
HOUSE BILL 1836

State of Washington

68th Legislature

2023 Regular Session

By Representative Hackney

Read first time 02/17/23. Referred to Committee on Environment & Energy.

1 AN ACT Relating to the treatment of waste heat under the clean
2 energy transformation act; and amending RCW 19.405.020.

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

4 **Sec. 1.** RCW 19.405.020 and 2020 c 20 s 1004 are each amended to
5 read as follows:

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

8 (1) "Allocation of electricity" means, for the purposes of
9 setting electricity rates, the costs and benefits associated with the
10 resources used to provide electricity to an electric utility's retail
11 electricity consumers that are located in this state.

12 (2) "Alternative compliance payment" means the payment
13 established in RCW 19.405.090(2).

14 (3) "Attorney general" means the Washington state office of the
15 attorney general.

16 (4) "Auditor" means: (a) The Washington state auditor's office or
17 its designee for utilities under its jurisdiction under this chapter
18 that are consumer-owned utilities; or (b) an independent auditor
19 selected by a utility that is not under the jurisdiction of the state
20 auditor and is not an investor-owned utility.

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

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

11 (6) "Carbon dioxide equivalent" has the same meaning as defined
12 in RCW 70A.45.010.

13 (7) (a) "Coal-fired resource" means a facility that uses coal-
14 fired generating units, or that uses units fired in whole or in part
15 by coal as feedstock, to generate electricity.

16 (b) (i) "Coal-fired resource" does not include an electric
17 generating facility that is included as part of a limited duration
18 wholesale power purchase, not to exceed one month, made by an
19 electric utility for delivery to retail electric customers that are
20 located in this state for which the source of the power is not known
21 at the time of entry into the transaction to procure the electricity.

22 (ii) "Coal-fired resource" does not include an electric
23 generating facility that is subject to an obligation to meet the
24 standards contained in RCW 80.80.040(3)(c).

25 (8) "Commission" means the Washington utilities and
26 transportation commission.

27 (9) "Conservation and efficiency resources" means any reduction
28 in electric power consumption that results from increases in the
29 efficiency of energy use, production, transmission, or distribution.

30 (10) "Consumer-owned utility" means a municipal electric utility
31 formed under Title 35 RCW, a public utility district formed under
32 Title 54 RCW, an irrigation district formed under chapter 87.03 RCW,
33 a cooperative formed under chapter 23.86 RCW, or a mutual corporation
34 or association formed under chapter 24.06 RCW, that is engaged in the
35 business of distributing electricity to more than one retail electric
36 customer in the state.

37 (11) "Demand response" means changes in electric usage by demand-
38 side resources from their normal consumption patterns in response to
39 changes in the price of electricity, or to incentive payments
40 designed to induce lower electricity use, at times of high wholesale

1 market prices or when system reliability is jeopardized. "Demand
2 response" may include measures to increase or decrease electricity
3 production on the customer's side of the meter in response to
4 incentive payments.

5 (12) "Department" means the department of commerce.

6 (13) "Distributed energy resource" means a nonemitting electric
7 generation or renewable resource or program that reduces electric
8 demand, manages the level or timing of electricity consumption, or
9 provides storage, electric energy, capacity, or ancillary services to
10 an electric utility and that is located on the distribution system,
11 any subsystem of the distribution system, or behind the customer
12 meter, including conservation and energy efficiency.

13 (14) "Electric utility" or "utility" means a consumer-owned
14 utility or an investor-owned utility.

15 (15) "Energy assistance" means a program undertaken by a utility
16 to reduce the household energy burden of its customers.

17 (a) Energy assistance includes, but is not limited to,
18 weatherization, conservation and efficiency services, and monetary
19 assistance, such as a grant program or discounts for lower income
20 households, intended to lower a household's energy burden.

21 (b) Energy assistance may include direct customer ownership in
22 distributed energy resources or other strategies if such strategies
23 achieve a reduction in energy burden for the customer above other
24 available conservation and demand-side measures.

25 (16) "Energy assistance need" means the amount of assistance
26 necessary to achieve a level of household energy burden established
27 by the department or commission.

28 (17) "Energy burden" means the share of annual household income
29 used to pay annual home energy bills.

30 (18)(a) "Energy transformation project" means a project or
31 program that: Provides energy-related goods or services, other than
32 the generation of electricity; results in a reduction of fossil fuel
33 consumption and in a reduction of the emission of greenhouse gases
34 attributable to that consumption; and provides benefits to the
35 customers of an electric utility.

36 (b) "Energy transformation project" may include but is not
37 limited to:

38 (i) Home weatherization or other energy efficiency measures,
39 including market transformation for energy efficiency products, in
40 excess of: The target established under RCW 19.285.040(1), if

1 applicable; other state obligations; or other obligations in effect
2 on May 7, 2019;

3 (ii) Support for electrification of the transportation sector
4 including, but not limited to:

5 (A) Equipment on an electric utility's transmission and
6 distribution system to accommodate electric vehicle connections, as
7 well as smart grid systems that enable electronic interaction between
8 the electric utility and charging systems, and facilitate the
9 utilization of vehicle batteries for system needs;

10 (B) Incentives for the sale or purchase of electric vehicles,
11 both battery and fuel cell powered, as authorized under state or
12 federal law;

13 (C) Incentives for the installation of charging equipment for
14 electric vehicles;

15 (D) Incentives for the electrification of vehicle fleets
16 utilizing a battery or fuel cell for electric supply;

17 (E) Incentives to install and operate equipment to produce or
18 distribute renewable hydrogen; and

19 (F) Incentives for renewable hydrogen fueling stations;

20 (iii) Investment in distributed energy resources and grid
21 modernization to facilitate distributed energy resources and improved
22 grid resilience;

23 (iv) Investments in equipment for renewable natural gas
24 processing, conditioning, and production, or equipment or
25 infrastructure used solely for the purpose of delivering renewable
26 natural gas for consumption or distribution;

27 (v) Contributions to self-directed investments in the following
28 measures to serve the sites of large industrial gas and electrical
29 customers: (A) Conservation; (B) new renewable resources; (C) behind-
30 the-meter technology that facilitates demand response cooperation to
31 reduce peak loads; (D) infrastructure to support electrification of
32 transportation needs, including battery and fuel cell
33 electrification; or (E) renewable natural gas processing,
34 conditioning, or production; and

35 (vi) Projects and programs that achieve energy efficiency and
36 emission reductions in the agricultural sector, including bioenergy
37 and renewable natural gas projects.

38 (19) "Fossil fuel" means natural gas, petroleum, coal, or any
39 form of solid, liquid, or gaseous fuel derived from such a material.

1 (20) "Governing body" means: The council of a city or town; the
2 commissioners of an irrigation district, municipal electric utility,
3 or public utility district; or the board of directors of an electric
4 cooperative or mutual association that has the authority to set and
5 approve rates.

6 (21) "Greenhouse gas" includes carbon dioxide, methane, nitrous
7 oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and
8 any other gas or gases designated by the department of ecology by
9 rule under RCW 70A.45.010.

10 (22) "Greenhouse gas content calculation" means a calculation
11 expressed in carbon dioxide equivalent and made by the department of
12 ecology, in consultation with the department, for the purposes of
13 determining the emissions from the complete combustion or oxidation
14 of fossil fuels and the greenhouse gas emissions in electricity for
15 use in calculating the greenhouse gas emissions content in
16 electricity.

17 (23) "Highly impacted community" means a community designated by
18 the department of health based on cumulative impact analyses in RCW
19 19.405.140 or a community located in census tracts that are fully or
20 partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

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

25 (25) "Low-income" means household incomes as defined by the
26 department or commission, provided that the definition may not exceed
27 the higher of eighty percent of area median household income or two
28 hundred percent of the federal poverty level, adjusted for household
29 size.

30 (26)(a) "Market customer" means a nonresidential retail electric
31 customer of an electric utility that: (i) Purchases electricity from
32 an entity or entities other than the utility with which it is
33 directly interconnected; or (ii) generates electricity to meet one
34 hundred percent of its own needs.

35 (b) An "affected market customer" is a customer of an investor-
36 owned utility who becomes a market customer after May 7, 2019.

37 (27)(a) "Natural gas" means naturally occurring mixtures of
38 hydrocarbon gases and vapors consisting principally of methane,
39 whether in gaseous or liquid form, including methane clathrate.

1 (b) "Natural gas" does not include renewable natural gas or the
2 portion of renewable natural gas when blended into other fuels.

3 (28) (a) "Nonemitting electric generation" means electricity from
4 a generating facility or a resource that provides electric energy,
5 capacity, or ancillary services to an electric utility and that does
6 not emit greenhouse gases as a by-product of energy generation.

7 (b) "Nonemitting electric generation" does not include renewable
8 resources.

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

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

26 (30) "Qualified transmission line" means an overhead transmission
27 line that is: (a) Designed to carry a voltage in excess of one
28 hundred thousand volts; (b) owned in whole or in part by an investor-
29 owned utility; and (c) primarily or exclusively used by such an
30 investor-owned utility as of May 7, 2019, to transmit electricity
31 generated by a coal-fired resource.

32 (31) "Renewable energy credit" means a tradable certificate of
33 proof of one megawatt-hour of a renewable resource. The certificate
34 includes all of the nonpower attributes associated with that one
35 megawatt-hour of electricity and the certificate is verified by a
36 renewable energy credit tracking system selected by the department.

37 (32) "Renewable hydrogen" means hydrogen produced using renewable
38 resources both as the source for the hydrogen and the source for the
39 energy input into the production process.

1 (33) "Renewable natural gas" means a gas consisting largely of
2 methane and other hydrocarbons derived from the decomposition of
3 organic material in landfills, wastewater treatment facilities, and
4 anaerobic digesters.

5 (34) "Renewable resource" means: (a) Water; (b) wind; (c) solar
6 energy; (d) geothermal energy; (e) renewable natural gas; (f)
7 renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel
8 fuel that is not derived from crops raised on land cleared from old
9 growth or first growth forests; or (i) biomass energy.

10 (35)(a) "Retail electric customer" means a person or entity that
11 purchases electricity from any electric utility for ultimate
12 consumption and not for resale.

13 (b) "Retail electric customer" does not include, in the case of
14 any electric utility, any person or entity that purchases electricity
15 exclusively from carbon-free and eligible renewable resources, as
16 defined in RCW 19.285.030 as of January 1, 2019, pursuant to a
17 special contract with an investor-owned utility approved by an order
18 of the commission prior to May 7, 2019.

19 (36) "Retail electric load" means the amount of megawatt-hours of
20 electricity delivered in a given calendar year by an electric utility
21 to its Washington retail electric customers. "Retail electric load"
22 does not include:

23 (a) Megawatt-hours delivered from qualifying facilities under the
24 federal public utility regulatory policies act of 1978, P.L. 95-617,
25 in operation prior to May 7, 2019, provided that no entity other than
26 the electric utility can make a claim on delivery of the megawatt-
27 hours from those resources; or

28 (b) Megawatt-hours delivered to an electric utility's system from
29 a renewable resource through a voluntary renewable energy purchase by
30 a retail electric customer of the utility in which the renewable
31 energy credits associated with the megawatt-hours delivered are
32 retired on behalf of the retail electric customer.

33 (37) "Thermal renewable energy credit" means, with respect to a
34 facility that generates electricity using biomass energy that also
35 generates thermal energy for a secondary purpose, or with respect to
36 a municipal wastewater facility that generates waste heat, a
37 renewable energy credit that is equivalent to three million four
38 hundred twelve thousand British thermal units of energy used for such
39 secondary purpose.

1 (38) "Unbundled renewable energy credit" means a renewable energy
2 credit that is sold, delivered, or purchased separately from
3 electricity. All thermal renewable energy credits are considered
4 unbundled renewable energy credits.

5 (39) "Unspecified electricity" means an electricity source for
6 which the fuel attribute is unknown or has been separated from the
7 energy delivered to retail electric customers.

8 (40) "Vulnerable populations" means communities that experience a
9 disproportionate cumulative risk from environmental burdens due to:

10 (a) Adverse socioeconomic factors, including unemployment, high
11 housing and transportation costs relative to income, access to food
12 and health care, and linguistic isolation; and

13 (b) Sensitivity factors, such as low birth weight and higher
14 rates of hospitalization.

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