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**SUBSTITUTE HOUSE BILL 1544**

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**State of Washington                      58th Legislature                      2003 Regular Session**

**By** House Committee on Technology, Telecommunications & Energy  
(originally sponsored by Representatives Hudgins, Sullivan, Morris,  
Romero, Simpson, Ruderman, Upthegrove and Rockefeller)

READ FIRST TIME 03/05/03.

1            AN ACT Relating to an energy resource portfolio standard; amending  
2 RCW 80.60.005 and 80.60.010; adding new sections to chapter 80.60 RCW;  
3 adding a new section to chapter 43.21F RCW; adding a new section to  
4 chapter 80.28 RCW; and creating a new section.

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

6            NEW SECTION.    **Sec. 1.** This chapter may be known and cited as the  
7 diversification of electricity supply and demand management act.

8            **Sec. 2.** RCW 80.60.005 and 1998 c 318 s 1 are each amended to read  
9 as follows:

10            The legislature finds that it is in the public interest to:

- 11            (1) Encourage private investment in renewable energy resources;  
12            (2) Stimulate the economic growth of this state; ~~((and))~~  
13            (3) Enhance the continued diversification of the energy resources  
14 used in this state; and  
15            (4) Promote conservation and efficiency in electricity usage.

16            **Sec. 3.** RCW 80.60.010 and 2000 c 158 s 1 are each amended to read  
17 as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly indicates otherwise.

3 (1) "Alternative energy resources" means the electricity produced  
4 from generation facilities fueled by: (a) Wind; (b) solar energy; (c)  
5 geothermal energy; (d) landfill gas; (e) wave or tidal action; (f) gas  
6 produced during the treatment of wastewater; (g) qualified hydropower;  
7 or (h) biomass energy based on solid organic fuels from wood, forest,  
8 or field residues, or dedicated energy crops that do not include wood  
9 pieces that have been treated with chemical preservatives such as  
10 creosote, pentachlorophenol, or copper-chrome-arsenic.

11 (2) "Commission" means the utilities and transportation commission.

12 ((+2)) (3) "Conservation and efficiency resources" means measures  
13 that yield a decrease of energy consumption while providing the same  
14 level of energy service.

15 (4) "Customer-generator" means a user of a net metering system.

16 ((+3)) (5) "Department" means the department of community, trade,  
17 and economic development.

18 (6) "Electrical company" means a company owned by investors that  
19 meets the definition of RCW 80.04.010.

20 ((+4)) (7) "Electric cooperative" means a cooperative or  
21 association organized under chapter 23.86 or 24.06 RCW.

22 ((+5)) (8) "Electric utility" means any electrical company, public  
23 utility district, irrigation district, port district, electric  
24 cooperative, or municipal electric utility that is engaged in the  
25 business of distributing electricity to retail electric customers in  
26 the state.

27 ((+6)) (9) "Irrigation district" means an irrigation district  
28 under chapter 87.03 RCW.

29 ((+7)) (10) "Municipal electric utility" means a city or town that  
30 owns or operates an electric utility authorized by chapter 35.92 RCW.

31 ((+8)) (11) "Net metering" means measuring the difference between  
32 the electricity supplied by an electric utility and the electricity  
33 generated by a customer-generator that is fed back to the electric  
34 utility over the applicable billing period.

35 ((+9)) (12) "Net metering system" means a fuel cell or a facility  
36 for the production of electrical energy that:

37 (a) Uses as its fuel either solar, wind, or hydropower;

1 (b) Has a generating capacity of not more than twenty-five  
2 kilowatts;

3 (c) Is located on the customer-generator's premises;

4 (d) Operates in parallel with the electric utility's transmission  
5 and distribution facilities; and

6 (e) Is intended primarily to offset part or all of the customer-  
7 generator's requirements for electricity.

8 ~~((10))~~ (13) "Port district" means a port district within which an  
9 industrial development district has been established as authorized by  
10 Title 53 RCW.

11 ~~((11))~~ (14) "Public utility district" means a district authorized  
12 by chapter 54.04 RCW.

13 (15) "Qualified diversity resources" means (a) conservation and  
14 efficiency resources contracted for after March 1, 2003; or (b)  
15 alternative energy resources that are either:

16 (i) Alternative energy resources initiating operations after March  
17 1, 2003, that are physically metered and that are verified in  
18 Washington; or

19 (ii) Existing alternative energy resources located in Washington  
20 and fully owned or contracted by a Washington utility.

21 (16) "Qualified hydropower" means the additional energy produced by  
22 (a) existing hydropower facilities that have been modernized or  
23 upgraded after June 1, 2000, to increase capacity or efficiency; or (b)  
24 new hydropower facilities that operate with a head of twenty meters or  
25 less.

26 (17) "Small electric utility" means any consumer-owned utility with  
27 twenty-five thousand or fewer electric meters in service, or that has  
28 an average of seven or fewer customers per mile of distribution line.  
29 "Electric meters in service" means those meters that record in at least  
30 nine months in any calendar year not less than two hundred fifty  
31 kilowatt hours per month.

32 NEW SECTION. Sec. 4. (1) By January 1, 2009, and each year  
33 thereafter through December 31, 2013, each electric utility shall  
34 ensure that at least five percent of its resources used to serve its  
35 Washington retail customers are qualified diversity resources. Of the  
36 five percent, not less than one and one-quarter percent must be

1 alternative energy resources and not less than one and one-quarter  
2 percent must be conservation and efficiency resources.

3 (2) By January 1, 2014, and each year thereafter, each electric  
4 utility shall ensure that at least ten percent of its resources used to  
5 serve its Washington retail customers are qualified diversity  
6 resources. Of the ten percent, not less than two and one-half percent  
7 must be alternative energy resources and not less than two and one-half  
8 percent must be conservation and efficiency resources.

9 (3) An electric utility that as of March 1, 2003, owns or has under  
10 contract sufficient resources to meet one hundred percent of its annual  
11 energy needs to serve its customers is exempt from the alternative  
12 energy resources obligations of this section until such time as those  
13 resources are no longer sufficient to serve at least ninety-five  
14 percent of its annual energy needs, or January 1, 2011, whichever is  
15 earlier.

16 (4) If in any year the lowest cost alternative energy resource  
17 available to a utility exceeds one hundred ten percent of the capital  
18 and energy cost from a new generation facility that is not an  
19 alternative energy resource, the utility is relieved of its alternative  
20 resource obligations under this section.

21 (5) A small utility may meet its obligation under this section by  
22 investing at least two times the amount of its conservation and  
23 renewables discount pursuant to the Bonneville power administration's  
24 conservation and renewables discount program for the contract period  
25 beginning October 1, 2003.

26 (6) A utility is relieved of its obligation under this section with  
27 regard to alternative energy resources for that portion of its customer  
28 load that is met with power purchased from the Bonneville power  
29 administration.

30 NEW SECTION. **Sec. 5.** (1) By January 1, 2009, and each year  
31 thereafter through December 31, 2013, each natural gas distribution  
32 utility that provides gas services within two or more counties shall  
33 ensure that at least two and one-half percent of its resources used to  
34 serve its Washington retail customers are conservation and efficiency  
35 resources.

36 (2) By January 1, 2014, and each year thereafter, each natural gas  
37 distribution utility that provides gas services within two or more

1 counties shall ensure that at least five percent of its resources used  
2 to serve its Washington retail customers are conservation and  
3 efficiency resources.

4 NEW SECTION. **Sec. 6.** (1) By March 1, 2005, and by each March 1st  
5 thereafter, each electric utility, except electrical companies, shall  
6 report at an open public meeting its activities undertaken to achieve  
7 the requirements of section 4 of this act. A written copy or  
8 transcript of the report must also be submitted to the department  
9 within twenty days of the public meeting.

10 (2) Beginning March 1, 2005, and by each March 1st thereafter, each  
11 electrical company and gas company shall report to the commission its  
12 activities undertaken to achieve the requirements of sections 4 and 5  
13 of this act.

14 (3) By July 1, 2005, and each July 1st thereafter, the department  
15 and the commission must jointly report to the legislature and the  
16 governor whether and how the standards in sections 4 and 5 of this act  
17 have been met for the previous calendar year.

18 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.21F RCW  
19 to read as follows:

20 (1) The department shall adopt rules governing the reporting  
21 requirements in section 6(1) of this act.

22 (2) The department shall adopt rules establishing criteria for  
23 determining whether resources qualify as alternative energy resources  
24 or conservation and efficiency resources as defined in RCW 80.60.010.  
25 To the extent practicable, these criteria shall be consistent with any  
26 pertinent recommendations of the regional technical forum of the  
27 Pacific Northwest electric power and conservation planning council  
28 created under P.L. 96-501, 16 U.S.C. Sec. 839. The department may  
29 establish procedures by which an electric utility, except an electric  
30 company, that makes expenditures for eligible conservation and  
31 efficiency resources in an amount equivalent to two percent of its  
32 previous calendar year's gross revenues from the bundled sale of  
33 electricity to Washington retail customers is deemed to have dedicated  
34 one-half of one percent of its resources toward the conservation and  
35 efficiency requirements of section 4 of this act. The rules shall  
36 include criteria for qualifying expenditures for weatherization of

1 low-income households as conservation and efficiency resources. The  
2 department shall also consider energy savings realized from smart  
3 meters and other energy management systems in establishing criteria  
4 under this section.

5 (3) By July 1, 2005, the department shall establish criteria by  
6 which utilities may meet the provisions of sections 4 and 5 of this act  
7 through a qualified diversity resource credit trading program. For  
8 purposes of this section, "qualified diversity resource credit trading  
9 program" means a clearinghouse or other system through which a utility  
10 may secure, for trade or other consideration, verifiable evidence that  
11 a second party has developed a qualified diversity resource equivalent  
12 in part or in full to the utility's obligation under this section and  
13 that the second party agrees to transfer such evidence exclusively to  
14 the credit of the utility. The department shall report to the  
15 legislature regarding the establishment of any credit trading program  
16 under this section.

17 NEW SECTION. **Sec. 8.** A new section is added to chapter 80.28 RCW  
18 to read as follows:

19 The commission shall adopt rules to implement sections 4 through 6  
20 of this act with respect to electrical companies and gas companies.  
21 The rules may include criteria to establish equivalence between an  
22 electric company's expenditure levels for conservation and efficiency  
23 resources and the performance standard percentages set out in sections  
24 4 and 5 of this act.

25 NEW SECTION. **Sec. 9.** Each electric utility, as defined in RCW  
26 80.60.010, shall undertake and complete by January 1, 2005, a  
27 feasibility study to determine effective methods for reducing by at  
28 least three percent use of electricity during daily peak periods of  
29 electricity demand. Each utility shall report the results of its study  
30 under section 6 of this act. The study shall consider the feasibility  
31 and effectiveness of such factors as: Providing consumers information  
32 on the cost of electricity at different times of day or season; "smart  
33 meters" technology or other energy management systems that enable  
34 consumers and utilities to improve management of electricity supply and  
35 cost; and rate structures that create an incentive for demand reduction  
36 dispatched by utilities.

1        NEW SECTION.   **Sec. 10.**   Sections 1 and 4 through 6 of this act are  
2 each added to chapter 80.60 RCW.

3        NEW SECTION.   **Sec. 11.**   If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

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