

CERTIFICATION OF ENROLLMENT

SENATE BILL 5989

61st Legislature
2009 Regular Session

Passed by the Senate March 2, 2009
YEAS 47 NAYS 0

President of the Senate

Passed by the House April 8, 2009
YEAS 98 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5989** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5989

Passed Legislature - 2009 Regular Session

State of Washington

61st Legislature

2009 Regular Session

By Senator Sheldon

Read first time 02/12/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to the greenhouse gas emissions performance
2 standard under chapter 80.80 RCW; and amending RCW 80.80.060.

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

4 **Sec. 1.** RCW 80.80.060 and 2007 c 307 s 8 are each amended to read
5 as follows:

6 (1) No electrical company may enter into a long-term financial
7 commitment unless the baseload electric generation supplied under such
8 a long-term financial commitment complies with the greenhouse gases
9 emissions performance standard established under RCW 80.80.040.

10 (2) In order to enforce the requirements of this chapter, the
11 commission shall review in a general rate case or as provided in
12 subsection (5) of this section any long-term financial commitment
13 entered into by an electrical company after June 30, 2008, to determine
14 whether the baseload electric generation to be supplied under that
15 long-term financial commitment complies with the greenhouse gases
16 emissions performance standard established under RCW 80.80.040.

17 (3) In determining whether a long-term financial commitment is for
18 baseload electric generation, the commission shall consider the design
19 of the power plant and its intended use, based upon the electricity

1 purchase contract, if any, permits necessary for the operation of the
2 power plant, and any other matter the commission determines is relevant
3 under the circumstances.

4 (4) Upon application by an electric utility, the commission may
5 provide a case-by-case exemption from the greenhouse gases emissions
6 performance standard to address: (a) Unanticipated electric system
7 reliability needs; or (b) catastrophic events or threat of significant
8 financial harm that may arise from unforeseen circumstances.

9 (5) Upon application by an electrical company, the commission shall
10 determine whether the company's proposed decision to acquire electric
11 generation or enter into a power purchase agreement for electricity
12 complies with the greenhouse gases emissions performance standard
13 established under RCW 80.80.040(~~(, whether the company has a need for~~
14 ~~the resource, and whether the specific resource selected is~~
15 ~~appropriate. The commission shall take into consideration factors such~~
16 ~~as the company's forecasted loads, need for energy, power plant~~
17 ~~technology, expected costs, and other associated investment~~
18 ~~decisions)). The commission shall not decide in a proceeding under~~
19 ~~this subsection (5) issues involving the actual costs to construct and~~
20 ~~operate the selected resource, cost recovery, or other issues reserved~~
21 ~~by the commission for decision in a general rate case or other~~
22 ~~proceeding for recovery of the resource or contract costs. ((A~~
23 ~~proceeding under this subsection (5) shall be conducted pursuant to~~
24 ~~chapter 34.05 RCW (part IV). The commission shall adopt rules to~~
25 ~~provide that the schedule for a proceeding under this subsection takes~~
26 ~~into account both (a) the needs of the parties to the proposed resource~~
27 ~~acquisition or power purchase agreement for timely decisions that allow~~
28 ~~transactions to be completed; and (b) the procedural rights to be~~
29 ~~provided to parties in chapter 34.05 RCW (part IV), including~~
30 ~~intervention, discovery, briefing, and hearing.))~~

31 (6) An electrical company may account for and defer for later
32 consideration by the commission costs incurred in connection with
33 ((~~the~~)) a long-term financial commitment, including operating and
34 maintenance costs, depreciation, taxes, and cost of invested capital.
35 The deferral begins with the date on which the power plant begins
36 commercial operation or the effective date of the power purchase
37 agreement and continues for a period not to exceed twenty-four months;
38 provided that if during such period the company files a general rate

1 case or other proceeding for the recovery of such costs, deferral ends
2 on the effective date of the final decision by the commission in such
3 proceeding. Creation of such a deferral account does not by itself
4 determine the actual costs of the long-term financial commitment,
5 whether recovery of any or all of these costs is appropriate, or other
6 issues to be decided by the commission in a general rate case or other
7 proceeding for recovery of these costs. For the purpose of this
8 subsection (6) only, the term "long-term financial commitment" also
9 includes an electric company's ownership or power purchase agreement
10 with a term of five or more years associated with an eligible renewable
11 resource as defined in RCW 19.285.030.

12 (7) The commission shall consult with the department to apply the
13 procedures adopted by the department to verify the emissions of
14 greenhouse gases from baseload electric generation under RCW 80.80.040.
15 The department shall report to the commission whether baseload electric
16 generation will comply with the greenhouse gases emissions performance
17 standard for the duration of the period the baseload electric
18 generation is supplied to the electrical company.

19 (8) The commission shall adopt rules for the enforcement of this
20 section with respect to electrical companies and adopt procedural rules
21 for approving costs incurred by an electrical company under subsection
22 (4) of this section.

23 (9) The commission shall adopt rules necessary to implement this
24 section by December 31, 2008.

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