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**SUBSTITUTE SENATE BILL 5431**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Environment, Water & Energy (originally sponsored by Senators Rockefeller and Nelson)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to null generation electricity; and amending RCW  
2 19.29A.010 and 19.29A.060.

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

4 **Sec. 1.** RCW 19.29A.010 and 2000 c 213 s 2 are each amended to read  
5 as follows:

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

8 (1) "Biomass generation" means electricity derived from burning  
9 solid organic fuels from wood, forest, or field residue, or dedicated  
10 energy crops that do not include wood pieces that have been treated  
11 with chemical preservatives such as creosote, pentachlorophenol, or  
12 copper-chroma-arsenic.

13 (2) "Bonneville power administration system mix" means a generation  
14 mix sold by the Bonneville power administration that is net of any  
15 resource specific sales and that is net of any electricity sold to  
16 direct service industrial customers, as defined in section 3(8) of the  
17 Pacific Northwest electric power planning and conservation act (16  
18 U.S.C. Sec. 839(a)(8)).

1 (3) "Coal generation" means the electricity produced by a  
2 generating facility that burns coal as the primary fuel source.

3 (4) "Commission" means the utilities and transportation commission.

4 (5) "Conservation" means an increase in efficiency in the use of  
5 energy use that yields a decrease in energy consumption while providing  
6 the same or higher levels of service. Conservation includes low-income  
7 weatherization programs.

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

15 (7) "Declared resource" means an electricity source specifically  
16 identified by a retail supplier to serve retail electric customers. A  
17 declared resource includes a stated quantity of electricity tied  
18 directly to a specified generation facility or set of facilities either  
19 through ownership or contract purchase, or a contractual right to a  
20 stated quantity of electricity from a specified generation facility or  
21 set of facilities.

22 (8) "Department" means the department of (~~community, trade, and~~  
23 ~~economic development~~) commerce.

24 (9) "Electricity information coordinator" means the organization  
25 selected by the department under RCW 19.29A.080 to: (a) Compile  
26 generation data in the Northwest power pool by generating project and  
27 by resource category; (b) compare the quantity of electricity from  
28 declared resources reported by retail suppliers with available  
29 generation from such resources; (c) calculate the net system power mix;  
30 and (d) coordinate with other comparable organizations in the western  
31 interconnection.

32 (10) "Electric meters in service" means those meters that record in  
33 at least nine of twelve calendar months in any calendar year not less  
34 than two hundred fifty kilowatt hours per month.

35 (11) "Electricity product" means the electrical energy produced by  
36 a generating facility or facilities that a retail supplier sells or  
37 offers to sell to retail electric customers in the state of Washington,  
38 provided that nothing in this title shall be construed to mean that

1 electricity is a good or product for the purposes of Title 62A RCW, or  
2 any other purpose. It does not include electrical energy generated on-  
3 site at a retail electric customer's premises.

4 (12) "Electric utility" means a consumer-owned or investor-owned  
5 utility as defined in this section.

6 (13) "Electricity" means electric energy measured in kilowatt  
7 hours, or electric capacity measured in kilowatts, or both.

8 (14) "Fuel mix" means the actual or imputed sources of electricity  
9 sold to retail electric customers, expressed in terms of percentage  
10 contribution by resource category. The total fuel mix included in each  
11 disclosure shall total one hundred percent.

12 (15) "Geothermal generation" means electricity derived from thermal  
13 energy naturally produced within the earth.

14 (16) "Governing body" means the council of a city or town, the  
15 commissioners of an irrigation district, municipal electric utility, or  
16 public utility district, or the board of directors of an electric  
17 cooperative or mutual association that has the authority to set and  
18 approve rates.

19 (17) "High efficiency cogeneration" means electricity produced by  
20 equipment, such as heat or steam used for industrial, commercial,  
21 heating, or cooling purposes, that meets the federal energy regulatory  
22 commission standards for qualifying facilities under the public utility  
23 regulatory policies act of 1978.

24 (18) "Hydroelectric generation" means a power source created when  
25 water flows from a higher elevation to a lower elevation and the flow  
26 is converted to electricity in one or more generators at a single  
27 facility.

28 (19) "Investor-owned utility" means a company owned by investors  
29 that meets the definition of RCW 80.04.010 and is engaged in  
30 distributing electricity to more than one retail electric customer in  
31 the state.

32 (20) "Landfill gas generation" means electricity produced by a  
33 generating facility that uses waste gases produced by the decomposition  
34 of organic materials in landfills.

35 (21) "Natural gas generation" means electricity produced by a  
36 generating facility that burns natural gas as the primary fuel source.

37 (22) "Northwest power pool" means the generating resources included

1 in the United States portion of the Northwest power pool area as  
2 defined by the western systems coordinating council.

3 (23) "Net system power mix" means the fuel mix in the Northwest  
4 power pool, net of: (a) Any declared resources in the Northwest power  
5 pool identified by in-state retail suppliers or out-of-state entities  
6 that offer electricity for sale to retail electric customers; (b) any  
7 electricity sold by the Bonneville power administration to direct  
8 service industrial customers; and (c) any resource specific sales made  
9 by the Bonneville power administration.

10 (24) "Oil generation" means electricity produced by a generating  
11 facility that burns oil as the primary fuel source.

12 (25) "Proprietary customer information" means: (a) Information  
13 that relates to the source and amount of electricity used by a retail  
14 electric customer, a retail electric customer's payment history, and  
15 household data that is made available by the customer solely by virtue  
16 of the utility-customer relationship; and (b) information contained in  
17 a retail electric customer's bill.

18 (26) "Renewable resources" means electricity generation facilities  
19 fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal  
20 energy; (e) landfill gas; or (f) biomass energy based on solid organic  
21 fuels from wood, forest, or field residues, or dedicated energy crops  
22 that do not include wood pieces that have been treated with chemical  
23 preservatives such as creosote, pentachlorophenol, or copper-chrome-  
24 arsenic.

25 (27) "Resale" means the purchase and subsequent sale of electricity  
26 for profit, but does not include the purchase and the subsequent sale  
27 of electricity at the same rate at which the electricity was purchased.

28 (28) "Retail electric customer" means a person or entity that  
29 purchases electricity for ultimate consumption and not for resale.

30 (29) "Retail supplier" means an electric utility that offers an  
31 electricity product for sale to retail electric customers in the state.

32 (30) "Small utility" means any consumer-owned utility with twenty-  
33 five thousand or fewer electric meters in service, or that has an  
34 average of seven or fewer customers per mile of distribution line.

35 (31) "Solar generation" means electricity derived from radiation  
36 from the sun that is directly or indirectly converted to electrical  
37 energy.

38 (32) "State" means the state of Washington.

1 (33) "Waste incineration generation" means electricity derived from  
2 burning solid or liquid wastes from businesses, households,  
3 municipalities, or waste treatment operations.

4 (34) "Wind generation" means electricity created by movement of air  
5 that is converted to electrical energy.

6 (35) "Null generation" means electricity generated from renewable  
7 resources that is separated from its renewable attributes by the use of  
8 renewable energy credits or other tradable evidence of nonpower  
9 attributes.

10 **Sec. 2.** RCW 19.29A.060 and 2000 c 213 s 4 are each amended to read  
11 as follows:

12 (1) Each retail supplier shall disclose the fuel mix of each  
13 electricity product it offers to retail electric customers as follows:

14 (a) For an electricity product comprised entirely of declared  
15 resources, a retail supplier shall disclose the fuel mix for the  
16 electricity product based on the quantity of electric generation from  
17 those declared resources for the previous calendar year and any  
18 adjustment, if taken, available under subsection (6) of this section.

19 (b) For an electricity product comprised of no declared resources,  
20 a retail supplier shall report the fuel mix for the electricity product  
21 as the fuel mix of net system power for the previous calendar year, as  
22 determined by the electricity information coordinator under RCW  
23 19.29A.080.

24 (c) For an electricity product comprised of a combination of  
25 declared resources and the net system power, a retail supplier shall  
26 disclose the fuel mix for the electricity product as a weighted average  
27 of the megawatt-hours from declared resources and the megawatt-hours  
28 from the net system power mix for the previous calendar year according  
29 to the proportion of declared resources and net system power contained  
30 in the electricity product.

31 (2) The disclosures required by this section shall identify the  
32 percentage of the total electricity product sold by a retail supplier  
33 during the previous calendar year from each of the following  
34 categories:

35 (a) Coal generation;

36 (b) Hydroelectric generation;

37 (c) Natural gas generation;

1 (d) Nuclear generation; (~~and~~)  
2 (e) Null generation; and  
3 (f) Other generation, except that when a component of the other  
4 generation category meets or exceeds two percent of the total  
5 electricity product sold by a retail supplier during the previous  
6 calendar year, the retail supplier shall identify the component or  
7 components and display the fuel mix percentages for these component  
8 sources, which may include, but are not limited to: (i) Biomass  
9 generation; (ii) geothermal generation; (iii) landfill gas generation;  
10 (iv) oil generation; (v) solar generation; (vi) waste incineration; or  
11 (vii) wind generation. A retail supplier may voluntarily identify any  
12 component or components within the other generation category that  
13 comprises two percent or less of annual sales.

14 (3) Retail suppliers may separately report a subcategory of natural  
15 gas generation to identify high efficiency cogeneration.

16 (4) Except as provided in subsection (3) of this section, a retail  
17 supplier cannot include in the disclosure label any environmental  
18 quality or environmental impact qualifier related to any of the  
19 generation categories disclosed.

20 (5) For the portion of an electricity product purchased from the  
21 Bonneville power administration, retail suppliers may disclose the  
22 Bonneville power administration system mix.

23 (6) A retail supplier may adjust its reported fuel mix for known  
24 changes in its declared resources for the current year based on any  
25 changes in its sources of electricity supply from either generation or  
26 contracts. If a retail supplier changes its fuel mix during a calendar  
27 year, it shall report those changes to the electricity information  
28 coordinator.

29 (7) Disclosure of the fuel mix information required in this section  
30 shall be made in the following uniform format: A tabular format with  
31 two columns, where the first column shall alphabetically list each  
32 category and the second column shall display the corresponding  
33 percentage of the total that each category represents. The percentage  
34 shall be reported as a numeric value rounded to the nearest one  
35 percent. The percentages listed for the categories identified must sum  
36 to one hundred percent with the table displaying such a total.

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