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SENATE BILL 5185

State of Washington 61st Legislature 2009 Regular Session

By Senators Rockefeller, Keiser, Pridemore, Jacobsen, Hobbs, Kastama, Haugen, Hargrove, Hatfield, Ranker, Kilmer, Sheldon, Oemig, Delvin, Shin, Kohl-Welles, Kline, and Holmquist

Read first time 01/15/09. Referred to Committee on Environment, Water & Energy.

AN ACT Relating to increasing solar energy incentives; and amending RCW 82.16.110, 82.16.120, 82.16.130, and 19.285.040.

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

Sec. 1. RCW 82.16.110 and 2005 c 300 s 2 are each amended to read as follows:

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

(1) "Community solar project" means (a) a solar energy system owned by local individuals, households, or nonutility businesses that is placed on the property owned by their cooperating local governmental entity; or (b) a utility-owned solar energy system that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project. For the purposes of this definition, "utility" means a light and power business.

(2) "Customer-generated electricity" means the alternating current electricity that is generated from a renewable energy system located on an individual's, businesses', or local government's real property that

is also provided electricity generated by a light and power business. Except for community solar projects, a system located on a leasehold interest does not qualify under this definition. "Customer-generated electricity" does not include electricity generated by a light and power business with greater than one thousand megawatt hours of annual sales or a gas distribution business.

((~~(2)~~)) (3) "Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated electricity multiplied by the appropriate economic development factor.

((~~(3)~~)) (4) "Local governmental entity" means any unit of local government of this state including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.

(5) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

((~~(4)~~)) (6) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

((~~(5)~~)) (7) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

((~~(6)~~)) (8) "Solar inverter" means the device used to convert direct current to alternating current in a photovoltaic cell system.

((~~(7)~~)) (9) "Solar module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

((~~(8) "Standards for interconnection to the electric distribution system" means technical, engineering, operational, safety, and procedural requirements for interconnection to the electric distribution system of a light and power business.~~))

Sec. 2. RCW 82.16.120 and 2007 c 111 s 101 are each amended to read as follows:

(1) Any individual, business, or local governmental entity, not in the light and power business or in the gas distribution business, may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated

electricity renewable energy system ((~~installed on its property that is not interconnected to the electric distribution system~~)). No incentive may be paid for kilowatt-hours generated before July 1, 2005, or after June 30, ((~~2014~~)) 2025.

(2) ((~~When light and power businesses serving eighty percent of the total customer load in the state adopt uniform standards for interconnection to the electric distribution system, any individual, business, or local governmental entity, not in the light and power business or in the gas distribution business, may apply to the light and power business serving the situs of the system, each fiscal year, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system installed on its property that is not interconnected to the electric distribution system and from a customer-generated electricity renewable energy system installed on its property that is interconnected to the electric distribution system. Uniform standards for interconnection to the electric distribution system means those standards established by light and power businesses that have ninety percent of total requirements the same. No incentive may be paid for kilowatt-hours generated before July 1, 2005, or after June 30, 2014.~~

~~(3)~~))(a) Before submitting for the first time the application for the incentive allowed under this section, the applicant shall submit to the department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system;

(ii) The applicant's tax registration number;

(iii) That the electricity produced by the applicant meets the definition of "customer-generated electricity" and that the renewable energy system produces electricity with:

(A) Any solar inverters and solar modules manufactured in Washington state;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state; or

(E) Solar or wind equipment manufactured outside of Washington state;

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems;

(v) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction.

(b) Within thirty days of receipt of the certification the department of revenue shall notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

((~~(4)~~)) (3)(a) By August 1st of each year application for the incentive shall be made to the light and power business serving the situs of the system by certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system;

(ii) The applicant's tax registration number;

(iii) The date of the notification from the department of revenue stating that the renewable energy system is eligible for the incentives under this section;

(iv) A statement of the amount of kilowatt-hours generated by the renewable energy system in the prior fiscal year.

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system shall notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(c)(i) Persons receiving incentive payments shall keep and preserve, for a period of five years, suitable records as may be

necessary to determine the amount of incentive applied for and received. Such records shall be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and shall add thereto interest on the amount. Interest shall be assessed in the manner that the department assesses interest upon delinquent tax under RCW 82.32.050.

(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable the business may authorize additional payment.

((~~(5)~~)) (4) Except for community solar projects, the investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For community solar projects, the investment cost recovery incentive may be paid thirty cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state, two and four-tenths;

(b) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(c) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and

(d) For all other customer-generated electricity produced by wind, eight-tenths.

((~~(6)~~)) (5) No individual, household, business, or local governmental entity is eligible for incentives for more than ((~~two~~)) five thousand dollars per year. Each applicant in a community solar project is eligible for up to five thousand dollars per year.

((~~(7)~~)) (6) If requests for the investment cost recovery incentive exceed the amount of funds available for credit to the participating light and power business, the incentive payments shall be reduced proportionately.

((~~(8)~~)) (7) The climate and rural energy development center at Washington State University energy program may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

((~~(9)~~)) (8) The environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light and power business upon receipt of the investment cost recovery incentive.

Sec. 3. RCW 82.16.130 and 2005 c 300 s 4 are each amended to read as follows:

(1) A light and power business shall be allowed a credit against taxes due under this chapter in an amount equal to investment cost recovery incentive payments made in any fiscal year under RCW 82.16.120. The credit shall be taken in a form and manner as required by the department. The credit under this section for the fiscal year shall not exceed ((~~twenty-five one-hundredths of~~)) one percent of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or ((~~twenty-five~~)) one-hundred thousand dollars, whichever is greater. Incentive payments to participants in a utility-owned community solar project as defined in RCW 82.16.110(1)(b) may only account for up to twenty-five percent of the total allowable credit. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

(2) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.120, the amount of tax against which credit was claimed for the excess payments shall be immediately due and payable. The department shall assess interest but not penalties on the taxes against which the credit was claimed. Interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the

date the credit was claimed, and shall accrue until the taxes against which the credit was claimed are repaid.

(3) The right to earn tax credits under this section expires June 30, ((~~2015~~)) 2025. Credits may not be claimed after June 30, ((~~2016~~)) 2026.

Sec. 4. RCW 19.285.040 and 2007 c 1 s 4 are each amended to read as follows:

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

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

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

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

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

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

(2)(a) Each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) A qualifying utility that acquires solar energy may count that acquisition at four times its base value where the energy is produced using solar inverters and modules manufactured in Washington state.

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

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

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

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