RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Department of Revenue

Emergency Rule Only

Effective date of rule:
Emergency Rules
X Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
☐ Yes X No If Yes, explain:

Purpose: WAC 458-20-273 (Rule 273) explains the cost recovery incentive program for renewable energy systems. Rule 273 is amended to provide appeal rights to a determination by the Department of Revenue regarding a: (1) revocation or denial of approval to certify a renewable energy system for eligibility in the incentive payment program or (2) revocation or denial of approval to certify a module, inverter, or blade as manufactured in Washington state for purposes of increased factors in calculating the amount of incentive payments. There are no changes from the previous emergency rule filed April 5, 2012 under WRS 12-09-002.

Citation of existing rules affected by this order:
Repealed:
Amended: WAC 458-20-273 Renewable Energy System Cost Recovery
Suspended:

Statutory authority for adoption: RCW 82.32.300 and 82.01.060

Other authority : RCW 34.05.350

EMERGENCY RULE
Under RCW 34.05.350 the agency for good cause finds:
X That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: **Taxpayers need to be aware of their appeal rights and responsibilities if the Department denies certification or intends to revoke certification.**

Date adopted:
July 27, 2012

NAME
Alan R. Lynn

SIGNATURE
Alan R Lynn

TITLE
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 27, 2012
TIME: 10:30 AM

WSR 12-16-046

(COMPLETE REVERSE SIDE)

Note: If any category is left blank, it will be calculated as zero. No descriptive text.

Count by whole WAC sections only, from the WAC number through the history note. A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New _____ Amended _____ Repealed _____

The number of sections adopted in the agency's own initiative:

New _____ Amended 1 Repealed _____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New _____ Amended _____ Repealed _____

The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

This rule was adopted on an emergency basis effective 7/27/ 2012. It may be used to determine tax liability until 11/24/12, unless the Department adopts a permanent rule prior to this date.

AMENDATORY SECTION (Amending WSR 10-17-004, filed 8/5/10, effective 9/5/10)

WAC 458-20-273 Renewable energy system cost recovery. (1) **Introduction.** This section explains the renewable energy system cost recovery program provided in RCW 82.16.110 through 82.16.140. This program authorizes a customer investment cost recovery incentive payment (incentive payment) to help offset the costs associated with the purchase and use of renewable energy systems located in Washington state that produce electricity. Qualified renewable energy systems include:

- Solar energy systems;
- Wind generators; and
- Certain types of anaerobic digesters that process manure from livestock into biogas and dried manure using microorganisms in a closed oxygen-free container, in which the biogas (such as methane) fuels a generator that creates electricity.

(a) Any individual, business, local government, or participant in a qualifying community solar project that purchases and uses or supports such a system may apply for an incentive payment from the light and power business that serves the property. Neither a state governmental entity nor a federal governmental entity can participate in the incentive payment program.

(b) Participation by a light and power business in this incentive payment program is discretionary.

(c) No incentive payment may be made for kilowatt-hours generated before July 1, 2005, or after June 30, 2020. The right to earn tax credits under this section expires June 30, 2020. Credits may not be claimed after June 30, 2021.

(2) **Definitions.** The definitions in this section apply throughout this section unless the context clearly requires otherwise.

(a) "Administrator" means an owner and assignee of a community solar project defined in (c)(i) and (iii) of this subsection, that is responsible for applying for the investment cost recovery incentive on behalf of the other owners and performing such administrative tasks on behalf of the other owners as may be necessary; such as receiving investment cost recovery incentive payments, and allocating and paying appropriate amounts of such payments to other owners.

(b) "Applicant" has the following three meanings in this definition.

(i) For other than community solar projects, applicant means an individual, business, or local government, that owns

the renewable energy system that qualifies under the definition of "customer-generated electricity."

(ii) For purposes of a community solar project defined in (c)(i) or (iii) of this subsection, the administrator, defined in (a) of this subsection, is the applicant.

(iii) For purposes of a utility-owned community solar project defined in (c)(ii) of this subsection, the utility will act as the applicant for its ratepayers that provide financial support to participate in the project.

(c) "Community solar project" means any one of the three definitions, below:

(i) A solar energy system located in Washington state that is capable of generating up to seventy-five kilowatts of electricity and is owned by local individuals, households, nonprofit organizations, or nonutility businesses that is placed on the property owned in fee simple by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business.

(ii) A utility-owned solar energy system located in Washington state that is capable of generating up to seventy-five kilowatts of electricity and that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for their share of the value of the electricity generated by the solar energy system.

(iii) A solar energy system located in Washington state, placed on the property owned in fee simple by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business, that is capable of generating up to seventy-five kilowatts of electricity, and that is owned by a company whose members are each eligible for an investment cost recovery incentive payment for the same customer-generated electricity as defined in (e) of this subsection.

(A) The cooperating local governmental entity that owns the property on which the solar energy system is located may also be a member of the company.

(B) A member may hold an interest in the company constituting ownership of either a portion of the solar energy system or a portion of the value of the electricity generated by the solar energy system, or both.

(d) For purposes of "community solar project" as defined in (c) of this subsection, the following definitions apply.

(i) "Capable of generating up to seventy-five kilowatts of electricity" means that the solar energy system will qualify if it generates seventy-five kilowatts of electricity or less. If the solar energy system or a community solar project produces more than seventy-five kilowatts the entire project is ineligible for the incentive payment program.

(ii) "Company" means an entity that is:

(A)(I) A limited liability company created under the laws of Washington state;

(II) A cooperative formed under chapter 23.86 RCW; or

(III) A mutual corporation or association formed under chapter 24.06 RCW; and

(B) Not a "utility" as defined in (d)(v) of this subsection.

(iii) "Local individuals, households, nonprofit organizations, or nonutility businesses" mean individuals, households, nonprofit organizations, or nonutility businesses that are:

✐ Located within the service area of the light and power business where the renewable energy system is located; and

✐ Residents of Washington state.

(iv) "Nonprofit organization" means an organization exempt from taxation under 26 U.S.C. Sec. 501 (c)(3) of the federal Internal Revenue Code of 1986, as amended, as of January 1, 2009.

(v) "Owned in fee simple" means an interest in land that is the broadest property interest allowed by law.

(vi) "Utility" means a light and power business, an electric cooperative, or a mutual corporation that provides electricity service.

(e) "Customer-generated electricity" means the alternating current electricity that is generated from a renewable energy system located in Washington state, that is installed on an individual's, businesses', local government's or utility's real property and the real property involved is served by a light and power business.

(i) Except for utility-owned community solar systems, a system located on a leasehold interest does not qualify under this definition. For a community solar project requiring the cooperation of a local governmental entity, the cooperating local governmental entity must own in fee simple the real property on which the solar energy system is located to qualify as "customer-generated electricity." A leasehold interest held by a cooperating local governmental entity will not qualify. However, for nonutility community solar projects, a solar energy system located on land owned in fee simple by a cooperating local governmental entity that is leased to local individuals, households, nonprofit organizations, nonutility businesses or companies will qualify as "customer-generated electricity."

(ii) Except for a utility-owned solar energy system that is voluntarily funded by the utility's ratepayers, "customer-generated electricity" does not include electricity generated by a light and power business with greater than one thousand megawatt hours of annual sales or a gas distribution business.

(f) "Local governmental entity" means any unit of local

government of Washington state including, but not limited to:

- Counties;
- Cities;
- Towns;
- Municipal corporations;
- Quasi-municipal corporations;
- Special purpose districts;
- Public stadium authorities; or
- Public school districts.

"Local governmental entity" does not include a state or federal governmental entity, such as a:

- State park;
- State-owned building;
- State-owned university;
- State-owned college;
- State-owned community college; and
- Federal-owned building.

(g) "Light and power business" means the business of operating a plant or system of generation, production or distribution of electrical energy for hire or sale and/or for the wheeling of electricity for others.

(h) "Gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural.

(i) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

(j) "Renewable energy system" means:

- A solar energy system used in the generation of electricity;
- An anaerobic digester that processes livestock manure into biogas and dried manure using microorganisms in a closed oxygen-free container, in which the biogas (such as methane) fuels a generator that creates electricity; or
- A wind generator used for producing electricity.

(k) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(l) "Solar inverter" means the device used to convert direct current to alternating current in a photovoltaic cell system.

(m) "Solar module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

(3) **Who may receive an incentive payment?** Any of the following may receive an incentive payment:

(a) An individual, business, or local governmental entity, not in a light and power business or in a gas distribution business owning a qualifying renewable energy system; or

(b) A participant in a community solar project with an ownership interest in the:

✐ Solar energy system;

✐ Company that owns the solar energy system; or

✐ Value of the electricity produced by the solar energy system.

(4) **Must you be a customer of a light and power business to be a recipient of an incentive payment?** Yes, only owners of qualifying renewable energy systems located on interconnected properties belonging to customers of a light and power business are eligible to receive incentive payments. This is because the electricity generated by the renewable energy system must be able to be transformed or transmitted for entry into or operated in parallel with electricity transmission and distribution systems. In the case of community solar projects, the land on which the renewable energy system is located may be owned in fee simple by a local governmental entity or owned in fee simple or leased by a utility and they will be the customer of the light and power business.

(5) **To whom do I apply?** An applicant must apply to the light and power business serving the real property on which the renewable energy system is located. The applicant applies for an incentive payment based on customer-generated electricity during each fiscal year beginning on July 1st and ending on June 30th. Participation by a light and power business in the cost recovery incentive program is voluntary. An applicant should first contact their light and power business to verify that it is participating

(6) **Do I need a certification before applying to the light and power business?** Before submitting the first application to the light and power business for the incentive payment allowed under this section, the applicant must submit to the department of revenue a certification request in a form and manner prescribed by the department of revenue.

(a) There are two forms for this certification found at the department of revenue's web site at www.dor.wa.gov, entitled:

✐ Community Solar Project Renewable Energy System Cost Recovery Certification; and

✐ Renewable Energy System Cost Recovery Certification.

(b) The department of revenue will evaluate these certification requests with assistance from the climate and rural energy development center at the Washington State University.

(c) In the case of community solar projects:

✐ Only one certification can be obtained for each system;

✐ Applicants may rely upon a prior issued certification of the system;

✐ The administrator must apply for the certification if it

is a community solar project placed on property owned by a cooperating local government and owned by individuals, households, nonprofit organizations, or nonutility businesses;

✐ The company acting as an administrator must apply for the certification if it is a community solar project placed on property owned by a cooperating local government and owned by a company; and

✐ The utility acting as administrator must apply for the certification if it is a utility-owned community solar project on property owned or leased by the utility.

(d) **Property purchased with existing system.** Except for community solar projects, if an applicant has just purchased a property with a certified renewable energy system, the applicant must reapply for certification as the new owner with the department of revenue.

(e) **Requirements of the certification request.** This certification request must contain, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system:

(A) If the applicant is an administrator of a community solar project, the certification request must also include the current name and address of each of the participants in the community solar project.

(B) If the applicant is a company that owns a community solar project that is acting as an administrator, the certification request must also include the current name and address of each member of the company that is a participant in the community solar project.

(ii) The applicant's tax registration number;

(iii) Confirmation that the electricity produced by the applicant meets the definition of "customer-generated electricity" and that the renewable energy system produces electricity with:

(A) Any solar inverters and solar modules manufactured in Washington state;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A wind generator with an inverter manufactured in Washington state;

(D) A solar inverter manufactured in Washington state;

(E) A solar module manufactured in Washington state;

(F) Solar or wind equipment manufactured outside of Washington state; or

(G) An anaerobic digester which processes manure from livestock into biogas and dried manure using microorganisms in a closed oxygen-free container, in which the biogas (such as methane) fuels a generator that creates electricity.

(iv) Confirmation that the electricity can be transformed

or transmitted for entry into or operation in parallel with the electricity transmission and distribution systems;

(v) The date that the local jurisdiction issued its final electrical permit on the renewable energy system; and

(vi) A statement that the applicant understands that this information is true, complete, and correct to the best of applicant's knowledge and belief under penalty of perjury.

(f) **Response from the department of revenue.** Within thirty days of receipt of the certification the department of revenue must notify the applicant whether the renewable energy system qualifies for an incentive payment under this section. This notification may be delivered by either mail or electronically as provided in RCW 82.32.135.

(i) The department of revenue may consult with the climate and rural energy development center to determine eligibility for the incentive.

(ii) System certifications and the information contained therein are subject to disclosure under RCW 82.32.330 (3)(m).

(g) **What happens if the department of revenue notifies me that the original certification does not qualify for an incentive payment or upon notice of intent to revoke approval of certification?**

(i) If the department of revenue finds the certification does not qualify for an incentive payment, it will notify you of the reasons why and advise you how you may appeal the decision if you disagree with their reason.

(ii) Any appeal must be served on the department of revenue within thirty days of the notice of intention to disapprove or revoke approval of certification or the decision will be final.

(7) **How often do I apply to the light and power business?** You must annually apply by August 1st of each year to the light and power business serving the location of your renewable energy system. The incentive payment applied for covers the production of electricity by the system between July 1st and June 30th of each prior fiscal year.

(8) **What about the application to the light and power business?** The department of revenue has two application forms for use by customers when applying for the incentive payment with their light and power business. These applications are found at the department of revenue's web site at www.dor.wa.gov, entitled:

✐ Community Solar Project Renewable Energy System Cost Recovery Annual Incentive Payment Application; and

✐ Renewable Energy System Cost Recovery Annual Incentive Payment Application.

However, individual light and power businesses may create their own forms or use the department of revenue's form in conjunction with their additional addendums.

(a) **Information required on the application to the light**

and power business. The application must include, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system:

(A) If the applicant is an administrator of a community solar project, the application must also include the current name and address of each of the participants in the community solar project.

(B) If the applicant is a company that owns a community solar project that is acting as an administrator, the application must also include the current name and address of each member of the company that is a participant in the community solar project.

(C) If the applicant is the utility involved with a utility-owned community solar project that is acting as an administrator, the application must also include the current name and address of each customer-ratepayer participating in the community solar project.

(ii) The applicant's tax registration number;

(iii) The date of the notification from the department of revenue stating that the renewable energy system is eligible for the incentives under this section;

(iv) A statement of the amount of gross kilowatt-hours generated by the renewable energy system in the prior fiscal year; and

(v) A statement that the applicant understands that this information is provided to the department of revenue in determining whether the light and power business correctly calculates its credit allowed for customer incentive payments and that the statements are true, complete, and correct to the best of applicant's knowledge and belief under penalty of perjury.

(b) **Light and power business response.** Within sixty days of receipt of the incentive payment application the light and power business serving the location of the system must notify the applicant in writing whether the incentive payment will be authorized or denied.

(i) The light and power business may consult with the climate and rural energy development center to determine eligibility for the incentive payment.

(ii) Incentive payment applications and the information contained therein are subject to disclosure under RCW 82.32.330 (3)(m).

(c) **Light and power business may verify initial certification of system.** Your light and power business has the authority to verify and make separate determinations on the matters covered in your earlier certification with the department of revenue. If your light and power business finds the certification process made an error in determining whether

your renewable energy system's generated electricity can be transformed or transmitted for entry into or operation in parallel with the electricity transmission and distribution systems, then the determination by the light and power business will be controlling and it has the authority to decertify your system.

(9) **What are the possible procedures an applicant and their light and power business may follow in setting up incentive payments?** This subsection first discusses recommended procedures an applicant should follow when requesting that the light and power businesses set up an applicant's incentive payments and second discusses the possible procedures the light and power business may follow.

(a) **Steps an applicant may take include, but are not limited to:**

✐ Contacting their light and power business to ask whether it is participating and what application procedures apply;

✐ Submitting an application to the light and power business that serves their property;

✐ Submitting to the light and power business proof that the applicant's renewable energy system is certified by the department of revenue for the incentive payment program;

✐ Submitting to the light and power business a copy of the approved certification and letter from the department of revenue; and

✐ Signing an agreement that the light and power business will provide to the applicant.

(b) **Steps the applicant's local light and power business may take include, but are not limited to:**

✐ Sending a utility serviceman to inspect the system;

✐ Installing an electric production meter if one meeting its specifications is not already installed since a meter is required to properly measure production;

✐ Reading the applicant's production meter at least annually;

✐ Processing the annual incentive payment;

✐ Notifying the applicant within sixty days whether the incentive payment is authorized or denied;

✐ Calculating annual production payments based on the meter reading or readings made prior to the accounting date of July 1st; and

✐ Sending the applicant's incentive payment check on or before December 15th; and

✐ Alternatively, the light and power business may credit the applicant's account on or before December 15th.

However, if the applicant is a net generator, that applicant must be paid by check. Net generator means the measured difference, in kilowatt-hours between the electricity

supplied to a power and light business' customer and the electricity generated by the same customer from the renewable energy system and delivered to the light and power business at the same point of interconnection that is in excess of the electricity used at the same location.

(10) **How may the procedures differ with my light and power business when dealing with a utility-owned solar energy system?** A utility-owned community solar project is voluntarily funded by ratepayers of the specific light and power business offering the program. Only customer-ratepayers of that utility may participate in the program. In exchange for a customer's support the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project. It is important that the customer-ratepayer realize when contributing to this program, they are in effect investing in the utility to receive a stated "value." This value is defined in the agreement between the customer-ratepayer and the utility and this agreement is a contract. Customer-ratepayers need to protect their interest in this investment the same as a person would in any other investment.

(11) **What is the formal agreement between the applicant and the light and power business?** The formal agreement between the applicant and the light and power business serving the property governs the relationship between the parties. This document may:

✐ Contain the necessary safety requirements and interconnection standards;

✐ Allow the light and power business the contractual right to review the applicant's substantiation documents for four years, upon five working days' notice;

✐ Allow the light and power business the contractual right to assess against the applicant, with interest, for any overpayment of incentive payments;

✐ Delineate any extra metering costs for an electric production meter to be installed on the applicant's property;

✐ Contain a statement allowing the department of revenue to send proof of the applicant's system certification electronically to applicant's light and power business, which will include the applicant's department of revenue taxpayer's identification number;

✐ Contain other information required by the light and power business to effectuate and properly process the applicant's incentive payment; and

✐ In the case of a utility-owned solar energy system, contain a detailed description of the "value" the customer-ratepayer will receive in consideration of the financial support given to the utility.

(12) **Must the renewable energy system be owned or can it be**

leased? The renewable energy system must be owned by the individual, business, local governmental entity, utility in a utility-owned renewable energy system, local individuals, households, nonprofit organizations or nonutility business in a community-solar project, or company in a company-owned system. Leasing a renewable energy system does not constitute ownership.

(13) **Must you keep records regarding your incentive payments?** Applicants receiving incentive payments must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received.

(a) **Examination of records.** Such records must be open for examination at any time upon notice by the light and power business that made the payment or by the department of revenue.

(b) **Overpayment.** If upon examination of any records or from other information obtained by the light and power business or department of revenue it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the light and power business may assess against the person the amount found to have been paid in excess of the correct amount of the incentive payment. Interest will be added to that amount in the manner that the department of revenue assesses interest upon delinquent tax under RCW 82.32.050.

(c) **Underpayment.** If it appears that the amount of incentive paid is less than the correct amount of incentive payable, the light and power business may authorize additional payment.

(14) **How is an incentive payment computed?** The computation for the incentive payment involves a base rate that is multiplied by an economic development factor determined by the amount of the system's manufacture in Washington state to determine the incentive payment rate. The incentive payment rate is then multiplied by the system's gross kilowatt-hours generated to determine the incentive payment.

(a) **Determining the base rate.** The first step in computing the incentive payment is to determine the correct base rate to apply, specifically:

✐ Fifteen cents per economic development kilowatt-hour; or

✐ Thirty cents per economic development kilowatt-hour for community solar projects.

If requests for incentive payments exceed the amount of funds available for credit to the participating light and power business, the incentive payments must be reduced proportionately.

(b) **Economic development factors.** For the purposes of this computation, the base rate paid for the investment cost recovery incentive may be multiplied by the following economic development factors:

(i) For customer-generated electricity produced using solar

modules manufactured in Washington state, two and four-tenths;

(ii) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(iii) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and

(iv) For all other customer-generated electricity produced by wind, eight-tenths.

(c) **What if a solar system has both a module and inverter manufactured in Washington state or a wind generator has both blades and inverter manufactured in Washington state?** In these two situations the above-described economic development factors are added together. For example, if your system is solar and has both solar modules and an inverter manufactured in Washington state, you would compute your incentive payment by using the factor three and six-tenths (3.6) (computed 2.4 plus 1.2). Therefore, you would multiply either the fifteen cent or thirty cent base rate by three and six-tenths (3.6) to get your incentive payment rate and then multiple this by the gross kilowatt-hours generated to get the incentive payment amount. Further, if your wind generator has both blades and an inverter manufactured in Washington state you would multiply the fifteen cents base rate by two and two-tenths (2.2) (computed 1.0 plus 1.2) to get your incentive payment rate and then multiply this by the kilowatt-hours generated to get the incentive payment amount.

(d) **Tables for use in computation.** The following tables describe the computation of the incentive payment using the appropriate base rate and then multiplying it by the applicable economic development factors to determine the incentive payment rate. The incentive payment rate is then multiplied by the gross kilowatt-hours generated. The actual incentive payment you receive must be computed using your renewable energy system's actual measured gross electric kilowatt-hours generated.

Annual Incentive Payment Calculation Table for Noncommunity Projects

Customer-generated power applicable factors	Base rate (0.15) multiplied by applicable factor equals incentive payment rate	Gross kilowatt-hours generated	Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated

Solar modules manufactured in Washington state **Factor: 2.4** (two and four-tenths)	$0.36		
Solar or wind generating equipment with an inverter manufactured in Washington state **Factor: 1.2** (one and two-tenths)	$0.18		
Anaerobic digester or other solar equipment or wind generator equipped with blades manufactured in Washington state **Factor: 1.0** (one)	$0.15		
All other electricity produced by wind **Factor: 0.8** (eight-tenths)	$0.12		
Both solar modules and inverters manufactured in Washington state. **Factor:** (2.4 + 1.2) =3.6	$0.54		
Wind generator equipment with both blades and inverter manufactured in Washington state. **Factor:** (1.0 + 1.2) =2.2	$0.33		

Annual Incentive Payment Calculation Table for Community Solar Projects

Customer-generated power applicable factors	Base rate (0.30) multiplied by applicable factor equals incentive payment rate	Gross kilowatt-hours generated	Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated
Solar modules manufactured in Washington state **Factor: 2.4** (two and four-tenths)	$0.72		
Solar equipment with an inverter manufactured in Washington state **Factor: 1.2** (one and two-tenths)	$0.36		
Other solar equipment **Factor: 1.0** (one)	$0.30		
Both solar modules and inverters manufactured in Washington state. **Factor:** (2.4 + 1.2) =3.6	$1.08		

(e) **Examples to illustrate how incentive payments are calculated.** Assume for the following ten examples that the renewable energy system involved generates 2,500 kilowatt-hours.

(i) If a noncommunity solar system has a module manufactured in Washington state and an inverter manufactured out-of-state the computation would be as follows: (0.15 x 2.4) x 2,500 = $900.00.

(ii) If a noncommunity solar system has an out-of-state module and inverter manufactured in Washington state the computation would be as follows: (0.15 x 1.2) x 2,500 = $450.00.

(iii) If a noncommunity solar system has both modules and an inverter manufactured in Washington state the computation would be as follows: (0.15 x (2.4 + 1.2)) x 2,500 = $1,350.00.

(iv) If wind generator equipment has out-of-state blades and an inverter manufactured in Washington state the computation would be as follows: (0.15 x 1.2) x 2,500 = $450.00.

(v) If wind generator equipment has blades manufactured in Washington state and an out-of-state inverter the computation would be as follows: (0.15 x 1.0) x 2,500 = $375.00.

(vi) If wind generator equipment has both blades and an inverter manufactured in Washington state the computation would be as follows: (0.15 x (1.0 + 1.2)) x 2,500 = $825.00.

(vii) If wind generator equipment has both out-of-state blades and an out-of-state inverter the computation would be as follows: (0.15 x 0.8) x 2,500 = $300.00.

(viii) If a community solar system has a module manufactured in Washington state and an out-of-state inverter the computation would be as follows: (0.30 x 2.4) x 2,500 = $1,800.00.

(ix) If a community solar system has an out-of-state module and inverter manufactured in Washington state the computation would be as follows: (0.30 x 1.2) x 2,500 = $900.00.

(x) If a community solar system has both modules and an inverter manufactured in Washington state the computation would be as follows: (0.30 x (2.4 + 1.2)) x 2,500 = $2,700.00.

(15) **What constitutes manufactured in Washington?** The statute authorizing this incentive payment program defines a "solar module" to mean the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output. Thus, for a module to qualify as manufactured in Washington state, the manufactured module must meet this definition. However, when determining whether an inverter or blades are manufactured in Washington the department of revenue will apply the definition of manufacturing in WAC 458-20-136. Of particular interest is WAC 458-20-136(7), which defines when assembly constitutes manufacturing. The department of revenue, in consultation with

the climate and rural energy development center at Washington State University's energy extension, will apply this rule on manufacturing when analyzing a request for certification.

(16) **How can an applicant determine the system's level of manufacture in Washington state?** For systems installed after the date this section is adopted, the manufacturer must supply the department of revenue with a statement delineating the system's level of manufacture in Washington state, signed under penalty of perjury. The department of revenue will issue a binding letter ruling (approval of manufacturer's certification request) to the manufacturer stating its determination.

(a) **Manufacturer's statement.** This manufacturer's statement must be specific as to what processes were carried out in Washington state to qualify the system for one or more of the multiplying economic development factors discussed in subsection (13) of this section. The manufacturer can request a binding letter ruling from the department of revenue at this web address:
http://dor.wa.gov/content/contactus/con_TaxRulings.aspx.

(b) **Penalty of perjury.** The manufacturer's statement must be under penalty of perjury and specifically state that the manufacturer understands that the department of revenue will use the statement in deciding whether customer incentive payments and corresponding tax credits are allowed under the renewable energy system cost recovery incentive payment program.

(c) **Document retention.** The applicant must retain this documentation for five years after the receipt of applicant's last incentive payment from the light and power business.

(d) **Certificate of manufacture in Washington state.** If the department of revenue has issued a binding letter ruling stating a module, inverter, or blade((~~s~~)) qualifies as manufactured in Washington state, the manufacturer may apply to the climate and rural energy development center at Washington State University energy program for a certificate stating the same.

(i) The department of revenue may revoke the approval of certification that a part or component is "made in Washington state" when it finds that a module, inverter, or blade does not qualify as manufactured in Washington state. The department of revenue will notify the manufacturer of the reason why and advise the manufacturer how to appeal the decision if the manufacturer disagrees with the reason.

(ii) Any appeal must be served on the department of revenue within thirty days of the notice or the decision will be final. The procedures for serving the department of revenue will be explained in their notice of intention to revoke approval of certification.

(17) **What about guidelines and standards for manufactured in Washington?** The climate and rural energy development center at the Washington State University energy program may establish

guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

(18) **Do condominiums or community solar projects need more than one meter?** No, the requirement of measuring the kilowatt hours of customer-generated electricity for computing the incentive payments only requires one meter for the renewable energy system, not one meter for each owner, in the case of a condominium, or each applicant, in the case of a community solar project. Thus for example, in the case of a renewable energy system on a condominium with multiple owners, while such a system would not qualify as a community solar project, only one meter is needed to measure the system's gross generation and then each owner's share can be calculated by using each owner's percentage of ownership in the condominium building on which the system is located. With regard to a community solar project, only one meter is needed to measure the system's gross generation and each applicant's share in the project can be calculated by each applicant's interest in the project.

(19) **Is there an annual limit on an incentive payment to one payee?** There is an annual limit on an incentive payment.

(a) **Applicant limit.** No individual, household, business, or local governmental entity is eligible for incentive payments of more than five thousand dollars per year.

(b) **Community solar projects.**

✐ Each owner or member of a company in a community solar project located on a cooperating local government's property is eligible for an incentive payment, not to exceed five thousand dollars per year, based on their ownership share.

✐ Each ratepayer in a utility-owned community solar project is eligible for an incentive payment, not to exceed five thousand dollars per year, in proportion to their contribution resulting in their share of the value of electricity generated.

(20) **Are the renewable energy system's environmental attributes transferred?** Except for utility-owned community solar systems, the environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light and power business upon receipt of the incentive payment. In the case of utility-owned community solar system, the utility involved owns the environmental attributes of the renewable energy system.

(21) **Is the light and power business allowed a tax credit for the amount of incentive payments made during the year?** A light and power business will be allowed a credit against public utility taxes in an amount equal to incentive payments made in any fiscal year under RCW 82.16.120. The following restrictions apply:

✐ The credit must be taken in a form and manner as required

by the department of revenue.

✐ The credit for the fiscal year may not exceed one-half percent of the light and power business' taxable power sales due under RCW 82.16.020 (1)(b) or one hundred thousand dollars, whichever is greater.

✐ Incentive payments to applicants in a utility-owned community solar project as defined in RCW 82.16.110 (1)(a)(ii) may only account for up to twenty-five percent of the total allowable credit. This means that the amount of the light and power business's credit on its public utility tax made on production from all utility-owned community solar projects in total may not exceed twenty-five percent of the fiscal year limitation of one-half percent of the light and power business's taxable power sales due under RCW 82.16.020 (1)(b) or one hundred thousand dollars, whichever is greater. Thus, for example, if Light and Power Business' taxable power sales are six million dollars, the maximum available credit is one hundred thousand dollars, which is greater than one-half percent of the six million dollar taxable power sales. Of that one hundred thousand dollars, the maximum amount of incentive payments to applicants in a utility-owned solar project is twenty-five thousand dollars.

✐ Incentive payments to participants in a company-owned community solar project as defined in RCW 82.16.110 (1)(a)(ii) may only account for up to five percent of the total allowable credit. This means that the amount of the light and power business's credit on its public utility tax made on production from all company-owned community solar projects in total may not exceed five percent of the fiscal year limitation of one-half percent of the light and power business's taxable power sales due under RCW 82.16.020 (1)(b) or one hundred thousand dollars, whichever is greater. Thus, for example, if Light and Power Business has thirty million dollars in taxable power sales, the maximum total tax credit available to the light and power business is one hundred fifty thousand dollars. Of this one hundred fifty thousand dollars, the maximum tax credit that the light and power business can claim relative to incentive payments to participants in a company-owned community solar project is seven thousand five hundred dollars. Alternatively, the maximum tax credit that light and power business can claim relative to incentive payments to applicants in a utility-owned solar project is thirty-seven thousand five hundred dollars.

Computation examples. The following table provides:

Taxable Power Sales by the light and power business	Maximum tax credit (greater of .5% of total taxable power sales or $100,000)	Maximum amount of tax credit available for incentive payments in a utility-owned community solar project	Maximum amount of tax credit available for incentive payments in a company-owned community solar project

$5,000,000	$100,000	$25,000	$5,000
$50,000,000	$250,000	$62,500	$12,500
$500,000,000	$2,500,000	$625,000	$125,000

✐ The credit may not exceed the tax that would otherwise be due under the public utility tax described in chapter 82.16 RCW. Refunds will not be granted in the place of credits.

✐ Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

(22) **When community solar projects are located on the same property, how do you determine whether their systems are one combined system or separate systems for determining the seventy-five kilowatts limitation?** In determining whether a community solar project's system is capable of generating more than seventy-five kilowatts of electricity when more than one community solar project is located on one property, the department of revenue will treat each project's system as separate from the other projects if there are:

✐ Separate meters;

✐ Separate inverters;

✐ Separate certification documents submitted to the department of revenue; and

✐ Separate owners in each community solar project, except for utility-owned systems that are voluntarily funded by the utility's ratepayers, which must have a majority of different ratepayers funding each system.

(23) **What if a light and power business claims an incentive payment in excess of the correct amount?** For any light and power business that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.120, the amount of tax against which credit was claimed for the excess payments will be immediately due and payable.

✐ The department of revenue will assess interest but not penalties on the taxes against which the credit was claimed.

✐ Interest will be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and will accrue until the taxes against which the credit was claimed are repaid.

(24) **Does the department of revenue consider the incentive payment taxable income?** No, the department of revenue does not consider the incentive payment an applicant receives to be taxable income.

(25) **What is the relationship between the department of revenue and the light and power business under this program?** The department of revenue is not regulating light and power businesses; it is only administering a tax credit program relating to the public utility tax. Therefore, for purposes of

the customer investment cost recovery incentive payment, the department of revenue will generally focus its audit of light and power businesses to include, but not be limited to, whether:

✐ Claimed credit amount equals the amount of the total incentive payments made during the fiscal year;

✐ Each individual incentive payment is properly calculated;

✐ Payment to each applicant or participant in a community solar project is proportionally reduced by an equal percentage if the limit of total allowed credits is reached;

✐ Applicant payments are based on measured gross production of the renewable energy systems; and

✐ The credit and incentive payment limitations have not been exceeded.