

# FINAL BILL REPORT

## Initiative-937

---

---

C 1 L 07  
Synopsis as Enacted

**Brief Description:** Energy Independence Act.

**Sponsors:** People of the State of Washington.

**Background:** More than sixty utilities supply electricity to consumers in Washington. Public utilities, such as municipal utilities and public utility districts (PUDs), provide approximately 50 percent of the state's electricity. Private utilities, also called "investor-owned utilities," provide around 45 percent. Non-profit, consumer-owned utilities, such as cooperatives and mutual corporations, provide the remaining 5 percent of the state's electricity.

Investor-owned utilities are regulated by the Washington Utilities and Transportation Commission (WUTC). Each public utility is governed by its own board, commission, or city. Non-profit, consumer-owned utilities are governed by their own elected panels of customers.

According to 2004 data compiled by the federal Energy Information Administration, seventeen utilities in Washington have more than 25,000 customers: Avista Corp.; Benton County PUD; Chelan County PUD; Clallam County PUD; Clark County PUD; Cowlitz County PUD; Grant County PUD; Grays Harbor County PUD; Inland Power & Light Co.; Lewis County PUD; Mason County PUD No. 3; PacifiCorp; Peninsula Light Co.; Puget Sound Energy; Seattle City Light; Snohomish County PUD; and Tacoma Public Utilities.

**Summary:** Energy Conservation Assessments and Targets

Each electric utility with more than 25,000 customers in the state, called a "qualifying utility," must pursue all available conservation that is cost-effective, reliable, and feasible. By January 1, 2010, each qualifying utility must assess the conservation it can achieve through 2019, and update the assessments every two years for the next ten-year period. Beginning January 2010, each qualifying utility must establish and meet biennial conservation targets that are consistent with its conservation assessments. In meeting its target, a utility may count certain types of customer-owned and -operated high-efficiency cogeneration, such as a factory that uses waste energy from its processing operations to produce usable heat or electricity.

Renewable Resources Targets

"Eligible renewable resource" includes wind; solar; geothermal energy; landfill and sewage gas; wave and tidal power; and certain biomass and biodiesel fuels. Electricity produced from an eligible renewable resource must be generated in a facility that started operating after March 31, 1999. In addition, the facility must either be located in the Pacific Northwest or the electricity from the facility must be delivered into the state on a real-time basis. Additional power produced from upgrades at hydropower facilities owned by qualifying utilities is also an eligible renewable resource if the upgrades were completed after March 31, 1999.

A "renewable energy credit" is defined as a tradable certificate of proof of at least one megawatthour of an eligible renewable resource. They are sometimes called "green tags," and they represent the environmental benefits of "green power." The credits can be bought and sold as a commodity in the energy marketplace. The initiative requires a renewable energy credit to be verified by a tracking system selected by the Department of Community, Trade, and Economic Development (CTED).

Each qualifying utility must use "eligible renewable resources" or acquire equivalent renewable energy credits to meet the following annual targets:

- At least 3 percent of its retail customers' electricity needs by January 1, 2012, and each year thereafter through December 31, 2015;
- At least 9 percent of its retail customers' electricity needs by January 1, 2016, and each year thereafter through December 31, 2019; and
- At least 15 percent of its retail customers' electricity needs by January 1, 2020, and each year thereafter.

Extra credit toward meeting the targets is provided for certain investments in facilities up to five megawatts in size and for investments in facilities that use state-approved apprenticeship programs during construction.

A detailed method for calculating compliance with the renewable resources targets is specified. A qualified utility that fails to meet an annual target will still be considered in compliance with the initiative if any of the following exceptions apply: (1) the failure was due to events beyond the reasonable control and anticipation of a qualified utility, such as weather-related damage affecting the generation, transmission, or distribution of an eligible renewable resource under contract; (2) the utility spent 4 percent of its total annual revenue needs to meet the renewable requirements; or (3) the utility spent 1 percent of its total annual revenue needs to meet the renewable requirements, had no increases in the demand for electricity for three years, and did not sign any contracts for nonrenewable resources.

#### Utilities Reaching More than 25,000 Customers after December 2, 2006

Newly qualifying utilities must meet the conservation and renewable acquisition requirements on a time frame comparable in length to that provided for currently qualifying utilities.

#### Accountability and Enforcement

Qualified utilities that fail to comply with the initiative's targets for conservation or renewable energy, and for which the exceptions do not apply, must pay an administrative penalty of fifty dollars for each megawatt-hour of shortfall. Beginning in 2007, the penalty will be annually adjusted for inflation using a specified U.S. Department of Commerce indicator. Within three months of incurring a penalty, a utility must notify its retail customers in writing of the size and reason for the penalty.

Administrative penalties must be deposited into a special account which may only be used to purchase renewable energy credits or energy conservation projects at public facilities, local government facilities, community colleges, or state universities. The Department of General Administration will manage the account, which is allotted and not appropriated.

The WUTC will enforce the initiative for qualified investor-owned utilities, including any determinations regarding "cost-effective" conservation assessments and the recovery of penalties in rates. For qualified public utilities, the State Auditor will measure compliance and the Attorney General of Washington will enforce compliance. For non-profit, consumer-owned utilities, their independently hired auditors will measure compliance and the Attorney General of Washington will enforce compliance.

#### Reporting and Public Disclosure

By June 1, 2012, and each year thereafter, each qualifying utility must report to CTED its annual progress in meeting the initiative's conservation and renewable energy targets. The progress report must include a number of elements, such as conservation expenditures, megawatt hours acquired for each renewable resource, and any alternative compliance measures. Qualified

investor-owned utilities must also report to the WUTC. Qualified public utilities must make the information available to the State Auditor, and non-profit, consumer-owned utilities must make the information available to their independently hired auditors.

### Rule Making

The WUTC may adopt rules to implement and enforce the initiative as it applies to qualified investor-owned utilities. CTED must adopt rules to implement the initiative for qualified public utilities and non-profit, consumer-owned utilities, but the department is limited to rules regarding process, timelines, and documentation. Any rules needed to implement this initiative must be adopted by December 31, 2007.

The rule making authority specified in the initiative may not be construed to restrict the ratemaking authority of the WUTC or a qualifying utility as otherwise provided by law.

**Effective Date:** December 7, 2006.