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From: Blackmon, Glenn (COM)
Sent: Monday, June 26, 2017 2:20 PM
Subject: Fuel Mix Disclosure legislation - comment opportunity and 2nd workshop
Attachments: initial stakeholder comments - summary and recommended approach .pdf; 20170626-initial-draft-legislation.docx; 20170626-initial-draft-legislation.pdf

TO: Interested Parties – Fuel Mix Disclosure Replacement Legislation

The Washington Department of Commerce is developing potential agency request legislation to replace the fuel mix disclosure law adopted by the Legislature in 2000.

We held an initial workshop on April 28, 2017, and requested written stakeholder comments on eight key issues that we identified.

The initial comments were very helpful in identifying areas of consensus and concerns. A summary of the comments is attached. The summary also provides information on how we proceeded with each issue in developing initial draft legislative language. All of the written comments are available on our fuel mix web page:

<http://www.commerce.wa.gov/growing-the-economy/energy/fuel-mix-disclosure/>

Based on these comments and ongoing discussions, Commerce is circulating an initial draft of the replacement legislation and inviting stakeholder comment on the draft. Comment opportunities include:

- **Informal Workshop** – Thursday, July 13, 2017, from 10 am until 12 noon, at Commerce’s office in Olympia. A call-in option will be provided. Check the web site above for details.
- **Written Comments** – By Friday, July 28, 2017. Send comments by email to glenn.blackmon@commerce.wa.gov.

The draft legislation shows markup (redlines and strikeouts) based on current law. We’re providing this in both PDF and Word format to facilitate commenting.

Thank you for your participation in this work. Please let us know if you have questions about any of the material provided here or about our legislative development process. Also, please let us know if you would like to be removed from or added to this mailing list.

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**Summary of Initial Stakeholder Comments
and
Recommended Elements of Draft Legislative Proposal**

June 6, 2017

At a stakeholder workshop on April 28, Commerce identified eight key issues that it intended to address in agency request legislation. Commerce requested comment from stakeholders on these issues and received 18 comments from utility and non-utility stakeholders:

Utility Stakeholders	Avista Chelan PUD Clark Public Utilities Cowlitz PUD Franklin PUD Grant PUD Lewis PUD Mason PUD 3 PacifiCorp Puget Sound Energy Seattle City Light Snohomish PUD Tacoma Power Washington Rural Electric Cooperative Association
Non-utility Stakeholders	3Degrees Center for Resource Solutions Climate Solutions / Renewable Northwest NW Energy Coalition

This document summarizes the responses to each issue and presents a recommended approach for draft legislation.¹

1. Establishing the purpose of the power source disclosure law as a consumer protection measure and specifically prohibiting deceptive practices by electricity providers.

Comments:

The utilities oppose linking the fuel mix disclosure to the Consumer Protection Act. Non-utility stakeholders do not state a position, except that NWECA supports the linkage.

Seattle City Light cites with favor the uncodified intent language in the 2000 fuel mix disclosure law.

¹ Comments are posted on the fuel mix disclosure web page: <http://www.commerce.wa.gov/growing-the-economy/energy/fuel-mix-disclosure/>

Recommendation:

Propose to retain, with minor editing, the intent language from the 2000 statute. This language establishes the public interest basis for fuel mix disclosure without specifically linking it to the Consumer Protection Act. There is no history of disclosure issues that would support explicit linkage, and many electric service providers are exempt from the CPA because they are either regulated utilities or government agencies.

2. Strengthening the obligation of electricity providers to identify their power sources and include all known sources in their fuel mix claims. Current law does not require that providers claim all known sources.

Comments:

Utilities support mandatory reporting of power sources that are known to the utility but oppose any mandate to revise business practices to reduce unspecified sources.

- Tacoma: *Commerce already has the authority to require reporting of all known sources.*
- Seattle: *If there is a problem with how utilities are reporting known and unknown purchases then Commerce has not articulated how that is a legislative problem.*
- PacifiCorp: *Does not object to a requirement to report known sources. PacifiCorp requires special treatment because of how the UTC allocates multi-state costs.*
- Grant: *Commerce should do more to exclude resources known to serve out-of-state loads. Surplus renewable energy from California should be included.*
- Multiple utilities: *Claims based on NERC e-tags are not appropriate. Claims must be contractually supported.*

Recommendations:

Propose to require that electricity providers claim all power where they own the generating resource or have purchased the energy under a contract that identifies the source. Do not include a new obligation to specify sources in market transactions.

3. Incorporating emissions data in power source disclosures.

Comments:

Non-utility advocates support including emissions information in the disclosure to consumers, and utilities generally oppose this additional requirement.

Comments in support:

- Center for Resource Solutions: *In full support of emissions disclosure to retail customers. Emissions disclosure should reflect the emissions being delivered to customers – that they can claim to be receiving for their own footprint calculations.*

- Climate Solutions/Renewable Northwest: *Support incorporating emissions data in power source disclosures.*
- NW Energy Coalition: *We support Commerce estimating emissions in the report, which would inform consumers about the emissions from the generation of power that serves Washington customers. This would differ from the emissions report produced by Ecology.*

Utility comments in opposition:

- *Generating unit owners already report emissions to Ecology. Commerce already has access to this data.*
- *Consumers can do their own emissions calculations from the disclosure of fuel types and percentages.*
- *Adding emissions reporting would increase the likelihood that fuel mix is used as a basis for taxation or regulation.*
- *Will only create a catalog of misleading and inaccurate information.*
- *Separate reporting should be considered.*
- *Willing to work with the Department, the Legislature, and the Administration to determine if an emissions report is needed and if it is an appropriate vehicle for declaring electric utility emissions, but the Fuel Mix Report is not it.*

Grant PUD's comment was not clearly in support or opposition: *We understand that some consumers may want to know the carbon content of the energy reflected in the fuel mix report either for general informational purposes or to meet their voluntary low-carbon sustainability goals.*

Recommendation:

Propose to include a provision allowing Commerce to require emissions disclosure on the power source disclosure label. Many residential and business customers have an interest in this information, and suggesting that they perform the calculations themselves from Ecology data is not reasonable.

Clarify that the emissions disclosure would be based on existing generating plant reports to EPA and Ecology.

4. Incorporating industry use of renewable energy certificates in making power source claims by:

- a. Requiring that all claims to the use renewable energy be supported by renewable energy certificates.**
- b. Identifying circumstances where a power supplier is allowed to use unbundled renewable energy certificates to change its power source disclosure.**
- c. Deciding how to disclose electricity sources where the power has been separated from its environmental attributes.**

Comment:

Most utilities oppose accounting for renewable energy certificates in fuel mix disclosure. The disclosure should be based on the fuel used to generate the electricity, even if the plant owner sold renewable energy certificates to other entities. Some utilities suggest a dual reporting structure, where both energy and RECs are reported. Utilities also expressed concern with the treatment of hydro, which often does not have RECs.

- Snohomish PUD: *REC accounting through the Energy Independence Act does not alter the fuel category of electricity used to serve customers. Customers receive electricity for consumption from the same sources whether RECs exist or not.*
- PSE: *RECs should be reported separately from power source claims. If there is a concern with the accounting of RECs, then those concerns should be dealt with in the EIA law and not in the fuel mix disclosure law.*
- PacifiCorp: *Recommend that resource fuel type and the disposition of the associated RECs should both be reported.*
- Lewis PUD: *RECs have nothing to do with fuel mix. Wind is wind; hydro is hydro; coal is coal.*
- Clark: *Supports dual reporting of generation source and RECs.*
- Chelan PUD: *Supports dual reporting of generation source and RECs.*
- Avista: *RECs were not intended to be factored into fuel mix reporting nor should they be. A resource should not be represented by anything other than the source of the generation.*
- WRECA: *Maintain the prohibition on reporting RECs in the fuel mix disclosure report. Separate the reporting of a utility's use of RECs from the fuel source report.*

Some utilities and all non-utility stakeholders support a requirement that renewable energy claims be supported by RECs.

- Seattle: *A utility can only claim a renewable energy source if it retains the environmental attributes when it is also using the energy. If a utility uses a renewable resource which no longer has its REC, then it should be declared as an unknown source.*
- NW Energy Coalition: *Issues around potential double counting pose the largest challenge. The fuel mix report now needs to account for RECs ... without double counting any resource.*
- Grant PUD: *Generally agree that renewables must be supported by RECs or other non-power attributes. Utilities that purchase unbundled RECs should be allowed to change their power source disclosure to meet RPS targets or voluntary programs. Hydro should be included as "non-power attributes" instead of RECs.*
- Climate Solutions / Renewable Northwest: *If a utility claims to serve its customers with renewable resources, there must be an associated REC. However, if a utility is reporting unbundled RECs paired with fossil fuel generation, we have concerns about the information being misunderstood by consumers. A REC may mask the true environmental impact of a utility's generation portfolio.*

- Cowlitz PUD: *The fuel mix calculation should be adjusted to reflect use of unbundled RECs.*
- Center for Resource Solutions: *RECs must be retired for specified renewable energy being reported to substantiate a retail product claim and in order to prevent double counting. To avoid double counting and violation of federal rules on environmental marketing claims, renewable energy must not be included in a supplier's fuel mix disclosure label ... unless and until the RECs associated with that renewable energy have been retired on behalf of those retail customers.*
- 3Degrees: *Renewable energy should only be included on a provider's fuel mix disclosure if the RECs associated with the renewable energy have been retired by the provider on behalf of those specific retail customers. Likewise, RECs purchased separately from the underlying electricity by a provider (unbundled RECs) and subsequently retired on behalf of its customers should be included in the fuel mix disclosure provided to those customers.*

Recommendation:

Propose to include provisions to prevent double-counted claims of energy from renewable sources. The bill would prohibit claiming power as renewable if there is a REC and that REC is not retired by the reporting supplier. For sources without RECs, including hydro, the reporting supplier must own the non-power attributes.

Allow reporting suppliers to combine RECs with unspecified power sources and report the bundle based on the fuel source of the REC. Specified power sources, such as a fossil or nuclear resource, could not be reported as renewable.

Do not propose dual reporting. While supported by several utilities, this approach would result in renewable energy claims where the supplier does not own the right to make those claims.

Clarify that suppliers are not prevented from reporting their activities as power generators, as long as that information is not included in the fuel mix disclosure.

5. Considering changes to the power source disclosure format to highlight use of renewable sources, include emissions data, and facilitate comparisons to statewide or regional averages.

Comments:

Utilities generally oppose any changes to the format or contents of the fuel mix disclosure label and the inclusion of emissions data and comparison values. A common statement is: *Utilities should be able to report data as they see fit, as long as it meets the basic requirements of the law and does not modify or substantively change the data. Renewable generation should not be highlighted more than other non-carbon producing resources.*

- Cowlitz PUD: *The current disclosure format misleads customers by attributing resource categories to a utility when in fact those resources are only part of unclaimed system mix purchases.*
- Grant PUD: *Revise the format to no longer combine utility claims with net system mix information.*

Non-utility stakeholders did not make specific comments on format.

Recommendation:

Propose to include the format changes to highlight renewable sources, include emissions data, and use an “unknown source” category. Provide discretion to Commerce to require a comparison to regional or statewide average.

6. Eliminating outdated and cumbersome administrative provisions, revising reporting schedules, and providing Commerce with more oversight authority.

Comments:

No specific administrative changes or deletions were identified in comments. Some utilities expressed concern about providing greater oversight authority to Commerce, and some utilities suggested that Commerce produce reports sooner and provide better explanations of how the net system mix is calculated.

Recommendation:

Propose to eliminate existing provisions identifying an electricity information coordinator, creating a work group whose duties ended in 2003, establishing a May 1 date for publishing calculations, and establishing the Northwest Power Pool as the basis for determining net system mix. Authorize Commerce to adopt administrative rules to implement the statute.

7. Extending the power source disclosure requirement to include power suppliers who sell power to end users but are not currently classified as utilities.

Comments:

Stakeholders appeared to have no knowledge of non-utility electricity providers. Some stakeholders agreed that if such entities exist, they should be subject to the disclosure requirements.

Recommendation:

Maintaining the existing definition of electricity provider and eliminate the exemption for electricity providers that sell to a single consumer.

8. Providing flexibility to reflect changes in power markets and new power market mechanisms.

Comments:

Several utilities commented that any flexibility should be “explicitly defined and appropriately limited by statute” and that Commerce should be required to consult with utilities and other stakeholders before exercising flexibility. Seattle City Light supported flexibility to accommodate a changing energy market.

Recommendation:

Propose to allow Commerce to determine net system mix without a specific geographic scope or calculation method established by statute.

Other comments

Washington Rural Electric Cooperative Association recommends that the fuel mix disclosure statute be repealed.

First Draft – Electricity Product Content Disclosure

Note to reviewers: The terms “disclosure” and “disclose” are used when the utility is providing information to customers, and the term “report” is used when the utility is providing information to Commerce.

Section 1 - ~~NEW SECTION~~

Commented [BG(1): This is the uncodified intent section of the 2000 fuel mix law (Chapter 213, Laws of 2000).

(1) Consumer disclosure ensures that retail electric consumers purchasing electric energy receive basic information about the characteristics associated with their electric product in a form that facilitates consumer understanding of retail electric energy service and the development of new products responsive to consumer preferences.

(2) The legislature finds and declares that there is a need for reliable, accurate, and timely information regarding fuel source ~~and emissions characteristics~~, that is consistently collected, for all electricity products offered for retail sale in Washington.

(3) The desirability and feasibility of such disclosure has been clearly established in nutrition labeling, uniform food pricing, truth-in-lending, and other consumer information programs.

(4) The legislature intends to establish a consumer disclosure standard under which retail suppliers in Washington disclose information on the fuel mix of the electricity products they sell. Fundamental to disclosure is a label that promotes consistency in content and format, ~~that is accurate, reliable~~ provides a reasonable representation of the fuel and emissions characteristics, ~~and is~~ simple to understand, and ~~that~~ allows verification of the accuracy of information reported.

(5) To ensure that consumer information is verifiable and accurate, certain characteristics of electricity generation must be tracked and compared with information provided to consumers.

(6) The legislature recognizes that the generation, transmission, and delivery of electricity occurs through a complex network of interconnected facilities and contractual arrangements. As a result, the legislature intends that the fuel characteristics and emissions characteristics disclosed under this act represent reasonable approximations that are suitable only for informational or disclosure purposes.

(7) The disclosures required by this act reflect the characteristics of electricity products offered by retail suppliers to customers. Nothing in this act prohibits an electricity supplier from communicating to its customers, owners, taxpayers, or the general public information regarding its investment in or ownership of renewable or non-renewable generating facilities, its production of electricity, or its wholesale market activities, so long as the information is provided separately from the electricity product content label.

Section 2 - RCW 19.29A.010

Definitions.

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

(1) "Biomass generation" ~~means electricity derived from burning solid organic fuels from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic~~ has the same meaning as "biomass energy" defined in RCW 19.285.030.

(2) "Bonneville power administration system mix" means a generation mix sold by the Bonneville power administration that is net of any resource specific sales and that is net of any electricity sold to direct service industrial customers, as defined in section 3(8) of the Pacific Northwest electric power planning and conservation act (16 U.S.C. Sec. 839(a)(8)).

(3) "Coal generation" means the electricity produced by a generating facility that burns coal as the primary fuel source.

(4) "Commission" means the utilities and transportation commission.

(5) "Conservation" means an increase in efficiency in the use of energy use that yields a decrease in energy consumption while providing the same or higher levels of service. Conservation includes low-income weatherization programs.

(6) "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.

(7) "Declared resource" means an electricity source specifically identified by a retail supplier to serve retail electric customers. A declared resource includes a stated quantity of electricity tied directly to a specified generation facility or set of facilities either through ownership or contract purchase, or a contractual right to a stated quantity of electricity from a specified generation facility or set of facilities.

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

(9) "Electric meters in service" means those meters that record in at least nine of twelve calendar months in any calendar year not less than two hundred fifty kilowatt-hours per month.

(10) "Electric utility" means a consumer-owned or investor-owned utility as defined in this section.

(11) "Electricity" means electric energy measured in kilowatt-hours, or electric capacity measured in kilowatts, or both.

(12) ~~"Electricity information coordinator" means the organization selected by the department under RCW 19.29A.080 to: (a) Compile generation data in the Northwest power pool by generating project and by resource category; (b) compare the quantity of electricity from declared resources reported by retail suppliers with available generation from such resources; (c) calculate the net system power mix; and (d) coordinate with other comparable organizations in the western interconnection.~~

(13) "Electricity product" means the electrical energy produced by a generating facility or facilities that a retail supplier sells or offers to sell to retail electric customers in the state of Washington, provided that nothing in this title shall be construed to mean

Commented [BG(2): This suggests that all generation by a coal plant is classified as coal-fired and is not consistent with current practice. Current practice is to allocate generation in proportion to fuel inputs.

See note below about possibly deleting the fuel-specific generation definitions.

Commented [BG(3): For reference, California AB 1110 definitions:

"Purchases of electricity from specified sources" or "purchases from specified sources" means electricity transactions that are traceable to specific generation sources by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to a retail consumer. Retail suppliers may rely on annual data to determine whether a transaction meets this definition, rather than hour-by-hour matching of loads and resources.

"Electricity from unspecified sources" means electricity that is not traceable to specific generation sources by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once, and only once, to a retail consumer.

that electricity is a good or product for the purposes of Title 62A RCW, or any other purpose. It does not include electrical energy generated on-site at a retail electric customer's premises.

(14) "Fuel mix" means the actual or imputed sources of electricity sold to retail electric customers, expressed in terms of percentage contribution by resource category. The total fuel mix included in each disclosure shall total one hundred percent.

(15) "Geothermal generation" means electricity derived from thermal energy naturally produced within the earth.

(16) "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.

(17) ~~"High efficiency cogeneration" means electricity produced by equipment, such as heat or steam used for industrial, commercial, heating, or cooling purposes, that meets the federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978.~~

(18) "Hydroelectric generation" means a power source created when water flows from a higher elevation to a lower elevation and the flow is converted to electricity in one or more generators at a single facility.

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

(20) "Landfill gas generation" means electricity produced by a generating facility that uses waste gases produced by the decomposition of organic materials in landfills.

(21) "Natural gas generation" means electricity produced by a generating facility that burns natural gas as the primary fuel source.

(22) "Net system ~~power mix~~" means the fuel mix ~~in the Northwest power pool, net of:~~
~~(a) Any declared resources in the Northwest power pool identified by in-state retail suppliers or out-of-state entities that offer electricity for sale to retail electric customers;~~
~~(b) any electricity sold by the Bonneville power administration to direct service industrial customers; and (c) any resource specific sales made by the Bonneville power administration~~
determined by the department to be representative of the generation sources reasonably available to supply electricity to Washington customers and not identified as a declared resource by any retail supplier.

(23) ~~"Northwest power pool" means the generating resources included in the United States portion of the Northwest power pool area as defined by the western systems coordinating council.~~

(24) "Oil generation" means electricity produced by a generating facility that burns oil as the primary fuel source.

(25) "Private customer information" includes a retail electric customer's name, address, telephone number, and other personally identifying information.

(26) "Proprietary customer information" means: (a) Information that relates to the source, technical configuration, destination, and amount of electricity used by a retail electric customer, a retail electric customer's payment history, and household data that is made available by the customer solely by virtue of the utility-customer relationship; and (b) information contained in a retail electric customer's bill.

(27) "Renewable resources" ~~means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; or (f) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.~~ has the same meaning as defined in RCW 19.285.030.

(28) "Resale" means the purchase and subsequent sale of electricity for profit, but does not include the purchase and the subsequent sale of electricity at the same rate at which the electricity was purchased.

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

(30) "Retail supplier" means an electric utility that offers an electricity product for sale to retail electric customers in the state.

(31) "Small utility" means any consumer-owned utility with twenty-five thousand or fewer electric meters in service, or that has an average of seven or fewer customers per mile of distribution line.

(32) "Solar generation" means electricity derived from radiation from the sun that is directly or indirectly converted to electrical energy.

(33) "State" means the state of Washington.

(34) "Waste incineration generation" means electricity derived from burning solid or liquid wastes from businesses, households, municipalities, or waste treatment operations.

(35) "Wind generation" means electricity created by movement of air that is converted to electrical energy.

(xx) ~~"Nuclear generation" means electricity produced by a generating facility that ...~~

~~(xx) "Electricity product content label" means information presented in a uniform format by an electricity supplier to its retail customers and disclosing the information required in RCW 19.29A.060 about the fuel characteristics and emissions characteristics of an electricity product.~~

~~(xx) "Renewable energy certificate" or "REC" 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 certificate tracking system specified by the department.~~

~~(xx) "Nonpower attributes" has the same meaning as defined in RCW 19.285.030.~~

~~(xx) "Fuel attribute" means the characteristic of electricity determined by the fuel used in the generation of that electricity. For a renewable resource, the fuel attribute is included in its nonpower attributes.~~

~~(xx) "Source and disposition report" means the report required in Section 4.~~

Commented [BG(4): Not sure if a definition is needed or what it should be, but I noted that it is the only resource in 19.29A.060 that is not defined.

Alternatively, we might delete the other fuel-specific "generation" definitions. They don't say much.

Commented [BG(5): This is modified from the definition in RCW 19.285.030 to apply to any renewable resource, without regard to type or eligibility.

RCW 19.29A.050

Annual fuel mix information—Disclosure label—Requirements.

Commented [BG(6): No changes to this section are proposed in this draft. It is included for reference purposes and to provide an opportunity for any suggested changes.

(1) Beginning in 2001, each retail supplier shall provide to its existing and new retail electric customers its annual fuel mix information by generation category as required in RCW [19.29A.060](#).

(2) Disclosures required under subsection (1) of this section shall be provided through a disclosure label presented in a standardized format as required in RCW [19.29A.060](#)(7).

(3) Except as provided in subsection (5) of this section, each retail supplier shall provide the disclosure label:

(a) To each of its new retail electric customers at the time service is established;

(b) To all of its existing retail electric customers, as a bill insert or other mailed publication, not less than semiannually; and

(c) As part of any marketing material, in paper, written, or other media format, that is used primarily to promote the sale of any specific electricity product being advertised, contracted for, or offered for sale to current or prospective retail electric customers.

(4) In addition to the disclosure requirements under subsection (3) of this section, each retail supplier shall provide to each electric customer it serves, at least two additional times per year, a publication that contains either:

(a) The disclosure label;

(b) A customer service phone number to request a disclosure label; or

(c) A reference to an electronic form of the disclosure label.

(5) Small utilities and mutual light and power companies shall provide the disclosure label not less than annually through a publication that is distributed to all their retail electric customers, and have disclosure label information available in their main business office. If a small utility or mutual company engages in marketing a specific electric product new to that utility it shall provide the disclosure label described in subsection (3)(c) of this section.

Section 3 - 19.29A.060

Electricity product content label

(1) Each retail supplier ~~shall must~~ disclose to its customers the fuel characteristics and emissions characteristics the fuel mix of each electricity product it offers to retail electric customers using information in the electricity supplier's source and disposition report and information provided by the department, as follows:

~~(a) For an electricity product comprised entirely of declared resources, a retail supplier shall disclose the fuel mix for the electricity product based on the quantity of electric generation from those declared resources for the previous calendar year and any adjustment, if taken, available under subsection (6) of this section.~~

~~(b) For an electricity product comprised of no declared resources, a retail supplier shall report the fuel mix for the electricity product as the fuel mix of net system power for~~

~~the previous calendar year, as determined by the electricity information coordinator under RCW.~~

~~(c) For an electricity product comprised of a combination of declared resources and the net system power, a retail supplier shall disclose the fuel mix for the electricity product as a weighted average of the megawatt-hours from declared resources and the megawatt-hours from the net system power mix for the previous calendar year according to the proportion of declared resources and net system power contained in the electricity product.~~

(2) The fuel characteristic disclosures required by this section ~~shall~~must identify for each electricity product the percentage of the total electricity product sold by a retail supplier during the previous calendar year from each of the following categories and subcategories:

(a) Renewable resources:

(a) hydroelectric generation;

(b) wind generation;

(c) biomass generation;

(d) solar generation;

(e) other renewable generation;

(b) Nuclear generation;

(c) Natural gas generation;

(d) Coal generation;

(e) Other non-renewable generation; and

(f) Unknown sources.

(b) Hydroelectric generation;

(c) Natural gas generation;

(d) Nuclear generation; and

(e) Other generation, except that when a component of the other generation category meets or exceeds two percent of the total electricity product sold by a retail supplier during the previous calendar year, the retail supplier shall identify the component or components and display the fuel mix percentages for these component sources, which may include, but are not limited to: (i) Biomass generation; (ii) geothermal generation; (iii) landfill gas generation; (iv) oil generation; (v) solar generation; (vi) waste incineration; or (vii) wind generation. A retail supplier may

Commented [BG(7)]: An alternative approach is to list EIA-eligible hydro separately from ineligible/legacy hydro.

Commented [BG(8)]: This is highlighted as a discussion item. Current practice and law is to assign fuel attributes to unknown/unspecified sources based on the regional net system mix. The alternative would to leave these sources in a separate category of unknown. In this approach all of the fuel-specific categories would represent actual declared resources of the electricity supplier.

~~voluntarily identify any component or components within the other generation category that comprises two percent or less of annual sales.~~

(3) ~~Retail suppliers may separately report a subcategory of natural gas generation to identify high efficiency cogeneration. The emissions characteristic disclosure required by this section must provide an estimate of the greenhouse gas emissions intensity of each electricity product. The disclosure must use the results provided by the department under Section 6 and an intensity measure and format specified by the department.~~

(4) Except as provided in subsection (3) of this section, a retail supplier ~~cannot~~ may ~~not~~ include in the disclosure label any environmental quality or environmental impact qualifier related to any of the generation categories disclosed.

(5) For the portion of an electricity product purchased from the Bonneville power administration, retail suppliers may disclose the Bonneville power administration system mix.

(6) A retail supplier may adjust its reported fuel mix for known changes in its declared resources for the current year based on any changes in its sources of electricity supply from either generation or contracts. If a retail supplier changes its fuel mix during a calendar year, it shall report those changes to the ~~electricity information coordinator~~ department.

(7) Disclosure of the fuel mix information required in this section ~~shall be made in the following uniform format: A tabular format with two columns, where the first column shall alphabetically list each category and the second column shall display the corresponding percentage of the total that each category represents. The percentage shall be reported as a numeric value rounded to the nearest one percent. The percentages listed for the categories identified must sum to one hundred percent with the table displaying such a total must be made using an electricity product content label specified by the department. The department may require that the electricity product content label include comparative regional or statewide average data.~~

Section 4 - NEW SECTION

Power Source and Disposition Reporting

(1) Each retail supplier must report to the department each year, based on actual and verified activity in the prior year, the following information on its sources and uses of electricity in Washington:

(a) Load, including losses, delivered to end use customers;

(b) Purchases or receipts of electricity from declared resources, by generating facility and fuel type;

(c) Purchases or receipts of electricity from declared resources;

(d) Sales or deliveries of electricity from declared resources, by generating facility and fuel type; and

(e) Sales or deliveries of electricity transferred in unspecified source transactions.

(2) **Declared Resources.** The following requirements and limitations apply to the reporting of declared resources of electricity:

(a) A retail supplier must report an electricity purchase or receipt as a declared resource if it was the owner of the output of the generating facility or acquired the electricity in a transaction in which the buyer and seller specified the source of the electricity.

(b) A retail supplier may not report a declared resource as renewable if there exists a renewable energy certificate or other instrument representing the non-power attributes of the electricity and the retail supplier does not own and retire the certificate or instrument.

(c) A retail supplier may report as a declared resource an amount of electricity that consists of a combination of retired renewable energy certificates and an otherwise unspecified source of electricity. The fuel type of any such bundled resource will be the fuel type of the renewable energy certificates.

(3) **Unspecified Sources.** Each retail supplier must report as an unspecified source any electricity source that was acquired in a transaction where the fuel attribute was not specified by the seller or provider.

(4) A retail supplier that offers more than one electricity product must report the required source information separately for each product.

(5) Each retail suppliers must report the information required by this section as annual totals unless the department requires by rule that the information be reported in smaller time segments.

(6) The department must determine fuel mix percentages for each retail supplier based on the information provided in source and disposition reports. Each retail supplier's fuel mix percentages must reflect, to the extent possible, the declared resources reported by that retail supplier. If the retail supplier's load, including losses, exceeds its declared resources, the remaining source is considered unspecified and must be included in the electricity product content label as unknown source.

Commented [BG(9): See the note above about whether to include an "unknown" category or roll the unspecified into the category percentages.

Section 5 - NEW SECTION

Use of Renewable Energy Certificates

(1) Any REC used in the source and disposition report must be created and retired within the certificate tracking system approved by the department and must represent

renewable generation of a generating facility located in the region of the tracking system.

(2) A REC retired for any of the following purposes may not be included in the source and disposition report:

(a) End use customer voluntary renewable energy programs;

(b) Compliance instruments to comply with emissions regulations of the department of ecology or other agency;

(c) Mandatory renewable portfolio standards other than the Energy Independence Act (Chapter 19.285 RCW); and

(d) Any other purpose established by rule by the department.

(3) Any REC retired for compliance with the renewable energy requirements of the energy independence act may be included in the source and disposition report.

(4) Any REC representing generation occurring before January 1, 2017, may not be included in the source and disposition report.

(5) The eligibility requirements of the energy independence act, including geographic location, vintage, commercial operation date, and fuel type, do not apply when determining if a REC may be included in the source and disposition report.

Commented [BG(10)]: This provision allows RECs to be “banked” and used in later years, but only on a going-forward basis. This is a more flexible banking provision than the EIA.

Section 6 - NEW SECTION

Net System Mix

(1) The department must develop and publish an estimate of the fuel characteristics and emissions characteristics of the net system mix, including any generation sources reasonably available to serve Washington customers and not included as a declared resource on any source and disposition report. The department may include or exclude any electricity source as it deems reasonable to accurately represent the characteristics of residual electricity supplies used by retail suppliers in Washington.

Commented [BG(11)]: Note that if the electricity product label includes a category for unknown sources, the net system mix would not be used in determining the retail provider's fuel mix. It would still be used in the estimate of emissions per Section 7(3).

Section 7 - NEW SECTION

Emissions Characteristics

(1) The department must provide an estimate of the emissions of each electricity product offered by a retail supplier, consistent with the requirements of this section.

(2) For each declared resource included in a retail supplier's source and disposition report, the emissions estimate must be based on publicly available emissions rate data

for each generating facility or, if facility-specified information is not available, the typical emissions rate of that facility type and fuel source.

(3) For unspecified sources, the department must estimate an emissions rate based on the fuel characteristics of the net system mix.

19.29A.070

~~Actions required of department—Convene work group—Report to legislature.~~

~~The department shall:~~

~~(1) Convene a work group of interested parties to suggest modifications, if any, to the disclosure requirements required in RCW 19.29A.060 to improve information content, readability, and consumer understanding, and to suggest modifications, if any, to the responsibilities of the electricity information coordinator required in RCW 19.29A.080 to improve the accuracy and efficiency of the tracking process. If the department serves as the electricity information coordinator, these evaluation and reporting requirements relative to the responsibilities of the electricity information coordinator and the tracking process shall be assigned to an independent third party;~~

~~(2) Invite interested parties, including but not limited to representatives from investor-owned utilities, consumer-owned utilities, the commission, the attorney general's office, consumer advocacy groups, and the environmental community to participate in the work group convened in subsection (1) of this section; and~~

~~(3) Submit to the legislature no later than December 1, 2003, a report with suggested modifications, if any, to the disclosure requirements and responsibilities of the electricity information coordinator, as referred to in subsection (1) of this section.~~

19.29A.080

~~Electricity information coordinator—Selection—Regional entity serving as coordinator, requirements—Retail supplier's information.~~

~~(1) The department may adopt administrative rules under Chapter 34.05 to implement the provisions of this act. For the purpose of selecting the electricity information coordinator, the department shall form a work group of interested parties. The department shall invite interested parties, including, but not limited to, representatives from investor-owned utilities, consumer-owned utilities, the commission, the attorney general's office, consumer advocacy groups, and the environmental community to participate in the work group. In the event an appropriate regional entity is not selected by November 1, 2000, the department shall serve as the electricity information coordinator after notifying the committees of the senate and house of representatives with jurisdiction over energy matters.~~

~~(2) The department may receive any lawful gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the department in implementing this section, and may spend such gifts, grants, or endowments for the purposes of implementing this section.~~

(3) The department should regularly seek input from retail providers, consumer and environmental advocates, the Bonneville Power Administration, other state disclosure programs, and other stakeholders regarding potential improvements to the disclosure program established by this act.

(3) As a condition for an appropriate regional entity to be selected under this section to serve as the electricity information coordinator, it must agree to compile the following information:

(a) Actual generation by fuel mix in the Northwest power pool for the prior calendar year, expressed in megawatt hours. This data will be compiled as it becomes available.

(b) Adjustments to the actual generation for the prior calendar year that are known and provided to the electricity information coordinator by the end of January of the current calendar year to reflect known changes in declared resources for the current year and changes due to interconnection of new generating resources or decommissioning or sale of existing resources or contracts. These adjustments shall include supporting documentation.

(c) The amount of electricity from declared resources that retail suppliers will identify in their fuel mix disclosures during the current calendar year. Retail suppliers shall make this data available by the end of January each year.

(4) Retail suppliers shall make available upon request the following information to support the ownership or contractual rights to declared resources:

(a) Documentation of ownership of declared resources by retail suppliers; or

(b) Documentation of contractual rights by retail suppliers to a stated quantity of electricity from a specific generating facility.

If the documentation referred to in either (a) or (b) of this subsection is not available, the retail supplier may not identify the electricity source as a declared resource and instead must report the net system power mix for the quantity of electric generation from that resource.

(5) If the documentation referred to in either subsection (4)(a) or (b) of this section is not available, the retail supplier may not identify the electricity source as a declared resource and instead must report the net system power mix for the quantity of electric generation from that resource.

(6) As a condition for an appropriate regional entity to be selected under this section to serve as the electricity information coordinator, it must agree to:

(a) Coordinate with comparable entities or organizations in the western interconnection;

(b) On or before May 1st of each year, or as soon thereafter as practicable once the data in subsection (3)(a) of this section is available, calculate and make available the net system power mix as follows:

(i) The actual Northwest power pool generation for the prior calendar year;

(ii) Plus any adjustments to the Northwest power pool generation as made available to the electricity information coordinator by the end of January of the current calendar year pursuant to RCW 19.29A.060(6);

~~(iii) Less the quantity of electricity associated with declared resources claimed by retail suppliers for the current calendar year;~~

~~(iv) Plus other adjustments necessary to ensure that the same resource output is not declared more than once;~~

~~(c) To the extent the information is available, verify that the quantity of electricity associated with the declared resources does not exceed the available generation from those resources.~~

~~(7) Subsections (3) and (6) of this section apply to the department in the event the department assumes the functions of the electricity information coordinator.~~