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**HOUSE BILL 1097**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Morris, Hudgins, and Moeller

AN ACT Relating to policies to promote clean energy job growth by encouraging installation of renewable energy systems; amending RCW 82.16.110, 82.16.130, 82.16.120, and 80.28.075; reenacting and amending RCW 80.04.010; adding new sections to chapter 82.16 RCW; adding new sections to chapter 80.28 RCW; adding a new chapter to Title 19 RCW; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

It is the intent of the legislature, in modifying the existing renewable energy investment cost recovery incentive program, to improve utilization of the incentive by residents, utilities, and businesses in the state, streamline program administration, and incubate the development of clean energy technology. The clean technology sector of Washington's economy has been experiencing rapid growth, even in a time when other sectors have been stagnant or in a recession. In enacting incentives for renewable energy systems, the legislature intends to continue to grow a vibrant clean technology sector in Washington.

**Sec.**  RCW 82.16.110 and 2011 c 179 s 2 are each amended to read as follows:

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

(1) "Administrator" means an owner and assignee of a community solar project as defined in subsection (2)(a)(i) of this section that is responsible for applying for the investment cost recovery incentive on behalf of the other owners and performing such administrative tasks on behalf of the other owners as may be necessary, such as receiving investment cost recovery incentive payments, and allocating and paying appropriate amounts of such payments to the other owners.

(2)(a) "Community solar project" means:

(i) A solar energy system that is capable of generating up to seventy-five kilowatts of electricity and is owned by local individuals, households, nonprofit organizations, or nonutility businesses that is placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business;

(ii) A utility-owned solar energy system that is capable of generating up to seventy-five kilowatts of electricity and that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project; or

(iii) A solar energy system, placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business, that is capable of generating up to seventy-five kilowatts of electricity, and that is owned by a company whose members are each eligible for an investment cost recovery incentive for the same customer-generated electricity as provided in RCW 82.16.120.

(b) For the purposes of "community solar project" as defined in (a) of this subsection:

(i) "Company" means an entity that is:

(A)(I) A limited liability company;

(II) A cooperative formed under chapter 23.86 RCW; or

(III) A mutual corporation or association formed under chapter 24.06 RCW; and

(B) Not a "utility" as defined in this subsection (2)(b); ((~~and~~))

(ii) "Nonprofit organization" means an organization exempt from taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of January 1, 2009; and

(iii) "Utility" means a light and power business, an electric cooperative, or a mutual corporation that provides electricity service.

(3) "Customer-generated electricity" means a community solar project or the alternating current electricity that is generated from a renewable energy system located in Washington and installed on an individual's, businesses', or local government's real property that is also provided electricity generated by a light and power business. Except for community solar projects, a system located on a leasehold interest does not qualify under this definition. Except for utility-owned community solar projects, "customer-generated electricity" does not include electricity generated by a light and power business with greater than one thousand megawatt hours of annual sales or a gas distribution business.

(4) "Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated or eligible electricity multiplied by the appropriate economic development factor.

(5) "Eligible electricity" means:

(a) Electricity generated by a community solar project;

(b) Electricity generated by a renewable energy system located in Washington, where the customer owns the real property where the system is installed and does not merely possess a leasehold interest, and the system is provided electricity generated by a utility;

(c) Electricity generated by a leased energy system; or

(d) Customer-generated electricity generated by a renewable energy system for which a person or entity applied for incentive payments prior to July 1, 2015.

(6) "Leased energy system" means a renewable energy system that is located in Washington and installed on a person or entity's real property that is not leased, where the situs of the real property is provided electricity by an electric utility, and where the renewable energy system is:

(a) Owned by a third-party vendor that has a contract with a customer of an electric utility to lease a renewable energy system; or

(b) Owned by an electric utility that has a contract with a customer of an electric utility to lease a renewable energy system; or

(c) Owned by a consumer-owned electric utility or the customer of a consumer-owned electric utility, where:

(i) The utility has a contract with the customer to provide the customer access to the electricity generated by the renewable energy system;

(ii) The contract involves some form of compensation for value received but is not limited to a lease or other utility-financed arrangement;

(iii) The effective annual interest rate that the customer will pay on any contract that is structured as a loan or financial product other than a lease does not exceed one percent; and

(iv) Although such contract is not a lease, the utility complies with any requirements established in Title 80 RCW for a consumer-owned electric utility providing consumers access to a leased renewable energy system.

(7) "Local governmental entity" means any unit of local government of this state including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.

((~~(6)~~)) (8) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

((~~(7)~~)) (9) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

((~~(8)~~)) (10) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

((~~(9)~~)) (11) "Solar inverter" means the device used to convert direct current to alternating current in a solar energy system.

((~~(10)~~)) (12) "Solar module" means the smallest, environmentally and electrically sealed, nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output when exposed to sunlight.

((~~(11)~~)) (13) "Stirling converter" means a device that produces electricity by converting heat from a solar source utilizing a stirling engine.

(14) "Storage system" means a system or technology that can store electricity generated by a renewable energy system or systems at up to twenty percent of the maximum total daily output of the renewable energy system or systems to which the storage system is coupled. A storage system can be coupled to a renewable energy system on the premises where the system is located or can be coupled to multiple systems on any premises served by the distribution feeder where the renewable energy systems are located.

(15) "Utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.020.

(16)(a) "Made in Washington solar module" means a solar module that is manufactured in Washington and meets the following criteria:

(i) The definition of manufacturing as defined in WAC 458-20-136 as of January 1, 2015; and

(ii) The solar module is produced at a manufacturing facility located in Washington that is registered and authorized to manufacture and apply the UL 1703 certification mark for that solar photovoltaic module by underwriters laboratory (UL), or an equivalent UL-approved independent certification agency; and

(iii) The UL 1703 certification mark for the solar module, as approved by UL or an equivalent UL-approved independent certification agency, must be physically applied to the module at the manufacturing facility described in (a)(ii) of this subsection (16).

(b) For purposes of (a) of this subsection (16), the act of simply attaching a microinverter, direct current optimizer, or other power electronics to a solar photovoltaic module that has received UL 1703 certification marks outside Washington from UL, or an equivalent UL-approved independent certification agency, may not be considered manufactured in Washington.

(17) "Washington State University energy program" means the Washington state university extension energy program.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

(1) Beginning July 1, 2015, a person or entity who has applied for an incentive payment under RCW 82.16.120 on or before June 30, 2015, and was eligible to receive such an incentive payment may apply to receive additional incentive payments for eligible electricity, as provided in this section.

(2)(a) Except as provided in (b) of this subsection, the person or entity may receive incentive payments for eligible electricity generated through June 30, 2021, or for a total of ten years from the date of certification under RCW 82.16.120, whichever date comes first.

(i) A certification, once issued, may not be retroactively changed due to evolutionary standards or interpretations of the program administrators.

(ii) Certification of a renewable energy system follows the system with the transfer of property.

(b) For a person or entity submitting an initial application for certification between February 15, 2015, and June 30, 2015, the person or entity may receive incentive payments for eligible electricity generated for a total of ten years from the initial date of certification under RCW 82.16.120 and is not subject to the June 30, 2021, limitation in (a) of this subsection.

(3) By July 1, 2015, the department must transfer to the Washington State University energy program all records necessary to carry out the remaining incentive payments due under this section.

(4) In order to continue to receive incentive payments under the authority of this section, any person, administrator of a community solar project, or company that received incentive payments under RCW 82.16.120 must pay a one-time administrative fee to the Washington State University energy program and submit an application for certification, as provided in section 4 of this act. The Washington State University energy program is authorized to establish such fee as necessary in order to process records required to administer the program and make available incentive payments under this section.

(5) Each year, by August 1st, the applicant must apply to the Washington State University energy program to receive the incentive payment, following the application process established in section 4 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

(1)(a) Except as provided in (f) of this subsection, beginning July 1, 2015, any person, entity, utility, or administrator or company owner of a community solar project may apply to the Washington State University energy program for the Washington State University energy program to issue a certification authorizing the utility serving the situs of the system to remit an annual investment cost recovery incentive for each economic development kilowatt-hour of eligible electricity generated.

(b) Annual investment cost recovery incentives allowed under this subsection for a system that is a leased energy system may not be assigned to a financial institution.

(c) Annual investment cost recovery incentives allowed under this subsection for a system that already received incentive payments under RCW 82.16.120 are subject to the limitations established in section 3 of this act.

(d) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(i), the administrator must apply for the investment cost recovery incentive on behalf of each of the other owners.

(e) In the case of a company-owned community solar project as defined in RCW 82.16.110(2)(a)(iii), the company owning the community solar project must apply for the investment cost recovery incentive on behalf of each member of the company.

(f) Where a utility is directly claiming, under RCW 82.16.130, a tax credit for eligible electricity produced by a leased energy system, no person or entity other than the utility may apply for certification under this section.

(2)(a) Before submitting to the Washington State University energy program for the first time the certification for the incentive allowed under subsection (1) of this section, the applicant must submit to the Washington State University energy program a processing fee and an application for certification, in a form and manner prescribed by the Washington State University energy program that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the certification must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the certification must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) An affidavit that the premises on which the system applying for the incentive either:

(A) Is not receiving, and has not received, any incentive under RCW 82.16.120; or

(B) For certification applications submitted after July 1, 2015, pursuant to section 3 of this act, a statement of the date of the notification from the department stating that the renewable energy system was eligible to receive incentives under RCW 82.16.120;

(iv) That the electricity produced by the applicant meets the definition of eligible electricity, and that the renewable energy system produces electricity with:

(A) Any solar inverters and made in Washington solar modules;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A solar inverter manufactured in Washington state;

(D) A made in Washington solar module;

(E) A stirling converter manufactured in Washington state; or

(F) Solar or wind equipment manufactured outside of Washington state;

(v) Storage system used, if any;

(vi) A statement of the amount of eligible electricity and economic development kilowatt-hours expected to be generated by the renewable energy system and an estimate of the annual electrical use of the premises;

(vii) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems;

(viii) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction, as well as a copy of the permit; and

(ix) Any other information the Washington State University energy program deems would be helpful in facilitating the review of the performance of the tax preferences by the joint legislative audit and review committee, as described in section 6 of this act.

(b) Within thirty days of receipt of the application for certification and the final electrical permit from the local jurisdiction, the Washington State University energy program must notify the applicant and the utility serving the situs of the system by mail, or electronically, whether the renewable energy system qualifies and is certified for an incentive under this section. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(l).

(c) Except as provided in section 3 of this act, once a system is certified by the Washington State University energy program to be eligible for the incentive, that certification is valid for ten years and may not be retroactively changed due to evolutionary standards or interpretations by the Washington State University energy program or the department, except for errors in the original application or certification. Certification of a renewable energy system follows the system with the transfer of property.

(3)(a) After a system is certified by the Washington State University energy program, an initial application for the incentive under this section must be made to the department and the participating utility serving the situs of the system in a form and manner prescribed by the Washington State University energy program, after consultation with the department, that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project, the application must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project, the application must also include the name and address of each member of the company.

(C) If the applicant is a utility, the person designated by the utility;

(ii) The applicant's tax registration number; and

(iii) The date of the notification from the Washington State University energy program stating that the renewable energy system is certified and eligible for the incentives under this section.

(b) Within sixty days of receipt of notification of the application and approval by the department, the utility serving the situs of the system must notify the department of any abnormal production claims and, if none are identified, must issue the incentive payment.

(c) After the first year in which an incentive payment has been authorized by the utility as provided under (b) of this subsection, persons receiving the incentive must provide a statement, by August 1st of each year, in the form of a signed affidavit to the department of the amount of kilowatt-hours of eligible electricity generated by, and the amount of economic development kilowatt-hours attributable to, the renewable energy system in the prior fiscal year. The amount of eligible electricity generated, in kilowatt-hours, may be determined from a reading of the inverter or production meter connected to the system, at the option of the utility. The amount of economic development kilowatt-hours must be calculated by the amount of eligible electricity multiplied by the multipliers certified in the system certification.

(d) Persons and entities applying to receive incentives must take a digital photo on the last day of each fiscal year of the production meter or inverter reading and must keep and preserve, for a period of five years, the digital photo as may be necessary to verify, upon request, that the correct amount of incentive was applied for and received.

(e) The department must calculate, for the prior fiscal year, and provide to the utility the amount of the incentive payment due to each utility customer, utility, and community solar project, located on the premises serviced by that utility and the total amount of credit for each utility against tax due under this chapter. The utility must report to the department any abnormal production claims.

(f)(i) Persons and entities receiving incentive payments must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received. Such records must be open for examination at any time upon notice by the department. If upon examination of any records or from other information obtained by the department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the department may assess against the person that received the excess incentive for the amount found to have been paid in excess of the correct amount of incentive payable and must add thereto interest and may assess penalties on the amount. Interest and penalties are assessed in the manner that the department assesses penalties and interest upon delinquent tax under RCW 82.32.050, except that interest and penalties must be deducted from any future incentive payments that may be due.

(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable, the department may authorize additional payment to the utility or utility customer certified to receive incentives and additional credit due to the utility.

(iii) If the department finds that a person has falsely reported annual electricity production or consumption under this section with the intent to claim entitlement to a greater incentive payment than the person is eligible to receive under this section, the department must impose a penalty, deducting from any incentive payment that would otherwise be due the sum of five hundred dollars or fifty percent of the incentive payment due, whichever is greater.

(4) Once a system is certified by the Washington State University energy program and has been authorized by and has signed an interconnection agreement with the utility serving the situs of the system, it will be considered to have commenced operation.

(a) Except for community solar projects, the eligible electricity base rate used to calculate the investment cost recovery incentive, payable for a period of ten years from commencement of operation, must be based on the year in which the system commenced operation as follows:

|  |  |
| --- | --- |
| 2015:  | $0.15; |
| 2016:  | $0.14; |
| 2017:  | $0.13; |
| 2018:  | $0.12; |
| 2019:  | $0.11; |

(b) For community solar projects, the eligible electricity base rate used to calculate the investment cost recovery incentive, payable for a period of ten years from commencement of operation, equals thirty cents per economic development kilowatt-hour.

(5) For the purposes of this section, the rate paid for the investment cost recovery incentive is determined by multiplying the eligible electricity base rate by the following factors, and adding the sum of those products to the eligible electricity base rate:

(a) For eligible electricity produced using made in Washington solar modules or a solar stirling converter manufactured in Washington state, two and four-tenths;

(b) For eligible electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(c) For eligible electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one;

(d) For all other eligible electricity produced by wind, eight- tenths; and

(e) For eligible electricity using a storage system, seven-tenths.

(6)(a) No person, entity, or utility is eligible for incentives under this section for otherwise eligible electricity generated in excess of the net kilowatt-hours consumed annually at the metered location.

(b) For projects that are not community solar projects, no person is eligible for annual incentive payments provided under this section for more than the following amounts per system:

(i) 0-10 kilowatts - $5,000

(ii) 11-25 kilowatts - $15,000

(iii) 26–30 kilowatts - $20,000

(iv) Over 30 kilowatts - $25,000

(c) Except as provided otherwise in (d) through (f) of this subsection (6), each owner or member in a community solar project is eligible for up to five thousand dollars per year.

(d) Where the applicant is an administrator of a community solar project, each owner is eligible for an incentive but only in proportion to the ownership share of the project, up to five thousand dollars per year.

(e) Where the applicant is a company owning a community solar project that has applied for an investment cost recovery incentive on behalf of its members, each member of the company is eligible for an incentive that would otherwise belong to the company, but only in proportion to each ownership share of the company, up to five thousand dollars per year. The company itself is not eligible for incentives under this section.

(f) In the case of a utility-owned community solar project, each ratepayer that contributes to the project is eligible for an incentive in proportion to the contribution, up to five thousand dollars per year.

(7) The Washington State University energy program must establish a list of eligible solar module components and may consult with various experts in developing the list.

(8) The environmental attributes of the renewable energy system belong to the applicant except in the case of a renewable energy system leased from a utility, in which case the attributes belong to the utility.

(9) No incentive may be paid under this section for kilowatt-hours generated by a system that commences operation after December 31, 2019.

(10) No incentive may be paid under this section for a leased energy system beginning operation after December 31, 2016, that is net metered under chapter 80.60 RCW.

(11) Each system qualifying for incentives under this section must have a production meter or inverter and interconnects with the utility's system in a manner that allows the utility to measure the total amount of electricity consumed on the premises.

(12) The Washington State University energy program may charge applicants a fee to process applications for certification under this section. In order to establish a fee amount, the Washington State University energy program must examine the last two years of application activities at the department and determine the reasonable cost associated with the processing of an application. Any overage of the collection of fees must be carried over to the next fiscal year to reduce the cost of the Washington State University energy program administering the program.

**Sec.**  RCW 82.16.130 and 2010 c 202 s 3 are each amended to read as follows:

(1) A ((~~light and power business shall~~)) utility issuing incentive payments under RCW 82.16.120 or section 3 or 4 of this act must be allowed a credit against taxes due under this chapter in an amount equal to investment cost recovery incentive payments made in any fiscal year under RCW 82.16.120, section 3 of this act, and section 4 of this act. The credit ((~~shall~~)) must be taken in a form and manner as required by the department. The credit under this section for the fiscal year may not exceed one-half percent of the ((~~businesses'~~)) utility's taxable power sales due under RCW 82.16.020(1)(b) or ((~~one~~)) two hundred fifty thousand dollars, whichever is greater. Incentive payments to participants in a utility-owned community solar project as defined in RCW 82.16.110(2)(a)(ii) or section 3 of this act may only account for up to twenty-five percent of the total allowable credit. Incentive payments to participants in a company-owned community solar project as defined in RCW 82.16.110(2)(a)(iii) or section 3 of this act may only account for up to five percent of the total allowable credit. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years. Incentive payments for leased energy systems may not claim more than forty-five percent of the total allowable credit. Incentive payments for renewable energy systems greater than ten kilowatts may not claim more than fifty percent of the total allowable credit.

(2) For any ((~~business~~)) utility that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.120 or section 4 of this act, the amount of tax against which credit was claimed for the excess payments ((~~shall be~~)) is immediately due and payable. The department ((~~shall~~)) must assess interest but not penalties on the taxes against which the credit was claimed. Interest ((~~shall~~)) must be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and ((~~shall~~)) accrues until the taxes against which the credit was claimed are repaid.

(3) Each utility making incentive payments and claiming tax credits pursuant to this section must post on its web site and update quarterly a report of the allowable credit limits for various system types and sizes established under subsection (1) of this section and an estimate of the amount of credit that has not yet been allocated for incentive payments to certified renewable energy systems the situs of which is served by the utility.

(4) The right to earn tax credits under this section expires June 30, ((~~2020~~)) 2028. Credits may not be claimed after June 30, ((~~2021~~)) 2029.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

(1) This section is the tax preference performance statement for the tax preference and incentives created under RCW 82.16.130 and sections 3 and 4 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preference and incentives. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment or for certification under section 4 of this act.

(2) The legislature categorizes the tax preference and incentive created in this act as intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a), and to create or retain jobs, as indicated in RCW 82.32.808(2)(c).

(3)(a) The legislature's public policy objective is to increase and improve utilization of clean energy technology in Washington by providing the incentive in section 3 of this act and the credit in section 6 of this act.

(b) It is also the objective of the legislature to increase the number of jobs in the clean energy technology industry in Washington. It is the legislature's intent to provide the incentives in sections 3 and 4 of this act and the credit in RCW 82.16.130 in order to reduce the costs associated with installing and operating clean energy systems by persons or entities receiving an incentive in sections 3 and 4 of this act and to reduce the costs for providing those incentives by entities receiving a credit in RCW 82.16.130, thereby increasing the ability for clean energy technology firms to access the energy market and expand their operations in Washington, thereby increasing the number of jobs in the clean energy technology industry in Washington.

(4) As part of its 2019 tax preference reviews conducted under chapter 43.136 RCW, the joint legislative audit and review committee must review the tax preferences and incentives in RCW 82.16.120, 82.16.130, and sections 3 and 4 of this act. The legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference if a review finds that the following performance milestones have been met:

(a) Increased utilization of the available tax credits, as evidenced by:

(i) A one hundred percent increase in the number of solar energy systems installed and receiving the incentive, from the 2013 baseline; and

(ii) A one hundred percent increase in the total generating capacity of installed systems, from the 2013 baseline;

(b) A decrease over time in the levelized cost of the systems receiving the tax preferences;

(c) Growth of solar-related employment, as evidenced by:

(i) An increase in the total number and per capita rate of solar energy-related jobs in Washington, as reported by a relevant trade association in the state; and

(ii) Achievement of a top ten national ranking for solar energy-related employment and a top nine ranking for per capita solar energy-related employment, as reported in a nationally recognized report; and

(d) Leveraging of nonstate funds, as measured by a report of the total dollar value of tax credits awarded within each county and zip code, and the total amount of nonstate funds leveraged within each county and zip code.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to the data collected by the Washington State University energy program and the department under the application and certification process established in section 4 of this act.

(6) The department is encouraged to collect, through the application process, data from persons receiving the incentive payments created in this act, as necessary, and may collect data from other interested persons to report on progress toward achieving the performance milestones listed in subsection (4) of this section.

(7) All recipients of tax credits or incentive payments awarded under this chapter must provide any data requested by the Washington State University energy program or the joint legislative audit and review committee for reporting purposes. Failure to comply may result in the loss of a tax credit award or incentive payment in the following year.

**Sec.**  RCW 82.16.120 and 2011 c 179 s 3 are each amended to read as follows:

(1)(a) Any individual, business, local governmental entity, not in the light and power business or in the gas distribution business, or a participant in a community solar project may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, and ending June 30, 2015, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system.

(b) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(i), the administrator must apply for the investment cost recovery incentive on behalf of each of the other owners.

(c) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(iii), the company owning the community solar project must apply for the investment cost recovery incentive on behalf of each member of the company.

(2)(a) Before submitting for the first time the application for the incentive allowed under subsection (4) of this section, the applicant must submit to the department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the certification must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the certification must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) That the electricity produced by the applicant meets the definition of "customer-generated electricity" and that the renewable energy system produces electricity with:

(A) Any solar inverters and solar modules manufactured in Washington state;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state;

(E) A stirling converter manufactured in Washington state; or

(F) Solar or wind equipment manufactured outside of Washington state;

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems; and

(v) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction.

(b) Within thirty days of receipt of the certification the department of revenue must notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(l).

(3)(a) By August 1st of each year application for the incentive must be made to the light and power business serving the situs of the system by certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the application must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the application must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) The date of the notification from the department of revenue stating that the renewable energy system is eligible for the incentives under this section; and

(iv) A statement of the amount of kilowatt-hours generated by the renewable energy system in the prior fiscal year.

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system must notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(l).

(c)(i) Persons, administrators of community solar projects, and companies receiving incentive payments must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received. Such records must be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and must add thereto interest on the amount. Interest is assessed in the manner that the department assesses interest upon delinquent tax under RCW 82.32.050.

(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable the business may authorize additional payment.

(4) Except for community solar projects, the investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For community solar projects, the investment cost recovery incentive may be paid thirty cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state or a solar stirling converter manufactured in Washington state, two and four-tenths;

(b) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(c) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and

(d) For all other customer-generated electricity produced by wind, eight-tenths.

(5)(a) No individual, household, business, or local governmental entity is eligible for incentives provided under subsection (4) of this section for more than five thousand dollars per year.

(b) Except as provided in (c) through (e) of this subsection (5), each applicant in a community solar project is eligible for up to five thousand dollars per year.

(c) Where the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible for an incentive but only in proportion to the ownership share of the project, up to five thousand dollars per year.

(d) Where the applicant is a company owning a community solar project that has applied for an investment cost recovery incentive on behalf of its members, each member of the company is eligible for an incentive that would otherwise belong to the company but only in proportion to each ownership share of the company, up to five thousand dollars per year. The company itself is not eligible for incentives under this section.

(e) In the case of a utility-owned community solar project, each ratepayer that contributes to the project is eligible for an incentive in proportion to the contribution, up to five thousand dollars per year.

(6) If requests for the investment cost recovery incentive exceed the amount of funds available for credit to the participating light and power business, the incentive payments must be reduced proportionately.

(7) The climate and rural energy development center at Washington State University energy program may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

(8) The environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light and power business upon receipt of the investment cost recovery incentive.

(9) No incentive may be paid under this section for kilowatt-hours generated before July 1, 2005, or after June 30, 2020.

(10) An individual, business, local governmental entity, not in the light and power business or in the gas distribution business, or a participant in a community solar project who has applied for and received an incentive under this section may continue to receive incentive payments after June 30, 2015, as provided in sections 3 and 4 of this act.

NEW SECTION. **Sec.**  (1) It is the intent of the legislature to provide consumers greater access to leased renewable energy systems. The ability to lease systems from utilities and third parties will help minimize the upfront costs of distributed generation, providing further opportunities for consumers to access the benefits of these systems.

(2) It is the intent of the legislature to provide for consumer protection of customers leasing renewable energy systems, and to recognize and encourage electric utility efforts in being early adopters of programs that promote customers' energy independence.

(3) The legislature finds that access to distributed renewable energy systems installed on residential, commercial, and governmental real property facilitates energy independence by consumers.

(4) The legislature finds that many electric utilities are the most suitable and responsible entities to ensure the safety and reliability of renewable energy systems and to provide for consumer protection with respect to those systems. However, due to the diversity of electric utilities operating in Washington, the capacity of electric utilities to make financial investments in a leased energy program and to fulfill these additional responsibilities varies. Therefore, the legislature intends to afford electric utilities some latitude in determining for themselves whether they are in a position to establish a leased energy program.

(5) The legislature recognizes the importance of ensuring public safety and consumer protection with an appropriate level of regulation that still allows a competitive marketplace to develop, and for this reason the legislature confers authority to the Washington utilities and transportation commission to regulate as "competitive electrical companies" third-party vendors who provide leased energy systems directly to consumers and investor-owned utilities who invest company dollars to make these systems more widely accessible.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter, sections 15 through 18 of this act, and RCW 80.28.075 unless the context clearly requires otherwise.

(1)(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.

(2) "Competitive electrical company" means: (a) A third-party vendor; or (b) an investor-owned utility offering a leased energy program that is outside of its regulated service, registered with the utilities and transportation commission under section 16 of this act.

(3) "Electric utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.020.

(4) "High efficiency cogeneration" means 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 seventy-two percent of the total energy output.

(5) "Leased energy program" means:

(a) A program developed by an electric utility under sections 8 through 18 of this act and RCW 80.28.075 to provide customers of the utility access to leased energy systems; or

(b) A program developed by a competitive electrical company to provide customers served by any utility access to leased energy systems.

(6) "Leased energy system" means a renewable energy system that is located in Washington and installed on a person or entity's real property that is not leased, where the situs of the real property is provided electricity by an electric utility, and the renewable energy system is:

(a) Owned by a third-party vendor that has a contract with a customer of an electric utility to lease a renewable energy system; or

(b) Owned by an electric utility that has a contract with a customer of an electric utility to lease a renewable energy system.

(7) "Renewable energy system" means a system that generates electricity from: (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; (i) biomass energy; or (j) high efficiency cogeneration.

(8) "Third-party vendor" means an entity that leases a renewable energy system directly to electric utility customers. An electric utility offering a leased energy program directly or through a contract with a third-party vendor is not a third-party vendor.

NEW SECTION. **Sec.**  (1) Except as provided in subsection (3) of this section, an electric utility is not liable for any harm, economic or otherwise, caused to a customer-generator or third-party vendor by disconnection of:

(a) A renewable energy system leased directly to a customer by a third-party vendor; or

(b) A renewable energy system provided to the customer by contract with a different utility.

(2) Such a disconnection may be for safety or reliability purposes, faulty leased energy system equipment, nonpayment of an electric bill to the utility by the customer-generator, or violation by the customer-generator or a third-party vendor of the interconnection agreement between the utility and customer-generator.

(3) An electric utility may not develop or apply standards for disconnection of a leased energy system that discriminate on the basis of whether the system is owned by the utility or a third-party vendor.

NEW SECTION. **Sec.**  (1) An electric utility that offers a leased energy program shall maintain a registry of qualified contractors operating in the electric utility's service area that are licensed to install renewable energy systems. The electric utility shall provide the names and contact information for the qualified contractors listed in the registry to customers who have indicated an interest in the leased energy program, in order to assist customers in identifying available renewable energy system installment services.

(2) In the case of a consumer-owned utility that is subject to chapters 54.04 and 39.04 RCW, the consumer-owned utility must follow applicable laws governing procurement and public works.

(3) In the case of an investor-owned utility, the investor-owned utility shall conduct an open and transparent process to facilitate participation by qualified contractors.

NEW SECTION. **Sec.**  Electric utilities and third-party vendors are encouraged to offer to customers the option to purchase the renewable energy system at the end of the lease term.

NEW SECTION. **Sec.**  (1)(a) In the event that a real property subject to a renewable energy system lease is sold, the remainder of the lease must be assumed by the buyer if a memorandum has been recorded reflecting the essential terms of the lease, unless the seller and buyer agree otherwise. The transfer of ownership of a property with a lease does not trigger any recertification of a system previously certified for incentives under chapter 82.16 RCW. If the buyer of such a property assumes a lease previously certified for these incentives and authorized by a utility, the buyer continues to qualify for all applicable incentives as originally certified under chapter 82.16 RCW, any other benefits of the lease and utility authorization.

(b) Thirty days prior to closing, the seller of property subject to a lease shall notify any utility and third-party vendor affected by the lease whether the buyer will assume the lease. Within seven days of the seller's notice, the utility and third-party vendor shall provide the documentation necessary for assumption of the lease by the buyer or the procedures for termination of the lease and removal of the system. The utility and third-party vendor shall remove the renewable energy system from a property within twenty-one days of a written request of the property owner.

(c) At the end of the lease term or earlier termination of a lease, the utility or third-party vendor is responsible for the removal of the leased energy system from the property and may recover the cost thereof as specified in the lease and noted in the recorded memorandum. There are no damages for the premature termination of a lease unless the amount of the damages is specified as liquidated damages in the lease.

(d) Renewable energy system leases may not grant utilities or third-party vendors any authority to approve or disapprove the transfer of real property associated with such a lease.

(2) The lessor of a renewable energy system shall guarantee sufficient funds to properly dispose of the system at the end of the lease. The lessor is responsible for identifying hazardous and commercial valuable materials contained in the leased energy system and how those materials will be properly disposed of or reclaimed. The lessor must provide this information to the utilities and transportation commission upon request of the commission.

NEW SECTION. **Sec.**  (1) The utilities and transportation commission shall publish, without disclosing proprietary information, a list of financing models being offered by investor-owned utilities or third-party vendors registered as competitive electrical companies.

(2) If a consumer-owned utility opts to provide a leased energy program or contracts with a third-party vendor to offer a leased energy program, the governing board of a consumer-owned utility shall publish, without disclosing proprietary information, a list of financing models being offered by the utility or third-party vendor or vendors contracted by the utility as part of a leased energy program.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) The legislature finds that:

(a) Third-party vendors of renewable energy systems are electrical companies as defined in this title and are subject to the jurisdiction of the commission.

(b) A competitive marketplace with effective competition exists for the provision of leasing and installation of renewable energy systems in the state of Washington.

(c) Traditional rate of return, rate-based regulation of electrical companies providing leasing and installation of renewable energy systems does not provide the most efficient and effective means of achieving the public policy goals of this state as declared in RCW 80.28.024, 80.28.074, this section, and section 8 of this act. These goals include promoting the use of renewable energy resources, maintaining and advancing the efficiency and availability of electric services, and ensuring that customers pay only reasonable charges while utilities are afforded flexible pricing.

(d) The commission retains its full authority to protect consumers of renewable energy systems, including and not limited to consumer protection from deceptive practices, protections to ensure service quality, and protections provided in RCW 80.28.030. Such consumer protection may include ensuring that prices and terms of leases are clearly disclosed to consumers, including requiring disclosure specifying whether the consumer, the competitive electrical company, or another entity is entitled to claim and receive federal, state, or local government incentives. Nothing in this act precludes the office of the attorney general from exercising its statutory authority concerning consumer protection.

(2) The definitions in section 9 of this act apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) A third-party vendor and an electrical company offering a leased energy program that is outside of its regulated service must register with the commission as a competitive electrical company before beginning operations in this state to lease and install renewable energy systems. The registration must be on a form prescribed by the commission and contain that information as the commission may by rule require, but must include at a minimum: The name and address of the company; the name and address of the company's registered agent, if any; the name, address, and title of each officer or director; the company's most current balance sheet; the company's latest annual report, if any; a description of the services the company offers or intends to offer; and disclosure of any pending litigation against it. Registration with the commission as a competitive electrical company must occur on an annual basis.

(2) As a precondition to registration, the commission may require the procurement of a performance bond or other mechanism sufficient to cover any advances or deposits the competitive electrical company may collect from its customers or order that the advances or deposits be held in escrow or trust.

(3) The commission may deny registration to any company that:

(a) Does not provide the information required by this section;

(b) Fails to provide a performance bond or other mechanism, if required;

(c) Does not possess adequate financial resources to provide the proposed service; or

(d) Does not possess adequate technical competency to provide the proposed service.

(4) The commission shall take action to approve or issue a notice of hearing concerning any application for registration within thirty days after receiving the application. The commission may approve an application with or without a hearing. The commission may deny an application after a hearing.

(5) The commission shall adopt rules that describe the manner by which it will regulate competitive electrical companies, as well as the process for considering applications for registration under this title. The rules must at a minimum provide for the protection of consumers of renewable energy systems.

(6) The definitions in section 9 of this act apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) Competitive electrical companies must be subject to minimal regulation. A competitive electrical company shall at a minimum:

(a) Keep its accounts according to rules as determined by the commission;

(b) File financial reports with the commission as required by the commission and in a form and at times prescribed by the commission;

(c) Post its prices on a public web site available to all potential customers;

(d) Cooperate with commission investigations of customer complaints; and

(e) At the request of the commission, provide information about the materials contained in a leased energy system, including all hazardous wastes and commercially valuable materials used in the system.

(2) Competitive electrical companies shall pay regulatory fees to the commission as provided under chapter 80.24 RCW.

(3) During a state of emergency declared under RCW 43.06.010(12), the governor may waive or suspend the operation or enforcement of this section or any portion of this section or under any administrative rule and issue any orders to facilitate the operation of state or local government or to promote and secure the safety and protection of the civilian population.

(4) The definitions in section 9 of this act apply throughout this section unless the context clearly requires otherwise.

NEW SECTION. **Sec.**  A new section is added to chapter 80.28 RCW to read as follows:

(1) Upon request of the commission, investor-owned utilities and third-party vendors offering leased energy systems must provide information on the financial terms of leased energy systems currently under contract. The commission shall use this information to determine how each party to a lease energy system contract benefits financially. In compliance with RCW 43.01.036, the commission shall report its findings to the appropriate energy committees of the house of representatives and senate by December 1, 2018.

(2) The definitions in section 9 of this act apply throughout this section unless the context clearly requires otherwise.

**Sec.**  RCW 80.28.075 and 1988 c 166 s 2 are each amended to read as follows:

(1) Upon request by a natural gas company or an electrical company, the commission may approve a tariff that includes banded rates for:

(a) Any nonresidential natural gas or electric service that is subject to effective competition from energy suppliers not regulated by the utilities and transportation commission; and

(b) Leased energy program services provided by an electrical company, where the services are outside of the electrical company's regulated service and are subject to effective competition from third-party vendors.

(2) "Banded rate" means a rate that has a minimum and maximum rate. Rates may be changed within the rate band upon such notice as the commission may order.

(3) The definitions in section 9 of this act apply throughout this section unless the context clearly requires otherwise.

**Sec.**  RCW 80.04.010 and 2011 c 214 s 2 and 2011 c 28 s 1 are each reenacted and amended to read as follows:

As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:

(1) "Automatic location identification" means a system by which information about a caller's location, including the seven-digit number or ten-digit number used to place a 911 call or a different seven-digit number or ten-digit number to which a return call can be made from the public switched network, is forwarded to a public safety answering point for display.

(2) "Automatic number identification" means a system that allows for the automatic display of the seven-digit or ten-digit number used to place a 911 call.

(3) "Battery charging facility" includes a "battery charging station" and a "rapid charging station" as defined in RCW 82.08.816.

(4) "Cogeneration facility" means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary purpose of the sequential generation of electrical or mechanical power and useful heat from the same primary energy source or fuel.

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

(6) "Commissioner" means one of the members of such commission.

(7) "Competitive telecommunications company" means a telecommunications company which has been classified as such by the commission pursuant to RCW 80.36.320.

(8) "Competitive telecommunications service" means a service which has been classified as such by the commission pursuant to RCW 80.36.330.

(9) "Corporation" includes a corporation, company, association or joint stock association.

(10) "Department" means the department of health.

(11) "Electric plant" includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat, or power for hire; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

(12) "Electrical company" includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state. "Electrical company" includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees, or receivers appointed by any court whatsoever that has contracted with a customer of an electric utility, as defined in RCW 19.29A.010, to lease to the customer a renewable energy system, as defined in RCW 82.16.110. "Electrical company" does not include a company or person employing a cogeneration facility solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical company, state or local public agency, municipal corporation, or quasi municipal corporation engaged in the sale or distribution of electrical energy, but not for sale to others, unless such company or person is otherwise an electrical company.

(13) "Facilities" means lines, conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any telecommunications company to facilitate the provision of telecommunications service.

(14) "Gas company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

(15) "Gas plant" includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power.

(16) "LATA" means a local access transport area as defined by the commission in conformance with applicable federal law.

(17) "Local exchange company" means a telecommunications company providing local exchange telecommunications service.

(18) "Noncompetitive telecommunications service" means any service which has not been classified as competitive by the commission.

(19) "Person" includes an individual, a firm or partnership.

(20) "Private shared telecommunications services" includes the provision of telecommunications and information management services and equipment within a user group located in discrete private premises in building complexes, campuses, or high-rise buildings, by a commercial shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of a local exchange and to interexchange telecommunications companies.

(21) "Private switch automatic location identification service" means a service that enables automatic location identification to be provided to a public safety answering point for 911 calls originating from station lines served by a private switch system.

(22) "Private telecommunications system" means a telecommunications system controlled by a person or entity for the sole and exclusive use of such person, entity, or affiliate thereof, including the provision of private shared telecommunications services by such person or entity. "Private telecommunications system" does not include a system offered for hire, sale, or resale to the general public.

(23) "Public service company" includes every gas company, electrical company, telecommunications company, wastewater company, and water company. Ownership or operation of a cogeneration facility does not, by itself, make a company or person a public service company.

(24) "Radio communications service company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide radio communications service, radio paging, or cellular communications service for hire, sale, or resale.

(25) "Service" is used in this title in its broadest and most inclusive sense.

(26) "System of sewerage" means collection, treatment, and disposal facilities and services for sewerage, or storm or surface water run-off.

(27) "Telecommunications" is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

(28) "Telecommunications company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any facilities used to provide telecommunications for hire, sale, or resale to the general public within this state.

(29)(a) "Wastewater company" means a corporation, company, association, joint stock association, partnership and person, their lessees, trustees, or receivers that owns or proposes to develop and own a system of sewerage that is designed for a peak flow of twenty-seven thousand to one hundred thousand gallons per day if treatment is by a large on-site sewerage system, or to serve one hundred or more customers.

(b) For purposes of commission jurisdiction, wastewater company does not include: (i) Municipal, county, or other publicly owned systems of sewerage; or (ii) wastewater company service to customers outside of an urban growth area as defined in RCW 36.70A.030.

(30)(a) "Water company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state.

(b) For purposes of commission jurisdiction, "water company" does not include any water system serving less than one hundred customers where the average annual gross revenue per customer does not exceed three hundred dollars per year, which revenue figure may be increased annually by the commission by rule adopted pursuant to chapter 34.05 RCW to reflect the rate of inflation as determined by the implicit price deflator of the United States department of commerce. The measurement of customers or revenues must include all portions of water companies having common ownership or control, regardless of location or corporate designation.

(c) "Control" is defined by the commission by rule and does not include management by a satellite agency as defined in chapter 70.116 RCW if the satellite agency is not an owner of the water company.

(d) "Water company" also includes, for auditing purposes only, nonmunicipal water systems which are referred to the commission pursuant to an administrative order from the department, or the city or county as provided in RCW 80.04.110.

(e) Water companies exempt from commission regulation are subject to the provisions of chapter 19.86 RCW. A water company cannot be removed from regulation except with the approval of the commission. Water companies subject to regulation may petition the commission for removal from regulation if the number of customers falls below one hundred or the average annual revenue per customer falls below three hundred dollars. The commission is authorized to maintain continued regulation if it finds that the public interest so requires.

(31) "Water system" includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

NEW SECTION. **Sec.**  Sections 8 through 14 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

**--- END ---**