
ENGROSSED SUBSTITUTE SENATE BILL 5438 Corrected
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State of Washington

63rd Legislature

2013 Regular Session

By Senate Energy, Environment & Telecommunications (originally sponsored by Senators Ericksen and Chase)

READ FIRST TIME 02/21/13.

1 AN ACT Relating to using conservation achieved by a qualifying
2 utility in excess of its biennial acquisition target under the energy
3 independence act; and amending RCW 19.285.040.

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

5 **Sec. 1.** RCW 19.285.040 and 2012 c 22 s 3 are each amended to read
6 as follows:

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

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

16 (b) Beginning January 2010, each qualifying utility shall establish
17 and make publicly available a biennial acquisition target for cost-
18 effective conservation consistent with its identification of achievable
19 opportunities in (a) of this subsection, and meet that target during

1 the subsequent two-year period. At a minimum, each biennial target
2 must be no lower than the qualifying utility's pro rata share for that
3 two-year period of its cost-effective conservation potential for the
4 subsequent ten-year period. Any conservation achieved by a qualifying
5 utility in excess of its biennial acquisition target may be used for up
6 to three biennial acquisition targets, such that no more than fifty
7 percent of any biennial target may be met with excess conservation
8 savings.

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) Except as provided in (b) of this subsection, the commission
26 may rely on its standard practice for review and approval of
27 investor-owned utility conservation targets.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (k) An industrial facility that hosts a qualified biomass energy
29 facility may only transfer or sell renewable energy credits associated
30 with its facility to the qualifying utility with which it is directly
31 interconnected with facilities owned by such a qualifying utility and
32 that are capable of carrying electricity at transmission voltage. The
33 qualifying utility may only use an amount of renewable energy credits
34 associated with qualified biomass energy that are equivalent to the
35 proportionate amount of its annual targets under (a)(ii) and (iii) of
36 this subsection that was created by the load of the industrial
37 facility. A qualifying utility that owns a qualified biomass energy

1 facility may not transfer or sell renewable energy credits associated
2 with qualified biomass energy to another person, entity, or qualifying
3 utility.

4 (3) Utilities that become qualifying utilities after December 31,
5 2006, shall meet the requirements in this section on a time frame
6 comparable in length to that provided for qualifying utilities as of
7 December 7, 2006.

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