## SUBSTITUTE HOUSE BILL 2064

State of Washington 64th Legislature 2015 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Morris, Pollet, and Tarleton)

READ FIRST TIME 02/20/15.

- AN ACT Relating to providing compliance options for qualifying utilities; and amending RCW 19.285.040 and 19.285.080.
- 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 4 **Sec. 1.** RCW 19.285.040 and 2014 c 26 s 1 are each amended to 5 read as follows:
- 6 (1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.
- (a) By January 1, 2010, using methodologies consistent with those 8 used by the Pacific Northwest electric power and conservation 9 planning council in the most recently published regional power plan 10 11 as it existed on June 12, 2014, or a subsequent date as may be provided by the department or the commission by rule, each qualifying 12 13 utility shall identify its achievable cost-effective conservation 14 potential through 2019. Nothing in the rule adopted under this subsection precludes a qualifying utility from using its utility 15 16 specific conservation measures, values, and assumptions 17 identifying its achievable cost-effective conservation potential. At least every two years thereafter, the qualifying utility shall review 18 19 and update this assessment for the subsequent ten-year period.
- 20 (b) Beginning January 2010, each qualifying utility shall 21 establish and make publicly available a biennial acquisition target

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

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- (c)(i) Except as provided in (c)(ii) and (iii) of this subsection, beginning on January 1, 2014, cost-effective conservation achieved by a qualifying utility in excess of its biennial acquisition target may be used to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty percent of any biennial target may be met with excess conservation savings.
- (ii) Beginning January 1, 2014, a qualifying utility may use single large facility conservation savings in excess of its biennial target to meet up to an additional five percent of the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined. For the purposes of this subsection (1)(c)(ii), "single large facility conservation savings" means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a qualifying utility whose annual electricity consumption prior to the conservation savings exceeded five average megawatts.
- (iii) Beginning January 1, 2012, and until December 31, 2017, a qualifying utility with an industrial facility located in a county with a population between ninety-five thousand and one hundred fifteen thousand that is directly interconnected with electricity facilities that are capable of carrying electricity at transmission voltage( $(\tau)$ ) may use cost-effective conservation from that industrial facility in excess of its biennial acquisition target to help meet the immediately subsequent two biennial acquisition targets, such that no more than twenty-five percent of any biennial target may be met with excess conservation savings allowed under all of the provisions of this section combined.
- (d) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy

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- 1 from a common fuel source, where, under normal operating conditions,
- 2 the facility has a useful thermal energy output of no less than
- 3 thirty-three percent of the total energy output. The reduction in
- 4 load due to high-efficiency cogeneration shall be: (i) Calculated as
- 5 the ratio of the fuel chargeable to power heat rate of the
- 6 cogeneration facility compared to the heat rate on a new and clean
- 7 basis of a best-commercially available technology combined-cycle
- 8 natural gas-fired combustion turbine; and (ii) counted towards
- 9 meeting the biennial conservation target in the same manner as other
- 10 conservation savings.

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- 11 (e) The commission may determine if a conservation program 12 implemented by an investor-owned utility is cost-effective based on 13 the commission's policies and practice.
- 14 (f) The commission may rely on its standard practice for review 15 and approval of investor-owned utility conservation targets.
  - (2)(a) Except as provided in  $((\frac{1}{2}))$  (n) of this subsection, each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or any combination of them, to meet the following annual targets:
- 20 (i) At least three percent of its load by January 1, 2012, and 21 each year thereafter through December 31, 2015;
  - (ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and
- 24 (iii) At least fifteen percent of its load by January 1, 2020, 25 and each year thereafter.
  - (b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.
  - (c) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.
    - (d) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than coal transition power or renewable resources other than on a daily spot price basis and the

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- electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.
  - (e) A qualifying utility is considered in compliance with an annual target in (a) of this subsection if the following conditions apply for any year of the first two years of an integrated resource plan or other resource plan adopted by the utility pursuant to RCW 19.280.030:
    - (i) Either:

- (A) The load to be served by the utility is not projected to increase from the previous year, net of conservation; or
- (B) The cumulative load growth from December 7, 2006, including the projected load growth for the target year, net of conservation, is served by eligible renewable resources or renewable energy credits and is projected to be less than the amount of eligible renewable resources that would otherwise be required to meet the annual target in (a) of this subsection for that year; or
- (C) The utility has projected sufficient resources, owned or under contract as of January 1, 2010, to serve its projected load, net of conservation, for the target year;
  - (ii) The utility did not otherwise commence or renew ownership or make incremental purchases of electricity, other than on a daily spot price basis, from resources other than coal transition power or renewable resources, and the electricity is not offset by equivalent renewable energy credits; and
  - (iii) The utility has invested at least one percent of its total annual retail revenue requirement that year on one or more of the following clean energy investments in any combination: Eligible renewable resources; renewable energy credits; conservation that is not considered cost-effective conservation; demand response programs; electric vehicle charging stations; energy storage; research and development for clean energy technologies; or other projects as approved by the commission or governing board, as appropriate, that reduce or offset, or lead to development of technology that reduces or offsets, emissions of greenhouse gases.
  - (f) A utility must document compliance with the option provided under (e) of this subsection by June 30th after the completion of the target year for which it is to be utilized, or, if unable to document compliance by that date, must document compliance with either (a) or

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1 (d) of this subsection or RCW 19.285.050 by December 31st of that 2 same year.

- (g) The governing board of a consumer-owned utility which performs planning projections for compliance under (e) of this subsection has sole authority to determine the process, timelines, and documentation for developing planning projections pursuant to chapter 19.280 RCW, as performed under (e) of this subsection.
- (h) A utility which meets the conditions for compliance under either (d) or (e) of this subsection shall resume meeting the compliance requirements in this section on a time frame comparable in length to what it would have been before using an alternative compliance option.
- (i) The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.
- $((\frac{f}{f}))$  (j) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:
  - (i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or
  - (ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.
  - $((\frac{\langle g \rangle}{}))$  (k) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.
- $((\frac{h}{h}))$   $(\underline{l})$ (i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:
  - (A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and
- 36 (B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.
- (ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

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 $((\frac{1}{2}))$  (m) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

- $((\frac{(j)}{(j)}))$   $\underline{(n)}(i)$  Beginning January 1, 2016, only a qualifying utility that owns or is directly interconnected to a qualified biomass energy facility may use qualified biomass energy to meet its compliance obligation under this subsection.
  - (ii) A qualifying utility may no longer use electricity and associated renewable energy credits from a qualified biomass energy facility if the associated industrial pulping or wood manufacturing facility ceases operation other than for purposes of maintenance or upgrade.
  - $((\frac{k}{k}))$  (o) An industrial facility that hosts a qualified biomass energy facility may only transfer or sell renewable energy credits associated with its facility to the qualifying utility with which it is directly interconnected with facilities owned by such a qualifying utility and that are capable of carrying electricity at transmission voltage. The qualifying utility may only use an amount of renewable energy credits associated with qualified biomass energy that are equivalent to the proportionate amount of its annual targets under (a)(ii) and (iii) of this subsection that was created by the load of the industrial facility. A qualifying utility that owns a qualified biomass energy facility may not transfer or sell renewable energy credits associated with qualified biomass energy to another person, entity, or qualifying utility.
- 32 (3) Utilities that become qualifying utilities after December 31, 33 2006, shall meet the requirements in this section on a time frame 34 comparable in length to that provided for qualifying utilities as of 35 December 7, 2006.
- **Sec. 2.** RCW 19.285.080 and 2007 c 1 s 8 are each amended to read 37 as follows:

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- 1 (1) The commission may adopt rules to ensure the proper 2 implementation and enforcement of this chapter as it applies to 3 investor-owned utilities.
- (2) Except as provided in RCW 19.285.040(2)(g), the department 4 adopt rules concerning only process, timelines, 5 shall 6 documentation to ensure the proper implementation of this chapter as 7 it applies to qualifying utilities that are not investor-owned utilities. Those rules include, but are not limited to, rules 8 associated with a qualifying utility's development of conservation 9 10 targets under RCW 19.285.040(1); a qualifying utility's decision to 11 pursue alternative compliance in RCW 19.285.040(2) (d) or  $((\frac{(i)}{i}))$  (m) 12 or 19.285.050(1); and the format and content of reports required in RCW 19.285.070. The department may not adopt rules concerning RCW 13 19.285.040(2)(g). Nothing in this subsection may be construed to 14 restrict the rate-making authority of the commission or a qualifying 15 16 utility as otherwise provided by law.
- 17 (3) The commission and department may coordinate in developing 18 rules related to process, timelines, and documentation that are 19 necessary for implementation of this chapter.
- 20 (4) Pursuant to the administrative procedure act, chapter 34.05 21 RCW, rules needed for the implementation of this chapter must be 22 adopted by December 31, 2007. These rules may be revised as needed to 23 carry out the intent and purposes of this chapter.

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