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SENATE BILL 5807

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Litzow, Billig, and Kline

Read first time 02/18/13. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to encouraging qualifying utilities to invest in  
2 and own distributed solar energy systems; amending RCW 19.285.040,  
3 82.16.110, 82.16.120, and 82.16.130; reenacting and amending RCW  
4 19.285.030; adding a new section to chapter 80.28 RCW; creating a new  
5 section; and providing an expiration date.

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

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

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

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

16 (c) Current state policies are designed to promote distributed  
17 solar energy systems through a combination of taxpayer subsidies, in  
18 the form of an investment cost recovery incentive, and ratepayer  
19 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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