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SENATE BILL 6672

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State of Washington

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By Senator Rockefeller

Read first time 01/21/10. Referred to Committee on Environment, Water & Energy.

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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