
**Technology & Economic Development
Committee**

HB 1334

Brief Description: Concerning the energy independence act.

Sponsors: Representatives Tarleton, Fitzgibbon, Fey, Pollet, Hudgins and Doglio.

Brief Summary of Bill

- Requires a small utility to identify its 10-year achievable cost-effective conservation potential and a biennial acquisition target for cost-effective conservation by January 1, 2020.
- Requires a market customer to pay a per-kilowatt-hour charge to the utility with which it is directly interconnected to help fund utility conservation programs.
- Establishes an eligible renewable resource target for a qualifying utility of at least 15 percent of its 2020 load beginning January 1, 2021, and each year thereafter.
- Establishes requirements prohibiting a qualifying utility, small utility, or market customer from using electricity generated by certain resources to meet any new energy or capacity need.

Hearing Date: 1/26/17

Staff: Nikkole Hughes (786-7156).

Background:

The Energy Independence Act.

The Energy Independence Act (EIA) was approved by voters in 2006. The EIA requires an electric utility with more than 25,000 customers to meet targets for energy conservation and to meet a certain percent of its annual load with eligible renewable resources. Utilities that must comply with the EIA are called "qualifying utilities."

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Energy Conservation Targets.

A qualifying utility must pursue all available conservation that is cost-effective, reliable, and feasible. Every two years, the qualifying utility must review and update an assessment of its achievable cost-effective conservation potential for the subsequent 10-year period. The qualifying utility must establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its 10-year assessment. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent 10-year period.

Eligible Renewable Resource Targets.

A qualifying utility must use eligible renewable resources or acquire equivalent renewable energy credits (RECs), or a combination of both, to meet the following annual targets:

- at least 3 percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;
- at least 9 percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and
- at least 15 percent of its load by January 1, 2020, and each year thereafter.

Eligible Renewable Resources.

For a renewable resource to be considered an eligible renewable resource under the EIA, the electricity must be produced from:

- a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where the facility is located in the Pacific Northwest or the electricity is delivered into the state on a real-time basis;
- certain incremental hydroelectricity due to efficiency improvements;
- hydroelectricity from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, municipal water pipes, and wastewater pipes;
- qualified biomass energy; or
- a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: the facility is located within a state in which the qualifying utility serves retail electrical customers, and the qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least twelve months.

"Pacific Northwest" has the same meaning as defined for the BPA in the Pacific Northwest Electric Power Planning and Conservation Act, and includes the states of Washington, Oregon, and Idaho, as well as certain parts of California, Montana, Nevada, Utah, and Wyoming.

Renewable Energy Credits.

A REC is a tradable certificate of proof, verified by the Western Renewable Energy Generation Information System, of at least one megawatt-hour of an eligible renewable resource generated by a facility that is not powered by freshwater. Under the EIA, a REC represents all the

nonpower attributes associated with the power. A REC can be bought and sold in the marketplace to comply with annual renewable energy targets, and may be used during the year it is acquired, the previous year, or the subsequent year.

Accountability and Enforcement.

The Utilities and Transportation Commission (UTC) determines compliance with the requirements of the EIA for investor-owned utilities. The State Auditor's Office is responsible for auditing compliance with the EIA for consumer-owned utilities and the Office of the Attorney General is responsible for enforcing that compliance.

Summary of Bill:

Energy Conservation Targets.

A small utility must pursue all available conservation that is cost-effective, reliable, and feasible. By January 1, 2020, a small utility must identify its achievable cost-effective conservation potential through 2029. The small utility must review and update this assessment at least every two years for the subsequent 10-year period.

Beginning January 2020, each small utility must establish and make publicly available a biennial acquisition target for cost-effective conservation that is consistent with its 10-year assessment. Each biennial target must be no lower than the small utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent 10-year period.

"Small utility" means an electric utility that serves 25,000 or fewer customers in Washington.

Market Customers.

A market customer must pay a per-kilowatt-hour charge to the utility with which it is directly interconnected to help fund utility conservation programs. "Market customer" means a nonresidential customer of a qualifying utility or a small utility that:

- purchases electricity from an entity or entities other than the utility; or
- generates electricity to meet its own needs.

The UTC must determine the appropriate per-kilowatt-hour charge for a market customer of an investor-owned utility, while the governing board must determine the appropriate per-kilowatt-hour charge for a market customer of a consumer-owned utility. The UTC or governing board must approve a methodology for allocating conservation costs to market customers that is equitable with regard to other utility customers.

Eligible Renewable Resource Targets.

Beginning January 1, 2021, and each year thereafter, a qualifying utility must use eligible renewable resources or acquire equivalent RECs, or a combination of both, to meet at least 15 percent of its 2020 load. In meeting the target beginning in 2021, a qualifying utility must calculate its annual load based on the average of the utility's load in 2019 and 2020.

Eligible Renewable Resources.

The definition of "eligible renewable resource" is expanded to include:

- electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where the facility is located anywhere within the boundary of a state whose territories are partially included in the Pacific Northwest; and
- beginning January 1, 2017, the portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of electricity output from hydroelectric generation projects marketed by the BPA.

Requirements for Meeting New Energy or Capacity Needs.

A qualifying utility, small utility, or market customer may not use electricity from any of the following resources to meet any new energy or capacity need, except under certain circumstances:

- coal-fired generation;
- certain new hydroelectric generation;
- natural gas-fired generation;
- oil or diesel generation; or
- waste incineration.

A qualifying utility, small utility, or market customer may not enter into a contract for electricity generation to meet new energy or capacity needs if the contract does not specify the sources or origins of the electricity generation.

A qualifying utility, small utility, or market customer may not meet new energy or capacity needs with a resource or resources, including RECs, used to meet compliance with energy conservation or eligible renewable resource targets.

Exemptions.

Upon its own motion or at the request of an electric utility, the UTC or the governing board of a consumer-owned utility, as applicable, may open an investigation to determine whether a utility's compliance with the requirements for meeting new energy or capacity needs is likely to compromise the utility's electrical system or its obligation to comply with the mandatory reliability standards of the North American Electric Reliability Corporation (NERC). The UTC or the governing board may issue an order temporarily exempting a utility from the requirements for meeting new energy or capacity needs. The order must require the utility to file a progress report within six months after an order granting an exemption is issued, or within an amount of time determined to be reasonable by the UTC in the case of an investor-owned utility, on achieving full compliance with the requirements.

Accountability and Enforcement.

A qualifying utility, small utility, or market customer that fails to comply with the requirements for meeting new energy or capacity needs must pay an administrative penalty of \$50 for each

megawatt-hour of energy or megawatt of capacity it uses from a prohibited generation or capacity resource. A qualifying utility or small utility is exempt from the administrative penalty if it was granted an order of exemption by the UTC or the governing board, as applicable.

A small utility that fails to comply with its energy conservation targets must pay an administrative penalty of \$50 for each megawatt-hour of shortfall.

The Office of the Attorney General is responsible for enforcing the compliance of a market customer with the requirements for meeting new energy or capacity needs. For a market customer of an investor-owned utility, the UTC is responsible for enforcing compliance with the requirement to pay a per-kilowatt-hour charge to help fund utility conservation programs. For a market customer of a consumer-owned utility, the Office of the Attorney General is responsible for enforcing compliance with the per-kilowatt-hour charge requirement.

Reporting.

Beginning June 1, 2018, a qualifying utility, small utility, or market customer must submit an annual report to the Department of Commerce on the electricity sources used to meet any new energy or capacity needs.

Beginning June 1, 2022, a small utility must submit an annual report to the Department of Commerce on its progress in the preceding year in meeting its energy conservation targets.

Rulemaking.

The Department of Commerce is authorized to adopt certain rules, including rules concerning:

- a small utility's development of energy conservation targets;
- a consumer-owned utility's decision to pursue a temporary exemption from the requirements for meeting new energy or capacity need; and
- a market customer's acquisition of resources to meet new energy or capacity need.

Appropriation: None.

Fiscal Note: Requested on January 23, 2017.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.