
SUBSTITUTE HOUSE BILL 2410

State of Washington

65th Legislature

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By House Technology & Economic Development (originally sponsored by Representatives Doglio, Fey, Tarleton, Macri, and Pollet)

READ FIRST TIME 02/01/18.

1 AN ACT Relating to allowing the energy savings associated with
2 on-bill repayment programs to count toward a qualifying utility's
3 energy conservation targets under the energy independence act;
4 amending RCW 19.285.040; reenacting and amending RCW 19.29A.010; and
5 adding new sections to chapter 19.29A RCW.

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

7 **Sec. 1.** RCW 19.29A.010 and 2015 c 285 s 1 are each reenacted and
8 amended to read as follows:

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

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

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

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

27 (10) "Electric utility" means a consumer-owned or investor-owned
28 utility as defined in this section.

29 (11) "Electricity" means electric energy measured in kilowatt-
30 hours, or electric capacity measured in kilowatts, or both.

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

39 (13) "Electricity product" means the electrical energy produced
40 by a generating facility or facilities that a retail supplier sells

1 or offers to sell to retail electric customers in the state of
2 Washington, provided that nothing in this title shall be construed to
3 mean that electricity is a good or product for the purposes of Title
4 62A RCW, or any other purpose. It does not include electrical energy
5 generated on-site at a retail electric customer's premises.

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

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

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

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

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

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

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

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

36 (22) "Net system power mix" means the fuel mix in the Northwest
37 power pool, net of: (a) Any declared resources in the Northwest power
38 pool identified by in-state retail suppliers or out-of-state entities
39 that offer electricity for sale to retail electric customers; (b) any
40 electricity sold by the Bonneville power administration to direct

1 service industrial customers; and (c) any resource specific sales
2 made by the Bonneville power administration.

3 (23) "Northwest power pool" means the generating resources
4 included in the United States portion of the Northwest power pool
5 area as defined by the western systems coordinating council.

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

8 (25) "Private customer information" includes a retail electric
9 customer's name, address, telephone number, and other personally
10 identifying information.

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

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

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

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

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

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

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

40 (33) "State" means the state of Washington.

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

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

6 (36) "On-bill repayment program" means a program in which an
7 electric utility facilitates repayment of an energy conservation or
8 renewable energy loan between a customer and a third-party capital
9 provider.

10 (37) "Retail electric cooperative" means a cooperative formed
11 under chapter 23.86 RCW or a mutual corporation or association formed
12 under chapter 24.06 RCW that is engaged in the business of
13 distributing electricity to more than one retail electric customer in
14 the state.

15 (38) "Third-party capital provider" means a nonprofit lender,
16 community bank, or credit union that provides capital for the purpose
17 of making energy conservation or renewable energy loans under an on-
18 bill repayment program.

19 NEW SECTION. Sec. 2. A new section is added to chapter 19.29A
20 RCW to read as follows:

21 (1) Except as otherwise provided in section 3 of this act, each
22 electric utility must offer an on-bill repayment program option to
23 its retail electric customers beginning January 1, 2020.

24 (2) An electric utility must provide participants in an on-bill
25 repayment program with any conservation incentives for which the
26 participant is eligible.

27 (3)(a) An electric utility must prepare a marketing and outreach
28 program to promote its on-bill repayment program as part of its
29 biennial conservation plan prepared pursuant to RCW 19.285.040.

30 (b) The utility may recover the costs associated with its
31 marketing and outreach program through its conservation tariff rider.

32 NEW SECTION. Sec. 3. A new section is added to chapter 19.29A
33 RCW to read as follows:

34 The provisions of section 2(1) of this act do not apply to a
35 small utility or a retail electric cooperative. However, if the
36 governing body of a small utility or a retail electric cooperative
37 determines that the utility should offer an on-bill repayment program
38 option, the utility must:

1 (1) Provide participants in the on-bill repayment program with
2 any conservation incentives for which the participant is eligible;
3 and

4 (2) Prepare a marketing and outreach program to promote its on-
5 bill repayment program as part of its biennial conservation plan
6 prepared pursuant to RCW 19.285.040, if applicable.

7 **Sec. 4.** RCW 19.285.040 and 2017 c 315 s 2 are each amended to
8 read as follows:

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

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

23 (b) Beginning January 2010, each qualifying utility shall
24 establish and make publicly available a biennial acquisition target
25 for cost-effective conservation consistent with its identification of
26 achievable opportunities in (a) of this subsection, and meet that
27 target during the subsequent two-year period. At a minimum, each
28 biennial target must be no lower than the qualifying utility's pro
29 rata share for that two-year period of its cost-effective
30 conservation potential for the subsequent ten-year period.

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

38 (ii) Beginning January 1, 2014, a qualifying utility may use
39 single large facility conservation savings in excess of its biennial

1 target to meet up to an additional five percent of the immediately
2 subsequent two biennial acquisition targets, such that no more than
3 twenty-five percent of any biennial target may be met with excess
4 conservation savings allowed under all of the provisions of this
5 section combined. For the purposes of this subsection (1)(c)(ii),
6 "single large facility conservation savings" means cost-effective
7 conservation savings achieved in a single biennial period at the
8 premises of a single customer of a qualifying utility whose annual
9 electricity consumption prior to the conservation savings exceeded
10 five average megawatts.

11 (iii) Beginning January 1, 2012, and until December 31, 2017, a
12 qualifying utility with an industrial facility located in a county
13 with a population between ninety-five thousand and one hundred
14 fifteen thousand that is directly interconnected with electricity
15 facilities that are capable of carrying electricity at transmission
16 voltage may use cost-effective conservation from that industrial
17 facility in excess of its biennial acquisition target to help meet
18 the immediately subsequent two biennial acquisition targets, such
19 that no more than twenty-five percent of any biennial target may be
20 met with excess conservation savings allowed under all of the
21 provisions of this section combined.

22 (d) In meeting its conservation targets, a qualifying utility may
23 count high-efficiency cogeneration owned and used by a retail
24 electric customer to meet its own needs. High-efficiency cogeneration
25 is the sequential production of electricity and useful thermal energy
26 from a common fuel source, where, under normal operating conditions,
27 the facility has a useful thermal energy output of no less than
28 thirty-three percent of the total energy output. The reduction in
29 load due to high-efficiency cogeneration shall be: (i) Calculated as
30 the ratio of the fuel chargeable to power heat rate of the
31 cogeneration facility compared to the heat rate on a new and clean
32 basis of a best-commercially available technology combined-cycle
33 natural gas-fired combustion turbine; and (ii) counted towards
34 meeting the biennial conservation target in the same manner as other
35 conservation savings.

36 (e) In meeting its conservation targets, a qualifying utility may
37 count the conservation savings associated with an on-bill repayment
38 program established under section 2 or 3 of this act, provided that
39 the savings otherwise qualify as cost-effective conservation under
40 this section.

1 (f) The commission may determine if a conservation program
2 implemented by an investor-owned utility is cost-effective based on
3 the commission's policies and practice.

4 ~~((+f+))~~ (g) The commission may rely on its standard practice for
5 review and approval of investor-owned utility conservation targets.

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

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

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

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

16 (b) A qualifying utility may count distributed generation at
17 double the facility's electrical output if the utility: (i) Owns or
18 has contracted for the distributed generation and the associated
19 renewable energy credits; or (ii) has contracted to purchase the
20 associated renewable energy credits.

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

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

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

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

1 (i) Eligible renewable resources or distributed generation where
2 the associated renewable energy credits are owned by a separate
3 entity; or

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

7 (g) Where fossil and combustible renewable resources are cofired
8 in one generating unit located in the Pacific Northwest where the
9 cofiring commenced after March 31, 1999, the unit shall be considered
10 to produce eligible renewable resources in direct proportion to the
11 percentage of the total heat value represented by the heat value of
12 the renewable resources.

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

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

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

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

23 (i) A qualifying utility shall be considered in compliance with
24 an annual target in (a) of this subsection if events beyond the
25 reasonable control of the utility that could not have been reasonably
26 anticipated or ameliorated prevented it from meeting the renewable
27 energy target. Such events include weather-related damage, mechanical
28 failure, strikes, lockouts, and actions of a governmental authority
29 that adversely affect the generation, transmission, or distribution
30 of an eligible renewable resource under contract to a qualifying
31 utility.

32 (j)(i) Beginning January 1, 2016, only a qualifying utility that
33 owns or is directly interconnected to a qualified biomass energy
34 facility may use qualified biomass energy to meet its compliance
35 obligation under this subsection.

36 (ii) A qualifying utility may no longer use electricity and
37 associated renewable energy credits from a qualified biomass energy
38 facility if the associated industrial pulping or wood manufacturing
39 facility ceases operation other than for purposes of maintenance or
40 upgrade.

1 (k) An industrial facility that hosts a qualified biomass energy
2 facility may only transfer or sell renewable energy credits
3 associated with qualified biomass energy generated at its facility to
4 the qualifying utility with which it is directly interconnected with
5 facilities owned by such a qualifying utility and that are capable of
6 carrying electricity at transmission voltage. The qualifying utility
7 may only use an amount of renewable energy credits associated with
8 qualified biomass energy that are equivalent to the proportionate
9 amount of its annual targets under (a)(ii) and (iii) of this
10 subsection that was created by the load of the industrial facility. A
11 qualifying utility that owns a qualified biomass energy facility may
12 not transfer or sell renewable energy credits associated with
13 qualified biomass energy to another person, entity, or qualifying
14 utility.

15 (3) Utilities that become qualifying utilities after December 31,
16 2006, shall meet the requirements in this section on a time frame
17 comparable in length to that provided for qualifying utilities as of
18 December 7, 2006.

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