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SENATE BILL 5280

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State of Washington

61st Legislature

2009 Regular Session

By Senators Holmquist, Hatfield, Honeyford, Hewitt, Schoesler, and Parlette

Read first time 01/19/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to recognizing conservation achieved in excess of  
2 biennial conservation acquisition targets as an eligible renewable  
3 resource under the energy independence act; amending RCW 19.285.040;  
4 and creating a new section.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that: (a) The  
7 energy independence act of 2006 establishes separate and distinct  
8 renewable energy and conservation standards, placing Washington in the  
9 vanguard among states by having both standards; (b) the northwest power  
10 act (P.L. 96-501), which governs resource planning and acquisition by  
11 the Bonneville power administration, treats conservation as a  
12 "resource" with priority over generating resources; and (c) state law  
13 requires electric utilities that must comply with the requirements of  
14 the energy independence act of 2006 to prepare integrated resource  
15 plans, which, like the northwest power act, requires long-term planning  
16 to guide the acquisition of generating and conservation resources to  
17 meet current and projected customer needs.

18 (2) The legislature declares that: (a) Qualifying utilities under  
19 the energy independence act of 2006 should be encouraged to exceed

1 their biennial conservation acquisition targets by being able to count  
2 the amount of conservation achieved in excess of their biennial  
3 conservation acquisition targets against their renewable energy  
4 targets; (b) allowing qualifying utilities to count conservation in  
5 excess of their biennial acquisition targets against their renewable  
6 energy targets will give them an option to acquire a clean resource  
7 that is more cost competitive than acquiring eligible renewable  
8 generation resources; and (c) encouraging qualifying utilities to  
9 invest more than required by the energy independence act of 2006 on  
10 conservation will create and sustain more green jobs at less cost to  
11 utility customers.

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

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

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

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

31 (c) In meeting its conservation targets, a qualifying utility may  
32 count high-efficiency cogeneration owned and used by a retail electric  
33 customer to meet its own needs. High-efficiency cogeneration is the  
34 sequential production of electricity and useful thermal energy from a  
35 common fuel source, where, under normal operating conditions, the  
36 facility has a useful thermal energy output of no less than thirty-  
37 three percent of the total energy output. The reduction in load due to

1 high-efficiency cogeneration shall be: (i) Calculated as the ratio of  
2 the fuel chargeable to power heat rate of the cogeneration facility  
3 compared to the heat rate on a new and clean basis of a  
4 best-commercially available technology combined-cycle natural gas-fired  
5 combustion turbine; and (ii) counted towards meeting the biennial  
6 conservation target in the same manner as other conservation savings.

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

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

12 (f) A qualifying utility may not claim an increase in efficiency of  
13 energy production from an eligible renewable resource as conservation  
14 if that efficiency is counted against the annual target under  
15 subsection (2) of this section.

16 (2)(a) Each qualifying utility shall use eligible renewable  
17 resources ~~((or))~~, acquire equivalent renewable energy credits, or use  
18 conservation achieved in excess of a biennial acquisition target under  
19 subsection (1) of this section, or a combination of ~~((both))~~ these  
20 options, to meet the following annual targets:

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

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

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

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

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

35 (d) A qualifying utility shall be considered in compliance with an  
36 annual target in (a) of this subsection if: (i) The utility's weather-  
37 adjusted load for the previous three years on average did not increase  
38 over that time period; (ii) after December 7, 2006, the utility did not

1 commence or renew ownership or incremental purchases of electricity  
2 from resources other than renewable resources other than on a daily  
3 spot price basis and the electricity is not offset by equivalent  
4 renewable energy credits; and (iii) the utility invested at least one  
5 percent of its total annual retail revenue requirement that year on  
6 eligible renewable resources, renewable energy credits, or a  
7 combination of both.

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

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

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

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

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

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

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

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

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

36 (i) A qualifying utility shall be considered in compliance with an  
37 annual target in (a) of this subsection if events beyond the reasonable  
38 control of the utility that could not have been reasonably anticipated

1 or ameliorated prevented it from meeting the renewable energy target.  
2 Such events include weather-related damage, mechanical failure,  
3 strikes, lockouts, and actions of a governmental authority that  
4 adversely affect the generation, transmission, or distribution of an  
5 eligible renewable resource under contract to a qualifying utility.

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

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