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SENATE BILL 5430

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State of Washington

64th Legislature

2015 Regular Session

By Senators Ericksen, Brown, and Hewitt

Read first time 01/21/15. Referred to Committee on Energy,  
Environment & Telecommunications.

1 AN ACT Relating to amending the energy independence act; and  
2 amending RCW 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) Any conservation that is not cost-effective as defined by  
13 subsection (7) of this section;

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

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

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

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

30 (15)(a) "Long on resources" means a qualifying utility's  
31 electricity:

32 (a) From: (i) Resources owned or under contract by January 1,  
33 2010; (ii) eligible renewable resources acquired after that date; and  
34 (iii) noneligible resources acquired after that date that are offset  
35 by equivalent renewable energy credits;

36 (b) That is available to serve the utility's load during a target  
37 year under RCW 19.285.040(2)(a) and meets or exceeds the utility's  
38 load for the target year.

39 (16) "Nonpower attributes" means all environmentally related  
40 characteristics, exclusive of energy, capacity reliability, and other

1 electrical power service attributes, that are associated with the  
2 generation of electricity from a renewable resource, including but  
3 not limited to the facility's fuel type, geographic location,  
4 vintage, qualification as an eligible renewable resource, and avoided  
5 emissions of pollutants to the air, soil, or water, and avoided  
6 emissions of carbon dioxide and other greenhouse gases.

7 (b) "Nonpower attributes" does not include any aspects, claims,  
8 characteristics, and benefits associated with the on-site capture and  
9 destruction of methane or other greenhouse gases at a facility  
10 through a digester system, landfill gas collection system, or other  
11 mechanism, which may be separately marketable as greenhouse gas  
12 emission reduction credits, offsets, or similar tradable commodities.  
13 However, these separate avoided emissions may not result in or  
14 otherwise have the effect of attributing greenhouse gas emissions to  
15 the electricity.

16 ~~((16))~~ (17) "Pacific Northwest" has the same meaning as defined  
17 for the Bonneville power administration in section 3 of the Pacific  
18 Northwest electric power planning and conservation act (94 Stat.  
19 2698; 16 U.S.C. Sec. 839a).

20 ~~((17))~~ (18) "Public facility" has the same meaning as defined  
21 in RCW 39.35C.010.

22 ~~((18))~~ (19) "Qualified biomass energy" means electricity  
23 produced from a biomass energy facility that: (a) Commenced operation  
24 before March 31, 1999; (b) contributes to the qualifying utility's  
25 load; and (c) is owned either by: (i) A qualifying utility; or (ii)  
26 an industrial facility that is directly interconnected with  
27 electricity facilities that are owned by a qualifying utility and  
28 capable of carrying electricity at transmission voltage.

29 ~~((19))~~ (20) "Qualifying utility" means an electric utility, as  
30 the term "electric utility" is defined in RCW 19.29A.010, that serves  
31 more than twenty-five thousand customers in the state of Washington.  
32 The number of customers served may be based on data reported by a  
33 utility in form 861, "annual electric utility report," filed with the  
34 energy information administration, United States department of  
35 energy.

36 ~~((20))~~ (21) "Renewable energy credit" means a tradable  
37 certificate of proof, except as provided in RCW 19.285.040(2)(n), of  
38 at least one megawatt-hour of an eligible renewable resource where,  
39 except as provided in subsection (12)(h) of this section, the  
40 generation facility is not powered by freshwater. 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 ~~((+21))~~ (22) "Renewable resource" means: (a) Water; (b) wind;  
5 (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave,  
6 ocean, or tidal power; (g) gas from sewage treatment facilities; (h)  
7 biodiesel fuel as defined in RCW 82.29A.135 that is not derived from  
8 crops raised on land cleared from old growth or first-growth forests  
9 where the clearing occurred after December 7, 2006; or (i) biomass  
10 energy.

11 ~~((+22))~~ (23) "Rule" means rules adopted by an agency or other  
12 entity of Washington state government to carry out the intent and  
13 purposes of this chapter.

14 ~~((+23))~~ (24) "Slow-growing" means a qualifying utility that is  
15 not long on resources and acquires eligible renewable resources,  
16 equivalent renewable energy credits under subsection (15)(a)(iii) of  
17 this section, or any combination of both, to serve the load not  
18 otherwise served by existing resources, and the acquisitions are  
19 insufficient for the utility to meet its annual target under RCW  
20 19.285.040(2)(a).

21 (25) "Year" means the twelve-month period commencing January 1st  
22 and ending December 31st.

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

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

27 (a) By January 1, 2010, using methodologies consistent with those  
28 used by the Pacific Northwest electric power and conservation  
29 planning council in the most recently published regional power plan  
30 as it existed on June 12, 2014, or a subsequent date as may be  
31 provided by the department or the commission by rule, each qualifying  
32 utility shall identify its achievable cost-effective conservation  
33 potential through 2019. Nothing in the rule adopted under this  
34 subsection precludes a qualifying utility from using its utility  
35 specific conservation measures, values, and assumptions in  
36 identifying its achievable cost-effective conservation potential. At  
37 least every two years thereafter, the qualifying utility shall review  
38 and update this assessment for the subsequent ten-year period.

1 (b) Beginning January 2010, each qualifying utility shall  
2 establish and make publicly available a biennial acquisition target  
3 for cost-effective conservation consistent with its identification of  
4 achievable opportunities in (a) of this subsection, and meet that  
5 target during the subsequent two-year period. At a minimum, each  
6 biennial target must be no lower than the qualifying utility's pro  
7 rata share for that two-year period of its cost-effective  
8 conservation potential for the subsequent ten-year period.

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

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

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

39 (d) In meeting its conservation targets, a qualifying utility may  
40 count high-efficiency cogeneration owned and used by a retail

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

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

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

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

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

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

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

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

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

36 (d) A qualifying utility shall be considered in compliance with  
37 an annual target in (a) of this subsection if: (i) The utility's  
38 weather-adjusted load for the previous three years on average did not  
39 increase over that time period; (ii) after December 7, 2006, the  
40 utility did not commence or renew ownership or incremental purchases

1 of electricity from resources other than coal transition power or  
2 renewable resources other than on a daily spot price basis and the  
3 electricity is not offset by equivalent renewable energy credits; and  
4 (iii) the utility invested at least one percent of its total annual  
5 retail revenue requirement that year on eligible renewable resources,  
6 renewable energy credits, or a combination of both.

7 (e) A qualifying utility is considered in compliance with an  
8 annual target in (a) of this subsection if the utility is long on  
9 resources or slow-growing.

10 (f) 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))~~ (g) 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))~~ (h) 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))~~ (i)(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))~~ (j) 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))~~ (k)(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))~~ (l) 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 (m) Beginning January 1, 2016, a qualifying utility may use  
30 eligible renewable resources as identified under RCW 19.285.030(12)  
31 (g) and (h) to meet its compliance obligation under this subsection  
32 (2). A qualifying utility may not transfer or sell these eligible  
33 renewable resources to another utility for compliance purposes under  
34 this chapter.

35 (n) Renewable energy credits allocated under RCW  
36 19.285.030(12)(f) may not be transferred or sold to another  
37 qualifying utility for compliance under this chapter.

38 (3) Utilities that become qualifying utilities after December 31,  
39 2006, shall meet the requirements in this section on a time frame

1 comparable in length to that provided for qualifying utilities as of  
2 December 7, 2006.

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