
SENATE BILL 6400

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By Senators Delvin, Morton, Schoesler, Honeyford, Carrell, Hewitt, and Holmquist Newbry

Read first time 01/20/12. Referred to Committee on Energy, Natural Resources & Marine Waters.

1 AN ACT Relating to the energy independence act; amending RCW
2 19.285.030 and 19.285.040; and creating a new section.

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

4 **Sec. 1.** RCW 19.285.030 and 2009 c 565 s 20 are each amended to
5 read as follows:

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

8 (1) "Attorney general" means the Washington state office of the
9 attorney general.

10 (2) "Auditor" means: (a) The Washington state auditor's office or
11 its designee for qualifying utilities under its jurisdiction that are
12 not investor-owned utilities; or (b) an independent auditor selected by
13 a qualifying utility that is not under the jurisdiction of the state
14 auditor and is not an investor-owned utility.

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

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

1 (5) "Cost-effective" has the same meaning as defined in RCW
2 80.52.030.

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

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

7 (8) "Department" means the department of commerce or its successor.

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

11 (10) "Eligible renewable resource" means:

12 (a) Electricity from a generation facility powered by a renewable
13 resource other than freshwater that commences operation after March 31,
14 1999, where: (i) The facility is located in (~~the Pacific Northwest~~)
15 Washington, Oregon, Idaho, or Montana; or (ii) the (~~electricity from~~
16 ~~the facility is delivered into Washington state on a real-time basis~~
17 ~~without shaping, storage, or integration services~~) facility is located
18 in Wyoming and electricity from the facility is delivered onto
19 transmission facilities that are located in Wyoming and owned by a
20 qualifying utility; (~~or~~)

21 (b) Incremental electricity produced as a result of efficiency
22 improvements, generation capacity additions, and operational changes
23 completed after March 31, 1999, to hydroelectric generation projects
24 (~~owned by a qualifying utility and~~) located in the Pacific Northwest
25 or to hydroelectric generation in irrigation pipes and canals located
26 in the Pacific Northwest, where the additional generation in either
27 case does not result in a new (~~water diversions or impoundments~~)
28 impoundment;

29 (c) Biomass energy;

30 (d) Electricity from an irrigation district as provided in RCW
31 87.03.015, from water power made available by and as a part of
32 irrigation district water conveyance and distribution facilities, waste
33 ways, and drainage water facilities; and

34 (e) Environmental redispatch.

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

37 (12) "Load" means the amount of kilowatt-hours of electricity

1 delivered in the most recently completed year by a qualifying utility
2 to its Washington retail customers.

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

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

18 (15) "Public facility" has the same meaning as defined in RCW
19 39.35C.010.

20 (16) "Qualifying utility" means an electric utility, as the term
21 "electric utility" is defined in RCW 19.29A.010, that serves more than
22 twenty-five thousand customers in the state of Washington. The number
23 of customers served may be based on data reported by a utility in form
24 861, "annual electric utility report," filed with the energy
25 information administration, United States department of energy.

26 (17) "Renewable energy credit" means a tradable certificate of
27 proof of at least one megawatt-hour of an eligible renewable resource
28 where the generation facility is not powered by freshwater, the
29 certificate includes all of the nonpower attributes associated with
30 that one megawatt-hour of electricity, and the certificate is verified
31 by a renewable energy credit tracking system selected by the
32 department.

33 (18) "Renewable resource" means: (a) Water; (b) wind; (c) solar
34 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
35 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
36 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
37 on land cleared from old growth or first-growth forests where the
38 clearing occurred after December 7, 2006; ~~((and))~~ or (i) biomass energy

1 (~~(based on animal waste or solid organic fuels from wood, forest, or~~
2 ~~field residues, or dedicated energy crops that do not include (i) wood~~
3 ~~pieces that have been treated with chemical preservatives such as~~
4 ~~creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) black~~
5 ~~liquor by-product from paper production; (iii) wood from old-growth~~
6 ~~forests; or (iv) municipal solid waste)).~~

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

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

12 (21)(a) "Biomass energy" includes: (i) Organic by-products of
13 pulping and the wood manufacturing process; (ii) animal waste; (iii)
14 solid organic fuels from wood; (iv) forest or field residues; (v)
15 wooden demolition or construction debris; (vi) food waste; (vii)
16 liquors derived from algae and other sources; (viii) dedicated energy
17 crops; (ix) biosolids; and (x) yard waste.

18 (b) "Biomass energy" does not include: (i) Wood pieces that have
19 been treated with chemical preservatives such as creosote,
20 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth
21 forests; or (iii) municipal solid waste.

22 (22) "Environmental redispatch" means hydroelectricity from a
23 federal or nonfederal generation facility located in the Pacific
24 Northwest that replaces an equivalent amount of electricity generated
25 from a different eligible renewable resource that has been curtailed
26 to: (a) Ensure consistency with reliability standards; and (b) avoid
27 exceeding total dissolved gas levels.

28 (23) "Excess energy conservation" means the amount of conservation
29 acquired by a qualifying utility that exceeds the amount of
30 conservation acquired using methodologies consistent with those used by
31 the Pacific Northwest electric power and conservation planning council
32 in its regional power plan published in February 2010.

33 **Sec. 2.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read
34 as follows:

35 (1) Each qualifying utility shall pursue all available conservation
36 that is cost-effective, reliable, and feasible.

1 (a) By January 1, 2010, using methodologies consistent with those
2 used by the Pacific Northwest electric power and conservation planning
3 council in its most recently published regional power plan, each
4 qualifying utility shall identify its achievable cost-effective
5 conservation potential through 2019. At least every two years
6 (~~thereafter, the~~) beginning January 1, 2012, each qualifying utility
7 shall review and update (~~this~~) its assessment for the subsequent ten-
8 year period, using methodologies consistent with those used by the
9 Pacific Northwest electric power and conservation planning council in
10 its regional power plan published in February 2010.

11 (b) Beginning January 1, 2010, each qualifying utility shall
12 establish and make publicly available a biennial acquisition target for
13 cost-effective conservation consistent with its identification of
14 achievable opportunities in (a) of this subsection, and meet that
15 target during the subsequent two-year period. At a minimum, each
16 biennial target must be no lower than the qualifying utility's pro rata
17 share for that two-year period of its cost-effective conservation
18 potential for the subsequent ten-year period, as established under (a)
19 of this subsection.

20 (c) In meeting its conservation targets, a qualifying utility may
21 count high-efficiency cogeneration owned and used by a retail electric
22 customer to meet its own needs. High-efficiency cogeneration is the
23 sequential production of electricity and useful thermal energy from a
24 common fuel source, where, under normal operating conditions, the
25 facility has a useful thermal energy output of no less than thirty-
26 three percent of the total energy output. The reduction in load due to
27 high-efficiency cogeneration shall be: (i) Calculated as the ratio of
28 the fuel chargeable to power heat rate of the cogeneration facility
29 compared to the heat rate on a new and clean basis of a
30 best-commercially available technology combined-cycle natural gas-fired
31 combustion turbine; and (ii) counted towards meeting the biennial
32 conservation target in the same manner as other conservation savings.

33 (d) The commission may determine if a conservation program
34 implemented by an investor-owned utility is cost-effective based on the
35 commission's policies and practice.

36 (e) The commission may rely on its standard practice for review and
37 approval of investor-owned utility conservation targets.

1 (2)(a) Each qualifying utility shall use eligible renewable
2 resources ~~((or))~~, acquire equivalent renewable energy credits, or use
3 excess energy conservation, or a combination of ~~((both))~~ these options,
4 to meet the following annual targets:

5 (i) At least three percent of its load by January 1, 2012, and each
6 year thereafter through December 31, 2015;

7 (ii) At least nine percent of its load by January 1, 2016, and each
8 year thereafter through December 31, 2019; and

9 (iii) At least fifteen percent of its load by January 1, 2020, and
10 each year thereafter.

11 (b) A qualifying utility may count distributed generation at double
12 the facility's electrical output if the utility: (i) Owns or has
13 contracted for the distributed generation and the associated renewable
14 energy credits; or (ii) has contracted to purchase the associated
15 renewable energy credits.

16 (c) In meeting the annual targets in (a) of this subsection, a
17 qualifying utility shall calculate its annual load based on the average
18 of the utility's load for the previous two years.

19 (d) A qualifying utility shall be considered in compliance with an
20 annual target in (a) of this subsection if: (i) The utility's weather-
21 adjusted load for the previous three years on average did not increase
22 over that time period; (ii) after December 7, 2006, the utility did not
23 commence or renew ownership or incremental purchases of electricity
24 from resources other than renewable resources other than on a daily
25 spot price basis and the electricity is not offset by equivalent
26 renewable energy credits; and (iii) the utility invested at least one
27 percent of its total annual retail revenue requirement that year on
28 eligible renewable resources, renewable energy credits, or a
29 combination of both.

30 (e) The requirements of this section may be met for any given year
31 ~~((with))~~ using renewable energy credits ~~((produced during that year,~~
32 ~~the preceding year, or the subsequent year))~~. Renewable energy credits
33 that are not used by the qualifying utility to meet the annual targets
34 under this section in a calendar year may be banked and carried forward
35 indefinitely for the purpose of complying with the annual target in a
36 subsequent year, except that banked renewable energy credits with the
37 oldest issuance date must be used to comply with an annual target
38 before renewable energy credits with more recent issuance dates are

1 used. Each renewable energy credit may be used only once to meet the
2 requirements of this section. A qualifying utility must demonstrate
3 that a renewable energy credit used to comply with an annual target is
4 derived from an eligible renewable resource and that the qualifying
5 utility has not used, traded, sold, or otherwise transferred the
6 credit.

7 (f) In complying with the targets established in (a) of this
8 subsection, a qualifying utility may not count:

9 (i) Eligible renewable resources or distributed generation where
10 the associated renewable energy credits are owned by a separate entity;
11 or

12 (ii) Eligible renewable resources or renewable energy credits
13 obtained for and used in an optional pricing program such as the
14 program established in RCW 19.29A.090.

15 (g) Where fossil and combustible renewable resources are cofired in
16 one generating unit located in the Pacific Northwest where the cofiring
17 commenced after March 31, 1999, the unit shall be considered to produce
18 eligible renewable resources in direct proportion to the percentage of
19 the total heat value represented by the heat value of the renewable
20 resources.

21 (h)(i) A qualifying utility that acquires an eligible renewable
22 resource or renewable energy credit may count that acquisition at one
23 and two-tenths times its base value:

24 (A) Where the eligible renewable resource comes from a facility
25 that commenced operation after December 31, 2005; and

26 (B) Where the developer of the facility used apprenticeship
27 programs approved by the council during facility construction.

28 (ii) The council shall establish minimum levels of labor hours to
29 be met through apprenticeship programs to qualify for this extra
30 credit.

31 (i) A qualifying utility shall be considered in compliance with an
32 annual target in (a) of this subsection if: (i)(A) The annual energy
33 output of the qualifying utility's electricity resources, either owned
34 or under contract on the effective date of this section, plus the
35 annual energy output of its eligible renewable resources acquired
36 subsequent to that date, plus its renewable energy credits meets or
37 exceeds the average of the utility's load for the previous two years;
38 and (B) a utility's commission, board of directors, or other governing

1 body, makes a determination by November 1, 2012, in accordance with
2 other applicable statutory and regulatory requirements, that a utility
3 subject to its respective jurisdiction may utilize this provision; or
4 (ii) events beyond the reasonable control of the utility that could not
5 have been reasonably anticipated or ameliorated prevented it from
6 meeting the renewable energy target. Such events include
7 weather-related damage, mechanical failure, strikes, lockouts, and
8 actions of a governmental authority that adversely affect the
9 generation, transmission, or distribution of an eligible renewable
10 resource under contract to a qualifying utility.

11 (3) Utilities that become qualifying utilities after December 31,
12 2006, shall meet the requirements in this section on a time frame
13 comparable in length to that provided for qualifying utilities as of
14 December 7, 2006.

15 NEW SECTION. Sec. 3. By December 1, 2012, the joint legislative
16 audit and review committee shall conduct a study of the electricity
17 cost impacts for each qualifying utility to meet the 2016 and 2020
18 renewable resource and conservation targets under chapter 19.285 RCW.
19 The study must also include an analysis of the impacts on each
20 utility's commercial, industrial, and residential customers, including
21 an additional analysis of the impacts on low-income residential
22 customers.

23 NEW SECTION. Sec. 4. If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

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