

---

**SUBSTITUTE HOUSE BILL 2319**

---

**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** House Technology & Economic Development (originally sponsored by Representatives Doglio, Hudgins, Tarleton, Fey, Wylie, Fitzgibbon, Dolan, Ryu, and Appleton)

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

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

4       **Sec. 1.** RCW 19.285.040 and 2017 c 315 s 2 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 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)(i) Beginning January 1, 2020, in meeting its conservation  
12 targets under this section, an investor-owned utility must offer the  
13 following program options:

14 (A) A meter-based performance program option that links customer  
15 conservation incentives directly to energy savings by measuring the  
16 overall reduction in electricity consumption; and

17 (B) An energy performance baseline program option that uses  
18 buildings' current electric energy use to calculate financial  
19 incentives to achieve greater energy savings in existing residential  
20 and nonresidential building stock that fall below the current  
21 standards of the Washington state energy code as established pursuant  
22 to chapter 19.27A RCW;

23 (ii) In the interest of protecting personally identifying  
24 information collected or otherwise acquired in implementing the  
25 program options under (e)(i) of this subsection, investor-owned  
26 utilities must exercise the same care as provided in RCW  
27 19.27A.170(2).

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

31 ~~((f))~~ (g) The commission may rely on its standard practice for  
32 review and approval of investor-owned utility conservation targets  
33 and for the authorization of programs established under (e) of this  
34 subsection.

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

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

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

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

5 (b) A qualifying utility may count distributed generation at  
6 double the facility's electrical output if the utility: (i) Owns or  
7 has contracted for the distributed generation and the associated  
8 renewable energy credits; or (ii) has contracted to purchase the  
9 associated renewable energy credits.

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

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

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

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

30 (i) Eligible renewable resources or distributed generation where  
31 the associated renewable energy credits are owned by a separate  
32 entity; or

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

36 (g) Where fossil and combustible renewable resources are cofired  
37 in one generating unit located in the Pacific Northwest where the  
38 cofiring commenced after March 31, 1999, the unit shall be considered  
39 to produce eligible renewable resources in direct proportion to the

1 percentage of the total heat value represented by the heat value of  
2 the renewable resources.

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

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

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

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

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

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

26 (ii) A qualifying utility may no longer use electricity and  
27 associated renewable energy credits from a qualified biomass energy  
28 facility if the associated industrial pulping or wood manufacturing  
29 facility ceases operation other than for purposes of maintenance or  
30 upgrade.

31 (k) An industrial facility that hosts a qualified biomass energy  
32 facility may only transfer or sell renewable energy credits  
33 associated with qualified biomass energy generated at its facility to  
34 the qualifying utility with which it is directly interconnected with  
35 facilities owned by such a qualifying utility and that are capable of  
36 carrying electricity at transmission voltage. The qualifying utility  
37 may only use an amount of renewable energy credits associated with  
38 qualified biomass energy that are equivalent to the proportionate  
39 amount of its annual targets under (a)(ii) and (iii) of this  
40 subsection that was created by the load of the industrial facility. A

1 qualifying utility that owns a qualified biomass energy facility may  
2 not transfer or sell renewable energy credits associated with  
3 qualified biomass energy to another person, entity, or qualifying  
4 utility.

5 (3) Utilities that become qualifying utilities after December 31,  
6 2006, shall meet the requirements in this section on a time frame  
7 comparable in length to that provided for qualifying utilities as of  
8 December 7, 2006.

--- END ---