BEFORE THE WASHINGTON

UTILITIES & TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION, d/b/a AVISTA UTILITIES

Respondent.

DOCKETS UE-240006 & UG-240007 (*Consolidated*)

CROSS-EXAMINATION EXHIBIT OF JOSEPH D. MILLER ON BEHALF OF THE WASHINGTON STATE OFFICE OF THE ATTORNEY GENERAL PUBLIC COUNSEL UNIT

JDM-__X

Engrossed Second Substitute Senate Bill No. 5116

September 16, 2024

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5116

Chapter 288, Laws of 2019

66th Legislature
2019 Regular Session

CLEAN ENERGY--ELECTRIC UTILITIES--VARIOUS PROVISIONS

EFFECTIVE DATE: May 7, 2019

Passed by the Senate April 22, 2019
Yeas 29 Nays 20

CYRUS HABIB

President of the Senate

Passed by the House April 11, 2019
Yeas 56 Nays 42

FRANK CHOPP

Speaker of the House of Representatives

Approved May 7, 2019 3:32 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5116** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 13, 2019

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5116

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators Carlyle, Palumbo, McCoy, Pedersen, Wellman, Das, Rolfes, Frockt, Wilson, C., Kuderer, Nguyen, Keiser, Liias, Hunt, Saldaña, Darneille, and Billig; by request of Governor Inslee)

READ FIRST TIME 02/21/19.

AN ACT Relating to supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future; amending RCW 19.280.030, 80.84.010, 82.08.962, 82.12.962, 80.04.250, 43.21F.090, 19.285.030, and 19.285.040; adding new sections to chapter 80.28 RCW; adding a new chapter to Title 19 RCW; creating new sections; prescribing penalties; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington must address the impacts of climate change by leading the transition to a clean energy economy. One way in which Washington must lead this transition is by transforming its energy supply, modernizing its electricity system, and ensuring that the benefits of this transition are broadly shared throughout the state.

(2) With our wealth of carbon-free hydropower, Washington has some of the cleanest electricity in the United States. But electricity remains a large source of emissions in our state. We are at a critical juncture for transforming our electricity system. It is the policy of the state to eliminate coal-fired electricity, transition the state's electricity supply to one hundred percent carbon-neutral by 2030, and one hundred percent carbon-free by 2045.

In implementing this chapter, the state must prioritize the maximization of family wage job creation, seek to ensure that all customers are benefiting from the transition to a clean energy economy, and provide safeguards to ensure that the achievement of this policy does not impair the reliability of the electricity system or impose unreasonable costs on utility customers.

(3) The transition to one hundred percent clean energy is underway, but must happen faster than our current policies can deliver. Absent significant and swift reductions in greenhouse gas emissions, climate change poses immediate significant threats to our economy, health, safety, and national security. The prices of clean energy technologies continue to fall, and are, in many cases, competitive or even cheaper than conventional energy sources.

(4) The legislature finds that Washington can accomplish the goals of this act while: Promoting energy independence; creating high-quality jobs in the clean energy sector; maximizing the value of hydropower, our principal renewable resource; continuing to encourage and provide incentives for clean alternative energy sources, including providing electricity for the transportation sector; maintaining safe and reliable electricity to all customers at stable and affordable rates; and protecting clean air and water in the Pacific Northwest. Clean energy creates more jobs per unit of energy produced than fossil fuel sources, so this transition will contribute to job growth in Washington while addressing our climate crisis head on. Our abundance of renewable energy and our strong clean technology sector make Washington well positioned to be at the forefront of the transition to one hundred percent clean electricity.

(5) The legislature declares that utilities in the state have an important role to play in this transition, and must be fully empowered, through regulatory tools and incentives, to achieve the goals of this policy. In combination with new technology and emerging opportunities for customers, this policy will spur transformational change in the utility industry. Given these changes, the legislature recognizes and finds that the utilities and transportation commission's statutory grant of authority for rate making includes consideration and implementation of performance and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms where appropriate to achieve fair, just, reasonable, and sufficient rates and its public interest objectives.

(6) The legislature recognizes and finds that the public interest includes, but is not limited to: The equitable distribution of energy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health, economic, and environmental benefits and the reduction of costs and risks; and energy security and resiliency. It is the intent of the legislature that in achieving this policy for Washington, there should not be an increase in environmental health impacts to highly impacted communities.

(7) It is the intent of the legislature to provide flexible tools to address the variability of hydropower for compliance under this act.

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

(1) "Allocation of electricity" means, for the purposes of setting electricity rates, the costs and benefits associated with the resources used to provide electricity to an electric utility's retail electricity consumers that are located in this state.

(2) "Alternative compliance payment" means the payment established in section 9(2) of this act.

(3) "Attorney general" means the Washington state office of the attorney general.

(4) "Auditor" means: (a) The Washington state auditor's office or its designee for utilities under its jurisdiction under this chapter that are consumer-owned utilities; or (b) an independent auditor selected by a utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(5)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

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

(6) "Carbon dioxide equivalent" has the same meaning as defined in RCW 70.235.010.

(7)(a) "Coal-fired resource" means a facility that uses coal-fired generating units, or that uses units fired in whole or in part by coal as feedstock, to generate electricity.

(b)(i) "Coal-fired resource" does not include an electric generating facility that is included as part of a limited duration wholesale power purchase, not to exceed one month, made by an electric utility for delivery to retail electric customers that are located in this state for which the source of the power is not known at the time of entry into the transaction to procure the electricity.

(ii) "Coal-fired resource" does not include an electric generating facility that is subject to an obligation to meet the standards contained in RCW 80.80.040(3)(c).

(8) "Commission" means the Washington utilities and transportation commission.

(9) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

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

(11) "Demand response" means changes in electric usage by demand-side resources from their normal consumption patterns in response to changes in the price of electricity, or to incentive payments designed to induce lower electricity use, at times of high wholesale market prices or when system reliability is jeopardized. "Demand response" may include measures to increase or decrease electricity production on the customer's side of the meter in response to incentive payments.

(12) "Department" means the department of commerce.

(13) "Distributed energy resource" means a nonemitting electric generation or renewable resource or program that reduces electric demand, manages the level or timing of electricity consumption, or provides storage, electric energy, capacity, or ancillary services to an electric utility and that is located on the distribution system,

any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency.

(14) "Electric utility" or "utility" means a consumer-owned utility or an investor-owned utility.

(15) "Energy assistance" means a program undertaken by a utility to reduce the household energy burden of its customers.

(a) Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, and monetary assistance, such as a grant program or discounts for lower income households, intended to lower a household's energy burden.

(b) Energy assistance may include direct customer ownership in distributed energy resources or other strategies if such strategies achieve a reduction in energy burden for the customer above other available conservation and demand-side measures.

(16) "Energy assistance need" means the amount of assistance necessary to achieve a level of household energy burden established by the department or commission.

(17) "Energy burden" means the share of annual household income used to pay annual home energy bills.

(18)(a) "Energy transformation project" means a project or program that: Provides energy-related goods or services, other than the generation of electricity; results in a reduction of fossil fuel consumption and in a reduction of the emission of greenhouse gases attributable to that consumption; and provides benefits to the customers of an electric utility.

(b) "Energy transformation project" may include but is not limited to:

(i) Home weatherization or other energy efficiency measures, including market transformation for energy efficiency products, in excess of: The target established under RCW 19.285.040(1), if applicable; other state obligations; or other obligations in effect on the effective date of this section;

(ii) Support for electrification of the transportation sector including, but not limited to:

(A) Equipment on an electric utility's transmission and distribution system to accommodate electric vehicle connections, as well as smart grid systems that enable electronic interaction between the electric utility and charging systems, and facilitate the utilization of vehicle batteries for system needs;

(B) Incentives for the sale or purchase of electric vehicles, both battery and fuel cell powered, as authorized under state or federal law;

(C) Incentives for the installation of charging equipment for electric vehicles;

(D) Incentives for the electrification of vehicle fleets utilizing a battery or fuel cell for electric supply;

(E) Incentives to install and operate equipment to produce or distribute renewable hydrogen; and

(F) Incentives for renewable hydrogen fueling stations;

(iii) Investment in distributed energy resources and grid modernization to facilitate distributed energy resources and improved grid resilience;

(iv) Investments in equipment for renewable natural gas processing, conditioning, and production, or equipment or infrastructure used solely for the purpose of delivering renewable natural gas for consumption or distribution;

(v) Contributions to self-directed investments in the following measures to serve the sites of large industrial gas and electrical customers: (A) Conservation; (B) new renewable resources; (C) behind-the-meter technology that facilitates demand response cooperation to reduce peak loads; (D) infrastructure to support electrification of transportation needs, including battery and fuel cell electrification; or (E) renewable natural gas processing, conditioning, or production; and

(vi) Projects and programs that achieve energy efficiency and emission reductions in the agricultural sector, including bioenergy and renewable natural gas projects.

(19) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such a material.

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

(21) "Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department of ecology by rule under RCW 70.235.010.

(22) "Greenhouse gas content calculation" means a calculation expressed in carbon dioxide equivalent and made by the department of ecology, in consultation with the department, for the purposes of determining the emissions from the complete combustion or oxidation of fossil fuels and the greenhouse gas emissions in electricity for use in calculating the greenhouse gas emissions content in electricity.

(23) "Highly impacted community" means a community designated by the department of health based on cumulative impact analyses in section 24 of this act or a community located in census tracts that are fully or partially on "Indian country" as defined in 18 U.S.C. Sec. 1151.

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

(25) "Low-income" means household incomes as defined by the department or commission, provided that the definition may not exceed the higher of eighty percent of area median household income or two hundred percent of the federal poverty level, adjusted for household size.

(26)(a) "Market customer" means a nonresidential retail electric customer of an electric utility that: (i) Purchases electricity from an entity or entities other than the utility with which it is directly interconnected; or (ii) generates electricity to meet one hundred percent of its own needs.

(b) An "affected market customer" is a customer of an investor-owned utility who becomes a market customer after the effective date of this section.

(27)(a) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, including methane clathrate.

(b) "Natural gas" does not include renewable natural gas or the portion of renewable natural gas when blended into other fuels.

(28)(a) "Nonemitting electric generation" means electricity from a generating facility or a resource that provides electric energy, capacity, or ancillary services to an electric utility and that does not emit greenhouse gases as a by-product of energy generation.

(b) "Nonemitting electric generation" does not include renewable resources.

(29)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity, including but not limited to the facility's fuel type, geographic location, vintage, qualification as a renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

(30) "Qualified transmission line" means an overhead transmission line that is: (a) Designed to carry a voltage in excess of one hundred thousand volts; (b) owned in whole or in part by an investor-owned utility; and (c) primarily or exclusively used by such an investor-owned utility as of the effective date of this section to transmit electricity generated by a coal-fired resource.

(31) "Renewable energy credit" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity and the certificate is verified by a renewable energy credit tracking system selected by the department.

(32) "Renewable hydrogen" means hydrogen produced using renewable resources both as the source for the hydrogen and the source for the energy input into the production process.

(33) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(34) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f) renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (i) biomass energy.

(35)(a) "Retail electric customer" means a person or entity that purchases electricity from any electric utility for ultimate consumption and not for resale.

(b) "Retail electric customer" does not include, in the case of any electric utility, any person or entity that purchases electricity exclusively from carbon-free and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved by an order of the commission prior to the effective date of this section.

(36) "Retail electric load" means the amount of megawatt-hours of electricity delivered in a given calendar year by an electric utility to its Washington retail electric customers. "Retail electric load" does not include:

(a) Megawatt-hours delivered from qualifying facilities under the federal public utility regulatory policies act of 1978, P.L. 95-617, in operation prior to the effective date of this section, provided that no entity other than the electric utility can make a claim on delivery of the megawatt-hours from those resources; or

(b) Megawatt-hours delivered to an electric utility's system from a renewable resource through a voluntary renewable energy purchase by a retail electric customer of the utility in which the renewable energy credits associated with the megawatt-hours delivered are retired on behalf of the retail electric customer.

(37) "Thermal renewable energy credit" means, with respect to a facility that generates electricity using biomass energy that also generates thermal energy for a secondary purpose, a renewable energy credit that is equivalent to three million four hundred twelve thousand British thermal units of energy used for such secondary purpose.

(38) "Unbundled renewable energy credit" means a renewable energy credit that is sold, delivered, or purchased separately from electricity. All thermal renewable energy credits are considered unbundled renewable energy credits.

(39) "Unspecified electricity" means an electricity source for which the fuel attribute is unknown or has been separated from the energy delivered to retail electric customers.

(40) "Vulnerable populations" means communities that experience a disproportionate cumulative risk from environmental burdens due to:

(a) Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and

(b) Sensitivity factors, such as low birth weight and higher rates of hospitalization.

NEW SECTION. **Sec. 3.** (1)(a) On or before December 31, 2025, each electric utility must eliminate coal-fired resources from its allocation of electricity. This does not include costs associated with decommissioning and remediation of these facilities.

(b) The commission shall allow in electric rates all decommissioning and remediation costs prudently incurred by an investor-owned utility for a coal-fired resource.

(2) The commission must accelerate depreciation schedules for any coal-fired resource to a date no later than December 31, 2025. The commission may accelerate the depreciation schedule for any qualified transmission line owned by an investor-owned utility when the commission finds the qualified transmission line is no longer used and useful and there is no reasonable likelihood that the qualified transmission line will be utilized in the future. The adjusted depreciation schedule must require such a qualified transmission line to be fully depreciated on or before December 31, 2025.

(3) The commission must allow in rates, directly or indirectly, amounts on an investor-owned utility's books of account that the commission finds represent prudently incurred undepreciated investment in a fossil fuel generating resource that has been retired from service when:

(a) The retirement is due to ordinary wear and tear, casualties, acts of God, acts of governmental authority, inability to procure or use fuel, termination or expiration of any ownership, or a operation agreement affecting such a fossil fuel generating resource; or

(b) The commission finds that the retirement is in the public interest.

(4) An electric utility that fails to comply with the requirements of subsection (1) of this section must pay the administrative penalty established under section 9(1) of this act, except as otherwise provided in this chapter.

NEW SECTION. **Sec. 4.** (1) It is the policy of the state that all retail sales of electricity to Washington retail electric customers be greenhouse gas neutral by January 1, 2030.

(a) For the four-year compliance period beginning January 1, 2030, and for each multiyear compliance period thereafter through December 31, 2044, an electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources, or alternative compliance options, as provided in this section. To achieve compliance with this standard, an electric utility must: (i) Pursue all cost-effective, reliable, and feasible conservation and efficiency resources to reduce or manage retail electric load, using the methodology established in RCW 19.285.040, if applicable; and (ii) use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's retail electric loads over each multiyear compliance period. An electric utility must achieve compliance with this standard for the following compliance periods: January 1, 2030, through December 31, 2033; January 1, 2034, through December 31, 2037; January 1, 2038, through December 31, 2041; and January 1, 2042, through December 31, 2044.

(b) Through December 31, 2044, an electric utility may satisfy up to twenty percent of its compliance obligation under (a) of this subsection with an alternative compliance option consistent with this section. An alternative compliance option may include any combination of the following:

(i) Making an alternative compliance payment under section 9(2) of this act;

(ii) Using unbundled renewable energy credits, provided that there is no double counting of any nonpower attributes associated with renewable energy credits within Washington or programs in other jurisdictions, as follows:

(A) Unbundled renewable energy credits produced from eligible renewable resources, as defined under RCW 19.285.030, which may be used by the electric utility for compliance with RCW 19.285.040 and this section as provided under RCW 19.285.040(2)(e); and

(B) Unbundled renewable energy credits, other than those included in (b)(ii)(A) of this subsection, that represent electricity generated within the compliance period;

(iii) Investing in energy transformation projects, including additional conservation and efficiency resources beyond what is otherwise required under this section, provided the projects meet the requirements of subsection (2) of this section and are not credited as resources used to meet the standard under (a) of this subsection; or

(iv) Using electricity from an energy recovery facility using municipal solid waste as the principal fuel source, where the facility was constructed prior to 1992, and the facility is operated in compliance with federal laws and regulations and meets state air quality standards. An electric utility may only use electricity from such an energy recovery facility if the department and the department of ecology determine that electricity generation at the facility provides a net reduction in greenhouse gas emissions compared to any other available waste management best practice. The determination must be based on a life-cycle analysis comparing the energy recovery facility to other technologies available in the jurisdiction in which the facility is located for the waste management best practices of waste reduction, recycling, composting, and minimizing the use of a landfill.

(c) Electricity from renewable resources used to meet the standard under (a) of this subsection must be verified by the retirement of renewable energy credits. Renewable energy credits must be tracked and retired in the tracking system selected by the department.

(d) Hydroelectric generation used by an electric utility in meeting the standard under (a) of this subsection may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (i) Does not conflict with existing state or federal fish recovery plans; and (ii) complies with all local, state, and federal laws and regulations.

(e) Nothing in (d) of this subsection precludes an electric utility that owns and operates hydroelectric generating facilities, or the owner of a hydroelectric generating facility whose energy output is marketed by the Bonneville power administration, from making efficiency or other improvements to its hydroelectric generating facilities existing as of the effective date of this

section or from installing hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways, as long as those changes do not create conflicts with existing state or federal fish recovery plans and comply with all local, state, and federal laws and regulations.

(f) Nonemitting electric generation used to meet the standard under (a) of this subsection must be generated during the compliance period and must be verified by documentation that the electric utility owns the nonpower attributes of the electricity generated by the nonemitting electric generation resource.

(g) Nothing in this section prohibits an electric utility from purchasing or exchanging power from the Bonneville power administration.

(2) Investments in energy transformation projects used to satisfy an alternative compliance option provided under subsection (1)(b) of this section must use criteria developed by the department of ecology, in consultation with the department and the commission. For the purpose of crediting an energy transformation project toward the standard in subsection (1)(a) of this section, the department of ecology must establish a conversion factor of emissions reductions resulting from energy transformation projects to megawatt-hours of electricity from nonemitting electric generation that is consistent with the emission factors for unspecified electricity, or for energy transformation projects in the transportation sector, consistent with default emissions or conversion factors established by other jurisdictions for clean alternative fuels. Emissions reductions from energy transformation projects must be:

(a) Real, specific, identifiable, and quantifiable;

(b) Permanent: The department of ecology must look to other jurisdictions in setting this standard and make a reasonable determination on length of time;

(c) Enforceable by the state of Washington;

(d) Verifiable;

(e) Not required by another statute, rule, or other legal requirement; and

(f) Not reasonably assumed to occur absent investment, or if an investment has already been made, not reasonably assumed to occur absent additional funding in the near future.

(3) Energy transformation projects must be associated with the consumption of energy in Washington and must not create a new use of fossil fuels that results in a net increase of fossil fuel usage.

(4) The compliance eligibility of energy transformation projects may be scaled or prorated by an approved protocol in order to distinguish effects related to reductions in electricity usage from reductions in fossil fuel usage.

(5) Any compliance obligation fulfilled through an investment in an energy transformation project is eligible for use only: (a) By the electric utility that makes the investment; (b) if the investment is made by the Bonneville power administration, by electric utilities that are preference customers of the Bonneville power administration; or (c) if the investment is made by a joint operating agency organized under chapter 43.52 RCW, by a member of the joint operating agency. An electric utility making an investment in partnership with another electric utility or entity may claim credit proportional to its share invested in the total project cost.

(6)(a) In meeting the standard under subsection (1) of this section, an electric utility must, consistent with the requirements of RCW 19.285.040, if applicable, pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response. In making new investments, an electric utility must, to the maximum extent feasible:

(i) Achieve targets at the lowest reasonable cost, considering risk;

(ii) Consider acquisition of existing renewable resources; and

(iii) In the acquisition of new resources constructed after the effective date of this section, rely on renewable resources and energy storage, insofar as doing so is consistent with (a)(i) of this subsection.

(b) Electric utilities subject to RCW 19.285.040 must demonstrate pursuit of all conservation and efficiency resources through compliance with the requirements in RCW 19.285.040.

(7) An electric utility that fails to meet the requirements of this section must pay the administrative penalty established under section 9(1) of this act, except as otherwise provided in this chapter.

(8) In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and section 24 of this act, ensure that all customers are benefiting from the

transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency.

(9) Affected market customers must comply with the standard established under subsection (1) of this section.

(10) A market customer that purchases electricity exclusively from carbon-free resources and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved, prior to the effective date of this section, by order of the commission is subject to the requirements of such an order and not to the standard established in this section. For purposes of interpreting any such special contract, chapter 19.285 RCW, as in effect on January 1, 2019, is not, either directly or indirectly, amended or supplemented.

(11) To reduce costs for utility customers or avoid exceeding the cost impact limit in section 6(3)(a) of this act, a multistate electric utility with fewer than two hundred fifty thousand customers in Washington may apply the total amount of megawatt-hours of coal-fired resources eliminated from the utility's allocation of electricity before December 31, 2025, as an equivalent amount of megawatt-hours of nonemitting electric generation or electricity from renewable resources required to comply with subsection (1)(a) of this section. The utility must demonstrate that for every megawatt-hour of early action compliance credit there is a real, permanent reduction in greenhouse gas emissions in the western interconnection directly associated with that credit. A multistate electric utility must request to use early action compliance credit in its clean energy implementation plan that is submitted under section 6 of this act. The multistate electric utility must specify in its clean energy implementation plan the compliance years to which the early action compliance credit will apply, but in no event may the multistate electric utility use the early action compliance credits beyond 2035. The commission must establish conditions for use of early action compliance credits, including a determination of whether action constitutes early action, before the multistate electric utility's use of early action compliance credits in a clean energy implementation plan.

NEW SECTION. **Sec. 5.** (1) It is the policy of the state that nonemitting electric generation and electricity from renewable resources supply one hundred percent of all sales of electricity to Washington retail electric customers by January 1, 2045. By January 1, 2045, and each year thereafter, each electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources.

(2) Each electric utility must incorporate subsection (1) of this section into all relevant planning and resource acquisition practices including, but not limited to: Resource planning under chapter 19.280 RCW; the construction or acquisition of property, including electric generating facilities; and the provision of electricity service to retail electric customers.

(3) In planning to meet projected demand consistent with the requirements of subsection (2) of this section and RCW 19.285.040, if applicable, an electric utility must pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response. In making new investments, an electric utility must, to the maximum extent feasible:

(a) Achieve targets at the lowest reasonable cost, considering risk;

(b) Consider acquisition of existing renewable resources; and

(c) In the acquisition of new resources constructed after the effective date of this section, rely on renewable resources and energy storage, insofar as doing so is consistent with (a) of this subsection.

(4) The commission, department, energy facility site evaluation council, department of ecology, and all other state agencies must incorporate this section into all relevant planning and utilize all programs authorized by statute to achieve subsection (1) of this section.

(5)(a) Hydroelectric generation used by an electric utility to satisfy the requirements of this section may not include new diversions, new impoundments, new bypass reaches, or expansion of existing reservoirs constructed after the effective date of this section unless the diversions, bypass reaches, or reservoir expansions are necessary for the operation of a pumped storage facility that: (i) Does not conflict with existing state or federal

fish recovery plans; and (ii) complies with all local, state, and federal laws and regulations.

(b) Nothing in (a) of this subsection precludes an electric utility that owns and operates hydroelectric generating facilities, or the owner of a hydroelectric generating facility whose energy output is marketed by the Bonneville power administration, from making efficiency or other improvements to its hydroelectric generating facilities existing as of the effective date of this section or from installing hydroelectric generation in pipes, culverts, irrigation canals, and other manmade waterways as long as those changes do not create conflicts with existing state or federal fish recovery plans and comply with all local, state, and federal laws and regulations.

(6) Nothing in this section prohibits an electric utility from purchasing or exchanging power from the Bonneville power administration.

(7) Affected market customers must comply with the obligations of this section.

(8) Any market customer that purchases electricity exclusively from carbon-free resources and eligible renewable resources, as defined in RCW 19.285.030 as of January 1, 2019, pursuant to a special contract with an investor-owned utility approved, prior to the effective date of this section, by order of the commission is subject to the requirements of such an order and not to the standards established in this section. For the purposes of interpreting such a special contract, chapter 19.285 RCW, as in effect on January 1, 2019, is not, either directly or indirectly, amended or supplemented.

NEW SECTION. **Sec. 6.** (1)(a) By January 1, 2022, and every four years thereafter, each investor-owned utility must develop and submit to the commission:

(i) A four-year clean energy implementation plan for the standards established under sections 4(1) and 5(1) of this act that proposes specific targets for energy efficiency, demand response, and renewable energy; and

(ii) Proposed interim targets for meeting the standard under section 4(1) of this act during the years prior to 2030 and between 2030 and 2045.

(b) An investor-owned utility's clean energy implementation plan must:

(i) Be informed by the investor-owned utility's clean energy action plan developed under RCW 19.280.030;

(ii) Be consistent with subsection (3) of this section; and

(iii) Identify specific actions to be taken by the investor-owned utility over the next four years, consistent with the utility's long-range integrated resource plan and resource adequacy requirements, that demonstrate progress toward meeting the standards under sections 4(1) and 5(1) of this act and the interim targets proposed under (a)(i) of this subsection. The specific actions identified must be informed by the investor-owned utility's historic performance under median water conditions and resource capability and by the investor-owned utility's participation in centralized markets. In identifying specific actions in its clean energy implementation plan, the investor-owned utility may also take into consideration any significant and unplanned loss or addition of load it experiences.

(c) The commission, after a hearing, must by order approve, reject, or approve with conditions an investor-owned utility's clean energy implementation plan and interim targets. The commission may, in its order, recommend or require more stringent targets than those proposed by the investor-owned utility. The commission may periodically adjust or expedite timelines if it can be demonstrated that the targets or timelines can be achieved in a manner consistent with the following:

(i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;

(ii) Planning to meet the standards at the lowest reasonable cost, considering risk;

(iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and the reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of utility-supplied electricity as may be necessary to comply with the standards.

(2)(a) By January 1, 2022, and every four years thereafter, each consumer-owned utility must develop and submit to the department a

four-year clean energy implementation plan for the standards established under sections 4(1) and 5(1) of this act that:

(i) Proposes interim targets for meeting the standard under section 4(1) of this act during the years prior to 2030 and between 2030 and 2045, as well as specific targets for energy efficiency, demand response, and renewable energy;

(ii) Is informed by the consumer-owned utility's clean energy action plan developed under RCW 19.280.030(1) or other ten-year plan developed under RCW 19.280.030(5);

(iii) Is consistent with subsection (4) of this section; and

(iv) Identifies specific actions to be taken by the consumer-owned utility over the next four years, consistent with the utility's long-range resource plan and resource adequacy requirements, that demonstrate progress towards meeting the standards under sections 4(1) and 5(1) of this act and the interim targets proposed under (a)(i) of this subsection. The specific actions identified must be informed by the consumer-owned utility's historic performance under median water conditions and resource capability and by the consumer-owned utility's participation in centralized markets. In identifying specific actions in its clean energy implementation plan, the consumer-owned utility may also take into consideration any significant and unplanned loss or addition of load it experiences.

(b) The governing body of the consumer-owned utility must, after a public meeting, adopt the consumer-owned utility's clean energy implementation plan. The clean energy implementation plan must be submitted to the department and made available to the public. The governing body may adopt more stringent targets than those proposed by the consumer-owned utility and periodically adjust or expedite timelines if it can be demonstrated that such targets or timelines can be achieved in a manner consistent with the following:

(i) Maintaining and protecting the safety, reliable operation, and balancing of the electric system;

(ii) Planning to meet the standards at the lowest reasonable cost, considering risk;

(iii) Ensuring that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency; and

(iv) Ensuring that no customer or class of customers is unreasonably harmed by any resulting increases in the cost of utility-supplied electricity as may be necessary to comply with the standards.

(3)(a) An investor-owned utility must be considered to be in compliance with the standards under sections 4(1) and 5(1) of this act if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (1) of this section equals a two percent increase of the investor-owned utility's weather-adjusted sales revenue to customers for electric operations above the previous year, as reported by the investor-owned utility in its most recent commission basis report. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of sections 4 and 5 of this act.

(b) If an investor-owned utility relies on (a) of this subsection as a basis for compliance with the standard under section 4(1) of this act, then it must demonstrate that it has maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options allowed under section 4(1)(b) of this act.

(4)(a) A consumer-owned utility must be considered to be in compliance with the standards under sections 4(1) and 5(1) of this act if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (2) of this section meets or exceeds a two percent increase of the consumer-owned utility's retail revenue requirement above the previous year. All costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of sections 4 and 5 of this act.

(b) If a consumer-owned utility relies on (a) of this subsection as a basis for compliance with the standard under section 4(1) of this act, and it has not met eighty percent of its annual retail electric load using electricity from renewable resources and nonemitting electric generation, then it must demonstrate that it has maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options allowed under section 4(1)(b) of this act.

(5) The commission, for investor-owned utilities, and the department, for consumer-owned utilities, must adopt rules establishing the methodology for calculating the incremental cost of compliance under this section, as compared to the cost of an alternative lowest reasonable cost portfolio of investments that are reasonably available.

NEW SECTION. **Sec. 7.** (1) Each electric utility must provide to the department, in the case of a consumer-owned utility, or to the commission, in the case of an investor-owned utility, its greenhouse gas content calculation in conformance with this section. A utility's greenhouse gas content calculation must be based on the fuel sources that it reports and discloses in compliance with chapter 19.29A RCW. An investor-owned utility must also report the information required in this subsection to the department.

(2) For unspecified electricity, the utility must use an emissions rate determined, and periodically updated, by the department of ecology by rule. The department of ecology must adopt an emissions rate for unspecified electricity consistent with the emissions rate established for other markets in the western interconnection. If the department of ecology has not adopted an emissions rate for unspecified electricity, the emissions rate that applies for the purposes of this chapter is 0.437 metric tons of carbon dioxide per megawatt-hour of electricity.

(3) For the purposes of this act, the fuel mix calculated for the Bonneville power administration may exclude any purchases of electric generation that are not associated with load in the state of Washington.

NEW SECTION. **Sec. 8.** By January 1, 2024, and at least every four years thereafter and in compliance with RCW 43.01.036, the department must submit a report to the legislature. The report must include the following:

(1) A review of the standards described in sections 3 through 5 of this act focused on technologies, forecasts, and existing transmission, and an evaluation of safety, environmental and public safety protection, affordability, and system reliability.

(2)(a) An evaluation, produced in consultation with the commission, electric utilities, transmission operators in Washington, the reliability coordinator for electric utilities, any regional

planning organization serving electric utilities, public interest and environmental organizations, and the regional entity for the western interconnection identifying the potential benefits, impacts, and risks on system reliability associated with achieving the standards described in sections 4 and 5 of this act. The evaluation must assess whether electric utilities have sufficient electric generation resources to meet forecasted retail electric load in addition to adequate transmission capability to implement sections 3 through 5 of this act without: (i) Violating mandatory and enforceable reliability standards of the North American electric reliability corporation; (ii) violating prudent utility practice for assuring resource adequacy; or (iii) compromising the power quality or integrity of the electricity system. Subject to funding appropriated for this purpose, the department must consult with a national laboratory with expertise in grid reliability, security, and resilience.

(b) The evaluation should assess the anticipated financial costs and benefits of investments necessary to correct those deficiencies at the lowest reasonable costs as identified by electric utilities, transmission operators in Washington, the regional entity for the western interconnection, or any regional planning organization serving electric utilities. The assessment of these investments in the report is not deemed to be approval of such investments for rate recovery by any authorizing entity.

(3) An evaluation identifying the nature of any anticipated financial costs and benefits to electric utilities, including customer rate impacts and benefits including, but not limited to:

(a) Greenhouse gas emissions of electric utilities;

(b) The allocation of risk between customers and electric utilities;

(c) The allocation of financial costs among electric utilities in the state and whether retail electric customers are equitably bearing the financial costs of implementing sections 3 through 5 of this act;

(d) The timing of cost recovery for electricity generated by nonemitting electric generation or renewable resources;

(e) The resource procurement process of electric utilities; and

(f) The barriers to, and benefits of, implementing sections 4 and 5 of this act.

(4) An evaluation of new or emerging technologies that could be considered to be a renewable resource.

(5) An assessment of the impacts of sections 3 through 5 of this act on middle-income families, small businesses, and manufacturers in Washington.

NEW SECTION. **Sec. 9.** (1)(a) An electric utility or an affected market customer that fails to meet the standards established under sections 3(1) and 4(1) of this act must pay an administrative penalty to the state of Washington in the amount of one hundred dollars, times the following multipliers, for each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation:

(i) 1.5 for coal-fired resources;

(ii) 0.84 for gas-fired peaking power plants; and

(iii) 0.60 for gas-fired combined-cycle power plants.

(b) Beginning in 2027, this penalty must be adjusted on a biennial basis according to the rate of change of the inflation indicator, gross domestic product implicit price deflator, as published by the bureau of economic analysis of the United States department of commerce or its successor. Beginning in 2040, the commission may by rule increase this penalty for investor-owned utilities if the commission determines that doing so will accelerate utilities' compliance with the standards established under this chapter and that doing so is in the public interest.

(2) Consistent with the requirements of section 4(1)(b) of this act, a utility may opt to make a payment in the amount of the administrative penalty as an alternative compliance payment, without incurring a penalty for noncompliance.

(3)(a) Upon its own motion or at the request of an investor-owned utility, and after a hearing, the commission may issue an order relieving the utility of its administrative penalty obligation under subsection (1) of this section if it finds that:

(i) After taking all reasonable measures, the investor-owned utility's compliance with this chapter is likely to result in conflicts with or compromises to its obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation, violate prudent utility practice for assuring resource adequacy, or compromise the power quality or integrity of its system; or

(ii) The investor-owned utility is unable to comply with the standards established in section 3(1) or 4(1) of this act due to

reasons beyond the reasonable control of the investor-owned utility, as set forth in subsection (6) of this section.

(b) If the commission issues an order pursuant to (a) of this subsection that relieves an investor-owned utility of its administrative penalty obligation under subsection (1) of this section, the commission may issue an order:

(i) Temporarily exempting the investor-owned utility from the requirements of section 4(1) of this act for an amount of time sufficient to allow the investor-owned utility to achieve full compliance with the standard;

(ii) Directing the investor-owned utility to file a progress report to the commission on achieving full compliance with the standard within six months after issuing the order, or within an amount of time determined to be reasonable by the commission; and

(iii) Directing the investor-owned utility to take specific actions to achieve full compliance with the requirements of this chapter.

(c) An investor-owned utility may request an extension of a temporary exemption granted under this section. An investor-owned utility that requests an extension must request an update to the order issued by the commission under (b) of this subsection.

(4) Subsection (3) of this section does not permanently relieve an investor-owned utility of its obligation to comply with the requirements of this chapter.

(5)(a) The governing body of a consumer-owned utility may authorize a temporary exemption from the standard established under section 4(1) of this act, for an amount of time sufficient to allow the consumer-owned utility to achieve full compliance with the standard, if the governing body finds that:

(i) The consumer-owned utility's compliance with the standard is likely to: Result in conflicts with or compromises to its obligation to comply with the mandatory and enforceable reliability standards of the North American electric reliability corporation; violate prudent utility practice for assuring resource adequacy; or compromise the power quality or integrity of its system; or

(ii) The consumer-owned utility is unable to comply with the standard due to reasons beyond the reasonable control of the utility, as set forth in subsection (6) of this section; and

(iii) The consumer-owned utility has provided to the department a plan demonstrating how it plans to achieve full compliance with the

standard, consistent with the findings of the report submitted to the legislature under section 8 of this act.

(b) Upon request by the governing body of a consumer-owned utility, a consumer-owned utility must be relieved of its administrative penalty obligation under subsection (1) of this section if the auditor issues a finding that:

(i) The governing body of the consumer-owned utility has properly issued a temporary exemption under (a) of this subsection for a period of time not to exceed six months; and

(ii) The governing body of the consumer-owned utility has submitted to the department a plan to take specific actions to achieve full compliance with the standard, consistent with the findings of the report submitted to the legislature under section 8 of this act.

(c) Upon issuance of a finding by the auditor, the consumer-owned utility must submit a progress report to the department on achieving full compliance with the standard within the term authorized in the temporary exemption.

(d) A consumer-owned utility may request an extension of a temporary exemption granted under this subsection, subject to the same requirements as provided in (a) through (c) of this subsection.

(e) The attorney general may bring a civil action in the name of the state for any appropriate civil remedy including, but not limited to, injunctive relief, penalties, costs, and attorneys' fees, to enforce compliance with this chapter:

(i) Upon the failure of the governing body of a consumer-owned utility to comply with the conditions of a temporary exemption found by the auditor to be properly adopted or extended; or

(ii) Upon failure of the governing body of a consumer-owned utility to comply with a finding by the auditor that a temporary exemption is not properly granted.

(f) This subsection does not permanently relieve a consumer-owned utility of its obligation to comply with the requirements of this chapter.

(6) To the extent an event or circumstance cannot be reasonably foreseen and ameliorated, such events or circumstances beyond the reasonable control of an electric utility may include but are not limited to:

(a) Weather-related damage;

(b) Natural disasters;

(c) Mechanical or resource failure;

(d) Failure of a third party to meet contractual obligations to the electric utility;

(e) Actions of governmental authorities that adversely affect the generation, transmission, or distribution of nonemitting electric generation or renewable resources owned or under contract to an electric utility, including condemnation actions by municipal electric utilities, public utility districts, or irrigation districts that adversely affect an investor-owned utility's ability to meet the standard established in sections 3(1) and 4(1) of this act;

(f) Inability to acquire sufficient transmission to transmit electricity from nonemitting electric generation or renewable resources to load; and

(g) Substantial limitations, restrictions, or prohibitions on nonemitting electric generation or renewable resources.

(7) An electric utility must notify its retail electric customers in published form within three months of paying the administrative penalty established under subsection (1) of this section. An electric utility is not required to notify its retail electric customers when making a payment in the amount of the administrative penalty as an alternative compliance payment consistent with the requirements of section 4(1)(b) of this act.

(8) Moneys collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70.164.030.

(9) For an investor-owned utility, the commission must determine compliance with the requirements of this chapter.

(10) For consumer-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

(11) If the report submitted under section 8 of this act demonstrates adverse system reliability impacts from the implementation of sections 4 and 5 of this act, the governor, consistent with the emergency powers under RCW 43.21G.040, may suspend or delay implementation of this chapter, or exempt an electric utility from paying the administrative penalty under this section, until system reliability impacts can be addressed. Adverse system reliability impacts may include, but are not limited to, the inability of electric utilities or transmission operators to meet

reliability standards mandated by federal or state law and required by prudent utility practices.

(12) Notwithstanding RCW 54.16.020, the fair market value compensation for an asset that is condemned by a municipal electric utility, public utility district, or irrigation district and that is either demonstrated in an electric utility's clean energy action plan or clean energy implementation plan to be used or acquired after the effective date of this section to meet the requirements of sections 4 and 5 of this act, or an asset that generates electricity from renewable resources or nonemitting electric generation, must include but not be limited to a replacement value approach. Additionally, the electric utility may seek, and the court may award, damages attributable to the severance, separation, replacement, or relocation of utility assets. The trier of fact may also consider other damages, as well as offsetting benefits, that it finds just and equitable.

(13) An entity that establishes or extends service to the premises of a customer who is being served by an electric utility or was served by an electric utility prior to the effective date of this section must serve those premises in a manner that complies with the requirements of this act and with chapter 19.285 RCW, if applicable. An electric utility or other entity that fails to comply with the requirements of this subsection must pay the administrative penalty under subsection (1) of this section for each megawatt-hour of electric generation used to serve load that does not meet the terms of this subsection.

NEW SECTION. **Sec. 10.** (1) It is the intent of this chapter that the commission and department adopt rules to streamline the implementation of this act with chapter 19.285 RCW to simplify compliance and avoid duplicative processes. It is the intent of the legislature that the commission and the department coordinate in developing rules related to process, timelines, and documentation that are necessary for the implementation of this chapter.

(2) The commission may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.

(3) The department may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to consumer-owned utilities. Nothing in this subsection may be construed

to restrict the rate-making authority of the governing body of a consumer-owned utility as otherwise provided by law.

(4) The department must adopt rules establishing reporting requirements for electric utilities to demonstrate compliance with this chapter. The requirements must, to the extent practicable, be consistent with the disclosures required under chapter 19.29A RCW.

(5) An investor-owned utility must also report all information required in subsection (4) of this section to the commission.

(6) An electric utility must also make reports required in this section available to its retail electric customers.

(7) The department of ecology must adopt rules, in consultation with the commission and the department of commerce, to establish requirements for energy transformation project investments including, but not limited to, verification procedures, reporting standards, and other logistical issues as necessary.

(8) The department must adopt rules providing for the measuring and tracking of thermal renewable energy credits that may be used for compliance under section 4 of this act.

(9) Pursuant to the administrative procedure act, chapter 34.05 RCW, rules needed for the implementation of this chapter must be adopted by January 1, 2021, unless specified otherwise elsewhere in this chapter. These rules may be revised as needed to carry out the intent and purposes of this chapter.

NEW SECTION. **Sec. 11.** The requirements of sections 3 through 9 of this act do not replace or modify the requirements established under chapter 19.285 RCW. All utility activities to comply with the requirements established under chapter 19.285 RCW also qualify for compliance with the requirements contained in this chapter, insofar as those activities meet the requirements of this act.

NEW SECTION. **Sec. 12.** (1) It is the intent of the legislature to demonstrate progress toward making energy assistance funds available to low-income households consistent with the policies identified in this section.

(2) An electric utility must make programs and funding available for energy assistance to low-income households by July 31, 2021. Each utility must demonstrate progress in providing energy assistance pursuant to the assessment and plans in subsection (4) of this

section. To the extent practicable, priority must be given to low-income households with a higher energy burden.

(3) Beginning July 31, 2020, the department must collect and aggregate data estimating the energy burden and energy assistance need and reported energy assistance for each electric utility, in order to improve agency and utility efforts to serve low-income households with energy assistance. The department must update the aggregated data on a biennial basis, make it publicly accessible on its internet web site and, to the extent practicable, include geographic attributes.

(a) The aggregated data published by the department must include, but is not limited to:

(i) The estimated number and demographic characteristics of households served by energy assistance for each utility and the dollar value of the assistance;

(ii) The estimated level of energy burden and energy assistance need among customers served, accounting for household income and other drivers of energy burden;

(iii) Housing characteristics including housing type, home vintage, and fuel types; and

(iv) Energy efficiency potential.

(b) Each utility must disclose information to the department for use under this subsection, including:

(i) The amount and type of energy assistance and the number and type of households, if applicable, served for programs administered by the utility;

(ii) The amount of money passed through to third parties that administer energy assistance programs; and

(iii) Subject to availability, any other information related to the utility's low-income assistance programs that is requested by the department.

(c) The information required by (b) of this subsection must be from the electric utility's most recent completed budget period and in a form, timeline, and manner as prescribed by the department.

(4)(a) In addition to the requirements under subsection (3) of this section, each electric utility must submit biennially to the department an assessment of:

(i) The programs and mechanisms used by the utility to reduce energy burden and the effectiveness of those programs and mechanisms in both short-term and sustained energy burden reductions;

(ii) The outreach strategies used to encourage participation of eligible households, including consultation with community-based organizations and Indian tribes as appropriate, and comprehensive enrollment campaigns that are linguistically and culturally appropriate to the customers they serve in vulnerable populations; and

(iii) A cumulative assessment of previous funding levels for energy assistance compared to the funding levels needed to meet: (A) Sixty percent of the current energy assistance need, or increasing energy assistance by fifteen percent over the amount provided in 2018, whichever is greater, by 2030; and (B) ninety percent of the current energy assistance need by 2050.

(b) The assessment required in (a) of this subsection must include a plan to improve the effectiveness of the assessed mechanisms and strategies toward meeting the energy assistance need.

(5) A consumer-owned utility may enter into an agreement with a public university, community-based organization, or joint operating agency organized under chapter 43.52 RCW to aggregate the disclosures required in this section and submit the assessment required in subsections (3) and (4) of this section.

(6)(a) The department must submit a biennial report to the legislature that:

(i) Aggregates information into a statewide summary of energy assistance programs, energy burden, and energy assistance need;

(ii) Identifies and quantifies current expenditures on low-income energy assistance; and

(iii) Evaluates the effectiveness of additional optimal mechanisms for energy assistance including, but not limited to, customer rates, a low-income specific discount, system benefits charges, and public and private funds.

(b) The department must also assess mechanisms to prioritize energy assistance towards low-income households with a higher energy burden.

(7) Nothing in this section may be construed to restrict the rate-making authority of the commission or the governing body of a consumer-owned utility as otherwise provided by law.

NEW SECTION. **Sec. 13.** (1) The department and the commission must convene a stakeholder work group to examine the:

(a) Efficient and consistent integration of this act and transactions with carbon and electricity markets outside the state; and

(b) Compatibility of the requirements under this act relative to a linked cap-and-trade program.

(2) To assist in its examination of the issues identified in this section, as well as any other issues pertinent to its review, the work group must, at a minimum, consist of electric utilities, gas companies, the Bonneville power administration, public interest and environmental organizations, and other agencies.

(3) The department and the commission must adopt rules by June 30, 2022, defining requirements, including appropriate specification, verification, and reporting requirements, for the following: (a) Retail electric load met with market purchases and the western energy imbalance market or other centralized market administered by a market operator for the purposes of sections 3 through 5 of this act; and (b) to address the prohibition on double counting of nonpower attributes under section 4(1) of this act that could occur under other programs. With respect to purchases from the western energy imbalance market or other centralized market, the department and the commission must consult with the market operator and market participants to consider options that support the objectives of this chapter and the efficient dispatch of the generation resources dispatched by those markets.

Sec. 14. RCW 19.280.030 and 2015 3rd sp.s. c 19 s 9 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers ((~~shall~~)) must develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years or longer, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources, as informed, as applicable, by the assessment for conservation potential under RCW 19.285.040 for the planning horizon consistent with (a) of this subsection. Such assessment may include, as appropriate, opportunities for development of combined heat and power as an energy and capacity resource, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) An assessment of methods, commercially available technologies, or facilities for integrating renewable resources, including but not limited to battery storage and pumped storage, and addressing overgeneration events, if applicable to the utility's resource portfolio;

(f) An assessment and ten-year forecast of the availability of regional generation and transmission capacity on which the utility may rely to provide and deliver electricity to its customers;

(g) A determination of resource adequacy metrics for the resource plan consistent with the forecasts;

(h) A forecast of distributed energy resources that may be installed by the utility's customers and an assessment of their effect on the utility's load and operations;

(i) An identification of an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice in implementing sections 3 through 5 of this act;

(j) The integration of the demand forecasts ((~~and~~)), resource evaluations, and resource adequacy requirement into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events and implementing sections 3 through 5 of this act, at the lowest reasonable cost and risk to the utility and its ((~~ratepayers~~))

customers, while maintaining and protecting the safety, reliable operation, and balancing of its electric system; ((~~and~~ ~~(g)~~)) (k) An assessment, informed by the cumulative impact analysis conducted under section 24 of this act, of: Energy and nonenergy benefits and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk; and

(l) A ((~~short-term plan identifying~~)) ten-year clean energy action plan for implementing sections 3 through 5 of this act at the lowest reasonable cost, and at an acceptable resource adequacy standard, that identifies the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) For an investor-owned utility, the clean energy action plan must: (a) Identify and be informed by the utility's ten-year cost-effective conservation potential assessment as determined under RCW 19.285.040, if applicable; (b) establish a resource adequacy requirement; (c) identify the potential cost-effective demand response and load management programs that may be acquired; (d) identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the utility's resource adequacy requirement; (e) identify any need to develop new, or expand or upgrade existing, bulk transmission and distribution facilities; and (f) identify the nature and possible extent to which the utility may need to rely on alternative compliance options under section 4(1)(b) of this act, if appropriate.

(3)(a) An electric utility shall consider the social cost of greenhouse gas emissions, as determined by the commission for investor-owned utilities pursuant to section 15 of this act and the department for consumer-owned utilities, when developing integrated resource plans and clean energy action plans. An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when:

(i) Evaluating and selecting conservation policies, programs, and targets;

(ii) Developing integrated resource plans and clean energy action plans; and

(iii) Evaluating and selecting intermediate term and long-term resource options.

(b) For the purposes of this subsection (3): (i) Gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters must be considered a nonemitting resource; and (ii) qualified biomass energy must be considered a nonemitting resource.

(4) To facilitate broad, equitable, and efficient implementation of this act, a consumer-owned energy utility may enter into an agreement with a joint operating agency organized under chapter 43.52 RCW or other nonprofit organization to develop and implement a joint clean energy action plan in collaboration with other utilities.

(5) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ten years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads; ((~~and~~))

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not: (i) Renewable resources; (ii) methods, commercially available technologies, or facilities for integrating renewable resources, including addressing any overgeneration event; or (iii) conservation and efficiency resources, why such a decision was made; and

(d) By December 31, 2020, and in every resource plan thereafter, identifies how the utility plans over a ten-year period to implement sections 4 and 5 of this act.

((~~(3)~~)) (6) Assessments for demand side resources included in an integrated resource plan may include combined heat and power systems as one of the measures in a conservation supply curve. The value of recoverable waste heat resulting from combined heat and power must be reflected in analyses of cost-effectiveness under this subsection.

((~~(4)~~)) (7) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

((~~(5) Resource~~)) (8) Plans developed under this section must be updated on a regular basis, on intervals approved by the commission or the department, or at a minimum on intervals of two years.

((~~(6)~~)) (9) Plans shall not be a basis to bring legal action against electric utilities.

((~~(7)~~)) (10)(a) To maximize transparency, the commission, for investor-owned utilities, or the governing body, for consumer-owned utilities, may require an electric utility to make the utility's data input files available in a native format. Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

(b) Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

(11) By December 31, 2021, the department and the commission must adopt rules establishing the requirements for incorporating the cumulative impact analysis developed under section 24 of this act into the criteria for developing clean energy action plans under this section.

NEW SECTION. **Sec. 15.** A new section is added to chapter 80.28 RCW to read as follows:

For the purposes of this act, the cost of greenhouse gas emissions resulting from the generation of electricity, including the effect of emissions, is equal to the cost per metric ton of carbon dioxide equivalent emissions, using the two and one-half percent discount rate, listed in table 2, technical support document: Technical update of the social cost of carbon for regulatory impact analysis under Executive Order No. 12866, published by the interagency working group on social cost of greenhouse gases of the United States government, August 2016. The commission must adjust the costs established in this section to reflect the effect of inflation.

Sec. 16. RCW 80.84.010 and 2016 c 220 s 1 are each amended to read as follows:

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

(1) "Eligible coal plant" means a coal-fired electric generation facility that: (a) ((~~Had two or fewer generating units as of January 1, 1980, and four generating units as of January 1, 2016; (b)~~)) Is owned in whole or in part by more than one electrical company as of January 1, 2016; and ((~~(c)~~)) (b) provides, as a portion of the load served by the coal-fired electric generation facility, electricity paid for in rates by customers in the state of Washington.

(2) "Eligible coal unit" means any generating unit of an eligible coal plant.

NEW SECTION. **Sec. 17.** This section is the tax preference performance statement for the tax preferences contained in sections 18 and 19, chapter . . ., Laws of 2019 (sections 18 and 19 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to reduce the amount of carbon dioxide emissions in Washington. It is the legislature's intent to extend the expiration date of and expand the existing sales and use tax exemption for machinery and equipment used directly in generating certain types of alternative energy, in order to reduce the price charged to customers for that machinery and equipment, thereby inducing some customers to buy machinery and equipment for alternative energy when they might not otherwise, thereby displacing electricity from fossil-fueled generating resources, thereby reducing the amount of carbon dioxide emissions in Washington. It is also the intent of the legislature to maximize cost savings associated with clean energy construction for Washington electric customers by encouraging development of these resources in time for projects to benefit from both this incentive and expiring federal incentives.

(3) It is also the legislature's specific public policy objective to provide an incentive for more of the projects that meet the objectives of subsection (2) of this section to be constructed with high labor standards, including family level wages and providing benefits including health care and pensions, as well as maximizing access to economic benefits from such projects for local workers and diverse businesses.

(4) The joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW for the tax preferences contained in sections 18 and 19, chapter . . ., Laws of 2019 (sections 18 and 19 of this act) and it

is the intent of the legislature to allow the tax preferences to expire upon their scheduled expiration dates.

Sec. 18. RCW 82.08.962 and 2018 c 164 s 5 are each amended to read as follows:

(1)(a) ((~~Except as provided in RCW 82.08.963, purchasers who have paid~~)) Subject to the requirements of this section, the tax imposed by RCW 82.08.020 ((~~on~~)) does not apply to sales of machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, as the principal source of power, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, ((~~are eligible for an exemption as provided in this section,~~)) but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity. Except as otherwise provided in this section, the purchaser must pay the state and local sales tax on such sales and apply to the department for a remittance of the tax paid.

(b) Beginning on July 1, 2011, through ((~~January 1, 2020~~)) December 31, 2019, the amount of the exemption under this subsection (1)(b) is equal to seventy-five percent of the state and local sales tax paid. The purchaser is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

(c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local sales tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under subsection (c)(i)(B) of this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a

project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, and labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c)(i)(A) of this subsection, and the purchaser provides the following documentation to the department as part of the application for a remittance:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations, consistent with (e)(ii)(D) of this subsection;

(ii) Seventy-five percent of the state and local sales tax paid, if the department of labor and industries certifies that the project complies with (c)(i)(A) and (B) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries. This subsection (1)(c)(ii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection; or

(iii) One hundred percent of the state and local sales tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement. This subsection (1)(c)(iii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment

must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning July 1, 2019, and through December 31, 2029, the purchaser is entitled to an exemption under this subsection (1)(e) in an amount equal to one hundred percent of the state and local sales tax due on:

(i) Machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts AC of electricity; or

(ii) Labor and services rendered in respect to installing machinery and equipment exempt under (e)(i) of this subsection, and the seller meets the following requirements at the time of the sale for which the exemption is claimed:

(A) Has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(B) Has obtained a current state unified business identifier number;

(C) Possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(D) Has had no findings of violation of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the past twenty-four months.

(f) Purchasers claiming an exemption under (e) of this subsection must provide the seller with an exemption certificate in a form and manner prescribed by the department.

(g) In order to qualify for the exemption under (e)(ii) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than July 1, 2019, and be completed by December 31, 2029.

(2)(a) The department of labor and industries must adopt emergency and permanent rules to:

(i) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(ii) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good

faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(b) Emergency rules must be adopted by December 1, 2019, and take effect January 1, 2020.

(3) For purposes of this section and RCW 82.12.962, the following definitions apply:

(a) "Biomass energy" includes: (i) By-products of pulping and wood manufacturing process; (ii) animal waste; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) wooden demolition or construction debris; (vi) food waste; (vii) liquors derived from algae and other sources; (viii) dedicated energy crops; (ix) biosolids; and (x) yard waste. "Biomass energy" does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests; or municipal solid waste.

(b) "Fuel cell" means an electrochemical reaction that generates electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst.

(c)(i) "Machinery and equipment" means fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust.

(ii) "Machinery and equipment" does not include: (A) Hand-powered tools; (B) property with a useful life of less than one year; (C) repair parts required to restore machinery and equipment to normal working order; (D) replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment; (E) buildings; or (F) building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building.

((~~(3)~~)) (d) "Project labor agreement" and "community workforce agreement" means a prehire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions

of employment for a specific construction project and is an agreement described in 29 U.S.C. Sec. 158(f).

(4)(a) Machinery and equipment is "used directly" in generating electricity by wind energy, solar energy, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust if it provides any part of the process that captures the energy of the wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

(b) Machinery and equipment is "used directly" in generating electricity by fuel cells if it provides any part of the process that captures the energy of the fuel, converts that energy to electricity, and stores, transforms, or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems.

((~~(4)~~)) (5)(a)(i) A purchaser claiming an exemption in the form of a remittance under subsection (1)(b) or (c) of this section must pay the tax imposed by RCW 82.08.020 and all applicable local sales taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The purchaser may then apply to the department for remittance in a form and manner prescribed by the department. A purchaser may not apply for a remittance under this section more frequently than once per quarter. The purchaser must specify the amount of exempted tax claimed and the qualifying purchases for which the exemption is claimed. The purchaser must retain, in adequate detail, records to enable the department to determine whether the purchaser is entitled to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries as prescribed by rule under subsection (2) of this section.

(b) The department must determine eligibility under this section based on the information provided by the purchaser, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying purchasers who submitted applications during the previous quarter.

((~~(5) The exemption provided by this section expires September 30, 2017, as it applies to: (a)~~)) (6)(a) Except as otherwise provided in (c) of this subsection, from October 1, 2017, through December 31, 2019, the exemption provided by this section does not apply to: (i) Machinery and equipment that is used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts AC of electricity; or ((~~(b)~~)) (ii) sales of or charges made for labor and services rendered in respect to installing such machinery and equipment.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after January 1, 2020.

(c) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating no more than one hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if installation of the machinery and equipment commences on or after July 1, 2019.

((~~(6)~~)) (7) This section expires January 1, ((~~2020~~)) 2030.

Sec. 19. RCW 82.12.962 and 2018 c 164 s 7 are each amended to read as follows:

(1)(a) ((~~Except as provided in RCW 82.12.963, consumers who have paid~~)) Subject to the requirements of this section, the tax imposed by RCW 82.12.020 ((~~on~~)) does not apply to machinery and equipment used directly in generating electricity using fuel cells, wind, sun, biomass energy, tidal or wave energy, geothermal resources, or technology that converts otherwise lost energy from exhaust, or to ((~~sales of or charges made for~~)) labor and services rendered in respect to installing such machinery and equipment, ((~~are eligible for an exemption as provided in this section,~~)) but only if the purchaser develops with such machinery, equipment, and labor a facility capable of generating not less than one thousand watts AC of electricity. Except as otherwise provided in this section, the consumer must pay the state and local use tax on the use of such

machinery and equipment and labor and services, and apply to the department for a remittance of the tax paid.

(b) Beginning on July 1, 2011, through ((~~January 1, 2020~~)) December 31, 2019, the amount of the exemption under this subsection (1) is equal to seventy-five percent of the state and local ((~~sales~~)) use tax paid. The consumer is eligible for an exemption under this subsection (1)(b) in the form of a remittance.

((~~(2)~~)) (c) Beginning January 1, 2020, through December 31, 2029, the purchaser is entitled to an exemption, in the form of a remittance, under this subsection (1)(c) in an amount equal to:

(i) Fifty percent of the state and local use tax paid, if:

(A) The exempt purchase is for machinery and equipment or labor and services rendered in respect to installing such machinery and equipment in (a) of this subsection, excluding qualified purchases under (c)(i)(B) of this subsection, and the department of labor and industries certifies that the project includes: Procurement from and contracts with women, minority, or veteran-owned businesses; procurement from and contracts with entities that have a history of complying with federal and state wage and hour laws and regulations; apprenticeship utilization; and preferred entry for workers living in the area where the project is being constructed. In the event that a project is built without one or more of these standards, and a project developer or its designated principal contractor demonstrates that it has made all good faith efforts to meet the standards but was unable to comply due to lack of availability of qualified businesses or local hires, the department of labor and industries may certify that the developer complied with that standard; or

(B) The exempt purchase is for machinery and equipment that is used directly in the generation of electricity by a solar energy system capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or labor and services rendered in respect to installing such machinery and equipment, and the department of labor and industries certifies that the project has met the requirements of (c)(i)(A) of this subsection, and the purchaser has provided the following documentation to the department as part of the application for a remittance:

(I) A copy of the contractor's certificate of registration in compliance with chapter 18.27 RCW;

(II) The contractor's current state unified business identifier number;

(III) A copy of the contractor's proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(IV) Documentation of the contractor's history of compliance with federal and state wage and hour laws and regulations, consistent with (e)(ii)(D) of this subsection;

(ii) Seventy-five percent of the state and local use tax paid, if the department of labor and industries certifies that the project complies with (c)(i)(A) of this subsection and compensates workers at prevailing wage rates determined by local collective bargaining as determined by the department of labor and industries. This subsection (1)(c)(ii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection; or

(iii) One hundred percent of the state and local use tax paid, if the department of labor and industries certifies that the project is developed under a community workforce agreement or project labor agreement. This subsection (1)(c)(iii) does not apply with respect to solar energy systems described in (c)(i)(B) of this subsection.

(d) In order to qualify for the remittance under (c) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than January 1, 2020, and be completed by December 31, 2029.

(e) Beginning July 1, 2019, and through December 31, 2029, the consumer is entitled to an exemption under this subsection (1)(e) in an amount equal to one hundred percent of the state and local use tax due on:

(i) Machinery and equipment that is used directly in the generation of electricity by a solar energy system that is capable of generating no more than one hundred kilowatts AC of electricity; or

(ii) Labor and services rendered in respect to installing machinery and equipment exempt under (e)(i) of this subsection, and the seller meets the following requirements at the time of the purchase for which the exemption is claimed:

(A) Has obtained a certificate of registration in compliance with chapter 18.27 RCW;

(B) Has obtained a current state unified business identifier number;

(C) Possesses proof of industrial insurance coverage for the contractor's employees working in Washington as required in Title 51 RCW; employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW; and

(D) Has had no findings of violations of federal or state wage and hour laws and regulations in a final and binding order by an administrative agency or court of competent jurisdiction in the past twenty-four months.

(f) In order to qualify for the exemption under (e)(ii) of this subsection, installation of the qualifying machinery and equipment must commence no earlier than July 1, 2019, and be completed by December 31, 2029.

(2) The department of labor and industries must initiate an emergency rule making on the effective date of this section to be completed by December 1, 2019, to:

(a) Define and set minimum requirements for all labor standards identified in subsection (1)(c) of this section; and

(b) Set requirements for all good faith efforts under subsection (1)(c)(i) and (ii) of this section, as well as documentation requirements and a certification process. Requirements for all good faith efforts must be designed to maximize the likelihood that the project is completed with said standards and could include: Proactive outreach to firms that are women, minority, and veteran-owned businesses; advertising in local community publications and publications appropriate to identified firms; participating in community job fairs, conferences, and trade shows; and other measures. The certification process and timeline must be designed to prevent undue delay to project development.

(3)(a)(i) A person claiming an exemption in the form of a remittance under subsection (1)(b) and (c) of this section must pay the tax imposed by RCW 82.12.020 and all applicable local use taxes imposed under the authority of chapters 82.14 and 81.104 RCW. The consumer may then apply to the department for remittance in a form and manner prescribed by the department. A consumer may not apply for a remittance under this section more frequently than once per quarter. The consumer must specify the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The consumer must retain, in adequate detail, records to enable the department to determine whether the consumer is entitled

to an exemption under this section, including: Invoices; proof of tax paid; and documents describing the machinery and equipment.

(ii) The application for remittance must include a copy of the certificate issued for the project by the department of labor and industries under subsection (1) of this section.

(b) The department must determine eligibility for remittances under this section based on the information provided by the consumer, which is subject to audit verification by the department. The department must on a quarterly basis remit exempted amounts to qualifying consumers who submitted applications during the previous quarter.

((~~(3)~~)) (4) Purchases exempt under RCW 82.08.962 are also exempt from the tax imposed under RCW 82.12.020.

((~~(4)~~)) (5) The definitions in RCW 82.08.962 apply to this section.

((~~(5)~~)) (6) The exemption provided in subsection (1) of this section does not apply:

(a) To machinery and equipment used directly in the generation of electricity using solar energy and capable of generating no more than five hundred kilowatts AC of electricity, or to sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after September 30, 2017, and before January 1, 2020, except as otherwise provided in subsection (7) of this section; and

(b) To any other machinery and equipment described in subsection (1)(a) of this section, or to sales of or charges made for labor and services rendered in respect to installing such machinery or equipment, when first use within this state of such machinery and equipment, or labor and services, occurs after December 31, ((~~2019~~)) 2029.

((~~(6)~~)) (7)(a) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of generating more than one hundred kilowatts AC but no more than five hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if first use within the state of the machinery and equipment commences on or after January 1, 2020.

(b) The exemption provided by this section is reinstated for machinery and equipment for solar energy systems capable of

generating no more than one hundred kilowatts AC of electricity, or sales of or charges made for labor and services rendered in respect to installing such machinery and equipment, if first use within the state of the machinery and equipment commences on or after July 1, 2019.

(8) This section expires January 1, ((~~2020~~)) 2030.

Sec. 20. RCW 80.04.250 and 2011 c 214 s 9 are each amended to read as follows:

(1) The provisions of this section are necessary to ensure that the commission has sufficient flexible authority to determine the value of utility property for rate making purposes and to implement the requirements and full intent of this act.

(2) The commission has power upon complaint or upon its own motion to ascertain and determine the fair value for rate making purposes of the property of any public service company used and useful for service in this state by or during the rate effective period and shall exercise such power whenever it deems such valuation or determination necessary or proper under any of the provisions of this title. ((~~In determining what property is used and useful for providing electric, gas, wastewater company services, or water service, the commission may include the reasonable costs of construction work in progress to the extent that the commission finds that inclusion is in the public interest.~~

~~(2)~~)) The valuation may include consideration of any property of the public service company acquired or constructed by or during the rate effective period, including the reasonable costs of construction work in progress, to the extent that the commission finds that such an inclusion is in the public interest and will yield fair, just, reasonable, and sufficient rates.

(3) The commission may provide changes to rates under this section for up to forty-eight months after the rate effective date using any standard, formula, method, or theory of valuation reasonably calculated to arrive at fair, just, reasonable, and sufficient rates. The commission must establish an appropriate process to identify, review, and approve public service company property that becomes used and useful for service in this state after the rate effective date.

(4) The commission has the power to make revaluations of the property of any public service company from time to time.

((~~(3)~~)) (5) The commission shall, before any hearing is had, notify the complainants and the public service company concerned of the time and place of such hearing by giving at least thirty days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of the company's property, used and useful as aforesaid, which notice must be sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

(6) Nothing in this section limits the commission's authority to consider and implement performance and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms.

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

(1) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with major projects in the electrical company's clean energy action plan pursuant to RCW 19.280.030(1)(l), or selected in the electrical company's solicitation of bids for delivering electric capacity, energy, capacity and energy, or conservation. The deferral in this subsection begins with the date on which the resource begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed thirty-six months. However, if during such a period the electrical company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such a proceeding. Creation of such a deferral account does not by itself determine the actual costs of the resource or power purchase agreement, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding.

(2) The costs that an electrical company may account for and defer for later consideration by the commission pursuant to subsection (1) of this section include all operating and maintenance costs, depreciation, taxes, cost of capital associated with the applicable resource or the execution of a power purchase agreement. Such costs of capital include:

(a) The electrical company's authorized return on equity for any resource acquired or developed by the electrical company; or

(b) For the duration of a power purchase agreement, a rate of return of no less than the authorized cost of debt and no greater than the authorized rate of return of the electrical company, which would be multiplied by the operating expense incurred by the electrical company under the power purchase agreement.

Sec. 22. RCW 43.21F.090 and 1996 c 186 s 106 are each amended to read as follows:

(1) The department shall review the state energy strategy ((~~as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991.~~)) by December 31, 2020, and at least once every eight years thereafter, subject to funding provided for this purpose, for the purpose of aligning the state energy strategy with the requirements of RCW 43.21F.088 and chapters 19.285 and 19.--- RCW (the new chapter created in section 27 of this act), and the emission reduction targets recommended by the department of ecology under RCW 70.235.040. The department must establish an energy strategy advisory committee for each review to provide guidance to the department in conducting the review. The membership of the energy strategy advisory committee must consist of the following:

(a) One person recommended by investor-owned electric utilities;

(b) One person recommended by investor-owned natural gas utilities;

(c) One person employed by or recommended by a natural gas pipeline serving the state;

(d) One person recommended by suppliers of petroleum products;

(e) One person recommended by municipally owned electric utilities;

(f) One person recommended by public utility districts;

(g) One person recommended by rural electrical cooperatives;

(h) One person recommended by industrial energy users;

(i) One person recommended by commercial energy users;

(j) One person recommended by agricultural energy users;

(k) One person recommended by the association of Washington cities;

(l) One person recommended by the Washington association of counties;

(m) One person recommended by Washington Indian tribes;

(n) One person recommended by businesses in the clean energy industry;

(o) One person recommended by labor unions;

(p) Two persons recommended by civic organizations, one of which must be a representative of a civic organization that represents vulnerable populations;

(q) Two persons recommended by environmental organizations;

(r) One person representing independent power producers;

(s) The chair of the energy facility site evaluation council or the chair's designee;

(t) One of the representatives of the state of Washington to the Pacific Northwest electric power and conservation planning council selected by the governor;

(u) The chair of the utilities and transportation commission or the chair's designee;

(v) One member from each of the two largest caucuses of the house of representatives selected by the speaker of the house of representatives; and

(w) One member from each of the two largest caucuses of the senate selected by the president of the senate.

(2) The chair of the advisory committee must be appointed by the governor from citizen members. The director may establish technical advisory groups as necessary to assist in the development of the strategy. The director shall provide for extensive public involvement throughout the development of the strategy.

(3) Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. ((~~Any~~)) The energy strategy advisory committee established under this section ((~~shall~~)) must be dissolved within three months after their written report is conveyed.

NEW SECTION. **Sec. 23.** (1) By January 1, 2020, the department of commerce must convene an energy and climate policy advisory committee to develop recommendations to the legislature for the coordination of existing resources, or the establishment of new ones, for the

purposes of examining the costs and benefits of energy-related policies, programs, functions, activities, and incentives on an on-going basis and conducting other energy-related studies and analyses as may be directed by the legislature.

(2) The advisory committee convened under this section must consist of, at minimum, representatives of each the state's public four-year institutions of higher education, the Pacific Northwest National Laboratory, and the Washington state institute for public policy.

(3) Subject to the availability of amounts appropriated for this specific purpose, and in compliance with RCW 43.01.036, the department of commerce must submit its recommendations in a report to the legislature by December 31, 2020.

(4) This section expires January 1, 2021.

NEW SECTION. **Sec. 24.** By December 31, 2020, the department of health must develop a cumulative impact analysis to designate the communities highly impacted by fossil fuel pollution and climate change in Washington. The cumulative impact analysis may integrate with and build upon other concurrent cross-agency efforts in developing a cumulative impact analysis and population tracking resources used by the department of health and analysis performed by the University of Washington department of environmental and occupational health sciences.

NEW SECTION. **Sec. 25.** (1) The legislature finds that based on current technology, there will likely need to be upgrades to electricity transmission and distribution infrastructure across the state to meet the goals specified in this act. These facilities require a significant planning horizon to deliver electricity generation sites to retail electric load. Pursuant to RCW 80.50.040, the energy facility site evaluation council chair shall convene a transmission corridors work group and report its findings to the governor and the appropriate committees of the legislature by December 31, 2022.

(2) The work group must include one representative from each of the following state agencies: The department of commerce, the utilities and transportation commission, the department of ecology, the department of fish and wildlife, the department of natural resources, the department of transportation, the department of

archaeology and historic preservation, and the state military department. The work group shall also include two representatives designated by the association of Washington cities, one from central or eastern Washington and one from western Washington; two representatives designated by the Washington state association of counties, one from central or eastern Washington and one from western Washington; two members designated by sovereign tribal governments; one member representing affected utility industries; one member representing public utility districts; and two members representing statewide environmental organizations. The energy facility site evaluation council chair shall invite the Bonneville power administration and the United States department of defense to each appoint an ex officio work group member.

(3) The work group shall:

(a) Review the need for upgraded and new electricity transmission and distribution facilities to improve reliability, relieve congestion, and enhance the capability of the transmission and distribution facilities in the state to deliver electricity from electric generation, nonemitting electric generation, or renewable resources to retail electric load;

(b) Identify areas where transmission and distribution facilities may need to be enhanced or constructed; and

(c) Identify environmental review options that may be required to complete the designation of such corridors and recommend ways to expedite review of transmission projects without compromising required environmental protection.

(4) The energy facility site evaluation council may contract services to assist in the work group efforts.

(5) This section expires January 1, 2023.

NEW SECTION. **Sec. 26.** This chapter may be known and cited as the Washington clean energy transformation act.

NEW SECTION. **Sec. 27.** Sections 1 through 13 and 26 of this act constitute a new chapter in Title 19 RCW.

Sec. 28. RCW 19.285.030 and 2017 c 315 s 1 are each amended to read as follows:

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

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

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

(3)(a) "Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

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

(4) "Coal transition power" has the same meaning as defined in RCW 80.80.010.

(5) "Commission" means the Washington state utilities and transportation commission.

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

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

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

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

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

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

(12) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific

Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services;

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest where the additional generation does not result in new water diversions or impoundments;

(c) Hydroelectric generation from a project completed after March 31, 1999, where the generation facility is located in irrigation pipes, irrigation canals, water pipes whose primary purpose is for conveyance of water for municipal use, and wastewater pipes located in Washington where the generation does not result in new water diversions or impoundments;

(d) Qualified biomass energy;

(e) For a qualifying utility that serves customers in other states, electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located within a state in which the qualifying utility serves retail electrical customers; and (ii) the qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least twelve months or more; ((~~or~~))

(f)(i) Incremental electricity produced as a result of a capital investment completed after January 1, 2010, that increases, relative to a baseline level of generation prior to the capital investment, the amount of electricity generated in a facility that generates qualified biomass energy as defined under subsection (18)(c)(ii) of this section and that commenced operation before March 31, 1999.

(ii) Beginning January 1, 2007, the facility must demonstrate its baseline level of generation over a three-year period prior to the capital investment in order to calculate the amount of incremental electricity produced.

(iii) The facility must demonstrate that the incremental electricity resulted from the capital investment, which does not include expenditures on operation and maintenance in the normal course of business, through direct or calculated measurement;

(g) That portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of the electricity

output from hydroelectric generation projects whose energy output is marketed by the Bonneville power administration where the additional generation does not result in new water diversions or impoundments; or

(h) The environmental attributes, including renewable energy credits, from (g) of this subsection transferred to investor-owned utilities pursuant to the Bonneville power administration's residential exchange program.

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

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

(15)(a) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

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

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

(18) "Qualified biomass energy" means electricity produced from a biomass energy facility that: (a) Commenced operation before March 31, 1999; (b) contributes to the qualifying utility's load; and (c) is owned either by: (i) A qualifying utility; or (ii) an industrial

facility that is directly interconnected with electricity facilities that are owned by a qualifying utility and capable of carrying electricity at transmission voltage.

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

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

(21) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel ((~~as defined in RCW 82.29A.135~~)) that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; or (i) biomass energy.

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

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

Sec. 29. RCW 19.285.040 and 2017 c 315 s 2 are each amended to read as follows:

(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 used by the Pacific Northwest electric power and conservation planning council in the most recently published regional power plan 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 utility shall identify its achievable cost-effective conservation potential through 2019. Nothing in the rule adopted under this subsection precludes a qualifying utility from using its utility

specific conservation measures, values, and assumptions in identifying its achievable cost-effective conservation potential. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target 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.

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

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

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

(2)(a) Except as provided in (j) 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:

(i) At least three percent of its load by January 1, 2012, and 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

(iii) At least fifteen percent of its load by January 1, 2020, 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 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) ((~~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~~)) A qualifying utility may use renewable energy credits to meet the requirements of this section, subject to the limitations of this subsection.

(i) A renewable energy credit from electricity generated by a resource other than freshwater may be used to meet a requirement applicable to the year in which the credit was created, the year before the year in which the credit was created, or the year after the year in which the credit was created.

(ii) A renewable energy credit from electricity generated by freshwater:

(A) May only be used to meet a requirement applicable to the year in which the credit was created; and

(B) Must be acquired by the qualifying utility through ownership of the generation facility or through a transaction that conveyed both the electricity and the nonpower attributes of the electricity.

(iii) A renewable energy credit transferred to an investor-owned utility pursuant to the Bonneville power administration's residential exchange program may not be used by any utility other than the utility receiving the credit from the Bonneville power administration.

(iv) Each renewable energy credit may only be used once to meet the requirements of this section and must be retired using procedures of the renewable energy credit tracking system.

(f) 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.

(g) 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.

(h)(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

(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.

(i) 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.

(j)(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.

(k) An industrial facility that hosts a qualified biomass energy facility may only transfer or sell renewable energy credits associated with qualified biomass energy generated at 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.

(l) Beginning January 1, 2020, a qualifying utility may use eligible renewable resources as identified under RCW 19.285.030(12)(g) and (h) to meet its compliance obligation under this subsection (2). A qualifying utility may not transfer or sell these eligible renewable resources to another utility for compliance purposes under this chapter.

(m) Beginning January 1, 2030, a qualifying utility is considered to be in compliance with an annual target in (a) of this subsection if the utility uses electricity from: (i) Renewable resources and renewable energy credits as defined in RCW 19.285.030; and (ii) nonemitting electric generation as defined in section 2 of this act, in an amount equal to one hundred percent of the utility's average annual retail electric load. Nothing in this subsection relieves the requirements of a qualifying utility to comply with subsection (1) of this section.

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

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

NEW SECTION. **Sec. 31.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 22, 2019.
Passed by the House April 11, 2019.
Approved by the Governor May 7, 2019.
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