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**SUBSTITUTE HOUSE BILL 2064**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Technology & Economic Development (originally sponsored by Representatives Morris, Pollet, and Tarleton)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to providing compliance options for qualifying  
2 utilities; and amending RCW 19.285.040 and 19.285.080.

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

4 **Sec. 1.** RCW 19.285.040 and 2014 c 26 s 1 are each amended to  
5 read as follows:

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

8 (a) By January 1, 2010, using methodologies consistent with those  
9 used by the Pacific Northwest electric power and conservation  
10 planning council in the most recently published regional power plan  
11 as it existed on June 12, 2014, or a subsequent date as may be  
12 provided by the department or the commission by rule, each qualifying  
13 utility shall identify its achievable cost-effective conservation  
14 potential through 2019. Nothing in the rule adopted under this  
15 subsection precludes a qualifying utility from using its utility  
16 specific conservation measures, values, and assumptions in  
17 identifying its achievable cost-effective conservation potential. At  
18 least every two years thereafter, the qualifying utility shall review  
19 and update this assessment for the subsequent ten-year period.

20 (b) Beginning January 2010, each qualifying utility shall  
21 establish and make publicly available a biennial acquisition target

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

7 (c)(i) Except as provided in (c)(ii) and (iii) of this  
8 subsection, beginning on January 1, 2014, cost-effective conservation  
9 achieved by a qualifying utility in excess of its biennial  
10 acquisition target may be used to help meet the immediately  
11 subsequent two biennial acquisition targets, such that no more than  
12 twenty percent of any biennial target may be met with excess  
13 conservation savings.

14 (ii) Beginning January 1, 2014, a qualifying utility may use  
15 single large facility conservation savings in excess of its biennial  
16 target to meet up to an additional five percent of the immediately  
17 subsequent two biennial acquisition targets, such that no more than  
18 twenty-five percent of any biennial target may be met with excess  
19 conservation savings allowed under all of the provisions of this  
20 section combined. For the purposes of this subsection (1)(c)(ii),  
21 "single large facility conservation savings" means cost-effective  
22 conservation savings achieved in a single biennial period at the  
23 premises of a single customer of a qualifying utility whose annual  
24 electricity consumption prior to the conservation savings exceeded  
25 five average megawatts.

26 (iii) Beginning January 1, 2012, and until December 31, 2017, a  
27 qualifying utility with an industrial facility located in a county  
28 with a population between ninety-five thousand and one hundred  
29 fifteen thousand that is directly interconnected with electricity  
30 facilities that are capable of carrying electricity at transmission  
31 voltage(( $\tau$ )) may use cost-effective conservation from that industrial  
32 facility in excess of its biennial acquisition target to help meet  
33 the immediately subsequent two biennial acquisition targets, such  
34 that no more than twenty-five percent of any biennial target may be  
35 met with excess conservation savings allowed under all of the  
36 provisions of this section combined.

37 (d) In meeting its conservation targets, a qualifying utility may  
38 count high-efficiency cogeneration owned and used by a retail  
39 electric customer to meet its own needs. High-efficiency cogeneration  
40 is the sequential production of electricity and useful thermal energy

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

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

14 (f) The commission may rely on its standard practice for review  
15 and approval of investor-owned utility conservation targets.

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

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

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

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

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

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

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

1 electricity is not offset by equivalent renewable energy credits; and  
2 (iii) the utility invested at least one percent of its total annual  
3 retail revenue requirement that year on eligible renewable resources,  
4 renewable energy credits, or a combination of both.

5 (e) A qualifying utility is considered in compliance with an  
6 annual target in (a) of this subsection if the following conditions  
7 apply for any year of the first two years of an integrated resource  
8 plan or other resource plan adopted by the utility pursuant to RCW  
9 19.280.030:

10 (i) Either:

11 (A) The load to be served by the utility is not projected to  
12 increase from the previous year, net of conservation; or

13 (B) The cumulative load growth from December 7, 2006, including  
14 the projected load growth for the target year, net of conservation,  
15 is served by eligible renewable resources or renewable energy credits  
16 and is projected to be less than the amount of eligible renewable  
17 resources that would otherwise be required to meet the annual target  
18 in (a) of this subsection for that year; or

19 (C) The utility has projected sufficient resources, owned or  
20 under contract as of January 1, 2010, to serve its projected load,  
21 net of conservation, for the target year;

22 (ii) The utility did not otherwise commence or renew ownership or  
23 make incremental purchases of electricity, other than on a daily spot  
24 price basis, from resources other than coal transition power or  
25 renewable resources, and the electricity is not offset by equivalent  
26 renewable energy credits; and

27 (iii) The utility has invested at least one percent of its total  
28 annual retail revenue requirement that year on one or more of the  
29 following clean energy investments in any combination: Eligible  
30 renewable resources; renewable energy credits; conservation that is  
31 not considered cost-effective conservation; demand response programs;  
32 electric vehicle charging stations; energy storage; research and  
33 development for clean energy technologies; or other projects as  
34 approved by the commission or governing board, as appropriate, that  
35 reduce or offset, or lead to development of technology that reduces  
36 or offsets, emissions of greenhouse gases.

37 (f) A utility must document compliance with the option provided  
38 under (e) of this subsection by June 30th after the completion of the  
39 target year for which it is to be utilized, or, if unable to document  
40 compliance by that date, must document compliance with either (a) or

1 (d) of this subsection or RCW 19.285.050 by December 31st of that  
2 same year.

3 (g) The governing board of a consumer-owned utility which  
4 performs planning projections for compliance under (e) of this  
5 subsection has sole authority to determine the process, timelines,  
6 and documentation for developing planning projections pursuant to  
7 chapter 19.280 RCW, as performed under (e) of this subsection.

8 (h) A utility which meets the conditions for compliance under  
9 either (d) or (e) of this subsection shall resume meeting the  
10 compliance requirements in this section on a time frame comparable in  
11 length to what it would have been before using an alternative  
12 compliance option.

13 (i) The requirements of this section may be met for any given  
14 year with renewable energy credits produced during that year, the  
15 preceding year, or the subsequent year. Each renewable energy credit  
16 may be used only once to meet the requirements of this section.

17 ~~((f))~~ (j) In complying with the targets established in (a) of  
18 this subsection, a qualifying utility may not count:

19 (i) Eligible renewable resources or distributed generation where  
20 the associated renewable energy credits are owned by a separate  
21 entity; or

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

25 ~~((g))~~ (k) Where fossil and combustible renewable resources are  
26 cofired in one generating unit located in the Pacific Northwest where  
27 the cofiring commenced after March 31, 1999, the unit shall be  
28 considered to produce eligible renewable resources in direct  
29 proportion to the percentage of the total heat value represented by  
30 the heat value of the renewable resources.

31 ~~((h))~~ (l)(i) A qualifying utility that acquires an eligible  
32 renewable resource or renewable energy credit may count that  
33 acquisition at one and two-tenths times its base value:

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

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

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

1       (~~(i)~~) (m) A qualifying utility shall be considered in  
2 compliance with an annual target in (a) of this subsection if events  
3 beyond the reasonable control of the utility that could not have been  
4 reasonably anticipated or ameliorated prevented it from meeting the  
5 renewable energy target. Such events include weather-related damage,  
6 mechanical failure, strikes, lockouts, and actions of a governmental  
7 authority that adversely affect the generation, transmission, or  
8 distribution of an eligible renewable resource under contract to a  
9 qualifying utility.

10       (~~(j)~~) (n)(i) Beginning January 1, 2016, only a qualifying  
11 utility that owns or is directly interconnected to a qualified  
12 biomass energy facility may use qualified biomass energy to meet its  
13 compliance obligation under this subsection.

14       (ii) A qualifying utility may no longer use electricity and  
15 associated renewable energy credits from a qualified biomass energy  
16 facility if the associated industrial pulping or wood manufacturing  
17 facility ceases operation other than for purposes of maintenance or  
18 upgrade.

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

32       (3) Utilities that become qualifying utilities after December 31,  
33 2006, shall meet the requirements in this section on a time frame  
34 comparable in length to that provided for qualifying utilities as of  
35 December 7, 2006.

36       **Sec. 2.** RCW 19.285.080 and 2007 c 1 s 8 are each amended to read  
37 as follows:

1 (1) The commission may adopt rules to ensure the proper  
2 implementation and enforcement of this chapter as it applies to  
3 investor-owned utilities.

4 (2) Except as provided in RCW 19.285.040(2)(g), the department  
5 shall adopt rules concerning only process, timelines, and  
6 documentation to ensure the proper implementation of this chapter as  
7 it applies to qualifying utilities that are not investor-owned  
8 utilities. Those rules include, but are not limited to, rules  
9 associated with a qualifying utility's development of conservation  
10 targets under RCW 19.285.040(1); a qualifying utility's decision to  
11 pursue alternative compliance in RCW 19.285.040(2) (d) or ~~((+i+))~~ (m)  
12 or 19.285.050(1); and the format and content of reports required in  
13 RCW 19.285.070. The department may not adopt rules concerning RCW  
14 19.285.040(2)(g). Nothing in this subsection may be construed to  
15 restrict the rate-making authority of the commission or a qualifying  
16 utility as otherwise provided by law.

17 (3) The commission and department may coordinate in developing  
18 rules related to process, timelines, and documentation that are  
19 necessary for implementation of this chapter.

20 (4) Pursuant to the administrative procedure act, chapter 34.05  
21 RCW, rules needed for the implementation of this chapter must be  
22 adopted by December 31, 2007. These rules may be revised as needed to  
23 carry out the intent and purposes of this chapter.

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