
HOUSE BILL 2581

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By Representatives Fitzgibbon, Ybarra, Reed, Parshley, Ramel, and Pollet

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1 AN ACT Relating to providing additional investment options for
2 electric utilities under the 20 percent alternative compliance option
3 of the clean energy transformation act's greenhouse gas neutral
4 standard; and amending RCW 19.405.040.

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

6 **Sec. 1.** RCW 19.405.040 and 2019 c 288 s 4 are each amended to
7 read as follows:

8 (1) It is the policy of the state that all retail sales of
9 electricity to Washington retail electric customers be greenhouse gas
10 neutral by January 1, 2030.

11 (a) For the four-year compliance period beginning January 1,
12 2030, and for each multiyear compliance period thereafter through
13 December 31, 2044, an electric utility must demonstrate its
14 compliance with this standard using a combination of nonemitting
15 electric generation and electricity from renewable resources, or
16 alternative compliance options, as provided in this section. To
17 achieve compliance with this standard, an electric utility must: (i)
18 Pursue all cost-effective, reliable, and feasible conservation and
19 efficiency resources to reduce or manage retail electric load, using
20 the methodology established in RCW 19.285.040, if applicable; and
21 (ii) use electricity from renewable resources and nonemitting

1 electric generation in an amount equal to (~~one hundred~~) 100 percent
2 of the utility's retail electric loads over each multiyear compliance
3 period. An electric utility must achieve compliance with this
4 standard for the following compliance periods: January 1, 2030,
5 through December 31, 2033; January 1, 2034, through December 31,
6 2037; January 1, 2038, through December 31, 2041; and January 1,
7 2042, through December 31, 2044.

8 (b) Through December 31, 2044, an electric utility may satisfy up
9 to (~~twenty~~) 20 percent of its compliance obligation under (a) of
10 this subsection with an alternative compliance option consistent with
11 this section. An alternative compliance option may include any
12 combination of the following:

13 (i) Making an alternative compliance payment under RCW
14 19.405.090(2);

15 (ii) Using unbundled renewable energy credits, provided that
16 there is no double counting of any nonpower attributes associated
17 with renewable energy credits within Washington or programs in other
18 jurisdictions, as follows:

19 (A) Unbundled renewable energy credits produced from eligible
20 renewable resources, as defined under RCW 19.285.030, which may be
21 used by the electric utility for compliance with RCW 19.285.040 and
22 this section as provided under RCW 19.285.040(2)(e); and

23 (B) Unbundled renewable energy credits, other than those included
24 in (b)(ii)(A) of this subsection, that represent electricity
25 generated within the compliance period;

26 (iii) Investing in energy transformation projects, including
27 additional conservation and efficiency resources beyond what is
28 otherwise required under this section, provided the projects meet the
29 requirements of subsection (2) of this section and are not credited
30 as resources used to meet the standard under (a) of this subsection;
31 (~~or~~)

32 (iv) Using electricity from an energy recovery facility using
33 municipal solid waste as the principal fuel source, where the
34 facility was constructed prior to 1992, and the facility is operated
35 in compliance with federal laws and regulations and meets state air
36 quality standards. An electric utility may only use electricity from
37 such an energy recovery facility if the department and the department
38 of ecology determine that electricity generation at the facility
39 provides a net reduction in greenhouse gas emissions compared to any
40 other available waste management best practice. The determination

1 must be based on a life-cycle analysis comparing the energy recovery
2 facility to other technologies available in the jurisdiction in which
3 the facility is located for the waste management best practices of
4 waste reduction, recycling, composting, and minimizing the use of a
5 landfill; or

6 (v) Investments in: (A) Addressing transmission capacity
7 constraints; (B) enabling and integrating distributed energy
8 resources, including analytical capabilities and system component
9 upgrades; (C) upgrading transmission to meet evolving needs related
10 to integrating distributed energy resources; (D) substation
11 supervisory control and data acquisition; (E) enabling higher
12 penetration of distributed energy resources on a circuit; and (F)
13 electric vehicle charging infrastructure, electric vehicle-to-grid
14 integration, electric school buses, and electric vehicles for
15 community-based organizations serving low-income or vulnerable
16 populations.

17 (c) Every million dollars spent on an energy transformation
18 project or an investment described in (b)(v) of this subsection
19 counts as 0.25 percent compliance towards the 20 percent alternative
20 compliance option allowed under this subsection.

21 (d) For the investments described in (b)(v) of this subsection to
22 count towards the 20 percent alternative compliance, the investments
23 may not: (i) Use revenue derived from chapter 70A.535 RCW, a state
24 program, state appropriations, or grant funding; or (ii) be required
25 to comply with another statute, rule, or other legal requirement.

26 ~~((e))~~ (e) Electricity from renewable resources used to meet the
27 standard under (a) of this subsection must be verified by the
28 retirement of renewable energy credits. Renewable energy credits must
29 be tracked and retired in the tracking system selected by the
30 department.

31 ~~((d))~~ (f) Hydroelectric generation used by an electric utility
32 in meeting the standard under (a) of this subsection may not include
33 new diversions, new impoundments, new bypass reaches, or expansion of
34 existing reservoirs constructed after May 7, 2019, unless the
35 diversions, bypass reaches, or reservoir expansions are necessary for
36 the operation of a pumped storage facility that: (i) Does not
37 conflict with existing state or federal fish recovery plans; and (ii)
38 complies with all local, state, and federal laws and regulations.

39 ~~((e))~~ (g) Nothing in ~~((d))~~ (f) of this subsection precludes
40 an electric utility that owns and operates hydroelectric generating

1 facilities, or the owner of a hydroelectric generating facility whose
2 energy output is marketed by the Bonneville power administration,
3 from making efficiency or other improvements to its hydroelectric
4 generating facilities existing as of May 7, 2019, or from installing
5 hydroelectric generation in pipes, culverts, irrigation canals, and
6 other man-made waterways, as long as those changes do not create
7 conflicts with existing state or federal fish recovery plans and
8 comply with all local, state, and federal laws and regulations.

9 ~~((f))~~ (h) Nonemitting electric generation used to meet the
10 standard under (a) of this subsection must be generated during the
11 compliance period and must be verified by documentation that the
12 electric utility owns the nonpower attributes of the electricity
13 generated by the nonemitting electric generation resource.

14 ~~((g))~~ (i) Nothing in this section prohibits an electric utility
15 from purchasing or exchanging power from the Bonneville power
16 administration.

17 (2) Investments in energy transformation projects used to satisfy
18 an alternative compliance option provided under subsection (1)(b) of
19 this section must use criteria developed by the department of
20 ecology, in consultation with the department and the commission. For
21 the purpose of crediting an energy transformation project toward the
22 standard in subsection (1)(a) of this section, the department of
23 ecology must establish a conversion factor of emissions reductions
24 resulting from energy transformation projects to megawatt-hours of
25 electricity from nonemitting electric generation that is consistent
26 with the emission factors for unspecified electricity, or for energy
27 transformation projects in the transportation sector, consistent with
28 default emissions or conversion factors established by other
29 jurisdictions for clean alternative fuels. Emissions reductions from
30 energy transformation projects must be:

31 (a) Real, specific, identifiable, and quantifiable;

32 (b) Permanent: The department of ecology must look to other
33 jurisdictions in setting this standard and make a reasonable
34 determination on length of time;

35 (c) Enforceable by the state of Washington;

36 (d) Verifiable;

37 (e) Not required by another statute, rule, or other legal
38 requirement; and

1 (f) Not reasonably assumed to occur absent investment, or if an
2 investment has already been made, not reasonably assumed to occur
3 absent additional funding in the near future.

4 (3) Energy transformation projects must be associated with the
5 consumption of energy in Washington and must not create a new use of
6 fossil fuels that results in a net increase of fossil fuel usage.

7 (4) The compliance eligibility of energy transformation projects
8 may be scaled or prorated by an approved protocol in order to
9 distinguish effects related to reductions in electricity usage from
10 reductions in fossil fuel usage.

11 (5) Any compliance obligation fulfilled through an investment in
12 an energy transformation project is eligible for use only: (a) By the
13 electric utility that makes the investment; (b) if the investment is
14 made by the Bonneville power administration, by electric utilities
15 that are preference customers of the Bonneville power administration;
16 or (c) if the investment is made by a joint operating agency
17 organized under chapter 43.52 RCW, by a member of the joint operating
18 agency. An electric utility making an investment in partnership with
19 another electric utility or entity may claim credit proportional to
20 its share invested in the total project cost.

21 (6)(a) In meeting the standard under subsection (1) of this
22 section, an electric utility must, consistent with the requirements
23 of RCW 19.285.040, if applicable, pursue all cost-effective,
24 reliable, and feasible conservation and efficiency resources, and
25 demand response. In making new investments, an electric utility must,
26 to the maximum extent feasible:

27 (i) Achieve targets at the lowest reasonable cost, considering
28 risk;

29 (ii) Consider acquisition of existing renewable resources; and

30 (iii) In the acquisition of new resources constructed after May
31 7, 2019, rely on renewable resources and energy storage, insofar as
32 doing so is consistent with (a)(i) of this subsection.

33 (b) Electric utilities subject to RCW 19.285.040 must demonstrate
34 pursuit of all conservation and efficiency resources through
35 compliance with the requirements in RCW 19.285.040.

36 (7) An electric utility that fails to meet the requirements of
37 this section must pay the administrative penalty established under
38 RCW 19.405.090(1), except as otherwise provided in this chapter.

39 (8) In complying with this section, an electric utility must,
40 consistent with the requirements of RCW 19.280.030 and 19.405.140,

1 ensure that all customers are benefiting from the transition to clean
2 energy: Through the equitable distribution of energy and nonenergy
3 benefits and reduction of burdens to vulnerable populations and
4 highly impacted communities; long-term and short-term public health
5 and environmental benefits and reduction of costs and risks; and
6 energy security and resiliency.

7 (9) Affected market customers must comply with the standard
8 established under subsection (1) of this section.

9 (10) A market customer that purchases electricity exclusively
10 from carbon-free resources and eligible renewable resources, as
11 defined in RCW 19.285.030 as of January 1, 2019, pursuant to a
12 special contract with an investor-owned utility approved, prior to
13 May 7, 2019, by order of the commission is subject to the
14 requirements of such an order and not to the standard established in
15 this section. For purposes of interpreting any such special contract,
16 chapter 19.285 RCW, as in effect on January 1, 2019, is not, either
17 directly or indirectly, amended or supplemented.

18 (11) To reduce costs for utility customers or avoid exceeding the
19 cost impact limit in RCW 19.405.060(3)(a), a multistate electric
20 utility with fewer than (~~two hundred fifty thousand~~) 250,000
21 customers in Washington may apply the total amount of megawatt-hours
22 of coal-fired resources eliminated from the utility's allocation of
23 electricity before December 31, 2025, as an equivalent amount of
24 megawatt-hours of nonemitting electric generation or electricity from
25 renewable resources required to comply with subsection (1)(a) of this
26 section. The utility must demonstrate that for every megawatt-hour of
27 early action compliance credit there is a real, permanent reduction
28 in greenhouse gas emissions in the western interconnection directly
29 associated with that credit. A multistate electric utility must
30 request to use early action compliance credit in its clean energy
31 implementation plan that is submitted under RCW 19.405.060. The
32 multistate electric utility must specify in its clean energy
33 implementation plan the compliance years to which the early action
34 compliance credit will apply, but in no event may the multistate
35 electric utility use the early action compliance credits beyond 2035.
36 The commission must establish conditions for use of early action
37 compliance credits, including a determination of whether action
38 constitutes early action, before the multistate electric utility's

1 use of early action compliance credits in a clean energy
2 implementation plan.

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