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SENATE BILL 6682

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State of Washington

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By Senators Kastama, Sheldon, and Hatfield

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

1 AN ACT Relating to a baseload renewable power facility; and  
2 amending RCW 19.285.030 and 19.285.040.

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 Northwest;  
15 or (ii) the electricity from the facility is delivered into Washington  
16 state on a real-time basis without shaping, storage, or integration  
17 services; or

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

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

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

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

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

5 (15) "Public facility" has the same meaning as defined in RCW  
6 39.35C.010.

7 (16) "Qualifying utility" means an electric utility, as the term  
8 "electric utility" is defined in RCW 19.29A.010, that serves more than  
9 twenty-five thousand customers in the state of Washington. The number  
10 of customers served may be based on data reported by a utility in form  
11 861, "annual electric utility report," filed with the energy  
12 information administration, United States department of energy.

13 (17) "Renewable energy credit" means a tradable certificate of  
14 proof of at least one megawatt-hour of an eligible renewable resource  
15 where the generation facility is not powered by fresh water, the  
16 certificate includes all of the nonpower attributes associated with  
17 that one megawatt-hour of electricity, and the certificate is verified  
18 by a renewable energy credit tracking system selected by the  
19 department.

20 (18) "Renewable resource" means: (a) Water; (b) wind; (c) solar  
21 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or  
22 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel  
23 fuel as defined in RCW 82.29A.135 that is not derived from crops raised  
24 on land cleared from old growth or first-growth forests where the  
25 clearing occurred after December 7, 2006; and (i) biomass energy based  
26 on animal waste or solid organic fuels from wood, forest, or field  
27 residues, or dedicated energy crops that do not include (i) wood pieces  
28 that have been treated with chemical preservatives such as creosote,  
29 pentachlorophenol, or copper-chrome-arsenic; (ii) black liquor by-  
30 product from paper production; (iii) wood from old growth forests; or  
31 (iv) municipal solid waste.

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

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

37 (21) "Baseload renewable power facility" means a facility that

1 develops electric generation from a renewable resource that is designed  
2 and intended to provide electricity at an annualized facility capacity  
3 factor of at least sixty percent.

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

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

8 (a) By January 1, 2010, using methodologies consistent with those  
9 used by the Pacific Northwest electric power and conservation planning  
10 council in its most recently published regional power plan, each  
11 qualifying utility shall identify its achievable cost-effective  
12 conservation potential through 2019. At least every two years  
13 thereafter, the qualifying utility shall review and update this  
14 assessment for the subsequent ten-year period.

15 (b) Beginning January 2010, each qualifying utility shall establish  
16 and make publicly available a biennial acquisition target for cost-  
17 effective conservation consistent with its identification of achievable  
18 opportunities in (a) of this subsection, and meet that target during  
19 the subsequent two-year period. At a minimum, each biennial target  
20 must be no lower than the qualifying utility's pro rata share for that  
21 two-year period of its cost-effective conservation potential for the  
22 subsequent ten-year period.

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

36 (d) The commission may determine if a conservation program

1 implemented by an investor-owned utility is cost-effective based on the  
2 commission's policies and practice.

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

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

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

10 (ii) At least nine percent of its load by January 1, 2016, and each  
11 year thereafter through December 31, 2019; and

12 (iii) At least fifteen percent of its load by January 1, 2020, and  
13 each year thereafter.

14 (b) A qualifying utility may count distributed generation at double  
15 the facility's electrical output if the utility: (i) Owns or has  
16 contracted for the distributed generation and the associated renewable  
17 energy credits; or (ii) has contracted to purchase the associated  
18 renewable energy credits.

19 (c) A qualifying utility may count electrical power generated from  
20 a baseload renewable power facility at double the facility's electrical  
21 output if the utility develops or contracts with a baseload renewable  
22 power facility that begins permitted construction in Washington state  
23 in 2010.

24 (d) In meeting the annual targets in (a) of this subsection, a  
25 qualifying utility shall calculate its annual load based on the average  
26 of the utility's load for the previous two years.

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

1       ~~((e))~~ (f) The requirements of this section may be met for any  
2 given year with renewable energy credits produced during that year, the  
3 preceding year, or the subsequent year. Each renewable energy credit  
4 may be used only once to meet the requirements of this section.

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

7       (i) Eligible renewable resources or distributed generation where  
8 the associated renewable energy credits are owned by a separate entity;  
9 or

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

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

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

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

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

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

29       ~~((i))~~ (j) A qualifying utility shall be considered in compliance  
30 with an annual target in (a) of this subsection if events beyond the  
31 reasonable control of the utility that could not have been reasonably  
32 anticipated or ameliorated prevented it from meeting the renewable  
33 energy target. Such events include weather-related damage, mechanical  
34 failure, strikes, lockouts, and actions of a governmental authority  
35 that adversely affect the generation, transmission, or distribution of  
36 an eligible renewable resource under contract to a qualifying utility.

37       (3) Utilities that become qualifying utilities after December 31,

1 2006, shall meet the requirements in this section on a time frame  
2 comparable in length to that provided for qualifying utilities as of  
3 December 7, 2006.

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