

SENATE BILL REPORT

HB 2129

As Reported by Senate Committee On:
Environment, Water & Energy, March 25, 2009

Title: An act relating to the greenhouse gas emissions performance standard under chapter 80.80 RCW.

Brief Description: Regarding the greenhouse gas emissions performance standard under chapter 80.80 RCW.

Sponsors: Representative Eddy.

Brief History: Passed House: 3/04/09, 95-0.

Committee Activity: Environment, Water & Energy: 3/18/09, 3/25/09 [DPA].

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Majority Report: Do pass as amended.

Signed by Senators Rockefeller, Chair; Pridemore, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Fraser, Hatfield, Holmquist, Marr, Morton and Ranker.

Staff: William Bridges (786-7416)

Background: Greenhouse Gas (GHG) Emissions Performance Standard for Electric Generation Plants. In 2007 the Legislature established a GHG emissions performance standard (EPS) for electric generation. Under the law, electric utilities may not enter into long-term financial commitments for baseload electric generation on or after July 1, 2008, unless the generating plant's emissions are the lower of:

- 1,100 pounds of GHG per megawatt-hour; or
- the average available GHG emissions output as updated by the Department of Community Trade and Economic Development.

"Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent. "Long-term financial commitment" means (1) either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or (2) a new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Review of Long-Term Financial Commitments by Investor-Owned Utilities (IOUs). In order to enforce the emissions performance standard, the Washington Utilities and Transportation Commission (WUTC) must determine if the baseload power supplied under a long-term financial commitment complies with the EPS. The WUTC is also authorized to decide at this time if, among other things, the company needs the resource and whether the resource is appropriate, taking into consideration such factors as a company's forecasted load. A review of a long-term financial commitment must be conducted under the Administrative Procedures Act.

Cost Deferrals for IOUs. The EPS permits an IOU to defer up to 24 months the costs associated with a long-term financial commitment for baseload electric generation. Recovery of deferred costs is subject to approval by the WUTC.

Eligible Renewable Resources under Initiative 937. Approved by voters in 2006, the Energy Independence Act, also known as Initiative 937, requires electric utilities with 25,000 or more customers to meet targets for energy conservation and for using eligible renewable resources.

Under the Initiative, "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. 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. Incremental electricity produced from efficiency improvements at hydropower facilities owned by qualifying utilities is also an eligible renewable resource, if the improvements were completed after March 31, 1999.

Applicability of EPS to Electricity Generated Outside the State. The GHG emissions performance law defines "power plant" as an electric generation facility permitted by the Energy Facility Site Evaluation Council (EFSEC) "or a local jurisdiction." During the rulemaking conducted by the Department of Ecology, an issue arose about the applicability of the EPS to electricity generated outside the state. Some asserted that because power plants outside the state are not sited by EFSEC or local governments in Washington, it could be argued that the electricity purchased from those plants would not be subject to the EPS. The department rejected this argument. It interpreted the EPS to apply to all sources of power in a new or renewed long-term contract for electricity, regardless of where the generating source is located.

Unspecified Sources of Power. An "unspecified source" of power is electricity that cannot be matched to a particular generating facility. It can result from a number of factors, including market purchases used to balance transmission and relieve short-term interruptions. Unspecified sources may also include such things as power purchased from independent producers that own a fleet of generating facilities or power purchased from the Bonneville Power Administration (BPA), which markets blended power from the region's federal dams, a nuclear power plant, a few wind farms, and other sources. Historically, BPA's unspecified sources of power have been no higher than 12 percent of its system sales.

It is difficult to ascribe emissions to unspecified sources of power. The Legislature charged the Department of Ecology, to the extent practicable, to address long-term purchases of electricity from unspecified sources in a manner consistent with the emissions performance law. Accordingly, the department adopted by rule a time-weighted average formula that assigns the default emission value of an average pulverized coal plant to an unspecified source of power.

Summary of Bill (Recommended Amendments): Changes the Definition of "Power Plant." The current definition of "power plant," which means a single plant sited by the Washington Energy Facility Site Evaluation Council or a local jurisdiction, is changed to mean a facility for the generation of electricity that is permitted as a single plant by a jurisdiction inside or outside the state.

Exempts Long-Term Financial Commitments With the Bonneville Power Administration. The EPS does not apply to long-term financial commitments with BPA.

Limits Unspecified Sources of Power in Long-Term Financial Commitments. No more than 12 percent of emissions in a long-term financial commitment may be from unspecified sources of power.

Adds Provisions to Protect Ratepayers. The WUTC and the governing boards of consumer-owned utilities may provide case-by-case exemptions to the EPS for extraordinary cost impacts on utility ratepayers.

Clarifies the Application of the EPS to Long-Term Financial Commitments With Multiple Power Plants. For a long-term financial commitment with multiple power plants, the emissions of each power plant must comply with the emissions performance standard, except for commitments already deemed to be in compliance under current law: baseload generation facilities in operation as of June 30, 2008; facilities powered exclusively by renewable resources; and certain cogeneration facilities using natural or waste gas.

Simplifying the Review of Long-Term Financial Commitments by IOUs. The provision concerning the review of long-term financial commitments for baseload generation is simplified. When an IOU submits a long-term financial commitment to the WUTC for review, the WUTC is only required to determine if the proposed baseload resource complies with the EPS. All other issues, such as the need for and appropriateness of the resource, will be determined in a subsequent rate case.

Changing Definitions for the Cost-Deferral Process. For the purposes of the cost-deferral process, the definition of "long-term financial commitment" includes an IOU's ownership or power purchase agreement of at least five years associated with an eligible renewable resource under Initiative 937.

Technical changes are made.

EFFECT OF CHANGES MADE BY ENVIRONMENT, WATER & ENERGY COMMITTEE (Recommended Amendments): Keeps the provisions in the underlying bill. Changes the definition of "power plant," which currently means a single plant sited by

the Washington Energy Facility Site Evaluation Council or a local jurisdiction, to mean a facility for the generation of electricity that is permitted as a single plant by a jurisdiction inside or outside the state. Exempts long-term financial commitments with the Bonneville Power Administration from the emissions performance standard. Specifies that no more than 12 percent of emissions in a long-term financial commitment may be from unspecified sources of power. Allows the WUTC and the governing boards of consumer-owned utilities to provide case-by-case exemptions for extraordinary cost impacts on utility ratepayers. Clarifies that in a long-term financial commitment with multiple power plants, the emissions of each power plant must comply with the emissions performance standard, except for commitments already deemed to be in compliance under current law: baseload generation facilities in operation as of June 30, 2008; facilities powered exclusively by renewable resources; and certain cogeneration facilities using natural or waste gas. Makes technical changes.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The bill is identical to SB 5989, which unanimously passed the Senate. The bill does not change the EPS nor does it guarantee cost recovery; it only clarifies IOU accounting mechanisms for renewable energy. The Industrial Customers of NW Utilities support the bill.

Persons Testifying: PRO: Representative Eddy, prime sponsor; Kathleen Collins, PacifiCorp; Ken Johnson, Puget Sound Energy.