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**HOUSE BILL 1948**

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**By** Representatives Ybarra, Fitzgibbon, Reed, Graham, Ormsby, Doglio, and Pollet

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1 AN ACT Relating to ensuring that methods for calculating the  
2 electric load of utilities under the energy independence act do not  
3 have the effect of discouraging voluntary investments in renewable  
4 power; amending RCW 19.285.030; and reenacting and amending RCW  
5 19.285.040.

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

7 **Sec. 1.** RCW 19.285.030 and 2019 c 288 s 28 are each amended to  
8 read as follows:

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

11 (1) "Attorney general" means the Washington state office of the  
12 attorney general.

13 (2) "Auditor" means: (a) The Washington state auditor's office or  
14 its designee for qualifying utilities under its jurisdiction that are  
15 not investor-owned utilities; or (b) an independent auditor selected  
16 by a qualifying utility that is not under the jurisdiction of the  
17 state auditor and is not an investor-owned utility.

18 (3)(a) "Biomass energy" includes: (i) Organic by-products of  
19 pulping and the wood manufacturing process; (ii) animal manure; (iii)  
20 solid organic fuels from wood; (iv) forest or field residues; (v)  
21 untreated wooden demolition or construction debris; (vi) food waste

1 and food processing residuals; (vii) liquors derived from algae;  
2 (viii) dedicated energy crops; and (ix) yard waste.

3 (b) "Biomass energy" does not include: (i) Wood pieces that have  
4 been treated with chemical preservatives such as creosote,  
5 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old  
6 growth forests; or (iii) municipal solid waste.

7 (4) "Coal transition power" has the same meaning as defined in  
8 RCW 80.80.010.

9 (5) "Commission" means the Washington state utilities and  
10 transportation commission.

11 (6) "Conservation" means any reduction in electric power  
12 consumption resulting from increases in the efficiency of energy use,  
13 production, or distribution.

14 (7) "Cost-effective" has the same meaning as defined in RCW  
15 80.52.030.

16 (8) "Council" means the Washington state apprenticeship and  
17 training council within the department of labor and industries.

18 (9) "Customer" means a person or entity that purchases  
19 electricity for ultimate consumption and not for resale.

20 (10) "Department" means the department of commerce or its  
21 successor.

22 (11) "Distributed generation" means an eligible renewable  
23 resource where the generation facility or any integrated cluster of  
24 such facilities has a generating capacity of not more than five  
25 megawatts.

26 (12) "Eligible renewable resource" means:

27 (a) Electricity from a generation facility powered by a renewable  
28 resource other than fresh water that commences operation after March  
29 31, 1999, where: (i) The facility is located in the Pacific  
30 Northwest; or (ii) the electricity from the facility is delivered  
31 into Washington state on a real-time basis without shaping, storage,  
32 or integration services;

33 (b) Incremental electricity produced as a result of efficiency  
34 improvements completed after March 31, 1999, to hydroelectric  
35 generation projects owned by a qualifying utility and located in the  
36 Pacific Northwest where the additional generation does not result in  
37 new water diversions or impoundments;

38 (c) Hydroelectric generation from a project completed after March  
39 31, 1999, where the generation facility is located in irrigation  
40 pipes, irrigation canals, water pipes whose primary purpose is for

1 conveyance of water for municipal use, and wastewater pipes located  
2 in Washington where the generation does not result in new water  
3 diversions or impoundments;

4 (d) Qualified biomass energy;

5 (e) For a qualifying utility that serves customers in other  
6 states, electricity from a generation facility powered by a renewable  
7 resource other than fresh water that commences operation after March  
8 31, 1999, where: (i) The facility is located within a state in which  
9 the qualifying utility serves retail electrical customers; and (ii)  
10 the qualifying utility owns the facility in whole or in part or has a  
11 long-term contract with the facility of at least twelve months or  
12 more;

13 (f) (i) Incremental electricity produced as a result of a capital  
14 investment completed after January 1, 2010, that increases, relative  
15 to a baseline level of generation prior to the capital investment,  
16 the amount of electricity generated in a facility that generates  
17 qualified biomass energy as defined under subsection (18)(c)(ii) of  
18 this section and that commenced operation before March 31, 1999.

19 (ii) Beginning January 1, 2007, the facility must demonstrate its  
20 baseline level of generation over a three-year period prior to the  
21 capital investment in order to calculate the amount of incremental  
22 electricity produced.

23 (iii) The facility must demonstrate that the incremental  
24 electricity resulted from the capital investment, which does not  
25 include expenditures on operation and maintenance in the normal  
26 course of business, through direct or calculated measurement;

27 (g) That portion of incremental electricity produced as a result  
28 of efficiency improvements completed after March 31, 1999,  
29 attributable to a qualifying utility's share of the electricity  
30 output from hydroelectric generation projects whose energy output is  
31 marketed by the Bonneville power administration where the additional  
32 generation does not result in new water diversions or impoundments;  
33 or

34 (h) The environmental attributes, including renewable energy  
35 credits, from (g) of this subsection transferred to investor-owned  
36 utilities pursuant to the Bonneville power administration's  
37 residential exchange program.

38 (13) "Investor-owned utility" has the same meaning as defined in  
39 RCW 19.29A.010.

1 (14)(a) "Load" means the amount of kilowatt-hours of electricity  
2 delivered in the most recently completed year by a qualifying utility  
3 to its Washington retail customers.

4 (b) "Load" does not include kilowatt-hours delivered to a  
5 qualifying utility's system from an eligible renewable resource  
6 through a voluntary renewable energy purchase by a retail electric  
7 customer of the utility in which the renewable energy credits  
8 associated with the kilowatt-hours delivered are retired on behalf of  
9 the customer.

10 (15)(a) "Nonpower attributes" means all environmentally related  
11 characteristics, exclusive of energy, capacity reliability, and other  
12 electrical power service attributes, that are associated with the  
13 generation of electricity from a renewable resource, including but  
14 not limited to the facility's fuel type, geographic location,  
15 vintage, qualification as an eligible renewable resource, and avoided  
16 emissions of pollutants to the air, soil, or water, and avoided  
17 emissions of carbon dioxide and other greenhouse gases.

18 (b) "Nonpower attributes" does not include any aspects, claims,  
19 characteristics, and benefits associated with the on-site capture and  
20 destruction of methane or other greenhouse gases at a facility  
21 through a digester system, landfill gas collection system, or other  
22 mechanism, which may be separately marketable as greenhouse gas  
23 emission reduction credits, offsets, or similar tradable commodities.  
24 However, these separate avoided emissions may not result in or  
25 otherwise have the effect of attributing greenhouse gas emissions to  
26 the electricity.

27 (16) "Pacific Northwest" has the same meaning as defined for the  
28 Bonneville power administration in section 3 of the Pacific Northwest  
29 electric power planning and conservation act (94 Stat. 2698; 16  
30 U.S.C. Sec. 839a).

31 (17) "Public facility" has the same meaning as defined in RCW  
32 39.35C.010.

33 (18) "Qualified biomass energy" means electricity produced from a  
34 biomass energy facility that: (a) Commenced operation before March  
35 31, 1999; (b) contributes to the qualifying utility's load; and (c)  
36 is owned either by: (i) A qualifying utility; or (ii) an industrial  
37 facility that is directly interconnected with electricity facilities  
38 that are owned by a qualifying utility and capable of carrying  
39 electricity at transmission voltage.

1 (19) "Qualifying utility" means an electric utility, as the term  
2 "electric utility" is defined in RCW 19.29A.010, that serves more  
3 than (~~twenty-five thousand~~) 25,000 customers in the state of  
4 Washington. The number of customers served may be based on data  
5 reported by a utility in form 861, "annual electric utility report,"  
6 filed with the energy information administration, United States  
7 department of energy.

8 (20) "Renewable energy credit" means a tradable certificate of  
9 proof of one megawatt-hour of an eligible renewable resource. The  
10 certificate includes all of the nonpower attributes associated with  
11 that one megawatt-hour of electricity, and the certificate is  
12 verified by a renewable energy credit tracking system selected by the  
13 department.

14 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar  
15 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or  
16 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel  
17 fuel that is not derived from crops raised on land cleared from old  
18 growth or first-growth forests where the clearing occurred after  
19 December 7, 2006; or (i) biomass energy.

20 (22) "Rule" means rules adopted by an agency or other entity of  
21 Washington state government to carry out the intent and purposes of  
22 this chapter.

23 (23) "Voluntary renewable energy purchase" means an elective  
24 decision by a retail electric customer of a qualifying utility to  
25 purchase eligible renewable resources directly or participate in a  
26 program in which the electric utility purchases megawatt-hours from  
27 eligible renewable resources, delivers those megawatt-hours to the  
28 utility's system, and retires the associated renewable energy credits  
29 on behalf of the retail electric customer.

30 (24) "Year" means the (~~twelve-month~~) 12-month period commencing  
31 January 1st and ending December 31st.

32 **Sec. 2.** RCW 19.285.040 and 2021 c 315 s 17 and 2021 c 79 s 1 are  
33 each reenacted and amended to read as follows:

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

36 (a) By January 1, 2010, using methodologies consistent with those  
37 used by the Pacific Northwest electric power and conservation  
38 planning council in the most recently published regional power plan  
39 as it existed on June 12, 2014, or a subsequent date as may be

1 provided by the department or the commission by rule, each qualifying  
2 utility shall identify its achievable cost-effective conservation  
3 potential through 2019. Nothing in the rule adopted under this  
4 subsection precludes a qualifying utility from using its utility  
5 specific conservation measures, values, and assumptions in  
6 identifying its achievable cost-effective conservation potential. At  
7 least every two years thereafter, the qualifying utility shall review  
8 and update this assessment for the subsequent ten-year period.

9 (b) Beginning January 2010, each qualifying utility shall  
10 establish and make publicly available a biennial acquisition target  
11 for cost-effective conservation consistent with its identification of  
12 achievable opportunities in (a) of this subsection, and meet that  
13 target during the subsequent two-year period. At a minimum, each  
14 biennial target must be no lower than the qualifying utility's pro  
15 rata share for that two-year period of its cost-effective  
16 conservation potential for the subsequent ten-year period.

17 (c) (i) Except as provided in (c) (ii) and (iii) of this  
18 subsection, beginning on January 1, 2014, cost-effective conservation  
19 achieved by a qualifying utility in excess of its biennial  
20 acquisition target may be used to help meet the immediately  
21 subsequent two biennial acquisition targets, such that no more than  
22 (~~twenty~~) 20 percent of any biennial target may be met with excess  
23 conservation savings.

24 (ii) Beginning January 1, 2014, a qualifying utility may use  
25 single large facility conservation savings in excess of its biennial  
26 target to meet up to an additional five percent of the immediately  
27 subsequent two biennial acquisition targets, such that no more than  
28 (~~twenty-five~~) 25 percent of any biennial target may be met with  
29 excess conservation savings allowed under all of the provisions of  
30 this section combined. For the purposes of this subsection  
31 (1)(c)(ii), "single large facility conservation savings" means cost-  
32 effective conservation savings achieved in a single biennial period  
33 at the premises of a single customer of a qualifying utility whose  
34 annual electricity consumption prior to the conservation savings  
35 exceeded five average megawatts.

36 (iii) Beginning January 1, 2012, and until December 31, 2017, a  
37 qualifying utility with an industrial facility located in a county  
38 with a population between (~~ninety-five thousand~~) 95,000 and (~~one  
39 hundred fifteen thousand~~) 115,000 that is directly interconnected  
40 with electricity facilities that are capable of carrying electricity

1 at transmission voltage may use cost-effective conservation from that  
2 industrial facility in excess of its biennial acquisition target to  
3 help meet the immediately subsequent two biennial acquisition  
4 targets, such that no more than (~~twenty-five~~) 25 percent of any  
5 biennial target may be met with excess conservation savings allowed  
6 under all of the provisions of this section combined.

7 (d) In meeting its conservation targets, a qualifying utility may  
8 count high-efficiency cogeneration owned and used by a retail  
9 electric customer to meet its own needs. High-efficiency cogeneration  
10 is the sequential production of electricity and useful thermal energy  
11 from a common fuel source, where, under normal operating conditions,  
12 the facility has a useful thermal energy output of no less than  
13 (~~thirty-three~~) 33 percent of the total energy output. The reduction  
14 in load due to high-efficiency cogeneration shall be: (i) Calculated  
15 as the ratio of the fuel chargeable to power heat rate of the  
16 cogeneration facility compared to the heat rate on a new and clean  
17 basis of a best-commercially available technology combined-cycle  
18 natural gas-fired combustion turbine; and (ii) counted towards  
19 meeting the biennial conservation target in the same manner as other  
20 conservation savings.

21 (e) A qualifying utility is considered in compliance with its  
22 biennial acquisition target for cost-effective conservation in (b) of  
23 this subsection if events beyond the reasonable control of the  
24 utility that could not have been reasonably anticipated or  
25 ameliorated prevented it from meeting the conservation target. Events  
26 that a qualifying utility may demonstrate were beyond its reasonable  
27 control, that could not have reasonably been anticipated or  
28 ameliorated, and that prevented it from meeting the conservation  
29 target include: (i) Natural disasters resulting in the issuance of  
30 extended emergency declarations; (ii) the cancellation of significant  
31 conservation projects; and (iii) actions of a governmental authority  
32 that adversely affects the acquisition of cost-effective conservation  
33 by the qualifying utility.

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

37 (g) In addition to the requirements of RCW 19.280.030(3), in  
38 assessing the cost-effective conservation required under this  
39 section, a qualifying utility is encouraged to promote the adoption  
40 of air conditioning, as defined in RCW 70A.60.010, with refrigerants

1 not exceeding a global warming potential of 750 and the replacement  
2 of stationary refrigeration systems that contain ozone-depleting  
3 substances or hydrofluorocarbon refrigerants with a high global  
4 warming potential.

5 (h) The commission may rely on its standard practice for review  
6 and approval of investor-owned utility conservation targets.

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

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

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

15 (iii) At least (~~fifteen~~) 15 percent of its load by January 1,  
16 2020, and each year thereafter.

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

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

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

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

39 (i) A renewable energy credit from electricity generated by a  
40 resource other than freshwater may be used to meet a requirement



1 applicable to the year in which the credit was created, the year  
2 before the year in which the credit was created, or the year after  
3 the year in which the credit was created.

4 (ii) A renewable energy credit from electricity generated by  
5 freshwater:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (l) Beginning January 1, 2020, a qualifying utility may use  
37 eligible renewable resources as identified under RCW 19.285.030(12)  
38 (g) and (h) to meet its compliance obligation under this subsection  
39 (2). A qualifying utility may not transfer or sell these eligible

1 renewable resources to another utility for compliance purposes under  
2 this chapter.

3 (m) Beginning January 1, 2030, a qualifying utility is considered  
4 to be in compliance with an annual target in (a) of this subsection  
5 if the utility uses electricity from: (i) Renewable resources and  
6 renewable energy credits as defined in RCW 19.285.030; and (ii)  
7 nonemitting electric generation as defined in RCW 19.405.020, in an  
8 amount equal to (~~one hundred~~) 100 percent of the utility's average  
9 annual retail electric load. Nothing in this subsection relieves the  
10 requirements of a qualifying utility to comply with subsection (1) of  
11 this section.

12 (n) A qualifying utility shall exclude from its annual targets  
13 under this subsection (2) its voluntary renewable energy purchases.

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

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