**5735-S.E AMS ERIC S3311.1 - NOT FOR FLOOR USE**

**ESSB 5735** - S AMD **478**

By Senator Ericksen

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 19.285.010 and 2007 c 1 s 1 are each amended to read as follows:

This chapter concerns requirements for new energy resources and carbon reduction investments. This chapter requires large utilities to obtain fifteen percent of their electricity from new renewable resources such as solar and wind by 2020 and undertake cost-effective energy conservation.

**Sec.**  RCW 19.285.020 and 2007 c 1 s 2 are each amended to read as follows:

Increasing energy conservation, reducing greenhouse gas emissions, and the use of appropriately sited renewable energy facilities builds on the strong foundation of low-cost renewable hydroelectric generation in Washington state and will promote energy independence in the state and the Pacific Northwest region. Making the most of our plentiful local resources will stabilize electricity prices for Washington residents, provide economic benefits for Washington counties and farmers, create high-quality jobs in Washington, provide opportunities for training apprentice workers in the renewable energy field, protect clean air and water, and position Washington state as a national leader in developing, deploying, and integrating clean, renewable, and distributed energy technologies. The reduction of greenhouse gas emissions through carbon reduction incentives is recognized by the legislature as a utility purpose that confers a direct benefit on a utility's ratepayers.

**Sec.**  RCW 19.285.030 and 2014 c 45 s 1 are each amended to read as follows:

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

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

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

(3)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

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

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

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

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

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

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

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

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

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

(12) "Eligible renewable resource" means:

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

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

(c) Hydroelectric generation from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, water pipes whose primary purpose is for conveyance of water for municipal use, and wastewater pipes located in Washington where the generation does not result in new water diversions or impoundments;

(d) Carbon reduction investments;

(e) Qualified biomass energy; or

((~~(e)~~)) (f) For a qualifying utility that serves customers in other states, electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located within a state in which the qualifying utility serves retail electrical customers; and (ii) 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 or more.

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

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

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

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

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

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

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

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

(20) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by freshwater. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

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

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

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

(24) "Carbon reduction investment" means an investment in support of eligible projects or actions that reduce, prevent, or remove from the atmosphere the emissions of greenhouse gases. An eligible project or action includes, but is not limited to, investment in or purchase of the emissions reductions attributable to the following: (a) Conservation measures exceeding the avoided cost of power; (b) installation of electric vehicle chargers and related infrastructure; (c) installation of infrastructure to provide compressed natural gas, liquefied natural gas, and renewable natural gas for motor vehicles, locomotives, and marine vessels; (d) the fuel conversion of state ferries to liquefied natural gas; (e) demand side management of electricity consumption; (f) energy storage technologies; and (g) carbon sequestration programs.

(25) "Greenhouse gas" means carbon dioxide (CO2), methane (CH4), nitrogen trifluoride (NF3), nitrous oxide (N2O), sulfur hexafluoride (SF6), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases.

**Sec.**  RCW 19.285.040 and 2014 c 26 s 1 are each amended to read as follows:

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

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

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. 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 ten-year period.

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

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

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

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

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

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

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

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

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

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

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

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

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

(e)(i) Beginning January 1, 2016, a qualifying utility may use carbon reduction investments, eligible renewable resources, or renewable energy credits, or any combination of them, to comply with an annual target in (a) of this subsection as specified under this subsection (2)(e). For the purposes of complying with an annual target in (a) of this subsection, 0.2 metric ton of carbon dioxide equivalent emissions reduced, prevented, or removed from the atmosphere is equal to the compliance equivalent of one renewable energy credit.

(ii) A qualifying utility may partner with other entities in making joint investments in carbon reduction investments. When making a joint investment, the qualifying utility will receive credit for carbon reductions proportional to its share of the total invested in the carbon reduction investment.

(iii) Any claimed reductions of carbon dioxide equivalent emissions under this subsection (2)(e) must meet the following criteria:

(A) The emission reductions must be real and verified;

(B) The emission reductions must start on or after January 1, 2016; and

(C) The emission reductions are not otherwise used to comply with a program that reduces, prevents, or removes from the atmosphere the emissions of greenhouse gases; except that emission reductions achieved under federal requirements may be counted both under the federal requirements and this section.

(iv) The determination and certification of emissions reductions must be measured, verified, and documented by an independent qualified organization selected by the qualifying utility from a list jointly maintained by the energy facility site evaluation council and the department of ecology by rule; except that a utility may elect to seek determination and certification from the state auditor.

(v) The determination and certification of emissions reductions must be based on a life-cycle assessment.

(vi) Each compliance equivalent certified under this subsection (2)(e) must be recognized by the commission or auditor for each year that the emissions reduction is certified to persist. Emissions reductions that are certified to persist for longer than one year may be carried forward and applied as compliance equivalents in future years.

(vii) Carbon reduction investments may not be used to comply with an annual target under subsection (1) of this section.

(viii) A qualifying utility that makes a carbon reduction investment located in the state may count the compliance equivalent at two times its base value.

(ix) A qualifying utility that makes a carbon reduction investment in the state's transportation sector may count the compliance equivalent at four times its base value.

(f) Except as provided in (e) of this subsection, the requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 19.285.070 and 2007 c 1 s 7 are each amended to read as follows:

(1) On or before June 1, 2012, and annually thereafter, each qualifying utility shall report to the department on its progress in the preceding year in meeting the targets established in RCW 19.285.040, including expected electricity savings from the biennial conservation target, expenditures on conservation, actual electricity savings results, the utility's annual load for the prior two years, the amount of megawatt‑hours needed to meet the annual renewable energy target, the amount of megawatt‑hours of each type of eligible renewable resource acquired, the type and amount of renewable energy credits acquired, the type and amount of any carbon reduction investments, and the percent of its total annual retail revenue requirement invested in the incremental cost of eligible renewable resources and the cost of renewable energy credits. For each year that a qualifying utility elects to demonstrate alternative compliance under RCW 19.285.040(2) (d) or ((~~(i)~~)) (j) or 19.285.050(1), it must include in its annual report relevant data to demonstrate that it met the criteria in that section. A qualifying utility may submit its report to the department in conjunction with its annual obligations in chapter 19.29A RCW.

(2) A qualifying utility that is an investor‑owned utility shall also report all information required in subsection (1) of this section to the commission, and all other qualifying utilities shall also make all information required in subsection (1) of this section available to the auditor.

(3) A qualifying utility shall also make reports required in this section available to its customers.

NEW SECTION. **Sec.**  (1) The joint committee on energy supply and energy conservation shall study the promotion of carbon reduction in the electricity sector. The study must include the following:

(a) The identification of alternate compliance mechanisms or other modifications to existing state law that may give more flexibility to utilities in complying with the requirements of chapter 19.285 RCW while advancing the goals of carbon reduction;

(b) The identification of state statutes or regulations that may discourage utility investments in carbon reduction;

(c) A recommendation on adjusting the compliance equivalent in RCW 19.285.040(2)(e). The recommendation shall include an analysis applying the life-cycle assessment criteria developed for carbon reduction investments to eligible renewable resources; and

(d) A recommendation for new annual conservation and eligible renewable targets in chapter 19.285 RCW to take effect after 2020.

(2) The joint committee must hold at least two public hearings to gather information for the study, with at least one hearing in western Washington and one hearing in eastern Washington.

(3) A final report must be delivered to the appropriate committees of the legislature by December 14, 2016.

(4) The joint committee may contract with independent consultants to assist in conducting the study and preparing the final report."

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By Senator Ericksen

On page 1, line 2 of the title, after "investments;" strike the remainder of the title and insert "amending RCW 19.285.010, 19.285.020, 19.285.030, 19.285.040, and 19.285.070; and creating a new section."

EFFECT: Removes finding concerning climate change. Adds a legislative finding that greenhouse gas reductions through carbon reduction investments (CRIs) confer a direct benefit to utility ratepayers. Amends intent of I-937 to include the reduction of greenhouse gas (GHG) emissions. Amends the definition of CRI by clarifying the use of eligible conservation measures. Changes the ratio for the compliance equivalent of a CRI from .5 metric ton of CO2e reduction equaling one renewable energy credit (REC) to .2 metric ton of reduction equaling one REC. Removes the alternative compliance method for utilities investing 1 percent of their annual retail revenue in CRIs. Allows qualifying utilities to make joint investments in carbon reduction investments. Adds provisions to prevent the double-counting of GHG emission reductions and to clarify the verification and assessment of such reductions. Adds multipliers to promote in-state investments. Adds a reporting requirement concerning CRIs. Requires the Joint Committee on Energy Supply & Energy Conservation to study the promotion of carbon reductions in the electricity sector. Makes a technical correction.