
HOUSE BILL 2064

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By Representatives Morris, Pollet, and Tarleton

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1 AN ACT Relating to providing compliance options for qualifying
2 utilities; and amending RCW 19.285.040 and 19.285.080.

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

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

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

8 (a) By January 1, 2010, using methodologies consistent with those
9 used by the Pacific Northwest electric power and conservation
10 planning council in the most recently published regional power plan
11 as it existed on June 12, 2014, or a subsequent date as may be
12 provided by the department or the commission by rule, each qualifying
13 utility shall identify its achievable cost-effective conservation
14 potential through 2019. Nothing in the rule adopted under this
15 subsection precludes a qualifying utility from using its utility
16 specific conservation measures, values, and assumptions in
17 identifying its achievable cost-effective conservation potential. At
18 least every two years thereafter, the qualifying utility shall review
19 and update this assessment for the subsequent ten-year period.

20 (b) Beginning January 2010, each qualifying utility shall
21 establish and make publicly available a biennial acquisition target

1 for cost-effective conservation consistent with its identification of
2 achievable opportunities in (a) of this subsection, and meet that
3 target during the subsequent two-year period. At a minimum, each
4 biennial target must be no lower than the qualifying utility's pro
5 rata share for that two-year period of its cost-effective
6 conservation potential for the subsequent ten-year period.

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

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

26 (iii) Beginning January 1, 2012, and until December 31, 2017, a
27 qualifying utility with an industrial facility located in a county
28 with a population between ninety-five thousand and one hundred
29 fifteen thousand that is directly interconnected with electricity
30 facilities that are capable of carrying electricity at transmission
31 voltage((τ)) may use cost-effective conservation from that industrial
32 facility in excess of its biennial acquisition target to help meet
33 the immediately subsequent two biennial acquisition targets, such
34 that no more than twenty-five percent of any biennial target may be
35 met with excess conservation savings allowed under all of the
36 provisions of this section combined.

37 (d) In meeting its conservation targets, a qualifying utility may
38 count high-efficiency cogeneration owned and used by a retail
39 electric customer to meet its own needs. High-efficiency cogeneration
40 is the sequential production of electricity and useful thermal energy

1 from a common fuel source, where, under normal operating conditions,
2 the facility has a useful thermal energy output of no less than
3 thirty-three percent of the total energy output. The reduction in
4 load due to high-efficiency cogeneration shall be: (i) Calculated as
5 the ratio of the fuel chargeable to power heat rate of the
6 cogeneration facility compared to the heat rate on a new and clean
7 basis of a best-commercially available technology combined-cycle
8 natural gas-fired combustion turbine; and (ii) counted towards
9 meeting the biennial conservation target in the same manner as other
10 conservation savings.

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

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

16 (2)(a) Except as provided in (~~(j)~~) (m) of this subsection, each
17 qualifying utility shall use eligible renewable resources or acquire
18 equivalent renewable energy credits, or any combination of them, to
19 meet the following annual targets:

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

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

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

26 (b) A qualifying utility may count distributed generation at
27 double the facility's electrical output if the utility: (i) Owns or
28 has contracted for the distributed generation and the associated
29 renewable energy credits; or (ii) has contracted to purchase the
30 associated renewable energy credits.

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

34 (d) A qualifying utility shall be considered in compliance with
35 an annual target in (a) of this subsection if: (i) The utility's
36 weather-adjusted load for the previous three years on average did not
37 increase over that time period; (ii) after December 7, 2006, the
38 utility did not commence or renew ownership or incremental purchases
39 of electricity from resources other than coal transition power or
40 renewable resources other than on a daily spot price basis and the

1 electricity is not offset by equivalent renewable energy credits; and
2 (iii) the utility invested at least one percent of its total annual
3 retail revenue requirement that year on eligible renewable resources,
4 renewable energy credits, or a combination of both.

5 (e) A qualifying utility is considered in compliance with an
6 annual target in (a) of this subsection if, for any year of the first
7 two years of a biennial resource plan or update adopted by the
8 utility pursuant to RCW 19.280.030:

9 (i) Either:

10 (A) The load to be served by the utility is not projected to
11 increase from the previous year, net of conservation; or

12 (B) The cumulative load growth from December 7, 2006, including
13 the projected load growth for the target year, net of conservation,
14 is projected to be less than the amount of eligible renewable
15 resources that would otherwise be required to meet the annual target
16 in (a) of this subsection for that year, and that cumulative load
17 growth is served by eligible renewable resources or RECs; or

18 (C) The utility has projected sufficient resources, owned or
19 under contract as of January 1, 2010, to serve its projected load,
20 net of conservation, for the target year;

21 (ii) the utility did not otherwise commence or renew ownership or
22 incremental purchases of electricity from resources other than coal
23 transition power or renewable resources other than on a daily spot
24 price basis, and the electricity is not offset by equivalent
25 renewable energy credits;

26 (iii) The utility has invested at least one percent of its total
27 annual retail revenue requirement that year on one or more of the
28 following clean energy investments in any combination: Eligible
29 renewable resources; renewable energy credits; noncost-effective
30 conservation; demand response programs; electric vehicle charging
31 stations; energy storage; research and development for clean energy
32 technologies; or other projects as approved by the commission or
33 governing board, as appropriate, that reduce or offset, or lead to
34 development of technology that reduces or offsets, emissions of
35 greenhouse gases; and

36 (iv) A utility must document compliance with this option by June
37 30th after the completion of the target year for which it is to be
38 utilized, or, if unable to document compliance by that date, must
39 document compliance with either (a) or (d) of this subsection by
40 December 31st of that same year.

1 (f) The governing board of the consumer-owned utility utilizing
2 planning projections for compliance under (e) of this subsection has
3 sole authority to determine the process, timelines, and documentation
4 for developing planning projections pursuant to chapter 19.280 RCW
5 utilized for this compliance option.

6 (g) A utility utilizing the compliance path of either (d) or (e)
7 of this subsection shall resume meeting the compliance requirements
8 in this section on a time frame comparable in length to what it would
9 have been before utilizing the compliance option.

10 (h) The requirements of this section may be met for any given
11 year with renewable energy credits produced during that year, the
12 preceding year, or the subsequent year. Each renewable energy credit
13 may be used only once to meet the requirements of this section.

14 ~~((f))~~ (i) In complying with the targets established in (a) of
15 this subsection, a qualifying utility may not count:

16 (i) Eligible renewable resources or distributed generation where
17 the associated renewable energy credits are owned by a separate
18 entity; or

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

22 ~~((g))~~ (j) Where fossil and combustible renewable resources are
23 cofired in one generating unit located in the Pacific Northwest where
24 the cofiring commenced after March 31, 1999, the unit shall be
25 considered to produce eligible renewable resources in direct
26 proportion to the percentage of the total heat value represented by
27 the heat value of the renewable resources.

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

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

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

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

38 ~~((i))~~ (l) A qualifying utility shall be considered in
39 compliance with an annual target in (a) of this subsection if events
40 beyond the reasonable control of the utility that could not have been

1 reasonably anticipated or ameliorated prevented it from meeting the
2 renewable energy target. Such events include weather-related damage,
3 mechanical failure, strikes, lockouts, and actions of a governmental
4 authority that adversely affect the generation, transmission, or
5 distribution of an eligible renewable resource under contract to a
6 qualifying utility.

7 ~~((j))~~ (m)(i) Beginning January 1, 2016, only a qualifying
8 utility that owns or is directly interconnected to a qualified
9 biomass energy facility may use qualified biomass energy to meet its
10 compliance obligation under this subsection.

11 (ii) A qualifying utility may no longer use electricity and
12 associated renewable energy credits from a qualified biomass energy
13 facility if the associated industrial pulping or wood manufacturing
14 facility ceases operation other than for purposes of maintenance or
15 upgrade.

16 ~~((k))~~ (n) An industrial facility that hosts a qualified biomass
17 energy facility may only transfer or sell renewable energy credits
18 associated with its facility to the qualifying utility with which it
19 is directly interconnected with facilities owned by such a qualifying
20 utility and that are capable of carrying electricity at transmission
21 voltage. The qualifying utility may only use an amount of renewable
22 energy credits associated with qualified biomass energy that are
23 equivalent to the proportionate amount of its annual targets under
24 (a)(ii) and (iii) of this subsection that was created by the load of
25 the industrial facility. A qualifying utility that owns a qualified
26 biomass energy facility may not transfer or sell renewable energy
27 credits associated with qualified biomass energy to another person,
28 entity, or qualifying utility.

29 (3) Utilities that become qualifying utilities after December 31,
30 2006, shall meet the requirements in this section on a time frame
31 comparable in length to that provided for qualifying utilities as of
32 December 7, 2006.

33 **Sec. 2.** RCW 19.285.080 and 2007 c 1 s 8 are each amended to read
34 as follows:

35 (1) The commission may adopt rules to ensure the proper
36 implementation and enforcement of this chapter as it applies to
37 investor-owned utilities.

38 (2) Except as provided in RCW 19.285.040(2)(f), the department
39 shall adopt rules concerning only process, timelines, and

1 documentation to ensure the proper implementation of this chapter as
2 it applies to qualifying utilities that are not investor-owned
3 utilities. Those rules include, but are not limited to, rules
4 associated with a qualifying utility's development of conservation
5 targets under RCW 19.285.040(1); a qualifying utility's decision to
6 pursue alternative compliance in RCW 19.285.040(2) (d) or ~~((+i+))~~ (l)
7 or 19.285.050(1); and the format and content of reports required in
8 RCW 19.285.070. The department may not adopt rules concerning RCW
9 19.285.040(2)(f). Nothing in this subsection may be construed to
10 restrict the rate-making authority of the commission or a qualifying
11 utility as otherwise provided by law.

12 (3) The commission and department may coordinate in developing
13 rules related to process, timelines, and documentation that are
14 necessary for implementation of this chapter.

15 (4) Pursuant to the administrative procedure act, chapter 34.05
16 RCW, rules needed for the implementation of this chapter must be
17 adopted by December 31, 2007. These rules may be revised as needed to
18 carry out the intent and purposes of this chapter.

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