
SENATE BILL 6658

State of Washington

61st Legislature

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By Senators Rockefeller, Morton, and Pridemore

Read first time 01/20/10. Referred to Committee on Environment, Water & Energy.

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

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)(a) "Community solar project" means:

10 (i) A solar energy system that produces a maximum instantaneous
11 power output of two megawatts of electricity and is owned by local
12 individuals, households, nonprofit organizations, or nonutility
13 businesses that is placed on the property owned by a cooperating local
14 governmental entity that is not in the light and power business or in
15 the gas distribution business; or

16 (ii) A utility-owned solar energy system that produces a maximum
17 instantaneous power output of two megawatts of electricity and that is
18 voluntarily funded by the utility's ratepayers where, in exchange for

1 their financial support, the utility gives contributors a payment or
2 credit on their utility bill for the value of the electricity produced
3 by the project; or

4 (iii) A solar energy system that produces a maximum instantaneous
5 power output of two megawatts of electricity and is owned by a limited
6 liability company whose members are each eligible for an investment
7 cost recovery incentive for the same customer-generated electricity as
8 provided in RCW 82.16.120.

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

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

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

16 (2) "Customer-generated electricity" means a community solar
17 project or the alternating current electricity that is generated from
18 a renewable energy system located on an individual's, businesses', or
19 local government's real property that is also provided electricity
20 generated by a light and power business. Except for community solar
21 projects, a system located on a leasehold interest does not qualify
22 under this definition. Except for utility-owned community solar
23 projects, "customer-generated electricity" does not include electricity
24 generated by a light and power business with greater than one thousand
25 megawatt hours of annual sales or a gas distribution business.

26 (3) "Economic development kilowatt-hour" means the actual kilowatt-
27 hour measurement of customer-generated electricity multiplied by the
28 appropriate economic development factor.

29 (4) "Local governmental entity" means any unit of local government
30 of this state including, but not limited to, counties, cities, towns,
31 municipal corporations, quasi-municipal corporations, special purpose
32 districts, and school districts.

33 (5) "Photovoltaic cell" means a device that converts light directly
34 into electricity without moving parts.

35 (6) "Renewable energy system" means a solar energy system, an
36 anaerobic digester as defined in RCW 82.08.900, or a wind generator
37 used for producing electricity.

1 (7) "Solar energy system" means any device or combination of
2 devices or elements that rely upon direct sunlight as an energy source
3 for use in the generation of electricity.

4 (8) "Solar inverter" means the device used to convert direct
5 current to alternating current in a photovoltaic cell system.

6 (9) "Solar module" means the smallest nondivisible self-contained
7 physical structure housing interconnected photovoltaic cells and
8 providing a single direct current electrical output.

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

11 (1) Any individual, business, local governmental entity, not in the
12 light and power business or in the gas distribution business, or a
13 participant in a community solar project may apply to the light and
14 power business serving the situs of the system, each fiscal year
15 beginning on July 1, 2005, for an investment cost recovery incentive
16 for each kilowatt-hour from a customer-generated electricity renewable
17 energy system. In the case of a community solar project as defined in
18 RCW 82.16.110(1)(a)(iii), the limited liability company owning the
19 community solar project must apply for the investment cost recovery
20 incentive on behalf of each member of the limited liability company.
21 No incentive may be paid for kilowatt-hours generated before July 1,
22 2005, or after June 30, 2020.

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

30 (i) The name and address of the applicant and location of the
31 renewable energy system. If the applicant is a limited liability
32 company that owns a community solar project as defined in RCW
33 82.16.110(1)(a)(iii), the certification must also include the name and
34 address of each member of the limited liability company;

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

36 (iii) That the electricity produced by the applicant meets the

1 definition of "customer-generated electricity" and that the renewable
2 energy system produces electricity with:

3 (A) Any solar inverters and solar modules manufactured in
4 Washington state;

5 (B) A wind generator powered by blades manufactured in Washington
6 state;

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

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

9 (E) Solar or wind equipment manufactured outside of Washington
10 state;

11 (iv) That the electricity can be transformed or transmitted for
12 entry into or operation in parallel with electricity transmission and
13 distribution systems;

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

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

24 (3)(a) By August 1st of each year application for the incentive
25 shall be made to the light and power business serving the situs of the
26 system by certification in a form and manner prescribed by the
27 department that includes, but is not limited to, the following
28 information:

29 (i) The name and address of the applicant and location of the
30 renewable energy system. If the applicant is a limited liability
31 company that owns a community solar project as defined in RCW
32 82.16.110(1)(a)(iii), the application must also include the name and
33 address of each member of the limited liability company;

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

35 (iii) The date of the notification from the department of revenue
36 stating that the renewable energy system is eligible for the incentives
37 under this section;

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

3 (b) Within sixty days of receipt of the incentive certification the
4 light and power business serving the situs of the system shall notify
5 the applicant in writing whether the incentive payment will be
6 authorized or denied. The business may consult with the climate and
7 rural energy development center to determine eligibility for the
8 incentive payment. Incentive certifications and the information
9 contained therein are subject to disclosure under RCW 82.32.330(3)(m).

10 (c)(i) Persons receiving incentive payments shall keep and
11 preserve, for a period of five years, suitable records as may be
12 necessary to determine the amount of incentive applied for and
13 received. Such records shall be open for examination at any time upon
14 notice by the light and power business that made the payment or by the
15 department. If upon examination of any records or from other
16 information obtained by the business or department it appears that an
17 incentive has been paid in an amount that exceeds the correct amount of
18 incentive payable, the business may assess against the person for the
19 amount found to have been paid in excess of the correct amount of
20 incentive payable and shall add thereto interest on the amount.
21 Interest shall be assessed in the manner that the department assesses
22 interest upon delinquent tax under RCW 82.32.050.

23 (ii) If it appears that the amount of incentive paid is less than
24 the correct amount of incentive payable the business may authorize
25 additional payment.

26 (4) Except for community solar projects, the investment cost
27 recovery incentive may be paid fifteen cents per economic development
28 kilowatt-hour unless requests exceed the amount authorized for credit
29 to the participating light and power business. For community solar
30 projects, the investment cost recovery incentive may be paid thirty
31 cents per economic development kilowatt-hour unless requests exceed the
32 amount authorized for credit to the participating light and power
33 business. For the purposes of this section, the rate paid for the
34 investment cost recovery incentive may be multiplied by the following
35 factors:

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

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

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

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

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

12 (b) Except as provided in (c) of this subsection (5), each
13 applicant in a community solar project is eligible for up to five
14 thousand dollars per year.

15 (c) Where the applicant is a limited liability company owning a
16 community solar project that has applied for an investment cost
17 recovery incentive on behalf of its members, each member of the limited
18 liability company is eligible for the incentive that would otherwise
19 belong to the limited liability company, up to five thousand dollars
20 per year, and the limited liability company is not eligible for
21 incentives under this section.

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

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

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

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