

**PROPOSED AMENDMENTS TO
HOUSE BILL 3039**

1 In line 2 of the printed bill, after "projects" insert "; creating new pro-
2 visions; amending ORS 757.642; and declaring an emergency".

3 Delete lines 4 through 8 and insert:

4 **"SECTION 1. Definitions. As used in sections 1 to 8 of this 2009 Act:**

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

7 **"(2) 'Nameplate capacity' means the maximum rated output of a**
8 **generator or other electric power production equipment under specific**
9 **conditions designated by the manufacturer.**

10 **"(3) 'Qualifying system' means a solar photovoltaic energy system**
11 **that meets the requirements of section 3 of this 2009 Act. A qualifying**
12 **system may be either customer-side, as described in section 4 of this**
13 **2009 Act, or company-side, as described in section 5 of this 2009 Act.**

14 **"(4) 'Resource value' means the estimated value to an electric**
15 **company of the electricity delivered from a solar photovoltaic energy**
16 **system associated with:**

17 **"(a) The avoided cost of energy, including avoided fuel price**
18 **volatility, minus the costs of firming and shaping the electricity gen-**
19 **erated from the facility;**

20 **"(b) Avoided distribution and transmission cost; and**

21 **"(c) The renewable energy certificates established under ORS**
22 **469A.130.**

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

3 “(6) ‘Solar energy contractor’ means a person that is not an electric
4 company or a customer, that owns a solar photovoltaic energy system
5 and produces electricity for sale to a customer or an electric company.

6 “(7) ‘Solar photovoltaic energy system’ means equipment and de-
7 vices that have the primary purpose of collecting solar energy and
8 generating electricity by photovoltaic effect.

9 “SECTION 2. Statewide solar photovoltaic capacity standard. (1)
10 On or before January 1, 2020, the total solar photovoltaic nameplate
11 generating capacity, from qualifying systems generating at least 500
12 kilowatts, of all electric companies in this state must be at least 20
13 megawatts alternating current with no single project greater than five
14 megawatts alternating current.

15 “(2) For the purpose of complying with the solar photovoltaic gen-
16 erating capacity standard established by this section, on or before
17 January 1, 2020, each electric company is required to maintain a min-
18 imum generating capacity from qualifying systems. The minimum ca-
19 pacity for each electric company is determined by multiplying 20
20 megawatts by a percentage equal to the electric company’s share of
21 all retail electricity sales made in this state in 2008 by all electric
22 companies.

23 “(3) For the purposes of sections 1 to 8 of this 2009 Act, capacity of
24 a solar photovoltaic energy system is measured on the alternating
25 current side of the system’s inverter using the measurement standards
26 set forth in 15 U.S.C. 223, as in effect on the effective date of this 2009
27 Act. If the system does not use an inverter, the measurement shall
28 be made at the direct current level.

29 “(4) An electric company may satisfy the solar photovoltaic gener-
30 ating capacity requirements established by this section with solar

1 photovoltaic energy systems owned by the company or with contracts
2 for the purchase of electricity from qualifying systems.

3 “(5) The Public Utility Commission shall have the authority to
4 adopt rules implementing and enforcing this section.

5 “SECTION 3. Qualifying systems generally. An electric company
6 may use a solar photovoltaic energy system to comply with the solar
7 photovoltaic generating capacity standard established by section 2 (2)
8 of this 2009 Act if the system:

9 “(1) Meets the electric company’s utility customer load service ob-
10 ligation as its primary purpose;

11 “(2) Directly connects to an electric company’s electrical system
12 within this state or indirectly connects through the system of an
13 electric company’s customer or the electric system of a third party
14 that is not an electric company’s customer but whose system is lo-
15 cated within this state;

16 “(3) Has meters or other devices in place to monitor and measure
17 the quantity of energy generated by the solar photovoltaic energy
18 system; and

19 “(4) Meets any other siting, design, installation and electric output
20 standards required by the laws of this state.

21 “SECTION 4. Customer-side qualifying systems. (1) An electric
22 company may install a customer-side qualifying system on premises
23 owned or controlled by a customer of the company. Either the cus-
24 tomer or the electric company may retain ownership or operation of
25 the customer-side qualifying system.

26 “(2) A customer may:

27 “(a) Own a customer-side qualifying system that the customer in-
28 stalls, operates and maintains; or

29 “(b) Contract for installation of a customer-side qualifying system
30 by an electric company or a solar energy contractor that is owned,

1 operated and maintained by the company or contractor.

2 “(3) In addition to the requirements of section 3 of this 2009 Act,
3 any customer-side qualifying system located in this state must:

4 “(a) Have a warranty of not less than 10 years to protect against
5 defects and undue degradation of electrical generation output;

6 “(b) Be new or not have been previously placed in service in any
7 other location or for any other application;

8 “(c) Be installed in conformance with the manufacturer’s specifi-
9 cations and in compliance with all applicable electrical and building
10 code standards;

11 “(d) Connect to the electric company’s electrical system pursuant
12 to an interconnection agreement whose form is approved by the Public
13 Utility Commission or the Federal Energy Regulatory Commission;

14 “(e) Connect to the electric company’s electrical system within this
15 state; and

16 “(f) Not disrupt or interfere with the electric company’s electric
17 system or the electric system of other customers.

18 “(4) A customer-side qualifying system established under this sec-
19 tion must be installed on the premises owned or controlled by a cus-
20 tomer receiving retail-level electric service from an electric company
21 in this state.

22 “(5) Electricity generated by a solar photovoltaic energy system
23 under this section must be used first to satisfy the energy require-
24 ments of the customer. Net metering as that term is defined in ORS
25 757.300 is allowed for electricity generated by a solar photovoltaic en-
26 ergy system under this section.

27 “(6) A single customer served by more than one solar photovoltaic
28 energy system may request a waiver from the Public Utility Commis-
29 sion regarding aggregating the systems under a net metering agree-
30 ment.

1 **“SECTION 5. Company-side qualifying systems.** (1) An electric
2 company may develop a company-side qualifying system on either:

3 **“(a) Premises owned or controlled by the electric company; or**

4 **“(b) Premises owned or controlled by a customer of the company.**

5 **“(2) Electricity generated by a company-side qualifying system un-**
6 **der this section must be fed into an electric system in this state or**
7 **into an electric system that is connected directly or indirectly to an**
8 **electric company’s system. The connection must meet the require-**
9 **ments of the applicable state or federal interconnection standard.**

10 **“(3) A solar energy contractor may own a company-side qualifying**
11 **system described in this section.**

12 **“SECTION 6. Cost recovery.** (1) Consistent with ORS 469A.120, an
13 electric company may recover all prudently incurred costs for install-
14 ing, operating and maintaining a qualifying system and may recover
15 a reasonable return on investment through recovery in rates, includ-
16 ing but not limited to the following:

17 **“(a) 100 percent of all noncapital costs incurred for any qualifying**
18 **systems and 100 percent of capital costs based on the electric compa-**
19 **ny’s most recent commission-approved cost of capital;**

20 **“(b) Costs related to, and loans made for, the installation, inter-**
21 **connection, controls, operation and maintenance of the qualifying**
22 **system or demonstration project;**

23 **“(c) Costs associated with using physical or financial assets to in-**
24 **tegrate, firm or shape solar energy sources to meet retail electricity**
25 **needs, and other costs associated with transmission and delivery of**
26 **solar electricity to retail electricity customers;**

27 **“(d) Operating costs associated with a qualified system located on**
28 **property owned or controlled by a customer; and**

29 **“(e) Reduced revenues resulting from customer-side qualifying sys-**
30 **tems, excluding the value of renewable energy certificates.**

1 “(2) Costs associated with compliance with the solar photovoltaic
2 generating capacity standard established by section 2 (2) of this 2009
3 Act are not an above-market cost for purposes of ORS 757.600 to
4 757.689.

5 “(3) Costs incurred by an electric company that are related to a
6 qualifying system, along with associated electricity transmission costs,
7 are eligible for an automatic adjustment clause established by the
8 Public Utility Commission under ORS 469A.120.

9 “(4) Multijurisdictional electric companies may recover all
10 prudently incurred costs for a qualifying system from its customers
11 in this state.

12 “(5) An electric company shall provide complete and transparent
13 reporting of all actions taken under sections 1 to 8 of this 2009 Act as
14 directed by the commission.

15 “(6) The commission shall advise and assist the owners and opera-
16 tors of qualifying systems in identifying and using grants, incentive
17 moneys, federal funding and other sources of noninvestment financial
18 support for the construction and operation of qualifying systems.

19 “SECTION 7. Application to renewable portfolio standard. (1) Any
20 electricity produced from a company-side or customer-side qualifying
21 system under sections 1 to 8 of this 2009 Act that is physically located
22 in this state may be used by an electric company to comply with the
23 renewable portfolio standard established under ORS 469A.005 to
24 469A.210.

25 “(2)(a) For each kilowatt-hour of electricity produced from a quali-
26 fying system generating at least 500 kilowatts, an electric company
27 will be credited with two kilowatt-hours of qualifying energy toward
28 the electric company’s compliance with the renewable portfolio
29 standard under ORS 469A.005 to 469A.210 up to a maximum of 20
30 megawatts of capacity.

1 “(b) The Public Utility Commission may adjust the 20 megawatt
2 capacity maximum set in paragraph (a) of this subsection by any
3 amount up to a maximum of 100 megawatts of capacity based upon the
4 impact of such a change on the amount electricity generated by qual-
5 ifying systems, the achievement of renewable portfolio standards, the
6 cost to ratepayers and other relevant factors.

7 “SECTION 8. Payment Program. (1) The Public Utility Commission
8 shall establish a pilot program for each electric company to demon-
9 strate the use and effectiveness of volumetric incentive rates and
10 payments for electricity delivered from solar photovoltaic energy sys-
11 tems permanently installed in this state by retail electricity consumers
12 located in this state and served by an electric company with qualifying
13 systems that first become operational after the program begins. The
14 cumulative nameplate capacity of the qualifying systems enrolled in
15 all of the pilot programs may not exceed 25 megawatts alternating
16 current.

17 “(2) The commission by rule shall adopt requirements for the pilot
18 programs described in subsection (1) of this section. Each electric
19 company shall file for commission approval rate schedules for the pilot
20 programs that conform to the requirements.

21 “(3) The commission may establish incentive rates for the pilot
22 programs to enable the development of the most efficient solar
23 photovoltaic energy systems.

24 “(4) A retail electricity consumer participating in a pilot program
25 may receive payments based on the actual electricity generated from
26 solar photovoltaic energy system output for 15 years from the con-
27 sumer’s date of enrollment in the program, at rates in a rate schedule
28 established at the time of enrollment.

29 “(5) The commission may adjust the rate schedule as needed for
30 new pilot program participants for the purpose of meeting the goal

1 established in subsection (1) of this section. Once a retail electricity
2 consumer is enrolled in a program, the rates or rate formula may not
3 be modified.

4 “(6) The commission shall establish pilot programs designed to at-
5 tain a goal of 75 percent of the energy under each program to be gen-
6 erated by small-scale qualifying systems. The commission by rule shall
7 define the size of a small-scale qualifying system and may adjust the
8 definition of size for small-scale qualifying systems based upon the
9 costs of the energy generated, the feasibility of attaining the goal and
10 other factors. The commission may also adjust the maximum per-
11 centage goal of energy generated by small-scale qualifying systems
12 based upon the same factors.

13 “(7) The commission may establish total generator nameplate ca-
14 pacity limits for an electric company so that the rate impact of the
15 pilot program for any customer class does not exceed 0.25 percent of
16 the electric company’s revenue requirement in any year.

17 “(8) Ownership of renewable energy certificates established under
18 ORS 469A.130 that are associated with renewable energy generation
19 that is sold to an electric company under the pilot programs must be
20 transferred to the electric company and may be used to comply with
21 the renewable portfolio standard described in ORS 469A.052 or 469A.055.

22 “(9) To the extent that incentive rates paid for electricity delivered
23 to each electric company under a pilot program exceed the resource
24 value, qualifying systems eligible under the pilot programs are not el-
25 igible for expenditures under ORS 757.612 (3)(b)(B) or tax credits under
26 ORS 469.160 to 469.180 or 469.185 to 469.225.

27 “(10) Electric companies may claim tax credits under ORS 469.160
28 to 469.180 or 469.185 to 469.225 on incentive payments made to retail
29 electricity consumers under the pilot programs that exceed the re-
30 source value.

1 “(11) All prudently incurred costs associated with compliance with
2 this section are recoverable in the rates of an electric company. The
3 costs associated with the resource value are recoverable in the rates
4 of all retail electricity consumers. Prudently incurred costs in addi-
5 tion to the resource value are recoverable from customer classes eli-
6 gible for the pilot programs described in subsection (1) of this section.

7 “(12) The pilot programs described in subsection (1) of this section
8 close to new participants on March 31, 2015, or when 25 megawatts of
9 solar photovoltaic energy systems have been permanently installed by
10 retail electricity consumers under the pilot programs, whichever is
11 earlier.

12 “(13) The commission shall submit a report to the Legislative As-
13 sembly by January 1 of each odd-numbered year beginning in 2013. The
14 report must evaluate the effectiveness of paying incentive rates under
15 the pilot programs described in subsection (1) of this section compared
16 to incentive rates described in subsection (9) of this section for pro-
17 moting the use of solar photovoltaic energy systems and reducing
18 system costs. The report must also evaluate the estimated cost of the
19 program to retail electricity consumers.

20 “SECTION 9. The Public Utility Commission shall report to the
21 Legislative Assembly prior to January 1, 2011, on any recommended
22 legislative changes to better implement the provisions of sections 1 to
23 8 of this 2009 Act and any adjustments the commission has made by
24 rule as authorized by sections 1 to 8 of this 2009 Act.

25 “SECTION 10. ORS 757.642 is amended to read:

26 “757.642. (1) Not later than March 1, 2002, an electric company shall un-
27 bundle the costs of electricity services into power generation, transmission,
28 distribution and retail services.

29 “(2) Every electric company shall maintain separate accounting records
30 for each component of electricity service provided by the electric company

1 to retail electricity consumers. Accounts shall be maintained according to
2 regulations issued by the Federal Energy Regulatory Commission.

3 “(3) Unless required to provide a different accounting under federal re-
4 quirements, each electric company shall, to a reasonable level of detail,
5 separately identify and account for its costs of:

6 “(a) Generation;

7 “(b) Transmission services;

8 “(c) Distribution services;

9 “(d) Ancillary services;

10 “(e) Consumer service charges levied on retail electricity consumers, in-
11 cluding but not limited to metering and billing;

12 “(f) Investment in public purposes; and

13 “(g) State and local taxes paid by retail electricity consumers.

14 “(4) An electric company shall separately identify and account for the
15 costs of any additional components as the Public Utility Commission may
16 require.

17 **“(5) The unbundling requirement of this section does not apply to**
18 **service provided by an electric company through a qualifying system**
19 **under sections 1 to 8 of this 2009 Act.**

20 **“SECTION 11. (1) Except as provided in subsection (2) of this sec-**
21 **tion, sections 1 to 8 of this 2009 Act and the amendments to ORS**
22 **757.642 by section 10 of this 2009 Act become operative on April 1, 2010.**

23 **“(2) An electric company may make filings with the Public Utility**
24 **Commission before the operative date specified in subsection (1) of this**
25 **section for the purpose of allowing implementation of sections 1 to 8**
26 **on the operative date specified in subsection (1) of this section, and the**
27 **commission may process those filings and take all other actions nec-**
28 **essary before the operative date specified in subsection (1) of this sec-**
29 **tion to allow implementation of sections 1 to 8 of this 2009 Act on the**
30 **operative date specified in subsection (1) of this section.**

1 **“SECTION 12.** Section 7 of this 2009 Act is repealed on January 2,
2 2014.

3 **“SECTION 13.** The section captions used in this 2009 Act are pro-
4 vided only for the convenience of the reader and do not become part
5 of the statutory law of this state or express any legislative intent in
6 the enactment of this 2009 Act.

7 **“SECTION 14.** This 2009 Act being necessary for the immediate
8 preservation of the public peace, health and safety, an emergency is
9 declared to exist, and this 2009 Act takes effect on its passage.”.

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