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**SENATE BILL 6253**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Ranker, Carlyle, Palumbo, Keiser, Liias, Frockt, Kuderer, Chase, Hunt, and Saldaña

AN ACT Relating to establishing a clean, efficient, renewable energy standard; adding a new chapter to Title 19 RCW; creating a new section; prescribing penalties; and providing an expiration date.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Attorney general" has the same meaning as defined in RCW 19.285.030.

(2) "Auditor" has the same meaning as defined in RCW 19.285.030.

(3) "Carbon-free resource" includes: (a) A resource that emits no greenhouse gas pollution as part of its generation activity; or (b) a renewable resource.

(4) "Coal-fired resource" means a facility that uses coal-fired generating units, or that uses units fired in whole or in part by coal as feedstock, to generate electricity.

(5) "Coal transition power" has the same meaning as defined in RCW 80.80.010, as that section existed on the effective date of this section.

(6) "Commission" means the Washington state utilities and transportation commission.

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

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

(9) "Contract high water mark" means the amount of firm power from tier 1 system resources each electric utility is eligible to purchase through a power sales contract with the Bonneville power administration.

(10) "Customer" has the same meaning as defined in RCW 19.285.030.

(11) "Department" means the department of commerce or its successor.

(12) "Distributed energy resource" means an electric device that is not a fossil fuel generating resource and can produce or consume energy that is located on the distribution system or any subsystem of the distribution system, or behind the meter, and includes an energy storage resource, an energy generation technology, a demand response resource, an energy efficiency resource, an electric vehicle and associated supply equipment and systems, or aggregations and integrated control systems, including virtual power plants, micro-grids, and networks of micro-grid cells.

(13) "Electric generating unit" means the equipment required to convert the thermal energy in a fuel into electricity. In the case of a steam electric generation unit, the electric generating unit consists of all equipment involved in fuel delivery to the plant site, as well as individual boilers, any installed emission control equipment, and any steam turbine/generators dedicated to generating electricity. Where a steam turbine/generator is supplied by two or more boiler units, all boilers contributing to that steam turbine/generator comprise a single electric generating unit. All combustion units/boilers/combined-cycle turbines that produce steam for use in a single steam turbine/generator unit are part of the same electric generating unit.

(14) "Electric utility" has the same meaning as defined in RCW 19.29A.010.

(15) "Fossil fuel generating resource" is an electric generating unit that emits greenhouse gases as part of the act of generating electricity, but not including any resource that meets the definition of eligible renewable resources.

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

(17) "Low-income" means household income as defined by the department or commission, provided that the definition may not exceed eight percent of area median household income, adjusted for household size.

(18) "Market customer" means a nonresidential customer of an electric utility that: (a) Purchases electricity from an entity or entities other than the electric utility with which it is directly interconnected; or (b) generates electricity to meet its own needs.

(19) "New electricity need" means any electricity generation needed by a utility after the effective date of this section, including any new or increased ownership interest in a new or existing electricity generation facility or unit; and any new or increased contractual commitment that obligates or allows an electric utility to purchase a specified amount of megawatts or megawatt-hours from an electricity generation facility or unit, or a specified percentage of an electricity generation facility or unit, when this generation is used to meet any of the following:

(a) Electricity load growth;

(b) Changes in capacity needs;

(c) Changes in ancillary services needs;

(d) Changes in reliability needs;

(e) Changes in flexibility needs; or

(f) Needs arising due to replacing electricity generation or resource contracts.

(20) "Renewable energy credits" has the same meaning as defined in RCW 19.285.030.

(21) "Renewable resource" has the same meaning as defined in RCW 19.285.030.

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

(23) "Short-term spot market purchase" means: (a) The purchase of energy on the spot market for immediate delivery; or (b) a contract for the purchase of electricity on the spot market that is for a term of one month or less.

(24) "Spot market" means a public financial market in which electricity is bought, sold, or traded for immediate delivery.

(25) "Tier 1 system" means the specific collection of resources and contract purchases that are designated for contract sales by the Bonneville power administration under the tiered rate methodology.

NEW SECTION. **Sec.**  (1) Except as provided in subsections (2) and (4) of this section, all electric utilities and market customers:

(a) May only meet new electricity needs with distributed energy resources and carbon-free resources; and

(b) Must meet all electricity needs with distributed energy resources and carbon-free resources by December 31, 2045.

(2) Hydroelectric generation may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (a) Does not conflict with existing state or federal fish recovery plans; and (b) complies with all local, state, and federal laws and regulations.

(3) An electric utility or market customer may not enter into a new contract for electricity generation to meet electricity needs if the contract does not specify the sources or origins of the electricity generation.

(4) Except as provided in RCW 19.285.030(15)(b), any tradable certificate of proof of a conservation or carbon-free resource, including but not limited to a renewable energy credit, associated with the portion of any resource or resources used to meet new energy or capacity needs under this section must be retired for the purposes of this section and cannot be sold, transferred, used for compliance with the requirements under this chapter, or used for other purposes. An electric utility may not use a tradable certificate of proof of a conservation or renewable resource, including but not limited to a renewable energy credit, to meet the requirements of this section if the associated energy or capacity has been sold, transferred, or otherwise used separately.

(5) Until December 31, 2045, nothing in this section precludes the use of any of the following resources to meet new electricity needs:

(a) An electric utility's contract high water mark allocation of Bonneville power administration's tier 1 system as it exists on the effective date of this section;

(b) Short-term spot market purchases;

(c) Renewal or extension of contracts in effect as of the effective date of this section, where the renewal or extension does not lead to any increase in the energy or capacity provided;

(d) Coal transition power through 2025;

(e) Generation resources owned as of the effective date of this section by a market customer and used to meet its own needs or an electric utility and used by that electric utility to meet the needs of its customers, until the generation resources are at the end of the facility's useful life, are retired, or cease operations; and

(f) Increased megawatt-hours from a generation facility that is owned by a market customer as of the effective date of this section and used to meet its own needs, or owned by an electric utility as of the effective date of this section and used to serve the utility's customers, and where the market customer's or utility's ownership interest in the facility does not increase.

(6) The requirements of this section do not replace or modify the requirements established under RCW 19.285.040 for an electric utility. As provided in subsection (3) of this section, the portion of any resource or resources used to meet new electricity needs under this section may not be used for compliance with the requirements under RCW 19.285.040.

NEW SECTION. **Sec.**  (1)(a) On or before January 1, 2030, all electric utilities must eliminate from electric rates all costs associated with delivering electricity to customers that is generated from a coal-fired resource. This does not include costs associated with decommissioning and remediation of these facilities.

(b) The commission may accelerate depreciation schedules for any coal-fired resource owned by investor-owned utilities to a date no later than January 1, 2030.

(2) No electric utility may extend the depreciation schedule for any fossil fuel generating resource.

NEW SECTION. **Sec.**  (1) An electric utility or market customer that fails to comply with the requirements in section 2 of this act must pay an administrative penalty to the state of Washington in the amount of fifty dollars for each megawatt-hour of electricity from a generation resource ineligible under section 2 of this act. Beginning in 2020, this penalty must be adjusted annually according to the rate of change of the inflation indicator, gross domestic product-implicit price deflator, as published by the bureau of economic analysis of the United States department of commerce or its successor.

(2) For an investor-owned utility, the commission shall determine compliance with the provisions of this chapter and assess penalties for noncompliance as provided in subsection (1) of this section.

(3) For a consumer-owned utility, the department is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

(4) For a market customer, the attorney general is responsible for enforcing compliance with this chapter, except that the commission is responsible for enforcing compliance with RCW 19.285.040 for a market customer of an investor-owned utility.

(5) If the commission determines that the investor-owned utility is unable to meet the requirements in section 2 of this act due to reasons beyond the reasonable control of an electric utility under subsection (7) of this section, the commission, in its discretion, may waive in whole or in part any otherwise applicable penalties.

(6) If the department determines that the consumer-owned utility is unable to meet the requirements in section 2 of this act due to reasons beyond the reasonable control of an electric utility under subsection (7) of this section, the department, in its discretion, may waive in whole or in part any otherwise applicable penalties.

(7) Events or circumstances that are outside of an electric utility's reasonable control may include, to the extent the event or circumstance could not be reasonably foreseen and ameliorated:

(a) Weather-related damage;

(b) Natural disasters;

(c) Mechanical or resource failure;

(d) Failure of electrical energy producers to meet carbon-free resource contractual obligations to the electric utility;

(e) Labor strikes or lockouts;

(f) Actions of governmental authorities that adversely affect the generation, transmission, or distribution of electrical energy from carbon-free resources under contract to an electric utility;

(g) The inability to obtain permits or land use approvals for electrical energy projects using carbon-free resources;

(h) The inability to acquire sufficient electrical energy from renewable resources;

(i) Substantial limitations, restrictions, or prohibitions on utility electrical energy projects from renewable resources; and

(j) Other events and circumstances of a similar nature.

(8) On or before June 1, 2020, and annually thereafter, each electric utility and market customer must report to the department on the electricity sources used to meet any new energy or capacity needs in accordance with section 2 of this act, including but not limited to the amount of megawatt-hours or megawatts needed and the amount of megawatt-hours of each type of resource acquired.

(9) Each investor-owned utility must also report all information required in subsection (8) of this section to the commission, and each consumer-owned utility must also make all information required in subsection (8) of this section available to the auditor.

(10) All utilities must also make reports required in this section available to its customers and each market customer must make all information required in subsection (8) of this section available to the attorney general.

NEW SECTION. **Sec.**  The commission, in the case of investor-owned utilities, and the department, in the case of consumer-owned utilities, shall adopt rules to implement sections 1 through 4 of this act and RCW 19.285.040.

NEW SECTION. **Sec.**  (1) The legislature finds and declares all of the following:

(a) There is insufficient information available to fully realize the potential of solar photovoltaic energy generation to serve low-income customers, including those in disadvantaged communities.

(b) There is insufficient understanding of the barriers to access for low-income customers to all forms of renewable energy being generated in the state.

(c) There is insufficient understanding of the barriers to access for low-income customers to energy efficiency investments.

(d) There is insufficient understanding of the barriers to access for low-income customers to zero emission and near-zero emission transportation options.

(2) By January 1, 2019, the department of commerce, with input from relevant state agencies and the public, shall conduct and complete a study on both of the following:

(a) Barriers to, and opportunities for, solar photovoltaic energy generation as well as barriers to, and opportunities for, access to other renewable energy by low-income customers; and

(b) Barriers to contracting opportunities for local small businesses in disadvantaged communities.

(3) By January 1, 2019, the department of commerce, with input from relevant state agencies and the public, shall develop and publish a study on barriers for low-income customers to energy efficiency and weatherization investments, including those in disadvantaged communities, as well as recommendations on how to increase access to energy efficiency and weatherization investments to low-income customers.

(4) By January 1, 2019, the department of commerce, with input from relevant state agencies and the public, shall develop and publish a study on barriers for low-income customers to zero emission and near-zero emission transportation options, including those in disadvantaged communities, as well as recommendations on how to increase access to zero emission and near-zero emission transportation options to low-income customers, including those in disadvantaged communities.

(5) The definitions in RCW 19.285.030 apply throughout this section.

(6) This section expires July 1, 2019.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 19 RCW.

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