

Requested by Representative MARSH ✓

✓
PROPOSED AMENDMENTS TO
✓
HOUSE BILL 2021

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

5 Delete lines 4 through 11 and insert: ✓
6

7 **“CLEAN ENERGY TARGETS**
8

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 “(5) ‘Environmental justice communities’ mean communities of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 **“(b) Notwithstanding paragraph (a) of this subsection, a clean en-**
28 **ergy plan developed by a multistate jurisdictional electric company**
29 **must be based on or contained in other information developed con-**
30 **sistent with a cost-allocation methodology approved by the commis-**

1 sion.

2 “(4) A clean energy plan must:

3 “(a) Incorporate the clean energy targets set forth in section 3 of
4 this 2021 act; X

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

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

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

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

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

29 “SECTION 5. Emissions verification; compliance. (1)(a) For the
30 purposes of verifying emissions and determining compliance with the

1 clean energy targets set forth in section 3 of this 2021 Act, the **De-**
2 **partment** of Environmental Quality shall determine:

3 “(A) For each electric company, the electric company’s baseline
4 emissions level; and

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

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

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

12 “(B) Information provided by an electricity service supplier under
13 subsection (3) of this section.

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

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

22 “(A) Any reduction of greenhouse gas emissions that is expected
23 through the plan, and any related environmental or health benefits;

24 “(B) The **economic and technical** feasibility of the plan;

25 “(C) **Effect** on the reliability and resiliency of the electric system;

26 “(D) Availability of federal incentives;

27 “(E) **Costs and risks to the customers; and**

28 “(F) Any other relevant factors as determined by the **commission.**

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

1 commission:

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

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

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

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

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

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

25 “(4)(a) **A retail electricity provider shall report** annual greenhouse
26 **gas emissions associated with the electricity sold to retail electricity**
27 **consumers by the retail electricity provider to the Department of En-**
28 **vironmental Quality in the manner set forth** under ORS 468A.280, or
29 **rules adopted pursuant thereto.**

30 “(b) The Public Utility Commission shall use the greenhouse gas

1 emissions reported to the department under paragraph (a) of this
2 subsection and provided to the commission to determine whether or
3 not the retail electricity provider has met the clean energy targets set
4 forth in section 3 of this 2021 Act.

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

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

21 **“(A) Energy burden and disconnections for residential customers**
22 **and disconnections for small commercial customers;**

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

25 **“(C) Actions within environmental justice communities within the**
26 **electric company’s service territory intended to improve resilience**
27 **during adverse conditions or facilitate investments in the distribution**
28 **system;**

29 **“(D) Distribution of infrastructure or grid investments and up-**
30 **grades in environmental justice communities in the electric company’s**

1 service territory;

2 “(E) Social, economic or environmental justice cobenefits that re-
3 sult from electric company’s investments, contracts or internal prac-
4 tices;

5 “(F) Customer experience, including a review of annual customer
6 satisfaction surveys;

7 “(G) Actions to encourage customer engagement; and

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

10 “(b) The electric company may engage the Community Benefits and
11 Impacts Advisory Group to advise on other matters, including but not
12 limited to:

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

15 “(B) The development and equitable implementation of a distrib-
16 ution system plan;

17 “(C) Equitable contracting practices; and

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

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

25 “SECTION 7. Treatment of generation resources; greenhouse gas
26 emissions accounting. For the purposes of determining compliance
27 with sections 1 to 15 of this 2021 Act, electricity shall have the emis-
28 sion attributes of the underlying generating resource or resources.

29 “SECTION 8. Determining compliance with clean energy targets.

30 **(1)(a)** In determining whether a retail electricity provider has complied

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

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

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

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

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

24 “(2) Greenhouse gas emissions associated with electricity acquired
25 **from net metering of customer resources, a community solar project**
26 **as defined in ORS 757.386 or a qualifying facility under the terms of**
27 **the Public Utility Regulatory Policies Act shall be excluded from the**
28 **determination of the retail electricity provider’s total greenhouse gas**
29 **emissions.**

30 “(3) For purposes of determining whether a retail electricity pro-

1 vider has complied with the clean energy targets set forth in section
2 3 of this 2021 Act, electricity acquired from power purchases from the
3 Bonneville Power Administration for delivery to Oregon retail elec-
4 tricity consumers shall be deemed nonemitting electricity.

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

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

21 “ATTORNEY NOTE TO EDITORS: stakeholders want electric company
22 and electricity service suppliers differentiated in sections 9, 10 and 11.

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

30 “(2) The commission may grant a temporary exemption if compli-

1 **ance:**

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

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

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

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

16 “(e) Otherwise compromises the power quality or integrity of an
17 electric company’s system.

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

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

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

26 “(c) A plan to achieve full compliance with the requirements of ORS
27 469A.052 or a clean energy plan adopted pursuant to sections 1 to **15**
28 of this 2021 Act, including an estimate of the time needed to achieve
29 full compliance.

30 “(4) In applying for a temporary exemption under this section, an

1 electric company has the burden of demonstrating that the company’s
2 compliance will likely result in one or more of the issues described
3 under subsection (2) of this section.

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

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

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

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

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

27 “(7) An electric company may request an extension of a temporary
28 exemption granted under this section. The electric company shall in-
29 clude in the company’s request for an extension the same information
30 required under subsection (3) of this section and shall have the burden

1 of proof described under subsection (4) of this section.

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

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

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

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

1 this 2021 Act.

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

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

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

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

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

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

29 “(b) Make any adjustments to the cumulative rate impact if the
30 initial rate treatment was calculated on the basis of forecasted rate

1 impact;

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

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

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

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

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

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

24 “(6) The commission may, on its own motion pursuant to ORS
25 756.515, open a proceeding under this section and direct an electric
26 company to make a filing described under subsection (1) of this sec-
27 tion.

28 “SECTION 11. Cost cap for electricity service suppliers. The Public
29 Utility Commission shall provide the same opportunity to an electric-
30 ity service supplier as provided an electric company under section 9

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

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

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

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

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

26 **“SECTION 15. Electricity market participation.** (1)(a) The Legisla-
27 tive Assembly finds that existing and future electricity markets will
28 play a critical role in the transformation of the electric **sector** to
29 nonemitting sources, as well as enabling **load serving entities** to re-
30 duce costs and serve load **reliably** by accessing resource and load di-

1 **versity.**

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

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

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

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

26

27 **“(Conforming amendments)**

28

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

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

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

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

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

28 “(4) The commission shall determine for each electric company the extent
29 to which alternative compliance payments may be recovered in the rates of
30 the company. Each electric company shall deposit any amounts recovered in

1 the rates of the company for alternative compliance payments in a holding
2 account established by the company. Amounts in the holding account shall
3 accrue interest at the rate of return authorized by the commission for the
4 electric company.

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

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

21

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

23

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

29 **“(a) One state representative appointed by the Speaker of the**
30 **House;**

1 **“(b) One senator appointed by the President of the Senate; and**
2 **“(c) Individuals who represent:**
3 **“(A) Renewable energy developers;**
4 **“(B) Investor owned electric utilities in this state;**
5 **“(C) Consumer owned utilities in this state;**
6 **“(D) **Electric** service suppliers;**
7 **“(E) Residential, commercial and industrial rate payers;**
8 **“(F) Cities and counties;**
9 **“(G) Tribal governments;**
10 **“(H) Business Oregon;**
11 **“(I) The Department of Land Conservation and Development;**
12 **“(J) The renewable energy workforce;**
13 **“(K) Environmental justice communities; and**
14 **“(L) The Bonneville Power Administration.**
15 **“(2) The work group shall study and examine:**
16 **“(a) Potential barriers to project development in both investor-**
17 **owned and consumer-owned utility service territory, including land**
18 **use, local and state utility regulations, transmission capacity, con-**
19 **tracts or obligations under the Public Utility Regulatory Policies Act**
20 **of 1978 (16 U.S.C. 2601 et set.), implementation and costs or financing;**
21 **“(b) Potential economic benefits of small-scale renewable energy**
22 **projects;**
23 **“(c) Potential contributions of small-scale renewable energy**
24 **projects to local energy resiliency;**
25 **“(d) Access and ownership opportunities for low-income communi-**
26 **ties, Black, Indigenous and People of Color communities, tribal com-**
27 **munities and rural and coastal communities with limited**
28 **infrastructure;**
29 **“(e) Opportunities for diverse models of ownership by local govern-**
30 **ments, nonprofit organizations and cooperatives of community mem-**

1 **bers;**

2 **“(f) Potential rate impacts; and**

3 **“(g) Potential legislation that could encourage development of small**
4 **scale and community based renewable energy projects in this state.**

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

11 **“SECTION 19. Section 18 of this 2021 Act is repealed on September**
12 **15, 2022.**

13

14 **“CUSTOMER SUPPORTED RENEWABLES**

15

16 **“SECTION 20.** ORS 757.603 is amended to read:

17 **“757.603. [(1)(a)] (1) Except as provided in this [subsection] section,** an
18 electric company shall provide all retail electricity consumers that are con-
19 nected to the electric company’s distribution system with a regulated, cost-
20 of-service rate option.

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

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

29 **“(c) The commission may order a waiver under this [paragraph] sub-**
30 **section if the commission finds, based on [an] the evidentiary record devel-**

1 oped through **the conducted studies**, public comment and hearings, that a
2 market exists in which retail electricity consumers subject to the waiver are
3 able to:

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

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

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

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

11 “[~~(2)~~] **(3)** Each electric company shall provide each [*residential*] **retail**
12 electricity consumer that is connected to its distribution system **and whose**
13 **electricity demand at any point of delivery is less than 30 kilowatts** a
14 portfolio of rate options. The portfolio **of rate options** shall include at least
15 the following options:

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

17 “(b) A market-based rate; and

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

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

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

29 “(b) [*The commission*] May prohibit or otherwise limit the use of a cost-
30 of-service rate by retail electricity consumers who have been served through

1 direct access[, *and*].

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

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

8 **“(b) An electric company may file, as part of a portfolio of rate**
9 **options required under ORS 757.603 and if agreed to in coordination**
10 **with one or more governments to meet adopted renewable and non-**
11 **emitting energy goals, a program of rates or charges that reflect the**
12 **cost of an electric company program to serve retail electricity con-**
13 **sumers within the boundaries of those governments with electricity:**

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

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

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

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

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

1 including at the option of the government, resources such as:

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

6 “(I) Community stability;
7 “(II) Community reinvestment;
8 “(III) Ownership by a nonprofit organization or renewable energy
9 cooperative that represents an environmental justice community;
10 “(IV) Ownership by the government;
11 “(V) Disaster resiliency;
12 “(VI) Water savings;
13 “(VII) Species protection;
14 “(VIII) Direct cost savings to customers; or
15 “(IX) Local economic development and jobs; and
16 “(ii) Renewable and non-emitting energy resources acquired
17 through government specified procurement criteria which may include
18 goals for local or diverse ownership;

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

21 “(i) All eligible retail electricity consumers served within the
22 boundaries of the government are placed on the rate schedule by the
23 electric company, upon commission approval, but have an opportunity
24 to decline to be served by the rate option; and
25 “(ii) Retail electricity consumers within the boundaries of the gov-
26 ernment that are connected to the distribution system and whose
27 electricity demand at any point of delivery is greater than 30 kilowatts
28 may choose to opt-in and be placed on the rate schedule, if the electric
29 company determines that electricity demand at the consumer’s point
30 of delivery is greater than 30 kilowatts because of additional demand

1 resulting from electrification of transportation or other services, in-
2 cluding electric vehicle charging stations, after the effective date of
3 this 2021 Act;

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

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

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

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

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

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

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

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

30 “(D) Provide an annual report to the commission and participating

1 governments summarizing the program activities in the prior calendar
2 year.

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

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

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

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

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

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

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

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

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

1 **ipation in the program.**

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

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

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

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

19 **“469A.205. (1) Electric utilities shall allow retail electricity consumers to**
20 **elect a green power rate. A significant portion of the electricity purchased**
21 **or generated by a utility that is attributable to moneys paid by retail elec-**
22 **tricity consumers who elect the green power rate must be qualifying elec-**
23 **tricity, and the utility must inform consumers of the sources of the**
24 **electricity purchased or generated by the utility that is attributable to**
25 **moneys paid by consumers who elect the green power rate. The green power**
26 **rate shall reasonably reflect the costs of the electricity purchased or gener-**
27 **ated by the utility that is attributable to moneys paid by retail electricity**
28 **consumers who elect the green power rate. All prudently incurred costs as-**
29 **sociated with the green power rate are recoverable in a green power rate**
30 **offered by an electric company.**

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

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

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

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

10 “757.247. (1) The Public Utility Commission may authorize a public util-
11 ity, upon application of the utility, to file and place into effect a tariff
12 schedule establishing rates or charges for the cost of energy resource meas-
13 ures provided to an individual property owner or customer pursuant to an
14 agreement entered into between the individual property owner or customer
15 and the public utility. Energy resource measures provided under this section
16 may include:

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

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

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

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

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

29 “(2) Subject to the agreement entered into between the individual prop-
30 erty owner or customer and the public utility, a tariff schedule placed into

1 effect under this section may include provisions for:

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

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

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

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

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

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

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

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

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

29 “757.646. (1) The duties, functions and powers of the Public Utility Com-
30 mission shall include developing policies to eliminate barriers to the devel-

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

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

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

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

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

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

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

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

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

28 “(3) An electric company shall provide the commission access to all books
29 and records necessary for the commission to monitor the electric company
30 and its affiliate relationships. The commission shall require an electric

1 company biannually to file a report detailing compliance with this sub-
2 section.

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

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

13 “469A.005. As used in ORS 469A.005 to 469A.210:

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

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

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

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

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

29 “(c) Pays any stranded costs obligation established pursuant to ORS
30 757.483.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19

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

22

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

24 “757.649. (1)(a) A person or other entity shall not act as an electricity
25 service supplier unless the person or entity is certified by the Public Utility
26 Commission. The commission, by rule, shall establish standards for certi-
27 fication of persons or other entities as electricity service suppliers in this
28 state. The rules shall, at a minimum, address:

29 “(A) The ability of the person or entity to meet the person’s or entity’s
30 obligation to provide electricity services pursuant to direct access; and

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

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

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

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

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

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

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

28 “(3) The commission for electric companies, or the governing body for
29 other electric utilities, shall adopt rules, ordinances, policies and service
30 quality standards designed to maintain a reliable, safe and efficient distrib-

1 ution system. The commission shall regulate electrical safety regarding gen-
2 eration, transmission, substation and distribution facilities for electric
3 utilities and other electrical system owners and operators as provided under
4 ORS 757.035.

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

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

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

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

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

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

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

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

30 “(c) Upon the request of a retail electricity consumer of an electric com-

1 pany, an electricity service supplier shall consolidate the bills for all elec-
2 tricity services into a single statement, and electric utilities and other
3 electricity service suppliers shall provide to the billing electricity service
4 supplier any information necessary to prepare a consolidated statement.

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

12

13 “RESPONSIBLE CONTRACTOR LABOR STANDARDS

14

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

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

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

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

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

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

29 **“(B) A community solar facility with a capacity rating of three**
30 **megawatts or greater.**

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

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

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

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

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

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

29 “(c) Have policies in place that are designed to limit or prevent
30 workplace harassment and discrimination and that promote workplace

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

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

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

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

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

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

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

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

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

30 **“(h) Provide quarterly reporting and recordkeeping to the project**

1 owner or electric utility and respond to records requests and verifica-
2 tion

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

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

13 “(b) Offer health care and retirement benefits to the employees
14 performing the labor on the project;

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

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

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

28 “(b) The geographic location of the project;

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

30 “(d) Collated list of good faith effort documentation; and

1 “(d) A description of any policies in place for ensuring the person
2 meets the requirements in this section. (4)(a) In lieu of providing an
3 attestation or declaration described in subsection (2) of this section,
4 a person may provide a copy of a project labor agreement, if a project
5 labor agreement is used on the large-scale project and shall be ex-
6 empted from the requirements described in subsection (2) of this sec-
7 tion.

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

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

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

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

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

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

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

29 “(b) Notwithstanding any provisions of ORS 192.345 or 192.355 to the
30 contrary, an attestation or declaration provided to the department

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

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

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

12

13 “NATURAL GAS PLANTS

14

15 “SECTION 28. (1) Notwithstanding ORS 469.320 and 469.405, the En-
16 ergy Facility Siting Council may not:

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

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

28

29 “MISCELLANEOUS

30

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

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

8
