
HOUSE BILL 2135

State of Washington

61st Legislature

2009 Regular Session

By Representative Chase

Read first time 02/11/09. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to renewable energy; adding a new chapter to Title
2 80 RCW; and declaring an emergency.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that the energy
5 independence act, chapter 19.285 RCW, requires certain electric
6 utilities to pursue the development of eligible renewable resources.
7 The legislature finds that electric utilities are required to employ a
8 least-cost strategy when planning to serve load growth. It is the
9 intent of the legislature to establish a methodology available to
10 electric utilities for pursuing above market resources by allowing
11 electric utilities and renewable energy investors to recover these
12 resource costs and a reasonable return on that investment in an
13 equitable manner from all ratepayer classes with the exemption of low-
14 income customers and intensive industries. It is also the intent of
15 the legislature to establish a cap on the permissible costs for these
16 resources and establish a methodology for reviewing these caps on a
17 biennial basis.

18 Further, it is the intent of the legislature to encourage the rapid

1 and sustainable development of renewable energy by the adoption of
2 renewable energy payments for the following purposes:

3 (1) Placing Washington at the forefront of North America's
4 renewable energy revolution;

5 (2) Stimulating the development of new technologies and industry in
6 Washington;

7 (3) Reducing the volatility of future electricity prices;

8 (4) Reducing the long-term costs of electricity;

9 (5) Protecting Washington's citizens from air pollution;

10 (6) Protecting Washington's climate from global warming;

11 (7) Protecting Washington's natural resources;

12 (8) Opening electricity generation from renewable resources to all
13 citizens regardless of their tax status;

14 (9) Providing an equitable opportunity for all citizens to help
15 meet the state's renewable energy targets; and

16 (10) Simplifying the awarding of contracts for the generation of
17 electricity with renewable energy resources and by doing so increasing
18 the transparency and equity of the electricity generation system.

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

21 (1) "Carbon content multiplier" means a decimal value derived from
22 the carbon content of the energy used in production or manufacture of
23 the solar energy systems modules. The carbon content multiplier is the
24 ratio of carbon fuel generated electricity using carbon-free
25 electricity in the nation or state of the manufacturer's energy mix
26 inventory as calculated by the United States energy information
27 administration.

28 (2) "Commission" means the utilities and transportation commission.

29 (3) "Commissioning" means the first time a renewable energy plant
30 is put into operation, following establishment of operational readiness
31 or an efficiency upgrade. An efficiency upgrade must equal at least
32 fifty percent of the investment costs required to build a completely
33 new renewable energy plant including all building structures and
34 installations technically required for its operation.

35 (4) "Electric utility" has the same meaning as defined in RCW
36 19.29A.010.

1 (5) "Energy intensive industry" means a manufacturing or refining
2 business that produces a product and more than fifty percent of the
3 product's production costs are expenses for electricity.

4 (6) "Grid system" means all the interconnected facilities used for
5 the transmission and distribution of electricity for general supply.

6 (7) "Renewable energy payment" means the rate paid in dollars per
7 kilowatt-hour of generation delivered to the grid system.

8 (8) "Renewable energy plant" means any independent facility
9 producing kilowatts from renewable energy sources, including thermal
10 kilowatts used for commercial, industrial, or residential water heating
11 from renewable energy sources. Multiple renewable energy plants
12 generating electricity from equivalent renewable energy sources, if
13 constructed within the application of this chapter and directly
14 attached to building structures and commonly used installations
15 technically required for operation, are considered as one renewable
16 energy plant. This includes inverters, access ways, and grid system
17 connections, as well as measuring, administrative, and control
18 facilities that are not technically required for such operation.

19 (9) "Renewable energy plant capacity" means the effective
20 electrical capacity that a renewable energy plant of no more than five
21 megawatts may technically produce without time restrictions during
22 regular operation irrespective of short-term deviations. When the
23 relevant renewable energy plant capacity is determined to calculate
24 renewable energy payments, the standby capacity may not be considered.

25 (10) "Renewable energy plant operator" means anyone who, regardless
26 of ownership, uses the renewable energy plant for the purpose of
27 generating electricity from renewable energy sources.

28 (11) "Renewable energy sources" means: (a) Hydropower; (b) wind
29 energy; (c) solar radiation; (d) geothermal energy; (e) energy from
30 biomass including biogas, landfill gas, and sewage treatment plant gas;
31 (f) wave power; (g) tidal power; and (h) geothermal electricity and the
32 biodegradable fraction of municipal and industrial waste that qualifies
33 as a small power production facility under the federal energy
34 regulatory commission rules, 18 CFR part 292, subpart B, as in effect
35 on January 1, 1997.

36 (12) "Renewable energy trust account" means the account created in
37 section 10 of this act that is to be used exclusively to reimburse

1 utilities for renewable energy payments made to customers under this
2 chapter.

3 (13) "Renewable recovery rates" means the investment cost plus
4 operating cost divided by the expected production over the service life
5 of the renewable energy source equals the compensation per kilowatt
6 hour.

7 (14) "Small wind turbine" means any wind turbine with a rotor swept
8 area of no more than one thousand square feet.

9 NEW SECTION. **Sec. 3.** (1) An electric utility shall connect a
10 renewable energy plant to its distribution system within thirty days
11 for a renewable energy plant with plant capacity under twenty-five
12 kilowatts, and within sixty days for a renewable energy plant with
13 plant capacity greater than twenty-five kilowatts and fewer than one
14 hundred kilowatts. These renewable energy plants are connected upon
15 the terms and condition set by the commission but in no case may it
16 take more than one hundred twenty days after receipt of a request for
17 connection to occur.

18 (2) The commission shall establish standards for the
19 interconnection of renewable energy plants with the grid system. The
20 standards must be consistent with generally accepted industry practices
21 and guidelines to ensure the reliability of electric service to all
22 customers and the safety of customers, the grid system operator's
23 employees, and the public.

24 (3) Every kilowatt-hour of electricity generated by the renewable
25 energy plant counts toward the electric utility's annual renewable
26 resource requirements under RCW 19.285.040.

27 (4) An electric utility shall prepare, publish, and apply
28 transparent, objective, and nondiscriminatory rules for connecting
29 renewable energy plants to the grid system, including grid system
30 reinforcement and costs, the sharing of grid system costs between all
31 producers benefiting from them, and allocating grid system capacity.

32 (5) An electric utility shall provide to an eligible renewable
33 energy plant operator a comprehensive and detailed estimate of the
34 costs associated with connection of the renewable energy plant to the
35 grid system.

36 (6) The costs associated with the interconnection of renewable
37 energy plants, including both direct interconnection costs,

1 distribution system enhancements, and electric utility compliance
2 costs, are recoverable as part of the nonbypassable surcharge under
3 section 6 of this act.

4 NEW SECTION. **Sec. 4.** (1) The commission shall approve a standard
5 contract to be used in all power purchase agreements under this
6 chapter.

7 (2) The contract must include the price paid for each kilowatt-hour
8 generated, the duration of the contract, and any adjustments of the
9 price for inflation.

10 (3) For renewable energy plants with a plant capacity under one
11 hundred kilowatts, the commission shall approve simplified standard
12 contracts written in simple, clear language.

13 (4) Contracts under this chapter are transferable.

14 (5) No contract for renewable energy plants larger than five
15 megawatts are allowed under this chapter.

16 NEW SECTION. **Sec. 5.** (1) An electric utility shall enter into
17 power purchase agreements to acquire all of the electricity generated
18 by renewable energy plants located in the state for a term of not less
19 than twenty years from the date of commissioning.

20 (2) An electric utility shall pay the renewable energy payments as
21 provided in the table in subsection (7) of this section.

22 (3) The renewable energy payment rates provided in the table in
23 subsection (7) of this section must be indexed to one hundred percent
24 of inflation until such time as amended by the legislature, based upon
25 input from the commission as informed by the Washington State
26 University energy extension as provided in subsection (6) of this
27 section.

28 (4) From the date of commissioning of a renewable energy plant,
29 inflation adjusted renewable energy payment rates provided in the table
30 in subsection (7) of this section must be indexed to sixty percent of
31 inflation.

32 (5) The renewable energy payments paid for electricity generated by
33 small wind turbines must be based on the cost of generation plus a
34 reasonable profit, based on kilowatt-hours per square meters per year
35 of rotor swept area as described in this subsection (5).

1 (a) Renewable energy payments for all wind generation from year one
2 through five are described as the base wind renewable energy payment as
3 provided in the table in subsection (7) of this section.

4 (b) Renewable energy payments for years six through twenty must be
5 based on the average specific yield in kilowatt-hours per square meter
6 of rotor swept area per year that is either under one thousand
7 kilowatt-hours per square meter per year or over one thousand kilowatt-
8 hours per square meter per year, based on measured performance of the
9 system.

10 (c) Measured performance is the average of the sum of the first
11 five years of production in kilowatt-hours, less the year of maximum
12 and the year of minimum production, divided by the rotor swept area in
13 square meters.

14 (d) Small wind turbines with measured performance under one
15 thousand kilowatt-hours per square meters per year must be paid the
16 base wind renewable energy payment for years six through twenty.

17 (e) Small wind turbines with measured performance over one thousand
18 kilowatt-hours per square meters per year must be paid the high wind
19 renewable energy payment for years six through twenty.

20 (6) The Washington State University energy extension shall
21 calculate and publish annually a table of state and national carbon
22 content multipliers for use by electric utilities in establishing
23 renewable recovery rates for any renewable energy plant the electric
24 utilities contract for power from or construct.

25 (7)

26 Renewable energy cost recovery rates

	Years	Rate
27 Wind		
28 Land based	1 through 5	0.125
29 Base wind (<1,000	6 through	0.125
30 kWhr/m2/yr)	20	
31 High wind (>1,000 kWhr	6 through	0.08
32 /m2/yr)	20	
33 Off shore		
34		
35		

1	Base wind (<1,000 kWhr	6 through	0.125
2	/m2/yr)	20	
3	High wind (>1,000 kWhr	6 through	0.08
4	/m2/yr)	20	
5			
6	Small wind	20	0.2
7			
8	Solar		
9	<30 kW	20	0.40
10	30 kW to 100 kW	20	0.36
11	100 kW to 1,000 kW	20	0.30
12	1,000 kW to 5 MW	20	0.26
13			
14	Solar thermal	10	.08
15			
16	Façade cladding	20	0.40
17			
18	Hydro/current/wave		
19	<500 kW	20	0.10
20	500 kW to 5 MW	20	0.08
21			
22	Biomass/biogas		
23	<500 kW	20	0.14
24	500 kW to 5 MW	20	0.12
25			
26	Geothermal electric		
27	<500kW	20	0.12
28	500 kW to 5 MW	20	0.1

29 The values in this table are to be multiplied by the appropriate
30 carbon content multiplier based on place of manufacture of technology.

31 NEW SECTION. **Sec. 6.** (1) The commission shall assess a renewable
32 energy rate recovery fee equal to one percent of the monthly bill per
33 meter. The renewable energy rate recovery fee is a nonbypassable
34 surcharge payable by every customer of an electric utility. All
35 customer classes must pay the surcharge.

1 (2) The commission shall adjust the surcharge at a level sufficient
2 to pay the costs of electricity purchased under this chapter and any
3 interconnection costs authorized under this chapter. Revenues must be
4 placed in the renewable energy trust account.

5 (3) The commission may adjust or remove the surcharge for energy
6 intensive industries that buy electricity in Washington if an energy
7 intensive industry can prove hardship. In evaluating hardship, the
8 commission shall consider the financial impacts of the surcharge on the
9 competitiveness of an energy intensive industry and weigh similar
10 provisions in other jurisdictions in North America and worldwide,
11 maintaining the competitive position of an energy intensive industry.

12 (4) The commission may adjust or remove the surcharge for low-
13 income customers of the electric utility.

14 NEW SECTION. **Sec. 7.** Nothing in this chapter is intended to
15 reduce, impede, or conflict with the provisions of chapter 19.285 RCW
16 or RCW 82.16.090 through 82.16.140. It is the intent of the
17 legislature that this chapter operate in parallel with the energy
18 conservation and renewable energy requirements of chapter 19.285 RCW
19 and RCW 82.16.090 through 82.16.140.

20 NEW SECTION. **Sec. 8.** Renewable energy plant operators, qualifying
21 owners that own all or part of a renewable energy plant, and an
22 electric utility shall, upon request, provide the commission with any
23 information that may be relevant to the commission performing its
24 duties under this chapter, including but not limited to assessment of
25 project development costs, equipment costs, electricity production
26 costs, interconnection costs, automatic rate adjustments, compliance
27 costs, renewable energy plant capacity installed, and electricity
28 generated.

29 NEW SECTION. **Sec. 9.** (1) In 2010 and 2011, and every four years
30 thereafter, the commission shall review implementation of this chapter
31 for compliance with the intent of this chapter.

32 (2) The commission shall report to the governor and the legislature
33 the following:

34 (a) The number of new renewable energy plants in this state and the
35 environmental effects of the addition of those generators;

1 (b) The robustness of the program in delivering the renewable
2 energy generation required under Washington's renewable portfolio
3 standard and other renewable energy objectives;

4 (c) Recommendations for changes to this chapter, if any, that may
5 be necessary; and

6 (d) Actions taken by the commission to implement this chapter and
7 to use the renewable energy payments in this chapter to achieve
8 Washington's renewable energy objectives and renewable portfolio
9 standards. In revising allowable renewable energy payment amounts, the
10 commission shall consider inflation, changes in technology, and the
11 increased or decreased costs of renewable energy generation. The
12 commission must ensure that the renewable energy payments are
13 sufficient to pay for the costs of generation plus a reasonable profit.

14 NEW SECTION. **Sec. 10.** The renewable energy trust account is
15 created in the custody of the state treasurer. All receipts from the
16 renewable energy rate recovery fee imposed under section 6 of this act
17 must be deposited into the account. Expenditures from the account may
18 be used only for the reimbursement of utilities for renewable energy
19 payments made to customers under this chapter. Only the commission may
20 authorize expenditures from the account. The account is subject to
21 allotment procedures under chapter 43.88 RCW, but an appropriation is
22 not required for expenditures.

23 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act
24 constitute a new chapter in Title 80 RCW.

25 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 immediately.

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