

FINAL BILL REPORT

HB 2129

PARTIAL VETO C 448 L 09 Synopsis as Enacted

Brief Description: Regarding the greenhouse gas emissions performance standard under chapter 80.80 RCW.

Sponsors: Representative Eddy.

House Committee on Technology, Energy & Communications
Senate Committee on Environment, Water & Energy

Background:

Greenhouse Gas (GHG) Emissions Performance Standard for Electric Generation Plants.
In 2007 legislation was enacted establishing a GHG emissions performance standard (EPS) for electric generation. Under the law, electric utilities may not enter into long-term financial commitments for baseload electric generation on or after July 1, 2008, unless the generating plant's emissions are the lower of:

- 1,100 pounds of GHG per megawatt-hour; or
- the average available GHG emissions output as updated by the Department of Community, Trade and Economic Development.

"Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent. "Long-term financial commitment" means either: (1) a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or (2) a new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state. "Power plant" means a facility for the generation of electricity that is permitted as a single plant by the Energy Facility Site Evaluation Council or a local jurisdiction.

Review of Long-Term Financial Commitments by the Utilities and Transportation Commission.

In order to enforce the emissions performance standard, the Utilities and Transportation Commission (UTC) must determine if the baseload power supplied under a long-term financial commitment complies with the EPS. The UTC is also authorized to decide at this

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time if, among other things, the investor-owned utility (IOU) needs the resource and whether the resource is appropriate, taking into consideration such factors as a company's forecasted load. A review of a long-term financial commitment must be conducted under the Administrative Procedures Act.

Unspecified Sources of Power.

An "unspecified source" of power is electricity that cannot be matched to a particular generating facility. It can result from a number of factors, including market purchases used to balance transmission and relieve short-term interruptions. Unspecified sources may also include power purchased from independent producers that own generating facilities or power purchased from the Bonneville Power Administration (BPA), which markets blended power from the region's federal dams, a nuclear power plant, a few wind farms, and other sources. Historically, the BPA's unspecified sources of power have been no higher than 12 percent of its system sales.

The Department of Ecology (Department) is responsible for addressing long-term purchases of electricity from unspecified sources in a manner consistent with the greenhouse gas emissions performance standard statute. Through the rulemaking process, the Department adopted by rule a time-weighted average formula that assigns the default emission value of an average pulverized coal plant to an unspecified source of power.

Cost Deferrals for IOUs.

An IOU is allowed to defer up to 24 months the costs associated with a long-term financial commitment for baseload electric generation. Recovery of deferred costs is subject to approval by the UTC.

Case-by-Case Exemption to the Greenhouse Gas Emissions Performance Standard.

The governing board of a consumer-owned utility and the Utilities and Transportation Commission, upon application by an investor-owned utility, may provide a case-by-case exemption from the greenhouse gas emissions performance standard to address: (1) unanticipated electric system reliability needs; or (2) catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

Eligible Renewable Resources Under the Energy Independence Act (Initiative 937).

Approved by voters in 2006, Initiative 937 requires electric utilities with 25,000 or more customers to meet targets for energy conservation and for using eligible renewable resources.

Under Initiative 937, "eligible renewable resource" includes wind, solar, geothermal energy, landfill and sewage gas, wave and tidal power, and certain biomass and biodiesel fuels. Electricity produced from an eligible renewable resource must be generated in a facility that started operating after March 31, 1999. The facility must either be located in the Pacific Northwest or the electricity from the facility must be delivered into the state on a real-time basis. Incremental electricity produced from efficiency improvements at hydropower facilities owned by qualifying utilities is also an eligible renewable resource, if the improvements were completed after March 31, 1999.

Summary:

Definition of "Power Plant".

The definition of "power plant," which means a single plant sited by the Washington Energy Facility Site Evaluation Council or a local jurisdiction, is changed to mean a facility for the generation of electricity that is permitted as a single plant by a jurisdiction inside or outside the state.

Long-Term Financial Commitments with the Bonneville Power Administration.

The greenhouse gas emissions performance standard does not apply to long-term financial commitments with the Bonneville Power Administration.

Unspecified Sources of Power in Long-Term Financial Commitments.

No more than 12 percent of emissions in a long-term financial commitment may be from unspecified sources of power.

Case-by-Case Exemption to the Greenhouse Gas Emission Performance Standard.

The UTC and the governing boards of consumer-owned utilities may provide case-by-case exemptions to the greenhouse gas emission performance standard for extraordinary cost impacts on utility ratepayers.

Application of the Emissions Performance Standard to Long-Term Financial Commitments with Multiple Power Plants.

For a long-term financial commitment with multiple power plants, the emissions of each power plant must comply with the emissions performance standard, except for commitments already deemed to be in compliance under current law: baseload generation facilities in operation as of June 30, 2008; facilities powered exclusively by renewable resources; and certain cogeneration facilities using natural or waste gas.

Review of Long-Term Financial Commitments Made by IOUs.

The provision concerning the review of long-term financial commitments for baseload generation is modified. When an IOU submits a long-term financial commitment to the UTC for review, the UTC is only required to determine if the proposed baseload resource complies with the emission performance standard. All other issues, such as the need for and appropriateness of the resource, will be determined in a subsequent rate case.

Cost-Deferral Process.

For the purposes of the cost-deferral process, the definition of "long-term financial commitment" includes an IOU's ownership or power purchase agreement of at least five years associated with an eligible renewable resource under Initiative 937.

Votes on Final Passage:

House	95	0	
Senate	45	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 26, 2009

Partial Veto Summary: The Governor vetoed Section 4 of HB 2129. Section 4 allowed governing board of consumer-owned utilities to provide a case-by-case exemption from the greenhouse gas emissions performance standard to address extraordinary cost impacts on utility ratepayers.

The Governor vetoed this section "because there is no clear definition of what these impacts may be on ratepayers, no process by which other parties would have the opportunity to present evidence and argument opposing a proposed exemption, and no clear legal framework that assures transparency and accountability."