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**SUBSTITUTE SENATE BILL 6533**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Energy, Environment & Telecommunications (originally sponsored by Senators McCoy, Ericksen, Sheldon, and Takko)

AN ACT Relating to improving the accuracy and transparency of the reporting and calculation of the fuel mix information to retail electric customers; amending RCW 19.29A.060, 19.29A.070, and 19.29A.080; reenacting and amending RCW 19.29A.010; and adding a new section to chapter 19.29A RCW.

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

**Sec.**  RCW 19.29A.010 and 2015 c 285 s 1 are each reenacted and amended to read as follows:

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

(1) "Biomass generation" means electricity derived from burning solid organic fuels from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) "Bonneville power administration system mix" means a generation mix sold by the Bonneville power administration that is net of any resource specific sales and that is net of any electricity sold to direct service industrial customers, as defined in section 3(8) of the Pacific Northwest electric power planning and conservation act (16 U.S.C. Sec. 839(a)(8)).

(3) "Coal generation" means the electricity produced by a generating facility that burns coal as the primary fuel source.

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

(5) "Conservation" means an increase in efficiency in the use of energy use that yields a decrease in energy consumption while providing the same or higher levels of service. Conservation includes low-income weatherization programs.

(6) "Consumer-owned utility" means 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, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(7) "Declared resource" means an electricity source specifically identified by a retail supplier to serve retail electric customers. A declared resource includes a stated quantity of electricity tied directly to a specified generation facility or set of facilities either through ownership or contract purchase, or a contractual right to a stated quantity of electricity from a specified generation facility or set of facilities.

(8) "Department" means the department of commerce.

(9) "Electric meters in service" means those meters that record in at least nine of twelve calendar months in any calendar year not less than two hundred fifty kilowatt-hours per month.

(10) "Electric utility" means a consumer-owned or investor-owned utility as defined in this section.

(11) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.

(12) ((~~"Electricity information coordinator" means the organization selected by the department under RCW 19.29A.080 to: (a) Compile generation data in the Northwest power pool by generating project and by resource category; (b) compare the quantity of electricity from declared resources reported by retail suppliers with available generation from such resources; (c) calculate the net system power mix; and (d) coordinate with other comparable organizations in the western interconnection.~~

~~(13)~~)) "Electricity product" means the electrical energy produced by a generating facility or facilities that a retail supplier sells or offers to sell to retail electric customers in the state of Washington, provided that nothing in this title shall be construed to mean that electricity is a good or product for the purposes of Title 62A RCW, or any other purpose. It does not include electrical energy generated on-site at a retail electric customer's premises.

((~~(14)~~)) (13) "Fuel mix" means the actual or imputed sources of electricity sold to retail electric customers, expressed in terms of percentage contribution by resource category. The total fuel mix included in each disclosure shall total one hundred percent.

((~~(15)~~)) (14) "Geothermal generation" means electricity derived from thermal energy naturally produced within the earth.

((~~(16)~~)) (15) "Governing body" means the council of a city or town, the commissioners of an irrigation district, municipal electric utility, or public utility district, or the board of directors of an electric cooperative or mutual association that has the authority to set and approve rates.

((~~(17)~~)) (16) "High efficiency cogeneration" means electricity produced by equipment, such as heat or steam used for industrial, commercial, heating, or cooling purposes, that meets the federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978.

((~~(18)~~)) (17) "Hydroelectric generation" means a power source created when water flows from a higher elevation to a lower elevation and the flow is converted to electricity in one or more generators at a single facility.

((~~(19)~~)) (18) "Investor-owned utility" means a company owned by investors that meets the definition of RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

((~~(20)~~)) (19) "Landfill gas generation" means electricity produced by a generating facility that uses waste gases produced by the decomposition of organic materials in landfills.

((~~(21)~~)) (20) "Natural gas generation" means electricity produced by a generating facility that burns natural gas as the primary fuel source.

((~~(22) "Net system power mix" means the fuel mix in the Northwest power pool, net of: (a) Any declared resources in the Northwest power pool identified by in-state retail suppliers or out-of-state entities that offer electricity for sale to retail electric customers; (b) any electricity sold by the Bonneville power administration to direct service industrial customers; and (c) any resource specific sales made by the Bonneville power administration.~~

~~(23)~~)) (21)(a) "Nonpower attributes" has the same meaning as defined in RCW 19.285.030 for an eligible renewable resource as that term is defined in RCW 19.285.030.

(b) "Nonpower attributes" may also include greenhouse gas emission reduction credits, offsets, or similar tradable commodities that may be associated with the generation or consumption of electricity.

(22) "Northwest power pool" means the generating resources included in the United States portion of the Northwest power pool area as defined by the western ((~~systems~~)) electric coordinating council.

((~~(24)~~)) (23) "Oil generation" means electricity produced by a generating facility that burns oil as the primary fuel source.

((~~(25)~~)) (24) "Private customer information" includes a retail electric customer's name, address, telephone number, and other personally identifying information.

((~~(26)~~)) (25) "Proprietary customer information" means: (a) Information that relates to the source, technical configuration, destination, and amount of electricity used by a retail electric customer, a retail electric customer's payment history, and household data that is made available by the customer solely by virtue of the utility-customer relationship; and (b) information contained in a retail electric customer's bill.

((~~(27)~~)) (26) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

((~~(28)~~)) (27) "Resale" means the purchase and subsequent sale of electricity ((~~for profit, but does not include the purchase and the subsequent sale of electricity at the same rate at which the electricity was purchased~~)).

((~~(29)~~)) (28) "Retail electric customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

((~~(30)~~)) (29) "Retail supplier" means an electric utility that offers an electricity product for sale to retail electric customers in the state.

((~~(31)~~)) (30) "Small utility" means any consumer-owned utility with twenty-five thousand or fewer electric meters in service, or that has an average of seven or fewer customers per mile of distribution line.

((~~(32)~~)) (31) "Solar generation" means electricity derived from radiation from the sun that is directly or indirectly converted to electrical energy.

((~~(33)~~)) (32) "State" means the state of Washington.

((~~(34)~~)) (33) "Unspecified sources" means the fuel mix of the Northwest power pool from electric generation that is available to be sold on the wholesale market, calculated as recommended by the work group pursuant to RCW 19.29A.070 and incorporated to the extent practicable by the department.

(34) "Waste incineration generation" means electricity derived from burning solid or liquid wastes from businesses, households, municipalities, or waste treatment operations.

(35) "Wind generation" means electricity created by movement of air that is converted to electrical energy.

**Sec.**  RCW 19.29A.060 and 2000 c 213 s 4 are each amended to read as follows:

(1) Each retail supplier shall disclose the fuel mix of each electricity product it ((~~offers~~)) delivers to its retail electric customers as follows:

(a) ((~~For an electricity product comprised entirely of declared resources,~~)) A retail supplier shall disclose the fuel mix for the electricity product based on the quantity of electric generation from ((~~those~~)) declared resources for the previous calendar year, unspecified sources, and any adjustment, if taken, available under subsection (6) of this section.

(b) ((~~For an electricity product comprised of no declared resources, a retail supplier shall report the fuel mix for the electricity product as the fuel mix of net system power for the previous calendar year, as determined by the electricity information coordinator under RCW 19.29A.080.~~)) Declared resources must be reported by the retail supplier as those resources reasonably known to be used to serve the retail supplier's electric customers in the state.

(c) For an electricity product comprised of a combination of declared resources and ((~~the net system power~~)) unspecified sources, a retail supplier shall disclose the fuel mix for the electricity product as ((~~a weighted average of~~)) the megawatt-hours from declared resources and the megawatt-hours from ((~~the net system power mix~~)) unspecified sources for the previous calendar year according to the proportion of declared resources and ((~~net system power~~)) unspecified sources contained in the electricity product.

(2) The disclosures required by this section shall identify the percentage of the total electricity product sold by a retail supplier during the previous calendar year from each of the following categories:

(a) Coal generation;

(b) Hydroelectric generation;

(c) Natural gas generation;

(d) Nuclear generation; ((~~and~~))

(e) Other generation, except that when a component of the other generation category meets or exceeds two percent of the total electricity product sold by a retail supplier during the previous calendar year, the retail supplier shall ((~~identify~~)) disclose the component or components and display the fuel mix percentages for these component sources, which may include, but are not limited to: (i) Biomass generation; (ii) geothermal generation; (iii) landfill gas generation; (iv) oil generation; (v) solar generation; (vi) waste incineration; or (vii) wind generation. A retail supplier may voluntarily identify any component or components within the other generation category that comprises two percent or less of annual sales; and

(f) Unspecified sources, using the fuel mix for unspecified sources as determined annually by the department under RCW 19.29A.080(5)(b).

(3) Retail suppliers may separately report a subcategory of natural gas generation to identify high efficiency cogeneration.

(4) Except as provided in subsection (3) of this section, a retail supplier cannot include in the disclosure label any environmental quality or environmental impact qualifier related to any of the generation categories disclosed.

(a) To ensure accuracy in informing customers and for purposes of any taxes or fees levied pursuant to the reports required to be filed by this chapter, a retail supplier and the department shall identify a resource according to the generation categories in subsection (2) of this section, regardless of whether or not any associated nonpower attributes of the resource have been retired, sold, or banked from the generation resource.

(b) A retail supplier shall separately report the form and amount of nonpower attributes associated with the electricity reported and whether those nonpower attributes were retired, sold, or banked during that reporting year.

(5) For the portion of an electricity product purchased from the Bonneville power administration, retail suppliers may disclose the Bonneville power administration system mix.

(6) A retail supplier may adjust its reported fuel mix for known changes in its declared resources for the current year based on any changes in its sources of electricity supply from either generation or contracts. If a retail supplier changes its fuel mix during a calendar year, it shall report those changes to the ((~~electricity information coordinator~~)) department.

(7) Disclosure of the fuel mix information required in this section shall be made in the following uniform format: A tabular format with two columns, where the first column shall alphabetically list each category and the second column shall display the corresponding percentage of the total that each category represents. The percentage shall be reported as a numeric value rounded to the nearest one percent. The percentages listed for the categories identified must sum to one hundred percent with the table displaying such a total.

**Sec.**  RCW 19.29A.070 and 2000 c 213 s 5 are each amended to read as follows:

(1) By July 1, 2016, the department shall:

((~~(1)~~)) (a) Convene a work group of interested parties on an annual basis to ((~~suggest modifications, if any, to the disclosure requirements required in RCW 19.29A.060 to~~)) improve information content, readability, and consumer understanding, and to suggest modifications, if any, ((~~to the responsibilities of the electricity information coordinator required in RCW 19.29A.080~~)) to improve the accuracy and efficiency of the ((~~tracking process. If the department serves as the electricity information coordinator, these evaluation and reporting requirements relative to the responsibilities of the electricity information coordinator and the tracking process shall be assigned to an independent third party~~)) process of gathering, reporting, calculating, and tracking fuel mix data, including the methods and inputs for calculating the fuel mix for unspecified sources, including a review and recommendations for intra-annual changes of unspecified sources and resources on the margin, on a monthly basis or quarterly basis; and

((~~(2)~~)) (b) Invite interested parties, including but not limited to representatives from investor-owned utilities, consumer-owned utilities, the commission, the attorney general's office, consumer advocacy groups, and the environmental community to participate in the work group convened in (a) of this subsection ((~~(1) of this section; and~~)).

((~~(3)~~)) (2) By December 1, 2016, the department and the work group shall submit to the legislature ((~~no later than December 1, 2003,~~)) a report with suggested modifications, if any, to the disclosure methods, calculations, and requirements, the accuracy of the unspecified sources calculations and pool of resources, and the responsibilities of the ((~~electricity information coordinator~~)) department, as referred to in subsection (1) of this section.

**Sec.**  RCW 19.29A.080 and 2000 c 213 s 6 are each amended to read as follows:

(1) ((~~For the purpose of selecting the electricity information coordinator, the department shall form a work group of interested parties. The department shall invite interested parties, including, but not limited to, representatives from investor-owned utilities, consumer-owned utilities, the commission, the attorney general's office, consumer advocacy groups, and the environmental community to participate in the work group. In the event an appropriate regional entity is not selected by November 1, 2000, the department shall serve as the electricity information coordinator after notifying the committees of the senate and house of representatives with jurisdiction over energy matters.~~)) In order to ensure that fuel mix information is verifiable and accurate, the department must on an annual basis:

(a) Compile the generation data in the Northwest power pool by generating project, generation, and by resource category;

(b) Compile the information required under subsection (3) of this section;

(c) Compare the quantity of electricity from declared resources by retail suppliers with the total reported generation from these resources;

(d) Calculate the fuel mix for unspecified sources;

(e) Coordinate with other comparable organizations in the western interconnection;

(f) Publish an annual fuel mix disclosure report;

(g) Make the data and calculations used for developing the fuel mix information in this section available to the public as it becomes available or is developed by the department.

(2) The department may receive any lawful gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the department in implementing this section, and may spend such gifts, grants, or endowments for the purposes of implementing this section.

(3) ((~~As a condition for an appropriate regional entity to be selected under this section to serve as the electricity information coordinator, it must agree to~~)) The department must compile the following information for the prior calendar year:

(a) Actual generation, expressed in megawatt hours, by fuel mix in the Northwest power pool ((~~for the prior calendar year, expressed in megawatt hours. This data will be compiled~~)) as it becomes available.

(b) Adjustments to the actual generation for the prior calendar year that are known and provided to the ((~~electricity information coordinator~~)) department by the end of January of the current calendar year to reflect known changes in declared resources ((~~for the current year and~~)).

(c) Changes due to interconnection of new generating resources or decommissioning or sale of existing resources or contracts. These adjustments shall include supporting documentation.

((~~(c)~~)) (d) Pursuant to RCW 19.29A.060(4)(a), the form and amount of electricity reported to the department by retail suppliers by the fuel sources identified in RCW 19.29A.060(2), regardless of the disposition of the associated nonpower attributes.

(e) The form and amount of nonpower attributes associated with declared resources that a retail supplier retired, banked, or sold.

(f) The amount of electricity from declared resources that retail suppliers will identify in their fuel mix disclosures ((~~during the current calendar year~~)). Retail suppliers shall make this data available by the end of January ((~~each~~)) of the following year.

(g) The amount of electricity from unspecified sources that retail suppliers will identify in their fuel mix disclosures.

(4) Retail suppliers shall make available upon request the following ((~~information to support the ownership or contractual rights to declared resources~~)):

(a) Documentation of ownership of declared resources by retail suppliers; ((~~or~~))

(b) Documentation of contractual rights by retail suppliers to a stated quantity of electricity from a specific generating facility; and

(c) Information regarding or demonstration of purchases of electricity from unspecified sources.

((~~If the documentation referred to in either (a) or (b) of this subsection is not available, the retail supplier may not identify the electricity source as a declared resource and instead must report the net system power mix for the quantity of electric generation from that resource.~~

~~(5) If the documentation referred to in either subsection (4)(a) or (b) of this section is not available, the retail supplier may not identify the electricity source as a declared resource and instead must report the net system power mix for the quantity of electric generation from that resource.~~

~~(6) As a condition for an appropriate regional entity to be selected under this section to serve as the electricity information coordinator, it must agree to~~)) (5) The department must:

(a) Coordinate with comparable entities or organizations in the western interconnection;

(b) On or before May 1st of each year, or as soon thereafter as practicable once the data in subsection (3)((~~(a)~~)) of this section is available, and incorporating the recommendations of the work group, calculate and make available to the extent possible on an intra-annual basis, the ((~~net system power mix~~)) fuel mix for unspecified sources as follows:

(i) The actual Northwest power pool generation for the prior calendar year by project and resource type;

(ii) Plus any adjustments to the Northwest power pool generation as made available to the ((~~electricity information coordinator~~)) department by the end of January of the current calendar year ((~~pursuant to RCW 19.29A.060(6)~~));

(iii) Less the ((~~quantity of electricity associated with declared resources claimed by retail suppliers for the current calendar year~~)) amount of electricity from declared resources in the Northwest power pool identified by in-state retail suppliers or out-of-state entities as sold to retail electric customers;

(iv) Less the quantity of electricity, including the Bonneville power administration system mix and resource specific sales, by fuel type sold to retail customers by retail suppliers in states other than Washington within the geographic area of the Northwest power pool;

(v) Less the Bonneville power administration system mix and resource-specific sales sold to retail suppliers and delivered to retail electric customers in Washington;

(vi) Less the quantity of electricity generated within the Northwest power pool and sold outside of its geographic area;

(vii) Less any electricity sold by the Bonneville power administration or other sellers to direct service industrial customers;

(viii) Other adjustments necessary to determine resources on the margin on the intra-annual basis selected by the department pursuant to recommendations of the work group; and

((~~(iv)~~)) (ix) Plus other adjustments necessary to ensure that the same resource output is not declared more than once;

(c) To the extent the information is available, verify that the quantity of electricity associated with the declared resources does not exceed the available generation from those resources.

((~~(7) Subsections (3) and (6) of this section apply to the department in the event the department assumes the functions of the electricity information coordinator.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 19.29A RCW to read as follows:

Each electric utility shall disclose on all billing statements sent to retail electric customers the costs of electricity generated, as well as the environmental costs, for each category of electricity product disclosed under the fuel mix disclosure in RCW 19.29A.060(2).

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