached; and

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

13 “(3) Application of a tariff schedule under this section is subject to ap-
14 proval by the commission.

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

21 “(5) A public utility may use moneys obtained through a rate established
22 under ORS 757.603 [(2)(a)] **(3)(a)** to provide a renewable energy generation
23 facility to a property owner or customer under this section. A public utility
24 may not charge interest to a property owner or customer for a renewable
25 energy generation facility acquired with moneys obtained through a rate es-
26 tablished under ORS 757.603 [(2)(a)] **(3)(a)**.

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

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

30 “757.646. (1) The duties, functions and powers of the Public Utility Com-

1 mission shall include developing policies to eliminate barriers to the devel-
2 opment of a competitive retail market [*structure*] **between electricity**
3 **service suppliers and electric companies.** The policies shall be designed
4 to mitigate the vertical and horizontal market power of incumbent electric
5 companies[,] **and** prohibit preferential treatment, or the appearance of such
6 treatment, [*of*] **by the incumbent electric companies toward** generation
7 or market affiliates and determine the electricity services likely to be com-
8 petitive. The commission may require an electric company acting as an
9 electricity service supplier do so through an affiliate.

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

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

18 “(b) Prohibit preferential access by an electric company affiliate to con-
19 fidential consumer information;

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

23 “(d) Prohibit joint marketing activities and exclusive referral arrange-
24 ments between an electric company and its affiliates;

25 “(e) Provide the commission with all necessary access to books and re-
26 cords;

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

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

29 “(3) An electric company shall provide the commission access to all books
30 and records necessary for the commission to monitor the electric company

1 and its affiliate relationships. The commission shall require an electric
2 company biannually to file a report detailing compliance with this sub-
3 section.

4 **“(4) Notwithstanding subsection (1) of this section, the commission**
5 **shall ensure that policies developed to mitigate the vertical and hori-**
6 **zontal market power of incumbent electric companies do not limit or**
7 **delay electric companies from offering programs or services or making**
8 **prudent investments in furtherance of the clean energy targets estab-**
9 **lished by section 3 of this 2021 Act or a program established under**
10 **section 20 of this 2021 Act, or that otherwise aid in reducing statewide**
11 **emissions of greenhouse gases consistent with state policies, including**
12 **ORS 283.398 and 468A.205.**

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

14 “469A.005. As used in ORS 469A.005 to 469A.210:

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

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

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

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

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

30 “(c) Pays any stranded costs obligation established pursuant to ORS

1 757.483.

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

7 “(3) ‘BPA electricity’ means electricity provided by the Bonneville Power
8 Administration, including electricity generated by the Federal Columbia
9 River Power System hydroelectric projects and electricity acquired by the
10 Bonneville Power Administration by contract.

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

13 “(a) By an electric utility or electricity service supplier by a trade, pur-
14 chase or other transfer of electricity that includes the renewable energy
15 certificate that was issued for the electricity; *[or]*

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

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

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

28 “(6) ‘Consumer-owned utility’ means a municipal electric utility, a
29 people’s utility district organized under ORS chapter 261 that sells electricity
30 or an electric cooperative organized under ORS chapter 62.

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

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

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

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

6 “(11) ‘Qualifying electricity’ means electricity described in ORS 469A.010.

7 “(12) ‘Renewable energy source’ means a source of electricity described
8 in ORS 469A.025.

9 “(13) ‘Retail electricity consumer’ means a retail electricity consumer, as
10 defined in ORS 757.600, that is located in Oregon.

11 “(14) ‘Unbundled renewable energy certificate’ means:

12 “(a) A renewable energy certificate for qualifying electricity that is ac-
13 quired by an electric utility or electricity service supplier by trade, purchase
14 or other transfer without acquiring the electricity that is associated with the
15 renewable energy certificate; **or**

16 “(b) **A renewable energy certificate that is sold to a retail electricity**
17 **consumer without selling, on a non-cost-of-service basis, the electric-**
18 **ity associated with the renewable energy certificate to the retail elec-**
19 **tricity consumer.**

20

21 **“PROVIDING INFORMATION ABOUT CLEAN ENERGY PROGRAMS**
22 **TO CUSTOMERS AND THE PUBLIC**

23

24 **“SECTION 25.** ORS 757.649 is amended to read:

25 “757.649. (1)(a) A person or other entity shall not act as an electricity
26 service supplier unless the person or entity is certified by the Public Utility
27 Commission. The commission, by rule, shall establish standards for certi-
28 fication of persons or other entities as electricity service suppliers in this
29 state. The rules shall, at a minimum, address:

30 “(A) The ability of the person or entity to meet the person’s or entity’s

1 obligation to provide electricity services pursuant to direct access; and

2 “(B) The ability of the person or entity to comply with applicable con-
3 sumer protection laws.

4 “(b) The commission may require an electricity service supplier to provide
5 a bond or other security.

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

8 “(d) The commission, at any time, may revoke an electricity service
9 supplier’s certification for failure to comply with applicable statutes and
10 rules.

11 “(e) The commission may require an electricity service supplier to provide
12 information necessary to ensure compliance with ORS 757.612. The commis-
13 sion shall ensure the privacy of all information and the protection of any
14 proprietary information provided.

15 “(f) **The commission shall require an electricity service supplier to**
16 **publicly disclose a summary of the aggregated energy supply mix and**
17 **associated emissions of the power sources that serve the direct access**
18 **retail electricity consumers of the electricity service supplier, or such**
19 **other aggregated information comparable to information provided by**
20 **electric companies to retail electricity consumers as the commission**
21 **may require.**

22 “(2) Every electric utility shall maintain the integrity of its transmission
23 facilities and distribution system and provide safe, reliable service to all re-
24 tail electricity consumers. Nothing in ORS 757.600 to 757.667 or 757.669 to
25 757.687 shall reduce or diminish the statutory or contractual obligations of
26 electric utilities to maintain the safety and reliability of their transmission
27 facilities and distribution system and other infrastructure and equipment
28 used to deliver electricity.

29 “(3) The commission for electric companies, or the governing body for
30 other electric utilities, shall adopt rules, ordinances, policies and service

1 quality standards designed to maintain a reliable, safe and efficient distrib-
2 ution system. The commission shall regulate electrical safety regarding gen-
3 eration, transmission, substation and distribution facilities for electric
4 utilities and other electrical system owners and operators as provided under
5 ORS 757.035.

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

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

11 “(b) The rates and amounts of state and local taxes or fees, if any, im-
12 posed on the retail electricity consumer;

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

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

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

18 “(5)(a) A retail electricity consumer of an electric company shall receive,
19 upon request, a separate bill from every individual electricity service sup-
20 plier that provides products or services to the retail electricity consumer. If
21 a retail electricity consumer of an electric company does not request sepa-
22 rate bills, or a consolidated bill from an electricity service supplier as pro-
23 vided in paragraph (c) of this subsection, the electric company shall
24 consolidate the bills for all electricity services into a single statement, and
25 electricity service suppliers shall provide to the electric company the infor-
26 mation necessary to prepare a consolidated statement.

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

1 “(c) Upon the request of a retail electricity consumer of an electric com-
2 pany, an electricity service supplier shall consolidate the bills for all elec-
3 tricity services into a single statement, and electric utilities and other
4 electricity service suppliers shall provide to the billing electricity service
5 supplier any information necessary to prepare a consolidated statement.

6 “(d) For retail electricity consumers of an electric company, the commis-
7 sion shall adopt by rule provisions relating to the failure of a consumer to
8 make full payment on a consolidated bill. The rules shall address collection
9 of payments, service disconnection and reconnection, and the allocation of
10 costs associated with collection, disconnection and reconnection. A distrib-
11 ution utility shall be solely responsible for actual disconnection and recon-
12 nexion.

13

14 **“RESPONSIBLE CONTRACTOR LABOR STANDARDS**

15

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

17 **“(a) ‘Apprentice’ and ‘apprenticeable occupation’ have the**
18 **meanings given those terms in ORS 660.010.**

19 **“(b) ‘Apprenticeship training program’ means the total system of**
20 **apprenticeship that a particular local joint committee, as defined in**
21 **ORS 660.010, operates, including the local joint committee’s registered**
22 **standards and all other terms and conditions for qualifying, recruiting,**
23 **selecting, employing and training apprentices in an apprenticeable**
24 **occupation.**

25 **“(c) ‘Construction’ includes on-site and off-site construction and**
26 **fabrication and covers 30 days after project completion.**

27 **“(d) ‘Large-scale project’ means:**

28 **“(A) A renewable energy generation, sequestration or storage fa-**
29 **cility with a capacity rating of two megawatts or greater; or**

30 **“(B) A community solar facility with a capacity rating of three**

1 megawatts or greater.

2 “(e) ‘Minority individual’ and ‘woman’ have the meanings given
3 those terms in ORS 200.005.

4 “(f) ‘Repower’ means replacement of enough of the original gener-
5 ation equipment or components to make an original energy generation
6 facility equivalent to a new facility, such that at least 80 percent of
7 the fair market value of the facility derives from new generation
8 equipment or components installed as part of the replacement project.

9 “(g) ‘Veteran’ has the meaning given that term in ORS 408.225.

10 “(2) A person who constructs or repowers a large-scale project sited
11 in this state shall, at the time of contract finalization for development
12 of the project or execution of a contract for delivery of energy from
13 the project, provide a signed attestation or declaration stating to the
14 best of their knowledge and belief, subject to penalty of perjury as
15 described in ORS 162.065, that during all periods of construction all
16 contractors and subcontractors working on the construction or re-
17 powering project will:

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

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

30 “(c) Have policies in place that are designed to limit or prevent

1 **workplace harassment and discrimination and that promote workplace**
2 **diversity, equity and inclusion for communities who have been under-**
3 **represented in the clean energy sector, including but not limited to**
4 **women, veterans and Black, Indigenous and People of Color;**

5 **“(d) Demonstrate good faith with meeting the requirements de-**
6 **scribed in paragraphs (a) to (c) of this subsection by providing docu-**
7 **mented and verifiable information including:**

8 **“(i) Internet addresses of employment advertisements or job an-**
9 **nouncements;**

10 **“(ii) Dates, times, Internet addresses and attendance lists of a pre-**
11 **job conference with apprenticeship, preapprenticeship and workforce**
12 **providers in construction;**

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

17 **“(iv) Contacts requesting workers from a union hall including the**
18 **date, time, telephone contact, email contact and whether a response**
19 **was provided within 48 hours of the request.**

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

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

28 **“(g) Materially demonstrate a history of compliance, in the previous**
29 **seven years, or provide available history for new businesses, with fed-**
30 **eral and state wage and hour laws; and**

1 **“(h) Provide quarterly reporting and recordkeeping to the project**
2 **owner or electric utility and respond to records requests and verifica-**
3 **tion.**

4 **“(3) In addition to the requirements in subsection (2) of this section,**
5 **a person constructing or repowering a large-scale project with a ca-**
6 **capacity rating of 10 megawatts or greater shall require all contractors**
7 **and subcontractors working on the construction or repowering project**
8 **to:**

9 **“(a) Pay the area wage standard for an hour’s work in the same**
10 **trade or occupation in the locality where the labor is performed. Area**
11 **wage standard includes the calculation of wages and fringe benefits**
12 **per trade and locality and will be treated as standards defined in ORS**
13 **279C.800 et seq.**

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

16 **“(c) Provide quarterly reporting and recordkeeping to the project**
17 **owner or electric utility and respond to records requests and verifica-**
18 **tion.**

19 **“(4) A person constructing or repowering a large-scale project shall**
20 **provide the attestation or declaration and good faith effort documen-**
21 **tation described in subsection (2) of this section to the State Depart-**
22 **ment of Energy within 30 days from the date construction begins and**
23 **provide notice of such delivery to the purchaser of the project or of**
24 **the energy from the project. In addition to the requirements described**
25 **in subsection (2) of this section, an attestation must include the fol-**
26 **lowing information:**

27 **“(a) The megawatt capacity and physical footprint in acres of the**
28 **project;**

29 **“(b) The geographic location of the project;**

30 **“(c) The estimated workforce requirements of the project;**

1 “(d) A collated list of good faith effort documentation; and

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

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

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

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

15 “(A) Prohibit discrimination based on race, national origin, religion,
16 gender, sexual orientation, political affiliation or membership in a la-
17 bor organization in hiring and dispatching workers for the project.

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

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

25 “(D) Guarantee against work stoppages, strikes, lockouts and simi-
26 lar disruptions of the project.

27 “(6)(a) The department shall retain an attestation or declaration
28 filed with the department in a manner consistent with the
29 department’s record retention policies.

30 “(b) Notwithstanding any provisions of ORS 192.345 or 192.355, an

1 attestation or declaration provided to the department pursuant to this
2 subsection is subject to public records disclosure and the department
3 shall provide a copy of the attestation or declaration upon request.

4 “(c) An attestation or declaration filed under this section is for re-
5 porting purposes only and the department may not use an attestation
6 or declaration to investigate, regulate or enforce matters addressed in
7 the attestation or declaration.

8 “SECTION 27. The obligation to provide an attestation or declara-
9 tion pursuant to section 26 of this 2021 Act applies to large-scale
10 project contracts finalized or executed on or after the effective date
11 of this 2021 Act.

12

13 “NATURAL GAS PLANTS

14

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

17 “(1) Issue a site certificate for a new generating facility that
18 produces electric power from fossil fuels, including natural gas, pe-
19 troleum, coal or any form of solid, liquid or gaseous fuel derived from
20 such material, unless the council determines that a new generating
21 facility will generate only nonemitting electricity as defined in section
22 1 of this 2021 Act; or

23 “(2) Approve the amendment of a site certificate for an energy fa-
24 cility described under subsection (1) of this section that was granted
25 prior to the effective date of this 2021 Act in a manner that would
26 significantly increase the gross carbon dioxide emissions that are rea-
27 sonably likely to result from the operation of the energy facility.

28

29 “MISCELLANEOUS

30

1 **“SECTION 29. The unit and section captions used in this 2021 Act**
2 **are provided only for the convenience of the reader and do not become**
3 **part of the statutory law of this state or express any legislative intent**
4 **in the enactment of this 2021 Act.**

5 **“SECTION 30. This 2021 Act takes effect on the 91st day after the**
6 **date on which the 2021 regular session of the Eighty-first Legislative**
7 **Assembly adjourns sine die.”.**

8
