
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-3538.5/12 5th draft

ATTY/TYPIST: ML:crs

BRIEF DESCRIPTION: Recognizing certain biomass energy facilities as
an eligible renewable resource.

1 AN ACT Relating to promoting and sustaining investment and
2 employment in economically distressed communities dependent on
3 agricultural or natural resource industries by recognizing certain
4 biomass energy facilities constructed before March 31, 1999, as an
5 eligible renewable resource; amending RCW 19.285.030 and 19.285.040;
6 adding a new section to chapter 19.285 RCW; and creating a new section.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that: (a) Pulping
9 liquors can be used to reduce harmful pollution and produce electricity
10 and thermal energy that enables pulp and paper facilities to be highly
11 energy efficient; (b) biomass facilities and pulp and paper mills are
12 typically located in communities that are disproportionately affected
13 by economic downturns; (c) mill closures have occurred throughout the
14 state for more than a decade and the remaining ones have become all the
15 more dependent on selling wood residuals, which are used for
16 electricity generation, in order to sustain their economic viability;
17 (d) employment at pulp and paper mills in the state has also declined
18 significantly, most recently in Grays Harbor and Snohomish counties;
19 (e) wood derived biomass is a renewable fuel for generating electricity

1 and considered carbon-neutral under the laws of the state of
2 Washington; and (f) using food processing residues, biosolids, and yard
3 waste to generate renewable electricity can benefit rural economies,
4 decrease the amount of solid waste that requires disposal, and reduce
5 greenhouse gas emissions that result from organic decay.

6 (2) The legislature declares that, by promoting the generation of
7 renewable energy from biomass, particularly in economically distressed
8 communities, it intends to ensure greater economic stability for the
9 communities that have suffered heavy job losses and chronic
10 unemployment.

11 (3) The legislature further declares that: (a) The owners of
12 qualified biomass energy facilities that must comply with the renewable
13 energy standards under the energy independence act of 2006, either as
14 a matter of law or contractual obligation, should be permitted to use
15 qualified biomass energy credits to meet their obligations; (b)
16 qualified biomass energy should not be sold as an eligible renewable
17 resource unless it is bundled with renewable energy credits that are
18 derived from an eligible renewable resource that is not qualified
19 biomass energy; and (c) electricity that is generated by a biomass
20 energy facility that entered commercial operation after March 31, 1999,
21 from the combustion of organic by-products of pulping and the wood
22 manufacturing process should be treated as an eligible renewable
23 resource.

24 **Sec. 2.** RCW 19.285.030 and 2009 c 565 s 20 are each amended to
25 read as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) "Attorney general" means the Washington state office of the
29 attorney general.

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

35 (3) "Commission" means the Washington state utilities and
36 transportation commission.

1 (4) "Conservation" means any reduction in electric power
2 consumption resulting from increases in the efficiency of energy use,
3 production, or distribution.

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

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

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

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

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

14 (10) "Eligible renewable resource" means:

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

21 (b) Incremental electricity produced as a result of efficiency
22 improvements completed after March 31, 1999, to hydroelectric
23 generation projects owned by a qualifying utility and located in the
24 Pacific Northwest or to hydroelectric generation in irrigation pipes
25 and canals located in the Pacific Northwest, where the additional
26 generation in either case does not result in new water diversions or
27 impoundments; and

28 (c) Qualified biomass energy.

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

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

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

1 qualification as an eligible renewable resource, and avoided emissions
2 of pollutants to the air, soil, or water, and avoided emissions of
3 carbon dioxide and other greenhouse gases. For an anaerobic digester,
4 its nonpower attributes may be separated into avoided emissions of
5 carbon dioxide and other greenhouse gases, and into renewable energy
6 credits.

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

11 (15) "Public facility" has the same meaning as defined in RCW
12 39.35C.010.

13 (16) "Qualifying utility" means an electric utility, as the term
14 "electric utility" is defined in RCW 19.29A.010, that serves more than
15 twenty-five thousand customers in the state of Washington. The number
16 of customers served may be based on data reported by a utility in form
17 861, "annual electric utility report," filed with the energy
18 information administration, United States department of energy.

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

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

1 (19)(a) "Biomass energy" includes: (i) Organic by-products of
2 pulping and the wood manufacturing process; (ii) animal waste; (iii)
3 solid organic fuels from wood; (iv) forest or field residues; (v)
4 wooden demolition or construction debris; (vi) food waste; (vii)
5 liquors derived from algae and other sources; (viii) dedicated energy
6 crops; (ix) biosolids; (x) yard waste; and (xi) food processing
7 residues.

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

12 (20) "Qualified biomass energy" means electricity produced from a
13 biomass energy facility that commenced operation before March 31, 1999.

14 (21) "Qualified renewable energy credit" means a certificate of
15 proof of at least one megawatt-hour of qualified biomass energy that is
16 generated by: (a) A qualifying utility; or (b) an industrial facility
17 that is served by a qualified utility. The certificate includes all of
18 the nonpower attributes associated with that one megawatt-hour of
19 electricity, and the certificate is verified by the department.

20 (22) "Rule" means rules adopted by an agency or other entity of
21 Washington state government to carry out the intent and purposes of
22 this chapter.

23 ~~((+20))~~ (23) "Year" means the twelve-month period commencing
24 January 1st and ending December 31st.

25 **Sec. 3.** RCW 19.285.040 and 2007 c 1 s 4 are each amended to read
26 as follows:

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

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

36 (b) Beginning January 2010, each qualifying utility shall establish
37 and make publicly available a biennial acquisition target for cost-

1 effective conservation consistent with its identification of achievable
2 opportunities in (a) of this subsection, and meet that target during
3 the subsequent two-year period. At a minimum, each biennial target
4 must be no lower than the qualifying utility's pro rata share for that
5 two-year period of its cost-effective conservation potential for the
6 subsequent ten-year period.

7 (c) In meeting its conservation targets, a qualifying utility may
8 count high-efficiency cogeneration owned and used by a retail electric
9 customer to meet its own needs. High-efficiency cogeneration is the
10 sequential production of electricity and useful thermal energy from a
11 common fuel source, where, under normal operating conditions, the
12 facility has a useful thermal energy output of no less than thirty-
13 three percent of the total energy output. The reduction in load due to
14 high-efficiency cogeneration shall be: (i) Calculated as the ratio of
15 the fuel chargeable to power heat rate of the cogeneration facility
16 compared to the heat rate on a new and clean basis of a
17 best-commercially available technology combined-cycle natural gas-fired
18 combustion turbine; and (ii) counted towards meeting the biennial
19 conservation target in the same manner as other conservation savings.

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

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

25 (2)(a) Each qualifying utility shall use eligible renewable
26 resources or acquire equivalent renewable energy credits, qualified
27 renewable energy credits, or ((a)) any combination of ((both)) them, to
28 meet the following annual targets:

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

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

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

35 (b) A qualifying utility may count distributed generation at double
36 the facility's electrical output if the utility: (i) Owns or has
37 contracted for the distributed generation and the associated renewable

1 energy credits; or (ii) has contracted to purchase the associated
2 renewable energy credits.

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

6 (d) A qualifying utility shall be considered in compliance with an
7 annual target in (a) of this subsection if: (i) The utility's weather-
8 adjusted load for the previous three years on average did not increase
9 over that time period; (ii) after December 7, 2006, the utility did not
10 commence or renew ownership or incremental purchases of electricity
11 from resources other than renewable resources other than on a daily
12 spot price basis and the electricity is not offset by equivalent
13 renewable energy credits; and (iii) the utility invested at least one
14 percent of its total annual retail revenue requirement that year on
15 eligible renewable resources, renewable energy credits, or a
16 combination of both.

17 (e) The requirements of this section may be met for any given year
18 with renewable energy credits or qualified renewable energy credits,
19 produced during that year, the preceding year, or the subsequent year.
20 Each renewable energy credit may be used only once to meet the
21 requirements of this section.

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

24 (i) Eligible renewable resources or distributed generation where
25 the associated renewable energy credits are owned by a separate entity;
26 or

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

30 (g) Where fossil and combustible renewable resources are cofired in
31 one generating unit located in the Pacific Northwest where the cofiring
32 commenced after March 31, 1999, the unit shall be considered to produce
33 eligible renewable resources in direct proportion to the percentage of
34 the total heat value represented by the heat value of the renewable
35 resources.

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

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

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

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

8 (i) A qualifying utility shall be considered in compliance with an
9 annual target in (a) of this subsection if events beyond the reasonable
10 control of the utility that could not have been reasonably anticipated
11 or ameliorated prevented it from meeting the renewable energy target.
12 Such events include weather-related damage, mechanical failure,
13 strikes, lockouts, and actions of a governmental authority that
14 adversely affect the generation, transmission, or distribution of an
15 eligible renewable resource under contract to a qualifying utility.

16 (3) Utilities that become qualifying utilities after December 31,
17 2006, shall meet the requirements in this section on a time frame
18 comparable in length to that provided for qualifying utilities as of
19 December 7, 2006.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.285 RCW
21 to read as follows:

22 A qualified renewable energy credit may be used by a qualifying
23 utility that owns a qualified biomass energy facility or that is
24 interconnected with an industrial facility that hosts a qualified
25 biomass energy facility to meet its compliance obligation under RCW
26 19.285.040(2). A qualifying utility that produces or receives a
27 qualified renewable energy credit may not transfer or sell the credit
28 to another person or entity, unless a transfer is necessary in order to
29 prove compliance under RCW 19.285.040(2).

30 NEW SECTION. **Sec. 5.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

--- END ---