
**Technology, Telecommunications
& Energy Committee**

HB 2477

Brief Description: Creating an energy portfolio standard and providing certain tax deductions.

Sponsors: Representatives Nixon, Crouse, Jarrett, Anderson, Ericksen, Shabro, Benson and Talcott.

Brief Summary of Bill

- Establishes a renewable energy standard and an energy efficiency standard for electrical utilities that enter into an acquisition agreement with the Department of Revenue (DOR).
- Provides tax incentives for utilities that contract with DOR and meet the renewable energy standard or the energy efficiency standard.

Hearing Date: 1/20/04

Staff: Pam Madson (786-7166).

Background:

In Washington, most of the electricity sold to retail customers is generated by hydroelectric power. According to the state's fuel mix disclosure report using 2002 actual data, hydroelectric power accounts for 71.6 percent of electricity sold; coal represents 13.5 percent; nuclear power supplies 5 percent; cogeneration 5.1 percent, natural gas 3.4 percent. Non-hydro renewable resources such as wind, landfill gas, or biomass represents 1.3 percent.

Traditionally, electric utilities have been guided in their efforts to acquire resources for meeting their customers' demand for electricity by a least cost planning analysis. Utilities choose a mix of supply and demand side resources that minimizes the cost of services to the customer. The mix may include electricity that is generated by the utility itself, purchased on long-term contracts from other producers, or may include some electricity purchased on the short-term or spot market. It may also include conservation and energy efficiency.

Beginning January 1, 2002, all electric utilities (other than small electric utilities) had to offer their customers an option to purchase electricity generated using alternative energy resources. This was a voluntary approach to encouraging the use and development of electricity generation using a mix of renewable resources. The Department of Community, Trade, and Economic Development (DCTED) and the Utilities and Transportation Commission (UTC) must report

annually on the products offered to customers, customer participation, and the investments made by each utility in qualifying alternative energy resources.

Though the Pacific Northwest has had some of the most successful conservation and research programs in the country, the history of investment in conservation and energy efficiency is not one of stable, consistent investment. Investment in energy efficiency in Washington peaked in 1993 at approximately \$155 million and declined to an estimated \$44 million in 1998. A report (released in early 2003) from the Northwest Power and Conservation Council on energy conservation indicates that 2001 was the largest annual development of conservation since 1993. About \$150 million was spent in new energy conservation activities and the region achieved energy savings of about 150 megawatts.

Some utilities offer reduced rates or discounted charges to low-income customers. Assistance to low-income energy customers is also provided through a federal block-grant program, known as LIHEAP (Low-Income Home Energy Assistance Program), that allocates funds to the states. This program is administered by the DCTED. The DCTED also administers a weatherization program to reduce the cost of housing for low-income households by applying energy efficiency measures to a home.

Sales and use tax exemptions for renewables. In 1996 the Legislature provided an exemption from retail sales and use taxes for machinery and equipment used directly in generating electricity using wind or solar energy. The exemption has been expanded to include machinery and equipment used in generating electricity from landfill gas and fuel cells. The exemption also includes the installation of the equipment including labor and services. The exemption applies to facilities capable of generating 200 watts or more of electricity. The exemption expires June 30, 2009.

Public utility tax (PUT). Public and privately-owned utilities are subject to the state public utility tax (PUT). The PUT is applied to the gross receipts of the business. For electrical utilities, the applicable tax rate is 3.873 percent. Revenues are deposited to the state general fund.

The PUT does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are several deductions and credits for specific types of business activities. These activities include production of energy through cogeneration or by using renewable energy resources; sales of electricity to direct service industrial businesses; and discounts to low-income customers.

State sales tax. The state retail sales tax rate is 6.5 percent and is imposed on the retail sale of most items of tangible personal property and some services. Sales tax is paid by the purchaser and collected by the seller. Sales tax revenue is deposited in the state general fund.

Summary of Bill:

Utilities may enter into a renewable energy acquisition agreement or an energy efficiency acquisition agreement with the Department of Revenue (DOR). By entering into an agreement, the utility may seek tax exemptions and deductions if it meets either a renewable resource acquisition standard or an energy efficiency and conservation standard.

Renewable energy standard

Under an acquisition agreement, a utility must acquire electricity generated by eligible renewable resources or renewable energy credits equivalent to the following standard:

- Within five years of the effective date of the agreement, 15 percent of the utility's incremental retail load growth;
- Within 10 years of the effective date of the agreement, 25 percent of the utility's incremental retail load growth; and
- Within 15 years of the effective date of the agreement, 35 percent of the utility's incremental retail load growth.

Eligible renewable resources acquired between April 1, 1999, and the effective date of the agreement with DOR may be used to meet the standard's requirements. A renewable resource is a generation facility that uses the following resources to generate electricity: water, wind, hydrogen, solar energy, geothermal energy, landfill gas, biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops, wave or tidal action, or gas from sewage treatment facilities. Of these renewable resources, the following are eligible to be applied toward meeting the renewable energy standard:

- Nonhydropower renewable resources that began operation after April 1, 1999 and subsequent additions to the facility;
- Additional power produced by hydropower facilities operating on April 1, 1999 resulting from efficiency upgrades made after April 1, 1999;
- Low-head hydropower that began operation after April 1, 1999;
- Additions to hydropower generating capacity for facilities operating in irrigation pipes and canals operating on April 1, 1999 resulting from upgrades made after April 1, 1999, and not requiring any new water diversions;
- Qualified conventional electrical resources used to shape and firm a renewable resource, referred to as a dedicated resource;
- Eligible net-metered generation; and
- High-efficiency cogeneration.

Investor-owned utilities may not purchase eligible renewable resources from an affiliated interest of the utility unless the utility seeks proposals from other suppliers and the UTC determines that the affiliated interest's proposal is the lowest cost option.

If sufficient cost-effective renewable resources are not available, the utility may petition to the appropriate regulatory or governing body to meet a lesser standard.

Prior to entering into an agreement with DOR, an electric utility must prepare a 20 year forecast of incremental load growth.

In acquiring new eligible renewable resources, only those new renewable resources that cost more than new conventional resources, after a cost analysis is conducted by the utility, may qualify to receive tax incentives. The cost analysis must include a comparison of all costs associated with acquiring electricity generated by convention fuel sources and renewable energy sources, costs associated with integrating new renewable energy sources with the utility's system, a comparison of the cost or value of transmission services for the new generation from conventional and renewable sources, and the estimated value of tax incentives. A utility may seek tax incentives if the cost of the lowest cost renewable resource (excluding the value of the tax incentives) is greater than the cost of the lowest cost conventional resource.

Energy Efficiency Standard

Under an acquisition agreement, a utility must acquire cost-effective electricity savings directly attributable to conservation programs serving its Washington retail electric customers equivalent to the following standard:

- Within five years of entering into an agreement with DOR, 0.75 percent on average annually of the utility's base year retail load. Over the five year period, the utility must acquire 3.75 percent of the utility's base year retail load.
- Within ten years of entering into an agreement with DOR, the incremental increase in energy savings must be equivalent to an additional 2.55 percent of the utility's base year retail load.
- For each subsequent three year period, the electricity savings must be equivalent to an additional 2.55 percent measured against the base year.

Utilities can meet the energy efficiency standard using new activities and receiving credits for participation in other programs. Five percent of the standard must be met with low-income efficiency services unless the utility can show that this level of low-income conservation opportunities do not exist in its service territory.

A utility must pursue energy conservation opportunities in each customer class that are not independently captured by consumer acquisitions. All energy savings resulting from energy efficiency programs may be applied toward meeting the standard. Conservation programs must be cost-effective.

Utilities may also meet the energy efficiency standard by counting conservation for which it receives credit or funding from Bonneville Power Administration (BPA) conservation programs. Contributions to the Northwest Energy Efficiency Alliance either directly or through BPA may account for up to 20 percent of the annual energy efficiency standard.

A utility may demonstrate that it is unable to meet the standard because of a lack of sufficient opportunities to acquire conservation and petition to apply a lower standard.

Prior to entering into an energy efficiency agreement, a utility must determine its energy savings through energy efficiency programs and the cost of those programs for 2003. The savings must be calculated as a percentage of the utility's retail electric load for 2003. The utility may also petition to meet a lesser energy efficiency standard at the time it enters into an acquisition agreement with DOR.

A utility may receive enhance credit toward meeting the renewable energy standard and may claim an additional tax exemption for early acquisition of renewable resources located in Washington and for renewable resources acquired from facilities constructed using apprenticeship programs.

Electricity or efficiency from resources used by a utility to meet a federally legislated standard may be used to meet both standards but not electricity used to meet a standard established through legislation in another state.

Before acquisition agreements may be entered into, the DCTED and the UTC must adopt rules to (1) verify load resource balance, lack of sufficient opportunities for cost-effective renewable resources or cost-effective conservation, and compliance with the standards; (2) to establish a method for determining that a utility may comply with a lesser standard; and (3) to establish how to determine cost-effectiveness of eligible renewable resources.

The DCTED must establish or select an existing system of renewable energy credits and must seek advice from stakeholders.

Utilities that have entered into acquisition agreement with DOR must demonstrate progress toward meeting either or both standards by June 1, 2008, and annually thereafter. By December 2010, and biennially thereafter, the DCTED and the UTC must report to the legislature on accomplishments of those utilities that have chosen to enter into agreements. By December 1, 2010, and biennially thereafter, the DOR must report to the legislature on the tax deductions and exemptions claimed under this program.

Tax incentives

If a utility enters into an acquisition agreement with DOR and complies with the renewable energy standard, the utility may seek certain tax exemptions and deductions.

A utility may deduct the following amounts from gross income under the Public Utility Tax (PUT):

- Cost of production of electrical energy produced or generated from an eligible renewable resource for facilities built or owned by the utility on or after July 1, 2004 or the amount paid to purchase electricity under contracts entered into on or after July 1, 2004;
- The amount paid to purchase renewable energy credits after July 1, 2004.

Deductions are allowed for a period of 30 years after the project is in place. No new deductions may be taken under this program after June 30, 2023.

Under a renewable energy acquisition agreement, a utility may seek a sales and use tax exemption for machinery and equipment used directly in generating electricity using fuel cells, wind, sun, or landfill gas, or other eligible renewable resources, except dedicated resources. This sales and use tax exemption expires June 30, 2023

An exemption from state sales tax for the cost of labor and services used to install machinery and equipment for the generation of electricity from specified renewable resources is available to utilities that enter acquisition agreements with DOR and meet the requirements for early acquisition of new renewable resources located in Washington and for renewable resources acquired from facilities constructed using apprenticeship programs.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.