

House Bill 2852

Sponsored by COMMITTEE ON ENERGY AND ENVIRONMENT (at the request of Community Renewable Energy Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes local governments to form authorities for purpose of implementing community choice aggregation programs. Places certain requirements on electric companies and Public Utility Commission related to implementation of community choice aggregation programs. Applies certain renewable portfolio standards to community choice aggregation programs implemented by authorities. Includes authorities in list of persons subject to public purpose charge.

A BILL FOR AN ACT

Relating to community choice aggregation; creating new provisions; and amending ORS 469A.005, 469A.065, 469A.210, 757.600, 757.612 and 757.627.

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

COMMUNITY CHOICE AGGREGATION AUTHORITIES

(Definitions)

SECTION 1. Sections 2 to 14 of this 2019 Act are added to and made a part of ORS chapter 757.

SECTION 2. Definitions. As used in sections 2 to 14 of this 2019 Act:

(1) "Allocated territory" has the meaning given that term in ORS 758.400.

(2) "Ancillary services" has the meaning given that term in ORS 757.600.

(3) "Authority" means a community choice aggregation authority formed pursuant to section 3 of this 2019 Act.

(4) "Community choice aggregation program" means a program for aggregating the loads of eligible retail electricity consumers in order to purchase or generate electricity on behalf of the retail electricity consumers.

(5)(a) "Economic utility investment" includes all electric company investments, including plants and equipment and contractual or other legal obligations, properly dedicated to generation or conservation, that were prudent at the time the obligations were assumed but the full benefits of which are no longer available to consumers as a direct result of creation and operation of an authority pursuant to sections 2 to 14 of this 2019 Act, absent a cost recovery mechanism adopted under section 11 of this 2019 Act.

(b) "Economic utility investment" does not include costs or expenses disallowed by the Public Utility Commission in a prudence review or other proceeding, to the extent of the disallowance, and does not include fines or penalties authorized and imposed under state or federal law.

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (7) “Eligible retail electricity consumer” means a retail electricity consumer that is
 2 served through the distribution system of an electric company.

3 (8) “Interim market purchases” means purchases of electricity by an electric company
 4 in the wholesale power market from an electricity generation facility, the cost of which is
 5 not included in the rate base of the electric company purchasing the electricity.

6 (9) “Load” has the meaning given that term in ORS 757.600.

7 (10) “Local government” means a city, county, irrigation district organized under ORS
 8 chapter 545, the Port of Portland established by ORS 778.010 or a port organized under ORS
 9 777.005 to 777.725 and 777.915 to 777.953.

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

11 (12)(a) “Uneconomic utility investment” includes all electric company investments, in-
 12 cluding plants and equipment and contractual or other legal obligations, properly dedicated
 13 to generation, conservation and workforce commitments, that were prudent at the time the
 14 obligations were assumed but the full costs of which are no longer recoverable as a direct
 15 result of creation and operation of an authority under sections 2 to 14 of this 2019 Act, ab-
 16 sent a cost recovery mechanism adopted under section 11 of this 2019 Act.

17 (b) “Uneconomic utility investment” does not include costs or expenses disallowed by the
 18 Public Utility Commission in a prudence review or other proceeding, to the extent of the
 19 disallowance, and does not include fines or penalties authorized and imposed under state or
 20 federal law.

21
 22 (Formation, Governance, Duties, Obligations, Dissolution)

23
 24 **SECTION 3. Formation of community choice aggregation authority.** (1) A local govern-
 25 ment may, upon its own motion, consider whether it is advisable:

26 (a) To create an authority for the purpose of aggregating all or some of the loads of eli-
 27 gible retail electricity consumers located within the allocated territory of an electric com-
 28 pany and within the jurisdictional boundaries of the unit of local government, in order to
 29 serve the eligible retail electricity consumers through a community choice aggregation pro-
 30 gram; or

31 (b) To agree with one or more other local governments to form an authority described
 32 in paragraph (a) of this subsection as a cooperative body between the local governments.

33 (2) If the local government, after public hearing according to the local government’s
 34 rules, determines that it is wise and desirable to create in an authority the powers and duties
 35 set forth in sections 2 to 14 of this 2019 Act, the local government shall by ordinance or re-
 36 solution create such an authority. The ordinance or resolution shall set forth:

37 (a) The name of the authority.

38 (b) The number of directors of the authority, which must be an odd number not less than
 39 five.

40 (c) The names of the initial directors and their initial terms of service, which may not
 41 exceed four years.

42 (d) Other provisions that may be appropriate and not inconsistent with sections 2 to 14
 43 of this 2019 Act or the laws of Oregon.

44 (3)(a) An authority shall be deemed established as a municipal corporation of the state
 45 and as a body corporate and politic exercising public powers:

1 (A) If formed by one local government, upon the adoption of an ordinance or resolution
 2 under subsection (2) of this section by the local government; or

3 (B) If formed by two or more local governments, upon the adoption by ordinance or re-
 4 solution of an intergovernmental agreement by each of the participating local governments.

5 (b) Notwithstanding any law to the contrary, the authority shall exist as a legal entity
 6 separate from the local governments that created the authority.

7 (4) An authority organized under this section shall have all the powers and duties con-
 8 tained in sections 2 to 14 of this 2019 Act.

9 **SECTION 4. Board of directors; rules; quorum; personnel.** (1) An authority shall be
 10 managed and controlled by a board of directors. The initial board of directors shall be ap-
 11 pointed by the local governments that created the authority. Subsequent directors shall be
 12 appointed as provided in this section and the rules adopted by the authority.

13 (2) The regular term of a director is four years. The board may establish special terms
 14 for positions that are shorter than four years for the purpose of staggering the terms of di-
 15 rectors. Before the expiration of the term of a director, a successor shall be appointed
 16 whose term begins on January 1 of the year next following. A director is eligible for reap-
 17 pointment but may serve no more than a total of three terms, including terms shorter than
 18 four years. If there is a vacancy for any cause, a new director shall be appointed to complete
 19 the unexpired term, subject to the requirements of subsection (3) of this section.

20 (3)(a) If the authority was created by one local government, the board of directors must
 21 include at least one director who is also a member of the governing body of the local gov-
 22 ernment that created the authority.

23 (b) An authority created by two or more local governments must:

24 (A) Include at least one director who is also a member of the governing body of each local
 25 government that created the authority; and

26 (B) Be comprised such that a majority of the directors are elected officials of the local
 27 governments that created the authority.

28 (4) The board shall hold an annual meeting. The board shall select from among them-
 29 selves at the annual meeting a chairperson, vice chairperson, secretary, treasurer and other
 30 officers as the board determines.

31 (5) The board shall adopt and may amend rules for calling and conducting its meetings
 32 and carrying out its business and may adopt an official seal. All decisions of the board shall
 33 be by motion or resolution and shall be recorded in the board's minute book, which shall be
 34 a public record. A majority of the directors of the board constitutes a quorum for the
 35 transaction of business, and a majority is sufficient to pass a motion or resolution.

36 (6) The board may employ employees and agents as the board deems appropriate and
 37 provide for their compensation. The employees and agents of the authority are not employees
 38 or agents of the local government that created the authority.

39 (7) A director is not entitled to compensation for service on the board of an authority.

40 **SECTION 5. General powers.** (1) An authority shall have all powers necessary to accom-
 41 plish the purposes of the authority, as set forth in section 3 (1) of this 2019 Act, including
 42 without limitation the power to:

43 (a) Sue and be sued, plead and be impleaded in all actions, suits or proceedings brought
 44 by or against the authority.

45 (b) Solicit bids and broker and contract for electricity and energy services for eligible

1 retail electricity consumers.

2 (c) Enter into agreements for services to facilitate the sale and purchase of electricity
3 and certain ancillary services.

4 (d) Enter into contracts with any person.

5 (e) Borrow moneys and issue notes and revenue bonds for the purpose of carrying out
6 the authority's powers.

7 (f) Invest moneys into property, securities or other instruments.

8 (g) Obtain insurance.

9 (h) Solicit and accept grants, gifts or other assistance from a public or private source.

10 (i) Develop and prepare plans or reports, including but not limited to the implementation
11 plan required under section 9 of this 2019 Act, to evaluate the authority and to guide future
12 improvements to the processes and operations of the authority.

13 (j) Adopt and amend ordinances and resolutions.

14 (2)(a) An authority may automatically enroll all eligible retail electricity consumers lo-
15 cated within the service area of the authority to participate in the community choice ag-
16 gregation program operated by the authority. The authority shall provide eligible retail
17 electricity consumers an opportunity to decline being enrolled as a participant in the pro-
18 gram. The authority may not assess a fee or penalty against an eligible retail electricity
19 consumer that declines to participate in the program no later than 60 days following the date
20 that the eligible retail electricity consumer became automatically enrolled in the program.

21 (b) The authority shall provide notice of automatic enrollment and the opportunity to opt
22 out to eligible retail electricity consumers no less than:

23 (A) Twice during the 60-day period prior to the date that eligible retail electricity con-
24 sumers will automatically become enrolled in the program; and

25 (B) Twice during the 60-day period following the date that eligible retail electricity con-
26 sumers become automatically enrolled in the program.

27 (c) Notice required under paragraph (b) of this subsection may be accomplished by means
28 that include but are not limited to direct mail to eligible retail electricity consumers or, with
29 the consent of the electric company that provides billing to the eligible retail electricity
30 consumers, inserts in utility bills. The notice must:

31 (A) Inform the eligible retail electricity consumer that they are to be automatically en-
32 rolled in a community choice aggregation program operated by the authority and that the
33 eligible retail electricity consumer has the opportunity to decline being enrolled as a partic-
34 ipant and instead continue to receive all electricity services from the electric company or its
35 successor in interest;

36 (B) Explain the terms and conditions of the services offered by the authority; and

37 (C) Provide a mechanism for the eligible retail electricity consumer to decline being en-
38 rolled as a participant in the program, which may take the form of a self-addressed return
39 postcard or other simple and readily understood mechanism.

40 (3) An authority shall register with the Public Utility Commission pursuant to rules
41 adopted by the commission under section 10 of this 2019 Act.

42 (4)(a) An authority shall, no less than once every two years, prepare and submit a power
43 supply plan to the commission for review pursuant to section 10 of this 2019 Act. The power
44 supply plan shall include, at a minimum:

45 (A) A range of forecasts of the loads served by the authority for the year of the report

1 and at least the next following 10 years, based upon economic data and appropriate statistical
 2 methods;

3 (B) An assessment of available conservation and efficiency resources, and other re-
 4 sources available for meeting loads; and

5 (C) A short-term plan identifying the specific actions that the authority will take over
 6 the next three years to ensure resource adequacy to meet its projected loads.

7 (b) An authority must publish the power supply plan required by this section in such a
 8 manner that it is available to its customers. A power supply plan under this section may not
 9 be a basis for legal action against an authority.

10 (5) Nothing in sections 2 to 14 of this 2019 Act shall be construed as authorizing an au-
 11 thority or local government to restrict the ability of a retail electricity consumer to obtain
 12 or receive electricity services in any manner consistent with law.

13 **SECTION 6. Obligations of authority not obligations of local government; exception.** (1)
 14 Except as provided in subsection (2) of this section, the debts, obligations and other liabilities
 15 of an authority are not a general or other obligation or liability of the local governments that
 16 created the authority.

17 (2) A local government may incur debt, including the issuance of bonds under any bond-
 18 ing authority available to the local government, on behalf of an authority created by the local
 19 government and, by ordinance or resolution, deem a debt incurred under this subsection to
 20 be a general obligation of the local government and a charge upon its tax revenues.

21 **SECTION 7. Exemption from taxation.** (1) Except as provided in subsection (2) of this
 22 section, an authority, all assets owned by the authority, the income from the assets and all
 23 bonds issued by the authority, together with the coupons applicable to the bonds and the
 24 income from the bonds, shall be exempt from all taxation in the State of Oregon.

25 (2) The real and personal property owned by the authority and leased to a third party
 26 shall be subject to property taxation if the property would be subject to taxation if owned
 27 by the lessee.

28 **SECTION 8. Dissolution.** (1) Dissolution of an authority may be initiated:

29 (a) By resolution of the board of directors of the authority, filed with the local govern-
 30 ments that created the authority, if the board determines that dissolution of the authority
 31 is in the best interest of the community served by the authority; or

32 (b) By resolution of each of the local governments that created the authority:

33 (A) If, at the time of the annual meeting of the board, directors have not been appointed
 34 to fill vacancies on the board as required by section 4 of this 2019 Act; or

35 (B) If each local government that created the authority determines that dissolution of
 36 the authority is in the best interest of residents within the jurisdiction of the local govern-
 37 ments.

38 (2) Within five days after a resolution of the board is filed or a resolution has been
 39 adopted by each local government that created the authority as provided in subsection (1)(b)
 40 of this section, a copy shall be filed with the secretary of the authority, if any, or with any
 41 other officer of the authority who can with reasonable diligence be located.

42 (3) If there are no directors on the board of directors of the authority, the local govern-
 43 ments shall act as or appoint a board of trustees to act on behalf of the authority to develop
 44 and implement a plan for dissolution.

45 (4) Within 60 days after initiation of the dissolution proceeding, a plan of dissolution shall

1 be filed with the office of the clerk of the county in which the authority is located and shall
 2 be available for inspection by any interested person.

3 (5) Upon approval of dissolution by the governing body of each local government that
 4 created the authority, the authority shall be declared dissolved. If a board of trustees has
 5 not been appointed under subsection (3) of this section:

6 (a) The board of directors shall constitute a board of trustees that shall pay the debts
 7 or procure releases of the debts and dispose of the property of the authority; or

8 (b) The board of directors may designate a local government as the board of trustees for
 9 the purpose of winding up the affairs of the authority.

10 (6) After the affairs of the authority have been fully settled, all books and records of the
 11 authority shall be deposited by the board of trustees in the office of the county clerk of the
 12 county in which the authority is located. At the same time, the board of trustees shall exe-
 13 cute under oath, and file with each local government that created the authority, a statement
 14 that the authority has been dissolved and its affairs liquidated. From the date of the state-
 15 ment, the corporate existence of the authority is terminated for all purposes.

16
 17 (Implementation of Community Choice Aggregation Program)

18
 19 **SECTION 9. Implementation plan.** (1) An authority formed pursuant to section 3 of this
 20 2019 Act shall, prior to implementing a community choice aggregation program:

21 (a) Prepare a proposed implementation plan for the community choice aggregation pro-
 22 gram that meets the requirements of subsection (3) of this section;

23 (b) Provide notice and the opportunity for public hearing and comment on the proposed
 24 implementation plan; and

25 (c) After taking into consideration the comments on the proposed implementation plan,
 26 adopt the implementation plan by order or resolution.

27 (2) An authority shall file with the Public Utility Commission an adopted implementation
 28 plan and any other information that the commission considers necessary to develop the cost
 29 recovery mechanism required by section 11 of this 2019 Act. An authority may not imple-
 30 ment a community choice aggregation program pursuant to the adopted implementation plan
 31 until:

32 (a) At least three years after the date that the commission establishes by order the cost
 33 recovery mechanism required by section 11 of this 2019 Act if the authority is formed to
 34 serve eligible retail electricity consumers located within the boundaries of Multnomah
 35 County or a city with a population of 500,000 or more; or

36 (b) At least 90 days after the date that the commission establishes by order the cost re-
 37 covery mechanism required by section 11 of this 2019 Act if the authority is formed to serve
 38 eligible retail electricity consumers located anywhere in this state other than the areas de-
 39 scribed in paragraph (a) of this subsection.

40 (3) An implementation plan must, at a minimum:

41 (a) Detail the process and consequences of aggregating all or some of the loads of eligible
 42 retail electricity consumers located within the boundaries of the authority in a community
 43 choice aggregation program;

44 (b) Describe the organizational structure of the authority;

45 (c) Describe the organizational structure, operations and funding of the community

1 choice aggregation program established by the authority;

2 (d) Include provisions for disclosures and due process in setting rates and allocating costs
3 among eligible retail electricity consumers served by the authority;

4 (e) Describe the methods for the authority to enter into and terminate agreements with
5 other entities;

6 (f) Describe the procedures established by the authority, pursuant to ORS 469A.065, for
7 the authority to implement the renewable portfolio standards that are applicable to the au-
8 thority;

9 (g) Detail the rights and responsibilities of program participants, including, but not lim-
10 ited to, procedures for consumer protection, credit issues and electricity shutoff;

11 (h) Include a statement of the authority's intent and methods for furnishing adequate
12 and safe service, equipment and facilities, and for ensuring that the charges made by the
13 authority for any service rendered or to be rendered are reasonable and just; and

14 (i) Include detailed procedures for termination of the community choice aggregation
15 program and dissolution of the authority pursuant to section 8 of this 2019 Act.

16 **SECTION 10. Duties of the Public Utility Commission.** (1)(a) The Public Utility Commis-
17 sion shall, no later than 10 days after an authority files an adopted implementation plan with
18 the commission under section 9 of this 2019 Act, provide notice of the implementation plan
19 to the electric company furnishing utility service within the allocated territory that includes
20 retail electricity consumers for whom an authority will aggregate load under the implemen-
21 tation plan. The notice required under this subsection must include a copy of the imple-
22 mentation plan filed with the commission.

23 (b) The commission shall review the implementation plan for the limited purpose of de-
24 veloping the cost recovery mechanism required by section 11 of this 2019 Act. The commis-
25 sion shall adopt the cost recovery mechanism no later than 180 days after the date that an
26 authority files the implementation plan.

27 (2) The commission shall adopt by rule registration requirements for authorities. Rules
28 adopted under this section may include rules for requiring an authority to regularly report
29 to the commission on the procedures of the authority related to consumer protection.

30 (3) The commission shall review a power supply plan submitted by an authority to the
31 commission under section 5 of this 2019 Act for the limited purpose of assessing whether the
32 power supply plan demonstrates adequate resource planning by the authority to ensure that
33 the authority will meet the reasonably forecast loads of eligible retail electricity consumers
34 served by the authority. In assessing whether the power supply plan demonstrates adequate
35 resource planning, the commission shall utilize a process consistent with the commission's
36 process for acknowledgement of an integrated resource plan filed by an electric company.

37 **SECTION 11. Cost recovery mechanism.** (1) The Public Utility Commission shall, by order
38 and pursuant to a hearing, adopt a cost recovery mechanism for each authority that files
39 an implementation plan with the commission pursuant to section 9 of this 2019 Act. The
40 purpose of the cost recovery mechanism shall be to prevent unwarranted shifting of costs
41 to eligible retail electricity consumers not served by the authority.

42 (2) The cost recovery mechanism may take the form of an exit fee, a nonbypassable
43 charge or a credit applied to retail electricity consumers served by the authority consistent
44 with the requirements of this section. A cost recovery mechanism adopted under this section
45 shall be calculated to apply for a period of five years following the date that an authority

1 commences service to the authority's first retail electricity consumer under a community
 2 choice aggregation program. The commission may not require a retail electricity consumer
 3 to continue to pay a charge pursuant to the cost recovery mechanism after the five-year
 4 period described in this section has elapsed.

5 (3) For purposes of developing the cost recovery mechanism, the commission shall esti-
 6 mate the net value of the share of all uneconomic utility investments and all economic utility
 7 investments of the electric company properly allocated to retail electricity consumers whose
 8 load will be served by an authority using a calculation that meets the following requirements:

9 (a) The calculation must be based only on information relevant to the period of five years
 10 following the date that an authority commences service to the authority's first retail elec-
 11 tricity consumer under a community choice aggregation program.

12 (b) For the period described in paragraph (a) of this subsection, the calculation must:

13 (A) Compare the value of the output of the electric company's uneconomic utility in-
 14 vestments and economic utility investments at projected market prices to an estimate of the
 15 revenue requirement of the electric company's uneconomic utility investments and economic
 16 utility investments; and

17 (B) Include a credit to the retail electricity consumers served by the authority for the
 18 avoided costs of new generation investments that will be unnecessary for the electric com-
 19 pany to undertake due to the electric company's loss of load to the authority.

20 (c) The calculation may include only the uneconomic utility investments and economic
 21 utility investments that were incurred by the electric company prior to the time the electric
 22 company received notice under section 10 of this 2019 Act.

23 (d) The market prices utilized in the calculation must be the prices of wholesale elec-
 24 tricity at trading hubs commonly used by the electric company and of any nonenergy attri-
 25 butes of the electricity. The commission may approve a direct transfer from the electric
 26 company to the authority of any nonenergy attributes of the electricity in lieu of including
 27 the forecasted value of those nonenergy attributes in the calculation of the cost recovery
 28 mechanism, if the commission finds that the nonenergy attributes are reasonably transfer-
 29 rable and may be used or sold by the authority.

30 (e) The calculation shall result in a cost recovery mechanism that is expressed as a
 31 volumetric rate assessed per unit of electric energy served to each eligible retail electricity
 32 consumer of the authority during the period described in paragraph (a) of this subsection.

33 (4) The commission may not allow recovery of costs under this section by an electric
 34 company unless the electric company demonstrates in a proceeding under this section, by
 35 clear and convincing evidence, that:

36 (a) The electric company has used and will use all diligent and prudent efforts to mitigate
 37 the costs and all included uneconomic utility investments; and

38 (b) The electric company is unable to recover the costs from new retail electricity con-
 39 sumers of the electric company without unreasonably increasing the rates of the new retail
 40 electricity consumers above the level that would have been charged to the departing retail
 41 electricity consumers that are to be served by an authority under the authority's imple-
 42 mentation plan.

43 (5)(a) The commission shall reduce the amount to be charged to retail electricity con-
 44 sumers under a cost recovery mechanism established pursuant to this section as necessary
 45 to reflect any credits resulting from implementation of 16 U.S.C. 839c(c) as provided for in

1 18 C.F.R. part 301. A reduction under this subsection may be no less than the ratio of the
 2 projected amounts recoverable through the cost recovery mechanism that are related to the
 3 costs of the electric company's resources, to the electric company's total cost of resources
 4 filed with the Bonneville Power Administration and included in the costs upon which the
 5 credits are based, multiplied by the total credits provided to the electric company.

6 (b) The commission shall, consistent with federal law, continue to pass through to the
 7 retail electricity consumers served by an authority the credits, if any, that are related to
 8 costs that the electric company charges for services provided by the electric company to
 9 retail electricity consumers served by the authority.

10 **SECTION 12. Duties of electric companies.** (1) An electric company shall transfer all ac-
 11 counts to be served by the community choice aggregation program to the authority that will
 12 implement the program no later than 30 days after the close of the most recent normally
 13 scheduled monthly metering and billing cycle after the date that the Public Utility Commis-
 14 sion issues an order under section 11 of this 2019 Act.

15 (2) An electric company shall:

16 (a) Provide transmission services, distribution services and ancillary services for retail
 17 electricity consumers whose load is served by an authority. The electric company must pro-
 18 vide the services described in this paragraph subject to the same rates, terms and conditions
 19 that apply for retail electricity consumers whose load is served by the electric company.

20 (b) Continue to provide all metering, billing, collection and customer service to retail
 21 electricity consumers whose load is served by an authority.

22 (c) Indicate as a separate line item on the billing statement for a retail electricity con-
 23 sumer served by an authority the costs attributable to the services provided by the authority
 24 and any other information that the authority considers necessary to a retail electricity
 25 consumer's understanding of the authority's costs.

26 (d) At the request and expense of an authority and on terms agreed upon between the
 27 authority and the electric company, install, maintain and calibrate metering devices and any
 28 associated software or other systems available and reliable, at locations within or adjacent
 29 to the authority's boundaries, so long as providing metering at the locations would not re-
 30 quire the alteration or modification of a circuit in a manner that would compromise the
 31 safety, reliability or operational flexibility of the facilities of the electric company.

32 (e) Serve the load for retail electricity consumers that decline to participate in the
 33 community choice aggregation program operated by the authority.

34 (3) Notwithstanding ORS 757.603, an electric company shall serve the load for retail
 35 electricity consumers that decline to participate in a community choice aggregation program
 36 through interim market purchases until the electric company has planned for, and acquired
 37 resources necessary, to provide the retail electricity consumers with a regulated, cost-of-
 38 service rate option.

39 (4) On terms and at rates established by the commission, an electric company shall re-
 40 cover:

41 (a) From an authority, all costs that are reasonably attributable to the authority of im-
 42 plementing subsection (1) of this section; and

43 (b) From an authority or the eligible retail electricity consumers served by the authority,
 44 all reasonable transaction-based costs of notices, billing, metering, collections and customer
 45 communications or other services provided by the electric company to the authority or the

1 retail electricity consumers served by the authority.

2 (5) The commission shall adopt rules for requiring electric companies to cooperate fully
 3 with any local government or authority in actions taken by the local government or the au-
 4 thority to investigate, pursue or implement a community choice aggregation program. Rules
 5 adopted under this subsection shall:

6 (a) Set forth requirements and procedures for an electric company to provide a local
 7 government or authority with appropriate and timely billing and load data, including infor-
 8 mation at a customer-specific level and including, but not limited to, data detailing electricity
 9 needs and patterns of usage.

10 (b) Preclude an electric company from marketing or lobbying against a community choice
 11 aggregation program using funds collected through rates.

12 (c) Prohibit an electric company from using, for marketing or lobbying purposes not
 13 precluded pursuant to paragraph (b) of this subsection, customer-specific information that
 14 is available to the electric company due to the electric company's provision of services to the
 15 customers.

16 **SECTION 13. Authority's access to electric company's distribution facilities.** (1) Every
 17 authority is authorized to use the distribution facilities of an electric company on a
 18 nondiscriminatory basis after the date that the authority begins serving retail electricity
 19 consumers under a community choice aggregation program.

20 (2) To the extent permissible under federal law, the Public Utility Commission shall en-
 21 sure that an electric company:

22 (a) Provides an authority with access to the electric company's transmission facilities
 23 and distribution system comparable to that provided for the electric company's own use; and

24 (b) Provides an authority with timely access to information about the electric company's
 25 transmission facilities and distribution system, metering and loads comparable to that pro-
 26 vided to the electric company's own nondistribution divisions, affiliates and related parties.

27 **SECTION 14. Rules and reporting.** (1) The Public Utility Commission shall adopt rules
 28 necessary for the commission and electric companies to implement the duties of the com-
 29 mission and electric companies under sections 2 to 14 of this 2019 Act.

30 (2) The commission shall, no later than September 15 of each even-numbered year, pre-
 31 pare and submit to the Legislative Assembly a report on the implementation of sections 2
 32 to 14 of this 2019 Act. The report must include a description of:

33 (a) The number of authorities formed under section 3 of this 2019 Act serving retail
 34 electricity consumers during the two years immediately preceding the date of the report;

35 (b) The number of retail electricity consumers in this state served by authorities;

36 (c) The third-party suppliers of energy to authorities;

37 (d) Compliance by authorities and electric companies with the provisions of sections 2 to
 38 14 of this 2019 Act;

39 (e) The effectiveness of aggregating the load of retail electricity consumers in community
 40 choice aggregation programs established by authorities; and

41 (f) Recommendations, if any, for legislation to increase the effectiveness of sections 2 to
 42 14 of this 2019 Act.

43
 44 **APPLICATION OF RENEWABLE PORTFOLIO STANDARDS**
 45

SECTION 15. ORS 469A.005 is amended to read:

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

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

(a) Already owns, controls or operates an electric light and power system for supplying electricity to the inhabitants of the city and for general municipal purposes;

(b) Provides fair, just and reasonable compensation to the electric company whose service territory is acquired that:

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

(B) Is based on the present value of the service territory rights and the facility, plant and equipment acquired, including the value of poles, wires, transformers and similar and related appliances necessarily required to provide electric service; and

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

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

(3) “BPA electricity” means electricity provided by the Bonneville Power Administration, including electricity generated by the Federal Columbia River Power System hydroelectric projects and electricity acquired by the Bonneville Power Administration by contract.

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

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

(b) By an electric utility by generation of the electricity for which the renewable energy certificate was issued.

(5) “Community choice aggregation authority” means an authority formed pursuant to section 3 of this 2019 Act.

[(5)] (6) “Compliance year” means the calendar year for which the electric utility or electricity service supplier seeks to establish compliance with the renewable portfolio standard applicable to the electric utility or electricity service supplier in the compliance report submitted under ORS 469A.170.

[(6)] (7) “Consumer-owned utility” means a municipal electric utility, a people’s utility district organized under ORS chapter 261 that sells electricity or an electric cooperative organized under ORS chapter 62.

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

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

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

[(10)] (11) “Electricity service supplier” has the meaning given that term in ORS 757.600.

[(11)] (12) “Qualifying electricity” means electricity described in ORS 469A.010.

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

[(13)] (14) “Retail electricity consumer” means a retail electricity consumer, as defined in ORS

1 757.600, that is located in Oregon.

2 [(14)] (15) “Unbundled renewable energy certificate” means a renewable energy certificate for
 3 qualifying electricity that is acquired by an electric utility or electricity service supplier by trade,
 4 purchase or other transfer without acquiring the electricity that is associated with the renewable
 5 energy certificate.

6 **SECTION 16.** ORS 469A.065 is amended to read:

7 469A.065. (1) An electricity service supplier must meet the requirements of the renewable port-
 8 folio standards that are applicable to the electric utilities that serve the territories in which the
 9 electricity service supplier sells electricity to retail electricity consumers. The Public Utility Com-
 10 mission shall establish procedures for implementation of the renewable portfolio standards for elec-
 11 tricity service suppliers that sell electricity in the service territory of an electric company. If an
 12 electricity service supplier sells electricity in territories served by more than one electric company,
 13 the commission may provide for an aggregate standard based on the amount of electricity sold by
 14 the electricity service supplier in each territory.

15 (2) Pursuant to ORS 757.676, a consumer-owned utility may establish procedures for the imple-
 16 mentation of the renewable portfolio standards for electricity service suppliers that sell electricity
 17 in the territory served by the consumer-owned utility.

18 (3) **A community choice aggregation authority must meet the requirements of the**
 19 **renewable portfolio standards that are applicable to the electric company that serves the**
 20 **territory in which the community choice aggregation authority serves the electricity load**
 21 **of retail electricity consumers. A community choice aggregation authority shall establish**
 22 **procedures for implementation of the renewable portfolio standards for the community**
 23 **choice aggregation authority.**

24 **SECTION 17.** ORS 469A.210 is amended to read:

25 469A.210. (1) The Legislative Assembly finds that community-based renewable energy projects,
 26 including but not limited to marine renewable energy resources that are either developed in ac-
 27 cordance with the Territorial Sea Plan adopted pursuant to ORS 196.471 or located on structures
 28 adjacent to the coastal shorelands, are an essential element of this state’s energy future.

29 (2) For purposes related to the findings in subsection (1) of this section, by the year 2025, at
 30 least eight percent of the aggregate electrical capacity of all electric companies **and community**
 31 **choice aggregation authorities** that make sales of electricity to 25,000 or more retail electricity
 32 consumers in this state must be composed of electricity generated by one or both of the following
 33 sources:

34 (a) Small-scale renewable energy projects with a generating capacity of 20 megawatts or less
 35 that generate electricity utilizing a type of energy described in ORS 469A.025; or

36 (b) Facilities that generate electricity using biomass that also generate thermal energy for a
 37 secondary purpose.

38 (3) Regardless of the facility’s nameplate capacity, any single facility described in subsection
 39 (2)(b) of this section may be used to comply with the requirement specified in subsection (2) of this
 40 section for up to 20 megawatts of capacity.

41
 42 **INTERACTION WITH DIRECT ACCESS**
 43

44 **SECTION 18.** ORS 757.600 is amended to read:

45 757.600. As used in ORS 757.600 to 757.689, unless the context requires otherwise:

1 (1) "Aggregate" means combining retail electricity consumers into a buying group for the pur-
2 chase of electricity and related services.

3 (2) "Ancillary services" means services necessary or incidental to the transmission and delivery
4 of electricity from generating facilities to retail electricity consumers, including but not limited to
5 scheduling, load shaping, reactive power, voltage control and energy balancing services.

6 (3) "Commission" means the Public Utility Commission.

7 (4) "Consumer-owned utility" means a municipal electric utility, a people's utility district or an
8 electric cooperative.

9 (5) "Default supplier" means an electricity service supplier or electric company that has a legal
10 obligation to provide electricity services to a consumer, as determined by the commission.

11 (6) "Direct access" means the ability of a retail electricity consumer to purchase electricity and
12 certain ancillary services, as determined by the commission for an electric company or the govern-
13 ing body of a consumer-owned utility, directly from an entity other than the distribution utility.

14 (7) "Direct service industrial consumer" means an end user of electricity that obtains electricity
15 directly from the transmission grid and not through a distribution utility.

16 (8) "Distribution" means the delivery of electricity to retail electricity consumers through a
17 distribution system consisting of local area power poles, transformers, conductors, meters, sub-
18 stations and other equipment.

19 (9) "Distribution utility" means an electric utility that owns and operates a distribution system
20 connecting the transmission grid to the retail electricity consumer.

21 (10) "Economic utility investment" means all electric company investments, including plants and
22 equipment and contractual or other legal obligations, properly dedicated to generation or conser-
23 vation, that were prudent at the time the obligations were assumed but the full benefits of which
24 are no longer available to consumers as a direct result of ORS 757.600 to 757.667, absent transition
25 credits. "Economic utility investment" does not include costs or expenses disallowed by the com-
26 mission in a prudence review or other proceeding, to the extent of such disallowance, and does not
27 include fines or penalties authorized and imposed under state or federal law.

28 (11) "Electric company" means an entity engaged in the business of distributing electricity to
29 retail electricity consumers in this state, but does not include a consumer-owned utility.

30 (12) "Electric cooperative" means an electric cooperative corporation organized under ORS
31 chapter 62 or under the laws of another state if the service territory of the electric cooperative
32 includes a portion of this state.

33 (13) "Electric utility" means an electric company or consumer-owned utility that is engaged in
34 the business of distributing electricity to retail electricity consumers in this state.

35 (14) "Electricity" means electric energy, measured in kilowatt-hours, or electric capacity,
36 measured in kilowatts, or both.

37 (15) "Electricity services" means electricity distribution, transmission, generation or
38 generation-related services.

39 (16)(a) "Electricity service supplier" means a person or entity that offers to sell electricity
40 services available pursuant to direct access to more than one retail electricity consumer.

41 (b) "Electricity service supplier" does not *[include]* **mean:**

42 (A) An electric utility selling electricity to retail electricity consumers in its own service ter-
43 ritory; **or**

44 (B) **A community choice aggregation authority formed pursuant to section 3 of this 2019**
45 **Act.**

1 (17) "Governing body" means the board of directors or the commissioners of an electric coop-
2 erative or people's utility district, or the council or board of a city with respect to a municipal
3 electric utility.

4 (18) "Load" means the amount of electricity delivered to or required by a retail electricity
5 consumer at a specific point of delivery.

6 (19) "Low-income weatherization" means repairs, weatherization and installation of energy effi-
7 cient appliances and fixtures for low-income residences for the purpose of enhancing energy effi-
8 ciency.

9 (20) "Municipal electric utility" means an electric distribution utility owned and operated by or
10 on behalf of a city.

11 (21) "New renewable energy resource" means a renewable energy resource project, or a new
12 addition to an existing renewable energy resource project, or the electricity produced by the project,
13 that is not in operation on July 23, 1999. "New renewable energy resource" does not include any
14 portion of a renewable energy resource project under contract to the Bonneville Power Adminis-
15 tration on or before July 23, 1999.

16 (22) "One average megawatt" means 8,760,000 kilowatt-hours of electricity per year.

17 (23) "People's utility district" has the meaning given that term in ORS 261.010.

18 (24) "Portfolio access" means the ability of a retail electricity consumer to choose from a set
19 of product and pricing options for electricity determined by the governing board of a consumer-
20 owned utility and may include product and pricing options offered by the utility or by an electricity
21 service supplier.

22 (25) "Power generation company" means a company engaged in the production and sale of
23 electricity to wholesale customers, including but not limited to independent power producers, affil-
24 iated generation companies, municipal and state authorities, provided the company is not regulated
25 by the commission.

26 (26) "Qualifying expenditures" means those expenditures for energy conservation measures that
27 have a simple payback period of not less than one year and not more than 10 years, and expen-
28 ditures for the above-market costs of new renewable energy resources, provided that the State De-
29 partment of Energy by rule may establish a limit on the maximum above-market cost for renewable
30 energy that is allowed as a credit.

31 (27) "Renewable energy resources" means:

32 (a) Electricity generation facilities fueled by wind, waste, solar or geothermal power or by low-
33 emission nontoxic biomass based on solid organic fuels from wood, forest and field residues.

34 (b) Dedicated energy crops available on a renewable basis.

35 (c) Landfill gas and digester gas.

36 (d) Hydroelectric facilities located outside protected areas as defined by federal law in effect
37 on July 23, 1999.

38 (28) "Residential electricity consumer" means an electricity consumer who resides at a dwelling
39 primarily used for residential purposes. "Residential electricity consumer" does not include retail
40 electricity consumers in a dwelling typically used for residency periods of less than 30 days, in-
41 cluding hotels, motels, camps, lodges and clubs. As used in this subsection, "dwelling" includes but
42 is not limited to single family dwellings, separately metered apartments, adult foster homes, manu-
43 factured dwellings, recreational vehicles and floating homes.

44 (29) "Retail electricity consumer" means the end user of electricity for specific purposes such
45 as heating, lighting or operating equipment, and includes all end users of electricity served through

1 the distribution system of an electric utility on or after July 23, 1999, whether or not each end user
2 purchases the electricity from the electric utility.

3 (30) "Site" means a single contiguous area of land containing buildings or other structures that
4 are separated by not more than 1,000 feet, or buildings and related structures that are intercon-
5 nected by facilities owned by a single retail electricity consumer and that are served through a
6 single electric meter.

7 (31) "Transition charge" means a charge or fee that recovers all or a portion of an uneconomic
8 utility investment.

9 (32) "Transition credit" means a credit that returns to consumers all or a portion of the benefits
10 from an economic utility investment.

11 (33) "Transmission facility" means the plant and equipment used to transmit electricity in
12 interstate commerce.

13 (34) "Undue market power" means the unfair or improper exercise of influence to increase or
14 decrease the availability or price of a service or product in a manner inconsistent with competitive
15 markets.

16 (35) "Uneconomic utility investment" means all electric company investments, including plants
17 and equipment and contractual or other legal obligations, properly dedicated to generation, conser-
18 vation and workforce commitments, that were prudent at the time the obligations were assumed but
19 the full costs of which are no longer recoverable as a direct result of ORS 757.600 to 757.667, absent
20 transition charges. "Uneconomic utility investment" does not include costs or expenses disallowed
21 by the commission in a prudence review or other proceeding, to the extent of such disallowance, and
22 does not include fines or penalties as authorized by state or federal law.

23 **SECTION 19.** ORS 757.627 is amended to read:

24 757.627. (1) An electric company shall permit retail electricity consumers that are eligible for
25 direct access to voluntarily aggregate their electricity loads.

26 (2) A retail electricity consumer that is eligible for direct access may voluntarily aggregate its
27 electricity load with:

28 (a) The electricity load of any other retail electricity consumer that is eligible for direct
29 access[.]; or

30 (b) **The electricity load of a community choice aggregation authority formed under sec-**
31 **tion 3 of this 2019 Act if the retail electricity consumer is located within the area served by**
32 **the community choice aggregation authority.**

33 (3) **A direct service industrial consumer may voluntarily aggregate its electricity load**
34 **with the electricity load of a community choice aggregation authority if the direct service**
35 **industrial consumer is located within the area served by the community choice aggregation**
36 **authority.**

37 **SECTION 20.** ORS 757.612 is amended to read:

38 757.612. (1) There is established an annual public purpose expenditure standard for electric
39 companies and Oregon Community Power to fund new cost-effective energy conservation, new mar-
40 ket transformation efforts, the above-market costs of new renewable energy resources and new
41 low-income weatherization. The public purpose expenditure standard shall be funded by the public
42 purpose charge described in subsection (2) of this section.

43 (2)(a) Beginning on the date an electric company or Oregon Community Power offers direct ac-
44 cess to retail electricity consumers, except residential electricity consumers, the electric company
45 or Oregon Community Power shall collect a public purpose charge from all of the retail electricity

1 consumers located within the electric company's or Oregon Community Power's service area until
 2 January 1, 2026. Except as provided in paragraph (b) of this subsection, the public purpose charge
 3 shall be equal to three percent of the total revenues collected by the electric company, Oregon
 4 Community Power [*or*], the electricity service supplier **or the community choice aggregation**
 5 **authority formed under section 3 of this 2019 Act** from retail electricity consumers for electricity
 6 services, distribution services, ancillary services, metering and billing, transition charges and other
 7 types of costs included in electric rates on July 23, 1999.

8 (b) For an aluminum plant that averages more than 100 average megawatts of electricity use
 9 per year, the electric company or Oregon Community Power, whichever serves territory that abuts
 10 the greatest percentage of the site of the aluminum plant, shall collect from the aluminum company
 11 a public purpose charge equal to one percent of the total revenue from the sale of electricity ser-
 12 vices to the aluminum plant from any source.

13 (3)(a) The Public Utility Commission shall establish rules implementing the provisions of this
 14 section relating to electric companies and Oregon Community Power.

15 (b) Except as provided in paragraph (e) of this subsection, funds collected through public pur-
 16 pose charges under subsection (2) of this section shall be allocated as follows:

17 (A) Sixty-three percent for new cost-effective energy conservation and new market transforma-
 18 tion efforts.

19 (B) Nineteen percent for the above-market costs of constructing and operating new renewable
 20 energy resources with a nominal electric generating capacity, as defined in ORS 469.300, of 20
 21 megawatts or less.

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

23 (D) Five percent for deposit in the Housing and Community Services Department Electricity
 24 Public Purpose Charge Fund established by ORS 456.587 (1) for the purpose of providing grants as
 25 described in ORS 458.625 (2).

26 (c) The costs of administering subsections (1) to (6) of this section for an electric company or
 27 Oregon Community Power shall be paid out of the funds collected through public purpose charges.
 28 The commission may require an electric company or Oregon Community Power to direct funds col-
 29 lected through public purpose charges to state agencies responsible for implementing subsections (1)
 30 to (6) of this section in order to pay the costs of administering subsections (1) to (6) of this section.

31 (d) The commission shall direct the manner in which public purpose charges are collected and
 32 spent by an electric company or Oregon Community Power and may require an electric company
 33 or Oregon Community Power to expend funds through competitive bids or other means designed to
 34 encourage competition, except that funds dedicated for new low-income weatherization shall be di-
 35 rected to the Housing and Community Services Department for purposes related to new low-income
 36 weatherization. The commission may also require funds collected through public purpose charges to
 37 be paid to a nongovernmental entity for investment in public purposes described in subsection (1)
 38 of this section. Notwithstanding any other provision of this subsection:

39 (A) If an electric company collected the funds, at least 80 percent of the funds allocated for new
 40 cost-effective energy conservation shall be spent within the service area of the electric company;
 41 or

42 (B) If Oregon Community Power collected the funds, at least 80 percent of the funds allocated
 43 for new cost-effective energy conservation shall be spent within the service area of Oregon Com-
 44 munity Power.

45 (e)(A) The first 10 percent of funds collected each year by an electric company or Oregon

1 Community Power under subsection (2) of this section shall be distributed to school districts that
2 are located in the service territory of the electric company or Oregon Community Power. The funds
3 shall be distributed to individual school districts according to the weighted average daily member-
4 ship (ADMw) of each school district for the prior fiscal year as calculated under ORS 327.013. The
5 commission shall establish by rule a methodology for distributing a proportionate share of funds
6 under this paragraph to school districts that are only partially located in the service territory of the
7 electric company or Oregon Community Power.

8 (B) A school district that receives funds under this paragraph shall use the funds first to pay
9 for energy audits for schools located within the school district. A school district may not expend
10 additional funds received under this paragraph on a school until an energy audit has been completed
11 for that school. To the extent practicable, a school district shall coordinate with the State De-
12 partment of Energy and incorporate federal funding in complying with this paragraph. Following
13 completion of an energy audit for an individual school, the school district may expend funds received
14 under this paragraph to implement the energy audit. Once an energy audit has been conducted and
15 completely implemented for each school within the school district, the school district may expend
16 funds received under this paragraph for any of the following purposes:

17 (i) Conducting additional energy audits. A school district shall conduct an energy audit prior to
18 expending funds on any other purpose authorized under this paragraph unless the school district has
19 performed an energy audit within the three years immediately prior to receiving the funds.

20 (ii) Weatherizing school district facilities and upgrading the energy efficiency of school district
21 facilities.

22 (iii) Energy conservation education programs.

23 (iv) Purchasing electricity from environmentally focused sources.

24 (v) Investing in renewable energy resources.

25 (f) The commission may not establish a different public purpose charge than the public purpose
26 charge described in subsection (2) of this section.

27 (g) If the commission requires funds collected through public purpose charges to be paid to a
28 nongovernmental entity, the entity shall:

29 (A) Include on the entity's board of directors an ex officio member designated by the commis-
30 sion, who shall also serve on the entity's nominating committee for filling board vacancies.

31 (B) Require the entity's officers and directors to provide an annual disclosure of economic in-
32 terest to be filed with the commission on or prior to April 15 of each calendar year for public review
33 in a form similar to the statement of economic interest required for public officials under ORS
34 244.060.

35 (C) Require the entity's officers and directors to declare actual and potential conflicts of interest
36 at regular meetings of the entity's governing body when such conflicts arise, and require an officer
37 or director to abstain from participating in any discussion or voting on any item where that officer
38 or director has an actual conflict of interest. For the purposes of this subparagraph, "actual conflict
39 of interest" and "potential conflict of interest" have the meanings given those terms in ORS 244.020.

40 (D) Annually, arrange for an independent auditor to audit the entity's financial statements, and
41 direct the auditor to file an audit opinion with the commission for public review.

42 (E) Annually file with the commission the entity's budget, action plan and quarterly and annual
43 reports for public review.

44 (F) At least once every five years, contract for an independent management evaluation to review
45 the entity's operations, efficiency and effectiveness, and direct the independent reviewer to file a

1 report with the commission for public review.

2 (h) The commission may remove from the board of directors of a nongovernmental entity an of-
3 ficer or director who fails to provide an annual disclosure of economic interest, or who fails to de-
4 clare an actual or potential conflict of interest, as described in paragraph (g)(B) and (C) of this
5 subsection, if the failure is connected to the allocation or expenditure of funds collected through
6 public purpose charges and paid to the entity.

7 (4)(a) An electric company that satisfies its obligations under this section:

8 (A) Has no further obligation to invest in new cost-effective energy conservation, new market
9 transformation or new low-income weatherization, or to provide a commercial energy conservation
10 services program; and

11 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

12 (b) Oregon Community Power, for any period during which Oregon Community Power collects
13 a public purpose charge under subsection (2) of this section:

14 (A) Has no further obligation to invest in new cost-effective energy conservation, new market
15 transformation or new low-income weatherization, or to provide a commercial energy conservation
16 services program; and

17 (B) Is not subject to ORS 469.631 to 469.645 and 469.860 to 469.900.

18 (5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at
19 any site in the prior year shall receive a credit against public purpose charges billed by an electric
20 company or Oregon Community Power for that site. The amount of the credit shall be equal to the
21 total amount of qualifying expenditures for new cost-effective energy conservation, not to exceed 68
22 percent of the annual public purpose charges, and the above-market costs of new renewable energy
23 resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public
24 purpose charges, less administration costs incurred under this paragraph and paragraphs (b) and (c)
25 of this subsection. The credit may not exceed, on an annual basis, the lesser of:

26 (A) The amount of the retail electricity consumer's qualifying expenditures; or

27 (B) The portion of the public purpose charge billed to the retail electricity consumer that is
28 dedicated to new cost-effective energy conservation, new market transformation or the above-market
29 costs of new renewable energy resources.

30 (b) To obtain a credit under paragraph (a) of this subsection, a retail electricity consumer shall
31 file with the State Department of Energy a description of the proposed conservation project or new
32 renewable energy resource and a declaration that the retail electricity consumer plans to incur the
33 qualifying expenditure. The State Department of Energy shall issue a notice of precertification
34 within 30 days of receipt of the filing, if such filing is consistent with paragraph (a) of this sub-
35 section. The credit may be taken after a retail electricity consumer provides a letter from a certified
36 public accountant to the State Department of Energy verifying that the precertified qualifying ex-
37 penditure has been made.

38 (c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that
39 are not used in one year may be carried forward for use in subsequent years.

40 (d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at
41 any site in the prior year may request that the State Department of Energy hire an independent
42 auditor to assess the potential for conservation investments at the site. If the independent auditor
43 determines there is no available conservation measure at the site that would have a simple payback
44 of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment
45 obligation for public purpose charges related to the site. If the independent auditor determines that

1 there are potential conservation measures available at the site, the retail electricity consumer shall
2 be entitled to a credit against public purpose charges related to the site equal to 54 percent of the
3 public purpose charges less the estimated cost of available conservation measures.

4 (B) A retail electricity consumer shall be entitled each year to the credit described in this par-
5 agraph unless a subsequent independent audit determines that new conservation investment oppor-
6 tunities are available. The State Department of Energy may require that a new independent audit
7 be performed on the site to determine whether new conservation measures are available, provided
8 that the independent audits occur no more than once every two years.

9 (C) The retail electricity consumer shall pay the cost of the independent audits described in this
10 paragraph.

11 (6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit
12 for the public purpose expenditures of their energy suppliers. The State Department of Energy shall
13 adopt rules to determine eligible expenditures and the method by which such credits are accounted
14 for and used. The State Department of Energy also shall adopt methods to account for eligible public
15 purpose expenditures made through consortia or collaborative projects.

16 (7)(a) In addition to the public purpose charge provided under subsection (2) of this section, an
17 electric company or Oregon Community Power shall collect funds for low-income electric bill pay-
18 ment assistance in an amount determined under paragraph (b) of this subsection.

19 (b) The commission shall establish the amount to be collected by each electric company from
20 retail electricity consumers, and the rates to be charged by each electric company to retail elec-
21 tricity consumers, so that the forecasted collection by all electric companies in calendar year 2018
22 is \$20 million. In subsequent calendar years, the commission may not decrease the rates below those
23 established for calendar year 2018. The commission may temporarily adjust the rates if forecasted
24 collections or actual collections are less than \$20 million in any calendar year. A retail electricity
25 consumer may not be required to pay more than \$500 per month per site for low-income electric bill
26 payment assistance.

27 (c) Funds collected through the low-income electric bill payment assistance charge shall be paid
28 into the Housing and Community Services Department Low-Income Electric Bill Payment Assistance
29 Fund established by ORS 456.587 (2). Moneys deposited in the fund under this paragraph shall be
30 used by the Housing and Community Services Department solely for purposes related to low-income
31 electric bill payment assistance and for the Housing and Community Services Department's cost of
32 administering this subsection. Funds collected by an electric company or Oregon Community Power
33 under this subsection shall be expended in the service area of the electric company or Oregon
34 Community Power from which the funds are collected.

35 (d)(A) The Housing and Community Services Department shall determine the manner in which
36 funds collected under this subsection will be allocated by the Housing and Community Services
37 Department to energy assistance program providers for the purpose of providing low-income bill
38 payment and crisis assistance.

39 (B) The Housing and Community Services Department, in consultation with electric companies,
40 shall investigate and may implement alternative delivery models to effectively reduce service dis-
41 connections and related costs to retail electricity consumers and electric utilities.

42 (C) Priority assistance shall be directed to low-income electricity consumers who are in danger
43 of having their electricity service disconnected.

44 (D) The Housing and Community Services Department shall maintain records and provide those
45 records upon request to an electric company, Oregon Community Power and the Citizens' Utility

1 Board established under ORS chapter 774 on a quarterly basis. Records maintained must include
 2 the numbers of low-income electricity consumers served, the average amounts paid to low-income
 3 electricity consumers and the type of assistance provided to low-income electricity consumers.
 4 Electric companies and Oregon Community Power shall, if requested, provide the Housing and
 5 Community Services Department with aggregate data relating to low-income electricity consumers
 6 served on a quarterly basis to support program development.

7 (e) Interest on moneys deposited in the Housing and Community Services Department Low-
 8 Income Electric Bill Payment Assistance Fund established by ORS 456.587 (2) may be used to pro-
 9 vide bill payment and crisis assistance to electricity consumers whose primary source of heat is not
 10 electricity.

11 (f) Notwithstanding ORS 757.310, the commission may allow an electric company or Oregon
 12 Community Power to provide reduced rates or other bill payment or crisis assistance or low-income
 13 program assistance to a low-income household eligible for assistance under the federal Low Income
 14 Home Energy Assistance Act of 1981, as amended and in effect on July 23, 1999.

15 (8) For purposes of this section, “retail electricity consumers” includes any direct service in-
 16 dustrial consumer that purchases electricity without purchasing distribution services from the elec-
 17 tric utility.

18 (9) For purposes of this section, funds collected by Oregon Community Power through public
 19 purpose charges are not considered moneys received from electric utility operations.

20
 21 **MISCELLANEOUS**
 22

23 **SECTION 21. The Public Utility Commission shall adopt rules under sections 10, 11 and**
 24 **12 of this 2019 Act not later than 180 days after the effective date of this 2019 Act. A local**
 25 **government may not take action to form a community choice aggregation authority pursu-**
 26 **ant to section 3 of this 2019 Act until after the date that the commission adopts rules pur-**
 27 **suant to this section and sections 10, 11 and 12 of this 2019 Act.**

28 **SECTION 22. The unit and section captions used in this 2019 Act are provided only for**
 29 **the convenience of the reader and do not become part of the statutory law of this state or**
 30 **express any legislative intent in the enactment of this 2019 Act.**