
SENATE BILL 5648

State of Washington

63rd Legislature

2013 Regular Session

By Senators Brown, Hatfield, Rivers, Hobbs, Sheldon, Smith, Honeyford, Schoesler, and Hewitt

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1 AN ACT Relating to making energy conservation a top priority by
2 adding new incentives and aligning the timing of the acquisitions of
3 eligible renewable resources, electricity, or equivalent renewable
4 energy credits, with the need for additional electric generating
5 resources to serve consumers' loads, without changing the eligible
6 renewable targets; amending RCW 19.285.040; and creating a new section.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that conservation
9 helps all consumers including seniors, low-income residents, small
10 business owners, day cares, schools, libraries, farms, and factories.
11 The legislature further finds that prioritizing energy conservation is
12 the premiere method to meet future state energy needs -- reducing
13 energy demand and costs for everyone. Conservation as the number one
14 priority will also ensure that ratepayer dollars are spent locally
15 creating green jobs in every community in Washington state. To achieve
16 this goal, the legislature further finds that citizens must be
17 protected from requirements imposed on utilities that discourage
18 conservation.

1 (2) It is the intent of the legislature to encourage the
2 acquisition of energy conservation and eligible renewable resources by
3 allowing utilities greater flexibility to meet conservation and
4 eligible renewable targets and consumers' energy needs in the most
5 prudent and cost-effective manner.

6 (3) The legislature finds that most utilities have already
7 achieved, or are well on their way to achieving, eligible renewable
8 resource acquisition targets as part of their requirements to serve
9 consumers with additional clean, renewable energy.

10 (4) It is the intent of the legislature to remove unintended
11 economic hardship on electric consumers and reinforce the policy
12 intentions of 2006's Initiative Measure No. 937, including stabilizing
13 electric prices, increasing conservation, and creating high quality
14 local jobs.

15 **Sec. 2.** RCW 19.285.040 and 2012 c 22 s 3 are each amended to read
16 as follows:

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

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

26 (b) Beginning January 2010, each qualifying utility shall establish
27 and make publicly available a biennial acquisition target for cost-
28 effective conservation consistent with its identification of achievable
29 opportunities in (a) of this subsection, and meet that target during
30 the subsequent two-year period. At a minimum, each biennial target
31 must be no lower than the qualifying utility's pro rata share for that
32 two-year period of its cost-effective conservation potential for the
33 subsequent ten-year period.

34 (c) In meeting its conservation targets, a qualifying utility may
35 count high-efficiency cogeneration owned and used by a retail electric
36 customer to meet its own needs. High-efficiency cogeneration is the
37 sequential production of electricity and useful thermal energy from a

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

10 (d) A qualifying utility may choose to count conservation acquired
11 in excess of the biennial target in (b) of this subsection directly
12 toward a subsequent biennial conservation target or as an equivalent
13 renewable energy credit to meet a current or future renewable target
14 under subsection (2)(a) of this section. Any such conservation may be
15 used only once to meet a target under (b) of this subsection or
16 subsection (2)(a) of this section. The quantity of any excess
17 conservation so counted may not reduce or otherwise impact the
18 calculation of total achievable cost-effective conservation potential
19 in the update of the conservation potential assessment used to
20 establish such a subsequent biennial target.

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

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

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

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

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

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

36 (b) A qualifying utility may count distributed generation at double
37 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)(i) A qualifying utility shall be considered in compliance with
9 an annual target in (a) of this subsection if, as of January 1st of the
10 target year, the electricity from the qualifying utility's: (A)
11 Electric generating resources, other than eligible renewable resources,
12 either owned or under contract by January 1, 2010, and available to
13 serve the utility's load during the target year; and (B) eligible
14 renewable resources either owned or under contract for the target year
15 and available to serve the utility's load during the target year (or
16 equivalent renewable energy credits), meets or exceeds the utility's
17 load as described in (c) of this subsection.

18 (ii) Nothing in this subsection (2)(i) limits or interferes with a
19 qualifying utility's authority to sell or otherwise dispose of any
20 excess of electricity or credits as determined in (i)(i) of this
21 subsection, whether the excess of electricity or credits is greater or
22 less than the annual target.

23 (j) A qualifying utility shall be considered in compliance with an
24 annual target in (a) of this subsection if events beyond the reasonable
25 control of the utility that could not have been reasonably anticipated
26 or ameliorated prevented it from meeting the renewable energy target.
27 Such events include weather-related damage, mechanical failure,
28 strikes, lockouts, and actions of a governmental authority that
29 adversely affect the generation, transmission, or distribution of an
30 eligible renewable resource under contract to a qualifying utility.

31 ~~((+j))~~ (k)(i) Beginning January 1, 2016, only a qualifying utility
32 that owns or is directly interconnected to a qualified biomass energy
33 facility may use qualified biomass energy to meet its compliance
34 obligation under ((RCW 19.285.040)) this subsection (2).

35 (ii) A qualifying utility may no longer use electricity and
36 associated renewable energy credits from a qualified biomass energy
37 facility if the associated industrial pulping or wood manufacturing

1 facility ceases operation other than for purposes of maintenance or
2 upgrade.

3 ((~~k~~)) (1) An industrial facility that hosts a qualified biomass
4 energy facility may only transfer or sell renewable energy credits
5 associated with its facility to the qualifying utility with which it is
6 directly interconnected with facilities owned by such a qualifying
7 utility and that are capable of carrying electricity at transmission
8 voltage. The qualifying utility may only use an amount of renewable
9 energy credits associated with qualified biomass energy that are
10 equivalent to the proportionate amount of its annual targets under
11 (a)(ii) and (iii) of this subsection that was created by the load of
12 the industrial facility. A qualifying utility that owns a qualified
13 biomass energy facility may not transfer or sell renewable energy
14 credits associated with qualified biomass energy to another person,
15 entity, or qualifying utility.

16 (3) Utilities that become qualifying utilities after December 31,
17 2006, shall meet the requirements in this section on a time frame
18 comparable in length to that provided for qualifying utilities as of
19 December 7, 2006.

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