

UTC Comment form for Energy Independence Act Rulemaking, WAC 480-109, Docket UE-131723

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In the first column, fill in the section or subsection of interest in the rule. In the next columns provide the specific text, proposal for change, and rationale.

The following tables contain PSE's comments and suggested revisions to the specific WAC sections, along with its rationale for the suggested revision. PSE reserves the right to comment further as the rulemaking process proceeds.

Comment 1	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
Regarding WAC 480-109-007	Several terms that are defined in RCW 19.285 are repeated in the draft. For instance: Commission Conservation Customer Department Distributed Generation	Please remove all repetitive definitions	There was no explanation relative to why certain definitions were replicated in the WAC revisions. As noted in the December 2, 2013 comment summary, it isn't efficient or useful to replicate RCW definitions in the WAC.

Comment 2	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
Regarding WAC 480-109-007	<p>“Cost-effective” means, consistent with RCW 80.52.030, that a project or resource is forecast:</p> <p style="padding-left: 40px;">(a) To be reliable and available within the time it is needed; and</p> <p style="padding-left: 40px;">(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.</p>	Remove (a) and (b)	There was no explanation for this addition. The addition is unnecessary, as these repeat what’s in RCW 80.52.030(7)(a) & (b).

Comment 3	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
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<p>Regarding WAC 480-109-007 (12)</p>	<p>(12) "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: ..."</p>	<p>See comments in next column.</p>	<p>The requirement that the calculation be performed using a comparison case of the "best commercially available technology on a new and clean basis" could spawn significant discussion over what is considered the "best commercially available technology," especially given that power plants aren't typically "off-the-shelf" products. Therefore consider defining "best commercially available technology."</p> <p>Also, the requirement that no less than 33% of total energy output be useful thermal energy "under normal operating conditions" could also be grounds for debate if significant fluctuations in operation occur at the site – but for the economics to be favorable for one of these projects one would expect consistent operating conditions will need to exist. Therefore consider defining "under normal operating conditions."</p>
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<p>Comment 4</p>	<p>Draft Proposed Rule Text</p>	<p>PSE Proposed Rule Text Change</p>	<p>Rationale for proposed change</p>
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<p>Regarding WAC 480-109-007 (13)</p>	<p>(13) “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.</p>	<p>Delete section.</p>	<p>This is redundant with respect to the law. The “Incremental cost” of an eligible renewable resource is already defined in the law (RCW 19.285.050)(1)(b).</p>
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Comment 5	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
<p>Regarding WAC 480-109-007 (18)</p>	<p>(18)“Pro rata” means the calculation dividing the utility’s projected ten-year conservation potential into five equal parts.</p>	<p>Do not change the existing WAC language.</p>	<p>It isn’t clear as to why this new term was added and how it will increase the efficiency or effectiveness of implementing the EIA.</p> <p>The calculation is inconsistent with methodologies used by the Council in the development of the 6th Regional Power Plan. The calculation is too simplistic in that it doesn’t recognize the differences in availability of resource potentials 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.</p>

Comment 6	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
<p>Regarding WAC 480-109-007 (20)</p>	<p>(20) “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.</p>	<p>None - delete.</p>	<p>It is recommended that the entire proposed definition be stricken.</p> <p>There is no explanation as to why this new language was added to the proposed revision, nor how it will improve the effectiveness of the EIA implementation.</p> <p>There is no need to define “pursue all.” The language in RCW 19.285.040 makes clear what utilities are required to do to demonstrate they are pursuing all conservation. This added language seeks to redefine utility requirements under the law to activities beyond approval of conservation forecasts and biennial target and sets a new requirement. If approved, Commission approval of target (upfront) and a utility’s achievement of that target would be a separate requirement from the “pursue all” requirement.</p> <p>It also isn’t clear where the language in the “pursue all conservation” section overlaps vs. creates new requirements above and beyond the conservation potential and biennial target. For example, what type of programs are “available, cost-effective, reliable, and feasible” but not already included in the biennial conservation target? WAC 480-109-010(4)(a)(ii)(B). If they meet all those standards, shouldn’t they already be included in the biennial conservation target?</p> <p>See also accompanying cover letter.</p>

Comment 7	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
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<p>Regarding WAC 480-109-007 (27)</p>	<p>(27) “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.</p>	<p>“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 annual electricity consumption prior to the conservation savings exceeded five average megawatts.</p>	<p>Remove “recent” from in front of “annual”, as it alters the wording of the statute.</p> <p>The “Proposed Rule Text Change” restores the wording of the rule to that of HB 1643.</p> <p>The definition leaves potential room for clarification, and should address issues such as:</p> <p>Is this truly a single premises or meter? Could it be defined as a single customer’s load on a circuit meeting the 5 aMW threshold like on PSE’s rate Schedule 40? For example, like customers with many facilities which are individually metered.</p> <p>Would retail wheeling customers fit the definition as a customer of a utility?</p> <p>To add clarity, it would be possible to alter the paragraph to include:</p> <p>“...premises of a single customer who participated in a utility conservation program and whose annual...”</p>
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Comment 8	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
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<p>Regarding WAC 480-109-007 (29)</p>	<p>(29) "Target year" means the twelve-month period commencing January 1 and ending December 31 used for compliance with the renewable portfolio standard requirement in WAC 480-109-020(1).</p>	<p>Delete the phrase "renewable portfolio standard".</p>	<p>The phrase "renewable portfolio standard" does not appear anywhere in the law and therefore this term should not be introduced into the rule.</p>
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Comment 9	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
<p>Regarding WAC 480-109-007 (30)</p>	<p>(30) "Transmission voltage" means an electric line normally operated at or above 100,000 volts.</p>	<p>Delete section</p>	<p>It is unclear why this definition is being proposed and it may not be consistent with classification of transmission voltage used for FERC rates. For example, PSE's transmission facilities are defined as '55 kV and above' based on PSE's approved Petition for Reclassification of Facilities</p>

Comment 10	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
<p>Regarding WAC 480-109-010 (1)(b)</p>	<p>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 by the council's Sixth Northwest Conservation and Electric Power Plan.</p>	<p>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 by the council's most recent Northwest Conservation and Electric Power Plan, meaning specifically that utilities must utilize the following approach in developing the potential:</p> <ul style="list-style-type: none"> (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 	<p>There wasn't an explanation for the revised "Draft Proposed Rule". The proposal doesn't indicate a gain in efficiency or practical application of the rule.</p> <p>PSE's proposal supports conditions, developed collaboratively on a biennial basis, rather than permanent rules, be maintained.</p> <p>As presented, the WAC will need to be updated every time the Council updates the power plan.</p> <p>If needed, the "Proposed Text" clarifies the Council methodology and eliminates the inefficiencies of requiring regular rulemaking procedures.</p>

Comment 11	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
Regarding WAC 480-109-010(1)(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.	The projection must include a list of each measure category used in the potential.	<p>It is unclear how this rule change would be effective in improving the practical implementation of the EIA, nor does it explain the rationale for the revision.</p> <p>The IRP’s 20-year potential is based on (values and count) all measures, not only economic potential measures, but all technical potential measures. Converting the IRP’s 20-year analyses to the 10-year conservation potential does not lead to the ability to go through the timeframe and “check off” each two-year period. Measures are dynamic, and so the mix of measures is ever-changing.</p> <p>If needed, the “PSE Proposed Rule Text” is more practical.</p>

Comment 12	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
Regarding WAC 480-109-010 (3)(b)	The plan must outline the extent of public participation in the development of the ten-year conservation potential and the biennial conservation target	Do not change the existing WAC language.	There is no explanation of how the revision of this rule is necessary to maximize the efficiency and practical implementation of the EIA.

Comment 13	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
<p>Regarding WAC 480-109-010(4)(a)(ii)</p> <p>and</p> <p>WAC 480-109-(4)(a)(iii)</p> <p>And their associated sub-parts</p>	<p>Develop a conservation portfolio that includes all available, cost-effective, reliable, and feasible potential, as well as pilot programs that are not yet proven to be cost-effective.</p> <p>and</p> <p>Implement conservation programs identified in the portfolio to the extent that programs remain cost-effective, reliable, and feasible.</p>	<p>Delete parts (ii) and (iii) of Section 4, as they are not needed to enhance the practical implementation of the EIA.</p>	<p>There isn't an indication as to the reason for the additional language, nor an explanation how the revision will enhance efficiency.</p> <p>Some of the language in the subparts is confusing and possibly contradictory, such as in (4)(ii)(B): "A utility's conservation portfolio must contain programs that are not included in the biennial conservation target [....]".</p> <p>Most concerning is the prescriptive nature of the "Draft Proposed Rule Text" language throughout subparts (ii) and (iii), specifically, proposed language that indicates the types of programs that a utility "must" develop, and the implementation methods that a utility "must" include. These elements of the proposed revisions seem to reach beyond the intent of RCW 19.285.040 and 19.285.070, and involve the Commission in micro-management of utility programs. It is unclear how these revisions would lead to efficiency, effective and practical implementation of the EIA.</p> <p>By indicating that a utility "must develop" and "must implement" the specifics outlined in (ii) and (iii), the UTC would remove an essential element of a utility's advisory group engaged in the collaboratively-developed and vetted condition that indicates that a utility has the authority and sole responsibility to run its conservation programs with the necessary flexibility and transparency in order to meet the Commission-approved target. If enacted, the utility would run programs required by the Commission, thus removing a utility's responsibility for prudent spending of ratepayers' funding.</p> <p>The section appears to confuse conservation potential with the tools developed to acquire it (programs). There are no programs in a utility's 10-year forecast and biennial conservation target – there are only savings estimates of end-use measures and efficiency practices. Language should be removed or rephrased</p> <p>There are also new terms introduced throughout the parts that are undefined; for instance, "practical uptake", "collaborative technical activities", and "collaborative promotional activities".</p> <p>It also appears that the Commission attempted to migrate selected or portions of existing biennial conditions into various sections of the subparts. Is it fitting to relocate conditions that are collaboratively developed and vetted with utilities' advisory groups into rules that are difficult to change once memorialized? It is unclear how moving selected, partial conditions from the biennial collaborative process, where there is a reasonable degree of adaptive management to a fairly rigid process would increase efficiencies, when there would still remain several biennial conditions in place.</p> <p>Lastly, there should not be a requirement to include pilot programs in the portfolio. Pilot programs should only be pursued if there is a chance for cost-effectiveness or to provide the market viability of a new technology. If there's a new technology that is proven and feasible, it may be added to the portfolio without needing to go through a pilot phase.</p>

Comment 14	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
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Regarding WAC 480-109-010 (4)(b)(iii)	code enforcement	None-delete subpart (b) list	<p>It isn't clear as to why this language was added to the WAC proposed revision, relative to how it will increase the effectiveness of EIA implementation.</p> <p>Since code enforcement is a function of government entities, this subpart should be stricken from the revision.</p>
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Comment 15	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
Regarding WAC 480-109-010 (5)	A utility retains the responsibility to demonstrate the prudence of all conservation expenditures, as required by RCW 19.285.050(2).	A utility retains the operational authority and ultimate responsibility for meeting the biennial conservation target. A utility must demonstrate the prudence and cost-effectiveness of its conservation programs to the Commission after the savings are achieved.	<p>No rationale was provided as to how the "Draft Proposed Rule Text" will maximize the practical application of the EIA.</p> <p>The "PSE Proposed Rule Text Change" reinstates the concept of a utility's operational authority and emphasizes why the prescriptively-oriented terms in the proposed revisions to 480-109-010(4)(a)(ii) and (iii) are inappropriate.</p> <p>The proposed language seems to imply that RCW 19.285.050(2) is stating and requiring that "the utility retains the responsibility to demonstrate the prudence of all conservation expenditures". RCW 19.285.050(2) does not say that.</p>

Comment 16	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
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<p>Regarding WAC 480-109-010 (8)</p>	<p>A utility must evaluate all types of conservation using cost-effectiveness tests consistent with those used by the council, except low-income conservation programs.</p> <p>(a) Low-income conservation programs should be evaluated for cost-effectiveness using the Savings-to-Investment Ratio, as described in the department's Weatherization Manual For Managing the Low-Income Weatherization Program.</p> <p>(b) Low-income conservation programs may be excluded from portfolio-level cost-effectiveness calculations.</p>	<p>A utility must evaluate all types of conservation using cost-effectiveness tests consistent with those used by the council, including low-income conservation programs.</p> <p>(a) Low Income conservation programs are acceptable if they meet a Total Resource Cost test of 0.667.</p>	<p>There is no explanation for such a significant change to cost-effectiveness calculations and how it will increase the efficiency of implementing the EIA.</p> <p>There are a number of issues, including but not limited to:</p> <ul style="list-style-type: none"> • If Low Income Weatherization cost-effectiveness tests are revised according to the suggestion, the utilities will now have a different criteria for electric and a different one for gas programs. • Agencies now conduct the SIR test, so the utilities will only be providing funding and accepting the agencies' savings reporting. • If this methodology goes into effect, the utilities may now be subject to DOE requirements, which may negatively impact LIW conservation by significantly increasing the administrative burden. • It is preferable to apply the same cost-effectiveness tests to all programs to ensure compliance with RCW 19.285. <p>It is recommended that subparts (a) and (b) be deleted and allow its proven cost-effectiveness evaluation methods, and the allowed Low Income TRC levels outlined in Schedule 83, Section 9.a to continue.</p>
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Comment 17	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
Regarding WAC 480-109-010 (9)	A utility must meet with its conservation advisory group at least four times per year. Conservation advisory group members may request additional meetings.	None—not needed	<p>There isn't a rationale for how this revision will increase the efficiency of EIA implementation.</p> <p>It is recommended that this section be deleted, allowing the requirement to reside in the biennial conditions, thus allowing adaptive management for all stakeholders.</p>

Comment 18	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
Regarding WAC 480-109-AAA All sections and subparts	Conservation advisory group	None-not needed	<p>There is no explanation as to how the “Draft Proposed Rule Text” will increase the efficiency of the EIA implementation.</p> <p>This section is partially transferred from the biennial conditions, with new conditions added.</p> <p>It is recommended that this section be deleted, allowing the requirement to reside in the biennial conditions, thus providing maximum flexibility for all stakeholders.</p> <p>If it is necessary to memorialize biennial conditions, it is recommended that they be transferred in total, rather than as revised.</p>

Comment 19	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
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<p>Regarding WAC 480-109-BBB</p> <p>All sections and subparts</p>	<p>Conservation reporting</p>	<p>Delete section</p>	<p>It is recommended that the entire BBB section be stricken.</p> <p>It is unclear as to how this new section will increase the efficiency of EIA implementation.</p> <p>This transfer and modification of selected biennial conditions is duplicative in some cases, mixes the reporting requirements and intent of separate reports, and introduces some timeframes that conflict with established filing requirements.</p> <p>It is inadvisable to remove conditions that are collaboratively developed and vetted by the advisory groups and memorialize them in a rigid format that removes the ability to adaptively manage the process.</p> <p>If reporting requirements must be transferred from biennial conditions, then it is recommended that they be memorialized in total, rather than as revised.</p>
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<p>Comment 20</p>	<p>Draft Proposed Rule Text</p>	<p>PSE Proposed Rule Text Change</p>	<p>Rationale for proposed change</p>
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Regarding WAC 480-109-007 (6)	(6) "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.	Delete section.	This is redundant with respect to the law. "Cost-effective" is already defined in the law.
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Comment 21	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
Regarding WAC 480-109-010	Conservation and energy efficiency resource standard.	Delete the phrase "energy efficiency" and "standard": "Conservation resource" or "Energy Conservation Target".	<p>The phrase "energy efficiency" does not appear anywhere in the law and is not defined therefore this term should not be introduced into the rule.</p> <p>The phrase "conservation standard" does not appear anywhere in the law and is not defined therefore this term should not be introduced into the rule.</p> <p>The actual term used in the law (RCW 19.285.045) is "Energy Conservation Target", this term should be used consistently throughout the rules.</p>

Comment 22	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
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Regarding WAC 480-109-020	Renewable portfolio standard.	Delete the phrase “portfolio standard”: “Renewable resource” or “Renewable energy target”.	The phrase “renewable portfolio standard” does not appear anywhere in the law and is not defined therefore this term should not be introduced into the rule. The phrase “portfolio standard” does not appear anywhere in the law and is not defined therefore this term should not be introduced into the rule. The actual term used in the law (RCW 19.285.045) is “Renewable Energy Target”, this term should be used consistently throughout the rules.
Comment 23	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
Regarding WAC 480-109-010 (7) All sections and subparts	All sections and subparts of “Incremental hydropower calculation.”	Delete section, all of WAC 480-109-010(7).	The law does not require that the WUTC limit the number of reasonable and acceptable methodologies. Prescribing this in the rule also limits future unknown methods that may be both reasonable and acceptable. It seems reasonable to maintain flexibility as to the manner in which the Commission calculates “incremental hydro.” Trying to enforce one or three methods seems inconsistent with the law.

Comment 24	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
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Regarding WAC 480-109-010 (7) (c) and all subparts	All sections and subparts of “Method three.”	Delete this section (as well as entire section noted earlier).	The purpose of designating this method as “a pilot method” is unclear. Requiring a utility to create a separate new methodology when the FERC has already approved an existing methodology may be viewed as redundant.
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Comment 25	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
Regarding WAC 480-109-040 and all sections and subparts	Renewable portfolio standard.	Delete the phrase “portfolio standard”: “Renewable resource” or “Renewable energy target”.	<p>The phrase “renewable portfolio standard” does not appear anywhere in the law and is not defined therefore this term should not be introduced into the rule.</p> <p>The phrase “portfolio standard” does not appear anywhere in the law and is not defined therefore this term should not be introduced into the rule.</p> <p>The actual term used in the law (RCW 19.285.045) is “Renewable Energy Target”, this term should be used consistently throughout the rules.</p>

Comment 26	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
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<p>Regarding WAC 480-109-040(2)(d) All sections and subparts</p>	<p>“Eligible resources”, all sections and subparts.</p>	<p>Delete section</p>	<p>First, the law does not require a list of eligible renewable resources.</p> <p>Second, since the principal function of the annual reporting is to report on what RECs and MWhs the utility actually used to comply with a specific past target year, therefore it is not necessary to list all eligible renewable resources.</p> <p>Third, the major eligible renewable resources will go through the ratemaking process (GRC, PCORC) first before they are used for compliance with the law. This has been WUTC precedent and allows a full discovery process. There is no compelling reason given to deviate from this existing process now.</p>
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Comment 27	Draft Proposed Rule Text	PSE Proposed Rule Text Change	Rationale for proposed change
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<p>egarding WAC 480-109-040(2)(f), and all sections and subparts.</p>	<p>“Sales”, all sections and subparts.</p>	<p>Delete section</p>	<p>First, the law does not require that a utility disclose this detailed level information.</p> <p>Second, the law does not require that a utility expose this proprietary confidential information as part of this report, therefore this rule exceeds what is necessary in the law.</p> <p>Thirdly, since the principal function of the annual reporting is to report on what RECs and MWhs the utility actually used to comply with a specific past target year, therefore it is not necessary to details about all sales of RECs.</p> <p>Finally, the disposition of proceeds from the sales of RECs is already handled by commission-approved accounting petition. There is no compelling reason given to deviate from this existing process now.</p>
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<p>Comment 28</p>	<p>Draft Proposed Rule Text</p>	<p>PSE Proposed Rule Text Change</p>	<p>Rationale for proposed change</p>
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<p>Regarding WAC 480-109-040(6) and all sections and subparts.</p>	<p>“Final compliance report”, all sections and subparts.</p>	<p>Delete section</p>	<p>The law already has a requirement to file annual reports. The law already requires a utility to report on how it complied with a specific past target year (or two past target years).</p>
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