Energy Independence Act Rulemaking, Dockets UE-190652

Summary of Comments

This document summarizes all CR-102 comments the Commission received regarding the Energy Independence Act (EIA) rulemaking, Docket UE-190652. Note: Three CR-102 forms, with accompanying proposed rules, were submitted in this docket. Some stakeholders submitted comments during multiple CR-102 comment periods. Where necessary, the Commission has indicated which CR-102 comment is being summarized using superscript numbers [1] , [2], and [3], with the number reflecting the version of the CR-102 commented on.

CR-102 PHASE

COMMENTS FROM THE NOTICES OF OPPORTUNITY TO FILE WRITTEN COMMENTS ISSUED ON MARCH 27, 2020, JUNE 5, 2020, AND SEPTEMBER 1, 2020		
Stakeholder	**General Comments Not Applicable to a Specific Section of the Rule**	**Staff Response**
Front and Centered	Hopes that the Commission will consider the adoption of all prior comments.	See responses provided in "UE-190652 EIA Rulemaking CR-101 Comment Summary Matrix.pdf" posted to the Commission website on March 30, 2020.
Pacific Power	Requested clarification on the proposed addition of the "carbon dioxide equivalent" (CO2e) and "greenhouse gas" (GHG) definitions in the revised rules. Asked how CO2e can impact emitting resource dispatch in its integrated resource plan (IRP) based on the Clean Energy Transformation Act (CETA).	After discussion with Staff, Pacific Power revised its comments to disregard its request for clarification on the inclusion of CO2e into utility planning processes. The company does not have any concerns with the inclusion of the definition of CO2e as proposed in the draft EIA rules. The company may file the planning portions of the CO2e comments in a subsequent CETA rulemaking.
	Expressed concern that RECs associated with new qualifying facilities (QFs), in operation after the effective date of the law, are not addressed in statute or the draft rules. In case the utility cannot procure RECs from new QFs, a penalty will be imposed. Requested that the Commission resolve this issue by requiring QFs to provide project RECs to the purchasing utility.	After discussion with Staff, the company agreed that this section is not a part of the EIA rulemaking. Pacific Power may resolve ownership of RECs associated with energy procured from QFs by revising its PURPA tariff(s).

Comments affecting WAC 480-109-060 Definitions		
(13) Energy Assistance		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends removing the definition of energy assistance from the rules.	The EIA rules have provisions governing low-income (LI) conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue all cost-effective conservation consistently with state law and Commission policy.
Front and Centered	Recommends: "'Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, reduction of shut-offs and monetary assistance, such as a grant program or discounts for lower income households, intended to lower a household's energy burden."	The definition provided in rule is the statutory definition. The Commission will provide additional guidance on eligible energy assistance programs in the future.
	By calling out the needs of those who are not connected to or are at risk of being disconnected from energy, we ensure those households receive the attention and assistance needed for the energy security necessary to protect families.	
The Energy Project	Definition appropriately mirrors the statutory definition in RCW 19.405.020(15).	No staff response needed.
(14) Energy Assistance Need		
Stakeholder	**Summary of Comments**	**Staff Response**
Public Counsel	Believes the definition should reflect WA State data and recommends further discussion to consider local data on energy burden. For WA households with income between zero to 150 percent of the Federal Poverty Limit (FPL), the average energy burden is eight percent. For WA households with income between zero to 200 percent of the FPL, the average energy burden is six percent. WA households also have varying levels of energy burden based on respective county of residence.	Six percent energy burden is an appropriate input for "energy assistance need" calculations pursuant to the statewide assessment required in RCW 19.405.120(3) and the utility assessments pursuant to RCW 19.405.120(4). Defining energy assistance as six percent or less would introduce

	Flexibility is needed in setting an appropriate energy burden target for a particular energy assistance program. If the average local energy burden is lower than six percent, the draft rules could have unintended consequences. Recommends: "'Energy assistance need' means the amount of assistance necessary to achieve an energy burden, from all energy sources, equal to six percent or less for utility customers."	variability into the statewide assessment pursuant to .120(3). The definition of "energy assistance need" does not limit the Commission's discretion to approve energy assistance programs that target levels of energy burden below six percent.
Avista	Recommends removing the definition from the rules.	The EIA rules have provisions governing LI conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue cost-effective conservation consistently with state law and Commission policy.
Front and Centered	Recommends: "'Energy assistance need" means the amount of assistance necessary to ~~achieve an energy burden equal~~ reduce a household's energy burden to well below six percent ~~for utility customers~~ and for those who do not have energy due to lack of access or income."	The statutory definition in RCW 19.405.020 states that the Commission will determine "a level of household energy burden" within the definition of "energy assistance need."
	The statutory directive is not to establish a flat level of burden, conveyed with the use of the phrase "equal to," but rather it is to reduce the energy burden as low as possible with six percent as a ceiling. This change brings greater clarity in addition to alignment with the intent of the statute.	
	Believes that selecting a specific percentage warrants a deeper discussion and input because energy burden is a portion of disposable income available to pay energy costs. If the income of a household is so low that they are not able to pay bills, they may not have a measurable energy burden, but clearly, they have an energy burden.	Energy burden is defined by statute and included as the sole metric within the statutory definition of "energy assistance need." Energy burden is an imperfect metric for assessing all needs. Additional metrics are outside the scope of this rulemaking. The definition of "energy assistance need" does not limit the Commission's discretion to approve programs.
	Recommends specific recognition of those who have had their energy shut off due to an inability to pay or do not have an energy bill because they lack access to the energy grid.	

NW Energy Coalition	Recommends: "'Energy assistance need' means the amount of assistance necessary to achieve an energy burden ~~equal to~~ not to exceed six percent for utility customers." (Reiterated in 2nd CR-102 comments.)	Six percent energy burden is an appropriate input for "energy assistance need" calculations pursuant to the statewide assessment required in RCW 19.405.120(3) and the utility assessments pursuant to RCW 19.405.120(4). Defining energy assistance as six percent or less would introduce variability into the statewide assessment pursuant to .120(3). The definition of "energy assistance need" does not limit the Commission's discretion to approve energy assistance programs that target levels of energy burden below six percent.
	While WA State's overall utility costs and average energy burden are lower compared to the rest of the United States, those lower costs are often offset by much higher housing and other living costs in several parts of the state. Utilities should be able to determine a threshold lower than six percent to determine bill affordability based on local economic conditions.	
The Energy Project	Supports the use in the proposed rule of a six percent energy burden. There is ample support in the record for using this metric.	No staff response needed.
	Notes that Staff has indicated that utility programs could target any level of energy burden subject to Commission approval, as the definition of "energy assistance need" does not interact with programmatic design.	Six percent energy burden is an appropriate input for "energy assistance need" calculations pursuant to the statewide assessment required in RCW 19.405.120(3) and the utility assessments pursuant to RCW 19.405.120(4). Defining energy assistance as six percent or less would introduce variability into the statewide assessment pursuant to .120(3). The definition of "energy assistance need" does not limit the Commission's discretion to approve energy assistance programs that target levels of energy burden below six percent.
	To clarify this intent in the rule language itself, believes that including language stating the level is "no greater than" six percent would remove doubt that the rule allows utilities to adopt more aggressive standards for their programs if they desire.	
(15) Energy Burden		
Stakeholder	**Summary of Comments**	**Staff Response**
Public Counsel	Recommends that the definition of "energy burden" should clarify that the term considers the customer's total energy expense. Recommends: "'Energy burden' means the share of annual household income used to pay annual home energy bills <u>from all energy sources</u>."	The definition included in the rules is from statute. The Commission will provide additional guidance in the adoption order to clarify which fuels are associated with "home energy bills." A plain-language

		interpretation of "home energy" includes commonly used energy sources, including electricity, natural gas, propane, and wood.
Avista	Recommends removing the definition from the rules.	The EIA rules have provisions governing LI conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue cost-effective conservation consistently with state law and Commission policy.
The Energy Project	Definition appropriately mirrors the statutory definition in RCW 19.405.020(17).	No staff response needed.
Pacific Power	"Energy burden" should be clearly defined to be specific to the utility services for which the utility bills its customers. Recommends: "(15) 'Energy burden' means the share of annual household income used to pay annual home energy bills <u>for the services delivered by the utility for which it bills its customers</u>."	The definition included in the rules is from statute. The Commission will provide additional guidance in the adoption order to clarify which fuels are associated with "home energy bills." A plain-language interpretation of "home energy" includes commonly used energy sources, including electricity, natural gas, propane, and wood.
(22) Low-Income		
Stakeholder	**Summary of Comments**	**Staff Response**
Public Counsel	Recommends the definition be more flexible and reflect the maximum limit contained in CETA, which is the higher or 80 percent area median income (AMI) or 200 percent of the federal poverty level (FPL), adjusted for household size.	The definition has been updated to include 80 percent AMI.
	Limiting the definition to 200 percent FPL may unnecessarily exclude households that fall between 200 percent of the FPL and 80 percent AMI. The rule should preserve the use of AMI if it becomes a better measure for LI programs.	

	A more flexible definition would allow utilities and their partners to design programs that best suit their service territories.	The Commission will provide guidance in the future on how the definition of "low-income" interacts with program eligibility.
Avista	Recommends removing the definition from the rules.	The EIA rules have provisions governing LI conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue cost-effective conservation consistently with state law and Commission policy.
Front and Centered	Recommends: "'Low-income' means household incomes that are <u>less than or equal to the higher of 80 percent of area median household income or</u> 200 percent of federal poverty level ~~or less~~, adjusted for household size."	The definition has been updated to include 80 percent AMI.
	The statute included both measures because the federal poverty level alone is not an adequate measure for WA State given the extreme range of cost of living across the state.	The statute provided the Commission and the WA Department of Commerce (Commerce) discretion in setting the definition for "low income" as long as the definition does not exceed 200 percent FPL or 80 AMI, adjusted for household size.
	Interprets this definition to mean that some assistance must be provided to households up to 80 percent of AMI, but not to mean that all programs must be offered to all customers.	RCW 19.405.120 is not fully represented in WAC 480-109. The Commission will provide guidance on how the definition of "low-income" interacts with program eligibility in future guidance.
	The statutory direction to prioritize households with the greatest energy burden and to equitably distribute benefits requires a geographically variable definition of "low income."	RCW 19.405.120(2), which is mirrored in WAC 480-109-100(10)(b), requires utilities to prioritize LI households with a higher energy burden. This prioritization is based on the definition of "low-income" set by the Commission and Commerce for investor-

		owned and consumer-owned utilities, respectively. The statute does not require a geographically variable definition of "low-income." The statute only requires that the definition does not exceed 200 percent FPL or 80 AMI, adjusted for household size.
PSE	Recommends: "'Low-income' means household incomes that do not exceed two hundred percent of federal poverty level or eighty percent of area median household income, adjusted for household size."	The definition has been updated to include 80 percent AMI.
	The company's LI weatherization programs currently use 200% FPL or 60% state median income (SMI), whichever is greater. Eligibility criterion is based on how Commerce currently administers the State Weatherization Assistance Program. Concerned that the current definition would result in agencies losing the ability to leverage utility funds for those applicants that qualify at 60% SMI, which is higher than 200% FPL for most households served by the program.	RCW 19.405.120 is not fully represented in WAC 480-109. The Commission will provide guidance on how the definition of "low-income" interacts with program eligibility in future guidance.
NW Energy Coalition	Recommends: "'Low-income' means household incomes that ~~are~~ may not exceed the higher of eighty percent of area median household income or two hundred percent of federal poverty level or less, adjusted for house-hold size.	The definition has been updated to include 80 percent AMI.
	Appreciates efforts to maintain administrative simplicity but believes CETA is explicit in its intentions to improve service to LI and highly impacted communities throughout the state. Notes that achieving this goal will require less simplicity and more fine-tuned efforts to understand influencing factors to poverty and vulnerability in utility service territories.	
	The statutory language choice was intentional, to allow utilities to choose the standard that adjusts for circumstances in local jurisdictions.	The statute provided the Commission and Commerce discretion in setting the definition for "low income" as long as the definition does not exceed 200 percent FPL or 80 AMI, adjusted for household size.
The Energy Project	Recommends use of 200 percent of FPL in the proposed rule's definition of LI in conjunction with 80 percent of AMI, with the greater of the two establishing the income eligibility cap.	The definition has been updated to include 80 percent AMI.
	Notes that the FPL metric has long been viewed as "one of the most challenged indicators" and an outdated and unreliable way to measure actual poverty levels. The use of AMI allows recognition of income	

	disparities and high cost of living areas. Notes that using a metric lower than 80 percent AMI could nullify the benefit of including the AMI metric.	
	Does not have a significant concern about the administrative burden of using both metrics. Overlapping eligibility criteria are already in use for LI weatherization.	
	Notes that CETA's definition of LI allows the Commission and Commerce to establish a combined metric for both FPL and AMI as part of the definition. Believes the rule language is most reasonably interpreted as requiring the agencies to use both metrics.	The statute restricts the content of the definition(s) created by Commerce or the Commission. The statute does not require a combined metric.
	Believes that giving utilities more flexibility to tailor programs to specific LI households will improve services. Gives example of offering arrearage management programs to households at the higher end of the eligibility spectrum, which can be as useful as offering percentage-of-income payment plans for very LI households.	RCW 19.405.120 is not fully represented in WAC 480-109. The Commission will provide guidance on how the definition of "low-income" interact with program eligibility in future guidance.
All Other Definitions		
Stakeholder	**Summary of Comments**	**Staff Response**
NW Energy Coalition	In (12)(f)(ii) incremental energy from qualified biomass, recommends including the missing part from current rule WAC 194-37-135(3)(b): "(ii)Beginning January 1, 2007, the facility must demonstrate its baseline level of <u>average net</u> generation over a three-year period, <u>excluding any periods in which operation of the qualified biomass facility was unrepresentative of normal operating conditions</u>, prior to the capital investment in order to calculate the amount of incremental electricity produced;" (Reiterated in 2nd CR-102 comments.)	Staff declines to recommend this definition change. Follow up with the NW Energy Coalition confirmed this revision was requested to harmonize the Commission's EIA rules with those of Commerce. While Staff generally supports such rule alignment, follow-on discussions with Commerce staff confirmed the circumstances causing the Department's corresponding biomass definition to deviate are largely inapplicable to the WA electric investor owned utility landscape.
	Proposes new draft language for (12)(g) federal incremental eligible hydropower (IEH) omitted part of the description in the statute RCW 19.405.040(1)(d) from which it is derived: "(g) That portion of incremental electricity produced…where the additional generation does not result in new water diversions, ~~or~~ impoundments, <u>bypass reaches or expansion of existing reservoirs</u>…" (Reiterated in 2nd CR-102 comments.)	Staff declines to recommend this definition change. Proposed new language refers to nonemitting electric generation per RCW 19.405.040(1)(d), not eligible renewable resources. The (12)(g) definition for federal IEH currently in draft rule is an augmentation to the definition of eligible

		renewable resources required by RCW 19.285.030(12)(g).
	In (17), GHG content calculation, recommends adding additional underlined text: "(17) "Greenhouse gas content calculation" means a calculation expressed in CO2e made by the department of ecology for the purposes of determining the complete lifecycle emissions attributable to a fuel, including emissions resulting from the extraction, production transport, and ~~from~~ the complete combustion or oxidation of fossil fuels and the GHG emissions in electricity for use in calculating the GHG emissions content in electricity." (Reiterated in 2nd CR-102 comments.)	The definition in the proposed rules is directly from CETA. The Commission is still evaluating if and where to require additional GHG information, considering the dynamics of all CETA rulemakings.
Comments affecting WAC 480-109-100 Energy Efficiency Resource Standard		
Subsection (1) Process for pursuing all conservation		
Stakeholder	**Summary of Comments**	**Staff Response**
The Energy Project	Supports adoption of the proposed rule language for portfolio development.	No staff response needed.
	Understands the proposed rule to not require inclusion of energy assistance which do not involve conservation, such as discount-based bill assistance. The first clause of the new sentence is clear that it is "conservation programs and mechanisms" that must be included.	No staff response needed.
Pacific Power	Recommends adding: The portfolio must include all conservation programs and mechanisms identified pursuant to RCW 19.405.120, which pertain to energy assistance and progress toward meeting energy assistance need, including the low-income conservation programs and mechanisms in subsection 10(b) of this section.	Language already included in proposed rule in 480-109-100(1)(a)(ii).
Subsection (10) Low-income conservation		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Maintains the changes that incorporate LI energy assistance goals from CETA into the EIA go beyond the Commission's authority which is bound by a strict "cost-effective" test and based on "standard practice."	The Commission's authority in RCW 19.285.040(1)(e) to determine if a conservation program is cost-effective is based on "the Commission's policies and practice." The changes to the LI conservation

	Maintains the term "non-energy benefits" is not defined in WAC 480-109-060, however, the EIA requires utilities to use Northwest Power and Conservation Council methodology.	standard evaluate cost-effectiveness using the Commission's policies and practice, which have historically given special consideration to LI conservation. While RCW 19.285.040(1)(a) requires utilities to use methodologies consistent with the NWPCC's most recent plan to set targets, the EIA gives the Commission the power to determine whether conservation is cost-effective, and the amended rules provide the manner it will do so in accordance with its policies and practices.
PSE	To balance the requirement in CETA with the practical realities of how weatherization programs are administered through agencies today, suggests the following revisions to subsection (10)(b): "(b) The utility's biennial conservation plan must include low-income conservation programs and mechanisms identified pursuant to RCW 19.405.120 <u>with advice and review provided by its Advisory Group</u>. To the extent practicable, a utility must <u>include a description of how the plan prioritizes energy assistance to low-income households with the highest energy burden, in conjunction with low-income agencies, and future actions under consideration to improve this prioritization</u>. ~~prioritize energy assistance to low-income households with a higher energy burden.~~ (Reiterated in 2nd CR-102 comments.)	The second sentence in subsection (10)(b) is directly from RCW 19.405.120(2). The Commission expects to provide guidance in the future on what is "practicable". The utility can and should seek advice and review from its advisory group, including a description of how the plan prioritizes energy assistance to households with a higher energy burden, coordinate with LI agencies to accomplish the statutory requirement, and adaptively manage the program to improve this prioritization when necessary.
	Believes it would be administratively burdensome for utilities to become directly involved in the intake process or for the LI Weatherization program to become involved in applications, which is what would be required to prioritize LI customers with the highest energy burden.	
	Believes within weatherization programs that are currently implemented today, energy burden is best taken into consideration at a local level where program implementation and the intake process occurs.	
	Believes the Weatherization Manual already requires agencies to prioritize customers with high energy burden, among other criteria for prioritization.	

	Has concerns with section (a) and has worked with TEP and NW Energy Coalition to align proposed changes to the third sentence of this subsection. In addition, recommends the following additional language: "For purposes of this subsection, "fully fund" may include the agency leveraging other funding sources, in combination with utility funds, to fund LI conservation projects."	This change has been incorporated into the proposed rules, along with the modification suggested by NW Energy Coalition.
	Company proposes that it work with its Advisory Group and Commission Staff to develop a clear set of guidelines accounting for nonenergy impacts in subsection (c). Suggests modifying language "in consultation with its Advisory Group, develop metrics to," "quantifiable," and "to the extent practicable." (Reiterated in 2nd CR-102 comments.)	Utilities should consult with their advisory groups on these issues, as outlined in existing rules. The commission may issue additional guidance at a later date. The additional language is unnecessary.
NW Energy Coalition[1]	Believes the changes to this section overall are appropriate and needed for the adequate implementation of CETA. Particularly supports the changes in subsections (b) and (c), which effectively capture needed elements of CETA to account for LI conservation in an appropriate manner, acknowledging that these costs are not exclusively conservation costs, but also energy assistance costs, and therefore must be excluded from portfolio level cost-effectiveness calculations.	No staff response needed.
	Recommends adding the word "either" for clarity and removing "when alternate funding sources are unavailable" and reverting back to "may" from "must" in the sentence to retain flexibility. Language recommendation: (a) A utility must fully fund LI conservation measures that are determined by the implementing agency to be cost-effective consistent with <u>either</u> the Weatherization Manual maintained by the department or when it is cost-effective to do so using utility-specific avoided costs. Measures identified through the priority list in the Weatherization Manual are considered cost-effective. In addition, ~~when alternate funding sources are unavailable~~, a utility <u>may</u> ~~(must)~~ fully fund repairs, administrative costs, and health and safety improvements associated with cost-effective LI conservation measures.	This change has been incorporated into the proposed rules.
NW Energy Coalition[2]	Concerned that the new language "For purposes of this subsection, "fully fund" may include …. conservation projects" is ambiguous and open for	This change has been incorporated into the proposed rules.

	interpretation. Suggests a clarifying edit that replace "may include" with "does not prohibit." Requests a clarifying statement be included in the adoption order if modification of the language is unwelcome at this stage.	
The Energy Project[1]	Supports the proposed amendment to subsection 10(b). As CETA places new emphasis on LI programs, it is appropriate to ensure that EIA conservation plans incorporate these CETA-related efforts.	No staff response needed.
	Supports most language in section (10)(a) with the exception of recommending a return to "may" fund repairs, administrative costs, and health and safety improvements after consideration of alternative language.	This change has been incorporated into the proposed rules.
	Supports the requirement to account for costs and benefits, including non-energy impacts.	No staff response needed.
The Energy Project[2]	Concerned that the new language "For purposes of this subsection, "fully fund" may include …. conservation projects" could be interpreted to allow a utility to decline funding for a project by asserting how an agency could or should be utilizing funds. Suggests a clarifying edit that replace "may include" with "does not prohibit." Requests a statement be included in the adoption order, if modification of the language is unwelcome at this stage, clarifying that the intent of the language is to allow the agency to leverage other funds, in combination with utility funds, to fund low-income conservation projects.	This change has been incorporated into the proposed rules.
Pacific Power	Believes the portfolio of conservation resources to meet energy assistance need must be based on information known to the electric utility through its own billing systems. Other types of energy costs from gas, propane, or wood are not known by the electric utility. Energy assistance must provide an opportunity to mitigate the impact through changes to electricity consuming equipment at the customer location.	LI conservation has traditionally been provided utilizing income data not available to the utility. The Commission will provide additional guidance in the adoption order to clarify which fuels are associated with "home energy bills." A plain-language interpretation of "home energy" includes commonly used energy sources, including electricity, natural gas, propane, and wood. The definition of energy burden used to determine energy

		assistance need included in the rules is from statute.
	Proposes that energy assistance costs be compared with a historical average of LI weatherization investments in prior biennial periods and that the difference, if any, be treated as an incremental cost of CETA compliance.	Incremental cost of CETA compliance will be addressed in docket UE-191023.
Comments affecting WAC 480-109-200 Renewable Portfolio Standard		
Subsection (2) Credit eligibility		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Believes draft rule requirement, "renewable energy credits were acquired by January 1st of the target year," appears to conflict with the timing and use of RECs for meeting RPS requirements. Provides the following language revisions: (2) Credit eligibility. A qualifying utility may use renewable energy credits to meet the provisions of this section, provided the renewable energy credits meet the following requirements: (a) Renewable energy credits were acquired by ~~January 1st~~ December 31 of the target year or the following year pursuant to subsection (b) of this subsection;	The rules have been modified to delete the reference to January 1. This deletion does not alter the requirement that electric utilities have adequate eligible renewable resources or equivalent RECs under contract to meet their annual targets by January 1 of the target year, as required by RCW 19.285.040(2). Rather, the deletion clarifies existing practice that allows utilities to buy RECs after January 1 if they find they have additional need, or if cheaper options become available to use in place of those acquired by January 1. This edit eliminates confusion and provides more clarity for all stakeholders.
Pacific Power and Light	Maintains the revised WAC section adds that the annual report must include the number of renewable resources needed to meet the annual target by January 1st of the target year. This concept is missing in the statute. In other words, the administrative rules require a specific plan for how the utility will comply, whereas the statute appears to require only a compliance report showing the utility's "progress in the preceding year." When dealing with unbundled RECs, believes the term "acquired" is not defined in EIA statute, so there is no reason for the Commission to change its practical interpretation of this term, which has been interpreted as "acquired" in a contractual sense. Such RECs should be eligible for use in	The rules have been modified to delete the reference to January 1. This deletion does not alter the requirement that electric utilities have adequate eligible renewable resources or equivalent RECs under contract to meet their annual targets by January 1 of the target year, as required by RCW 19.285.040(2). Rather, the deletion clarifies existing practice that allows utilities to buy RECs after January 1 if they find they have additional need, or if cheaper options become available to use in place of those acquired by January

	a given target year, if they are expected to be generated at any point in the target year or the year following the target year.	1. This edit eliminates confusion and provides more clarity for all stakeholders.
Avista[3]	Supports the deletion of proposed WAC 480-109-200(2)(a).	No staff response needed.
Public Counsel[3]	Supports the deletion of proposed WAC 480-109-200(2)(a). Doing so would avoid potential confusion between "acquisition" and "use" in the current language of WAC 480-109-200(2)(a) and (b) and clarify utilities' ability to minimize unnecessary compliance costs with the EIA REC purchase requirements that might otherwise be passed on to customers.	No staff response needed.
Subsection (10) Use of nonemitting electric generation		
Stakeholder	**Summary of Comments**	**Staff Response**
Climate Solutions	Agrees the EIA has an annual renewable energy compliance obligation. However, the language from CETA amending the EIA relieves the utility of the annual renewable compliance obligation if a utility has met 100% of its "average annual retail electric load" using renewable energy, RECs, or nonemitting generation. A conflict exists because the CETA compliance obligation is based on four-year average loads, but the EIA is based on the utility's annual load over the previous two years. The "average annual retail electric load" is never defined in statute nor rules. Hence, there should be some clarification in rule so that a utility is not relieved of their annual compliance obligation until the end of the given four-year CETA compliance period.	Per RCW 19.405.110, the four-year compliance obligation in CETA does not replace or modify the annual obligation in the EIA. The Commission will continue to verify EIA compliance on an annual basis as described in WAC 480-109-210(6). The requested clarification will be considered in the CETA rulemaking, UE-191023.
WA Department of Commerce	Title of sub-section -200(10), which currently reads: "Use of nonemitting electric generation," should be changed. Nonemitting generation will likely account for a small amount of the combination of renewable resources, RECs, and nonemitting electric generation utilities will use to elect this compliance option come 2030. Instead utilities electing this option would primarily rely on legacy hydropower, which is categorized as a renewable resource per RCW 19.285.030(21) and not nonemitting generation per WAC 480-109-060(23)(b) of the current version of the draft EIA rules.	Staff has incorporated into the proposed rules a revised sub-section title reading, "Compliance when renewable and nonemitting electric generation used to meet 100 percent of annual retail electric load." Staff acknowledge utilities electing this compliance option will likely not rely on nonemitting electric generation.
NW Energy Coalition	To comply with the Laws of 2019, Chapter 288 §4 with regard to renewable resources and 4(1)(f) non-emitting resources, believes the rules should be modified to ensure that it is clear that utilities utilizing this compliance option must comply with the requirement to surrender non-power attribute documentation for any non-emitting resources used to meet the law. Recommend adding additional underlined text:	Staff declines to recommend this rule change given the request is outside the scope of this EIA rulemaking. RCW 19.405.040(1)(f) addresses non-power attributes of the electricity generated by the nonemitting electric generation resource. A more

	"(b) Non-emitting electric generation, as defined in WAC 480-109-060(23) and consistent with RCW 19.405.040(1)(f)."	appropriate venue for resolution is the joint Carbon and Electricity Markets Rulemaking the Commission will undertake with Commerce (*see U-190485 Energy Legislation Implementation Plan Phase II*). Pursuant to RCW 19.405.130(3)(b), that rulemaking will "address the prohibition on double counting of nonpower attributes under RCW 19.405.040(1) that could occur under other programs" like the EIA RPS.
Comments affecting WAC 480-109-210 Renewable Portfolio Standard Reporting		
Subsection (2) Annual report contents		
Stakeholder	**Summary of Comments**	**Staff Response**
Pacific Power and Light	Believes the incremental costs of eligible renewable resources should be included in the target year in which those resources are used for compliance. Specifically, the incremental costs should reflect the operating attributes of relevant resources, even if the given resources are not operating as described by January 1st of the target year but at some point later in the calendar year.	Staff declines to recommend any further action at this time. Staff maintains "by January 1st of the target year," a rule clause that precedes this current EIA revision cycle, is mandated by statute based on the following passages within RCW 19.285.040 and .070. Within the target section of RCW 19.285.040(2)(a) – Utilities must account for "at least [X] percent of load by January 1 [of the target year]." Within the reporting requirements specified in RCW 19.285.070(1) – "report progress…in meeting the target established in RCW 19.285.040, include[s]… the incremental cost of eligible renewable resources and the cost of renewable energy credits." Based on stakeholder collaboration concurrently taken outside of this EIA rulemaking, Staff acknowledge the existing rule language does not specifically address incremental cost considerations associated

		with upgrades or renovations to existing eligible renewable resources.
Subsection (6) Final compliance report		
Stakeholder	**Summary of Comments**	**Staff Response**
Pacific Power and Light	Believes the EIA RPS has a two-step compliance process, with the annual report being the first step and actual compliance being determined two years after the compliance year. It would be logical for the June 1 report to be in the form of an estimate, given non-IEH RECs can be used on a year-ahead, year-behind, or year-of-creation basis.	Staff maintains the current rule language indicates the annual renewable portfolio standard report is a plan or an "estimate." The final compliance report described in subsection (6) confirms how the utility actually met the annual target. No revision to the rule language is needed.
Comments affecting WAC 480-109-300 Greenhouse Gas Content Calculation and Energy and Emission Intensity Metrics		
Subsection (1) "A utility must report its…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the GHG content calculation language. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.
Subsection (2) "Each utility must perform its…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the entire subsection. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.
NW Energy Coalition	Recommends adding "…consistent with RCW 19.405.020(22)" at end of subsection.	This change has been incorporated into the proposed rules.
Subsection (3) "In addition to the greenhouse gas content calculation…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the GHG content calculation language. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.

Subsection (4) Unknown generation sources		
Stakeholder	**Summary of Comments**	**Staff Response**
WA Department of Commerce	Recommends changing the title of the subsection to "Unspecified electricity" to more accurately reflect the content of the subsection.	This change has been incorporated into the proposed rules.
Subsection (5) "The greenhouse gas content calculation and…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the GHG content calculation language. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.

COMMENTS FROM THE NOTICES OF OPPORTUNITY TO FILE WRITTEN COMMENTS ISSUED ON MARCH 27, 2020, JUNE 5, 2020, AND SEPTEMBER 1, 2020		
Stakeholder	**General Comments Not Applicable to a Specific Section of the Rule**	**Staff Response**
Front and Centered	Hopes that the Commission will consider the adoption of all prior comments.	See responses provided in "UE-190652 EIA Rulemaking CR-101 Comment Summary Matrix.pdf" posted to the Commission website on March 30, 2020.
Pacific Power	Requested clarification on the proposed addition of the "carbon dioxide equivalent" (CO2e) and "greenhouse gas" (GHG) definitions in the revised rules. Asked how CO2e can impact emitting resource dispatch in its integrated resource plan (IRP) based on the Clean Energy Transformation Act (CETA).	After discussion with Staff, Pacific Power revised its comments to disregard its request for clarification on the inclusion of CO2e into utility planning processes. The company does not have any concerns with the inclusion of the definition of CO2e as proposed in the draft EIA rules. The company may file the planning portions of the CO2e comments in a subsequent CETA rulemaking.
	Expressed concern that RECs associated with new qualifying facilities (QFs), in operation after the effective date of the law, are not addressed in statute or the draft rules. In case the utility cannot procure RECs from new QFs, a penalty will be imposed. Requested that the Commission resolve this issue by requiring QFs to provide project RECs to the purchasing utility.	After discussion with Staff, the company agreed that this section is not a part of the EIA rulemaking. Pacific Power may resolve ownership of RECs associated with energy procured from QFs by revising its PURPA tariff(s).

Comments affecting WAC 480-109-060 Definitions		
(13) Energy Assistance		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends removing the definition of energy assistance from the rules.	The EIA rules have provisions governing low-income (LI) conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue all cost-effective conservation consistently with state law and Commission policy.
Front and Centered	Recommends: "'Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, reduction of shut-offs and monetary assistance, such as a grant program or discounts for lower income households, intended to lower a household's energy burden."	The definition provided in rule is the statutory definition. The Commission will provide additional guidance on eligible energy assistance programs in the future.
	By calling out the needs of those who are not connected to or are at risk of being disconnected from energy, we ensure those households receive the attention and assistance needed for the energy security necessary to protect families.	
The Energy Project	Definition appropriately mirrors the statutory definition in RCW 19.405.020(15).	No staff response needed.
(14) Energy Assistance Need		
Stakeholder	**Summary of Comments**	**Staff Response**
Public Counsel	Believes the definition should reflect WA State data and recommends further discussion to consider local data on energy burden. For WA households with income between zero to 150 percent of the Federal Poverty Limit (FPL), the average energy burden is eight percent. For WA households with income between zero to 200 percent of the FPL, the average energy burden is six percent. WA households also have varying levels of energy burden based on respective county of residence.	Six percent energy burden is an appropriate input for "energy assistance need" calculations pursuant to the statewide assessment required in RCW 19.405.120(3) and the utility assessments pursuant to RCW 19.405.120(4). Defining energy assistance as six percent or less would introduce

	Flexibility is needed in setting an appropriate energy burden target for a particular energy assistance program. If the average local energy burden is lower than six percent, the draft rules could have unintended consequences. Recommends: "'Energy assistance need' means the amount of assistance necessary to achieve an energy burden, from all energy sources, equal to six percent or less for utility customers."	variability into the statewide assessment pursuant to .120(3). The definition of "energy assistance need" does not limit the Commission's discretion to approve energy assistance programs that target levels of energy burden below six percent.
Avista	Recommends removing the definition from the rules.	The EIA rules have provisions governing LI conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue cost-effective conservation consistently with state law and Commission policy.
Front and Centered	Recommends: "'Energy assistance need" means the amount of assistance necessary to ~~achieve an energy burden equal~~ reduce a household's energy burden to well below six percent ~~for utility customers~~ and for those who do not have energy due to lack of access or income."	The statutory definition in RCW 19.405.020 states that the Commission will determine "a level of household energy burden" within the definition of "energy assistance need."
	The statutory directive is not to establish a flat level of burden, conveyed with the use of the phrase "equal to," but rather it is to reduce the energy burden as low as possible with six percent as a ceiling. This change brings greater clarity in addition to alignment with the intent of the statute.	
	Believes that selecting a specific percentage warrants a deeper discussion and input because energy burden is a portion of disposable income available to pay energy costs. If the income of a household is so low that they are not able to pay bills, they may not have a measurable energy burden, but clearly, they have an energy burden.	Energy burden is defined by statute and included as the sole metric within the statutory definition of "energy assistance need." Energy burden is an imperfect metric for assessing all needs. Additional metrics are outside the scope of this rulemaking. The definition of "energy assistance need" does not limit the Commission's discretion to approve programs.
	Recommends specific recognition of those who have had their energy shut off due to an inability to pay or do not have an energy bill because they lack access to the energy grid.	

NW Energy Coalition	Recommends: "'Energy assistance need' means the amount of assistance necessary to achieve an energy burden ~~equal to~~ not to exceed six percent for utility customers." (Reiterated in 2nd CR-102 comments.)	Six percent energy burden is an appropriate input for "energy assistance need" calculations pursuant to the statewide assessment required in RCW 19.405.120(3) and the utility assessments pursuant to RCW 19.405.120(4). Defining energy assistance as six percent or less would introduce variability into the statewide assessment pursuant to .120(3). The definition of "energy assistance need" does not limit the Commission's discretion to approve energy assistance programs that target levels of energy burden below six percent.
	While WA State's overall utility costs and average energy burden are lower compared to the rest of the United States, those lower costs are often offset by much higher housing and other living costs in several parts of the state. Utilities should be able to determine a threshold lower than six percent to determine bill affordability based on local economic conditions.	
The Energy Project	Supports the use in the proposed rule of a six percent energy burden. There is ample support in the record for using this metric.	No staff response needed.
	Notes that Staff has indicated that utility programs could target any level of energy burden subject to Commission approval, as the definition of "energy assistance need" does not interact with programmatic design.	Six percent energy burden is an appropriate input for "energy assistance need" calculations pursuant to the statewide assessment required in RCW 19.405.120(3) and the utility assessments pursuant to RCW 19.405.120(4). Defining energy assistance as six percent or less would introduce variability into the statewide assessment pursuant to .120(3). The definition of "energy assistance need" does not limit the Commission's discretion to approve energy assistance programs that target levels of energy burden below six percent.
	To clarify this intent in the rule language itself, believes that including language stating the level is "no greater than" six percent would remove doubt that the rule allows utilities to adopt more aggressive standards for their programs if they desire.	
(15) Energy Burden		
Stakeholder	**Summary of Comments**	**Staff Response**
Public Counsel	Recommends that the definition of "energy burden" should clarify that the term considers the customer's total energy expense. Recommends: "'Energy burden' means the share of annual household income used to pay annual home energy bills <u>from all energy sources</u>."	The definition included in the rules is from statute. The Commission will provide additional guidance in the adoption order to clarify which fuels are associated with "home energy bills." A plain-language

		interpretation of "home energy" includes commonly used energy sources, including electricity, natural gas, propane, and wood.
Avista	Recommends removing the definition from the rules.	The EIA rules have provisions governing LI conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue cost-effective conservation consistently with state law and Commission policy.
The Energy Project	Definition appropriately mirrors the statutory definition in RCW 19.405.020(17).	No staff response needed.
Pacific Power	"Energy burden" should be clearly defined to be specific to the utility services for which the utility bills its customers. Recommends: "(15) 'Energy burden' means the share of annual household income used to pay annual home energy bills <u>for the services delivered by the utility for which it bills its customers</u>."	The definition included in the rules is from statute. The Commission will provide additional guidance in the adoption order to clarify which fuels are associated with "home energy bills." A plain-language interpretation of "home energy" includes commonly used energy sources, including electricity, natural gas, propane, and wood.
(22) Low-Income		
Stakeholder	**Summary of Comments**	**Staff Response**
Public Counsel	Recommends the definition be more flexible and reflect the maximum limit contained in CETA, which is the higher or 80 percent area median income (AMI) or 200 percent of the federal poverty level (FPL), adjusted for household size.	The definition has been updated to include 80 percent AMI.
	Limiting the definition to 200 percent FPL may unnecessarily exclude households that fall between 200 percent of the FPL and 80 percent AMI. The rule should preserve the use of AMI if it becomes a better measure for LI programs.	

	A more flexible definition would allow utilities and their partners to design programs that best suit their service territories.	The Commission will provide guidance in the future on how the definition of "low-income" interacts with program eligibility.
Avista	Recommends removing the definition from the rules.	The EIA rules have provisions governing LI conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue cost-effective conservation consistently with state law and Commission policy.
Front and Centered	Recommends: "'Low-income' means household incomes that are less than or equal to the higher of 80 percent of area median household income or 200 percent of federal poverty level ~~or less~~, adjusted for household size."	The definition has been updated to include 80 percent AMI.
	The statute included both measures because the federal poverty level alone is not an adequate measure for WA State given the extreme range of cost of living across the state.	The statute provided the Commission and the WA Department of Commerce (Commerce) discretion in setting the definition for "low income" as long as the definition does not exceed 200 percent FPL or 80 AMI, adjusted for household size.
	Interprets this definition to mean that some assistance must be provided to households up to 80 percent of AMI, but not to mean that all programs must be offered to all customers.	RCW 19.405.120 is not fully represented in WAC 480-109. The Commission will provide guidance on how the definition of "low-income" interacts with program eligibility in future guidance.
	The statutory direction to prioritize households with the greatest energy burden and to equitably distribute benefits requires a geographically variable definition of "low income."	RCW 19.405.120(2), which is mirrored in WAC 480-109-100(10)(b), requires utilities to prioritize LI households with a higher energy burden. This prioritization is based on the definition of "low-income" set by the Commission and Commerce for investor-

		owned and consumer-owned utilities, respectively. The statute does not require a geographically variable definition of "low-income." The statute only requires that the definition does not exceed 200 percent FPL or 80 AMI, adjusted for household size.
PSE	Recommends: "'Low-income' means household incomes that do not exceed two hundred percent of federal poverty level or eighty percent of area median household income, adjusted for household size."	The definition has been updated to include 80 percent AMI.
	The company's LI weatherization programs currently use 200% FPL or 60% state median income (SMI), whichever is greater. Eligibility criterion is based on how Commerce currently administers the State Weatherization Assistance Program. Concerned that the current definition would result in agencies losing the ability to leverage utility funds for those applicants that qualify at 60% SMI, which is higher than 200% FPL for most households served by the program.	RCW 19.405.120 is not fully represented in WAC 480-109. The Commission will provide guidance on how the definition of "low-income" interacts with program eligibility in future guidance.
NW Energy Coalition	Recommends: "'Low-income' means household incomes that ~~are~~ may not exceed the higher of eighty percent of area median household income or two hundred percent of federal poverty level or less, adjusted for house-hold size.	The definition has been updated to include 80 percent AMI.
	Appreciates efforts to maintain administrative simplicity but believes CETA is explicit in its intentions to improve service to LI and highly impacted communities throughout the state. Notes that achieving this goal will require less simplicity and more fine-tuned efforts to understand influencing factors to poverty and vulnerability in utility service territories.	
	The statutory language choice was intentional, to allow utilities to choose the standard that adjusts for circumstances in local jurisdictions.	The statute provided the Commission and Commerce discretion in setting the definition for "low income" as long as the definition does not exceed 200 percent FPL or 80 AMI, adjusted for household size.
The Energy Project	Recommends use of 200 percent of FPL in the proposed rule's definition of LI in conjunction with 80 percent of AMI, with the greater of the two establishing the income eligibility cap.	The definition has been updated to include 80 percent AMI.
	Notes that the FPL metric has long been viewed as "one of the most challenged indicators" and an outdated and unreliable way to measure actual poverty levels. The use of AMI allows recognition of income	

	disparities and high cost of living areas. Notes that using a metric lower than 80 percent AMI could nullify the benefit of including the AMI metric.	
	Does not have a significant concern about the administrative burden of using both metrics. Overlapping eligibility criteria are already in use for LI weatherization.	
	Notes that CETA's definition of LI allows the Commission and Commerce to establish a combined metric for both FPL and AMI as part of the definition. Believes the rule language is most reasonably interpreted as requiring the agencies to use both metrics.	The statute restricts the content of the definition(s) created by Commerce or the Commission. The statute does not require a combined metric.
	Believes that giving utilities more flexibility to tailor programs to specific LI households will improve services. Gives example of offering arrearage management programs to households at the higher end of the eligibility spectrum, which can be as useful as offering percentage-of-income payment plans for very LI households.	RCW 19.405.120 is not fully represented in WAC 480-109. The Commission will provide guidance on how the definition of "low-income" interact with program eligibility in future guidance.
All Other Definitions		
Stakeholder	**Summary of Comments**	**Staff Response**
NW Energy Coalition	In (12)(f)(ii) incremental energy from qualified biomass, recommends including the missing part from current rule WAC 194-37-135(3)(b): "(ii)Beginning January 1, 2007, the facility must demonstrate its baseline level of <u>average net</u> generation over a three-year period, <u>excluding any periods in which operation of the qualified biomass facility was unrepresentative of normal operating conditions</u>, prior to the capital investment in order to calculate the amount of incremental electricity produced;" (Reiterated in 2nd CR-102 comments.)	Staff declines to recommend this definition change. Follow up with the NW Energy Coalition confirmed this revision was requested to harmonize the Commission's EIA rules with those of Commerce. While Staff generally supports such rule alignment, follow-on discussions with Commerce staff confirmed the circumstances causing the Department's corresponding biomass definition to deviate are largely inapplicable to the WA electric investor owned utility landscape.
	Proposes new draft language for (12)(g) federal incremental eligible hydropower (IEH) omitted part of the description in the statute RCW 19.405.040(1)(d) from which it is derived: "(g) That portion of incremental electricity produced…where the additional generation does not result in new water diversions, ~~or~~ impoundments, <u>bypass reaches or expansion of existing reservoirs</u>…" (Reiterated in 2nd CR-102 comments.)	Staff declines to recommend this definition change. Proposed new language refers to nonemitting electric generation per RCW 19.405.040(1)(d), not eligible renewable resources. The (12)(g) definition for federal IEH currently in draft rule is an augmentation to the definition of eligible

		renewable resources required by RCW 19.285.030(12)(g).
	In (17), GHG content calculation, recommends adding additional underlined text: "(17) "Greenhouse gas content calculation" means a calculation expressed in CO2e made by the department of ecology for the purposes of determining the complete lifecycle emissions attributable to a fuel, including emissions resulting from the extraction, production transport, and ~~from~~ the complete combustion or oxidation of fossil fuels and the GHG emissions in electricity for use in calculating the GHG emissions content in electricity." (Reiterated in 2nd CR-102 comments.)	The definition in the proposed rules is directly from CETA. The Commission is still evaluating if and where to require additional GHG information, considering the dynamics of all CETA rulemakings.
Comments affecting WAC 480-109-100 Energy Efficiency Resource Standard		
Subsection (1) Process for pursuing all conservation		
Stakeholder	**Summary of Comments**	**Staff Response**
The Energy Project	Supports adoption of the proposed rule language for portfolio development.	No staff response needed.
	Understands the proposed rule to not require inclusion of energy assistance which do not involve conservation, such as discount-based bill assistance. The first clause of the new sentence is clear that it is "conservation programs and mechanisms" that must be included.	No staff response needed.
Pacific Power	Recommends adding: The portfolio must include all conservation programs and mechanisms identified pursuant to RCW 19.405.120, which pertain to energy assistance and progress toward meeting energy assistance need, including the low-income conservation programs and mechanisms in subsection 10(b) of this section.	Language already included in proposed rule in 480-109-100(1)(a)(ii).
Subsection (10) Low-income conservation		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Maintains the changes that incorporate LI energy assistance goals from CETA into the EIA go beyond the Commission's authority which is bound by a strict "cost-effective" test and based on "standard practice."	The Commission's authority in RCW 19.285.040(1)(e) to determine if a conservation program is cost-effective is based on "the Commission's policies and practice." The changes to the LI conservation

	Maintains the term "non-energy benefits" is not defined in WAC 480-109-060, however, the EIA requires utilities to use Northwest Power and Conservation Council methodology.	standard evaluate cost-effectiveness using the Commission's policies and practice, which have historically given special consideration to LI conservation. While RCW 19.285.040(1)(a) requires utilities to use methodologies consistent with the NWPCC's most recent plan to set targets, the EIA gives the Commission the power to determine whether conservation is cost-effective, and the amended rules provide the manner it will do so in accordance with its policies and practices.
PSE	To balance the requirement in CETA with the practical realities of how weatherization programs are administered through agencies today, suggests the following revisions to subsection (10)(b): "(b) The utility's biennial conservation plan must include low-income conservation programs and mechanisms identified pursuant to RCW 19.405.120 <u>with advice and review provided by its Advisory Group</u>. To the extent practicable, a utility must <u>include a description of how the plan prioritizes energy assistance to low-income households with the highest energy burden, in conjunction with low-income agencies, and future actions under consideration to improve this prioritization</u>. ~~prioritize energy assistance to low-income households with a higher energy burden.~~ (Reiterated in 2nd CR-102 comments.)	The second sentence in subsection (10)(b) is directly from RCW 19.405.120(2). The Commission expects to provide guidance in the future on what is "practicable". The utility can and should seek advice and review from its advisory group, including a description of how the plan prioritizes energy assistance to households with a higher energy burden, coordinate with LI agencies to accomplish the statutory requirement, and adaptively manage the program to improve this prioritization when necessary.
	Believes it would be administratively burdensome for utilities to become directly involved in the intake process or for the LI Weatherization program to become involved in applications, which is what would be required to prioritize LI customers with the highest energy burden.	
	Believes within weatherization programs that are currently implemented today, energy burden is best taken into consideration at a local level where program implementation and the intake process occurs.	
	Believes the Weatherization Manual already requires agencies to prioritize customers with high energy burden, among other criteria for prioritization.	

	Has concerns with section (a) and has worked with TEP and NW Energy Coalition to align proposed changes to the third sentence of this subsection. In addition, recommends the following additional language: "For purposes of this subsection, "fully fund" may include the agency leveraging other funding sources, in combination with utility funds, to fund LI conservation projects."	This change has been incorporated into the proposed rules, along with the modification suggested by NW Energy Coalition.
	Company proposes that it work with its Advisory Group and Commission Staff to develop a clear set of guidelines accounting for nonenergy impacts in subsection (c). Suggests modifying language "in consultation with its Advisory Group, develop metrics to," "quantifiable," and "to the extent practicable." (Reiterated in 2nd CR-102 comments.)	Utilities should consult with their advisory groups on these issues, as outlined in existing rules. The commission may issue additional guidance at a later date. The additional language is unnecessary.
NW Energy Coalition[1]	Believes the changes to this section overall are appropriate and needed for the adequate implementation of CETA. Particularly supports the changes in subsections (b) and (c), which effectively capture needed elements of CETA to account for LI conservation in an appropriate manner, acknowledging that these costs are not exclusively conservation costs, but also energy assistance costs, and therefore must be excluded from portfolio level cost-effectiveness calculations.	No staff response needed.
	Recommends adding the word "either" for clarity and removing "when alternate funding sources are unavailable" and reverting back to "may" from "must" in the sentence to retain flexibility. Language recommendation: (a) A utility must fully fund LI conservation measures that are determined by the implementing agency to be cost-effective consistent with <u>either</u> the Weatherization Manual maintained by the department or when it is cost-effective to do so using utility-specific avoided costs. Measures identified through the priority list in the Weatherization Manual are considered cost-effective. In addition, ~~when alternate funding sources are unavailable~~, a utility <u>may</u> ~~(must)~~ fully fund repairs, administrative costs, and health and safety improvements associated with cost-effective LI conservation measures.	This change has been incorporated into the proposed rules.
NW Energy Coalition[2]	Concerned that the new language "For purposes of this subsection, "fully fund" may include …. conservation projects" is ambiguous and open for	This change has been incorporated into the proposed rules.

	interpretation. Suggests a clarifying edit that replace "may include" with "does not prohibit." Requests a clarifying statement be included in the adoption order if modification of the language is unwelcome at this stage.	
The Energy Project[1]	Supports the proposed amendment to subsection 10(b). As CETA places new emphasis on LI programs, it is appropriate to ensure that EIA conservation plans incorporate these CETA-related efforts.	No staff response needed.
	Supports most language in section (10)(a) with the exception of recommending a return to "may" fund repairs, administrative costs, and health and safety improvements after consideration of alternative language.	This change has been incorporated into the proposed rules.
	Supports the requirement to account for costs and benefits, including non-energy impacts.	No staff response needed.
The Energy Project[2]	Concerned that the new language "For purposes of this subsection, "fully fund" may include …. conservation projects" could be interpreted to allow a utility to decline funding for a project by asserting how an agency could or should be utilizing funds. Suggests a clarifying edit that replace "may include" with "does not prohibit." Requests a statement be included in the adoption order, if modification of the language is unwelcome at this stage, clarifying that the intent of the language is to allow the agency to leverage other funds, in combination with utility funds, to fund low-income conservation projects.	This change has been incorporated into the proposed rules.
Pacific Power	Believes the portfolio of conservation resources to meet energy assistance need must be based on information known to the electric utility through its own billing systems. Other types of energy costs from gas, propane, or wood are not known by the electric utility. Energy assistance must provide an opportunity to mitigate the impact through changes to electricity consuming equipment at the customer location.	LI conservation has traditionally been provided utilizing income data not available to the utility. The Commission will provide additional guidance in the adoption order to clarify which fuels are associated with "home energy bills." A plain-language interpretation of "home energy" includes commonly used energy sources, including electricity, natural gas, propane, and wood. The definition of energy burden used to determine energy

		assistance need included in the rules is from statute.
	Proposes that energy assistance costs be compared with a historical average of LI weatherization investments in prior biennial periods and that the difference, if any, be treated as an incremental cost of CETA compliance.	Incremental cost of CETA compliance will be addressed in docket UE-191023.
Comments affecting WAC 480-109-200 Renewable Portfolio Standard		
Subsection (2) Credit eligibility		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Believes draft rule requirement, "renewable energy credits were acquired by January 1st of the target year," appears to conflict with the timing and use of RECs for meeting RPS requirements. Provides the following language revisions: (2) Credit eligibility. A qualifying utility may use renewable energy credits to meet the provisions of this section, provided the renewable energy credits meet the following requirements: (a) Renewable energy credits were acquired by ~~January 1st~~ December 31 of the target year or the following year pursuant to subsection (b) of this subsection;	The rules have been modified to delete the reference to January 1. This deletion does not alter the requirement that electric utilities have adequate eligible renewable resources or equivalent RECs under contract to meet their annual targets by January 1 of the target year, as required by RCW 19.285.040(2). Rather, the deletion clarifies existing practice that allows utilities to buy RECs after January 1 if they find they have additional need, or if cheaper options become available to use in place of those acquired by January 1. This edit eliminates confusion and provides more clarity for all stakeholders.
Pacific Power and Light	Maintains the revised WAC section adds that the annual report must include the number of renewable resources needed to meet the annual target by January 1st of the target year. This concept is missing in the statute. In other words, the administrative rules require a specific plan for how the utility will comply, whereas the statute appears to require only a compliance report showing the utility's "progress in the preceding year." When dealing with unbundled RECs, believes the term "acquired" is not defined in EIA statute, so there is no reason for the Commission to change its practical interpretation of this term, which has been interpreted as "acquired" in a contractual sense. Such RECs should be eligible for use in	The rules have been modified to delete the reference to January 1. This deletion does not alter the requirement that electric utilities have adequate eligible renewable resources or equivalent RECs under contract to meet their annual targets by January 1 of the target year, as required by RCW 19.285.040(2). Rather, the deletion clarifies existing practice that allows utilities to buy RECs after January 1 if they find they have additional need, or if cheaper options become available to use in place of those acquired by January

	a given target year, if they are expected to be generated at any point in the target year or the year following the target year.	1. This edit eliminates confusion and provides more clarity for all stakeholders.
Avista[3]	Supports the deletion of proposed WAC 480-109-200(2)(a).	No staff response needed.
Public Counsel[3]	Supports the deletion of proposed WAC 480-109-200(2)(a). Doing so would avoid potential confusion between "acquisition" and "use" in the current language of WAC 480-109-200(2)(a) and (b) and clarify utilities' ability to minimize unnecessary compliance costs with the EIA REC purchase requirements that might otherwise be passed on to customers.	No staff response needed.
Subsection (10) Use of nonemitting electric generation		
Stakeholder	**Summary of Comments**	**Staff Response**
Climate Solutions	Agrees the EIA has an annual renewable energy compliance obligation. However, the language from CETA amending the EIA relieves the utility of the annual renewable compliance obligation if a utility has met 100% of its "average annual retail electric load" using renewable energy, RECs, or nonemitting generation. A conflict exists because the CETA compliance obligation is based on four-year average loads, but the EIA is based on the utility's annual load over the previous two years. The "average annual retail electric load" is never defined in statute nor rules. Hence, there should be some clarification in rule so that a utility is not relieved of their annual compliance obligation until the end of the given four-year CETA compliance period.	Per RCW 19.405.110, the four-year compliance obligation in CETA does not replace or modify the annual obligation in the EIA. The Commission will continue to verify EIA compliance on an annual basis as described in WAC 480-109-210(6). The requested clarification will be considered in the CETA rulemaking, UE-191023.
WA Department of Commerce	Title of sub-section -200(10), which currently reads: "Use of nonemitting electric generation," should be changed. Nonemitting generation will likely account for a small amount of the combination of renewable resources, RECs, and nonemitting electric generation utilities will use to elect this compliance option come 2030. Instead utilities electing this option would primarily rely on legacy hydropower, which is categorized as a renewable resource per RCW 19.285.030(21) and not nonemitting generation per WAC 480-109-060(23)(b) of the current version of the draft EIA rules.	Staff has incorporated into the proposed rules a revised sub-section title reading, "Compliance when renewable and nonemitting electric generation used to meet 100 percent of annual retail electric load." Staff acknowledge utilities electing this compliance option will likely not rely on nonemitting electric generation.
NW Energy Coalition	To comply with the Laws of 2019, Chapter 288 §4 with regard to renewable resources and 4(1)(f) non-emitting resources, believes the rules should be modified to ensure that it is clear that utilities utilizing this compliance option must comply with the requirement to surrender non-power attribute documentation for any non-emitting resources used to meet the law. Recommend adding additional underlined text:	Staff declines to recommend this rule change given the request is outside the scope of this EIA rulemaking. RCW 19.405.040(1)(f) addresses non-power attributes of the electricity generated by the nonemitting electric generation resource. A more

	"(b) Non-emitting electric generation, as defined in WAC 480-109-060(23) and consistent with RCW 19.405.040(1)(f)."	appropriate venue for resolution is the joint Carbon and Electricity Markets Rulemaking the Commission will undertake with Commerce (*see U-190485 Energy Legislation Implementation Plan Phase II*). Pursuant to RCW 19.405.130(3)(b), that rulemaking will "address the prohibition on double counting of nonpower attributes under RCW 19.405.040(1) that could occur under other programs" like the EIA RPS.
Comments affecting WAC 480-109-210 Renewable Portfolio Standard Reporting		
Subsection (2) Annual report contents		
Stakeholder	**Summary of Comments**	**Staff Response**
Pacific Power and Light	Believes the incremental costs of eligible renewable resources should be included in the target year in which those resources are used for compliance. Specifically, the incremental costs should reflect the operating attributes of relevant resources, even if the given resources are not operating as described by January 1st of the target year but at some point later in the calendar year.	Staff declines to recommend any further action at this time. Staff maintains "by January 1st of the target year," a rule clause that precedes this current EIA revision cycle, is mandated by statute based on the following passages within RCW 19.285.040 and .070. Within the target section of RCW 19.285.040(2)(a) – Utilities must account for "at least [X] percent of load by January 1 [of the target year]." Within the reporting requirements specified in RCW 19.285.070(1) – "report progress…in meeting the target established in RCW 19.285.040, include[s]… the incremental cost of eligible renewable resources and the cost of renewable energy credits." Based on stakeholder collaboration concurrently taken outside of this EIA rulemaking, Staff acknowledge the existing rule language does not specifically address incremental cost considerations associated

		with upgrades or renovations to existing eligible renewable resources.
Subsection (6) Final compliance report		
Stakeholder	**Summary of Comments**	**Staff Response**
Pacific Power and Light	Believes the EIA RPS has a two-step compliance process, with the annual report being the first step and actual compliance being determined two years after the compliance year. It would be logical for the June 1 report to be in the form of an estimate, given non-IEH RECs can be used on a year-ahead, year-behind, or year-of-creation basis.	Staff maintains the current rule language indicates the annual renewable portfolio standard report is a plan or an "estimate." The final compliance report described in subsection (6) confirms how the utility actually met the annual target. No revision to the rule language is needed.
Comments affecting WAC 480-109-300 Greenhouse Gas Content Calculation and Energy and Emission Intensity Metrics		
Subsection (1) "A utility must report its…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the GHG content calculation language. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.
Subsection (2) "Each utility must perform its…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the entire subsection. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.
NW Energy Coalition	Recommends adding "…consistent with RCW 19.405.020(22)" at end of subsection.	This change has been incorporated into the proposed rules.
Subsection (3) "In addition to the greenhouse gas content calculation…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the GHG content calculation language. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.

Subsection (4) Unknown generation sources		
Stakeholder	**Summary of Comments**	**Staff Response**
WA Department of Commerce	Recommends changing the title of the subsection to "Unspecified electricity" to more accurately reflect the content of the subsection.	This change has been incorporated into the proposed rules.
Subsection (5) "The greenhouse gas content calculation and…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the GHG content calculation language. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.

COMMENTS FROM THE NOTICES OF OPPORTUNITY TO FILE WRITTEN COMMENTS ISSUED ON MARCH 27, 2020, JUNE 5, 2020, AND SEPTEMBER 1, 2020		
Stakeholder	**General Comments Not Applicable to a Specific Section of the Rule**	**Staff Response**
Front and Centered	Hopes that the Commission will consider the adoption of all prior comments.	See responses provided in "UE-190652 EIA Rulemaking CR-101 Comment Summary Matrix.pdf" posted to the Commission website on March 30, 2020.
Pacific Power	Requested clarification on the proposed addition of the "carbon dioxide equivalent" (CO2e) and "greenhouse gas" (GHG) definitions in the revised rules. Asked how CO2e can impact emitting resource dispatch in its integrated resource plan (IRP) based on the Clean Energy Transformation Act (CETA).	After discussion with Staff, Pacific Power revised its comments to disregard its request for clarification on the inclusion of CO2e into utility planning processes. The company does not have any concerns with the inclusion of the definition of CO2e as proposed in the draft EIA rules. The company may file the planning portions of the CO2e comments in a subsequent CETA rulemaking.
	Expressed concern that RECs associated with new qualifying facilities (QFs), in operation after the effective date of the law, are not addressed in statute or the draft rules. In case the utility cannot procure RECs from new QFs, a penalty will be imposed. Requested that the Commission resolve this issue by requiring QFs to provide project RECs to the purchasing utility.	After discussion with Staff, the company agreed that this section is not a part of the EIA rulemaking. Pacific Power may resolve ownership of RECs associated with energy procured from QFs by revising its PURPA tariff(s).

Comments affecting WAC 480-109-060 Definitions		
(13) Energy Assistance		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends removing the definition of energy assistance from the rules.	The EIA rules have provisions governing low-income (LI) conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue all cost-effective conservation consistently with state law and Commission policy.
Front and Centered	Recommends: "'Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, reduction of shut-offs and monetary assistance, such as a grant program or discounts for lower income households, intended to lower a household's energy burden."	The definition provided in rule is the statutory definition. The Commission will provide additional guidance on eligible energy assistance programs in the future.
	By calling out the needs of those who are not connected to or are at risk of being disconnected from energy, we ensure those households receive the attention and assistance needed for the energy security necessary to protect families.	
The Energy Project	Definition appropriately mirrors the statutory definition in RCW 19.405.020(15).	No staff response needed.
(14) Energy Assistance Need		
Stakeholder	**Summary of Comments**	**Staff Response**
Public Counsel	Believes the definition should reflect WA State data and recommends further discussion to consider local data on energy burden. For WA households with income between zero to 150 percent of the Federal Poverty Limit (FPL), the average energy burden is eight percent. For WA households with income between zero to 200 percent of the FPL, the average energy burden is six percent. WA households also have varying levels of energy burden based on respective county of residence.	Six percent energy burden is an appropriate input for "energy assistance need" calculations pursuant to the statewide assessment required in RCW 19.405.120(3) and the utility assessments pursuant to RCW 19.405.120(4). Defining energy assistance as six percent or less would introduce

	Flexibility is needed in setting an appropriate energy burden target for a particular energy assistance program. If the average local energy burden is lower than six percent, the draft rules could have unintended consequences. Recommends: "'Energy assistance need' means the amount of assistance necessary to achieve an energy burden, from all energy sources, equal to six percent or less for utility customers."	variability into the statewide assessment pursuant to .120(3). The definition of "energy assistance need" does not limit the Commission's discretion to approve energy assistance programs that target levels of energy burden below six percent.
Avista	Recommends removing the definition from the rules.	The EIA rules have provisions governing LI conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue cost-effective conservation consistently with state law and Commission policy.
Front and Centered	Recommends: "'Energy assistance need" means the amount of assistance necessary to ~~achieve an energy burden equal~~ reduce a household's energy burden to well below six percent ~~for utility customers~~ and for those who do not have energy due to lack of access or income."	The statutory definition in RCW 19.405.020 states that the Commission will determine "a level of household energy burden" within the definition of "energy assistance need."
	The statutory directive is not to establish a flat level of burden, conveyed with the use of the phrase "equal to," but rather it is to reduce the energy burden as low as possible with six percent as a ceiling. This change brings greater clarity in addition to alignment with the intent of the statute.	
	Believes that selecting a specific percentage warrants a deeper discussion and input because energy burden is a portion of disposable income available to pay energy costs. If the income of a household is so low that they are not able to pay bills, they may not have a measurable energy burden, but clearly, they have an energy burden.	Energy burden is defined by statute and included as the sole metric within the statutory definition of "energy assistance need." Energy burden is an imperfect metric for assessing all needs. Additional metrics are outside the scope of this rulemaking. The definition of "energy assistance need" does not limit the Commission's discretion to approve programs.
	Recommends specific recognition of those who have had their energy shut off due to an inability to pay or do not have an energy bill because they lack access to the energy grid.	

NW Energy Coalition	Recommends: "'Energy assistance need' means the amount of assistance necessary to achieve an energy burden ~~equal to~~ not to exceed six percent for utility customers." (Reiterated in 2nd CR-102 comments.)	Six percent energy burden is an appropriate input for "energy assistance need" calculations pursuant to the statewide assessment required in RCW 19.405.120(3) and the utility assessments pursuant to RCW 19.405.120(4). Defining energy assistance as six percent or less would introduce variability into the statewide assessment pursuant to .120(3). The definition of "energy assistance need" does not limit the Commission's discretion to approve energy assistance programs that target levels of energy burden below six percent.
	While WA State's overall utility costs and average energy burden are lower compared to the rest of the United States, those lower costs are often offset by much higher housing and other living costs in several parts of the state. Utilities should be able to determine a threshold lower than six percent to determine bill affordability based on local economic conditions.	
The Energy Project	Supports the use in the proposed rule of a six percent energy burden. There is ample support in the record for using this metric.	No staff response needed.
	Notes that Staff has indicated that utility programs could target any level of energy burden subject to Commission approval, as the definition of "energy assistance need" does not interact with programmatic design.	Six percent energy burden is an appropriate input for "energy assistance need" calculations pursuant to the statewide assessment required in RCW 19.405.120(3) and the utility assessments pursuant to RCW 19.405.120(4). Defining energy assistance as six percent or less would introduce variability into the statewide assessment pursuant to .120(3). The definition of "energy assistance need" does not limit the Commission's discretion to approve energy assistance programs that target levels of energy burden below six percent.
	To clarify this intent in the rule language itself, believes that including language stating the level is "no greater than" six percent would remove doubt that the rule allows utilities to adopt more aggressive standards for their programs if they desire.	
(15) Energy Burden		
Stakeholder	**Summary of Comments**	**Staff Response**
Public Counsel	Recommends that the definition of "energy burden" should clarify that the term considers the customer's total energy expense. Recommends: "'Energy burden' means the share of annual household income used to pay annual home energy bills <u>from all energy sources</u>."	The definition included in the rules is from statute. The Commission will provide additional guidance in the adoption order to clarify which fuels are associated with "home energy bills." A plain-language

		interpretation of "home energy" includes commonly used energy sources, including electricity, natural gas, propane, and wood.
Avista	Recommends removing the definition from the rules.	The EIA rules have provisions governing LI conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue cost-effective conservation consistently with state law and Commission policy.
The Energy Project	Definition appropriately mirrors the statutory definition in RCW 19.405.020(17).	No staff response needed.
Pacific Power	"Energy burden" should be clearly defined to be specific to the utility services for which the utility bills its customers. Recommends: "(15) 'Energy burden' means the share of annual household income used to pay annual home energy bills <u>for the services delivered by the utility for which it bills its customers</u>."	The definition included in the rules is from statute. The Commission will provide additional guidance in the adoption order to clarify which fuels are associated with "home energy bills." A plain-language interpretation of "home energy" includes commonly used energy sources, including electricity, natural gas, propane, and wood.
(22) Low-Income		
Stakeholder	**Summary of Comments**	**Staff Response**
Public Counsel	Recommends the definition be more flexible and reflect the maximum limit contained in CETA, which is the higher or 80 percent area median income (AMI) or 200 percent of the federal poverty level (FPL), adjusted for household size.	The definition has been updated to include 80 percent AMI.
	Limiting the definition to 200 percent FPL may unnecessarily exclude households that fall between 200 percent of the FPL and 80 percent AMI. The rule should preserve the use of AMI if it becomes a better measure for LI programs.	

	A more flexible definition would allow utilities and their partners to design programs that best suit their service territories.	The Commission will provide guidance in the future on how the definition of "low-income" interacts with program eligibility.
Avista	Recommends removing the definition from the rules.	The EIA rules have provisions governing LI conservation and the Commission chooses to update those rules in light of CETA.
	The changes that incorporate LI energy assistance from CETA into the EIA are inappropriate.	As discussed in the 2015 order adopting amendments to chapter 480-109, the Commission's rules provide for determining the cost-effectiveness of low-income conservation programs to ensure utilities pursue all cost-effective conservation. These amendments ensure that utilities pursue cost-effective conservation consistently with state law and Commission policy.
Front and Centered	Recommends: "'Low-income' means household incomes that are <u>less than or equal to the higher of 80 percent of area median household income or</u> 200 percent of federal poverty level ~~or less~~, adjusted for household size."	The definition has been updated to include 80 percent AMI.
	The statute included both measures because the federal poverty level alone is not an adequate measure for WA State given the extreme range of cost of living across the state.	The statute provided the Commission and the WA Department of Commerce (Commerce) discretion in setting the definition for "low income" as long as the definition does not exceed 200 percent FPL or 80 AMI, adjusted for household size.
	Interprets this definition to mean that some assistance must be provided to households up to 80 percent of AMI, but not to mean that all programs must be offered to all customers.	RCW 19.405.120 is not fully represented in WAC 480-109. The Commission will provide guidance on how the definition of "low-income" interacts with program eligibility in future guidance.
	The statutory direction to prioritize households with the greatest energy burden and to equitably distribute benefits requires a geographically variable definition of "low income."	RCW 19.405.120(2), which is mirrored in WAC 480-109-100(10)(b), requires utilities to prioritize LI households with a higher energy burden. This prioritization is based on the definition of "low-income" set by the Commission and Commerce for investor-

		owned and consumer-owned utilities, respectively. The statute does not require a geographically variable definition of "low-income." The statute only requires that the definition does not exceed 200 percent FPL or 80 AMI, adjusted for household size.
PSE	Recommends: "'Low-income' means household incomes that do not exceed two hundred percent of federal poverty level or eighty percent of area median household income, adjusted for household size."	The definition has been updated to include 80 percent AMI.
	The company's LI weatherization programs currently use 200% FPL or 60% state median income (SMI), whichever is greater. Eligibility criterion is based on how Commerce currently administers the State Weatherization Assistance Program. Concerned that the current definition would result in agencies losing the ability to leverage utility funds for those applicants that qualify at 60% SMI, which is higher than 200% FPL for most households served by the program.	RCW 19.405.120 is not fully represented in WAC 480-109. The Commission will provide guidance on how the definition of "low-income" interacts with program eligibility in future guidance.
NW Energy Coalition	Recommends: "'Low-income' means household incomes that ~~are~~ may not exceed the higher of eighty percent of area median household income or two hundred percent of federal poverty level or less, adjusted for house-hold size.	The definition has been updated to include 80 percent AMI.
	Appreciates efforts to maintain administrative simplicity but believes CETA is explicit in its intentions to improve service to LI and highly impacted communities throughout the state. Notes that achieving this goal will require less simplicity and more fine-tuned efforts to understand influencing factors to poverty and vulnerability in utility service territories.	
	The statutory language choice was intentional, to allow utilities to choose the standard that adjusts for circumstances in local jurisdictions.	The statute provided the Commission and Commerce discretion in setting the definition for "low income" as long as the definition does not exceed 200 percent FPL or 80 AMI, adjusted for household size.
The Energy Project	Recommends use of 200 percent of FPL in the proposed rule's definition of LI in conjunction with 80 percent of AMI, with the greater of the two establishing the income eligibility cap.	The definition has been updated to include 80 percent AMI.
	Notes that the FPL metric has long been viewed as "one of the most challenged indicators" and an outdated and unreliable way to measure actual poverty levels. The use of AMI allows recognition of income	

	disparities and high cost of living areas. Notes that using a metric lower than 80 percent AMI could nullify the benefit of including the AMI metric.	
	Does not have a significant concern about the administrative burden of using both metrics. Overlapping eligibility criteria are already in use for LI weatherization.	
	Notes that CETA's definition of LI allows the Commission and Commerce to establish a combined metric for both FPL and AMI as part of the definition. Believes the rule language is most reasonably interpreted as requiring the agencies to use both metrics.	The statute restricts the content of the definition(s) created by Commerce or the Commission. The statute does not require a combined metric.
	Believes that giving utilities more flexibility to tailor programs to specific LI households will improve services. Gives example of offering arrearage management programs to households at the higher end of the eligibility spectrum, which can be as useful as offering percentage-of-income payment plans for very LI households.	RCW 19.405.120 is not fully represented in WAC 480-109. The Commission will provide guidance on how the definition of "low-income" interact with program eligibility in future guidance.
All Other Definitions		
Stakeholder	**Summary of Comments**	**Staff Response**
NW Energy Coalition	In (12)(f)(ii) incremental energy from qualified biomass, recommends including the missing part from current rule WAC 194-37-135(3)(b): "(ii)Beginning January 1, 2007, the facility must demonstrate its baseline level of <u>average net</u> generation over a three-year period, <u>excluding any periods in which operation of the qualified biomass facility was unrepresentative of normal operating conditions</u>, prior to the capital investment in order to calculate the amount of incremental electricity produced;" (Reiterated in 2nd CR-102 comments.)	Staff declines to recommend this definition change. Follow up with the NW Energy Coalition confirmed this revision was requested to harmonize the Commission's EIA rules with those of Commerce. While Staff generally supports such rule alignment, follow-on discussions with Commerce staff confirmed the circumstances causing the Department's corresponding biomass definition to deviate are largely inapplicable to the WA electric investor owned utility landscape.
	Proposes new draft language for (12)(g) federal incremental eligible hydropower (IEH) omitted part of the description in the statute RCW 19.405.040(1)(d) from which it is derived: "(g) That portion of incremental electricity produced…where the additional generation does not result in new water diversions, ~~or~~ impoundments, <u>bypass reaches or expansion of existing reservoirs</u>…" (Reiterated in 2nd CR-102 comments.)	Staff declines to recommend this definition change. Proposed new language refers to nonemitting electric generation per RCW 19.405.040(1)(d), not eligible renewable resources. The (12)(g) definition for federal IEH currently in draft rule is an augmentation to the definition of eligible

		renewable resources required by RCW 19.285.030(12)(g).
	In (17), GHG content calculation, recommends adding additional underlined text: "(17) "Greenhouse gas content calculation" means a calculation expressed in CO2e made by the department of ecology for the purposes of determining the complete lifecycle emissions attributable to a fuel, including emissions resulting from the extraction, production transport, and ~~from~~ the complete combustion or oxidation of fossil fuels and the GHG emissions in electricity for use in calculating the GHG emissions content in electricity." (Reiterated in 2nd CR-102 comments.)	The definition in the proposed rules is directly from CETA. The Commission is still evaluating if and where to require additional GHG information, considering the dynamics of all CETA rulemakings.
Comments affecting WAC 480-109-100 Energy Efficiency Resource Standard		
Subsection (1) Process for pursuing all conservation		
Stakeholder	**Summary of Comments**	**Staff Response**
The Energy Project	Supports adoption of the proposed rule language for portfolio development.	No staff response needed.
	Understands the proposed rule to not require inclusion of energy assistance which do not involve conservation, such as discount-based bill assistance. The first clause of the new sentence is clear that it is "conservation programs and mechanisms" that must be included.	No staff response needed.
Pacific Power	Recommends adding: The portfolio must include all conservation programs and mechanisms identified pursuant to RCW 19.405.120, which pertain to energy assistance and progress toward meeting energy assistance need, including the low-income conservation programs and mechanisms in subsection 10(b) of this section.	Language already included in proposed rule in 480-109-100(1)(a)(ii).
Subsection (10) Low-income conservation		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Maintains the changes that incorporate LI energy assistance goals from CETA into the EIA go beyond the Commission's authority which is bound by a strict "cost-effective" test and based on "standard practice."	The Commission's authority in RCW 19.285.040(1)(e) to determine if a conservation program is cost-effective is based on "the Commission's policies and practice." The changes to the LI conservation

	Maintains the term "non-energy benefits" is not defined in WAC 480-109-060, however, the EIA requires utilities to use Northwest Power and Conservation Council methodology.	standard evaluate cost-effectiveness using the Commission's policies and practice, which have historically given special consideration to LI conservation. While RCW 19.285.040(1)(a) requires utilities to use methodologies consistent with the NWPCC's most recent plan to set targets, the EIA gives the Commission the power to determine whether conservation is cost-effective, and the amended rules provide the manner it will do so in accordance with its policies and practices.
PSE	To balance the requirement in CETA with the practical realities of how weatherization programs are administered through agencies today, suggests the following revisions to subsection (10)(b): "(b) The utility's biennial conservation plan must include low-income conservation programs and mechanisms identified pursuant to RCW 19.405.120 with advice and review provided by its Advisory Group. To the extent practicable, a utility must include a description of how the plan prioritizes energy assistance to low-income households with the highest energy burden, in conjunction with low-income agencies, and future actions under consideration to improve this prioritization. ~~prioritize energy assistance to low-income households with a higher energy burden.~~ (Reiterated in 2nd CR-102 comments.)	The second sentence in subsection (10)(b) is directly from RCW 19.405.120(2). The Commission expects to provide guidance in the future on what is "practicable". The utility can and should seek advice and review from its advisory group, including a description of how the plan prioritizes energy assistance to households with a higher energy burden, coordinate with LI agencies to accomplish the statutory requirement, and adaptively manage the program to improve this prioritization when necessary.
	Believes it would be administratively burdensome for utilities to become directly involved in the intake process or for the LI Weatherization program to become involved in applications, which is what would be required to prioritize LI customers with the highest energy burden.	
	Believes within weatherization programs that are currently implemented today, energy burden is best taken into consideration at a local level where program implementation and the intake process occurs.	
	Believes the Weatherization Manual already requires agencies to prioritize customers with high energy burden, among other criteria for prioritization.	

	Has concerns with section (a) and has worked with TEP and NW Energy Coalition to align proposed changes to the third sentence of this subsection. In addition, recommends the following additional language: "For purposes of this subsection, "fully fund" may include the agency leveraging other funding sources, in combination with utility funds, to fund LI conservation projects."	This change has been incorporated into the proposed rules, along with the modification suggested by NW Energy Coalition.
	Company proposes that it work with its Advisory Group and Commission Staff to develop a clear set of guidelines accounting for nonenergy impacts in subsection (c). Suggests modifying language "in consultation with its Advisory Group, develop metrics to," "quantifiable," and "to the extent practicable." (Reiterated in 2nd CR-102 comments.)	Utilities should consult with their advisory groups on these issues, as outlined in existing rules. The commission may issue additional guidance at a later date. The additional language is unnecessary.
NW Energy Coalition[1]	Believes the changes to this section overall are appropriate and needed for the adequate implementation of CETA. Particularly supports the changes in subsections (b) and (c), which effectively capture needed elements of CETA to account for LI conservation in an appropriate manner, acknowledging that these costs are not exclusively conservation costs, but also energy assistance costs, and therefore must be excluded from portfolio level cost-effectiveness calculations.	No staff response needed.
	Recommends adding the word "either" for clarity and removing "when alternate funding sources are unavailable" and reverting back to "may" from "must" in the sentence to retain flexibility. Language recommendation: (a) A utility must fully fund LI conservation measures that are determined by the implementing agency to be cost-effective consistent with <u>either</u> the Weatherization Manual maintained by the department or when it is cost-effective to do so using utility-specific avoided costs. Measures identified through the priority list in the Weatherization Manual are considered cost-effective. In addition, ~~when alternate funding sources are unavailable~~, a utility <u>may</u> ~~(must)~~ fully fund repairs, administrative costs, and health and safety improvements associated with cost-effective LI conservation measures.	This change has been incorporated into the proposed rules.
NW Energy Coalition[2]	Concerned that the new language "For purposes of this subsection, "fully fund" may include …. conservation projects" is ambiguous and open for	This change has been incorporated into the proposed rules.

	interpretation. Suggests a clarifying edit that replace "may include" with "does not prohibit." Requests a clarifying statement be included in the adoption order if modification of the language is unwelcome at this stage.	
The Energy Project[1]	Supports the proposed amendment to subsection 10(b). As CETA places new emphasis on LI programs, it is appropriate to ensure that EIA conservation plans incorporate these CETA-related efforts.	No staff response needed.
	Supports most language in section (10)(a) with the exception of recommending a return to "may" fund repairs, administrative costs, and health and safety improvements after consideration of alternative language.	This change has been incorporated into the proposed rules.
	Supports the requirement to account for costs and benefits, including non-energy impacts.	No staff response needed.
The Energy Project[2]	Concerned that the new language "For purposes of this subsection, "fully fund" may include …. conservation projects" could be interpreted to allow a utility to decline funding for a project by asserting how an agency could or should be utilizing funds. Suggests a clarifying edit that replace "may include" with "does not prohibit." Requests a statement be included in the adoption order, if modification of the language is unwelcome at this stage, clarifying that the intent of the language is to allow the agency to leverage other funds, in combination with utility funds, to fund low-income conservation projects.	This change has been incorporated into the proposed rules.
Pacific Power	Believes the portfolio of conservation resources to meet energy assistance need must be based on information known to the electric utility through its own billing systems. Other types of energy costs from gas, propane, or wood are not known by the electric utility. Energy assistance must provide an opportunity to mitigate the impact through changes to electricity consuming equipment at the customer location.	LI conservation has traditionally been provided utilizing income data not available to the utility. The Commission will provide additional guidance in the adoption order to clarify which fuels are associated with "home energy bills." A plain-language interpretation of "home energy" includes commonly used energy sources, including electricity, natural gas, propane, and wood. The definition of energy burden used to determine energy

		assistance need included in the rules is from statute.
	Proposes that energy assistance costs be compared with a historical average of LI weatherization investments in prior biennial periods and that the difference, if any, be treated as an incremental cost of CETA compliance.	Incremental cost of CETA compliance will be addressed in docket UE-191023.
Comments affecting WAC 480-109-200 Renewable Portfolio Standard		
Subsection (2) Credit eligibility		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Believes draft rule requirement, "renewable energy credits were acquired by January 1st of the target year," appears to conflict with the timing and use of RECs for meeting RPS requirements. Provides the following language revisions: (2) Credit eligibility. A qualifying utility may use renewable energy credits to meet the provisions of this section, provided the renewable energy credits meet the following requirements: (a) Renewable energy credits were acquired by ~~January 1st~~ December 31 of the target year or the following year pursuant to subsection (b) of this subsection;	The rules have been modified to delete the reference to January 1. This deletion does not alter the requirement that electric utilities have adequate eligible renewable resources or equivalent RECs under contract to meet their annual targets by January 1 of the target year, as required by RCW 19.285.040(2). Rather, the deletion clarifies existing practice that allows utilities to buy RECs after January 1 if they find they have additional need, or if cheaper options become available to use in place of those acquired by January 1. This edit eliminates confusion and provides more clarity for all stakeholders.
Pacific Power and Light	Maintains the revised WAC section adds that the annual report must include the number of renewable resources needed to meet the annual target by January 1st of the target year. This concept is missing in the statute. In other words, the administrative rules require a specific plan for how the utility will comply, whereas the statute appears to require only a compliance report showing the utility's "progress in the preceding year." When dealing with unbundled RECs, believes the term "acquired" is not defined in EIA statute, so there is no reason for the Commission to change its practical interpretation of this term, which has been interpreted as "acquired" in a contractual sense. Such RECs should be eligible for use in	The rules have been modified to delete the reference to January 1. This deletion does not alter the requirement that electric utilities have adequate eligible renewable resources or equivalent RECs under contract to meet their annual targets by January 1 of the target year, as required by RCW 19.285.040(2). Rather, the deletion clarifies existing practice that allows utilities to buy RECs after January 1 if they find they have additional need, or if cheaper options become available to use in place of those acquired by January

	a given target year, if they are expected to be generated at any point in the target year or the year following the target year.	1. This edit eliminates confusion and provides more clarity for all stakeholders.
Avista[3]	Supports the deletion of proposed WAC 480-109-200(2)(a).	No staff response needed.
Public Counsel[3]	Supports the deletion of proposed WAC 480-109-200(2)(a). Doing so would avoid potential confusion between "acquisition" and "use" in the current language of WAC 480-109-200(2)(a) and (b) and clarify utilities' ability to minimize unnecessary compliance costs with the EIA REC purchase requirements that might otherwise be passed on to customers.	No staff response needed.
Subsection (10) Use of nonemitting electric generation		
Stakeholder	**Summary of Comments**	**Staff Response**
Climate Solutions	Agrees the EIA has an annual renewable energy compliance obligation. However, the language from CETA amending the EIA relieves the utility of the annual renewable compliance obligation if a utility has met 100% of its "average annual retail electric load" using renewable energy, RECs, or nonemitting generation. A conflict exists because the CETA compliance obligation is based on four-year average loads, but the EIA is based on the utility's annual load over the previous two years. The "average annual retail electric load" is never defined in statute nor rules. Hence, there should be some clarification in rule so that a utility is not relieved of their annual compliance obligation until the end of the given four-year CETA compliance period.	Per RCW 19.405.110, the four-year compliance obligation in CETA does not replace or modify the annual obligation in the EIA. The Commission will continue to verify EIA compliance on an annual basis as described in WAC 480-109-210(6). The requested clarification will be considered in the CETA rulemaking, UE-191023.
WA Department of Commerce	Title of sub-section -200(10), which currently reads: "Use of nonemitting electric generation," should be changed. Nonemitting generation will likely account for a small amount of the combination of renewable resources, RECs, and nonemitting electric generation utilities will use to elect this compliance option come 2030. Instead utilities electing this option would primarily rely on legacy hydropower, which is categorized as a renewable resource per RCW 19.285.030(21) and not nonemitting generation per WAC 480-109-060(23)(b) of the current version of the draft EIA rules.	Staff has incorporated into the proposed rules a revised sub-section title reading, "Compliance when renewable and nonemitting electric generation used to meet 100 percent of annual retail electric load." Staff acknowledge utilities electing this compliance option will likely not rely on nonemitting electric generation.
NW Energy Coalition	To comply with the Laws of 2019, Chapter 288 §4 with regard to renewable resources and 4(1)(f) non-emitting resources, believes the rules should be modified to ensure that it is clear that utilities utilizing this compliance option must comply with the requirement to surrender non-power attribute documentation for any non-emitting resources used to meet the law. Recommend adding additional underlined text:	Staff declines to recommend this rule change given the request is outside the scope of this EIA rulemaking. RCW 19.405.040(1)(f) addresses non-power attributes of the electricity generated by the nonemitting electric generation resource. A more

	"(b) Non-emitting electric generation, as defined in WAC 480-109-060(23) and consistent with RCW 19.405.040(1)(f)."	appropriate venue for resolution is the joint Carbon and Electricity Markets Rulemaking the Commission will undertake with Commerce (*see U-190485 Energy Legislation Implementation Plan Phase II*). Pursuant to RCW 19.405.130(3)(b), that rulemaking will "address the prohibition on double counting of nonpower attributes under RCW 19.405.040(1) that could occur under other programs" like the EIA RPS.
Comments affecting WAC 480-109-210 Renewable Portfolio Standard Reporting		
Subsection (2) Annual report contents		
Stakeholder	**Summary of Comments**	**Staff Response**
Pacific Power and Light	Believes the incremental costs of eligible renewable resources should be included in the target year in which those resources are used for compliance. Specifically, the incremental costs should reflect the operating attributes of relevant resources, even if the given resources are not operating as described by January 1st of the target year but at some point later in the calendar year.	Staff declines to recommend any further action at this time. Staff maintains "by January 1st of the target year," a rule clause that precedes this current EIA revision cycle, is mandated by statute based on the following passages within RCW 19.285.040 and .070. Within the target section of RCW 19.285.040(2)(a) – Utilities must account for "at least [X] percent of load by January 1 [of the target year]." Within the reporting requirements specified in RCW 19.285.070(1) – "report progress…in meeting the target established in RCW 19.285.040, include[s]… the incremental cost of eligible renewable resources and the cost of renewable energy credits." Based on stakeholder collaboration concurrently taken outside of this EIA rulemaking, Staff acknowledge the existing rule language does not specifically address incremental cost considerations associated

		with upgrades or renovations to existing eligible renewable resources.
Subsection (6) Final compliance report		
Stakeholder	**Summary of Comments**	**Staff Response**
Pacific Power and Light	Believes the EIA RPS has a two-step compliance process, with the annual report being the first step and actual compliance being determined two years after the compliance year. It would be logical for the June 1 report to be in the form of an estimate, given non-IEH RECs can be used on a year-ahead, year-behind, or year-of-creation basis.	Staff maintains the current rule language indicates the annual renewable portfolio standard report is a plan or an "estimate." The final compliance report described in subsection (6) confirms how the utility actually met the annual target. No revision to the rule language is needed.
Comments affecting WAC 480-109-300 Greenhouse Gas Content Calculation and Energy and Emission Intensity Metrics		
Subsection (1) "A utility must report its…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the GHG content calculation language. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.
Subsection (2) "Each utility must perform its…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the entire subsection. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.
NW Energy Coalition	Recommends adding "…consistent with RCW 19.405.020(22)" at end of subsection.	This change has been incorporated into the proposed rules.
Subsection (3) "In addition to the greenhouse gas content calculation…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the GHG content calculation language. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.

Subsection (4) Unknown generation sources		
Stakeholder	**Summary of Comments**	**Staff Response**
WA Department of Commerce	Recommends changing the title of the subsection to "Unspecified electricity" to more accurately reflect the content of the subsection.	This change has been incorporated into the proposed rules.
Subsection (5) "The greenhouse gas content calculation and…"		
Stakeholder	**Summary of Comments**	**Staff Response**
Avista	Recommends striking the GHG content calculation language. Did not provide an explanation for why this language should be struck.	Avista confirmed via e-mail that these amendments were proposed in error and the Commission should disregard them.