
HOUSE BILL 1890

State of Washington

62nd Legislature

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By Representatives Klippert, Angel, Kristiansen, Short, Haler, Bailey, and McCune

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1 AN ACT Relating to reducing energy costs to the citizens of
2 Washington state through temporarily lowering renewable energy
3 requirements during the current economic downturn and recognizing
4 hydroelectric generation as a renewable resource; amending RCW
5 19.285.030 and 19.285.040; creating a new section; and providing a
6 contingent expiration date.

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

8 NEW SECTION. **Sec. 1.** In 2006, the voters approved a sweeping
9 environmental law, the energy independence act. While protecting the
10 environment is of utmost importance, we must balance such regulation
11 with the ability to maintain jobs and protect our economy. At the time
12 the initiative was passed, the unemployment rate in Washington was 4.9
13 percent. Washington's unemployment rate has since skyrocketed to more
14 than 9.3 percent. It is the legislature's intent to provide utilities
15 with more time during the continuing economic downturn to meet certain
16 mandates of the energy independence act and thereby delay the rate
17 impacts that would be caused by the capital investments to meet such
18 mandates. This will benefit electricity consumers who cannot currently
19 afford the increased prices that will be passed onto them as a result

1 of this legislation. Fortunately, the delay in implementing certain
2 provisions of this law will be minimal due to Washington's existing
3 clean energy portfolio, which is recognized as the third cleanest state
4 in the nation.

5 **Sec. 2.** RCW 19.285.030 and 2009 c 565 s 20 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) "Attorney general" means the Washington state office of the
10 attorney general.

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

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

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

21 (5) "Cost-effective" has the same meaning as defined in RCW
22 80.52.030.

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

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

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

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

31 (10) "Eligible renewable resource" means:

32 (a) Electricity from a generation facility powered by a renewable
33 resource (~~((other than fresh water))~~) that commences operation after
34 March 31, 1999, where: (i) The facility is located in the Pacific
35 Northwest; or (ii) the electricity from the facility is delivered into
36 Washington state on a real-time basis without shaping, storage, or
37 integration services; or

1 (b) (~~Incremental electricity produced as a result of efficiency~~
2 ~~improvements completed after March 31, 1999, to hydroelectric~~
3 ~~generation projects owned by a qualifying utility and located in the~~
4 ~~Pacific Northwest or to hydroelectric generation in irrigation pipes~~
5 ~~and canals located in the Pacific Northwest, where the additional~~
6 ~~generation in either case does not result in new water diversions or~~
7 ~~impoundments.)) Electricity from an existing generation facility
8 powered by a fresh water renewable resource that commenced operation
9 before March 31, 1999.~~

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

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

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

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

27 (15) "Public facility" has the same meaning as defined in RCW
28 39.35C.010.

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

35 (17) "Renewable energy credit" means a tradable certificate of
36 proof of at least one megawatt-hour of an eligible renewable resource
37 (~~where the generation facility is not powered by fresh water~~), the
38 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 (i) biomass energy based
10 on animal waste or solid organic fuels from wood, forest, or field
11 residues, or dedicated energy crops that do not include (i) wood pieces
12 that have been treated with chemical preservatives such as creosote,
13 pentachlorophenol, or copper-chrome-arsenic; (ii) black liquor by-
14 product from paper production; (iii) wood from old growth forests; or
15 (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 **Sec. 3.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read
22 as follows:

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

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

32 (b) Beginning January 2010, each qualifying utility shall establish
33 and make publicly available a biennial acquisition target for cost-
34 effective conservation consistent with its identification of achievable
35 opportunities in (a) of this subsection, and meet that target during
36 the subsequent two-year period. At a minimum, each biennial target

1 must be no lower than the qualifying utility's pro rata share for that
2 two-year period of its cost-effective conservation potential for the
3 subsequent ten-year period.

4 (c) In meeting its conservation targets, a qualifying utility may
5 count high-efficiency cogeneration owned and used by a retail electric
6 customer to meet its own needs. High-efficiency cogeneration is the
7 sequential production of electricity and useful thermal energy from a
8 common fuel source, where, under normal operating conditions, the
9 facility has a useful thermal energy output of no less than thirty-
10 three percent of the total energy output. The reduction in load due to
11 high-efficiency cogeneration shall be: (i) Calculated as the ratio of
12 the fuel chargeable to power heat rate of the cogeneration facility
13 compared to the heat rate on a new and clean basis of a
14 best-commercially available technology combined-cycle natural gas-fired
15 combustion turbine; and (ii) counted towards meeting the biennial
16 conservation target in the same manner as other conservation savings.

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

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

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

25 (i) At least (~~three~~) one and one-half percent of its load by
26 January 1, 2012, and each year thereafter through December 31, 2015;

27 (ii) At least (~~nine~~) four and one-half percent of its load by
28 January 1, 2016, and each year thereafter through December 31, 2019;
29 and

30 (iii) At least (~~fifteen~~) seven and one-half percent of its load
31 by January 1, 2020, and each year thereafter.

32 (b) A qualifying utility may count distributed generation at double
33 the facility's electrical output if the utility: (i) Owns or has
34 contracted for the distributed generation and the associated renewable
35 energy credits; or (ii) has contracted to purchase the associated
36 renewable energy credits.

37 (c) In meeting the annual targets in (a) of this subsection, a

1 qualifying utility shall calculate its annual load based on the average
2 of the utility's load for the previous two years.

3 (d) A qualifying utility shall be considered in compliance with an
4 annual target in (a) of this subsection if: (i) The utility's weather-
5 adjusted load for the previous three years on average did not increase
6 over that time period; (ii) after December 7, 2006, the utility did not
7 commence or renew ownership or incremental purchases of electricity
8 from resources other than renewable resources other than on a daily
9 spot price basis and the electricity is not offset by equivalent
10 renewable energy credits; and (iii) the utility invested at least one
11 percent of its total annual retail revenue requirement that year on
12 eligible renewable resources, renewable energy credits, or a
13 combination of both.

14 (e) The requirements of this section may be met for any given year
15 with renewable energy credits produced during that year, the preceding
16 year, or the subsequent year. Each renewable energy credit may be used
17 only once to meet the requirements of this section.

18 (f) In complying with the targets established in (a) of this
19 subsection, a qualifying utility may not count:

20 (i) Eligible renewable resources or distributed generation where
21 the associated renewable energy credits are owned by a separate entity;
22 or

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

26 (g) Where fossil and combustible renewable resources are cofired in
27 one generating unit located in the Pacific Northwest where the cofiring
28 commenced after March 31, 1999, the unit shall be considered to produce
29 eligible renewable resources in direct proportion to the percentage of
30 the total heat value represented by the heat value of the renewable
31 resources.

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

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

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

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

4 (i) A qualifying utility shall be considered in compliance with an
5 annual target in (a) of this subsection if events beyond the reasonable
6 control of the utility that could not have been reasonably anticipated
7 or ameliorated prevented it from meeting the renewable energy target.
8 Such events include weather-related damage, mechanical failure,
9 strikes, lockouts, and actions of a governmental authority that
10 adversely affect the generation, transmission, or distribution of an
11 eligible renewable resource under contract to a qualifying utility.

12 (3) Utilities that become qualifying utilities after December 31,
13 2006, shall meet the requirements in this section on a time frame
14 comparable in length to that provided for qualifying utilities as of
15 December 7, 2006.

16 NEW SECTION. **Sec. 4.** (1) Section 3 of this act expires on the
17 first day after the state's unemployment rate decreases to less than
18 five percent as reported by the employment security department.

19 (2) The employment security department must notify the code
20 reviser's office and provide the code reviser's office with the
21 expiration date referenced in subsection (1) of this section.

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