
ENGROSSED SUBSTITUTE SENATE BILL 6658

State of Washington

61st Legislature

2010 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Rockefeller, Morton, and Pridemore)

READ FIRST TIME 02/04/10.

1 AN ACT Relating to modifying community solar project provisions for
2 investment cost recovery incentives; amending RCW 82.16.110 and
3 82.16.120; and adding a new section to chapter 82.16 RCW.

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

5 **Sec. 1.** RCW 82.16.110 and 2009 c 469 s 504 are each amended to
6 read as follows:

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

9 (1) "Administrator" means an owner and assignee of a community
10 solar project as defined in subsection (2)(a)(i) of this section that
11 is responsible for applying for the investment cost recovery incentive
12 on behalf of the other owners and performing such administrative tasks
13 on behalf of the other owners as may be necessary, such as receiving
14 investment cost recovery incentive payments, and allocating and paying
15 appropriate amounts of such payments to the other owners.

16 (2)(a) "Community solar project" means:

17 (i) A solar energy system that produces a maximum instantaneous
18 power output of one hundred kilowatts of electricity and is owned by
19 local individuals, households, nonprofit organizations, or nonutility

1 businesses that is placed on the property owned by a cooperating local
2 governmental entity that is not in the light and power business or in
3 the gas distribution business; ~~((or))~~

4 (ii) A utility-owned solar energy system that produces a maximum
5 instantaneous power output of one hundred kilowatts of electricity and
6 that is voluntarily funded by the utility's ratepayers where, in
7 exchange for their financial support, the utility gives contributors a
8 payment or credit on their utility bill for the value of the
9 electricity produced by the project; or

10 (iii)(A) Except as provided in (B) of this subsection (2)(a)(iii),
11 a solar energy system, placed on the property owned by a cooperating
12 local governmental entity that is not in the light and power business
13 or in the gas distribution business, that produces a maximum
14 instantaneous power output of one hundred kilowatts of electricity, and
15 that is owned by a limited liability company whose members are each
16 eligible for an investment cost recovery incentive for the same
17 customer-generated electricity as provided in RCW 82.16.120.

18 (B) The one hundred kilowatt limitation in (A) of this subsection
19 (2)(a)(iii) does not apply to any community solar system owned by a
20 limited liability company that has received all required government
21 permits and approvals and begins construction by December 31, 2010.

22 (b) For the purposes of "community solar project" as defined in (a)
23 of this subsection:

24 (i) "Nonprofit organization" means an organization exempt from
25 taxation under ~~((Title))~~ 26 U.S.C. Sec. 501(c)(3) of the federal
26 internal revenue code of 1986, as amended, as of January 1, 2009; and

27 (ii) "Utility" means a light and power business, an electric
28 cooperative, or a mutual corporation that provides electricity service.

29 ~~((+2))~~ (3) "Customer-generated electricity" means a community
30 solar project or the alternating current electricity that is generated
31 from a renewable energy system located in Washington and installed on
32 an individual's, businesses', or local government's real property that
33 is also provided electricity generated by a light and power business.
34 Except for community solar projects, a system located on a leasehold
35 interest does not qualify under this definition. Except for utility-
36 owned community solar projects, "customer-generated electricity" does
37 not include electricity generated by a light and power business with

1 greater than one thousand megawatt hours of annual sales or a gas
2 distribution business.

3 ~~((+3+))~~ (4) "Economic development kilowatt-hour" means the actual
4 kilowatt-hour measurement of customer-generated electricity multiplied
5 by the appropriate economic development factor.

6 ~~((+4+))~~ (5) "Local governmental entity" means any unit of local
7 government of this state including, but not limited to, counties,
8 cities, towns, municipal corporations, quasi-municipal corporations,
9 special purpose districts, and school districts.

10 ~~((+5+))~~ (6) "Photovoltaic cell" means a device that converts light
11 directly into electricity without moving parts.

12 ~~((+6+))~~ (7) "Renewable energy system" means a solar energy system,
13 an anaerobic digester as defined in RCW 82.08.900, or a wind generator
14 used for producing electricity.

15 ~~((+7+))~~ (8) "Solar energy system" means any device or combination
16 of devices or elements that rely upon direct sunlight as an energy
17 source for use in the generation of electricity.

18 ~~((+8+))~~ (9) "Solar inverter" means the device used to convert
19 direct current to alternating current in a photovoltaic cell system.

20 ~~((+9+))~~ (10) "Solar module" means the smallest nondivisible self-
21 contained physical structure housing interconnected photovoltaic cells
22 and providing a single direct current electrical output.

23 **Sec. 2.** RCW 82.16.120 and 2009 c 469 s 505 are each amended to
24 read as follows:

25 (1)(a) Any individual, business, local governmental entity, not in
26 the light and power business or in the gas distribution business, or a
27 participant in a community solar project may apply to the light and
28 power business serving the situs of the system, each fiscal year
29 beginning on July 1, 2005, for an investment cost recovery incentive
30 for each kilowatt-hour from a customer-generated electricity renewable
31 energy system.

32 ~~((No incentive may be paid for kilowatt hours generated before July
33 1, 2005, or after June 30, 2020.))~~

34 (b) In the case of a community solar project as defined in RCW
35 82.16.110(2)(a)(i), the administrator must apply for the investment
36 cost recovery incentive on behalf of each of the other owners.

1 (c) In the case of a community solar project as defined in RCW
2 82.16.110(2)(a)(iii), the limited liability company owning the
3 community solar project must apply for the investment cost recovery
4 incentive on behalf of each member of the limited liability company.

5 (2)(a) Before submitting for the first time the application for the
6 incentive allowed under subsection (4) of this section, the applicant
7 must submit to the department of revenue and to the climate and rural
8 energy development center at the Washington State University,
9 established under RCW 28B.30.642, a certification in a form and manner
10 prescribed by the department that includes, but is not limited to, the
11 following information:

12 (i) The name and address of the applicant and location of the
13 renewable energy system.

14 (A) If the applicant is an administrator of a community solar
15 project as defined in RCW 82.16.110(2)(a)(i), the certification must
16 also include the name and address of each of the owners of the
17 community solar project.

18 (B) If the applicant is a limited liability company that owns a
19 community solar project as defined in RCW 82.16.110(2)(a)(iii), the
20 certification must also include the name and address of each member of
21 the limited liability company;

22 (ii) The applicant's tax registration number;

23 (iii) That the electricity produced by the applicant meets the
24 definition of "customer-generated electricity" and that the renewable
25 energy system produces electricity with:

26 (A) Any solar inverters and solar modules manufactured in
27 Washington state;

28 (B) A wind generator powered by blades manufactured in Washington
29 state;

30 (C) A solar inverter manufactured in Washington state;

31 (D) A solar module manufactured in Washington state; or

32 (E) Solar or wind equipment manufactured outside of Washington
33 state;

34 (iv) That the electricity can be transformed or transmitted for
35 entry into or operation in parallel with electricity transmission and
36 distribution systems; and

37 (v) The date that the renewable energy system received its final
38 electrical permit from the applicable local jurisdiction.

1 (b) Within thirty days of receipt of the certification the
2 department of revenue must notify the applicant by mail, or
3 electronically as provided in RCW 82.32.135, whether the renewable
4 energy system qualifies for an incentive under this section. The
5 department may consult with the climate and rural energy development
6 center to determine eligibility for the incentive. System
7 certifications and the information contained therein are subject to
8 disclosure under RCW 82.32.330(3)(m).

9 (3)(a) By August 1st of each year application for the incentive
10 (~~shall~~) must be made to the light and power business serving the
11 situs of the system by certification in a form and manner prescribed by
12 the department that includes, but is not limited to, the following
13 information:

14 (i) The name and address of the applicant and location of the
15 renewable energy system.

16 (A) If the applicant is an administrator of a community solar
17 project as defined in RCW 82.16.110(2)(a)(i), the application must also
18 include the name and address of each of the owners of the community
19 solar project.

20 (B) If the applicant is a limited liability company that owns a
21 community solar project as defined in RCW 82.16.110(2)(a)(iii), the
22 application must also include the name and address of each member of
23 the limited liability company;

24 (ii) The applicant's tax registration number;

25 (iii) The date of the notification from the department of revenue
26 stating that the renewable energy system is eligible for the incentives
27 under this section; and

28 (iv) A statement of the amount of kilowatt-hours generated by the
29 renewable energy system in the prior fiscal year.

30 (b) Within sixty days of receipt of the incentive certification the
31 light and power business serving the situs of the system (~~shall~~) must
32 notify the applicant in writing whether the incentive payment will be
33 authorized or denied. The business may consult with the climate and
34 rural energy development center to determine eligibility for the
35 incentive payment. Incentive certifications and the information
36 contained therein are subject to disclosure under RCW 82.32.330(3)(m).

37 (c)(i) Persons receiving incentive payments (~~shall~~) must keep and
38 preserve, for a period of five years, suitable records as may be

1 necessary to determine the amount of incentive applied for and
2 received. Such records (~~(shall)~~) must be open for examination at any
3 time upon notice by the light and power business that made the payment
4 or by the department. If upon examination of any records or from other
5 information obtained by the business or department it appears that an
6 incentive has been paid in an amount that exceeds the correct amount of
7 incentive payable, the business may assess against the person for the
8 amount found to have been paid in excess of the correct amount of
9 incentive payable and (~~(shall)~~) must add thereto interest on the
10 amount. Interest (~~(shall-be)~~) is assessed in the manner that the
11 department assesses interest upon delinquent tax under RCW 82.32.050.

12 (ii) If it appears that the amount of incentive paid is less than
13 the correct amount of incentive payable the business may authorize
14 additional payment.

15 (4) Except for community solar projects, the investment cost
16 recovery incentive may be paid fifteen cents per economic development
17 kilowatt-hour unless requests exceed the amount authorized for credit
18 to the participating light and power business. For community solar
19 projects, the investment cost recovery incentive may be paid thirty
20 cents per economic development kilowatt-hour unless requests exceed the
21 amount authorized for credit to the participating light and power
22 business. For the purposes of this section, the rate paid for the
23 investment cost recovery incentive may be multiplied by the following
24 factors:

25 (a) For customer-generated electricity produced using solar modules
26 manufactured in Washington state, two and four-tenths;

27 (b) For customer-generated electricity produced using a solar or a
28 wind generator equipped with an inverter manufactured in Washington
29 state, one and two-tenths;

30 (c) For customer-generated electricity produced using an anaerobic
31 digester, or by other solar equipment or using a wind generator
32 equipped with blades manufactured in Washington state, one; and

33 (d) For all other customer-generated electricity produced by wind,
34 eight-tenths.

35 (5)(a) No individual, household, business, or local governmental
36 entity is eligible for incentives provided under subsection (4) of this
37 section for more than five thousand dollars per year.

1 (b) Except as provided in (c) and (d) of this subsection (5), each
2 applicant in a community solar project is eligible for up to five
3 thousand dollars per year.

4 (c) Where the applicant is an administrator of a community solar
5 project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible
6 for an incentive up to five thousand dollars per year.

7 (d) Where the applicant is a limited liability company owning a
8 community solar project that has applied for an investment cost
9 recovery incentive on behalf of its members, each member of the limited
10 liability company is eligible for the incentive that would otherwise
11 belong to the limited liability company, up to five thousand dollars
12 per year, and the limited liability company is not eligible for
13 incentives under this section.

14 (6) Owners in a community solar project are eligible to receive an
15 investment cost recovery incentive based on the total customer-
16 generated electricity produced by the project but only in proportion to
17 each ownership share or, in the case of a utility-owned community solar
18 project, in proportion to each ratepayer's contribution. No owner in
19 a community solar project is eligible for incentives under this section
20 for more than five thousand dollars.

21 (7) If requests for the investment cost recovery incentive exceed
22 the amount of funds available for credit to the participating light and
23 power business, the incentive payments (~~shall~~) must be reduced
24 proportionately.

25 ~~((+7))~~ (8) The climate and rural energy development center at
26 Washington State University energy program may establish guidelines and
27 standards for technologies that are identified as Washington
28 manufactured and therefore most beneficial to the state's environment.

29 ~~((+8))~~ (9) The environmental attributes of the renewable energy
30 system belong to the applicant, and do not transfer to the state or the
31 light and power business upon receipt of the investment cost recovery
32 incentive.

33 (10) No incentive may be paid under this section for kilowatt-hours
34 generated before July 1, 2005, or after June 30, 2020.

35 NEW SECTION. Sec. 3. A new section is added to chapter 82.16 RCW
36 to read as follows:

37 Owners of a community solar project as defined in RCW

1 82.16.110(2)(a) (i) and (iii) must agree to hold harmless the light and
2 power business serving the situs of the system, including any employee,
3 for the good faith reliance on the information contained in an
4 application or certification submitted by an administrator or limited
5 liability company. In addition, the light and power business and any
6 employee is immune from civil liability for the good faith reliance on
7 any misstatement that may be made in such application or certification.
8 Should a light and power business or employee prevail upon the defense
9 provided in this section, it is entitled to recover expenses and
10 reasonable attorneys' fees incurred in establishing the defense.

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