
HOUSE BILL 1416

State of Washington

68th Legislature

2023 Regular Session

By Representatives Doglio and Ramel; by request of Department of Commerce

1 AN ACT Relating to applying the affected market customer
2 provisions of the Washington clean energy transformation act to
3 nonresidential customers of consumer-owned utilities; and amending
4 RCW 19.405.020.

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

6 **Sec. 1.** RCW 19.405.020 and 2020 c 20 s 1004 are each amended to
7 read as follows:

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

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

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

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

18 (4) "Auditor" means: (a) The Washington state auditor's office or
19 its designee for utilities under its jurisdiction under this chapter
20 that are consumer-owned utilities; or (b) an independent auditor

1 selected by a utility that is not under the jurisdiction of the state
2 auditor and is not an investor-owned utility.

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

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

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

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

18 (b) (i) "Coal-fired resource" does not include an electric
19 generating facility that is included as part of a limited duration
20 wholesale power purchase, not to exceed one month, made by an
21 electric utility for delivery to retail electric customers that are
22 located in this state for which the source of the power is not known
23 at the time of entry into the transaction to procure the electricity.

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

27 (8) "Commission" means the Washington utilities and
28 transportation commission.

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

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

39 (11) "Demand response" means changes in electric usage by demand-
40 side resources from their normal consumption patterns in response to

1 changes in the price of electricity, or to incentive payments
2 designed to induce lower electricity use, at times of high wholesale
3 market prices or when system reliability is jeopardized. "Demand
4 response" may include measures to increase or decrease electricity
5 production on the customer's side of the meter in response to
6 incentive payments.

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

8 (13) "Distributed energy resource" means a nonemitting electric
9 generation or renewable resource or program that reduces electric
10 demand, manages the level or timing of electricity consumption, or
11 provides storage, electric energy, capacity, or ancillary services to
12 an electric utility and that is located on the distribution system,
13 any subsystem of the distribution system, or behind the customer
14 meter, including conservation and energy efficiency.

15 (14) "Electric utility" or "utility" means a consumer-owned
16 utility or an investor-owned utility.

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

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

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

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

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

32 (18)(a) "Energy transformation project" means a project or
33 program that: Provides energy-related goods or services, other than
34 the generation of electricity; results in a reduction of fossil fuel
35 consumption and in a reduction of the emission of greenhouse gases
36 attributable to that consumption; and provides benefits to the
37 customers of an electric utility.

38 (b) "Energy transformation project" may include but is not
39 limited to:

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

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

8 (A) Equipment on an electric utility's transmission and
9 distribution system to accommodate electric vehicle connections, as
10 well as smart grid systems that enable electronic interaction between
11 the electric utility and charging systems, and facilitate the
12 utilization of vehicle batteries for system needs;

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

16 (C) Incentives for the installation of charging equipment for
17 electric vehicles;

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

20 (E) Incentives to install and operate equipment to produce or
21 distribute renewable hydrogen; and

22 (F) Incentives for renewable hydrogen fueling stations;

23 (iii) Investment in distributed energy resources and grid
24 modernization to facilitate distributed energy resources and improved
25 grid resilience;

26 (iv) Investments in equipment for renewable natural gas
27 processing, conditioning, and production, or equipment or
28 infrastructure used solely for the purpose of delivering renewable
29 natural gas for consumption or distribution;

30 (v) Contributions to self-directed investments in the following
31 measures to serve the sites of large industrial gas and electrical
32 customers: (A) Conservation; (B) new renewable resources; (C) behind-
33 the-meter technology that facilitates demand response cooperation to
34 reduce peak loads; (D) infrastructure to support electrification of
35 transportation needs, including battery and fuel cell
36 electrification; or (E) renewable natural gas processing,
37 conditioning, or production; and

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

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

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

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

12 (22) "Greenhouse gas content calculation" means a calculation
13 expressed in carbon dioxide equivalent and made by the department of
14 ecology, in consultation with the department, for the purposes of
15 determining the emissions from the complete combustion or oxidation
16 of fossil fuels and the greenhouse gas emissions in electricity for
17 use in calculating the greenhouse gas emissions content in
18 electricity.

19 (23) "Highly impacted community" means a community designated by
20 the department of health based on cumulative impact analyses in RCW
21 19.405.140 or a community located in census tracts that are fully or
22 partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

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

27 (25) "Low-income" means household incomes as defined by the
28 department or commission, provided that the definition may not exceed
29 the higher of eighty percent of area median household income or two
30 hundred percent of the federal poverty level, adjusted for household
31 size.

32 (26) (a) "Market customer" means a nonresidential (~~retail~~
33 ~~electric~~) customer of an electric utility that: (i) Purchases
34 electricity from an entity or entities other than the utility with
35 which it is directly interconnected; or (ii) generates electricity to
36 meet one hundred percent of its own needs.

37 (b) An "affected market customer" is a customer of (~~an investor-~~
38 ~~owned~~) a utility who becomes a market customer after May 7, 2019.

1 (27) (a) "Natural gas" means naturally occurring mixtures of
2 hydrocarbon gases and vapors consisting principally of methane,
3 whether in gaseous or liquid form, including methane clathrate.

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

6 (28) (a) "Nonemitting electric generation" means electricity from
7 a generating facility or a resource that provides electric energy,
8 capacity, or ancillary services to an electric utility and that does
9 not emit greenhouse gases as a by-product of energy generation.

10 (b) "Nonemitting electric generation" does not include renewable
11 resources.

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

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

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

35 (31) "Renewable energy credit" means a tradable certificate of
36 proof of one megawatt-hour of a renewable resource. The certificate
37 includes all of the nonpower attributes associated with that one
38 megawatt-hour of electricity and the certificate is verified by a
39 renewable energy credit tracking system selected by the department.

1 (32) "Renewable hydrogen" means hydrogen produced using renewable
2 resources both as the source for the hydrogen and the source for the
3 energy input into the production process.

4 (33) "Renewable natural gas" means a gas consisting largely of
5 methane and other hydrocarbons derived from the decomposition of
6 organic material in landfills, wastewater treatment facilities, and
7 anaerobic digesters.

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

13 (35)(a) "Retail electric customer" means a person or entity that
14 purchases electricity from any electric utility for ultimate
15 consumption and not for resale.

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

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

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

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

36 (37) "Thermal renewable energy credit" means, with respect to a
37 facility that generates electricity using biomass energy that also
38 generates thermal energy for a secondary purpose, a renewable energy
39 credit that is equivalent to three million four hundred twelve

1 thousand British thermal units of energy used for such secondary
2 purpose.

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

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

10 (40) "Vulnerable populations" means communities that experience a
11 disproportionate cumulative risk from environmental burdens due to:

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

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

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