
ENGROSSED HOUSE BILL 2565

State of Washington

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By Representatives Poulsen, Crouse, Morris, Cooper, Radcliff, Ruderman, Reardon, Linville, Conway, Schual-Berke, Kenney, Keiser, Santos and O'Brien

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1 AN ACT Relating to disclosure of attributes of electricity
2 products; amending RCW 19.29A.010; adding new sections to chapter
3 19.29A RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** (1) Consumer disclosure ensures that retail
6 electric consumers purchasing electric energy receive basic information
7 about the characteristics associated with their electric product in a
8 form that facilitates consumer understanding of retail electric energy
9 service and the development of new products responsive to consumer
10 preferences.

11 (2) The legislature finds and declares that there is a need for
12 reliable, accurate, and timely information regarding fuel source, that
13 is consistently collected, for all electricity products offered for
14 retail sale in Washington.

15 (3) The desirability and feasibility of such disclosure has been
16 clearly established in nutrition labeling, uniform food pricing, truth-
17 in-lending, and other consumer information programs.

18 (4) The legislature intends to establish a consumer disclosure
19 standard under which retail suppliers in Washington disclose

1 information on the fuel mix of the electricity products they sell.
2 Fundamental to disclosure is a label that promotes consistency in
3 content and format, that is accurate, reliable, and simple to
4 understand, and that allows verification of the accuracy of information
5 reported.

6 (5) To ensure that consumer information is verifiable and accurate,
7 certain characteristics of electricity generation must be tracked and
8 compared with information provided to consumers.

9 **Sec. 2.** RCW 19.29A.010 and 1998 c 300 s 2 are each amended to read
10 as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

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

18 (2) "Bonneville power administration system mix" means a generation
19 mix sold by the Bonneville power administration that is net of any
20 resource specific sales and that is net of any electricity sold to
21 direct service industrial customers, as defined in section 3(8) of the
22 Pacific Northwest Electric Power Planning and Conservation Act (16
23 U.S.C. Sec. 839(a)(8)).

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

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

27 ((+2)) (5) "Conservation" means an increase in efficiency in the
28 use of energy use that yields a decrease in energy consumption while
29 providing the same or higher levels of service. Conservation includes
30 low-income weatherization programs.

31 ((+3)) (6) "Consumer-owned utility" means a municipal electric
32 utility formed under Title 35 RCW, a public utility district formed
33 under Title 54 RCW, an irrigation district formed under chapter 87.03
34 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual
35 corporation or association formed under chapter 24.06 RCW, that is
36 engaged in the business of distributing electricity to more than one
37 retail electric customer in the state.

1 ~~((4))~~ (7) "Declared resource" means an electricity source
2 specifically identified by a retail supplier to serve retail electric
3 customers. A declared resource includes a stated quantity of
4 electricity tied directly to a specified generation facility or set of
5 facilities either through ownership or contract purchase, or a
6 contractual right to a stated quantity of electricity from a specified
7 generation facility or set of facilities.

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

10 ~~((5))~~ (9) "Electricity information coordinator" means the
11 organization selected by the department under section 6 of this act to:
12 (a) Compile generation data in the Northwest power pool by generating
13 project and by resource category; (b) compare the quantity of
14 electricity from declared resources reported by retail suppliers with
15 available generation from such resources; (c) calculate the net system
16 power mix; and (d) coordinate with other comparable organizations in
17 the western interconnection.

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

21 ~~((6))~~ (11) "Electricity product" means the electrical energy
22 produced by a generating facility or facilities that a retail supplier
23 sells or offers to sell to retail electric customers in the state of
24 Washington, provided that nothing in this title shall be construed to
25 mean that electricity is a good or product for the purposes of Title
26 62A RCW, or any other purpose. It does not include electrical energy
27 generated on-site at a retail electric customer's premises.

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

30 ~~((7))~~ (13) "Electricity" means electric energy measured in
31 kilowatt hours, or electric capacity measured in kilowatts, or both.

32 ~~((8))~~ (14) "Fuel mix" means the actual or imputed sources of
33 electricity sold to retail electric customers, expressed in terms of
34 percentage contribution by resource category. The total fuel mix
35 included in each disclosure shall total one hundred percent.

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

38 (16) "Governing body" means the council of a city or town, the
39 commissioners of an irrigation district, municipal electric utility, or

1 public utility district, or the board of directors of an electric
2 cooperative or mutual association that has the authority to set and
3 approve rates.

4 ~~((+9+))~~ (17) "High efficiency cogeneration" means electricity
5 produced by equipment, such as heat or steam used for industrial,
6 commercial, heating, or cooling purposes, that meets the federal energy
7 regulatory commission standards for qualifying facilities under the
8 public utility regulatory policies act of 1978.

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

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

17 ~~((+10+))~~ (20) "Landfill gas generation" means electricity produced
18 by a generating facility that uses waste gases produced by the
19 decomposition of organic materials in landfills.

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

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

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

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

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

1 (~~(11)~~) (26) "Renewable resources" means electricity generation
2 facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d)
3 geothermal energy; (e) landfill gas; or (f) biomass energy based on
4 solid organic fuels from wood, forest, or field residues, or dedicated
5 energy crops that do not include wood pieces that have been treated
6 with chemical preservatives such as creosote, pentachlorophenol, or
7 copper-chrome-arsenic.

8 (~~(12)~~) (27) "Resale" means the purchase and subsequent sale of
9 electricity for profit, but does not include the purchase and the
10 subsequent sale of electricity at the same rate at which the
11 electricity was purchased.

12 (~~(13)~~) (28) "Retail electric customer" means a person or entity
13 that purchases electricity for ultimate consumption and not for resale.

14 (~~(14)~~) (29) "Retail supplier" means an electric utility that
15 offers an electricity product for sale to retail electric customers in
16 the state.

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

20 (~~(15)~~) (31) "Solar generation" means electricity derived from
21 radiation from the sun that is directly or indirectly converted to
22 electrical energy.

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

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

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

29 NEW SECTION. Sec. 3. (1) Beginning in 2001, each retail supplier
30 shall provide to its existing and new retail electric customers its
31 annual fuel mix information by generation category as required in
32 section 4 of this act.

33 (2) Disclosures required under subsection (1) of this section shall
34 be provided through a disclosure label presented in a standardized
35 format as required in section 4(7) of this act.

36 (3) Except as provided in subsection (5) of this section, each
37 retail supplier shall provide the disclosure label:

1 (a) To each of its new retail electric customers at the time
2 service is established;

3 (b) To all of its existing retail electric customers, as a bill
4 insert or other mailed publication, not less than semiannually; and

5 (c) As part of any marketing material, in paper, written, or other
6 media format, that is used primarily to promote the sale of any
7 specific electricity product being advertised, contracted for, or
8 offered for sale to current or prospective retail electric customers.

9 (4) In addition to the disclosure requirements under subsection (3)
10 of this section, each retail supplier shall provide to each electric
11 customer it serves, at least two additional times per year, a
12 publication that contains either:

13 (a) The disclosure label;

14 (b) A customer service phone number to request a disclosure label;
15 or

16 (c) A reference to an electronic form of the disclosure label.

17 (5) Small utilities and mutual light and power companies shall
18 provide the disclosure label not less than annually through a
19 publication that is distributed to all their retail electric customers,
20 and have disclosure label information available in their main business
21 office. If a small utility or mutual company engages in marketing a
22 specific electric product new to that utility it shall provide the
23 disclosure label described in subsection (3)(c) of this section.

24 NEW SECTION. **Sec. 4.** (1) Each retail supplier shall disclose the
25 fuel mix of each electricity product it offers to retail electric
26 customers as follows:

27 (a) For an electricity product comprised entirely of declared
28 resources, a retail supplier shall disclose the fuel mix for the
29 electricity product based on the quantity of electric generation from
30 those declared resources for the previous calendar year and any
31 adjustment, if taken, available under subsection (6) of this section.

32 (b) For an electricity product comprised of no declared resources,
33 a retail supplier shall report the fuel mix for the electricity product
34 as the fuel mix of net system power for the previous calendar year, as
35 determined by the electricity information coordinator under section 6
36 of this act.

37 (c) For an electricity product comprised of a combination of
38 declared resources and the net system power, a retail supplier shall

1 disclose the fuel mix for the electricity product as a weighted average
2 of the megawatt-hours from declared resources and the megawatt-hours
3 from the net system power mix for the previous calendar year according
4 to the proportion of declared resources and net system power contained
5 in the electricity product.

6 (2) The disclosures required by this section shall identify the
7 percentage of the total electricity product sold by a retail supplier
8 during the previous calendar year from each of the following
9 categories:

10 (a) Coal generation;

11 (b) Hydroelectric generation;

12 (c) Natural gas generation;

13 (d) Nuclear generation; and

14 (e) Other generation, except that when a component of the other
15 generation category meets or exceeds two percent of the total
16 electricity product sold by a retail supplier during the previous
17 calendar year, the retail supplier shall identify the component or
18 components and display the fuel mix percentages for these component
19 sources, which may include, but are not limited to: (i) Biomass
20 generation; (ii) geothermal generation; (iii) landfill gas generation;
21 (iv) oil generation; (v) solar generation; (vi) waste incineration; or
22 (vii) wind generation. A retail supplier may voluntarily identify any
23 component or components within the other generation category that
24 comprises two percent or less of annual sales.

25 (3) Retail suppliers may separately report a subcategory of natural
26 gas generation to identify high efficiency cogeneration.

27 (4) Except as provided in subsection (3) of this section, a retail
28 supplier cannot include in the disclosure label any environmental
29 quality or environmental impact qualifier related to any of the
30 generation categories disclosed.

31 (5) For the portion of an electricity product purchased from the
32 Bonneville power administration, retail suppliers may disclose the
33 Bonneville power administration system mix.

34 (6) A retail supplier may adjust its reported fuel mix for known
35 changes in its declared resources for the current year based on any
36 changes in its sources of electricity supply from either generation or
37 contracts. If a retail supplier changes its fuel mix during a calendar
38 year, it shall report those changes to the electricity information
39 coordinator.

1 (7) Disclosure of the fuel mix information required in this section
2 shall be made in the following uniform format: A tabular format with
3 two columns, where the first column shall alphabetically list each
4 category and the second column shall display the corresponding
5 percentage of the total that each category represents. The percentage
6 shall be reported as a numeric value rounded to the nearest one
7 percent. The percentages listed for the categories identified must sum
8 to one hundred percent with the table displaying such a total.

9 NEW SECTION. **Sec. 5.** The department shall:

10 (1) Convene a work group of interested parties to suggest
11 modifications, if any, to the disclosure requirements required in
12 section 4 of this act to improve information content, readability, and
13 consumer understanding, and to suggest modifications, if any, to the
14 responsibilities of the electricity information coordinator required in
15 section 6 of this act to improve the accuracy and efficiency of the
16 tracking process. If the department serves as the electricity
17 information coordinator, these evaluation and reporting requirements
18 relative to the responsibilities of the electricity information
19 coordinator and the tracking process shall be assigned to an
20 independent third party;

21 (2) Invite interested parties, including but not limited to
22 representatives from investor-owned utilities, consumer-owned
23 utilities, the commission, the attorney general's office, consumer
24 advocacy groups, and the environmental community to participate in the
25 work group convened in subsection (1) of this section; and

26 (3) Submit to the legislature no later than December 1, 2003, a
27 report with suggested modifications, if any, to the disclosure
28 requirements and responsibilities of the electricity information
29 coordinator, as referred to in subsection (1) of this section.

30 NEW SECTION. **Sec. 6.** (1) For the purpose of selecting the
31 electricity information coordinator, the department shall form a work
32 group of interested parties. The department shall invite interested
33 parties, including, but not limited to, representatives from investor-
34 owned utilities, consumer-owned utilities, the commission, the attorney
35 general's office, consumer advocacy groups, and the environmental
36 community to participate in the work group. In the event an
37 appropriate regional entity is not selected by November 1, 2000, the

1 department shall serve as the electricity information coordinator after
2 notifying the committees of the senate and house of representatives
3 with jurisdiction over energy matters.

4 (2) The department may receive any lawful gifts, grants, or
5 endowments from public or private sources that are made from time to
6 time, in trust or otherwise, for the use and benefit of the department
7 in implementing this section, and may spend such gifts, grants, or
8 endowments for the purposes of implementing this section.

9 (3) As a condition for an appropriate regional entity to be
10 selected under this section to serve as the electricity information
11 coordinator, it must agree to compile the following information:

12 (a) Actual generation by fuel mix in the Northwest power pool for
13 the prior calendar year, expressed in megawatt hours. This data will
14 be compiled as it becomes available.

15 (b) Adjustments to the actual generation for the prior calendar
16 year that are known and provided to the electricity information
17 coordinator by the end of January of the current calendar year to
18 reflect known changes in declared resources for the current year and
19 changes due to interconnection of new generating resources or
20 decommissioning or sale of existing resources or contracts. These
21 adjustments shall include supporting documentation.

22 (c) The amount of electricity from declared resources that retail
23 suppliers will identify in their fuel mix disclosures during the
24 current calendar year. Retail suppliers shall make this data available
25 by the end of January each year.

26 (4) Retail suppliers shall make available upon request the
27 following information to support the ownership or contractual rights to
28 declared resources:

29 (a) Documentation of ownership of declared resources by retail
30 suppliers; or

31 (b) Documentation of contractual rights by retail suppliers to a
32 stated quantity of electricity from a specific generating facility.

33 If the documentation referred to in either (a) or (b) of this
34 subsection is not available, the retail supplier may not identify the
35 electricity source as a declared resource and instead must report the
36 net system power mix for the quantity of electric generation from that
37 resource.

38 (5) If the documentation referred to in either subsection (4)(a) or
39 (b) of this section is not available, the retail supplier may not

1 identify the electricity source as a declared resource and instead must
2 report the net system power mix for the quantity of electric generation
3 from that resource.

4 (6) As a condition for an appropriate regional entity to be
5 selected under this section to serve as the electricity information
6 coordinator, it must agree to:

7 (a) Coordinate with comparable entities or organizations in the
8 western interconnection;

9 (b) On or before May 1st of each year, or as soon thereafter as
10 practicable once the data in subsection (3)(a) of this section is
11 available, calculate and make available the net system power mix as
12 follows:

13 (i) The actual Northwest power pool generation for the prior
14 calendar year;

15 (ii) Plus any adjustments to the Northwest power pool generation as
16 made available to the electricity information coordinator by the end of
17 January of the current calendar year pursuant to section 4(6) of this
18 act;

19 (iii) Less the quantity of electricity associated with declared
20 resources claimed by retail suppliers for the current calendar year;

21 (iv) Plus other adjustments necessary to ensure that the same
22 resource output is not declared more than once.

23 (c) To the extent the information is available, verify that the
24 quantity of electricity associated with the declared resources does not
25 exceed the available generation from those resources.

26 (7) Subsections (3) and (6) of this section apply to the department
27 in the event the department assumes the functions of the electricity
28 information coordinator.

29 NEW SECTION. **Sec. 7.** Sections 3 through 6 of this act are each
30 added to chapter 19.29A RCW.

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