
Environment & Energy Committee

HB 2248

Brief Description: Expanding equitable access to the benefits of renewable energy through community solar projects.

Sponsors: Representatives Doglio, DeBolt, Fey and Lekanoff.

Brief Summary of Bill

- Terminates the application period for the Renewable Energy Production Incentive Program (Production Incentive Program) June 30, 2020, rather than June 30, 2021.
- Establishes a Community Solar Expansion Program beginning July 1, 2020.
- Establishes new community solar project eligibility requirements under the Community Solar Expansion Program.
- Amends the incentive rates for renewable energy systems certified under the Production Incentive Program.
- Caps total incentive payments allowed for community solar projects certified under the Community Solar Expansion Program at \$20 million.
- Requires an electric utility to provide meter aggregation for subscribers of a community solar project if requested by the project administrator.

Hearing Date: 1/16/20

Staff: Nikkole Hughes (786-7156).

Background:

Renewable Energy Production Incentive Program.

In 2005, the Renewable Energy Cost Recovery Incentive Payment Program (Legacy Program) was created to allow an individual, business, or local government that owns an eligible renewable energy system to apply to its electric utility for an investment cost recovery incentive payment for each kilowatt-hour (kWh) of electricity produced by the system. In 2009, the

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.

Legacy Program was expanded to include community solar projects. In 2017, Engrossed Substitute Senate Bill 5939 (C 36 L 17) directed the Washington State University Extension Energy Program (WSU Energy Program) to launch and administer a new program known as the Renewable Energy Production Incentive Program (Production Incentive Program).

The Legacy Program closed to new customer participants after September 30, 2017. A customer who entered the program by this date was required to apply to the WSU Energy Program by April 30, 2018, in order to continue to receive their incentive payment allowed under the Legacy Program for electricity generated by a renewable energy system through June 30, 2020.

Beginning July 1, 2017, under the Production Incentive Program, a person who owns a renewable energy system, an administrator of a community solar project, a utility, or a business under contract with a utility that administers a shared commercial project, may apply to the WSU Energy Program for certification establishing the applicant's eligibility to receive an annual production incentive payment for each kWh of alternating current electricity generated by the system.

Under the Production Incentive Program, the WSU Energy Program is directed to cease issuing new certifications for any renewable energy system if certification is likely to result in total incentive payments made under the Program exceeding \$110 million. Although the application period under the Production Incentive Program extends to June 30, 2021, because of the \$110 million statewide incentive payment cap, the WSU Energy Program does not intend to review any applications for certification received after June 14, 2019.

Community Solar Projects.

Under the Production Incentive Program, a "community solar project" is a solar energy system that has a direct current nameplate generating capacity no greater than 1,000 kilowatts. A community solar project that has a generating capacity greater than 500 kilowatts must be subject to a standard interconnection agreement with the utility serving the site of the project. A community solar project must be administered by a utility, nonprofit organization, or local housing authority and must have at least 10 participants, or one participant for every 10 kilowatts of direct current nameplate capacity, whichever is greater. Except for community solar projects administered in cooperation with a joint operating agency, each participant must be a customer of the utility providing service at the site of the community solar project.

The administrator of a community solar project must provide each project participant with a disclosure form containing all material terms and conditions of participation in the project.

The Utilities and Transportation Commission (UTC) must publish, without disclosing proprietary information, a list of:

- entities other than utilities that organize and administer community solar projects; and
- community solar projects and related programs and services offered by investor-owned utilities.

If a consumer-owned utility opts to provide a community solar program or contracts with a nonutility administrator to offer a community solar program, the governing body of the consumer-owned utility must publish, without disclosing proprietary information, a list of the nonutility administrators contracted by the utility as part of its community solar program.

Violation of the reporting and disclosure requirements for administrators of community solar projects is a violation of the Consumer Protection Act.

Production Incentive Certification and Payments.

Certification of eligibility under the Production Incentive Program is valid for the program term. "Program term" for a community solar project, shared commercial solar project, or any other renewable energy system, means eight years, or until cumulative incentive payments for electricity produced by the project reach 50 percent of the total system price (including applicable sales tax), whichever occurs first.

The applicant or, in the case of a community solar project or shared commercial solar project, the participant, is entitled to receive incentive payments for electricity generated for the program term from the date the renewable energy system commences operation.

The incentive rate available depends on the fiscal year of certification, the system type, and whether the system is eligible for a made-in-Washington bonus rate. A renewable energy system or community solar project is eligible for a made-in-Washington bonus rate if its solar modules, wind turbine, or tower is made in Washington. The incentive rates available under the Production Incentive Program are as follows:

Fiscal year of system certification	Base rate - residential-scale	Base rate - commercial-scale	Base rate - community solar	Base rate - shared commercial solar	Made-in-Washington bonus rate
2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05
2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04
2020	\$0.12	\$0.02	\$0.12	\$0.02	\$0.03
2021	\$0.10	\$0.02	\$0.10	\$0.02	\$0.02

No person, business, or household is eligible to receive production incentive payments of more than:

- \$5,000 per year for residential-scale systems or community solar projects;
- \$25,000 per year for commercial-scale systems; or
- \$35,000 per year for shared commercial solar projects.

Public Utility Tax Credits.

An electric utility may claim a credit against its public utility tax obligations for incentive payments made by the utility to a customer under the Legacy Program or the Production Incentive Program.

An electric utility may claim an annual credit of up to 1.5 percent of its taxable power sales generated in calendar year 2014 or \$250,000, whichever is greater. The credit cannot exceed the amount of tax owed by the utility and cannot be refunded.

No credits may be claimed by an electric utility under the Legacy Program after June 30, 2021. No credits may be claimed by an electric utility under the Production Incentive Program after June 30, 2030.

World Trade Organization Panel Report.

On September 9, 2016, India requested consultations with the United States regarding domestic content requirements and incentives for renewable energy systems instituted by state governments, including Washington. The Request for Consultations specifically named Washington's Renewable Energy Cost Recovery Incentive Payment Program under Chapter 82.16 RCW (the Legacy Program) as it existed in 2016.

On June 27, 2019, a World Trade Organization (WTO) panel issued a report finding that the made-in-Washington incentives under the Legacy Program are inconsistent with Article III:4 of the General Agreement on Tariffs and Trade (GATT) 1994 because they provide an advantage for the use of domestic products, which amounts to less favorable treatment for similar imported products. The panel recommended that the WTO's Dispute Settlement Body request the United States to bring the incentives provided under the Legacy Program into conformity with its obligations under the GATT 1994.

The panel report also found that the made-in-Washington bonus rate provided under the Production Incentive Program established in 2017 does not represent an amendment to the bonus rate under the Legacy Program, but is instead a distinct measure that falls outside the terms of the panel's reference, and thus was not included in the panel's review or recommendations.

Meter Aggregation under Net Metering.

"Net metering" means measuring the difference between the electricity supplied by an electric utility and the excess electricity generated by a customer-generator's net metering system over the applicable billing period.

Under the state's net metering law, a customer-generator may aggregate a designated meter with one additional aggregated meter located on the same parcel as the designated meter or a parcel that is contiguous with the parcel on which the designated meter is located. A parcel is considered contiguous if the parcels share a common property boundary; parcels may be separated only by a road or rail corridor.

A retail electric customer who is a customer-generator and receives retail electric service from an electric utility at an aggregated meter must be the same retail electric customer who receives retail electric service from the utility at the designated meter that is located on the premises of the net metering system.

An electric utility may allow aggregation under different terms if a customer-generator has an existing arrangement for meter aggregation in effect or the customer-generator submits a written request for aggregation on or before July 1, 2019.

The owner of a multifamily residential facility may install a net metering system assigned to a single designated meter located on the premises of the multifamily residential facility where the tenants are not individually metered customers of the utility and distribute any benefits of net metering to tenants of the facility where the net metering system is located.

Summary of Bill:

Renewable Energy Production Incentive Program.

The application period for the Renewable Energy Production Incentive Program (Production Incentive Program) terminates June 30, 2020, rather than June 30, 2021.

If a community solar project application is in precertification status under the Production Incentive Program as of June 30, 2020, the project applicant must continue in that status until either it is certified by the WSU Energy Program or its precertification expires.

Community solar projects that are under precertification status under the Production Incentive Program as of June 30, 2020, may not apply for precertification for that same project under the Community Solar Expansion Program that begins July 1, 2020.

Community Solar Expansion Program.

Beginning July 1, 2020, and through June 30, 2026, an administrator of a community solar project meeting the new eligibility requirements may submit a one-time application to the Washington State University Extension Energy Program (WSU Energy Program) to receive a precertification for a community solar project under the Community Solar Expansion Program.

Projects with precertification applications approved by the WSU Energy Program under the Community Solar Expansion Program have two years to complete their projects and apply for full certification. By certifying qualified projects, the WSU Energy Program authorizes the utility serving the site of a community solar project to remit an annual production incentive for each kilowatt-hour (kWh) of alternating current electricity generated by the community solar project.

Certification of eligibility under the Community Solar Expansion Program is valid for the program term. For community solar projects certified under the Community Solar Expansion Program, "program term" means eight years or until cumulative incentive payments for electricity produced by the project reach:

- 100 percent of the project cost, prorated in proportion to subscriptions of low-to-moderate income (LMI) households and LMI service providers; and
- no greater than 50 percent of the project cost, prorated in proportion to subscriptions of all other subscribers.

"Low-to-moderate income household" means a single person, family, or unrelated persons living together whose income is at or below 115 percent of the median income where the household is located.

"Low-to-moderate income service provider" means a local community action agency or local community service agency designated by the Department of Commerce, local housing authority, tribal housing authority, low-income tribal housing program, affordable housing provider, food bank, or other organization whose primary purpose is to provide services to LMI households.

Community Solar Project Eligibility Requirements.

In order to receive certification for the incentive payment provided under the Community Solar Expansion Program beginning July 1, 2020, a community solar project must meet the following requirements:

- the administrator of the community solar project must apply for precertification on or after July 1, 2020;
- the community solar project must have a direct current nameplate capacity that is no greater than 1,000 kilowatts;
- no single subscriber may subscribe to more than 40 percent of the nameplate capacity of the project;
- at least 40 percent of the project's nameplate capacity must be subscribed to by any combination of LMI household subscribers and LMI service providers. An LMI service provider cannot be both a subscriber to and the administrator of a given project;
- the income status of the LMI household subscribers must be verified to the administrator by an LMI service provider;
- at least 40 percent of the nameplate capacity of the project must be subscribed to by subscribers with a subscription that is 20 kilowatts or less; and
- except for community solar projects administered in cooperation with a joint operating agency, each participant must be a customer of the utility providing service at the site of the community solar project.

A utility administrator of a community solar project applying for and receiving precertification and certification under the Community Solar Expansion Program may provide energy assistance and investments to reduce the energy burden for LMI households and LMI service providers by offsetting the proportional administration and subscriptions costs for those entities, and may separately account for those costs.

Incentive Rates and Payments.

The WSU Energy Program must determine the total incentive rate for renewable energy systems, other than a community solar project, certified through June 30, 2020, and for community solar projects under precertification status as of June 30, 2020, and certified through June 30, 2021, as follows:

Fiscal year of system certification	Base rate - residential-scale	Base rate - commercial-scale	Base rate - community solar	Base rate - shared commercial solar	Made-in-Washington bonus rate
2018	\$0.16	\$0.06	\$0.16	\$0.06	\$0.05
2019	\$0.14	\$0.04	\$0.14	\$0.04	\$0.04
2020	\$0.12	\$0.02	\$0.12	\$0.02	
2021			\$0.10		

The made-in-Washington bonus rate is only provided for a renewable energy system or community solar project that was certified through June 30, 2019.

No change is made to the incentive payments or rates, including the made-in-Washington bonus rate, allowed under the Legacy Program for electricity generated by a renewable energy system through June 30, 2020.

For community solar projects certified under the Community Solar Expansion Program beginning July 1, 2020, the WSU Energy Program must determine the total incentive rate for individual community solar project subscribers as follows:

Fiscal year of system certification	Base rate - community solar subscribers	Bonus rate - low-to-moderate income subscribers
2021	\$0.10	\$0.10
2022	\$0.10	\$0.10
2023	\$0.10	\$0.10
2024	\$0.10	\$0.10
2025	\$0.10	\$0.10
2026	\$0.10	\$0.10

The administrator of a community solar project must submit a signed statement with the final list of subscribers and the allocation of incentive payments to each individual subscriber according to the subscriber's percentage share of the project's nameplate capacity and the incentive rates provided above. The WSU Energy Program must, as a condition of final certification, certify the allocation of incentives to individual subscribers. For the duration of a community solar project's incentive payment eligibility, the administrator must update the subscriber list at least annually to the utility serving the premises of the community solar project and to the WSU Energy Program.

Total incentive payments made for community solar projects certified under the Community Solar Expansion Program may not exceed \$20 million.

Public Utility Tax Credits.

An electric utility may claim a credit against its public utility tax obligations for the fiscal year of up to 1.5 percent of its taxable power sales generated in calendar year 2014 or \$250,000, whichever is greater, for incentive payments made for the following:

- renewable energy systems, other than community solar projects, that are certified for an incentive payment as of June 30, 2020; and
- community solar projects that are under precertification status under the Production Incentive Program as of June 30, 2020, and that are certified for an incentive payment in accordance with the terms of that precertification by June 30, 2021.

In addition, for incentive payments made for community solar projects that submit an application for precertification on or after July 1, 2020, and that are certified for an incentive payment in accordance with the terms of that precertification by June 30, 2026, an electric utility may take an additional credit of 0.25 percent of its taxable power sales generated in calendar year 2014 or \$50,000, whichever is greater.

The right to earn tax credits for incentive payments made to community solar projects that submit an application for precertification on or after July 1, 2020, and that are certified for an

incentive payment in accordance with the terms of that precertification by June 30, 2026, expires June 30, 2034. Credits may not be claimed after June 30, 2035.

Community Solar Meter Aggregation under Net Metering.

An electric utility must provide meter aggregation for subscribers of a community solar project if requested by the project administrator.

If a production meter, software, or billing system enhancement is required by the electric utility in order to provide community solar meter aggregation, the electric utility may require the administrator to purchase the production meter and software or pay for the cost of any required billing system enhancement. An electric utility may choose to pay the costs of any production meter, software, or billing system enhancements, and may separately account for any expenditures that provide energy assistance to, or reduce the energy burden of, low-income households or low-income service providers.

Credits for kWh generated by a community solar project during the applicable billing period must be used to proportionally offset electricity supplied by the electric utility at the location of a subscriber's designated community solar subscriber meter. Credits for excess kWh generated by a community solar project during the applicable billing period must be credited by the electric utility for kWh charges due at a subscriber's designated community solar subscriber meter at the applicable rate of that meter.

"Designated community solar subscriber meter" means an electric service meter that measures electrical service to the premises of a subscriber in a community solar project, and that is identified by an administrator of a community solar project to the electric utility as participating in meter aggregation at a community solar project.

Appropriation: None.

Fiscal Note: Requested on January 7, 2020.

Effective Date: The bill contains an emergency clause and takes effect immediately.