
HOUSE BILL 1086

State of Washington

61st Legislature

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By Representatives McCoy, Chase, Hudgins, and Morris

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1 AN ACT Relating to requiring certain providers of electric service
2 to purchase electricity from eligible distributed generators; adding a
3 new chapter to Title 19 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Average specific yield" means the average production in
8 kilowatt hours for the first five years of production of a wind-
9 powered plant, less the maximum and minimum years of production,
10 divided by the rotor-swept area in square meters.

11 (2) "Capacity" means the electrical capacity that a generator of
12 eligible distributed generation may produce during regular operations.

13 (3) "Commission" means the Washington utilities and transportation
14 commission.

15 (4) "Consumer-owned utility" means a municipal electric utility
16 formed under Title 35 RCW, a public utility district formed under Title
17 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
18 cooperative formed under chapter 23.86 RCW, or a mutual corporation or

1 association formed under chapter 24.06 RCW that is engaged in the
2 business of distributing electricity to more than one retail electric
3 customer in the state.

4 (5) "Department" means the department of community, trade, and
5 economic development.

6 (6) "Distributed generation" means a renewable resource where the
7 generation facility or any integrated cluster of these facilities has
8 a generating capacity of five megawatts or less.

9 (7) "Eligible distributed generator" means the distributed
10 generation located on the premises of an individual, business, or local
11 government. Distributed generation by an individual, business, or
12 local governmental entity in the electricity distribution business or
13 in the gas distribution business is not considered an eligible
14 distributed generator.

15 (8) "Investor-owned utility" has the same meaning as defined in RCW
16 19.29A.010.

17 (9) "Premises" means any residential property, commercial real
18 estate, or lands owned or leased by an eligible distributed generator
19 within the service area of a single qualifying utility.

20 (10) "Qualifying utility" means an electric utility, as the term
21 "electric utility" is defined in RCW 19.29A.010, that serves more than
22 twenty-five thousand customers in the state of Washington. The number
23 of customers served may be based on data reported by a utility in form
24 861, "annual electric utility report," filed with the energy
25 information administration, United States department of energy.

26 (11) "Renewable resource" means: (a) Water; (b) wind; (c) solar
27 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
28 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
29 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
30 on land cleared from old growth or first-growth forests where the
31 clearing occurred after December 7, 2006; (i) byproducts of pulping or
32 wood manufacturing processes located in Washington, including but not
33 limited to bark, wood chips, sawdust, and lignin in spent pulping
34 liquors; (j) black liquors derived from any source; and (k) biomass
35 energy based on animal waste, food waste, yard waste, or solid organic
36 fuels from wood, forest, or field residues, or dedicated energy crops
37 that do not include (i) wood pieces that have been treated with

1 chemical preservatives such as creosote, pentachlorophenol, or copper-
2 chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal
3 solid waste.

4 (12) "Small wind turbine" means any wind turbine with a rotor blade
5 swept area of no more than two thousand square feet.

6 NEW SECTION. **Sec. 2.** (1)(a) A qualifying utility shall
7 interconnect an eligible distributed generator to the utility's
8 distribution systems within sixty days of such a request by the owner
9 of an eligible distributed generator.

10 (b) A qualifying utility that refuses to connect an eligible
11 distributed generator to the distribution systems of a qualifying
12 utility is subject to a fine of not more than one hundred dollars per
13 day that the qualifying utility is in violation of this subsection.

14 (2) The costs associated with the interconnection of eligible
15 distributed generators must be included in the surcharge under section
16 3 of this act.

17 (3) Qualifying utilities may not enter into a power purchase
18 agreement with an individual, business, or local governmental entity
19 during the time the individual, business, or local governmental entity
20 is participating in the investment cost recovery incentive payment
21 under chapter 82.16 RCW.

22 (4) Qualifying utilities shall enter into power purchase agreements
23 for a term of not less than twenty years to purchase all electricity
24 from eligible distributed generators in this state at the following
25 rates:

26 (a) For electricity generated by hydroelectric power, the rate is
27 at least:

28 (i) \$0.10 per kilowatt hour for projects with a capacity under five
29 hundred kilowatts;

30 (ii) \$0.085 per kilowatt hour for projects with a capacity of five
31 hundred kilowatts to five megawatts.

32 (b) For electricity generated by landfill gas or gas from sewage
33 treatment facilities, the rate is at least:

34 (i) \$0.10 per kilowatt hour for projects with a capacity under five
35 hundred kilowatts;

36 (ii) \$0.085 per kilowatt hour for projects with a capacity equal to
37 or greater than five hundred kilowatts to five megawatts.

1 (c) For electricity generated by biomass or biogas, the rate is at
2 least:

3 (i) \$0.145 per kilowatt hour for projects with a capacity less than
4 one hundred fifty kilowatts;

5 (ii) \$0.125 per kilowatt hour for projects with a capacity of one
6 hundred fifty kilowatts to five hundred kilowatts;

7 (iii) \$0.115 per kilowatt hour for projects with a capacity greater
8 than five hundred kilowatts to five megawatts.

9 (d) For electricity generated by geothermal energy plants, the rate
10 is at least \$0.19 per kilowatt hour for projects with a capacity less
11 than five megawatts.

12 (e) For electricity generated by wind-powered plants, the rate is
13 at least:

14 (i) For years one through five, \$0.105 per kilowatt hour;

15 (ii) For years six through twenty, \$0.105 per kilowatt hour for
16 projects with an average specific yield less than seven hundred
17 kilowatt hours per square meter per year;

18 (iii) For years six through twenty, \$0.08 per kilowatt hour for
19 projects with an average specific yield greater than one thousand one
20 hundred kilowatt hours per square meter per year;

21 (iv) For years six through twenty, for projects with an average
22 specific yield greater than seven hundred kilowatt hours per square
23 meter per year but less than one thousand one hundred kilowatt hours
24 per square meter per year must be paid a rate that is a linear
25 extrapolation between the rate at seven hundred kilowatt hours per
26 square meter per year to one thousand one hundred kilowatt hours per
27 square meter per year; and

28 (v) For small wind turbines, \$0.025 per kilowatt hour.

29 (f) For electricity generated by solar-powered plants, the rate is
30 at least:

31 (i) \$0.50 per kilowatt hour for free-standing or open field
32 projects;

33 (ii) \$0.65 per kilowatt hour for rooftop projects with a capacity
34 less than thirty kilowatts;

35 (iii) \$0.62 per kilowatt hour for rooftop projects with a capacity
36 of thirty kilowatts to one hundred kilowatts;

37 (iv) \$0.61 per kilowatt hour for rooftop projects with a capacity
38 greater than one hundred kilowatts;

1 (v) \$0.71 per kilowatt hour for facade cladding projects with a
2 capacity under thirty kilowatts;

3 (vi) \$0.68 per kilowatt hour for facade cladding projects with a
4 capacity of thirty kilowatts to one hundred kilowatts; and

5 (vii) \$0.67 per kilowatt hour for facade cladding projects with a
6 capacity greater than one hundred kilowatts.

7 NEW SECTION. **Sec. 3.** (1)(a) The commission shall, after notice
8 and hearing, annually approve a distributed generation factor that is
9 a nonbypassable surcharge payable by every customer of an investor-
10 owned utility. The surcharge must be payable by all customer classes.
11 The commission shall set the surcharge at a level sufficient to pay the
12 costs of electricity purchased under section 2 of this act and any
13 interconnection costs under section 2 of this act.

14 (b) The commission shall approve a standard contract to be used in
15 all power purchase agreements under this chapter. The contract must
16 include the prices paid for each kilowatt hour generated, the duration
17 of the contract, and any adjustments of those prices for inflation.
18 The commission shall provide utilities with standard contracts within
19 three months of the effective date of this section.

20 (c) The commission shall review the rates in section 2 of this act
21 every two years and adjust those rates as necessary to account for
22 inflation, assist in the profitable development of eligible distributed
23 generators, prevent excessive profits for eligible distributed
24 generators, and prevent unnecessary costs to ratepayers. The
25 commission shall reduce the rates in section 2 of this act to reflect
26 any federal or state subsidies, tax credits, or other incentives that
27 an eligible distributed generator is receiving.

28 (2)(a) The governing board of a consumer-owned utility shall, after
29 notice and hearing, annually approve a distributed generation factor
30 that must be a nonbypassable surcharge payable by every customer of the
31 utility. The surcharge must be payable by all customer classes. The
32 governing board shall set the surcharge at a level sufficient to pay
33 the costs of electricity purchased under section 2 of this act and any
34 interconnection costs under section 2 of this act.

35 (b) The governing boards of consumer-owned utilities shall, in a
36 coordinated fashion, develop a standard contract to be used in all
37 power purchase agreements under this chapter. The contract must

1 include the prices paid for each kilowatt hour generated, the duration
2 of the contract, and any adjustments of those prices for inflation.
3 Governing boards of consumer-owned utilities shall develop the standard
4 contract within three months of the effective date of this section.

5 (c) Governing boards of consumer-owned utilities shall review the
6 rates in section 2 of this act every two years and adjust those rates
7 as necessary to account for inflation, assist in the profitable
8 development of eligible distributed generators, prevent excessive
9 profits for eligible distributed generators, and prevent unnecessary
10 costs to ratepayers. Governing boards of consumer-owned utilities
11 shall reduce the rates in section 2 of this act to reflect any federal
12 or state subsidies, tax credits, or other incentives that an eligible
13 distributed generator is receiving.

14 NEW SECTION. **Sec. 4.** (1) In 2010, 2011, and every four years
15 thereafter, the commission shall file a report with the governor and
16 the energy committees of the legislature that includes all of the
17 following:

18 (a) The number of new eligible distributed generators in this state
19 and the environmental effects of the addition of those generators;

20 (b) Recommendations for legislation and changes to the rates in
21 section 2 of this act, if any; and

22 (c) Actions taken by the commission to implement this chapter.

23 (2) In 2010, 2011, and every four years thereafter, the department
24 shall file a report with the governor and the energy committees of the
25 legislature that includes all of the following:

26 (a) The number of new eligible distributed generators in this state
27 and the environmental effects of the addition of those generators;

28 (b) Recommendations for legislation and changes to the rates in
29 section 2 of this act, if any; and

30 (c) Actions taken by consumer-owned utilities to implement this
31 chapter.

32 NEW SECTION. **Sec. 5.** (1) Eligible distributed generators served
33 by an investor-owned utility shall upon request provide the commission
34 with any information that may be relevant to the commission performing
35 its duties under this chapter.

1 (2) Eligible distributed generators served by a consumer-owned
2 utility shall upon request provide the department with any information
3 that may be relevant to the department performing its duties under this
4 chapter.

5 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
6 a new chapter in Title 19 RCW.

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