

A-Engrossed House Bill 2242

Ordered by the House March 4
Including House Amendments dated March 4

Sponsored by Representatives HOLVEY, HELM; Representatives KENY-GUYER, POWER, SALINAS, SCHOUTEN, WILDE, Senators DEMBROW, TAYLOR (Presession filed.)

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.

Authorizes Public Utility Commission to consider differential energy burden and other inequities of affordability in rates.

Authorizes public utilities to enter agreements to provide financial assistance for organizations to represent in regulatory proceedings before commission interests of low-income **residential** customers and **residential** customers that are members of environmental justice communities.

Establishes Office of the Low-Income and Environmental Justice Advocate within commission. Authorizes office to intervene in certain proceedings. **Requires Low-Income and Environmental Justice Advocate to convene advisory group to advise office in discharge of duties.**

Requires office to report on activities of office to interim committees of Legislative Assembly related to energy no later than December 1, 2021.

Directs commission to establish public process for investigating ways to address and mitigate, **through nonbypassable means**, differential energy burdens on classes of *[electric company]* **public utility** customers and other inequities of affordability **and environmental justice**. Requires commission to *[report findings to interim committees of Legislative Assembly related to energy and business no later than September 15, 2020]* **incorporate findings into commission's 2020 report to Environmental Justice Task Force and Governor**. Sunsets public process January 2, 2021.

A BILL FOR AN ACT

1
2 Relating to public utilities; creating new provisions; and amending ORS 756.010, 757.072 and 757.230.

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

4 **SECTION 1.** ORS 756.010 is amended to read:

5 756.010. As used in ORS chapters 756, 757, 758 and 759, except as otherwise specifically provided
6 or unless the context requires otherwise:

7 (1) "Commission" means the Public Utility Commission of Oregon.

8 (2) "Commissioner" means a member of the Public Utility Commission of Oregon.

9 (3) "Customer" includes the patrons, passengers, shippers, subscribers, users of the service and
10 consumers of the product of a public utility or telecommunications utility.

11 (4) **"Environmental justice" means equal protection from environmental and health haz-**
12 **ards and meaningful public participation in decisions that affect the environment in which**
13 **people live, work, learn, practice spirituality and play.**

14 (5) **"Environmental justice communities" includes communities of color, communities**
15 **experiencing lower incomes, tribal communities and other communities traditionally under-**
16 **represented in public processes, including but not limited to seniors, youth and persons with**
17 **disabilities.**

18 [(4)] (6) "Municipality" means any city, municipal corporation or quasi-municipal corporation.

19 [(5)] (7) "Person" includes individuals, joint ventures, partnerships, corporations and associ-

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 ations or their officers, employees, agents, lessees, assignees, trustees or receivers.

2 [(6)] (8) "Public utility" has the meaning given that term in ORS 757.005.

3 [(7)] (9) "Rate" means any fare, charge, joint rate, schedule or groups of rates or other
4 remuneration or compensation for service.

5 [(8)] (10) "Service" is used in its broadest and most inclusive sense and includes equipment and
6 facilities related to providing the service or the product served.

7 [(9)] (11) "Telecommunications utility" has the meaning given that term in ORS 759.005.

8 **SECTION 2.** ORS 757.230 is amended to read:

9 757.230. (1) The Public Utility Commission shall provide for a comprehensive classification of
10 service for each public utility, and such classification may take into account the quantity used, the
11 time when used, the purpose for which used, the existence of price competition or a service alter-
12 native, the services being provided, the conditions of service, **differential energy burdens on**
13 **low-income customers and other economic, social equity or environmental justice factors**
14 **that affect affordability for certain classes of utility customers**, and any other reasonable
15 consideration. Based on such considerations the commission may authorize classifications or sched-
16 ules of rates applicable to individual customers or groups of customers. The service classifications
17 and schedule forms shall be designed consistently with the requirements of ORS 469.010. Each public
18 utility is required to conform its schedules of rates to such classification. If the commission deter-
19 mines that a tariff filing under ORS 757.205 results in a rate classification primarily related to price
20 competition or a service alternative, the commission, at a minimum, shall consider the following:

21 (a) Whether the rate generates revenues at least sufficient to cover relevant short and long run
22 costs of the utility during the term of the rates;

23 (b) Whether the rate generates revenues sufficient to insure that just and reasonable rates are
24 established for remaining customers of the utility;

25 (c) For electric and natural gas utilities:

26 (A) Whether it is appropriate to incorporate interruption of service in the utility's rate agree-
27 ment with the customer; and

28 (B) Whether the rate agreement requires the utility to acquire new resources to serve the load;
29 and

30 (d) For electric utilities, for service to load not previously served, the effect of the rate on the
31 utility's average system cost through the residential exchange provision of the Pacific Northwest
32 Electric Power Planning and Conservation Act of 1980, Public Law 96-501, as amended.

33 (2) The commission may prescribe such changes in the form in which the schedules are issued
34 by any public utility as may be found to be expedient. The commission shall adopt rules which allow
35 any person who requests notice of tariff filings described under subsection (1) of this section to re-
36 ceive such notice.

37 **SECTION 3.** ORS 757.072 is amended to read:

38 757.072. (1) A public utility providing electricity or natural gas may enter into a written agree-
39 ment with an organization that represents [*broad*] customer interests in regulatory proceedings
40 conducted by the Public Utility Commission relating to public utilities that provide electricity or
41 natural gas. The agreement shall govern the manner in which financial assistance may be provided
42 to the organization. The agreement may provide for financial assistance to other organizations found
43 by the commission to be qualified under subsection (2) of this section. More than one public utility
44 or organization may join in a single agreement. Any agreement entered into under this section must
45 be approved by the commission before any financial assistance is provided under the agreement.

1 (2)(a) Financial assistance under an agreement entered into under this section may be provided
2 only to organizations that represent [*broad customer*] interests in regulatory proceedings before the
3 commission relating to public utilities that provide electricity or natural gas **that are:**

4 (A) **The broad interests of customers; or**

5 (B) **The interests of low-income residential customers or residential customers that are**
6 **members of environmental justice communities.**

7 (b) The commission by rule shall establish such qualifications as the commission deems appro-
8 priate for determining which organizations are eligible for financial assistance under an agreement
9 entered into under this section.

10 (3) In administering an agreement entered into under this section, the commission by rule or
11 order may determine:

12 (a) The amount of financial assistance that may be provided to any organization;

13 (b) The manner in which the financial assistance will be distributed;

14 (c) The manner in which the financial assistance will be recovered in the rates of the public
15 utility under subsection (4) of this section; and

16 (d) Other matters necessary to administer the agreement.

17 (4) The commission shall allow a public utility that provides financial assistance under this
18 section to recover the amounts so provided in rates. The commission shall allow a public utility to
19 defer inclusion of those amounts in rates as provided in ORS 757.259 if the public utility so elects.
20 An agreement under this section may not provide for payment of any amounts to the commission.

21 **SECTION 4. Section 5 of this 2019 Act is added to and made a part of ORS chapter 756.**

22 **SECTION 5. (1) The Office of the Low-Income and Environmental Justice Advocate is**
23 **established in the Public Utility Commission. The office is under the supervision and control**
24 **of the Low-Income and Environmental Justice Advocate, who is responsible for the per-**
25 **formance of the duties, functions and powers of the office.**

26 (2) **The commission shall organize the Office of the Low-Income and Environmental**
27 **Justice Advocate as a separate and independent division of the commission and shall take**
28 **all actions necessary to avoid a conflict of interest or the appearance of a conflict of interest**
29 **on the part of the commission or the advocate in the discharge of the responsibilities of the**
30 **commission or the advocate, respectively. The commission shall separately budget the com-**
31 **penensation and expenses to be paid for the office.**

32 (3) **The commission shall appoint the Low-Income and Environmental Justice Advocate,**
33 **who will be responsible for representing low-income and environmental justice communities**
34 **in the proceedings of the commission. The commission may delegate the duties to appoint**
35 **and supervise the advocate to an officer of the commission, if the commission determines**
36 **that the delegation is necessary to meet the requirements of subsection (2) of this section.**
37 **In appointing the advocate, the commission shall consult with:**

38 (a) **Members of the low-income and environmental justice communities; and**

39 (b) **The chairperson of the Environmental Justice Task Force, or the chairperson's**
40 **designee.**

41 (4) **The Low-Income and Environmental Justice Advocate shall be a person who has:**

42 (a) **Significant background and experience working in low-income and environmental**
43 **justice communities, with an emphasis on experience in evaluating the impacts of energy**
44 **burdens on low-income and environmental justice communities; and**

45 (b) **Experience in proceedings before the commission or in similar forums.**

1 (5) Subject to the availability of funds and the applicable provisions of ORS chapter 240,
2 the advocate may hire staff and execute contracts to carry out the duties, functions and
3 powers of the office and shall prescribe their duties and fix compensation or amounts.

4 (6) If the advocate determines that any commission proceeding may affect the interests
5 of utility customers from low-income or environmental justice communities, the Office of the
6 Low-Income and Environmental Justice Advocate may, upon exercise of the independent
7 judgement of the office, intervene as of right as an interested party or otherwise participate
8 in the proceeding.

9 (7) The advocate shall convene a low-income and environmental justice advisory group
10 to advise the Office of the Low-Income and Environmental Justice Advocate in the discharge
11 of the duties of the office.

12 (8) The advocate shall participate as a division of the Public Utility Commission in car-
13 rying out the responsibilities of the commission under ORS 182.550.

14 (9) Upon request by the Office of the Low-Income and Environmental Justice Advocate,
15 the Attorney General shall furnish to the office such attorneys as the office finds necessary.

16 **SECTION 6.** The Office of the Low-Income and Environmental Justice Advocate shall
17 provide a report on the activities of the office, in the manner provided under ORS 192.245,
18 to the interim committees of the Legislative Assembly related to energy no later than De-
19 cember 1, 2021. The report:

20 (1) Shall include a description and assessment of the work of the office, including any
21 major milestones accomplished by the office; and

22 (2) May include recommendations, including recommendations for legislation, for changes
23 to the form or function of the office including, but not limited to, recommendations for in-
24 creasing the staff or other resources available to the office.

25 **SECTION 7.** (1) The Public Utility Commission shall establish a public process for the
26 purpose of investigating ways to address and mitigate, through nonbypassable means, dif-
27 ferential energy burdens on classes of public utility customers and other inequities of
28 affordability and environmental justice. As part of the public process established under this
29 subsection, the commission shall:

30 (a) Investigate the potential for demand response, weatherization and other programs to
31 reduce energy burdens and energy bills;

32 (b) Investigate the potential for mitigation of energy burdens through bill reduction
33 measures or programs that may include, but need not be limited to, establishing a bill credit
34 program, a low-income rate classification or a multifamily rate classification; and

35 (c) Study best practices from around the country for delivery of programs and creation
36 of systems that mitigate differential energy burdens.

37 (2) As part of the public process established under subsection (1) of this section, the
38 commission shall provide the public with an opportunity to comment.

39 (3) The commission shall incorporate the findings of the public process established under
40 subsection (1) of this section into the commission's report for the year 2020 that the com-
41 mission is required to provide to the Environmental Justice Task Force and to the Governor
42 under ORS 182.550.

43 **SECTION 8.** (1) Section 6 of this 2019 Act is repealed on January 2, 2022.

44 (2) Section 7 of this 2019 Act is repealed on January 2, 2021.