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**HOUSE BILL 2045**

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

**By** Representative Morris

AN ACT Relating to promoting development of reliable distributed energy resources through extending and modifying an existing tax incentive for certain net metering systems, preserving the existing ground rules for net metering until net metering systems' generating capacity equals 0.5 percent of the utility's 1996 peak demand, requiring distribution resources planning, and authorizing a reliability charge and other alternatives to existing ground rules for net metering, for a utility that has achieved the existing 0.5 percent interconnection requirement for net metering systems; adding a new chapter to Title 80 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds and declares that:

(1) It is the intent of the legislature to promote development of reliable distributed energy resources through extending and modifying an existing tax incentive for certain net metered systems, while providing rate-recovery mechanisms to ensure the integration of such distributed energy resources into the utility grid after the existing net metering threshold of 0.5 percent is reached does not impact reliability of the distribution system.

(2) Altering the ground rules for net metered systems, prior to reaching the 0.5 percent threshold in existing law, would provide undue uncertainty for utility customers about the value of distributed generation investments, undermine the policy of promoting development of these distributed energy resources until there is sufficient distributed energy resources installed on the grid to allow objective determination of any cost shifts caused by such resources, and is inconsistent with the intent of this legislation.

(3) Rapidly changing market conditions are occurring in our electric utility sector, and 2012 may well be the peak year for per capita energy consumption. When combined with Washington state citizens' desire for energy independence and self-generation of electricity, utilities are finding less revenue in the current volumetric rate recovery system they utilize to pay for infrastructure costs as well as more competition from distributed generation technologies.

(4) Washington state needs healthy utilities and competition. After the existing net metering threshold of 0.5 percent is reached, rapid build-out of electricity generation owned by consumers who both produce and consume electricity, known as prosumers, can challenge and render obsolete the careful balance of values established by our current net metering law. The state needs to adopt intermediate tools in order to ensure the healthy transition to our electric grid of the future.

(5) The legislature intends to modify the existing renewable energy investment cost recovery incentive program, improve utilization of the incentive by residents, utilities, and businesses in the state, streamline program administration, and incubate the development of clean energy manufacturing. 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 extending and modifying tax incentives for renewable energy systems, the legislature intends to continue to grow a vibrant clean technology sector in Washington state.

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

(1) "Avoided environmental cost" means the costs of compliance with state and federal environmental regulations and the savings and external environmental benefits, such as mitigation of environmental damage, including but not limited to sulfur dioxide emissions, water contamination, and soil erosion, from operating the distributed resources instead of operating the benchmark generation asset.

(2)(a) "Avoided fuel cost" means:

(i) In the case of a nonacquiring utility, the five-year rolling average cost, if any, of fuel for the benchmark generation asset; or

(ii) In the case of all other electric utilities, the five-year rolling average cost of natural gas fuel at the Sumas index price of the quantity that would be purchased for a combined cycle gas turbine plant operating on the margin to meet electric load and related transmission and distribution losses.

(b) For the purposes of (a)(ii) of this subsection, whether the electric utility receives the fuel cost savings directly by avoiding fuel purchases, or indirectly by reducing wholesale power purchases, the method of calculating the avoided fuel cost value is the same.

(3) "Avoided generation capacity cost" means the effective load-carrying capability of the fleet of photovoltaic systems or other distributed generation assets, as determined in the case of photovoltaic systems through an analysis of hourly photovoltaic output relative to overall utility load.

(4) "Avoided operation and maintenance cost" means any operations and maintenance costs not incurred as a result of operating the distributed resources instead of operating the benchmark generation asset.

(5) "Avoided reserve capacity cost" means the difference in planning margin required to ensure reliability of the transmission and distribution grid due to operation of the distributed resources.

(6) "Avoided transmission and distribution capacity costs" means the financial savings resulting from deferring capacity additions attributable to the distributed resources.

(7) "Benchmark generation asset" means one of the following:

(a) In the case of a nonacquiring utility, the existing generation asset that generates electricity from the dominant resource in the utility's portfolio, which is the resource with the highest percentage in the fuel mix disclosure required under RCW 19.29A.060.

(b) In the case of all other electric utilities, a natural gas combined cycle turbine with an emissions output equivalent to the average as determined under RCW 80.80.050.

(8) "Consumer-owned utility" means, where such entity is engaged in the business of distributing electricity to one or more retail electric customers in the state, a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW.

(9) "Distributed resources" means distributed renewable generation resources, energy efficiency, energy storage, electric vehicle infrastructure, and demand response technologies.

(10) "Electric utility" has the same meaning as in RCW 80.60.010.

(11) "Governing body" means the board of directors or legislative authority of a consumer-owned utility.

(12) "New customer" means an electric utility customer who is establishing service for the first time at a new meter connected to a utility's distribution system.

(13) "Nonacquiring utility" means an electric utility that:

(a) Within twenty-four months prior to the effective date of this section, has not acquired a generation resource, whether through ownership or a long-term power purchase agreement; and

(b) Has not acquired a generation resource through ownership or long-term power purchase agreement after the effective date of this section by the date that the electric utility adopts one of the alternative plans or mechanisms authorized in sections 3 through 6 of this act.

(14) "Prosumer" means:

(a) A customer-generator as defined in RCW 80.60.010 or an electric utility customer with a production meter connected to a utility's distribution system that measures production of electricity generated on the customer's premises, and such electricity is intended to offset part or all of the customer's electricity requirements; or

(b) An electric utility customer who enters into a special arrangement with a utility to:

(i) Obtain premium services, such as enhanced reliability or voltage control, requiring extraordinary capital investment; or

(ii) Provide premium services such as demand response, energy storage, and load management.

NEW SECTION. **Sec.**  (1) After an electric utility has interconnected net metering systems pursuant to RCW 80.60.020 such that the cumulative generating capacity allocated to net metering systems by that utility equals 0.5 percent or more of the utility's peak 1996 demand, the electric utility shall submit to the commission, in the case of an electrical company, or to the appropriate governing body, in the case of other electric utilities, a distribution resources plan proposal to identify optimal locations and circumstances for the deployment of distributed resources. Each proposal must:

(a) Evaluate locational benefits and costs of distributed resources located on the distribution system based on reductions or increases in local generation capacity needs, avoided or increased investments in distribution infrastructure, safety benefits, reliability benefits, and any other savings the distributed resources provide to the electrical grid or costs to ratepayers of the electrical corporation;

(b) Propose or identify standard tariffs, contracts, or other mechanisms for the deployment of cost-effective distributed resources that could assist in satisfying distribution planning objectives;

(c) Propose cost-effective methods of effectively coordinating existing approved programs, incentives, and tariffs to maximize the locational benefits and minimize the incremental costs of distributed resources;

(d) Identify any additional utility spending necessary to integrate cost-effective distributed resources into distribution planning consistent with the goal of yielding net benefits to ratepayers; and

(e) Identify barriers to the deployment of distributed resources, including but not limited to safety standards related to technology or operation of the distribution circuit in a manner that ensures reliable service.

(2)(a) The commission or the governing body shall review the distribution resources plan proposal and approve, modify and approve, or reject the distribution resources plan for the utility.

(b) The commission or governing body may modify any plan as appropriate to minimize overall system costs and maximize ratepayer benefit from investments in distributed resources.

(3)(a) Expenditures identified in an approved distribution resources plan for ensuring reliability, including the acquisition or operation of infrastructure necessary to accomplish the plan, may be recovered as a reliability charge through an application to or proceeding before the commission, in the case of an electrical company, or an application to or proceeding before the governing body, in the case of other electric utilities.

(b) A reliability charge issued under this section is not an additional standby, capacity, interconnection, or other fee or charge for purposes of RCW 80.60.020(1)(c).

(4) The commission or the governing body may approve recovering proposed expenditures as a reliability charge or adopt one of the mechanisms provided in sections 4 through 6 of this act if it concludes that:

(a) Ratepayers would realize net benefits from the expenditure;

(b) The associated costs are just and reasonable; and

(c) The proposed reliability charge or mechanism does not discriminate between classes of customers that generate more revenues for the utility and prosumers who generate less revenues on the basis of the difference in revenues generated.

(5) The commission or governing body may adopt criteria, benchmarks, and accountability mechanisms that assist evaluation of the success of any investment authorized pursuant to a distribution resources plan under this section.

NEW SECTION. **Sec.**  (1) Upon the request of an electrical company, the commission shall conduct rule making to establish a methodology for determining a tariff that compensates prosumers for the value to the electrical company and its customers of installing and operating distributed resources interconnected to the utility system.

(2) The methodology must include, at a minimum, a method for calculating the following eight component values generated by operation of the distributed resources:

(a) Avoided fuel cost;

(b) Avoided operation and maintenance fixed and variable costs;

(c) Avoided generation capacity cost;

(d) Avoided reserve capacity cost;

(e) Avoided transmission and distribution capacity costs;

(f) The value of voltage regulation service, if such service is provided by a utility;

(g) The costs of integrating service to new customers into existing service; and

(h) Avoided environmental costs.

(3) As part of the rule making, the commission must publish a calculation table that an electrical company filing for a value of distributed generation tariff must populate with relevant data.

(4) An electrical company that has an approved distribution resources plan as provided in section 3 of this act may apply to the commission for approval of a value of distributed generation tariff if such tariff is consistent with the plan.

(a) The electrical company shall populate the calculation table created by the commission with company-specific data and submit it with its application for a tariff under this section.

(b) An electrical company may determine that one or more of the component values listed in subsection (2) of this section may not be included in calculating the value of distributed resources for that utility. An electrical company who opts to omit one or more of the component values must submit to the commission a written statement explaining its decision not to incorporate each component value in the calculation of the value of distributed resources and its reasons for determining that such exclusion is not discriminatory to prosumers.

(c) An electrical company may also consider other components or criteria not listed in subsection (2) of this section, but in order to include such components in the methodology, the electrical company must issue a written statement explaining the additional components considered and the reason for the inclusion of each additional component, including its reasons for determining that such inclusion is not discriminatory to prosumers.

(5) An electrical company implementing a tariff as provided under this section may not assess a standby charge to prosumers.

(6) Under the tariff, a prosumer must be billed for all electricity usage at the same rate that all customers of that rate class are billed.

(a) Energy derived from distributed generation assets may not be used to offset net usage prior to calculating this charge.

(b) The prosumer must receive a credit against its monthly bill for the gross customer-generated electricity produced by the distributed generation asset, discounted or enhanced at the rate determined through application of the methodology developed by rule, and based on the calculation performed under subsection (4) of this section.

(7) The commission shall, after notice and opportunity for public comment, approve the value of distributed generation tariff if it determines that the electrical company:

(a) Has correctly applied the methodology established by the commission; and

(b) Has issued the required statement or statements explaining its decision not to incorporate any of the component values or to include additional component values and why such decisions are nondiscriminatory to prosumers.

(8) An electrical company that elects to utilize a value of a distributed generation tariff may recalculate the tariff and file the recalculated tariff with the commission for approval if the electrical company deems such recalculation necessary in light of changed circumstances, including but not limited to increased or decreased fuel prices or modified hourly utility load profiles.

NEW SECTION. **Sec.**  (1) A consumer-owned utility that has an approved distribution resources plan as provided in section 3 of this act may implement a value of distributed generation rate that is consistent with the plan as provided in this section.

(2) The governing body may use a methodology developed by the commission under this section or may establish a methodology for calculating the value of distributed generation rate through a public process. The public process must include, at a minimum, consideration of each of the components listed in section 4(2) of this act.

(3) As part of public process, the governing body must publish a calculation table that the consumer-owned utility must use in calculating the value of distributed generation rate by populating it with relevant data.

(a) The governing body may determine that one or more of the component values listed in section 4(2) of this act may not be included in the methodology and calculation of the value of distributed resources for that utility. A governing body that opts to omit one or more of the component values must publicly issue a written statement explaining its decision and reasons for not incorporating those component values in the calculation of the value of distributed resources and the reasons that such decision is not discriminatory against prosumers.

(b) The governing body may also include in the methodology and calculation table other components or criteria not listed in section 4(2) of this act, but in order to include such components, the governing body must issue a written statement explaining the additional components considered and the reason for their inclusion, including the reason that such inclusion is not discriminatory against prosumers.

(4) A consumer-owned utility seeking to implement a value of distributed generation rate shall populate the calculation table developed by its governing body with utility-specific data.

(5) A consumer-owned utility implementing a rate as provided in this section may not assess a standby charge to prosumers.

(6) Under the rate, a prosumer must be billed for all electricity usage at the same rate that all customers of that rate class are billed.

(a) Energy derived from distributed generation assets may not be used to offset net usage prior to calculating this charge.

(b) The prosumer must receive a credit against its monthly bill for the gross customer-generated electricity produced by the distributed generation asset, discounted or enhanced at the rate determined through application of the methodology developed by the governing body, and based on the calculation performed under subsection (4) of this section.

(7) The governing body may, after notice and opportunity for public comment, approve the value of distributed generation rate if:

(a) It determines that the staff of the consumer-owned utility have correctly applied the methodology; and

(b) The governing body has issued the required statement or statements explaining the decision not to incorporate any of the component values or to include additional component values and why such decisions are nondiscriminatory to prosumers.

(8) A governing body that elects to utilize a value of a distributed generation rate may recalculate the rate and adopt the revised rate through a public process if it deems such recalculation necessary in light of changed circumstances, including but not limited to increased or decreased fuel prices or modified hourly utility load profiles.

NEW SECTION. **Sec.**  (1) An electric utility that has an approved distribution resources plan may adopt a long-term contract mechanism as provided in this section.

(2) The electric utility and the prosumer shall enter into a long-term contract in which the prosumer is guaranteed a fixed price payment at a retail rate for a certain level of electricity that the prosumer commits to generating over an interval of time, such as quarter over quarter or year over year, as specified in the contract.

NEW SECTION. **Sec.**  Sections 2 through 6 of this act constitute a new chapter in Title 80 RCW.

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