
HOUSE BILL 1133

State of Washington

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By Representatives McCoy and Eddy

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1 AN ACT Relating to modifying the renewable energy and energy
2 conservation requirements of the energy independence act; and amending
3 RCW 19.285.010, 19.285.030, 19.285.040, 19.285.050, and 19.285.080.

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

5 **Sec. 1.** RCW 19.285.010 and 2007 c 1 s 1 are each amended to read
6 as follows:

7 This chapter concerns requirements for new energy resources. This
8 chapter requires large utilities to obtain (~~fifteen~~) twenty percent
9 of their electricity from new renewable resources such as solar and
10 wind by (~~2020~~) 2025 and undertake cost-effective energy conservation.

11 **Sec. 2.** RCW 19.285.030 and 2007 c 1 s 3 are each amended to read
12 as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Attorney general" means the Washington state office of the
16 attorney general.

17 (2) "Auditor" means: (a) The Washington state auditor's office or
18 its designee for qualifying utilities under its jurisdiction that are

1 not investor-owned utilities; or (b) an independent auditor selected by
2 a qualifying utility that is not under the jurisdiction of the state
3 auditor and is not an investor-owned utility.

4 (3) "Commission" means the Washington state utilities and
5 transportation commission.

6 (4) "Conservation" means any reduction in electric power
7 consumption resulting from increases in ~~((the))~~ efficiency ~~((of energy~~
8 ~~use, production, or distribution))~~.

9 (5) "Cost-effective" has the same meaning as defined in RCW
10 80.52.030.

11 (6) "Council" means the Washington state apprenticeship and
12 training council within the department of labor and industries.

13 (7) "Customer" means a person or entity that purchases electricity
14 for ultimate consumption and not for resale.

15 (8) "Department" means the department of community, trade, and
16 economic development or its successor.

17 (9) "Distributed generation" means an eligible renewable resource
18 where the generation facility or any integrated cluster of such
19 facilities has a generating capacity of not more than five megawatts.

20 (10) "Eligible renewable resource" means:

21 (a) Electricity from a generation facility powered by a renewable
22 resource other than fresh water, except as provided in (d) of this
23 subsection, that commences operation after March 31, 1999, where ~~((+~~
24 ~~(i))~~) the facility is located ~~((in the Pacific Northwest; or (ii) the~~
25 ~~electricity from the facility is delivered into Washington state on a~~
26 ~~real-time basis without shaping, storage, or integration services))~~
27 within the geographic boundary of the western electricity coordinating
28 council or its successor entity; ((or))

29 (b) Incremental electricity produced as a result of efficiency
30 improvements completed after March 31, 1999, to hydroelectric
31 generation projects owned by a qualifying utility and located in the
32 Pacific Northwest or to hydroelectric generation in irrigation pipes
33 and canals located in the Pacific Northwest, where the additional
34 generation in either case does not result in new water diversions or
35 impoundments;

36 (c) That portion of incremental electricity produced as a result of
37 efficiency improvements completed after March 31, 1999, attributable to

1 a qualifying utility's share of the electricity output to hydroelectric
2 generation projects whose energy output is marketed by the Bonneville
3 power administration; or

4 (d) Electricity from a distributed generation facility that uses
5 currents from freshwater rivers and streams that commenced operations
6 after March 31, 1999. The generation of electricity may not be
7 produced as a result of water diversions, impoundments, or dams.

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

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

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

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

28 (15) "Public facility" has the same meaning as defined in RCW
29 39.35C.010.

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

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

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

5 (18) "Renewable resource" means: (a) Water; (b) wind; (c) solar
6 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
7 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
8 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
9 on land cleared from old growth or first-growth forests where the
10 clearing occurred after December 7, 2006; ~~((and))~~ (i) by-products of
11 pulping or wood manufacturing processes located in Washington that are
12 not derived from old growth forests, including but not limited to bark,
13 wood chips, sawdust, and lignin in spent pulping liquors; (j) black
14 liquors derived from algae and other sources; and (k) biomass energy
15 based on animal waste, food waste, yard waste, or solid organic fuels
16 from wood, forest, or field residues, or dedicated energy crops that do
17 not include (i) wood pieces that have been treated with chemical
18 preservatives such as creosote, pentachlorophenol, or copper-chrome-
19 arsenic; (ii) ~~((black liquor byproduct from paper production; (iii))~~
20 wood from old growth forests; or ~~((+iv))~~ (iii) municipal solid waste.

21 (19) "Rule" means rules adopted by an agency or other entity of
22 Washington state government to carry out the intent and purposes of
23 this chapter.

24 (20) "Year" means the twelve-month period commencing January 1st
25 and ending December 31st.

26 **Sec. 3.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read
27 as follows:

28 (1) Each qualifying utility shall pursue all available conservation
29 related to energy end-use, production, and distribution that is cost-
30 effective, reliable, and feasible.

31 (a) By January 1, 2010, ~~((using methodologies consistent with those~~
32 ~~used by the Pacific Northwest electric power and conservation planning~~
33 ~~council in its most recently published regional power plan,))~~ each
34 qualifying utility shall identify its achievable cost-effective
35 conservation potential through 2019. Cost-effective conservation
36 potential includes all achievable cost-effective conservation related
37 to energy end-use, production, and distribution. In assessing this

1 potential, the qualifying utility shall use methodologies consistent
2 with those used by the Pacific Northwest electric power and
3 conservation planning council in its most recently published regional
4 power plan. At least every two years thereafter, the qualifying
5 utility shall review and update this assessment for the subsequent ten-
6 year period.

7 (b) ~~((Beginning))~~ By January 1, 2010, each qualifying utility shall
8 establish and make publicly available a biennial acquisition target for
9 cost-effective conservation consistent with its identification of
10 achievable opportunities in (a) of this subsection, and meet that
11 target during the subsequent two-year period. At a minimum, each
12 biennial acquisition target must ~~((be no lower than))~~ include: (i) At
13 least twenty percent of the qualifying utility's ~~((pro-rata share for~~
14 ~~that two-year period of its))~~ cost-effective end-use conservation
15 potential identified for the subsequent ten-year period; and (ii) at
16 least twenty percent of the qualifying utility's cost-effective
17 distribution and production conservation potential identified for the
18 subsequent ten-year period. In meeting its biennial acquisition
19 target, a qualifying utility may not use distribution or production
20 conservation in lieu of end-use conservation. A qualifying utility may
21 not use incremental electricity produced as a result of efficiency
22 improvements to hydroelectric generation projects to meet its biennial
23 acquisition target.

24 (c) In meeting its conservation targets, a qualifying utility may
25 count high-efficiency cogeneration owned and used by a retail electric
26 customer to meet its own needs. High-efficiency cogeneration is the
27 sequential production of electricity and useful thermal energy from a
28 common fuel source, where, under normal operating conditions, the
29 facility ~~((has a useful thermal energy output of no less than thirty-~~
30 ~~three percent of the total energy output))~~ is designed to have a
31 projected overall thermal conversion efficiency of at least seventy
32 percent. For the purposes of this section, overall thermal conversion
33 efficiency means the output of electricity plus usable heat divided by
34 fuel input. The reduction in load due to high-efficiency cogeneration
35 shall be ~~((:—(i) Calculated as the ratio of the fuel chargeable to~~
36 ~~power heat rate of the cogeneration facility compared to the heat rate~~
37 ~~on a new and clean basis of a best commercially available technology~~

1 ~~combined-cycle natural gas-fired combustion turbine; and (ii))~~ counted
2 towards meeting the biennial conservation target in the same manner as
3 other production conservation savings.

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

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

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

12 (i) At least (~~three~~) four percent of its load by January 1, 2012,
13 and each year thereafter through December 31, 2015, where the eligible
14 renewable resources and renewable energy credits are generated by or
15 derived from generation facilities located in the Pacific Northwest;

16 (ii) At least (~~nine~~) ten percent of its load by January 1, 2016,
17 and each year thereafter through December 31, 2019, where:

18 (A) At least half of the eligible renewable resources and renewable
19 energy credits are generated by or derived from generation facilities
20 located in the Pacific Northwest; and

21 (B) Any electricity from an eligible renewable resource that is
22 derived from generation facilities located outside the Pacific
23 Northwest is delivered to the Bonneville power administration or to the
24 transmission system of a qualifying utility; (~~and~~)

25 (iii) At least (~~fifteen~~) sixteen percent of its load by January
26 1, 2020, and each year thereafter, where:

27 (A) At least half of the eligible renewable resources and renewable
28 energy credits are generated by or derived from generation facilities
29 located in the Pacific Northwest; and

30 (B) Any electricity from an eligible renewable resource that is
31 derived from generation facilities located outside the Pacific
32 Northwest is delivered to the Bonneville power administration or to the
33 transmission system of a qualifying utility; and

34 (iv) At least twenty percent of its load by January 1, 2025, and
35 each year thereafter, where:

36 (A) At least half of the eligible renewable resources and renewable
37 energy credits are generated by or derived from generation facilities
38 located in the Pacific Northwest; and

1 (B) Any electricity from an eligible renewable resource that is
2 derived from generation facilities located outside the Pacific
3 Northwest is delivered to the Bonneville power administration or to the
4 transmission system of a qualifying utility.

5 (b) A qualifying utility may count distributed generation at double
6 the facility's electrical output if the utility: (i) Owns or has
7 contracted for the distributed generation and the associated renewable
8 energy credits; or (ii) has contracted to purchase the associated
9 renewable energy credits.

10 (c) In meeting the annual targets in (a) of this subsection, a
11 qualifying utility shall calculate its annual load based on the average
12 of the utility's load for the previous two years.

13 (d) A qualifying utility shall be considered in compliance with an
14 annual target in (a) of this subsection if: (i) The utility's weather-
15 adjusted load for the previous three years on average did not increase
16 over that time period; (ii) after December 7, 2006, the utility did not
17 commence or renew ownership or incremental purchases of electricity
18 from resources other than renewable resources other than on a daily
19 spot price basis and the electricity is not offset by equivalent
20 renewable energy credits; and (iii) the utility invested at least one
21 percent of its total annual retail revenue requirement that year on
22 eligible renewable resources, renewable energy credits, or a
23 combination of both.

24 (e) The requirements of this section may be met for any given year
25 with renewable energy credits produced during that year, the preceding
26 year, or the subsequent year. Each renewable energy credit may be used
27 only once to meet the requirements of this section.

28 (f) In complying with the targets established in (a) of this
29 subsection, a qualifying utility may not count:

30 (i) Eligible renewable resources or distributed generation where
31 the associated renewable energy credits are owned by a separate entity;
32 ~~((or))~~

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

36 (iii) Efficiency improvements to hydroelectric generation projects
37 attributable to any utility other than the qualifying utility and whose
38 energy output is marketed by the Bonneville power administration.

1 (g) Where fossil and combustible renewable resources are cofired in
2 one generating unit located in the Pacific Northwest where the cofiring
3 commenced after March 31, 1999, the unit shall be considered to produce
4 eligible renewable resources in direct proportion to the percentage of
5 the total heat value represented by the heat value of the renewable
6 resources.

7 (h)(i) A qualifying utility that acquires an eligible renewable
8 resource or renewable energy credit may count that acquisition at one
9 and two-tenths times its base value:

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

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

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

17 (i) Beginning July 1, 2009, a qualifying utility may acquire
18 renewable energy credits produced on or after July 1, 2009, from a
19 biomass energy facility, regardless of the date it commences
20 operations.

21 (j) A qualifying utility shall be considered in compliance with an
22 annual target in (a) of this subsection if events beyond the reasonable
23 control of the utility that could not have been reasonably anticipated
24 or ameliorated prevented it from meeting the renewable energy target.
25 Such events include weather-related damage, mechanical failure,
26 strikes, lockouts, and actions of a governmental authority that
27 adversely affect the generation, transmission, or distribution of an
28 eligible renewable resource under contract to a qualifying utility.

29 (3) Utilities that become qualifying utilities after December 31,
30 2006, shall meet the requirements in this section on a time frame
31 comparable in length to that provided for qualifying utilities as of
32 December 7, 2006.

33 **Sec. 4.** RCW 19.285.050 and 2007 c 1 s 5 are each amended to read
34 as follows:

35 (1)(a) A qualifying utility shall be considered in compliance with
36 an annual target created in RCW 19.285.040(2) for a given year if the
37 utility invested four percent of its total annual retail revenue

1 requirement on the incremental costs of eligible renewable resources,
2 the cost of renewable energy credits, or a combination of both, but a
3 utility may elect to invest more than this amount.

4 (b) The incremental cost of an eligible renewable resource is
5 calculated as the difference between the levelized delivered cost of
6 the eligible renewable resource, regardless of ownership, compared to
7 the levelized delivered cost of an equivalent amount of reasonably
8 available substitute resources that do not qualify as eligible
9 renewable resources, where the resources being compared have the same
10 contract length or facility life.

11 (c) Except as provided in (i) of this subsection, for purposes of
12 this section and RCW 19.285.040(2)(d), an investor-owned utility shall
13 use its commission-approved total retail revenue requirement resulting
14 from the utility's most recent general rate case.

15 (i) For each investor-owned utility, if the commission has not
16 issued an order in a general rate case for that utility in any of the
17 three years prior to January 1st of a year for which an annual target
18 is created in RCW 19.285.040(2), the commission shall calculate the
19 total annual retail revenue requirement for that utility for that
20 target year. The total annual retail revenue requirement for each
21 utility must be calculated based on only the operations of the utility
22 relating to electricity, and must be updated annually until the
23 commission issues an order for that utility in a general rate case.
24 The total annual retail revenue requirement calculated for purposes of
25 this subsection has no bearing on the commission's rate-making policies
26 and practices under Title 80 RCW.

27 (2) An investor-owned utility is entitled to recover all prudently
28 incurred costs associated with compliance with this chapter. The
29 commission shall address cost recovery issues of qualifying utilities
30 that are investor-owned utilities that serve both in Washington and in
31 other states in complying with this chapter.

32 **Sec. 5.** RCW 19.285.080 and 2007 c 1 s 8 are each amended to read
33 as follows:

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

1 (2) The department shall adopt rules concerning only process,
2 timelines, and documentation to ensure the proper implementation of
3 this chapter as it applies to qualifying utilities that are not
4 investor-owned utilities. Those rules include, but are not limited to,
5 rules associated with a qualifying utility's development of
6 conservation targets under RCW 19.285.040(1); a qualifying utility's
7 decision to pursue alternative compliance in RCW 19.285.040(2) (d) or
8 ~~((i))~~ (j) or 19.285.050(1); and the format and content of reports
9 required in RCW 19.285.070. Nothing in this subsection may be
10 construed to restrict the rate-making authority of the commission or a
11 qualifying utility as otherwise provided by law.

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

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

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

25 (c) Within six months of the adoption by the Pacific Northwest
26 electric power and conservation planning council of each of its
27 regional power plans, the commission shall initiate and complete rule
28 making to consider adopting any changes in methodologies used by the
29 council that would impact a qualifying utility's conservation potential
30 assessment in accordance with RCW 19.285.040(1).

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