

ESSB 5840 - H AMD 747

By Representative McCoy

NOT CONSIDERED 04/26/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 19.285.030 and 2007 c 1 s 3 are each amended to read
4 as follows:

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

7 (1) "Attorney general" means the Washington state office of the
8 attorney general.

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

14 (3) "Biomass energy" includes: (a) Byproducts of pulping and wood
15 manufacturing process; (b) animal waste; (c) solid organic fuels from
16 wood; (d) forest or field residues; (e) wooden demolition or
17 construction debris; (f) food waste; (g) liquors derived from algae and
18 other sources; (h) dedicated energy crops; (i) biosolids; and (j) yard
19 waste. "Biomass energy" does not include wood pieces that have been
20 treated with chemical preservatives such as creosote,
21 pentachlorophenol, or copper-chrome-arsenic; wood from old growth
22 forests; or municipal solid waste.

23 (4) "Commission" means the Washington state utilities and
24 transportation commission.

25 ((+4)) (5) "Conservation" means any reduction in electric power
26 consumption resulting from increases in the efficiency of energy use,
27 production, or distribution.

28 ((+5)) (6) "Cost-effective" has the same meaning as defined in RCW
29 80.52.030.

1 ~~((+6))~~ (7) "Council" means the Washington state apprenticeship and
2 training council within the department of labor and industries.

3 ~~((+7))~~ (8) "Customer" means a person or entity that purchases
4 electricity for ultimate consumption and not for resale.

5 ~~((+8))~~ (9) "Department" means the department of community, trade,
6 and economic development or its successor.

7 ~~((+9))~~ (10) "Distributed generation" means an eligible renewable
8 resource where the generation facility or any integrated cluster of
9 such facilities has a generating capacity of not more than ~~((five))~~
10 seven megawatts.

11 ~~((+10))~~ (11) "Eligible renewable resource" means:

12 (a) Electricity from a generation facility powered by a renewable
13 resource ~~((other than fresh water))~~ that commences operation after
14 March 31, 1999, where ~~((i))~~ the facility is located ~~((in the~~
15 ~~Pacific Northwest; or (ii) the electricity from the facility is~~
16 ~~delivered into Washington state on a real time basis without shaping,~~
17 ~~storage, or integration services))~~ within the geographic boundary of
18 the western electricity coordinating council or its successor entity;
19 ~~((or))~~

20 (b) ~~((Incremental electricity produced as a result of efficiency~~
21 ~~improvements completed after March 31, 1999, to hydroelectric~~
22 ~~generation projects owned by a qualifying utility and located in the~~
23 ~~Pacific Northwest or to hydroelectric generation in irrigation pipes~~
24 ~~and canals located in the Pacific Northwest, where the additional~~
25 ~~generation in either case does not result in new water diversions or~~
26 ~~impoundments))~~ (i) Electricity from a hydroelectric generating facility
27 with an installed generating capacity of five megawatts or less that
28 discharges the water it uses for power generation into either:

29 (A) A conduit, with the water flowing directly to a point of
30 agricultural, municipal, or industrial consumption; or

31 (B) A natural water body if a quantity of water equal to or greater
32 than the quantity discharged from the hydroelectric facility is
33 withdrawn from the natural water body on which the hydroelectric
34 generating facility is located, unless that consumption would occur for
35 agricultural, municipal, or industrial consumption purposes even if
36 hydroelectric generating facilities were not installed;

37 (ii) Electricity from a hydroelectric generating facility must not

1 come from a dam or weir that creates more than intraday storage of
2 water;

3 (iii) Electricity from a hydroelectric generating facility must be
4 certified by a nationally recognized organization that certifies
5 hydroelectric facilities as low-impact hydroelectric;

6 (c) Electricity from a biomass energy powered generation facility
7 located in Washington that commenced operation before March 31, 1999,
8 that is: (i) Owned by a qualifying utility as of the effective date of
9 this section; or (ii) subject to a maximum of twenty-five percent of
10 the electrical output delivered to a qualifying utility, owned by an
11 entity other than a qualifying utility as of the effective date of this
12 section; or

13 (d) Electricity from an existing generation facility powered by a
14 fresh water renewable resource that commenced operation before March
15 31, 1999.

16 ~~((+11))~~ (12) "Intraday storage of water" means the amount of water
17 that is retained by a dam or weir over a twenty-four hour period that
18 is in excess of normal stream flow.

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

21 ~~((+12))~~ (14) "Load" means the amount of kilowatt-hours of
22 electricity delivered in the most recently completed year by a
23 qualifying utility to its Washington retail customers.

24 ~~((+13))~~ (15) "Nonpower attributes" means all environmentally
25 related characteristics, exclusive of energy, capacity reliability, and
26 other electrical power service attributes, that are associated with the
27 generation of electricity from a renewable resource, including but not
28 limited to the facility's fuel type, geographic location, vintage,
29 qualification as an eligible renewable resource, and avoided emissions
30 of pollutants to the air, soil, or water, and avoided emissions of
31 carbon dioxide and other greenhouse gases. For an anaerobic digester,
32 its nonpower attributes may be separated into avoided emissions of
33 carbon dioxide, and other greenhouse gases, and into renewable energy
34 credits.

35 ~~((+14))~~ (16) "Pacific Northwest" has the same meaning as defined
36 for the Bonneville power administration in section 3 of the Pacific
37 Northwest electric power planning and conservation act (94 Stat. 2698;
38 16 U.S.C. Sec. 839a).

1 ((+15+)) (17) "Public facility" has the same meaning as defined in
2 RCW 39.35C.010.

3 ((+16+)) (18) "Qualifying utility" means an electric utility, as
4 the term "electric utility" is defined in RCW 19.29A.010, that serves
5 more than twenty-five thousand customers in the state of Washington.
6 The number of customers served may be based on data reported by a
7 utility in form 861, "annual electric utility report," filed with the
8 energy information administration, United States department of energy.

9 ((+17+)) (19) "Renewable energy credit" means a tradable
10 certificate of proof of at least one megawatt-hour of an eligible
11 renewable resource (~~((where the generation facility is not powered by
12 fresh water))~~), the certificate includes all of the nonpower attributes
13 associated with that one megawatt-hour of electricity, and the
14 certificate is verified by a renewable energy credit tracking system
15 selected by the department.

16 ((+18+)) (20) "Renewable resource" means: (a) Water; (b) wind; (c)
17 solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean,
18 or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
19 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
20 on land cleared from old growth (~~((or first growth))~~) forests where the
21 clearing occurred after December 7, 2006; (~~((and))~~) or (i) biomass energy
22 (~~((based on animal waste or solid organic fuels from wood, forest, or
23 field residues, or dedicated energy crops that do not include (i) wood
24 pieces that have been treated with chemical preservatives such as
25 creosote, pentachlorophenol, or copper chrome arsenic; (ii) black
26 liquor byproduct from paper production; (iii) wood from old growth
27 forests; or (iv) municipal solid waste))~~).

28 ((+19+)) (21) "Rule" means rules adopted by an agency or other
29 entity of Washington state government to carry out the intent and
30 purposes of this chapter.

31 ((+20+)) (22) "Year" means the twelve-month period commencing
32 January 1st and ending December 31st.

33 **Sec. 2.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read
34 as follows:

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

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

8 (b) ~~((Beginning))~~ By January 1, 2010, each qualifying utility shall
9 establish and make publicly available a biennial acquisition target for
10 cost-effective conservation consistent with its identification of
11 achievable opportunities in (a) of this subsection, and meet that
12 target during the subsequent two-year period. At a minimum, each
13 biennial acquisition target must be no lower than the qualifying
14 utility's pro rata share for that two-year period of its cost-effective
15 conservation potential for the subsequent ten-year period. A
16 qualifying utility may not use incremental electricity produced as a
17 result of efficiency improvements to hydroelectric generation
18 facilities to meet its biennial conservation acquisition target if the
19 improvements were used to meet its targets under subsection (2)(a) of
20 this section.

21 (c) In meeting its conservation targets, a qualifying utility may
22 count high-efficiency cogeneration owned and used by a retail electric
23 customer to meet its own needs. High-efficiency cogeneration is the
24 sequential production of electricity and useful thermal energy from a
25 common fuel source, where, under normal operating conditions, the
26 facility ~~((has a useful thermal energy output of no less than thirty-~~
27 ~~three percent of the total energy output))~~ is designed to have a
28 projected overall thermal conversion efficiency of at least seventy
29 percent. For the purposes of this section, "overall thermal conversion
30 efficiency" means the output of electricity plus usable heat divided by
31 fuel input. The reduction in load due to high-efficiency cogeneration
32 shall be ~~((:—(i) Calculated as the ratio of the fuel chargeable to~~
33 ~~power heat rate of the cogeneration facility compared to the heat rate~~
34 ~~on a new and clean basis of a best commercially available technology~~
35 ~~combined-cycle natural gas-fired combustion turbine; and (ii)))~~ counted
36 towards meeting the biennial conservation target in the same manner as
37 other production conservation savings.

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

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

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

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

11 (ii) At least ~~((nine))~~ ten and twenty-five one-hundredths of one
12 percent of its load by January 1, 2016, and each year thereafter
13 through December 31, 2019; and

14 (iii) At least ~~((fifteen))~~ sixteen and twenty-five one-hundredths
15 of one percent of its load by January 1, 2020, and each year
16 thereafter.

17 (b) It must be the goal of the state for each qualifying utility to
18 use eligible renewable resources or acquire equivalent renewable energy
19 credits or a combination of both to meet an annual renewable resource
20 goal of at least twenty percent of its load by January 1, 2025, and
21 each year thereafter.

22 (c) Except as provided in (k) of this subsection, a qualifying
23 utility may count distributed generation at double the facility's
24 electrical output if the utility: (i) Owns or has contracted for the
25 distributed generation and the associated renewable energy credits; or
26 (ii) has contracted to purchase the associated renewable energy
27 credits.

28 ~~((+e))~~ (d) In meeting the annual targets in (a) of this
29 subsection, a qualifying utility shall calculate its annual load based
30 on the average of the utility's load for the previous two years.

31 ~~((+d))~~ (e) A qualifying utility with annual sales of less than two
32 million megawatt hours is considered in compliance with an annual
33 target in (a) of this subsection if: (i) In any given target year its
34 load growth, measured as load served in the target year compared to the
35 utility's annual average load served in 2010 and 2011, is less than the
36 target in (a) of this subsection for that year; and (ii) the utility
37 meets one hundred percent of any increase in load for that target year
38 with eligible renewable resources or renewable energy credits.

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

12 ~~((e))~~ (g) The requirements of this section may be met for any
13 given target year with renewable energy credits produced during that
14 year, the preceding two years, or the subsequent year. Each renewable
15 energy credit may be used only once to meet the requirements of this
16 section.

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

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

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

25 (iii) Efficiency improvements to hydroelectric generation
26 facilities whose energy output is marketed by the Bonneville power
27 administration that is attributable to any other utility other than the
28 qualifying utility.

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

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

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

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

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

8 ~~((+i))~~ (k) A qualifying utility that acquires solar energy located
9 in Washington or meeting the definition of distributed generation may
10 count that acquisition at four times its base value, or six times its
11 base value where the energy is produced using solar inverters and
12 modules manufactured in Washington state, provided the qualifying
13 utility: (i) Owns or has contracted for the solar energy generation
14 and the associated renewable energy credits; or (ii) has contracted to
15 purchase the associated renewable energy credits.

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

24 (3) Utilities that become qualifying utilities after December 31,
25 2006, shall meet the requirements in this section on a time frame
26 comparable in length to that provided for qualifying utilities as of
27 December 7, 2006.

28 **Sec. 3.** RCW 19.285.070 and 2007 c 1 s 7 are each amended to read
29 as follows:

30 (1) On or before June 1, 2012, and annually thereafter, each
31 qualifying utility shall report to the department on its progress in
32 the preceding year in meeting the targets established in RCW
33 19.285.040, including expected electricity savings from the biennial
34 conservation target, expenditures on conservation, actual electricity
35 savings results, the utility's annual load for the prior two years, the
36 amount of megawatt-hours needed to meet the annual renewable energy
37 target, the amount of megawatt-hours of each type of eligible renewable

1 resource acquired, the type and amount of renewable energy credits
2 acquired, and the percent of its total annual retail revenue
3 requirement invested in the incremental cost of eligible renewable
4 resources and the cost of renewable energy credits. (~~For each year
5 that a qualifying utility elects to demonstrate alternative compliance
6 under RCW 19.285.040(2) (d) or (i) or 19.285.050(1), it must include in
7 its annual report relevant data to demonstrate that it met the criteria
8 in that section.~~) A qualifying utility may submit its report to the
9 department in conjunction with its annual obligations in chapter 19.29A
10 RCW.

11 (2) A qualifying utility that is an investor-owned utility shall
12 also report all information required in subsection (1) of this section
13 to the commission, and on or before June 1, 2014, and annually
14 thereafter, report to the commission its compliance in meeting the
15 targets established in RCW 19.285.040. All other qualifying utilities
16 shall also make all information required in subsection (1) of this
17 section available to the auditor, and on or before June 1, 2014, and
18 annually thereafter, make available to the auditor its determination of
19 compliance in meeting the targets established in RCW 19.285.040. For
20 each year that a qualifying utility elects to demonstrate alternative
21 compliance under RCW 19.285.040(2) or 19.285.050(1), it must include in
22 its annual report relevant data to demonstrate that it met the criteria
23 in that section.

24 (3) A qualifying utility shall also make reports required in this
25 section available to its customers.

26 **Sec. 4.** RCW 19.285.080 and 2007 c 1 s 8 are each amended to read
27 as follows:

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

31 (2) The department shall adopt rules concerning only process,
32 timelines, and documentation to ensure the proper implementation of
33 this chapter as it applies to qualifying utilities that are not
34 investor-owned utilities. Those rules include, but are not limited to,
35 rules associated with a qualifying utility's development of
36 conservation targets under RCW 19.285.040(1); a qualifying utility's
37 decision to pursue alternative compliance in RCW 19.285.040(2) (~~(+d)~~)

1 (f) or ~~((+i))~~ (l) or 19.285.050(1); and the format and content of
2 reports required in RCW 19.285.070. Nothing in this subsection may be
3 construed to restrict the rate-making authority of the commission or a
4 qualifying utility as otherwise provided by law.

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

8 (4)(a) Pursuant to the administrative procedure act, chapter 34.05
9 RCW, rules needed for the implementation of this chapter must be
10 adopted by ~~((December 31, 2007))~~ June 30, 2010. These rules may be
11 revised as needed to carry out the intent and purposes of this chapter.

12 (b) Within six months of the adoption by the Pacific Northwest
13 electric power and conservation planning council of each of its
14 regional power plans, the department shall initiate rule making to
15 consider adopting any changes in methodologies used by the Pacific
16 Northwest electric power and conservation planning council that would
17 impact a qualifying utility's conservation potential assessment in
18 accordance with RCW 19.285.040(1).

19 (c) Within six months of the adoption by the Pacific Northwest
20 electric power and conservation planning council of each of its
21 regional power plans, the commission shall initiate rule making to
22 consider adopting any changes in methodologies used by the Pacific
23 Northwest electric power and conservation planning council that would
24 impact a qualifying utility's conservation potential assessment in
25 accordance with RCW 19.285.040(1).

26 (d) Rules adopted under (b) and (c) of this subsection must be
27 applied to the next biennial target that begins at least six months
28 after the adoption date of the rules.

29 NEW SECTION. **Sec. 5.** (1) Within existing resources, the
30 department of community, trade, and economic development shall report
31 to the legislature by December 1, 2009, its recommendations on how low-
32 cost hydroelectric generation may be used to firm, shape, and integrate
33 renewable energy resources into the northwestern electric grid for
34 delivery to Washington residents. The report must make recommendations
35 on the economic and environmental benefits of using hydroelectric
36 generation in place of fossil fuel-fired generation for integration
37 services. The report must include results from existing studies and

1 analyses from the Pacific Northwest electric power and conservation
2 planning council, the Bonneville power administration, and other
3 relevant organizations. The department of community, trade, and
4 economic development shall also consider information and
5 recommendations from integration service providers and users.

6 (2) The department of community, trade, and economic development
7 shall conduct a study of the impacts of electricity costs on low-income
8 families. The department shall select two cities, one east of the
9 crest of the Cascade mountains and one west of the crest of the Cascade
10 mountains, and through analysis and case studies determine the impacts
11 of electricity costs on low-income families. The department shall also
12 review the extent to which government energy programs help mitigate
13 electricity costs for low-income families. By December 10, 2009, the
14 department shall provide recommendations to the governor and the
15 appropriate committees of the legislature on how the impacts of
16 electricity costs on low-income families might be further mitigated."

17 Correct the title.

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