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ENGROSSED SECOND SUBSTITUTE SENATE BILL 5223

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AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators Palumbo, Rivers, Rolfes, King, Carlyle, Mullet, McCoy, Wellman, Das, Nguyen, Randall, Frockt, Salomon, Keiser, Wilson, C., Kuderer, Darneille, Cleveland, Saldaña, Dhingra, Pedersen, Conway, and Van De Wege)

READ FIRST TIME 02/19/19.

1 AN ACT Relating to net metering; amending RCW 80.60.010,  
2 80.60.020, 80.60.030, 80.60.040, and 82.16.090; and adding a new  
3 section to chapter 19.27 RCW.

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

5 **Sec. 1.** RCW 80.60.010 and 2007 c 323 s 1 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly indicates otherwise.

9 (1) "Commission" means the utilities and transportation  
10 commission.

11 (2) "Customer-generator" means a user of a net metering system.

12 (3) "Electrical company" means a company owned by investors that  
13 meets the definition of RCW 80.04.010.

14 (4) "Electric cooperative" means a cooperative or association  
15 organized under chapter 23.86 or 24.06 RCW.

16 (5) "Electric utility" means any electrical company, public  
17 utility district, irrigation district, port district, electric  
18 cooperative, or municipal electric utility that is engaged in the  
19 business of distributing electricity to retail electric customers in  
20 the state.

1 (6) "Irrigation district" means an irrigation district under  
2 chapter 87.03 RCW.

3 (7) "Meter aggregation" means the administrative combination of  
4 (~~readings from and~~) billing (~~for all meters, regardless of the~~  
5 ~~rate class, on premises owned or leased by a customer-generator~~  
6 ~~located within the service territory of a single electric utility~~)  
7 net energy consumption from a designated net meter and eligible  
8 aggregated meter.

9 (8) "Municipal electric utility" means a city or town that owns  
10 or operates an electric utility authorized by chapter 35.92 RCW.

11 (9) "Net metering" means measuring the difference between the  
12 electricity supplied by an electric utility and the excess  
13 electricity generated by a customer-generator's net metering system  
14 over the applicable billing period.

15 (10) "Net metering system" means a fuel cell, a facility that  
16 produces electricity and used and useful thermal energy from a common  
17 fuel source, or a facility for the production of electrical energy  
18 that generates renewable energy, and that:

19 (a) Has an electrical generating AC capacity of not more than one  
20 hundred kilowatts;

21 (b) Is located on the customer-generator's premises;

22 (c) Operates in parallel with the electric utility's transmission  
23 and distribution facilities and is connected to the electric  
24 utility's distribution system; and

25 (d) Is intended primarily to offset part or all of the customer-  
26 generator's requirements for electricity.

27 (11) "Premises" means any residential property, commercial real  
28 estate, or lands, owned or leased by a customer-generator within the  
29 service area of a single electric utility.

30 (12) "Port district" means a port district within which an  
31 industrial development district has been established as authorized by  
32 Title 53 RCW.

33 (13) "Public utility district" means a district authorized by  
34 chapter 54.04 RCW.

35 (14) "Renewable energy" means energy generated by a facility that  
36 uses water, wind, solar energy, or biogas (~~from animal waste~~) as a  
37 fuel.

38 (15) "Aggregated meter" means an electric service meter measuring  
39 electric energy consumption that is eligible to receive credits under  
40 a meter aggregation arrangement as described in RCW 80.60.030.

1       (16) "Consumer-owned utility" means a municipal electric utility  
2 formed under Title 35 RCW, a public utility district formed under  
3 Title 54 RCW, an irrigation district formed under chapter 87.03 RCW,  
4 a cooperative formed under chapter 23.86 RCW, or a mutual corporation  
5 or association formed under chapter 24.06 RCW, that is engaged in the  
6 business of distributing electricity to more than one retail electric  
7 customer in the state.

8       (17) "Designated meter" means an electric service meter at the  
9 service of a net metering system that is interconnected to the  
10 utility distribution system.

11       (18) "Retail electric customer" includes an individual,  
12 organization, group, association, partnership, corporation, agency,  
13 unit of state government, or entity that is connected to the electric  
14 utility's distribution system and purchases electricity for ultimate  
15 consumption and not for resale.

16       **Sec. 2.** RCW 80.60.020 and 2007 c 323 s 2 are each amended to  
17 read as follows:

18       (1) An electric utility:

19       (a) Shall offer to make net metering, pursuant to RCW 80.60.030,  
20 available to eligible ((customers-generators)) customer-generators on  
21 a first-come, first-served basis until the ((cumulative-generating  
22 capacity of net metering systems equals 0.25 percent of the utility's  
23 peak demand during 1996. On January 1, 2014, the cumulative  
24 generating capacity available to net metering systems will equal 0.5  
25 percent of the utility's peak demand during 1996)) earlier of either:

26 (i) June 30, 2029; or (ii) the first date upon which the cumulative  
27 generating capacity of net metering systems equals four percent of  
28 the utility's peak demand during 1996. Not less than one-half of the  
29 utility's 1996 peak demand available for net metering systems shall  
30 be reserved for the cumulative generating capacity attributable to  
31 net metering systems that generate renewable energy;

32       (b) Shall allow net metering systems to be interconnected using a  
33 standard kilowatt-hour meter capable of registering the flow of  
34 electricity in two directions, unless the commission, in the case of  
35 an electrical company, or the appropriate governing body, in the case  
36 of other electric utilities, determines, after appropriate notice and  
37 opportunity for comment:

38       (i) That the use of additional metering equipment to monitor the  
39 flow of electricity in each direction is necessary and appropriate

1 for the interconnection of net metering systems, after taking into  
2 account the benefits and costs of purchasing and installing  
3 additional metering equipment; and

4 (ii) How the cost of purchasing and installing an additional  
5 meter is to be allocated between the customer-generator and the  
6 utility;

7 (c) Shall charge the customer-generator a minimum monthly fee  
8 that is the same as other customers of the electric utility in the  
9 same rate class, but shall not charge the customer-generator any  
10 additional standby, capacity, interconnection, or other fee or charge  
11 unless the commission, in the case of an electrical company, or the  
12 appropriate governing body, in the case of other electric utilities,  
13 determines, after appropriate notice and opportunity for comment  
14 that:

15 (i) The electric utility will incur direct costs associated with  
16 interconnecting or administering net metering systems that exceed any  
17 offsetting benefits associated with these systems; and

18 (ii) Public policy is best served by imposing these costs on the  
19 customer-generator rather than allocating these costs among the  
20 utility's entire customer base.

21 (2) If a production meter and software is required by the  
22 electric utility to provide meter aggregation under RCW 80.60.030(4),  
23 the customer-generator is responsible for the purchase of the  
24 production meter and software.

25 (3) (a) (i) A consumer-owned utility may develop a standard rate or  
26 tariff schedule that deviates from RCW 80.60.030 for eligible  
27 customer-generators to take effect at the earlier of either: (A) June  
28 30, 2029; or (B) the first date upon which the cumulative generating  
29 capacity of net metering systems equals four percent of the utility's  
30 peak demand during 1996.

31 (ii) An electrical company may submit a filing with the  
32 commission to develop a standard tariff schedule that deviates from  
33 RCW 80.60.030 for eligible customer-generators. The commission must  
34 approve, reject, or approve with conditions a net metering tariff  
35 schedule pursuant to this subsection within one year of an electrical  
36 company filing. If the commission approves the filing with  
37 conditions, the investor-owned utility may choose to accept the  
38 tariff schedule with conditions or file a new tariff schedule with  
39 the commission.

1 (b) An approved standard rate or tariff schedule under this  
2 subsection applies to any customer-generator subject to an  
3 interconnection agreement entered into: (i) After June 30, 2029, or  
4 (ii) the first date upon which the cumulative generating capacity of  
5 net metering systems pursuant to RCW 80.60.030 equals four percent of  
6 the utility's peak demand during 1996, whichever is earlier, unless  
7 the commission or governing body determines that a customer-generator  
8 is eligible for net metering under a rate or tariff schedule pursuant  
9 to RCW 80.60.030.

10 (c) (i) A consumer-owned utility must notify the Washington State  
11 University extension energy program sixty days in advance of when a  
12 standard rate for an eligible customer-generator is first placed on  
13 the agenda of the governing body.

14 (ii) Each electric utility must give notice by July 31, 2020, and  
15 semiannually thereafter, to the Washington State University extension  
16 energy program of the status of meeting the cumulative generating  
17 capacity available to net metering systems pursuant to subsection  
18 (1)(a) of this section.

19 (iii) The Washington State University extension energy program  
20 must make available on its web site a list of the following:

21 (A) Each electric utility's progress on reaching the cumulative  
22 generating capacity available to net metering systems pursuant to  
23 subsection (1)(a) of this section;

24 (B) Electric utilities that have provided notice of a rate or  
25 tariff schedule under this subsection; and

26 (C) Electric utilities that have adopted a standard rate or  
27 tariff schedule under this subsection.

28 (d) If the commission does not approve an electrical company's  
29 tariff schedule under (a)(ii) of this subsection, the commission may  
30 determine the alternative cumulative generating capacity available to  
31 net metering systems pursuant to RCW 80.60.030.

32 (4)(a) An electric utility must continue to credit a customer-  
33 generator pursuant to RCW 80.60.030 if:

34 (i) The customer-generator takes service under net metering prior  
35 to the earlier of: (A) June 30, 2029; or (B) the first date upon  
36 which the cumulative generating capacity of net metering systems  
37 reaches four percent of the utility's peak demand in 1996; and

38 (ii) The customer-generator's existing interconnection agreement  
39 for the net metering system remains valid.

1 (b) The commission, in the case of electrical companies, and a  
2 governing body, in the case of consumer-owned utilities, must  
3 determine as part of a standard rate or tariff schedule under this  
4 subsection when customer-generators become ineligible for credit  
5 pursuant to RCW 80.60.030.

6 (c) Upon adoption of a standard rate or tariff schedule by the  
7 commission or governing body pursuant to subsection (3)(a) of this  
8 section, the electric utility is exempt from requirements under  
9 subsection (1)(c) of this section and RCW 80.60.030 for new  
10 interconnection agreements.

11 **Sec. 3.** RCW 80.60.030 and 2007 c 323 s 3 are each amended to  
12 read as follows:

13 Consistent with the other provisions of this chapter, the net  
14 energy measurement, billed charges for kilowatt-hour consumption, and  
15 credits for excess kilowatt-hour generation by a net metered system,  
16 must be calculated in the following manner:

17 (1) The electric utility shall measure the net electricity  
18 produced or consumed during the billing period, in accordance with  
19 normal metering practices.

20 (2) If the electricity supplied by the electric utility exceeds  
21 the electricity generated by the customer-generator's net metering  
22 system and fed back to the electric utility during the billing  
23 period, the customer-generator shall be billed for the net  
24 electricity supplied by the electric utility, in accordance with  
25 normal metering practices.

26 (3) If excess electricity generated by the ~~((customer-generator))~~  
27 net metering system during a billing period exceeds the electricity  
28 supplied by the electric utility during the same billing period, the  
29 customer-generator:

30 (a) Shall be billed for the appropriate customer charges for that  
31 billing period, in accordance with RCW 80.60.020; and

32 (b) Shall be credited for the excess kilowatt-hours generated  
33 during the billing period, with ~~((this kilowatt-hour credit))~~ the  
34 credit for kilowatt-hours appearing on the bill for the following  
35 billing period.

36 (4) If a customer-generator requests, an electric utility shall  
37 provide such a customer-generator meter aggregation.

38 (a) For a customer-generator~~((s))~~ participating in meter  
39 aggregation, credits for kilowatt-hours ~~((credits))~~ earned by ~~((a))~~

1 the customer-generator's net metering system during the billing  
2 period first shall be used to offset electricity supplied by the  
3 electric utility at the location of the customer-generator's  
4 designated meter.

5 ~~(b) ((Not more than a total of one hundred kilowatts shall be~~  
6 ~~aggregated among all customer-generators participating in a~~  
7 ~~generating facility under this subsection.~~

8 ~~(e))~~ A customer-generator may aggregate a designated meter with  
9 one additional aggregated meter located on the same parcel as the  
10 designated meter or a parcel that is contiguous with the parcel where  
11 the designated meter is located.

12 (c) For the purposes of (b) of this subsection, a parcel is  
13 considered contiguous if they share a common property boundary, but  
14 may be separated only by a road or rail corridor.

15 (d) A retail electric customer who is a customer-generator and  
16 receives retail electric service from an electric utility at an  
17 aggregated meter must be the same retail electric customer who  
18 receives retail electric service from such an electric utility at the  
19 designated meter that is located on the premises where such a  
20 customer-generator's net metering system is located.

21 (e) Credits for excess kilowatt-hours ((credits)) earned by the  
22 net metering system((~~r~~)) at the site of a designated meter during  
23 ((the same)) a billing period((~~r~~)) shall be credited ((equally)) by  
24 the electric utility ((to remaining meters located on all premises of  
25 a customer-generator)) for kilowatt hour charges due at the  
26 aggregated meter at the ((designated)) applicable rate of ((each))  
27 the aggregated meter.

28 ~~((~~d~~))~~ (f) If credits generated in any billing period exceed  
29 total consumption for that billing period at both meters that are  
30 part of an aggregated arrangement, credits are retained pursuant to  
31 subsections (3) and (5) of this section.

32 (g) Credits carried over from one billing period to the next  
33 pursuant to (f) of this subsection must be applied in subsequent  
34 billing periods in the same manner described under (a) and (e) of  
35 this subsection.

36 (h) Meters so aggregated shall not change rate classes due to  
37 meter aggregation under this section.

38 (5) On ((April 30th)) March 31st of each calendar year, any  
39 remaining unused ((kilowatt-hour credit)) credits for kilowatt-hours

1 accumulated during the previous year shall be granted to the electric  
2 utility, without any compensation to the customer-generator.

3 (6) Nothing in this section prohibits a utility from allowing  
4 aggregation under terms different than the requirements of subsection  
5 (4) of this section if a customer-generator has an existing  
6 arrangement for meter aggregation in effect or a customer submits a  
7 written request for aggregation on or before July 1, 2019.

8 (7) Nothing in this section prohibits the owner of multifamily  
9 residential facility from installing a net metering system as defined  
10 in RCW 80.60.010 assigned to a single designated meter located on the  
11 premises of the multifamily residential facility where the tenants  
12 are not individually metered customers of the utility and  
13 distributing any benefits of the net metering to tenants of the  
14 facility where the net metering system is located. The utility must  
15 measure the net energy produced and provide credit to the single  
16 designated meter to which the net metering system is assigned in  
17 accordance with subsections (1) through (3) of this section or under  
18 the terms of a standard rate or tariff schedule established under RCW  
19 80.60.020(3). The distribution of benefits to tenants of such a  
20 system, if any, is the responsibility of the owner of the net  
21 metering system and not the responsibility of the utility.

22 **Sec. 4.** RCW 80.60.040 and 2006 c 201 s 4 are each amended to  
23 read as follows:

24 (1) A net metering system used by a customer-generator shall  
25 include, at the customer-generator's own expense, all equipment  
26 necessary to meet applicable safety, power quality, and  
27 interconnection requirements established by the national electrical  
28 code, national electrical safety code, the institute of electrical  
29 and electronics engineers, and underwriters laboratories.

30 (2) The commission, in the case of an electrical company, or the  
31 appropriate governing body, in the case of other electric utilities,  
32 after appropriate notice and opportunity for comment, may adopt by  
33 regulation additional safety, power quality, and interconnection  
34 requirements for customer-generators, including limitations on the  
35 number of customer-generators and total capacity of net metering  
36 systems that may be interconnected to any distribution feeder line,  
37 circuit, or network that the commission or governing body determines  
38 are necessary to protect public safety and system reliability.



1 (3) An electric utility may not require a customer-generator  
2 whose net metering system meets the standards in subsections (1) and  
3 (2) of this section to comply with additional safety or performance  
4 standards, perform or pay for additional tests, or purchase  
5 additional liability insurance. However, an electric utility shall  
6 not be liable directly or indirectly for permitting or continuing to  
7 allow an attachment of a net metering system, or for the acts or  
8 omissions of the customer-generator that cause loss or injury,  
9 including death, to any third party.

10 (4) Except when required under the federal public utility  
11 regulatory policies act, an electric utility may not establish  
12 compensation arrangements or interconnection requirements, other than  
13 those permitted in this chapter, for a customer-generator that would  
14 have the effect of prohibiting or restricting the ability of a  
15 customer-generator to generate or store electricity for consumption  
16 on its premises.

17 **Sec. 5.** RCW 82.16.090 and 1988 c 228 s 1 are each amended to  
18 read as follows:

19 (1) Any customer billing issued by a light or power business or  
20 gas distribution business that serves a total of more than twenty  
21 thousand customers and operates within the state shall include the  
22 following information:

23 ~~((1))~~ (a) The rates and amounts of taxes paid directly by the  
24 customer upon products or services rendered by the light and power  
25 business or gas distribution business; ~~(and~~

26 ~~(2))~~ (b) The rate, origin and approximate amount of each tax  
27 levied upon the revenue of the light and power business or gas  
28 distribution business and added as a component of the amount charged  
29 to the customer. Taxes based upon revenue of the light and power  
30 business or gas distribution business to be listed on the customer  
31 billing need not include taxes levied by the federal government or  
32 taxes levied under chapters 54.28, 80.24, or 82.04 RCW; and

33 (c) The total amount of kilowatt-hours of electricity consumed  
34 for the most recent twelve-month period or other information that  
35 provides the customer with information regarding their energy usage  
36 over a twelve-month period.

37 (2) A light or power business or gas distribution business that  
38 serves a total of more than twenty thousand customers and operates

1 within the state may include information regarding rates over the  
2 most recent twelve-month period on any customer billing.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.27  
4 RCW to read as follows:

5 The state building code council, in consultation with the  
6 department of commerce and local governments, shall conduct a study  
7 of the state building code and adopt changes necessary to encourage  
8 greater use of renewable energy systems as defined in RCW 82.16.110.

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