
SENATE BILL 6552

State of Washington

62nd Legislature

2012 Regular Session

By Senator Morton

Read first time 01/31/12. Referred to Committee on Energy, Natural Resources & Marine Waters.

1 AN ACT Relating to clarifying the definition of qualifying utility
2 in the energy independence act; amending RCW 19.285.030; and adding a
3 new section to chapter 19.285 RCW.

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

5 **Sec. 1.** RCW 19.285.030 and 2009 c 565 s 20 are each amended to
6 read as follows:

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

9 (1) "Attorney general" means the Washington state office of the
10 attorney general.

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

16 (3) "Commission" means the Washington state utilities and
17 transportation commission.

18 (4) "Conservation" means any reduction in electric power

1 consumption resulting from increases in the efficiency of energy use,
2 production, or distribution.

3 (5) "Cost-effective" has the same meaning as defined in RCW
4 80.52.030.

5 (6) "Council" means the Washington state apprenticeship and
6 training council within the department of labor and industries.

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

9 (8) "Department" means the department of commerce or its successor.

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

13 (10) "Eligible renewable resource" means:

14 (a) Electricity from a generation facility powered by a renewable
15 resource other than freshwater that commences operation after March 31,
16 1999, where: (i) The facility is located in the Pacific Northwest; or
17 (ii) the electricity from the facility is delivered into Washington
18 state on a real-time basis without shaping, storage, or integration
19 services; 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.

27 (11) "Investor-owned utility" has the same meaning as defined in
28 RCW 19.29A.010.

29 (12) "Load" means the amount of kilowatt-hours of electricity
30 delivered in the most recently completed year by a qualifying utility
31 to its Washington retail customers.

32 (13) "Nonpower attributes" means all environmentally related
33 characteristics, exclusive of energy, capacity reliability, and other
34 electrical power service attributes, that are associated with the
35 generation of electricity from a renewable resource, including but not
36 limited to the facility's fuel type, geographic location, vintage,
37 qualification as an eligible renewable resource, and avoided emissions

1 of pollutants to the air, soil, or water, and avoided emissions of
2 carbon dioxide and other greenhouse gases.

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

7 (15) "Public facility" has the same meaning as defined in RCW
8 39.35C.010.

9 (16)(a) "Qualifying utility" means an electric utility, as the term
10 "electric utility" is defined in RCW 19.29A.010, that serves more than
11 twenty-five thousand customers in the state of Washington. The number
12 of customers served may be based on data reported by a utility in form
13 861, "annual electric utility report," filed with the energy
14 information administration, United States department of energy.

15 (b) "Qualifying utility" does not include an electric utility that
16 has an average of five or fewer retail electric customers per mile of
17 distribution line, as determined under section 2 of this act, and that
18 maintains an agreement under chapter 54.48 RCW with any qualifying
19 utility with which the electric utility has an adjoining service area.

20 (17) "Renewable energy credit" means a tradable certificate of
21 proof of at least one megawatt-hour of an eligible renewable resource
22 where the generation facility is not powered by freshwater, the
23 certificate includes all of the nonpower attributes associated with
24 that one megawatt-hour of electricity, and the certificate is verified
25 by a renewable energy credit tracking system selected by the
26 department.

27 (18) "Renewable resource" means: (a) Water; (b) wind; (c) solar
28 energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or
29 tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
30 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
31 on land cleared from old growth or first-growth forests where the
32 clearing occurred after December 7, 2006; and (i) biomass energy based
33 on animal waste or solid organic fuels from wood, forest, or field
34 residues, or dedicated energy crops that do not include (i) wood pieces
35 that have been treated with chemical preservatives such as creosote,
36 pentachlorophenol, or copper-chrome-arsenic; (ii) black liquor by-
37 product from paper production; (iii) wood from old growth forests; or
38 (iv) municipal solid waste.

1 (19) "Rule" means rules adopted by an agency or other entity of
2 Washington state government to carry out the intent and purposes of
3 this chapter.

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

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.285 RCW
7 to read as follows:

8 (1) By January 1, 2013, and every five years thereafter, the state
9 auditor's office shall: (a) Verify the number of distribution line
10 miles owned by an electric utility for the purposes of establishing
11 that the utility meets or does not meet the criteria for being a
12 qualifying utility; (b) refer to the latest data reported by the
13 utility in form 861, "annual electric utility report," filed with the
14 energy information administration, United States department of energy,
15 to confirm the utility's number of customers; and (c) perform a
16 calculation to determine the utility's number of customers per mile of
17 distribution line.

18 (2) An electric utility that is not a qualifying utility is deemed
19 as a matter of law to be a qualifying utility if at any time after the
20 effective date of this section the utility acquires service territory
21 or extends electric service to any customer of a qualifying utility
22 without the consent of the qualifying utility.

23 (3)(a) If an electric utility is found by the state auditor under
24 subsection (1) of this section to have more than five customers per
25 mile of distribution line, it is deemed as a matter of law to be a
26 qualifying utility and subject to the requirements of this chapter
27 pursuant to RCW 19.285.040(3).

28 (b) An electric utility that is deemed to be a qualifying utility
29 pursuant to subsection (2) of this subsection is subject to the
30 requirements of this chapter pursuant to RCW 19.285.040(3).

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