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SENATE BILL 5438

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State of Washington

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By Senators Ericksen and Chase

Read first time 01/30/13. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to using conservation achieved by a qualifying  
2 utility in excess of its biennial acquisition target under the energy  
3 independence act; and amending RCW 19.285.040.

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

5 **Sec. 1.** RCW 19.285.040 and 2012 c 22 s 3 are each amended to read  
6 as follows:

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

9 (a) By January 1, 2010, using methodologies consistent with those  
10 used by the Pacific Northwest electric power and conservation planning  
11 council in its most recently published regional power plan, each  
12 qualifying utility shall identify its achievable cost-effective  
13 conservation potential through 2019. At least every two years  
14 thereafter, the qualifying utility shall review and update this  
15 assessment for the subsequent ten-year period.

16 (b) Beginning January 2010, each qualifying utility shall establish  
17 and make publicly available a biennial acquisition target for cost-  
18 effective conservation consistent with its identification of achievable  
19 opportunities in (a) of this subsection, and meet that target during

1 the subsequent two-year period. At a minimum, each biennial target  
2 must be no lower than the qualifying utility's pro rata share for that  
3 two-year period of its cost-effective conservation potential for the  
4 subsequent ten-year period. Any conservation achieved by a qualifying  
5 utility in excess of its biennial acquisition target may be used to  
6 meet its subsequent biennial target such that no more than fifty percent  
7 of any biennial target may be met with savings achieved during the  
8 biennial period in which the excess savings occurred.

9 (c) In meeting its conservation targets, a qualifying utility may  
10 count high-efficiency cogeneration owned and used by a retail electric  
11 customer to meet its own needs. High-efficiency cogeneration is the  
12 sequential production of electricity and useful thermal energy from a  
13 common fuel source, where, under normal operating conditions, the  
14 facility has a useful thermal energy output of no less than thirty-  
15 three percent of the total energy output. The reduction in load due to  
16 high-efficiency cogeneration shall be: (i) Calculated as the ratio of  
17 the fuel chargeable to power heat rate of the cogeneration facility  
18 compared to the heat rate on a new and clean basis of a  
19 best-commercially available technology combined-cycle natural gas-fired  
20 combustion turbine; and (ii) counted towards meeting the biennial  
21 conservation target in the same manner as other conservation savings.

22 (d) The commission may determine if a conservation program  
23 implemented by an investor-owned utility is cost-effective based on the  
24 commission's policies and practice.

25 (e) The commission may rely on its standard practice for review and  
26 approval of investor-owned utility conservation targets.

27 (2)(a) Except as provided in (j) of this subsection, each  
28 qualifying utility shall use eligible renewable resources or acquire  
29 equivalent renewable energy credits, or any combination of them, to  
30 meet the following annual targets:

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

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

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

37 (b) A qualifying utility may count distributed generation at double  
38 the facility's electrical output if the utility: (i) Owns or has

1 contracted for the distributed generation and the associated renewable  
2 energy credits; or (ii) has contracted to purchase the associated  
3 renewable energy credits.

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

7 (d) A qualifying utility shall be considered in compliance with an  
8 annual target in (a) of this subsection if: (i) The utility's weather-  
9 adjusted load for the previous three years on average did not increase  
10 over that time period; (ii) after December 7, 2006, the utility did not  
11 commence or renew ownership or incremental purchases of electricity  
12 from resources other than renewable resources other than on a daily  
13 spot price basis and the electricity is not offset by equivalent  
14 renewable energy credits; and (iii) the utility invested at least one  
15 percent of its total annual retail revenue requirement that year on  
16 eligible renewable resources, renewable energy credits, or a  
17 combination of both.

18 (e) The requirements of this section may be met for any given year  
19 with renewable energy credits produced during that year, the preceding  
20 year, or the subsequent year. Each renewable energy credit may be used  
21 only once to meet the requirements of this section.

22 (f) In complying with the targets established in (a) of this  
23 subsection, a qualifying utility may not count:

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

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

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

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

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

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

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

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

16 (j)(i) Beginning January 1, 2016, only a qualifying utility that  
17 owns or is directly interconnected to a qualified biomass energy  
18 facility may use qualified biomass energy to meet its compliance  
19 obligation under RCW 19.285.040(2).

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

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

1           (3) Utilities that become qualifying utilities after December 31,  
2 2006, shall meet the requirements in this section on a time frame  
3 comparable in length to that provided for qualifying utilities as of  
4 December 7, 2006.

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