
HOUSE BILL 1977

State of Washington 63rd Legislature 2013 Regular Session

By Representatives Upthegrove, Morris, Ormsby, and Riccelli

Read first time 03/06/13. Referred to Committee on Environment.

1 AN ACT Relating to promoting renewable energy; amending RCW
2 19.285.040, 82.16.110, 82.16.120, and 82.16.130; reenacting and
3 amending RCW 19.285.030; adding a new section to chapter 80.28 RCW;
4 creating a new section; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) Solar energy can play an increasingly constructive role in the
8 state's electrical energy supply;

9 (b) The state energy code is intended to result in the construction
10 of increasingly energy efficient homes and buildings in order to help
11 achieve a broader goal of building zero fossil-fuel greenhouse gas
12 emission homes and buildings by 2031, an objective that can
13 fundamentally undermine the financial stability of local electric
14 utilities;

15 (c) Current state policies are designed to promote distributed
16 solar energy systems through a combination of taxpayer subsidies, in
17 the form of an investment cost recovery incentive, and ratepayer
18 subsidies, in the form of net metering and interconnection standards;

1 (d) While the cost and efficiency of solar energy systems have
2 improved over time, increased penetration of distributed solar energy
3 systems has been hindered by several factors, including: (i) The
4 higher cost of solar energy relative to the cost of general utility
5 service, which in Washington is among the lowest in the country; (ii)
6 the cost and feasibility of integrating distributed solar energy
7 systems into utility operations; and (iii) the capability of customers
8 to finance such systems themselves;

9 (e) Electric utilities are best suited to identify where
10 distributed solar energy systems can be located on their distribution
11 and transmission networks to maximize their contribution to system
12 operations and to minimize costs borne by utility customers; and

13 (f) Electric utilities can finance the installation of distributed
14 solar energy systems at a lower cost than individual customers or
15 third-party developers.

16 (2) The legislature declares that state policy should be reformed
17 to promote the deployment of distributed solar energy generation in a
18 manner that relies less on ratepayer subsidies and on cost-shifting
19 among utility customers and more on utilizing current state policies
20 and regulatory mechanisms to improve the cost-effectiveness of
21 distributed solar energy systems and to empower the state's electric
22 utilities to function as change agents and national leaders in the
23 deployment of solar energy technologies.

24 **Sec. 2.** RCW 19.285.030 and 2012 c 22 s 2 are each reenacted and
25 amended to read as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) "Attorney general" means the Washington state office of the
29 attorney general.

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

35 (3)(a) "Biomass energy" includes: (i) Organic by-products of
36 pulping and the wood manufacturing process; (ii) animal manure; (iii)
37 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) "Distributed solar energy system" means any device or
15 combination of devices or elements that rely upon direct sunlight as an
16 energy source for the production of thermal energy or for use in the
17 generation of electricity from a facility that has an electrical
18 generating capacity or thermal equivalent of not more than five
19 kilowatts for a residential retail electric customer and one hundred
20 kilowatts for a commercial retail electric customer and that is
21 installed at a premises.

22 (24) "Premises" means any residential property, commercial real
23 estate, or lands, owned or leased by a retail electric customer within
24 the service area of a single qualifying utility.

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

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

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

36 (b) Beginning January 2010, each qualifying utility shall establish
37 and make publicly available a biennial acquisition target for cost-

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

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

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

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

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

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

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

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

35 (b) Except as provided in subsection (4) of this section, a
36 qualifying utility may count distributed generation at double the
37 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) In meeting the annual targets in (a) of this subsection, a
5 qualifying utility shall calculate its annual load based on the average
6 of the utility's load for the previous two years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (3) Utilities that become qualifying utilities after December 31,
2 2006, shall meet the requirements in this section on a time frame
3 comparable in length to that provided for qualifying utilities as of
4 December 7, 2006.

5 (4) In complying with the targets established in subsection (2)(a)
6 of this section, a qualifying utility that owns a distributed solar
7 energy system may count the output of that system according to the
8 multiplier established as follows:

9 (a) The commission shall adopt rules by August 31, 2013, and every
10 two years thereafter, to establish a multiplier for electricity from
11 distributed solar energy systems owned by an investor-owned utility.
12 The multiplier must equalize the economic value of energy generated
13 from distributed solar energy systems with the cost of acquiring
14 utility scale wind energy to comply with the annual targets in
15 subsection (2)(a) of this section. The cost basis for a distributed
16 solar energy system must contain a return on investment for the
17 investor-owned utility that is equal to the return that the commission
18 has authorized for the company's other capital assets.

19 (b) The governing body of a qualifying utility that is not an
20 investor-owned utility may establish by August 31, 2013, and every two
21 years thereafter, a multiplier for electricity from distributed solar
22 energy systems owned by the utility. The multiplier must equalize the
23 economic value of energy generated from distributed solar energy
24 systems with the cost of acquiring utility scale wind energy by the
25 utility to comply with the annual targets in subsection (2)(a) of this
26 section.

27 (c) For the purposes of this subsection, "cost of acquiring utility
28 scale wind energy" means the value attributed to commercially available
29 utility scale wind generation by a qualifying utility in its latest
30 completed integrated resource plan under chapter 19.280 RCW.

31 **Sec. 4.** RCW 82.16.110 and 2011 c 179 s 2 are each amended to read
32 as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

35 (1) "Administrator" means an owner and assignee of a community
36 solar project as defined in subsection (2)(a)(i) of this section that
37 is responsible for applying for the investment cost recovery incentive

1 on behalf of the other owners and performing such administrative tasks
2 on behalf of the other owners as may be necessary, such as receiving
3 investment cost recovery incentive payments, and allocating and paying
4 appropriate amounts of such payments to the other owners.

5 (2)(a) "Community solar project" means:

6 (i) A solar energy system that is capable of generating up to
7 seventy-five kilowatts of electricity and is owned by local
8 individuals, households, nonprofit organizations, or nonutility
9 businesses that is placed on the property owned by a cooperating local
10 governmental entity that is not in the light and power business or in
11 the gas distribution business;

12 (ii) A utility-owned solar energy system that is capable of
13 generating up to seventy-five kilowatts of electricity and that is
14 voluntarily funded by the utility's ratepayers where, in exchange for
15 their financial support, the utility gives contributors a payment or
16 credit on their utility bill for the value of the electricity produced
17 by the project; or

18 (iii) A solar energy system, placed on the property owned by a
19 cooperating local governmental entity that is not in the light and
20 power business or in the gas distribution business, that is capable of
21 generating up to seventy-five kilowatts of electricity, and that is
22 owned by a company whose members are each eligible for an investment
23 cost recovery incentive for the same customer-generated electricity as
24 provided in RCW 82.16.120.

25 (b) For the purposes of "community solar project" as defined in (a)
26 of this subsection:

27 (i) "Company" means an entity that is:

28 (A)(I) A limited liability company;

29 (II) A cooperative formed under chapter 23.86 RCW; or

30 (III) A mutual corporation or association formed under chapter
31 24.06 RCW; and

32 (B) Not a "utility" as defined in this subsection (2)(b); and

33 (ii) "Nonprofit organization" means an organization exempt from
34 taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
35 code of 1986, as amended, as of January 1, 2009; and

36 (iii) "Utility" means a light and power business, an electric
37 cooperative, or a mutual corporation that provides electricity service.

38 (3) "Customer-generated electricity" (~~means~~) includes:

1 (a) A community solar project ((~~or~~));

2 (b) A solar energy system that has a generating capacity of not
3 more than one hundred kilowatts or its thermal equivalent, is owned by
4 a qualifying utility, and is installed on the premises of a residential
5 or commercial retail electric customer of the qualifying utility in
6 Washington; or

7 (c) The alternating current electricity that is generated from a
8 renewable energy system located in Washington and installed on an
9 individual's, businesses', or local government's real property that is
10 also provided electricity generated by a light and power business.
11 Except for community solar projects, a system located on a leasehold
12 interest does not qualify under this definition. ((~~Except for utility-~~
13 owned community solar projects, "customer-generated electricity" does
14 not include electricity generated by a light and power business with
15 greater than one thousand megawatt hours of annual sales or a gas
16 distribution business.))

17 (4) "Economic development kilowatt-hour" means the actual kilowatt-
18 hour measurement of customer-generated electricity multiplied by the
19 appropriate economic development factor.

20 (5) "Local governmental entity" means any unit of local government
21 of this state including, but not limited to, counties, cities, towns,
22 municipal corporations, quasi-municipal corporations, special purpose
23 districts, and school districts.

24 (6) "Photovoltaic cell" means a device that converts light directly
25 into electricity without moving parts.

26 (7) "Renewable energy system" means a solar energy system, an
27 anaerobic digester as defined in RCW 82.08.900, or a wind generator
28 used for producing electricity.

29 (8) "Solar energy system" means any device or combination of
30 devices or elements that rely upon direct sunlight to produce thermal
31 energy as an energy source for use in the generation of electricity.

32 (9) "Solar inverter" means the device used to convert direct
33 current to alternating current in a solar energy system.

34 (10) "Solar module" means the smallest nondivisible self-contained
35 physical structure housing interconnected photovoltaic cells and
36 providing a single direct current electrical output.

37 (11) "Stirling converter" means a device that produces electricity
38 by converting heat from a solar source utilizing a stirling engine.

1 (12) "Qualifying utility" has the same meaning as defined in RCW
2 19.285.030.

3 **Sec. 5.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to read
4 as follows:

5 (1)(a) Any individual, business, local governmental entity, (~~not~~
6 ~~in the light and power business or in the gas distribution business~~)
7 qualifying utility, or a participant in a community solar project may
8 apply to the light and power business serving the situs of the system,
9 each fiscal year beginning on July 1, 2005, for an investment cost
10 recovery incentive for each kilowatt-hour from a customer-generated
11 electricity renewable energy system.

12 (b) In the case of a community solar project as defined in RCW
13 82.16.110(2)(a)(i), the administrator must apply for the investment
14 cost recovery incentive on behalf of each of the other owners.

15 (c) In the case of a community solar project as defined in RCW
16 82.16.110(2)(a)(iii), the company owning the community solar project
17 must apply for the investment cost recovery incentive on behalf of each
18 member of the company.

19 (2)(a) Before submitting for the first time the application for the
20 incentive allowed under subsection (4) of this section, the applicant
21 must submit to the department of revenue and to the climate and rural
22 energy development center at the Washington State University,
23 established under RCW 28B.30.642, a certification in a form and manner
24 prescribed by the department that includes, but is not limited to, the
25 following information:

26 (i) The name and address of the applicant and location of the
27 renewable energy system.

28 (A) If the applicant is an administrator of a community solar
29 project as defined in RCW 82.16.110(2)(a)(i), the certification must
30 also include the name and address of each of the owners of the
31 community solar project.

32 (B) If the applicant is a company that owns a community solar
33 project as defined in RCW 82.16.110(2)(a)(iii), the certification must
34 also include the name and address of each member of the company;

35 (ii) The applicant's tax registration number;

36 (iii) That the electricity produced by the applicant meets the

1 definition of "customer-generated electricity" and that the renewable
2 energy system produces electricity with:

3 (A) Any solar inverters and solar modules manufactured in
4 Washington state;

5 (B) A wind generator powered by blades manufactured in Washington
6 state;

7 (C) A solar inverter manufactured in Washington state;

8 (D) A solar module manufactured in Washington state;

9 (E) A stirling converter manufactured in Washington state; or

10 (F) Solar or wind equipment manufactured outside of Washington
11 state;

12 (iv) That the electricity can be transformed or transmitted for
13 entry into or operation in parallel with electricity transmission and
14 distribution systems; and

15 (v) The date that the renewable energy system received its final
16 electrical permit from the applicable local jurisdiction.

17 (b) Within thirty days of receipt of the certification the
18 department of revenue must notify the applicant by mail, or
19 electronically as provided in RCW 82.32.135, whether the renewable
20 energy system qualifies for an incentive under this section. The
21 department may consult with the climate and rural energy development
22 center to determine eligibility for the incentive. System
23 certifications and the information contained therein are subject to
24 disclosure under RCW 82.32.330(3)(1).

25 (3)(a) By August 1st of each year application for the incentive
26 must be made to the light and power business serving the situs of the
27 system by certification in a form and manner prescribed by the
28 department that includes, but is not limited to, the following
29 information:

30 (i) The name and address of the applicant and location of the
31 renewable energy system.

32 (A) If the applicant is an administrator of a community solar
33 project as defined in RCW 82.16.110(2)(a)(i), the application must also
34 include the name and address of each of the owners of the community
35 solar project.

36 (B) If the applicant is a company that owns a community solar
37 project as defined in RCW 82.16.110(2)(a)(iii), the application must
38 also include the name and address of each member of the company;

1 (ii) The applicant's tax registration number;

2 (iii) The date of the notification from the department of revenue
3 stating that the renewable energy system is eligible for the incentives
4 under this section; and

5 (iv) A statement of the amount of kilowatt-hours generated by the
6 renewable energy system in the prior fiscal year.

7 (b) Within sixty days of receipt of the incentive certification the
8 light and power business serving the situs of the system must notify
9 the applicant in writing whether the incentive payment will be
10 authorized or denied. The business may consult with the climate and
11 rural energy development center to determine eligibility for the
12 incentive payment. Incentive certifications and the information
13 contained therein are subject to disclosure under RCW 82.32.330(3)(1).

14 (c)(i) Persons, administrators of community solar projects, and
15 companies receiving incentive payments must keep and preserve, for a
16 period of five years, suitable records as may be necessary to determine
17 the amount of incentive applied for and received. Such records must be
18 open for examination at any time upon notice by the light and power
19 business that made the payment or by the department. If upon
20 examination of any records or from other information obtained by the
21 business or department it appears that an incentive has been paid in an
22 amount that exceeds the correct amount of incentive payable, the
23 business may assess against the person for the amount found to have
24 been paid in excess of the correct amount of incentive payable and must
25 add thereto interest on the amount. Interest is assessed in the manner
26 that the department assesses interest upon delinquent tax under RCW
27 82.32.050.

28 (ii) If it appears that the amount of incentive paid is less than
29 the correct amount of incentive payable the business may authorize
30 additional payment.

31 (4) Except for community solar projects and solar energy systems
32 owned by qualifying utilities, the investment cost recovery incentive
33 may be paid fifteen cents per economic development kilowatt-hour unless
34 requests exceed the amount authorized for credit to the participating
35 light and power business. For community solar projects and solar
36 energy systems owned by qualifying utilities, the investment cost
37 recovery incentive may be paid thirty cents per economic development
38 kilowatt-hour unless requests exceed the amount authorized for credit

1 to the participating light and power business. For the purposes of
2 this section, the rate paid for the investment cost recovery incentive
3 may be multiplied by the following factors:

4 (a) For customer-generated electricity produced using solar modules
5 manufactured in Washington state or a solar stirling converter
6 manufactured in Washington state, two and four-tenths;

7 (b) For customer-generated electricity produced using a solar or a
8 wind generator equipped with an inverter manufactured in Washington
9 state, one and two-tenths;

10 (c) For customer-generated electricity produced using an anaerobic
11 digester, or by other solar equipment or using a wind generator
12 equipped with blades manufactured in Washington state, one; and

13 (d) For all other customer-generated electricity produced by wind,
14 eight-tenths.

15 (5)(a) No individual, household, business, ~~((or))~~ local
16 governmental entity, or qualifying utility is eligible for incentives
17 provided under subsection (4) of this section for more than five
18 thousand dollars per year.

19 (b) Except as provided in (c) through (e) of this subsection (5),
20 each applicant in a community solar project is eligible for up to five
21 thousand dollars per year.

22 (c) Where the applicant is an administrator of a community solar
23 project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible
24 for an incentive but only in proportion to the ownership share of the
25 project, up to five thousand dollars per year.

26 (d) Where the applicant is a company owning a community solar
27 project that has applied for an investment cost recovery incentive on
28 behalf of its members, each member of the company is eligible for an
29 incentive that would otherwise belong to the company but only in
30 proportion to each ownership share of the company, up to five thousand
31 dollars per year. The company itself is not eligible for incentives
32 under this section.

33 (e) In the case of a utility-owned community solar project, each
34 ratepayer that contributes to the project is eligible for an incentive
35 in proportion to the contribution, up to five thousand dollars per
36 year.

37 (6) If requests for the investment cost recovery incentive exceed

1 the amount of funds available for credit to the participating light and
2 power business, the incentive payments must be reduced proportionately.

3 (7) The climate and rural energy development center at Washington
4 State University energy program may establish guidelines and standards
5 for technologies that are identified as Washington manufactured and
6 therefore most beneficial to the state's environment.

7 (8) The environmental attributes of the renewable energy system
8 belong to the applicant, and do not transfer to the state or the light
9 and power business upon receipt of the investment cost recovery
10 incentive.

11 (9) No incentive may be paid under this section for kilowatt-hours
12 generated before July 1, 2005, or after June 30, 2020.

13 **Sec. 6.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to read
14 as follows:

15 (1) A light and power business shall be allowed a credit against
16 taxes due under this chapter in an amount equal to investment cost
17 recovery incentive payments made in any fiscal year under RCW
18 82.16.120. The credit shall be taken in a form and manner as required
19 by the department. The credit under this section for the fiscal year
20 may not exceed one-half percent of the businesses' taxable power sales
21 due under RCW 82.16.020(1)(b) or one hundred thousand dollars,
22 whichever is greater. Incentive payments to participants in a utility-
23 owned community solar project as defined in RCW 82.16.110(2)(a)(ii) may
24 only account for up to twenty-five percent of the total allowable
25 credit. Incentive payments to participants in a company-owned
26 community solar project as defined in RCW 82.16.110(2)(a)(iii) may only
27 account for up to five percent of the total allowable credit.
28 Incentive payments claimed by a qualifying utility may only account for
29 up to fifty percent of the total allowable credit. The credit may not
30 exceed the tax that would otherwise be due under this chapter. Refunds
31 shall not be granted in the place of credits. Expenditures not used to
32 earn a credit in one fiscal year may not be used to earn a credit in
33 subsequent years.

34 (2) For any business that has claimed credit for amounts that
35 exceed the correct amount of the incentive payable under RCW 82.16.120,
36 the amount of tax against which credit was claimed for the excess
37 payments shall be immediately due and payable. The department shall

1 assess interest but not penalties on the taxes against which the credit
2 was claimed. Interest shall be assessed at the rate provided for
3 delinquent excise taxes under chapter 82.32 RCW, retroactively to the
4 date the credit was claimed, and shall accrue until the taxes against
5 which the credit was claimed are repaid.

6 (3) The right to earn tax credits under this section expires June
7 30, 2020. Credits may not be claimed after June 30, 2021.

8 NEW SECTION. **Sec. 7.** A new section is added to chapter 80.28 RCW
9 to read as follows:

10 (1) The commission shall adopt a rule by December 31, 2013, to
11 enable and encourage electrical companies to acquire, install, and
12 maintain cost-effective distributed solar energy systems, as that term
13 is defined in RCW 19.285.030. The rule must allow an electrical
14 company to earn a fair return on common equity and recover costs,
15 including, but not limited to, the cost of debt incurred for
16 investments made in the acquisition, installation, operation, and
17 maintenance of distributed solar energy systems. The rule may require
18 that a customer or class of customer contribute a reasonable amount to
19 the electrical utility's cost of acquiring, installing, operating, and
20 maintaining a distributed solar energy system at the retail electric
21 customer's premises if necessary to ensure that the distributed solar
22 energy system meets the requirement of being cost-effective. If a
23 financial contribution is required of a customer, the rule must
24 provide that such a contribution be paid to an electrical company under
25 terms and conditions that will most readily accomplish the purpose of
26 this section without increasing financial risk to the company's
27 shareholders or other customers.

28 (2) The definitions in this subsection apply throughout this
29 section unless the context clearly requires otherwise.

30 (a) "Cost-effective" means, at the time a distributed solar energy
31 system is placed in the rate base, the distributed solar energy system
32 is reasonably expected to generate energy at a total incremental system
33 cost per unit of energy delivered to end use that is less than or equal
34 to the cost per unit of energy delivered to end use from utility scale
35 wind generation, considering: (i) The value of an investment cost
36 recovery incentive available to qualifying utility investments in
37 distributed solar energy systems under RCW 82.16.120; (ii) the

1 multiplier applied to distributed solar energy systems pursuant to RCW
2 19.285.040; (iii) the value of any renewable energy credits produced by
3 distributed solar energy systems and sold by the electrical company;
4 (iv) the value of any other state and federal tax credits that would
5 derive from the production of energy from a distributed solar energy
6 system; and (v) the financial contribution that may be required from a
7 customer pursuant to subsection (1) of this section.

8 (b) "Cost of acquiring utility scale wind energy" means the value
9 attributed to commercially available utility scale wind generation by
10 a qualifying utility in its last completed integrated resource plan
11 under chapter 19.280 RCW.

12 (3) This section expires December 31, 2020.

13 NEW SECTION. **Sec. 8.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

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