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HOUSE BILL 2020

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State of Washington                      64th Legislature                      2015 Regular Session

By Representatives Magendanz, Blake, Nealey, Takko, and Smith

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1            AN ACT Relating to improving utility emissions reduction  
2 standards at a low-cost to utility customers with electricity  
3 generated by renewable resources; and amending RCW 19.285.010,  
4 19.285.020, 19.285.030, and 19.285.040.

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

6            **Sec. 1.** RCW 19.285.010 and 2007 c 1 s 1 are each amended to read  
7 as follows:

8            This chapter concerns requirements for new energy resources. In  
9 order to maintain and enhance the low-cost, clean energy foundation  
10 of the state, this chapter requires large utilities to: (1) Pursue  
11 cost-effective energy conservation; (2) obtain fifteen percent of  
12 their electricity from new renewable resources such as solar and wind  
13 by 2020 ((and undertake cost-effective energy conservation)); or (3)  
14 meet an emissions reduction standard that encourages the provision of  
15 electricity that reduces greenhouse gas emissions.

16            **Sec. 2.** RCW 19.285.020 and 2007 c 1 s 2 are each amended to read  
17 as follows:

18            Increasing energy conservation and the use of appropriately sited  
19 renewable energy facilities builds on the strong foundation of low-  
20 cost renewable hydroelectric generation in Washington state and will

1 promote energy independence in the state and the Pacific Northwest  
2 region. Making the most of our plentiful local resources will  
3 stabilize electricity prices for Washington residents, provide  
4 economic benefits for Washington counties and farmers, create high-  
5 quality jobs in Washington, provide opportunities for training  
6 apprentice workers in the renewable energy field, protect clean air  
7 and water, and position Washington state as a national leader in  
8 clean energy technologies.

9 It is also the policy of this state to seek the most cost-  
10 effective mix of conservation and existing and new zero-emission  
11 generating resources to build upon our low-cost, clean energy  
12 foundation. To accomplish this, it is the policy of this state to  
13 encourage electric utilities to achieve an emissions reduction  
14 standard to maintain the already low, and encourage further reduction  
15 of, greenhouse gas emissions from electricity generated to serve  
16 utility customers by using energy conservation and appropriately  
17 sited renewable resources to meet new demand for electricity.

18 **Sec. 3.** RCW 19.285.030 and 2014 c 45 s 1 are each amended to  
19 read as follows:

20 The definitions in this section apply throughout this chapter  
21 unless the context clearly requires otherwise.

22 (1) "Attorney general" means the Washington state office of the  
23 attorney general.

24 (2) "Auditor" means: (a) The Washington state auditor's office or  
25 its designee for qualifying utilities under its jurisdiction that are  
26 not investor-owned utilities; or (b) an independent auditor selected  
27 by a qualifying utility that is not under the jurisdiction of the  
28 state auditor and is not an investor-owned utility.

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

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

1 (4) "Coal transition power" has the same meaning as defined in  
2 RCW 80.80.010.

3 (5) "Commission" means the Washington state utilities and  
4 transportation commission.

5 (6) "Conservation" means any reduction in electric power  
6 consumption resulting from increases in the efficiency of energy use,  
7 production, or distribution.

8 (7) "Cost-effective" has the same meaning as defined in RCW  
9 80.52.030.

10 (8) "Council" means the Washington state apprenticeship and  
11 training council within the department of labor and industries.

12 (9) "Customer" means a person or entity that purchases  
13 electricity for ultimate consumption and not for resale.

14 (10) "Department" means the department of commerce or its  
15 successor.

16 (11) "Distributed generation" means an eligible renewable  
17 resource where the generation facility or any integrated cluster of  
18 such facilities has a generating capacity of not more than five  
19 megawatts.

20 (12) "Eligible renewable resource" means:

21 (a) Electricity from a generation facility powered by a renewable  
22 resource other than freshwater that commences operation after March  
23 31, 1999, where: (i) The facility is located in the Pacific  
24 Northwest; or (ii) the electricity from the facility is delivered  
25 into Washington state on a real-time basis without shaping, storage,  
26 or integration services;

27 (b) Incremental electricity produced as a result of efficiency  
28 improvements completed after March 31, 1999, to hydroelectric  
29 generation projects owned by a qualifying utility and located in the  
30 Pacific Northwest where the additional generation does not result in  
31 new water diversions or impoundments;

32 (c) Hydroelectric generation from a project completed after March  
33 31, 1999, where the generation facility is located in irrigation  
34 pipes, irrigation canals, water pipes whose primary purpose is for  
35 conveyance of water for municipal use, and wastewater pipes located  
36 in Washington where the generation does not result in new water  
37 diversions or impoundments;

38 (d) Qualified biomass energy; or

39 (e) For a qualifying utility that serves customers in other  
40 states, electricity from a generation facility powered by a renewable

1 resource other than freshwater that commences operation after March  
2 31, 1999, where: (i) The facility is located within a state in which  
3 the qualifying utility serves retail electrical customers; and (ii)  
4 the qualifying utility owns the facility in whole or in part or has a  
5 long-term contract with the facility of at least twelve months or  
6 more.

7 (13) "Investor-owned utility" has the same meaning as defined in  
8 RCW 19.29A.010.

9 (14) "Load" means the amount of kilowatt-hours of electricity  
10 delivered in the most recently completed year by a qualifying utility  
11 to its Washington retail customers.

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

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

29 (16) "Pacific Northwest" has the same meaning as defined for the  
30 Bonneville power administration in section 3 of the Pacific Northwest  
31 electric power planning and conservation act (94 Stat. 2698; 16  
32 U.S.C. Sec. 839a).

33 (17) "Public facility" has the same meaning as defined in RCW  
34 39.35C.010.

35 (18) "Qualified biomass energy" means electricity produced from a  
36 biomass energy facility that: (a) Commenced operation before March  
37 31, 1999; (b) contributes to the qualifying utility's load; and (c)  
38 is owned either by: (i) A qualifying utility; or (ii) an industrial  
39 facility that is directly interconnected with electricity facilities

1 that are owned by a qualifying utility and capable of carrying  
2 electricity at transmission voltage.

3 (19) "Qualifying utility" means an electric utility, as the term  
4 "electric utility" is defined in RCW 19.29A.010, that serves more  
5 than twenty-five thousand customers in the state of Washington. The  
6 number of customers served may be based on data reported by a utility  
7 in form 861, "annual electric utility report," filed with the energy  
8 information administration, United States department of energy.

9 (20) "Renewable energy credit" means a tradable certificate of  
10 proof of at least one megawatt-hour of an eligible renewable resource  
11 where the generation facility is not powered by freshwater. The  
12 certificate includes all of the nonpower attributes associated with  
13 that one megawatt-hour of electricity, and the certificate is  
14 verified by a renewable energy credit tracking system selected by the  
15 department.

16 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar  
17 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or  
18 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel  
19 fuel as defined in RCW 82.29A.135 that is not derived from crops  
20 raised on land cleared from old growth or first-growth forests where  
21 the clearing occurred after December 7, 2006; or (i) biomass energy.

22 (22) "Rule" means rules adopted by an agency or other entity of  
23 Washington state government to carry out the intent and purposes of  
24 this chapter.

25 (23) "Year" means the twelve-month period commencing January 1st  
26 and ending December 31st.

27 (24) "Greenhouse gas" has the same meaning as defined in RCW  
28 80.80.010.

29 **Sec. 4.** RCW 19.285.040 and 2014 c 26 s 1 are each amended to  
30 read as follows:

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

33 (a) By January 1, 2010, using methodologies consistent with those  
34 used by the Pacific Northwest electric power and conservation  
35 planning council in the most recently published regional power plan  
36 as it existed on June 12, 2014, or a subsequent date as may be  
37 provided by the department or the commission by rule, each qualifying  
38 utility shall identify its achievable cost-effective conservation  
39 potential through 2019. Nothing in the rule adopted under this

1 subsection precludes a qualifying utility from using its utility  
2 specific conservation measures, values, and assumptions in  
3 identifying its achievable cost-effective conservation potential. At  
4 least every two years thereafter, the qualifying utility shall review  
5 and update this assessment for the subsequent ten-year period.

6 (b) Beginning January 2010, each qualifying utility shall  
7 establish and make publicly available a biennial acquisition target  
8 for cost-effective conservation consistent with its identification of  
9 achievable opportunities in (a) of this subsection, and meet that  
10 target during the subsequent two-year period. At a minimum, each  
11 biennial target must be no lower than the qualifying utility's pro  
12 rata share for that two-year period of its cost-effective  
13 conservation potential for the subsequent ten-year period.

14 (c)(i) Except as provided in (c)(ii) and (iii) of this  
15 subsection, beginning on January 1, 2014, cost-effective conservation  
16 achieved by a qualifying utility in excess of its biennial  
17 acquisition target may be used to help meet the immediately  
18 subsequent two biennial acquisition targets, such that no more than  
19 twenty percent of any biennial target may be met with excess  
20 conservation savings.

21 (ii) Beginning January 1, 2014, a qualifying utility may use  
22 single large facility conservation savings in excess of its biennial  
23 target to meet up to an additional five percent of the immediately  
24 subsequent two biennial acquisition targets, such that no more than  
25 twenty-five percent of any biennial target may be met with excess  
26 conservation savings allowed under all of the provisions of this  
27 section combined. For the purposes of this subsection (1)(c)(ii),  
28 "single large facility conservation savings" means cost-effective  
29 conservation savings achieved in a single biennial period at the  
30 premises of a single customer of a qualifying utility whose annual  
31 electricity consumption prior to the conservation savings exceeded  
32 five average megawatts.

33 (iii) Beginning January 1, 2012, and until December 31, 2017, a  
34 qualifying utility with an industrial facility located in a county  
35 with a population between ninety-five thousand and one hundred  
36 fifteen thousand that is directly interconnected with electricity  
37 facilities that are capable of carrying electricity at transmission  
38 voltage(( $\tau$ )) may use cost-effective conservation from that industrial  
39 facility in excess of its biennial acquisition target to help meet  
40 the immediately subsequent two biennial acquisition targets, such

1 that no more than twenty-five percent of any biennial target may be  
2 met with excess conservation savings allowed under all of the  
3 provisions of this section combined.

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

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

21 (f) The commission may rely on its standard practice for review  
22 and approval of investor-owned utility conservation targets.

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

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

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

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

33 (b) A qualifying utility may count distributed generation at  
34 double the facility's electrical output if the utility: (i) Owns or  
35 has contracted for the distributed generation and the associated  
36 renewable energy credits; or (ii) has contracted to purchase the  
37 associated renewable energy credits.

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

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

12 (e) Beginning January 1, 2016, a qualifying utility is considered  
13 in compliance with an annual target in (a) of this subsection if it  
14 meets the following emissions reduction standards:

15 (i) The utility uses renewable resources, nuclear energy, or  
16 equivalent renewable energy credits to meet at least ninety-three  
17 percent of its load in the target year; or

18 (ii) The greenhouse gas emissions from the electricity used to  
19 meet the utility's weather-adjusted load for the previous three years  
20 on average decreased by two percent in the target year.

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

25 ((+f+)) (g) In complying with the targets established in (a) of  
26 this subsection, a qualifying utility may not count:

27 (i) Eligible renewable resources or distributed generation where  
28 the associated renewable energy credits are owned by a separate  
29 entity; or

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

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

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

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

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

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

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

20       ~~((j))~~ (k)(i) Beginning January 1, 2016, only a qualifying  
21 utility that owns or is directly interconnected to a qualified  
22 biomass energy facility may use qualified biomass energy to meet its  
23 compliance obligation under this subsection.

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

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

1 credits associated with qualified biomass energy to another person,  
2 entity, or qualifying utility.

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

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