
HOUSE BILL 1762

State of Washington

62nd Legislature

2011 Regular Session

By Representative Morris

Read first time 02/01/11. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to standard offer contracts to eligible clean
2 energy facilities; amending RCW 82.16.130; adding a new chapter to
3 Title 80 RCW; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Consumer-owned utility" means a municipal electric utility
8 formed under Title 35 RCW, a public utility district formed under Title
9 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
10 cooperative formed under chapter 23.86 RCW, or a mutual corporation or
11 association formed under chapter 24.06 RCW, that is engaged in the
12 business of distributing electricity to more than one retail electric
13 customer in the state.

14 (2) "Electric utility" means a consumer-owned or investor-owned
15 utility.

16 (3) "Eligible clean energy facility" means a facility located in
17 Washington capable of generating no more than two megawatts of
18 electricity that generates electricity from a net metering system as

1 defined in RCW 80.60.010 or from distributed generation as defined in
2 RCW 19.285.030.

3 (4) "Investor-owned utility" means an electrical company, as the
4 term "electrical company" is defined in RCW 80.04.010, owned by
5 investors and that is engaged in distributing electricity to more than
6 one retail electric customer in the state.

7 (5) "Off-peak hours" means the period of the day after 7:00 p.m.
8 and before 11:00 a.m.

9 (6) "Owner" includes: Any residential, commercial, or industrial
10 customer of an electric utility located in Washington; an independent
11 power producer; a business; an electric utility; an independent power
12 producer; a federal, state, or local government; a tribal government
13 and its political subdivisions; or a nonprofit agency that owns an
14 eligible clean energy facility.

15 (7) "Peak hours" means the period of the day between 11:00 a.m.
16 until 7:00 p.m.

17 (8) "Standard offer contract" means a contract offered by an
18 electric utility to an owner of an eligible clean energy facility that
19 governs the terms and conditions of the sale of electricity generated
20 from the facility to the electric utility.

21 NEW SECTION. **Sec. 2.** (1)(a) Beginning January 1, 2012, an
22 electric utility must make available, twice a year for five years,
23 standard offer contracts to eligible clean energy facilities awarded
24 through a competitive clean energy auction.

25 (b) An electric utility must conduct clean energy auctions until
26 the cumulative generating capacity of eligible clean energy facilities
27 equals one percent of the utility's peak demand during 2007.

28 (c) An electric utility must offer annually no less than twenty
29 percent of the cumulative generating capacity available to the electric
30 utility.

31 (d) Electric utilities must conduct the twice a year clean energy
32 auctions on April 1st and October 1st of each year.

33 (e) In 2016, an electric utility must offer through a clean energy
34 auction all remaining cumulative generating capacity available to the
35 electric utility.

36 (2)(a) At a minimum, an electric utility must provide a standard
37 offer contract rate in kilowatt hours that is equal to the highest rate

1 in kilowatt hours that the electric utility paid for electricity in the
2 previous calendar year through a negotiated power purchase agreement.
3 At a maximum, the standard offer contract rate may not exceed ninety
4 cents per kilowatt hour. An electric utility must take the electricity
5 awarded through the clean energy auction process for the duration of
6 the standard offer contract. A standard offer contract may not exceed
7 fifteen years in duration.

8 (b) An electric utility may weight auctions to favor generation
9 that operates during peak demand periods.

10 (3) When submitting a bid as part of a clean energy auction, an
11 owner must state the length of the contract desired in the owner's bid.
12 The electric utility must accept bids with the shortest length of time
13 first.

14 (4)(a) An electric utility must prioritize the interconnection to
15 its distribution system eligible clean energy facilities that have
16 received standard offer contracts from the electric utility.

17 (b) An electric utility must purchase, and the owner must transmit
18 as a priority, the electricity produced from the eligible clean energy
19 facility.

20 (c) By January 1, 2012, an electric utility must develop, publish,
21 and provide transparent and nondiscriminatory rules and forms for
22 interconnecting eligible clean energy facilities to the distribution
23 system of the electric utility and apply these standard rules for
24 interconnecting clean energy systems to its distribution system.

25 (5) An electric utility must distribute the cost of the electricity
26 purchased from clean energy facilities through the clean energy auction
27 process evenly across all customer classes.

28 (6) An electric utility is eligible to own an eligible clean energy
29 facility, participate as an owner in clean energy auctions, and receive
30 a standard offer contract if it is the lowest bidder. An electric
31 utility's share of the cumulative generating capacity specified under
32 subsection (1)(b) of this section is limited to twenty percent for
33 eligible clean energy facilities in which it owns a controlling
34 interest.

35 (7) On a real-time basis, electric utilities must make information
36 available on preferred distribution substations based on the available
37 capacity of that substation.

1 (8) All electric utilities must make every reasonable effort to
2 standardize their auction processes, standard offer contracts,
3 interconnection applications and procedures, and other processes and
4 forms as needed. Electric utilities must strive to have the same
5 forms, format, and substantially common language.

6 (9)(a) Electric utilities must offer standard offer contracts that
7 specify the minimum content of an eligible clean energy facility that
8 is manufactured in the countries that are parties to the North America
9 free trade agreement and make these minimum content requirements
10 available to owners and the public.

11 (b) For eligible clean energy facilities with over ten kilowatts in
12 generating capacity that use wind to generate electricity, the minimum
13 content under (a) of this subsection is twenty-five percent before
14 January 1, 2013, and fifty percent on or after January 1, 2013.

15 (c) For eligible clean energy facilities with over ten kilowatts in
16 generating capacity that use solar photovoltaics to generate
17 electricity, the minimum content under (a) of this subsection is fifty
18 percent before January 1, 2013, and sixty percent on or after January
19 1, 2013.

20 (10)(a) An owner is not eligible to enter into a standard offer
21 contract with an electric utility if the owner is participating in the
22 investment cost recovery incentive payment program under chapter 82.16
23 RCW. An owner is eligible to bid in a clean energy auction and receive
24 a standard offer contract if the owner withdraws from participating in
25 the investment cost recovery incentive payment program under chapter
26 82.16 RCW.

27 (b) An electric utility may continue to receive the annual public
28 utility tax credit under chapter 82.12 RCW.

29 (11)(a) Before bidding in a clean energy auction, an owner must
30 have filed an interconnection application with the electric utility
31 holding a clean energy auction.

32 (b) An owner must ensure that an eligible clean energy facility
33 will be online within eighteen months of the effective date of the
34 standard offer contract.

35 (c) Owners are required to submit a project development security
36 deposit of twenty dollars per kilowatt upon execution of the standard
37 offer contract. The project development security deposit must be
38 refunded once the facility is delivering electricity to the electric

1 utility. The owner forgoes the project development security deposit if
2 the facility fails to deliver electricity as specified in the standard
3 offer contract within eighteen months.

4 (d) Owners are allowed a one-time six-month extension if the
5 facility can successfully demonstrate that the cause of the facility
6 delay was due to regulatory processes, such as transmission or
7 generator permitting, or interconnection. An owner must demonstrate
8 that any regulatory delays were outside of the owner's control by
9 showing that the necessary applications and fees were filed and paid on
10 time. A delay due to business risk, such as lack of facility financing
11 or equipment delivery, is not a justification for granting an extension
12 of the facility's operation date.

13 (e) In order to be eligible to participate in a clean energy
14 auction, an owner must have previously completed at least one project
15 of similar technology and generating capacity or begun construction of
16 at least one other similar project.

17 (f) An owner must have site control through direct ownership of the
18 property, a lease, or an option to lease or purchase site control that
19 would be exercised upon award of a standard offer contract.

20 (g) All electricity generated by an eligible clean energy facility
21 must be supplied to the distribution system of the electric utility.

22 (h) No single owner may contract for more than fifty percent of the
23 capacity available for each auction.

24 (i) Owners are allowed to bid in multiple clean energy auctions.
25 If this results in an eligible clean energy facility being selected by
26 more than one electric utility, the owner must inform all interested
27 electric utilities within five calendar days of which electric utility
28 it intends to enter into a standard offer contract.

29 (j) An owner must execute the standard offer contract within
30 fifteen calendar days of the date the electric utility notifies the
31 winning bidders.

32 (k) An owner is responsible for the cost of equipment needed to
33 connect the eligible clean energy facility to the distribution system
34 of an electric utility.

35 (l) An owner is responsible for the cost of equipment necessary to
36 meet applicable safety, power quality, and interconnection
37 requirements.

1 **Sec. 3.** RCW 82.16.130 and 2010 c 202 s 3 are each amended to read
2 as follows:

3 (1) A light and power business (~~shall be~~) is allowed a credit
4 against taxes due under this chapter in an amount equal to investment
5 cost recovery incentive payments made in any fiscal year under RCW
6 82.16.120. The credit (~~shall~~) must be taken in a form and manner as
7 required by the department. The credit under this section for the
8 fiscal year may not exceed one-half percent of the businesses' taxable
9 power sales due under RCW 82.16.020(1)(b) or one hundred thousand
10 dollars, whichever is greater. Incentive payments to participants in
11 a utility-owned community solar project as defined in RCW
12 82.16.110(2)(a)(ii) may only account for up to twenty-five percent of
13 the total allowable credit. Incentive payments to participants in a
14 company-owned community solar project as defined in RCW
15 82.16.110(2)(a)(iii) may only account for up to five percent of the
16 total allowable credit. The credit may not exceed the tax that would
17 otherwise be due under this chapter. Refunds (~~shall~~) may not be
18 granted in the place of credits. Expenditures not used to earn a
19 credit in one fiscal year may not be used to earn a credit in
20 subsequent years.

21 (2) For any business that has claimed credit for amounts that
22 exceed the correct amount of the incentive payable under RCW 82.16.120,
23 the amount of tax against which credit was claimed for the excess
24 payments (~~shall be~~) are immediately due and payable. The department
25 (~~shall~~) must assess interest but not penalties on the taxes against
26 which the credit was claimed. Interest (~~shall~~) must be assessed at
27 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
28 retroactively to the date the credit was claimed, and (~~shall~~) accrues
29 until the taxes against which the credit was claimed are repaid.

30 (3) If the investment cost recovery incentive payments made by a
31 light and power business under RCW 82.16.120 in any fiscal year are
32 reduced due to a withdrawal by a participant in the renewable energy
33 cost recovery program in order for that participant to receive a
34 standard offer contract under section 2 of this act, the light and
35 power business remains entitled to the credit under this section in an
36 amount equal to the investment cost recovery payments made to such
37 participant immediately prior to the participant's withdrawal from the
38 program.

1 (4) The right to earn tax credits under this section expires June
2 30, 2020. Credits may not be claimed after June 30, 2021.

3 NEW SECTION. **Sec. 4.** This act takes effect August 1, 2011.

4 NEW SECTION. **Sec. 5.** Sections 1 and 2 of this act constitute a
5 new chapter in Title 80 RCW.

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