
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-3443.1/18

ATTY/TYPIST: ML:amh

BRIEF DESCRIPTION: Allowing incremental electricity produced as a result of efficiency improvements to hydroelectric generation projects whose energy output is marketed by the Bonneville power administration to qualify as an eligible renewable resource under the energy independence act.

1 AN ACT Relating to allowing incremental electricity produced as a
2 result of efficiency improvements to hydroelectric generation
3 projects whose energy output is marketed by the Bonneville power
4 administration to qualify as an eligible renewable resource under the
5 energy independence act; and amending RCW 19.285.030 and 19.285.040.

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

7 **Sec. 1.** RCW 19.285.030 and 2017 c 315 s 1 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 freshwater 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 freshwater 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; ((e#))

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

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

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

25 (17) "Public facility" has the same meaning as defined in RCW
26 39.35C.010.

27 (18) "Qualified biomass energy" means electricity produced from a
28 biomass energy facility that: (a) Commenced operation before March
29 31, 1999; (b) contributes to the qualifying utility's load; and (c)
30 is owned either by: (i) A qualifying utility; or (ii) an industrial
31 facility that is directly interconnected with electricity facilities
32 that are owned by a qualifying utility and capable of carrying
33 electricity at transmission voltage.

34 (19) "Qualifying utility" means an electric utility, as the term
35 "electric utility" is defined in RCW 19.29A.010, that serves more
36 than twenty-five thousand customers in the state of Washington. The
37 number of customers served may be based on data reported by a utility
38 in form 861, "annual electric utility report," filed with the energy
39 information administration, United States department of energy.

1 (20) "Renewable energy credit" means a tradable certificate of
2 proof, except as provided in RCW 19.285.040(2)(m), of at least one
3 megawatt-hour of an eligible renewable resource where, except as
4 provided in subsection (12)(h) of this section, the generation
5 facility is not powered by freshwater. The certificate includes all
6 of the nonpower attributes associated with that one megawatt-hour of
7 electricity, and the certificate is verified by a renewable energy
8 credit tracking system selected by the department.

9 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar
10 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
11 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
12 fuel as defined in RCW 82.29A.135 that is not derived from crops
13 raised on land cleared from old growth or first-growth forests where
14 the clearing occurred after December 7, 2006; or (i) biomass energy.

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

18 (23) "Year" means the twelve-month period commencing January 1st
19 and ending December 31st.

20 **Sec. 2.** RCW 19.285.040 and 2017 c 315 s 2 are each amended to
21 read as follows:

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

24 (a) By January 1, 2010, using methodologies consistent with those
25 used by the Pacific Northwest electric power and conservation
26 planning council in the most recently published regional power plan
27 as it existed on June 12, 2014, or a subsequent date as may be
28 provided by the department or the commission by rule, each qualifying
29 utility shall identify its achievable cost-effective conservation
30 potential through 2019. Nothing in the rule adopted under this
31 subsection precludes a qualifying utility from using its utility
32 specific conservation measures, values, and assumptions in
33 identifying its achievable cost-effective conservation potential. At
34 least every two years thereafter, the qualifying utility shall review
35 and update this assessment for the subsequent ten-year period.

36 (b) Beginning January 2010, each qualifying utility shall
37 establish and make publicly available a biennial acquisition target
38 for cost-effective conservation consistent with its identification of
39 achievable opportunities in (a) of this subsection, and meet that

1 target during the subsequent two-year period. At a minimum, each
2 biennial target must be no lower than the qualifying utility's pro
3 rata share for that two-year period of its cost-effective
4 conservation potential for the subsequent ten-year period.

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

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

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

35 (d) In meeting its conservation targets, a qualifying utility may
36 count high-efficiency cogeneration owned and used by a retail
37 electric customer to meet its own needs. High-efficiency cogeneration
38 is the sequential production of electricity and useful thermal energy
39 from a common fuel source, where, under normal operating conditions,
40 the facility has a useful thermal energy output of no less than

1 thirty-three percent of the total energy output. The reduction in
2 load due to high-efficiency cogeneration shall be: (i) Calculated as
3 the ratio of the fuel chargeable to power heat rate of the
4 cogeneration facility compared to the heat rate on a new and clean
5 basis of a best-commercially available technology combined-cycle
6 natural gas-fired combustion turbine; and (ii) counted towards
7 meeting the biennial conservation target in the same manner as other
8 conservation savings.

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

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

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

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

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

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

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

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

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

1 retail revenue requirement that year on eligible renewable resources,
2 renewable energy credits, or a combination of both.

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

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

9 (i) Eligible renewable resources or distributed generation where
10 the associated renewable energy credits are owned by a separate
11 entity; or

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

15 (g) Where fossil and combustible renewable resources are cofired
16 in one generating unit located in the Pacific Northwest where the
17 cofiring commenced after March 31, 1999, the unit shall be considered
18 to produce eligible renewable resources in direct proportion to the
19 percentage of the total heat value represented by the heat value of
20 the renewable resources.

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

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

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

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

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

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

5 (ii) A qualifying utility may no longer use electricity and
6 associated renewable energy credits from a qualified biomass energy
7 facility if the associated industrial pulping or wood manufacturing
8 facility ceases operation other than for purposes of maintenance or
9 upgrade.

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

24 (l) Beginning January 1, 2019, a qualifying utility may use
25 eligible renewable resources as identified under RCW 19.285.030(12)
26 (g) and (h) to meet its compliance obligation under this subsection
27 (2). A qualifying utility may not transfer or sell these eligible
28 renewable resources to another utility for compliance purposes under
29 this chapter.

30 (m) Renewable energy credits allocated under RCW
31 19.285.030(12)(h) may not be transferred or sold to another
32 qualifying utility for compliance under this chapter.

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

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