
HOUSE BILL 2073

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By Representative Fey

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1 AN ACT Relating to the energy independence act; and amending RCW
2 19.285.030 and 19.285.040.

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

4 **Sec. 1.** RCW 19.285.030 and 2014 c 45 s 1 are each amended to
5 read as follows:

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

8 (1) "Attorney general" means the Washington state office of the
9 attorney general.

10 (2) "Auditor" means: (a) The Washington state auditor's office or
11 its designee for qualifying utilities under its jurisdiction that are
12 not investor-owned utilities; or (b) an independent auditor selected
13 by a qualifying utility that is not under the jurisdiction of the
14 state auditor and is not an investor-owned utility.

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

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

5 (4) "Coal transition power" has the same meaning as defined in
6 RCW 80.80.010.

7 (5) "Commission" means the Washington state utilities and
8 transportation commission.

9 (6) "Conservation" means any reduction in electric power
10 consumption resulting from increases in the efficiency of energy use,
11 production, or distribution.

12 (7) "Cost-effective" has the same meaning as defined in RCW
13 80.52.030.

14 (8) "Council" means the Washington state apprenticeship and
15 training council within the department of labor and industries.

16 (9) "Customer" means a person or entity that purchases
17 electricity for ultimate consumption and not for resale.

18 (10) "Department" means the department of commerce or its
19 successor.

20 (11) "Distributed generation" means an eligible renewable
21 resource where the generation facility or any integrated cluster of
22 such facilities has a generating capacity of not more than five
23 megawatts.

24 (12) "Eligible renewable resource" means:

25 (a) Electricity from a generation facility powered by a renewable
26 resource other than freshwater that commences operation after March
27 31, 1999, where: (i) The facility is located in the Pacific
28 Northwest; or (ii) the electricity from the facility is delivered
29 into Washington state on a real-time basis without shaping, storage,
30 or integration services;

31 (b) Incremental electricity produced as a result of efficiency
32 improvements completed after March 31, 1999, to hydroelectric
33 generation projects owned by a qualifying utility and located in the
34 Pacific Northwest where the additional generation does not result in
35 new water diversions or impoundments;

36 (c) Hydroelectric generation from a project completed after March
37 31, 1999, where the generation facility is located in irrigation
38 pipes, irrigation canals, water pipes whose primary purpose is for
39 conveyance of water for municipal use, and wastewater pipes located

1 in Washington where the generation does not result in new water
2 diversions or impoundments;

3 (d) Qualified biomass energy; ((e))

4 (e) For a qualifying utility that serves customers in other
5 states, electricity from a generation facility powered by a renewable
6 resource other than freshwater that commences operation after March
7 31, 1999, where: (i) The facility is located within a state in which
8 the qualifying utility serves retail electrical customers; and (ii)
9 the qualifying utility owns the facility in whole or in part or has a
10 long-term contract with the facility of at least twelve months or
11 more;

12 (f) The portion of incremental electricity produced as a result
13 of efficiency improvements completed after March 31, 1999,
14 attributable to a qualifying utility's share of the electricity
15 output from hydroelectric generation projects whose energy output is
16 marketed by the Bonneville power administration where the additional
17 generation does not result in new water diversions or impoundments;
18 or

19 (g) The environmental attributes, including renewable energy
20 credits under (f) of this subsection, transferred to investor-owned
21 utilities pursuant to the Bonneville power administration's
22 residential exchange program.

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

25 (14) "Load" means the amount of kilowatt-hours of electricity
26 delivered in the most recently completed year by a qualifying utility
27 to its Washington retail customers.

28 (15)(a) "Nonpower attributes" means all environmentally related
29 characteristics, exclusive of energy, capacity reliability, and other
30 electrical power service attributes, that are associated with the
31 generation of electricity from a renewable resource, including but
32 not limited to the facility's fuel type, geographic location,
33 vintage, qualification as an eligible renewable resource, and avoided
34 emissions of pollutants to the air, soil, or water, and avoided
35 emissions of carbon dioxide and other greenhouse gases.

36 (b) "Nonpower attributes" does not include any aspects, claims,
37 characteristics, and benefits associated with the on-site capture and
38 destruction of methane or other greenhouse gases at a facility
39 through a digester system, landfill gas collection system, or other
40 mechanism, which may be separately marketable as greenhouse gas

1 emission reduction credits, offsets, or similar tradable commodities.
2 However, these separate avoided emissions may not result in or
3 otherwise have the effect of attributing greenhouse gas emissions to
4 the electricity.

5 (16) "Pacific Northwest" has the same meaning as defined for the
6 Bonneville power administration in section 3 of the Pacific Northwest
7 electric power planning and conservation act (94 Stat. 2698; 16
8 U.S.C. Sec. 839a). Beginning January 1, 2016, "Pacific Northwest"
9 also includes the entire state of Montana.

10 (17) "Public facility" has the same meaning as defined in RCW
11 39.35C.010.

12 (18) "Qualified biomass energy" means electricity produced from a
13 biomass energy facility that: (a) Commenced operation before March
14 31, 1999; (b) contributes to the qualifying utility's load; and (c)
15 is owned either by: (i) A qualifying utility; or (ii) an industrial
16 facility that is directly interconnected with electricity facilities
17 that are owned by a qualifying utility and capable of carrying
18 electricity at transmission voltage.

19 (19) "Qualifying utility" means an electric utility, as the term
20 "electric utility" is defined in RCW 19.29A.010, that serves more
21 than twenty-five thousand customers in the state of Washington. The
22 number of customers served may be based on data reported by a utility
23 in form 861, "annual electric utility report," filed with the energy
24 information administration, United States department of energy.

25 (20) "Renewable energy credit" means a tradable certificate of
26 proof, except as provided in RCW 19.285.040(2)(m), of at least one
27 megawatt-hour of an eligible renewable resource where, except as
28 provided in subsection (12)(g) of this section, the generation
29 facility is not powered by freshwater. The certificate includes all
30 of the nonpower attributes associated with that one megawatt-hour of
31 electricity, and the certificate is verified by a renewable energy
32 credit tracking system selected by the department.

33 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar
34 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
35 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
36 fuel as defined in RCW 82.29A.135 that is not derived from crops
37 raised on land cleared from old growth or first-growth forests where
38 the clearing occurred after December 7, 2006; or (i) biomass energy.

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

4 (23) "Year" means the twelve-month period commencing January 1st
5 and ending December 31st.

6 **Sec. 2.** RCW 19.285.040 and 2014 c 26 s 1 are each amended to
7 read as follows:

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

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

22 (b) Beginning January 2010, each qualifying utility shall
23 establish and make publicly available a biennial acquisition target
24 for cost-effective conservation consistent with its identification of
25 achievable opportunities in (a) of this subsection, and meet that
26 target during the subsequent two-year period. At a minimum, each
27 biennial target must be no lower than the qualifying utility's pro
28 rata share for that two-year period of its cost-effective
29 conservation potential for the subsequent ten-year period.

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

37 (ii) Beginning January 1, 2014, a qualifying utility may use
38 single large facility conservation savings in excess of its biennial
39 target to meet up to an additional five percent of the immediately

1 subsequent two biennial acquisition targets, such that no more than
2 twenty-five percent of any biennial target may be met with excess
3 conservation savings allowed under all of the provisions of this
4 section combined. For the purposes of this subsection (1)(c)(ii),
5 "single large facility conservation savings" means cost-effective
6 conservation savings achieved in a single biennial period at the
7 premises of a single customer of a qualifying utility whose annual
8 electricity consumption prior to the conservation savings exceeded
9 five average megawatts.

10 (iii) Beginning January 1, 2012, and until December 31, 2017, a
11 qualifying utility with an industrial facility located in a county
12 with a population between ninety-five thousand and one hundred
13 fifteen thousand that is directly interconnected with electricity
14 facilities that are capable of carrying electricity at transmission
15 voltage((τ)) may use cost-effective conservation from that industrial
16 facility in excess of its biennial acquisition target to help meet
17 the immediately subsequent two biennial acquisition targets, such
18 that no more than twenty-five percent of any biennial target may be
19 met with excess conservation savings allowed under all of the
20 provisions of this section combined.

21 (d) In meeting its conservation targets, a qualifying utility may
22 count high-efficiency cogeneration owned and used by a retail
23 electric customer to meet its own needs. High-efficiency cogeneration
24 is the sequential production of electricity and useful thermal energy
25 from a common fuel source, where, under normal operating conditions,
26 the facility has a useful thermal energy output of no less than
27 thirty-three percent of the total energy output. The reduction in
28 load due to high-efficiency cogeneration shall be: (i) Calculated as
29 the ratio of the fuel chargeable to power heat rate of the
30 cogeneration facility compared to the heat rate on a new and clean
31 basis of a best-commercially available technology combined-cycle
32 natural gas-fired combustion turbine; and (ii) counted towards
33 meeting the biennial conservation target in the same manner as other
34 conservation savings.

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

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

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

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

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

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

11 (b) A qualifying utility may count distributed generation at
12 double the facility's electrical output if the utility: (i) Owns or
13 has contracted for the distributed generation and the associated
14 renewable energy credits; or (ii) has contracted to purchase the
15 associated renewable energy credits.

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

19 (d) A qualifying utility shall be considered in compliance with
20 an annual target in (a) of this subsection if: (i) The utility's
21 weather-adjusted load for the previous three years on average did not
22 increase over that time period; (ii) after December 7, 2006, the
23 utility did not commence or renew ownership or incremental purchases
24 of electricity from resources other than coal transition power or
25 renewable resources other than on a daily spot price basis and the
26 electricity is not offset by equivalent renewable energy credits; and
27 (iii) the utility invested at least one percent of its total annual
28 retail revenue requirement that year on eligible renewable resources,
29 renewable energy credits, or a combination of both.

30 (e) The requirements of this section may be met for any given
31 year with renewable energy credits produced during that year, the
32 preceding year, or the subsequent year. Each renewable energy credit
33 may be used only once to meet the requirements of this section.

34 (f) In complying with the targets established in (a) of this
35 subsection, a qualifying utility may not count:

36 (i) Eligible renewable resources or distributed generation where
37 the associated renewable energy credits are owned by a separate
38 entity; or

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

4 (g) Where fossil and combustible renewable resources are cofired
5 in one generating unit located in the Pacific Northwest where the
6 cofiring commenced after March 31, 1999, the unit shall be considered
7 to produce eligible renewable resources in direct proportion to the
8 percentage of the total heat value represented by the heat value of
9 the renewable resources.

10 (h)(i) A qualifying utility that acquires an eligible renewable
11 resource or renewable energy credit may count that acquisition at one
12 and two-tenths times its base value:

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

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

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

20 (i) A qualifying utility shall be considered in compliance with
21 an annual target in (a) of this subsection if events beyond the
22 reasonable control of the utility that could not have been reasonably
23 anticipated or ameliorated prevented it from meeting the renewable
24 energy target. Such events include weather-related damage, mechanical
25 failure, strikes, lockouts, and actions of a governmental authority
26 that adversely affect the generation, transmission, or distribution
27 of an eligible renewable resource under contract to a qualifying
28 utility.

29 (j)(i) Beginning January 1, 2016, only a qualifying utility that
30 owns or is directly interconnected to a qualified biomass energy
31 facility may use qualified biomass energy to meet its compliance
32 obligation under this subsection.

33 (ii) A qualifying utility may no longer use electricity and
34 associated renewable energy credits from a qualified biomass energy
35 facility if the associated industrial pulping or wood manufacturing
36 facility ceases operation other than for purposes of maintenance or
37 upgrade.

38 (k) An industrial facility that hosts a qualified biomass energy
39 facility may only transfer or sell renewable energy credits
40 associated with its facility to the qualifying utility with which it

1 is directly interconnected with facilities owned by such a qualifying
2 utility and that are capable of carrying electricity at transmission
3 voltage. The qualifying utility may only use an amount of renewable
4 energy credits associated with qualified biomass energy that are
5 equivalent to the proportionate amount of its annual targets under
6 (a)(ii) and (iii) of this subsection that was created by the load of
7 the industrial facility. A qualifying utility that owns a qualified
8 biomass energy facility may not transfer or sell renewable energy
9 credits associated with qualified biomass energy to another person,
10 entity, or qualifying utility.

11 (1) Beginning January 1, 2018, a qualifying utility may use
12 eligible renewable resources as identified under RCW 19.285.030(12)
13 (f) and (g) to meet its compliance obligation under this subsection
14 (2). A qualifying utility may not transfer or sell these eligible
15 renewable resources to another utility for compliance purposes under
16 this chapter.

17 (m) Renewable energy credits allocated under RCW
18 19.285.030(12)(g) may not be transferred or sold to another
19 qualifying utility for compliance under this chapter.

20 (3) Utilities that become qualifying utilities after December 31,
21 2006, shall meet the requirements in subsections (1) and (2) of this
22 section on a time frame comparable in length to that provided for
23 qualifying utilities as of December 7, 2006.

24 (4) Except as provided in (b), (c), and (d) of this subsection,
25 beginning on January 1, 2021, and each year thereafter, all electric
26 utilities as that term is defined in RCW 19.29A.010 shall meet one
27 hundred percent of any new generation need with any one or any
28 combination of the following: Conservation, eligible renewable
29 resources, and storage.

30 (a) New generation subject to the requirements of this
31 subsection, whether that new generation is needed to replace retiring
32 generation, to meet load growth, or for any other purpose, includes
33 the following:

34 (i) A utility's new or increased ownership interest in a new or
35 existing generation facility or unit, consistent with RCW
36 19.285.030(16); and

37 (ii) A new or increased contractual commitment that obligates a
38 utility to purchase a specified amount of megawatt-hours. Contracts
39 do not comply with this subsection unless the sources or origins of
40 generation can be ascertained with reasonable certainty. A contract

1 is not in compliance with this subsection if the contract specifies a
2 source of generation where the megawatt-hours from such source are
3 double-counted or contractually committed to another purchaser.

4 (b) The following are not subject to the requirements of this
5 subsection: (i) A utility's allocation of Bonneville power
6 administration tier 1 power, as determined pursuant to a utility's
7 tier 1 contract with Bonneville power administration; (ii) short-term
8 spot market purchases; (iii) generation that is found by the
9 Washington utilities and transportation commission or a utility's
10 governing board to be required to maintain reliable service and
11 comply with applicable standards of the North American electric
12 reliability corporation or its successor; and (iv) increased
13 megawatt-hours from a generation facility that is already owned by a
14 utility where the utility's ownership interest in the facility does
15 not increase.

16 (c) A utility may acquire new generation other than conservation,
17 eligible renewable resources, and storage for integration, ancillary
18 services, load following, and peak load requirements only if the new
19 generation is found by the Washington utilities and transportation
20 commission or a utility's governing board to be required for such
21 purposes.

22 (d) A utility may only acquire existing Washington-based and
23 Washington utility-owned hydropower in a year where a utility
24 acquires new generation that individually or collectively serves more
25 than ten percent of the utility's annual load. The hydropower
26 acquired pursuant to this subsection (4)(d) may not exceed fifty
27 percent of the new generation acquired by the utility.

28 (e) If a utility acquires a new ownership interest or contractual
29 commitment in gas-fired generation after January 1, 2015, and before
30 January 1, 2021, only the megawatt-hours needed to serve the
31 utility's load in the year that the utility acquires such ownership
32 interest or contractual commitment will be considered existing
33 generation. Any increase in the megawatt-hours used or acquired by
34 the utility after January 1, 2021, must be treated as new generation
35 and are subject to the requirements of this subsection (4).

36 (f) For the purposes of this subsection:

37 (i) "Ancillary services" means those services necessary to
38 support the transmission of electric power from resources to loads
39 while maintaining reliable operations of the interconnected
40 transmission system in accordance with good utility practice.

1 (ii) "Integration" means the incremental reserve requirement
2 necessary to follow changes in the output of a variable energy
3 resource to maintain a continuous balance between loads and
4 generation.

5 (iii) "Load following" means generation necessary to follow
6 changes in load on a moment-to-moment basis to maintain a continuous
7 balance between loads and generation.

8 (iv) "Peak load" means a utility's highest forecast load
9 requirement over a ten-year planning period.

10 (v) "Short-term spot market purchase" means: (A) The purchase of
11 energy on the spot market for immediate delivery; or (B) a contract
12 for the purchase of energy on the spot market that is for a term of
13 no more than three months.

14 (vi) "Spot market" means a physical market in which wholesale
15 electricity is bought, sold, or traded for immediate delivery, such
16 as the Mid-Columbia spot market.

17 (vii) "Storage" means a set of technologies capable of storing
18 previously generated electric energy and releasing that energy at a
19 later time. For the purposes of this subsection (4)(f)(vii), pumped
20 storage projects are considered an energy storage tool for grid
21 stabilization and improved integration of variable renewable energy
22 resources and should not cause any additional adverse impacts to
23 waterways. Adverse impacts may be in river, in-channel peaking,
24 ramping, new pumping of groundwater, or diversion of surface water
25 resources. Utilities should focus on reservoirs already built where
26 water rights are already issued.

27 (viii) "Tier 1 contract" means a power sales contract between a
28 consumer-owned utility and the Bonneville power administration that
29 contains a contract high water mark, and under which the utility
30 purchases power from Bonneville at rates established by Bonneville in
31 accordance with Bonneville's tiered rate methodology.

32 (g) The requirements of this subsection (4) do not replace or
33 modify the requirements contained in subsections (1), (2), and (3) of
34 this section for qualifying utilities. Qualifying utilities must
35 comply with the requirements of this subsection in addition to the
36 requirements imposed elsewhere in this section and chapter.

37 (h) The requirements of this subsection (4) constitute renewable
38 energy targets that are subject to the accountability and enforcement
39 provisions under RCW 19.285.060, the reporting and public disclosure
40 provisions under RCW 19.285.070, and the rule-making provisions under

1 RCW 19.285.080. The provisions of RCW 19.285.060, 19.285.070, and
2 19.285.080 must be applied and enforced with respect to all electric
3 utilities for the purposes of this subsection (4).

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