

THIS PRELIMINARY DISCUSSION DRAFT IS SUBMITTED FOR PUBLIC COMMENTS FOR INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC MEETING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PRELIMINARY DISCUSSION DRAFT TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

AMENDATORY SECTION (Amending WSR 06-16-097, filed 7/31/06, effective 8/31/06)

WAC 458-20-273 Renewable energy system cost recovery. The customer investment cost recovery incentive payment ("incentive payment") covers the purchase and use of renewable energy systems that produce electricity, such as: Solar energy systems, wind generators, and certain types of anaerobic digesters that process manure from cattle into biogas and dried manure using microorganisms in a closed oxygen-free container. Any individual, business, ((or)) 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 their property.

Your light and power business may make payment to you in the form of a credit offsetting the amount you owe on your power bill. The light and power business then gets a credit on its public utility tax for the amount it pays to customers as incentive payments.

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, the department will only audit light and power businesses to determine whether

~~their claimed credit amount equals the amount of the total of customers' incentive payments, whether they proportionally reduced the payments to each customer by an equal percentage if the limit of total allowed payments is reached, and whether the customer payments are based on measured production of the renewable energy systems.~~

~~— A light and power or gas distribution business will not qualify for an incentive payment; however, customer applicants in a qualifying community solar project involving a utility-owned solar energy system (discussed below in subsection (4) of this section) may receive payments. This program applies to measured customers' renewable energy system kilowatt-hours generated between July 1, 2005, and June 30, ~~((2014))~~ 2020. Credits may not be claimed after June 30, 2021.~~

~~— The purpose of the law creating this incentive payment program is to develop a market for renewable energy systems and to promote the manufacture of these systems in Washington state. To facilitate this purpose, ~~((these regulations are))~~ this section is written to facilitate prospective customers of renewable energy systems in the purchase and use of their systems, in conjunction with the incentive payment program.~~

~~— (1) **What is my first step as a possible customer of a renewable energy system?** First, contact the light and power business serving your property to confirm it is participating in this incentive payment program. Participation by light and power businesses is discretionary. Further, ask your light and power business for a copy of its procedural requirements and~~

~~application for participating in this incentive payment program. Only your light and power business has the authority to determine whether your incentive payment will be authorized or denied.~~

~~—— (2) **How do I certify my renewable energy system?** After contacting your light and power business, you must apply for a system certification to the department of revenue. The department of revenue will consult with the climate and rural energy development center at Washington State University's energy extension regarding your certification request. The certification form can be downloaded from the department of revenue's web site located at: dor.wa.gov, or may be obtained by calling the department at: 1-800-647-7706. The certification form requires certain verifiable information, including the following:~~

~~—— (a) Your name, address, and the address of the renewable energy system;~~

~~—— (b) Your department of revenue tax registration number, which will automatically be assigned to individuals when they submit their application and is a business' present UBI number (do not use your Social Security number or your federal employer's identification number);~~

~~—— (c) Your statement that your renewable energy system generating electricity is located on your own real property and that your property is also served by a participating light and power business;~~

~~—— (d) Your statement that the electricity you produce on your~~

~~own renewable energy system does not include electricity generated by a light and power business or a gas distribution business;~~

~~— (e) You must also state that your renewable energy electric generation system uses:~~

~~— Any solar inverter or modules manufactured in Washington state;~~

~~— A wind generator powered by blades manufactured in Washington state;~~

~~— A solar inverter manufactured in Washington state;~~

~~— A solar module manufactured in Washington state;~~

~~— Solar or wind equipment manufactured outside Washington state; or~~

~~— An anaerobic digester which processes manure from cattle into biogas and dried manure using microorganisms in a closed oxygen-free container.~~

~~— (f) You must also state that your own generated electricity can be transformed or transmitted for entry into or operation in parallel with electric transmission and distribution systems;~~

~~— (g) The date that your local jurisdiction issued its final electrical permit on your renewable energy system;~~

~~— (h) Your statement that you understand 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 your statements are true, complete, and correct to the best of your knowledge and belief under penalty of perjury; and~~

~~—— (i) If you have just purchased a property with a certified renewable energy system, you must reapply for certification as the new owner.~~

~~—— (3) **How long will it take before I receive notification of whether the department of revenue, in consultation with the climate and rural energy development center at Washington State University's energy extension, has approved the request for my system's certification?**~~ The department of revenue will notify you in writing within thirty days whether your request for system certification qualifies for the incentive payment program. Certification is merely an administrative and preliminary step, however, and ultimately it is the application procedure with the light and power business that serves your property which will determine whether your incentive payment is authorized or denied.

~~—— (4) **What is a community solar project and who may participate?**~~ A community solar project is either:

~~—— A solar energy system owned by local individuals, households, nonprofit organizations, or nonutility businesses that is placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business; or~~

~~—— A utility-owned solar energy system that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives the contributors a payment or credit on their utility bill for the value of the electricity produced by the project.~~

~~The term "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.~~

~~For purposes of a community solar project:~~

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

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

~~The term "local governmental entity" means any unit of local government of the state including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.~~

~~(5) After the department of revenue approves my system's certification, how do I apply for my incentive payment?~~ The next step is to apply for your incentive payment from the light and power business that serves the property you own, on which the renewable energy system is located. You must annually apply by August 1st of each calendar year. The department of revenue will create an application form for use by customers when applying for the incentive payment with their light and power business. However, individual light and power businesses may create their own forms or use the department's form in conjunction with their additional addendums. Further, 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 electricity transmission and distribution systems, then the determination by the light and power business shall be controlling and it has the authority to decertify your system.~~

~~——— ((There is a special transition rule for the first annual period from July 1, 2005, through June 30, 2006. For only the first year of the incentive program, recognizing that each utility will establish its own procedures and requirements for metering the output of customers' renewable energy systems, the department will accept kWh production readings taken from the inverter or from an owner installed production meter. The owner must report the reading of the meter from July 1, 2005 (or make a good-faith estimation if no reading exists) and the reading on June 30, 2006. Your June 30, 2006 reading may be relied upon by your light and power business as the first reading for the subsequent year July 1, 2006, through June 30, 2007. Further, if your light and power business decides to replace your production meter during the subsequent year July 1, 2006, through June 30, 2007, it may rely on the last reading on your prior meter before it's replaced. You must also report the array size in DC watts. This information will be used to~~

~~validate reported watt hours for the first year. Your participating light and power business is not required to perform independent reading or monitoring of your system's electric generation during the first year. Further, for the first year only, the light and power business serving your property shall have one hundred twenty days to notify you whether your incentive payment is authorized or denied and shall process your annual payment, if any, by January 31, 2007. You must file your request for system certification with the department of revenue no later than September 30, 2006. Each light and power business will decide its own deadline for submission of your annual application for incentive payment during this first year.))~~

~~Some of the verifiable information you must provide includes:~~

~~Your name, address, and the address of the renewable energy system;~~

~~Your department of revenue tax registration number, which will automatically be assigned to individuals when they submit their certification request described above and is a business' present UBI number (do not use your Social Security number or your federal employer's identification number);~~

~~The date of the letter from the department of revenue certifying that your renewable energy system is eligible for incentive payments;~~

~~Your statement that your system has been operable throughout the year and that your light and power business will~~

~~be allowed reasonable access to read your electric production meter for your system in order to calculate the kilowatt-hours generated by your renewable energy system during the prior fiscal year beginning July 1st and ending on June 30th; and~~

~~_____ Your statement that you understand 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 your statements are true, complete, and correct to the best of your knowledge and belief under penalty of perjury.~~

~~_____ The light and power business serving your property has the authority to request other information it believes is necessary in making its determinations under the incentive payment program.~~

~~_____ (((5))) **(6) What are the possible procedures you and your light and power business may follow in setting up your incentive payments?** Recommended procedures you should follow when requesting your light and power businesses to set up your incentive payments and the possible procedures your light and power business may follow are as follows:~~

~~_____ First, since participation under this incentive program is voluntary for light and power businesses, contact the light and power business serving your property and ask whether it is participating and what application procedures you must follow.~~

~~_____ If your light and power business is participating in the incentive program, then you submit an application to your light and power business.~~

~~_____ You submit to your light and power business proof that your renewable energy system is certified by the department of revenue for the incentive payment program.~~

~~_____ You submit to the light and power business a copy of the approved certification and letter from the department of revenue. You should submit this information to the light and power business before August 1st in order to receive payment for any production that occurred prior to July 1st.~~

~~_____ If your light and power business approves your application, then it will require a signed agreement that it will provide to you.~~

~~_____ You or your licensed electrical contractor or certified electrician obtain an electrical permit and install the system. (A licensed electrical contractor or certified electrician must install the system, unless you perform the work yourself on your home with the help of an uncompensated volunteer who assists you. See WAC 296-46B-925(13) for guidance on the proper installation of your system.)~~

~~_____ Once installation is complete your renewable energy system must pass a final electrical inspection from the local code official.~~

~~_____ Your local light and power business will send a utility serviceman to inspect your system ((and)).~~

~~_____ Your local light and power business may install an electric production meter if one meeting its qualifications is not already installed since a meter is required to properly measure production.~~

~~— Your production meter is read by the light and power business at least annually and it processes your annual incentive payment.~~

~~— Your light and power business notifies you within sixty days whether your incentive payment is authorized or denied.~~

~~— Your light and power business calculates annual production payments based on the meter reading or readings made prior to the accounting date of July 1st.~~

~~— Your incentive payment check (or credit to your account) is sent to you by your light and power business on or before December 15th.~~

~~— (((6))) (7) **What is the formal agreement between me and my light and power business?** The formal agreement between you and the light and power business serving your property governs the relationship between you and your light and power business. This document may:~~

~~— Contain the necessary safety requirements and interconnection standards;~~

~~— Allow the light and power business the contractual right to review your substantiation documents for four years, upon five working days' notice;~~

~~— Allow the light and power business the contractual right to assess against you, with interest, for any overpayment of incentive payments made to you;~~

~~— Delineate any extra metering costs for an electric production meter to be installed on your property;~~

~~— Contain a statement allowing the department of revenue to~~

~~send proof of your system's certification electronically to your light and power business, which will include your department of revenue taxpayer's identification number; and~~

~~_____ Contain other information required by the light and power business to effectuate and properly process your incentive payment.~~

~~_____ (((7))) (8) **How long will it take before I receive notification as to whether the light and power business that serves my property has approved my incentive payment?** The light and power business that serves your property has sixty days to notify you in writing as to whether your request for an incentive payment is authorized or denied.~~

~~_____ (((8))) (9) **How is my incentive payment calculated?** Your incentive payment is calculated using a formula. First the incentive payment may be paid at either fifteen cents per "economic development kilowatt-hour((.))" for a noncommunity project or thirty cents per "economic development kilowatt-hour" for a community solar project. An economic development kilowatt-hour is the actual kilowatt-hour measurement of your generated electricity multiplied by the appropriate economic development factor. The economic development factors, which you multiply to the base rate of fifteen cents per actual kilowatt hours or thirty cents per actual kilowatt hours for community solar projects that your renewable energy system produces, are:~~

~~_____ Two and four tenths (2.4) if your system generates electricity using only solar modules manufactured in Washington;~~

~~_____ One and two tenths (1.2) if your solar or wind system uses~~

~~an inverter manufactured in Washington;~~

~~One (1.0) if your wind system uses only blades manufactured in Washington, or if your system is an anaerobic digester, or if your solar system is other than described above;~~
and

~~Eight tenths (0.8) if your system is a wind generator with blades not manufactured in Washington.~~

~~The following table describes the application of the economic development factors. The actual incentive payment you receive must be computed using your renewable energy system's actual measured electric kilowatt hours generated.~~

Annual Investment Cost Recovery Incentive Payment Calculation Table for Noncommunity Projects

<u>Customer-generated power applicable rates</u>	<u>Base rate (0.15) multiplied by applicable factor equals incentive payment rate</u>	<u>Kilowatt-hours generated</u>	<u>Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated</u>
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		

Annual Investment Cost Recovery Incentive Payment Calculation Table for Community Solar Projects

<u>Customer-generated power applicable rates</u>	<u>Base rate (0.30) multiplied by applicable factor equals incentive payment rate</u>	<u>Kilowatt-hours generated</u>	<u>Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated</u>

<u>Solar modules manufactured in Washington state</u> Factor: 2.4 (two and four tenths)	<u>\$0.72</u>		
<u>Solar or wind generating equipment with an inverter manufactured in Washington state</u> Factor: 1.2 (one and two tenths)	<u>\$0.36</u>		
<u>Anaerobic digester or other solar equipment or wind generator equipped with blades manufactured in Washington state</u> Factor: 1.0 (one)	<u>\$0.30</u>		
<u>All other electricity produced by wind</u> Factor: 0.8 (eight tenths)	<u>\$0.24</u>		

~~((9)) (10) **Are the factors for systems cumulative?** The factors are cumulative. For example, if your system is solar and has both solar modules and an inverter manufactured in Washington state, you would compute your economic development hours by using the factor three and six tenths (3.6) (computed 2.4 plus 1.2). Therefore you would multiply the fifteen cent or thirty cent base rate per actual kilowatt hour generated by your system by three and six tenths (3.6) to get your incentive payment rate.~~

~~((10)) (11) **What is the definition of the phrase: Manufactured in Washington state?** The department of revenue defines 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 your request for certification.~~

~~Further, the climate and rural development center at Washington State University's energy extension may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.~~

~~For systems installed after the date ((these rules are)) this section is adopted, your manufacturer must supply you with a statement delineating your system's level of manufacture in the state of Washington. 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 factors discussed in subsection ((8)) (9) of this section. 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. You must retain this documentation for five years after the receipt of your last incentive payment from your light and power business.~~

~~(((11))) (12) **What are the limitations on the incentive payments?** No individual, business, ((or)) local governmental entity or customer applicant in a community solar project is eligible for incentive payments in excess of ((two)) five thousand dollars per year. The threshold for periods prior to July 1, 2009, was two thousand dollars per year. However, as an example, if on or after July 1, 2009, a customer installs a~~

~~system on his or her home and then further installs two other separate systems on two separate business properties with different UBI numbers, then the customer is allowed the full ((two)) five thousand dollar annual limit of the incentive payments for each property owned by an individual and each of the two separate businesses. In this example there are three qualifying systems on three separate properties owned by three separate entities allowing the full ((two)) five thousand dollar limit on all three properties. If, however, the two business properties belong to only one business operating under one UBI number, then there are only allowed incentive payments up to the ((two)) five thousand dollar annual limit for his or her home and for the one business. This is true even if the business operates from more than one location with qualifying renewable energy systems at each location because the ((two)) five thousand dollar annual limit is allowed once to each individual and each business. Thus, in this case the individual and his or her one business are each only allowed one full ((two)) five thousand dollar annual limit on their qualifying properties. The annual period for purposes of the limitation is from July 1st to June 30th of each year.~~

~~Further, in an example of a community solar project with thirty customer-applicants, installed after July 1, 2009, each of the thirty customer-applicants is allowed a separate five thousand dollar limit on a qualifying project. Thus, the thirty customer-applicants in one community solar project may receive combined incentive payments of one hundred fifty thousand~~

~~dollars in one annual period, provided the participating light and power business' annual limits are sufficient, as described below.~~

~~The issuing of incentive payments by participating light and power businesses is limited by the greater of:~~

~~(a) ((Twenty-five one hundredths of)) One percent ((0.25)) 1.0% of the light and power business' prior year's taxable sales under Washington state's law (twenty-five one hundredths of one percent (0.25%) for periods prior to July 1, 2009); or~~

~~(b) One hundred thousand dollars, or for periods prior to July 1, 2009, twenty-five thousand dollars (\$25,000.00).~~

~~There is a special limitation for customer applicant participants in a utility-owned community solar project that limits their incentive payments to twenty-five percent of the total allowable credit described above.~~

~~Based on this public utility tax credit limitation, your and all other qualifying customers' incentive payments may be proportionally reduced.~~

~~The light and power business must measure the actual kilowatt-hours of your renewable energy system's generated electricity using an electric production meter. If your renewable energy system is a hybrid system of combined solar and wind, it will be classified as a solely wind system for purposes of the incentive payment program, unless the solar and wind productions are separately metered. Systems that are interconnected to gas, diesel, ethanol, natural gas or other similarly fueled generators do not qualify for the incentive~~

~~payment program. If a customer has an older system not manufactured in Washington and a separate new system manufactured in Washington on the same property, both systems will be classified as not made in Washington, unless the old and new systems' production are separately metered.~~

~~((12)) (13) Does the light and power business serving my property have to participate in the incentive payment program?~~

~~No, each light and power business will have the discretion to decide whether to be part of the incentive payment program.~~

~~((13)) (14) If I install a qualified renewable energy system on the apartment building where I am a tenant, can I submit for incentive payments? That depends on whether you are an individual, business, local government or community solar project.~~

~~For an individual, business or local government, the answer is no, you must own the property which is served by your renewable energy system. Even if your renewable energy system meets all requirements, except that it is installed on a building where you have a leasehold interest, it will not qualify for incentive payments. However, a community solar project may be located on a leasehold interest and qualify for incentive payments to its customer applicants.~~

~~((14)) (15) May an individual, business, or local governmental entity involved in the light and power business or in the gas distribution business apply for incentive payments?~~

~~No, the law excludes both light and power businesses and gas distribution businesses from participating in the incentive payment program, except where allowed in community solar~~

~~projects involving a utility-owned solar energy system.~~

~~(((15))) (16) Must I retain all my records, which substantiate my claim of eligibility for incentive payments?~~

~~Yes, you and all other customers applying for and receiving incentive payments must retain the records substantiating your right to receive the incentive payments and the correct amount for five years. The light and power business that made the payment or the department of revenue may examine the records upon five working days' notice. If the records show that you received an overpayment, the light and power business may assess you for the amount of the overpayment. Conversely, if an underpayment has occurred, the light and power business may authorize a further payment to cover the prior deficiency. Interest will be added to overpayments of incentive payments to you and other customers. The amount of interest you would owe on an overpayment is calculated in the same manner that the department of revenue assesses interest upon delinquent taxes under RCW 82.32.050.~~

~~(((16))) (17) Is there also a public utility tax credit associated with the incentive payments?~~

~~Yes, the tax credit is for the benefit of the participating light and power business. Your light and power company is allowed a credit on its Washington state public utility taxes equal to the actual amount paid out as incentive payments to its customers under this law. The maximum amount of this credit is limited (see subsection (((11))) (12) of this section).~~

~~(((17))) (18) Does the department of revenue consider the~~

~~incentive payment I receive taxable income?~~ No, the department of revenue characterized the payment you receive, paid by your light and power company, as a subsidy or rebate for the purchase or installation of an energy conservation measure. Therefore, the department does not characterize the incentive payment as income under Washington state's law.

~~(((18))) (19) How is my incentive payment from the light and power business handled if the incentive is paid in the form of a credit against my power bill?~~ If your light and power business chooses this method, your incentive payment will be shown on your customer billing statement as a credit offsetting the amount you owe to the light and power business. The incentive payment is not a discount. Thus, the light and power business will only be allowed to claim a public utility tax credit for the incentive payments actually made, and is not also allowed a discount deduction.

~~(((19))) (20) Is the federal government eligible to participate in the incentive payment program?~~ No, only individuals, businesses, and local governments whose properties and renewable energy systems are located in the state of Washington are eligible to participate in the incentive payment program.

~~(((20))) (21) Are individuals, businesses ((and)), local governments, and community solar projects that are not interconnected to the electric transmission and distribution system and who are not customers of a light and power business eligible for the incentive payment program?~~ No, only qualifying

~~renewable energy systems located on interconnected properties belonging to customers of a light and power business are eligible for participation in the incentive payment program. The term property means within the established boundaries of the lot served by the light and power business. However, the renewable energy system generating the electricity does not itself have to be interconnected to the electric transmission and distribution system as long as it is located on a property served by a light and power business.~~

~~For example, if a customer of a light and power business living in a home connected to the power grid builds a studio addition served by a renewable energy system that is not connected to the power grid, that customer is eligible for the incentive payment program.~~

~~Another example, if a customer of a light and power business owning a manufacturing facility connected to the power grid builds an unattached vehicle garage on the same lot that the factory is located and the garage is not interconnected, the renewable energy system supplying electricity to this garage is eligible for the incentive payment program.~~

~~If the facts are the same as above, but the manufacturing facility's owner buys a new lot across the street and the only improvement on this separate lot is the unattached vehicle garage that is not connected to the power grid, then the renewable energy system attached to the garage would not be eligible for the incentive payment program.~~

~~((21)) (22) **Does the law require that light and power**~~

~~businesses serving eighty percent of the total customer load in the state adopt uniform standards for interconnection to the electric distribution system and if so, how does that affect me as a customer?~~ Yes, the law does require that light and power businesses serving eighty percent of the total customer load in the state adopt uniform standards for interconnection to the electric distribution system. However, the renewable energy tax credit implementation advisory committee, consisting of the department of revenue, department of community, trade, and economic development, utilities and transportation commission, and the climate and rural energy development center at Washington State University's energy extension, has made a determination that for purposes of this incentive payment program, that the customer load requirement has been met. This decision, once made, is binding for the incentive payment program until its expiration, including any possible extensions. Thus, this requirement has no effect on any customer, when deciding whether to participate in this incentive payment program.

(1) Introduction. The customer investment cost recovery incentive payment ("incentive payment") covers the purchase and use of renewable energy systems that produce electricity, such as: Solar energy systems, wind generators, and certain types of anaerobic digesters that process manure from cattle into biogas and dried manure using microorganisms in a closed oxygen-free container.

(a) Any individual, business, or 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 their property.

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

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

(a) "Community solar project means:

(i) A solar energy system owned by local individuals, households, nonprofit organizations, or nonutility businesses that is placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business; or

(ii) A utility-owned solar energy system 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 the value of the electricity produced by the project.

(b) For purposes of "community solar project" as defined in (a) of this subsection:

(i) "Nonprofit organization" means an organization exempt from taxation under Title 26 U.S.C. Sec. 501 (c) (3) of the federal internal revenue code of 1986, as amended, as of January 1, 2009; and

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

(c) "Customer-generated electricity" means the alternating current electricity that is generated from a renewable energy system located on an individual's, businesses', or local government's real property that is also provided electricity generated by a light and power business. Except for community solar projects, a system located on a leasehold interest does not qualify under this definition. "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.

(d) "Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated electricity multiplied by the appropriate economic development factor.

(e) "Local governmental entity" means any unit of local government of the state including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.

(f) "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.

(g) "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.

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

(i) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

(j) "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.

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

system.

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

(3) Any individual, business, or local governmental entity, not in the light and power business or in the gas distribution business, or a participant in a community solar project may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system. No incentive may be paid for kilowatt-hours generated before July 1, 2005, or after June 30, 2020.

(4)(a) Before submitting for the first time the application for the incentive allowed under this section, the applicant must submit to the department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

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

(ii) The applicant's tax registration number;

(iii) 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 solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state; or

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

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems;

(v) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction;

(vi) The date that your local jurisdiction issued its final

electrical permit on your renewable energy system;

(vii) 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; and

(viii) If you have just purchased a property with a certified renewable energy system, you must reapply for certification as the new owner.

(b) Within thirty days of receipt of the certification the department of revenue must notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(5)(a) By August 1st of each year application for the incentive shall be made to the light and power business serving the situs of the system by certification in a form and manner prescribed by the department that includes, but is not limited

to, the following information:

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

(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 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) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system shall notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to

determine eligibility for the incentive payment. Incentive certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(c)(i) Persons receiving incentive payments shall 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. Such records shall be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and shall add thereto interest on the amount. Interest shall be assessed in the manner that the department assesses interest upon delinquent tax under RCW 82.32.050.

(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable the business may authorize additional payment.

(6) Except for the community solar projects, the investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power

business. For community solar projects, the investment cost recovery incentive may be paid thirty cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state, two and four-tenths;

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

(c) 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

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

The following table describes the application of the economic development factors. The actual incentive payment you receive must be computed using your renewable energy system's actual measured electric kilowatt-hours generated.

Annual Investment Cost Recovery Incentive Payment Calculation

Table for Noncommunity Projects

<u>Customer-generated power applicable rates</u>	<u>Base rate (0.15) multiplied by applicable factor equals incentive payment rate</u>	<u>Kilowatt-hours generated</u>	<u>Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated</u>
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		

Annual Investment Cost Recovery Incentive Payment Calculation

Table for Community Solar Projects

<u>Customer-generated power applicable rates</u>	<u>Base rate (0.30) multiplied by applicable factor equals incentive payment rate</u>	<u>Kilowatt-hours generated</u>	<u>Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated</u>
<u>Solar modules manufactured in Washington state</u> Factor: 2.4 (two and four-tenths)	\$0.72		

<u>Solar equipment with an inverter manufactured in Washington state</u> Factor: 1.2 (one and two-tenths)	\$0.36		
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(7) The above-described factors are cumulative. For example, if your system is solar and has both solar modules and an inverter manufactured in Washington state, you would compute your economic development hours by using the factor three and six tenths (3.6) (computed 2.4 plus 1.2). Therefore you would multiply the fifteen cent or thirty cent base rate per actual kilowatt-hour generated by your system by three and six tenths (3.6) to get your incentive payment rate.

(8) When determining what constitutes manufacturing in Washington state, the department of revenue defines 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. For systems installed after the date this section is adopted, the manufacturer must supply the applicant with a statement delineating the system's level of manufacture in the state of Washington. 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 factors discussed in subsection (6) of this section. 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. The applicant must retain this documentation for five years after the receipt of your last incentive payment from your light and power business.

(9) No individual, household, business, or local governmental entity is eligible for incentives for more than five thousand dollars per year. Each applicant in a community solar project is eligible for up to five thousand dollars per year.

(10) If requests for the investment cost recovery incentive exceed the amount of funds available for credit to the participating light and power business, the incentive payments shall be reduced proportionately.

(11) Only qualifying renewable energy systems located on interconnected properties belonging to customers of a light and power business are eligible for participation in the incentive payment program. The term property means within the established boundaries of the lot served by the light and power business. However, the renewable energy system generating the electricity does not itself have to be interconnected to the electric

transmission and distribution system as long as it is located on a property served by a light and power business.

(a) For example, if a customer of a light and power business living in a home connected to the power grid builds a studio addition served by a renewable energy system that is not connected to the power grid, that customer is eligible for the incentive payment program.

(b) Another example, if a customer of a light and power business owning a manufacturing facility connected to the power grid builds an unattached vehicle garage on the same lot that the factory is located and the garage is not interconnected, the renewable energy system supplying electricity to this garage is eligible for the incentive payment program.

(c) If the facts are the same as above, but the manufacturing facility's owner buys a new lot across the street and the only improvement on this separate lot is the unattached vehicle garage that is not connected to the power grid, then the renewable energy system attached to the garage would not be eligible for the incentive payment program.

(12) The climate and rural energy development center at 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.

(13) 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 investment cost recovery incentive.

(14) A light and power business shall be allowed a credit against taxes due under this chapter in an amount equal to investment cost recovery incentive payments made in any fiscal year under RCW 82.16.120. The credit shall be taken in a form and manner as required by the department. The credit under this section for the fiscal year may not exceed one percent of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or one hundred thousand dollars, whichever is greater. Incentive payments to participants 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. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall 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.

(15) For any 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 shall be immediately due and payable. The department shall assess interest but not penalties on the taxes against which the credit was claimed. Interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and shall accrue until the taxes against which the credit was claimed are repaid.

(16) The right to earn tax credits under this section expires June 30, 2020. Credits may not be claimed after June 30, 2021.

[Statutory Authority: RCW 82.32.300 and 82.01.060. 06-16-097, § 458-20-273, filed 7/31/06, effective 8/31/06.]