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HOUSE BILL 2124

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State of Washington                      62nd Legislature                      2011 1st Special Session

By Representatives Nealey, Takko, Haler, Blake, Armstrong, Short, Crouse, Kristiansen, Walsh, Klippert, Hinkle, Orcutt, Harris, Chandler, Johnson, Rodne, Overstreet, Bailey, and McCune

Read first time 05/25/11. Referred to Committee on Environment.

1            AN ACT Relating to narrowing the requirement that utilities  
2 purchase electricity, renewable energy credits, or electric generating  
3 facilities that are not needed to serve their customers' loads;  
4 amending RCW 19.285.040; and creating a new section.

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

6            NEW SECTION.    **Sec. 1.**    (1) The legislature finds that requiring  
7 utilities to purchase electricity that they do not need to serve their  
8 customers' loads places an unnecessary economic hardship on utility  
9 customers. The legislature also finds that energy conservation is the  
10 highest priority resource.

11            (2) It is the intent of the legislature to remove economic and  
12 regulatory penalties from and encourage the acquisition of energy  
13 conservation.

14            (3) The legislature finds that most utilities have already  
15 achieved, or are well on their way to achieving, renewable resource  
16 acquisition targets as part of their requirements to serve customers  
17 with clean, renewable energy.

18            (4) It is the intent of the legislature to remove unnecessary  
19 economic hardship on electric utility customers by eliminating the

1 requirement for utilities to purchase unneeded electricity, renewable  
2 energy credits, or electric generating facilities that are not needed  
3 to serve their customers' loads.

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

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

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

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

1 (i) Eligible renewable resources or distributed generation where  
2 the associated renewable energy credits are owned by a separate entity;  
3 or

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

7 (g) Where fossil and combustible renewable resources are cofired in  
8 one generating unit located in the Pacific Northwest where the cofiring  
9 commenced after March 31, 1999, the unit shall be considered to produce  
10 eligible renewable resources in direct proportion to the percentage of  
11 the total heat value represented by the heat value of the renewable  
12 resources.

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

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

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

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

23 (i) A qualifying utility shall be considered in compliance with an  
24 annual target in (a) of this subsection if: (A)(I) The annual energy  
25 output of the qualifying utility's electricity resources, either owned  
26 or under contract on the effective date of this section, plus the  
27 annual energy output of its eligible renewable resources acquired  
28 subsequent to that date, plus its renewable energy credits meets or  
29 exceeds the average of the utility's load for the previous two years;  
30 and (II) a utility's commission, board of directors, or other governing  
31 body, makes a determination by November 1, 2011, in accordance with  
32 other applicable statutory and regulatory requirements, that a utility  
33 subject to its respective jurisdiction may utilize this provision; or  
34 (B) events beyond the reasonable control of the utility that could not  
35 have been reasonably anticipated or ameliorated prevented it from  
36 meeting the renewable energy target. Such events include  
37 weather-related damage, mechanical failure, strikes, lockouts, and

1 actions of a governmental authority that adversely affect the  
2 generation, transmission, or distribution of an eligible renewable  
3 resource under contract to a qualifying utility.

4 (3) Utilities that become qualifying utilities after December 31,  
5 2006, shall meet the requirements in this section on a time frame  
6 comparable in length to that provided for qualifying utilities as of  
7 December 7, 2006.

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