
SENATE BILL 5401

State of Washington

69th Legislature

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By Senators Slatter, Boehnke, and Nobles

Read first time 01/21/25. Referred to Committee on Environment,
Energy & Technology.

1 AN ACT Relating to wholesale power purchases by electric
2 utilities under the Washington clean energy transformation act; and
3 amending RCW 19.405.020 and 19.405.030.

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

5 **Sec. 1.** RCW 19.405.020 and 2024 c 83 s 2 are each amended to
6 read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Allocation of electricity" means, for the purposes of
10 setting electricity rates, the costs and benefits associated with the
11 resources used to provide electricity to an electric utility's retail
12 electricity consumers that are located in this state.

13 (2) "Alternative compliance payment" means the payment
14 established in RCW 19.405.090(2).

15 (3) "Attorney general" means the Washington state office of the
16 attorney general.

17 (4) "Auditor" means: (a) The Washington state auditor's office or
18 its designee for utilities under its jurisdiction under this chapter
19 that are consumer-owned utilities; or (b) an independent auditor
20 selected by a utility that is not under the jurisdiction of the state
21 auditor and is not an investor-owned utility.

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

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

11 (6) "Carbon dioxide equivalent" has the same meaning as defined
12 in RCW 70A.45.010.

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

16 (b) (i) "Coal-fired resource" does not include an electric
17 generating facility that is included as part of a limited duration
18 wholesale power purchase(~~(, not to exceed one month,)~~) made by an
19 electric utility for delivery to retail electric customers that are
20 located in this state for which the source of the power is not known
21 at the time of entry into the transaction to procure the electricity,
22 where the purchase is either: (A) For a contract duration not to
23 exceed three months; or (B) a purchase of system sales for a contract
24 duration not to exceed six months, provided that the purchase is
25 necessary to meet the electric utility's seasonal resource adequacy
26 requirements under a regional resource adequacy program.

27 (ii) "Coal-fired resource" does not include an electric
28 generating facility that is subject to an obligation to meet the
29 standards contained in RCW 80.80.040(3)(c).

30 (iii) "Coal-fired resource" does not include electricity
31 purchased from the Bonneville power administration under a long-term
32 power purchase agreement or exchange agreement, except for any
33 portion of the federal system supplied by a transaction to procure
34 electricity where, at the time the Bonneville power administration
35 entered into the transaction, the source of the electricity was known
36 to be from a coal-fired generating unit.

37 (8) "Commission" means the Washington utilities and
38 transportation commission.

1 (9) "Conservation and efficiency resources" means any reduction
2 in electric power consumption that results from increases in the
3 efficiency of energy use, production, transmission, or distribution.

4 (10) "Consumer-owned utility" means a municipal electric utility
5 formed under Title 35 RCW, a public utility district formed under
6 Title 54 RCW, an irrigation district formed under chapter 87.03 RCW,
7 a cooperative formed under chapter 23.86 RCW, or a mutual corporation
8 or association formed under chapter 24.06 RCW, that is engaged in the
9 business of distributing electricity to more than one retail electric
10 customer in the state.

11 (11) "Demand response" means changes in electric usage by demand-
12 side resources from their normal consumption patterns in response to
13 changes in the price of electricity, or to incentive payments
14 designed to induce lower electricity use, at times of high wholesale
15 market prices or when system reliability is jeopardized. "Demand
16 response" may include measures to increase or decrease electricity
17 production on the customer's side of the meter in response to
18 incentive payments.

19 (12) "Department" means the department of commerce.

20 (13) "Distributed energy resource" means a nonemitting electric
21 generation or renewable resource or program that reduces electric
22 demand, manages the level or timing of electricity consumption, or
23 provides storage, electric energy, capacity, or ancillary services to
24 an electric utility and that is located on the distribution system,
25 any subsystem of the distribution system, or behind the customer
26 meter, including conservation and energy efficiency.

27 (14) "Electric utility" or "utility" means a consumer-owned
28 utility or an investor-owned utility.

29 (15) "Energy assistance" means a program undertaken by a utility
30 to reduce the household energy burden of its customers.

31 (a) Energy assistance includes, but is not limited to,
32 weatherization, conservation and efficiency services, and monetary
33 assistance, such as a grant program or discounts for lower income
34 households, intended to lower a household's energy burden.

35 (b) Energy assistance may include direct customer ownership in
36 distributed energy resources or other strategies if such strategies
37 achieve a reduction in energy burden for the customer above other
38 available conservation and demand-side measures.

1 (16) "Energy assistance need" means the amount of assistance
2 necessary to achieve a level of household energy burden established
3 by the department or commission.

4 (17) "Energy burden" means the share of annual household income
5 used to pay annual home energy bills.

6 (18)(a) "Energy transformation project" means a project or
7 program that: Provides energy-related goods or services, other than
8 the generation of electricity; results in a reduction of fossil fuel
9 consumption and in a reduction of the emission of greenhouse gases
10 attributable to that consumption; and provides benefits to the
11 customers of an electric utility.

12 (b) "Energy transformation project" may include but is not
13 limited to:

14 (i) Home weatherization or other energy efficiency measures,
15 including market transformation for energy efficiency products, in
16 excess of: The target established under RCW 19.285.040(1), if
17 applicable; other state obligations; or other obligations in effect
18 on May 7, 2019;

19 (ii) Support for electrification of the transportation sector
20 including, but not limited to:

21 (A) Equipment on an electric utility's transmission and
22 distribution system to accommodate electric vehicle connections, as
23 well as smart grid systems that enable electronic interaction between
24 the electric utility and charging systems, and facilitate the
25 utilization of vehicle batteries for system needs;

26 (B) Incentives for the sale or purchase of electric vehicles,
27 both battery and fuel cell powered, as authorized under state or
28 federal law;

29 (C) Incentives for the installation of charging equipment for
30 electric vehicles;

31 (D) Incentives for the electrification of vehicle fleets
32 utilizing a battery or fuel cell for electric supply;

33 (E) Incentives to install and operate equipment to produce or
34 distribute renewable hydrogen; and

35 (F) Incentives for renewable hydrogen fueling stations;

36 (iii) Investment in distributed energy resources and grid
37 modernization to facilitate distributed energy resources and improved
38 grid resilience;

39 (iv) Investments in equipment for renewable natural gas
40 processing, conditioning, and production, or equipment or

1 infrastructure used solely for the purpose of delivering renewable
2 natural gas for consumption or distribution;

3 (v) Contributions to self-directed investments in the following
4 measures to serve the sites of large industrial gas and electrical
5 customers: (A) Conservation; (B) new renewable resources; (C) behind-
6 the-meter technology that facilitates demand response cooperation to
7 reduce peak loads; (D) infrastructure to support electrification of
8 transportation needs, including battery and fuel cell
9 electrification; or (E) renewable natural gas processing,
10 conditioning, or production; and

11 (vi) Projects and programs that achieve energy efficiency and
12 emission reductions in the agricultural sector, including bioenergy
13 and renewable natural gas projects.

14 (19) "Fossil fuel" means natural gas, petroleum, coal, or any
15 form of solid, liquid, or gaseous fuel derived from such a material.

16 (20) "Governing body" means: The council of a city or town; the
17 commissioners of an irrigation district, municipal electric utility,
18 or public utility district; or the board of directors of an electric
19 cooperative or mutual association that has the authority to set and
20 approve rates.

21 (21) "Greenhouse gas" includes carbon dioxide, methane, nitrous
22 oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and
23 any other gas or gases designated by the department of ecology by
24 rule under RCW 70A.45.010.

25 (22) "Highly impacted community" means a community designated by
26 the department of health based on cumulative impact analyses in RCW
27 19.405.140 or a community located in census tracts that are fully or
28 partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

29 (23) "Investor-owned utility" means a company owned by investors
30 that meets the definition of "corporation" in RCW 80.04.010 and is
31 engaged in distributing electricity to more than one retail electric
32 customer in the state.

33 (24) "Low-income" means household incomes as defined by the
34 department or commission, provided that the definition may not exceed
35 the higher of eighty percent of area median household income or two
36 hundred percent of the federal poverty level, adjusted for household
37 size.

38 (25)(a) "Market customer" means a nonresidential customer of an
39 electric utility that: (i) Purchases electricity from an entity or
40 entities other than the utility with which it is directly

1 interconnected; or (ii) generates electricity to meet one hundred
2 percent of its own needs.

3 (b) An "affected market customer" is a customer of a utility who
4 becomes a market customer after May 7, 2019.

5 (26)(a) "Natural gas" means naturally occurring mixtures of
6 hydrocarbon gases and vapors consisting principally of methane,
7 whether in gaseous or liquid form, including methane clathrate.

8 (b) "Natural gas" does not include renewable natural gas or the
9 portion of renewable natural gas when blended into other fuels.

10 (27)(a) "Nonemitting electric generation" means electricity from
11 a generating facility or a resource that provides electric energy,
12 capacity, or ancillary services to an electric utility and that does
13 not emit greenhouse gases as a by-product of energy generation.

14 (b) "Nonemitting electric generation" does not include renewable
15 resources.

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

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

33 (29) "Qualified transmission line" means an overhead transmission
34 line that is: (a) Designed to carry a voltage in excess of one
35 hundred thousand volts; (b) owned in whole or in part by an investor-
36 owned utility; and (c) primarily or exclusively used by such an
37 investor-owned utility as of May 7, 2019, to transmit electricity
38 generated by a coal-fired resource.

39 (30) "Renewable energy credit" means a tradable certificate of
40 proof of one megawatt-hour of a renewable resource. The certificate

1 includes all of the nonpower attributes associated with that one
2 megawatt-hour of electricity and the certificate is verified by a
3 renewable energy credit tracking system selected by the department.

4 (31) "Renewable hydrogen" means hydrogen produced using renewable
5 resources both as the source for the hydrogen and the source for the
6 energy input into the production process.

7 (32) "Renewable natural gas" means a gas consisting largely of
8 methane and other hydrocarbons derived from the decomposition of
9 organic material in landfills, wastewater treatment facilities, and
10 anaerobic digesters.

11 (33) "Renewable resource" means: (a) Water; (b) wind; (c) solar
12 energy; (d) geothermal energy; (e) renewable natural gas; (f)
13 renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel
14 fuel that is not derived from crops raised on land cleared from old
15 growth or first growth forests; or (i) biomass energy.

16 (34)(a) "Retail electric customer" means a person or entity that
17 purchases electricity from any electric utility for ultimate
18 consumption and not for resale.

19 (b) "Retail electric customer" does not include, in the case of
20 any electric utility, any person or entity that purchases electricity
21 exclusively from carbon-free and eligible renewable resources, as
22 defined in RCW 19.285.030 as of January 1, 2019, pursuant to a
23 special contract with an investor-owned utility approved by an order
24 of the commission prior to May 7, 2019.

25 (35) "Retail electric load" means the amount of megawatt-hours of
26 electricity delivered in a given calendar year by an electric utility
27 to its Washington retail electric customers. "Retail electric load"
28 does not include:

29 (a) Megawatt-hours delivered from qualifying facilities under the
30 federal public utility regulatory policies act of 1978, P.L. 95-617,
31 in operation prior to May 7, 2019, provided that no entity other than
32 the electric utility can make a claim on delivery of the megawatt-
33 hours from those resources; or

34 (b) Megawatt-hours delivered to an electric utility's system from
35 a renewable resource through a voluntary renewable energy purchase by
36 a retail electric customer of the utility in which the renewable
37 energy credits associated with the megawatt-hours delivered are
38 retired on behalf of the retail electric customer.

39 (36) "Thermal renewable energy credit" means, with respect to a
40 facility that generates electricity using biomass energy that also

1 generates thermal energy for a secondary purpose, a renewable energy
2 credit that is equivalent to three million four hundred twelve
3 thousand British thermal units of energy used for such secondary
4 purpose.

5 (37) "Unbundled renewable energy credit" means a renewable energy
6 credit that is sold, delivered, or purchased separately from
7 electricity. All thermal renewable energy credits are considered
8 unbundled renewable energy credits.

9 (38) "Unspecified electricity" means an electricity source for
10 which the fuel attribute is unknown or has been separated from the
11 energy delivered to retail electric customers.

12 (39) "Vulnerable populations" means communities that experience a
13 disproportionate cumulative risk from environmental burdens due to:

14 (a) Adverse socioeconomic factors, including unemployment, high
15 housing and transportation costs relative to income, access to food
16 and health care, and linguistic isolation; and

17 (b) Sensitivity factors, such as low birth weight and higher
18 rates of hospitalization.

19 **Sec. 2.** RCW 19.405.030 and 2019 c 288 s 3 are each amended to
20 read as follows:

21 (1) (a) On or before December 31, 2025, each electric utility must
22 eliminate coal-fired resources from its allocation of electricity.
23 This does not include costs associated with decommissioning and
24 remediation of these facilities.

25 (b) The commission shall allow in electric rates all
26 decommissioning and remediation costs prudently incurred by an
27 investor-owned utility for a coal-fired resource.

28 (2) The commission must accelerate depreciation schedules for any
29 coal-fired resource to a date no later than December 31, 2025. The
30 commission may accelerate the depreciation schedule for any qualified
31 transmission line owned by an investor-owned utility when the
32 commission finds the qualified transmission line is no longer used
33 and useful and there is no reasonable likelihood that the qualified
34 transmission line will be utilized in the future. The adjusted
35 depreciation schedule must require such a qualified transmission line
36 to be fully depreciated on or before December 31, 2025.

37 (3) The commission must allow in rates, directly or indirectly,
38 amounts on an investor-owned utility's books of account that the
39 commission finds represent prudently incurred undepreciated

1 investment in a fossil fuel generating resource that has been retired
2 from service when:

3 (a) The retirement is due to ordinary wear and tear, casualties,
4 acts of God, acts of governmental authority, inability to procure or
5 use fuel, termination or expiration of any ownership, or a operation
6 agreement affecting such a fossil fuel generating resource; or

7 (b) The commission finds that the retirement is in the public
8 interest.

9 (4) An electric utility that fails to comply with the
10 requirements of subsection (1) of this section must pay the
11 administrative penalty established under RCW 19.405.090(1), except as
12 otherwise provided in this chapter.

13 (5) Nothing in this section prohibits an electric utility from
14 purchasing or exchanging power from the Bonneville power
15 administration.

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