

COMMENTS BY CLARK PUD  
Energy Independence Act  
CTED **Development** of Rule Language  
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**DRAFT 7/17**

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**WAC 194-37-010 Purpose and scope.**

The purpose of this chapter is to establish rules that describe the documentation, timelines and processes that consumer-owned utilities will provide to indicate compliance with the requirements of the Energy Independence Act, chapter 19.285 RCW.

**WAC 194-37-020 Application of rules.**

The rules in this chapter apply to consumer-owned electric utilities that provide electrical service to more than 25,000 retail customers in the State of Washington.

**WAC 194-37-030 Definitions.**

The definitions in chapter 19.285 RCW apply throughout this chapter. Some of those definitions are included here, in addition to rule specific definitions, to assist in understanding this rule.

- (1) “Auditor” means (a) the Washington state auditor’s office or its designee for consumer-owned utilities under its jurisdiction, that is a public utility distribution formed under Title 54 RCW, a municipal electric utility formed under Title 35 RCW; or (b) an independent auditor selected by a utility that is not under the jurisdiction of the state auditor such as a cooperative formed under chapter 23.86 RCW or an electric mutual corporation or association formed under chapter 24.06 RCW.
- (2) “Annual revenue requirement” means that portion of a utility’s annual budget approved by its governing body for the ~~current~~ target year that is intended to be recovered through retail electricity sales in the State of Washington in that year, or as otherwise documented by the utility pursuant to WAC 194-37-130.

[PUD budgets are usually approved in November-December for the next calendar year (Budget for calendar 2015 is approved in November 2014). Using the term “current” in the definition points to the year in which the budget is approved, which is not the correct target year. The definition should point to the next calendar year, which is the target year to which the budget will apply. This can be accomplished by removing the word “current”.]

- (3) “Average water generation” means the average megawatt-hours of generation from a hydroelectric project over a period of not less than ten consecutive years, taking into account differences in water flows from year to year.
- (4) “Available” means, in the context of conservation resource assessments and conservation potential, the conservation measure is a proven technology available from vendors in the Pacific Northwest.
- (5) “BPA” means the Bonneville Power Administration.

- (6) “Conservation” means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.
- (7) “Conservation Calculator” means a spreadsheet or piece of software developed by the Pacific Northwest Electric power and Conservation Planning Council (NWPCC) that can determine a utility’s ten-year conservation resource potential and two-year biennial conservation target. The conservation calculator employed by NWPCC shall be deemed to be consistent with the Power Plan. It is available at [www.nwcouncil.org](http://www.nwcouncil.org).
- (8) “Cost-effective” means 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.
- (9) “Council” means the Washington state apprenticeship and training council within the department of labor and industries.
- (10) “Department” means the department of community, trade and economic development.
- (11) “Distributed generation” means an eligible renewable resource where the facility or any integrated cluster of generating units has a generating capacity of not more than five megawatts. If several five megawatts or smaller projects are located in the same immediate area but are owned or controlled by different developers, each qualifies as a separate, independent distributed generation project. For the purposes of this rule, an eligible resource or group of similar eligible resources can not be subdivided into amounts less than five megawatts solely to be considered distributed generation.
- (12) “Eligible renewable resource” means:
  - A. Electricity from a generation facility powered by a renewable resource other than fresh water that commences operation after March 31, 1999, where either (i) the facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services; or
  - B. Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to a hydroelectric generation project owned by a qualifying utility (see definition of qualifying utility in chapter 19.285 RCW) or by qualifying utilities and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional electricity generated in either case is not a result of new water diversions or impoundments.
  - C. An eligible renewable resource may receive integration, shaping, storage or other services from sources outside the Pacific Northwest and remain eligible to count towards a utility’s renewable resource target.
- (13) “Incremental hydropower efficiency” means generating more kilowatt-hours of electricity from same amount of water.
- (14) “Integrated cluster” of eligible renewable resources refers to co-located projects owned or controlled by the same developer that feed into the same substation.

- (15) “Load” means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a utility to its Washington retail customers.
- (16) “Nonpower attributes” means all environmentally related characteristics, exclusive of energy, capacity, reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility’s fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.
- (17) “Pacific Northwest” means the area consisting of (a) the States of Oregon, Washington, and Idaho, the portion of the state of Montana west of the Continental Divide, and such portions of the states of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and (b) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (a), which are a part of the service area of a rural electric cooperative customer served by the BPA on December 5, 1980, which has a distribution system from which it serves both within and without such region.
- (18) “NWPC” means Pacific Northwest ~~Electric~~ Power and Conservation ~~Planning~~ Council.

**[The Council has changed their name.]**

- (19) “Fifth Power Plan” means the Fifth Northwest Electric Power and Conservation Plan produced by NWPC. The power plan is available at [www.nwcouncil.org](http://www.nwcouncil.org).
- (20) “Qualified incremental hydropower efficiency improvements” means the installation or modification of equipment and structures, or operating protocols that increase the amount electricity generated from the same amount of water. These may include rewinding of existing generators, replacing turbines with more efficient units and changing control systems to optimize electricity generation, and improvements to hydraulic conveyance systems that decrease head loss. They do not include additions to capacity by increasing pondage or elevation head, or diverting additional water into the project.
- (21) “Utility” means an electric consumer-owned electric utility, as the term consumer-owned utility is defined in RCW 19.29A.010, that serves more than twenty-five thousand retail customers in the state of Washington. The number of customers served shall be based on data reported by a utility in Form EIA - 861, “Annual Electric Power Industry Report,” filed with the energy information administration, United States department of energy.

An electric consumer-owned utility whose number of retail customers grows beyond 25,000 over the course of a year shall be subject to WAC 194-37, or per chapter 19.285 RCW shall become a qualifying utility, as of January 1 of the following year. All applicable renewable energy target dates, per chapter 19.285 RCW will be delayed by the same number of years as there are between January 1, 2007 and the year in which the utility becomes a qualifying utility.
- (22) “Reliable” means, in the context of conservation resources, that the annual energy production from a conservation measure can be estimated using generally recognized engineering principles including those regarding operator behavior.

- (23) “Renewable energy credit” or “REC” means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water, the certificate includes all of the nonpower attributes associated with each megawatt-hour of electricity, and the certificate is verified by the Western Renewable Energy Generation Information System.
- (24) “Substitute resource” means electricity or generating facilities that otherwise would have been used to serve a utility’s retail load in the absence of chapter 19.285 RCW requirements to serve that retail load with eligible renewable resources.
- (25) “Weather-adjusted load” means “load” calculated after variations in peak and average temperatures from year to year are taken into account.  
**[Load is a defined term, making the quotation marks unnecessary.]**
- (26) “WREGIS” means the Western Renewable Energy Generation Information System. WREGIS is an independent, renewable energy database for the region covered by the Western Interconnection. WREGIS creates renewable energy certificates, WREGIS certificates, for verifiable renewable generation from units that register in the database.

### **WAC 194-37-040 Conservation Reporting Requirements**

Each utility shall submit an annual report to the department by June 1 beginning in 2012. This report shall include copies of the following that demonstrate to the department the utility’s progress in meeting the conservation targets established in RCW 19.285.040.

- (1) Each utility will use the tracking system of the NWPCC’s Regional Technical Forum “Planning, Tracking and Reporting System,” or an alternative reporting system approved by the department to report their annual and biennial ~~local~~ conservation achievements. Each utility can report using the default values embedded in the NWPCC’s Planning, Tracking and Reporting System or the utility may use its own inputs as documented per WAC 194-37-060 (2) (D), WAC 194-37-060 (8), and WAC 194-37-060 (9). A summary of this reported data, including savings by customer class, will be included in the annual report to the department.

**[Use of the term “local” introduces ambiguity by inferring that conservation that is not “local” does not count towards the target, and leaves the term “local” undefined. This word is not needed, it adds nothing but ambiguity and should be eliminated as redundant.]**

- (2) Annual electricity conservation savings estimated for the utility’s service territory from regional, state, or federal market transformation programs, codes and or standards. This data may be provided by organizations such as Washington State, the NWPCC, or the Northwest Energy Efficiency Alliance.
- (3) Brief description of the methodology used to establish its conservation target to capture ~~itsa~~ cost-effective conservation including the share of this target to be

captured by efficiency improvements in customer measures, and, if any in distribution measures, and production measures.

**[Use of the term “all” cost-effective arguably establishes a different standard of performance that conflicts with 194-37-050(2)(G)(ii), which permits the demonstration of compliance with a target set at 95% of the conservation calculator amount. Removing the term “all” from the definition brings the two provisions into harmony.]**

(4) Documentation, per WAC 194-37-050, that the utility’s methodology for establishing its ten-year conservation resource potential and biennial conservation target is consistent with the ~~NWPPC’s~~ Fifth Power Plan.

**[Fifth Power Plan is a defined term, making the NWPPC term redundant.]**

(5) In even years, this report will additionally identify the following: (a) the utility’s achievement in meeting its preceding biennial conservation target by end-use, production and distribution efficiencies, and (b) the utility’s ten-year resource potential and biennial conservation target differentiated by end-use efficiency savings, distribution efficiency savings, and production efficiency savings.

(6) Total expenditures for conservation will be reported by end-use efficiency, production efficiency and distribution efficiency and subcategorized for end-use efficiency by total expenditures and aggregate incentive expenditures for residential measures, commercial measures, industrial, and agricultural measures.

(7) The most recent finding(s) of compliance or non-compliance by the auditor that evaluates the ~~accuracy of~~ information reported per WAC 194-37 by the utility to the department.

**[The term “accuracy of” are words of limitation that would require the utility to determine if the audit report evaluated the “accuracy” of information to know whether submission under this section is required. It seems more sensible, and would make this section more broad ranging, to require submission of audit reports that evaluate any aspect of the information reported under WAC 194-37. This can be accomplished by eliminating the words “accuracy of”.]**

#### **WAC 194-37-050 Documenting Development of Conservation Targets**

**[The formatting of this section should be reconsidered. As currently configured, the specific methods of developing conservation targets are folded into the section that addresses the general requirements that apply to all of them. This is not as clear as it should be. I think this section can be made more clear by setting out more as distinct subsections the three methods that can be used to establish the conservation targets. This is not a substance change, but an improvement in formatting for clarity sake.]**

(1) By January 1, 2010, each utility shall establish its ten-year cost-effective conservation resource potential using methodologies consistent with those in the Fifth Power Plan. At least every two years thereafter, the public utility shall review and update this assessment for the subsequent ten-year period. In January 2010, and each two years thereafter, each utility shall establish and make public a biennial conservation target.

(2) The ~~following~~ documentation prepared pursuant to WAC 194-37-050 (3), (4) or (5) shall satisfy the requirements outlined in RCW 19.285.040, indicating the utility established ten-year and biennial achievable, cost-effective conservation targets using methodologies consistent with the NWPCC's conservation assessment methodology. The utility's biennial target shall be no less than its pro-rata share of its ten-year potential.

A. A utility shall use the Conservation Calculator, the Modified Conservation Calculator or the Utility Specific Analysis to establish the end-use conservation portion of its ten-year conservation resource potential and biennial conservation target. For a utility that includes production and or distribution efficiency measures in its ten-year conservation resource potential and its biennial conservation target, it will use the Utility Specific Analysis to establish the production and distribution portion of its ten-year conservation resource potential and biennial conservation target for production and or distribution efficiencies.

That portion of a ten-year resource conservation potential and or biennial conservation target ~~of~~by a utility that includes calculations of efficiency gains from utility production and or distribution efficiency measures as a portion of the potential or target shall carry the stamp of a registered professional engineer licensed by the Washington Department of Licensing.

[Grammar correction.]

B. A utility deducts all cost-effective conservation captured in each biennium, starting in 2010, from its future conservation resource potential. If a utility is establishing its 10-year resource potential or biennial conservation target using the Conservation Calculator, it deducts this achievement from its share of the NWPCC's conservation resource potential.

C. A utility will hold a properly noticed public hearing regarding their assessment of conservation potential, and adopt the ten-year conservation potential and the two-year conservation targets by action of the utility's governing board in a public meeting. Such public hearing may be conducted separately, or as part of public hearings conducted for resource planning, budget setting, or other related processes. The public notice will indicate that the hearing agenda includes the establishment of the utility's ten-year conservation resource potential and two-year conservation targets.

D. Conservation targets may be amended upward prior to the end of the biennium in order to include additional measures.

E.3. Conservation Calculator

Ai. ~~Per the conservation calculator,~~ The public utility ~~may will~~ document its calculation of its pro rata conservation targets for compliance based on its share of regional load using the NWPCC's ~~e~~Conservation ~~e~~Calculator.

Bi. Any utility that publishes a ten-year conservation resource potential and biennial target with the end-use portion of its target equal to or higher than 95% of its target calculated using the ~~e~~Conservation ~~e~~Calculator has effectively documented its biennial target setting requirement for the end-use efficiency portion.

F.4. Modified Conservation Calculator

Ai. The utility may document consistency with the NWPCC's methodologies by modifying its ten-year resource potential and biennial conservation target identified through the use of the Conservation Calculator by making the following adjustments to the NWPCC's analysis ~~inrelative to~~ the NWPCC's most recently published power plan.

[Grammar correction.]

- a. Deducting conservation measures, in the NWPCC's list, not applicable to the qualifying utility's service territory, and
- b. Adding conservation measures, that are not included in the NWPCC's list, but are applicable to the utility's service territory, and
- c. Insert lower percentages of applicable units than provided in the NWPCC's analysis, as appropriate for the utility's service territory based on data surveys, and
- d. Insert higher percentages of applicable units than provided in the NWPCC's analysis, as appropriate for the utility's service territory, and
- e. Increase and or reduce the per unit incremental resource savings for conservation measures, relative to the NWPCC's data for savings per unit, and
- f. Increase and or reduce forecasted program costs, and
- g. Increase or decrease load growth rates, and
- h. Increase or decrease avoided distribution capacity cost savings.

5G. Utility Specific Analysis Methodology.

iA A utility that establishes a ten-year conservation resource potential using the Utility Specific Analysis Methodology for end-use, distribution and or production efficiencies shall document consistency with the NWPCC's

analytical methodology by identifying and documenting the following elements:

~~a.i.~~ Life-cycle cost analysis, including the savings and costs of replacement units where resources or measures have different measure lifetimes.

~~b.ii.~~ Avoided costs equal a forecast of market prices, which represents the cost of the next increment of similarly available and reliable power supply available to the utility for the life of the energy efficiency measures to which it is compared. A utility may rely on the NWPCC's most current calculation of avoided costs or may calculate its own forecast of market prices to determine avoided costs.

~~e.iii.~~ The utility analysis tests the results of multiple scenarios including the testing of accelerating the conservation acquisition in the earlier years.

~~d.iv.~~ The utility selects the scenario that has the higher net present value and or lower risk.

~~e.v.~~ Consideration of transmission and distribution system benefits.

~~f.vi.~~ Consideration of all quantifiable non-power benefits that a resource or measure may provide.

~~g.vii.~~ Use of a cost of capital for the measure lifetime consistent with a public utility cost of capital for that measure lifetime.

~~h.viii.~~ Use of the NWPCC's twenty-year achievable conservation penetration rates of 85% for retrofit measures and 60% for new construction or long-lived product measures.

~~i.ix.~~ Ten percent bonus for conservation measures as defined in 16 U.S.C. § 839a of the Pacific Northwest Electric Power Planning and Conservation Act.

~~j.x.~~ Consideration of a broad range of energy efficiency measures including all of those identified in the most recently published NWPCC power plan.

~~ii.B.~~ In addition to the requirements in WAC 194-37-050 (2) (G), the utility may document the following to indicate that its conservation resource assessment methodology is consistent with the NWPCC's, yet results in unique conservation resource assessment outcomes that vary from conservation resource inputs published in the NWPCC's most recent plan:

~~a.i.~~ Deductions to the NWPCC's list of conservation measures not applicable to the utility's service territory.

~~b.ii.~~ Additional conservation measures that are not included in the NWPCC's list but are applicable to the utility's service area.

~~e.iii.~~ Conservation measures with lower or higher percentages of applicable units, relative to the NWPCC's.

~~d~~.iv. Conservation measures with lower or higher per unit incremental resource savings, relative to the NWPCC's figures for savings per unit.

~~e~~.v. Differences in forecasted program costs.

~~f~~.vi. Differences in avoided costs for demand and annual energy saved on a time-differentiated basis.

~~g~~.vii. Differences in the discounted present value inputs.

~~h~~.viii. Differences in utility load growth rate.

~~i~~.ix. Differences in avoided distribution capacity cost savings.

~~j~~.x. Other variations.

### **WAC 194-37-060 Documentation of Conservation Savings**

- (1) The utility must document that it achieved its conservation biennial target including savings identified distinctly in customer measures, and if included in the target, savings in the production and distribution sectors.
- (2) A measure or program can be reported as "conservation" if it demonstrates the following:
  - A. The measure and the estimate of its savings, was included in the utility's ten-year resource potential and its biennial conservation target, and
  - B. The conservation has a measure life of at least two years, or, if the measure life is less than two years the utility can verify that it has acquired the conservation twice over the biennium, and
  - C. Meets the definitions of conservation and cost effective as contained in WAC 194-37-030, and
  - D. The NWPCC includes the measure or program in its power plan, or the measure or program is not identified by the NWPCC, but it meets the definitions in RCW 19.285.030, and the utility included the conservation resource in the analysis and results of integrated resource plan pursuant to RCW 19.280.030 and its conservation targets pursuant to RCW 19.285.040.
- (3) The utility shall count the total first year savings of a conservation measure in the year during which either the measure was installed or the utility made payment to the customer for the measure.
- (4) Each utility may count towards its biennial conservation targets the proportionate share of savings resulting in its service territory from following conservation efforts during the one biennium in which either the measure was installed or the utility made payment for the measure:
  - A. End-use savings from BPA centrally-funded region-wide conservation projects based upon the utility's share of BPA program expenses.

- B. Savings from the Northwest Energy Efficiency Alliance and or other regional market transformation efforts towards its biennial conservation target if the NWPCC has not discontinued listing the program measures as included in the northwest region's conservation resource potential. Each utility will report a proportion of savings from these programs using established distribution methods, based on each utility's relative share of funding NEEA through both direct funding and indirect funding through their BPA rates or its share of funding other energy efficiency market transformation efforts.
  - C. Savings from new federal minimum energy efficiency standards or Washington State building energy code improvements or state appliance codes and standards, as proportionate to their utility's service territory, towards meeting a biennial conservation target in the biennium in which they become effective. After that biennium, utilities deduct these savings from its conservation resource potential and from the utility's next 10-year conservation target as captured conservation that is no longer available potential.
- (5) Utilities may count savings from more stringent local building and or local equipment codes and standards, including utility new service or connection standards, towards meeting their biennial conservation target in the biennium in which they become effective.
  - (6) A public utility cannot count the loss of load due to curtailments or matters outside of the utility's control (such as a facility shut-down) as achievement towards its conservation targets. However, such losses of load may change the level of current and future targets to the extent that they reduce the conservation potential available to the utility.
  - (7) The energy savings from an increase in distribution efficiencies are described, documented and counted under section WAC 194-37-060.
  - (8) Conservation savings from utility programs beginning in 2010 for deemed measures shall be based on the per unit savings set by the NWPCC's Regional Technical Forum "Planning, Tracking and Reporting System," unless the utility documents its variations in electricity saving estimates from the Regional Technical Forum's.
  - (9) Conservation savings from utility programs beginning in 2010 for custom measures shall be developed pursuant to the NWPCC's Custom Requirements available through the Regional Technical Forum's "Planning, Tracking and Reporting System" or through a similar analytical framework approved by the department.
  - (10) A public utility may document shortfalls in meeting its conservation target that result from any conservation measures that prove not to be feasible. For purposes of assessing achievement of conservation targets, a utility may retrospectively

reduce its target by such documented shortfalls. Documentation that a conservation measure is not feasible should include, at a minimum, evidence that: (i) such conservation measure was offered for at least twenty-four months to customers likely to achieve savings from installing the conservation measure; (ii) that the offer(s) were made directly to the customers; (iii) that the utility made a good faith effort to persuade the customer(s) to install the conservation measure; and that utility offered to pay the customer an incentive in an amount equal to the utility's full avoided cost minus administrative costs over the lifetime of the measure, up to one hundred percent of the incremental cost of the measure. The utility may deduct this conservation potential from the conservation target in any subsequent biennium during which such offer is repeated and outstanding.

- (11) A utility may count towards the utility's biennium end-use conservation target, during the first biennium of the high efficiency cogeneration facility's operations, high efficiency cogeneration owned and used by a retail electric consumer to meet the consumer's heat and power needs. In order to count this in its conservation target, the utility shall prepare the following documentation, certified by a registered professional engineer licensed by the Washington Department of Licensing:
- A. That the cogeneration system has a useful thermal energy output of no less than thirty-three percent of the total energy output; and
  - B. An analysis that indicates the reduction in load due to high efficiency cogeneration. The load reduction is calculated as the net facility's annual electrical energy production times the ratio of the fuel chargeable to power heat rate of the cogeneration facility divided by to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine.

**WAC 194-37-070 Additional Documentation of Efficiency from Distribution System Loss Reduction Improvements, including Peak Load Management and Voltage Regulation**

- (1) To the extent that a utility can demonstrate that a discrete distribution system upgrade or management practice results in lower line losses and/or transformation losses, the avoided energy supply requirement to serve customers may be included in the utility's calculation of compliance with the requirements of RCW 19.285.040. Only those programs and measures included in the utility's conservation target shall be included in measurement of conservation achievement.
- (2) A utility that counts Distribution System Improvements in meeting its obligations under RCW 19.285.040 shall document these savings on either a component-performance basis or a system-analysis basis and shall indicate these savings distinctly from end-use and production efficiency savings.

- A. A utility that implements the component performance basis for documenting distribution system improvements shall identify the components of the distribution system that were replaced, and the savings from replacement; and the calculation shall be prepared under the direction of, and carry the stamp of a registered professional electrical engineer licensed by the Washington Department of Licensing.
- B. A utility that implements the system analysis basis for documenting conservation savings from distribution system improvements shall provide the following:
  - i. For distribution system upgrades, prepare a distribution flow analysis to compare the annual energy losses of the system being replaced or upgraded to the final system as installed.
  - ii. For conservation voltage regulation, prepare a distribution flow analysis to compare the annual energy losses of the system before and after the implementation of a voltage regulation program. The difference in annual kilowatt-hour requirement at the utility point(s) of receipt (for distribution utilities) or net energy for load for generating utilities may be deemed to be measured as conservation savings.
  - iii. For peak load management, prepare a distribution flow analysis to compare the annual energy losses of the system before and after the implementation of peak load management program. The change in net energy losses may be deemed to be measured as conservation savings. Any net reduction in energy sales (economic curtailment) is not included in conservation savings.
  - iv. The flow analysis shall be prepared under the direction of, and carry the stamp of a registered professional electrical engineer licensed by the Washington Department of Licensing.

### **WAC 194-37-080 Additional Documentation of Improved Efficiency from Production Facilities**

- (1) Production efficiency improvements will be measured as the fraction of fuel savings achieved. The percentage reduction in fuel use per kilowatt-hour will be applied to the annual generation to determine the amount that is to be reported as conservation. These conservation savings will apply to meeting the utility's production conservation target and the utility's combined conservation target for a utility that includes production efficiency in developing its conservation targets. Where efficiency improvements are installed simultaneous with pollution control equipment, the utility may separately estimate the effect of the efficiency improvements alone, independent of any impact on efficiency that the pollution control equipment may cause. *(Stakeholders, does this last sentence have value to you?)*

- (2) A utility which includes production efficiency improvements in its annual reports pursuant to RCW 19.285.070 shall ~~document provide the auditors with~~ the following information for each generating unit it operates:

**[Utilities cannot force the auditor to accept information if they auditor does not request it. A better approach is to require that documentation, and then it is available should the auditor wish to see it.]**

- A. A description of the efficiency improvements made to the generating facility;
- B. Annual fuel use for three preceding years, in quantity units and million british thermal units;
- C. Annual electrical output for three preceding years, in kilowatt-hours;
- D. The amount of capital investment and/or annual operating expenditure associated with the efficiency improvements;
- E. The analysis prepared by the utility in planning the efficiency improvement(s) that evaluates the cost-effectiveness of the efficiency improvement(s);
- F. Any post-retrofit analysis prepared by the utility in evaluating the performance and/or cost-effectiveness of the efficiency improvement(s);
- G. A simple calculation showing the fuel use per kilowatt-hour before the efficiency improvement, the fuel use per kilowatt-hour after the efficiency improvement, and the amount of energy conservation being reported as the product of the percentage improvement in fuel use per kilowatt-hour and the number of kilowatt-hours generated;
- H. If efficiency improvements are installed at the same time as pollution control equipment that may itself affect efficiency, the utility may provide documentation of the effect of the efficiency improvements alone on the fuel consumption per kilowatt-hour of the production facility. In this situation, the utility shall provide a description of the changes made, the capital cost expended for both efficiency changes and pollution control equipment, and an analysis of the impact of each on the fuel use per kilowatt-hour of the production facility. These shall be certified by a registered professional engineer licensed by the Washington State Department of Licensing.

- (3) A utility shall not count towards its biennial conservation target the results from efficiency improvements made to hydropower facilities that meet the definition of 'qualified incremental hydropower efficiency improvements' and are counted towards any utility's renewable energy targets under RCW 19.285.040 or RCW 19.285.050.

## **WAC 194-37-090 Renewable Resource Energy Reporting**

Each utility shall submit a report to the department by June 1 of each year, beginning in 2012. Reporting requirements vary, as follows, depending upon how the utility elects to comply with chapter 19.285 RCW.

- (1) Universal Renewable Energy Reporting Requirements. Each utility report shall include the following information:

- A. The utility's annual load for the two prior years.
- B. The amount of megawatt-hours needed to meet the utility's annual renewable energy targets identified in RCW 19.285.040. These annual targets are established as a percentage of the utility's average retail load for the two years prior to the target year: three percent of each year 2012 through 2015; nine percent of each year 2016 through 2019; and fifteen percent for year 2020 and each year thereafter.
- C. The names of the eligible renewable resource facilities that the utility owns or with which the utility has a contract, dated no later than January 1 of the target year, and the estimated annual quantity of eligible renewable resources or RECs that the utility will acquire through these resources or contracts to meet its annual targets.

- i. A utility may count any purchases of electricity from BPA that includes eligible renewable resources~~electricity~~, for which BPA has not separately sold the affiliated RECs, or RECs from the BPA generated by eligible renewable resources to meet all or any portion of its annual eligible renewable resource targets. To document the annual amount of power supplied by BPA from eligible renewable resources, the utility may rely on BPA's determination of the portion of its power supply provided by eligible renewable resources during a calendar year for which BPA has not separately sold the RECs.

**[Makes the meaning of the section more clear by using the defined term "eligible renewable energy resource".]**

- ii. The list of resources will identify any resource that both commenced operations after December 31, 2005 and meets the apprenticeship construction practice standards as adopted by the Council per WAC 194-37-110 (2), thereby earning a 1.2 multiplier credit on its electricity output.
- iii. The list of resources will identify any resource that meets the definition of distributed generation and that the utility owns or contracts for the associated REC, thereby earning a 2.0 multiplier credit on the electricity output.

- D. The most recent finding(s) since any prior June 1 report, of compliance or non-compliance by the auditor that evaluates the ~~accuracy of~~ information reported per WAC 194-37 by the utility to the department.

**[Parallel change to that suggested for section WAC 194-37-040(7), and for the same reasons. The term "accuracy of" are words of limitation that would require the utility to determine if the audit report evaluated the "accuracy" of information to know whether submission under this section is required. It seems more sensible, and would make this section more broad ranging, to require submission of audit reports that evaluate any aspect of the information reported under WAC 194-37. This can be accomplished by eliminating the words "accuracy of".]**

(2) Renewable Energy Target Reporting

A. A utility that meets the renewable energy requirements in RCW 19.285.040 (2) must include the following in its June 1 report of each year beginning in 2014.

- i. Demonstration that it acquired in the target year: (i) sufficient eligible renewable resources by December 31 of the target year; (ii) and RECs from the target year, the year prior or the year subsequent to the target year; or (iii) any combination of (i) and (ii), in amounts sufficient up through the prior year to meet the percent of load target for the calendar year two years prior. This demonstration may be a finding of compliance from its auditor.

**[As originally drafted, the subsection did not clearly indicate that RECs could be obtained from prior, current and subsequent years, and that RECs and eligible renewable resource acquisitions could be combined to satisfy that requirement. The proposed language attempts to clarify those points.]**

- ii. Documentation of the amount of megawatt-hours purchased or generated, the amount of WREGIS-certified RECs purchased and the names of the respective eligible renewable facilities that produced the associated power, specified by the year it was generated.

B. The utility may, in addition, submit a copy of its fuel mix report, per chapter 19.29A RCW, for each target year.

(3) Resource Cost Reporting

Each year that a utility does not meet the renewable energy target requirements in RCW 19.285.040, but meets the financial requirements in RCW 19.285.050, the utility must include the following information in its June 1 report of that year:

- A. Its annual revenue requirement for the target year.
- B. The annual levelized delivered cost of its eligible renewable resource(s), reported separately for each resource.
- C. The annual levelized delivered cost of its substitute resources, and the eligible renewable resource with which it is being compared.
- D. The total cost of renewable energy credits to be applied in the reporting year.
- E. The percentage of its annual revenue requirement invested in the incremental cost of eligible renewable resources and the cost of RECs.

(4) Non-Load Growing Utility Reporting

Each year that a utility does not meet the renewable energy target requirements in RCW 19.285.040(2)(a), but meets the financial requirements in RCW 19.285.040 (2)(d), the utility will report to the department each June 1 its:

- A. Annual revenue requirement for the target year;
  - B. Weather-adjusted load for each of three years prior to the target year;
  - C. Delivered cost of its eligible renewable resource(s) in the reporting year, reported separately for each type of resource;
  - D. Cost of RECs to be applied to the one percent of annual revenue requirement target in the reporting year;
  - E. List of purchased RECs and their costs, specified as serving to offset any purchases of non-renewable resources; and
  - F. The cost of eligible renewable resources and RECs as a percentage of its annual revenue requirement.
- (5) Reporting of Uncontrollable Events

For any target year that a utility demonstrates to the auditor that it did not meet the annual renewable resource requirements in chapter 19.285 RCW due to events beyond the reasonable control of the utility, per RCW 19.285.040 (2) (i), the utility shall summarize these events in its June 1 report to the department immediately following the target year.

### **WAC 194-37-100 Documentation of Renewable Energy Targets**

- (1) Upon request of the auditor, each utility will ~~provides~~ the auditor access to contracts indicating purchases of RECs or ~~electricity output megawatt-hours~~ from eligible renewable resources, or both, no less than the annual percentage standard for the reporting year. The megawatt-hours from eligible renewable resources count towards the percentage annual renewable energy target as long as the associated RECs are not owned by a separate entity or have not been used in an optional pricing program.

**[The first change is a grammar correction. The second change to make the language parallel with subsections 2 and 4 of this section. The third change is to make it clear that since compliance can be in the form of RECs, eligible renewable resources, or a combination of both, the documentation required should reflect that fact.]**

- (2) Each utility that claims a 1.2 multiplier credit for the electricity output from an eligible renewable resource per RCW 19.285.040 (2) (h) (i) shall provide a copy of written documentation from the Council that the facility met the apprenticeship labor standard of fifteen percent of the total labor hours used in its construction.
- (3) A utility may provide a copy of documentation from the BPA indicating the quantity of power that BPA sold to the utility for the target year that was powered by an eligible renewable resource.

- (4) Each utility that claims a 2.0 multiplier credit for the electricity output from an eligible renewable resource per RCW 19.285.040(2)(b) shall provide documentation that the REC applied in that year that is associated with the distributed generation resource is owned by the utility in that year. If the distributed generation resource produces less than 1 megawatt-hour annually, then possession of a WREGIS certified REC is unnecessary as long as the utility retains the ownership of the non-power attributes of the resource.

### **WAC 194-37-110 Documentation of Incremental Hydropower**

- (1) Utilities may count toward their annual renewable resource targets incremental power acquired since 1999 through qualified incremental hydropower efficiency improvements at the following facilities.
  - A. Hydropower facilities in the Pacific Northwest that they own or for which they hold contracts for power from utilities where the new generation does not result in new water diversions or impoundments.
  - B. Hydroelectric generation facilities in irrigation pipes and canals located in the Pacific Northwest, where the additional generation does not result in new water diversions or impoundments.
- (2) The utility shall calculate renewable resource power from incremental hydropower as the increase in annual megawatt-hours of generation attributable to the qualified incremental hydropower efficiency improvements under “average water generation.”
- (3) The increase in annual megawatt-hours of generation attributable to the qualified incremental hydropower efficiency improvements shall be documented by engineering studies or by before and after generation data. The documentation shall clearly explain (1) where the facility is located; (2) when the improvements were made; (3) how the amount of water in “average water” was calculated; (4) what other factors may have caused an increase in electricity production and how the amount “attributable to the qualified improvements” was extracted from the total increase; (5) how and why the “qualified improvements” increased hydropower production; and (6) how the utility came to acquire the incremental output associated with the qualified improvements.
- (4) Incremental hydropower counts towards a qualified utility’s renewable energy target only when all non-power attributes of the incremental power remain bundled with the power.

### **WAC 194-37-120 Documentation of Renewable Resource Financial Path for No-Load Growth Utilities**

A utility that meets the renewable targets identified in RCW 19.285.040 (2) (d) must document the following:

- A. That it used a consistent methodology from year to year to weather adjust its retail load;
- B. That its weather-adjusted load for the three years prior to the target year produces a flat or negative trend-line, that is either the most recent year or the average of the two recent years is lower than third prior year;
- C. That it invested at least one-percent of its total annual revenue requirement in each target year on eligible renewable resources, RECs, or a combination of both;
- D. That it executed contracts for power purchases of either eligible renewable resources or eligible WREGIS certificates, and
- E. That it (i) did not, after December 7, 2006, except for continued purchases of requirements power from BPA at its lowest preference power rate, initiate or renew ownership or incremental purchases of electricity from other than renewable resources except on a daily spot market basis, or, (ii) if it did initiate or renew its acquisition of non-renewable resources after December 7, 2006 except on a daily spot market basis, that it offset those acquisitions by acquiring equivalent WREGIS RECs.

### **WAC 194-37-130 Financial Documentation of Annual Revenue Requirement**

- (1) For purposes of the report filed pursuant to RCW 19.285.070, a utility shall document ~~the portion of its annual revenue requirement. budget, approved by its governing body for the current fiscal year, which is associated with retail electricity sales.~~  
[Annual Revenue Requirement is a defined term, and the definition includes all of the items listed in this subsection, making their repetition here unnecessary and redundant.]
- (2) A utility that elects to use a different basis for the determination of its annual revenue requirement in the calculation of the cost cap must also provide documentation to support this alternative approach.

### **WAC 194-37-140 Documentation of Financial Cost Cap – Current Information**

If a utility fulfills its renewable energy requirements by complying with the cost cap identified in RCW 19.285.040 (2) (d) or RCW 19.285.050, it must document its calculations using the most current information available to the utility within the ~~prior~~ twelve months prior to the calculation of the cost cap pursuant to WAC 197-37-150, and include this documentation in its annual June 1 report submitted pursuant to RCW 19.285.070.

[The suggested language clarifies that the “most current information available” is that available when the cost cap calculation is performed.]

## **WAC 194-37-150 Documentation for Financial Path – Levelization of Costs**

- (1) Utilities are encouraged, but not obligated, to document the calculation of the levelized annual incremental cost of eligible renewable resources using the following methodology:
  - Step 1:** Calculate the net present value of the cost of the utility’s eligible renewable resource and substitute resource over an equivalent contract length or facility life.
  - Step 2:** Calculate equal nominal values over the appropriate contract length or facility life that have a net present value equal to those calculated in Step 1, using the same discount rate.
  - Step 3:** Calculate the annual difference between the levelized delivered cost for the eligible renewable resource and the substitute resource to determine the levelized incremental cost of the eligible renewable resource.
    - A. Utilities must document the basis for any change to the levelization methodology used in a prior June 1 report to levelize the costs of an eligible renewable resource and its associated substitute resource.
- (2) Regardless of the methodology chosen to levelize costs, utilities must document the basis for its chosen method for levelizing costs.
- (3) Utilities must document the basis for the discount rate used in its levelized cost calculations.
- (4) Utilities must document how the discount rate used to perform the levelized cost calculations is consistent with the inflationary assumptions incorporated into the delivered cost projections for the eligible renewable resource and substitute resource.
- (5) Utilities must document how the method and assumptions used to levelize delivered costs for the eligible renewable resource are consistent with those used to levelize the delivered cost of the associated substitute resource.

## **WAC 194-37-160 Documentation of Financial Path – Delivered Cost**

- (1) The delivered cost of a resource includes all direct and indirect costs associated with that resource being delivered to the distribution system of a utility over the contract length or facility life of the delivered resource. Direct and indirect costs may include operating and capital expenses related to the delivered resource.

- (2) Using the Uniform System of Accounts of the Federal Energy Regulatory Commission (FERC) as an illustration, the reported resource costs are expected to generally fall within, but not necessarily be limited to, the following cost accounts:

Operating Expenses

Accounts 500-557:	Production Expense
Account 565:	Wholesale Wheeling Expense
Accounts 920-935:	Administrative and General Expense
Account 408.1:	Taxes Other than Federal Income Taxes

Capital Expenses

Accounts 403-407:	Depreciation and Amortization Expense
Accounts 427-431:	Interest-Related Expenses

- (3) A utility may include the actual costs of transmission, firming, shaping and integration necessary to make the amount of eligible renewable resources equivalent to electricity output from its associated substitute resources.

[It is understood that the major objection to this section was the express inclusion of “development costs” in the last sentence. Since such costs are routinely rolled up into the project financing for which interest and amortization are paid, deleting the last sentence is not objectionable. We think retaining the first sentence adds needed clarity regarding properly included costs.]

- (4) Utilities are encouraged to use the FERC system of accounts to document the delivered cost of resources here. Regardless of the accounting convention used, utilities must document the delivered cost estimates for eligible renewable resources and their associated substitute resources in a manner consistent with generally accepted accounting standards.

### **WAC 194-37-170 Documentation of Financial Path – Substitute Resource and Resource Equivalence**

- (1) In support of its annual filings to the department under RCW 19.285.070, utilities must document the type, availability and cost of the reasonably available substitute resource used to calculate the incremental cost of an eligible renewable resource.
- A. In documenting the incremental cost under RCW 19.285.050 (1) (b), a utility is encouraged to identify substitute resources using its integrated resource planning process, if one is available. If a utility elects to choose a substitute resource from a document other than its published integrated resource plan, it must document the basis for this decision. Documentation of the cost of a

substitute resource may include, but is not limited to, formal offers for the sale of electricity, or published cost projections from reputable third-party sources.

- B. Utilities shall document equivalence between the eligible renewable resource and the alternative substitute resource by demonstrating the equivalence in the amount of energy produced by each resource and the contract length or facility life of each resource. Utilities will endeavor to demonstrate the equivalence between the service characteristics and risk profiles of each resource.
  - C. Only supply-side substitute resources shall be used by utilities in the calculation of the incremental cost of eligible renewable resources. If a utility has surplus generation as a result of the requirements in RCW 19.285.040 (2), it may use its surplus resources as the substitute resource. Supply-side substitute resources may include facilities that are sold as a result of the requirement to acquire eligible renewable resources.
  - D. When the renewable requirements under RCW 19.285.040 (2) result in a utility having resources in excess of its load and that utility intends to comply with the requirements of RCW 19.285.050, the utility will document the resale revenues, net of transaction costs, received through the sale of excess resources. If the utility uses something other than the documented resale revenues in the determination of the levelized cost of the substitute resource it must provide documentation to support this alternative approach.
  - E. A utility entitled under its BPA power sales contract to have the BPA meet its net power requirements for the expected life of an eligible renewable resource and foregoes part of its BPA entitlement in order to meet the requirements of RCW 19.285.040 (2) may use the cost of the foregone power purchases from BPA, plus any billing credit obtained for reducing its purchases from BPA as the basis for the cost of the substitute resource in RCW 19.285.050.
- (2) For eligible renewable resources acquired prior to the passage of chapter 19.285 RCW, utilities must support the selection of the related substitute resource used in the determination of the incremental cost under RCW 19.285.050 with documentation that was available at the time of the utility's decision to acquire the eligible renewable resources. If no such documentation is available, the incremental cost of an eligible renewable resource acquired prior to the passage of chapter 19.285 RCW will be assumed equal to zero.

## **WAC 194-37-180 Financial Documentation Path Using Renewable Energy Credits**

A utility may elect to invest in RECs to meet any portion of or the entirety of each annual renewable resource target in RCW 19.285.040(2) or RCW 19.285.050(1). If the cost of the RECs, or the combination of the costs of RECs and the costs of acquiring eligible renewable resources, for any one year meets or exceeds four percent of the utility's annual revenue requirement the utility shall document that the utility has achieved the four percent cost cap alternative compliance path in RCW 19.285.050(1). The documentation must include: copies of its WREGIS RECs, copies of purchase contracts, and its annual revenue requirement.

[The new language clarifies that the cost cap can apply if the costs of RECs alone, or in combination with eligible renewable resource acquisitions, exceed the limit. Without this clarification, this section could be read to require that RECs only count towards the cost cap when considered in isolation, which is clearly an incorrect conclusion.]