
HOUSE BILL 2180

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By Representatives Morris, Eddy, and Upthegrove

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1 AN ACT Relating to the use of an energy storage facility to meet
2 annual targets under RCW 19.285.040; and amending RCW 19.285.030 and
3 19.285.040.

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

5 **Sec. 1.** 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

1 consumption resulting from increases in the efficiency of energy use,
2 production, or distribution.

3 (5) "Cost-effective" has the same meaning as defined in RCW
4 80.52.030.

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

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

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

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

13 (10) "Eligible renewable resource" means:

14 (a) Electricity from a generation facility powered by a renewable
15 resource other than freshwater that commences operation after March 31,
16 1999, where: (i) The facility is located in the Pacific Northwest; or
17 (ii) the electricity from the facility is delivered into Washington
18 state on a real-time basis without shaping, storage, or integration
19 services; or

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

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

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

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

1 of pollutants to the air, soil, or water, and avoided emissions of
2 carbon dioxide and other greenhouse gases.

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

7 (15) "Public facility" has the same meaning as defined in RCW
8 39.35C.010.

9 (16) "Qualifying utility" means an electric utility, as the term
10 "electric utility" is defined in RCW 19.29A.010, that serves more than
11 twenty-five thousand customers in the state of Washington. The number
12 of customers served may be based on data reported by a utility in form
13 861, "annual electric utility report," filed with the energy
14 information administration, United States department of energy.

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

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

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

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

1 (21) "Energy storage facility" means a commercially available
2 technology that is capable of absorbing energy, storing it for a period
3 of time, and thereafter dispatching the energy as electricity to an
4 electrical transmission or distribution system. An energy storage
5 facility may not exceed the greenhouse gas emissions performance
6 standards under RCW 80.80.040 when storing electricity from an eligible
7 renewable resource or injecting electricity from the energy storage
8 facility into an electrical transmission or distribution system.

9 (22) "Off-peak hours" means the hours after 10:00 p.m. and before
10 6:00 a.m.

11 (23) "Peak hours" means the hours after 6:00 a.m. and before 10:00
12 p.m.

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

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

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

24 (b) Beginning January 2010, each qualifying utility shall establish
25 and make publicly available a biennial acquisition target for cost-
26 effective conservation consistent with its identification of achievable
27 opportunities in (a) of this subsection, and meet that target during
28 the subsequent two-year period. At a minimum, each biennial target
29 must be no lower than the qualifying utility's pro rata share for that
30 two-year period of its cost-effective conservation potential for the
31 subsequent ten-year period.

32 (c) In meeting its conservation targets, a qualifying utility may
33 count high-efficiency cogeneration owned and used by a retail electric
34 customer to meet its own needs. High-efficiency cogeneration is the
35 sequential production of electricity and useful thermal energy from a
36 common fuel source, where, under normal operating conditions, the
37 facility has a useful thermal energy output of no less than thirty-

1 three percent of the total energy output. The reduction in load due to
2 high-efficiency cogeneration shall be: (i) Calculated as the ratio of
3 the fuel chargeable to power heat rate of the cogeneration facility
4 compared to the heat rate on a new and clean basis of a
5 best-commercially available technology combined-cycle natural gas-fired
6 combustion turbine; and (ii) counted towards meeting the biennial
7 conservation target in the same manner as other conservation savings.

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

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

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

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

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

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

22 (b) 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 (c) A qualifying utility may count electricity dispatched to an
28 electrical transmission or distribution system from an energy storage
29 facility at two and one-half times the facility's output, if the energy
30 storage facility is capable of storing energy from an eligible
31 renewable resource during off-peak hours and dispatching the energy as
32 electricity to an electrical transmission or distribution system during
33 peak hours.

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

37 ~~((d))~~ (e) A qualifying utility shall be considered in compliance
38 with an annual target in (a) of this subsection if: (i) The utility's

1 weather-adjusted load for the previous three years on average did not
2 increase over that time period; (ii) after December 7, 2006, the
3 utility did not commence or renew ownership or incremental purchases of
4 electricity from resources other than renewable resources other than on
5 a daily spot price basis and the electricity is not offset by
6 equivalent renewable energy credits; and (iii) the utility invested at
7 least one percent of its total annual retail revenue requirement that
8 year on eligible renewable resources, renewable energy credits, or a
9 combination of both.

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

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

16 (i) Eligible renewable resources or distributed generation where
17 the associated renewable energy credits are owned by a separate entity;
18 or

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

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

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

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

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

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

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

9 (3) Utilities that become qualifying utilities after December 31,
10 2006, shall meet the requirements in this section on a time frame
11 comparable in length to that provided for qualifying utilities as of
12 December 7, 2006.

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