

House Bill 3609

Sponsored by Representative GAMBIA

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Makes each power company create a program for buying grid services. (Flesch Readability Score: 64.9).

Requires each electric company to develop a distributed power plant program for the procurement of grid services to be provided by distributed energy resources. Specifies the grid services that may be eligible for compensation and the classes of distributed energy resources technologies that must be eligible to provide the grid services. Allows a customer to enroll directly or through a third party in an electric company's distributed power plant program.

Requires an electric company to use a standard offer, open access tariff. Allows an electric company to recover in rates prudently incurred costs associated with the program.

Directs the Public Utility Commission to develop and adopt annual procurement targets and performance incentives. Allows an electric company to earn performance incentives for meeting program targets.

Requires each electric company to file an annual report with the commission on the status of the electric company's distributed power plant program, including the capacity enrolled in the program.

Provides for initial requirements and an implementing timeline. Requires an initial distributed power plant program to provide compensation for system-wide peak load reduction that is provided by an energy storage device that is a battery.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to distributed power plants; and prescribing an effective date.

3 Whereas distributed power plants are dynamic load management and energy supply resources
4 that support grid operations, reduce costs to ratepayers and achieve important public policy goals;
5 and

6 Whereas distributed power plants can reduce demand for electricity during peak periods, shift
7 electricity consumption out of peak periods, make renewable energy generated during off-peak peri-
8 ods available for use during on-peak periods, supply energy to the electric grid at desired times,
9 provide frequency regulation, voltage support and ancillary services, improve the resiliency and re-
10 liability of the electric system and provide other grid services; and

11 Whereas distributed power plants can facilitate and optimize the utilization of electricity gen-
12 erated from wind and solar to help utilities increase hosting capacity and integrate more renewable
13 energy resources; and

14 Whereas distributed power plants can reduce costs to ratepayers by utilizing customer-sited re-
15 sources to provide grid services, avoiding or reducing reliance on fossil fuel power plants to meet
16 peak demand, avoiding or deferring the need to construct new and more costly grid-scale resources,
17 optimizing the use of existing assets and avoiding or deferring distribution and transmission system
18 upgrades and other grid investments; and

19 Whereas distributed power plants can promote equity by reducing costs for all ratepayers, ex-
20 panding access to distributed energy resources among low- and moderate-income customers through
21 improved financing options and providing other important cobenefits, including reduction in

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

1 greenhouse gas emissions and other pollutants, especially in environmental justice and in other
 2 disadvantaged communities that host fossil fuel power plants; and

3 Whereas the United States Department of Energy estimates that the United States could deploy
 4 80 to 160 gigawatts of distributed power plants by 2030 (a tripling of current levels) to support the
 5 rapid electrification of vehicles and homes and provide up to \$10 billion in ratepayer savings annu-
 6 ally, and the deployment of distributed power plants can provide energy cost savings and other
 7 benefits to Oregonians throughout this state; and

8 Whereas there are significant barriers to the deployment and operation of distributed power
 9 plants, including the need for statutory and regulatory guidance and support, standardization in
 10 distributed power plant programs across regulatory jurisdictions and for utility commitments to in-
 11 corporate the use of distributed power plants into system operations and long-term resource plan-
 12 ning; and

13 Whereas there is a public interest in advancing customer choice and leveraging the expertise
 14 of private, nonutility entities to advance innovation and implement cost effective clean energy sol-
 15 utions; and

16 Whereas this state shall have a policy to maximize the use of distributed power plants comprised
 17 of customer-owned and third-party-owned distributed energy resources to deliver grid services and
 18 other benefits through utility administered distributed power plant programs; now, therefore,

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

20 **SECTION 1. Sections 2 to 5 of this 2025 Act are added to and made a part of ORS chapter**
 21 **757.**

22 **SECTION 2. Definitions. As used in this section and sections 3 and 4 of this 2025 Act:**

23 (1) **“Aggregator” means an entity that is identified as having responsibility, in the pro-**
 24 **vision of grid services, for coordinating the operations of enrolled devices of customers who,**
 25 **through the entity, enroll and participate in an electric company’s distributed power plant**
 26 **program.**

27 (2) **“Behind-the-meter” means the customer’s side of an electric meter.**

28 (3) **“Customer” means a person who has an active account for electricity services with**
 29 **an electric company.**

30 (4) **“Distributed energy resource” means an energy system or device that is located**
 31 **behind-the-meter and that generates or stores energy or provides energy management ca-**
 32 **pabilities.**

33 (5) **“Distributed power plant” means an aggregation of distributed energy resources that**
 34 **operate in coordination to provide one or more grid services.**

35 (6) **“Electric company” has the meaning given that term in ORS 757.600.**

36 (7) **“Energy storage device” means a device that can store electrical energy at one point**
 37 **or period of time for use at a later point or period of time.**

38 (8) **“Enrolled device” means a distributed energy resource that is enrolled in a distributed**
 39 **power plant program.**

40 (9) **“Grid service” means an energy, capacity or ancillary service that supports electric**
 41 **grid operations and is provided by one or more distributed energy resources.**

42 (10) **“Zero emission electricity” means electricity that is generated and may be stored in**
 43 **a manner that does not emit greenhouse gas into the atmosphere.**

44 **SECTION 3. Distributed power plant program. (1)(a) Each electric company shall develop**
 45 **and file with the Public Utility Commission a distributed power plant program, consistent**

1 with the provisions of this section and section 4 of this 2025 Act, for the procurement of grid
 2 services from customers of the electric company who enroll in the program.

3 (b) Within 120 days of an electric company filing a proposed distributed power plant
 4 program or amendment to a distributed power plant program, the commission shall deny,
 5 approve or modify and approve the proposed program or amendment to the program.

6 (c) In its review of an electric company's proposed distributed power plant program or
 7 amendment to a distributed power plant program, the commission shall provide an opportu-
 8 nity for and take into consideration input from the public and stakeholders.

9 (2) Under an electric company's distributed power plant program, the electric company
 10 shall:

11 (a) Offer customers of the electric company a standard offer, open access tariff for grid
 12 services that are provided by distributed energy resources; and

13 (b) Develop and use a schedule of compensation and terms that is based on the grid
 14 service provided and the class of distributed energy resource technology that is providing the
 15 grid service.

16 (3) Grid services that are eligible for compensation under a standard offer, open access
 17 tariff that is offered under an electric company's distributed power plant program may in-
 18 clude:

19 (a) System-wide peak load reduction;

20 (b) Local peak demand reduction;

21 (c) The provision of zero emission electricity to meet peak demand;

22 (d) Avoidance or deferral of transmission or distribution upgrades or capacity expansion
 23 and other location-specific grid services;

24 (e) Voltage support for maintaining stable voltage levels in the electric grid;

25 (g) Emergency services; and

26 (f) Any other grid services determined by the commission to support efficient planning
 27 or operation of the electric grid.

28 (4) The classes of distributed energy resources technologies that may provide grid ser-
 29 vices under an electric company's distributed power plant program must include, but are not
 30 limited to, the following:

31 (a) Energy storage devices that are a battery;

32 (b) Load control devices, including, but not limited to, smart thermostats, water heaters
 33 and other load control devices approved by the commission; and

34 (c) Electric vehicles.

35 (5) A distributed power plant program must specify the operational parameters for each
 36 grid service based on the class of distributed energy resource technology that provides the
 37 grid service. At a minimum, operational parameters must include:

38 (a) The minimum and maximum number of times an enrolled device may be dispatched
 39 in a 12-month period;

40 (b) The months of the year, days of the week and times of the day that an enrolled device
 41 may be dispatched;

42 (c) The maximum duration for which an enrolled device may be dispatched; and

43 (d) The notification requirements for when an enrolled device will be dispatched, except
 44 in response to an emergency event.

45 (6) A customer of an electric company may enroll:

1 (a) Directly or through an aggregator in the electric company's distributed power plant
2 program.

3 (b) For as many grid services and as many distributed energy resource devices that are
4 provided for under an electric company's distributed power plant program. A customer may
5 only enroll a distributed energy resource device that the customer uses for the customer's
6 personal benefit, but the device may be owned or maintained by the customer or a third-
7 party.

8 (7)(a) If a customer enrolls directly in an electric company's distributed power plant
9 program, the electric company shall provide the customer an upfront payment and per-
10 formance compensation for each distributed energy resource device the customer enrolls in
11 the program.

12 (b) The electric company may not require, as a condition to participating in the program,
13 a customer to install an additional meter or provide a security deposit or collateral.

14 (c) An electric company is allowed to communicate with, send a dispatch signal to or
15 verify the performance of any enrolled device consistent with the terms of the electric
16 company's distributed power plant program and any standards or requirements adopted by
17 the commission.

18 (d) An electric company may disenroll a customer or an enrolled device after one year
19 of participation for repeated nonperformance of the enrolled device. Prior to disenrolling a
20 customer or a device, during the course of the year, the electric company shall provide suf-
21 ficient notice and opportunity to cure the nonperformance. An electric company may not
22 assess a penalty for the nonperformance of an enrolled device.

23 (e) An electric company may adopt reasonable requirements as approved by the com-
24 mission for participating in the electric company's distributed power plant program.

25 (8)(a) If a customer enrolls through an aggregator in an electric company's distributed
26 power plant program, the electric company shall follow the provisions of subsection (7) of
27 this section except the electric company shall work with, communicate through and provide
28 all payments and compensation to the aggregator.

29 (b) An aggregator shall be responsible for:

30 (A) Managing the participation of the customers whom the aggregator enrolls;

31 (B) Maintaining good communication with the electric company;

32 (C) Receiving dispatch signals from the electric company;

33 (D) Communicating directly with and managing the performance of the devices enrolled
34 through the aggregator in the distributed power plant program;

35 (E) Providing the electric company with data needed to verify the performance of the
36 devices enrolled through the aggregator in the distributed power plant program; and

37 (F) Receiving payments and compensation from the electric company.

38 (c) An aggregator shall be considered a participant of the program.

39 (d) An electric company or an affiliate of an electric company may not be an aggregator.

40 (9) An electric company's distributed power plant program may provide for a higher up-
41 front payment for a class of customers that is based on the differential energy burdens on
42 low- and moderate-income customers and other economic, social equity or environmental
43 justice factors that affect affordability for certain classes of utility customers.

44 (10) Under an electric company's distributed power plant program, a customer or
45 aggregator shall be given the option to enter into an agreement that sets the performance

1 compensation rate for a period of five years or longer. The option must be exercised by the
 2 customer or aggregator at the time the customer, whether directly or through an
 3 aggregator, enrolls or renews enrollment in the program.

4 (11) A customer may participate in an electric company's distributed power plant pro-
 5 gram in addition to participating in any other program offered by the electric company. Any
 6 payment or compensation that a customer receives under an electric company's distributed
 7 power plant program shall be in addition to any incentive, payment or credit that a customer
 8 is entitled to receive under any other program in which the customer is participating, in-
 9 cluding any net metering program established pursuant to ORS 757.300.

10 (12) A distributed energy resource that is owned by an electric company or an affiliate
 11 of an electric company may not be enrolled in an electric company's distributed power plant
 12 program.

13 (13) An electric company may contract with a third party to provide a distributed energy
 14 resource management system to assist the electric company in implementing the electric
 15 company's distributed power plant program.

16 (14) All prudently incurred costs associated with an electric company's distributed power
 17 plant program, including upfront payments and performance payments, are recoverable in
 18 the rates of an electric company. The commission may allow a reasonable rate of return on
 19 the performance payments made by an electric company for grid services provided under the
 20 electric company's distributed power plant program.

21 (15) The commission and each electric company shall work with the State Department
 22 of Energy and other state agencies to access federal funding or incentives that may be used
 23 to provide upfront payments under an electric company's distributed power plant program.

24 **SECTION 4. Procurement targets; performance incentives; annual report.** (1)(a) The
 25 Public Utility Commission shall develop and adopt:

26 (A) Annual procurement targets, for a five-year period, for the procurement of grid ser-
 27 vices under a distributed power plant program approved under section 3 of this 2025 Act; and

28 (B) Annual performance incentives for achieving those annual procurement targets.

29 (b) The procurement targets must require a meaningful annual increase in the amount
 30 of grid services that an electric company procures under the electric company's distributed
 31 power plant program.

32 (c) The performance incentives:

33 (A) Must include financial incentives for achieving procurement targets; and

34 (B) May include financial penalties for failing to achieve procurement targets.

35 (2) Prior to the expiration of a five-year period, the commission shall develop and adopt
 36 annual procurement targets and performance incentives for the subsequent five-year period.

37 (3) If an electric company adds a grid service to the electric company's distributed power
 38 plant program tariff, the commission shall develop and adopt, within 270 days of the electric
 39 company adding the grid service, annual procurement targets and performance incentives for
 40 the grid service.

41 (4) Annual procurement targets and performance incentives that are adopted by the
 42 commission for the procurement of a grid service must take effect no later than January 1
 43 of the year following the year in which the commission approves the procurement of the grid
 44 service under a distributed power plant program.

45 (5)(a) No later than January 31 of each year, each electric company shall file a report

1 with the commission on the status of the electric company’s distributed power plant pro-
 2 gram. The report must include a description of:

3 (A) The total capacity enrolled in the electric company’s distributed power plant pro-
 4 gram;

5 (B) The capacity enrolled based on:

6 (i) Each grid service offered;

7 (ii) Each class of distributed energy resource technology;

8 (iii) Each customer class;

9 (iv) Customers enrolled directly and customers enrolled through an aggregator;

10 (C) The number of events called during the calendar year for each grid service;

11 (D) The aggregate performance of each class of distributed energy resource technology
 12 for each grid service that a class provided; and

13 (E) By separate accounting, the total amount of upfront payments and performance
 14 payments issued for each grid service and each class of distributed energy resource tech-
 15 nology providing the grid service.

16 (b) The report shall include recommendations for increasing participation in the electric
 17 company’s distributed power plant program.

18 (c) The commission may require a report to include additional information as the com-
 19 mission finds necessary for evaluating the status of an electric company’s distributed power
 20 plant program.

21 **SECTION 5. Initial requirements; timeline.** (1)(a) An electric company shall first file with
 22 the Public Utility Commission the electric company’s proposed distributed energy resources
 23 program under section 3 of this 2025 Act within 120 days of the effective date of this 2025
 24 Act.

25 (b) At a minimum, the electric company’s initial distributed power plant program must
 26 provide for compensation for system-wide peak load reduction that is provided by an energy
 27 storage device that is a battery. For system-wide peak load reduction that is provided by an
 28 energy storage device that is a battery, the performance compensation shall be based on the
 29 average capacity discharged from the device over the course of each event during the appli-
 30 cable capability period, measured directly at the device.

31 (c) Notwithstanding section 3 (4) of this 2025 Act and except as provided in paragraph (d)
 32 of this subsection, an electric company’s initial distributed power plant program does not
 33 need to provide for the following classes of distributed energy resources technologies:

34 (A) Load control devices; or

35 (B) Electric vehicles.

36 (d) Where feasible, an electric company shall incorporate any existing programs offered
 37 by the electric company into the electric company’s distributed energy resources program,
 38 such as smart thermostat demand response and electric vehicle charging programs.

39 (2) Notwithstanding section 3 (1)(b) of this 2025 Act, within 120 days of an electric com-
 40 pany first filing with the commission a proposed distributed energy resources program, the
 41 commission may not deny a proposed distributed energy resources program and shall either
 42 approve or modify and approve the electric company’s proposed distributed energy resources
 43 program.

44 (3) Notwithstanding section 4 (3) of this 2025 Act, within 270 days of the effective date
 45 of this 2025 Act, the commission shall develop and adopt annual procurement targets and

1 performance incentives for system-wide peak load reduction that is provided by an energy
2 storage device that is a battery.

3 (4) Within 12 months from the date that the commission approves an electric company's
4 initial distributed power plant program under subsection (2) of this section, the electric
5 company shall file an amendment under section 3 of this 2025 Act to the electric company's
6 distributed power plant program. The amendment must incorporate and provide for the fol-
7 lowing classes of distributed energy resources technologies, to the extent the classes were
8 not included in the electric company's initial distributed power plant program:

9 (a) Load control devices; and

10 (b) Electric vehicles.

11 (5) The provisions of this section apply to an electric company that exists on the effective
12 date of this 2025 Act.

13 **SECTION 6. Captions.** The section captions used in this 2025 Act are provided only for
14 the convenience of the reader and do not become part of the statutory law of this state or
15 express any legislative intent in the enactment of this 2025 Act.

16 **SECTION 7. Effective date.** This 2025 Act takes effect on the 91st day after the date on
17 which the 2025 regular session of the Eighty-third Legislative Assembly adjourns sine die.

18