

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE 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 that purchases and uses 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. This program applies to measured customers' renewable energy system kilowatt-hours generated between July 1, 2005, and June 30, 2014.~~

~~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 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](http://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) 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) 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 may install an electric production meter if one meeting its qualifications is not already installed.~~

~~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) **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) **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) **How is my incentive payment calculated?** Your incentive payment is calculated using a formula. First the incentive payment may be paid at fifteen cents per "economic development kilowatt-hour." 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 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**

<del>Customer-generated power Applicable rates</del>	<del>Base rate (0.15) multiplied by applicable factor equals incentive payment rate</del>	<del>Kilowatt-hours generated</del>	<del>Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated</del>
<del>Solar modules manufactured in Washington state Factor: 2.4 (two and four tenths)</del>	<del>\$0.36</del>		
<del>Solar or wind generating equipment with an inverter manufactured in Washington state Factor: 1.2 (one and two tenths)</del>	<del>\$0.18</del>		
<del>Anaerobic digester or other solar equipment or wind generator equipped with blades manufactured in Washington state Factor: 1.0 (one)</del>	<del>\$0.15</del>		
<del>All other electricity produced by wind Factor: 0.8 (eight tenths)</del>	<del>\$0.12</del>		

~~(9) 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 base rate per actual kilowatt-hour generated by your system by three and six tenths (3.6) to get your incentive payment rate.~~

~~(10) 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 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) 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) **What are the limitations on the incentive payments?** No individual, business, or local governmental entity is eligible for incentive payments in excess of two thousand dollars per year. However, as an example, if 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 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 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 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 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 thousand dollar annual limit on their qualifying properties.~~

~~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%) of the light and power business' prior year's taxable sales under Washington state's law; or~~

~~(b) Twenty-five thousand dollars (\$25,000.00).~~

~~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) 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) If I install a qualified renewable energy system on the apartment building where I am a tenant, can I submit for incentive payments? 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.~~

~~(14) 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.~~

~~(15) 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) 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) of this section).

~~(17) 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) 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) 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) Are individuals, businesses and local governments 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) 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. 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) that covers the purchase and use of renewable energy systems located in Washington state that produce electricity, such as: 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.

(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 their property.

(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 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, 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) "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.

(ii) "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.

(iii) "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.

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

(v) "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 community solar projects, a system located on a leasehold interest does not qualify under this definition. For a community solar project, the utility or 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 utility or cooperating local governmental entity will not qualify. However, for 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, and school districts;
- Public stadium authorities;
- Public universities;
- Public colleges;
- Public community colleges; and
- Public school districts.

Local governmental entity does not include a state governmental entity. Thus, for example, a state park or a state-owned building would not qualify as property owned by a local governmental entity.

(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; 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?** 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.

(a) **Property served.** 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.

(b) **Examples.** The following examples identify facts and then state a conclusion. These examples are only a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(i) **Example 1.** Jane, a customer of Light and Power Business lives, in a home connected to the power grid. Jane builds a studio addition served by a renewable energy system that is not connected to the power grid. Jane is eligible for the incentive payment program because she is a customer of the light and power business within the boundaries of a property served by the same light and power business.

(ii) **Example 2.** Steve, a customer of Light and Power Business, owns a manufacturing facility connected to the power grid. Steve builds an unattached vehicle garage on the same lot that the facility is located. The garage is served by a renewable energy system that is not interconnected. Steve is eligible for the incentive payment program.

(iii) **Example 3.** Assume the facts are the same as in Example 2 above, but Steve 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. In this case, Steve is not eligible for the incentive payment program because the renewable energy system is not within the boundaries of a property served by his 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.

(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 entitled:

Community Solar Project Renewable Energy System Cost Recovery Certification, which is located at <http://dor.wa.gov/docs/forms/excstx/dfrrlfrm/commsolproj.pdf>;  
and

Renewable Energy System Cost Recovery Certification, which is located at <http://dor.wa.gov/docs/forms/misc/renewenersystcertinvstrecincprgm.pdf>.

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

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

(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.

(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 and those of all current participants in a community solar project;

(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 solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state;

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

(F) An anaerobic digester which processes manure from livestock into biogas and dried manure using microorganisms in a closed oxygen-free container.

(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 will 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).

(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 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:

Community Solar Project Renewable Energy System Cost

Recovery Annual Incentive Payment Application located at [dor.wa.gov/docs/forms/excstx/dffrlfrm/appincentpaycommsolproj.pdf](http://dor.wa.gov/docs/forms/excstx/dffrlfrm/appincentpaycommsolproj.pdf); and

☐ Renewable Energy System Cost Recovery Annual Incentive Payment Application located at <http://dor.wa.gov/docs/forms/misc/renewenersyscustcstrecincpmtapl.pdf>.

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.

(ii) The applicant's tax registration number and those of all current participants in a community solar project;

(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) **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 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 (or crediting to the applicant's account) on or before December

15th.

**(10) How may the procedures differ with my light and power business when dealing with a utility-owned solar energy system?**

A utility-owned solar energy system 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 applicant realize that as a customer-ratepayer contributing to this program, applicant is in effect investing in the utility to receive a stated "value." This value is defined in the agreement between the applicant and the utility and this agreement is a contract. Applicants 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 applicant will receive in consideration of the financial support given to the utility.

**(12) 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.

(13) **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. The base rate is then multiplied by the economic development factor to determine the incentive payment rate. The incentive payment rate is then multiplied by the system's 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) **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 kilowatt-hours generated. The actual incentive payment you receive must be computed using your renewable energy system's actual measured electric kilowatt-hours generated.

**Annual Incentive Payment Calculation Table for Noncommunity Projects**

<b><u>Customer-generated power applicable factors</u></b>	<b><u>Base rate (0.15) multiplied by applicable factor equals incentive payment rate</u></b>	<b><u>Kilowatt-hours generated</u></b>	<b><u>Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated</u></b>
Solar modules manufactured in Washington state <b>Factor: 2.4</b> (two and four-tenths)	\$0.36		
Solar or wind generating equipment with an inverter manufactured in Washington state <b>Factor: 1.2</b> (one and two-tenths)	\$0.18		
Anaerobic digester or other solar equipment or wind generator equipped with blades manufactured in Washington state <b>Factor: 1.0</b> (one)	\$0.15		
All other electricity produced by wind <b>Factor: 0.8</b> (eight-tenths)	\$0.12		

**Annual Incentive Payment Calculation Table for Community Solar Projects**

<b><u>Customer-generated power applicable factors</u></b>	<b><u>Base rate (0.30) multiplied by applicable factor equals incentive payment rate</u></b>	<b><u>Kilowatt-hours generated</u></b>	<b><u>Incentive payment amount equals incentive payment rate multiplied by kilowatt-hours generated</u></b>
Solar modules manufactured in Washington state <b>Factor: 2.4</b> (two and four-tenths)	\$0.72		
Solar equipment with an inverter manufactured in Washington state <b>Factor: 1.2</b> (one and two-tenths)	\$0.36		
Other solar equipment <b>Factor: 1.0</b> (one)	\$0.30		

**(14) What if a system has both a module and inverter manufactured in Washington?** The above-described economic development 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 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 kilowatt-hours generated to get the incentive payment amount.

(15) **What constitutes manufactured in Washington?** 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.

(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 applicant with a statement delineating the system's level of manufacture in Washington state.

(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.

(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.

(17) **What about guidelines and standards for manufactured in Washington?** 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.

(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 applicant. Thus for example, in the case of a renewable energy system on a condominium with multiple owners, only one meter is needed to measure the system's production and then each applicant's share can be calculated by using each applicant's percentage of ownership in the system.

(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?** 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.

**(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:

<u>Taxable Power Sales by the light and power business</u>	<u>Maximum tax credit (greater of .5% of total taxable power sales or \$100,000)</u>	<u>Maximum amount of tax credit available for incentive payments in a utility-owned community solar project</u>	<u>Maximum amount of tax credit available for incentive payments in a company-owned community solar project</u>
<u>\$5,000,000</u>	<u>\$100,000</u>	<u>\$25,000</u>	<u>\$5,000</u>
<u>\$50,000,000</u>	<u>\$250,000</u>	<u>\$62,500</u>	<u>\$12,500</u>
<u>\$500,000,000</u>	<u>\$2,500,000</u>	<u>\$625,000</u>	<u>\$125,000</u>

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) 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.

**(23) 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.

**(24) 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:

□ The claimed credit amount equals the amount of the total of incentive payments;

□ Payments to each applicant or participant in a community solar project are proportionally reduced by an equal percentage if the limit of total allowed payments is reached;

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

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