

SB 838-2
(LC 3152-3)
3/15/07 (DH/ps)

**PROPOSED AMENDMENTS TO
SENATE BILL 838**

1 In line 2 of the printed bill, after "electricity" insert "; creating new
2 provisions; amending ORS 757.612 and 757.687; and declaring an
3 emergency".

4 After line 2, insert:

5 "Whereas the Legislative Assembly finds that it is in the interest of the
6 state to promote research and development of new renewable energy sources
7 in Oregon; and

8 "Whereas the Legislative Assembly finds that it is necessary for Oregon's
9 electric utilities to decrease their reliance on fossil fuels for electricity
10 generation and to increase their use of renewable energy sources; and

11 "Whereas this 2007 Act may be cited as the Oregon Renewable Energy
12 Act; and

13 "Whereas the Oregon Renewable Energy Act provides a comprehensive
14 renewable energy policy for Oregon, enabling industry, government and all
15 Oregonians to accelerate the transition to a more reliable and more afford-
16 able energy system; now, therefore,".

17 Delete lines 4 through 12 and insert:
18

"DEFINITIONS

19
20
21 **"SECTION 1. Definitions.** As used in sections 1 to 24 of this 2007
22 **Act:**

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

6 “(2) ‘BPA electricity’ means electricity provided by the Bonneville
7 Power Administration, including all electricity from the Federal
8 Columbia River Power System hydroelectric projects and other elec-
9 tricity acquired by the Bonneville Power Administration by contract.

10 “(3) ‘Bundled renewable energy certificate’ means a renewable en-
11 ergy certificate for qualifying electricity that is acquired by an electric
12 utility by:

13 “(a) Trade, purchase or other transfer of electricity that includes
14 the certificate that was issued for the electricity; or

15 “(b) Generation by the utility of the electricity for which the cer-
16 tificate was issued.

17 “(4) ‘Compliance year’ means the calendar year for which the elec-
18 tric utility seeks to establish compliance with the renewable portfolio
19 standard applicable to the utility in the compliance report submitted
20 under section 19 of this 2007 Act.

21 “(5) ‘Consumer-owned utility’ means a municipal electric utility, a
22 people’s utility district organized under ORS chapter 261 that sells
23 electricity or an electric cooperative organized under ORS chapter 62.

24 “(6) ‘Electric company’ has the meaning given that term in ORS
25 757.600.

26 “(7) ‘Electricity service supplier’ has the meaning given that term
27 in ORS 757.600.

28 “(8) ‘Electric utility’ has the meaning given that term in ORS
29 757.600.

30 “(9) ‘Qualifying electricity’ means electricity described in section 2

1 of this 2007 Act.

2 “(10) ‘Renewable energy source’ means a source of electricity de-
3 scribed in section 4 of this 2007 Act.

4 “(11) ‘Retail electricity consumer’ means a retail electricity con-
5 sumer, as defined in ORS 757.600, that is located in Oregon.

6 “(12) ‘Unbundled renewable energy certificate’ means a renewable
7 energy certificate for qualifying electricity that is acquired by an
8 electric utility by trade, purchase or other transfer without acquiring
9 the electricity for which the certificate was issued.

11 “QUALIFYING ELECTRICITY

12
13 “SECTION 2. Qualifying electricity. (1) Except as provided in sub-
14 section (2) of this section, and subject to section 15 of this 2007 Act,
15 electricity generated from a renewable energy source may be used to
16 comply with a renewable portfolio standard only if the facility that
17 generates the electricity meets the requirements of section 3 of this
18 2007 Act.

19 “(2) Any electricity that the Bonneville Power Administration has
20 designated as environmentally preferred power, or has given a similar
21 designation for electricity generated from a renewable resource, may
22 be used to comply with a renewable portfolio standard.

23 “SECTION 3. Qualifying electricity; age of generating facility. (1)
24 Except as provided in this section, electricity may be used to comply
25 with a renewable portfolio standard only if the electricity is generated
26 by a facility that becomes operational on or after January 1, 1995.

27 “(2) Electricity from a generating facility, other than a hydroelec-
28 tric facility, that became operational before January 1, 1995, may be
29 used to comply with a renewable portfolio standard if the electricity
30 is attributable to capacity or efficiency upgrades made on or after

1 January 1, 1995.

2 “(3) Electricity from a hydroelectric facility that became opera-
3 tional before January 1, 1995, may be used to comply with a renewable
4 portfolio standard if the electricity is attributable to efficiency up-
5 grades made on or after January 1, 1995. If an efficiency upgrade is
6 made to a Bonneville Power Administration facility, only that portion
7 of the electricity generation attributable to Oregon’s share of the
8 electricity may be used to comply with a renewable portfolio standard.

9 “(4) Subject to the limit imposed by section 4 (5) of this 2007 Act,
10 electricity from a hydroelectric facility that is owned by an electric
11 utility and that became operational before January 1, 1995, may be
12 used to comply with a renewable portfolio standard if the facility is
13 certified as a low-impact hydroelectric facility on or after January 1,
14 1995, by a national certification organization recognized by the State
15 Department of Energy by rule.

16 “SECTION 4. Renewable energy sources. (1) Electricity generated
17 utilizing the following types of energy may be used to comply with a
18 renewable portfolio standard:

19 “(a) Wind energy.

20 “(b) Solar photovoltaic and solar thermal energy.

21 “(c) Wave, tidal and ocean thermal energy.

22 “(d) Geothermal energy.

23 “(2) Except as provided in subsection (3) of this section, electricity
24 generated from biomass and biomass byproducts may be used to com-
25 ply with a renewable portfolio standard, including but not limited to
26 electricity generated from:

27 “(a) Organic human or animal waste;

28 “(b) Spent pulping liquor;

29 “(c) Forest or rangeland woody debris from harvesting or thinning
30 conducted to improve forest or rangeland ecological health and to re-

1 duce uncharacteristic stand replacing wildfire risk;

2 “(d) Wood material from hardwood timber grown on land described
3 in ORS 321.267 (3);

4 “(e) Agricultural residues;

5 “(f) Dedicated energy crops; and

6 “(g) Biogas produced from organic matter, wastewater, anaerobic
7 digesters or municipal solid waste.

8 “(3) Electricity generated from combustion of biomass may not be
9 used to comply with a renewable portfolio standard if any of the
10 biomass used in generating the electricity includes:

11 “(a) Municipal solid waste; or

12 “(b) Wood that has been treated with chemical preservatives such
13 as creosote, pentachlorophenol or chromated copper arsenate.

14 “(4) Electricity generated by a hydroelectric facility may be used to
15 comply with a renewable portfolio standard if:

16 “(a) The facility is located outside any protected area designated
17 by the Pacific Northwest Electric Power and Conservation Planning
18 Council as of July 23, 1999, or any area protected under the federal
19 Wild and Scenic Rivers Act, Public Law 90-542, or the Oregon Scenic
20 Waterways Act, ORS 390.805 to 390.925; or

21 “(b) The facility is in operation on the effective date of this 2007
22 Act and the electricity is attributable to efficiency upgrades made to
23 the facility on or after January 1, 1995.

24 “(5) Up to 50 average megawatts of electricity per year generated
25 by an electric utility from certified low-impact hydroelectric facilities
26 described in section 3 (4) of this 2007 Act may be used to comply with
27 a renewable portfolio standard, without regard to the number of cer-
28 tified facilities operated by the electric utility or the generating ca-
29 pacity of those facilities.

30 “(6) Electricity generated from hydrogen gas derived from any

1 source of energy described in subsections (1) to (5) of this section may
2 be used to comply with a renewable portfolio standard.

3 “(7) If electricity generation employs multiple energy sources, that
4 portion of the electricity generated that is attributable to energy
5 sources described in subsections (1) to (6) of this section may be used
6 to comply with a renewable portfolio standard.

7 “(8) The State Department of Energy by rule may approve energy
8 sources other than those described in this section that may be used
9 to comply with a renewable portfolio standard. The department may
10 not approve petroleum, natural gas, coal or nuclear fission as an en-
11 ergy source that may be used to comply with a renewable portfolio
12 standard.

13 14 “RENEWABLE PORTFOLIO STANDARDS

15
16 “SECTION 5. Applicable standard. (1) Electric utilities must comply
17 with the applicable renewable portfolio standard described in section
18 6 or 7 of this 2007 Act.

19 “(2) Electricity service suppliers must comply with the renewable
20 portfolio standard established under section 9 of this 2007 Act.

21 “SECTION 6. Large utility renewable portfolio standard. (1) The
22 large utility renewable portfolio standard imposes the following re-
23 quirements on an electric utility that makes sales of electricity to re-
24 tail electricity consumers in an amount that equals one percent or
25 more of all electricity sold to retail electricity consumers:

26 “(a) At least five percent of the electricity sold by the utility to
27 retail electricity consumers in each of the calendar years 2011, 2012,
28 2013 and 2014 must be qualifying electricity;

29 “(b) At least 15 percent of the electricity sold by the utility to retail
30 electricity consumers in each of the calendar years 2015, 2016, 2017, 2018

1 and 2019 must be qualifying electricity;

2 “(c) At least 20 percent of the electricity sold by the utility to retail
3 electricity consumers in each of the calendar years 2020, 2021, 2022, 2023
4 and 2024 must be qualifying electricity; and

5 “(d) At least 25 percent of the electricity sold by the utility to retail
6 electricity consumers in calendar year 2025 and subsequent calendar
7 years must be qualifying electricity.

8 “(2) If, on the effective date of this 2007 Act, an electric utility
9 makes sales of electricity to retail electricity consumers in an amount
10 that equals less than one percent of all electricity sold to retail elec-
11 tricity consumers, but in any three consecutive calendar years there-
12 after makes sales of electricity to retail electricity consumers in
13 amounts that average one percent or more of all electricity sold to
14 retail electricity consumers, the utility is subject to the renewable
15 portfolio standard described in subsection (3) of this section. The util-
16 ity becomes subject to the standard described in subsection (3) of this
17 section in the calendar year following the three-year period during
18 which the utility makes sales of electricity to retail electricity con-
19 sumers in amounts that average one percent or more of all electricity
20 sold to retail electricity consumers.

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

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

28 “(b) Beginning in the 10th calendar year after the calendar year in
29 which the utility becomes subject to the standard described in this
30 subsection, at least 15 percent of the electricity sold by the utility to

1 retail electricity consumers in a calendar year must be qualifying
2 electricity;

3 “(c) Beginning in the 15th calendar year after the calendar year in
4 which the utility becomes subject to the standard described in this
5 subsection, at least 20 percent of the electricity sold by the utility to
6 retail electricity consumers in a calendar year must be qualifying
7 electricity; and

8 “(d) Beginning in the 20th calendar year after the calendar year in
9 which the utility becomes subject to the standard described in this
10 subsection, at least 25 percent of the electricity sold by the utility to
11 retail electricity consumers in a calendar year must be qualifying
12 electricity.

13 “SECTION 7. Small electric utilities. (1) Except as provided in this
14 section, an electric utility that makes sales of electricity to retail
15 electricity consumers in an amount that equals less than one percent
16 of all electricity sold to retail electricity consumers is not subject to
17 sections 1 to 24 of this 2007 Act.

18 “(2) Beginning in calendar year 2025, at least five percent of the
19 electricity sold to retail electricity consumers in a calendar year by
20 an electric utility described in subsection (1) of this section must be
21 qualifying electricity.

22 “(3) The exemption provided by subsection (1) of this section ter-
23 minates if an electric utility, or a joint operating entity that includes
24 the utility as a member, acquires electricity from an electricity gen-
25 erating facility that uses coal as an energy source or makes an in-
26 vestment in a new electricity generating facility that uses coal as an
27 energy source. This subsection does not apply to:

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

30 “(b) BPA electricity; or

1 “(c) A renewal or replacement contract for a contract for purchase
2 of electricity entered into before the effective date of this 2007 Act.

3 “(4) The exemption provided by subsection (1) of this section ter-
4 minates if at any time after the effective date of this 2007 Act a
5 consumer-owned utility acquires service territory of an electric com-
6 pany without the consent of the electric company.

7 “(5) Beginning in the calendar year following the year in which an
8 electric utility’s exemption terminates under subsection (3) or (4) of
9 this section, the utility is subject to the renewable portfolio standard
10 described in section 6 (3) of this 2007 Act and related provisions of
11 sections 1 to 24 of this 2007 Act.

12 “(6) The provisions of this section do not affect the requirement
13 that electric utilities offer a green power rate under section 23 of this
14 2007 Act.

15 “SECTION 8. Exemptions from compliance with renewable portfolio
16 standard. (1) Electric utilities are not required to comply with the
17 renewable portfolio standards described in sections 6 and 7 of this 2007
18 Act to the extent that:

19 “(a) Compliance with the standard would require the utility to ac-
20 quire electricity in excess of the utility’s projected electrical load re-
21 quirements in any calendar year; and

22 “(b) Acquiring the additional electricity would require the utility
23 to substitute qualifying electricity for electricity derived from an en-
24 ergy source other than coal, natural gas or petroleum.

25 “(2)(a) Electric utilities are not required to comply with the large
26 utility renewable portfolio standard to the extent that compliance
27 would require the utility to substitute qualifying electricity for elec-
28 tricity available to the utility under contracts for electricity from
29 dams that are owned by Washington public utility districts and are
30 located between the Grand Coulee Dam and the Columbia River’s

1 junction with the Snake River. The provisions of this subsection apply
2 only to contracts entered into before the effective date of this 2007 Act
3 and to renewal or replacement contracts for contracts entered into
4 before the effective date of this 2007 Act.

5 “(b) If a contract described in paragraph (a) of this subsection ex-
6 pires and is not renewed or replaced, the utility must comply, in the
7 calendar year following the expiration of the contract, with the
8 renewable portfolio standard applicable to the utility under section 6
9 of this 2007 Act.

10 “(3) A consumer-owned utility is not required to comply with a
11 renewable portfolio standard under section 6 of this 2007 Act to the
12 extent that compliance would require the utility to reduce the utility’s
13 purchases of the lowest priced electricity from the Bonneville Power
14 Administration pursuant to section 5 of the Pacific Northwest Electric
15 Power Planning and Conservation Act of 1980, P.L. 96-501, as in effect
16 on the effective date of this 2007 Act. The exemption provided by this
17 subsection applies only to firm energy commitments of BPA electricity
18 that the Bonneville Power Administration has assured will be available
19 to a utility to meet agreed portions of the utility’s load requirements
20 for a defined period of time.

21 “SECTION 9. Renewable portfolio standard for electricity service
22 suppliers. An electricity service supplier must meet the requirements
23 of the renewable portfolio standards that are applicable to the electric
24 utilities that serve the territories in which the electricity service sup-
25 plier sells electricity to retail electricity consumers. The Public Utility
26 Commission shall establish procedures for implementation of the
27 renewable portfolio standards for electricity service suppliers that sell
28 electricity in the service territory of an electric company. If an elec-
29 tricity service supplier sells electricity in territories served by more
30 than one electric company, the commission may provide for an ag-

1 gregate standard based on the amount of electricity sold by the elec-
2 tricity service supplier in each territory. Pursuant to ORS 757.676, a
3 consumer-owned utility may establish procedures for the implementa-
4 tion of the renewable portfolio standards for electricity service sup-
5 pliers that sell electricity in the territory served by the
6 consumer-owned utility.

7 "SECTION 10. Manner of complying with renewable portfolio stan-
8 dards. (1) Except as provided in subsection (2) of this section, an
9 electric utility must comply with the renewable portfolio standard ap-
10 plicable to the utility in each calendar year by:

11 "(a) Using bundled renewable energy certificates issued or acquired
12 during the compliance year;

13 "(b) Subject to the limitations described in sections 16 and 17 of this
14 2007 Act, using unbundled or banked renewable energy certificates; or

15 "(c) Making alternative compliance payments as described in sec-
16 tion 20 of this 2007 Act.

17 "(2) Bundled or unbundled renewable energy certificates that are
18 issued or acquired by an electric utility on or before March 31 in a
19 calendar year may be used by the utility to comply with the renewable
20 portfolio standard applicable to the utility for the preceding calendar
21 year.

22 "SECTION 11. Implementation plan for electric companies; annual
23 reports. (1) An electric company that is subject to a renewable port-
24 folio standard shall develop an implementation plan for meeting the
25 requirements of the standard and file the plan with the Public Utility
26 Commission. Implementation plans must be revised and updated at
27 least once every two years.

28 "(2) An implementation plan must at a minimum contain:

29 "(a) Annual targets for acquisition and use of qualifying electricity;
30 and

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

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

8 “(4) The commission shall adopt rules:

9 “(a) Establishing requirements for the content of implementation
10 plans;

11 “(b) Establishing the procedure for acknowledgement of implemen-
12 tation plans under this section, including provisions for public com-
13 ment; and

14 “(c) Providing for the integration of the implementation plan with
15 the integrated resource planning guidelines established by the com-
16 mission and in effect on the effective date of this 2007 Act.

17 “(5) The implementation plan filed under this section may include
18 procedures that will be used by the electric company to determine
19 whether the costs of constructing a facility that generates electricity
20 from a renewable energy source, or the costs of acquiring bundled or
21 unbundled renewable energy certificates, are consistent with the
22 standards of the commission relating to least-cost, least-risk planning
23 for acquisition of resources.

24 “SECTION 11a. An electric company shall develop and file with the
25 Public Utility Commission an initial implementation plan under sec-
26 tion 11 of this 2007 Act no later than January 1, 2010.

28 “COST LIMITATION

29
30 “SECTION 12. Limits on cost of compliance with renewable portfo-

1 lio standard. (1) Electric utilities are not required to comply with the
2 renewable portfolio standards described in sections 6 and 7 of this 2007
3 Act during a compliance year to the extent that the incremental cost
4 of compliance, the cost of unbundled renewable energy certificates and
5 alternative compliance payments made under section 20 of this 2007
6 Act exceed four percent of the utility's annual revenue requirement
7 for the compliance year.

8 “(2) For each electric company, the Public Utility Commission shall
9 establish the annual revenue requirement for a compliance year no
10 later than January 1 of the compliance year. The governing body of
11 a consumer-owned utility shall establish the annual revenue require-
12 ment for the consumer-owned utility.

13 “(3) The annual revenue requirement for an electric utility shall be
14 calculated based only on the operations of the utility relating to elec-
15 tricity. The annual revenue requirement does not include any amount
16 expended by the utility for energy efficiency programs for customers
17 of the utility or for low income energy assistance, the incremental cost
18 of compliance, the cost of unbundled renewable energy certificates or
19 alternative compliance payments under section 20 of this 2007 Act. The
20 annual revenue requirement does include:

21 “(a) All operating expenses of the utility during the compliance
22 year, including depreciation and taxes; and

23 “(b) For electric companies, an amount equal to the total rate base
24 of the company for the compliance year multiplied by the rate of re-
25 turn established by the commission for debt and equity of the com-
26 pany.

27 “(4) For the purposes of this section, the incremental cost of com-
28 pliance is the difference between the levelized annual delivered cost
29 of the qualifying electricity and the levelized annual delivered cost of
30 an equivalent amount of reasonably available electricity that is not

1 qualifying electricity. For the purpose of this subsection, the commis-
2 sion shall use the net present value of delivered cost, including:

3 “(a) Capital, operating and maintenance costs of generating facili-
4 ties;

5 “(b) Financing costs attributable to capital, operating and mainte-
6 nance of generating facilities;

7 “(c) Transmission and substation costs;

8 “(d) Load following and ancillary services costs; and

9 “(e) Costs associated with using other assets, physical or financial,
10 to integrate, firm or shape renewable energy sources on a firm annual
11 basis to meet retail electricity needs.

12 “(5) The commission shall establish limits on the cost of compliance
13 with the renewable portfolio standard for electricity service suppliers
14 under section 9 of this 2007 Act that are the equivalent of the cost
15 limits applicable to the electric companies that serve the territories in
16 which the electricity service supplier sells electricity to retail elec-
17 tricity consumers. If an electricity service supplier sells electricity in
18 territories served by more than one electric company, the commission
19 may provide for an aggregate cost limit based on the amount of elec-
20 tricity sold by the electricity service supplier in each territory. Pur-
21 suant to ORS 757.676, a consumer-owned utility may establish limits
22 on the cost of compliance with the renewable portfolio standard for
23 electricity service suppliers that sell electricity in the territory served
24 by the consumer-owned utility.

25 “SECTION 12a. The Public Utility Commission shall establish the
26 methodology for determining the annual revenue requirement of an
27 electric company for purposes of section 12 of this 2007 Act no later
28 than July 1, 2008.

29

30

“COST RECOVERY

1 “SECTION 13. Cost recovery by electric companies. (1) Except as
2 provided in section 20 (5) of this 2007 Act, all prudently incurred costs
3 associated with compliance with a renewable portfolio standard are
4 recoverable in the rates of an electric company, including intercon-
5 nection costs, costs associated with using physical or financial assets
6 to integrate and shape renewable energy sources on a firm annual
7 basis to meet retail electricity needs and other costs associated with
8 transmission and delivery of qualifying electricity to retail electricity
9 consumers.

10 “(2) Costs associated with compliance with a renewable portfolio
11 standard are not an above-market cost for the purposes of ORS 757.600
12 to 757.687.

13 “(3) The Public Utility Commission shall establish an automatic
14 adjustment clause as defined in ORS 757.210 or another method that
15 allows timely recovery of costs prudently incurred by an electric
16 company to construct or otherwise acquire facilities that generate
17 electricity from renewable energy sources or associated electricity
18 transmission. An electric company must make a filing with the com-
19 mission for approval of the use of an automatic adjustment clause or
20 other method for timely recovery of costs established under this sub-
21 section. The commission shall provide opportunity for public comment
22 on the filing.

23 “SECTION 13a. The Public Utility Commission shall establish the
24 automatic adjustment clause or another method for recovery of costs
25 as required by section 13 of this 2007 Act no later than January 1, 2008.
26 The automatic adjustment clause or other method shall apply to all
27 costs described in section 13 (1) of this 2007 Act incurred by an electric
28 company since the date of the company’s last general rate case that
29 was decided by the commission before the effective date of this 2007
30 Act.

1 "RENEWABLE ENERGY CERTIFICATES

2
3 "SECTION 14. Renewable energy certificates system. (1) The State
4 Department of Energy shall establish a system of renewable energy
5 certificates that can be used by an electric utility to establish compli-
6 ance with the applicable renewable portfolio standard. The department
7 shall consult with the Public Utility Commission before establishing a
8 system of renewable energy certificates under this section. The de-
9 partment may allow use of renewable energy certificates that are is-
10 sued, monitored, accounted for or transferred by or through a regional
11 system or trading program, including but not limited to the Western
12 Renewable Energy Generation Information System. The system estab-
13 lished by the department shall allow issuance, transfer and use of
14 renewable energy certificates in electronic form.

15 "(2) The validity of a bundled renewable energy certificate for pur-
16 poses of compliance with the applicable renewable portfolio standard
17 is not affected by the substitution of any other electricity for the
18 qualifying electricity at any point after the time of generation.

19 "SECTION 15. Renewable energy certificates that may be used to
20 comply with standards. (1) A bundled renewable energy certificate may
21 be used to comply with a renewable portfolio standard if:

22 "(a) The facility that generates the qualifying electricity for which
23 the certificate is issued is located in the United States and within the
24 geographic boundary of the Western Electricity Coordinating Council;
25 and

26 "(b) The qualifying electricity for which the certificate is issued is
27 delivered to the Bonneville Power Administration, to the transmission
28 system of an electric utility or to another delivery point designated
29 by an electric utility for the purpose of subsequent delivery to the
30 electric utility.

1 “(2) An unbundled renewable energy certificate may be used to
2 comply with a renewable portfolio standard if the facility that gener-
3 ates the qualifying electricity for which the certificate is issued is lo-
4 cated within the geographic boundary of the Western Electricity
5 Coordinating Council.

6 “(3) Renewable energy certificates issued for any electricity that the
7 Bonneville Power Administration has designated as environmentally
8 preferred power, or has given a similar designation for electricity
9 generated from a renewable resource, may be used to comply with a
10 renewable portfolio standard without regard to the location of the
11 generating facility.

12 “SECTION 16. Use, transfer and banking of certificates. (1)
13 Renewable energy certificates may be traded, sold or otherwise trans-
14 ferred.

15 “(2) Renewable energy certificates that are not used by an electric
16 utility to comply with a renewable portfolio standard in a calendar
17 year may be banked and carried forward indefinitely for the purpose
18 of complying with a renewable portfolio standard in a subsequent year.
19 For the purpose of complying with a renewable portfolio standard in
20 any calendar year:

21 “(a) Banked renewable energy certificates must be used before
22 other certificates are used; and

23 “(b) Banked renewable energy certificates with the oldest issuance
24 date must be used to comply with the standard before banked
25 renewable energy certificates with more recent issuance dates are
26 used.

27 “(3) An electric utility is responsible for demonstrating that a
28 renewable energy certificate used to comply with a renewable portfolio
29 standard is derived from a renewable energy source and that the util-
30 ity has not used, traded, sold or otherwise transferred the certificate.

1 “(4) The same renewable energy certificate may be used by an
2 electric utility to comply with a federal renewable portfolio standard
3 and a renewable portfolio standard established under sections 1 to 24
4 of this 2007 Act. An electric utility that uses a renewable energy cer-
5 tificate to comply with a renewable portfolio standard imposed by any
6 other state may not use the same certificate to comply with a
7 renewable portfolio standard established under sections 1 to 24 of this
8 2007 Act.

9 “SECTION 17. Limitations on use of unbundled certificates to meet
10 renewable portfolio standard. (1) Except as otherwise provided in this
11 section, unbundled renewable energy certificates, including banked
12 unbundled renewable energy certificates, may not be used to meet
13 more than 20 percent of the requirements of the large utility
14 renewable portfolio standard described in section 6 of this 2007 Act for
15 any compliance year.

16 “(2) The limitation imposed by subsection (1) of this section does
17 not apply to renewable energy certificates issued for electricity gen-
18 erated in Oregon from a renewable energy source by a net metering
19 facility as defined in ORS 757.300, or another generating facility that
20 is not directly connected to a distribution or transmission system.

21 “(3) The limitation imposed by subsection (1) of this section does
22 not apply to renewable energy certificates issued for electricity gen-
23 erated in Oregon by a qualifying facility under ORS 758.505 to 758.555.

24 “(4) The limitation imposed by subsection (1) of this section does
25 not apply to an electricity service supplier.

26 “SECTION 17a. Notwithstanding section 17 (1) of this 2007 Act, for
27 compliance years before 2020, a consumer-owned utility subject to the
28 large utility renewable portfolio standard described in section 6 of this
29 2007 Act may use unbundled renewable energy certificates, including
30 banked unbundled renewable energy certificates, to meet up to 50

1 percent of the requirements of the standard.

2 "SECTION 18. Multistate electric companies. The Public Utility
3 Commission by rule shall establish a process for allocating the use of
4 renewable energy certificates by an electric company that makes sales
5 of electricity to retail customers in more than one state.

7 "COMPLIANCE REPORTS

8
9 "SECTION 19. Compliance reports. (1) Each electric utility and
10 electricity service supplier that is subject to a renewable portfolio
11 standard shall make an annual compliance report for the purpose of
12 detailing compliance, or failure to comply, with the renewable portfo-
13 lio standard applicable in the compliance year. An electric company
14 or electricity service supplier shall make the report to the Public
15 Utility Commission. A consumer-owned utility shall make the report
16 to the members or customers of the utility.

17 "(2) The commission shall review each compliance report filed un-
18 der this section for the purposes of determining whether the electric
19 company or electricity service supplier has complied with the
20 renewable portfolio standard applicable to the company or supplier and
21 the manner in which the company or supplier has complied. In re-
22 viewing the reports, the commission shall consider:

23 "(a) The relative amounts of renewable energy certificates and
24 other payments used by the company or supplier to meet the applica-
25 ble renewable portfolio standard, including:

26 "(A) Bundled renewable energy certificates;

27 "(B) Unbundled renewable energy certificates;

28 "(C) Banked renewable energy certificates; and

29 "(D) Alternative compliance payments under section 20 of this 2007
30 Act.

1 “(b) The timing of electricity purchases.

2 “(c) The market prices for electricity purchases and unbundled
3 renewable energy certificates.

4 “(d) Whether the actions taken by the company or supplier are
5 contributing to long term development of generating capacity using
6 renewable energy sources.

7 “(e) The effect of the actions taken by the company or supplier on
8 the rates payable by retail electricity consumers.

9 “(f) Good faith forecasting differences associated with the projected
10 number of retail electricity consumers served and the availability of
11 electricity from renewable energy sources.

12 “(g) For electric companies, consistency with the implementation
13 plan filed under section 11 of this 2007 Act, as acknowledged by the
14 commission.

15 “(h) Any other factors deemed reasonable by the commission.

16 “(3) The commission by rule may establish requirements for com-
17 pliance reports submitted by an electric company or electricity service
18 supplier.

19
20 “ALTERNATIVE COMPLIANCE PAYMENTS

21
22 “SECTION 20. Electric companies; electricity service suppliers. (1)
23 The Public Utility Commission shall establish an alternative compli-
24 ance rate for each compliance year for each electric company or elec-
25 tricity service supplier that is subject to a renewable portfolio
26 standard. The rate shall be expressed in dollars per megawatt-hour.

27 “(2) The commission shall establish an alternative compliance rate
28 based on the cost of qualifying electricity, contracts that the electric
29 company or electricity service supplier has acquired for future delivery
30 of qualifying electricity and the number of unbundled renewable en-

1 ergy certificates that the company or supplier anticipates using in the
2 compliance year to meet the renewable portfolio standard applicable
3 to the company or supplier. The commission shall also consider any
4 determinations made under section 19 of this 2007 Act in reviewing the
5 compliance report made by the electric company or electricity service
6 supplier for the previous compliance year. In establishing an alterna-
7 tive compliance rate, the commission shall set the rate to provide ad-
8 equate incentive for the electric company or electricity service
9 supplier to purchase or generate qualifying electricity in lieu of using
10 alternative compliance payments to meet the renewable portfolio
11 standard applicable to the company or supplier.

12 “(3) An electric company or electricity service supplier may elect
13 to use, or may be required by the commission to use, alternative
14 compliance payments to comply with the renewable portfolio standard
15 applicable to the company or supplier. Any election by an electric
16 company or electricity service supplier to use alternative compliance
17 payments is subject to review by the commission under section 19 of
18 this 2007 Act. An electric company or electricity service supplier may
19 not be required to make alternative compliance payments that would
20 result in the company or supplier exceeding the cost limitation estab-
21 lished under section 12 of this 2007 Act.

22 “(4) The commission shall determine for each electric company the
23 extent to which alternative compliance payments may be recovered in
24 the rates of the company. Each electric company shall deposit any
25 amounts recovered in the rates of the company for alternative com-
26 pliance payments in a holding account established by the company.
27 Amounts in the holding account shall accrue interest at the rate of
28 return authorized by the commission for the electric company.

29 “(5) Amounts in holding accounts established under subsection (4)
30 of this section may be expended by an electric company only for costs

1 of acquiring new generating capacity from renewable energy sources,
2 investments in efficiency upgrades to electricity generating facilities
3 owned by the company and energy conservation programs within the
4 company's service area. The commission must approve expenditures
5 by an electricity company from a holding account established under
6 subsection (4) of this section. Amounts that are collected from cus-
7 tomers and spent by an electric company under this subsection may
8 not be included in the company's rate base.

9 “(6) The commission shall require electricity service suppliers to
10 establish holding accounts and make payments to those accounts on
11 a substantially similar basis as provided for electric companies. The
12 commission must approve expenditures by an electricity service sup-
13 plier from a holding account established under this subsection. The
14 commission may approve expenditures only for energy conservation
15 programs for customers of the electricity service supplier.

16 “SECTION 20a. The Public Utility Commission shall establish initial
17 alternative compliance rates as required by section 20 of this 2007 Act
18 no later than July 1, 2009.

19 “SECTION 21. Consumer-owned utilities. The governing body of a
20 consumer-owned utility shall establish an alternative compliance rate
21 for the utility. To the extent possible, the alternative compliance rate
22 shall be determined by the governing body of the consumer-owned
23 utility in a manner similar to that used by the Public Utility Com-
24 mission in establishing alternative compliance rates under section 20
25 of this 2007 Act. Amounts collected as alternative compliance pay-
26 ments by a consumer-owned utility may be used only for the purposes
27 specified in section 20 (5) of this 2007 Act.

28
29 “PENALTY
30

1 “SECTION 22. Penalty. If an electric company or electricity service
2 supplier that is subject to a renewable portfolio standard under
3 sections 1 to 24 of this 2007 Act fails to comply with the standard in
4 the manner provided by sections 1 to 24 of this 2007 Act, the Public
5 Utility Commission may impose a penalty against the company or
6 supplier in an amount determined by the commission. A penalty un-
7 der this section is in addition to any alternative compliance payment
8 required or elected under section 20 of this 2007 Act. Moneys paid for
9 penalties under this section shall be transmitted by the commission
10 to the nongovernmental entity receiving moneys under ORS 757.612
11 (3)(d) and may be used only for the purposes specified in ORS 757.612
12 (1).

13 14 “GREEN POWER RATE

15
16 “SECTION 23. Green power rate. (1) Electric utilities shall allow
17 retail electricity consumers to elect a green power rate. A significant
18 portion of the electricity purchased or generated by a utility that is
19 attributable to moneys paid by retail electricity consumers who elect
20 the green power rate must be qualifying electricity, and the utility
21 must inform consumers of the sources of the electricity purchased or
22 generated by the utility that is attributable to moneys paid by con-
23 sumers who elect the green power rate. The green power rate shall
24 reasonably reflect the costs of the electricity purchased or generated
25 by the utility that is attributable to moneys paid by retail electricity
26 consumers who elect the green power rate. All prudently incurred
27 costs associated with the green power rate are recoverable in a green
28 power rate offered by an electric company.

29 “(2) Any qualifying electricity procured by an electric utility to
30 provide electricity under a green power rate may not be used by the

1 utility to comply with the requirements of a renewable portfolio
2 standard.

3 “(3) The provisions of this section do not apply to electricity service
4 suppliers or electric companies that are subject to ORS 757.603 (3)(a).

5 “(4) An electric utility may comply with the requirements of this
6 section by contracting with a third-party provider.

8 “COMMUNITY-BASED RENEWABLE ENERGY PROJECTS

10 “SECTION 24. Goal for community-based renewable energy projects.

11 The Legislative Assembly finds that community-based renewable en-
12 ergy projects are an essential element of Oregon’s energy future, and
13 declares that it is the goal of the State of Oregon that by 2025 at least
14 eight percent of Oregon’s electrical retail load comes from small-scale
15 renewable energy projects with a generating capacity of less than 20
16 megawatts. All agencies of the executive department as defined in ORS
17 174.112 shall establish policies and procedures promoting the goal de-
18 clared in this section.

20 “JOB IMPACT STUDY

22 “SECTION 25. Job impact study. (1) The State Department of En-
23 ergy shall periodically conduct a study to evaluate the impact of
24 sections 1 to 24 of this 2007 Act on jobs in this state. The study shall
25 assess the number of new jobs created in the renewable energy sector
26 in this state and the average wage rates and the provision of health
27 care and other benefits for those jobs. In addition, the study shall in-
28 vestigate the extent to which workforce training opportunities are
29 being provided to employees to prepare the employees for jobs in the
30 renewable energy sector.

1 “(2) The department shall conduct the first study under this section
2 not later than two years after the effective date of this 2007 Act.

3 “SECTION 26. Section 25 of this 2007 Act is repealed January 2, 2026.
4

5 “PUBLIC PURPOSE CHARGE 6

7 “SECTION 27. ORS 757.612 is amended to read:

8 “757.612. (1) There is established an annual public purpose expenditure
9 standard for electric companies to fund new cost-effective local energy con-
10 servation, new market transformation efforts, the above-market costs of new
11 renewable energy resources and new low-income weatherization. The public
12 purpose expenditure standard shall be funded by the public purpose charge
13 described in subsection (2) of this section.

14 “(2)(a) Beginning on the date an electric company offers direct access to
15 its retail electricity consumers, except residential electricity consumers, the
16 electric company shall collect a public purpose charge from all of the retail
17 electricity consumers located within its service area *[for a period of 10*
18 *years]* **until January 1, 2026.** Except as provided in paragraph (b) of this
19 subsection, the public purpose charge shall be equal to three percent of the
20 total revenues collected by the electric company or electricity service sup-
21 plier from its retail electricity consumers for electricity services, distrib-
22 ution, ancillary services, metering and billing, transition charges and other
23 types of costs included in electric rates on July 23, 1999.

24 “(b) For an aluminum plant that averages more than 100 average mega-
25 watts of electricity use per year, beginning on March 1, 2002, the electric
26 company whose territory abuts the greatest percentage of the site of the
27 aluminum plant shall collect from the aluminum company a public purpose
28 charge equal to one percent of the total revenue from the sale of electricity
29 services to the aluminum plant from any source.

30 “(3)(a) The Public Utility Commission shall establish rules implementing

1 the provisions of this section relating to electric companies.

2 “(b) Subject to paragraph (e) of this subsection, funds collected by an
3 electric company through public purpose charges shall be allocated as fol-
4 lows:

5 “(A) Sixty-three percent for new cost-effective conservation and new
6 market transformation.

7 “(B) Nineteen percent for the above-market costs of *[new renewable energy*
8 *resources]* **constructing and operating new renewable energy resources**
9 **with a nominal electric generating capacity, as defined in ORS 469.300,**
10 **of less than 20 megawatts.**

11 “(C) Thirteen percent for new low-income weatherization.

12 “(D) Five percent shall be transferred to the Housing and Community
13 Services Department Revolving Account created under ORS 456.574 and used
14 for the purpose of providing grants as described in ORS 458.625 (2). Moneys
15 deposited in the account under this subparagraph are continuously appro-
16 priated to the Housing and Community Services Department for the purposes
17 of ORS 458.625 (2). Interest on moneys deposited in the account under this
18 subparagraph shall accrue to the account.

19 “(c) The costs of administering subsections (1) to (6) of this section for
20 an electric company shall be paid out of the funds collected through public
21 purpose charges. The commission may require that an electric company di-
22 rect funds collected through public purpose charges to the state agencies
23 responsible for implementing subsections (1) to (6) of this section in order
24 to pay the costs of administering such responsibilities.

25 “(d) The commission shall direct the manner in which public purpose
26 charges are collected and spent by an electric company and may require an
27 electric company to expend funds through competitive bids or other means
28 designed to encourage competition, except that funds dedicated for low-
29 income weatherization shall be directed to the Housing and Community
30 Services Department as provided in subsection (7) of this section. The com-

1 mission may also direct that funds collected by an electric company through
2 public purpose charges be paid to a nongovernmental entity for investment
3 in public purposes described in subsection (1) of this section. Notwithstand-
4 ing any other provision of this subsection, at least 80 percent of the funds
5 allocated for conservation shall be spent within the service area of the
6 electric company that collected the funds.

7 “(e)(A) The first 10 percent of the funds collected annually by an electric
8 company under subsection (2) of this section shall be distributed to education
9 service districts, as described in ORS 334.010, that are located in the service
10 territory of the electric company. The funds shall be distributed to individual
11 education service districts according to the weighted average daily member-
12 ship (ADMw) of the component school districts of the education service dis-
13 trict for the prior fiscal year as calculated under ORS 327.013. The
14 commission shall establish by rule a methodology for distributing a propor-
15 tionate share of funds under this paragraph to education service districts
16 that are only partially located in the service territory of the electric com-
17 pany.

18 “(B) An education service district that receives funds under this para-
19 graph shall use the funds first to pay for energy audits for school districts
20 located within the education service district. An education service district
21 may not expend additional funds received under this paragraph on a school
22 district facility until an energy audit has been completed for that school
23 district. To the extent practicable, an education service district shall coor-
24 dinate with the State Department of Energy and incorporate federal funding
25 in complying with this paragraph. Following completion of an energy audit
26 for an individual school district, the education service district may expend
27 funds received under this paragraph to implement the energy audit. Once an
28 energy audit has been conducted and completely implemented for each school
29 district within the education service district, the education service district
30 may expend funds received under this paragraph for any of the following

1 purposes:

2 “(i) Conducting energy audits. A school district shall conduct an energy
3 audit prior to expending funds on any other purpose authorized under this
4 paragraph unless the school district has performed an energy audit within
5 the three years immediately prior to receiving the funds.

6 “(ii) Weatherization and upgrading the energy efficiency of school district
7 facilities.

8 “(iii) Energy conservation education programs.

9 “(iv) Purchasing electricity from environmentally focused sources and in-
10 vesting in renewable energy resources.

11 “(f) The commission may establish a different public purpose charge than
12 the public purpose charge otherwise described in subsection (2) of this sec-
13 tion for an individual retail electricity consumer or any class of retail elec-
14 tricity consumers located within the service area of an electric company,
15 provided that a retail electricity consumer with a load greater than one av-
16 erage megawatt is not required to pay a public purpose charge in excess of
17 three percent of its total cost of electricity services.

18 “(g) The commission shall remove from the rates of each electric company
19 any costs for public purposes described in subsection (1) of this section that
20 are included in rates. A rate adjustment under this paragraph shall be ef-
21 fective on the date that the electric company begins collecting public purpose
22 charges.

23 “(4)(a) **Except as provided in paragraph (b) of this subsection**, an
24 electric company that satisfies its obligations under this section shall have
25 no further obligation to invest in conservation, new market transformation,
26 new renewable energy resources or new low-income weatherization or to
27 provide a commercial energy conservation services program and is not sub-
28 ject to ORS 469.631 to 469.645[,] **and** 469.860 to 469.900 [*and 758.505 to*
29 *758.555*].

30 “(b) **An electric company that satisfies its obligations under this**

1 **section is not exempt from complying with ORS 758.505 to 758.555.**

2 “(5)(a) A retail electricity consumer that uses more than one average
3 megawatt of electricity at any site in the prior year shall receive a credit
4 against public purpose charges billed by an electric company for that site.
5 The amount of the credit shall be equal to the total amount of qualifying
6 expenditures for new energy conservation, not to exceed 68 percent of the
7 annual public purpose charges, and the above-market costs of purchases of
8 new renewable energy resources incurred by the retail electricity consumer,
9 not to exceed 19 percent of the annual public purpose charges, less adminis-
10 tration costs incurred under this subsection. The credit may not exceed, on
11 an annual basis, the lesser of:

12 “(A) The amount of the retail electricity consumer’s qualifying expendi-
13 tures; or

14 “(B) The portion of the public purpose charge billed to the retail elec-
15 tricity consumer that is dedicated to new energy conservation, new market
16 transformation or the above-market costs of new renewable energy resources.

17 “(b) To obtain a credit under this subsection, a retail electricity consumer
18 shall file with the State Department of Energy a description of the proposed
19 conservation project or new renewable energy resource and a declaration
20 that the retail electricity consumer plans to incur the qualifying expenditure.
21 The State Department of Energy shall issue a notice of precertification
22 within 30 days of receipt of the filing, if such filing is consistent with this
23 subsection. The credit may be taken after a retail electricity consumer pro-
24 vides a letter from a certified public accountant to the State Department of
25 Energy verifying that the precertified qualifying expenditure has been made.

26 “(c) Credits earned by a retail electricity consumer as a result of quali-
27 fying expenditures that are not used in one year may be carried forward for
28 use in subsequent years.

29 “(d)(A) A retail electricity consumer that uses more than one average
30 megawatt of electricity at any site in the prior year may request that the

1 State Department of Energy hire an independent auditor to assess the po-
2 tential for conservation investments at the site. If the independent auditor
3 determines there is no available conservation measure at the site that would
4 have a simple payback of one to 10 years, the retail electricity consumer
5 shall be relieved of 54 percent of its payment obligation for public purpose
6 charges related to the site. If the independent auditor determines that there
7 are potential conservation measures available at the site, the retail elec-
8 tricity consumer shall be entitled to a credit against public purpose charges
9 related to the site equal to 54 percent of the public purpose charges less the
10 estimated cost of available conservation measures.

11 “(B) A retail electricity consumer shall be entitled each year to the credit
12 described in this subsection unless a subsequent independent audit deter-
13 mines that new conservation investment opportunities are available. The
14 State Department of Energy may require that a new independent audit be
15 performed on the site to determine whether new conservation measures are
16 available, provided that the independent audits shall occur no more than
17 once every two years.

18 “(C) The retail electricity consumer shall pay the cost of the independent
19 audits described in this subsection.

20 “(6) Electric utilities and retail electricity consumers shall receive a fair
21 and reasonable credit for the public purpose expenditures of their energy
22 suppliers. The State Department of Energy shall adopt rules to determine
23 eligible expenditures and the methodology by which such credits are ac-
24 counted for and used. The rules also shall adopt methods to account for el-
25 igible public purpose expenditures made through consortia or collaborative
26 projects.

27 “(7)(a) In addition to the public purpose charge provided under subsection
28 (2) of this section, beginning on October 1, 2001, an electric company shall
29 collect funds for low-income electric bill payment assistance in an amount
30 determined under paragraph (b) of this subsection.

1 “(b) The total amount collected for low-income electric bill payment as-
2 sistance under this section shall be \$10 million per year. The commission
3 shall determine each electric company’s proportionate share of the total
4 amount. The commission shall determine the amount to be collected from a
5 retail electricity consumer, except that a retail electricity consumer is not
6 required to pay more than \$500 per month per site for low-income electric
7 bill payment assistance.

8 “(c) Funds collected by the low-income electric bill payment assistance
9 charge shall be paid into the Housing and Community Services Department
10 Revolving Account created under ORS 456.574. Moneys deposited in the ac-
11 count under this paragraph are continuously appropriated to the Housing
12 and Community Services Department for the purpose of funding low-income
13 electric bill payment assistance. Interest earned on moneys deposited in the
14 account under this paragraph shall accrue to the account. The department’s
15 cost of administering this subsection shall be paid out of funds collected by
16 the low-income electric bill payment assistance charge. Moneys deposited in
17 the account under this paragraph shall be expended solely for low-income
18 electric bill payment assistance. Funds collected from an electric company
19 shall be expended in the service area of the electric company from which the
20 funds are collected.

21 “(d) The Housing and Community Services Department, in consultation
22 with the federal Advisory Committee on Energy, shall determine the manner
23 in which funds collected under this subsection will be allocated by the de-
24 partment to energy assistance program providers for the purpose of providing
25 low-income bill payment and crisis assistance, including programs that ef-
26 fectively reduce service disconnections and related costs to retail electricity
27 consumers and electric utilities. Priority assistance shall be directed to
28 low-income electricity consumers who are in danger of having their elec-
29 tricity service disconnected.

30 “(e) Notwithstanding ORS 293.140, interest on moneys deposited in the

1 Housing and Community Services Department Revolving Account under this
2 subsection shall accrue to the account and may be used to provide heating
3 bill payment and crisis assistance to electricity consumers whose primary
4 source of heat is not electricity.

5 “(f) Notwithstanding ORS 757.310, the commission may allow an electric
6 company to provide reduced rates or other payment or crisis assistance or
7 low-income program assistance to a low-income household eligible for as-
8 sistance under the federal Low Income Home Energy Assistance Act of 1981,
9 as amended and in effect on July 23, 1999.

10 “(8) For purposes of this section, ‘retail electricity consumers’ includes
11 any direct service industrial consumer that purchases electricity without
12 purchasing distribution services from the electric utility.

13 **“SECTION 28.** ORS 757.687 is amended to read:

14 “757.687. (1) Beginning on the date a consumer-owned utility provides di-
15 rect access to any class of retail electric consumers, the consumer-owned
16 utility shall collect from that consumer class a nonbypassable public purpose
17 charge *[for a period of 10 years]* **until January 1, 2026.** Except as provided
18 in subsection (8) of this section, the amount of the public purpose charge
19 shall be sufficient to produce revenue of not less than three percent of the
20 total revenue collected by the consumer-owned utility from its retail elec-
21 tricity consumers for electricity services, distribution, ancillary services,
22 metering and billing, transition charges and any other costs included in rates
23 as of July 23, 1999, except that the consumer-owned utility may exclude from
24 the calculation of such costs any cost related to the public purposes de-
25 scribed in subsection (5) of this section. If a consumer-owned utility has
26 fewer than 17 consumers per mile of distribution line, the amount of the
27 public purpose charge shall be sufficient to produce revenue not less than
28 three percent of the total revenue from the sale of electricity services in the
29 utility’s service area to the consumer class that is provided direct access, or
30 the utility’s consumer class percentage share of state total electricity sales

1 multiplied by three percent of total statewide retail electric revenue, which-
2 ever is less.

3 “(2) Except as provided in subsection (9) of this section, the governing
4 body of a consumer-owned utility shall determine the manner of collecting
5 and expending funds for public purposes required by law to be assessed
6 against and paid by the retail electric consumers of the utility. A determi-
7 nation by the governing body shall include:

8 “(a) The manner for collecting public purpose charges;

9 “(b) Public purpose programs upon which revenue from the charges may
10 be expended; and

11 “(c) The allocation of expenditures for each program.

12 “(3) Beginning on the same date two years after July 23, 1999, a
13 consumer-owned utility shall report annually to the State Department of
14 Energy created under ORS 469.030 on the public purpose charges paid to the
15 utility by its retail electric consumers and the public purposes on which the
16 revenue was expended.

17 “(4) A consumer-owned utility may comply with the public purpose re-
18 quirements of this section by participating in collaborative efforts with other
19 consumer-owned utilities located in this state.

20 “(5) Funds assessed and paid by, and credits or other financial assistance
21 issued or extended to, retail electric consumers for purposes of this section
22 may, in the discretion of the governing body of the consumer-owned utility,
23 be expended to fund programs for energy conservation, renewable resources
24 or low-income energy services otherwise required by the laws of this state,
25 adopted by the governing body pursuant to the National Energy Conserva-
26 tion Policy Act (Public Law 95-619, as amended November 10, 1981), or con-
27 ducted by the utility pursuant to agreement with the Bonneville Power
28 Administration under the Pacific Northwest Electric Power Planning and
29 Conservation Act (Public Law 96-501). All such funds expended, credits is-
30 sued and incremental costs incurred in connection with the performance of

1 a consumer-owned utility's obligations under this section shall be credited
2 toward the utility's public purpose funding obligation under this section.

3 "(6) A consumer-owned utility also may credit toward its funding obli-
4 gations under this section any incremental costs incurred by the utility for
5 capital expenditures made to reduce its distribution system energy losses,
6 existing biomass gas and waste to energy systems, existing hydroelectric
7 generation projects using fish attraction water, for new energy conservation
8 and renewable resource funding costs included in its wholesale power sup-
9 plier's charges and for electric power generated by renewable or
10 cogeneration resources pursuant to requirements of the Public Utilities
11 Regulatory Policy Act of 1978 (Public Law 95-617), to the extent that such
12 costs exceed the average cost of the utility's other electric power resources.

13 "(7) A consumer-owned utility also may credit toward its public purpose
14 funding obligations under this section any costs incurred in complying with
15 ORS 469.649 to 469.659.

16 "(8) Beginning on March 1, 2002, a consumer-owned utility whose terri-
17 tory abuts the greatest percentage of the site of an aluminum plant that
18 averages more than 100 megawatts of electricity use per year shall collect
19 from the aluminum company a public purpose charge equal to one percent
20 of the total revenue from the sale of electricity services to the aluminum
21 plant from any source.

22 "(9)(a) A retail electricity consumer that uses more than one average
23 megawatt of electricity at any site in the prior year shall receive a credit
24 against public purpose charges billed by a consumer-owned utility for that
25 site. The amount of the credit shall be equal to the total amount of qualify-
26 ing expenditures for new energy conservation, not to exceed 68 percent of the
27 annual public purpose charges, and the above-market costs of purchases of
28 new renewable energy resources incurred by the retail electricity consumer,
29 less administration costs incurred under this subsection. The credit shall not
30 exceed, on an annual basis, the lesser of:

1 “(A) The amount of the retail electricity consumer’s qualifying expendi-
2 tures; or

3 “(B) The portion of the public purpose charge billed to the retail elec-
4 tricity consumer that is dedicated to new energy conservation, new market
5 transformation or the above-market costs of new renewable resources.

6 “(b) To obtain a credit under this subsection, a retail electricity consumer
7 shall file with the department a description of the proposed conservation
8 project, new market transformation or new renewable energy resource and
9 a declaration that the retail electricity consumer plans to incur the qualify-
10 ing expenditure. The department shall issue a notice of precertification
11 within 30 days of receipt of the filing, if such filing is consistent with this
12 subsection. Notice shall be issued to the retail electricity consumer and the
13 appropriate consumer-owned utility. The credit may be taken after a retail
14 electricity consumer provides a letter from a certified public accountant to
15 the department verifying that the precertified qualifying expenditure has
16 been made.

17 “(c) Credits earned by a retail electricity consumer as a result of quali-
18 fying expenditures that are not used in one year may be carried forward for
19 use in subsequent years.

20 “(d)(A) A retail electricity consumer that uses more than one average
21 megawatt of electricity at any site in the prior year may request that the
22 department hire an independent auditor to assess the potential for conser-
23 vation measures at the site. If the independent auditor determines there is
24 no available conservation measure at the site that would have a simple
25 payback of one to 10 years, the retail electricity consumer shall be relieved
26 of 54 percent of its payment obligation for public purpose charges related to
27 the site. If the auditor determines that there are potential conservation
28 measures available at the site, the retail electricity consumer shall be enti-
29 tled to a credit against public purpose charges related to the site equal to
30 54 percent of the public purpose charges less the estimated cost of available

1 conservation measures.

2 “(B) A retail electricity consumer shall be entitled each year to the credit
3 described in this paragraph unless a subsequent audit determines that new
4 conservation investment opportunities are available. The department may
5 require that a new audit be performed on the site to determine whether new
6 conservation measures are available, provided that the audits occur no more
7 than once every two years.

8 “(C) The retail electricity consumer shall pay the cost of the audits de-
9 scribed in this subsection.

10 “(10) A retail electricity consumer with a load greater than one average
11 megawatt shall not be required to pay a public purpose charge in excess of
12 three percent of the consumer’s total cost of electricity services unless the
13 charge is established in an agreement between the consumer and the
14 consumer-owned utility.

15 “(11) Beginning on March 1, 2002, a consumer-owned utility shall have in
16 operation a bill assistance program for households that qualify for federal
17 low-income energy assistance in the consumer-owned utility’s service area.
18 A consumer-owned utility shall report annually to the Housing and Commu-
19 nity Services Department detailing the utility’s program and program ex-
20 penditures.

21 “(12) A consumer-owned utility may require an electricity service supplier
22 to provide information necessary to ensure compliance with this section. The
23 consumer-owned utility shall ensure the privacy and protection of any pro-
24 prietary information provided.

25

26

“MISCELLANEOUS

27

28 **“SECTION 29. The unit and section captions used in this 2007 Act**
29 **are provided only for the convenience of the reader and do not become**
30 **part of the statutory law of this state or express any legislative intent**

1 in the enactment of this 2007 Act.

2 “SECTION 30. This 2007 Act being necessary for the immediate
3 preservation of the public peace, health and safety, an emergency is
4 declared to exist, and this 2007 Act takes effect on its passage.”.

5
