
SUBSTITUTE HOUSE BILL 2176

State of Washington

63rd Legislature

2014 Regular Session

By House Technology & Economic Development (originally sponsored by Representative Morris)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to leased energy systems; adding a new section to
2 chapter 80.60 RCW; adding new sections to chapter 80.28 RCW; adding a
3 new chapter to Title 19 RCW; creating a new section; and providing an
4 expiration date.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 provide mechanisms for low-cost financing of energy systems on the
8 distribution side of the electricity grid, to provide for consumer
9 protection of customers of these systems, and to recognize electric
10 utility efforts in being early adopters of programs that encourage
11 energy independence by customers.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1)(a) "Biomass energy" includes: (i) Organic by-products of
15 pulping and the wood manufacturing process; (ii) animal manure; (iii)
16 solid organic fuels from wood; (iv) forest or field residues; (v)
17 untreated wooden demolition or construction debris; (vi) food waste and

1 food processing residuals; (vii) liquors derived from algae; (viii)
2 dedicated energy crops; and (ix) yard waste.

3 (b) "Biomass energy" does not include: (i) Wood pieces that have
4 been treated with chemical preservatives such as creosote,
5 pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth
6 forests; or (iii) municipal solid waste.

7 (2) "Electric utility" means a consumer-owned utility or investor-
8 owned utility as those terms are defined in RCW 19.280.020.

9 (3) "High efficiency cogeneration" means the sequential production
10 of electricity and useful thermal energy from a common fuel source,
11 where, under normal operating conditions, the facility has a useful
12 thermal energy output of no less than seventy-two percent of the total
13 energy output.

14 (4) "Leased energy system" means a renewable energy system that is:

15 (a) Located in Washington;

16 (b) Installed on an individual's, business's, or local government's
17 real property that is not leased and is provided electricity generated
18 by an electric utility; and

19 (c) Owned by:

20 (i) An electric utility and leased to a customer; or

21 (ii) A third-party vendor that has contracted with a customer of an
22 electric utility to lease a renewable energy system.

23 (5) "Renewable energy system" includes: (a) Water; (b) wind; (c)
24 solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean,
25 or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel
26 fuel as defined in RCW 82.29A.135 that is not derived from crops raised
27 on land cleared from old growth or first-growth forests where the
28 clearing occurred after December 7, 2006; (i) biomass energy; or (j)
29 high efficiency cogeneration.

30 (6) "Third-party vendor" means an entity that seeks to lease and
31 install renewable energy systems to electric utility customers.

32 NEW SECTION. **Sec. 3.** (1) An electric utility may offer a leased
33 energy program. The leased energy program must offer to customers
34 across all rate classes the opportunity to lease from the electric
35 utility a renewable energy system that will be installed on the
36 customer's property.

1 (2) If an electric utility offers a leased energy program, no other
2 entity may offer leases to the utility's customers.

3 (3) If an electric utility does not offer a leased energy program
4 that provides customers across all rate classes access to renewable
5 energy systems on their property, third-party vendors may offer these
6 systems through leases to the electric utility's customers.

7 NEW SECTION. **Sec. 4.** (1) An electric utility that offers a
8 utility program as provided in section 3 of this act shall maintain a
9 registry of contractors operating in the electric utility's service
10 area that are licensed to install renewable energy systems. The
11 electric utility shall provide the names and contact information for
12 the contractors listed in the registry to customers who have indicated
13 an interest in the utility program, in order to assist customers in
14 identifying available renewable energy system installment services.

15 (2) In the case of a consumer-owned utility, the consumer-owned
16 utility must follow applicable laws governing procurement and public
17 works, as provided in chapters 54.04 and 39.04 RCW.

18 (3) In the case of an investor-owned utility, the investor-owned
19 utility is encouraged to include in the registry all licensed
20 contractors known to work in the utility's service area and any
21 licensed contractor who requests to be included in the registry.

22 NEW SECTION. **Sec. 5.** Electric utilities or third-party vendors
23 are encouraged to offer to customers the option to purchase the
24 renewable energy system at the end of the lease term.

25 NEW SECTION. **Sec. 6.** (1) Any customer leasing a renewable energy
26 system from an electric utility or a third-party vendor must be able to
27 transfer the obligation with any change of ownership of the underlying
28 property.

29 (2) Anticipating widespread adoption of leased energy systems and
30 associated energy storage systems, the legislature finds it prudent to
31 help facilitate the change of ownership of the underlying property by
32 making sure owners disclose to customers and customers are fully
33 informed of any environmental liabilities and disposal costs, if there
34 be any, associated with the renewable energy system and any associated
35 energy storage system.

1 NEW SECTION. **Sec. 7.** (1) The department of ecology shall conduct
2 an assessment of the environmental consequences, throughout the product
3 lifecycle, associated with leased energy systems and energy storage
4 systems installed in Washington containing hazardous materials, rare
5 earth minerals, and other commercially valuable materials. The
6 assessment must include a review of available and potential disposal
7 and recycling options to properly manage hazardous wastes, and recover
8 rare earth minerals and other commercially valuable materials.

9 (2) The department of ecology shall identify and convene
10 appropriate parties to develop recommendations on the responsible
11 management of hazardous wastes and the recovery of rare earth minerals
12 and other commercially valuable materials contained in renewable energy
13 systems at the end of a system's life. The department of ecology shall
14 present its report and recommendations to the legislature, consistent
15 with RCW 43.01.036, by December 1, 2014.

16 (3) This section expires June 30, 2015.

17 NEW SECTION. **Sec. 8.** (1) The utilities and transportation
18 commission shall publish, without disclosing proprietary information,
19 a list of financing models being offered by investor-owned utilities or
20 third-party vendors registered as competitive electrical companies.

21 (2) The governing boards of customer-owned utilities shall publish,
22 without disclosing proprietary information, a list of financing models
23 being offered by the utility or third-party vendors registered as
24 competitive electrical companies.

25 NEW SECTION. **Sec. 9.** A new section is added to chapter 80.60 RCW
26 to read as follows:

27 (1) Only leased energy systems that can store up to twenty percent
28 of the maximum total system hourly output for four hours are eligible
29 for net metering.

30 (2) Electric utilities or third-party vendors offering leased
31 energy systems may offer centralized energy storage systems on the
32 distribution system to meet the storage requirements in subsection (1)
33 of this section.

34 (3) For the purposes of this section, "leased energy system" has
35 the same meaning as defined in section 2 of this act.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 80.28 RCW
2 to read as follows:

3 (1) The legislature finds that:

4 (a) Third-party vendors of distributed renewable energy systems are
5 electrical companies as defined in this title and are subject to the
6 jurisdiction of the commission.

7 (b) A competitive marketplace with effective competition exists for
8 the provision of leasing and installation of distributed renewable
9 energy systems in the state of Washington.

10 (c) Traditional rate of return, rate base regulation of electrical
11 companies providing leasing and installation of distributed renewable
12 energy systems may not provide the most efficient and effective means
13 of achieving the public policy goals of this state as declared in RCW
14 80.28.024, 80.28.074, and this section. The commission is authorized
15 to employ an alternative form of regulation if that alternative is
16 better suited to achieving those policy goals.

17 (d) The commission should retain its authority to protect consumers
18 of distributed renewable energy systems from unreasonable deceptive
19 practices. Nothing in this act precludes the office of the attorney
20 general from exercising its statutory authority concerning consumer
21 protection.

22 (2) For the purposes of this section, "renewable energy system" has
23 the same meaning as defined in section 2 of this act.

24 NEW SECTION. **Sec. 11.** A new section is added to chapter 80.28 RCW
25 to read as follows:

26 (1) A third-party vendor must register with the commission as a
27 competitive electrical company before beginning operations in this
28 state to lease and install distributed renewable energy systems. The
29 registration must be on a form prescribed by the commission and contain
30 that information as the commission may by rule require, but must
31 include at a minimum: The name and address of the company; the name
32 and address of the company's registered agent, if any; the name,
33 address, and title of each officer or director; the company's most
34 current balance sheet; the company's latest annual report, if any; and
35 a description of the services the company offers or intends to offer.

36 (2) The commission may require as a precondition to registration

1 the procurement of a performance bond sufficient to cover any advances
2 or deposits the electrical company may collect from its customers or
3 order that the advances or deposits be held in escrow or trust.

4 (3) The commission may deny registration to any company that:

5 (a) Does not provide the information required by this section;

6 (b) Fails to provide a performance bond, if required;

7 (c) Does not possess adequate financial resources to provide the
8 proposed service; or

9 (d) Does not possess adequate technical competency to provide the
10 proposed service.

11 (4) The commission shall take action to approve or issue a notice
12 of hearing concerning any application for registration within thirty
13 days after receiving the application. The commission may approve an
14 application with or without a hearing. The commission may deny an
15 application after a hearing.

16 (5) The commission may adopt rules that describe the manner by
17 which it will regulate competitive electrical companies, as well as the
18 process for considering applications for registration under this title.

19 (6) For the purposes of this section, "renewable energy system" has
20 the same meaning as defined in section 2 of this act.

21 NEW SECTION. **Sec. 12.** A new section is added to chapter 80.28 RCW
22 to read as follows:

23 (1) Competitive electrical companies must be subject to minimal
24 regulation. The commission may waive any regulatory requirement under
25 this title for competitive electrical companies when it determines that
26 competition will serve the same purposes as public interest regulation.
27 The commission may waive different regulatory requirements for
28 different companies if the different treatment is in the public
29 interest. A competitive electrical company must at a minimum:

30 (a) Keep its accounts according to regulations as determined by the
31 commission;

32 (b) File financial reports with the commission as required by the
33 commission and in a form and at times prescribed by the commission;

34 (c) Post its prices on a public web site available to all potential
35 customers; and

36 (d) Cooperate with commission investigations of customer
37 complaints.

1 (2) The commission may revoke any waivers it grants and may
2 reclassify any competitive electrical company if the revocation or
3 reclassification would protect the public interest.

4 (3) The commission may waive the requirements of RCW 80.28.090 in
5 whole or in part for a competitive electrical company if it finds that
6 competition will serve the same purpose and protect the public
7 interest.

8 (4) Competitive electrical companies must pay regulatory fees to
9 the commission under chapter 80.24 RCW.

10 (5) During a state of emergency declared under RCW 43.06.010(12),
11 the governor may waive or suspend the operation or enforcement of this
12 section or any portion of this section or under any administrative
13 rule, and issue any orders to facilitate the operation of state or
14 local government or to promote and secure the safety and protection of
15 the civilian population.

16 NEW SECTION. **Sec. 13.** A new section is added to chapter 80.28 RCW
17 to read as follows:

18 Upon request of the commission, investor-owned utilities and third-
19 party vendors offering leased energy systems must provide information
20 on the financial terms of leased energy systems currently under
21 contract. The commission must use this information to determine how
22 each party to a lease energy system contract benefits financially. In
23 compliance with RCW 43.01.036, the commission shall report its findings
24 to the appropriate energy committees of the house of representatives
25 and senate by December 1, 2017.

26 NEW SECTION. **Sec. 14.** Sections 1 through 6 and 8 of this act
27 constitute a new chapter in Title 19 RCW.

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