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SENATE BILL 5297

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Braun, Ericksen, and Carrell

Read first time 01/25/13. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to coal transition power; amending RCW 19.285.040;  
2 and reenacting and amending RCW 19.285.030.

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

4 **Sec. 1.** RCW 19.285.030 and 2012 c 22 s 2 are each reenacted and  
5 amended to read as follows:

6 The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

8 (1) "Attorney general" means the Washington state office of the  
9 attorney general.

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

15 (3)(a) "Biomass energy" includes: (i) Organic by-products of  
16 pulping and the wood manufacturing process; (ii) animal manure; (iii)  
17 solid organic fuels from wood; (iv) forest or field residues; (v)  
18 untreated wooden demolition or construction debris; (vi) food waste and

1 food processing residuals; (vii) liquors derived from algae; (viii)  
2 dedicated energy crops; and (ix) yard waste.

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

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

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

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

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

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

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

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

22 (11) "Eligible renewable resource" means:

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

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

36 (c) Qualified biomass energy.

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

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

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

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

16 (16) "Public facility" has the same meaning as defined in RCW  
17 39.35C.010.

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

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

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

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

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

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

12 (23) "Coal transition power" has the same meaning as defined in RCW  
13 80.80.010.

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

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

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

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

33 (c) In meeting its conservation targets, a qualifying utility may  
34 count high-efficiency cogeneration owned and used by a retail electric  
35 customer to meet its own needs. High-efficiency cogeneration is the  
36 sequential production of electricity and useful thermal energy from a  
37 common fuel source, where, under normal operating conditions, the

1 facility has a useful thermal energy output of no less than thirty-  
2 three percent of the total energy output. The reduction in load due to  
3 high-efficiency cogeneration shall be: (i) Calculated as the ratio of  
4 the fuel chargeable to power heat rate of the cogeneration facility  
5 compared to the heat rate on a new and clean basis of a  
6 best-commercially available technology combined-cycle natural gas-fired  
7 combustion turbine; and (ii) counted towards meeting the biennial  
8 conservation target in the same manner as other conservation savings.

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

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

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

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

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

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

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

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

32 (d) A qualifying utility shall be considered in compliance with an  
33 annual target in (a) of this subsection if: (i) The utility's weather-  
34 adjusted load for the previous three years on average did not increase  
35 over that time period; (ii) after December 7, 2006, the utility did not  
36 commence or renew ownership or incremental purchases of electricity  
37 from resources other than coal transition power or renewable resources  
38 other than on a daily spot price basis and the electricity is not

1 offset by equivalent renewable energy credits; and (iii) the utility  
2 invested at least one percent of its total annual retail revenue  
3 requirement that year on eligible renewable resources, renewable energy  
4 credits, or a combination of both.

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

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

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

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

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

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

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

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

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

33 (i) A qualifying utility shall be considered in compliance with an  
34 annual target in (a) of this subsection if events beyond the reasonable  
35 control of the utility that could not have been reasonably anticipated  
36 or ameliorated prevented it from meeting the renewable energy target.  
37 Such events include weather-related damage, mechanical failure,

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

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

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

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

26 (3) Utilities that become qualifying utilities after December 31,  
27 2006, shall meet the requirements in this section on a time frame  
28 comparable in length to that provided for qualifying utilities as of  
29 December 7, 2006.

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