
HOUSE BILL 3034

State of Washington

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By Representative McCoy

Read first time 01/21/10. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to modifying the energy independence act; amending
2 RCW 19.285.030, 19.285.040, and 19.285.070; and creating a new section.

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

4 **Sec. 1.** RCW 19.285.030 and 2009 c 565 s 20 are each amended to
5 read as follows:

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

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

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

15 (3) "Commission" means the Washington state utilities and
16 transportation commission.

17 (4) "Conservation" means any reduction in electric power
18 consumption resulting from increases in the efficiency of energy use,
19 production, or distribution.

1 (5) "Cost-effective" has the same meaning as defined in RCW
2 80.52.030.

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

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

7 (8) "Department" means the department of commerce or its successor.

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

11 (10) "Eligible renewable resource" means:

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

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

26 (c) That portion of incremental electricity produced as a result of
27 equipment efficiency improvements completed after March 31, 1999,
28 attributable to a qualifying utility's share of the electricity output
29 to hydroelectric generation facilities whose energy output is marketed
30 by the Bonneville power administration where the additional generation
31 does not result in new water diversions or an increase in the amount of
32 water storage; or

33 (d) Electricity from a biomass energy generation facility located
34 in Washington that commenced operation before March 31, 1999, and that
35 has been significantly modified after the effective date of this
36 section. For the purposes of this section, "significantly modified"
37 means and is limited to installation, replacement, or modification of

1 equipment that improves the heat rate of the facility by at least
2 twenty-five percent.

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

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

8 (13)(a) "Nonpower attributes" means all environmentally related
9 characteristics, exclusive of energy, capacity reliability, and other
10 electrical power service attributes, that are associated with the
11 generation of electricity from a renewable resource, including but not
12 limited to the facility's fuel type, geographic location, vintage,
13 qualification as an eligible renewable resource, and avoided emissions
14 of pollutants to the air, soil, or water, and avoided emissions of
15 carbon dioxide and other greenhouse gases.

16 (b) "Nonpower attributes" does not include any aspects, claims,
17 characteristics, or benefits associated with the on-site capture and
18 destruction of methane or other greenhouse gases at a facility through
19 a digester system, landfill gas collection system, or other mechanism,
20 which may be separately marketable as greenhouse gas emissions
21 reduction credits, offsets, or similar tradable commodities.

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

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

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

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

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

4 (18) "Renewable resource" means: (a) Water; (b) wind; (c) solar
5 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
6 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 by-product from paper production; (iii) wood from old growth~~
15 ~~forests; or (iv) municipal solid waste)).~~

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

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

21 (21)(a) "Biomass energy" means: (i) By-products of pulping and
22 wood manufacturing process; (ii) animal waste; (iii) solid organic
23 fuels from wood; (iv) forest or field residues; (v) wooden demolition
24 or construction debris; (vi) food waste; (vii) liquors derived from
25 algae and other sources; (viii) dedicated energy crops; (ix) biosolids;
26 and (x) yard waste.

27 (b) "Biomass energy" does not include: (i) Wood pieces that have
28 been treated with chemical preservatives such as creosote,
29 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth
30 forests; or (iii) municipal solid waste.

31 (22) "Greenhouse gases" has the same meaning as defined in RCW
32 80.80.010.

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

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

1 (a) (~~By January 1, 2010~~) Beginning on the effective date of this
2 section, using methodologies consistent with those used by the Pacific
3 Northwest electric power and conservation planning council in its most
4 recently published regional power plan, each qualifying utility shall
5 identify its achievable cost-effective conservation potential through
6 2019. At least every two years thereafter, the qualifying utility
7 shall review and update this assessment for the subsequent ten-year
8 period.

9 (b) (~~Beginning~~) By January 1, 2010, each qualifying utility shall
10 establish and make publicly available a biennial acquisition target for
11 cost-effective conservation consistent with its identification of
12 achievable opportunities in (a) of this subsection, and meet that
13 target during the subsequent two-year period. At a minimum, each
14 biennial acquisition target must be no lower than the qualifying
15 utility's pro rata share for that two-year period of its cost-effective
16 conservation potential for the subsequent ten-year period. A
17 qualifying utility may not use incremental electricity produced as a
18 result of efficiency improvements to hydroelectric generation
19 facilities to meet its biennial conservation acquisition target if the
20 improvements were used to meet its targets under subsection (2)(a) of
21 this section.

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

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

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

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

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

11 (ii) At least ~~((nine))~~ ten and twenty-five one-hundredths (10.25%)
12 percent of its load by January 1, 2016, and each year thereafter
13 through December 31, 2019; and

14 (iii) At least ~~((fifteen))~~ sixteen and twenty-five one-hundredths
15 (16.25%) percent of its load by January 1, 2020, and each year
16 thereafter.

17 (b) It must be the goal of the state for each qualifying utility to
18 use eligible renewable resources or acquire equivalent renewable energy
19 credits, or a combination of both, to meet an annual renewable resource
20 goal of at least twenty percent of its load by January 1, 2024, and
21 each year thereafter.

22 (c) A qualifying utility may count distributed generation at double
23 the facility's electrical output if the utility: (i) Owns or has
24 contracted for the distributed generation and the associated renewable
25 energy credits; or (ii) has contracted to purchase the associated
26 renewable energy credits.

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

30 ~~((+d))~~ (e) A qualifying utility shall be considered in compliance
31 with an annual target in (a) of this subsection if: (i) The utility's
32 weather-adjusted load for the previous three years on average did not
33 increase over that time period; (ii) after December 7, 2006, the
34 utility did not commence or renew ownership or incremental purchases of
35 electricity from resources other than renewable resources other than on
36 a daily spot price basis and the electricity is not offset by
37 equivalent renewable energy credits; and (iii) the utility invested at

1 least one percent of its total annual retail revenue requirement that
2 year on eligible renewable resources, renewable energy credits, or a
3 combination of both.

4 ~~((e))~~ (f) The requirements of this section may be met for any
5 given year with renewable energy credits ~~((produced))~~ generated during
6 ~~((that))~~ the target year, the preceding two years, or that may be
7 generated during the first three months of the subsequent year. Each
8 renewable energy credit may be used only once to meet the requirements
9 of this section.

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

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

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

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

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

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

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

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

34 ~~((i))~~ (j) A qualifying utility shall be considered in compliance
35 with an annual target in (a) of this subsection if events beyond the
36 reasonable control of the utility that could not have been reasonably
37 anticipated or ameliorated prevented it from meeting the renewable
38 energy target. Such events include weather-related damage, mechanical

1 failure, strikes, lockouts, and actions of a governmental authority
2 that adversely affect the generation, transmission, or distribution of
3 an eligible renewable resource under contract to a qualifying utility.

4 (k) Beginning in 2012 and every two years thereafter, a qualifying
5 utility may use up to twenty-five percent of the conservation achieved
6 in excess of its biennial conservation target established in subsection
7 (1)(a) of this section to meet the renewable target established in (a)
8 of this subsection for that compliance year.

9 (1)(i) Between the effective date of this section and December 31,
10 2017, a qualifying utility that acquires electricity from photovoltaic
11 facilities located in Washington using solar inverters and modules
12 manufactured in Washington, or from solar thermal electric systems
13 located and manufactured in Washington, may count that acquisition at
14 two times its base value.

15 (ii) A qualifying utility may count the electricity produced in
16 (1)(i) of this subsection if it: (A) Owns or has contracted for the
17 solar energy generation and the associated renewable energy credits; or
18 (B) has contracted to purchase the associated renewable energy credits.

19 (3) Utilities that become qualifying utilities after December 31,
20 2006, shall meet the requirements in this section on a time frame
21 comparable in length to that provided for qualifying utilities as of
22 December 7, 2006.

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

25 (1) On or before June 1, 2012, and annually thereafter, each
26 qualifying utility shall report to the department on its progress in
27 the preceding year in meeting the energy conservation targets
28 established in RCW 19.285.040(1), including expected electricity
29 savings from the biennial conservation target, expenditures on
30 conservation, and actual electricity savings results((7)). Each
31 qualifying utility shall also submit an implementation plan for meeting
32 the renewable energy targets in RCW 19.285.040(2) for the current
33 target year. The plan must include the qualifying utility's average of
34 its load for the most recent two years, projected load and megawatt-
35 hour target for the current year based on load forecasts in the
36 utility's most recently acknowledged integrated resource plan, and an
37 estimate of the quantity of eligible renewable resources and renewable

1 energy credits, not to include information associated with specific
2 resources or costs, that the qualifying utility will require to meet
3 the target for the current target year. The plan may not be the basis
4 for enforcement actions or penalties against the qualifying utility.

5 (2) On or before June 1st of the year subsequent to the target
6 year, and annually thereafter, each qualifying utility shall report to
7 the department on its progress in meeting the renewable energy targets
8 established in RCW 19.285.040(2), including the utility's annual load
9 for the prior two years, the amount of megawatt-hours needed to meet
10 the annual renewable energy target, the amount of megawatt-hours of
11 each type of eligible renewable resource acquired, the type and amount
12 of renewable energy credits acquired, and the percent of its total
13 annual retail revenue requirement invested in the incremental cost of
14 eligible renewable resources and the cost of renewable energy credits.
15 For each year that a qualifying utility elects to demonstrate
16 alternative compliance under RCW 19.285.040(2) (d) or (i) or
17 19.285.050(1), it must include in its annual report relevant data to
18 demonstrate that it met the criteria in that section.

19 (3) A qualifying utility may submit its reports to the department
20 in conjunction with its annual obligations in chapter 19.29A RCW.

21 ~~((+2))~~ (4) A qualifying utility that is an investor-owned utility
22 shall also report all information required in subsections (1) and (2)
23 of this section to the commission, and all other qualifying utilities
24 shall also make all information required in subsections (1) and (2) of
25 this section available to the auditor.

26 ~~((+3))~~ (5) A qualifying utility shall also make reports required
27 in this section available to its customers.

28 NEW SECTION. Sec. 4. (1) By June 30, 2013, the joint legislative
29 audit and review committee shall conduct a study on the costs and
30 benefits of the renewable and conservation targets under chapter 19.285
31 RCW, including an examination of how the targets affect the following:
32 The cost of electricity for commercial, industrial, and residential
33 customers of each qualifying utility; and the development of renewable
34 energy.

35 (2)(a) The department of commerce shall contract with a mutually
36 acceptable person or entity to study the feasibility of measuring
37 hydroelectric power that is used to integrate an eligible renewable

1 resource and whether classifying such hydroelectric power as an
2 eligible renewable resource will further the purposes of chapter 19.285
3 RCW. The study must be presented to the appropriate committees of the
4 legislature by December 1, 2013.

5 (b) Before selecting the contractor, the department of commerce
6 shall consult the following: Qualifying utilities; large industrial
7 customers; organizations representing environmental interests; and any
8 other directly interested organizations and associations.

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