
HOUSE BILL 2333

State of Washington 58th Legislature 2004 Regular Session

By Representatives Hudgins, Schual-Berke, O'Brien, Upthegrove, Wood, Ruderman, Chase, Murray, Sullivan, Hunt, G. Simpson, Haigh and Morrell

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1 AN ACT Relating to energy efficiency and renewable energy;
2 reenacting and amending RCW 19.29A.090; adding a new section to chapter
3 42.17 RCW; and adding a new chapter to Title 80 RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Washington's utilities have been historical leaders in
7 developing renewable hydroelectric energy and investing in energy
8 efficiency. The state economy has greatly benefited from the strong
9 foundation of low-cost hydroelectric generation as well as forward-
10 looking investments in energy efficiency;

11 (2) Washington has a long tradition of energy policies that support
12 energy efficiency and renewable energy development. These policies,
13 which include financial incentives, have stimulated economic
14 development, reduced operating costs for businesses, made industries
15 more competitive, made homes more comfortable and efficient, reduced
16 the energy burden of low-income households, and protected the
17 environment;

18 (3) Washington is blessed with an abundance of local renewable
19 energy resources;

1 (4) Washington utility green tariff programs have stimulated
2 consumer interest and modest investments in renewable energy
3 development;

4 (5) Uncertainty in the electric industry about the industry's long-
5 term regulatory construct has shortened utility planning horizons and
6 reduced the confidence of electric utilities to recover investments in
7 energy conservation, system reliability, and new generation, including
8 renewable energy resources;

9 (6) The 2003 northeast blackouts and western energy crisis of
10 2000-2001 demonstrated the vulnerability of an energy system reliant on
11 transmission of electricity distant from load centers, increasingly
12 strained water resources, and natural gas impacted by volatile market
13 prices;

14 (7) Aggregation of utility purchasing power under statewide goals
15 to acquire additional renewable generation and energy efficiency
16 resources on behalf of all ratepayers is vital to create high-quality
17 jobs, promote rural economic development, and stabilize energy supplies
18 and prices;

19 (8) Washington electric ratepayers will benefit from resource
20 planning and acquisition that hedges against future fuel price risk by
21 assisting utilities in developing a diverse portfolio of resources to
22 meet customer needs;

23 (9) Encouraging irrigators to increase the efficiency of their
24 operations will yield substantial benefits by reducing peak demands of
25 both electricity and water supplies, improving farm economics, and
26 maximizing use of water resources; and

27 (10) Fuel diversity, economic, and environmental benefits from
28 renewable energy and efficiency resources accrue to the public at
29 large, and therefore all consumers and utilities should support
30 consistent development of these resources to meet the state's electric
31 demand and stabilize electricity prices.

32 NEW SECTION. **Sec. 2.** The definitions in this section apply
33 throughout this chapter unless the context clearly requires otherwise.

34 (1) "Commission" means the Washington state utilities and
35 transportation commission.

36 (2) "Conservation" means any reduction in electric power

1 consumption as a result of increases in the efficiency of energy use,
2 production, distribution, or transmission.

3 (3) "Consumer-owned utility" includes a municipal electric utility
4 formed under Title 35 RCW, a public utility district formed under Title
5 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
6 cooperative formed under chapter 23.86 RCW, a mutual corporation or
7 association formed under chapter 24.06 RCW, a port district formed
8 under Title 53 RCW, or a water-sewer district formed under Title 57
9 RCW, that is engaged in the business of distributing electricity to one
10 or more retail electric customers in the state.

11 (4) "Cost-effective" has the same meaning as in RCW 80.52.030.

12 (5) "Department" means the department of community, trade, and
13 economic development.

14 (6) "Distributed generation" means either an electricity generation
15 system that uses as its fuel an eligible renewable resource or a fuel
16 cell as defined in RCW 43.19.651, and: (a) Is available on-site and
17 not from a commercial source, and (b) has a generating capacity of not
18 more than twenty-five kilowatts.

19 (7) "Electric utility" means a consumer-owned or investor-owned
20 utility.

21 (8) "Eligible renewable resources" means:

22 (a) Electricity generation facilities powered by a renewable
23 resource other than fresh water that commenced operation between April
24 1, 1999, and April 1, 2002, and that are used to serve Washington
25 retail electricity customers;

26 (b) Additions made to electricity generation facilities powered by
27 a renewable resource other than fresh water, that commenced operation
28 between April 1, 1999, and April 1, 2002, where electricity generated
29 from the renewable resource is used to serve Washington retail
30 electricity customers;

31 (c) Electricity generation facilities powered by a renewable
32 resource other than fresh water that are contracted between April 1,
33 1999, and April 1, 2002, for delivery to Washington retail electricity
34 customers;

35 (d) Electricity generation facilities powered by a renewable
36 resource other than fresh water that commence operation after April 1,
37 2002, and any subsequent additions to those facilities, that are
38 located in the Pacific Northwest;

1 (e) Additional power generation achieved, above original design
2 specifications, at hydroelectric facilities operating on April 1, 1999,
3 that are located in the Pacific Northwest, where that additional
4 generation results from upgrades or improvements completed after
5 December 31, 2003, and does not result in any new water diversions; or

6 (f) Additions to hydroelectric generating capacity operating on
7 April 1, 1999, in irrigation pipes and canals that are located in the
8 Pacific Northwest, where the additional generation results from
9 upgrades or improvements completed after December 31, 2003, and does
10 not result in any new water diversions.

11 (9) "Governing body" means the board of directors, city council,
12 commissioners, or board of any consumer-owned utility.

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

17 (11) "Low income" means a household meeting the income eligibility
18 guidelines determined by the department.

19 (12) "Low-income energy efficiency services" include energy-related
20 repairs, weatherization, health and safety measures, installation of
21 energy-efficient appliances and fixtures for low-income residences, and
22 investment in new construction of low-income households that exceed the
23 state energy code, as well as energy education, for the purpose of
24 enhancing energy efficiency.

25 (13) "Market customer" means a nonresidential electricity customer
26 in Washington that, after April 4, 2001, does not purchase its
27 electricity as a retail customer of an electric utility.

28 (14) "Pacific Northwest" has the same meaning as defined in section
29 3 of the Pacific Northwest electric power planning and conservation
30 act, P.L. 96-501 (16 U.S.C. Sec. 389a; 94 Stat. 2698).

31 (15) "Renewable energy credit" means a tradable certificate of
32 proof of one megawatt-hour of electricity generated from a renewable
33 resource that: (a) Is located in the United States portion of the
34 western region as defined by the western electricity coordinating
35 council; (b) commenced construction after December 31, 2003; (c) is not
36 powered by fresh water; and (d) is verified by the renewable energy
37 credit trading system selected by the department.

1 (16) "Renewable resources" means electricity generation facilities
2 fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal
3 energy; (e) landfill gas; (f) biomass energy based on animal waste or
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; (g) wave or tidal power; or (h) gas from sewage
8 treatment facilities.

9 (17) "Retail load" means the amount of kilowatt-hours of
10 electricity delivered by an electric utility to its Washington retail
11 customers.

12 (18) "Small utility" means a small utility as defined in RCW
13 19.29A.010.

14 NEW SECTION. **Sec. 3.** (1) The following energy efficiency standard
15 is established:

16 (a) Beginning January 1, 2006, and each year thereafter through
17 December 31, 2009, each electric utility shall on average annually
18 acquire electricity savings directly attributable to conservation
19 programs serving its Washington retail customers sufficient to meet an
20 amount equal to seventy-five one-hundredths of one percent of the
21 utility's 2005 retail load. By December 31, 2009, the electricity
22 savings acquired from the conservation programs implemented during the
23 preceding four-year period must meet at least three and seventy-five
24 one-hundredths of one percent of the utility's 2005 retail load.

25 (b) Beginning January 1, 2010, and each year thereafter through
26 December 31, 2012, each electric utility shall on average annually
27 acquire electricity savings directly attributable to conservation
28 programs serving its Washington retail customers sufficient to meet an
29 amount equal to eighty-five one-hundredths of one percent of the
30 utility's 2009 retail load. By December 31, 2012, the electricity
31 savings acquired from the conservation programs implemented during the
32 preceding three-year period will meet at least two and fifty-five one-
33 hundredths of one percent of the utility's 2009 retail load.

34 (c) Each electric utility shall continue to comply with the
35 standard established in subsection (1)(b) of this section for each
36 subsequent three-year period. The amount of conservation the utility

1 needs to acquire to meet the standard will be based on that utility's
2 retail load for the calendar year immediately preceding each three-year
3 period.

4 (2) Nothing in this chapter limits electric utilities from
5 exceeding the energy efficiency standard.

6 (3) An electric utility shall meet at least five percent of its
7 annual energy efficiency standard requirement with low-income energy
8 efficiency services, unless it can demonstrate to the commission in the
9 case of an investor-owned utility or the department in the case of a
10 consumer-owned utility that sufficient opportunities at cost do not
11 exist within its service territory for conserving energy in low-income
12 households.

13 (4) In meeting the energy efficiency standard, an electric utility
14 may count conservation it implements even if it also receives credit or
15 funding for that conservation from the Bonneville power administration.

16 (5) An electric utility contributing to the northwest energy
17 efficiency alliance on its own or through its Bonneville power
18 administration rates may be credited for its share of annual accrued
19 energy savings as determined by the northwest energy efficiency
20 alliance. That credit shall not exceed twenty percent of the utility's
21 annual energy efficiency standard requirement.

22 (6) An electric utility or market customer may acquire up to
23 fifteen percent of the energy savings to meet the annual energy
24 efficiency standard using high-efficiency cogeneration. The energy
25 savings resulting from the use of high-efficiency cogeneration are
26 calculated as the difference in energy used by the high-efficiency
27 cogeneration unit and the energy used by equivalent stand-alone thermal
28 and electricity generation processes.

29 (7) Each electric utility shall use practices generally accepted in
30 the Pacific Northwest to measure accrued savings from conservation,
31 including monitoring and verification of those savings.

32 (8) Each electric utility shall pursue energy conservation
33 opportunities in each customer class to achieve savings that are not
34 independently captured by consumer acquisition. The portfolio of
35 energy conservation programs used to meet the efficiency standard must
36 be cost-effective. A conservation program implemented by an investor-
37 owned utility is cost-effective if it passes the total resource cost
38 test as defined by the commission.

1 (9) If an electric utility can demonstrate to the commission in the
2 case of an investor-owned utility or the department in the case of a
3 consumer-owned utility that it is unable to meet the energy efficiency
4 standard created in this section due to a lack of sufficient
5 opportunities for acquiring conservation, that utility can petition to
6 the commission or department, as appropriate, to meet a lesser
7 standard.

8 (10) The provisions of this section do not apply to a small
9 utility. However, nothing in this chapter prohibits the governing body
10 of a small utility from determining the utility should comply with any
11 or all of the provisions of this chapter, which governing bodies are
12 encouraged to do. At any time after this energy efficiency standard is
13 enacted, if a utility no longer meets the definition of a small
14 utility, that utility will be required to meet the provisions of this
15 chapter.

16 NEW SECTION. **Sec. 4.** (1) The following renewable energy standard
17 is established:

18 (a) By January 1, 2010, and each year thereafter through December
19 31, 2014, each electric utility shall use eligible renewable resources
20 or acquire equivalent renewable energy credits, or a combination of
21 both, to serve at least five percent of its annual retail load.

22 (b) By January 1, 2015, and each year thereafter through December
23 31, 2022, each electric utility shall use eligible renewable resources
24 or acquire equivalent renewable energy credits, or a combination of
25 both, to serve at least ten percent of its annual retail load.

26 (c) By January 1, 2023, and each year thereafter, each electric
27 utility shall use eligible renewable resources or acquire equivalent
28 renewable energy credits, or a combination of both, to serve at least
29 fifteen percent of its annual retail load.

30 (2) Nothing in this chapter limits electric utilities from
31 exceeding this renewable energy standard.

32 (3) In meeting this renewable energy standard, an electric utility
33 may count eligible renewable resources even if it also receives credit
34 or funding from the Bonneville power administration for those
35 resources.

36 (4) In meeting this renewable energy standard, a consumer-owned
37 utility that is a customer of the Bonneville power administration can

1 count that portion of its load served by eligible renewable resources
2 that are part of the Bonneville power administration's system mix. A
3 utility also can receive credit toward meeting this standard for the
4 portion of environmentally preferred power it purchases from the
5 Bonneville power administration that meets the definition of an
6 eligible renewable resource.

7 (5) An electric utility that offers an optional pricing program
8 that charges a higher rate for electricity generated from renewable
9 energy resources shall not include the renewable energy generated under
10 such a program as eligible renewable energy in its compliance with this
11 renewable energy standard.

12 (6) When an electric utility acquires sufficient eligible renewable
13 resources or renewable energy credits, or a combination of both, to
14 serve at least five percent of its annual retail load, the utility may
15 elect after notifying its retail electricity customers to discontinue
16 meeting the terms and conditions of RCW 19.29A.090. Nothing in this
17 section prohibits a utility from continuing to offer its retail
18 electricity customers a voluntary option to purchase qualified
19 alternative energy resources in accordance with RCW 19.29A.090.

20 (7)(a) If an electric utility can demonstrate to the commission in
21 the case of an investor-owned utility or the department in the case of
22 a consumer-owned utility that it is unable to meet the renewable energy
23 standard created in this section due to insufficient availability of
24 eligible renewable resources and renewable energy credits in an amount
25 equal to or below the cost cap described in (b) of this subsection,
26 that utility can petition to the commission or department, as
27 appropriate, to meet a lesser standard.

28 (b) The renewable energy standard shall not require an electric
29 utility to incur a cost per megawatt hour greater than forty-five
30 dollars for any eligible renewable resource or renewable energy credit.
31 The cost per megawatt hour means the cost of the electricity at the
32 point of entry onto the electric grid. Beginning in 2006, this cost
33 cap shall be adjusted annually by the rate of change of the inflation
34 indicator "gross domestic product-implicit price deflator" as published
35 by the bureau of economic analysis, United States department of
36 commerce.

37 (8)(a) An electric utility or market customer may receive

1 additional credit toward meeting the renewable energy standard if it
2 acquires eligible renewable resources physically located in Washington
3 state:

4 (i) Where the eligible renewable resource commenced construction
5 after December 31, 2003; and

6 (ii) Where the electric utility or market customer purchased or
7 contracted for the eligible renewable resource by December 31, 2007.

8 (b) An electric utility or market customer that acquires energy
9 from an eligible renewable resource that meets the criteria under this
10 section may count that resource above its base value in meeting the
11 renewable energy standard according to the following benchmarks:

12 (i) Energy from an eligible renewable resource purchased or
13 contracted by December 31, 2004, can be counted at one and one-tenth
14 times its base value;

15 (ii) Energy from an eligible renewable resource purchased or
16 contracted by December 31, 2005, can be counted at one and nine-
17 hundredths times its base value;

18 (iii) Energy from an eligible renewable resource purchased or
19 contracted by December 31, 2006, can be counted at one and eight-
20 hundredths times its base value; or

21 (iv) Energy from an eligible renewable resource purchased or
22 contracted by December 31, 2007, can be counted at one and seven-
23 hundredths times its base value.

24 (9)(a) An electric utility or market customer may receive
25 additional credit toward meeting the renewable energy standard if it
26 acquires eligible renewable resources physically located in Washington
27 state or renewable energy credits from an eligible renewable resource
28 physically located in Washington state:

29 (i) Where the eligible renewable resource commenced construction
30 after December 31, 2003; and

31 (ii) Where the renewable energy developer used apprenticeship
32 programs during construction of the eligible renewable resources.

33 (b) The apprenticeship programs must be approved by the
34 apprenticeship council under its authority in chapter 49.04 RCW,
35 according to the following benchmarks:

36 (i) Minimum levels of apprenticeship programs shall be ten percent
37 of total labor hours for projects commencing construction after
38 December 31, 2007;

1 (ii) Minimum levels of apprenticeship programs shall be twelve and
2 one-half percent of total labor hours for projects commencing
3 construction after December 31, 2014; or

4 (iii) Minimum levels of apprenticeship programs shall be fifteen
5 percent of total labor hours for projects commencing construction after
6 December 31, 2021.

7 (c) The apprenticeship council will determine if construction of an
8 eligible renewable resource meets one of the benchmarks listed in (b)
9 of this subsection.

10 (d) An electric utility or market customer that acquires energy or
11 renewable energy credits from an eligible renewable resource that meets
12 the criteria under this section may count that resource at one and two-
13 tenths times its base value in meeting the renewable energy standard.

14 (10) The provisions of this section do not apply to a small
15 utility. However, nothing in this chapter prohibits the governing body
16 of a small utility from determining the utility should comply with any
17 of the provisions of this chapter, which governing bodies are
18 encouraged to do. At any time after this renewable energy standard is
19 enacted, if a utility no longer meets the definition of a small
20 utility, that utility will be required to meet the provisions of this
21 chapter.

22 NEW SECTION. **Sec. 5.** (1) Each market customer shall meet the
23 energy efficiency standard established in section 3 of this act within
24 its facilities through conservation or by reducing the quantity of
25 energy required to sustain a given level of energy service or
26 industrial production, or both.

27 (2) Each market customer shall meet the renewable energy standard
28 established in section 4 of this act by acquiring eligible renewable
29 energy resources or equivalent renewable energy credits to serve its
30 facilities.

31 (3) A market customer shall meet the efficiency and renewable
32 energy standards established in this chapter for that portion of its
33 electricity needs not met through being a retail customer of an
34 electric utility.

35 (4) Nothing in this chapter limits a market customer from exceeding
36 the energy efficiency and renewable energy standards.

1 (5) To determine the amount of conservation and eligible renewable
2 resources needed to meet the standards, each market customer shall rely
3 on consumption data for the most recent calendar year for the portion
4 of its electricity needs not met through being a retail customer of an
5 electric utility. The customer shall report this data to the
6 department annually. The department may request metered data from the
7 utility providing electricity distribution services to the customer to
8 verify the consumption data. Documentation provided to the department
9 is considered proprietary information and is not subject to chapter
10 42.17 RCW. The department may report such information only in the
11 aggregate for all such customers in the state.

12 (6) Each market customer will secure an independent audit to verify
13 electricity savings from conservation installed in its facilities.

14 (7) If a market customer can demonstrate to the department through
15 an independent audit that it is unable to meet the energy efficiency
16 standard created in section 3 of this act due to a lack of sufficient
17 opportunities for acquiring conservation or reducing the quantity of
18 energy required to sustain a given level of energy service or
19 industrial production, that customer can petition to the department to
20 meet a lesser standard.

21 NEW SECTION. **Sec. 6.** (1) An electric utility may count eligible
22 distributed generation towards meeting both the renewable energy and
23 energy efficiency standards if the utility: (a) Owns the distributed
24 generation facility and the renewable energy credits produced by the
25 facility; or (b) through contract with a retail electric customer has
26 purchased the renewable energy credits of a distributed generation
27 facility.

28 (2) Market customers may count distributed generation towards
29 meeting both the renewable energy and energy efficiency standards for
30 the amount of electricity produced annually from that distributed
31 generation system that is used to serve the customer's electricity
32 needs as long as the market customer retains the renewable energy
33 credits associated with the distributed generation system.

34 (3) An electric utility or market customer may receive credit
35 towards meeting the energy efficiency or renewable energy standards for
36 resources when the utility or market customer also receives credit or
37 funding for those same resources under an efficiency or renewable

1 standard established by federal legislation. However, an electric
2 utility or market customer may not receive credit towards meeting the
3 energy efficiency or renewable energy standards for resources when the
4 utility or market customer also receives credit or funding for those
5 same resources under an efficiency or renewable standard established by
6 legislation in another state.

7 (4) In preparing a least cost plan, integrated resource plan, or
8 equivalent analysis that describes the mix of generating resources and
9 improvements in the efficient use of electricity that will meet current
10 and future needs of the utility and its ratepayers, an electric utility
11 must include in its modeling and analysis an assumption that the
12 renewable energy and energy efficiency standards established in this
13 chapter will be met.

14 NEW SECTION. **Sec. 7.** (1) The department must convene a group of
15 stakeholders, including the commission, to advise it on the following:

16 (a) Development of criteria for cost-effective conservation that
17 qualifies toward the energy efficiency standard and program
18 implementation guidelines, including verification and monitoring of
19 savings. The department will consider all existing and appropriate
20 criteria and guidelines where applicable, and may rely on work of
21 regional power planning committees in determining criteria and
22 guidelines;

23 (b) Development of a definition of high-efficiency cogeneration
24 that accounts for technological improvements over time;

25 (c) Selection of an existing system of renewable energy credits
26 that may be used to comply with section 4 of this act. The department
27 will consider all existing and appropriate systems and organizations
28 that facilitate renewable energy credit trading westernwide or
29 nationally; and

30 (d) Development of an appropriate implementation schedule for the
31 provisions of this chapter for any utility that no longer meets the
32 definition of a small utility after the effective date of this act.

33 (2) By June 30, 2005, the department may adopt rules governing the
34 issues listed in subsection (1) of this section.

35 (3) By January 1, 2007, the department must select a system of
36 renewable energy credits that may be used to comply with section 4 of
37 this act.

1 (4) For investor-owned utilities, the commission has the exclusive
2 authority to approve criteria, program implementation guidelines, and
3 appropriate financing and accounting mechanisms for expenditures
4 related to acquisition of eligible renewable resources and
5 conservation. In determining whether costs associated with procuring
6 resources in accordance with this chapter are prudently incurred by an
7 investor-owned utility and should be recovered in rates, the commission
8 shall apply the same principles it uses in determining prudence and
9 cost recovery for other electricity resources used to serve customers
10 in the state of Washington.

11 NEW SECTION. **Sec. 8.** (1) On or before June 1, 2007, each electric
12 utility and market customer must demonstrate progress in meeting the
13 efficiency and renewable standards in this chapter. Investor-owned
14 utilities will report to the commission, and consumer-owned utilities
15 and market customers will report to the department.

16 (2) On or before June 1, 2010, and annually thereafter, each
17 electric utility and market customer must demonstrate compliance with
18 the efficiency and renewable standards in this chapter, for the annual
19 period ending the previous December 31st. Each investor-owned utility
20 will demonstrate compliance to its customers in published form and to
21 the commission which will share this information with the department.
22 Each consumer-owned utility will demonstrate compliance to its
23 customers in published form, to its governing body, and to the
24 department. Each market customer will demonstrate compliance to the
25 department.

26 (3) Each report to the commission or the department must include at
27 least the following: The amount of electricity generated or acquired
28 from each eligible renewable resource; the amount of renewable energy
29 credits acquired, sold, or traded; the annual retail load for an
30 electric utility or the annual electricity consumption data for a
31 market customer; and the amount of conservation annually acquired,
32 including the amount of low-income energy efficiency services provided,
33 the amount of high-efficiency cogeneration used to meet the standard,
34 and the amount of conservation savings from the northwest energy
35 efficiency alliance used to meet the standard.

1 NEW SECTION. **Sec. 9.** (1) On or before December 1, 2010, and
2 biennially thereafter, the department and commission shall submit a
3 report to the legislature on the accomplishments of the efficiency and
4 renewable standards created in this chapter, including unachieved cost-
5 effective conservation opportunities, and make recommendations for
6 revisions to the standards. The commission may initiate rule-making
7 proceedings based on the results of these reports to modify
8 requirements imposed on investor-owned utilities.

9 (2) On or before January 1, 2016, the department shall review and
10 recommend to the legislature continuation or modification of the
11 efficiency and renewable standards based on assessments of the
12 effectiveness of the standards, market conditions, and unachieved
13 opportunities.

14 NEW SECTION. **Sec. 10.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 11.** A new section is added to chapter 42.17 RCW
19 to read as follows:

20 Documentation collected by the department of community, trade, and
21 economic development under section 5(5) of this act from market
22 customers is exempt from disclosure under this chapter.

23 **Sec. 12.** RCW 19.29A.090 and 2002 c 285 s 6 and 2002 c 191 s 1 are
24 each reenacted and amended to read as follows:

25 (1) Beginning January 1, 2002, and except as provided in section 4
26 of this act, each electric utility must provide to its retail
27 electricity customers a voluntary option to purchase qualified
28 alternative energy resources in accordance with this section.

29 (2) Each electric utility must include with its retail electric
30 customer's regular billing statements, at least quarterly, a voluntary
31 option to purchase qualified alternative energy resources. The option
32 may allow customers to purchase qualified alternative energy resources
33 at fixed or variable rates and for fixed or variable periods of time,
34 including but not limited to monthly, quarterly, or annual purchase
35 agreements. A utility may provide qualified alternative energy

1 resource options through either: (a) Resources it owns or contracts
2 for; or (b) the purchase of credits issued by a clearinghouse or other
3 system by which the utility may secure, for trade or other
4 consideration, verifiable evidence that a second party has a qualified
5 alternative energy resource and that the second party agrees to
6 transfer such evidence exclusively to the benefit of the utility.

7 (3) For the purposes of this section, a "qualified alternative
8 energy resource" means the electricity produced from generation
9 facilities that are fueled by: (a) Wind; (b) solar energy; (c)
10 geothermal energy; (d) landfill gas; (e) wave or tidal action; (f) gas
11 produced during the treatment of wastewater; (g) qualified hydropower;
12 or (h) biomass energy based on animal waste or solid organic fuels from
13 wood, forest, or field residues, or dedicated energy crops that do not
14 include wood pieces that have been treated with chemical preservatives
15 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

16 (4) For the purposes of this section, "qualified hydropower" means
17 the energy produced either: (a) As a result of modernizations or
18 upgrades made after June 1, 1998, to hydropower facilities operating on
19 May 8, 2001, that have been demonstrated to reduce the mortality of
20 anadromous fish; or (b) by run of the river or run of the canal
21 hydropower facilities that are not responsible for obstructing the
22 passage of anadromous fish.

23 (5) The rates, terms, conditions, and customer notification of each
24 utility's option or options offered in accordance with this section
25 must be approved by the governing body of the consumer-owned utility or
26 by the commission for investor-owned utilities. All costs and benefits
27 associated with any option offered by an electric utility under this
28 section must be allocated to the customers who voluntarily choose that
29 option and may not be shifted to any customers who have not chosen such
30 option. Utilities may pursue known, lawful aggregated purchasing of
31 qualified alternative energy resources with other utilities to the
32 extent aggregated purchasing can reduce the unit cost of qualified
33 alternative energy resources, and are encouraged to investigate
34 opportunities to aggregate the purchase of alternative energy resources
35 by their customers. Aggregated purchases by investor-owned utilities
36 must comply with any applicable rules or policies adopted by the
37 commission related to least-cost planning or the acquisition of
38 renewable resources.

1 (6) Each consumer-owned utility must report annually to the
2 department and each investor-owned utility must report annually to the
3 commission beginning October 1, 2002, until October 1, 2012, describing
4 the option or options it is offering its customers under the
5 requirements of this section, the rate of customer participation, the
6 amount of qualified alternative energy resources purchased by
7 customers, the amount of utility investments in qualified alternative
8 energy resources, and the results of pursuing aggregated purchasing
9 opportunities. The department and the commission together shall report
10 annually to the legislature, beginning December 1, 2002, until December
11 1, 2012, with the results of the utility reports.

12 NEW SECTION. **Sec. 13.** Sections 1 through 10 of this act
13 constitute a new chapter in Title 80 RCW.

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