

ESSB 5840 - H COMM AMD

By Committee on Technology, Energy & Communications

NOT ADOPTED 04/17/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 19.285.030 and 2007 c 1 s 3 are each amended to read
4 as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Attorney general" means the Washington state office of the
8 attorney general.

9 (2) "Auditor" means: (a) The Washington state auditor's office or
10 its designee for qualifying utilities under its jurisdiction that are
11 not investor-owned utilities; or (b) an independent auditor selected by
12 a qualifying utility that is not under the jurisdiction of the state
13 auditor and is not an investor-owned utility.

14 (3) "Biomass energy" includes: (a) Byproducts of pulping and wood
15 manufacturing process; (b) animal waste; (c) solid organic fuels from
16 wood; (d) forest or field residues; (e) wooden demolition or
17 construction debris; (f) food waste; (g) liquors derived from algae and
18 other sources; (h) dedicated energy crops; (i) biosolids; and (j) yard
19 waste. "Biomass energy" does not include wood pieces that have been
20 treated with chemical preservatives such as creosote,
21 pentachlorophenol, or copper-chrome-arsenic; wood from old growth
22 forests; or municipal solid waste.

23 (4) "Commission" means the Washington state utilities and
24 transportation commission.

25 ((+4)) (5) "Conservation" means any reduction in electric power
26 consumption resulting from increases in the efficiency of energy use,
27 production, or distribution.

28 ((+5)) (6) "Cost-effective" has the same meaning as defined in RCW
29 80.52.030.

1 ((+6)) (7) "Council" means the Washington state apprenticeship and
2 training council within the department of labor and industries.

3 ((+7)) (8) "Customer" means a person or entity that purchases
4 electricity for ultimate consumption and not for resale.

5 ((+8)) (9) "Department" means the department of community, trade,
6 and economic development or its successor.

7 ((+9)) (10) "Distributed generation" means an eligible renewable
8 resource where the generation facility or any integrated cluster of
9 such facilities has a generating capacity of not more than ((five))
10 seven megawatts.

11 ((+10)) (11) "Eligible renewable resource" means:

12 (a) Electricity from a generation facility powered by a renewable
13 resource other than fresh water, except as provided in (b) and (d) of
14 this subsection, that commences operation after March 31, 1999,
15 where((+—(i))) the facility is located ((in the Pacific Northwest; or
16 (ii) the electricity from the facility is delivered into Washington
17 state on a real-time basis without shaping, storage, or integration
18 services)) within the geographic boundary of the western electricity
19 coordinating council or its successor entity except as provided in (c)
20 of this subsection; ((or))

21 (b) Incremental electricity produced as a result of efficiency
22 improvements completed after March 31, 1999, to hydroelectric
23 generation projects owned by a qualifying utility and located in the
24 Pacific Northwest or to hydroelectric generation in water supply pipes,
25 irrigation pipes ((and)), or canals located in the Pacific Northwest,
26 where the additional generation in either case does not result in new
27 water diversions or ((impoundments)) an increase in the amount of water
28 storage;

29 (c)(i) Electricity from a biomass energy powered generation
30 facility owned by a qualifying utility and located in Washington as of
31 the effective date of this section; (ii) or electricity from a biomass
32 energy powered generation facility located in Washington that commenced
33 operation after March 31, 1999; or (iii) a maximum of twenty-five
34 percent of the electricity from a biomass energy powered generation
35 facility located in Washington and in operation as of March 31, 1999,
36 that is not owned by a qualifying utility and is delivered to a
37 qualifying utility; or

1 (d) That portion of incremental electricity produced as a result of
2 efficiency improvements completed after March 31, 1999, attributable to
3 a qualifying utility's share of the electricity output to hydroelectric
4 generation projects whose energy output is marketed by the Bonneville
5 power administration where the additional generation does not result in
6 new water diversions or an increase in the amount of water storage.

7 ~~((11))~~ (12) "Investor-owned utility" has the same meaning as
8 defined in RCW 19.29A.010.

9 ~~((12))~~ (13) "Load" means the amount of kilowatt-hours of
10 electricity delivered in the most recently completed year by a
11 qualifying utility to its Washington retail customers.

12 ~~((13))~~ (14) "Nonpower attributes" means all environmentally
13 related characteristics, exclusive of energy, capacity reliability, and
14 other electrical power service attributes, that are associated with the
15 generation of electricity from a renewable resource, including but not
16 limited to the facility's fuel type, geographic location, vintage,
17 qualification as an eligible renewable resource, and avoided emissions
18 of pollutants to the air, soil, or water, and avoided emissions of
19 carbon dioxide and other greenhouse gases. For an anaerobic digester,
20 its nonpower attributes may be separated into avoided emissions of
21 carbon dioxide, and other greenhouse gases, and into renewable energy
22 credits.

23 ~~((14))~~ (15) "Pacific Northwest" has the same meaning as defined
24 for the Bonneville power administration in section 3 of the Pacific
25 Northwest electric power planning and conservation act (94 Stat. 2698;
26 16 U.S.C. Sec. 839a).

27 ~~((15))~~ (16) "Public facility" has the same meaning as defined in
28 RCW 39.35C.010.

29 ~~((16))~~ (17) "Qualifying utility" means an electric utility, as
30 the term "electric utility" is defined in RCW 19.29A.010, that serves
31 more than twenty-five thousand customers in the state of Washington.
32 The number of customers served may be based on data reported by a
33 utility in form 861, "annual electric utility report," filed with the
34 energy information administration, United States department of energy.

35 ~~((17))~~ (18) "Renewable energy credit" means a tradable
36 certificate of proof of at least one megawatt-hour of an eligible
37 renewable resource where the generation facility is not powered by
38 fresh water, the certificate includes all of the nonpower attributes

1 associated with that one megawatt-hour of electricity, and the
2 certificate is verified by a renewable energy credit tracking system
3 selected by the department.

4 ~~((+18))~~ (19) "Renewable resource" means: (a) Water; (b) wind; (c)
5 solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean,
6 or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
7 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
8 on land cleared from old growth ~~((or first growth))~~ forests where the
9 clearing occurred after December 7, 2006; ~~((and))~~ or (i) biomass energy
10 ~~((based on animal waste or solid organic fuels from wood, forest, or
11 field residues, or dedicated energy crops that do not include (i) wood
12 pieces that have been treated with chemical preservatives such as
13 creosote, pentachlorophenol, or copper chrome arsenic; (ii) black
14 liquor byproduct from paper production; (iii) wood from old growth
15 forests; or (iv) municipal solid waste))~~.

16 ~~((+19))~~ (20) "Rule" means rules adopted by an agency or other
17 entity of Washington state government to carry out the intent and
18 purposes of this chapter.

19 ~~((+20))~~ (21) "Year" means the twelve-month period commencing
20 January 1st and ending December 31st.

21 **Sec. 2.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read
22 as follows:

23 (1) Each qualifying utility shall pursue all available conservation
24 that is cost-effective, reliable, and feasible.

25 (a) By January 1, 2010, using methodologies consistent with those
26 used by the Pacific Northwest electric power and conservation planning
27 council in its most recently published regional power plan, each
28 qualifying utility shall identify its achievable cost-effective
29 conservation potential through 2019. At least every two years
30 thereafter, the qualifying utility shall review and update this
31 assessment for the subsequent ten-year period.

32 (b) ~~((Beginning))~~ By January 1, 2010, each qualifying utility shall
33 establish and make publicly available a biennial acquisition target for
34 cost-effective conservation consistent with its identification of
35 achievable opportunities in (a) of this subsection, and meet that
36 target during the subsequent two-year period. At a minimum, each
37 biennial acquisition target must be no lower than the qualifying

1 utility's pro rata share for that two-year period of its cost-effective
2 conservation potential for the subsequent ten-year period. A
3 qualifying utility may not use incremental electricity produced as a
4 result of efficiency improvements to hydroelectric generation
5 facilities to meet its biennial conservation acquisition target if the
6 improvements were used to meet its targets under subsection (2)(a) of
7 this section.

8 (c) In meeting its conservation targets, a qualifying utility may
9 count high-efficiency cogeneration owned and used by a retail electric
10 customer to meet its own needs. High-efficiency cogeneration is the
11 sequential production of electricity and useful thermal energy from a
12 common fuel source, where, under normal operating conditions, the
13 facility (~~(has a useful thermal energy output of no less than thirty-~~
14 ~~three percent of the total energy output)) is designed to have a~~
15 projected overall thermal conversion efficiency of at least seventy
16 percent. For the purposes of this section, "overall thermal conversion
17 efficiency" means the output of electricity plus usable heat divided by
18 fuel input. The reduction in load due to high-efficiency cogeneration
19 shall be(~~(:—(i) Calculated as the ratio of the fuel chargeable to~~
20 ~~power heat rate of the cogeneration facility compared to the heat rate~~
21 ~~on a new and clean basis of a best commercially available technology~~
22 ~~combined-cycle natural gas-fired combustion turbine; and (ii))~~) counted
23 towards meeting the biennial conservation target in the same manner as
24 other production conservation savings.

25 (d) The commission may determine if a conservation program
26 implemented by an investor-owned utility is cost-effective based on the
27 commission's policies and practice.

28 (e) The commission may rely on its standard practice for review and
29 approval of investor-owned utility conservation targets.

30 (2)(a) Each qualifying utility shall use eligible renewable
31 resources or acquire equivalent renewable energy credits, or a
32 combination of both, to meet the following annual targets:

33 (i) At least three percent of its load by January 1, 2012, and each
34 year thereafter through December 31, 2015;

35 (ii) At least (~~nine~~) ten and twenty-five one-hundredths of one
36 percent of its load by January 1, 2016, and each year thereafter
37 through December 31, 2019; and

1 (iii) At least ~~((fifteen))~~ sixteen and twenty-five one-hundredths
2 of one percent of its load by January 1, 2020, and each year
3 thereafter.

4 (b) It must be the goal of the state for each qualifying utility to
5 use eligible renewable resources or acquire equivalent renewable energy
6 credits or a combination of both to meet an annual renewable resource
7 goal of at least twenty percent of its load by January 1, 2025, and
8 each year thereafter.

9 (c) A qualifying utility may count distributed generation at double
10 the facility's electrical output if the utility: (i) Owns or has
11 contracted for the distributed generation and the associated renewable
12 energy credits; or (ii) has contracted to purchase the associated
13 renewable energy credits.

14 ~~((+e))~~ (d) In meeting the annual targets in (a) of this
15 subsection, a qualifying utility shall calculate its annual load based
16 on the average of the utility's load for the previous two years.

17 ~~((+d))~~ (e) A qualifying utility with annual sales of less than two
18 million megawatt hours is considered in compliance with an annual
19 target in (a) of this subsection if: (i) In any given target year its
20 load growth, measured as load served in the target year compared to the
21 utility's annual average load served in 2010 and 2011, is less than the
22 target in (a) of this subsection for that year; and (ii) the utility
23 meets one hundred percent of any increase in load for that target year
24 with eligible renewable resources or renewable energy credits.

25 (f) A qualifying utility shall be considered in compliance with an
26 annual target in (a) of this subsection if: (i) The utility's weather-
27 adjusted load for the previous three years on average did not increase
28 over that time period; (ii) after December 7, 2006, the utility did not
29 commence or renew ownership or incremental purchases of electricity
30 from resources other than renewable resources other than on a daily
31 spot price basis and the electricity is not offset by equivalent
32 renewable energy credits; and (iii) the utility invested at least one
33 percent of its total annual retail revenue requirement that year on
34 eligible renewable resources, renewable energy credits, or a
35 combination of both.

36 ~~((+e))~~ (g) The requirements of this section may be met for any
37 given target year with renewable energy credits produced during that
38 year, the preceding year, or the subsequent year. A qualifying utility

1 may use renewable energy credits from an eligible renewable resource
2 owned in whole or in part by the utility if the credits were generated
3 within three years prior to the year for which the credits are applied
4 to its annual renewable resource target. The renewable energy credits
5 shall not be transferred or sold to another entity and shall be retired
6 by the qualifying utility if not used to meet the qualifying utility's
7 annual renewable resource target. Each renewable energy credit may be
8 used only once to meet the requirements of this section.

9 ~~((f))~~ (h) In complying with the targets established in (a) of
10 this subsection, a qualifying utility may not count:

11 (i) Eligible renewable resources or distributed generation where
12 the associated renewable energy credits are owned by a separate entity;
13 ~~((e))~~

14 (ii) Eligible renewable resources or renewable energy credits
15 obtained for and used in an optional pricing program such as the
16 program established in RCW 19.29A.090; or

17 (iii) Efficiency improvements to hydroelectric generation
18 facilities whose energy output is marketed by the Bonneville power
19 administration that is attributable to any other utility other than the
20 qualifying utility.

21 ~~((g))~~ (i) Where fossil and combustible renewable resources are
22 cofired in one generating unit located in the Pacific Northwest where
23 the cofiring commenced after March 31, 1999, the unit shall be
24 considered to produce eligible renewable resources in direct proportion
25 to the percentage of the total heat value represented by the heat value
26 of the renewable resources.

27 ~~((h))~~ (j)(i) A qualifying utility that acquires an eligible
28 renewable resource or renewable energy credit may count that
29 acquisition at one and two-tenths times its base value:

30 (A) Where the eligible renewable resource comes from a facility
31 that commenced operation after December 31, 2005; and

32 (B) Where the developer of the facility used apprenticeship
33 programs approved by the council during facility construction.

34 (ii) The council shall establish minimum levels of labor hours to
35 be met through apprenticeship programs to qualify for this extra
36 credit.

37 ~~((i))~~ (k) A qualifying utility that acquires solar energy may

1 count that acquisition at four times its base value, or six times its
2 base value where the energy is produced using solar inverters and
3 modules manufactured in Washington state.

4 (1) A qualifying utility shall be considered in compliance with an
5 annual target in (a) of this subsection if events beyond the reasonable
6 control of the utility that could not have been reasonably anticipated
7 or ameliorated prevented it from meeting the renewable energy target.
8 Such events include weather-related damage, mechanical failure,
9 strikes, lockouts, and actions of a governmental authority that
10 adversely affect the generation, transmission, or distribution of an
11 eligible renewable resource under contract to a qualifying utility.

12 (3) Utilities that become qualifying utilities after December 31,
13 2006, shall meet the requirements in this section on a time frame
14 comparable in length to that provided for qualifying utilities as of
15 December 7, 2006.

16 **Sec. 3.** RCW 19.285.070 and 2007 c 1 s 7 are each amended to read
17 as follows:

18 (1) On or before June 1, 2012, and annually thereafter, each
19 qualifying utility shall report to the department on its progress in
20 the preceding year in meeting the targets established in RCW
21 19.285.040, including expected electricity savings from the biennial
22 conservation target, expenditures on conservation, actual electricity
23 savings results, the utility's annual load for the prior two years, the
24 amount of megawatt-hours needed to meet the annual renewable energy
25 target, the amount of megawatt-hours of each type of eligible renewable
26 resource acquired, the type and amount of renewable energy credits
27 acquired, and the percent of its total annual retail revenue
28 requirement invested in the incremental cost of eligible renewable
29 resources and the cost of renewable energy credits. (~~For each year~~
30 ~~that a qualifying utility elects to demonstrate alternative compliance~~
31 ~~under RCW 19.285.040(2) (d) or (i) or 19.285.050(1), it must include in~~
32 ~~its annual report relevant data to demonstrate that it met the criteria~~
33 ~~in that section.)) A qualifying utility may submit its report to the
34 department in conjunction with its annual obligations in chapter 19.29A
35 RCW.~~

36 (2) A qualifying utility that is an investor-owned utility shall
37 also report all information required in subsection (1) of this section

1 to the commission, and on or before June 1, 2014, and annually
2 thereafter, report to the commission its compliance in meeting the
3 targets established in RCW 19.285.040. All other qualifying utilities
4 shall also make all information required in subsection (1) of this
5 section available to the auditor, and on or before June 1, 2014, and
6 annually thereafter, make available to the auditor its determination of
7 compliance in meeting the targets established in RCW 19.285.040. For
8 each year that a qualifying utility elects to demonstrate alternative
9 compliance under RCW 19.285.040(2) or 19.285.050(1), it must include in
10 its annual report relevant data to demonstrate that it met the criteria
11 in that section.

12 (3) A qualifying utility shall also make reports required in this
13 section available to its customers.

14 **Sec. 4.** RCW 19.285.080 and 2007 c 1 s 8 are each amended to read
15 as follows:

16 (1) The commission may adopt rules to ensure the proper
17 implementation and enforcement of this chapter as it applies to
18 investor-owned utilities.

19 (2) The department shall adopt rules concerning only process,
20 timelines, and documentation to ensure the proper implementation of
21 this chapter as it applies to qualifying utilities that are not
22 investor-owned utilities. Those rules include, but are not limited to,
23 rules associated with a qualifying utility's development of
24 conservation targets under RCW 19.285.040(1); a qualifying utility's
25 decision to pursue alternative compliance in RCW 19.285.040(2) (~~((d))~~)
26 (f) or (~~((i))~~) (l) or 19.285.050(1); and the format and content of
27 reports required in RCW 19.285.070. Nothing in this subsection may be
28 construed to restrict the rate-making authority of the commission or a
29 qualifying utility as otherwise provided by law.

30 (3) The commission and department may coordinate in developing
31 rules related to process, timelines, and documentation that are
32 necessary for implementation of this chapter.

33 (4)(a) Pursuant to the administrative procedure act, chapter 34.05
34 RCW, rules needed for the implementation of this chapter must be
35 adopted by (~~(December 31, 2007)~~) June 30, 2010. These rules may be
36 revised as needed to carry out the intent and purposes of this chapter.

1 (b) Within six months of the adoption by the Pacific Northwest
2 electric power and conservation planning council of each of its
3 regional power plans, the department shall initiate rule making to
4 consider adopting any changes in methodologies used by the Pacific
5 Northwest electric power and conservation planning council that would
6 impact a qualifying utility's conservation potential assessment in
7 accordance with RCW 19.285.040(1).

8 (c) Within six months of the adoption by the Pacific Northwest
9 electric power and conservation planning council of each of its
10 regional power plans, the commission shall initiate rule making to
11 consider adopting any changes in methodologies used by the Pacific
12 Northwest electric power and conservation planning council that would
13 impact a qualifying utility's conservation potential assessment in
14 accordance with RCW 19.285.040(1).

15 (d) Rules adopted under (b) and (c) of this subsection must be
16 applied to the next biennial target that begins at least six months
17 after the adoption date of the rules.

18 NEW SECTION. Sec. 5. Within existing resources, the department of
19 community, trade, and economic development shall report to the
20 legislature by December 1, 2009, its recommendations on how low-cost
21 hydroelectric generation may be used to firm, shape, and integrate
22 renewable energy resources into the northwestern electric grid for
23 delivery to Washington residents. The report must make recommendations
24 on the economic and environmental benefits of using hydroelectric
25 generation in place of fossil fuel-fired generation for integration
26 services. The report must include results from existing studies and
27 analyses from the Pacific Northwest electric power and conservation
28 planning council, the Bonneville power administration, and other
29 relevant organizations. The department of community, trade, and
30 economic development shall also consider information and
31 recommendations from integration service providers and users."

32 Correct the title.

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