
SENATE BILL 5007

State of Washington

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2021 Regular Session

By Senators Van De Wege, Conway, Kuderer, Nguyen, and Wilson, C.

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1 AN ACT Relating to addressing the economic challenges facing
2 Washington citizens from the COVID-19 pandemic through a temporary
3 reduction in compliance and tax burden on electric utilities in order
4 to lower costs and support direct utility assistance to low-income
5 customers; amending RCW 19.285.040 and 19.405.060; and creating new
6 sections.

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

8 NEW SECTION. **Sec. 1.** The legislature declared as state policy,
9 in RCW 80.28.074, the preservation of affordable electric services to
10 the residents of the state. The legislature finds that the COVID-19
11 pandemic has caused severe adverse economic impacts and made electric
12 utility services unaffordable to many residents of the state as
13 demonstrated by the growing number of customers with significant
14 unpaid portions of their utility bills. The legislature finds that
15 costs associated with legislation enacted prior to the COVID-19
16 pandemic will be incorporated into retail electric rates and
17 exacerbate the financial hardship faced by electric utility
18 customers. The legislature further finds that modest statutory
19 changes are available that will reduce utility compliance costs with
20 minimal to no impact on the fundamental goals of the legislation. The
21 legislature therefore intends to provide certain temporary compliance

1 relief to reduce costs to utilities and create financial support for
2 utility customers economically impacted by COVID-19.

3 **Sec. 2.** RCW 19.285.040 and 2019 c 288 s 29 are each amended to
4 read as follows:

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

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

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

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

34 (ii) Beginning January 1, 2014, a qualifying utility may use
35 single large facility conservation savings in excess of its biennial
36 target to meet up to an additional five percent of the immediately
37 subsequent two biennial acquisition targets, such that no more than
38 twenty-five percent of any biennial target may be met with excess
39 conservation savings allowed under all of the provisions of this

1 section combined. For the purposes of this subsection (1)(c)(ii),
2 "single large facility conservation savings" means cost-effective
3 conservation savings achieved in a single biennial period at the
4 premises of a single customer of a qualifying utility whose annual
5 electricity consumption prior to the conservation savings exceeded
6 five average megawatts.

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

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

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

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

37 (g) For the compliance periods January 1, 2020, to December 31,
38 2021, and January 1, 2022, to December 31, 2023, a qualifying utility
39 is considered to be in compliance with its obligation under this
40 subsection and with RCW 19.405.050(3), if the amount of funds the

1 utility used to directly and indirectly assist retail customers
2 coupled with the funds directed towards conservation during the
3 compliance period equals or exceeds the amount of utility funds
4 expended in the immediately previous compliance period to meet the
5 obligations under this subsection. For the purposes of this
6 subsection, indirect assistance of retail customers includes any
7 arrearages in customer payments for rendered utility services.

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

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

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

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

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

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

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

37 (e) A qualifying utility may use renewable energy credits to meet
38 the requirements of this section, subject to the limitations of this
39 subsection.

1 (i) A renewable energy credit from electricity generated by a
2 resource other than freshwater may be used to meet a requirement
3 applicable to the year in which the credit was created, the year
4 before the year in which the credit was created, or the year after
5 the year in which the credit was created.

6 (ii) A renewable energy credit from electricity generated by
7 freshwater:

8 (A) May only be used to meet a requirement applicable to the year
9 in which the credit was created; and

10 (B) Must be acquired by the qualifying utility through ownership
11 of the generation facility or through a transaction that conveyed
12 both the electricity and the nonpower attributes of the electricity.

13 (iii) A renewable energy credit transferred to an investor-owned
14 utility pursuant to the Bonneville power administration's residential
15 exchange program may not be used by any utility other than the
16 utility receiving the credit from the Bonneville power
17 administration.

18 (iv) Each renewable energy credit may only be used once to meet
19 the requirements of this section and must be retired using procedures
20 of the renewable energy credit tracking system.

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

23 (i) Eligible renewable resources or distributed generation where
24 the associated renewable energy credits are owned by a separate
25 entity; or

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

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

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

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

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

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

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

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

19 (ii) A qualifying utility may no longer use electricity and
20 associated renewable energy credits from a qualified biomass energy
21 facility if the associated industrial pulping or wood manufacturing
22 facility ceases operation other than for purposes of maintenance or
23 upgrade.

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

38 (l) Beginning January 1, 2020, a qualifying utility may use
39 eligible renewable resources as identified under RCW 19.285.030(12)
40 (g) and (h) to meet its compliance obligation under this subsection

1 (2). A qualifying utility may not transfer or sell these eligible
2 renewable resources to another utility for compliance purposes under
3 this chapter.

4 (m) Beginning January 1, (~~2030~~) 2021, a qualifying utility is
5 considered to be in compliance with an annual target in (a) of this
6 subsection if the utility uses electricity from: (i) Renewable
7 resources and renewable energy credits as defined in RCW 19.285.030;
8 and (ii) nonemitting electric generation as defined in RCW
9 19.405.020, in an amount equal to or exceeding one hundred percent of
10 the utility's (~~average~~) annual retail electric load of the previous
11 year. Nothing in this subsection relieves the requirements of a
12 qualifying utility to comply with subsection (1) of this section.

13 (3) Utilities that become qualifying utilities after December 31,
14 2006, shall meet the requirements in this section on a time frame
15 comparable in length to that provided for qualifying utilities as of
16 December 7, 2006.

17 **Sec. 3.** RCW 19.405.060 and 2019 c 288 s 6 are each amended to
18 read as follows:

19 (1)(a) By January 1, 2022, and every four years thereafter, each
20 investor-owned utility must develop and submit to the commission:

21 (i) A four-year clean energy implementation plan for the
22 standards established under RCW 19.405.040(1) and 19.405.050(1) that
23 proposes specific targets for energy efficiency, demand response, and
24 renewable energy; and

25 (ii) Proposed interim targets for meeting the standard under RCW
26 19.405.040(1) during the years prior to 2030 and between 2030 and
27 2045.

28 (b) An investor-owned utility's clean energy implementation plan
29 must:

30 (i) Be informed by the investor-owned utility's clean energy
31 action plan developed under RCW 19.280.030;

32 (ii) Be consistent with subsection (3) of this section; and

33 (iii) Identify specific actions to be taken by the investor-owned
34 utility over the next four years, consistent with the utility's long-
35 range integrated resource plan and resource adequacy requirements,
36 that demonstrate progress toward meeting the standards under RCW
37 19.405.040(1) and 19.405.050(1) and the interim targets proposed
38 under (a)(i) of this subsection. The specific actions identified must
39 be informed by the investor-owned utility's historic performance

1 under median water conditions and resource capability and by the
2 investor-owned utility's participation in centralized markets. In
3 identifying specific actions in its clean energy implementation plan,
4 the investor-owned utility may also take into consideration any
5 significant and unplanned loss or addition of load it experiences.

6 (c) The commission, after a hearing, must by order approve,
7 reject, or approve with conditions an investor-owned utility's clean
8 energy implementation plan and interim targets. The commission may,
9 in its order, recommend or require more stringent targets than those
10 proposed by the investor-owned utility. The commission may
11 periodically adjust or expedite timelines if it can be demonstrated
12 that the targets or timelines can be achieved in a manner consistent
13 with the following:

14 (i) Maintaining and protecting the safety, reliable operation,
15 and balancing of the electric system;

16 (ii) Planning to meet the standards at the lowest reasonable
17 cost, considering risk;

18 (iii) Ensuring that all customers are benefiting from the
19 transition to clean energy: Through the equitable distribution of
20 energy and nonenergy benefits and the reduction of burdens to
21 vulnerable populations and highly impacted communities; long-term and
22 short-term public health and environmental benefits and reduction of
23 costs and risks; and energy security and resiliency; and

24 (iv) Ensuring that no customer or class of customers is
25 unreasonably harmed by any resulting increases in the cost of
26 utility-supplied electricity as may be necessary to comply with the
27 standards.

28 (2) (a) By January 1, 2022, and every four years thereafter, each
29 consumer-owned utility must develop and submit to the department a
30 four-year clean energy implementation plan for the standards
31 established under RCW 19.405.040(1) and 19.405.050(1) that:

32 (i) Proposes interim targets for meeting the standard under RCW
33 19.405.040(1) during the years prior to 2030 and between 2030 and
34 2045, as well as specific targets for energy efficiency, demand
35 response, and renewable energy;

36 (ii) Is informed by the consumer-owned utility's clean energy
37 action plan developed under RCW 19.280.030(1) or other ten-year plan
38 developed under RCW 19.280.030(5);

39 (iii) Is consistent with subsection (4) of this section; and

1 (iv) Identifies specific actions to be taken by the consumer-
2 owned utility over the next four years, consistent with the utility's
3 long-range resource plan and resource adequacy requirements, that
4 demonstrate progress towards meeting the standards under RCW
5 19.405.040(1) and 19.405.050(1) and the interim targets proposed
6 under (a)(i) of this subsection. The specific actions identified must
7 be informed by the consumer-owned utility's historic performance
8 under median water conditions and resource capability and by the
9 consumer-owned utility's participation in centralized markets. In
10 identifying specific actions in its clean energy implementation plan,
11 the consumer-owned utility may also take into consideration any
12 significant and unplanned loss or addition of load it experiences.

13 (b) The governing body of the consumer-owned utility must, after
14 a public meeting, adopt the consumer-owned utility's clean energy
15 implementation plan. The clean energy implementation plan must be
16 submitted to the department and made available to the public. The
17 governing body may adopt more stringent targets than those proposed
18 by the consumer-owned utility and periodically adjust or expedite
19 timelines if it can be demonstrated that such targets or timelines
20 can be achieved in a manner consistent with the following:

21 (i) Maintaining and protecting the safety, reliable operation,
22 and balancing of the electric system;

23 (ii) Planning to meet the standards at the lowest reasonable
24 cost, considering risk;

25 (iii) Ensuring that all customers are benefiting from the
26 transition to clean energy: Through the equitable distribution of
27 energy and nonenergy benefits and reduction of burdens to vulnerable
28 populations and highly impacted communities; long-term and short-term
29 public health and environmental benefits and reduction of costs and
30 risks; and energy security and resiliency; and

31 (iv) Ensuring that no customer or class of customers is
32 unreasonably harmed by any resulting increases in the cost of
33 utility-supplied electricity as may be necessary to comply with the
34 standards.

35 (3)(a) An investor-owned utility must be considered to be in
36 compliance with the standards under RCW 19.405.040(1) and
37 19.405.050(1) if, over the four-year compliance period, the average
38 annual incremental cost of meeting the standards or the interim
39 targets established under subsection (1) of this section equals a two
40 percent increase of the investor-owned utility's weather-adjusted

1 sales revenue to customers for electric operations above the previous
2 year, as reported by the investor-owned utility in its most recent
3 commission basis report. All costs included in the determination of
4 cost impact must be directly attributable to actions necessary to
5 comply with the requirements of RCW 19.405.040 and 19.405.050.

6 (b) If an investor-owned utility relies on (a) of this subsection
7 as a basis for compliance with the standard under RCW 19.405.040(1),
8 then it must demonstrate that it has maximized investments in
9 renewable resources and nonemitting electric generation prior to
10 using alternative compliance options allowed under RCW
11 19.405.040(1)(b).

12 (4)(a) A consumer-owned utility must be considered to be in
13 compliance with the standards under RCW 19.405.040(1) and
14 19.405.050(1) if, over the four-year compliance period, the average
15 annual incremental cost of meeting the standards or the interim
16 targets established under subsection (2) of this section meets or
17 exceeds a two percent increase of the consumer-owned utility's retail
18 revenue requirement above the previous year. All costs included in
19 the determination of cost impact must be directly attributable to
20 actions necessary to comply with the requirements of RCW 19.405.040
21 and 19.405.050.

22 (b) If a consumer-owned utility relies on (a) of this subsection
23 as a basis for compliance with the standard under RCW 19.405.040(1),
24 and it has not met eighty percent of its annual retail electric load
25 using electricity from renewable resources and nonemitting electric
26 generation, then it must demonstrate that it has maximized
27 investments in renewable resources and nonemitting electric
28 generation prior to using alternative compliance options allowed
29 under RCW 19.405.040(1)(b).

30 (5) The commission, for investor-owned utilities, and the
31 department, for consumer-owned utilities, must adopt rules
32 establishing the methodology for calculating the incremental cost of
33 compliance under this section, as compared to the cost of an
34 alternative lowest reasonable cost portfolio of investments that are
35 reasonably available.

36 (6) From January 1, 2022, through December 31, 2026, the
37 requirements of this section and any associated compliance reporting
38 are waived for any utility that uses electricity from: (a) Renewable
39 resources as defined in RCW 19.285.030; and (b) nonemitting electric

1 generation as defined in RCW 19.405.020, in an amount equal to or
2 exceeding 80 percent of the utility's annual retail electric load.

3 NEW SECTION. **Sec. 4.** All cost savings to utilities under this
4 act must be used for financial support to utility customers that have
5 been economically impacted by COVID-19.

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