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HOUSE BILL 1699

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Pollet, Nealey, Fey, Blake, Haler, Morrell, Wylie, Kretz, Tharinger, Moscoso, and Ryu

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AN ACT Relating to making energy conservation a top priority by adding new incentives and aligning the timing of the acquisitions of eligible renewable resources, electricity, or equivalent renewable energy credits, with the need for additional electric generating resources to serve consumers' loads, without changing the eligible renewable targets; amending RCW 19.285.040; and creating a new section.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that prioritizing energy conservation is the premiere method to address climate change -- reducing energy demand, greenhouse gases, and utility costs for everyone. Conservation as the number one priority will also ensure that ratepayer dollars are spent locally creating green jobs in every community in Washington state. Conservation helps everyone including seniors, low-income residents, small business owners, daycares, schools, libraries, farms, and factories. To achieve this goal, the legislature further finds that citizens must be protected from requirements imposed on utilities that discourage conservation.

(2) It is the intent of the legislature to encourage the acquisition of energy conservation and eligible renewable resources by

allowing utilities greater flexibility to meet conservation and eligible renewable targets and consumers' energy needs in the most prudent and cost-effective manner.

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

(4) It is the intent of the legislature to remove unintended economic hardship on electric consumers and reinforce the policy intentions of 2006's Initiative Measure No. 937, including stabilizing electric prices, increasing conservation, and creating high quality local jobs.

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

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

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

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

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

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

(d) A qualifying utility may choose to count conservation acquired in excess of the biennial target in (b) of this subsection directly toward a subsequent biennial conservation target or as an equivalent renewable energy credit to meet a current or future renewable target under subsection (2)(a) of this section. Any such conservation may be used only once to meet a target under (b) of this subsection or subsection (2)(a) of this section. The quantity of any excess conservation so counted may not reduce or otherwise impact the calculation of total achievable cost-effective conservation potential in the update of the conservation potential assessment used to establish such a subsequent biennial target.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i)(i) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if, as of January 1st of the target year, the electricity from the qualifying utility's: (A) Electric generating resources, other than eligible renewable resources, either owned or under contract by January 1, 2010, and available to serve the utility's load during the target year; and (B) eligible renewable resources either owned or under contract for the target year and available to serve the utility's load during the target year (or equivalent renewable energy credits), meets or exceeds the utility's load as described in (c) of this subsection.

(ii) Nothing in this subsection (2)(i) limits or interferes with a qualifying utility's authority to sell or otherwise dispose of any excess of electricity or credits as determined in (i)(i) of this subsection, whether the excess of electricity or credits is greater or less than the annual target.

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

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

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

((~~(k)~~)) (l) An industrial facility that hosts a qualified biomass energy facility may only transfer or sell renewable energy credits associated with its facility to the qualifying utility with which it is directly interconnected with facilities owned by such a qualifying utility and that are capable of carrying electricity at transmission voltage. The qualifying utility may only use an amount of renewable energy credits associated with qualified biomass energy that are equivalent to the proportionate amount of its annual targets under (a)(ii) and (iii) of this subsection that was created by the load of the industrial facility. A qualifying utility that owns a qualified biomass energy facility may not transfer or sell renewable energy credits associated with qualified biomass energy to another person, entity, or qualifying utility.

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

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