

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending, Adopting, and Repealing Rules in	)	DOCKET UE-131723
	)	
WAC 480-109	)	GENERAL ORDER R-578
	)	
Relating to the Energy Independence Act.	)	ORDER AMENDING, ADOPTING, AND REPEALING RULES
	)	PERMANENTLY
	)	
	)	
.....	)	

**SYNOPSIS**

*The Washington Utilities and Transportation Commission (Commission) adopts revised rules implementing RCW 19.285, the Energy Independence Act (EIA). The Commission's goals in this rulemaking are to incorporate legislative changes to the EIA since the Commission's rules were first adopted in 2007, identify Commission decisions and preferred practices implementing the EIA, and engage with stakeholders to address and resolve ambiguity where appropriate. The rules we adopt today are divided into sections addressing the EIA's energy efficiency resource standard (EERS) and the EIA's renewable portfolio standard (RPS). We defer our consideration of a reporting requirement for energy and emissions intensity metrics pending more discussion of methodology. The rules addressing the EERS generally codify our existing biennial conservation process, the use of advisory groups, and the use of conservation cost recovery adjustments. We also support conservation programs for low-income customers by modifying utilities' treatment of these important programs. The rules addressing the RPS generally incorporate our existing reporting process, including three options for calculating incremental hydropower and a new methodology for calculating incremental cost. Finally, we consider the application of these revised rules. While we have reviewed prior orders for consistency with these rules, we direct utilities to review existing orders and tariffs for consistency with the adopted rules, and make filings to remedy any conflicts.*

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**I. INTRODUCTION**

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and  
Transportation Commission (Commission) takes this action under Notice WSR # 14-  
18-084, filed with the Code Reviser on September 3, 2014. The Commission has  
authority to take this action pursuant to RCW 80.01.040, RCW 80.04.160, and RCW  
19.285.080.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the  
Administrative Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the  
State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness  
Act (RCW 19.85).

3 **DATE OF ADOPTION:** The Commission adopts this rule on the date this Order is  
entered.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW  
34.05.325(6) requires the Commission to prepare and publish a concise explanatory  
statement about an adopted rule. The statement must identify the Commission's  
reasons for adopting the rule, describe the differences between the version of the  
proposed rules published in the register and the rules adopted (other than editing  
changes), summarize the comments received regarding the proposed rule changes,  
and state the Commission's responses to the comments reflecting the Commission's  
consideration of them.

5 To avoid unnecessary duplication in the record of this docket, the Commission  
designates the discussion in this Order, including appendices, as its concise  
explanatory statement. This Order provides a complete but concise explanation of the  
agency's actions and its reasons for taking those actions.

6 **REFERENCE TO AFFECTED RULES:** This Order amends, adopts, and repeals  
the following sections of the Washington Administrative Code:

Amend WAC 480-109-010 Purpose and scope.

Amend WAC 480-109-020 Application of rules.

Amend WAC 480-109-030 Exemptions from rules in chapter 480-109 WAC.

Amend	WAC 480-109-040	Additional requirements.
Amend	WAC 480-109-050	Severability.
Adopt	WAC 480-109-060	Definitions.
Adopt	WAC 480-109-070	Administrative penalties.
Adopt	WAC 480-109-100	Conservation resources and energy efficiency resource standard.
Adopt	WAC 480-109-110	Conservation advisory group.
Adopt	WAC 480-109-120	Conservation planning and reporting.
Adopt	WAC 480-109-130	Conservation recovery adjustment.
Adopt	WAC 480-109-200	Renewable portfolio standard.
Adopt	WAC 480-109-210	Renewable portfolio standard reporting.
Adopt	WAC 480-109-220	Alternatives to the renewable resource requirement.
Adopt	WAC 480-109-999	Adoption by reference.
Repeal	WAC 480-109-001	Purpose and scope.
Repeal	WAC 480-109-002	Application of rules.
Repeal	WAC 480-109-003	Exemptions from rules in chapter 480-109 WAC
Repeal	WAC 480-109-004	Additional requirements.
Repeal	WAC 480-109-006	Severability.
Repeal	WAC 480-109-007	Definitions.

## II. PROCEDURAL HISTORY

### 7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS

**THEREUNDER:** The Commission filed a Preproposal Statement of Inquiry (CR-101) with the Code Reviser on October 2, 2013, at WSR # 13-20-127.

8 The statement advised interested persons that the Commission was considering entering a rulemaking to consider whether the Commission should modify rules in chapter 480-109 WAC to implement the statutory changes and provisions of RCW 19.285. The Commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3). Pursuant to the notice, the Commission convened a workshop for interested stakeholders on November 12, 2013, and solicited written comments by December 2, 2013. On April 9, 2014, the Commission issued a notice announcing that it published informal draft revisions to

the rules and soliciting written comments from stakeholders by May 9, 2014. The Commission held a second workshop on May 15, 2014, where it received comments from stakeholders regarding the informal draft revisions to the rules.

9 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) with the Code Reviser on September 3, 2014, at WSR # 14-18-084. The Notice provided interested persons the opportunity to submit written comments to the Commission by October 6, 2014. The Commission scheduled this matter for oral comment and adoption on Wednesday, November 5, 2014, at 1:30 p.m., in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.

10 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on November 5, 2014, before Chairman David W. Danner, Commissioner Philip B. Jones, and Commissioner Jeffrey D. Goltz.<sup>1</sup> The Commission heard oral comments from Clint Kalich, representing Avista Corporation (Avista); Etta Lockey and Mary Wiencke, representing Pacific Power & Light Company (Pacific Power); Eric Englert, representing Puget Sound Energy (PSE); Mary Kimball, representing Public Counsel Section of the Washington Office of Attorney General (Public Counsel); and Dina Dubson Kelley and Megan Decker, representing Renewable Northwest (RN); and Joshua Weber, representing Industrial Customers of Northwest Utilities. (ICNU).

### III. DISCUSSION

11 The Commission's goals in this proceeding are to:

- promulgate rules consistent with legislative changes made to the Energy Independence Act (EIA) since the Commission's rules were first adopted in 2007,
- incorporate in rules Commission precedents and preferred practices in implementing the EIA, and

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<sup>1</sup> Since the November 5, 2014, adoption hearing, Commissioner Goltz retired, and the Governor appointed Ann Rendahl as Commissioner. Commissioner Rendahl joins in this order, having reviewed the proposed rules, the comments submitted in response to the proposed rules, and attended the adoption hearing while holding a staff position with the Commission.

- engage with stakeholders to address and resolve ambiguity where appropriate.

12 In this part of the order we provide a short overview of the rules we adopt today and the rationale for changes from the proposed rules or departures from Commission precedent. Attachment A is a summary of oral comments made at the adoption hearing, written comments provided to us by stakeholders in response to the proposed rules, and our consideration of those comments. Some minor issues not discussed in this order are addressed in Attachment A to this order. Attachment A is hereby incorporated into, and made part of, this order.

#### A. Energy efficiency resource standard rules

13 WAC 480-109-100 through WAC 480-109-130 describe the process that an investor-owned electric utility (“utility” as defined in WAC 480-109-060(31)) must follow to meet the requirement in RCW 19.285.040(1) to “pursue all available conservation that is cost-effective, reliable, and feasible.” The utility industry and energy policy professionals use the term “energy efficiency resource standard” to describe state laws that require utilities to acquire conservation.<sup>2</sup> We adopt this standard industry terminology as the title of WAC 480-109-100. The EIA contemplates a biennial conservation process for each utility, and we developed the conservation process, as codified in this rulemaking, over three biennial periods.<sup>3</sup>

14 WAC 480-109-100 details the process a utility must use to identify conservation potential, develop a conservation portfolio, implement conservation programs, adaptively manage a conservation portfolio, and evaluate conservation using cost-effectiveness tests. Section 110 describes the process for, and role of stakeholder

<sup>2</sup> Annie Gilleo, Anna Chittum, Kate Farley, Max Neubauer, Seth Nowak, David Ribeiro, and Shruti Vaidyanathan, *The 2014 State Energy Efficiency Scorecard*, American Council for an Energy-Efficient Economy Report No. U1408, at 21 (October 2014), available at <http://aceee.org/research-report/u1408>.

<sup>3</sup> The Commission’s orders evaluating each utility’s biennial conservation filings can be found in the dockets described in the following table.

Utility	2010-2011 biennium	2012-2013 biennium	2014-2015 biennium
Avista	UE-100176	UE-111882	UE-132045
Pacific Power	UE-100170	UE-111880	UE-132047
Puget Sound Energy	UE-100177	UE-111881	UE-132043

involvement in, a utility's conservation advisory group. Section 120 discusses conservation plans and reports that a utility must file with the Commission. Finally, Section 130 provides the process that a utility must use to recover the costs of its conservation programs.

### 1. Pro rata

- 15 RCW 19.285.040(1)(b) requires utilities to set a biennial conservation target “no lower than the qualifying utility’s pro rata share” of its 10-year conservation potential. This statutory requirement is reflected in WAC 480-109-100(3)(b) of this adopted rule. The EIA does not define “pro rata,” but the rules the Commission promulgated in 2007 included a definition at WAC 480-109-007(14). The rules we adopt today change this definition.
- 16 Interpretation of the term “pro rata” was contested in the 2007 rulemaking. Some parties argued that when there is no statutory definition, the dictionary definition of “equal proportions” prevails, while others argued that the Commission’s definition should provide flexibility to account for uneven ramp rates typically found in new conservation programs. In 2007, the Commission promulgated rules providing flexibility in the definition of “pro rata” because utilities needed to ramp up their conservation programs to comply with the EIA, in some cases doubling their conservation efforts.
- 17 Now that we are in the third biennial cycle of conservation, programs are no longer ramping up and we find that there is less need for this flexibility, and a greater need for consistency and certainty.
- 18 In this rule, we propose a new definition of “pro rata” in WAC 480-109-060(19), consistent with its customary definition meaning equal proportions. This definition requires a utility’s biennial conservation target to be at least 20 percent of its 10-year conservation potential.
- 19 Northwest Energy Coalition (NVEC) supports the Commission’s proposed definition as the plain meaning of “pro rata,” citing its arguments from the 2007 rulemaking.<sup>4</sup>

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<sup>4</sup> May 9, 2014, Comments of NVEC, at 5.

PSE and Pacific Power suggest retaining the flexibility provided in the current rule, and argue that this definition is inconsistent with the methodology found in the Northwest Power and Conservation Council's (Council) Sixth Regional Power Plan (Power Plan).<sup>5</sup>

- 20 In projecting the conservation potential of the region, the Council does not establish targets for specific utilities or indicate how individual utility targets should be established. Specifically, the EIA refers to the Council's methodology in RCW 19.285.040(1)(a) when describing the projection of a utility's 10-year conservation potential, but the EIA does not mention the Council's methodology in RCW 19.285.040(1)(b) when establishing utilities' biennial conservation target. Therefore, using our definition of "pro rata" for the purpose of establishing an individual utility's conservation target does not conflict with the Council's methodology for projecting conservation potential.
- 21 We note that Avista and Pacific Power's approved 2014-2015 Biennial Conservation Targets are lower than would be required under this definition.<sup>6</sup> This order does not adjust Avista and Pacific Power's 2014-2015 Biennial Conservation Targets; rather, the new definition of "pro rata" will apply when we set utilities' 2016-2017 Biennial Conservation Targets.

## 2. Transmission voltage

- 22 The proposed rules included a definition of transmission voltage in WAC 480-109-060(30). PSE and Pacific Power suggested that the Commission remove this definition as it is inconsistent with the way transmission voltage is defined by the utilities and other government agencies.<sup>7</sup> To address this concern, we remove the definition and add to WAC 480-109-100(3)(c)(iii) and WAC 480-109-200(8)(b) "For the purposes of this subsection, transmission voltage is one hundred thousand volts or

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<sup>5</sup> Oct. 6, 2014, Pacific Power comment form, Comment 1; Oct. 6, 2014, PSE comment form, Comment 1.

<sup>6</sup> *Avista*, UE-132045, Order 01 (Dec. 19, 2013); *Pacific Power*, UE-132047, Order 01 (Dec. 19, 2013).

<sup>7</sup> Oct. 6, 2014, Pacific Power comment form, Comment 2; Oct. 6, 2014, PSE comment form, Comment 6.



higher.” This more focused use of the term “transmission voltage” better reflects the limited use of that term in the statute and reduces the potential for misinterpretation.

### 3. Energy efficiency resource standard

23 WAC 480-109-100 codifies with minor changes the current process utilities use to identify conservation potential, develop, implement and adaptively manage conservation programs, establish and comply with biennial conservation targets, and evaluate conservation using cost-effectiveness tests. The Commission established this process in previous orders approving utility biennial conservation plans and reports, with conditions, over the last three biennia. These orders imposed conditions on each utility that were negotiated by each utility, Commission Staff and stakeholders. The substance of the conditions varied slightly from utility to utility. For this section of the rule, our goal is to standardize those requirements and resolve ambiguity.

#### i. Pursue all

24 RCW 19.285.040(1) requires utilities to “pursue all available conservation that is cost-effective, reliable, and feasible.” During the review of recent biennial conservation reports, parties disagreed about whether simply acquiring sufficient conservation to meet a biennial conservation target fulfills the requirement in the statute to “pursue all available conservation that is cost-effective, reliable, and feasible,” or whether additional actions were necessary.<sup>8</sup> This rule explicitly addresses this issue.

25 WAC 480-109-100(1) defines the process utilities must follow to meet the obligation to pursue all required conservation. The steps of this process are consistent with the process utilities currently follow to manage their conservation efforts prudently. First, a utility must identify the cost-effective, reliable, and feasible conservation potential in its service territory, as required by RCW 19.285.040(1)(a). WAC 480-

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<sup>8</sup> Dockets UE-100170, UE-100176, and UE-170177, *In the Matter of Evaluating Electric Utility Conservation Achievements Under the Energy Independence Act, RCW 19.285 and WAC 480-109*, Staff Comments, at 6-7 (July 16, 2012). See also Dockets UE-100170, UE-100176, and UE-170177, *In the Matter of Evaluating Electric Utility Conservation Reports Under the Energy Independence Act, RCW 19.285 and WAC 480-109*, Staff comments, at 14-15 (March 5, 2010).

109-100(2) provides additional detail about how a utility develops its 10-year conservation potential.

- 26 Second, a utility must develop a portfolio designed to acquire available conservation identified in the potential. Utilities currently develop conservation portfolios designed to achieve or even exceed the biennial conservation target, the requirements for which are described in additional detail in WAC 480-109-100(3). As conservation programs have matured through the implementation of the EIA, it has become apparent that there are more types of conservation available than just end-use efficiency measures. As a result, the rule identifies a list of conservation types in WAC 480-109-100(1)(b) that utilities must consider in the development of conservation portfolios.
- 27 The third, and arguably most important part of the conservation process required by RCW 19.285.040(1), is to implement programs that acquire cost-effective conservation savings. Utilities retain the responsibility to implement these programs.
- 28 Fourth, utilities must engage in adaptive management of conservation portfolios, to ensure that portfolios appropriately respond to changing market conditions during a biennium. Adaptive management of a conservation portfolio includes conducting pilot programs of new technologies or new approaches to engage customers in conservation, as described in WAC 480-109-100(1)(c), and is part of pursuing all achievable conservation resources.
- 29 In addition to the process identified in WAC 480-109-100(1), we added a definition of the phrase “pursue all” in WAC 480-109-060(21) to make it clear that pursuing all available conservation that is cost-effective, reliable, and feasible is a more rigorous process than just acquiring enough conservation to meet the biennial target.
- 30 PSE suggested deleting the definition of “pursue all” in WAC 480-109-060(21) because the language redefined the requirements of the law to activities beyond approval of conservation forecasts and biennial targets.<sup>9</sup> Public Counsel commented that it does not believe that the language of WAC 480-109-060(21) and WAC 480-109-100(1) establish separate requirements beyond the law, and that the proposed rule

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<sup>9</sup> Oct. 6, 2014, PSE comment form, Comment 4.

will help ensure a robust process for conservation portfolio development, implementation, and adaptive management.<sup>10</sup>

- 31 We reject PSE's argument that WAC 480-109-060(21) and WAC 480-109-100(1) establish new requirements. Rather, the rule language describes a process that the utilities are already largely required to follow by statute, rule, and Commission orders. We believe that each of these steps is an important element of ensuring prudent expenditure of ratepayer funds on conservation resources. Utilities' current conservation processes and plans are generally consistent with the rule we adopt today. Currently, each utility implements programs to acquire conservation savings from end-use efficiency, behavioral programs, and market transformation; additionally, each utility considers the availability of savings from production and distribution efficiency in the development of its biennial conservation plans. The only element of process we are listing explicitly for the first time is the consideration of all of the types of conservation in WAC 480-109-100(1)(b).
- 32 Avista voiced uncertainty at the May 15, 2014, workshop regarding how a utility would demonstrate compliance with the requirements of WAC 480-109-100(1). Utilities will demonstrate compliance by submitting the plans and reports required in WAC 480-109-120 that document the actions taken to meet these requirements. Should a stakeholder believe a utility is deficient in meeting the requirements of WAC 480-109-100(1), it is appropriate for that stakeholder to raise the issue with the advisory group. Failing resolution through the advisory group process, a stakeholder may raise the issue with the Commission during our review of the plans or reports in WAC 480-109-120. The Commission retains the authority to impose appropriate conditions on the utility to remedy the deficiency, although the requirements of this section are not subject to the monetary penalties of RCW 19.285.060(1).
- 33 PSE suggested that the use of the phrase "emerging conservation technologies" in WAC 480-109-100(1)(a)(iv) introduces ambiguity and could impact the development of conservation potential assessments.<sup>11</sup> We recognize that there is no single industry definition of "emerging conservation technologies" and do not attempt to define the term in this rule. However, our intention is that "emerging conservation

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<sup>10</sup> Oct. 6, 2014, Public Counsel comment form, Comment 1.

<sup>11</sup> Oct. 6, 2014, PSE comment form, Comment 7.

technologies” encompasses technologies that are available but not widely deployed, face barriers to achieving market penetration, or are under development.<sup>12</sup> We look to utilities and their advisory groups to determine which technologies are appropriate to consider adding to a conservation portfolio.

- 34 We are not persuaded by PSE’s second argument that assessing emerging technologies would complicate conservation potential assessments. During program implementation, utilities must consider conservation savings from a variety of sources, including emerging technologies, as part of adaptive management of their conservation portfolios. This work is essential to the development of new programs during a biennium, and is not reserved to the conservation potential assessment.
- 35 Lastly, we make a few minor changes to improve clarity and consistency with the statute. PSE suggested that WAC 480-109-100(1)(c) specify that pilots should be expected to be cost-effective within the current or immediately subsequent biennium.<sup>13</sup> We agree, and add “within the current or immediately subsequent biennium” to WAC 480-109-100(1)(c).
- 36 In WAC 480-109-100(2)(a) we add the word “available” so the rule more closely mirrors RCW 19.285.040(1). Similarly, we replace “all achievable conservation” in WAC 480-109-100(3)(a) with “all available conservation that is cost-effective, reliable and feasible” to improve consistency with the statute.
- 37 PSE and NWECC suggested that consistent language be used in the three places of WAC 480-109-100(3)(c) that describe “the immediately subsequent two” biennia or biennial conservation targets.<sup>14</sup> We agree and change the proposed rule to provide consistency.

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<sup>12</sup> The Council also considers emerging technologies where appropriate. “[T]he conservation assessment incorporates new conservation opportunities brought about by technological advances.” Sixth Northwest Conservation and Electric Power Plan, Northwest Power and Conservation, at 4-4 (Feb. 2010), available at [http://www.nwcouncil.org/media/6365/SixthPowerPlan\\_Ch4.pdf](http://www.nwcouncil.org/media/6365/SixthPowerPlan_Ch4.pdf).

<sup>13</sup> Oct. 6, 2014, PSE comment form Comment 8.

<sup>14</sup> Oct. 6, 2014, PSE comment form Comment 11; Oct. 6, 2014, Comments of NWECC, at 1.

## ii. Energy savings values and protocols

38 WAC 480-109-100(5) codifies existing precedent requiring utilities to use the Regional Technical Forum's (RTF) unit energy savings values and protocols, unless a utility demonstrates to its advisory group that another value or protocol is based on generally accepted methods, impact evaluation data, or other reliable and relevant data that include verified savings levels. The proposed rule allowed non-RTF values to be used only by Commission order. Pacific Power, PSE, and Public Counsel commented that requiring a Commission order to use non-RTF values would create a significant administrative burden. We agree and remove the provision requiring a Commission order for the use of non-RTF values.

## iii. Low-income conservation

39 We recognize that conservation measures implemented at low-income residences have significant non-energy benefits that are difficult to quantify, such as improved health, safety, and comfort. Low-income conservation programs often face higher barriers, and therefore costs, than other programs, such as generally older housing stock, a higher proportion of renters, and the availability of disposable income. As a result, utility low-income programs may struggle to demonstrate cost-effectiveness.

40 Utilities contract with community action agencies to determine participant eligibility and implement conservation measures. When agencies use federal Weatherization Assistance Program funds, the conservation measures must be evaluated for cost-effectiveness using the savings-to-investment ratio (SIR) or Targeted Residential Energy Analysis Tools (TREAT model), as described in the *Weatherization Manual* developed and maintained by the Washington State Department of Commerce (Commerce), and which we adopt by reference in WAC 480-109-999(2). Using this approach, cost-effectiveness is determined on a project-by-project basis.

41 WAC 480-109-100(10)(a) allows utilities to fully fund low-income conservation measures that are determined to be cost-effective consistent with the procedures in the *Weatherization Manual*, as well as associated repairs, administrative costs, and health and safety improvements. The *Weatherization Manual* is used by agencies across the state, and we believe using this existing framework could lessen the administrative

burden on utilities and the community action agencies. WAC 480-109-100(10)(b) allows utilities to exclude low-income conservation from portfolio-level cost-effectiveness screens. The SIR is a different cost-effectiveness test than the utilities use for the rest of the conservation portfolio, so it is reasonable to make separate calculations. In recognition that low-income conservation programs have significant non-energy benefits, we find it appropriate for utilities to maintain robust low-income conservation offerings despite the unique barriers these programs face.

- 42 WAC 480-109-100(10)(c) requires utilities to count savings from low-income conservation programs toward biennial conservation targets consistent with the test used to evaluate low-income program cost-effectiveness.
- 43 The proposed rule, WAC 480-109-100(8), addressed low-income conservation and we received substantial comments from stakeholders on this issue, both before and after the adoption hearing. The Energy Project commented that Commerce had updated the title of the *Weatherization Manual* since we initiated this rulemaking.<sup>15</sup> It suggested that the rule allow the use of the priority list developed by Commerce and approved by the U.S. Department of Energy. The Energy Project also noted that the SIR indicates which measures should be installed, but fails to give an indication of what portion of the cost utilities should cover.
- 44 We appreciate the Energy Project's first comment and have used the updated title of the *Weatherization Manual* in the adopted rule. In our effort to reduce the administrative burden of low-income conservation programs, we agree with the Energy Project's suggestion to include the priority list of measures and the adopted rule allows for its use at WAC 480-109-100(10)(a).
- 45 We also agree with the Energy Project that community action agencies face significant challenges in securing sufficient funding to cover costs not paid by utilities. Utilities do not always pay the full amount of low-income conservation measures or associated administrative costs. WAC 480-109-100(10)(a) allows, and we encourage, utilities to fully fund low-income conservation measures determined to be cost-effective using the procedures of the *Weatherization Manual*, as well as associated repairs, administrative costs, and health and safety improvements. The

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<sup>15</sup> Oct. 6, 2014, Comments of the Energy Project.

rule does not require utilities to fully cover all of these costs because we are concerned that such a requirement could be in conflict with utilities' existing contracts with community action agencies. Further, it is appropriate for the utilities to discuss the level of incentive payments with their advisory groups.

- 46 Pacific Power suggested striking all references to evaluating the cost-effectiveness of low-income conservation programs until a review of all the possible ramifications of such a change could be evaluated with its advisory group.<sup>16</sup> Pacific Power also raised concerns about how the SIR would impact the conservation potential assessment and integrated resource planning.
- 47 Acknowledging Pacific Power's first concern, we revise the rule language to allow, rather than require, utilities to pursue low-income conservation that is cost-effective consistent with the procedures of the *Weatherization Manual*. We recognize that there may be implementation challenges, and expect the utilities to consult with their advisory groups and community action agencies prior to making any change. Regarding Pacific Power's second concern, we note that conservation potential assessments and integrated resource plans consider the total amount of conservation available and do not distinguish between low-income and non-low-income residential conservation opportunities. Utilities determine the appropriate mix of low-income residential and other measures to pursue in the course of developing a conservation portfolio, not in the development of a conservation potential assessment or integrated resource plan.<sup>17</sup> Therefore, there is no conflict between using the procedures of the *Weatherization Manual* and conservation potential assessments and integrated resource plans.
- 48 PSE commented that requiring utilities to use the procedures of the *Weatherization Manual* would increase administrative burden and costs.<sup>18</sup> To address this concern of increased burdens and costs, we revise the rule language to be permissive rather than mandatory. We expect utilities to explore with their advisory groups and community action agencies ways to minimize the administrative burden of implementing WAC

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<sup>16</sup> Oct. 6, 2014, Pacific Power comment form, Comment 8.

<sup>17</sup> The different steps discussed here are outlined in WAC 480-109-100(1)(a).

<sup>18</sup> Oct. 6, 2014, PSE comment form, Comment 17.

480-109-100(10), while maintaining sufficient review of cost and savings assumptions.

49 ICNU suggested that WAC 480-109-100(8)(a) specify that the portfolio-level cost-effectiveness analysis include administrative costs, in light of the increasing administrative costs that will be incurred in implementing the proposed rule.<sup>19</sup> We decline to do this. First, we expect the change to using the procedures of the *Weatherization Manual* to reduce administrative costs. Second, we find this change unnecessary because administrative costs are already included in the portfolio-level cost-effectiveness test.

50 NWEAC commented that recognizing the unique benefits and costs of low-income conservation programs is appropriate and that the use of the procedures in the *Weatherization Manual* is appropriate for determining the cost-effectiveness.<sup>20</sup> Further, NWEAC suggested that the rule clarify that the *Weatherization Manual* may be updated over time and that utilities should use the most current version. We believe the inclusion of the *Weatherization Manual* in WAC 480-109-999(2) achieves this flexibility.

#### 4. Conservation advisory group

51 WAC 480-109-110 codifies, with minor changes, certain conditions of our orders approving biennial conservation plans over the last three biennia regarding utility engagement with conservation advisory groups.<sup>21</sup> As utility conservation efforts have matured with the implementation of the EIA, so have our expectations for utility engagement with their conservation advisory groups. Therefore, we find it appropriate to codify in rule those requirements that we do not expect to change in the future.

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<sup>19</sup> Oct. 6, 2014, ICNU comment form, Comment 1.

<sup>20</sup> Oct. 6, 2014, Comments of NWEAC, at 2.

<sup>21</sup> See *supra*, n.3, listing Commission orders approving biennial conservation plans with conditions.



- 52 Although this section incorporates many of the conditions found in utilities' current conservation orders, we did not include every condition in rule. Certain conditions lack broad applicability across companies or biennia, and in those cases we find it appropriate to use different approaches for different utilities. The full effect of other newer conditions is not yet known. Therefore, we do not believe them ripe for inclusion in rule at this time. As conservation programs continue to evolve and mature under the EIA, we expect that some conditions will stabilize, some will cease to be necessary, and others will be added as utilities address new challenges.
- 53 WAC 480-109-110(1) describes the range of issues we expect utilities to discuss with their advisory groups. In the proposed rule, subsection (1) addressed specific aspects of conservation programs and measures. In the rule we adopt today, we add "conservation programs and measures" to WAC 480-109-110(1)(a) to make explicit that conservation advisory groups should address all aspects of conservation programs and measures.
- 54 WAC 480-109-110(2) requires utilities to meet at least four times per year, with reasonable notice provided. The format of these meetings is not specified because we encourage advisory groups to hold meetings in formats other than in-person. WAC 480-109-110(3) standardizes the timing in which utilities must provide draft filings to conservation advisory groups. WAC 480-109-110(4) requires utilities to inform conservation advisory groups of company or Commission public meetings addressing conservation programs, tariffs, or the development of conservation potential assessments.

i. New programs

- 55 WAC 480-109-110(1)(m) requires utilities to discuss the development and implementation of new and pilot programs with their conservation advisory groups. Public Counsel commented that the proposed rule did not include a specific requirement for utilities regarding new programs that are initiated mid-biennium and not included in the biennial or annual conservation plans.<sup>22</sup> Public Counsel noted that each of the utilities was subject to a condition requiring the utility to present the details of new programs to its advisory group, and suggested similar language for

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<sup>22</sup> Oct. 6, 2014, Public Counsel comment form, Comment 3.

WAC 480-109-120(1)(c). Public Counsel's suggested language would have also required utilities to file an update or addendum to the biennial or annual conservation plan when new programs go into effect.

- 56 We agree with Public Counsel that utilities should discuss new programs with conservation advisory groups, and add WAC 480-109-110(1)(m). However, we reject Public Counsel's suggestion requiring utilities to file an update or addendum to the relevant conservation plan in all circumstances because we believe that would place an unnecessary administrative burden on utilities. While an update or addendum to the relevant conservation plan is appropriate when utilities make significant additions or modifications to their conservation programs, we decline to adopt a rule that would require such a filing in all circumstances. A utility should file an update or addendum to its relevant conservation plan when requested by its conservation advisory group as a result of significant additions or modifications to conservation programs.

ii. Advance notice of filings exception

- 57 WAC 480-109-110(3) requires utilities to provide conservation advisory groups with a draft copy of filings 30 days in advance of the filing. The purpose of this requirement is to give advisory group members sufficient time to ask questions and suggest possible changes, and to give utilities sufficient time to address suggested changes in the filings.
- 58 PSE objected to this requirement because, unlike other utilities, it is required under its current ordering conditions to provide a draft 60 days in advance of the effective date of filings and meet specific biennial conservation plan deliverable dates.<sup>23</sup> Additionally, PSE requested that an exception to the advance filing requirement be allowed for the annual conservation cost recovery adjustment filing required in WAC 480-109-100-130.

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<sup>23</sup> Oct. 6, 2014, PSE comment form, Comment 20. See also *Puget Sound Energy*, Docket UE-132043, Order 01, Attachment A, Condition (8)(d).

- 59 We recognize that due to the limited availability of information required for the conservation cost recovery adjustment filing, it would be difficult for PSE to provide a draft 30 days prior to filing with the Commission. Further, the current conditions for each utility require the annual conservation cost recovery adjustment filings to be made 60 days before its effective date. We believe this provides sufficient time for the review, and therefore, in the adopted rule we exempt the conservation cost recovery adjustment filings at WAC 480-109-130 from the advance notification of filings requirement at WAC 480-109-110(3).
- 60 PSE and NWECC suggested that the rule allow utilities to provide a copy of filings concurrent with filing with the Commission.<sup>24</sup> We reject this suggestion. Although circumstances may arise that delay or prevent a utility from providing an advance copy of filings to its conservation advisory group, a utility may request an exemption from the rule as provided by WAC 480-109-030 and WAC 480-07-110. We believe this provision provides sufficient flexibility in extraordinary circumstances.

#### 5. Conservation planning and reporting

- 61 WAC 480-109-120 codifies the current conservation planning and reporting process with minor changes. In odd-numbered years, a utility submits a biennial conservation plan. In even-numbered years, it submits a biennial conservation report and annual conservation plan. Each year, a utility submits an annual conservation report.
- 62 WAC 480-109-120(1)(a) requires utilities to file a biennial conservation plan on or before November 1 of odd-numbered years. Taken together with the advance notice provision of WAC 480-109-110(3), this rule requires utilities to provide an electronic copy of its biennial conservation plan to its advisory group 30 days earlier, in early October.<sup>25</sup> Other sections of the rule require utilities to file an annual conservation plan on or before November 15 of even-numbered years, annual conservation reports on or before June 1 of each year, and biennial conservation reports on or before June

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<sup>24</sup> Oct. 6, 2014, PSE comment form, Comment 20; Oct. 6, 2014, Comments of NWECC, at 2.

<sup>25</sup> The requirements of a utility's conservation order and attached conditions list continue to apply. For example, condition 8(d) in Attachment A of Order 01 in Docket UE-132043 requires PSE to provide its advisory group a draft ten-year conservation potential and two-year target by August 1, 2015; draft program details, including budgets, by September 1, of the same year; and draft program tariffs by October 1, of the same year.

1 of even-numbered years. Nothing in this rule relieves a utility of the obligations found in its conservation orders and attached conditions lists.<sup>26</sup> A utility may request modification or clarification of its orders as needed.

- 63 This section also describes the contents, process for publication, and process for review of the various plans and reports. We are particularly pleased that this process provides the Commission with an independent third-party evaluator's review of utilities' conservation potential and achievement.
- 64 PSE objected to the use of the term "evaluation" in proposed WAC 480-109-120(3)(b)(iv) regarding portfolio- and program-level cost-effectiveness.<sup>27</sup> Elsewhere in the rule, the term "evaluation" refers to impact, market, or process evaluations, typically those conducted by independent third parties. PSE also commented that the language in WAC 480-109-120(3)(b)(iv) and WAC 480-109-120(4)(b)(iv), which also addresses cost-effectiveness reporting, should be consistent.
- 65 We believe that it is appropriate for utilities to provide a narrative discussion of the inputs to and results of cost-effectiveness tests in annual and biennial conservation reports, and that such a discussion is consistent with the summary of steps taken to adaptively manage conservation programs required in WAC 480-109-120(3)(b)(vi). We remove the word "evaluation" to prevent confusion with the independent third-party evaluations required in WAC 480-109-120(3)(b)(v), and to promote consistency between the subsections (3)(b)(iv) and (4)(b)(iv). We also make grammatical edits to this subsection to clarify that a utility must report the portfolio- and program-level cost-effectiveness of conservation savings.

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<sup>26</sup> The requirements of a utility's conservation order and attached conditions list continue to apply. For example, condition 8(a) in Attachment A of Order 01 in Docket UE-132043 requires PSE to file an annual conservation plan by December 1. PSE must comply with condition 8(a) and WAC 480-109-120(2) by filing by November 15. Similarly, condition 8(b) in Attachment A of Order 01 in Docket UE-132047 requires Pacific Power to file an annual conservation report by March 31. Pacific Power must comply with condition 8(b) and WAC 480-109-120(3) by filing its annual conservation report by March 31.

<sup>27</sup> Oct. 6, 2014, PSE comment form, Comment 26.

## i. Department of Commerce reporting

- 66 RCW 19.285.070 requires each qualifying utility to report to the Department of Commerce (Commerce) on its annual progress toward meeting its targets. Commerce promulgated rules requiring consumer-owned utilities to submit this report.<sup>28</sup> Commerce does not have authority to adopt rules regarding investor-owned utilities, as the EIA reserves that authority for the Commission.<sup>29</sup> Currently, the Commission asks investor-owned utilities to provide the report described in WAC 194-37-060 to Commerce, and proposed WAC 480-109-120(3)(c) makes this an explicit requirement.
- 67 PSE objected to the requirement that each utility file with Commerce the report described in WAC 194-37-060 because that chapter of the Washington Administrative Code does not apply to investor-owned utilities such as PSE.<sup>30</sup> Additionally, PSE asserted that it *provides* the reports to Commerce, rather than *files* them with Commerce.<sup>31</sup>
- 68 We accept PSE's wording modification in WAC 480-109-120(3)(c) and replace the word "file" with "submit." We also modify WAC 480-109-120(5)(c) to clarify that the report referenced is the Commerce report discussed here. However, we decline to accept PSE's argument that that investor-owned utilities should not be required to submit reports to Commerce. The reason our rules require investor-owned utilities to submit this conservation report is precisely because Commerce lacks the authority to do so. State and federal policy makers rely on Commerce's state-wide data in evaluating energy policy. Requiring investor-owned utilities to report data in the same format as consumer-owned utilities enables administrative efficiency at Commerce and ensures consistency in data from both investor- and consumer-owned utilities. Therefore, the rules we adopt today require investor-owned utilities to submit conservation reports in the form required by WAC 194-37-060.

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<sup>28</sup> WAC 194-37-060.

<sup>29</sup> RCW 19.285.080(1).

<sup>30</sup> Oct. 6, 2014, PSE comment form, Comment 27.

<sup>31</sup> Oct. 6, 2014, PSE comment form, Comment 27.

## 6. Conservation cost recovery adjustment

- 69 We make several clarifications to proposed WAC 480-109-130, which codifies existing procedures utilities use to recover the costs of conservation programs. We add the word “cost” to the title and in subsections (1) and (2) to clarify that the tariff is for the recovery of costs. Accordingly, we modify proposed WAC 480-109-120(3)(b)(iii) to reflect the new title of this section.
- 70 PSE requested several changes to the substance of this section. First, PSE requested that we add the word “all” to subsection (1).<sup>32</sup> We agree, and add the word “all” to clarify that filings must not exclude expected changes in conservation costs and amortization of deferred balances.
- 71 Second, PSE requested that we modify this section to allow the recovery of non-conservation costs through this tariff, as PSE currently does.<sup>33</sup> We decline PSE’s request, because it is our preference that these tariffs include only the costs of conservation programs. These adjustments often appear on bills as a “conservation program charge,” establishing an expectation that it only includes conservation costs.
- 72 Though we express our clear preference against the recovery of non-conservation costs from these tariffs, we see no need for a rigid rule prohibiting it. As PSE points out, in fact-specific circumstances we have allowed the recovery of non-conservation costs through these tariffs. Nothing in this rule prohibits the recovery of non-conservation costs through these adjustments, so there is no need to modify the proposed rules as PSE suggests.
- 73 Third, PSE requested that we add “or other rate recovery mechanisms as allowed in RCW 80.28.303 *et. seq.*” to the end of subsection (1).<sup>34</sup> WAC 480-109-130 merely codifies our existing practice, and is not intended to add new requirements to conservation cost recovery adjustments. Moreover, RCW 80.28.303(5) allows the Commission to adopt “any other policies or programs intended to encourage utility

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<sup>32</sup> Oct. 6, 2014, PSE comment form, Comment 30.

<sup>33</sup> Oct. 6, 2014, PSE comment form, Comment 30.

<sup>34</sup> Oct. 6, 2014, PSE comment form, Comment 30.

investment in improving efficiency.” The Commission’s existing practice, and the rule that codifies it, is consistent with RCW 80.28.303. We therefore decline to make the change proposed by PSE.

- 74 Fourth, PSE requested that the inclusion of conservation cost recovery procedures in tariffs be permissive, not mandatory, because accounting procedures are more appropriately placed in accounting rules rather than tariffs.<sup>35</sup> This section of the rule is modeled after WAC 480-90-233, the Commission’s purchased gas adjustment rule, which requires the inclusion of procedures in the tariff. We intend for our rules on cost recovery adjustments to be consistent and detailed; therefore we decline to make the suggested change.
- 75 Fifth, PSE suggested requiring a “subsequent true-up” to recover actual program costs of the prior year.<sup>36</sup> The Commission’s purchased gas adjustment rule provides for recovery of actual program costs of the prior year without a subsequent true-up. In effect, each year’s conservation cost recovery adjustment filing serves the function of a true-up for the previous year, because, as described in the third sentence of WAC 480-109-130(3), utilities must “include the effects of variations in actual sales on the recovery of conservation costs in the prior year.” For the reasons described in the paragraph above, we decline to make this change.
- 76 Finally, PSE suggested two clarifications to the second sentence of proposed WAC 480-109-130(3). The first highlights the forward-looking nature of conservation cost recovery and the second clarifies use of the term “program” versus “measure.” We accept PSE’s addition of “forward-looking” before budgeted conservation, and accept the substitution of “programs” for “measures” in both places in the same sentence. This change allows PSE to recover direct administrative costs through the tariff and maintain its existing practice.

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<sup>35</sup> Oct. 6, 2014, PSE comment form, Comment 30.

<sup>36</sup> Oct. 6, 2014, PSE comment form, Comment 31.

## B. Renewable portfolio standard rules

- 77 WAC 480-109-200 through WAC 480-109-220 describe the process that a utility must follow to meet the requirement in RCW 19.285.040(2) to acquire eligible renewable resources. The Commission developed this renewable portfolio standard reporting process over the last three years.<sup>37</sup>
- 78 Section 200 details the method for calculating a utility's renewable resource targets by year, the process for acquiring and using certificates for compliance with the EIA, and three options for calculating the amount of incremental hydropower eligible for EIA compliance. Section 210 discusses renewable portfolio standard reports that a utility must file with the Commission. Section 220 describes alternatives to the renewable resource requirement.

### 1. Certificate definition

- 79 We revise proposed WAC 480-109-060(3) to add a definition of the term "certificate." This simplifies the rule by allowing a single word to refer to the ownership of non-power attributes of energy from eligible renewable resources.
- 80 The EIA defines "renewable energy credit" (REC) in RCW 19.285.030(20), to mean a "tradable certificate of proof of [energy from] an eligible renewable resource where the generation facility is not powered by fresh water." In other words, the EIA allows the use of incremental hydropower to meet the state's RPS, but prohibits incremental hydropower from producing RECs.<sup>38</sup>

<sup>37</sup> The Commission's orders evaluating each utility's renewable portfolio standard filings are in the dockets listed in the following table.

Utility	2012	2013	2014
Avista	UE-120791	UE-131056	UE-140801
Pacific Power	UE-120813	UE-131063	UE-140802
Puget Sound Energy	UE-120802	UE-131072	UE-140800

<sup>38</sup> Under RCW 19.285.030(12)(b), incremental electricity produced as a result of efficiency improvements at certain hydroelectric generation facilities after March 31, 1999, is an "eligible renewable resource," and "eligible renewable resources" may be used to meet the RPS requirement in RCW 19.285.040(2)(a).



- 81 This prohibition created an unwieldy proposed rule, where we used the cumbersome paired terms “renewable energy credits and qualifying hydroelectric generation” and “renewable energy credits and eligible renewable resources” to reference the ownership of non-power attributes of energy from an eligible renewable resource. Providing a definition of the term “certificate” simplifies the rule by allowing for a single word to mean the ownership of the non-power attributes of renewable energy credits and qualifying hydroelectric generation.
- 82 Proposed WAC 480-109-210(6) required the final compliance report to include a list of the “renewable energy credits” retired in WREGIS. Because the rules we adopt today replace the term “renewable energy credits” with “certificates,” we are aware that we are expanding this requirement to include WREGIS documentation of energy from qualifying hydroelectric generation. This is appropriate in light of proposed WAC 480-109-200(3)’s requirement that “All eligible renewable resource generation . . . used for utility compliance with the renewable energy standards must be registered in WREGIS, regardless of facility ownership.”<sup>39</sup>

## 2. Renewable portfolio standard

- 83 WAC 480-109-200 details a utility’s renewable resource targets by year, the process for acquiring and using WREGIS certificates for compliance with the EIA, the available methods for calculating incremental hydropower, and the use of qualified biomass energy.

### i. WREGIS registration

- 84 Proposed WAC 480-109-200(3) required that “All eligible renewable resource generation and all renewable energy credits used for utility compliance with the renewable energy standards must be registered in WREGIS, regardless of facility ownership.” We require the use of WREGIS because RCW 19.285.030(20)

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<sup>39</sup> As discussed in ¶ 88, the version of WAC 480-109-200(3) we adopt today slightly modifies the proposed rule, but does not alter its meaning.

authorizes the Washington Department of Commerce to select a renewable energy credit tracking system, and the department selected WREGIS.<sup>40</sup>

- 85 The intent of this subsection is to codify Commerce’s decision and our precedent requiring utilities to use WREGIS to prevent double counting of renewable energy credits and qualifying hydroelectric generation.
- 86 The phrase “regardless of facility ownership” is a significant codification of our prior orders. In orders discussing the 2014 RPS reports, the Commission ordered each utility to file a final compliance report listing the certificate numbers in WREGIS for every megawatt-hour and renewable energy credit that Avista, Pacific Power, and PSE retired to meet the January 1, 2014, target.<sup>41</sup> We separate “every megawatt-hour” and “renewable energy credit” because we require each megawatt-hour of incremental hydropower used for RPS compliance to be registered in WREGIS.
- 87 Regardless of facility ownership, we require registration of each megawatt-hour of incremental hydropower used to further the statute’s goals of tracking RPS compliance and preventing any two utilities from using the same megawatt-hour for compliance. In every order entered regarding utilities’ RPS reports, the Commission has expressed concern about double counting.<sup>42</sup> While we cannot and do not direct consumer-owned utilities to register their resources in WREGIS, we do have the authority and responsibility to ensure that eligible renewable generation claimed by investor-owned utilities is counted only once. It is appropriate to do this by requiring that ownership of all eligible renewable generation be verified and documented within WREGIS.
- 88 We make four clarifying changes to WAC 480-109-200(3). We title this subsection “WREGIS registration.” We change “renewable resource generation and all renewable energy credits” to “hydropower generation and all renewable energy

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<sup>40</sup> WAC 194-37-040(17); WAC 194-37-210. The Western Renewable Energy Generation Information System has a website at <http://www.wregis.org>.

<sup>41</sup> *PSE*, Docket UE-140800, Order 01 ¶ 29 (July 31, 2014); *Avista*, Docket UE-140801, Order 01 ¶ 28 (July 31, 2014); *Pacific Power*, Docket UE-140802, Order 01 ¶ 28 (July 31, 2014).

<sup>42</sup> *See supra*, n.37. Our most recent orders include this discussion at *PSE*, Docket UE-140800, Order 01 ¶ 29 (July 31, 2014); *Avista*, Docket UE-140801, Order 01 ¶ 28 (July 31, 2014); *Pacific Power*, Docket UE-140802, Order 01 ¶ 28 (July 31, 2014).

credits” to clarify that the requirement to register hydropower generation is in addition to the requirement to register RECs. We modify “renewable energy standards” to “renewable resource target” to match the title of WAC 480-109-200(1). These clarifications do not modify the substantive requirements of the proposed rule.

- 89 The fourth clarification we make is to add a sentence making explicit that “[a]ny megawatt-hour of eligible hydropower or renewable energy credit that a utility uses for compliance must have a corresponding certificate retired in the utility’s WREGIS account.” This sentence was not included in the proposed rule, however, as we discuss below, it codifies the Commission’s decisions in prior orders and is a logical extension of the registration requirement discussed above.<sup>43</sup>
- 90 We include this requirement because a certificate that is not retired may be sold or traded. The only way to prevent multiple utilities from using the same megawatt-hour for compliance is to retire the certificate associated with that megawatt-hour. Thus, to comply with the EIA’s requirement to “use eligible renewable resources or acquire equivalent renewable energy credits” means retiring “any WREGIS certificates associated with the RECs and generation being used for compliance.”<sup>44</sup> Preventing double counting is consistent with the EIA’s policy to increase “the use of appropriately sited renewable energy facilities,” and is a central premise of the renewable portfolio standard in the law.<sup>45</sup>
- 91 NWECC and RN commented in support of the WREGIS registration requirement.<sup>46</sup>
- 92 Avista asserts that the EIA does not require WREGIS registration of qualifying hydroelectric generation, and that this requirement will disqualify a significant

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<sup>43</sup> The Commission stated in its 2012 final compliance reports: “[A] utility must retire any WREGIS certificates associated with the RECs and generation being used for compliance. Retirement of the certificates means the corresponding credits are no longer available for use.” *PSE*, Docket UE-120802, Order 02 ¶ 11 (July 24, 2014); *Pacific Power*, Docket UE-120813, Order 02 ¶ 10 (July 24, 2014); see *Avista*, Docket UE-120791, Order 02 ¶ 11 (July 24, 2014).

<sup>44</sup> RCW 19.285.040(2)(a); *PSE*, Docket UE-120802, Order 02 ¶ 11 (July 24, 2014); *Pacific Power*, Docket UE-120813, Order 02 ¶ 10 (July 24, 2014); *Avista*, Docket UE-120791, Order 02 ¶ 11 (July 24, 2014).

<sup>45</sup> RCW 19.285.020.

<sup>46</sup> Oct. 6, 2014, Comments of RN and NWECC, at 3.

amount of incremental hydropower it purchased because the seller does not wish to participate in WREGIS.<sup>47</sup> Avista suggests that a consumer-owned utility certify that there is no double counting of its incremental hydropower.<sup>48</sup> In an order discussing Avista's 2014 RPS report, the Commission responded:

[T]he EIA does not expressly require eligible hydropower resources to be registered in WREGIS, but neither does the statute preclude the Commission from adopting such a requirement. We conclude that the Commission has discretion under the EIA to take actions to further the statute's goals of tracking RPS compliance and ensuring that resources are not being double-counted. We exercise that discretion to require Avista to register in WREGIS all incremental hydropower facilities on which the Company intends to rely to demonstrate RPS compliance.<sup>49</sup>

The Commission issued orders with the same language in discussing the 2014 reports for Pacific Power and PSE.<sup>50</sup> The rules we adopt today codify this precedent.

93 Public Utility District No. 1 of Chelan County (Chelan PUD), which owns qualifying hydroelectric generation that utilities purchase, submitted comments addressing the WREGIS registration process.<sup>51</sup> From these comments, it appears that Chelan PUD engaged in discussions with WREGIS and believes that it can register its incremental hydropower with WREGIS. Chelan PUD encourages us to consider the timing of the review by the State Auditor's Office, and our review, of incremental hydropower production.

94 We considered the comments of Chelan PUD and the review process in this proceeding. The rule we adopt today requires a utility to file a final compliance report two years after the target year, demonstrating that it retired certificates in

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<sup>47</sup> Oct. 6, 2014, Comments of Avista, at 3-4.

<sup>48</sup> *Id.*

<sup>49</sup> *Avista*, Docket UE-140801, Order 01 ¶ 15 (July 31, 2014).

<sup>50</sup> *PSE*, Docket UE-140800, Order 01 ¶ 15 (July 31, 2014); *Pacific Power*, Docket UE-140802, Order 01 ¶ 14 (July 31, 2014).

<sup>51</sup> Oct. 6, 2014, Chelan PUD, *UTC Draft Incremental Hydro Language*.

WREGIS for the target year.<sup>52</sup> We find, based on the record in this proceeding, that registration of certificates in WREGIS does not present a significant administrative burden on utilities.<sup>53</sup> Our rule provides utilities two years between the target year and the final compliance report. That is sufficient time for the owners of qualifying hydroelectric facilities to register their incremental hydropower production in WREGIS, transfer the certificates to a utility, and for that utility to retire the certificates.<sup>54</sup>

ii. Incremental hydropower calculation

95 We now discuss the process that utilities use for calculating incremental hydropower. Proposed WAC 480-109-200(7) incorporated the Commission's precedent regarding how utilities calculate the incremental production of their upgraded hydropower facilities, which may be counted as eligible renewable energy.<sup>55</sup> While the EIA recognizes incremental hydropower as an eligible renewable resource, it does not prescribe how utilities should calculate it. A stakeholder workgroup convened under Docket UE-110523 identified three methods for a utility to make this calculation; we have recognized and allowed each of those methods. We incorporate these methods into the rule with minor refinements based on stakeholder comments and experience reviewing the methods during the last two RPS reporting cycles.

96 We revise proposed WAC 480-109-200(7)(a) to make several clarifications. We require that a utility must use the same method across all hydropower facilities that it owns to prevent a utility from selecting a different method for each facility based on which method offers the most favorable outcome for that facility. We prohibit a utility from changing methods to prevent a utility from selecting a different method

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<sup>52</sup> WAC 480-109-210(6).

<sup>53</sup> At the adoption hearing, Avista noted that it registers its incremental hydropower facilities in WREGIS and does not find the administrative burden to be onerous. Clint Kalich for Avista, Nov. 5, 2014, Audio Recording, at 6:55-11:15.

<sup>54</sup> If a utility purchasing incremental hydropower is unable to comply with this requirement when submitting its 2013 final compliance report in 2015, it may provide documentation and request a one-time exemption from this rule. The Commission's orders regarding the 2014 RPS reports included clear direction regarding this issue. *See supra*, nn.49-50. Therefore, we do not anticipate that compliance with the rule will present a problem in the 2014 or subsequent final compliance reports.

<sup>55</sup> RCW 19.285.030(12)(b).

each year based on which method offers the most favorable outcome given that year's circumstances. Additionally, requiring each utility to use one method will lessen the administrative burden on the Commission and stakeholders reviewing the RPS reports.

iii. Incremental hydropower: method one

- 97 WAC 480-109-200(7)(b) explains method one. In this method, a utility determines the river discharge at a given facility during the target year, then runs it through two power-curve production models, one representing the pre-upgrade facility and the other representing the upgraded facility. The utility reports the difference between the two as the facility's incremental hydropower production.

iv. Incremental hydropower: method two

- 98 WAC 480-109-200(7)(c) explains method two. In this method, a utility determines the river discharge at a facility during each year of a historical period of at least five consecutive years, then runs each year's discharge through two power-curve production models – one representing the pre-upgrade facility and the other representing the upgraded facility. The utility then calculates the mean production of the pre-upgrade facility and the mean production of the post-upgrade facility during the historical period, then determines an efficiency gain factor by dividing the mean production of the upgraded facility by the mean production of the pre-upgrade facility and subtracting one. Once this is done, the utility multiplies the facility's production each year by the factor that it calculates and reports the resulting figure as the facility's incremental hydropower production. Pacific Power uses method two for calculations from the facilities it owns.

v. Incremental hydropower: method three

- 99 WAC 480-109-200(7)(d) explains method three. This method is similar to method two in that a utility determines the river discharge at a facility during each year of a historical period of consecutive years, then runs each year's discharge through two power-curve production models. However, rather than determining a factor as in method two, the utility subtracts the mean production of the pre-upgrade facility from the mean production of the upgraded facility and reports the difference as the

facility's incremental hydropower production in perpetuity. Since the reporting began in 2012, Staff has consistently expressed reservations with this method, which as a one-time calculation would not capture the effect of future changes in long-term stream flow patterns.<sup>56</sup> As a result, the proposed rule characterized method three as a pilot method. Avista uses method three for calculations from its facilities.

100 We revise the treatment of method three from the proposed rule to remove language that designates method three as a pilot method that would expire after 2017. This change makes the rule more closely reflect the Commission's intent outlined in previous orders. In the order approving Avista's 2013 RPS target, the Commission agreed with Staff's assertion that comparing method three, which calculates incremental hydropower production using solely historical data, to method two, which includes an annual calculation, will aid the evaluation of method three.<sup>57</sup> Method three may prove less reliable over time because climate models indicate that the region's summer river flows may decline over time.<sup>58</sup> To address this matter, the Commission directed Avista, the only utility using method three at the time, to provide an analysis in its final compliance report comparing the amount of incremental hydropower that the company claimed since 2012 using method three to what it would have claimed had it used method two over the same period.<sup>59</sup>

101 In comments on the proposed rule, Avista objected to method three's designation as a pilot method, arguing that such treatment was not consistent with the Commission's order in the 2013 RPS docket and unfairly prejudged the method.<sup>60</sup> Avista also provided a comparison of the results of method three to the other two methods over a 10-year period for its facilities on the Clark Fork River.<sup>61</sup> This analysis showed that the variance between the methods is small, and that the company actually would have

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<sup>56</sup> Dockets UE-140800, UE-140801, and UE-140802, Commission Staff Comments Regarding 2014 Renewable Resource Reports, at 7 (June 30, 2014).

<sup>57</sup> *Avista*, Docket UE-131056, Order 01 ¶ 26 (Sept. 9, 2013).

<sup>58</sup> United States Environmental Protection Agency, *Climate Impacts in the Northwest* (January 13, 2015, 1:41 PM), <http://www.epa.gov/climatechange/impacts-adaptation/northwest.html>.

<sup>59</sup> *Avista*, Docket UE-131056, Order 01 ¶ 44 (Sept. 9, 2013).

<sup>60</sup> Oct. 6, 2014, Comments of Avista, at 4-6.

<sup>61</sup> Oct. 6, 2014, Comments of Avista, at 4-6.

claimed slightly less incremental hydropower over that period under method three than it would have with either of the other methods.<sup>62</sup>

102 Based on the analysis Avista provided on October 6, 2014, we agree that designating method three as a pilot method is not appropriate. Avista's analysis demonstrates that method three provided an accurate calculation of incremental hydropower production by the company's facilities between 2002 and 2011. We therefore revise the proposed rule by removing the pilot designation in the first sentence of WAC 480-109-200(7)(d) and adding a new subsection regarding the five-year evaluation. In the rule we adopt today, WAC 480-109-200(7)(e) states that beginning in 2019 and every five years thereafter, any utility using method three must provide an analysis comparing that method with one of the other two methods for every year method three was used. Given that no other utility is currently using method three, and that Avista provided data demonstrating that method three is performing satisfactorily for its facilities on the Clark Fork River at present, it is appropriate to "reset" the five-year clock to begin in 2019.<sup>63</sup>

103 We also add the last sentence of WAC 480-109-200(7)(e) to clarify that the Commission may order a utility to use a different method if the analysis shows that the utility claimed a significantly different amount of incremental hydropower using method three compared to what it would have claimed using one of the other methods.

vi. Incremental hydropower: historical period length

104 The Commission discussed the length of the historical period required for the calculation in methods two and three in each RPS compliance cycle. Beginning in 2013, Staff consistently advocated a historical period of at least five years, with a

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<sup>62</sup> Oct. 6, 2014, Comments of Avista, at 4-5.

<sup>63</sup> Oct. 6, 2014, Comments of Avista, at 4-6. Avista also owns incremental hydropower facilities on the Spokane River, but did not provide the comparison for those smaller facilities. The Clark Fork River facilities comprise approximately 89 percent of the certificates generated from eligible hydropower facilities that Avista owns. *Avista*, Docket UE-140801, Compliance Report of Avista Corporation, at 5 (May 30, 2014).



preference for at least ten years of data.<sup>64</sup> In a notice issued on April 9, 2014, the Commission asked stakeholders to: 1) consider changing river discharge rates as a result of climatic variability and cyclical climate patterns, and 2) examine the incremental hydro models and recommend an appropriate number of years for the historical period used in methods 2 and 3, balancing the Commission's desire for increased precision against the administrative burden of managing large data sets. Avista was the only utility to provide a full response to this request.

105 Avista analyzed periods of five, 10, 20, and 80 years, and based on the tradeoffs between increased accuracy and increased administrative burden, recommended a period of at least 10 years.<sup>65</sup> PSE did not respond to the question in written comments, but company representatives stated at the May 15, 2014, workshop that the period should probably be longer than five years. Pacific Power stated that five years is appropriate because that was the consensus reached by the workgroup in Docket UE-110523, but did not provide analysis in support of its statement.<sup>66</sup> At the May 15, 2014, workshop Pacific Power informed the Commission that it recently updated its method two calculation to include a six-year historical period, an approach consistent with the requirements in Oregon. Pacific Power stated that it would like to use the same method in both states, as performing two different calculations would impose additional administrative burden.

106 As methods two and three vary in their ability to account for long-term variation in river flows, it is appropriate to require different historical periods for methods two and three. Method two uses a historical period to determine a factor that is then applied to actual generation each year. As a result, actual river discharge and the resulting generation in the target year is the most important variable driving how much incremental hydropower a utility claims. Method three's calculation, by contrast, is based solely on the historical period and not on actual river discharge and generation in the target year. Therefore, in method two it is less important to require a long historical period that accounts for a broad range of river flow conditions, as use of actual river discharge and generation each year will ensure that long-term

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<sup>64</sup> Dockets UE-131056, UE-131063, and UE-131072, Staff Comments Regarding 2013 RPS Reports, at 18 (July 1, 2013).

<sup>65</sup> May 9, 2014, Comments of Avista, at 2-3.

<sup>66</sup> May 9, 2014, Comments of Pacific Power, at 5.

variations are reflected in the calculation. By the same logic, it is more important to ensure that method three's historical period is large enough to account for a wide range of river discharge conditions.<sup>67</sup>

107 In weighing the concerns raised by Staff and stakeholders, we agree with Pacific Power that a historical period of at least five years is appropriate to use with method two, given that method's reliance on actual generation data each year. Any gains in accuracy that could be achieved by using a historical period of more than six years would likely not justify the increased burden. Accordingly, we require that method two calculations use a historical period of at least five years.

108 As noted above, we believe that method three requires a longer historical period to account for the wide variability of river discharge conditions. Ten years represents a fair tradeoff between the need for greater accuracy and our desire to limit the administrative burden on utilities.

### 3. Renewable portfolio standard reporting

109 WAC 480-109-210 outlines the components of RPS reports that utilities must file with the Commission and the two-step reporting process for monitoring RPS compliance. In this process, each utility must file an annual report by June 1 that identifies the resources that the utility has acquired or contracted to acquire to meet its target for that year. Then, as explained in proposed WAC 480-109-210(6), the utility must file a second report within two years, documenting that it retired enough WREGIS certificates to meet its target. This process is unchanged from the proposed rule and consistent with the process the Commission has required in previous orders.<sup>68</sup>

110 The section also prescribes a uniform methodology that utilities must employ in calculating the incremental cost of RPS compliance, as required by RCW 19.285.070(1). It institutes additional reporting requirements to assist Staff in

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<sup>67</sup> Dockets UE-140800, UE-140801, and UE-140802, Staff Comments on 2014 Renewable Resource Reports, 7 (June 30, 2014).

<sup>68</sup> See e.g., *Avista*, Docket UE-131056, Order 01 ¶ 2 (Sept. 9, 2013); *Pacific Power*, Docket UE-131063, Order 01 ¶ 2 (Sept. 9, 2013); *PSE*, Docket UE-131072, Order 01 ¶ 2 (Sept. 9, 2013). *Avista*, Docket UE-120791, Order 01 ¶ 54 (Sept. 13, 2012); *Pacific Power*, Docket UE-120813, Order 01 ¶ 60 (Sept. 13, 2012); *PSE*, Docket UE-120802, Order 01 ¶ 50 (Sept. 13, 2012).

reviewing the prudence of the utilities' renewable resource and certificate management.

- 111 RN and NWEC ask us to clarify that “the target year” in WAC 480-109-210(1) refers to the target of the same year in which the report is filed.<sup>69</sup> That is our intent. However, we decline to change “the” to “that,” as NWEC suggests, because we believe the rule and this order clearly reflect our intent.

i. Incremental cost methodology

- 112 RCW 19.285.070 requires utilities to report “the incremental cost of eligible renewable resources and the cost of renewable energy credits.” RCW 19.285.050(1)(b) defines this as:

[T]he difference between the levelized delivered cost of the eligible renewable resource, regardless of ownership, compared to the levelized delivered cost of an equivalent amount of reasonably available substitute resources that do not qualify as eligible renewable resources, where the resources being compared have the same contract length or facility life.

- 113 However, the EIA does not prescribe precisely how this calculation should be performed. The absence of a defined method for calculating incremental costs has resulted in diverging approaches among utilities, which, according to Staff, “precludes a valid assessment of the overall added expense to Washington ratepayers of complying with the Renewable Portfolio Standard.”<sup>70</sup> There is a clear public interest in publishing incremental cost data that is accurate and comparable across utilities.

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<sup>69</sup> Oct. 6, 2014, Comments of RN and NWEC, at 1.

<sup>70</sup> Dockets UE-131056, UE-131063, and UE-131072, Staff Comments Regarding 2013 RPS Reports, at 12 (July 1, 2013).

114 The methodology we codify today emerged from a collaborative and iterative process involving Staff, utility representatives, and other stakeholders.<sup>71</sup> Stakeholders provided a number of constructive, clarifying comments that we incorporated into the rules adopted today, and we are not aware of any outstanding concerns related to this methodology.<sup>72</sup>

a. Historic acquisitions

115 We add language to proposed WAC 480-109-210(2)(a)(i) clarifying that where a utility calculates the incremental cost of historic resource acquisitions, it must use the information that was available at the time of the resource's acquisition.

b. Renewable resource integration study

116 ICNU asks us to clarify that a utility's renewable resource incremental cost should be the same as that determined in the wind integration study of the utility's most recent integrated resource plan.<sup>73</sup> Our intent in WAC 480-109-210(2)(a)(i)(A) is to give each utility the ability to determine integration costs based on the unique characteristics of its system, and ICNU's proposal is consistent with that intent. We revise proposed WAC 480-109-210(2)(a)(i)(A) to incorporate this suggestion, but use the more generic phrase "renewable resource integration study" rather than "wind integration study."

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<sup>71</sup> We recognize that the incremental cost methodology we adopt today does not include all the benefits associated with renewable resources. Other benefits may include reduced exposure to fuel price risk, reduced carbon emissions, reduced exposure to market price risk, and potentially lower market prices. While the complexity of creating an incremental cost framework precluded the type of in-depth analysis that would have been required to address these topics in this proceeding, we may choose to address them in the future.

<sup>72</sup> Oct. 30, 2014, Supplemental Comments of PSE; Nov. 7, 2014, Additional Comments of Avista.

<sup>73</sup> Oct. 6, 2014, ICNU comment form, Comment 2.

## c. Eligible resource capacity value

- 117 Proposed WAC 480-109-210(2)(a)(i)(B) instructed utilities to estimate the amount of capacity a renewable resource produces by modeling the renewable resource's output at the time of the utility's peak. We revise this subsection to give utilities more flexibility in determining the capacity value of a renewable resource.
- 118 RN commented that the proposed rule offered an inaccurately low capacity value by examining only the production of a renewable resource in a single hour of the year.<sup>74</sup> Instead, RN suggested that utilities use an approximation of the Effective Load Carrying Capability method, which determines a capacity value for renewable resources based on their contribution to reducing outages on the utility's system. At hearing, ICNU and Avista suggested requiring a utility to value capacity in the same way it does in its integrated resource plan.<sup>75</sup> This would allow a utility use a capacity value vetted by stakeholders in the utility's advisory group, and ultimately reviewed and acknowledged by the Commission. We note that Pacific Power has adopted a version of the Effective Load Carrying Capability approach for modeling the capacity value of renewable resources in the company's 2015 integrated resource plan, with the support of its advisory group.
- 119 While we support the use of approximations of the Effective Load Carrying Capability method, we recognize that this topic is the subject of ongoing research and we decline to require the use of a specific method at this time. Rather, we revise proposed WAC 480-109-210(2)(a)(i)(B) to state that a utility must "[i]dentify the capacity value of each eligible renewable resource as calculated in the utility's most recent integrated resource plan acknowledged by the commission." This approach allows utilities to adopt emerging best practices after advisory group and Commission review.

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<sup>74</sup> Oct. 6, 2014, Comments of Renewable Northwest and NVEC, at 1-2.

<sup>75</sup> Clint Kalich for Avista, Nov. 5, 2014, Audio Recording, at 15:00; Joshua Weber for ICNU, Nov. 5, 2014, Audio Recording, at 1:25:00-1:26:00.

## d. Non-eligible resource cost assumption

- 120 Proposed WAC 480-109-210(2)(a)(i)(E) requires utilities to use their most recently acknowledged integrated resource plan for determining the lowest-cost, non-eligible resource for the capacity portion of the incremental cost calculation. Avista suggested allowing utilities to use cost information from other sources, on the grounds that the cost information included in the most recently acknowledged integrated resource plan may be outdated. We recognize Avista's concern and in the rule we adopt today allow a utility to use cost information from another source, with documentation of that source and an explanation of why the cost data in that source is more accurate than the cost data in the utility's last integrated resource plan.
- 121 Pacific Power asks us to clarify that in a purchase power agreement, the life of the facility should equal the term of the agreement.<sup>76</sup> We clarify proposed WAC 480-109-210(2)(a)(i)(E) by adding "or contract length" to the length of time over which the non-eligible resource's energy and capacity costs may be leveled.

## e. Legacy resources

- 122 In comments on the proposed rule, Avista also suggested that utilities use zero dollars as the incremental cost of any eligible renewable resource that was acquired prior to the EIA's passage in 2006. Avista argued that since the EIA was not a factor in the acquisition of those resources, their costs should not be considered incremental for purposes of the EIA.<sup>77</sup>
- 123 We decline to implement this suggestion, because doing so would assign a cost of zero to a large portion of the incremental hydropower resources that utilities use for compliance. While we recognize that the EIA may not have had an impact on a utility's decision to upgrade a hydropower facility prior to 2006, it does allow use of any renewable resource acquired after March 31, 1999, for compliance.<sup>78</sup> Given that incremental hydropower facilities upgraded between 1999 and 2006 represent a

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<sup>76</sup> Oct. 6, 2014, Comments of Pacific Power, at 3.

<sup>77</sup> Oct. 6, 2014, Comments of Avista, at 8.

<sup>78</sup> RCW 19.285.030(12).

significant share of the resources utilities use to meet their renewable resource target, Avista's suggestion would skew the incremental cost calculation. A complete and accurate incremental cost calculation includes the costs of all eligible incremental hydropower. Furthermore, the cost data for the non-eligible resource to which the incremental hydropower resources will be compared are readily available in utilities' integrated resource plans.

124 However, since the passage of the EIA, the Legislature has amended the law to allow certain qualified biomass facilities acquired prior to March 31, 1999, to count as eligible resources.<sup>79</sup> It is likely that these older qualified biomass facilities were significantly depreciated before the Legislature allowed their use to meet the RPS, and will likely have a very small incremental cost. This does not justify the administrative burden associated with performing the calculation described in WAC 480-109-210(2)(a). Therefore, we add subsection (2)(a)(i)(G), allowing a utility using an older qualified biomass facility to deem its incremental cost as zero.

#### ii. Certificate sales

125 WAC 480-109-210(2)(f) requires utilities to report the sale of certificates to the Commission. PSE suggests that we delete this requirement because the EIA does not explicitly require that a utility disclose sales, and PSE is concerned that the reporting may disclose confidential information. We decline to delete this section, and note that the Commission has rules for handling confidential information that PSE may invoke in its filing. Additionally, we note that utilities will include much of this information in the accounting of REC sales required by WAC 480-109-210(2)(a)(ii) for an accurate calculation of incremental costs.

126 Pacific Power asks us to clarify that this requirement only applies to the sales of RECs allocated to Washington. We agree and make that clarification.

#### 4. Alternatives to the renewable resource requirement

127 Proposed WAC 480-109-220 describes the alternatives to the RPS provided for in the EIA. Early in this proceeding, RN and NWECC requested that we modify the opening

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<sup>79</sup> RCW 19.285.030(18).

sentence of this section “to avoid the erroneous implication that qualifying for an alternative to the renewable energy target *completely* eliminates the need to use or acquire eligible renewable energy or RECs in that year.”<sup>80</sup> We agree and in the proposed rule we added “fully” as the third word of this section and to WAC 480-109-210(2)(b), clarifying that it does not excuse a utility from using renewable energy to fulfill as much of its RPS obligation as possible. RN and NWEAC support this proposal.<sup>81</sup>

### C. Energy and emissions intensity metrics rules

128 Proposed WAC 480-109-300 described reporting requirements for energy and emissions intensity metrics.<sup>82</sup> Under this proposed rule, utilities must report annual values for each metric for the preceding 10 calendar years. Metrics must be based on the annual energy or emissions from all generating resources providing service to customers in Washington, regardless of the location of the generating resources. For unknown generation, or “spot market” purchases, the utility shall report emission metrics using the average electric power carbon dioxide emissions rate described as the net system mix in the Washington state electric utility fuel mix disclosure reports compiled by Commerce pursuant to RCW 19.29A.080. The report must include narrative text and graphics describing trends and analysis of the likely causes of changes, or lack thereof, in the metrics.

129 In written and oral comments, RN and NWEAC supported the inclusion of this section. RN cited the work of the 2013 Climate Legislative and Executive Workgroup, which identified the EIA as the state’s most effective policy for reducing greenhouse gases,<sup>83</sup>

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<sup>80</sup> May 9, 2014, Comments of RN and NWEAC, at 6 (emphasis added); Dec. 2, 2013, Comments of RN and NWEAC, at 6.

<sup>81</sup> Oct. 6, 2014, Comments of RN and NWEAC, at 4.

<sup>82</sup> The report shall include the following metrics: (a) average MWh per residential customer, (b) average MWh per commercial customer, (c) MWh per capita, (d) Million tons of CO<sub>2</sub> emissions, and (e) Comparison of annual million tons of CO<sub>2</sub> emissions to 1990 emissions.

<sup>83</sup> Oct. 6, 2014, Comments of RN and NWEAC, at 3. The Workgroup was established by the Legislature. E2SSB 5802. Chapter 6, Laws of 2013. State of Washington Climate Legislative and Executive Workgroup (CLEW), Evaluations of Approaches to Reduce GHG Emissions in Washington State, Oct. 14, 2013.



and stated at the hearing that the reporting requirements in this section will provide important performance metrics to evaluate the effectiveness of the EIA.<sup>84</sup>

- 130 In contrast, PSE and Pacific Power recommended deleting this section in its entirety. PSE questioned the need for additional reports not specifically required in statute.<sup>85</sup> Pacific Power also commented that this section lacks “appropriate statutory support or authorization,” and that the multi-jurisdictional nature of its operations would make complying with this section unduly burdensome.<sup>86</sup> Avista commented that the reporting requirements contemplated in this section warrant further discussion, and recommended that the Commission hold a workshop.<sup>87</sup>
- 131 For the reasons we discuss below, we reject the utilities’ requests to delete this section in its entirety. However, as there remain sufficient concerns over the methodology for reporting certain metrics, we do not adopt the rules in this order today. Instead, we direct Staff to engage in further discussion with stakeholders to develop an appropriate methodology for the per capita measurement, as well as guidelines to allocate emissions for multistate utilities. After additional discussion, we plan to consider for adoption a proposed rule that includes reporting requirements for energy and emissions intensity metrics.
- 132 First, the Commission has a responsibility to “ensure the proper implementation and enforcement of [the EIA] as it applies to investor-owned utilities.”<sup>88</sup> In this role, the Commission has a duty to ensure that the EIA is implemented in a manner consistent with the policy goals of the statute. The EIA includes a stated policy goal to “increas[e] energy conservation.”<sup>89</sup> While the existing reporting requirements enable the Commission to track biennial compliance, the statute contains no further guidance on how or how often the Commission should track utilities’ long-term progress toward meeting the state’s conservation goals. We believe that developing energy

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<sup>84</sup> Dina Dubson Kelley for RN, Nov. 5, 2014, Audio Recording, at 1:00:02.

<sup>85</sup> Oct. 6, 2014, Comments of PSE, at 38.

<sup>86</sup> Oct. 6, 2014, Comments of Pacific Power, at 1.

<sup>87</sup> Oct. 6, 2014, Comments of Avista, at 9.

<sup>88</sup> RCW 19.285.080(1).

<sup>89</sup> RCW 19.285.020.

intensity metrics is reasonable, and consistent with the EIA's goal to increase energy conservation in the state.

133 The EIA further states a policy to "protect clean air and water." Reducing greenhouse gas emissions clearly fits within this broad policy goal.<sup>90</sup> In its January 2014 report to the Legislature, the Climate Legislative and Executive Workgroup attributed more reductions in greenhouse gas emissions to the EIA over the next 20 years than any other state policy.<sup>91</sup> While neither the drafters of Initiative 937 nor the Legislature has specified how to measure the EIA's impact on the carbon intensity of generation used to serve Washington customers, establishing metrics to assess the EIA's effectiveness in reducing greenhouse gas emissions is appropriate.

134 In addition to its authority under the EIA, the Commission also has authority under RCW 80.04.080 to require companies subject to its jurisdiction to file periodic or special reports. Such reports include information based on metrics to assess the EIA's impact on the carbon intensity of generation used to serve Washington customers.

135 Second, we do not agree that reporting requirements would be unduly burdensome. At the adoption hearing, Pacific Power and PSE indicated that the data needed to calculate these metrics is available, and will likely continue to be available in the future.<sup>92</sup>

136 Pacific Power and PSE raised concerns about the use of non-utility data, such as census data, to report the MWh per capita metric in proposed WAC 480-109-300(2)(c).<sup>93</sup> We recognize that it may be difficult to reconcile utility service territories with census tract data. At the adoption hearing, PSE suggested that we consider adopting a metric for MWh *per customer*, instead of *per capita*, or use a

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<sup>90</sup> *Id.*

<sup>91</sup> The report attributed 10.9 MMTCO<sub>2e</sub> of greenhouse gas emissions reductions to the Energy Independence Act in 2035. *A Report to the Legislature on the Work of the Climate Legislative and Executive Workgroup*, at 10 (January 2014), available at <http://www.governor.wa.gov/sites/default/files/documents/CLEWfinalCombinedReport20140130.pdf>.

<sup>92</sup> Etta Lockey and Mary Wiencke for Pacific Power, Nov. 5, 2014, Audio Recording, at 34:00-41:00; Eric Englert for PSE, Nov. 5, 2014 Audio Recording at 57:00-60:00.

<sup>93</sup> Oct. 6, 2014, Comments of Pacific Power, at 2.

factor to determine the number of people per meter.<sup>94</sup> The impact of this change would depend on the average number of people per meter in each utility's service territory. Proposed WAC 480-109-300(2)(a) and (b) provide energy intensity metrics on a *per customer* basis. Our intent in proposing the MWh *per capita* metric is to compare energy intensity across service territories while removing other factors, such as the number of multi-family dwellings and the average family size in each service territory.

137 At the adoption hearing, PSE stated that this challenge could be addressed by simply specifying the source of the *per capita* data.<sup>95</sup> The company further speculated that it could obtain the data needed to meet this reporting requirement going back to the "early 2000s." Pacific Power also raised concerns about the administrative burden of the 10-year look-back required in the proposed rule.<sup>96</sup> Pacific Power stated that, while it is not impossible to gather the necessary data, it would be "a burdensome exercise" to compile data going back 10 years on a system-wide basis and allocate it to Washington.<sup>97</sup> The result would not be the actual MWh delivered to Washington, but an approximation based on cost allocation across the six states in which the company operates. We recognize that Pacific Power does not currently allocate system-wide emissions on a state-by-state basis, and that it has no similar reporting requirement in other jurisdictions.

138 As the companies acknowledge, the data required to calculate the proposed metrics is readily available.<sup>98</sup> Collecting this data and reporting on energy and emissions intensity metrics will be instructive in guiding state energy policy. It may assist in the state's efforts in meeting the statutory obligation to reduce greenhouse gas emissions, and prove useful in the event state or federal regulations of carbon dioxide emissions are adopted in the future.<sup>99</sup> However, given that questions remain concerning the appropriate methodology for collecting the data, we find it premature to adopt the

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<sup>94</sup> Eric Englert for PSE, Nov. 5, 2014, Audio Recording at 59:00.

<sup>95</sup> Eric Englert for PSE, Nov. 5, 2014, Audio Recording, at 57:30.

<sup>96</sup> Etta Lockey for Pacific Power, Nov. 5, 2014, Audio Recording, at 33:00.

<sup>97</sup> Mary Wiencke for Pacific Power, Nov. 5, 2014, Audio Recording, at 37:10 – 39:00.

<sup>98</sup> Etta Lockey and Mary Wiencke for Pacific Power, Nov. 5, 2014, Audio Recording, at 34:00-41:00; Eric Englert for PSE, Nov. 5, 2014 Audio Recording at 57:00-60:00.

<sup>99</sup> RCW 70.235.020.

proposed rule in this order. We encourage Staff to work with stakeholders to clarify the appropriate methodology and options for calculating these metrics. While we do not believe a full workshop is necessary to develop these methodologies, we do request further comments and discussion. Today we file a proposed rule making continuance regarding these metrics. Once stakeholders and Staff discuss the methodology further, we will consider adopting a rule requiring reporting of energy and emissions intensity metrics.

#### **D. Application**

- 139 The proposed rules in WAC 480-109, as revised by this order, are applicable to plans and reports filed with the Commission on or after the date the rules are effective. The rules in WAC 480-109 we adopt in this order do not require the revision of plans or reports approved by Commission order prior to the effective date of the rules.
- 140 The rules in WAC 480-109 we adopt in this order are applicable to Commission orders discussing the requirements of the chapter that are currently in effect. The Commission has reviewed its orders that discuss the requirements of WAC 480-109 to determine if those orders are consistent with the revised rules. However, we request that the utilities review these orders as well to ensure consistency. If a utility determines that a prior Commission order that currently imposes a requirement on that utility conflicts with the rules we adopt in this order, that utility must petition the Commission for modification of that order within 30 days of the effective date of these rules.
- 141 The rules in WAC 480-109 we adopt in this order are also applicable to the utilities' tariffs. Utilities must review their tariffs that discuss the requirements of WAC 480-109 and ensure those tariffs are in compliance with the rules we adopt in this order. If a utility determines that its tariff conflicts with the revised rules, that utility must file a revised tariff with the Commission within 60 days of the effective date of these rules.

#### IV. COMMISSION ACTION

142 After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend, adopt, and repeal the rules as proposed in the CR-102 at WSR # 14-18-084 with the changes described above and in Attachment A.

143 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that chapter 480-109 WAC should be amended, adopted, and repealed to read as set forth in Attachment B, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

#### V. ORDER

##### THE COMMISSION ORDERS:

144 The Commission amends, adopts, and repeals chapter 480-109 WAC sections to read as set forth in Attachment B, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).


145 This Order and the rules set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to RCW 80.01 and RCW 34.05 and WAC 1-21.

146 Utilities must review Commission orders that discuss the requirements we adopt in WAC 480-109 and determine if those orders are in compliance with the rules adopted in this order. If a utility determines that a prior Commission order that currently imposes a requirement on that utility conflicts with the adopted rules, that utility must petition the Commission for modification of that order within 30 days of the effective date of the rules.

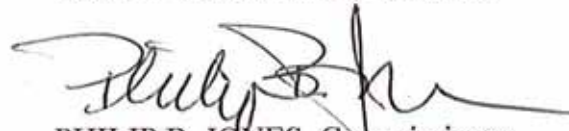
147 Utilities must review their tariffs that discuss the requirements of WAC 480-109 and determine if those tariffs are in compliance with the revised rules. If a utility determines that its tariff conflicts with the adopted rules, that utility must file a revised tariff within 60 days of the effective date of the rules.

DATED at Olympia, Washington, March 12, 2015.

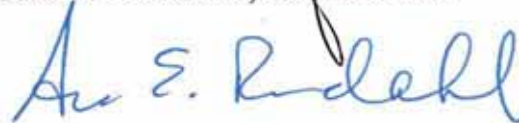
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



DAVID W. DANNER, Chairman



PHILIP B. JONES, Commissioner



ANN E. RENDAHL, Commissioner

*Note: The following is added at Code Reviser request for statistical purposes:*

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 10, amended 5, repealed 6.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

**Attachment A**  
**(Comment Summary Matrix)**

**Appendix A: Comment Summary and Commission Response**  
**Energy Independence Act Rulemaking, Docket UE-131723**

<b>Section</b>	<b>Commenter</b>	<b>Comment</b>	<b>Commission Response</b>
<p><b>“Biomass energy”</b>  WAC 480-109-060(2)(b)(ii)</p>	Avista	<p>“Old growth forests” are not defined in the rule. Avista suggests the Commission should hold a workshop on this issue so that a definition may be included in the rules by mid-2015.</p>	<p>The Commission believes that this issue is not ripe for inclusion in this rule. The Commission prefers to address this issue in the context of Avista’s 2015 and 2016 RPS reports, as Avista is the only utility planning to use biomass energy at this time.</p>
<p><b>“Distributed generation”</b>  WAC 480-109-060(11)</p>	Puget Sound Energy (PSE)	<p>Restore the definition of “distributed generation” used in RCW 19.285.030(11).</p>	<p>The Commission declines PSE’s suggested revision and adopts the definition of “distributed generation” used in the proposed rule because it restricts the use of the distributed generation multiplier to appropriate situations. This definition is consistent with the Department of Commerce’s proposed rule WAC 194-37-136, which if adopted will result in a uniform state policy. (WSR 15-02-076, filed January 7, 2015.)</p>
<p><b>“Pro rata”</b>  WAC 480-109-060(19)</p>	PSE, Pacific Power	<p>Restore the existing WAC definition of “pro rata.” The proposed definition is inconsistent with the methodologies used by the Council in development of the 6<sup>th</sup> Power Plan, and does not recognize the differences in availability of resource potential within the forecast period, the rate at which emerging technologies become available in the market, or the barriers to ramping up in hard-to-reach markets. (PSE and Pacific Power)</p> <p>Restore existing WAC 480-109-010(2)(b): “each utility must fully document how it prorated its ten-year potential to determine the minimum level for its biennial conservation target.” (Pacific Power)</p>	<p>The Commission adopts the definition of “pro rata” used in the proposed rule. As discussed in the adoption order, the existing rule language allowed more flexibility for utilities to ramp up conservation acquisition to the levels required by the EIA. Now that the conservation programs are more mature, this flexibility is no longer appropriate. The proposed language is consistent with the plain meaning of the term “pro rata.”</p>
<p><b>“Pursue all”</b>  WAC 480-109-060(21)</p>	PSE	<p>Remove definition of “pursue all.” RCW 19.285.040 clearly describes what utilities are required to do to demonstrate that they are pursuing all conservation. This definition redefines those requirements.</p>	<p>The Commission retains the definition in the proposed rule, and which is consistent with the EIA. See the adoption order for additional discussion.</p>



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	Public Counsel	Public Counsel supports the definition in the proposed rule, and does not believe that it establishes a separate requirement outside of the biennial conservation target.	
<b>Co-firing</b> WAC 480-109-060(25)(i)	Northwest Energy Coalition (NVEC)	Remove co-firing. Co-firing is a process, not a resource.	The Commission agrees that co-firing is a process, but it is appropriate include co-firing in the definition of “renewable resource” to show that co-firing may be used to meet renewable resource targets.
<b>Single large facility</b> WAC 480-109-060(28)	PSE	Restore definition in RCW 19.285.040(1)(c)(ii). To add clarity, PSE proposes adding: “...premises of a single customer <u>who participated in a utility conservation program</u> and whose annual...”	While Staff agreed with this revision, the Commission declines to adopt it. RCW 19.285.040(1)(c) is a new statutory provision, therefore the Commission prefers to use a definition that does not add to the statutory language.
<b>“Transmission voltage”</b> WAC 480-109-060(30)	PSE and Pacific Power	Remove the definition of “transmission voltage.” This definition may be inconsistent with classification of transmission voltage used for FERC rates. PSE classifies transmission voltage as 55kV and above.	To address this concern, we remove the definition and add “For the purposes of this subsection, transmission voltage is 100,000 volts or higher,” to WAC 480-109-100(3)(c)(iii) and WAC 480-109-200(8)(b).
<b>Process for pursuing all conservation – Identify potential</b> WAC 480-109-100(1)(a)(i)	Pacific Power	Replace “potential of possible technologies and conservation programs and measures” with “conservation potential,” as they are separate concepts.	This subsection describes the entire process for identifying “conservation potential.” We reject Pacific Power’s request and retain this longer description of the entire process utilities must use to identify their cost-effective, reliable and feasible conservation potential. To clarify that this identification takes place at the measure level, we delete “programs and.”
<b>Process for pursuing all conservation – Develop portfolio</b> WAC 480-109-100(1)(a)(ii)	NVEC	Add a sentence or clause saying the utility would need to provide supporting materials or documentation to demonstrate that no cost-effective, reliable and feasible conservation was available from one of the sources listed.	The Commission rejects this suggestion, as the requirement to provide this documentation is encompassed in the rule. The rule appropriately requires utilities to consult with their advisory groups regarding the development of conservation potential assessments in WAC 480-109-110(1)(e) and provide documentation of the development of the biennial conservation plan in WAC 480-109-

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			120(1)(b)(iv). Accordingly, utilities must provide supporting evidence to their advisory groups when certain types of conservation are not available.
<b>Process for pursuing all conservation – emerging technologies</b> WAC 480-109-100(1)(a)	PSE	The term “emerging” is misleading. Remove “a utility must research emerging conservation technologies, and assess the potential...” The proposed language is ambiguous and may lead to misinterpretations and stakeholder disagreements. For example, PSE is unclear whether this research would be required in the IRP or as a part of the conservation process.	The Commission retains the language in the proposed rule. As discussed in the adoption order, it is necessary for utilities to research emerging technologies as part of an effective adaptive management strategy.
<b>Pilots</b> WAC 480-109-100(1)(c)	PSE	The proposed language is ambiguous. PSE proposes: “A utility may implement pilot projects when appropriate and expected to produce cost-effective savings <i>within the current or immediately subsequent biennium</i> , as long as the overall portfolio remains cost-effective.”	The Commission agrees that it is appropriate to provide a timeframe for implementing pilot projects, and adopted PSE’s proposed language in WAC 480-109-100(1)(c).
<b>Conservation potential</b> WAC 480-109-100(2)(b)	PSE	100(2)(b) Add: “, <u>meaning specifically that utilities must utilize the following approach in developing the potential: (i) Technical Potential: An estimate of the amount of conservation potential available without regard to market barriers; (ii) Achievable Potential: The subset of Technical Potential the utility could expect to achieve given market barriers; (iii) Economic Potential: The subset of Technical Potential that is cost effective. (iv) Avoided energy portfolio costs must reflect the 10% credit from the Northwest Power Act.</u> ”	The Commission agrees with PSE’s comment but implements it by adopting the Sixth Northwest Conservation and Electric Power Plan by reference in WAC 480-109-999.
<b>Conservation potential</b> WAC 480-109-100(2)(c)	PSE and Pacific Power	<ul style="list-style-type: none"> <li>Remove “its unit energy savings value, and the source of that value.” UES values are documented in individual measure workbooks and are available when requested. Providing this information in the report will result in addition of hundreds of pages. UES values may not transfer easily from the CPA to program savings values because program savings</li> </ul>	The Commission declines to adopt these revisions. It is necessary for utilities to file a list of all unit energy savings with their ten-year conservation potential for stakeholders to conduct a thorough review of this information during the biennial conservation target setting process.

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		<p>are impacted by program delivery mechanisms. (PSE)</p> <ul style="list-style-type: none"> <li>Revise: “the projection must include a list of each measure <u>category</u> used in the potential, its <u>unit energy savings value</u>, and the source of that value.” (Pacific Power)</li> </ul>	
<b>Biennial conservation target</b> WAC 480-109-100(3)	NWEC	(a) & (b) should reference <u>cost-effective</u> conservation.	As discussed in the adoption order, the Commission has revised this section to refer to “available conservation that is cost-effective, reliable, and feasible.”
<b>Excess Conservation</b> WAC 480-109-100(3)(c)	PSE NWEC	<ul style="list-style-type: none"> <li>(c): The proposed language is inconsistent with the RCW. Use the language in RCW 19.285.040(1)(c)(i). (PSE)</li> <li>(c) should say “biennia” instead of “biennium.” (NWEC)</li> <li>This language provides appropriate guidance as to the use of excess conservation. We believe that the legislative intent was for excess conservation to be used to mitigate a shortfall in future biennial periods. (NWEC)</li> <li>(i) &amp; (ii) should be written the same. (i) “each of the subsequent two” vs. (ii) “each of the immediate two subsequent...” (NWEC)</li> </ul>	The Commission rejects PSE’s argument that the proposed language is inconsistent with the statute. The proposed language allows for excess conservation to be used toward meeting targets, but specifies that it may not be used to adjust conservation potential or targets. This language is consistent with the intent of the statute. The Commission adopts NWEC’s proposed changes to WAC 480-109-100(3)(c)(i) and (ii) to clarify that excess conservation may be used to meet up to twenty percent of each of the “immediately subsequent two biennial targets.”
<b>Prudence</b> WAC 480-109-100(4)	PSE	Replace with: “A utility must demonstrate the prudence and cost-effectiveness of its conservation programs to the Commission after the savings are achieved.” This is an inaccurate citation to RCW 19.285.050(2), which says: “an investor-owned utility is entitled to recover all prudently incurred costs associated with compliance with this chapter.”	The Commission declines to adopt PSE’s suggested language because it fails to account for the ongoing review of conservation savings occurring in the advisory groups before, during, and subsequent to conservation achievement. To address PSE’s concern, the Commission adopts changes to clarify that a utility retains the responsibility to demonstrate the prudence of all conservation expenditures, “consistent with RCW 19.285.050(2).”

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Energy savings WAC 480-109-100(5)	Public Counsel  PSE  Pacific Power	<ul style="list-style-type: none"> <li>• “By commission order” may cause confusion or create new burdensome processes. Revise: “...by the regional technical forum, <u>except as provided in this subsection</u>, <del>or by commission order</del>. <del>The commission will consider a unit energy savings value or protocol that is</del> <u>If a utility utilizes unit energy savings values or protocols other than those established by the regional technical forum such values or protocols must be:</u>” (Public Counsel)</li> <li>• Revise to match PSE’S conditions in (6)(b) and (6)(c) in attachment A of Order 01, Docket UE-132043. The proposed language implies that companies will need to seek approval from their advisory groups to implement new measures after the plan and target have been approved. (PSE)</li> <li>• Add “When making changes or proposing new measures,” and “<u>standard protocol savings estimation methodologies approved... or provide an explanation for why not.</u>” (Pacific Power)</li> <li>• (5)(b) Replace “for this” with “or” (Pacific Power)</li> </ul>	The Commission believes that these concerns are addressed by reverting to the version of this section in the August 2014 draft rule, which does not mention “by Commission Order.”
High efficiency cogeneration WAC 480-109-100(6)	PSE NVEC	<ul style="list-style-type: none"> <li>• Replace “certified” with “verified” by a professional engineer. (PSE)</li> <li>• This should include the statutory language stating that high-efficiency cogeneration shall be “counted towards meeting the biennial conservation target in the same manner as other conservation savings.” (RCW 19.285.040(1)(d)(ii)) (NVEC)</li> </ul>	The Commission declines to adopt these changes. A professional engineer’s training and experience qualifies her to design and certify the performance of cogeneration plants. Thus, it is appropriate to require any technical reports regarding performance claims of high-efficiency cogeneration to be certified by a professional engineer in accordance with RCW 18.43.070, and WAC 196-23-020. The Commission declines to adopt NVEC’s revision because WAC 480-109-100(6) states “a utility may count as conservation savings” high efficiency cogeneration, which encompasses the statutory language.
Cost-effectiveness	Industrial Customers	Add: “ <u>costs included in the portfolio level analysis include conservation-related administrative costs.</u> ”	The Commission declines to adopt ICNU’s proposed revision. As discussed in the adoption

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<b>evaluation and Low-income programs</b> WAC 480-109-100(8)(a)	of Northwest Utilities (ICNU)	Administrative costs will be incurred if the proposed rule is adopted, particularly the carbon-intensity metric reporting.	order, we believe that ICNU's concerns regarding low-income programs are addressed by the addition of WAC 480-109-100(10). Administrative costs associated with reporting carbon-intensity metrics are not conservation-related. Thus, utilities may not collect these costs through the conservation recovery adjustment.
	Pacific Power	Remove "except low-income conservation programs."	The Commission declines to remove the exception for low-income programs, and modifies this section to state, "...except programs described in WAC 480-109-100(10)." See the adoption order for additional discussion.
<b>Cost-effectiveness evaluation of Low-income programs</b> WAC 480-109-100(8)(b)*  <i>* WAC 480-109-100(10) in the rule as adopted.</i>	Pacific Power	<ul style="list-style-type: none"> <li>• (8)(b): Delete entire subsection and subparts. Until the ramifications of this proposed change have been reviewed, it is prudent to continue to apply the same cost-effectiveness tests to all programs. It isn't possible to use this screening for measures within the CPA and IRP planning phases. Some measures might be cost-effective if installed in a low-income home, but not in a non-low-income home. (Pacific Power)</li> <li>• (8)(b)(i) Requires a utility to evaluate low-income conservation programs using the SIR or the Council's method. This suggests that a utility has the choice between the two methodologies. (Pacific Power)</li> </ul>	The Commission adds WAC 480-109-100(10) to address low-income conservation, described in detail in the adoption order. The Commission believes this new subsection addresses the concerns of all stakeholders. The Commission appreciates the stakeholders' contributions to the development of the revised language.
	PSE	<ul style="list-style-type: none"> <li>• The proposed language would add layers of review and processing, and increase the administrative costs to the low-income program: <ol style="list-style-type: none"> <li>1. It would require an entirely new tracking and reporting system, cause the agency to have to track two sets of data.</li> <li>2. Commerce already verifies the application of the SIR model. Requiring utilities to perform the test is redundant.</li> </ol> </li> </ul>	

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		<p>3. If the agencies were required to perform TREAT modeling for each project, the cost-effectiveness of the program would be at risk.</p> <ul style="list-style-type: none"> <li>• (8)(b)(i) Replace with: “(i) A utility must base its low-income program cost-effectiveness reporting on data provided by low-income agencies. This data may be based on the SIR method for priority matrix measures and measures recommended by TREAT models.”</li> </ul>	
	NWEC	The rules should clarify that utilities should use the most current weatherization manual for the SIR. The treatment of low-income programs is appropriate, and the emphasis on cost-effectiveness at the portfolio level is consistent with the “bundled” measure approach, and provides appropriate benefits to customers.	
	Energy Project	<p>The title of the <i>Weatherization Manual</i> changed; include the new title in the rule. Implicit in the adoption of the <i>Weatherization Manual</i> is the acceptance of the use of a priority list of measures that agencies can install without running a computer program to develop a site specific calculation of an SIR.</p> <p>The SIR calculation fails to recognize all of the benefits that accrue from the work while counting all the repair costs (life of the structure, health of occupants).</p>	
<b>Incentives</b> WAC 480-109-100(9)	NWEC	Biennial conservation plan proceedings are comprehensive and an appropriate place for a discussion of the merits and impacts of a utility incentive.	We add the word “utility” to the title and the second sentence to clarify that this subsection refers to “utility incentives.”
<b>Conservation advisory groups</b> WAC 480-109-110(1)	PSE	<ul style="list-style-type: none"> <li>• (1)(d) Replace “evaluation” with “review.”</li> <li>• (1)(e) &amp; (g) clarify that Advisory Group members “may” participate and review, if they elect to.</li> </ul>	The Commission rejects PSE’s proposed revisions. First, it is appropriate for advisory groups to determine what level of rigor is satisfactory for the biennial evaluation of conservation achievement. Second, both conservation and IRP advisory groups have a role in conservation potential

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			assessments and developing supply curves. Each utility is currently required by order to engage its conservation advisory group in the development of the conservation potential assessment within the IRP. It is appropriate to maintain this requirement in the rule.
Conservation advisory groups - meetings WAC 480-109-110(2)	NWEC	The meetings can be either in-person or telephonic.	The rule does not specific the type of meeting, therefore it is inclusive of telephonic or electronic meetings, and no change is necessary.
Advance notification of filings WAC 480-109-110(3)	PSE, NWEC	<ul style="list-style-type: none"> <li>• Replace with: “Except as provided in WAC 480-109-120 (reporting), and with the exception of conservation recovery filings, a utility will provide its advisory group an electronic copy of all conservation-related tariff filings that the utility intends to submit to the Commission at least two months prior to the requested effective date. When extraordinary circumstances dictate, a utility may provide its advisory group with a copy of the filing concurrent with the Commission filing.” (PSE)</li> <li>• It seems appropriate to provide the utilities an exemption from this requirement under certain circumstances (i.e. when speed is essential). (NWEC)</li> </ul>	The Commission agrees that it is not necessary to require advance notification of conservation cost recovery adjustment filings, and adopts an exemption for filings required by WAC 480-109-130. The Commission acknowledges the concern regarding extraordinary circumstances, but rejects the proposed revision. In extraordinary circumstances, a utility may petition the Commission for an exception from the rule.
Conservation advisory groups – advance notification of meetings WAC 480-109-110(4)	PSE	“Public meetings” is too vague. Replace with: “A utility will notify its conservation advisory group of public meetings that the utility schedules to discuss the development of its conservation potential assessment or integrated resource plan.”	The Commission adopts language to clarify each utility must notify its advisory group of “company and commission” meetings. This revision requires the utility to notify its conservation advisory group of public meetings held by the utility, and Commission open meetings regarding the utility’s conservation programs.
Biennial conservation plan	PSE	120(1)(b)(i): replace “achievable” with “economic cost-effective.”	We replace “ten-year achievable conservation potential” with “ten-year conservation potential” to correspond to the new title of WAC 480-109-

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WAC 480-109-120			100(2). We also add WAC 480-109-120(1)(c) to clarify that the ten-year conservation potential in this section is the same as that in WAC 480-109-100(2).
		120(1)(b)(iv): replace “description” with “summary overview.”	The Commission declines to adopt this change, which would weaken the requirement.
		120(1)(b)(vi)(B): Add “Where individually identifiable,”	The Commission declines to adopt this revision. It is appropriate for each utility to discuss its EM&V budgets with its advisory group.
<b>Biennial conservation plan – new programs</b> WAC 480-109-120	Public Counsel	The proposed rule does not include any specific requirement in the event a utility establishes new programs mid-biennium. The utility should file an addendum or update to its biennial conservation plan and provide the program details to the advisory group and allow for review and comment. This is part of the 2014-15 conditions, and it should be included in the rule.	The Commission agrees that a utility should present new programs to its advisory group, and has adopted this requirement in WAC 480-109-110(1)(m). An addendum or update may be appropriate for major additions, but should not be required by rule.
<b>Annual conservation report</b> WAC 480-109-120(3)(b)	PSE	120(3)(b)(ii): Replace “description” with “ <i>high-level discussion</i> of the <i>key sources of variance</i> between the planned and actual savings” A description of “any” variance will increase the administrative burden on utilities.	The Commission declines to adopt PSE’s suggestion to change “description” to the less rigorous term “high-level discussion,” which would weaken the requirement. The Commission accepts PSE’s suggestion to change “source of any variance” to “key sources of variance.” Annual conservation reports should explain the reasons for substantive variations, not list every potential cause of variation.
	PSE	120(3)(c): remove requirement to file with the Department of Commerce. Reports are “provided to” rather than filed with Commerce. Replace with: “A utility must file a conservation report with the commission in the same docket as its current biennial conservation plan.”	The Commission adopts a change to clarify that utilities “submit,” rather than “file” the report with the Department of Commerce, to more accurately reflect the process by which the utilities provide this information.
<b>Cost-effectiveness Reports</b>	PSE	Make the language in sections 480-109-120(3)(b)(iv) and 480-109-120(4)(b)(iv) consistent.	The Commission agrees with PSE’s comment and made the language consistent. As discussed in the adoption order, the both portfolio- and program-



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WAC 480-109-120(3)(b)(iv) and (4)(b)(iv)			level cost-effectiveness are useful information to guide adaptive management decisions, and should be included in annual conservation reports. We do not require the program-level cost-effectiveness in the biennial conservation plans to lessen the administrative burden.
<b>Third-party evaluations</b> WAC 480-109-120(4)(b)(v)	NWEC, PSE	NWEC believes this language is appropriate.  PSE suggests replacing “evaluation” with “review,” and add “as deemed necessary by a utility’s advisory group.”	The Commission believes that it is appropriate for utilities to provide a narrative discussion. We decline to adopt PSE’s suggestion to change “evaluation” to “review.” Independent third-party evaluations are required in existing Commission orders, and are consistent with current practice. It is appropriate for advisory groups to determine the scope of the cost-effectiveness discussions in the reports.
<b>Publication of EERS and RPS reports</b> WAC 480-109-120(6) and WAC 480-109-210(4)	PSE	The plans contain confidential and sensitive data. The proposed requirement could result in a reduction of the amount of detail provided to the CRAG.	The Commission does not intend these sections to require utilities to publish confidential information. A utility should provide work papers and supporting documentation to its advisory group, but confidential information as defined in WAC 480-07-160 may be redacted.
	PSE	Replace with: “A summary of the last two conservation plans and conservation accomplishment reports required in this section must be posted and maintained on the utility’s web site.”	The Commission agrees with PSE’s suggestion that providing a summary of EERS reports to the public would be helpful. We adopt revisions to this section to also require utilities to post a summary of planned and actual savings and expenditures on their websites. Further codifying our precedent, we clarify that a utility must post EERS and RPS plans and reports on its website within 30 days of commission acknowledgment of the plan or order approving the report.
<b>Conservation cost recovery adjustment</b>	PSE	This rule needs to work in conjunction with RCW 80.28.303. Not sure how this proposed rule would coexist with existing settlement agreements. Revise to say: “Utilities must file with the commission for	We add the word “all” to clarify that filings must not exclude expected changes in conservation costs and amortization of deferred balances.

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WAC 480-109-130(1)		recovery of <u>all</u> expected conservation costs <u>and other approved costs</u> and amortization of deferred balances. A utility <u>may</u> include its conservation recovery procedures in its tariff, or <u>other rate recovery mechanisms as allowed in RCW 80.28.303 et. seq.</u> "	As described in the adoption order, we decline PSE's request to add "other approved costs," because it is our preference that these tariffs include only the costs of conservation programs. As described in the adoption order, we decline PSE's request to add "or other rate recovery mechanisms as allowed in RCW 80.28.303 et. seq." to the end of subsection (1). As described in the adoption order, we require the inclusion of procedures in the tariff.
<b>Conservation cost recovery adjustment</b> WAC 480-109-130(3)	PSE	Replace second sentence with: "Utilities shall base conservation recovery rates on <u>forward-looking budgeted conservation program costs</u> for the future year <u>with a subsequent true-up</u> to recover only actual <u>program costs</u> of the prior year. Utilities must also include the effects of variations in actual sales on recovery of conservation costs in the prior year"	As described in the adoption order, we accept the addition of "forward-looking" before budgeted conservation and the substitution of "programs" for "measures" in both places in the same sentence; we decline to add "with a subsequent true-up."
<b>Renewable portfolio standard</b> WAC 480-109-200	PSE	Replace "portfolio standard" with "renewable resource" or "renewable energy target" throughout.	The Commission rejects this proposed revision as "Renewable Portfolio Standard" is an industry-standard term.
<b>WREGIS registration</b> WAC 480-109-200(3)	Avista, Chelan PUD, Renewable Northwest and NWECC jointly (RN/NWECC)	<ul style="list-style-type: none"> <li>This requirement will disqualify a significant amount (15,000+ MWh) of qualifying renewable energy to the detriment of customers. Revise to clarify that all eligible generation owned by IOUs must be registered in WREGIS, and state that the Commission-regulated utility shall (a) encourage such non-Commission regulated entity to register its facilities in WREGIS. When unsuccessful, the IOU shall (b) provide documentation provided by the non-Commission regulated utility to the State Auditor and a written certification by an executive officer attesting to the fact that such eligible resources were used for compliance with the Act</li> </ul>	The Commission retains the requirement that all eligible generation must be registered in WREGIS. As described in the adoption order, the public interest in preventing double counting justifies any administrative burden imposed on utilities.

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		<p>and are not be used for compliance by another entity. (Avista, Chelan PUD)</p> <ul style="list-style-type: none"> <li>This requirement is appropriate and provides consistency with other resources. (RN/NWEC)</li> </ul>	
<b>Renewable energy credit multipliers</b> WAC 480-109-200(4)	RN/NWEC	This language is consistent with the Commission's declaratory order in Docket UE-111663.	The Commission retains the proposed rule's language that the multipliers do not create additional renewable energy credits.
<b>Incremental Hydro: Method 1</b> WAC 480-109-200(7)	Chelan PUD	WREGIS requires that generation be reported on a monthly basis for each generating unit, within 75 days of the period of generation. There is a way to do a "prior period adjustment." Agencies that review a utility's usage of Method 1 should do so on a timeline that will ensure that the utility can use the incremental hydro for compliance.	The Commission declines to adopt any changes to Method 1. The Commission encourages utilities using Method 1 to work closely with Staff to address these concerns prior to filing a final RPS compliance reports. WREGIS provides ample flexibility to adjust previously reported monthly generation for up to two years. Further, WAC 480-109-210(6) provides two years after for utilities to submit their final RPS compliance reports.
<b>Incremental Hydro: Method 2</b> WAC 480-109-200(7)	Chelan PUD	Remove "river discharge of each year in the historical period for" to accommodate Chelan PUD's method. Entities using method 2 could follow the standard WREGIS operating guidelines for reporting generation, as the percentage factor would be known in advance.	The Commission declines to adopt changes to Method 2. The proposed rule calls for an average river discharge calculated over a period of "at least five years." Thus, this language does not preclude the use of all available years.
	Pacific Power, NWEC	<ul style="list-style-type: none"> <li>PacificCorp supports the use of a five-year historical period for method 2. (Pacific Power)</li> <li>(iv) should say, "calculating..." and (v) should say, "multiplying..." (NWEC)</li> </ul>	The Commission appreciates Pacific Power's support of the five-year minimum historical period in Method 2. The Commission adopts NWEC's grammatical corrections.
<b>Incremental Hydro: Method 3</b> WAC 480-109-200(7)	Avista	Remove reference to Method 3 as a pilot method. Method 3 provides a valid estimate of expected benefits from hydro upgrades over time, and more certainty about the amount of energy to include in the reports. If the 2017 reporting period provides evidence that Method 3 is not providing a fair valuation of hydro	As discussed in the adoption order, we adopt changes to this section that remove the reference to Method 3 as a "pilot method" and adjust when utilities using Method 3 must compare it to one of the other two methods. The Commission adopts language clarifying that, if that analysis finds a significant different between Method 3 and one of

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		upgrades, then the Commission can take up the issue at that time. (Avista)	the other methods, it may order a utility to use a different method in future reporting years.
RPS reporting WAC 480-109-210(1)	RN/NWEC	Clarify that the annual report details the resources that utilities acquired or contracted to acquire by January 1 of that same target year.	The Commission recognizes this concern and provides clarification in the adoption order.
Incremental cost calculation WAC 480-109-210(2)(a)(i)	RN/NWEC, PSE	<ul style="list-style-type: none"> <li>The proposed rule includes integration costs for the eligible resource, but not the noneligible resource. (RN/NWEC)</li> <li>In supplemental comments filed on Oct. 30, 2014, PSE rescinded its Oct. 6 comments on this section. (PSE)</li> </ul>	The Commission declines to adopt any changes that may contemplate the incorporation of “integration costs” or ancillary services associated with noneligible resources into the incremental cost calculation. The Commission believes that the literature on this topic is not sufficiently developed, and that this issue it is not ripe for inclusion in the rule at this time.
Incremental cost calculation WAC 480-109-210(2)(a)(i)(A)	ICNU	(2)(a)(i)(A): add: “including integration costs <u>calculated consistently with its IRP, including its wind integration study..</u> ”	As described in the adoption order, we agree that it is appropriate for a utility to use the integration costs calculated consistently with its IRP, and adopt changes to this subsection.
Incremental cost calculation – one-time component WAC 480-109-210(2)(a)(i)(B)	RN/NWEC, Avista, ICNU	<ul style="list-style-type: none"> <li>Suggest the rule require utilities to use an effective load carrying capacity methodology, a less volatile and more reliable method for calculating capacity contributions. (a)(i)(B) <b>Capacity.</b> Calculate the capacity credit for each eligible resource by <u>multiplying the resource’s nameplate capacity by its percentage capacity value, which must be determined by modeling the eligible resource’s output, in megawatts, at the time of the utility’s annual system peak or accurately approximating the resource or resource type’s effective load carrying capability.</u> (RN/NWEC)</li> <li>Avista and ICNU suggest using the capacity value the utility identified in its integrated resource plan.</li> </ul>	While the Commission declines to adopt Renewable Northwest’s suggestion to require the use of an effective load carrying capability, we express support for the usage of that and similar methodologies in adoption order. We adopt Avista and ICNU’s suggestion, and encourage utilities to adopt best practices as they emerge in this developing field of research, in consultation with their respective IRP advisory groups.
Incremental cost calculation – one-time component	Avista	(2)(a)(i)(E) The latest IRP may be 3 years old, and may not reflect the lowest-cost non-eligible resource. (i.e. fluctuations in natural gas and wind prices.) Add: “Or where cost information in the IRP is no longer	The Commission agrees that the rule should allow utilities to use updated cost information when the information in its IRP is out-of-date. The Commission adopts new language in this

Section	Commenter	Comment	Commission Response
WAC 480-109-210(2)(a)(i)(E)		substantially representative of the lowest-cost, non-eligible capacity resource, provide detailed documentation of the costs used, and why the figures are superior to those contained in the latest IRP.”	subsection to allow a utility to use cost information from another source, provided that it also provides documentation and an explanation of why it used an alternative source.
<b>Incremental cost calculation – one-time component</b> WAC 480-109-210(2)(a)(i)(E)	Pacific Power	<ul style="list-style-type: none"> <li>It is unclear what action, if any, will need to be taken in order to update the incremental cost calculation if the underlying inputs change?</li> <li>(2)(a)(i)(E): If the eligible resource is a PPA, the rule should be clear that the life of the facility should be set equal to the term of the PPA.</li> </ul>	The Commission believes that the one-time nature of the incremental cost calculation means that underlying inputs do not change, and that no revisions to the rule are necessary to address Pacific Power’s first comment. To address Pacific Power’s second comment, the Commission adopts the addition of “contract length” to the length of time over which the noneligible resource’s energy and capacity costs may be levelized.
<b>Incremental cost calculation</b> WAC 480-109-210(2)(a)(i)(F)	RN/NWEC	<ul style="list-style-type: none"> <li>(a)(i)(F) should include a sentence stating that the end result of this calculation may be a negative number.</li> <li>The proposed rule should provide for accounting of fuel price risk.</li> </ul>	The Commission adopts language clarifying that the result of the incremental cost calculation may be a negative number. The Commission believes that the issue of fuel price risk is not ripe for inclusion in the current rule.
<b>Incremental cost calculation</b> WAC 480-109-210(2)(a)(i)(G)	Avista	Add: (G) Pre-Act Qualifying Resources. Any qualifying resources acquired or committed to prior to November 2006 shall be attributed a cost of zero in the incremental cost calculation.	The Commission adopts a new subsection in WAC 480-109-210(2)(a)(i)(G) to allow utilities to deem the incremental cost of “legacy resources” as zero dollars. As discussed in the adoption order, the small cost of these facilities does not justify the burden of estimating these costs.
<b>Annual calculation of revenue requirement</b> WAC 480-109-210(2)(a)(ii)	Avista, Snohomish PUD	<ul style="list-style-type: none"> <li>This calculation double-counts the energy value, as energy sales already are subtracted from each eligible resource’s cost in 480-109-210(2)(a)(i)(F). (SnoPUD)</li> <li>(C) “Subtract the revenue from the sales of any renewable energy credits and/or any revenue from <u>the sale of non-power attributes associated with energy from eligible facilities</u>; and” (SnoPUD)</li> <li>Avista withdrew its comment regarding this section via email on Nov. 6, 2014.</li> </ul>	The Commission declines to adopt any changes to the annual calculation of the revenue requirement ratio. The Commission disagrees that this calculation results in double-counting.

Section	Commenter	Comment	Commission Response
Alternative compliance WAC 480-109-210(2)(b)	NWEC, RN/NWEC	<ul style="list-style-type: none"> <li>Revise: "...other information in its report to demonstrate that it qualifies to use <del>that the</del> <u>alternative compliance mechanism in WAC 480-109-220(1) or (3).</u>" (NWEC)</li> <li>This clarifies that the alternative compliance mechanisms may be used to lessen, but not eliminate the requirement to deliver renewable energy and/or retire RECs on behalf of customers. (RN/NWEC)</li> </ul>	The proposed rule clearly communicates the concepts in NWEC's revision to 210(2)(b), so we decline to make this change.
Eligible resources WAC 480-109-210(2)(d)	PSE	Delete section. The purpose of the annual report is to report what resources the utility used to comply in a past target year. It is not necessary to list all eligible renewable resources. Major resources will go through the ratemaking process first before they are used for compliance.	The Commission declines to delete this subsection, which is consistent with Commission orders in Dockets UE-120802 and UE-131072.
Multistate allocations WAC 480-109-210(2)(e)	RN/NWEC	NWEC and RN support. Ideally, this provision could also direct the utility to ensure that any fuel mix disclosure in the impacted states reflects the proper allocation of the eligible renewable resource based on cost allocation to each state.	The Commission adopts the use of "certificate" throughout this section, consistent with the definition in WAC 480-109-060(3). The Commission declines to adopt rules regarding fuel mix disclosure, which is reported to the Department of Commerce under RCW 19.29A.060.
Certificate Sales WAC 480-109-210(2)(f)	PSE	Delete section. The law does not require that a utility disclose this proprietary and confidential information. The proceeds from REC sales are already handled through an accounting petition.	The Commission declines to delete this section. The proposed rule does not require utilities to disclose confidential information. A utility may file this information confidentially under RCW 80.04.095.
	Pacific Power	The requirements should specify that they only apply to the sales of RECs allocated to Washington. Reporting all REC sales would be a significant administrative burden.	The Commission agrees that this rule applies only to the sales of RECs allocated to Washington. The Commission adopts clarifying language in 480-109-210(2)(f).
Report review WAC 480-109-210(4)	Avista	Limit the posting of historical RPS and conservation reports on utility websites to ten years.	The Commission declines to limit the posting of historical reports. All reports should be available for public review. The Commission adopts changes to this section to require that reports be

Section	Commenter	Comment	Commission Response
See also 480-109-120(6)			posted within 30 days of commission order approving the reports, and provided to any person upon request.
Energy and emissions intensity metrics WAC 480-109-300	PSE, Pacific Power, Avista	<ul style="list-style-type: none"> <li>• Delete section. This data is already available, and these reporting requirements are not specifically enumerated in RCW 19.285. The “unknown generation sources” section lacks any established methodology. There are no benchmarks against which to compare. What will happen with the data? (PSE)</li> <li>• Delete section. This type of reporting is extensive for a multi-jurisdictional company. The company does not collect information about its customers on a per capita basis. This could require burdensome parsing of census data. It may be more efficient for the Commission to compile utility emissions data from each IOUs and determine its desired per capita metric. If per capita requirements remain in this rule providing the source for per capita calculations should be in rule. (Pacific Power)</li> <li>• Emissions-related metrics (2)(d) &amp; (2)(e) warrant further discussion. The Commission should hold a workshop. (Avista)</li> </ul>	The Commission declines to delete this section. This reporting requirement is necessary to track progress toward meeting the objectives of the statute, to “increase energy conservation” and “protect clean air and water.” As described in the adoption order, the Commission plans to adopt this section at a later date. The Commission does not believe that this reporting requirement is unduly burdensome.
	Pacific Power	(2)(a) and (b): If the Commission keeps this section, it should revise to: “average MWh per residential customer” and “average MWh per commercial customer.”	The Commission agrees with this revision.
	NWECC	For clarity, revise the third sentence to “customers of that utility in Washington” (NWECC)	The Commission agrees with this revision.
		Add MWh per industrial customer	The Commission declines to accept this proposed additional requirement. Due to large historic swings in industrial load, this is not a reliable long-term trend metric.

Section	Commenter	Comment	Commission Response
		(d) & (e): should these include <u>CO2 equivalent</u> emissions?	The Commission declines to accept this revision. The difference between CO <sub>2</sub> emissions and CO <sub>2</sub> equivalent emissions for combustion technologies is not significant enough to impact trending data.
n/a	PSE	In supplemental comments, PSE suggests adding a new section describing what occurs if the rules go into effect before January 1, 2015.	We adopt the rules after January 1, 2015, so this addition is not necessary.



**Attachment B**  
**[WAC 480-109 - RULES]**

AMENDATORY SECTION (Amending WSR 07-24-012, filed 11/27/07, effective 12/28/07)

WAC 480-109-010 ((Conservation resources-)) Purpose and scope.

~~((1) By January 1, 2010, and every two years thereafter, each utility must project its cumulative ten-year conservation potential.~~

~~(a) This projection need only consider conservation resources that are cost-effective, reliable and feasible.~~

~~(b) This projection must be derived from and reasonably consistent with one of two sources:~~

~~(i) The utility's most recent IRP, including any information learned in its subsequent resource acquisition process, or the utility must document the reasons for any differences. When developing this projection, utilities must use methodologies that are consistent with those used by the conservation council in its most recent regional power plan. A utility may, with full documentation on the rationale for any modification, alter the conservation council's methodologies to better fit the attributes and characteristics of its service territory.~~

~~(ii) The utility's proportionate share, developed as a percentage of its retail sales, of the conservation council's current power plan targets for the state of Washington.~~

~~(2) Beginning January 2010, and every two years thereafter, each utility must establish a biennial conservation target.~~

~~(a) The biennial conservation target must identify all achievable conservation opportunities.~~

~~(b) The biennial conservation target must be no lower than a pro rata share of the utility's ten-year cumulative achievable conservation potential. Each utility must fully document how it prorated its ten-year cumulative conservation potential to determine the minimum level for its biennial conservation target.~~

~~(c) The biennial conservation target may be a range rather than a point target.~~

~~(3) On or before January 31, 2010, and every two years thereafter, each utility must file with the commission a report identifying its ten-year achievable conservation potential and its biennial conservation target.~~

~~(a) Participation by the commission staff and the public in the development of the ten-year conservation potential and the two-year conservation target is essential. The report must outline the extent of public and commission staff participation in the development of these conservation metrics.~~

~~(b) This report must identify whether the conservation council's plan or the utility's IRP and acquisition process were the source of its ten-year conservation potential. The report must also clearly state how the utility prorated this ten-year projection to create its two-year conservation target.~~

~~(c) If the utility uses its integrated resource plan and related information to determine its ten-year conservation potential, the report must describe the technologies, data collection, processes, procedures and assumptions the utility used to develop these figures. This report must describe and support any changes in assumptions or methodologies used in the utility's most recent IRP or the conservation council's power plan.~~

~~(4) Commission staff and other interested persons may file written comments regarding a utility's ten-year achievable conservation~~

potential or its biennial conservation target within thirty days of the utility's filing.

(a) After reviewing any written comments, the commission will decide whether to hear oral comments regarding the utility's filing at a subsequent open public meeting.

(b) The commission, considering any written or oral comments, may determine that additional scrutiny is warranted of a utility's ten-year achievable conservation potential or biennial conservation target. If the commission determines that additional review is needed, the commission will establish an adjudicative proceeding or other process to fully consider appropriate revisions.

(c) Upon conclusion of the commission review, the commission will determine whether to approve, approve with conditions, or reject the utility's ten-year achievable conservation potential and biennial conservation target.) The purpose of this chapter is to establish rules that electric utilities must use to comply with the requirements of the Energy Independence Act, chapter 19.285 RCW.

AMENDATORY SECTION (Amending WSR 07-24-012, filed 11/27/07, effective 12/28/07)

WAC 480-109-020 ((Renewable resources-)) Application of rules.

~~((1) Each utility must meet the following annual targets.~~

~~(a) By January 1 of each year beginning in 2012 and continuing through 2015, each utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits, or a combination of both, to supply at least three percent of its load for the remainder of each year.~~

~~(b) By January 1 of each year beginning in 2016 and continuing through 2019, each utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits, or a combination of both, to supply at least nine percent of its load for the remainder of each year.~~

~~(c) By January 1 of each year beginning in 2020 and continuing each year thereafter, each utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits, or a combination of both, to supply at least fifteen percent of its load for the remainder of each year.~~

~~(2) Renewable energy credits produced during the target year, the preceding year or the subsequent year may be used to comply with this annual renewable resource requirement provided that they were acquired by January 1 of the target year.~~

~~(3) In meeting the annual targets of this subsection, a utility must calculate its annual load based on the average of the utility's load for the previous two years.~~

~~(4) A renewable resource within the Pacific Northwest may receive integration, shaping, storage or other services from sources outside of the Pacific Northwest and remain eligible to count towards a utility's renewable resource target.)~~ (1) The rules in this chapter apply to any electric utility that is subject to the commission's jurisdiction under RCW 80.04.010 and chapter 80.28 RCW.

(2) Any affected person may ask the commission to review the interpretation of these rules by a utility by making an informal com-

plaint under WAC 480-07-910, Informal complaints, or by filing a formal complaint under WAC 480-07-370, Pleadings-General.

(3) No exception from the provisions of any rule in this chapter is permitted without prior written authorization by the commission. Such exceptions may be granted only if consistent with the public interest, the purposes underlying regulation, and applicable law. Any deviation from the provisions of any rule in this chapter without prior commission authorization will be subject to penalties as provided by law.

AMENDATORY SECTION (Amending WSR 07-24-012 and 08-01-037, filed 11/27/07 and 12/10/07, effective 12/28/07 and 1/10/08)

~~WAC 480-109-030 ((Alternatives to the renewable resource requirement.)) Exemptions from rules in chapter 480-109 WAC. ((Instead of meeting its annual renewable resource target in WAC 480-109-020, a utility may make one of three demonstrations.~~

~~(1) A utility may invest at least four percent of its total annual retail revenue requirement on the incremental costs of eligible renewable resources, renewable energy credits, or a combination of both. The incremental cost of an eligible renewable resource is the difference between the levelized delivered system cost of the eligible renewable resource and the levelized delivered cost of an equivalent amount of reasonably available nonrenewable resource. The system analysis used will be reasonably consistent with principles used in the utility's resource planning and acquisition analyses.~~

~~(2) A utility may demonstrate that events beyond its reasonable control that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events may include weather-related damage, mechanical failure, strikes, lockouts, or actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource owned by or under contract to a qualifying utility.~~

~~(3) A utility may demonstrate all of the following:~~

~~(a) Its weather-adjusted load for the previous three years on average did not increase.~~

~~(b) After December 7, 2006, all new or renewed ownership or purchases of electricity from nonrenewable resources other than daily spot purchases were offset by equivalent renewable energy credits.~~

~~(c) It invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.)~~ The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exemptions from and modifications to commission rules; conflicts involving rules).

**WAC 480-109-040 ((Annual reporting)) Additional requirements.**

~~((1) On or before June 1, 2012, and annually thereafter, each utility must file a report with the commission and the department regarding its progress in meeting its conservation and renewable resource targets during the preceding year.~~

~~(a) The report must include the conservation target for that year, the expected and actual electricity savings from conservation, and all expenditures made to acquire conservation.~~

~~The report may count electricity savings from new high-efficiency cogeneration facilities owned and used by a retail electric customer operating within the utility's service area towards the utility's conservation target during the biennium when the cogeneration facility commences operation. The electricity savings reported for each high-efficiency cogeneration facility is the amount of energy consumption avoided by the sequential production of electricity and useful thermal energy from a common fuel source.~~

~~(b) The report must include the utility's annual load for the prior two years, the total number of megawatt-hours from eligible renewable resources and/or renewable resource credits the utility needed to meet its annual renewable energy target by January 1 of the target year, the amount (in megawatt-hours) and cost of each type of eligible renewable resource used, the amount (in megawatt-hours) and cost of renewable energy credits acquired, the type and cost (per megawatt-hour) of the least-cost substitute resources available to the utility that do not qualify as eligible renewable resources, the incremental cost of eligible renewable resources and renewable energy credits, and the ratio of this investment relative to the utility's total annual retail revenue requirement.~~

~~(c) The report must state if the utility is relying upon one of the alternative compliance mechanisms provided in WAC 480-109-030 instead of meeting its renewable resource target. A utility using an alternative compliance mechanism must include sufficient data, documentation and other information in its report to demonstrate that it qualifies to use that alternative mechanism.~~

~~(d) The report must describe the steps the utility is taking to meet the renewable resource requirements for the current year. This description should indicate whether the utility plans to use or acquire its own renewable resources, plans to or has acquired contracted renewable resources, or plans to use an alternative compliance mechanism.~~

~~(2) Commission staff and other interested persons may file written comments regarding a utility's report within thirty days of the utility's filing.~~

~~(a) After reviewing any written comments, the commission will decide whether to hear oral comments regarding the utility's filing at a subsequent open meeting.~~

~~(b) The commission, considering any written or oral comments, may determine that additional scrutiny of the report is warranted. If the commission determines that additional review is needed, the commission will establish an adjudicative proceeding or other process to fully consider appropriate revisions.~~

~~(c) Upon conclusion of the commission review of the utility's report, the commission will issue a decision determining whether the~~

utility complied with its conservation and renewable resource targets. If the utility is not in compliance, the commission will determine the amount in megawatt-hours by which the utility was deficient in meeting those targets.

(3) If a utility revises its report as a result of the commission review, the utility must submit the revised final report to the department.

(4) All current and historical reports required in subsection (1) of this section must be posted on the utility's web site and a copy of any report must be provided to any person upon request.

(5) Each utility must provide a summary of this report to its customers by bill insert or other suitable method. This summary must be provided within ninety days of final action by the commission on this report.) (1) These rules do not relieve any utility from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains its authority to impose additional or different requirements on any utility in appropriate circumstances, consistent with the requirements of law.

AMENDATORY SECTION (Amending WSR 07-24-012, filed 11/27/07, effective 12/28/07)

**WAC 480-109-050 ((Administrative penalties.)) Severability.**

((1) A utility that fails to achieve either its conservation target or its renewable resource target must pay an administrative penalty for each megawatt-hour of shortfall in the amount of fifty dollars adjusted annually, beginning in 2007, to reflect changes in the gross domestic product implicit price deflator, as published by the Bureau of Economic Analysis of the United States Department of Commerce or its successor.

(2) Administrative penalties are due within fifteen days of a commission determination, pursuant to WAC 480-109-040(2), that a utility failed to achieve its conservation or renewable resource target.

(3) A utility that pays an administrative penalty under subsection (2) of this section, must notify its retail electric customers within three months of incurring a penalty stating the size of the penalty, the reason it was incurred and whether the utility expects to seek recovery of the penalty amounts in rates. The utility must provide this notification in a bill insert, a written publication mailed to all retail electricity customers, or another approach approved by the commission.

(4) A utility may request an accounting order from the commission authorizing the deferral of the cost of any administrative penalty assessed under this section. The approval of an accounting order to defer penalties does not constitute approval of recovery of penalties in rates. A utility may seek to recover deferred administrative penalties in a general rate case or power cost only type rate proceeding. If a utility seeks to recover deferred administrative penalties in rates, the utility must demonstrate the prudence of its decisions and actions when it failed to meet the renewable resource targets or one of the compliance alternatives provided in WAC 480-109-030, or the energy conservation targets. When assessing a request for recovery of deferred administrative penalties, the commission will consider the intent of the Energy Independence Act, other laws governing commission ac-

~~tions, policies and precedents of the commission, and the commission's responsibility to act in the public interest.)~~ If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

#### NEW SECTION

**WAC 480-109-060 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Annual retail revenue requirement" means the total revenue the commission authorizes a utility an opportunity to recover in Washington rates pursuant to a general rate proceeding or other general rate revision.

(2) "Biomass energy" means:

(a) The electrical energy produced by a generation facility powered by:

(i) Organic by-products of pulping and the wood manufacturing process;

(ii) Animal manure;

(iii) Solid organic fuels from wood;

(iv) Forest or field residues;

(v) Untreated wooden demolition or construction debris;

(vi) Food waste and food processing residuals;

(vii) Liquors derived from algae;

(viii) Dedicated energy crops; and

(ix) Yard waste.

(b) Biomass energy does not include:

(i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome arsenic;

(ii) Wood from old growth forests; or

(iii) Municipal solid waste.

(3) "Certificate" means proof of ownership, registered in WREGIS, of the nonpower attributes associated with a megawatt-hour of generation from an eligible renewable resource.

(4) "Coal transition power" means the output of a coal-fired electric generation facility that is subject to an obligation to meet the standards contained in RCW 80.80.040 (3)(c).

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

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

(7) "Cost-effective" means, consistent with RCW 80.52.030, that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the electric power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(8) "Council" means the Northwest Power and Conservation Council.

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

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

(11) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a nameplate capacity of not more than five megawatts alternating current. An integrated cluster is a grouping of generating facilities located on the same or contiguous property having any of the following elements in common: Ownership, operational control, or point of common coupling.

(12) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than fresh water that commences operation after March 31, 1999, where:

(i) The facility is located in the Pacific Northwest; or

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

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

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

(d) Qualified biomass energy; or

(e) For a qualifying utility that serves customers in other states, electricity from a generation facility powered by a renewable resource other than freshwater that commenced operation after March 31, 1999, where:

(i) The facility is located within a state in which the qualifying utility serves retail electrical customers; and

(ii) The qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least twelve months.

(13) "High-efficiency cogeneration" means the sequential production of electricity and useful thermal energy from a common fuel source resulting in a reduction in customer load where under normal operating conditions the useful thermal energy output is no less than thirty-three percent of the total energy output. The reduction in customer load is determined by multiplying the annual electricity output of the cogeneration facility by a fraction equal to one minus the ratio of:

(a) The heat rate (in British thermal units per megawatt hour) of the cogeneration facility based on the additional fuel requirements attributable to electricity production and excluding the fuel that would be required to produce all other useful energy outputs of the project without cogeneration, divided by the heat rate (in British thermal units per megawatt hour) of a combined cycle natural gas-fired combustion turbine. The heat rate of the combustion turbine must be based on a facility using best commercially available technology on a new and clean basis.



(b) Calculation of the reduction in customer load is made with the following formula:

$$\text{Megawatt-hours reductions in customer load} = \left( \frac{\text{Annual megawatt-hours of cogen.elect.}}{\text{Annual megawatt-hours of cogen.elect.}} \right) \times \left[ 1 - \left( \frac{\text{heat rate based on fuel used for electric portion of cogen.}}{\text{heat rate for a new clean natural gas fired combined cycle combustion turbine using best available commercial technology}} \right) \right]$$

(14) "Incremental cost" means the difference between the levelized delivered cost of an eligible renewable resource, regardless of ownership, compared to the levelized delivered cost of an equivalent amount of reasonably available substitute resources that do not qualify as eligible renewable resources, where the resources being compared have the same contract length or facility life.

(15) "Integrated resource plan" or "IRP" means the filing made every two years by an electric utility in accordance with WAC 480-100-238, integrated resource planning.

(16) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers. Load does not include off-system sales or electricity delivered to transmission-only customers.

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

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

(18) "Pacific Northwest" has the same meaning as defined for the Bonneville Power Administration in section 3 of the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(19) "Pro rata" means the calculation dividing the utility's projected ten-year conservation potential into five equal proportions to establish the minimum biennial conservation target.

(20) "Production efficiency" means investments and actions that save electric energy from power consuming equipment and fixtures at an electric generating facility. The installation of electric power production equipment that increases the amount of power generated for the same energy input is not production efficiency in this chapter or conservation under RCW 19.285.030(4) because no reduction in electric power consumption occurs.

(21) "Pursue all" means an ongoing process of researching and evaluating the range of possible conservation technologies and programs, and implementing all programs which are cost-effective, reliable and feasible.

(22) "Qualified biomass energy" means electricity produced from a biomass energy facility that:

(a) Commenced operation before March 31, 1999;

(b) Contributes to the qualifying utility's load; and

(c) Is owned either by:

(i) A qualifying utility; or

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

(23) "Regional technical forum" means the advisory committee established by the council.

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

(25) "Renewable resource" means:

(a) Water;

(b) Wind;

(c) Solar energy;

(d) Geothermal energy;

(e) Landfill gas;

(f) Wave, ocean, or tidal power;

(g) Gas from sewage treatment facilities;

(h) Biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006;

(i) Generation facilities in which fossil and combustible renewable resources are cofired in one generating unit that is located in the Pacific Northwest and in which the cofiring commenced after March 31, 1999. These facilities produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources; or

(j) Biomass energy, where the eligible renewable energy produced by biomass facilities is based on the portion of the fuel supply that is made up of eligible biomass fuels.

(26) "Request for proposal" or "RFP" means the documents describing an electric utility's solicitation of bids for delivering electric capacity, energy, capacity and energy, or conservation.

(27) "River discharge" means the total volume of water passing through, over and around all structural components of a hydroelectric facility over a given time.

(28) "Single large facility conservation savings" means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a utility whose recent annual electricity consumption prior to the conservation savings exceeded five average megawatts.

(29) "System cost" means, consistent with RCW 80.52.030, an estimate of all direct costs of a project or resource over its effective life including, if applicable, the costs of distribution to the consumer and among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as are directly attributable to the project or resource.

(30) "Target year" means the twelve-month period commencing January 1st and ending December 31st used for compliance with the renewable portfolio standard requirement in WAC 480-109-200(1).

(31) "Utility" means an electrical company that is subject to the commission's jurisdiction under RCW 80.04.010 and chapter 80.28 RCW.

(32) "WREGIS" means the Western Renewable Energy Generation Information System. WREGIS is the renewable energy credit tracking system designated by the department according to RCW 19.285.030(20).

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

#### NEW SECTION

**WAC 480-109-070 Administrative penalties.** (1) A utility that fails to achieve either its conservation target or its renewable resource target must pay an administrative penalty for each megawatt-hour of shortfall in the amount of fifty dollars adjusted annually, beginning in 2007, to reflect changes in the gross domestic product-implicit price deflator, as published by the Bureau of Economic Analysis of the United States Department of Commerce or its successor.

(2) Administrative penalties are due within fifteen days of a commission determination, pursuant to WAC 480-109-210(2), that a utility failed to achieve its conservation or renewable resource target.

(3) A utility that pays an administrative penalty under subsection (2) of this section, must notify its retail electric customers within three months of incurring a penalty stating the size of the penalty, the reason it was incurred and whether the utility expects to seek recovery of the penalty amounts in rates. The utility must provide this notification in a bill insert, a written publication mailed to all retail electricity customers, or another approach approved by the commission.

(4) A utility may request an accounting order from the commission authorizing the deferral of the cost of any administrative penalty assessed under this section. The approval of an accounting order to defer penalties does not constitute approval of recovery of penalties in rates. A utility may seek to recover deferred administrative penalties in a general rate case or power cost only type rate proceeding. If a utility seeks to recover deferred administrative penalties in rates, the utility must demonstrate the prudence of its decisions and actions when it failed to meet the renewable resource targets or one of the compliance alternatives provided in WAC 480-109-220, or the energy conservation targets. When assessing a request for recovery of deferred administrative penalties, the commission will consider the intent of the Energy Independence Act, other laws governing commission actions, policies and precedents of the commission, and the commission's responsibility to act in the public interest.

#### NEW SECTION

**WAC 480-109-100 Energy efficiency resource standard.** (1) **Process for pursuing all conservation.**

(a) **Process.** A utility's obligation to pursue all available conservation that is cost-effective, reliable, and feasible includes the following process:

(i) **Identify potential.** Identify the cost-effective, reliable, and feasible potential of possible technologies and conservation measures in the utility's service territory.

(ii) **Develop portfolio.** Develop a conservation portfolio that includes all available, cost-effective, reliable, and feasible conservation. A utility must develop programs to acquire available conservation from all of the types of conservation identified in (b) of this subsection. If no cost-effective, reliable and feasible conservation is available from one of the types of conservation, a utility is not obligated to acquire such a resource.

(iii) **Implement programs.** Implement conservation programs identified in the portfolio to the extent the portfolio remains cost-effective, reliable, and feasible. Implementation methods shall not unnecessarily limit the acquisition of all available conservation that is cost-effective, reliable and feasible.

(iv) **Adaptively manage.** Continuously review and update as appropriate the conservation portfolio to adapt to changing market conditions and developing technologies. A utility must research emerging conservation technologies, and assess the potential of such technologies for implementation in its service territory.

(b) **Types.** Types of conservation include, but are not limited to:

- (i) End-use efficiency;
- (ii) Behavioral programs;
- (iii) High-efficiency cogeneration;
- (iv) Production efficiency;
- (v) Distribution efficiency; and
- (vi) Market transformation.

(c) **Pilots.** A utility must implement pilot projects when appropriate and expected to produce cost-effective savings within the current or immediately subsequent biennium, as long as the overall portfolio remains cost-effective.

(2) **Ten-year conservation potential.** By January 1, 2010, and every two years thereafter, a utility must project its cumulative ten-year conservation potential.

(a) This projection must consider all available conservation resources that are cost-effective, reliable, and feasible.

(b) This projection must be derived from the utility's most recent IRP, including any information learned in its subsequent resource acquisition process, or the utility must document the reasons for any differences. When developing this projection, utilities must use methodologies that are consistent with those used in the Northwest Conservation and Electric Power Plan.

(c) The projection must include a list of each measure used in the potential, its unit energy savings value, and the source of that value.

(3) **Biennial conservation target.** Beginning January 2010, and every two years thereafter, a utility must establish a biennial conservation target.

(a) The biennial conservation target must identify, and quantify in megawatt-hours, all available conservation that is cost-effective, reliable, and feasible.

(b) The biennial conservation target must be no lower than a pro rata share of the utility's ten-year conservation potential.

(c) **Excess conservation.** No more than twenty-five percent of any biennial target may be met with excess conservation savings allowed by this subsection. Excess conservation may only be used to mitigate shortfalls in the immediately subsequent two biennia and may not be

used to adjust a utility's ten-year conservation potential or biennial target. The presence of excess conservation does not relieve a utility of its obligation to pursue the level of conservation in its biennial target.

(i) Cost-effective conservation achieved in excess of a biennial conservation target may be used to meet up to twenty percent of each of the immediately subsequent two biennial targets.

(ii) A utility may use single large facility conservation savings achieved in excess of its biennial target to meet up to five percent of each of the immediately subsequent two biennial conservation targets.

(iii) Until December 31, 2017, a utility with an industrial facility located in a county with a population between ninety-five thousand and one hundred fifteen thousand that is directly interconnected with electricity facilities that are capable of carrying electricity at transmission voltage, may use cost-effective excess conservation savings from that industrial facility to meet the subsequent two biennial conservation targets. For purposes of this subsection, transmission voltage is one hundred thousand volts or higher.

(4) **Prudence.** A utility retains the responsibility to demonstrate the prudence of all conservation expenditures, consistent with RCW 19.285.050(2).

(5) **Energy savings.** A utility must use unit energy savings values and standard protocols approved by the regional technical forum, unless a unit energy savings value or standard protocol is:

(a) Based on generally accepted methods, impact evaluation data, or other reliable and relevant data that includes verified savings levels; and

(b) Presented to its advisory group for review. The commission retains discretion to determine an appropriate value or protocol.

(6) **High efficiency cogeneration.** A utility may count as conservation savings a portion of the electricity output of a high efficiency cogeneration facility in its service territory that is owned by a retail electric customer and used by that customer to meet its heat and electricity needs. Heat and electricity output provided to anyone other than the facility owner is not available for consideration in determining conservation savings. High efficiency cogeneration savings must be certified by a professional engineer licensed by the Washington department of licensing.

(7) **Applicable sectors.** A utility must offer a mix of conservation programs to ensure it is serving each customer sector, including programs targeted to the low-income subset of residential customers.

(8) **Cost-effectiveness.** A utility's conservation portfolio must pass a cost-effectiveness test consistent with that used in the Northwest Conservation and Electric Power Plan. A utility must evaluate conservation using cost-effectiveness tests consistent with those used by the council, and as required by the commission, except as provided by subsection (10) of this section.

(9) **Utility incentives.** A utility may propose to the commission positive incentives designed to stimulate the utility to exceed its biennial conservation target as identified in RCW 19.285.060(4). Any proposed utility incentive must be included in the utility's biennial conservation plan.

(10) **Low-income conservation.**

(a) A utility may fully fund low-income conservation measures that are determined by the implementing agency to be cost-effective consistent with the *Weatherization Manual* maintained by the depart-

ment. Measures identified through the priority list in the *Weatherization Manual* are considered cost-effective. In addition, a utility may fully fund repairs, administrative costs, and health and safety improvements associated with cost-effective low-income conservation measures.

(b) A utility may exclude low-income conservation from portfolio-level cost-effectiveness calculations.

(c) A utility must count savings from low-income conservation toward meeting its biennial conservation target. Savings may be those calculated consistent with the procedures in the *Weatherization Manual*.

#### NEW SECTION

**WAC 480-109-110 Conservation advisory group.** (1) **Scope of issues.** A utility must maintain and use an external conservation advisory group of stakeholders to advise the utility on conservation issues including, but not limited to:

(a) Conservation programs and measures.

(b) Updates to the utility's evaluation, measurement, and verification framework.

(c) Modification of existing, or development of new evaluation, measurement, and verification methods.

(d) Independent third-party evaluation of portfolio-level biennial conservation achievement.

(e) Development of conservation potential assessments, as required by RCW 19.285.040 (1)(a) and WAC 480-109-100(2).

(f) The methodology, inputs, and calculations for cost-effectiveness.

(g) The data sources and values used to develop and update supply curves.

(h) The need for tariff modifications or mid-biennium program corrections.

(i) The appropriate level of and planning for:

(i) Marketing conservation programs;

(ii) Incentives to customers for measures and services; and

(iii) Impact, market, and process evaluations.

(j) Programs for low-income residential customers.

(k) Establishment of the biennial conservation target and program achievement results compared to the target.

(l) Conservation program budgets and actual expenditures compared to budgets.

(m) Development and implementation of new and pilot programs.

(2) **Advisory group meetings.** A utility must meet with its conservation advisory group at least four times per year. Conservation advisory group members may request additional meetings. A utility must provide reasonable advance notice of all conservation advisory group meetings.

(3) **Advance notification of filings.** Except for the conservation cost recovery adjustment filing required in WAC 480-109-130, a utility must provide its conservation advisory group an electronic copy of all conservation filings that the utility intends to submit to the commission at least thirty days in advance of the filing. The filing cover

letter must document the amount of advance notice provided to the conservation advisory group.

(4) **Advance notification of meetings.** A utility must notify its conservation advisory group of company and commission public meetings scheduled to address its conservation programs, its conservation tariffs, or the development of its conservation potential assessment.

#### NEW SECTION

**WAC 480-109-120 Conservation planning and reporting. (1) Biennial conservation plan.**

(a) On or before November 1st of every odd-numbered year, a utility must file with the commission a biennial conservation plan.

(b) The plan must include, but is not limited to:

(i) A request that the commission approve its ten-year conservation potential and biennial conservation target.

(ii) The extent of public participation in the development of the ten-year conservation potential and the biennial conservation target.

(iii) The ten-year conservation potential, the biennial conservation target, biennial program details, biennial program budgets, and cost-effectiveness calculations.

(iv) A description of the technologies, data collection, processes, procedures and assumptions the utility used to develop the figures in (b)(iii) of this subsection.

(v) A description of and support for any changes from the assumptions or methodologies used in the utility's most recent conservation potential assessment.

(vi) An evaluation, measurement, and verification plan for the biennium including, but not limited to:

(A) The evaluation, measurement, and verification framework;

(B) The evaluation, measurement, and verification budget; and

(C) Identification of programs that will be evaluated during the biennium.

(c) For the purposes of this section, ten-year conservation potential is derived pursuant to WAC 480-109-100(2).

(2) **Annual conservation plan.** On or before November 15th of each even-numbered year, a utility must file with the commission, in the same docket as its current biennial conservation plan, an annual conservation plan containing any changes to program details and annual budget.

(3) **Annual conservation report.**

(a) On or before June 1st of each year, a utility must file with the commission, in the same docket as its current biennial conservation plan, an annual conservation report regarding its progress in meeting its conservation target during the preceding year.

(b) The annual conservation report must include, but is not limited to:

(i) The biennial conservation target.

(ii) Planned and claimed electricity savings from conservation, including a description of the key sources of variance between the planned and actual savings.

(iii) Budgeted and actual expenditures made to acquire conservation through the conservation cost recovery adjustment described in WAC 480-109-130.

(iv) The portfolio- and program-level cost-effectiveness of the actual electricity savings from conservation.

(v) All program evaluations completed in the preceding year.

(vi) A discussion of the steps taken to adaptively manage conservation programs throughout the preceding year.

(c) A utility must submit to the department a conservation report as described in WAC 194-37-060, and file a copy of that report with the commission in the same docket as its current biennial conservation plan.

**(4) Biennial conservation report.**

(a) On or before June 1st of each even-numbered year, a utility must file with the commission, in the same docket as its current biennial conservation plan, a biennial conservation report regarding its progress in meeting its conservation target during the preceding two years.

(b) The biennial conservation report must include:

(i) The biennial conservation target;

(ii) Planned and claimed electricity savings from conservation;

(iii) Budgeted and actual expenditures made to acquire conservation;

(iv) The portfolio-level cost-effectiveness of the actual electricity savings from conservation;

(v) An independent third-party evaluation of portfolio-level biennial conservation savings achievement;

(vi) A summary of the steps taken to adaptively manage conservation programs throughout the preceding two years; and

(vii) Any other information needed to justify the conservation savings achievement.

(c) A utility must provide a summary of the biennial conservation report to its customers by bill insert or other suitable method within ninety days of the commission's final action on the report.

(d) A utility may file the annual conservation report and the biennial conservation report together as one report, provided that the report includes all of the information required in subsections (3) and (4) of this section and states that it serves as both the annual conservation report and the biennial conservation report.

**(5) Plan and report review.**

(a) Interested persons may file written comments regarding the biennial conservation plan and biennial conservation report within thirty days of the utility's filing.

(b) Upon conclusion of the commission review of the utility's biennial report or plan, the commission will issue a decision accepting or rejecting the calculation of the utility's conservation target; or determining whether the utility has acquired enough conservation resources to comply with its conservation target. If the utility does not meet its biennial conservation target described in WAC 480-109-100, the commission will determine the amount in megawatt-hours by which the utility was deficient.

(c) If a utility revises its annual or biennial conservation report as a result of the commission review, the utility must submit a revised copy of the report required in WAC 480-109-120 (3)(c) to the department.

(d) Annual plans and reports may be reviewed through the commission's open meeting process, as described in chapter 480-07 WAC.

(6) **Publication of reports.** All conservation plans and reports required by chapter 19.285 RCW and this section since January 1, 2010, as well as a summary of planned and actual savings and expenditures



reflected in the plans and reports, must be posted and maintained on the utility's web site. Plans and reports must be posted on the utility's web site within thirty days of commission acknowledgment of the plan or order approving the report. A copy of any such plan, report, or summary must be provided to any person upon request.

#### NEW SECTION

**WAC 480-109-130 Conservation cost recovery adjustment.** (1) Utilities must file with the commission for recovery of all expected conservation cost changes and amortization of deferred balances. A utility must include its conservation cost recovery procedures in its tariff.

(2) A utility must make a conservation cost recovery filing no later than June 1st of each year, with a requested effective date at least sixty days after the filing. If the utility believes that a filing is unnecessary, then it must file a request for exception and supporting documents no later than May 1st of each year demonstrating why a rate change is not necessary.

(3) A utility may not accrue interest or incur carrying charges on deferred conservation cost balances. Utilities must base conservation recovery rates on forward-looking budgeted conservation program costs for the future year with revisions to recover only actual program costs of the prior year. Utilities must also include the effects of variations in actual sales on the recovery of conservation costs in the prior year.

#### NEW SECTION

**WAC 480-109-200 Renewable portfolio standard.** (1) **Renewable resource target.** Each utility must meet the following annual targets.

(a) By January 1st of each year beginning in 2012 and continuing through 2015, each utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits, or a combination of both, to supply at least three percent of its two-year average load for the remainder of each target year.

(b) By January 1st of each year beginning in 2016 and continuing through 2019, each utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits, or a combination of both, to supply at least nine percent of its two-year average load for the remainder of each target year.

(c) By January 1st of each year beginning in 2020 and continuing each year thereafter, each utility must use sufficient eligible renewable resources, acquire equivalent renewable energy credits, or a combination of both, to supply at least fifteen percent of its two-year average load for the remainder of each target year.

(2) **Credit eligibility.** Renewable energy credits produced during the target year, the preceding year or the subsequent year may be used to comply with this annual renewable resource requirement provided that they were acquired by January 1st of the target year.

(3) **WREGIS registration.** All eligible hydropower generation and all renewable energy credits used for utility compliance with the renewable resource target must be registered in WREGIS, regardless of facility ownership. Any megawatt-hour of eligible hydropower or renewable energy credit that a utility uses for compliance must have a corresponding certificate retired in the utility's WREGIS account.

(4) **Renewable energy credit multipliers.** The multipliers described in this subsection do not create additional renewable energy credits. A utility may count retired certificates at:

(a) One and two-tenths times the base value where the eligible resource:

(i) Commenced operation after December 31, 2005; and  
(ii) The developer of the facility used apprenticeship programs approved by the Washington state apprenticeship and training council.

(b) Two times the base value where the eligible resource was generated by distributed generation and:

(i) The utility owns the distributed generation facility or has purchased the energy output and the associated renewable energy credits; or

(ii) The utility has contracted to purchase the associated renewable energy credits.

(c) A utility that uses a multiplier described in this subsection for compliance must retire the associated certificate at the same time. A utility may not transact the multipliers described in this subsection independent of the associated base value certificate.

(5) **Target calculation.** In meeting the annual targets of this section, a utility must calculate its annual target based on the average of the utility's load for the previous two years.

(6) **Integration services.** A renewable resource within the Pacific Northwest may receive integration, shaping, storage or other services from sources outside of the Pacific Northwest and remain eligible to count towards a utility's renewable resource target.

(7) **Incremental hydropower calculation.**

(a) **Method selection.** A utility must use one of the following methods to calculate the quantity of incremental electricity produced by eligible efficiency upgrades to any hydropower facility, regardless of ownership, that is used to meet the annual targets of this section. A utility shall use the same method for calculating incremental hydropower production at all of the facilities it owns. Once the commission approves a utility's method for calculating incremental hydropower production, that utility shall not use another method unless authorized by the commission.

(b) **Method one.** An annual calculation performed by:

(i) Determining the river discharge for the facility in the target year;

(ii) Measuring the total amount of electricity produced by the upgraded hydropower facility during the target year;

(iii) Using a power curve-based production model to calculate how much energy the pre-upgrade facility would have generated under the same river discharge observed in the target year; and

(iv) Subtracting the model output in (b)(iii) of this subsection from the measurement in (b)(ii) of this subsection to determine the quantity of eligible renewable energy produced by the facility during the target year.

(c) **Method two.** An annual application of a percentage to total production performed by:

(i) Determining the river discharge for the facility over a historical period of at least five consecutive years;

(ii) Using power curve-based production models to calculate the facility's generation under the river discharge of each year in the historical period for the pre-upgrade state and the post-upgrade state;

(iii) Calculating the arithmetic mean of generation in both the pre-upgrade and post-upgrade states over the historical period;

(iv) Calculating a factor by dividing the arithmetic mean post-upgrade generation by the arithmetic mean pre-upgrade generation and subtracting one; and

(v) Multiplying the facility's observed generation in the target year by the factor calculated in (c)(iv) of this subsection to determine the share of the facility's observed generation that may be reported as eligible renewable energy.

(d) **Method three.** A one-time calculation of the quantity of renewable energy performed by:

(i) Determining the river discharge for the facility over a historical period of at least ten consecutive years;

(ii) Using a production model to calculate the facility's generation in megawatt-hours under the river discharge of each year in the historical period for the pre-upgrade state and the post-upgrade state;

(iii) Calculating the arithmetic mean generation of the pre-upgrade and post-upgrade states over the historical period in megawatt hours; and

(iv) Subtracting the arithmetic mean pre-upgrade generation from the arithmetic mean post-upgrade generation to determine the amount of eligible renewable generation for the target year.

(e) **Five-year evaluation.** Any utility using method three shall provide, beginning in its 2019 renewable portfolio standard report and every five years thereafter, an analysis comparing the amount of incremental hydropower the utility reported in every year using method three to the amount of incremental hydropower the utility would have reported over the same period using one of the other two methods. If the commission determines that this analysis shows a significant difference between method three and one of the other methods, it may order the utility to use a different method in the future reporting years.

(8) **Qualified biomass energy.** Beginning January 1, 2016, only a utility that owns or is directly interconnected to a qualified biomass energy facility may use qualified biomass energy to meet its annual target obligation.

(a) A utility may no longer use electricity and associated renewable energy credits from a qualified biomass energy facility if the associated industrial pulping or wood manufacturing facility ceases operation other than for purposes of maintenance or upgrade.

(b) A utility may acquire renewable energy credits from a qualified biomass energy resource hosted by an industrial facility only if the facility is directly interconnected to the utility at transmission voltage. For purposes of this subsection, transmission voltage is one hundred thousand volts or higher. The number of renewable energy credits that the utility may acquire from an industrial facility for the utility's target compliance may not be greater than the utility's renewable portfolio standard percentage times the industrial facility load.

(c) A utility that owns a qualified biomass energy facility may not transfer or sell renewable energy credits associated with qualified biomass energy to another person, entity, or utility.

#### NEW SECTION

**WAC 480-109-210 Renewable portfolio standard reporting.** (1) **Annual report.** On or before every June 1st, each utility must file an annual renewable portfolio standard report with the commission and the department detailing the resources the utility has acquired or contracted to acquire to meet its renewable resource obligation for the target year.

(2) **Annual report contents.** The annual renewable portfolio standard report must include the utility's annual load for the prior two years, the total number of megawatt-hours from eligible renewable resources and/or renewable resource credits the utility needed to meet its annual renewable energy target by January 1st of the target year, the amount (in megawatt-hours) of each type of eligible renewable resource used, and the amount of renewable energy credits acquired. Additionally, the annual renewable portfolio standard report must include the following:

(a) **Incremental cost calculation.** To calculate its incremental cost, a utility must:

(i) Make a one-time calculation of incremental cost for each eligible resource at the time of acquisition or, for historic acquisitions, the best information available at the time of the acquisition:

(A) **Eligible resource levelized cost.** Determine the levelized cost of each eligible resource, including integration costs as determined by the utility's most recently completed renewable resource integration study, using the utility's commission-approved weighted average cost of capital at the time of the resource's acquisition as the discount rate;

(B) **Eligible resource capacity value.** Identify the capacity value of each eligible renewable resource as calculated in the utility's most recent integrated resource plan acknowledged by the commission;

(C) **Noneligible resource selection.** Select and document the lowest-reasonable-cost, noneligible resource available to the utility at the time of the eligible resource's acquisition for each corresponding eligible resource;

(D) **Noneligible levelized energy cost.** For each noneligible resource selected in (a)(i)(C) of this subsection, determine the cost of acquiring the same amount of energy as expected to be produced by the eligible resource, levelized over a time period equal to the facility life or contract length of the eligible resource and at the same discount rate used in (a)(i)(A) of this subsection;

(E) **Noneligible levelized capacity cost.** Calculate the levelized capital cost of obtaining an equivalent amount of capacity provided by the eligible resource, as determined in (a)(i)(B) of this subsection, from a noneligible resource. This cost must be levelized over a period equal to the facility life or contract length of the eligible resource and at the same discount rate used in (a)(i)(A) of this subsection. To make this calculation, a utility must use the lowest-cost, noneligible capacity resource identified in its most recent integrated resource plan acknowledged by the commission. However, if a utility determines

that cost information in the integrated resource plan is no longer accurate, it may use cost information from another source, with documentation of the source and an explanation of why the source was used.

(F) **Calculation.** Determine the incremental cost of each eligible resource by subtracting the sum of the levelized costs of the noneligible resources calculated in (a)(i)(D) and (E) of this subsection from the levelized cost of the eligible resource determined in (a)(i)(A) of this subsection. The result of this calculation may be a negative number.

(G) **Legacy resources.** Any eligible resource that the utility acquired prior to March 31, 1999, is deemed to have an incremental cost of zero.

(ii) **Annual calculation of revenue requirement ratio.** To calculate its revenue requirement ratio, a utility must annually:

(A) Sum the incremental costs of all eligible resources used for target year compliance;

(B) Add the cost of any unbundled renewable energy credits purchased for target year compliance;

(C) Subtract the revenue from the sales of any renewable energy credits and energy from eligible facilities; and

(D) Divide the total obtained in (a)(ii)(A) through (C) of this subsection by the utility's annual revenue requirement, which means the revenue requirement that the commission established in the utility's most recent rate case, and multiply by one hundred.

(iii) **Annual reporting.** In addition to the revenue requirement ratio calculated in (a)(ii) of this subsection, the utility must:

(A) Report its total incremental cost as a dollar amount and in dollars per megawatt-hour of renewable energy generated by all eligible renewable resources in the calculation in (a)(i) of this subsection; and

(B) Multiply the dollars per megawatt-hour cost calculated in (a)(iii)(A) of this subsection by the number of megawatt-hours needed for target year compliance.

(b) **Alternative compliance.** State whether the utility is relying upon one of the alternative compliance mechanisms provided in WAC 480-109-220 instead of fully meeting its renewable resource target. A utility using an alternative compliance mechanism must use the incremental cost methodology described in this section and include sufficient data, documentation and other information in its report to demonstrate that it qualifies to use that alternative mechanism.

(c) **Compliance plan.** Describe the resources that the utility intends to use to meet the renewable resource requirements for the target year.

(d) **Eligible resources.** A list of each eligible renewable resource that serves Washington customers, for which a utility owns the certificates, with an installed capacity greater than twenty-five kilowatts. Resources with an installed capacity of less than twenty-five kilowatts may be reported in terms of aggregate capacity. The list must include:

(i) Each resource's WREGIS registration status and use of certificates, whether it be for annual target compliance, a voluntary renewable energy program as provided for in RCW 19.29A.090, or owned by the customer; and

(ii) Eligible resources being included in the report for the first time and documentation of their eligibility.

(e) **Multistate allocations.**

(i) If a utility serves retail customers in more than one state, the utility must allocate certificates consistent with the utility's most recent commission-approved interstate cost allocation methodology. The report must show how the utility applied the allocation methodology to arrive at the number of certificates allocated to Washington ratepayers.

(ii) After documenting the number of certificates allocated to Washington ratepayers, a utility may transfer certificates to or from Washington ratepayers. The report must document the compensation provided to each jurisdiction's ratepayers for such transfers.

(f) **Sales.** If a utility sold certificates, report the number of certificates that it sold, their WREGIS certificate numbers, their source, and the revenues obtained from the sales. For multistate utilities, these requirements only apply to certificates that were allocated to the utility's Washington service territory according to (e) of this subsection.

**(3) Report review.**

(a) Interested persons may file written comments regarding a utility's annual renewable portfolio standard report within thirty days of the utility's filing.

(b) Upon conclusion of the commission review of the utility's annual renewable portfolio standard report, the commission will issue a decision accepting or rejecting the calculation of the utility's renewable resource target; determining whether the utility has generated, acquired or arranged to acquire enough renewable energy credits or qualifying generation to comply with its renewable resource target; and determining the eligibility of new renewable resources pursuant to subsection (2)(d) of this section.

(c) If a utility revises its annual renewable portfolio standard report as a result of the commission review, the utility must submit the revised final annual renewable portfolio standard report to the department.

**(4) Publication of reports.** All renewable portfolio standard reports required by chapter 19.285 RCW and this section since January 1, 2012, must be posted and maintained on the utility's web site. Reports must be posted on the utility's web site within thirty days of the commission order approving the report. A copy of any such report must be provided to any person upon request.

**(5) Customer notification.** Each utility must provide a summary of its annual renewable portfolio standard report to its customers by bill insert or other suitable method. This summary must be provided within ninety days of final action by the commission on the report.

**(6) Final compliance report.** Within two years following submission of its annual renewable portfolio standard report, a utility must submit, in the same docket, a final renewable portfolio standard compliance report that lists the certificates that it retired in WREGIS for the target year. If a utility does not meet its annual target described in WAC 480-109-200, the commission will determine the amount in megawatt-hours by which the utility was deficient.

## NEW SECTION

**WAC 480-109-220 Alternatives to the renewable resource requirement.** Instead of fully meeting its annual renewable resource target in WAC 480-109-200, a utility may make one of three demonstrations.

(1) **Cost cap.** A utility may invest at least four percent of its total annual retail revenue requirement on the incremental costs of eligible renewable resources, renewable energy credits, or a combination of both.

(2) **Force majeure.** A utility may demonstrate that events beyond its reasonable control that could not have been reasonably anticipated or ameliorated, prevented it from meeting the renewable energy target. Such events may include weather-related damage, mechanical failure, strikes, lockouts, or actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource owned by or under contract to a qualifying utility.

(3) **No load growth.** A utility may demonstrate all of the following:

(a) Its weather-adjusted load for the previous three years prior to the target year on average did not increase.

(b) After December 7, 2006, all new or renewed ownership or purchases of electricity from nonrenewable resources other than coal transition power and daily spot purchases were offset by equivalent renewable energy credits.

(c) It invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

## NEW SECTION

**WAC 480-109-999 Adoption by reference.** In this chapter, the commission adopts by reference all, or portions of, the publications identified below. They are available for inspection at the commission branch of the Washington state library. The publications, publication dates, references within this chapter, and availability of the resources are as follows:

(1) *Northwest Conservation and Electric Power Plan* as published by the Northwest Power and Conservation Council.

(a) The commission adopts the sixth version published in 2010.

(b) This publication is referenced in WAC 480-109-100.

(c) Copies of *Sixth Northwest Conservation and Electric Power Plan* are available from the Northwest Power and Conservation Council at <http://www.nwcouncil.org/energy/powerplan/6/plan/>.

(2) *Weatherization Manual* as published by the Washington state department of commerce.

(a) The commission adopts the version published in April 2009, and revised July 2014.

(b) This publication is referenced in WAC 480-109-100.

(c) Copies of *Weatherization Manual* are available from the Washington state department of commerce at <http://www.commerce.wa.gov/Programs/services/weatherization/Pages/WeatherizationTechnicalDocuments.aspx>.

(3) The unit energy savings values as published by the Northwest Power and Conservation Council's Regional Technical Forum.

(a) The commission adopts the unit energy savings with status of "Active" or "Under Review" on August 1, 2014.

(b) This information is referenced in WAC 480-109-100.

(c) The spreadsheets containing the unit energy savings values are available for download at <http://rtf.nwcouncil.org/measures/Default.asp>.

(4) The standard protocols as published by the Northwest Power and Conservation Council's Regional Technical Forum.

(a) The commission adopts the standard protocols with status of "Active" or "Under Review" on August 1, 2014.

(b) This information is referenced in WAC 480-109-100.

(c) The spreadsheets containing the standard protocols are available for download at <http://rtf.nwcouncil.org/protocols/Default.asp>.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-109-001	Purpose and scope.
WAC 480-109-002	Application of rules.
WAC 480-109-003	Exemptions from rules in chapter 480-109 WAC.
WAC 480-109-004	Additional requirements.
WAC 480-109-006	Severability.
WAC 480-109-007	Definitions.