

House Bill 4036

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Energy and Environment)

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**.

Requires each electric company providing electricity to retail electricity consumers located in this state to eliminate coal-fired resources from electric company's electricity supply.

Changes compliance requirements for renewable portfolio standards. Makes other changes to provisions setting forth renewable portfolio standards.

Directs Public Utility Commission to establish stranded costs obligation associated with condemnation of or transaction related to service territory or property of electric company.

Directs commission to allow, in public bidding process for procurement of renewable energy generating facility, inclusion of value of long-term access to and use of facility beyond time at which facility is fully depreciated.

Directs commission to establish means by which electric company may track, and credit or charge customers for, difference between state or federal production tax credits included in rates charged by electric company and actual production tax credits received by electric company.

Requires each electric company to file applications with commission for programs to accelerate transportation electrification. Allows return of and return on investment made by electric company for purposes of programs.

Directs commission to establish program for creation of community solar projects.

Repeals minimum solar energy capacity standard for electric companies.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to utility regulation; creating new provisions; amending ORS 469A.005, 469A.052, 469A.055,
3 469A.060, 469A.075, 469A.120, 469A.135, 469A.140, 469A.145 and 757.375; repealing ORS 757.370;
4 and declaring an emergency.

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

ELIMINATION OF COAL FROM ELECTRICITY SUPPLY

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

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7
8
9
10 (a) **"Allocation of electricity" means, for the purpose of setting electricity rates, the**
11 **costs and benefits associated with the resources used to provide electricity to an electric**
12 **company's retail electricity consumers that are located in this state.**

13 (b)(A) **"Coal-fired resource" means a facility that uses coal-fired generating units, or that**
14 **uses units fired in whole or in part by coal as feedstock, to generate electricity.**

15 (B) **"Coal-fired resource" does not include a facility generating electricity that is included**
16 **as part of a limited duration wholesale power purchase made by an electric company for**
17 **immediate delivery to retail electricity consumers that are located in this state for which the**
18 **source of the power is not known.**

19 (c) **"Electric company" has the meaning given that term in ORS 757.600.**

20 (d) **"Retail electricity consumer" has the meaning given that term in ORS 757.600.**

21 (2) **On or before January 1, 2030, an electric company shall eliminate coal-fired resources**

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 from its allocation of electricity.

2 (3)(a) The Public Utility Commission shall adjust any schedule of depreciation approved
3 by the commission for an electric company’s coal-fired resource if:

4 (A) The electric company holds a minority ownership share in only one coal-fired re-
5 source, with no more than four generating units; and

6 (B) The electric company serves at least 800,000 retail electricity consumers and only
7 retail electricity consumers that are located in this state.

8 (b) The adjusted depreciation schedule described in paragraph (a) of this subsection must
9 require the coal-fired resource described in paragraph (a)(A) of this subsection to be fully
10 depreciated on or before December 31, 2030.

11 (4) Notwithstanding subsections (2) and (3) of this section, for the number of years re-
12 quested by the electric company, not to exceed five years after the coal-fired resource is fully
13 depreciated, the commission shall authorize an electric company described in subsection (3)
14 of this section to include in the company’s allocation of electricity all costs and benefits as-
15 sociated with the coal-fired resource described in subsection (3)(a)(A) of this section if:

16 (a) The electric company requests the commission to authorize the allocation of elec-
17 tricity; or

18 (b) The owners of the coal-fired resource agree to close the coal-fired resource on or
19 before the date that is five years after the date the coal-fired resource is fully depreciated.

20 (5) Notwithstanding ORS 757.355, this section does not prevent the full recovery of
21 prudently incurred costs related to the decommissioning of a coal-fired resource or the clo-
22 sure of a coal-fired resource, at the time those costs are incurred.

23
24 **AMENDMENTS TO STATUTES REGULATING**
25 **RENEWABLE PORTFOLIO STANDARDS**

26
27 **(Compliance Requirements for**
28 **Renewable Portfolio Standard)**
29

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

31 469A.052. (1) The large utility renewable portfolio standard imposes the following requirements
32 on an electric utility that makes sales of electricity to retail electricity consumers in an amount that
33 equals three percent or more of all electricity sold to retail electricity consumers:

34 (a) At least five percent of the electricity sold by the **electric** utility to retail electricity con-
35 sumers in each of the calendar years 2011, 2012, 2013 and 2014 must be qualifying electricity;

36 (b) At least 15 percent of the electricity sold by the **electric** utility to retail electricity con-
37 sumers in each of the calendar years 2015, 2016, 2017, 2018 and 2019 must be qualifying electricity;

38 (c) At least 20 percent of the electricity sold by the **electric** utility to retail electricity con-
39 sumers in each of the calendar years 2020, 2021, 2022, 2023 and 2024 must be qualifying electricity;

40 [and]

41 (d) At least 25 percent of the electricity sold by a consumer-owned utility to retail elec-
42 tricity consumers in the calendar year 2025 and subsequent calendar years must be qualifying
43 electricity;

44 [(d)] (e) At least [25] 27 percent of the electricity sold by [the utility to retail electricity consumers
45 in calendar year 2025 and subsequent calendar years must be qualifying electricity.] an electric

1 **company to retail electricity consumers in each of the calendar years 2025, 2026, 2027, 2028**
 2 **and 2029 must be qualifying electricity;**

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

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

9 **(h) At least 50 percent of the electricity sold by an electric company to retail electricity**
 10 **consumers in the calendar year 2040 and subsequent calendar years must be qualifying elec-**
 11 **tricity.**

12 (2) If, on June 6, 2007, an electric utility makes sales of electricity to retail electricity consum-
 13 ers in an amount that equals less than three percent of all electricity sold to retail electricity con-
 14 sumers, but in any three consecutive calendar years thereafter makes sales of electricity to retail
 15 electricity consumers in amounts that average three percent or more of all electricity sold to retail
 16 electricity consumers, the **electric** utility is subject to the renewable portfolio standard described
 17 in subsection (3) of this section. The **electric** utility becomes subject to the **renewable portfolio**
 18 standard described in subsection (3) of this section in the calendar year following the three-year
 19 period during which the **electric** utility makes sales of electricity to retail electricity consumers in
 20 amounts that average three percent or more of all electricity sold to retail electricity consumers.

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

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

27 (b) Beginning in the 10th calendar year after the calendar year in which the **electric** utility
 28 becomes subject to the **renewable portfolio** standard described in this subsection, at least 15 per-
 29 cent of the electricity sold by the **electric** utility to retail electricity consumers in a calendar year
 30 must be qualifying electricity;

31 (c) Beginning in the 15th calendar year after the calendar year in which the **electric** utility
 32 becomes subject to the **renewable portfolio** standard described in this subsection, at least 20 per-
 33 cent of the electricity sold by the **electric** utility to retail electricity consumers in a calendar year
 34 must be qualifying electricity; and

35 (d) Beginning in the 20th calendar year after the calendar year in which the **electric** utility
 36 becomes subject to the **renewable portfolio** standard described in this subsection, at least 25 per-
 37 cent of the electricity sold by the **electric** utility to retail electricity consumers in a calendar year
 38 must be qualifying electricity.

39 **SECTION 3.** ORS 469A.075 is amended to read:

40 469A.075. (1) An electric company that is subject to a renewable portfolio standard shall develop
 41 an implementation plan for meeting the requirements of the **renewable portfolio** standard and file
 42 the **implementation** plan with the Public Utility Commission. Implementation plans must be revised
 43 and updated at least once every two years.

44 (2) **At a minimum**, an implementation plan must [*at a minimum*] contain:

45 (a) Annual targets for acquisition and use of qualifying electricity; and

1 (b) The estimated cost of meeting the annual targets, including the cost of transmission, the cost
 2 of firming, shaping and integrating qualifying electricity, the cost of alternative compliance pay-
 3 ments and the cost of acquiring renewable energy certificates.

4 (3) The commission shall acknowledge *[the]* **an** implementation plan no later than six months
 5 after the **implementation** plan is filed with the commission. The commission may acknowledge the
 6 **implementation** plan subject to conditions specified by the commission.

7 (4) The commission shall adopt rules:

8 (a) Establishing requirements for the content of implementation plans;

9 (b) Establishing the procedure for acknowledgment of implementation plans under this section,
 10 including provisions for public comment; and

11 (c) Providing for the integration of *[the]* **an** implementation plan with the integrated resource
 12 planning guidelines established by the commission *[and in effect on June 6, 2007.]* **for the purpose**
 13 **of planning for the least-cost, least-risk acquisition of resources.**

14 (5) *[The]* **An** implementation plan filed under this section may include procedures that will be
 15 used by the electric company to determine whether the costs of constructing a facility that gener-
 16 ates electricity from a renewable energy source, or the costs of acquiring bundled or unbundled
 17 renewable energy certificates, are consistent with the **renewable portfolio** standards of the com-
 18 mission relating to least-cost, least-risk planning for acquisition of resources.

19
 20 **(Banking Renewable Energy Certificates)**

21
 22 **SECTION 4.** ORS 469A.140 is amended to read:

23 469A.140. (1) Renewable energy certificates may be traded, sold or otherwise transferred.

24 (2) Renewable energy certificates that are not used by *[an electric utility or electricity service*
 25 *supplier]* **a consumer-owned utility** to comply with a renewable portfolio standard in a calendar
 26 year may be banked and carried forward indefinitely for the purpose of complying with a renewable
 27 portfolio standard in a subsequent year. For the purpose of **a consumer-owned utility** complying
 28 with a renewable portfolio standard in any calendar year[:],

29 *[(a) Banked renewable energy certificates must be used, up to the limit imposed by ORS 469A.145,*
 30 *before other certificates are used; and]*

31 *[(b)]* banked renewable energy certificates with the oldest issuance date must be used to comply
 32 with the **renewable portfolio** standard before banked renewable energy certificates with more re-
 33 cent issuance dates are used.

34 **(3)(a) Renewable energy certificates issued on or before the effective date of this 2016**
 35 **Act that are not used by an electric company or electricity service supplier to comply with**
 36 **a renewable portfolio standard in a calendar year may be banked and carried forward indef-**
 37 **initely for the purpose of complying with a renewable portfolio standard in a subsequent**
 38 **year.**

39 **(b) Except as provided in ORS 469A.020 (5) and (6), for qualifying electricity generated by**
 40 **a renewable energy source that is owned by an electric company or an electricity service**
 41 **supplier and that becomes operational on or before the effective date of this 2016 Act, or for**
 42 **qualifying electricity that is acquired under a contract, having a duration of less than 20**
 43 **years, for the purchase of electricity generated by a renewable energy source that becomes**
 44 **operational between the effective date of this 2016 Act and December 31, 2022, renewable**
 45 **energy certificates issued for the qualifying electricity after the effective date of this 2016**

1 Act that are not used by an electric company or an electricity service supplier to comply
2 with a renewable portfolio standard in the calendar year in which the renewable energy
3 certificates are issued may be banked and carried forward, for up to five compliance years
4 immediately following the compliance year in which the renewable energy certificates are
5 issued, for the purpose of complying with a renewable portfolio standard in one of those five
6 compliance years.

7 (c) For qualifying electricity generated by a renewable energy source that is owned by
8 an electric company or an electricity service supplier and that becomes operational between
9 the effective date of this 2016 Act and December 31, 2022, or for qualifying electricity that
10 is acquired under a contract, having a duration of 20 years or more, for the purchase of
11 electricity generated by a renewable energy source that becomes operational between the
12 effective date of this 2016 Act and December 31, 2022, renewable energy certificates issued
13 for the qualifying electricity during the five-year period after the date the renewable energy
14 source becomes operational that are not used by an electric company or an electricity ser-
15 vice supplier to comply with a renewable portfolio standard in the calendar year in which the
16 renewable energy certificates are issued may be banked and carried forward indefinitely for
17 the purpose of complying with a renewable portfolio standard in a subsequent year.

18 (d) For qualifying electricity generated by a renewable energy source that is owned by
19 an electric company or an electricity service supplier and that becomes operational between
20 the effective date of this 2016 Act and December 31, 2022, or for qualifying electricity that
21 is acquired under a contract, having a duration of 20 years or more, for the purchase of
22 electricity generated by a renewable energy source that becomes operational between the
23 effective date of this 2016 Act and December 31, 2022, renewable energy certificates issued
24 for the qualifying electricity more than five years after the renewable energy source becomes
25 operational that are not used by an electric company or an electricity service supplier to
26 comply with a renewable portfolio standard in the calendar year in which the renewable en-
27 ergy certificates are issued may be banked and carried forward, for up to five compliance
28 years immediately following the compliance year in which the renewable energy certificates
29 are issued, for the purpose of complying with a renewable portfolio standard in one of those
30 five compliance years.

31 (e) For qualifying electricity generated by a renewable energy source that becomes op-
32 erational after December 31, 2022, renewable energy certificates issued for the qualifying
33 electricity that are not used by an electric company or an electricity service supplier to
34 comply with a renewable portfolio standard in the calendar year in which the renewable en-
35 ergy certificates are issued may be banked and carried forward, for up to five compliance
36 years immediately following the compliance year in which the renewable energy certificates
37 are issued, for the purpose of complying with a renewable portfolio standard in one of those
38 five compliance years.

39 [(3)] (4) An electric utility or electricity service supplier is responsible for demonstrating that
40 a renewable energy certificate used to comply with a renewable portfolio standard is derived from
41 a renewable energy source and that the **electric** utility or **electricity service** supplier has not used,
42 traded, sold or otherwise transferred the **renewable energy** certificate.

43 [(4)] (5) [The same] A renewable energy certificate may be used by an electric utility or elec-
44 tricity service supplier to comply with **both** a federal renewable portfolio standard and a renewable
45 portfolio standard established under ORS 469A.005 to 469A.210. An electric utility or electricity

1 service supplier that uses a renewable energy certificate to comply with a renewable portfolio
 2 standard imposed by *[any other]* a state other than this state may not use the same **renewable**
 3 **energy** certificate to comply with a renewable portfolio standard established under ORS 469A.005
 4 to 469A.210.

5
 6 **(Acquisition of Electric Company**
 7 **Service Territory)**
 8

9 **SECTION 5.** ORS 469A.055 is amended to read:

10 469A.055. (1) Except as provided in this section, an electric utility that makes sales of electricity
 11 to retail electricity consumers in an amount that equals less than three percent of all electricity
 12 sold to retail electricity consumers is not subject to ORS 469A.005 to 469A.210.

13 (2) Beginning in calendar year 2025, at least five percent of the electricity sold to retail elec-
 14 tricity consumers in a calendar year by an electric utility must be qualifying electricity if the elec-
 15 tric utility makes sales of electricity to retail electricity consumers in an amount that equals less
 16 than one and one-half percent of all electricity sold to retail electricity consumers.

17 (3) Beginning in calendar year 2025, at least 10 percent of the electricity sold to retail elec-
 18 tricity consumers in a calendar year by an electric utility must be qualifying electricity if the elec-
 19 tric utility makes sales of electricity to retail electricity consumers in an amount that equals or is
 20 more than one and one-half percent, and less than three percent, of all electricity sold to retail
 21 electricity consumers.

22 (4) The exemption provided by subsection (1) of this section terminates if an electric utility, or
 23 a joint operating entity that includes the **electric** utility as a member, acquires electricity from an
 24 electricity generating facility that uses coal as an energy source or makes an investment on or after
 25 June 6, 2007, in an electricity generating facility that uses coal as an energy source. **Beginning in**
 26 **the calendar year following the year in which an electric utility's exemption terminates un-**
 27 **der this subsection, the electric utility is subject to the renewable portfolio standard de-**
 28 **scribed in ORS 469A.052 (3) and the provisions of ORS 469A.005 to 469A.210 that apply to ORS**
 29 **469A.052 (3).** This subsection does not apply to:

30 (a) A wholesale market purchase by an electric utility for which the energy source for the
 31 electricity is not known;

32 (b) BPA electricity;

33 (c) Acquisition of electricity under a contract entered into before June 6, 2007;

34 (d) A renewal or replacement contract for a contract for purchase of electricity described in
 35 paragraph (c) of this subsection;

36 (e) A purchase of electricity if the electricity is included in a contract for the purchase of
 37 qualifying electricity and is necessary to shape, firm or integrate the qualifying electricity;

38 (f) Electricity provided to an electric utility under a contract for the acquisition of an interest
 39 in an electricity generating facility that was entered into by the **electric** utility before June 6, 2007,
 40 or entered into before June 6, 2007, by an electric cooperative organized under ORS chapter 62 of
 41 which the electric utility is a member, without regard to whether the electricity is being used to
 42 serve the load of the electric utility on June 6, 2007; or

43 (g) Investments in an electricity generating facility that uses coal as an energy source if the
 44 investments are for the purpose of improving the facility's pollution mitigation equipment or the
 45 facility's efficiency or are necessary to comply with requirements or standards imposed by govern-

1 mental entities.

2 [(5) *The exemption provided by subsection (1) of this section terminates for a consumer-owned*
 3 *utility if at any time after June 6, 2007, the utility acquires service territory of an electric company*
 4 *without the consent of the electric company.*]

5 [(6) *Beginning in the calendar year following the year in which an electric utility's exemption ter-*
 6 *minates under subsection (4) or (5) of this section, the utility is subject to the renewable portfolio*
 7 *standard described in ORS 469A.052 (3) and related provisions of ORS 469A.005 to 469A.210.*]

8 **(5) If an electric utility acquires service territory of an electric company without the**
 9 **consent of the electric company, then beginning in the calendar year following the acquisi-**
 10 **tion the electric utility is subject to the renewable portfolio standard that is applicable to the**
 11 **electric company and the provisions of ORS 469A.005 to 469A.210 that apply to that renewable**
 12 **portfolio standard.**

13 [(7)] (6) The provisions of this section do not affect the requirement that electric utilities offer
 14 a green power rate under ORS 469A.205.

15 **SECTION 6.** ORS 469A.060 is amended to read:

16 469A.060. (1) Electric utilities are not required to comply with the renewable portfolio standards
 17 described in ORS 469A.052 and 469A.055 to the extent that:

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

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

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

29 (b) If a contract described in paragraph (a) of this subsection expires and is not renewed or re-
 30 placed, the **electric** utility must comply, in the calendar year following the expiration of the con-
 31 tract, with the renewable portfolio standard applicable to the **electric** utility.

32 (3) A consumer-owned utility is not required to comply with a renewable portfolio standard to
 33 the extent that compliance would require the **consumer-owned** utility to reduce the **consumer-**
 34 **owned** utility's purchases of the lowest priced electricity from the Bonneville Power Administration
 35 pursuant to section 5 of the Pacific Northwest Electric Power Planning and Conservation Act of
 36 1980, P.L. 96-501, as in effect on June 6, 2007. The exemption provided by this subsection:

37 (a) Applies only to firm commitments for BPA electricity that the Bonneville Power Adminis-
 38 tration has assured will be available to a **consumer-owned** utility to meet agreed portions of the
 39 **consumer-owned** utility's load requirements for a defined period of time[.]; and

40 (b) **Does not apply to a consumer-owned utility that acquires service territory of an**
 41 **electric company without the consent of the electric company on or after June 6, 2007.**

42
 43 **(Electricity Service Suppliers)**
 44

45 **SECTION 7.** ORS 469A.135 is amended to read:

1 469A.135. (1) A bundled renewable energy certificate may be used to comply with a renewable
2 portfolio standard if:

3 (a) The facility that generates the qualifying electricity for which the **bundled renewable en-**
4 **ergy** certificate is issued is located in the United States and within the geographic boundary of the
5 Western Electricity Coordinating Council; and

6 (b) The qualifying electricity for which the **bundled renewable energy** certificate is issued is
7 delivered to:

8 (A) The Bonneville Power Administration[, *to*];

9 (B) The transmission system of an electric utility [*or to another*];

10 (C) A delivery point designated by [*an*] **the** electric utility for the purpose of subsequent deliv-
11 ery to the electric utility; **or**

12 (D) **A delivery point mutually agreed to by a distribution utility and an electricity service**
13 **supplier for the purpose of subsequent delivery to the distribution utility serving the cus-**
14 **tomer of the electricity service supplier.**

15 (2) An unbundled renewable energy certificate may be used to comply with a renewable portfolio
16 standard if the facility that generates the qualifying electricity for which the **unbundled renewable**
17 **energy** certificate is [*issued*] **acquired** is located within the geographic boundary of the Western
18 Electricity Coordinating Council.

19 (3) Renewable energy certificates issued for any electricity that the Bonneville Power Adminis-
20 tration has designated as environmentally preferred power, or has given a similar designation for
21 electricity generated from a renewable resource, may be used to comply with a renewable portfolio
22 standard without regard to the location of the generating facility.

23 (4) **This section does not affect the obligations or requirements:**

24 (a) **Imposed under or agreed to in a contract with a distribution utility;**

25 (b) **Imposed under tariff schedules approved by the Public Utility Commission;**

26 (c) **Imposed under an approved open access transmission tariff; or**

27 (d) **Imposed under rules adopted by the commission under ORS 757.600 to 757.689.**

28 **SECTION 8.** ORS 469A.145 is amended to read:

29 469A.145. (1) Except as otherwise provided in this section, unbundled renewable energy certif-
30 icates, including banked unbundled renewable energy certificates, may not be used to meet more
31 than 20 percent of the requirements of the large utility renewable portfolio standard described in
32 ORS 469A.052 for any compliance year.

33 (2) The limitation imposed by subsection (1) of this section does not apply to **unbundled**
34 renewable energy certificates [*issued*] **acquired** for electricity generated in [*Oregon*] **this state** from
35 a renewable energy source by a net metering facility, as defined in ORS 757.300, or another gener-
36 ating facility that is not directly connected to a distribution or transmission system.

37 (3) The limitation imposed by subsection (1) of this section does not apply to **unbundled**
38 renewable energy certificates [*issued*] **acquired** for electricity generated in [*Oregon*] **this state** by
39 a qualifying facility under ORS 758.505 to 758.555.

40 (4) The limitation imposed by subsection (1) of this section does not apply to an electricity ser-
41 vice supplier **for purposes of meeting the renewable portfolio standard described in ORS**
42 **469A.065 during compliance years before 2021.**

43
44 (Recovery of Costs for Complying
45 with Renewable Portfolio Standard)

SECTION 9. ORS 469A.120 is amended to read:

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

(2)(a) The Public Utility Commission shall establish an automatic adjustment clause as defined in ORS 757.210 or another method that allows timely recovery of costs prudently incurred by an electric company to construct or otherwise acquire facilities that generate electricity from renewable energy sources *[and for]*, **costs related to associated electricity transmission and costs related to associated energy storage.**

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

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

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

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

**(Exemption for Purposes of Meeting
Reliability Standards of North American
Electric Reliability Corporation)**

SECTION 10. Sections 11 and 12 of this 2016 Act are added to and made a part of ORS 469A.005 to 469A.210.

SECTION 11. (1) Notwithstanding ORS 469A.052, an electric company may apply to the

1 Public Utility Commission for a temporary exemption from complying with one or more of
 2 the requirements of ORS 469A.052. The commission may grant a temporary exemption under
 3 this section if the commission determines that compliance with one or more of the require-
 4 ments of ORS 469A.052 is likely to result in conflicts with or compromises to the electric
 5 company's obligation to comply with the mandatory and enforceable reliability standards of
 6 the North American Electric Reliability Corporation. An application submitted under this
 7 section must include:

8 (a) An explanation of the reliability issue and how a temporary exemption from comply-
 9 ing with one or more of the requirements of ORS 469A.052 will avoid the reliability issue; and

10 (b) A plan to achieve full compliance with the requirements of ORS 469A.052.

11 (2) In applying for a temporary exemption under this section, an electric company has
 12 the burden of demonstrating that compliance with one or more of the requirements of ORS
 13 469A.052 is likely to result in conflicts with or compromises to the electric company's obli-
 14 gation to comply with the reliability standards of the North American Electric Reliability
 15 Corporation.

16 (3) If the commission determines under this section that compliance with one or more
 17 of the requirements of ORS 469A.052 is likely to result in conflicts with or compromises to
 18 an electric company's obligation to comply with the reliability standards of the North
 19 American Electric Reliability Corporation, the commission shall issue an order:

20 (a) Temporarily exempting the electric company from one or more of the requirements
 21 of ORS 469A.052 for an amount of time sufficient to allow the electric company to achieve
 22 full compliance with the requirements of ORS 469A.052;

23 (b) Directing the electric company to file a progress report on achieving full compliance
 24 with the requirements of ORS 469A.052 within six months after issuing the order, or within
 25 an amount of time determined to be reasonable by the commission; and

26 (c) Directing the electric company to take specific actions to achieve full compliance with
 27 the requirements of ORS 469A.052.

28 (4) An electric company may request an extension of a temporary exemption granted
 29 under this section.

30 (5) This section does not permanently relieve an electric company of its obligation to
 31 comply with the requirements of ORS 469A.052.

32
 33 (Investigation of Future Variable Cost Recovery)

34
 35 **SECTION 12.** At the request of an electric company, made in a form and manner pre-
 36 scribed by the Public Utility Commission, the commission may open an investigation to de-
 37 termine whether the requirements of ORS 469A.052 (1)(e), (f), (g) or (h), or other
 38 requirements under ORS 469A.005 to 469A.210 related to the supply of electricity, necessitate
 39 changes to the methodology for recovery of variable costs associated with supplying elec-
 40 tricity.

41
 42 **GENERAL REGULATORY PROVISIONS**

43
 44 (Series Placement)

1 **SECTION 13.** Sections 14, 15 and 16 of this 2016 Act are added to and made a part of ORS
2 chapter 757.

3
4 (Acquisition of Electric Company
5 Service Territory or Property)
6

7 **SECTION 14.** (1) For purposes of this section:

8 (a) “Electric company” has the meaning given that term in ORS 757.600.

9 (b) “Electric utility” has the meaning given that term in ORS 757.600.

10 (c) “Retail electricity consumer” has the meaning given that term in ORS 757.600.

11 (2) The Public Utility Commission shall establish a stranded costs obligation payable by
12 an electric utility to an electric company in association with a condemnation or transaction
13 described in subsection (3) of this section.

14 (3)(a) An electric utility that condemns the service territory or property of an electric
15 company, or acquires property pursuant to a transaction described in ORS 757.480, must pay
16 the stranded costs obligation established by the commission under subsection (2) of this
17 section.

18 (b) The purpose of the stranded costs obligation is to prevent shifting the costs associ-
19 ated with the loss of service territory or property of an electric company from the retail
20 electricity consumers of the electric utility to the retail electricity consumers of the electric
21 company.

22 (4) The commission shall determine the stranded costs obligation in accordance with the
23 Federal Energy Regulatory Commission’s current methodology for determining stranded
24 costs under the same or similar circumstances.

25 (5) This section does not interfere with or supersede the jurisdiction of the Federal En-
26 ergy Regulatory Commission.

27
28 (Valuation of Renewable Energy Resources)
29

30 **SECTION 15.** (1) The Legislative Assembly finds and declares that the Public Utility
31 Commission has the authority to make an estimation and valuation of the long-term benefit
32 of:

33 (a) Any renewable energy generating facility;

34 (b) Any renewable energy site; or

35 (c) Any renewable energy resource acquired by a public utility.

36 (2) The commission shall adopt rules or issue orders that allow, in any public bidding
37 process for the procurement of a renewable energy generating facility, inclusion in the cost
38 of procurement the value to the customers of the public utility of:

39 (a) The long-term access to and use of the renewable energy generating facility,
40 renewable energy site or renewable energy resource beyond the time at which the renewable
41 energy generating facility is fully depreciated; and

42 (b) Potentially repowering, refurbishing or retrofitting the renewable energy generating
43 facility in a manner that ensures the ability of the renewable energy generating facility to
44 continue generating power beyond the expected useful life of the renewable energy generat-
45 ing facility.

(Tax Credit Tracking)

SECTION 16. (1) As used in this section, “electric company” has the meaning given that term in ORS 757.600.

(2) The Public Utility Commission shall establish the means by which an electric company may track, and credit or charge customers for, the difference between state or federal production tax credits included in rates charged by the electric company and actual production tax credits received by the electric company.

(3) The means by which an electric company may credit or charge customers pursuant to subsection (1) of this section is not subject to ORS 757.259.

ENERGY EFFICIENCY

SECTION 17. (1) As used in this section, “electric company” has the meaning given that term in ORS 757.600.

(2) The Legislative Assembly finds and declares that:

(a) Energy efficiency programs promote lower energy bills, protect the public health and safety, improve environmental quality, stimulate sustainable economic development, create new employment opportunities and reduce reliance on imported fuels; and

(b) Demand response resources result in more efficient use of existing resources and reduce the need for procuring new power generating resources, which, in turn, reduces energy bills, protects the public health and safety and improves environmental quality.

(3) For the purposes of ensuring prudent investments by an electric company in energy efficiency and demand response before the electric company acquires new resources, producing cost-effective energy savings, reducing customer demand for energy, reducing overall electrical system costs, increasing the public health and safety and improving environmental quality, each electric company serving customers in this state shall:

(a) Plan for and pursue all available energy efficiency resources that are cost effective, reliable and feasible; and

(b) As directed by the Public Utility Commission by rule or order, plan for and pursue the acquisition of cost-effective demand response resources.

TRANSPORTATION ELECTRIFICATION PROGRAMS

SECTION 18. (1) As used in this section:

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

(b) “Transportation electrification” means:

(A) The use of electricity from external sources to provide power to all or part of a vehicle;

(B) Programs related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph; and

(C) Infrastructure investments related to developing the use of electricity for the purpose described in subparagraph (A) of this paragraph.

(c) “Vehicle” means a vehicle, vessel, train, boat or any other equipment that is mobile.

(2) The Legislative Assembly finds and declares that:

1 (a) Transportation electrification is necessary to reduce petroleum use, achieve optimum
 2 levels of energy efficiency and carbon reduction, meet federal and state air quality standards,
 3 meet this state’s greenhouse gas emissions reduction goals described in ORS 468A.205 and
 4 improve the public health and safety;

5 (b) Widespread transportation electrification requires that electric companies increase
 6 access to the use of electricity as a transportation fuel;

7 (c) Widespread transportation electrification requires that electric companies increase
 8 access to the use of electricity as a transportation fuel in low and moderate income com-
 9 munities;

10 (d) Widespread transportation electrification should stimulate innovation and competi-
 11 tion, provide consumers with increased options in the use of charging equipment and in
 12 procuring services from suppliers of electricity, attract private capital investments and cre-
 13 ate high quality jobs in this state;

14 (e) Deploying electric vehicles should assist in managing the electrical grid, integrating
 15 generation from renewable energy resources and improving electric system efficiency and
 16 operational flexibility, including the ability of an electric company to integrate variable gen-
 17 erating resources;

18 (f) Deploying electric vehicles in the manner described in paragraph (e) of this subsection
 19 creates the opportunity for an electric company to propose, to the Public Utility Commission,
 20 that a net benefit for the customers of the electric company is attainable; and

21 (g) Charging electric vehicles in a manner that provides benefits to electrical grid man-
 22 agement affords fuel cost savings for vehicle drivers.

23 (3) The Public Utility Commission shall direct each electric company to file applications,
 24 in a form and manner prescribed by the commission, for programs to accelerate transpor-
 25 tation electrification that are consistent with the findings and declarations described in
 26 subsection (2) of this section. A program proposed by an electric company may include pru-
 27 dent investments in or customer rebates for electric vehicle charging and related
 28 infrastructure that are:

29 (a) Within the service territory of the electric company;

30 (b) Installed on or after July 1, 2016;

31 (c) Reasonably expected to be used and useful;

32 (d) Reasonably expected to enable the electric company to support the electric company’s
 33 electrical system; and

34 (e) Reasonably expected to improve the electric company’s electrical system efficiency
 35 and operational flexibility, including the ability of the electric company to integrate variable
 36 generating resources.

37 (4)(a) Tariff schedules and rates allowed pursuant to subsection (3) of this section:

38 (A) May allow a return of and a return on an investment made by an electric company
 39 under subsection (3) of this section; and

40 (B) Shall be recovered from all customers of an electric company in a manner that is
 41 similar to the recovery of distribution system investments.

42 (b) A return on investment allowed under this subsection may be earned for a period of
 43 time that does not exceed the depreciation schedule of the investment approved by the
 44 commission. When an electric company’s investment is fully depreciated, the electric com-
 45 pany may donate the electric vehicle charging infrastructure to the owner of the property

1 on which the infrastructure is located.

2 (5) For purposes of ORS 757.355, electric vehicle charging infrastructure provides utility
3 service to the customers of an electric company.

4 (6) In authorizing programs described in subsection (3) of this section, the commission
5 shall review data concerning current and future adoption of electric vehicles and utilization
6 of electric vehicle charging infrastructure. If market barriers unrelated to the investment
7 made by an electric company prevent electric vehicles from adequately utilizing available
8 electric vehicle charging infrastructure, the commission may not permit additional invest-
9 ments in transportation electrification without a reasonable showing that the investments
10 would not result in long-term stranded costs recoverable from the customers of electric
11 companies.

12
13 **SOLAR PROGRAMS**

14
15 **(Community Solar Projects)**

16
17 **SECTION 19.** (1) For purposes of this section:

18 (a) "Community solar project" has the meaning given that term by the Public Utility
19 Commission by rule.

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

21 (c) "Solar photovoltaic energy system" means equipment and devices that have the pri-
22 mary purpose of collecting solar energy and generating electricity by photovoltaic effect.

23 (2) The Public Utility Commission shall establish by rule a program for the creation of
24 community solar projects. As part of the program, the commission shall require each electric
25 company to procure an amount of electricity, to be determined by the commission, from
26 community solar projects.

27 (3) A community solar project:

28 (a) Must have at least one solar photovoltaic energy system with a generating capacity
29 of at least 25 kilowatts;

30 (b) May be owned by an electric company or by a third party from whom an electric
31 company purchases power;

32 (c) Must be located in this state; and

33 (d) If owned by an electric company, may be located anywhere in the service territory
34 of the electric company.

35 (4) The owner or operator of a community solar project may offer subscriptions for the
36 generation of electricity only to residential and small commercial consumers of electricity
37 that are located:

38 (a) In this state; and

39 (b) In the service territory of an electric company.

40 (5) The owner or operator of a community solar project may offer individual sub-
41 scriptions for the generation of electricity, as described in subsection (4) of this section, in
42 any amount that does not exceed the subscriber's average annual consumption of electricity.

43 (6)(a) Except as provided in paragraph (b) of this subsection, an electric company shall
44 credit a subscriber's electric bill for the amount of electricity generated by a community
45 solar project for the subscriber in an amount that equals the resource value of solar energy.

1 For purposes of this paragraph, the commission shall determine the resource value of solar
 2 energy.

3 (b) The commission may adopt a rate for an electric company to use in crediting a
 4 subscriber's electric bill other than the rate described in paragraph (a) of this subsection if
 5 the commission has good cause to adopt the different rate.

6 (7) The costs and benefits of a community solar project shall be borne by the owner, op-
 7 erator or developer of the community solar project.

8 (8) All start-up costs prudently incurred by an electric company during the development
 9 or modification of the program established under this section are recoverable in the rates
 10 of an electric company. All ongoing costs incurred during the continued administration of a
 11 community solar project shall be borne by the owner or operator of the community solar
 12 project.

13 (9) A subscriber to a community solar project owns all renewable energy certificates
 14 provided for in the system established under ORS 469A.130 that are associated with the
 15 electricity generated by the community solar project, in proportion to the subscriber's sub-
 16 scription.

17 (10) As part of the program established under this section, the commission shall:

18 (a) Identify low-income residential consumers of electricity;

19 (b) Determine a methodology by which 15 percent of the total generating capacity of the
 20 community solar projects operated under the program will be made available for use by
 21 low-income residential consumers of electricity; and

22 (c) Periodically review and adjust the percentage described in paragraph (b) of this sub-
 23 section.

24 **SECTION 20.** (1) After determining the initial amount of electricity that an electric
 25 company must procure from community solar projects pursuant to section 19 (2) of this 2016
 26 Act, the Public Utility Commission may not increase the amount of electricity that an elec-
 27 tric company must procure from community solar projects until January 1, 2019.

28 (2) The commission may not adjust the percentage of the total generating capacity of the
 29 community solar projects operated under the program that will be made available for use by
 30 low-income residential consumers of electricity pursuant to section 19 (10)(c) of this 2016 Act
 31 until January 1, 2019.

32 **SECTION 21.** On or before January 1, 2019, the Public Utility Commission shall report
 33 on the implementation of section 19 of this 2016 Act to the interim committees of the Leg-
 34 islative Assembly related to business and energy. As part of the report, the commission may
 35 make recommendations for legislation. The commission shall submit the report in the man-
 36 ner required by ORS 192.245.

37
 38 (Repeal of Minimum Solar Energy
 39 Capacity Standard for Electric Companies)

40
 41 **SECTION 22.** ORS 757.370 is repealed.

42 **SECTION 23.** ORS 757.375 is amended to read:

43 757.375. (1) Any electricity produced from a *[qualifying system under ORS 757.370]* solar
 44 photovoltaic energy system that is physically located in this state may be used by an electric
 45 company to comply with the renewable portfolio standard established under ORS 469A.005 to

1 469A.210.

2 (2) For each kilowatt-hour of electricity produced from a qualifying system that first becomes
 3 operational before January 1, 2016, and [*generates at least*] **has a nameplate capacity of between**
 4 **500 kilowatts and five megawatts of alternating current**, an electric company [*will be credited*
 5 *with*] **shall receive** two kilowatt-hours of qualifying electricity toward the company’s compliance
 6 with the renewable portfolio standard under ORS 469A.005 to 469A.210, up to a maximum of 20
 7 megawatts of capacity.

8
 9 **CONFORMING AMENDMENTS**

10
 11 **SECTION 24.** ORS 469A.005 is amended to read:

12 469A.005. As used in ORS 469A.005 to 469A.210:

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

17 (2) “BPA electricity” means electricity provided by the Bonneville Power Administration, in-
 18 cluding [*all*] electricity [*from*] **generated by** the Federal Columbia River Power System hydroelectric
 19 projects and [*other*] electricity acquired by the Bonneville Power Administration by contract.

20 (3) “Bundled renewable energy certificate” means a renewable energy certificate for qualifying
 21 electricity that is acquired:

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

24 (b) By an electric utility by generation of the electricity for which the **renewable energy** cer-
 25 tificate was issued.

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

30 (5) “Consumer-owned utility” means a municipal electric utility, a people’s utility district or-
 31 ganized under ORS chapter 261 that sells electricity or an electric cooperative organized under ORS
 32 chapter 62.

33 **(6) “Distribution utility” has the meaning given that term in ORS 757.600.**

34 [(6)] (7) “Electric company” has the meaning given that term in ORS 757.600.

35 [(7)] (8) “Electric utility” has the meaning given that term in ORS 757.600.

36 [(8)] (9) “Electricity service supplier” has the meaning given that term in ORS 757.600.

37 [(9)] (10) “Qualifying electricity” means electricity described in ORS 469A.010.

38 [(10)] (11) “Renewable energy source” means a source of electricity described in ORS 469A.025.

39 [(11)] (12) “Retail electricity consumer” means a retail electricity consumer, as defined in ORS
 40 757.600, that is located in Oregon.

41 [(12)] (13) “Unbundled renewable energy certificate” means a renewable energy certificate for
 42 qualifying electricity that is acquired by an electric utility or electricity service supplier by trade,
 43 purchase or other transfer without acquiring the electricity [*for which the*] **that is associated with**
 44 **the renewable energy** certificate [*was issued*].

MISCELLANEOUS

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SECTION 25. The Public Utility Commission shall establish the means by which an electric company may track the difference between tax credits, and credit or charge customers, under section 16 of this 2016 Act on or before October 1, 2016.

SECTION 26. The Public Utility Commission shall direct each electric company in this state to file applications as required by section 18 of this 2016 Act on or before September 30, 2016.

SECTION 27. The unit captions used in this 2016 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2016 Act.

SECTION 28. This 2016 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect on its passage.
