
HOUSE BILL 1948

State of Washington

68th Legislature

2024 Regular Session

By Representatives Ybarra and Fitzgibbon

Prefiled 12/14/23.

1 AN ACT Relating to ensuring that methods for calculating the
2 electric load of utilities under the energy independence act do not
3 have the effect of discouraging voluntary investments in renewable
4 power; amending RCW 19.285.030; and reenacting and amending RCW
5 19.285.040.

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

7 **Sec. 1.** RCW 19.285.030 and 2019 c 288 s 28 are each amended to
8 read as follows:

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

11 (1) "Attorney general" means the Washington state office of the
12 attorney general.

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

18 (3)(a) "Biomass energy" includes: (i) Organic by-products of
19 pulping and the wood manufacturing process; (ii) animal manure; (iii)
20 solid organic fuels from wood; (iv) forest or field residues; (v)
21 untreated wooden demolition or construction debris; (vi) food waste

1 and food processing residuals; (vii) liquors derived from algae;
2 (viii) dedicated energy crops; and (ix) yard waste.

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

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

9 (5) "Commission" means the Washington state utilities and
10 transportation commission.

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

14 (7) "Cost-effective" has the same meaning as defined in RCW
15 80.52.030.

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

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

20 (10) "Department" means the department of commerce or its
21 successor.

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

26 (12) "Eligible renewable resource" means:

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

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

38 (c) Hydroelectric generation from a project completed after March
39 31, 1999, where the generation facility is located in irrigation
40 pipes, irrigation canals, water pipes whose primary purpose is for

1 conveyance of water for municipal use, and wastewater pipes located
2 in Washington where the generation does not result in new water
3 diversions or impoundments;

4 (d) Qualified biomass energy;

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

13 (f) (i) Incremental electricity produced as a result of a capital
14 investment completed after January 1, 2010, that increases, relative
15 to a baseline level of generation prior to the capital investment,
16 the amount of electricity generated in a facility that generates
17 qualified biomass energy as defined under subsection (18)(c)(ii) of
18 this section and that commenced operation before March 31, 1999.

19 (ii) Beginning January 1, 2007, the facility must demonstrate its
20 baseline level of generation over a three-year period prior to the
21 capital investment in order to calculate the amount of incremental
22 electricity produced.

23 (iii) The facility must demonstrate that the incremental
24 electricity resulted from the capital investment, which does not
25 include expenditures on operation and maintenance in the normal
26 course of business, through direct or calculated measurement;

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

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

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

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

4 (b) "Load" does not include kilowatt-hours delivered to a
5 qualifying utility's system from an eligible renewable resource
6 through a voluntary renewable energy purchase by a retail electric
7 customer of the utility in which the renewable energy credits
8 associated with the kilowatt-hours delivered are retired on behalf of
9 the customer.

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

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

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

31 (17) "Public facility" has the same meaning as defined in RCW
32 39.35C.010.

33 (18) "Qualified biomass energy" means electricity produced from a
34 biomass energy facility that: (a) Commenced operation before March
35 31, 1999; (b) contributes to the qualifying utility's load; and (c)
36 is owned either by: (i) A qualifying utility; or (ii) an industrial
37 facility that is directly interconnected with electricity facilities
38 that are owned by a qualifying utility and capable of carrying
39 electricity at transmission voltage.

1 (19) "Qualifying utility" means an electric utility, as the term
2 "electric utility" is defined in RCW 19.29A.010, that serves more
3 than (~~twenty-five thousand~~) 25,000 customers in the state of
4 Washington. The number of customers served may be based on data
5 reported by a utility in form 861, "annual electric utility report,"
6 filed with the energy information administration, United States
7 department of energy.

8 (20) "Renewable energy credit" means a tradable certificate of
9 proof of one megawatt-hour of an eligible renewable resource. The
10 certificate includes all of the nonpower attributes associated with
11 that one megawatt-hour of electricity, and the certificate is
12 verified by a renewable energy credit tracking system selected by the
13 department.

14 (21) "Renewable resource" means: (a) Water; (b) wind; (c) solar
15 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
16 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
17 fuel that is not derived from crops raised on land cleared from old
18 growth or first-growth forests where the clearing occurred after
19 December 7, 2006; or (i) biomass energy.

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

23 (23) "Voluntary renewable energy purchase" means an elective
24 decision by a retail electric customer of a qualifying utility to
25 purchase eligible renewable resources directly or participate in a
26 program in which the electric utility purchases megawatt-hours from
27 eligible renewable resources, delivers those megawatt-hours to the
28 utility's system, and retires the associated renewable energy credits
29 on behalf of the retail electric customer.

30 (24) "Year" means the (~~twelve-month~~) 12-month period commencing
31 January 1st and ending December 31st.

32 **Sec. 2.** RCW 19.285.040 and 2021 c 315 s 17 and 2021 c 79 s 1 are
33 each reenacted and amended to read as follows:

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

36 (a) By January 1, 2010, using methodologies consistent with those
37 used by the Pacific Northwest electric power and conservation
38 planning council in the most recently published regional power plan
39 as it existed on June 12, 2014, or a subsequent date as may be

1 provided by the department or the commission by rule, each qualifying
2 utility shall identify its achievable cost-effective conservation
3 potential through 2019. Nothing in the rule adopted under this
4 subsection precludes a qualifying utility from using its utility
5 specific conservation measures, values, and assumptions in
6 identifying its achievable cost-effective conservation potential. At
7 least every two years thereafter, the qualifying utility shall review
8 and update this assessment for the subsequent ten-year period.

9 (b) Beginning January 2010, each qualifying utility shall
10 establish and make publicly available a biennial acquisition target
11 for cost-effective conservation consistent with its identification of
12 achievable opportunities in (a) of this subsection, and meet that
13 target during the subsequent two-year period. At a minimum, each
14 biennial target must be no lower than the qualifying utility's pro
15 rata share for that two-year period of its cost-effective
16 conservation potential for the subsequent ten-year period.

17 (c) (i) Except as provided in (c) (ii) and (iii) of this
18 subsection, beginning on January 1, 2014, cost-effective conservation
19 achieved by a qualifying utility in excess of its biennial
20 acquisition target may be used to help meet the immediately
21 subsequent two biennial acquisition targets, such that no more than
22 (~~twenty~~) 20 percent of any biennial target may be met with excess
23 conservation savings.

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

36 (iii) Beginning January 1, 2012, and until December 31, 2017, a
37 qualifying utility with an industrial facility located in a county
38 with a population between (~~ninety-five thousand~~) 95,000 and (~~one
39 hundred fifteen thousand~~) 115,000 that is directly interconnected
40 with electricity facilities that are capable of carrying electricity

1 at transmission voltage may use cost-effective conservation from that
2 industrial facility in excess of its biennial acquisition target to
3 help meet the immediately subsequent two biennial acquisition
4 targets, such that no more than (~~twenty-five~~) 25 percent of any
5 biennial target may be met with excess conservation savings allowed
6 under all of the provisions of this section combined.

7 (d) In meeting its conservation targets, a qualifying utility may
8 count high-efficiency cogeneration owned and used by a retail
9 electric customer to meet its own needs. High-efficiency cogeneration
10 is the sequential production of electricity and useful thermal energy
11 from a common fuel source, where, under normal operating conditions,
12 the facility has a useful thermal energy output of no less than
13 (~~thirty-three~~) 33 percent of the total energy output. The reduction
14 in load due to high-efficiency cogeneration shall be: (i) Calculated
15 as the ratio of the fuel chargeable to power heat rate of the
16 cogeneration facility compared to the heat rate on a new and clean
17 basis of a best-commercially available technology combined-cycle
18 natural gas-fired combustion turbine; and (ii) counted towards
19 meeting the biennial conservation target in the same manner as other
20 conservation savings.

21 (e) A qualifying utility is considered in compliance with its
22 biennial acquisition target for cost-effective conservation in (b) of
23 this subsection if events beyond the reasonable control of the
24 utility that could not have been reasonably anticipated or
25 ameliorated prevented it from meeting the conservation target. Events
26 that a qualifying utility may demonstrate were beyond its reasonable
27 control, that could not have reasonably been anticipated or
28 ameliorated, and that prevented it from meeting the conservation
29 target include: (i) Natural disasters resulting in the issuance of
30 extended emergency declarations; (ii) the cancellation of significant
31 conservation projects; and (iii) actions of a governmental authority
32 that adversely affects the acquisition of cost-effective conservation
33 by the qualifying utility.

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

37 (g) In addition to the requirements of RCW 19.280.030(3), in
38 assessing the cost-effective conservation required under this
39 section, a qualifying utility is encouraged to promote the adoption
40 of air conditioning, as defined in RCW 70A.60.010, with refrigerants

1 not exceeding a global warming potential of 750 and the replacement
2 of stationary refrigeration systems that contain ozone-depleting
3 substances or hydrofluorocarbon refrigerants with a high global
4 warming potential.

5 (h) The commission may rely on its standard practice for review
6 and approval of investor-owned utility conservation targets.

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

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

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

15 (iii) At least (~~fifteen~~) 15 percent of its load by January 1,
16 2020, and each year thereafter.

17 (b) A qualifying utility may count distributed generation at
18 double the facility's electrical output if the utility: (i) Owns or
19 has contracted for the distributed generation and the associated
20 renewable energy credits; or (ii) has contracted to purchase the
21 associated renewable energy credits.

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

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

36 (e) A qualifying utility may use renewable energy credits to meet
37 the requirements of this section, subject to the limitations of this
38 subsection.

39 (i) A renewable energy credit from electricity generated by a
40 resource other than freshwater may be used to meet a requirement

1 applicable to the year in which the credit was created, the year
2 before the year in which the credit was created, or the year after
3 the year in which the credit was created.

4 (ii) A renewable energy credit from electricity generated by
5 freshwater:

6 (A) May only be used to meet a requirement applicable to the year
7 in which the credit was created; and

8 (B) Must be acquired by the qualifying utility through ownership
9 of the generation facility or through a transaction that conveyed
10 both the electricity and the nonpower attributes of the electricity.

11 (iii) A renewable energy credit transferred to an investor-owned
12 utility pursuant to the Bonneville power administration's residential
13 exchange program may not be used by any utility other than the
14 utility receiving the credit from the Bonneville power
15 administration.

16 (iv) Each renewable energy credit may only be used once to meet
17 the requirements of this section and must be retired using procedures
18 of the renewable energy credit tracking system.

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

21 (i) Eligible renewable resources or distributed generation where
22 the associated renewable energy credits are owned by a separate
23 entity; or

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

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

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

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

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

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

4 (i) A qualifying utility shall be considered in compliance with
5 an annual target in (a) of this subsection if events beyond the
6 reasonable control of the utility that could not have been reasonably
7 anticipated or ameliorated prevented it from meeting the renewable
8 energy target. Such events include weather-related damage, mechanical
9 failure, strikes, lockouts, and actions of a governmental authority
10 that adversely affect the generation, transmission, or distribution
11 of an eligible renewable resource under contract to a qualifying
12 utility.

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

17 (ii) A qualifying utility may no longer use electricity and
18 associated renewable energy credits from a qualified biomass energy
19 facility if the associated industrial pulping or wood manufacturing
20 facility ceases operation other than for purposes of maintenance or
21 upgrade.

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

36 (l) Beginning January 1, 2020, a qualifying utility may use
37 eligible renewable resources as identified under RCW 19.285.030(12)
38 (g) and (h) to meet its compliance obligation under this subsection
39 (2). A qualifying utility may not transfer or sell these eligible

1 renewable resources to another utility for compliance purposes under
2 this chapter.

3 (m) Beginning January 1, 2030, a qualifying utility is considered
4 to be in compliance with an annual target in (a) of this subsection
5 if the utility uses electricity from: (i) Renewable resources and
6 renewable energy credits as defined in RCW 19.285.030; and (ii)
7 nonemitting electric generation as defined in RCW 19.405.020, in an
8 amount equal to (~~one hundred~~) 100 percent of the utility's average
9 annual retail electric load. Nothing in this subsection relieves the
10 requirements of a qualifying utility to comply with subsection (1) of
11 this section.

12 (n) A qualifying utility shall exclude from its annual targets
13 under this subsection (2) its voluntary renewable energy purchases.

14 (3) Utilities that become qualifying utilities after December 31,
15 2006, shall meet the requirements in this section on a time frame
16 comparable in length to that provided for qualifying utilities as of
17 December 7, 2006.

--- END ---