

ESSB 5735 - S AMD 478

By Senator Ericksen

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

27 **Sec. 3.** RCW 19.285.030 and 2014 c 45 s 1 are each amended to
28 read as follows:

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

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

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

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

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

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

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

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

25 (7) "Cost-effective" has the same meaning as defined in RCW
26 80.52.030.

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

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

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

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

37 (12) "Eligible renewable resource" means:

38 (a) Electricity from a generation facility powered by a renewable
39 resource other than freshwater that commences operation after March
40 31, 1999, where: (i) The facility is located in the Pacific

1 Northwest; or (ii) the electricity from the facility is delivered
2 into Washington state on a real-time basis without shaping, storage,
3 or integration services;

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

9 (c) Hydroelectric generation from a project completed after March
10 31, 1999, where the generation facility is located in irrigation
11 pipes, irrigation canals, water pipes whose primary purpose is for
12 conveyance of water for municipal use, and wastewater pipes located
13 in Washington where the generation does not result in new water
14 diversions or impoundments;

15 (d) Carbon reduction investments;

16 (e) Qualified biomass energy; or

17 ((+e)) (f) For a qualifying utility that serves customers in
18 other states, electricity from a generation facility powered by a
19 renewable resource other than freshwater that commences operation
20 after March 31, 1999, where: (i) The facility is located within a
21 state in which the qualifying utility serves retail electrical
22 customers; and (ii) the qualifying utility owns the facility in whole
23 or in part or has a long-term contract with the facility of at least
24 twelve months or more.

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

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

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

38 (b) "Nonpower attributes" does not include any aspects, claims,
39 characteristics, and benefits associated with the on-site capture and
40 destruction of methane or other greenhouse gases at a facility

1 through a digester system, landfill gas collection system, or other
2 mechanism, which may be separately marketable as greenhouse gas
3 emission reduction credits, offsets, or similar tradable commodities.
4 However, these separate avoided emissions may not result in or
5 otherwise have the effect of attributing greenhouse gas emissions to
6 the electricity.

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

11 (17) "Public facility" has the same meaning as defined in RCW
12 39.35C.010.

13 (18) "Qualified biomass energy" means electricity produced from a
14 biomass energy facility that: (a) Commenced operation before March
15 31, 1999; (b) contributes to the qualifying utility's load; and (c)
16 is owned either by: (i) A qualifying utility; or (ii) an industrial
17 facility that is directly interconnected with electricity facilities
18 that are owned by a qualifying utility and capable of carrying
19 electricity at transmission voltage.

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

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

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

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

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

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

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

23 **Sec. 4.** RCW 19.285.040 and 2014 c 26 s 1 are each amended to
24 read as follows:

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

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

1 (b) Beginning January 2010, each qualifying utility shall
2 establish and make publicly available a biennial acquisition target
3 for cost-effective conservation consistent with its identification of
4 achievable opportunities in (a) of this subsection, and meet that
5 target during the subsequent two-year period. At a minimum, each
6 biennial target must be no lower than the qualifying utility's pro
7 rata share for that two-year period of its cost-effective
8 conservation potential for the subsequent ten-year period.

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

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

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

39 (d) In meeting its conservation targets, a qualifying utility may
40 count high-efficiency cogeneration owned and used by a retail

1 electric customer to meet its own needs. High-efficiency cogeneration
2 is the sequential production of electricity and useful thermal energy
3 from a common fuel source, where, under normal operating conditions,
4 the facility has a useful thermal energy output of no less than
5 thirty-three percent of the total energy output. The reduction in
6 load due to high-efficiency cogeneration shall be: (i) Calculated as
7 the ratio of the fuel chargeable to power heat rate of the
8 cogeneration facility compared to the heat rate on a new and clean
9 basis of a best-commercially available technology combined-cycle
10 natural gas-fired combustion turbine; and (ii) counted towards
11 meeting the biennial conservation target in the same manner as other
12 conservation savings.

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

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

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

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

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

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

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

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

36 (d) A qualifying utility shall be considered in compliance with
37 an annual target in (a) of this subsection if: (i) The utility's
38 weather-adjusted load for the previous three years on average did not
39 increase over that time period; (ii) after December 7, 2006, the
40 utility did not commence or renew ownership or incremental purchases

1 of electricity from resources other than coal transition power or
2 renewable resources other than on a daily spot price basis and the
3 electricity is not offset by equivalent renewable energy credits; and
4 (iii) the utility invested at least one percent of its total annual
5 retail revenue requirement that year on eligible renewable resources,
6 renewable energy credits, or a combination of both.

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

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

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

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

25 (B) The emission reductions must start on or after January 1,
26 2016; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (3) Utilities that become qualifying utilities after December 31,
36 2006, shall meet the requirements in this section on a time frame
37 comparable in length to that provided for qualifying utilities as of
38 December 7, 2006.

1 **Sec. 5.** RCW 19.285.070 and 2007 c 1 s 7 are each amended to read
2 as follows:

3 (1) On or before June 1, 2012, and annually thereafter, each
4 qualifying utility shall report to the department on its progress in
5 the preceding year in meeting the targets established in RCW
6 19.285.040, including expected electricity savings from the biennial
7 conservation target, expenditures on conservation, actual electricity
8 savings results, the utility's annual load for the prior two years,
9 the amount of megawatt-hours needed to meet the annual renewable
10 energy target, the amount of megawatt-hours of each type of eligible
11 renewable resource acquired, the type and amount of renewable energy
12 credits acquired, the type and amount of any carbon reduction
13 investments, and the percent of its total annual retail revenue
14 requirement invested in the incremental cost of eligible renewable
15 resources and the cost of renewable energy credits. For each year
16 that a qualifying utility elects to demonstrate alternative
17 compliance under RCW 19.285.040(2) (d) or (~~(i)~~) (j) or
18 19.285.050(1), it must include in its annual report relevant data to
19 demonstrate that it met the criteria in that section. A qualifying
20 utility may submit its report to the department in conjunction with
21 its annual obligations in chapter 19.29A RCW.

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

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

29 NEW SECTION. **Sec. 6.** (1) The joint committee on energy supply
30 and energy conservation shall study the promotion of carbon reduction
31 in the electricity sector. The study must include the following:

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

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

38 (c) A recommendation on adjusting the compliance equivalent in
39 RCW 19.285.040(2)(e). The recommendation shall include an analysis

1 applying the life-cycle assessment criteria developed for carbon
2 reduction investments to eligible renewable resources; and
3 (d) A recommendation for new annual conservation and eligible
4 renewable targets in chapter 19.285 RCW to take effect after 2020.
5 (2) The joint committee must hold at least two public hearings to
6 gather information for the study, with at least one hearing in
7 western Washington and one hearing in eastern Washington.
8 (3) A final report must be delivered to the appropriate
9 committees of the legislature by December 14, 2016.
10 (4) The joint committee may contract with independent consultants
11 to assist in conducting the study and preparing the final report."

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By Senator Ericksen

12 On page 1, line 2 of the title, after "investments;" strike the
13 remainder of the title and insert "amending RCW 19.285.010,
14 19.285.020, 19.285.030, 19.285.040, and 19.285.070; and creating a
15 new section."

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

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