

**Enrolled**  
**House Bill 3039**

Sponsored by COMMITTEE ON SUSTAINABILITY AND ECONOMIC DEVELOPMENT

CHAPTER .....

AN ACT

Relating to qualifying renewable energy projects; and declaring an emergency.

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

**SECTION 1. As used in sections 1 to 5 of this 2009 Act:**

- (1) "Electric company" has the meaning given that term in ORS 757.600.
- (2) "Nameplate capacity" means the maximum rated output of a generator or other electric power production equipment under specific conditions designated by the manufacturer.
- (3) "Qualifying system" means:
  - (a) An alternative energy system used for emergency backup power by a state agency or facility that is at least 30 percent more efficient than existing agency or facility sources, including fuel cells; or
  - (b) A solar photovoltaic energy system that:
    - (A) Meets the electric company's customer load service obligation as its primary purpose;
    - (B) Directly connects to an electric company's electrical system within this state or indirectly connects through the system of an electric company's retail electricity consumer or the electric system of a third party that is not an electric company's retail electricity consumer but whose system is located within this state;
    - (C) Has meters or other devices in place to monitor and measure the quantity of energy generated by the solar photovoltaic energy system; and
    - (D) Meets any other siting, design, interconnection, installation and electric output standards and codes required by the laws of this state.
- (4) "Resource value" means the estimated value to an electric company of the electricity delivered from a solar photovoltaic energy system associated with:
  - (a) The avoided cost of energy, including avoided fuel price volatility, minus the costs of firming and shaping the electricity generated from the facility;
  - (b) Avoided distribution and transmission cost; and
  - (c) The renewable energy certificates established under ORS 469A.130.
- (5) "Retail electricity consumer" means a retail electricity consumer, as defined in ORS 757.600, that is located in Oregon and is served by an electric company.
- (6) "Solar photovoltaic energy system" means equipment and devices that have the primary purpose of collecting solar energy and generating electricity by photovoltaic effect.

**SECTION 2.** (1) Prior to April 1, 2010, the Public Utility Commission shall establish a pilot program for each electric company to demonstrate the use and effectiveness of volumetric incentive rates and payments for electricity delivered from solar photovoltaic energy systems

that are permanently installed in this state by retail electricity consumers and that first become operational after the program begins. The cumulative nameplate capacity of the qualifying systems enrolled in all of the pilot programs may not exceed 25 megawatts of alternating current. Qualifying systems enrolled in the pilot program may not have nameplate generating capacity greater than 500 kilowatts.

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

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

(4) A retail electricity consumer participating in a pilot program may receive payments based on the actual electricity generated from solar photovoltaic energy system output for 15 years from the consumer's date of enrollment in the program, at rates or through a rate formula in a rate schedule established at the time of enrollment. The consumer thereafter may receive payments based upon the actual electricity generated from the qualifying system at a rate equal to the resource value.

(5) The commission may adjust the rate schedule as needed for new pilot program participants for the purpose of meeting the goal established in subsection (1) of this section. Once a retail electricity consumer is enrolled in a program, the rates or rate formula for determining payments to the consumer may not be modified.

(6) The commission shall establish pilot programs designed to attain a goal of 75 percent of the energy under each program to be generated by smaller-scale qualifying systems within the allowed generating capacity range. The commission by rule shall define the size of a small-scale qualifying system and may adjust the definition of size for small-scale qualifying systems based upon the costs of the energy generated, the feasibility of attaining the goal and other factors. The commission may also adjust the maximum percentage goal of energy generated by small-scale qualifying systems based upon the same factors.

(7) The commission may establish total generator nameplate capacity limits for an electric company so that the rate impact of the pilot program for any customer class does not exceed 0.25 percent of the electric company's revenue requirement for the class in any year.

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

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

(10) All prudently incurred costs associated with compliance with this section are recoverable in the rates of an electric company. The costs associated with the resource value are recoverable in the rates of all retail electricity consumers. Prudently incurred costs in excess of the resource value are recoverable from customer classes eligible for the pilot programs described in subsection (1) of this section.

(11) The commission shall advise and assist the owners and operators of qualifying systems in identifying and using grants, incentive moneys, federal funding and other sources of noninvestment financial support for the construction and operation of qualifying systems.

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

(13) The commission shall submit a report to the Legislative Assembly by January 1 of each odd-numbered year beginning in 2011. The report must evaluate the effectiveness of

paying incentive rates under the pilot programs described in subsection (1) of this section compared to incentive rates described in subsection (9) of this section for promoting the use of solar photovoltaic energy systems and reducing system costs. The report must also evaluate the estimated cost of the program to retail electricity consumers.

**SECTION 3.** (1) On or before January 1, 2020, the total solar photovoltaic generating nameplate capacity, from qualifying systems generating at least 500 kilowatts, of all electric companies in this state must be at least 20 megawatts of alternating current with no single project greater than five megawatts of alternating current.

(2) For the purpose of complying with the solar photovoltaic generating capacity standard established by this section, on or before January 1, 2020, each electric company is required to maintain a minimum generating capacity from qualifying systems. The minimum generating capacity for each electric company is determined by multiplying 20 megawatts by a fraction equal to the electric company's share of all retail electricity sales made in this state in 2008 by all electric companies.

(3) For the purposes of sections 1 to 5 of this 2009 Act, capacity of a solar photovoltaic energy system is measured on the alternating current side of the system's inverter using the measurement standards set forth by the Public Utility Commission by rule. If the system does not use an inverter, the measurement shall be made at the direct current level.

(4) An electric company may satisfy the solar photovoltaic generating capacity standard established by this section with solar photovoltaic energy systems owned by the company or with contracts for the purchase of electricity from qualifying systems.

(5) All costs prudently incurred by an electric company to comply with the solar photovoltaic generating capacity standard established by this section are recoverable in the company's rates and are eligible for an automatic adjustment clause established by the commission under ORS 469A.120.

(6) Costs associated with compliance with the solar photovoltaic generating capacity standard established by this section are not above-market costs for purposes of ORS 757.600 to 757.689.

(7) The commission may adopt rules implementing and enforcing this section.

**SECTION 4.** (1) Any electricity produced from a qualifying system under section 3 of this 2009 Act that is physically located in this state may be used by an electric company to comply with the renewable portfolio standard established under ORS 469A.005 to 469A.210.

(2) For each kilowatt-hour of electricity produced from a qualifying system that first becomes operational before January 1, 2016, and generates at least 500 kilowatts, an electric company will be credited with two kilowatt-hours of qualifying electricity toward the company's compliance with the renewable portfolio standard under ORS 469A.005 to 469A.210, up to a maximum of 20 megawatts of capacity.

**SECTION 5.** Sections 1 to 5 of this 2009 Act apply only to qualifying systems that are solar photovoltaic energy systems.

**SECTION 6.** (1) Before constructing or renovating a major facility, an authorized state agency shall, after comparing various equipment options and to the greatest extent practicable, use fuel cell power systems for emergency backup power applications and for critical power applications in lieu of other equipment options.

(2)(a) The State Department of Energy shall, in consultation with the Oregon Department of Administrative Services, adopt rules establishing criteria for the comparison of fuel cell power systems and other equipment options required by subsection (1) of this section.

(b) Criteria to be established under this subsection must address:

(A) The impact of emissions, including but not limited to nitrous oxide, sulfur oxide, carbon monoxide, carbon dioxide and particulates, from various equipment options, on the environment, regardless of whether the equipment is installed indoors or installed outdoors;

(B) Life cycle costs, including but not limited to acquisition costs, installation and commissioning costs, siting and permitting costs, maintenance costs and fueling and decommissioning costs; and

(C) The complexity of equipment options and any ancillary equipment.

**SECTION 7.** The Public Utility Commission shall report to the Legislative Assembly prior to January 1, 2011, on any recommended legislative changes to improve implementation of the pilot programs and any adjustments the commission has made by rule as authorized by section 2 of this 2009 Act to improve implementation of the pilot programs. In compiling its report, the commission shall also consider regulatory policies designed to increase the use of solar photovoltaic energy systems, make them more affordable, reduce the cost of incentive programs to utility customers and promote the development of the solar industry in Oregon. The commission's report must compare policy options with respect to their impact on utility customers and solar industry development in Oregon.

**SECTION 8.** Nothing in sections 1 to 5 and 6 of this 2009 Act affects the authority of the Public Utility Commission to set fair and reasonable rates as authorized under ORS 756.040 (1).

**SECTION 9.** Section 6 of this 2009 Act becomes operative on April 1, 2010.

**SECTION 10.** This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by House May 4, 2009

Received by Governor:

Repassed by House June 24, 2009

.....M.,....., 2009

Approved:

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Chief Clerk of House

.....M.,....., 2009

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Speaker of House

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Governor

Passed by Senate June 12, 2009

Filed in Office of Secretary of State:

Repassed by Senate June 25, 2009

.....M.,....., 2009

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President of Senate

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Secretary of State