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**SUBSTITUTE HOUSE BILL 1896**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Technology & Economic Development (originally sponsored by Representatives Smith, Hudgins, Tarleton, and Young)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to providing a statewide minimum privacy policy  
2 for disclosure of customer energy use information; amending RCW  
3 19.29A.010 and 19.29A.020; and adding new sections to chapter 19.29A  
4 RCW.

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

6 **Sec. 1.** RCW 19.29A.010 and 2000 c 213 s 2 are each amended to  
7 read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Biomass generation" means electricity derived from burning  
11 solid organic fuels from wood, forest, or field residue, or dedicated  
12 energy crops that do not include wood pieces that have been treated  
13 with chemical preservatives such as creosote, pentachlorophenol, or  
14 copper-chrome-arsenic.

15 (2) "Bonneville power administration system mix" means a  
16 generation mix sold by the Bonneville power administration that is  
17 net of any resource specific sales and that is net of any electricity  
18 sold to direct service industrial customers, as defined in section  
19 3(8) of the Pacific Northwest electric power planning and  
20 conservation act (16 U.S.C. Sec. 839(a)(8)).

1 (3) "Coal generation" means the electricity produced by a  
2 generating facility that burns coal as the primary fuel source.

3 (4) "Commission" means the utilities and transportation  
4 commission.

5 (5) "Conservation" means an increase in efficiency in the use of  
6 energy use that yields a decrease in energy consumption while  
7 providing the same or higher levels of service. Conservation includes  
8 low-income weatherization programs.

9 (6) "Consumer-owned utility" means a municipal electric utility  
10 formed under Title 35 RCW, a public utility district formed under  
11 Title 54 RCW, an irrigation district formed under chapter 87.03 RCW,  
12 a cooperative formed under chapter 23.86 RCW, or a mutual corporation  
13 or association formed under chapter 24.06 RCW, that is engaged in the  
14 business of distributing electricity to more than one retail electric  
15 customer in the state.

16 (7) "Declared resource" means an electricity source specifically  
17 identified by a retail supplier to serve retail electric customers. A  
18 declared resource includes a stated quantity of electricity tied  
19 directly to a specified generation facility or set of facilities  
20 either through ownership or contract purchase, or a contractual right  
21 to a stated quantity of electricity from a specified generation  
22 facility or set of facilities.

23 (8) "Department" means the department of (~~community, trade, and~~  
24 ~~economic development~~) commerce.

25 (9) "Electricity information coordinator" means the organization  
26 selected by the department under RCW 19.29A.080 to: (a) Compile  
27 generation data in the Northwest power pool by generating project and  
28 by resource category; (b) compare the quantity of electricity from  
29 declared resources reported by retail suppliers with available  
30 generation from such resources; (c) calculate the net system power  
31 mix; and (d) coordinate with other comparable organizations in the  
32 western interconnection.

33 (10) "Electric meters in service" means those meters that record  
34 in at least nine of twelve calendar months in any calendar year not  
35 less than two hundred fifty kilowatt-hours per month.

36 (11) "Electricity product" means the electrical energy produced  
37 by a generating facility or facilities that a retail supplier sells  
38 or offers to sell to retail electric customers in the state of  
39 Washington, provided that nothing in this title shall be construed to  
40 mean that electricity is a good or product for the purposes of Title

1 62A RCW, or any other purpose. It does not include electrical energy  
2 generated on-site at a retail electric customer's premises.

3 (12) "Electric utility" means a consumer-owned or investor-owned  
4 utility as defined in this section.

5 (13) "Electricity" means electric energy measured in kilowatt-  
6 hours, or electric capacity measured in kilowatts, or both.

7 (14) "Fuel mix" means the actual or imputed sources of  
8 electricity sold to retail electric customers, expressed in terms of  
9 percentage contribution by resource category. The total fuel mix  
10 included in each disclosure shall total one hundred percent.

11 (15) "Geothermal generation" means electricity derived from  
12 thermal energy naturally produced within the earth.

13 (16) "Governing body" means the council of a city or town, the  
14 commissioners of an irrigation district, municipal electric utility,  
15 or public utility district, or the board of directors of an electric  
16 cooperative or mutual association that has the authority to set and  
17 approve rates.

18 (17) "High efficiency cogeneration" means electricity produced by  
19 equipment, such as heat or steam used for industrial, commercial,  
20 heating, or cooling purposes, that meets the federal energy  
21 regulatory commission standards for qualifying facilities under the  
22 public utility regulatory policies act of 1978.

23 (18) "Hydroelectric generation" means a power source created when  
24 water flows from a higher elevation to a lower elevation and the flow  
25 is converted to electricity in one or more generators at a single  
26 facility.

27 (19) "Investor-owned utility" means a company owned by investors  
28 that meets the definition of RCW 80.04.010 and is engaged in  
29 distributing electricity to more than one retail electric customer in  
30 the state.

31 (20) "Landfill gas generation" means electricity produced by a  
32 generating facility that uses waste gases produced by the  
33 decomposition of organic materials in landfills.

34 (21) "Natural gas generation" means electricity produced by a  
35 generating facility that burns natural gas as the primary fuel  
36 source.

37 (22) "Northwest power pool" means the generating resources  
38 included in the United States portion of the Northwest power pool  
39 area as defined by the western systems coordinating council.

1 (23) "Net system power mix" means the fuel mix in the Northwest  
2 power pool, net of: (a) Any declared resources in the Northwest power  
3 pool identified by in-state retail suppliers or out-of-state entities  
4 that offer electricity for sale to retail electric customers; (b) any  
5 electricity sold by the Bonneville power administration to direct  
6 service industrial customers; and (c) any resource specific sales  
7 made by the Bonneville power administration.

8 (24) "Oil generation" means electricity produced by a generating  
9 facility that burns oil as the primary fuel source.

10 (25) "Proprietary customer information" means: (a) Information  
11 that relates to the source, technical configuration, destination, and  
12 amount of electricity used by a retail electric customer, a retail  
13 electric customer's payment history, and household data that is made  
14 available by the customer solely by virtue of the utility-customer  
15 relationship; and (b) information contained in a retail electric  
16 customer's bill.

17 (26) "Renewable resources" means electricity generation  
18 facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d)  
19 geothermal energy; (e) landfill gas; or (f) biomass energy based on  
20 solid organic fuels from wood, forest, or field residues, or  
21 dedicated energy crops that do not include wood pieces that have been  
22 treated with chemical preservatives such as creosote,  
23 pentachlorophenol, or copper-chrome-arsenic.

24 (27) "Resale" means the purchase and subsequent sale of  
25 electricity for profit, but does not include the purchase and the  
26 subsequent sale of electricity at the same rate at which the  
27 electricity was purchased.

28 (28) "Retail electric customer" means a person or entity that  
29 purchases electricity for ultimate consumption and not for resale.

30 (29) "Retail supplier" means an electric utility that offers an  
31 electricity product for sale to retail electric customers in the  
32 state.

33 (30) "Small utility" means any consumer-owned utility with  
34 twenty-five thousand or fewer electric meters in service, or that has  
35 an average of seven or fewer customers per mile of distribution line.

36 (31) "Solar generation" means electricity derived from radiation  
37 from the sun that is directly or indirectly converted to electrical  
38 energy.

39 (32) "State" means the state of Washington.

1 (33) "Waste incineration generation" means electricity derived  
2 from burning solid or liquid wastes from businesses, households,  
3 municipalities, or waste treatment operations.

4 (34) "Wind generation" means electricity created by movement of  
5 air that is converted to electrical energy.

6 (35) "Private customer information" includes a retail electric  
7 customer's name, address, telephone number, and other personally  
8 identifying information.

9 **Sec. 2.** RCW 19.29A.020 and 1998 c 300 s 3 are each amended to  
10 read as follows:

11 Except as otherwise provided in RCW 19.29A.040, each electric  
12 utility must provide its retail electric customers with the following  
13 disclosures in accordance with RCW 19.29A.030:

14 (1) An explanation of any applicable credit and deposit  
15 requirements, including the means by which credit may be established,  
16 the conditions under which a deposit may be required, the amount of  
17 any deposit, interest paid on the deposit, and the circumstances  
18 under which the deposit will be returned or forfeited.

19 (2) A complete, itemized listing of all rates and charges for  
20 which the customer is responsible, including charges, if any, to  
21 terminate service, the identity of the entity responsible for setting  
22 rates, and an explanation of how to receive notice of public hearings  
23 where changes in rates will be considered or approved.

24 (3) An explanation of the metering or measurement policies and  
25 procedures, including the process for verifying the reliability of  
26 the meters or measurements and adjusting bills upon discovery of  
27 errors in the meters or measurements.

28 (4) An explanation of bill payment policies and procedures,  
29 including due dates, applicable late fees, and the interest rate  
30 charged, if any, on unpaid balances.

31 (5) An explanation of the payment arrangement options available  
32 to customers, including budget payment plans and the availability of  
33 home heating assistance from government and private sector  
34 organizations.

35 (6) An explanation of the method by which customers must give  
36 notice of their intent to discontinue service, the circumstances  
37 under which service may be discontinued by the utility, the  
38 conditions that must be met by the utility prior to discontinuing  
39 service, and how to avoid disconnection.

1 (7) An explanation of the utility's policies governing the  
2 confidentiality of private and proprietary customer information,  
3 including the circumstances under which the information may be  
4 disclosed and ways in which customers can control access to the  
5 information.

6 (8) An explanation of the methods by which customers may make  
7 inquiries to and file complaints with the utility, and the utility's  
8 procedures for responding to and resolving complaints and disputes,  
9 including a customer's right to complain about an investor-owned  
10 utility to the commission and appeal a decision by a consumer-owned  
11 utility to the governing body of the consumer-owned utility.

12 (9) An annual report containing the following information for the  
13 previous calendar year:

14 (a) A general description of the electric utility's customers,  
15 including the number of residential, commercial, and industrial  
16 customers served by the electric utility, and the amount of  
17 electricity consumed by each customer class in which there are at  
18 least three customers, stated as a percentage of the total utility  
19 load;

20 (b) A summary of the average electricity rates for each customer  
21 class in which there are at least three customers, stated in cents  
22 per kilowatt-hour, the date of the electric utility's last general  
23 rate increase or decrease, the identity of the entity responsible for  
24 setting rates, and an explanation of how to receive notice of public  
25 hearings where changes in rates will be considered or approved;

26 (c) An explanation of the amount invested by the electric utility  
27 in conservation, nonhydrorenewable resources, and low-income energy  
28 assistance programs, and the source of funding for the investments;  
29 and

30 (d) An explanation of the amount of federal, state, and local  
31 taxes collected and paid by the electric utility, including the  
32 amounts collected by the electric utility but paid directly by retail  
33 electric customers.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.29A  
35 RCW to read as follows:

36 (1) An electric utility may not disclose or sell private or  
37 proprietary customer information with or to its affiliates,  
38 subsidiaries, or any other third party for the purposes of marketing  
39 services or product offerings to a retail electric customer who does

1 not already subscribe to that service or product, unless the utility  
2 has first obtained the customer's written or electronic permission to  
3 do so.

4 (2) The utility must:

5 (a) Obtain a retail electric customer's prior permission for each  
6 instance of disclosure or sale of his or her private or proprietary  
7 customer information to an affiliate, subsidiary, or other third  
8 party for purposes of marketing services or products that the  
9 customer does not already subscribe to; and

10 (b) Maintain a record for each instance of permission for  
11 disclosing a retail electric customer's private or proprietary  
12 customer information.

13 (3) An electric utility must retain the following information for  
14 each instance of a retail electric customer's consent for disclosure  
15 of his or her private or proprietary customer information if provided  
16 electronically:

17 (a) The confirmation of consent for the disclosure of private  
18 customer information;

19 (b) A list of the date of the consent and the affiliates,  
20 subsidiaries, or third parties to which the customer has authorized  
21 disclosure of his or her private or proprietary customer information;  
22 and

23 (c) A confirmation that the name, service address, and account  
24 number exactly matches the utility record for such account.

25 (4) This section does not prevent disclosure of the essential  
26 terms and conditions of special contracts.

27 (5) This section does not prevent the electric utility from  
28 inserting any marketing information into the retail electric  
29 customer's billing package.

30 (6) An electric utility may collect and release retail electric  
31 customer information in aggregate form if the aggregated information  
32 does not allow any specific customer to be identified.

33 (7) The legislature finds that the practices covered by this  
34 section are matters vitally affecting the public interest for the  
35 purpose of applying the consumer protection act, chapter 19.86 RCW. A  
36 violation of this section is not reasonable in relation to the  
37 development and preservation of business and is an unfair or  
38 deceptive act in trade or commerce and an unfair method of  
39 competition for the purpose of applying the consumer protection act,  
40 chapter 19.86 RCW.

1 (8) The statewide minimum privacy policy established in  
2 subsections (1) through (6) of this section must, in the case of an  
3 investor-owned utility, be enforced by the commission by rule or  
4 order.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.29A  
6 RCW to read as follows:

7 (1) A person may not capture private or proprietary customer  
8 information for a commercial purpose unless the person:

9 (a) Informs the retail electric customer before capturing private  
10 or proprietary customer information; and

11 (b) Receives the retail electric customer's written or electronic  
12 permission to capture private or proprietary customer information.

13 (2) A person who legally possesses private or proprietary  
14 customer information that is captured for a commercial purpose may  
15 not sell, lease, or otherwise disclose the private or proprietary  
16 customer information to another person unless:

17 (a) The retail electric customer consents to the disclosure;

18 (b) The private or proprietary customer information is disclosed  
19 to an electric utility or other third party as necessary to effect,  
20 administer, enforce, or complete a financial transaction that the  
21 retail electric customer requested, initiated, or authorized,  
22 provided that the electric utility or third party maintains  
23 confidentiality of the private or proprietary customer information  
24 and does not further disclose the information except as permitted  
25 under this subsection (2) and section 3 of this act; or

26 (c) The disclosure is required or expressly permitted by a  
27 federal statute or by a state statute.

28 (3) For the purposes of this section, "person" means any  
29 individual, partnership, corporation, limited liability company, or  
30 other organization or commercial entity.

31 (4) The legislature finds that the practices covered by this  
32 section are matters vitally affecting the public interest for the  
33 purpose of applying the consumer protection act, chapter 19.86 RCW. A  
34 violation of this section is not reasonable in relation to the  
35 development and preservation of business and is an unfair or  
36 deceptive act in trade or commerce and an unfair method of



1 competition for the purpose of applying the consumer protection act,  
2 chapter 19.86 RCW.

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