
SUBSTITUTE HOUSE BILL 1086

State of Washington 61st Legislature 2009 Regular Session

By House Technology, Energy & Communications (originally sponsored by Representatives McCoy, Chase, Hudgins, and Morris)

READ FIRST TIME 02/20/09.

1 AN ACT Relating to requiring certain providers of electric service
2 to purchase electricity from eligible distributed generators; adding a
3 new chapter to Title 19 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Capacity" means the electrical capacity that a generator of
8 eligible distributed generation may produce during regular operations.

9 (2) "Commission" means the Washington utilities and transportation
10 commission.

11 (3) "Consumer-owned utility" means a municipal electric utility
12 formed under Title 35 RCW, a public utility district formed under Title
13 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
14 cooperative formed under chapter 23.86 RCW, or a mutual corporation or
15 association formed under chapter 24.06 RCW that is engaged in the
16 business of distributing electricity to more than one retail electric
17 customer in the state.

18 (4) "Department" means the department of community, trade, and
19 economic development.

1 (5) "Distributed generation" means a renewable resource where the
2 generation facility or any integrated cluster of these facilities has
3 a generating capacity of five megawatts or less.

4 (6) "Eligible distributed generator" means the distributed
5 generation located on the premises of an individual, business, or local
6 government. Distributed generation by an individual, business, or
7 local governmental entity in the electricity distribution business or
8 in the gas distribution business is not considered an eligible
9 distributed generator.

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

12 (8) "Premises" means any residential property, commercial real
13 estate, or lands owned or leased by an eligible distributed generator
14 within the service area of a single qualifying utility.

15 (9) "Qualifying utility" means an electric utility, as the term
16 "electric utility" is defined in RCW 19.29A.010, that serves more than
17 twenty-five thousand customers in the state of Washington. The number
18 of customers served may be based on data reported by a utility in form
19 861, "annual electric utility report," filed with the energy
20 information administration, United States department of energy.

21 (10) "Renewable resource" means: (a) Water; (b) wind; (c) solar
22 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
23 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
24 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
25 on land cleared from old growth forests where the clearing occurred
26 after December 7, 2006; (i) byproducts of pulping or wood manufacturing
27 processes located in Washington, including but not limited to bark,
28 wood chips, sawdust, and lignin in spent pulping liquors; (j) black
29 liquors derived from any source; and (k) biomass energy based on animal
30 waste, food waste, yard waste, or solid organic fuels from wood,
31 forest, or field residues, or dedicated energy crops that do not
32 include (i) wood pieces that have been treated with chemical
33 preservatives such as creosote, pentachlorophenol, or copper-chrome-
34 arsenic; (ii) wood from old growth forests; or (iii) municipal solid
35 waste.

36 (11) "Small wind turbine" means any wind turbine with a rotor blade
37 swept area of no more than two thousand square feet.

1 NEW SECTION.

2 **Sec. 2.**

3 (1)(a) Beginning six months after the
4 effective date of legislation that implements power purchase agreement
5 rates, a qualifying utility shall interconnect an eligible distributed
6 generator to the utility's distribution systems within one hundred
7 eighty days of such a request by the owner of an eligible distributed
8 generator.

9 (b) A qualifying utility that refuses to connect an eligible
10 distributed generator to the distribution systems of a qualifying
11 utility is subject to a fine of not more than one hundred dollars per
12 day that the qualifying utility is in violation of this subsection.

13 (2) The costs associated with the interconnection of eligible
14 distributed generators must be included in the surcharge under section
15 3 of this act.

16 (3) An individual, business, or local governmental entity may not
17 enter into a power purchase agreement with a qualifying utility if the
18 individual, business, or local governmental entity is participating in
19 the investment cost recovery incentive payment program under chapter
20 82.16 RCW or in the net metering program under chapter 80.60 RCW.

21 (4) Qualifying utilities shall enter into power purchase agreements
22 for a term of not less than twenty years to purchase all electricity
23 from eligible distributed generators in this state.

24 (5)(a) An eligible distributed generator shall include, at the
25 owner's expense, all equipment necessary to meet applicable safety,
26 power quality, and interconnection requirements established by the
27 national electrical code, national electrical safety code, the
28 institute of electrical and electronics engineers, and underwriters
29 laboratories.

30 (b) The commission, in the case of an electrical company, or the
31 appropriate governing body, in the case of other electric utilities,
32 after appropriate notice and opportunity for comment, may adopt by rule
33 additional safety, power quality, and interconnection requirements for
34 distributed generators, including limitations on the number of
35 distributed generators and total capacity of distributed generators
36 systems that may be interconnected to any distribution feeder line,
37 circuit, or network that the commission or governing body determines
38 are necessary to protect public safety and system reliability.

 (6) By December 1, 2009, the department, in consultation with the
commission, shall develop and submit recommendations to the legislature

1 regarding an appropriate power purchase agreement rate structure to
2 promote the deployment of eligible distributed generators. The
3 department must recommend to the legislature rates for solar electric
4 and solar thermal, off-shore and on-shore wind, wave, tidal, biomass,
5 biogas, geothermal, and hydropower. In developing its rate
6 recommendations, the department must consider appropriate rates for at
7 least the following: Small wind systems; large wind systems; free-
8 standing solar power systems; rooftop solar power systems; and façade
9 cladding solar projects.

10 NEW SECTION. **Sec. 3.** (1)(a) The commission shall, after notice
11 and hearing, annually approve a distributed generation factor that is
12 a nonbypassable surcharge payable by every customer of an investor-
13 owned utility. The surcharge must be payable by all customer classes.
14 The commission shall set the surcharge at a level sufficient to pay the
15 costs of electricity purchased under section 2 of this act and any
16 interconnection costs under section 2 of this act.

17 (b) The commission shall approve a standard contract to be used in
18 all power purchase agreements under this chapter. The contract must
19 include the prices paid for each kilowatt hour generated, the duration
20 of the contract, and any adjustments of those prices for inflation.
21 The standard contract must be designed to provide for graduated
22 payments for electricity supplied by eligible distributed generators.
23 The graduate payments must be reduced over the twenty-year term of the
24 contract, equaling zero dollars for the last payment of the contract.
25 The commission shall provide utilities with standard contracts within
26 three months after the effective date of legislation that implements
27 power purchase agreement rates.

28 (c) The commission shall review the rates every two years and
29 adjust those rates as necessary to account for inflation, assist in the
30 profitable development of eligible distributed generators, prevent
31 excessive profits for eligible distributed generators, and prevent
32 unnecessary costs to ratepayers. The commission shall reduce the rates
33 to reflect any federal or state subsidies, tax credits, or other
34 incentives that an eligible distributed generator is receiving.

35 (2)(a) The governing board of a consumer-owned utility shall, after
36 notice and hearing, annually approve a distributed generation factor
37 that must be a nonbypassable surcharge payable by every customer of the

1 utility. The surcharge must be payable by all customer classes. The
2 governing board shall set the surcharge at a level sufficient to pay
3 the costs of electricity purchased under section 2 of this act and any
4 interconnection costs under section 2 of this act.

5 (b) The governing boards of consumer-owned utilities shall, in a
6 coordinated fashion, develop a standard contract to be used in all
7 power purchase agreements under this chapter. The contract must
8 include the prices paid for each kilowatt hour generated, the duration
9 of the contract, and any adjustments of those prices for inflation.
10 The standard contract must be designed to provide for graduated
11 payments for electricity supplied by eligible distributed generators.
12 The graduate payments must be reduced over the twenty-year term of the
13 contract, equaling zero dollars for the last payment of the contract.
14 Governing boards of consumer-owned utilities shall develop the standard
15 contract within three months of the effective date of legislation that
16 implements power purchase agreement rates.

17 (c) Governing boards of consumer-owned utilities shall review the
18 rates every two years and adjust those rates as necessary to account
19 for inflation, assist in the profitable development of eligible
20 distributed generators, prevent excessive profits for eligible
21 distributed generators, and prevent unnecessary costs to ratepayers.
22 Governing boards of consumer-owned utilities shall reduce the rates to
23 reflect any federal or state subsidies, tax credits, or other
24 incentives that an eligible distributed generator is receiving.

25 NEW SECTION. **Sec. 4.** (1) Within two years after the effective
26 date of legislation that implements power purchase agreement rates, and
27 every four years thereafter, the commission shall file a report with
28 the governor and the energy committees of the legislature that includes
29 all of the following:

30 (a) The number of new eligible distributed generators in this state
31 and the environmental effects of the addition of those generators;

32 (b) Recommendations for legislation and changes to the rates, if
33 any; and

34 (c) Actions taken by the commission to implement this chapter.

35 (2) Within two years after the effective date of legislation that
36 implements power purchase agreement rates, and every four years

1 thereafter, the department shall file a report with the governor and
2 the energy committees of the legislature that includes all of the
3 following:

4 (a) The number of new eligible distributed generators in this state
5 and the environmental effects of the addition of those generators;

6 (b) Recommendations for legislation and changes to the rates, if
7 any; and

8 (c) Actions taken by consumer-owned utilities to implement this
9 chapter.

10 NEW SECTION. **Sec. 5.** (1) Eligible distributed generators served
11 by an investor-owned utility shall upon request provide the commission
12 with any information that may be relevant to the commission performing
13 its duties under this chapter.

14 (2) Eligible distributed generators served by a consumer-owned
15 utility shall upon request provide the department with any information
16 that may be relevant to the department performing its duties under this
17 chapter.

18 NEW SECTION. **Sec. 6.** The department must provide the code
19 reviser's office with written notification that identifies the
20 legislation that implements the power purchase agreement rates
21 referenced in sections 2(1)(a), 3(1)(b), 3(2)(b), and 4 (1) and (2) of
22 this act.

23 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute
24 a new chapter in Title 19 RCW.

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