
HOUSE BILL 2971

State of Washington

58th Legislature

2004 Regular Session

By Representatives Morris, Crouse, Sullivan, Nixon, Ruderman, Anderson, Hudgins, Bush, Wood, McMorris, McDonald, Linville, Quall, Rockefeller and Kagi

Read first time 01/26/2004. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to providing incentives for the voluntary option
2 for retail electric customers to purchase qualified alternative energy
3 resources from their electric utility suppliers; amending RCW
4 82.16.0491; reenacting and amending RCW 19.29A.090; adding new sections
5 to chapter 82.16 RCW; creating a new section; providing an effective
6 date; and providing expiration dates.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

9 (a) In 2001, the legislature recognized the importance of advancing
10 the development of a market for qualified alternative energy resources
11 by requiring as a matter of law that all electric utilities in the
12 state, except small utilities, offer a green rate option, which entails
13 the offering of a voluntary option for retail electric customers to
14 purchase qualified alternative energy resources through their local
15 utility;

16 (b) Green rate options have generally been successful, even though
17 they have been offered less than three years. However, two factors may
18 be hindering the progress of these programs. One is that renewable
19 resources have cost more than basic electric utility rates, making the

1 options less economically attractive to customers. The second factor
2 is a requirement that all costs associated with a green rate option
3 must be borne by those customers who subscribe to it;

4 (c) Because all costs involved with providing a green rate option
5 must be allocated to its subscribers, marketing costs can compound an
6 option's comparatively high cost and may diminish customer interest in
7 it; and

8 (d) The high cost of green rate options relative to basic electric
9 utility rates may be a particular economic deterrent to low-income
10 residential customers.

11 (2) Therefore, the legislature declares:

12 (a) It is in the public interest that electric utilities that offer
13 a green rate option should be allowed a tax incentive to more
14 aggressively market their programs with little or no additional expense
15 to subscribers to the green rate option; and

16 (b) Low-income residential customers should be given an opportunity
17 to benefit from subscribing to a green rate option and contribute to
18 the betterment of the state's environment through a billing discount
19 for a green rate option that is supported by a tax incentive. Any
20 billing discount that is not supported by a tax incentive would merely
21 add to the cost of a green rate option to other customers and thus
22 reduce its economic attractiveness overall.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.16 RCW
24 to read as follows:

25 (1) Any light and power business that does not qualify for a tax
26 credit under RCW 82.16.0491(2) and that offers a voluntary option for
27 its retail electric customers to purchase qualified alternative energy
28 resources under RCW 19.29A.090 shall be allowed a credit against taxes
29 due under this chapter in an amount equal to fifty percent of all
30 expenditures made in the calendar year in which the credit is taken to
31 market its voluntary option program to retail electric customers.

32 (2) For a light and power business to take the credit under this
33 section, it must use the full value of the credit to supplement
34 expenditures to market its option under RCW 19.29A.090.

35 (3) Except as provided under subsection (4) of this section, no
36 light and power business shall be eligible for tax credits under this
37 section in excess of thirty-five thousand dollars in any calendar year.

1 The credit may not exceed the amount of tax that would otherwise be due
2 under this chapter. Expenditures not used to earn a credit in one
3 calendar year may not be used to earn a credit in subsequent years.

4 (4) A light and power business that qualifies for a tax credit
5 under RCW 82.16.0491(2) may take a credit under this section in an
6 amount equal to credit taken by the light and power business under RCW
7 82.16.0491 to market its option under RCW 19.29A.090. The combined
8 total of credit taken under this section and credit taken under RCW
9 82.16.0491 shall not exceed thirty-five thousand dollars in any
10 calendar year.

11 (5) Application for a tax credit under this section may only be
12 made in the form and manner prescribed in rules adopted by the
13 department.

14 (6) The credit under this section shall be taken not more than once
15 quarterly and not less than once annually against taxes due for the
16 same calendar year in which the amounts for which credit is claimed
17 were expended to promote a voluntary option to purchase qualified
18 alternative energy resources and must be claimed by the due date of the
19 last tax return for the calendar year in which the expenditure is made.

20 (7) This section expires December 31, 2013.

21 **Sec. 3.** RCW 82.16.0491 and 1999 c 311 s 402 are each amended to
22 read as follows:

23 (1) The following definitions apply to this section:

24 (a) "Qualifying project" means a project designed to achieve job
25 creation or business retention, to add or upgrade nonelectrical
26 infrastructure, to add or upgrade health and safety facilities, to
27 accomplish energy and water use efficiency improvements, including
28 renewable energy development, to market a voluntary option for retail
29 electric customers to purchase qualified alternative energy resources
30 under RCW 19.29A.090, or to add or upgrade emergency services in any
31 designated qualifying rural area.

32 (b) "Qualifying rural area" means:

33 (i) A rural county, which is a county with a population density of
34 less than one hundred persons per square mile as determined by the
35 office of financial management and published each year by the
36 department for the period July 1st to June 30th; or

1 (ii) Any geographic area in the state that receives electricity
2 from a light and power business with twelve thousand or fewer customers
3 and with fewer than twenty-six meters per mile of distribution line as
4 determined and published by the department of revenue effective July
5 1st of each year. The department shall use current data provided by
6 the electricity industry.

7 (c) "Electric utility rural economic development revolving fund"
8 means a fund devoted exclusively to funding qualifying projects in
9 qualifying rural areas.

10 (d) "Local board" is a board of directors with at least, but not
11 limited to, three members representing local businesses and community
12 groups who have been appointed by the sponsoring electric utility to
13 oversee and direct the activities of the electric utility rural
14 economic development revolving fund.

15 (2) A light and power business with fewer than twenty-six active
16 meters per mile of distribution line in any geographic area in the
17 state shall be allowed a credit against taxes due under this chapter in
18 an amount equal to fifty percent of contributions made in any calendar
19 year directly to an electric utility rural economic development
20 revolving fund. The credit shall be taken in a form and manner as
21 required by the department. The credit under this section shall not
22 exceed twenty-five thousand dollars per calendar year per light and
23 power business. The credit may not exceed the tax that would otherwise
24 be due under this chapter. Refunds shall not be granted in the place
25 of credits. Expenditures not used to earn a credit in one calendar
26 year may not be used to earn a credit in subsequent years.

27 (3) The right to earn tax credits under this section expires
28 December 31, ((2005)) 2013.

29 (4) To qualify for the credit in subsection (2) of this section,
30 the light and power business shall establish an electric utility rural
31 economic development revolving fund which is governed by a local board
32 whose members shall reside in the qualifying rural area served by the
33 light and power business. The local board shall have authority to
34 determine all criteria and conditions for the expenditure of funds from
35 the electric utility rural economic development ((~~revolving~~))
36 revolving fund, and for the terms and conditions of repayment.

37 (5) Any funds repaid to the electric utility rural economic

1 development (~~(revolving)~~) revolving fund by recipients shall be made
2 available for additional qualifying projects.

3 (6) If at any time the electric utility rural economic development
4 (~~(revolving)~~) revolving fund is dissolved, any moneys claimed as a
5 tax credit under this section shall either be granted to a qualifying
6 project or refunded to the state within two years of termination.

7 (7) The total amount of credits that may be used in any fiscal year
8 shall not exceed three hundred fifty thousand dollars in any fiscal
9 year. The department shall allow the use of earned credits on a first-
10 come, first-served basis. Unused earned credits may be carried over to
11 subsequent years.

12 NEW SECTION. Sec. 4. A new section is added to chapter 82.16 RCW
13 to read as follows:

14 (1) Any light and power business that offers a voluntary option for
15 its retail electric customers to purchase qualified alternative energy
16 resources under RCW 19.29A.090 shall be allowed a credit for amounts
17 supporting low-income billing discounts provided under RCW 19.29A.090.

18 (2) The credit allowed for the value of low-income billing
19 discounts under this section shall not exceed one hundred dollars per
20 customer per calendar year.

21 (3) No light and power business shall be eligible for tax credits
22 under this section in excess of one hundred thousand dollars in any
23 calendar year. The credit may not exceed the amount of tax that would
24 otherwise be due under this chapter. Refunds shall not be granted in
25 place of credits. Expenditures not used to earn a credit in one
26 calendar year may not be used to earn a credit in subsequent years.

27 (4) Application for a tax credit under this section may only be
28 made in the form and manner prescribed in rules adopted by the
29 department.

30 (5) The credit under this section shall be taken not more than once
31 quarterly and not less than once annually against taxes due for the
32 same calendar year in which the amounts for which credit is claimed
33 were used for billing discounts and must be claimed by the due date of
34 the last tax return for the calendar year in which the expenditure is
35 made.

36 (6) For the purposes of this section: (a) "Low-income residential
37 customer" means a low-income household as defined on December 31, 2003,

1 in the low-income home energy assistance act of 1981 as amended August
2 1, 1999, 42 U.S.C. Sec. 8623 et seq.; and (b) "low-income billing
3 discount" means a reduction in the amount charged by an electric
4 utility for providing an option to purchase qualified alternative
5 energy resources to low-income residential customers.

6 (7) This section expires December 31, 2013.

7 **Sec. 5.** RCW 19.29A.090 and 2002 c 285 s 6 and 2002 c 191 s 1 are
8 each reenacted and amended to read as follows:

9 (1) Beginning January 1, 2002, each electric utility must provide
10 to its retail electricity customers a voluntary option to purchase
11 qualified alternative energy resources in accordance with this section.

12 (2) Each electric utility must include with its retail electric
13 customer's regular billing statements, at least quarterly, a voluntary
14 option to purchase qualified alternative energy resources. The option
15 may allow customers to purchase qualified alternative energy resources
16 at fixed or variable rates and for fixed or variable periods of time,
17 including but not limited to monthly, quarterly, or annual purchase
18 agreements. A utility may provide qualified alternative energy
19 resource options through either: (a) Resources it owns or contracts
20 for; or (b) the purchase of credits issued by a clearinghouse or other
21 system by which the utility may secure, for trade or other
22 consideration, verifiable evidence that a second party has a qualified
23 alternative energy resource and that the second party agrees to
24 transfer such evidence exclusively to the benefit of the utility.

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

34 (4) For the purposes of this section, "qualified hydropower" means
35 the energy produced either: (a) As a result of modernizations or
36 upgrades made after June 1, 1998, to hydropower facilities operating on
37 May 8, 2001, that have been demonstrated to reduce the mortality of

1 anadromous fish; or (b) by run of the river or run of the canal
2 hydropower facilities that are not responsible for obstructing the
3 passage of anadromous fish.

4 (5) The rates, terms, conditions, and customer notification of each
5 utility's option or options offered in accordance with this section
6 must be approved by the governing body of the consumer-owned utility or
7 by the commission for investor-owned utilities. All costs and benefits
8 associated with any option offered by an electric utility under this
9 section must be allocated to the customers who voluntarily choose that
10 option and may not be shifted to any customers who have not chosen such
11 option.

12 (6) Utilities may pursue known, lawful aggregated purchasing of
13 qualified alternative energy resources with other utilities to the
14 extent aggregated purchasing can reduce the unit cost of qualified
15 alternative energy resources, and are encouraged to investigate
16 opportunities to aggregate the purchase of alternative energy resources
17 by their customers. Aggregated purchases by investor-owned utilities
18 must comply with any applicable rules or policies adopted by the
19 commission related to least-cost planning or the acquisition of
20 renewable resources.

21 ~~((+6))~~ (7) Each consumer-owned utility must report annually to the
22 department and each investor-owned utility must report annually to the
23 commission beginning October 1, 2002, until October 1, 2012, describing
24 the option or options it is offering its customers under the
25 requirements of this section, the rate of customer participation, the
26 amount of qualified alternative energy resources purchased by
27 customers, the amount of utility investments in qualified alternative
28 energy resources, and the results of pursuing aggregated purchasing
29 opportunities. The department and the commission together shall report
30 annually to the legislature, beginning December 1, 2002, until December
31 1, 2012, with the results of the utility reports.

32 (8) Electric utilities may provide a low-income billing discount on
33 the option to purchase qualified alternative energy resources to any of
34 its low-income residential customers, for as long as a tax credit is
35 allowed for such discounts under section 4 of this act. Electric
36 utilities may seek the assistance of a qualifying organization to
37 identify low-income residential customers who should be eligible for a
38 low-income billing discount under this subsection.

1 (9) For the purposes of this section: (a) "Low-income residential
2 customer" means a low-income household as defined on December 31, 2003,
3 in the low-income home energy assistance act of 1981 as amended August
4 1, 1999, 42 U.S.C. Sec. 8623 et seq.; (b) "low-income billing discount"
5 means a reduction in the amount charged for providing an option to
6 purchase qualified alternative energy resources to low-income
7 residential customers by an electric utility; and (c) "qualifying
8 organization" means an entity that has a contractual agreement with the
9 department of community, trade, and economic development to administer
10 in a specified service area low-income home energy assistance funds
11 received from the federal government and such other funds that may be
12 received by the entity.

13 NEW SECTION. Sec. 6. Sections 2 and 4 of this act take effect
14 January 1, 2005.

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