
SENATE BILL 5128

State of Washington

65th Legislature

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By Senators Takko and Rivers

1 AN ACT Relating to allowing incremental electricity produced as a
2 result of certain capital investment projects to qualify as an
3 eligible renewable resource under the energy independence act; and
4 amending RCW 19.285.030 and 19.285.080.

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

6 **Sec. 1.** RCW 19.285.030 and 2014 c 45 s 1 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) "Attorney general" means the Washington state office of the
11 attorney general.

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

17 (3)(a) "Biomass energy" includes: (i) Organic by-products of
18 pulping and the wood manufacturing process; (ii) animal manure; (iii)
19 solid organic fuels from wood; (iv) forest or field residues; (v)
20 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 freshwater 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; ((~~ex~~))

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 freshwater 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; or

13 (f) Incremental electricity produced as a result of a capital
14 investment project completed after March 31, 1999, that increases,
15 relative to a baseline level of generation prior to the capital
16 investment project, the amount of electricity generated by a
17 generation facility that commenced operation before March 31, 1999,
18 and is powered by a renewable resource other than freshwater.

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

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

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

32 (b) "Nonpower attributes" does not include any aspects, claims,
33 characteristics, and benefits associated with the on-site capture and
34 destruction of methane or other greenhouse gases at a facility
35 through a digester system, landfill gas collection system, or other
36 mechanism, which may be separately marketable as greenhouse gas
37 emission reduction credits, offsets, or similar tradable commodities.
38 However, these separate avoided emissions may not result in or
39 otherwise have the effect of attributing greenhouse gas emissions to
40 the electricity.

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

5 (17) "Public facility" has the same meaning as defined in RCW
6 39.35C.010.

7 (18) "Qualified biomass energy" means electricity produced from a
8 biomass energy facility that: (a) Commenced operation before March
9 31, 1999; (b) contributes to the qualifying utility's load; and (c)
10 is owned either by: (i) A qualifying utility; or (ii) an industrial
11 facility that is directly interconnected with electricity facilities
12 that are owned by a qualifying utility and capable of carrying
13 electricity at transmission voltage.

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

20 (20) "Renewable energy credit" means a tradable certificate of
21 proof of at least one megawatt-hour of an eligible renewable resource
22 where the generation facility is not powered by freshwater. The
23 certificate includes all of the nonpower attributes associated with
24 that one megawatt-hour of electricity, and the certificate is
25 verified by a renewable energy credit tracking system selected by the
26 department.

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

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

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

38 **Sec. 2.** RCW 19.285.080 and 2007 c 1 s 8 are each amended to read
39 as follows:

1 (1) The commission may adopt rules to ensure the proper
2 implementation and enforcement of this chapter as it applies to
3 investor-owned utilities.

4 (2) The department shall adopt rules concerning only process,
5 timelines, and documentation to ensure the proper implementation of
6 this chapter as it applies to qualifying utilities that are not
7 investor-owned utilities. Those rules include, but are not limited
8 to, rules associated with a qualifying utility's development of
9 conservation targets under RCW 19.285.040(1); a qualifying utility's
10 decision to pursue alternative compliance in RCW 19.285.040(2) (d) or
11 (i) or 19.285.050(1); ~~((and))~~ the format and content of reports
12 required in RCW 19.285.070; and the development of a methodology for
13 calculating baseline levels of generation under RCW
14 19.285.030(12)(f). Nothing in this subsection may be construed to
15 restrict the rate-making authority of the commission or a qualifying
16 utility as otherwise provided by law.

17 (3) The commission and department may coordinate in developing
18 rules related to process, timelines, and documentation that are
19 necessary for implementation of this chapter.

20 (4) Pursuant to the administrative procedure act, chapter 34.05
21 RCW, rules needed for the implementation of this chapter must be
22 adopted by December 31, 2007. These rules may be revised as needed to
23 carry out the intent and purposes of this chapter.

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