
HOUSE BILL 1289

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Morris, Ryu, and Lias

Read first time 01/22/13. Referred to Committee on Environment.

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

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

5 **Sec. 1.** RCW 19.285.030 and 2012 c 22 s 2 are each reenacted and
6 amended to 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)(a) "Biomass energy" includes: (i) Organic by-products of
17 pulping and the wood manufacturing process; (ii) animal manure; (iii)
18 solid organic fuels from wood; (iv) forest or field residues; (v)

1 untreated wooden demolition or construction debris; (vi) food waste and
2 food processing residuals; (vii) liquors derived from algae; (viii)
3 dedicated energy crops; and (ix) yard waste.

4 (b) "Biomass energy" does not include: (i) Wood pieces that have
5 been treated with chemical preservatives such as creosote,
6 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth
7 forests; or (iii) municipal solid waste.

8 (4) "Commission" means the Washington state utilities and
9 transportation commission.

10 (5) "Conservation" means any reduction in electric power
11 consumption resulting from increases in the efficiency of energy use,
12 production, or distribution.

13 (6) "Cost-effective" has the same meaning as defined in RCW
14 80.52.030.

15 (7) "Council" means the Washington state apprenticeship and
16 training council within the department of labor and industries.

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

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

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

23 (11) "Eligible renewable resource" means:

24 (a) Electricity from a generation facility powered by a renewable
25 resource other than freshwater that commences operation after March 31,
26 1999, where: (i) The facility is located in the Pacific Northwest; or
27 (ii) the electricity from the facility is delivered into Washington
28 state on a real-time basis without shaping, storage, or integration
29 services;

30 (b) Incremental electricity produced as a result of efficiency
31 improvements completed after March 31, 1999, to hydroelectric
32 generation projects owned by a qualifying utility and located in the
33 Pacific Northwest or to hydroelectric generation in irrigation pipes
34 and canals located in the Pacific Northwest, where the additional
35 generation in either case does not result in new water diversions or
36 impoundments; and

37 (c) Qualified biomass energy.

1 (12) "Investor-owned utility" has the same meaning as defined in
2 RCW 19.29A.010.

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

6 (14) "Nonpower attributes" means all environmentally related
7 characteristics, exclusive of energy, capacity reliability, and other
8 electrical power service attributes, that are associated with the
9 generation of electricity from a renewable resource, including but not
10 limited to the facility's fuel type, geographic location, vintage,
11 qualification as an eligible renewable resource, and avoided emissions
12 of pollutants to the air, soil, or water, and avoided emissions of
13 carbon dioxide and other greenhouse gases.

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

18 (16) "Public facility" has the same meaning as defined in RCW
19 39.35C.010.

20 (17) "Qualified biomass energy" means electricity produced from a
21 biomass energy facility that: (a) Commenced operation before March 31,
22 1999; (b) contributes to the qualifying utility's load; and (c) is
23 owned either by: (i) A qualifying utility; or (ii) an industrial
24 facility that is directly interconnected with electricity facilities
25 that are owned by a qualifying utility and capable of carrying
26 electricity at transmission voltage.

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

33 (19) "Renewable energy credit" means a tradable certificate of
34 proof of at least one megawatt-hour of an eligible renewable resource
35 where the generation facility is not powered by freshwater. The
36 certificate includes all of the nonpower attributes associated with
37 that one megawatt-hour of electricity, and the certificate is verified

1 by a renewable energy credit tracking system selected by the
2 department.

3 (20) "Renewable resource" means: (a) Water; (b) wind; (c) solar
4 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
5 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
6 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
7 on land cleared from old growth or first-growth forests where the
8 clearing occurred after December 7, 2006; or (i) biomass energy.

9 (21) "Rule" means rules adopted by an agency or other entity of
10 Washington state government to carry out the intent and purposes of
11 this chapter.

12 (22) "Year" means the twelve-month period commencing January 1st
13 and ending December 31st.

14 (23) "Energy storage facility" means a commercially available
15 technology that is capable of absorbing energy, storing it for a period
16 of time, and thereafter dispatching the energy as electricity to an
17 electrical transmission or distribution system. An energy storage
18 facility may not exceed the greenhouse gas emissions performance
19 standards under RCW 80.80.040 when storing electricity from an eligible
20 renewable resource or injecting electricity from the energy storage
21 facility into an electrical transmission or distribution system.

22 (24) "Off-peak hours" means the hours after 10:00 p.m. and before
23 6:00 a.m.

24 (25) "Peak hours" means the hours after 6:00 a.m. and before 10:00
25 p.m.

26 **Sec. 2.** RCW 19.285.040 and 2012 c 22 s 3 are each amended to read
27 as follows:

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

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

1 (b) Beginning January 2010, each qualifying utility shall establish
2 and make publicly available a biennial acquisition target for cost-
3 effective conservation consistent with its identification of achievable
4 opportunities in (a) of this subsection, and meet that target during
5 the subsequent two-year period. At a minimum, each biennial target
6 must be no lower than the qualifying utility's pro rata share for that
7 two-year period of its cost-effective conservation potential for the
8 subsequent ten-year period.

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

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

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

27 (2)(a) Except as provided in ~~((+j))~~ (k) of this subsection, each
28 qualifying utility shall use eligible renewable resources or acquire
29 equivalent renewable energy credits, or any combination of them, to
30 meet the following annual targets:

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

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

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

37 (b) A qualifying utility may count distributed generation at double
38 the facility's electrical output if the utility: (i) Owns or has

1 contracted for the distributed generation and the associated renewable
2 energy credits; or (ii) has contracted to purchase the associated
3 renewable energy credits.

4 (c) A qualifying utility may count electricity dispatched to an
5 electrical transmission or distribution system from an energy storage
6 facility at two and one-half times the facility's output, if the energy
7 storage facility is capable of storing energy from an eligible
8 renewable resource during off-peak hours and dispatching the energy as
9 electricity to an electrical transmission or distribution system during
10 peak hours.

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

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

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

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

31 (i) Eligible renewable resources or distributed generation where
32 the associated renewable energy credits are owned by a separate entity;
33 or

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

37 ~~((g))~~ (h) Where fossil and combustible renewable resources are
38 cofired in one generating unit located in the Pacific Northwest where

1 the cofiring commenced after March 31, 1999, the unit shall be
2 considered to produce eligible renewable resources in direct proportion
3 to the percentage of the total heat value represented by the heat value
4 of the renewable resources.

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

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

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

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

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

23 ~~((j))~~ (k)(i) Beginning January 1, 2016, only a qualifying utility
24 that owns or is directly interconnected to a qualified biomass energy
25 facility may use qualified biomass energy to meet its compliance
26 obligation under ~~((RCW 19.285.040))~~ this subsection (2).

27 (ii) A qualifying utility may no longer use electricity and
28 associated renewable energy credits from a qualified biomass energy
29 facility if the associated industrial pulping or wood manufacturing
30 facility ceases operation other than for purposes of maintenance or
31 upgrade.

32 ~~((k))~~ (l) An industrial facility that hosts a qualified biomass
33 energy facility may only transfer or sell renewable energy credits
34 associated with its facility to the qualifying utility with which it is
35 directly interconnected with facilities owned by such a qualifying
36 utility and that are capable of carrying electricity at transmission
37 voltage. The qualifying utility may only use an amount of renewable
38 energy credits associated with qualified biomass energy that are

1 equivalent to the proportionate amount of its annual targets under
2 (a)(ii) and (iii) of this subsection that was created by the load of
3 the industrial facility. A qualifying utility that owns a qualified
4 biomass energy facility may not transfer or sell renewable energy
5 credits associated with qualified biomass energy to another person,
6 entity, or qualifying utility.

7 (3) Utilities that become qualifying utilities after December 31,
8 2006, shall meet the requirements in this section on a time frame
9 comparable in length to that provided for qualifying utilities as of
10 December 7, 2006.

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