80th OREGON LEGISLATIVE ASSEMBLY--2020 Regular Session

HOUSE AMENDMENTS TO
HOUSE BILL 4066

By COMMITTEE ON ENERGY AND ENVIRONMENT

February 17

In line 2 of the printed bill, after “Commission;” insert “creating new provisions; amending ORS 757.259 and 757.357;”.

Delete lines 4 through 25 and insert:

“SECTION 1. ORS 757.357 is amended to read:

“757.357. (1) As used in this section:

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

“(b)(A) ‘Infrastructure measures’ includes, but is not limited to, investments in, expenses related to or rebates for:

“(i) Distribution system infrastructure that supports transportation electrification;

“(ii) Communication and control technologies that support transportation electrification;

and

“(iii) Behind the meter infrastructure that supports transportation electrification and is owned by an electric company or by a customer.

“(B) ‘Infrastructure measures’ does not include investments in or expenses related to education and outreach activities related to transportation electrification, or other transportation electrification-related activities determined by the Public Utility Commission to be separate and distinct from the development of infrastructure.

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

“(d) ‘Vehicle’ means a vehicle, vessel, train, boat or any other equipment that is mobile.

“(2) The Legislative Assembly finds and declares that:

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

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

“(c) Widespread transportation electrification requires that electric companies increase access
to the use of electricity as a transportation fuel in low and moderate income communities;

“(d) Widespread transportation electrification should stimulate innovation and competition, pro-
vide consumers with increased options in the use of charging equipment and in procuring services
from suppliers of electricity, attract private capital investments and create high quality jobs in this
state;

“(e) Transportation electrification and the purchase and use of electric vehicles should assist in
managing the electrical grid, integrating generation from renewable energy resources and improving
electric system efficiency and operational flexibility, including the ability of an electric company to
integrate variable generating resources;

“(f) Deploying transportation electrification and electric vehicles creates the opportunity for an
electric company to propose, to the [Public Utility] commission, that a net benefit for the customers
of the electric company is attainable; and

“(g) Charging electric vehicles in a manner that provides benefits to electrical grid management
affords fuel cost savings for vehicle drivers.

“(3) The [Public Utility] commission shall direct each electric company to file applications, in a
form and manner prescribed by the commission, for programs to [accelerate] support transportation
electrification. A program proposed by an electric company may include prudent investments in or
customer rebates for electric vehicle charging and related infrastructure.

“(4) The commission may allow an electric company to recover costs from retail elec-
tricity consumers for prudent infrastructure measures to support transportation
electrification if the infrastructure measures are consistent with and meet the requirements
of subsection (5) of this section.

“(5) If undertaken by an electric company, an infrastructure measure to support trans-
portation electrification is a utility service and a benefit to utility customers if the
infrastructure measure can be reasonably anticipated to:

“(a) Support reductions of transportation sector greenhouse gas emissions over time; and

“(b) Benefit the electric company's customers in ways that may include, but need not be
limited to:

“(A) Distribution or transmission management benefits;

“(B) Revenues to utilities from electric vehicle charging to offset utilities’ fixed costs
that may otherwise be charged to customers;

“(C) System efficiencies or other economic values inuring to the benefit of customers
over the long term; or

“(D) Increased customer choice through greater transportation electrification
infrastructure deployment to increase availability of and access to public and private electric
vehicle charging stations.

“(d) When considering a transportation electrification program and determining cost re-
cover for investments and other expenditures that are not infrastructure measures and that
are related to a program proposed by an electric company under subsection (3) of this section, the
commission shall consider whether the investments and other expenditures:

“(a) Are within the service territory of the electric company;

“(b) Are prudent as determined by the commission;

“(c) Are reasonably expected to be used and useful as determined by the commission;

“(d) Are reasonably expected to enable the electric company to support the electric company’s
electrical system;
“(e) Are reasonably expected to improve the electric company’s electrical system efficiency and
operational flexibility, including the ability of the electric company to integrate variable generating
resources; and

“(f) Are reasonably expected to stimulate innovation, competition and customer choice in elec-
tric vehicle charging and related infrastructure and services.

“(7) In undertaking infrastructure measures that involve the installation of one or more
electric vehicle charging stations, an electric company must allow for customer choice in the
selection of the type of electric vehicle charging station to be installed, subject to equipment
eligibility as determined by the electric company. An electric company may prequalify mul-
tiple types of eligible electric vehicle charging stations based on criteria determined by the
electric company.

“(8) Nothing in this section restricts or prohibits a corporation, company, partnership,
individual or association of individuals exempt from regulation under ORS 757.005 (1)(b)(G)
from furnishing electricity to any number of customers for use in motor vehicles.

“[(5)(a)] (9)(a) Tariff schedules and rates allowed pursuant to [subsection (3)] subsections (3)
to (6) of this section:

“(A) May allow a return of and a return on an investment made by an electric company under
[subsection (3)] subsections (3) to (6) of this section; and

“(B) Shall be recovered from [all customers] the retail electricity consumers of an electric
company in a manner [that is similar to the recovery of distribution system investments] determined
by the commission.

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

“[(6)] (10) For purposes of ORS 757.355, electric vehicle charging infrastructure provides utility
service to the customers of an electric company.

“[(7)] (11) In authorizing programs described in subsection (3) of this section, the commission
shall review data concerning current and future adoption of electric vehicles and utilization of
electric vehicle charging infrastructure. If market barriers unrelated to the investment or expend-
ditures made by an electric company prevent electric vehicles from adequately utilizing available
electric vehicle charging infrastructure, the commission may not permit additional investments in
or expenditures related to supporting transportation electrification without a reasonable showing
that the investments or expenditures would not result in long-term stranded costs recoverable from
the [customers] retail electricity consumers of electric companies.

“SECTION 2. Section 3 of this 2020 Act and ORS 757.357 are added to and made a part
of ORS chapter 757.

“SECTION 3. (1) As used in this section:

“(a) ‘Clean fuels program’ has the meaning given that term in ORS 468A.265.

“(b) ‘Credit’ has the meaning given that term in ORS 468A.265.

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

“(d) ‘Multifamily housing’ means a structure or facility established primarily to provide
housing that provides four or more living units and where the individual parking spaces that
an electric vehicle charger serves, and the charging equipment itself, are not deeded to or
owned by a single resident.

“(e)(A) ‘Residential charging’ means the use of electricity to charge an electric vehicle at a residence.

“(B) ‘Residential charging’ does not mean the use of electricity to charge an electric vehicle at a public access charging facility, a fleet charging facility, a workplace private access charging facility or at multifamily housing.

“(f) ‘Transportation electrification’ has the meaning given that term in ORS 757.357.

“(2) Subject to subsection (4) of this section, an electric company participating in the clean fuels program shall use revenues from the sale of credits generated from the sale of electricity for residential charging for programs to accelerate transportation electrification. An electric company shall file with the Public Utility Commission proposed programs consistent with the requirements of subsection (3) of this section.

“(3) Programs to support the acceleration of transportation electrification funded with revenues from the sale of credits described in subsection (2) of this section must:

“(a) Support the goal of electrifying Oregon’s transportation sectors;

“(b) Provide a majority of the benefits to residential electricity customers;

“(c) Provide benefits to traditionally underserved communities;

“(d) Be designed to be independent from ratepayer support;

“(e) Be developed collaboratively and transparently; and

“(f) Maximize the use of clean fuels program revenues for implementation of the programs.

“(4) An electric company is not subject to this section if the electric company receives a level of annual revenues through the sale of credits under the clean fuels program that is below a threshold level established by the commission by rule.

“(5) The commission may, by rule or order, adopt additional program design guidance or a program selection process to guide electric companies in the use of clean fuels program revenues.

“(6) The commission shall submit to the Legislative Assembly an annual report on the programs to support acceleration of transportation electrification funded by electric companies with clean fuels program revenues. The report shall be submitted in the manner provided in ORS 192.245 and shall include an explanation of how the programs align with the principles set forth in subsection (3) of this section.

“SECTION 4. (1) As used in this section:

“(a) ‘Clean fuels program’ has the meaning given that term in ORS 468A.265.

“(b) ‘Consumer-owned utility’ has the meaning given that term in ORS 757.600.

“(c) ‘Credit’ has the meaning given that term in ORS 468A.265.

“(d) ‘Credit aggregator’ has the meaning given that term in ORS 468A.265.

“(e) ‘Credit generator’ has the meaning given that term in ORS 468A.265.

“(f) ‘Transportation electrification’ has the meaning given that term in ORS 757.357.

“(2) A consumer-owned utility must register as a credit aggregator and a credit generator under the clean fuels program for credit generation from the sale of electricity used to charge an electric vehicle within the consumer-owned utility's service territory. Revenues received by a consumer-owned utility through the sale of credits under the clean fuels program must be used for programs to support the acceleration of transportation electrification, as approved by the governing body of the consumer-owned utility.
“(3) Programs to support the acceleration of transportation electrification funded with clean fuels program revenues must:

“(a) Support the goal of electrifying Oregon’s transportation sectors;
“(b) Provide a majority of the benefits to residential electricity customers;
“(c) Provide benefits to traditionally underserved communities;
“(d) Be designed, to the extent feasible, such that clean fuels program revenues received by the consumer-owned utility are sufficient to pay the costs of the programs;
“(e) Be developed collaboratively and transparently; and
“(f) Maximize the use of clean fuels program revenues for implementation of the programs.

“(4) The governing body of a consumer-owned utility subject to this section shall submit to the Legislative Assembly an annual report on the programs for transportation electrification funded by the consumer-owned utility with clean fuels program revenues. The report shall be submitted in the manner provided in ORS 192.245 and shall include an explanation of how the programs align with the principles set forth in subsection (3) of this section.

SECTION 5. Section 4 of this 2020 Act is repealed on January 2, 2026.

SECTION 6. Sections 3 and 4 of this 2020 Act apply to clean fuels program revenues collected and programs implemented on and after January 1, 2021.

SECTION 7. Sections 8 to 10 and 13 of this 2020 Act are added to and made a part of ORS chapter 757.

SECTION 8. (1) As used in this section, ‘electric company’ has the meaning given that term in ORS 757.600.

“(2) An electric company must have and operate in compliance with a risk-based wildfire protection plan approved by the Public Utility Commission.

“(3) An electric company shall submit a risk-based wildfire protection plan to the commission every three years. The plan must, at a minimum:

“(a) Identify areas within the service territory of the electric company that are subject to a heightened risk of wildfire.
“(b) Identify a means for mitigating wildfire risk that is cost effective and reflects a reasonable balancing of mitigation costs with the resulting reduction of wildfire risk.
“(c) Identify preventive actions and programs that the electric company will carry out to minimize the risk of company facilities causing a wildfire.
“(d) Identify a protocol for the de-energizing of power lines and adjusting power system operations to mitigate wildfires, promote the safety of the public and first responders and preserve health and communication infrastructure.
“(e) Describe the procedures, standards and time frames that the electric company will use to inspect company infrastructure in areas that the company identifies under paragraph (a) of this subsection.
“(f) Describe the procedures, standards and time frames that the electric company will use to carry out vegetation management in areas that the company identifies under paragraph (a) of this subsection.
“(g) Identify the development, implementation and administration costs for the plan.
“(h) Identify the community outreach and public awareness efforts that the electric company will use before, during and after a wildfire season.
“(4) The commission, in consultation with the State Forestry Department and local emergency services agencies, shall review a wildfire protection plan that an electric company submits under this section. The commission shall:

“(a) Approve the submitted plan; or

“(b) Disapprove the submitted plan and inform the electric company of the modifications necessary to obtain approval.

“(5) The commission shall adopt rules for the implementation of this section and section 9 of this 2020 Act.

“(6) Nothing in this section prohibits the recovery of costs deferred under ORS 757.259.

“SECTION 9. (1) As used in this section, ‘consumer-owned utility’ and ‘governing body’ have the meanings given those terms in ORS 757.600.

“(2) A consumer-owned utility must have and operate in compliance with a risk-based wildfire mitigation plan approved by the governing body of the utility. The utility shall regularly update the risk-based wildfire mitigation plan on a schedule the governing body deems consistent with prudent utility practices.

“(3) A consumer-owned utility shall conduct a wildfire risk assessment of utility facilities. The utility shall review and revise the assessment on a schedule the governing body deems consistent with prudent utility practices.

“(4) A consumer-owned utility shall submit a copy of the risk-based wildfire mitigation plan approved by the utility governing body to the Public Utility Commission to facilitate commission functions regarding statewide wildfire mitigation planning and wildfire preparedness.

“SECTION 10. The Public Utility Commission shall periodically convene workshops for the purpose of helping electric companies as defined in ORS 757.600, consumer-owned utilities as defined in ORS 757.600 and operators of electrical distribution systems to develop and share information for the identification, adoption and carrying out of best practices regarding wildfires, including but not limited to risk-based wildfire protection and risk-based wildfire mitigation procedures and standards.

“SECTION 11. An electric company shall submit the first risk-based wildfire protection plan required of the company under section 8 of this 2020 Act no later than December 31, 2020.

“SECTION 12. A consumer-owned utility shall submit the first risk-based wildfire mitigation plan required under section 9 of this 2020 Act to the utility governing body no later than December 31, 2021.

“SECTION 13. (1) As used in this section, ‘electric utility’ has the meaning given that term in ORS 757.600.

“(2) The provisions of sections 8 and 9 of this 2020 Act do not affect the terms or conditions of easements held by an electric utility over private land as of the effective date of this 2020 Act.

“SECTION 14. ORS 757.259 is amended to read:

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“(a) May reflect:

“(A) Amounts lawfully imposed retroactively by order of another governmental agency; or
“(B) Amounts deferred under subsection (2) of this section.

“(b) Shall reflect amounts deferred under subsection (3) of this section if the public utility so requests.

“(2) Upon application of a utility or ratepayer or upon the commission’s own motion and after public notice, opportunity for comment and a hearing if any party requests a hearing, the commission by order may authorize deferral of the following amounts for later incorporation in rates:

“(a) Amounts incurred by a utility resulting from changes in the wholesale price of natural gas or electricity approved by the Federal Energy Regulatory Commission;

“(b) Balances resulting from the administration of Section 5(c) of the Pacific Northwest Electric Power Planning and Conservation Act of 1980;

“(c) Direct or indirect costs arising from any purchase made by a public utility from the Bonneville Power Administration pursuant to ORS 757.663, provided that such costs shall be recovered only from residential and small-farm retail electricity consumers;

“(d) Amounts accruing under a plan for the protection of short-term earnings under ORS 757.262 (2); or

“(e) Identifiable utility [expenses] costs or revenues, including the cost of capital, the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels or to match appropriately the costs borne by and benefits received by ratepayers.

“(3) Upon request of the public utility, the commission by order shall allow deferral of amounts provided as financial assistance under an agreement entered into under ORS 757.072 for later incorporation in rates.

“(4) The commission may authorize deferrals under subsection (2) of this section beginning with the date of application, together with interest established by the commission. A deferral may be authorized for a period not to exceed 12 months beginning on or after the date of application. However, amounts deferred under subsection (2)(c) and (d) or (3) of this section are not subject to subsection (5), (6), (7), (8) or (10) of this section, but are subject to such limitations and requirements that the commission may prescribe and that are consistent with the provisions of this section.

“(5) Unless subject to an automatic adjustment clause under ORS 757.210 (1), amounts described in this section shall be allowed in rates only to the extent authorized by the commission in a proceeding under ORS 757.210 to change rates and upon review of the utility’s earnings at the time of application to amortize the deferral. The commission may require that amortization of deferred amounts be subject to refund. The commission’s final determination on the amount of deferrals allowable in the rates of the utility is subject to a finding by the commission that the amount was prudently incurred by the utility.

“(6) Except as provided in subsections (7), (8) and (10) of this section, the overall average rate impact of the amortizations authorized under this section in any one year may not exceed three percent of the utility’s gross revenues for the preceding calendar year.

“(7) The commission may allow an overall average rate impact greater than that specified in subsection (6) of this section for natural gas commodity and pipeline transportation costs incurred by a natural gas utility if the commission finds that allowing a higher amortization rate is reasonable under the circumstances.

“(8) The commission may authorize amortizations for an electric utility under this section with an overall average rate impact not to exceed six percent of the electric utility’s gross revenues for the preceding calendar year. If the commission allows an overall average rate impact greater than
that specified in subsection (6) of this section, the commission shall estimate the electric utility’s cost of capital for the deferral period and may also consider estimated changes in the electric utility’s costs and revenues during the deferral period for the purpose of reviewing the earnings of the electric utility under the provisions of subsection (5) of this section.

“(9) The commission may impose requirements similar to those described in subsection (8) of this section for the amortization of other deferrals under this section, but may not impose such require-
ments for deferrals under subsection (2)(c) or (d) or (3) of this section.

“(10) The commission may authorize amortization of a deferred amount for an electric utility under this section with an overall average rate impact greater than that allowed by subsections (6) and (8) of this section if:

(a) The deferral was directly related to extraordinary power supply expenses incurred during 2001;

(b) The amount to be deferred was greater than 40 percent of the revenue received by the electric utility in 2001 from Oregon customers; and

(c) The commission determines that the higher rate impact is reasonable under the circum-
stances.

“(11) If the commission authorizes amortization of a deferred amount under subsection (10) of this section, an electric utility customer that uses more than one average megawatt of electricity at any site in the immediately preceding calendar year may prepay the customer’s share of the de-
ferred amount. The commission shall adopt rules governing the manner in which:

(a) The customer’s share of the deferred amount is calculated; and

(b) The customer’s rates are to be adjusted to reflect the prepayment of the deferred amount.

“(12) The provisions of this section do not apply to a telecommunications utility.”.

In line 26, delete “3” and insert “15”.

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