
SENATE BILL 5505

State of Washington

61st Legislature

2009 Regular Session

By Senators Hatfield, Holmquist, Sheldon, Delvin, Schoesler, Parlette, Hobbs, Murray, Hewitt, Honeyford, and Shin

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1 AN ACT Relating to renewable energy; amending RCW 19.29A.010 and
2 19.285.030; reenacting and amending RCW 19.29A.090; and creating a new
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Water is a clean and renewable resource that produces clean,
7 efficient, and low-cost power;

8 (b) There is an increasing demand for clean and renewable power;

9 (c) Hydroelectric power is an abundant and reliable source of
10 renewable power with potential for growth;

11 (d) Hydroelectric power makes a valuable contribution to the
12 state's electricity network and accounts for more than half of the
13 state's overall fuel mix; and

14 (e) Hydroelectric power balances the needs of the environment with
15 the need for clean, nonpolluting, reliable, and abundant renewable
16 power for the electrical market.

17 (2) The legislature further finds that there is a need for a
18 consistent definition of renewable or alternative resources in the
19 energy independence act and the statutes concerning fuel mix

1 disclosures for electric utilities, the green-power option program for
2 electric utility customers, and integrated resource planning for
3 electric utilities.

4 **Sec. 2.** RCW 19.29A.010 and 2000 c 213 s 2 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Biomass generation" means electricity derived from burning
9 solid organic fuels from wood, forest, or field residue, or dedicated
10 energy crops that do not include wood pieces that have been treated
11 with chemical preservatives such as creosote, pentachlorophenol, or
12 copper-chroma-arsenic.

13 (2) "Bonneville power administration system mix" means a generation
14 mix sold by the Bonneville power administration that is net of any
15 resource specific sales and that is net of any electricity sold to
16 direct service industrial customers, as defined in section 3(8) of the
17 Pacific Northwest electric power planning and conservation act (16
18 U.S.C. Sec. 839(a)(8)).

19 (3) "Coal generation" means the electricity produced by a
20 generating facility that burns coal as the primary fuel source.

21 (4) "Commission" means the utilities and transportation commission.

22 (5) "Conservation" means an increase in efficiency in the use of
23 energy use that yields a decrease in energy consumption while providing
24 the same or higher levels of service. Conservation includes low-income
25 weatherization programs.

26 (6) "Consumer-owned utility" means a municipal electric utility
27 formed under Title 35 RCW, a public utility district formed under Title
28 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
29 cooperative formed under chapter 23.86 RCW, or a mutual corporation or
30 association formed under chapter 24.06 RCW, that is engaged in the
31 business of distributing electricity to more than one retail electric
32 customer in the state.

33 (7) "Declared resource" means an electricity source specifically
34 identified by a retail supplier to serve retail electric customers. A
35 declared resource includes a stated quantity of electricity tied
36 directly to a specified generation facility or set of facilities either

1 through ownership or contract purchase, or a contractual right to a
2 stated quantity of electricity from a specified generation facility or
3 set of facilities.

4 (8) "Department" means the department of community, trade, and
5 economic development.

6 (9) "Electricity information coordinator" means the organization
7 selected by the department under RCW 19.29A.080 to: (a) Compile
8 generation data in the Northwest power pool by generating project and
9 by resource category; (b) compare the quantity of electricity from
10 declared resources reported by retail suppliers with available
11 generation from such resources; (c) calculate the net system power mix;
12 and (d) coordinate with other comparable organizations in the western
13 interconnection.

14 (10) "Electric meters in service" means those meters that record in
15 at least nine of twelve calendar months in any calendar year not less
16 than two hundred fifty kilowatt hours per month.

17 (11) "Electricity product" means the electrical energy produced by
18 a generating facility or facilities that a retail supplier sells or
19 offers to sell to retail electric customers in the state of Washington,
20 provided that nothing in this title shall be construed to mean that
21 electricity is a good or product for the purposes of Title 62A RCW, or
22 any other purpose. It does not include electrical energy generated on-
23 site at a retail electric customer's premises.

24 (12) "Electric utility" means a consumer-owned or investor-owned
25 utility as defined in this section.

26 (13) "Electricity" means electric energy measured in kilowatt
27 hours, or electric capacity measured in kilowatts, or both.

28 (14) "Fuel mix" means the actual or imputed sources of electricity
29 sold to retail electric customers, expressed in terms of percentage
30 contribution by resource category. The total fuel mix included in each
31 disclosure shall total one hundred percent.

32 (15) "Geothermal generation" means electricity derived from thermal
33 energy naturally produced within the earth.

34 (16) "Governing body" means the council of a city or town, the
35 commissioners of an irrigation district, municipal electric utility, or
36 public utility district, or the board of directors of an electric
37 cooperative or mutual association that has the authority to set and
38 approve rates.

1 (17) "High efficiency cogeneration" means electricity produced by
2 equipment, such as heat or steam used for industrial, commercial,
3 heating, or cooling purposes, that meets the federal energy regulatory
4 commission standards for qualifying facilities under the public utility
5 regulatory policies act of 1978.

6 (18) "Hydroelectric generation" means a power source created when
7 water flows from a higher elevation to a lower elevation and the flow
8 is converted to electricity in one or more generators at a single
9 facility.

10 (19) "Investor-owned utility" means a company owned by investors
11 that meets the definition of RCW 80.04.010 and is engaged in
12 distributing electricity to more than one retail electric customer in
13 the state.

14 (20) "Landfill gas generation" means electricity produced by a
15 generating facility that uses waste gases produced by the decomposition
16 of organic materials in landfills.

17 (21) "Natural gas generation" means electricity produced by a
18 generating facility that burns natural gas as the primary fuel source.

19 (22) "Northwest power pool" means the generating resources included
20 in the United States portion of the Northwest power pool area as
21 defined by the western systems coordinating council.

22 (23) "Net system power mix" means the fuel mix in the Northwest
23 power pool, net of: (a) Any declared resources in the Northwest power
24 pool identified by in-state retail suppliers or out-of-state entities
25 that offer electricity for sale to retail electric customers; (b) any
26 electricity sold by the Bonneville power administration to direct
27 service industrial customers; and (c) any resource specific sales made
28 by the Bonneville power administration.

29 (24) "Oil generation" means electricity produced by a generating
30 facility that burns oil as the primary fuel source.

31 (25) "Proprietary customer information" means: (a) Information
32 that relates to the source and amount of electricity used by a retail
33 electric customer, a retail electric customer's payment history, and
34 household data that is made available by the customer solely by virtue
35 of the utility-customer relationship; and (b) information contained in
36 a retail electric customer's bill.

37 (26) "Renewable resources" means electricity generation facilities
38 fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal

1 energy; (e) landfill gas; (~~(e)~~) (f) biomass energy (~~(based on solid~~
2 ~~organic fuels from wood, forest, or field residues, or dedicated energy~~
3 ~~crops that do not include wood pieces that have been treated with~~
4 ~~chemical preservatives such as creosote, pentachlorophenol, or copper-~~
5 ~~chrome-arsenic)) utilizing animal waste, solid organic fuels from wood,
6 forest, or field residues or dedicated energy crops that do not include
7 wood pieces that have been treated with chemical preservatives such as
8 creosote, pentachlorophenol, or copper-chrome-arsenic; (g) byproducts
9 of pulping or wood manufacturing processes, including but not limited
10 to bark, wood chips, sawdust, and lignin in spent pulping liquors; (h)
11 ocean thermal, wave, or tidal power; or (i) gas from sewage treatment
12 facilities.~~

13 (27) "Resale" means the purchase and subsequent sale of electricity
14 for profit, but does not include the purchase and the subsequent sale
15 of electricity at the same rate at which the electricity was purchased.

16 (28) "Retail electric customer" means a person or entity that
17 purchases electricity for ultimate consumption and not for resale.

18 (29) "Retail supplier" means an electric utility that offers an
19 electricity product for sale to retail electric customers in the state.

20 (30) "Small utility" means any consumer-owned utility with twenty-
21 five thousand or fewer electric meters in service, or that has an
22 average of seven or fewer customers per mile of distribution line.

23 (31) "Solar generation" means electricity derived from radiation
24 from the sun that is directly or indirectly converted to electrical
25 energy.

26 (32) "State" means the state of Washington.

27 (33) "Waste incineration generation" means electricity derived from
28 burning solid or liquid wastes from businesses, households,
29 municipalities, or waste treatment operations.

30 (34) "Wind generation" means electricity created by movement of air
31 that is converted to electrical energy.

32 **Sec. 3.** RCW 19.29A.090 and 2002 c 285 s 6 and 2002 c 191 s 1 are
33 each reenacted and amended to read as follows:

34 (1) Beginning January 1, 2002, each electric utility must provide
35 to its retail electricity customers a voluntary option to purchase
36 qualified alternative energy resources in accordance with this section.

1 (2) Each electric utility must include with its retail electric
2 customer's regular billing statements, at least quarterly, a voluntary
3 option to purchase qualified alternative energy resources. The option
4 may allow customers to purchase qualified alternative energy resources
5 at fixed or variable rates and for fixed or variable periods of time,
6 including but not limited to monthly, quarterly, or annual purchase
7 agreements. A utility may provide qualified alternative energy
8 resource options through either: (a) Resources it owns or contracts
9 for; or (b) the purchase of credits issued by a clearinghouse or other
10 system by which the utility may secure, for trade or other
11 consideration, verifiable evidence that a second party has a qualified
12 alternative energy resource and that the second party agrees to
13 transfer such evidence exclusively to the benefit of the utility.

14 (3) For the purposes of this section, a "qualified alternative
15 energy resource" means the electricity produced from generation
16 facilities that are fueled by: (~~((a) Wind; (b) solar energy; (c)
17 geothermal energy; (d) landfill gas; (e) wave or tidal action; (f) gas
18 produced during the treatment of wastewater; (g) qualified hydropower;
19 or (h) biomass energy based on animal waste or solid organic fuels from
20 wood, forest, or field residues, or dedicated energy crops that do not
21 include wood pieces that have been treated with chemical preservatives
22 such as creosote, pentachlorophenol, or copper-chrome-arsenic)) (a)
23 Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill
24 gas; (f) biomass energy utilizing animal waste, solid organic fuels
25 from wood, forest, or field residues or dedicated energy crops that do
26 not include wood pieces that have been treated with chemical
27 preservatives such as creosote, pentachlorophenol, or
28 copper-chrome-arsenic; (g) byproducts of pulping or wood manufacturing
29 processes, including but not limited to bark, wood chips, sawdust, and
30 lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal
31 power; or (i) gas from sewage treatment facilities.~~

32 (~~(4) ((For the purposes of this section, "qualified hydropower"
33 means the energy produced either: (a) As a result of modernizations or
34 upgrades made after June 1, 1998, to hydropower facilities operating on
35 May 8, 2001, that have been demonstrated to reduce the mortality of
36 anadromous fish; or (b) by run of the river or run of the canal
37 hydropower facilities that are not responsible for obstructing the
38 passage of anadromous fish.~~

1 ~~(5))~~) The rates, terms, conditions, and customer notification of
2 each utility's option or options offered in accordance with this
3 section must be approved by the governing body of the consumer-owned
4 utility or by the commission for investor-owned utilities. All costs
5 and benefits associated with any option offered by an electric utility
6 under this section must be allocated to the customers who voluntarily
7 choose that option and may not be shifted to any customers who have not
8 chosen such option. Utilities may pursue known, lawful aggregated
9 purchasing of qualified alternative energy resources with other
10 utilities to the extent aggregated purchasing can reduce the unit cost
11 of qualified alternative energy resources, and are encouraged to
12 investigate opportunities to aggregate the purchase of alternative
13 energy resources by their customers. Aggregated purchases by investor-
14 owned utilities must comply with any applicable rules or policies
15 adopted by the commission related to least-cost planning or the
16 acquisition of renewable resources.

17 ~~((6))~~) (5) Each consumer-owned utility must report annually to the
18 department and each investor-owned utility must report annually to the
19 commission beginning October 1, 2002, until October 1, 2012, describing
20 the option or options it is offering its customers under the
21 requirements of this section, the rate of customer participation, the
22 amount of qualified alternative energy resources purchased by
23 customers, the amount of utility investments in qualified alternative
24 energy resources, and the results of pursuing aggregated purchasing
25 opportunities. The department and the commission together shall report
26 annually to the legislature, beginning December 1, 2002, until December
27 1, 2012, with the results of the utility reports.

28 **Sec. 4.** RCW 19.285.030 and 2007 c 1 s 3 are each amended to read
29 as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

32 (1) "Attorney general" means the Washington state office of the
33 attorney general.

34 (2) "Auditor" means: (a) The Washington state auditor's office or
35 its designee for qualifying utilities under its jurisdiction that are
36 not investor-owned utilities; or (b) an independent auditor selected by

1 a qualifying utility that is not under the jurisdiction of the state
2 auditor and is not an investor-owned utility.

3 (3) "Commission" means the Washington state utilities and
4 transportation commission.

5 (4) "Conservation" means any reduction in electric power
6 consumption resulting from increases in the efficiency of energy use,
7 production, or distribution.

8 (5) "Cost-effective" has the same meaning as defined in RCW
9 80.52.030.

10 (6) "Council" means the Washington state apprenticeship and
11 training council within the department of labor and industries.

12 (7) "Customer" means a person or entity that purchases electricity
13 for ultimate consumption and not for resale.

14 (8) "Department" means the department of community, trade, and
15 economic development or its successor.

16 (9) "Distributed generation" means an eligible renewable resource
17 where the generation facility or any integrated cluster of such
18 facilities has a generating capacity of not more than five megawatts.

19 (10) "Eligible renewable resource" means(~~(+~~
20 ~~(a))~~) electricity from a generation facility powered by a renewable
21 resource (~~((other than fresh water that commences operation after March~~
22 ~~31, 1999, where: (i) The facility is located in the Pacific Northwest;~~
23 ~~or (ii) the electricity from the facility is delivered into Washington~~
24 ~~state on a real-time basis without shaping, storage, or integration~~
25 ~~services; or~~

26 ~~(b) Incremental electricity produced as a result of efficiency~~
27 ~~improvements completed after March 31, 1999, to hydroelectric~~
28 ~~generation projects owned by a qualifying utility and located in the~~
29 ~~Pacific Northwest or to hydroelectric generation in irrigation pipes~~
30 ~~and canals located in the Pacific Northwest, where the additional~~
31 ~~generation in either case does not result in new water diversions or~~
32 ~~impoundments)).~~

33 (11) "Investor-owned utility" has the same meaning as defined in
34 RCW 19.29A.010.

35 (12) "Load" means the amount of kilowatt-hours of electricity
36 delivered in the most recently completed year by a qualifying utility
37 to its Washington retail customers.

1 (13) "Nonpower attributes" means all environmentally related
2 characteristics, exclusive of energy, capacity reliability, and other
3 electrical power service attributes, that are associated with the
4 generation of electricity from a renewable resource, including but not
5 limited to the facility's fuel type, geographic location, vintage,
6 qualification as an eligible renewable resource, and avoided emissions
7 of pollutants to the air, soil, or water, and avoided emissions of
8 carbon dioxide and other greenhouse gases.

9 (14) "Pacific Northwest" has the same meaning as defined for the
10 Bonneville power administration in section 3 of the Pacific Northwest
11 electric power planning and conservation act (94 Stat. 2698; 16 U.S.C.
12 Sec. 839a).

13 (15) "Public facility" has the same meaning as defined in RCW
14 39.35C.010.

15 (16) "Qualifying utility" means an electric utility, as the term
16 "electric utility" is defined in RCW 19.29A.010, that serves more than
17 twenty-five thousand customers in the state of Washington. The number
18 of customers served may be based on data reported by a utility in form
19 861, "annual electric utility report," filed with the energy
20 information administration, United States department of energy.

21 (17) "Renewable energy credit" means a tradable certificate of
22 proof of at least one megawatt-hour of an eligible renewable resource
23 where the generation facility is not powered by fresh water, the
24 certificate includes all of the nonpower attributes associated with
25 that one megawatt-hour of electricity, and the certificate is verified
26 by a renewable energy credit tracking system selected by the
27 department.

28 (18) "Renewable resource" means: (a) Water; (b) wind; (c) solar
29 energy; (d) geothermal energy; (e) landfill gas; (f) ~~((wave, ocean, or~~
30 ~~tidal power; (g) gas from sewage treatment facilities; (h) biodiesel~~
31 ~~fuel as defined in RCW 82.29A.135 that is not derived from crops raised~~
32 ~~on land cleared from old growth or first growth forests where the~~
33 ~~clearing occurred after December 7, 2006; and (i) biomass energy based~~
34 ~~on animal waste or solid organic fuels from wood, forest, or field~~
35 ~~residues, or dedicated energy crops that do not include (i) wood pieces~~
36 ~~that have been treated with chemical preservatives such as creosote,~~
37 ~~pentachlorophenol, or copper chrome arsenic; (ii) black liquor~~
38 ~~byproduct from paper production; (iii) wood from old growth forests; or~~

1 ~~(iv) municipal solid waste))~~ biomass energy utilizing animal waste,
2 solid organic fuels from wood, forest, or field residues or dedicated
3 energy crops that do not include wood pieces that have been treated
4 with chemical preservatives such as creosote, pentachlorophenol, or
5 copper-chrome-arsenic; (g) byproducts of pulping or wood manufacturing
6 processes, including but not limited to bark, wood chips, sawdust, and
7 lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal
8 power; or (i) gas from sewage treatment facilities.

9 (19) "Rule" means rules adopted by an agency or other entity of
10 Washington state government to carry out the intent and purposes of
11 this chapter.

12 (20) "Year" means the twelve-month period commencing January 1st
13 and ending December 31st.

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