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SENATE BILL 5448

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By Senators Ericksen, Hewitt, Carrell, Schoesler, Honeyford, Delvin, Sheldon, Hatfield, Smith, Benton, Padden, and Chase

Read first time 01/30/13. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to narrowing the requirement that utilities  
2 purchase electricity, renewable energy credits, or electric generating  
3 facilities that are not needed to serve their customers' loads; and  
4 amending RCW 19.285.040.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 adversely affect the generation, transmission, or distribution of an  
2 eligible renewable resource under contract to a qualifying utility.

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

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

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

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

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