
SENATE BILL 6541

State of Washington

63rd Legislature

2014 Regular Session

By Senators Ericksen, McCoy, and Billig

Read first time 02/03/14. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to encouraging reliable distributed renewable
2 energy; amending RCW 82.16.120; adding new sections to chapter 82.16
3 RCW; adding new sections to chapter 80.28 RCW; adding a new section to
4 chapter 80.60 RCW; adding a new chapter to Title 19 RCW; and providing
5 an effective date.

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

7 **PART I**
8 **Clean Energy Jobs**

9 **Sec. 101.** RCW 82.16.120 and 2011 c 179 s 3 are each amended to
10 read as follows:

11 (1)(a) Any individual, business, local governmental entity, not in
12 the light and power business or in the gas distribution business, or a
13 participant in a community solar project may apply to the light and
14 power business serving the situs of the system, each fiscal year
15 beginning on July 1, 2005, for an investment cost recovery incentive
16 for each kilowatt-hour from a customer-generated electricity renewable
17 energy system.

1 (b) In the case of a community solar project as defined in RCW
2 82.16.110(2)(a)(i), the administrator must apply for the investment
3 cost recovery incentive on behalf of each of the other owners.

4 (c) In the case of a community solar project as defined in RCW
5 82.16.110(2)(a)(iii), the company owning the community solar project
6 must apply for the investment cost recovery incentive on behalf of each
7 member of the company.

8 (2)(a) Before submitting for the first time the application for the
9 incentive allowed under subsection (4) of this section, the applicant
10 must submit to the department of revenue and to the climate and rural
11 energy development center at the Washington State University,
12 established under RCW 28B.30.642, a certification in a form and manner
13 prescribed by the department that includes, but is not limited to, the
14 following information:

15 (i) The name and address of the applicant and location of the
16 renewable energy system.

17 (A) If the applicant is an administrator of a community solar
18 project as defined in RCW 82.16.110(2)(a)(i), the certification must
19 also include the name and address of each of the owners of the
20 community solar project.

21 (B) If the applicant is a company that owns a community solar
22 project as defined in RCW 82.16.110(2)(a)(iii), the certification must
23 also include the name and address of each member of the company;

24 (ii) The applicant's tax registration number;

25 (iii) That the electricity produced by the applicant meets the
26 definition of "customer-generated electricity" and that the renewable
27 energy system produces electricity with:

28 (A) Any solar inverters and solar modules manufactured in
29 Washington state;

30 (B) A wind generator powered by blades manufactured in Washington
31 state;

32 (C) A solar inverter manufactured in Washington state;

33 (D) A solar module manufactured in Washington state;

34 (E) A stirling converter manufactured in Washington state; or

35 (F) Solar or wind equipment manufactured outside of Washington
36 state;

37 (iv) That the electricity can be transformed or transmitted for

1 entry into or operation in parallel with electricity transmission and
2 distribution systems; and

3 (v) The date that the renewable energy system received its final
4 electrical permit from the applicable local jurisdiction.

5 (b) Within thirty days of receipt of the certification the
6 department of revenue must notify the applicant by mail, or
7 electronically as provided in RCW 82.32.135, whether the renewable
8 energy system qualifies for an incentive under this section. The
9 department may consult with the climate and rural energy development
10 center to determine eligibility for the incentive. System
11 certifications and the information contained therein are subject to
12 disclosure under RCW 82.32.330(3)(1).

13 (c) Beginning July 1, 2014, no applicant may receive a
14 certification for an incentive under this section.

15 (3)(a) By August 1st of each year application for the incentive
16 must be made to the light and power business serving the situs of the
17 system by certification in a form and manner prescribed by the
18 department that includes, but is not limited to, the following
19 information:

20 (i) The name and address of the applicant and location of the
21 renewable energy system.

22 (A) If the applicant is an administrator of a community solar
23 project as defined in RCW 82.16.110(2)(a)(i), the application must also
24 include the name and address of each of the owners of the community
25 solar project.

26 (B) If the applicant is a company that owns a community solar
27 project as defined in RCW 82.16.110(2)(a)(iii), the application must
28 also include the name and address of each member of the company;

29 (ii) The applicant's tax registration number;

30 (iii) The date of the notification from the department of revenue
31 stating that the renewable energy system is eligible for the incentives
32 under this section; ~~((and))~~

33 (iv) A statement of the amount of kilowatt-hours generated by the
34 renewable energy system in the prior fiscal year; and

35 (v) A statement in the form of a signed affidavit to the light and
36 power business serving the situs of the system of the amount of
37 kilowatt-hours generated by the renewable energy system in the prior

1 fiscal year. The amount of kilowatt-hours generated may be determined,
2 at the option of the utility, from a reading of the inverter or
3 production meter connected to the system.

4 (b) Within sixty days of receipt of the incentive certification the
5 light and power business serving the situs of the system must notify
6 the applicant in writing whether the incentive payment will be
7 authorized or denied. The business may consult with the climate and
8 rural energy development center to determine eligibility for the
9 incentive payment. Incentive certifications and the information
10 contained therein are subject to disclosure under RCW 82.32.330(3)(1).

11 (c)(i) Persons, administrators of community solar projects, and
12 companies receiving incentive payments must keep and preserve, for a
13 period of five years, suitable records as may be necessary to determine
14 the amount of incentive applied for and received. Such records must be
15 open for examination at any time upon notice by the light and power
16 business that made the payment or by the department. If upon
17 examination of any records or from other information obtained by the
18 business or department it appears that an incentive has been paid in an
19 amount that exceeds the correct amount of incentive payable, the
20 business may assess against the person for the amount found to have
21 been paid in excess of the correct amount of incentive payable and must
22 add thereto interest on the amount. Interest is assessed in the manner
23 that the department assesses interest upon delinquent tax under RCW
24 82.32.050.

25 (ii) If it appears that the amount of incentive paid is less than
26 the correct amount of incentive payable the business may authorize
27 additional payment.

28 (4) Except for community solar projects, the investment cost
29 recovery incentive may be paid fifteen cents per economic development
30 kilowatt-hour unless requests exceed the amount authorized for credit
31 to the participating light and power business. For community solar
32 projects, the investment cost recovery incentive may be paid thirty
33 cents per economic development kilowatt-hour unless requests exceed the
34 amount authorized for credit to the participating light and power
35 business. For the purposes of this section, the rate paid for the
36 investment cost recovery incentive may be multiplied by the following
37 factors:

1 (a) For customer-generated electricity produced using solar modules
2 manufactured in Washington state or a solar stirling converter
3 manufactured in Washington state, two and four-tenths;

4 (b) For customer-generated electricity produced using a solar or a
5 wind generator equipped with an inverter manufactured in Washington
6 state, one and two-tenths;

7 (c) For customer-generated electricity produced using an anaerobic
8 digester, or by other solar equipment or using a wind generator
9 equipped with blades manufactured in Washington state, one; and

10 (d) For all other customer-generated electricity produced by wind,
11 eight-tenths.

12 (5)(a) No individual, household, business, or local governmental
13 entity is eligible for incentives provided under subsection (4) of this
14 section for more than five thousand dollars per year.

15 (b) Except as provided in (c) through (e) of this subsection (5),
16 each applicant in a community solar project is eligible for up to five
17 thousand dollars per year.

18 (c) Where the applicant is an administrator of a community solar
19 project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible
20 for an incentive but only in proportion to the ownership share of the
21 project, up to five thousand dollars per year.

22 (d) Where the applicant is a company owning a community solar
23 project that has applied for an investment cost recovery incentive on
24 behalf of its members, each member of the company is eligible for an
25 incentive that would otherwise belong to the company but only in
26 proportion to each ownership share of the company, up to five thousand
27 dollars per year. The company itself is not eligible for incentives
28 under this section.

29 (e) In the case of a utility-owned community solar project, each
30 ratepayer that contributes to the project is eligible for an incentive
31 in proportion to the contribution, up to five thousand dollars per
32 year.

33 (6) If requests for the investment cost recovery incentive exceed
34 the amount of funds available for credit to the participating light and
35 power business, the incentive payments must be reduced proportionately.

36 (7) The climate and rural energy development center at Washington
37 State University energy program may establish guidelines and standards

1 for technologies that are identified as Washington manufactured and
2 therefore most beneficial to the state's environment.

3 (8) The environmental attributes of the renewable energy system
4 belong to the applicant, and do not transfer to the state or the light
5 and power business upon receipt of the investment cost recovery
6 incentive.

7 (9) No incentive may be paid under this section for kilowatt-hours
8 generated before July 1, 2005, or after June 30, 2020.

9 NEW SECTION. **Sec. 102.** A new section is added to chapter 82.16
10 RCW to read as follows:

11 The definitions in this section apply to part I of this act unless
12 the context clearly requires otherwise.

13 (1) "Administrator" means an owner and assignee of a community
14 solar project as defined in subsection (3)(a)(i) of this section that
15 is responsible for applying for the investment cost recovery incentive
16 on behalf of the other owners and performing such administrative tasks
17 on behalf of the other owners as may be necessary, such as receiving
18 investment cost recovery incentive payments, and allocating and paying
19 appropriate amounts of such payments to the other owners.

20 (2) "Commission" means the housing and finance commission.

21 (3)(a) "Community solar project" means:

22 (i) The alternating current electricity from a solar energy system
23 with a nameplate electrical generating capacity up to seventy-five
24 kilowatts, that is owned by local individuals, households, nonprofit
25 organizations, or nonutility businesses that is placed on the property
26 owned by a cooperating local governmental entity or educational
27 institution;

28 (ii) The alternating current from a utility-owned solar energy
29 system with a nameplate electrical generating capacity up to seventy-
30 five kilowatts that is voluntarily funded by the utility's ratepayers
31 where, in exchange for their financial support, the utility gives
32 contributors a payment or credit on their utility bill for the value of
33 the electricity produced by the project; or

34 (iii) The alternating current from a solar energy system, placed on
35 the property owned by a cooperating local governmental entity or
36 educational institution that is not in the light and power business or
37 in the gas distribution business, with a nameplate electrical

1 generating capacity up to seventy-five kilowatts, and that is owned by
2 a company whose members are each eligible for an investment cost
3 recovery incentive for the same customer-generated electricity as
4 provided in section 103 of this act.

5 (b) For the purposes of "community solar project" as defined in (a)
6 of this subsection:

7 (i) "Company" means an entity that is:

8 (A)(I) A limited liability company;

9 (II) A cooperative formed under chapter 23.86 RCW; or

10 (III) A mutual corporation or association formed under chapter
11 24.06 RCW; and

12 (B) Not a "utility"; and

13 (ii) "Nonprofit organization" means an organization exempt from
14 taxation under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue
15 code of 1986, as amended, as of January 1, 2009.

16 (4) "Customer-generator" has the same meaning as provided in
17 section 202 of this act.

18 (5) "Economic development kilowatt-hour" means the actual kilowatt-
19 hour measurement of eligible electricity multiplied by the appropriate
20 economic development factor.

21 (6) "Eligible electricity" includes:

22 (a) A community solar project;

23 (b) The alternating current from a solar energy system that has a
24 generating capacity of not more than one hundred kilowatts or its
25 thermal equivalent, is owned by a utility, and is installed on the
26 premises of a retail electric residential, commercial, nonprofit
27 organization, or educational institution customer of the utility in
28 Washington;

29 (c) The alternating current electricity that is generated from a
30 renewable energy system located in Washington and installed on an
31 individual's, businesses', educational institution's, or local
32 government's real property that is also provided electricity generated
33 by a utility. Except for community solar projects, a system located on
34 a leasehold interest does not qualify under this definition;

35 (d) The alternating current from a project developed pursuant to a
36 utility solar energy program; or

37 (e) The alternating current from a leased energy system that has

1 met the eligibility requirements in chapter 19.--- RCW (the new chapter
2 created in section 401 of this act) to offer service to retail electric
3 customers.

4 (7) "Leased energy systems" has the same meaning as provided in
5 section 202 of this act.

6 (8) "Local governmental entity" means any unit of local government
7 of this state including, but not limited to, counties, cities, towns,
8 municipal corporations, quasi-municipal corporations, special purpose
9 districts, and school districts.

10 (9) "Photovoltaic cell" means a device that converts light directly
11 into electricity without moving parts.

12 (10) "Renewable energy system" means a solar energy system, an
13 anaerobic digester as defined in RCW 82.08.900, or a wind generator
14 used for producing electricity.

15 (11) "Solar energy system" means any device or combination of
16 devices or elements that rely upon direct sunlight as an energy source
17 for use in the generation of electricity.

18 (12) "Solar inverter" means the device used to convert direct
19 current to alternating current in a solar energy system.

20 (13) "Solar module" means the smallest nondivisible self-contained
21 physical structure housing interconnected photovoltaic cells and
22 providing a single direct current electrical output.

23 (14) "Stirling converter" means a device that produces electricity
24 by converting heat from a solar source utilizing a stirling engine.

25 (15) "Storage system" means a system or technology that can store
26 electricity generated by a renewable energy system or systems at up to
27 twenty percent of the maximum total daily output of the renewable
28 energy system or systems to which the storage system is coupled. A
29 storage system can be coupled to a renewable energy system on the
30 premises where the system is located or can be coupled to multiple
31 systems on any premises served by the distribution feeder where the
32 renewable energy systems are located.

33 (16) "Utility" means a consumer-owned utility or investor-owned
34 utility as those terms are defined in RCW 19.280.020.

35 (17) "Utility solar energy program" means a solar energy program
36 that has been approved as provided in chapter 19.--- RCW (the new
37 chapter created in section 401 of this act).

1 NEW SECTION. **Sec. 103.** A new section is added to chapter 82.16
2 RCW to read as follows:

3 (1)(a) Any individual, business, educational institution, utility,
4 local governmental entity, or administrator or company owner of a
5 community solar project may apply to the department, each fiscal year
6 beginning July 1, 2014, for the department to authorize the utility
7 serving the situs of the system to remit an annual investment cost
8 recovery incentive for each economic development kilowatt-hour. Annual
9 investment cost recovery incentives allowed under this subsection and
10 paid for a system that is a leased energy system may not be assigned to
11 a financial institution.

12 (b) In the case of a community solar project, the administrator
13 must apply for the investment cost recovery incentive on behalf of each
14 of the other owners.

15 (c) In the case of a community solar project, the company owning
16 the community solar project must apply for the investment cost recovery
17 incentive on behalf of each member of the company.

18 (2)(a) Before submitting to the department for the first time the
19 certification for the incentive allowed under subsection (1) of this
20 section, the applicant must submit to the department of commerce an
21 application for certification in a form and manner prescribed by the
22 department of commerce that includes, but is not limited to, the
23 following information:

24 (i) The name and address of the applicant and location of the
25 renewable energy system.

26 (A) If the applicant is an administrator of a community solar
27 project as defined in RCW 82.16.110(2)(a)(i), the certification must
28 also include the name and address of each of the owners of the
29 community solar project.

30 (B) If the applicant is a company that owns a community solar
31 project as defined in RCW 82.16.110(2)(a)(iii), the certification must
32 also include the name and address of each member of the company;

33 (ii) The applicant's tax registration number;

34 (iii) An affidavit that the premises on which the system applying
35 for the incentive is not receiving any other incentive under RCW
36 82.16.120.

37 (iv) That the electricity produced by the applicant meets the

1 definition of eligible electricity and that the renewable energy system
2 produces electricity with:

3 (A) Any solar inverters and solar modules manufactured in
4 Washington state;

5 (B) A wind generator powered by blades manufactured in Washington
6 state;

7 (C) A solar inverter manufactured in Washington state;

8 (D) A solar module manufactured in Washington state;

9 (E) A stirling converter manufactured in Washington state; or

10 (F) Solar or wind equipment manufactured outside of Washington
11 state;

12 (v) Storage system used, if any;

13 (vi) A statement of the amount of eligible electricity and economic
14 development kilowatt-hours expected to be generated by the renewable
15 energy system and an estimate of the annual electrical use of the
16 premises;

17 (vii) That the electricity can be transformed or transmitted for
18 entry into or operation in parallel with electricity transmission and
19 distribution systems; and

20 (viii) The date that the renewable energy system received or is
21 expected to receive its final electrical permit from the applicable
22 local jurisdiction.

23 (b) Within thirty days of receipt of the application for
24 certification and the final electrical permit from the local
25 jurisdiction, the department of commerce must notify the applicant by
26 mail, or electronically as provided in RCW 82.32.135, whether the
27 renewable energy system qualifies and is certified for an incentive
28 under this section. The department of commerce may consult with the
29 climate and rural energy development center to determine eligibility
30 for the incentive. System certifications and the information contained
31 therein are subject to disclosure under RCW 82.32.330(3)(1).

32 (c) Once a system is certified by the department of commerce to be
33 eligible for the incentive, that certification is good for ten years
34 and may not be retroactively changed due to evolutionary standards or
35 interpretations of the program administrators. Certification of a
36 renewable energy system follows the system with the transfer of
37 property.

1 (3)(a) After a system is certified by the department of commerce,
2 an initial application for the incentive under this section must be
3 made to the participating utility serving the situs of the system in a
4 form and manner prescribed by the department of commerce, after
5 consultation with the department, that includes, but is not limited to,
6 the following information:

7 (i) The name and address of the applicant and location of the
8 renewable energy system.

9 (A) If the applicant is an administrator of a community solar
10 project as defined in RCW 82.16.110(2)(a)(i), the application must also
11 include the name and address of each of the owners of the community
12 solar project.

13 (B) If the applicant is a company that owns a community solar
14 project as defined in RCW 82.16.110(2)(a)(iii), the application must
15 also include the name and address of each member of the company.

16 (C) If the applicant is a utility, the person designated by the
17 utility;

18 (ii) The applicant's tax registration number; and

19 (iii) The date of the notification from the department of commerce
20 stating that the renewable energy system is certified and eligible for
21 the incentives under this section.

22 (b) Within sixty days of receipt of the incentive certification the
23 utility serving the situs of the system must notify the applicant, the
24 department of commerce, and the department in writing whether the
25 incentive payment will be authorized or denied by the utility. The
26 department must confirm that the incentive payment due will not exceed
27 the credit allowed to the utility in section 104 of this act.

28 (c) By August 1st of each year after the application has been
29 authorized by the utility as required under (b) of this subsection,
30 persons must provide a statement in the form of a signed affidavit to
31 the department of the amount of eligible kilowatt-hours generated by,
32 and the amount of economic development kilowatt-hours attributable to,
33 the renewable energy system in the prior fiscal year. The amount of
34 eligible electricity generated, in kilowatt-hours, may be determined
35 from a reading of the inverter or production meter connected to the
36 system. The amount of economic development kilowatt-hours may be
37 calculated by the amount of eligible electricity multiplied by the
38 multipliers certified in the system certification.

1 (d) The department must calculate, and provide to the utility, the
2 amount of the incentive payment due to each utility customer, utility,
3 and community solar project, located on the premises serviced by that
4 utility and the total amount of credit for each utility against tax due
5 under this chapter.

6 (e)(i) Persons, administrators of community solar projects,
7 utilities, and companies receiving incentive payments must keep and
8 preserve, for a period of five years, suitable records as may be
9 necessary to determine the amount of incentive applied for and
10 received. Such records must be open for examination at any time upon
11 notice by the department. If upon examination of any records or from
12 other information obtained by the department it appears that an
13 incentive has been paid in an amount that exceeds the correct amount of
14 incentive payable, the department may assess against the person for the
15 amount found to have been paid in excess of the correct amount of
16 incentive payable and must add thereto interest and may assess
17 penalties on the amount. Interest and penalties are assessed in the
18 manner that the department assesses penalties and interest upon
19 delinquent tax under RCW 82.32.050.

20 (ii) If it appears that the amount of incentive paid is less than
21 the correct amount of incentive payable the department may authorize
22 additional payment to the customer-generator and additional credit due
23 to the utility.

24 (4) Once a system is certified by the department of commerce and
25 has been authorized by and has signed an interconnection agreement with
26 the utility serving the situs of the system, it will be considered to
27 have commenced operation. The eligible electricity base rate used to
28 calculate the investment cost recovery incentive, payable for a period
29 of ten years, must be based on the year in which the system commenced
30 operation as follows:

31 2014: \$0.15
32 2015: \$0.14
33 2016: \$0.13
34 2017: \$0.12
35 2018: \$0.11

36 (5) For the purposes of this section, the rate paid for the
37 investment cost recovery incentive is determined by multiplying the
38 eligible electricity base rate by the following factors:

1 (a) For eligible electricity produced using solar modules
2 manufactured in Washington state or a solar stirling converter
3 manufactured in Washington state, two and four-tenths;

4 (b) For eligible electricity produced using a solar or a wind
5 generator equipped with an inverter manufactured in Washington state,
6 one and two-tenths;

7 (c) For eligible electricity produced using an anaerobic digester,
8 or by other solar equipment or using a wind generator equipped with
9 blades manufactured in Washington state, one;

10 (d) For all other eligible electricity produced by wind, eight-
11 tenths; and

12 (e) For eligible electricity using a storage system, seven-tenths.

13 (6)(a) No individual, household, business, educational institution,
14 local government entity, or utility is eligible for incentives under
15 this section for otherwise eligible electricity generated in excess of
16 the net kilowatt-hours consumed annually at the metered location.

17 (b) For projects that are not community solar projects, no person
18 is eligible for annual incentive payments provided under this section
19 for more than the following amounts per system:

- 20 (i) 0-10 kilowatts - \$5,000
- 21 (ii) 11-25 kilowatts - \$15,000
- 22 (iii) 26-30 kilowatts - \$20,000
- 23 (iv) 31-75 kilowatts - \$25,000

24 (c) Except as provided otherwise in (d) through (f) of this
25 subsection (6), each owner or member in a community solar project is
26 eligible for up to five thousand dollars per year.

27 (d) Where the applicant is an administrator of a community solar
28 project, each owner is eligible for an incentive but only in proportion
29 to the ownership share of the project, up to five thousand dollars per
30 year.

31 (e) Where the applicant is a company owning a community solar
32 project that has applied for an investment cost recovery incentive on
33 behalf of its members, each member of the company is eligible for an
34 incentive that would otherwise belong to the company, but only in
35 proportion to each ownership share of the company, up to five thousand
36 dollars per year. The company itself is not eligible for incentives
37 under this section.

1 (f) In the case of a utility-owned community solar project, each
2 ratepayer that contributes to the project is eligible for an incentive
3 in proportion to the contribution, up to five thousand dollars per
4 year.

5 (7) The climate and rural energy development center at Washington
6 State University extension energy program, after consultation with the
7 department of commerce, may establish nonbinding guidelines and
8 standards for technologies that are identified as Washington
9 manufactured and therefore most beneficial to the state's environment.
10 Nothing in this subsection is intended to preempt the department of
11 commerce's authority to certify the eligibility of Washington
12 manufactured technologies and each individual system for the amount of
13 incentives for which they are eligible.

14 (8) The environmental attributes of the renewable energy system
15 belong to the applicant.

16 (9) No incentive may be paid under this section for kilowatt-hours
17 generated by a system that commences operation before July 1, 2014, or
18 for kilowatt-hours generated by a system that commences operation after
19 December 31, 2018.

20 (10) No incentive may be paid under this section for a leased
21 energy system beginning operation after June 30, 2014, that is net
22 metered under chapter 80.60 RCW, unless the leased energy system
23 qualifies for net metering under section 305 of this act.

24 (11) Each system qualifying for incentives under this section must
25 have a production meter that interconnects with the utility's system in
26 a manner that allows the electric meter measuring consumption to
27 measure the total amount of electricity consumed on the premises.

28 NEW SECTION. **Sec. 104.** A new section is added to chapter 82.16
29 RCW to read as follows:

30 (1) Beginning July 1, 2014, a utility must be allowed a credit
31 against taxes due under this chapter in an amount equal to investment
32 cost recovery incentive payments made in any fiscal year under section
33 103 of this act. The credit must be taken in a form and manner as
34 required by the department. The sum of credits under this section and
35 credits allowed under RCW 82.16.120 for the fiscal year may not exceed
36 one-half percent of the businesses' taxable power sales due under RCW
37 82.16.020(1)(b) or two hundred fifty thousand dollars, whichever is

1 greater. Incentive payments to participants in a utility-owned
2 community solar project, beginning operation after July 1, 2014, may
3 only account for up to five percent of the total allowable credit.
4 Incentive payments to participants in a company-owned community solar
5 project, beginning operation after July 1, 2014, may only account for
6 up to five percent of the total allowable credit. The credit may not
7 exceed the tax that would otherwise be due under this chapter.
8 Incentive payments claimed by a utility for utility solar projects may
9 only account for up to forty-five percent of the total allowable
10 credit.

11 (2) Incentive payments for systems greater than ten kilowatts may
12 not claim more than fifty percent of the total allowable credit.

13 (3) Refunds may not be granted in the place of credits.
14 Expenditures not used to earn a credit in one fiscal year may not be
15 used to earn a credit in subsequent years.

16 (4) For any person that has claimed credit for incentive payment
17 amounts that exceed the correct amount of the incentive payable under
18 section 103 of this act, the amount of tax against which credit was
19 claimed for the excess payments are immediately due and payable. The
20 department must assess interest and may assess penalties on the taxes
21 against which the credit was claimed. Interest must be assessed at the
22 rate provided for delinquent excise taxes under chapter 82.32 RCW,
23 retroactively to the date the amount of economic development kilowatt-
24 hours generated was filed with the department, and accrue until the
25 excess incentive payment against which the economic development
26 kilowatt-hour production filing was claimed, are repaid.

27 (5) The right to earn tax credits and incentive payments under this
28 section expires for renewable energy systems beginning operation after
29 December 31, 2018. Credits and incentives may not be claimed for
30 economic development kilowatt-hours generated after December 31, 2028.

31 **PART II**
32 **Solar Energy and Leased Energy Systems**

33 NEW SECTION. **Sec. 201.** It is the intent of the legislature to
34 provide mechanisms for low-cost financing of energy systems on the
35 distribution side of the electricity grid, to provide for consumer

1 protection of customers of these systems, and to recognize electric
2 utility efforts in being early adopters of programs that encourage
3 energy independence by customers.

4 NEW SECTION. **Sec. 202.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Customer-generator" means a user of a net metering system, as
7 that term is defined in RCW 80.60.010, or a leased energy system that
8 owns and is a customer of the electric utility serving the premises on
9 which the net metering or leased energy system is located. A customer-
10 generator may own and use a net metering system or have all or a
11 portion of their electricity needs on their premises served by a leased
12 energy system, or otherwise have all or a portion of their electricity
13 needs on the premises served by a renewable energy system sized to meet
14 approximately all or a portion of their electricity needs.

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

17 (3) "High efficiency cogeneration" means the sequential production
18 of electricity and useful thermal energy from a common fuel source,
19 where, under normal operating conditions, the facility has a useful
20 thermal energy output of no less than thirty-three percent of the total
21 energy output.

22 (4) "Leased energy system" means a renewable energy system:

23 (a) That is located in Washington;

24 (b) That is installed on real property that is not leased and is
25 provided electricity by an electric utility;

26 (c) In which, on an annual basis, the net electricity fed back into
27 the distribution system of the electric utility is less than or
28 approximately equal to the electricity consumed on the premises where
29 the leased energy system is located; and

30 (d) That is a renewable energy system that is either owned by:

31 (i) An electric utility; or

32 (ii) A third-party vendor.

33 (5) "Net metering system" has the same meaning as provided in RCW
34 80.60.010.

35 (6) "Renewable energy system" means a system that generates
36 electricity from: (a) Water; (b) wind; (c) solar energy; (d)
37 geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power;

1 (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined
2 in RCW 82.29A.135 that is not derived from crops raised on land cleared
3 from old growth or first-growth forests where the clearing occurred
4 after December 7, 2006; (i) biomass energy; or (j) high efficiency
5 cogeneration.

6 (7) "Third-party vendor" means a private entity, which is not an
7 electric utility, that for financial remuneration provides a customer-
8 generator with electricity for use on the premises of the customer-
9 generator. This form of transaction for electricity or power may
10 include: A lease of generating equipment by the vendor to the
11 customer-generator; a power purchase agreement where the vendor is
12 compensated according the kilowatt-hours delivered to the customer-
13 generator; a lease from the customer-generator to the vendor and a sale
14 of power by the vendor back to the customer-generator; or other
15 compensation for the delivery of electricity to the customer-generator
16 by the vendor.

17 (8) "Value of solar" means the benefit that a net metering or
18 leased energy system that uses solar energy as a fuel provides to a
19 utility's customers and distribution system. Such value may include,
20 but is not limited to: Environmental attributes of the solar energy
21 generation; reduced or displaced greenhouse gases and other regulated
22 air emissions; distribution system benefits or impacts; need of the
23 utility for power, including the need for the time-of-day generation
24 provided by solar energy systems; recovery of the fixed costs of the
25 utility; and avoided power costs. The "value of solar" may not be
26 greater than the bundled retail electric rate paid by the customer-
27 generator at the premises, where the net metering system is located.

28 NEW SECTION. **Sec. 203.** (1) An electric utility may offer a solar
29 energy program or leased energy system program that provides customers
30 access to solar energy systems on their property. A third-party vendor
31 may offer a leased energy system program to utility customers pursuant
32 to this chapter.

33 (2) An electric utility or third-party vendor that offers a leased
34 energy system program to customer-generators must ensure open and fair
35 access through competitive bidding of systems and licensed contractors
36 for installation of these systems. The electric utility or third-party

1 vendor must ensure a reasonable price for leases or electricity
2 purchases through the use of a skilled local work force and a diversity
3 of businesses in implementing the program.

4 NEW SECTION. **Sec. 204.** (1) If an electric utility offers a solar
5 energy program that may include a leased energy system program to at
6 least their residential rate class and one additional customer class,
7 no third-party vendor may offer a leased energy system directly to that
8 utility's customers.

9 (2) An electric utility seeking to establish a solar energy program
10 may submit a program design to the commission for investor-owned
11 utilities and the appropriate governing board for consumer-owned
12 utilities, for approval.

13 (3) If a leased energy system program is included in the program
14 design, the leased energy system program design must include the
15 following:

16 (a) A fair market value purchase option at the end of the term of
17 the contract;

18 (b) A reasonable process for transferring the obligation with a
19 change of ownership of the underlying property that:

20 (i) For a utility program, does not place the utility's other
21 ratepayers at risk of assuming that obligation; and

22 (ii) For a third-party vendor program, a process that does not
23 unduly restrict the change of ownership; and

24 (c) A proposed list of financing models included in the program.
25 However, a program may include any, or all, lease or power purchase
26 financing models.

27 (4) The commission for investor-owned utilities and the appropriate
28 governing boards for consumer-owned utilities must consider the
29 submitted program design for approval within a reasonable time.

30 (5) Upon approval, the commission for investor-owned utilities and
31 the appropriate governing boards for consumer-owned utilities must
32 publish a list of lease options, purchasing options, or other solar
33 energy program options being offered by the utility.

34 (6) If an electric utility chooses not to submit a solar energy
35 program design to the commission or appropriate governing board, as
36 described in this section within one year of the effective date of this
37 section, or if submitted, the commission or appropriate governing board

1 has not approved a program design within two years from the effective
2 date of this section, a third-party vendor may offer leased energy
3 systems directly to that utility's customers, compliant with sections
4 302 through 304 of this act.

5 (7) In addition to complying with the provisions of sections 302
6 through 304 of this act and subsection (3) of this section, a third-
7 party vendor must demonstrate a net benefit to the customer-generator
8 at the conclusion of the contract for the leased energy system.

9 NEW SECTION. **Sec. 205.** (1) Notwithstanding RCW 80.60.040(3), an
10 electric utility may require additional insurance or other form of
11 indemnification from the customer-generator or third-party vendor for
12 leased energy systems. Such indemnification must hold the electric
13 utility harmless, and the electric utility is not liable, for any harm,
14 economic or otherwise, caused to the customer-generator or third-party
15 vendor for disconnection of the leased energy system or the customer-
16 generator's meter. Such disconnection may be for safety reliability
17 purposes, faulty leased energy system equipment, nonpayment of an
18 electric bill to the utility by the customer-generator, or any other
19 action by a utility that affects a contract or agreement between the
20 customer-generator and a third-party vendor, or violation by the
21 customer-generator or third-party vendor of the interconnection
22 agreement between the utility and customer-generator.

23 (2) Notwithstanding RCW 80.60.040(3), an electric utility may
24 require leased energy systems to comply with additional safety and
25 performance standards as a condition of interconnection to the
26 utility's distribution system.

27 NEW SECTION. **Sec. 206.** (1) The legislature finds that it is in
28 the public interest to provide opportunity for utilities to be
29 providers of solar energy programs that may include leased energy
30 systems to their customers, and facilitate the deployment of leased
31 energy systems and solar energy programs to utility customers that are
32 occupants of residential or commercial premises. The legislature
33 further finds that it is in the public interest for electric utilities
34 to lead in the deployment of solar energy programs that may include
35 leased energy systems to maximize the system reliability and power

1 quality benefits, and minimize the system reliability and power quality
2 impacts caused by the location and placements of solar energy
3 facilities.

4 (2) A utility is allowed to provide a solar energy program, which
5 may include leased energy systems to its customers where it provides
6 distribution service to the situs.

7 (a) For electrical companies, the commission may adopt rules to
8 implement this section. The rules must require an option for the
9 utility customer to purchase a leased energy system at fair market
10 value subsequent to the utility's recovery of its investment and any
11 incentives the system may be eligible for.

12 (b) For consumer-owned utilities, the governing board may adopt
13 policies to own, lease, and operate electrical generating facilities,
14 or otherwise provide solar energy programs to their customers to
15 implement this section. The policy must include an option for the
16 utility customer to purchase a leased energy system at fair market
17 value subsequent to the utility's recovery of its investment and any
18 incentives for which the system may be eligible.

19 (3) If a utility has established a solar energy program or leased
20 energy system program within two years of the effective date of this
21 section, third-party vendors are not allowed to offer leased energy
22 systems directly to the utility's customers.

23 (4) If a utility has not established a solar energy program within
24 two years of the effective date of this section, private third-party
25 vendors are allowed to offer leased energy systems directly to that
26 utility's customers.

27 **PART III**

28 NEW SECTION. **Sec. 301.** A new section is added to chapter 82.16
29 RCW to read as follows:

30 (1) The legislature finds that deploying solar energy systems and
31 leased energy systems encourages energy independence by customers. The
32 legislature further finds that the benefits of energy independence do
33 not justify that incentives provided by the taxpayers of the state and
34 customers of utilities to leased energy systems should overlap.

35 (2) Leased energy systems that apply for and collect incentives
36 under this chapter are not eligible as a net metering system in chapter

1 80.60 RCW. However, a utility may choose to allow the leased energy
2 system to qualify as a net metering system under section 305 of this
3 act.

4 (3) Leased energy systems that choose to qualify as net metering
5 systems under RCW 80.60.010 are not eligible for renewable incentives
6 under this chapter, unless the leased energy system is qualified for
7 net metering under section 305 of this act.

8 NEW SECTION. **Sec. 302.** A new section is added to chapter 80.28
9 RCW to read as follows:

10 (1) The legislature finds that:

11 (a) Third-party vendors of leased energy systems are competitive
12 electrical companies and are subject to the jurisdiction of the
13 commission.

14 (b) A competitive marketplace with effective competition exists for
15 offering leased energy systems to retail consumers of electricity in
16 the state of Washington.

17 (c) Traditional rate of return, rate base regulation of competitive
18 electrical companies providing leasing and installation of leased
19 energy systems may not provide the most efficient and effective means
20 of achieving the public policy goals of this state as declared in RCW
21 80.28.024, 80.28.074, and this section. The commission is authorized
22 to employ an alternative form of regulation if that alternative is
23 better suited to achieving those policy goals.

24 (d) The commission should retain its authority to protect consumers
25 of nonutility-owned leased energy systems from unreasonable deceptive
26 practices. Nothing in this act precludes the office of the attorney
27 general from exercising its statutory authority concerning consumer
28 protection.

29 (2) The definitions in section 202 of this act apply to this
30 section.

31 NEW SECTION. **Sec. 303.** A new section is added to chapter 80.28
32 RCW to read as follows:

33 (1) A third-party vendor, which is not an electric utility, must
34 register with the commission as a competitive electrical company before
35 beginning operations in this state to offer leased energy systems to
36 retail electric customers of a utility. The registration must be on a

1 form prescribed by the commission and contain that information as the
2 commission may by rule require, but must include at a minimum: The
3 name and address of the company; the name and address of the company's
4 registered agent, if any; the name, address, and title of each officer
5 or director; the company's most current balance sheet; the company's
6 latest annual report, if any; and a description of the services the
7 company offers or intends to offer.

8 (2) The commission may require as a precondition to registration
9 the procurement of a performance bond sufficient to cover any advances
10 or deposits the electrical company may collect from its customers or
11 order that the advances or deposits be held in escrow or trust.

12 (3) The commission may deny registration to any third-party vendor
13 that:

- 14 (a) Does not provide the information required by this section;
- 15 (b) Fails to provide a performance bond, if required;
- 16 (c) Does not possess adequate financial resources to provide the
17 proposed service; or
- 18 (d) Does not possess adequate technical competency to provide the
19 proposed service.

20 (4) The commission must take action to approve or issue a notice of
21 hearing concerning any application for registration within thirty days
22 after receiving the application. The commission may approve an
23 application with or without a hearing. The commission may deny an
24 application after a hearing.

25 (5) The commission must adopt rules that describe:

- 26 (a) The manner by which the commission will regulate third-party
27 vendors as competitive;
- 28 (b) The process for considering applications for registration under
29 this title; and
- 30 (c) The penalties pursuant to chapter 80.04 RCW, including
31 revocation of registration of competitive electric companies.

32 (6) Rules adopted under this section may not include or provide any
33 standards for jurisdiction over the interconnection of the system to a
34 utility's distribution system that remains with the commission for
35 interconnection to an investor-owned utility and with the appropriate
36 governing boards for interconnection to the distribution system of
37 consumer-owned utilities as otherwise adopted by the commission or
38 governing board of a consumer-owned utility.

1 (7) The definitions in section 202 of this act apply to this
2 section.

3 NEW SECTION. **Sec. 304.** A new section is added to chapter 80.28
4 RCW to read as follows:

5 (1) Third-party vendors are competitive electrical companies under
6 this chapter and must be subject to a minimum level of regulation. A
7 third-party vendor must at a minimum:

8 (a) Keep its accounts according to regulations as determined by the
9 commission;

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

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

14 (d) Cooperate with commission investigations of customer
15 complaints.

16 (2) Third-party vendors must pay regulatory fees to the commission
17 under chapter 80.24 RCW.

18 NEW SECTION. **Sec. 305.** A new section is added to chapter 80.60
19 RCW to read as follows:

20 (1) The legislature recognizes that most homes and businesses with
21 renewable distributed generation systems are also interconnected to the
22 local distribution system of an electrical company and utilize the
23 system for safe and reliable electric service. Without a separate rate
24 for customer-generators, fixed costs incurred by the electric utility
25 to connect customer-generators are shifted to nonparticipating
26 customers within the utility's entire customer base. An electric
27 utility may file a rate for customer-generators to mitigate such cost-
28 shifting for approval by the commission, in the case of an electrical
29 company, or the appropriate governing body, in the case of other
30 electric utilities.

31 (2) Consistent with the other provisions of this chapter, for all
32 net metering and leased energy systems interconnected to a utility's
33 distribution system subsequent to reaching the cumulative generating
34 capacity cap of 0.5 percent in RCW 80.60.020(1), an electric utility
35 may:

1 (a) Charge the customer-generator a monthly fee that is different
2 than that charged for other customers of the utility in the same rate
3 class, as determined by the commission, in the case for an electrical
4 company, or the appropriate governing body in the case of other
5 electric utilities. The monthly fee may include standby, customer,
6 demand, capacity, interconnection, or other fees or charges, and must
7 ensure that all costs caused by the net metering system or leased
8 energy system are paid by the customer-generator, and ensure that costs
9 are not shifted within any rate class from net metered customers in
10 that rate class to nonnet metered customers in that rate class; or

11 (b) Credit the customer-generator a value of solar as established
12 by the commission in the case of electrical companies, or the
13 appropriate governing body in the case of other electric utilities,
14 times the number of kilowatt-hours generated by the net metering or
15 leased energy system that uses solar energy as a fuel. The credit must
16 be applied to a customer-generator's monthly bill, and may not result
17 in any compensation to the customer-generator at the end of the annual
18 period pursuant to RCW 80.60.030.

19 (3) If implementing net metering credits under this section:

20 (a) An electric utility must measure the electricity consumed
21 during the billing period, in accordance with normal metering
22 practices, and through a separate production meter installed by the
23 customer-generator and connected to the distribution system, the
24 electricity generated by the net metering or leased energy system;

25 (b) The customer-generator must be billed for the electricity
26 supplied by the electric utility, in accordance with normal metering
27 and billing practices; and

28 (c) The customer-generator must be credited for the kilowatt-hours
29 generated during the billing period pursuant to subsection (2) of this
30 section, with this kilowatt-hour credit appearing on the bill for the
31 following billing period, or annually, as determined by the utility.

32 **PART IV**
33 **Miscellaneous Provisions**

34 NEW SECTION. **Sec. 401.** Part II of this act constitutes a new
35 chapter in Title 19 RCW.

1 NEW SECTION. **Sec. 402.** Part I of this act takes effect July 1,
2 2014.

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