

WAC 480-109 Revision – EIA Rulemaking UE-190652

**Notice of Opportunity to File Written Comments on
Revisions to Energy Independence Act (EIA)**

Summary of Comments

1. Do stakeholders have concerns with the additions of the statutory definitions for “energy assistance” and “energy burden” in WAC 480-109-060?

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
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| Front and Centered | No, though seeks additions and clarifications | <p>Supports including definitions.</p> <p>Proposes removing “annual” from the definition of “energy burden” or interpreting it as annualized.</p> <p>Suggests programmatic options for energy assistance programs (<i>e.g.</i>, pursuing indoor air quality and other household improvements).</p> <p>Proposes “energy burden” to mean “the share of household income used to pay home energy bills, including all energy costs for heating, cooling, and electricity.”</p> <p>Proposes “energy assistance” to mean: a program undertaken by a utility to reduce the household energy burden of its customers.</p> <p>(a) Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, reduction of shut-offs and monetary assistance, such as a grant program or discounts for lower income households, intended to lower a household’s energy burden.</p> | <p>The draft rules will contain definitions.</p> <p>The definition of energy burden included in the rules is the statutory definition.</p> <p>Programmatic decisions concerning energy assistance programs will be addressed outside this rule through future Commission guidance or through Commission review of tariff filings.</p> <p>The definition of energy burden included in the rules is the statutory definition. The Commission expects to provide guidance on the calculation of energy burden in the adoption order but does not expect to change the definition included in the draft rule.</p> <p>The definition of “energy assistance” included in the draft rules is the statutory definition. The Commission declines to attempt to change the statutory definition of “energy assistance” in the draft rules. The Commission will provide additional guidance of eligible energy assistance programs in the future.</p> |

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| Stakeholder | Yes or No | Summary of Comments | Staff Response |
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| | | <p>(b) Energy assistance may include direct customer ownership in distributed energy resources or other strategies if such strategies achieve a reduction in energy burden for the customer above other available conservation and demand-side measures.</p> <p>(c) Energy assistance may include complementary strategies that improve the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency.</p> | <p>Regarding subsection (c) in the proposed revision to the “energy assistance” definition, RCW 19.405.120(2) states “To the extent practicable, priority must be given to low-income households with a higher energy burden.” The Commission does not believe the complementary strategies are consistent with this statutory requirement to prioritize energy assistance based on energy burden. Additionally, the language included in subsection (c) of the proposed revision mirrors the language in RCW 19.405.040(8), which is separate and distinct from RCW 19.405.120. This is especially true considering that the more narrow legislative intent in RCW 19.405.120 (“It is the intent of the legislature to demonstrate progress toward making energy assistance funds available to low-income households consistent with the policies identified in this section”) supersedes the broader legislative intent for the act as a whole.</p> |
| Public Counsel | No | <p>Supports including the definitions but wants additional clarification and evaluation around energy burden. Proposes Commission should address whether home energy bills reference electricity, gas, or both and whether home energy bills applies only to heating bills.</p> | <p>The definition of “energy burden” included in the rules is the statutory definition. The Commission expects to provide guidance on the calculation of energy burden in the adoption order but does not expect to change the definition included in the draft rule.</p> |
| Washington Environmental Council (WEC) | No | <p>Supports identifying the threshold for “low-income” and “level of energy burden” in a way that accurately and equitably captures Washingtonians’ needs.</p> | <p>The Commission’s definitions will consider information related to Washingtonians’ needs to the extent available.</p> |
| Puget Sound Energy (PSE) | No | <p>Appreciates inclusion of the definitions; appreciates broadness of “energy assistance” definition; requests the Commission consider customers’ non-utility energy costs in defining energy burden, specifically transportation energy costs.</p> | <p>The Commission will provide guidance on the methodology to calculate energy burden in the adoption order but does not believe that transportation energy costs are consistent with the plain-language interpretation of “home energy.”</p> |

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| Stakeholder | Yes or No | Summary of Comments | Staff Response |
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| Northwest Energy Coalition (NWECC) | No | Supports incorporation of definitions, but requests “deliberative” process in-line with Dept. of Commerce process and additional stakeholder input before final rules. | The Commission held a joint workshop with the Department of Commerce on energy assistance-related definitions on January 28, 2020. |
| Pacific Power | No | <p>Supports inclusion of statutory definitions and notes that utilities are differently situated within the state with different customers.</p> <p>Recommends clarification of the definitions of energy burden to address fuel types and to specify that non-utility energy such as combustible vehicle fuel is not included.</p> | <p>The Commission will consider the differences across the state when defining “low income” and “energy assistance need.”</p> <p>The definition of “energy burden” included in the rules is the statutory definition. The Commission expects to provide guidance on the calculation of energy burden in the adoption order but does not expect to change the definition included in the draft rule.</p> |
| Avista | Yes | Writes that these definitions should not be addressed in the Washington Energy Independence Act (EIA) rulemaking; authority in 5116 is only relevant to the Washington Clean Energy Transformation Act (CETA), not germane to EIA, and not statutorily required. | The EIA rules have provisions governing low-income conservation and the Commission chooses to update those rules in light of CETA. |
| The Energy Project (TEP) | No major concerns | <p>Does not have major concerns but believes definitions will be relevant elsewhere and consistency is important.</p> <p>Definitions established here should be designed to further the broad statutory Section 12 and “public interest” goals of CETA.</p> | <p>The Commission will have the same definitions for “energy assistance,” “energy assistance need,” and “energy burden” in the EIA rules and the Integrated Resource Plan (IRP) rules.</p> <p>As noted in the response to Front and Centered above, the legislative intent for Section 12 (RCW 19.405.120) is narrower, and therefore supersedes the broad public interest goals of CETA.</p> |
| Cascade Natural Gas | | <p>Supports the definition of “energy assistance” as it pertains to monetary assistance, grant, or discount programs for lower income households.</p> <p>Seeks definitions for “conservation, weatherization, and efficiency services” in the context of energy assistance.</p> | <p>The definition of “energy assistance” included in the rules is the statutory definition.</p> <p>This language included in the statutory definition of energy assistance is sufficiently broad to cover any type of energy reduction that lowers a customer’s energy burden.</p> |

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
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| | | <p>Seeks clarification on if and how distributed energy resource (DER) ownership would be incorporated into planning requirements associated with future conservation plans.</p> <p>Supports the definition of “energy burden” as meaning the share of annual household income used to pay annual home energy bills.</p> | <p>DER ownership included in utility plans regarding energy assistance will be incorporated in the IRP rules and do not directly interact with the EIA rules.</p> <p>The definition of “energy burden” included in the rules is the statutory definition.</p> |

2. Please propose the level of energy burden that should be included within the definition of “Energy assistance need.” Please explain and provide justification for your proposal. Industry literature suggests an affordability benchmark as low as six percent of household income.

| Stakeholder | Percent | Summary of Comments | Staff Response |
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| Front and Centered | No more than 6% | <p>“Energy assistance need” should be defined in WAC 480-109-060 by an energy burden that acts as a floor rather than a ceiling by including “less than or equal to” language. The definition should avoid creating benefit cliffs that create significant drops in assistance as incomes rise.</p> <p>Commission should engage in more extensive discussion before deciding on a final number, but it should not be greater than 6 percent.</p> | <p>The definition for “energy assistance need” is the statutory definition. Regardless of the definition of “energy assistance need,” utility programs could target any level of energy burden, subject to Commission approval, as the definition of “energy assistance need” does not interact with programmatic design of energy assistance programs.</p> <p>The Commission held a joint workshop with the Department of Commerce on energy assistance-related definitions on January 28, 2020.</p> |
| Public Counsel | | <p>Cannot yet recommend specific figures but believes the amounts should be based on Washington data (national variations are too broad to accurately reflect Washington state) and should also reflect differences between urban and rural settings.</p> <p>Requests a workshop on this issue.</p> | <p>The Commission’s definitions will consider information related to Washingtonians’ needs to the extent available.</p> <p>The Commission held a joint workshop with the Department of Commerce on energy assistance-related definitions on January 28, 2020.</p> |

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| WEC | | Supports identifying the level of burden that most accurately and equitably captures the comprehensive need of Washingtonians in receiving assistance. | The Commission’s definitions will consider information related to Washingtonians’ needs to the extent available. |
| PSE | | No suggestions for level of energy burden currently. Defers to Commerce and the Commission to recommend a benchmark. Would like to see consistency with Commerce’s low-income rulemaking to implement CETA’s Section 12 and consistency among benchmarks for all utilities. | The Commission is coordinating closely with the Department of Commerce on setting the definitions related to “energy assistance need” and will coordinate definitions where appropriate given difference in agency authority and utility contexts. |
| NWEC | | Offers industry literature suggesting 6 percent but notes Washington’s average energy burden is lower than in other areas. Notes that Seattle City Light started with 4 percent. Recommends that any methodology to determine a number needs to clearly define what is incorporated in energy burden and how the number should be used. “Home energy burden” typically excludes transportation costs, which average 20 percent and can exceed 30 percent for low-income households. Notes that, as EVs become more common, the line dividing transportation and energy burdens will blur. Recommends it is important to consider the shift of transportation energy costs to utility bills. | The 4 percent energy burden used by Seattle City Light is an element of the program design. Regardless of the definition of “energy assistance need,” utility programs could target any level of energy burden, subject to Commission approval, as the definition of “energy assistance need” does not interact with programmatic design of energy assistance programs. The Commission will consider the interaction between “energy burden” and “energy assistance need.” The Commission will provide guidance on the methodology for calculating energy burden in the adoption order but does not believe that transportation energy costs are consistent with the plain-language interpretation of “home energy.” |
| Pacific Power | No more than 6% | Prefers a figure no more than 6%. Notes that Pacific Power does not collect customer income and household information and therefore does not have the ability to determine energy burden. Proposes aligning the definition of energy burden with industry affordability benchmarks from extensive studies such as American Council for an Energy-Efficient Economy (ACEEE). | The Commission will consider administrative complexities when setting the definitions related to energy assistance to the extent known and included in the record. |
| Avista | | Requests separate WACs to establish these definitions. | The EIA rules have provisions governing low-income conservation and the Commission |

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| | | | chooses to update those rules in light of CETA. |
| TEP | | <p>Recommends that definitions adopted here should not limit definitions used in other areas of CETA.</p> <p>Includes and offers studies on energy burden to support 6 percent. Due to the different methodologies available and the variety of factors to be considered, suggests looking at alternatives to ensure that this level makes sense.</p> <p>Recommends that the level adopted should be a “no greater than” level to allow utilities adopt more aggressive standards for their programs if they desire.</p> | <p>The Commission is considering the interaction of the definitions in the EIA rules with other CETA-related rulemakings.</p> <p>The Commission held a joint workshop with the Department of Commerce on energy assistance-related definitions on January 28, 2020, to discuss multiple options for setting definitions.</p> <p>Regardless of the definition of “energy assistance need,” utility programs could target any level of energy burden, subject to Commission approval, as the definition of “energy assistance need” does not interact with programmatic design of energy assistance programs.</p> |
| Cascade Natural Gas | | Supports the continued use of an energy burden definition consistent with that used by the Department of Commerce in the administration of its Weatherization Assistance Program. | The Commission is coordinating closely with the Department of Commerce on setting the definitions related to “energy assistance need” in the context of RCW 19.405.120. |

3. Please propose a definition of “low-income” based on area median household income or percentage of the federal poverty level. Please explain and provide justification for your proposal. The maximum allowed in Laws of 2019, Chapter 288, § 2(25), is the higher of 80 percent of area median household income or 200 percent of federal poverty level, adjusted for household size. Investor-owned utilities currently use 200 percent of the federal poverty level, adjusted for household size, for the low-income conservation programs.

| Stakeholder | “Low-income” Definition | Summary of Comments | Staff Response |
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| Front and Centered | “Household incomes that are less than or equal to the higher of 80 percent of area median household income (AMI) or 200 percent of federal poverty level (FPL), adjusted for household size” | <p>Recommends definitions should be set at statutory maximums for broad eligibility; proposes that the definition of “low-income” means “household incomes that are less than or equal to the higher of 80 percent of area median household income or 200 percent of FPL, adjusted for household size.</p> <p>Recommends that Commission and utilities should use opt-out rather than opt-in processes for programs and identify pathways to reduce enrollment burdens.</p> | <p>The Commission understands that income-qualified programs, except housing assistance, generally use an FPL-based definition. It therefore reduces administrative burden to qualify individual households using an FPL-based definition. Additionally, FPL is well understood and the implications of using AMI are not currently known.</p> <p>Programmatic design of energy assistance programs is outside the scope of this rulemaking.</p> |
| Public Counsel | “Low-income” means household incomes that are less than or equal to the higher of 80 percent of area median household income or 200 percent of federal poverty level, adjusted for household size.” | Prefers AMI and FPL to be included at maximum definitions to allow for flexibility. | <p>The Commission understands that income-qualified programs, except housing assistance, generally use an FPL-based definition. It therefore reduces administrative burden to qualify individual households using an FPL-based definition. Additionally, FPL is well understood and the implications of using AMI are not currently known.</p> |

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| WEC | | Supports defining ‘low-income’ in a way that most equitably and accurately reflects the needs of Washingtonians. | The Commission’s definitions will consider information related to Washingtonians’ needs to the extent available. |
| PSE | | <p>Has no suggestions for level of “low-income;” defers to Commerce on eligibility for consistency with state and federal weatherization policies. Notes that PSE is considering adjusting assistance program requirements from 150% of federal poverty line to 200% of federal poverty line next year. The company could have more recommendations following the winter season when needs assessment is finished.</p> <p>Notes that for low-income conservation programs, PSE’s existing eligibility level is 200% of federal poverty level or 60% of state median income, whichever is higher. Believes shifting to an area median income approach at the county level makes sense given income variability relative to cost of living in different locations across the state, but 80 percent of AMI could be casting too wide. “This would result in the area median income level far surpassing the 200% of federal poverty threshold for a large portion of the population, thus negating access to federal funds for customers between 200% of federal poverty level and 80% of area median income.”</p> | <p>The Commission is coordinating closely with the Department of Commerce on setting the definitions related to “energy assistance need.”</p> <p>The Commission understands that income-qualified programs, except housing assistance, generally use an FPL-based definition. It therefore reduces administrative burden to qualify individual households using an FPL-based definition. Additionally, FPL is well understood and the implications of using AMI are not currently known.</p> |
| NVEC | “Higher of 80 percent of area median household income or 200 percent of federal poverty level, adjusted for household size.” | Supports using the “higher of 80 percent of area median household income or 200 percent of federal poverty level, adjusted for household size.” | The Commission understands that income-qualified programs, except housing assistance, generally use an FPL-based definition. It therefore reduces administrative burden to qualify individual households using an FPL-based definition. |
| Pacific Power | A household with income up to 200 percent of the federal poverty level and adjusted for household size with regard to low-income energy efficiency programs | Proposes low-income defined as “a household with income up to 200 percent of the federal poverty level and adjusted for household size with regard to low-income energy efficiency programs.” Notes that for low-income assistance programs, the company supports maintaining the current definition of up to 150% of the federal poverty level. | Additionally, FPL is well understood and the implications of using AMI are not currently known. |

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| Avista | | Requests separate WACs to establish these definitions. | The EIA rules have provisions governing low-income conservation and the Commission chooses to update those rules in light of CETA. |
| TEP | 200 percent FPL or 80 percent of AMI, whichever is greater, and adjusted for household size | Recommends adoption of “200 percent FPL or 80 percent of AMI, whichever is greater, and adjusted for household size.” Notes that the AMI and the FPL metrics work together to ensure the most appropriate income level is used for determining low-income status. In areas with a high cost of living, 80 percent of AMI may exceed 200 percent of FPL. Recommends that in those instances, the AMI metric should be employed. Recommends that the rule add the language “whichever is greater” following the specific metrics. | The Commission understands that income-qualified programs, except housing assistance, generally use an FPL-based definition. It therefore reduces administrative burden to qualify individual households using an FPL-based definition. Additionally, FPL is well understood and the implications of using AMI are not currently known. |

4. Do stakeholders have concerns with the proposed changes to WAC 480-109-100(10) addressing funding and programs for low-income energy assistance as described in the Laws of 2019, Chapter 288, §§ 2(16) and 12? Is additional language necessary? If so, please propose alternative rule language.

| Stakeholder | Yes/No | Summary of Comments | Staff Response |
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| Front and Centered | | Believes Section WAC 480-109-100(10) is vague and proposes additional language for WAC 480-109-100 to support making progress on energy assistance, ensuring energy assistance funds are available to low-income households, and resolving concerns for weatherization services and conservation services. | WAC 480-109-100 is not intended to address the entire energy assistance assessment. Additional guidance will be provided elsewhere. |

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| Public Counsel | Yes | <p>Supports amendments in subsection (a). Suggests all electric utilities must fund not only cost-effective measures included within the Weatherization Manual, but also other important repairs, health and safety improvements, and administrative costs related with cost-effective conservation measures, pursuant to CETA.</p> <p>Recommends removing subsection (b)(i)¹ because it is too vague, and it is unclear how cost effectiveness tests are treated and considered.</p> <p>Recommends that low-income conservation programs should not be included in portfolio cost effectiveness tests because they are a risky, costly, but necessary outlier; notes that regulatory changes allowing special consideration of low-income programs may increase access to energy efficient measures and can directly assist low-income customers in reducing their energy burden; offers examples of Arizona, Iowa, and Kentucky programs and proposes language changes to section.</p> | <p>Staff agrees that additional clarity is needed in subsection (b). Language has been added to address this concern. Accounting for non-energy impacts (NEI) is useful to understand the impact of the program even when cost-effectiveness is not a concern. Currently cost-effectiveness is generally provided both with and without low-income programs. Staff is not opposed to this change and has changed “may” to “must” in the proposed rules.</p> |
| WEC | Yes | <p>Supports proposed changes, but requests that the Commission consider amending WAC 480-109-100(10)(b) to adapt and improve utilities’ biennial conservation plan so that progress is made toward meeting energy assistance need.</p> | <p>Measuring progress towards meeting energy assistance need falls outside the scope of this rulemaking.</p> |

¹ The proposed rules published with the CR-101 divided WAC 480-109-100(10)(b) into three subsections. The proposed rules published with the CR-102 notice delete the first and third of these subsections and consolidate the remaining subsection with the main subsection.

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| PSE | Yes | <p>Has concerns with revising the language to say utilities "...must fully fund repairs, administrative costs...;" believes this indicates PSE ratepayers are expected to pay for 100 percent of these costs, which is a departure from current practice and could have unintended consequences. Notes that low-income agencies would no longer be required to obtain funding through their established networks of federal and state funding. "This requirement could potentially impact the cost-effectiveness of the Low-Income Weatherization program to a point where it may become untenable."</p> <p>Also seeks clarity on what is intended by the phrase "benefits that accrue to the customer over the life of each conservation measure" in subsection (b)(i).</p> | <p>Staff agrees that low-income agencies should leverage additional funding when possible and proposes additional language to ensure investor owned utilities (IOUs) fully fund these costs only "when alternate funding sources are unavailable."</p> <p>Staff agrees that additional clarity is needed. Language has been added to address this concern. Accounting for NEI is necessary to equitably distribute them.</p> |
| NWEC | | <p>Supports amendments but believes that if the Commission intended to integrate Section 12 into WAC 480-10-100(10), more changes should be made. Provides changes to language in (10)(a)(i) through an added (10)(d).</p> | <p>Staff agrees that RCW 19.405.120 is not fully represented here. Additional guidance will be provided elsewhere.</p> |
| Pacific Power | No | <p>Has no concerns; offers explanation of company's reimbursement and funding</p> | |
| Avista | Yes | <p>Believes new changes have no basis in EIA and are not germane, goes beyond Commission's statutory authority. Concerns with changes in WAC 480-109-100(10) require utilities to fully fund measures, repairs, administrative costs, and health and safety improvements; additional concerns that proposed rule language departs from cost-effective methodologies in the law, giving implementing agencies the authority to compel different methodologies.</p> | <p>Low-income requirements are not new and rely on the Commission's broad authority to order fair, just, reasonable, and sufficient rates, services, practices, and facilities.</p> |
| TEP | No | <p>Supportive, outlines reasons in detail</p> | |

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| <p>Cascade Natural Gas</p> | <p>Yes</p> | <p>Recommends Weatherization Manual should be removed based on the recent change to Department of Commerce guidelines that will no longer allow the use of the Priority List in determining measure cost-effectiveness beginning in 2020.</p> <p>Seeks guidance on how costs will be shared between gas and electric ratepayers when some improvements overlap electric and gas measures; recommends that language should not create a situation where a gas utility funds an electric measure or vice versa.</p> <p>Seeks guidance on whether “low-income programs and mechanisms” refers to more than weatherization. Is “energy assistance” weatherization or bill assistance?</p> <p>Notes that the company does not track low-income customer income data and cannot confirm a customer’s energy burden, urges caution with this type of requirement that might inadvertently screen qualified customers from eligibility.</p> | <p>Staff reviewed language with Commerce. The Priority List is changing but will still be the appropriate reference.</p> <p>Staff can provide this guidance outside of this rulemaking.</p> <p>Low-income conservation programs and mechanisms may go beyond weatherization to include other types of conservation programs directed at low-income customers. Energy assistance encompasses both weatherization and bill assistance.</p> <p>Energy burden is a statutory metric under CETA for electric utilities.</p> |
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5. The Laws of 2019, Chapter 288, § 12(2), requires utilities to plan for the provision of energy assistance aimed toward reducing household energy burdens. To the extent practicable, this energy assistance must prioritize low-income households with higher energy burdens. What considerations should the Commission consider in determining what is practicable in the context of low-income conservation?

| Stakeholder | Summary of Comments | Staff Response |
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| <p>Front and Centered</p> | <p>Recommends the Commission should prioritize energy assistance for historically disenfranchised groups and communities identified as vulnerable populations; recommends the Commission should qualify what criteria (number of individuals at the residence, residents that are sensitive or vulnerable populations, the age of the residence, the location of the residence, including whether it is in a “highly impacted community” designed by the Department of Health) utilities will evaluate in determining which energy assistance programs will be most effective for qualifying individuals. Proposes specific language to WAC 480-109-100(b)(ii), WAC 480-109-100(d), and WAC 480-109-100(10).</p> | <p>RCW 19.405.120(2) states “To the extent practicable, priority must be given to low-income households with a higher energy burden.” The Commission does not believe the complementary strategies are consistent with this statutory requirement to prioritize energy assistance based on energy burden. Additionally, the language included in subsection (c) of the proposed revision mirrors the language in RCW 19.405.040(8),</p> |

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| | | which is separate and distinct from RCW 19.405.120. This is especially true considering that the more narrow legislative intent in RCW 19.405.120 (“It is the intent of the legislature to demonstrate progress toward making energy assistance funds available to low-income households consistent with the policies identified in this section”) supersedes the broader legislative intent for the act as a whole. |
| Public Counsel | States that Washington state data is required for Public Counsel to make comments | |
| WEC | Believes the Commission should require utilities to fully document their work in providing assistance and should consider creating a process to receive feedback from low-income household customers as part of the review process of determining what is practicable. | The Commission will consider providing guidance on reporting in the adoption order. |
| PSE | <p>Asks the Commission to consider existing factors and limitations that impact utilities’ ability to prioritize low-income (LI) households with higher energy burdens. Notes that Community Action Program (CAP) agencies administer LI programs, based on Commerce guidance and IOUs do not have control of prioritization. States that calculating energy burden is difficult as IOUs do not have income data.</p> <p>Recommends the Commission should provide guidelines for utilities to direct LI agencies in how to administer/market programs. Recommends the Commission should establish guidelines on how services will be audited and reported; recommends utilities should not be held accountable for services that don’t prioritize energy burden.</p> <p>Recommends that the Washington Utilities and Transportation Commission (UTC) and the Department of Commerce work with utilities to establish a methodology for:</p> <ol style="list-style-type: none"> 1) Compiling income data that is consistent, confidential, and functional; 2) Creating guidelines for auditing low-income weatherization processes, including prioritization, customer interactions, and completed projects; and 3) Creating guidelines for consistent reporting, including aggregate assistance need, number of households treated, and resultant metrics. | <p>The Commission will consider practicability, per the statutory language, but notes RCW 19.405.120 places compliance obligations on utilities and not CAP agencies.</p> <p>RCW 19.405.120 is not fully represented here. Additional guidance will be provided elsewhere.</p> <p>RCW 19.405.120 is not fully represented here. Additional guidance will be provided elsewhere.</p> <p>RCW 19.405.120 is not fully represented here. Additional guidance will be provided elsewhere.</p> |

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| <p>NWEC</p> | <p>Notes the practice of prioritizing households based on need should continue, and any utilities or agencies implementing programs with utility dollars that are not currently prioritizing energy assistance based on energy burden should implement practice immediately. Notes that need may not be the only criteria by which households are prioritized; notes that the law is clear on this issue and does not prevent prioritization based on other factors.</p> | <p>RCW 19.405.120(2) states “To the extent practicable, priority must be given to low-income households with a higher energy burden.” The Commission does not believe the complementary strategies are consistent with this statutory requirement to prioritize energy assistance based on energy burden. Additionally, the language included in subsection (c) of the proposed revision mirrors the language in RCW 19.405.040(8), which is separate and distinct from RCW 19.405.120. This is especially true considering that the more narrow legislative intent in RCW 19.405.120 (“It is the intent of the legislature to demonstrate progress toward making energy assistance funds available to low-income households consistent with the policies identified in this section”) supersedes the broader legislative intent for the act as a whole.</p> |
| <p>Pacific Power</p> | <p>States that the company does not collect information on household income, household size and/or customer age. Has concerns with the imposition of requirements to collect information that is not relevant to providing adequate and safe electric service to customers.</p> <p>Suggests that the Commission consider how non-profit agencies, in addition to the Washington Department of Commerce, that administer low income programs could collaborate with utilities to identify and prioritize low-income household with high energy burdens, including the development of calculations for eligibility.</p> <p>Requests low-income and equity workshop within 60 days.</p> | <p>RCW 19.405.120 is not fully represented here. Additional guidance will be provided elsewhere.</p> <p>The current guidance from Commerce to community action agencies includes prioritization of customers with higher energy burdens.</p> <p>The Commission held a joint workshop with the Department of Commerce on energy assistance-related definitions on January 28, 2020.</p> |
| <p>Avista</p> | <p>Believes these issues are not relevant to EIA; states that to require utilities to show progress toward meeting energy assistance goals specifically through its conservation efforts under the EIA ignores the utility’s option to use means other than conservation for reducing energy burdens.</p> | <p>Low-income requirements are not new and rely on the Commission’s broad authority. The inclusion of LI conservation in the biennial conservation plan does not replace other reporting on energy assistance.</p> |

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| TEP | <p>Notes that existing state and federal low-income conservation programs for customers of IOUs currently take into account low-income households with higher energy burdens. Notes that utility and agency experience with prioritization will provide a platform to build on while developing approaches to CETA compliance.</p> <p>Offers multiple language suggestions for section 10a-c.</p> | <p>Currently cost-effectiveness is generally provided both with and without low-income programs. Staff is not opposed to this change and has changed “may” to “must”.</p> |
| Cascade Natural Gas | <p>Supports conversations with agencies to determine ability to prioritize customers by energy burden but does not track customer income data and feels it would be inappropriate for a utility to do this screening.</p> <p>Notes that weatherization agencies do this work so all changes in requirements should be coordinated with the Dept. of Commerce.</p> | <p>RCW 19.405.120 is not fully represented here. Additional guidance will be provided elsewhere.</p> |

6. The Commission proposes to eliminate incremental hydropower method three and its associated five-year evaluation from its rules (see WAC 480-109-200(7)(d) and (e)). A recent analysis by Avista Utilities showed method three overestimated incremental generation. The Commission subsequently approved Avista’s switch from method three to method one. Since no investor-owned utility currently uses method three, the Commission believes it reasonable to remove it from the rules. Additionally, while the proposed rules would allow the transfer of incremental hydropower renewable energy credits (RECs) per statute (see RCW 19.285.040(2)(e)(ii)(B)), this transferability would only apply to bundled RECs that cannot be calculated using method three because method three does not deal with real-time generation. Do stakeholders have concerns about deleting method three and its associated five-year evaluation?

| Stakeholder | Yes/No | Summary of Comments | Staff Response |
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| Avista | No | No objections to eliminating. | <p>Given no stakeholder objections, staff will eliminate IEH method three and its associated five-year evaluation (i.e., WAC 480-109-200(7)(d) and (e)).</p> |
| Pacific Power | No | No objections to eliminating. Pacific Power uses method two for reporting incremental eligible hydropower (IEH) in WA and OR. | |
| NWEC | No | Supports deleting. | |
| PSE | No | Supports deleting. | |
| Public Counsel | No | Does not oppose deletion. | |

7. Do stakeholders have concerns with the additions of the statutory definitions for “carbon dioxide equivalent” and “greenhouse gases”?

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
|--------------------------------------|-----------|---|--|
| | | | With no objections, staff intends to move forward with the proposed language. |
| Avista | No | | |
| Sierra Club | No | Support inclusion of these definitions. | |
| Pacific Power | No | | The Department of Ecology will be responsible for updating the emissions factor from unknown generation sources. |
| NWEC | No | No objection to including the definitions. However, NWEC strongly urges adoption of only provisional emissions rates at this time, due to difficulty of measuring methane emissions and weakness of the Global Warming Potential (GWP) as a metric. Also plan on updating them regularly. | |
| PSE | No | | With no objections, staff intends to move forward with the proposed language. |
| Solar Installers of Washington (SIW) | No | | |
| WEC | No | | |
| Public Counsel | No | | |
| Robert Briggs | No | | |

8. Electric utilities currently report their carbon dioxide emissions through the energy emissions intensity reports required by WAC 480-109-300. The Laws of 2019, Chapter 288, § 7, requires reporting of “metric tons” of “carbon dioxide equivalent,” which is further defined in the Laws of 2019, Chapter 288, § 2(22). Do stakeholders have concerns with the changes proposed in WAC 480-109-300? If so, please provide alternative rule language or justifications for retaining the existing language.

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
|-------------|-----------|---|---|
| | | | With no objections, staff intends to move forward with the proposed language. |
| Avista | No | Change to metric tons reporting is useful. Concerning 0.437 unknown generation number, this is problematic because CETA will drive emissions down. Consider eliminating the Energy Efficiency Intensity (EEI) report completely and consolidating | Staff has proposed alternative language that is more aligned with the GHG content calculation being determined through the Department of Ecology rulemaking. The Commission |

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|----------------|-----|---|--|
| | | greenhouse gas (GHG) reporting through Dept. of Ecology rulemaking. Consider progress reporting more broadly in the IRP or other rulemaking. | continues to consider the EEI important because it uses the report to monitor whether utilities are making progress on reducing individual or per capita energy use, which indicates that energy efficiency programs are having an effect. The Commission also monitors per capita emissions reductions, which it expects to see reflected in utility cost-benefit analyses. |
| Pacific Power | No | | |
| NWEC | No | | |
| PSE | Yes | No concerns with these switches. However, rule should define/incorporate all technical methodologies needed to calculate GHG intensity, and ensure they are consistent with CETA. This will produce consistency and streamline reporting. | The rulemaking undertaken by the Department of Ecology will help ensure consistency between all reporting entities. |
| SIW | No | | |
| WEC | No | Revise process to determine default unknown emissions rate in EIA so it matches process used for future compliance with CETA process. | Staff has proposed alternative language that is more aligned with the GHG content calculation being determined through the Department of Ecology rulemaking. |
| Public Counsel | No | | |
| Robert Briggs | Yes | UTC should report the basis for the 0.437 number to stakeholders, and solicit revisions based on best science. Ultimately, Ecology should specify default emissions rate. | RCW 19.405.070(2) specifies the default 0.437 metric tons of carbon dioxide equivalent (MT CO ₂ e) emissions factor for unknown generation sources. The basis for the number will be identified in the adoption order. The Department of Ecology will be responsible for updating that default emissions factor. |

9. The Laws of 2019, Chapter 288, §§ 2 and 7, define “greenhouse gas” and “carbon dioxide equivalent.” However, the Laws of 2019, Chapter 288, § 7, does not provide a default emissions rate for greenhouse gas emissions other than carbon dioxide from unspecified electricity. How should the Commission’s rules specify an emissions rate for greenhouse gas emissions other than carbon dioxide from unspecified electricity? What data source(s) and methodology should the Commission use to establish a default emissions rate from greenhouse gases other than carbon dioxide?

| Stakeholder | Summary of Comments | Staff Response |
|----------------------|---|--|
| Dr. Brian G. Henning | Use the GWP time horizon most appropriate to the gas in question. Should include the “proper” leakage rate of methane in production and distribution. | The Department of Ecology has confirmed through the State of California that the 0.437 MT CO ₂ e emissions factor includes all non-CO ₂ emissions. Therefore, no further action is needed at this time. The Department of Ecology will periodically update the default emissions rate. |
| Avista | Establishing a specific rate is clearly Dept. of Ecology’s role, not UTC. CETA says default emissions rate should be tied to those established in other Western Interconnection markets, which only include carbon dioxide (CO ₂). CETA does not imply that default rates should be established for GHGs other than CO ₂ . | |
| Northwest Renewables | Include upstream emissions. Measure methane with a 12-year lifespan. Account for the proper methane leakage rate in production and distribution. | |
| Sierra Club | Use best, most recent science; use a regional fuel analysis; use a 20 year GWP; account for all lifecycle emissions. | |
| Pacific Power | Adopt the CA Air Resources Board default factor of 0.428 MT CO ₂ e/megawatt hour (Oregon may be doing the same). | |
| NWEC | Default emissions for CO ₂ and nitrous oxide are well-established, but no clear consensus on methane. Recommend further assessment in this rulemaking to ascertain best value. | |
| PSE | Work with Ecology to develop rules specifying emissions rate for non-CO ₂ GHGs. If no Ecology rule, use emissions rates published by eGRID. | |
| SIW | Should assume unspecified electricity is from natural gas (provides link to natural gas emissions study from U.S. DoE). | |
| WEC | Work with Ecology & Commerce to establish default rates. | |
| Public Counsel | Ecology should be doing this. | |
| Robert Briggs | Use national average upstream leakage rate of 2.3%, and 20-year GWP for methane. Update these numbers every three years. | |

10. The Laws of 2019, Chapter 285, § 15, requires natural gas companies to put a price-per-ton cost on greenhouse gas emissions, including “emissions occurring in the gathering, transmission, and distribution” processes. Should WAC 480-109-300 include language requiring electric companies to report on greenhouse gas emissions occurring during the gathering of fuel for electricity generators?

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
|----------------------|-----------|---|--|
| Dr. Brian G. Henning | Yes | Use the GWP time horizon most appropriate to the gas in question. Should include the “proper” leakage rate of methane in production and distribution. | The Commission is still evaluating if and where to require this information, considering the dynamics of all CETA rulemakings. |
| Avista | No | Not germane to this rulemaking because language from Engrossed Substitute House Bill (ESHB) 1257 does not apply here. | |

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|-----------------------------|-----|---|--|
| Vashon Climate Action Group | Yes | Would provide UTC with data needed to monitor compliance and ensure accuracy of utility submissions. | |
| Northwest Renewables | Yes | Include upstream emissions. Measure methane with a 12-year lifespan. Account for the proper methane leakage rate in production and distribution. | |
| Sierra Club | Yes | Only way to hold companies accountable for full impact of natural gas. | |
| Pacific Power | No | Would be unduly burdensome and provide little benefit since independent power producers and others would not be required to report. Potential double-counting issues with natural gas companies if generation facility is behind local distribution company line. | |
| NWEC | Yes | Particularly important for methane. | |
| PSE | No | Consider in IRP rulemaking. Makes no sense to count upstream gas emissions when not counting life-cycle emissions of all resources. | |
| SIW | Yes | Use a GWP 84 times that of CO ₂ over a 20-year time period. | |
| WEC | Yes | | |
| Public Counsel | Yes | | |
| Front and Centered | Yes | | |
| Trenton Miller | Yes | Measure across a 12-year timespan. Allow flexibility to adjust methane leakage rates as more data becomes available. | |
| Robert Briggs | Yes | | |

11. Do stakeholders have concerns with any of the proposed changes to chapter 480-109 WAC described in Attachment A?

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
|---------------|-----------|---|---|
| Avista | Yes | Suggests “acquired by Jan. 1 st of target year” should be Dec 31 st . | Date of acquisition comes from statute. |
| Pacific Power | Yes | “Or more” seems duplicative of “at least.” Provide clarification of the meaning. | Staff agrees: “or more” has been deleted. |
| NWEC | Yes | As discussed elsewhere in comments | |
| PSE | No | | |
| SIW | No | | |

| | | | |
|----------------|-----|---|--|
| Public Counsel | Yes | Suggests changing the definition of IRP by using a placeholder (XX) instead of two years for the cadence of utility filing. | Staff agrees that this definition should be modified in accordance with changes in the IRP rulemaking. |
|----------------|-----|---|--|

12. Do stakeholders have suggestions to simplify or clarify the language? If so, please cite the specific rule and propose alternative rule language.

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
|----------------|-----------|--|--|
| Avista | No | None at this time but may in the future. | |
| Pacific Power | Yes | Request to reconcile the definitions of DERs and Distributed Generation (DG) in WAC 480-109-060 and Chapter 288 of 2019 laws. | The definition for DERs from the Laws of 2019, Chapter 288 cited is found within § 2 (CETA definitions) but not § 28 (EIA definitions), which maintains the DG legacy definition. Staff declines to include this additional DER definition within WAC 480-109-060 as it is outside the scope of this EIA rulemaking. |
| NWEC | Yes | As discussed elsewhere in comments | |
| PSE | No | | |
| SIW | No | | |
| Public Counsel | Yes | <p>WAC 480-109-060(12)(f)(i) is unclear and should be reworded for clarity.</p> <p>WAC 480-109-100(10)(b) references Laws of 2019. This should be changed to RCW 19.405.</p> <p>WAC 480-109-200(2) is unclear as to whether the limitations described mean that the RECs can or cannot be used if they meet the condition. This should be clarified.</p> | <p>This language comes directly from statute.</p> <p>Staff agrees.</p> <p>This language has been clarified.</p> |

13. Do stakeholders believe a workshop is necessary for this rulemaking?

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
|---------------|-----------|--|---|
| Avista | Yes | Recommends series of workshops to address CETA implementation. | EIA rulemaking team facilitated a joint workshop with Commerce on Jan 28, 2020, focused on Energy Assistance. For workshops addressing broader CETA implementation, stakeholders are encouraged to sign up for 2019 clean energy implementation updates. Separate CETA rulemakings and associated workshops will align with WUTC’s published energy legislation implementation plan. |
| Pacific Power | Yes | Series of workshops recommended that build upon Commerce workshops focused on the CETA-EIA streamlining process. On-the-record comments by interested parties need to complement in-person workshops. Timeline proposed where EIA workshop(s) occur within 60 days of CR-101 comment deadline (i.e., no later than 1/4/20). UTC reply comments due within 30 days of workshop(s) (i.e., no later than 2/4/20). | EIA rulemaking team facilitated a joint workshop with Commerce on Jan 28, 2020, focused on Energy Assistance. For workshops addressing the broader CETA-EIA streamlining process, stakeholders are encouraged to sign up for 2019 clean energy implementation updates. Staff believes workshop(s) that build upon Commerce’s CETA-EIA streamlining workshops would be better scheduled as part of subsequent CETA rulemakings scheduled for 2020 quarter (Q) 3 or 4. |
| NWEC | Yes | Commission should hold joint workshops with Department of Commerce to address: GHG emissions reporting; Laws of 2019, Chapter 288, § 12 (i.e., low-income reporting); WAC 480-109-100(10) (i.e., low-income conservation). | EIA rulemaking team facilitated a joint workshop with Commerce on Jan 28, 2020, focused on Energy Assistance. Additional workshops addressing GHG emissions reporting and calculations were held with Commerce and Ecology on Dec 12, 2019 and Jan 14, 2020, respectively. |
| PSE | Yes | Workshop likely only necessary for “energy burden” and “low-income” discussion associated with CR-101 questions 1 – 5. PSE would prefer consistent term definitions amongst all utilities so statewide reporting reflects consistent metrics. Alternatively, relevant conversations could occur within Commerce’s low-income rulemaking. | EIA rulemaking team facilitated a joint workshop with Commerce on Jan 28, 2020 focused on Energy Assistance. |
| SIW | | Unsure whether workshop(s) are needed at this time. | |
| WEC | Yes | Support ongoing public engagement and public comment periods. | |

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| Public Counsel | | Beneficial to first have another round of comments before holding EIA rulemaking workshop. Issues of energy burden and low-income conservation in WAC 480-109 (<i>see responses to questions 1 – 5</i>) require more research and discussion. | EIA rulemaking team facilitated a joint workshop with Commerce on Jan 28, 2020 focused on Energy Assistance. |
| Front and Centered | | Requested more conversation around low-income and equity issues. | EIA rulemaking team facilitated a joint workshop with Commerce on Jan 28, 2020 focused on Energy Assistance. Additional equity issues are being addressed in dockets UE-190698 and UE-191023. The first workshop was facilitated jointly by the UTC and Commerce on Feb. 5, 2020, and additional conversations are occurring. |
| Cascade Natural Gas | Yes | Cascade supports a workshop in association with this rulemaking. | EIA rulemaking team facilitated a joint workshop with Commerce on Jan 28, 2020 focused on Energy Assistance. |

14. Are there other definitions from Laws of 2019, Chapter 288, that the Commission should include in chapter 480-109 WAC?

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
|---|-----------|---|---|
| Klickitat PUD and Renewable Hydrogen Alliance | Yes | Provides definitions for renewable hydrogen and renewable natural gas. | Laws of 2019, Chapter 288, § 2 (i.e., CETA definitions) provide definitions for renewable hydrogen and renewable natural gas. These definitions are codified within RCW 19.405.020. However, Laws of 2019, Chapter 288, § 28 (i.e., EIA definitions) did not include definitions for renewable hydrogen and renewable natural gas. Staff declines to include these additional two definitions within WAC 480-109-060 as these are outside the scope of this EIA rulemaking. Staff believes addressing definitions such as these is more appropriate during subsequent CETA rulemakings scheduled for 2020 Q3 or 4. |
| Avista | No | No additional definitions need incorporating at this time. | |
| Pacific Power | Yes | No specific new definitions are recommended at this time. There may be an opportunity to update select 480-109 WAC legacy | No follow up action required within this EIA rulemaking. |

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| | | definitions that are superseded by definitions in Laws of 2019, Chapter 288 during subsequent CETA rulemakings. | |
| NWEC | Yes | <p>“Greenhouse gas content calculation” per RCW 19.405.060(22) applies to WAC 480-109-300.</p> <p>“Non-power attributes” in WAC 480-109-060(23) of proposed rules should remove words, “from a renewable resource,” in subsection (a) to be consistent with RCW 19.405.020(29) definition.</p> | <p>Staff has proposed updated language for WAC 480-109-300 to specifically point towards the “greenhouse gas content calculation” created by the Department of Ecology. Staff has added “greenhouse gas content calculation” to the definitions as well.</p> <p>“Non-power attributes” as defined in RCW 19.405.020(29) does not include “from a renewable resource.” However, “non-power attributes” as defined in RCW 19.285.030(15)(a) does include “from a renewable resource.” Given definition updates are specific to EIA, RCW 19.285.030(15)(a) should control. Hence, “from a renewable resource,” should not be removed.</p> |
| PSE | No | No additional definitions need incorporating at this time. | |
| SIW | <i>See response to question 18</i> | Energy Transformation Projects (ETPs) should be incorporated into WAC 480-109. | “Energy Transformation Project” is defined within Laws of 2019, Chapter 288, § 2 (i.e., CETA definitions) and is used within § 9 (i.e., penalty or alternative compliance mechanisms) not § 29. Staff declines to include this additional definition within WAC 480-109-060 as it is outside the scope of this EIA rulemaking. |
| Public Counsel | No | Do not believe other definitions should be included at this time. Open to reviewing other definitions stakeholders may propose. | |
| TEP | No | Subject to the caveats in TEP’s responses to questions 1-3, TEP agrees with incorporating “energy assistance, energy burden, and energy assistance need” into the EIA definitions (WAC 480-109-060). No additional definitions are proposed at this time. | “Energy assistance, energy burden, and energy assistance need” have been incorporated into the EIA definitions (WAC 480-109-060). |

15. Should this rulemaking establish protocols for designating confidential information in utilities’ annual RPS reports? If so, how should the language in chapter 480-109 WAC be revised to address such protocols?

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| Stakeholder | Yes/No | Summary of Comments | Staff Response |
|---------------|--------|--|--|
| Avista | Yes | While Avista has not had issues designating confidential information within WAC 480-109 to date, supports inclusion of specific guidance, if Commission recognizes a need. | The proposed rules would not amend chapter 480-109 WAC to include provisions governing the confidentiality of information contained within annual RPS reports because WAC 480-07-160 already governs the designation of information as confidential and the procedures for challenging such a designation. Staff intends to work with stakeholders to resolve conflicts concerning the confidentiality of RPS reports on a case-by-case basis. |
| Pacific Power | No | Protocols for designating RPS report confidential information are governed by WAC 480-07-160, premised on RCW 80.04.095. Any separate protocol established under WAC 480-109, specifically for RPS reports, would be duplicative and could conflict with existing law. However, if other stakeholders request, company is open to discussing this matter further via a workshop. | |
| NWEC | Yes | As much information as possible should be made public, including: all assumptions, calculations, data, and methodologies to ensure compliance with the EIA. All REC purchases from third-party providers should be publicly disaggregated by resource type and ownership. | |
| PSE | No | <p>Any change to confidentiality rules should take place within WAC 480-07-160 (<i>Confidential and other restricted information</i>) and not WAC 480-109-201 (<i>EIA rules</i>).</p> <p>If Commission proceeds addressing confidentiality within EIA rulemaking, PSE proposes following <u>underlined</u> language keeping with company’s historic practice of claiming only (transacted) REC sales as confidential:</p> <p><i>WAC 480-109-210(1)(a) –</i> The annual renewable portfolio standard report must be non-confidential, except for the following items: i. Renewable energy credit price forecasts, ii. <u>Transacted renewable energy credit sales or purchases, and</u> iii. Planned (i.e., not yet transacted) renewable energy credit sales or purchases.</p> | Staff agrees any change to confidentiality rules regarding what information can/should be redacted should occur as revisions to WAC 480-07-160. |
| WEC | | Rulemaking should reinforce public accountability and transparency. | |

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|----------------|-----|--|---|
| Public Counsel | Yes | <p>Public participation to review electric IOU annual renewable portfolio standard (RPS) reports cannot occur if utilities redact large portions of their RPS reports. Given 2019 issues associated with UE-190448, only the following information in an annual RPS report should be redacted:</p> <ul style="list-style-type: none"> 1) REC price forecasts, 2) Planned REC sales and/or purchases <p>Public Counsel’s understanding is most electric IOUs already comply with these restrictions. Hence, IOUs will not be unnecessarily harmed by redacting only these select items.</p> | <p>The proposed rules would not amend chapter 480-109 WAC to include provisions governing the confidentiality of information contained within annual RPS reports because WAC 480-07-160 already governs the designation of information as confidential and the procedures for challenging such a designation. Staff intends to work with stakeholders to resolve conflicts concerning the confidentiality of RPS reports on a case-by-case basis.</p> |
|----------------|-----|--|---|

16. Should the Commission consider changes to WAC 480-109-200 addressing incremental cost calculation for eligible renewable resources? Specifically, what modifications to the language in chapter 480-109 WAC do you propose to address potential upgrades or renovations to existing eligible renewable resources?

| Stakeholder | Yes/No | Summary of Comments | Staff Response |
|-------------|--------|--|--|
| Avista | Yes | <p>Current methodology does not clearly communicate actual compliance cost to customers. IEH should have a legacy cost of zero, similar to biomass. IEH upgrades typically done to replace aging infrastructure, not for additional energy / capacity. Current methodology gives pre-EIA IEH projects a financial benefit.</p> | <p>Per paragraph 123 of General Order R-578,² the Commission previously declined to assign a zero cost to legacy incremental eligible hydroelectricity (IEH). Given that IEH facilities upgraded between 1999 and 2006 (i.e., pre-EIA) represent a significant share of the resource’s utilities use to meet their renewable resource target, Avista’s suggestion would skew the RPS incremental cost calculation. A complete and accurate incremental cost calculation includes the costs of all eligible IEH. Furthermore, the cost data for the non-eligible resource to which the IEH resources are compared are readily available in utilities’ integrated resource plans.</p> <p>Regarding biomass, in paragraph 124 of R-578, the Commission indicated older qualified</p> |

² Previous Order Amending, Adopting, and Repealing Rules in WAC 480-109 Relating to the Energy Independence Act (see [UE-131723](#)).

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| | | | <p>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 low incremental cost does not justify the administrative burden associated with performing the calculation described in WAC 480-109-210(2)(a). Therefore, R-578 added subsection (2)(a)(i)(G), allowing a utility using an older (i.e., pre-March 31, 1999) qualified biomass facility to deem its incremental cost as zero.</p> <p>Staff does not believe the IEH and biomass resource incremental cost differences have substantively changed since R-578 went into effect in March 2015. Hence, staff declines to adjust the incremental cost calculation of legacy IEH at this time.</p> |
| Pacific Power | Yes | <p>Pacific Power recognizes a need for guidance on eligibility and calculation of incremental cost for new technologies such as battery storage and renewables coupled with battery storage. Company wants to discuss these matters with other utilities via workshop.</p> | <p>Current EIA rules regarding incremental cost calculation (i.e., WAC 480-109-210(2)(a)) are technology type agnostic. Question 16 specifically sought to address whether existing incremental cost calculation guidance adequately addresses <u>upgrades or renovations</u> to existing eligible resources. Pacific Power’s response did not address this question.</p> <p>No further action is necessary at this time.</p> |
| NWEC | Yes | <p>For wind repowering – companies must publicly disclose materials used, upgrade methods and approaches, methodologies for examining upgrade impacts (by location and upgrade type).</p> <p>For extensive upgrades, companies should submit requisite documentation to Commission 45 days or more prior to June 1 annual RPS report filing deadline. Earlier submission date will allow for comprehensive reviews.</p> | <p>Staff intends to work with stakeholders to address outstanding RPS concerns, such as repowering, outside of this EIA rulemaking.</p> |

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| | | Any incremental cost calculation must be fully transparent, clear, and understandable. Eligible and non-eligible cost comparisons must be contemporaneous and include social cost of GHG emissions for existing resources and proposed upgrades. | Staff believes existing incremental cost calculation guidance does promote transparency, clarity, and consistency and requires comparison of contemporaneous resources. The social cost of GHG emissions will be addressed via subsequent CETA rulemaking(s). Ensuring eligible RPS incremental cost comparisons include the Social Cost of Carbon (SCC) is likely more appropriate for subsequent CETA-EIA streamlining rulemaking. Staff declines to make additional changes to EIA rules at this time. |
| PSE | No | No proposed changes at this time. However, may be beneficial to revisit EIA RPS incremental cost calculation later, once other CETA-related rulemakings are further along. | Staff agrees revisiting EIA RPS incremental cost calculation during subsequent CETA-EIA streamlining rulemaking may be more appropriate. Staff declines to make additional changes to EIA rules at this time. |
| Public Counsel | | No position at this time. Look forward to discussing topic with other stakeholders. | |

17. The Laws of 2019, Chapter 288, § 10, requires the Commission and the Department of Commerce to adopt rules that “streamline” the implementation of this statute with chapter 19.285 RCW. Given that the Commission and the Department will be conducting several rulemakings resulting from enacted legislation in the next few years, should this streamlining be addressed in the current rulemaking or should streamlining take place closer to the point when both agency’s finalize rulemakings implementing statutory changes? What sections of rules in WAC 480-109 should be subject to streamlining?

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
|---------------|-----------|---|--|
| Avista | | Streamlining should happen when possible including consistent obligations to Commerce and the UTC (for example emissions intensity). Additional improvements are likely to be identified as experience is gained. | Staff agrees that streamlining the EIA to align with CETA should happen closer to the end of the process. This may mean reopening WAC 480-109. |
| Pacific Power | | Conduct a streamlining process closer to finalizing rulemakings. | |

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|----------------|--|--|--|
| NWEC | | Streamlining should happen at a later time. | |
| PSE | | Supports postponing streamlining until later in the process. | |
| WEC | | Once the Commission has an assessment of the need for further streamlining, then we encourage the Commission to daylight and provide opportunity for public input on that. | |
| Public Counsel | | All rulemakings should be streamlined, representatives of both agencies should monitor any rulemaking of the other agency. | |

18. The Laws of 2019, Chapter 288, § 6(a)(i), requires specific targets for energy efficiency, demand response, and renewable energy. Should planning and reporting requirements for energy efficiency integrate the planning and reporting requirements for demand response and other distributed energy resources? If so, how? Should any of this be addressed in chapter 480-109 WAC?

| Stakeholder | Yes or No | Summary of Comments | Staff Response |
|---------------|------------|---|---|
| | | | Staff agrees that energy efficiency (EE), demand response (DR) and DER planning and reporting should be integrated when possible to streamline regulations. This should happen closer to the end of the CETA rulemaking process. This may mean reopening WAC 480-109 or simply cross-referencing with CEIP rules. |
| Avista | Yes | DR and DER planning and reporting should be integrated with EE in a few IRP cycles. | |
| Pacific Power | Yes | EE, DR, and DER are extremely similar and the rules should integrate and combine initiatives whenever possible. | |
| NWEC | | DR and RE should not be addressed in this rulemaking. CETA EE targets should cross-reference EIA EE targets. | |
| PSE | No opinion | As other CETA rulemakings progress PSE may have feedback on this. | |
| SIW | | ETPs should be incorporated into WAC 480-109. | The Department of Ecology is currently conducting an ETP rulemaking. The Commission is consulting in this process. Any ETP rules adopted by the Commission will likely be in the CEIP rulemaking. |
| WEC | | Should be integrated into planning processes and there should be cross-referencing between the various regulatory components. | |

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| Public Counsel | | Planning and reporting of EE, DR, and DER should occur collectively but the DR and DER targets should not be included in EIA rules. | |
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19. Do stakeholders recommend any additional changes to chapter 480-109 WAC in this rulemaking? If so, please explain and provide justification for the change.

| Stakeholder | Summary of Comments | Staff Response |
|---|---|---|
| Klickitat PUD and Renewable Hydrogen Alliance | Provides definitions for renewable hydrogen and renewable natural gas. | |
| Erica Dellwo | Drastic action is needed now. Force innovation and limit greenhouse gas pollution. | |
| Pacific Power | Not at this time. Reserves the right to provide additional comments during the course of this rulemaking. | |
| NWEC | <p>The SCC needs to be adopted into the Energy Efficiency Resource Standard (EERS). Language provided.</p> <p>Language should be added to ensure consistency with the Laws of 2019 with regard to renewable resources and non-emitting electric generation. Language provided.</p> <p>IRP Definition should strike every two years.</p> | <p>Staff does not agree that Social Cost of Greenhouse Gases (SCGHGs) must be included in the EIA at this time. The conservation targets set through the EIA are developed through the IRP process, which includes the SCGHGs.</p> <p>The language referred to in the Laws of 2019, Chapter 288, §4, is part of the Clean Energy Transformation Act, codified in RCW 19.405. Therefore, it falls outside of the scope of this Energy Independence Act rulemaking. Staff will take no further action.</p> <p>Staff agrees.</p> |
| PSE | <p>PSE suggests broadening the definition of renewable resource in this rule to explicitly include a variety of biogas sources. Language provided.</p> <p>PSE suggests eliminating the EEI report entirely.</p> | |

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|--------------------|--|--|
| SIW | Concerned about handling of ETPs. Will ETPs be handled in a separate rulemaking? ETPs should be incorporated into WAC 480-109. | The Department of Ecology is currently conducting an ETP rulemaking. Staff is consulting in this process. Any ETP rules adopted will likely be in the CEIP rulemaking. |
| WEC | Continue to clarify only IEH projects owned by qualifying utilities or by the Bonneville Power Administration (BPA), if BPA provides both power and non-power assets in a transaction with the qualifying utility, may be used to meet renewable energy targets under EIA. Continue to document the use of eligible renewable resources and RECs for compliance with the EIA. Particularly, specify IEH RECs must be bundled (power and non-power attributes) and used during year electricity was generated to maintain REC integrity. | Follow-up call with WEC confirmed WEC supports staff's current approach to addressing BPA RECs within WAC 480-109-200(2) and (9) and incremental eligible hydropower (IEH) in WAC 480-109-200(2). No further action needed by the Commission at this time. |
| Public Counsel | Energy burden is an immense issue that should be evaluated and tackled thoughtfully in light of the full CETA public interest definition. It is too early in the process to identify a percentage. | |
| Front and Centered | Frontline communities are often left out of or are the last to be included in the transition to a healthy, resilient, and sustainable future. Energy assistance programs will likely play an important role in the future of utility companies and there are important steps the Commission can take to ensure fairness. | |

20. Other Comments

| Stakeholder | Summary of Comments | Staff Response |
|--------------------|---|--|
| Front and Centered | <p>Recommends that compliant energy assistance programs serve all low-income households. Specifically, every qualifying household should have access to every class of energy assistance program (bill assistance, weatherization, energy efficiency or demand response program), but not necessarily every program within those classes.</p> <p>Energy assistance should be scaled to prioritize, in time and resources, the lowest income households populated by the most vulnerable demographics.</p> | <p>RCW 19.405.120 is not fully represented here. Additional guidance will be provided elsewhere.</p> <p>RCW 19.405.120(2) states “To the extent practicable, priority must be given to low-income households with a higher energy burden.” Staff does not believe considering vulnerable demographics is consistent with this statutory requirement to prioritize energy assistance to low-income households based on energy burden. See answers regarding legislative intent.</p> |

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| | <p>Utilities should show how issues of access are addressed, paying attention to different subsets of the low-income population that are particularly vulnerable and communities and communicating with them appropriately and effectively.</p> <p>The definition of energy burden should not consider public or private assistance towards income where that assistance (<i>e.g.</i>, certain housing vouchers and subsidies) is restricted to uses that do not include energy payments.</p> <p>Favor agency guidance regarding prioritizing energy assistance that leads to long-term burden relief (<i>e.g.</i>, weatherization, conservation, energy efficiency, and distributed energy ownership).</p> <p>Rules should provide that shutoff data be tracked and reported and that data be aggregated by agencies. The reduction of shutoffs and reporting should be critical goals related to progress on the energy assistance mandate.</p> <p>Strongly recommend that agencies further define energy assistance need about the requirement that energy assistance need be reduced by 90 percent by 2050 and the interim target. Specifically, in relation to that goal, energy assistance need means that utilities are reaching 90 percent of eligible households’ gap between their energy burden and the energy assistance figure of six percent or lower.</p> <p>Suggest that agencies clearly guide utilities to establish process for offering inclusive, engaging opportunities for low-income communities to contribute to energy assistance program design.</p> | <p>RCW 19.405.120 is not fully represented here. Additional guidance will be provided elsewhere.</p> <p>The definition of energy burden is from statute. The Commission may provide additional guidance in the adoption order.</p> <p>RCW 19.405.120 is not fully represented here. Additional guidance may be provided elsewhere.</p> <p>Reduction of shutoffs and reporting is outside the scope of this rulemaking.</p> <p>RCW 19.405.120 is not fully represented here. Additional guidance regarding “demonstrating progress” pursuant to RCW 19.405.120(2) will be provided elsewhere.</p> <p>RCW 19.405.120 is not fully represented here. Additional guidance will be provided elsewhere.</p> |
| Avista | No concerns with additional changes to WAC 480-109-300 proposed by staff on December 31, 2019. | |
| Pacific Power | No concerns with additional changes to WAC 480-109-300 proposed by staff on December 31, 2019. | |
| PSE | No concerns with additional changes to WAC 480-109-300 proposed by staff on December 31, 2019. | |
| NWECC | Concerned that additional changes to WAC 480-109-300 proposed by staff on December 31, 2019, do not account for greenhouse gas emissions in supply chains. | The Commission is still evaluating if and where to require this information, considering the dynamics of all CETA rulemakings. |