#6
Res. 31352

Michael Little
SCL Initiative 937 Conservation Target RES
October 25, 2011
Version #3

RESOLUTION 31352

A RESOLUTION relating to the City Light Department; acknowledging and approving City Light's adoption of a biennial energy conservation target for 2012-2013 and a ten-year conservation potential associated with Initiative 937.

WHEREAS, Ballot Initiative 937, the Energy Independence Act ("I-937"), was passed by Washington state voters on November 7, 2006, which requires qualifying electric utilities to obtain new renewable resources and undertake cost-effective energy conservation; and

WHEREAS, I-937 was codified in Title 19 of the Revised Code of Washington ("RCW"), Chapter 285; and

WHEREAS, RCW 19.285.040 calls for each qualifying utility to pursue all available conservation that is cost-effective, reliable, and feasible; and

WHEREAS, RCW 19.285.040 states that "(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.
(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period; and

WHEREAS, WAC 194-37-070 requires a noticed public meeting, which provides an opportunity for public comment regarding City Light's assessment of its conservation potential; and

WHEREAS, WAC 194-37-070 requires utilities to use one of the following methods to document its biennial target and ten-year potential: (i) the Conservation Calculator Option; (ii) the Modified Conservation Calculator Option; or (iii) the Utility Analysis Option; and

WHEREAS, City Light undertook a Utility Analysis Option in the form of an energy conservation potential study to establish its biennial target and ten-year potential; and

WHEREAS, the Utility Analysis Option is consistent with methodologies used in The Sixth Northwest Electric Power and Conservation Plan produced by NWPCC;

WHEREAS, the Utility Analysis Option identifies a biennial energy conservation target of 24.01 aMW for City Light in 2012-2013; and

WHEREAS, the Utility Analysis Option identifies a ten-year conservation potential of 120.02 aMW; and

WHEREAS, City Light anticipates meeting or exceeding the energy conservation target for 2012 and 2013; and

WHEREAS, City Light anticipates updating its energy conservation potential assessment by 2013;

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE, THE MAYOR CONCURRING, THAT:

Section 1. Pursuant to RCW 19.285 *et. seq.* and after public hearing, the City Council acknowledges and approves City Light's adoption of a biennial energy conservation target of 24.01 aMW for 2012-2013 and a ten-year conservation potential of 120.02 aMW. City Light's biennial energy conservation target and ten-year conservation potential are based upon a conservation potential assessment conducted using methodologies consistent with those used by the Pacific Northwest Electric Power and Conservation Planning Council ("NWPCC").

Section 2. The City Council further acknowledges that City Light anticipates meeting the biennial energy conservation target with its adopted 2012 budget.

Adopted by the City Council the ____ day of _____, 2011, and signed by me in open session in authentication of its adoption this_____ day of _____, 2011.

_____

President _____of the City Council

THE MAYOR CONCURRING:

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2011.

_____

Monica Martinez Simmons, City Clerk

(Seal)

Attachment 1: Chapter 194-37 WAC

Attachment 2: Chapter 19.285 RCW

Michael Little
SCL Initiative 937 Conservation Target ATT 1
October 17, 2011
Version #1

Chapter 194-37 WAC **Last Update: 3/18/08**

Energy independence

WAC Sections

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October 17, 2011
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194-37-010 Purpose and scope.

The purpose of this chapter is to implement the requirements of the Energy Independence Act, chapter 19.285 RCW.

[Statutory Authority: RCW 19.285.080(2). 08-07-079, § 194-37-010, filed 3/18/08, effective 4/18/08.]

194-37-020 Applicability.

The provisions of this chapter apply to consumer-owned electric utilities that provide electrical service to more than twenty-five thousand retail customers in the state of Washington.

194-37-030 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

194-37-040 Definitions.

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

(1) "Auditor" means:

(a) The Washington state auditor's office or its designee for consumer-owned utilities under its jurisdiction, such as a public utility district formed under Title 54 RCW, a municipal electric utility formed under Title 35 RCW, or any other public entity authorized by law to sell electricity for retail use;

(b) An independent auditor selected by a utility that is not under the jurisdiction of the state auditor, such as a cooperative formed under chapter 23.86 RCW or an electric mutual corporation or association formed under chapter 24.06 RCW.

(2) "Annual revenue requirement" means that portion of a utility's annual budget approved by its governing body for the target year that is intended to be recovered through retail electricity sales in the state of Washington in the target year, or as otherwise documented by the utility pursuant to WAC 194-37-150.

(3) "Average water generation" means the average megawatt-hours of generation from a hydroelectric project over a period of ten consecutive years or more, taking into account differences in water flows from year to year.

(4) "Biennial target" means a utility's biennial conservation target.

(5) "BPA" means the Bonneville Power Administration.

(6) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(7) "Conservation calculator" means a spreadsheet or piece of software developed and maintained by the NWPCC to approximate a utility's ten-year potential. The conservation calculator will use methodologies consistent with the most recently published *Power Plan*. It is available at www.nwcouncil.org.

(8) "Cost-effective" means, as defined in RCW 80.52.030, that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the electric power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(c) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a project or resource over its effective life, including, if applicable, the costs of distribution to the consumer, and, among other factors, waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as are directly attributable to the project or resource.

(9) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(10) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(11) "Department" means the department of community, trade, and economic development.

(12) "Distributed generation" means an eligible renewable resource where the facility or any integrated cluster of generating units has a generating capacity of not more than five megawatts. If several five-megawatt or smaller projects are located in the same immediate area but are owned or controlled by different developers, each qualifies as a separate, independent distributed generation project. For the purposes of this rule, an eligible renewable resource or group of similar eligible renewable resources cannot be subdivided into amounts less than five megawatts solely to be considered distributed generation.

(13) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than fresh water that commences operation after March 31, 1999, where:

(i) The facility is located in the Pacific Northwest; or

(ii) The electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services (an eligible renewable resource within the Pacific Northwest may receive integration, shaping, storage or other services from sources outside the Pacific Northwest and remain eligible to count towards a utility's renewable resource target); or

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to a hydroelectric generation project owned by one or more qualifying utilities (see definition of qualifying utility in chapter 19.285 RCW) and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional electricity generated in either case is not a result of new water diversions or impoundments.

(14) "Fifth power plan" means *The Fifth Northwest Electric Power and Conservation Plan* produced by the NWPCC. The power plan is available at www.nwcouncil.org.

(15) "Incremental hydropower" means the incremental amount of kilowatt-hours of electricity generated from a base or constant amount of water.

(16) "Integrated cluster" of eligible renewable resources means colocated projects owned or controlled by the same entity that feed into the same substation.

(17) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a utility to its Washington retail customers.

(18) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity, reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(19) "NWPCC" means Pacific Northwest Electric Power and Conservation Planning Council also known as the Northwest Power and Conservation Council. Its calculation of avoided costs and publications are available at www.nwcouncil.org.

(20) "Pacific Northwest" means the area consisting of:

(a) The states of Oregon, Washington, and Idaho, the portion of the state of Montana west of the Continental Divide, and such portions of the states of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(b) Any contiguous areas, not in excess of seventy-five air miles from the area referred to in (a) of this subsection, which are a part of the service area of a rural electric cooperative customer served by the BPA on December 5, 1980, which has a distribution system from which it serves both within and without such region.

(21) "Qualified incremental hydropower efficiency improvements" means the installation or modification of equipment and structures, or operating protocols that increase the amount of electricity generated from the same amount of water. These may include rewinding of existing generators, replacing turbines with more efficient units and changing control systems to optimize electricity generation, and improvements to hydraulic conveyance systems that decrease head loss. They do not include additions to capacity by increasing pondage or elevation head, or diverting additional water into the project.

(22) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington.

(23) "Regional technical forum" or "RTF" means a voluntary advisory committee that reports to the executive director of the NWPCC and whose members are appointed by the NWPCC's chair.

(24) "Renewable energy credit" or "REC" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water, the certificate includes all of the nonpower attributes associated with that megawatt-hour of electricity, and the certificate is verified by the renewable energy credit tracking system chosen by the department.

(25) "Renewable resource" means:

(a) Water;

(b) Wind;

(c) Solar energy;

(d) Geothermal energy;

(e) Landfill gas;

(f) Wave, ocean, or tidal power;

(g) Gas from sewage treatment facilities;

(h) Biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and

(i) Biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include:

(i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper chrome arsenic;

(ii) Black liquor by-product from paper production;

(iii) Wood from old growth forests; or

(iv) Municipal solid waste.

(26) "Substitute resource" means reasonably available electricity or generating facilities, of the same contract length or facility life as the eligible renewable resource the utility invested in to comply with chapter 19.285 RCW requirements, that otherwise would have been used to serve a utility's retail load in the absence of chapter 19.285 RCW requirements to serve that retail load with eligible renewable resources.

(27) "Target year" means the specific year for which a renewable energy target must be met.

(28) "Ten-year potential" means the ten-year cost effective conservation resource potential.

(29) "Utility" means a consumer-owned electric utility, as the term consumer-owned utility is defined in RCW 19.29A.010, that serves more than twenty-five thousand retail customers in the state of Washington. The number of customers served shall be based on data reported by a utility in Form EIA - 861, "Annual Electric Power Industry Report," filed with the Energy Information Administration, United States Department of Energy.

A consumer-owned electric utility whose number of retail customers grows beyond twenty-five thousand over the course of a year shall be subject to the requirements of this chapter, or per chapter 19.285 RCW shall become a qualifying utility, starting January 1 of the following year. All applicable target dates, per chapter 19.285 RCW will be delayed by the same number of years as there are between January 1, 2007, and the year in which the utility becomes a qualifying utility.

(30) "Weather-adjusted load" means load calculated after variations in peak and average temperatures from year to year are taken into account.

(31) "WREGIS" means the Western Renewable Energy Generation Information System. WREGIS is an independent, renewable energy data base for the region covered by the Western Interconnection. WREGIS creates renewable energy certificates, WREGIS certificates, for verifiable renewable generation from units that register in the data base. The department selects WREGIS as the renewable energy credit tracking system to issue verified RECs per RCW 19.285.030(17) in WAC 194-37-210.

(32) "Year" means the twelve-month period commencing January 1 and ending December 31.

194-37-050 Documentation and auditing timelines.

Utilities will maintain all records necessary to document their compliance with the Energy Independence Act, as described in WAC 194-37-070, 194-37-080, 194-37-090, 194-37-100,

194-37-120, 194-37-130, 194-37-140, 194-37-150, 194-37-160, 194-37-170, 194-37-180, 194-37-190, and 194-37-200. All current and historical reports required in WAC 194-37-060 and 194-37-110 shall be available to a utility's customers and may be provided in conjunction with the utilities requirements under RCW 19.29A.050. Utilities that are not under the jurisdiction of the Washington state auditor must be audited for compliance with the Energy Independence Act by an independent auditor at least every twenty-four months.

194-37-060 Conservation reporting requirements.

Each utility shall submit an annual conservation report to the department by June 1 beginning in 2012. The conservation report shall document the utility's progress in meeting the conservation targets established in RCW 19.285.040 and shall include the following:

(1) A summary of the data the utility reports to the "planning, tracking and reporting system." The summary shall include total electricity savings by customer sector - residential, commercial, industrial, and agricultural, by production efficiencies, and by distribution efficiencies. To create this summary report, each utility will report its annual conservation achievements using the NWPCC's regional technical forum "planning, tracking and reporting system," or an alternative reporting system approved, in advance of the reporting year, by the department. Each utility can report using the default values embedded in the NWPCC's planning, tracking and reporting system or the utility may use its own inputs as documented per WAC 194-37-080 (8) and (9).

(2) If the utility counts towards its biennial target any electricity savings from local, regional, state, or federal market transformation programs, or local, state or federal codes or standards, the utility shall include copies of reports of the annual electricity savings for the utility's service territory as estimated and recorded by entities such as the department, the NWPCC, regional market transformation organizations, or the utility.

(3) A brief description of the methodology used to establish the utility's ten-year potential and biennial target to capture cost-effective conservation, including the share of this target to be captured by efficiency improvements in customer measures, and, if any, in distribution measures and production measures.

(4) The utility's total expenditures for conservation broken down by residential sector, commercial sector, industrial sector, and agricultural sector, and, if any, production efficiency and distribution efficiency.

(5) The most recent final audit report(s), if any, that evaluate(s) the utility's compliance with chapter 19.285 RCW and the information the utility reported per this chapter.

(6) In even years this report must include the following information categorized by customer conservation savings, and if any, total distribution efficiency savings, and total production efficiency savings:

(a) The utility's achievement in meeting its preceding biennial target; and

(b) The utility's current ten-year potential and biennial target.

194-37-070 Documenting development of conservation targets.

(1) Ten-year potential. By January 1, 2010, each utility shall establish its ten-year cost-effective conservation resource potential. At least every two years thereafter, the public utility shall review and update this assessment for the subsequent ten-year period.

(2) Biennial target. In January 2010, and each two years thereafter, each utility shall establish and make public a biennial conservation target. The utility's biennial target shall be no less than its pro rata share of its ten-year potential.

(3) To document that the utility has established its ten-year potential and biennial target using methodologies consistent with those in the fifth power plan, the utility shall choose one of the documentation procedures set forth in subsection (4), (5), or (6) of this section, subject to the following conditions:

(a) If a utility uses the conservation calculator, or the modified conservation calculator to determine its customer conservation ten-year potential, it must use the utility analysis option per subsection (6) of this section to compute any ten-year potential for production and distribution efficiencies.

(b) If a portion of a utility's ten-year potential and biennial target includes calculations of efficiency gains from utility production and/or distribution efficiency measures, that portion of the ten-year potential or biennial target that are not included in the list of measures approved by the regional technical forum and listed on the planning, tracking and reporting web site shall carry the stamp of a registered professional engineer licensed by the Washington department of licensing.

(c) If a utility includes production and/or distribution efficiencies in its target, then a utility's ten-year potential shall be the combined total of all cost effective achievable conservation in customer, distribution, and production efficiency measures available to that utility.

(d) A utility will hold a noticed public meeting, which provides an opportunity for public comment, regarding its assessment of conservation potential. The utility will adopt the ten-year potential and the two-year conservation targets by action of the utility's governing board in a public meeting. Such public meeting may be conducted separately, or as part of public meetings conducted for resource planning, budget setting, or other related processes. The public notice will indicate that the meeting agenda includes the establishment of the utility's ten-year and biennial targets.

(4) Conservation calculator option.

(a) A utility that chooses this option will document its calculation of its pro rata biennial conservation targets based on its share of regional annual megawatt-hour retail sales using the NWPCC's conservation calculator. If the NWPCC updates its conservation calculator within

twelve months of an even-numbered year, a utility may choose to use the NWPCC's most recent conservation calculator or the immediately preceding version.

(b) Any utility that publishes a ten-year potential and biennial target with the customer sector portion of its biennial target equal to or higher than its target calculated using the conservation calculator has effectively documented its biennial target setting requirement for customer conservation.

(c) Starting in 2010, a utility that uses the conservation calculator to establish its ten-year potential and biennial target may deduct its biennial customer sector conservation achievement that meets the criteria in WAC 194-37-080(2) from its share of the NWPCC's conservation resource potential for its subsequent assessment.

(5) Modified conservation calculator option.

A utility that chooses this option will document consistency with the NWPCC's methodologies by modifying its ten-year potential and biennial target as identified through the use of the conservation calculator by making the following adjustments to the NWPCC's analysis in the NWPCC's most recently published power plan:

(a) Deduct conservation measures in the NWPCC's list not applicable to the utility's service territory;

(b) Add conservation measures, that are not included in the NWPCC's list, but are applicable to the utility's service territory;

(c) Modify the number or ratio of applicable units, such as the ratio of electrically heated houses or square footage of commercial space, if the utility has data surveys indicating that their data on applicable units varies from the NWPCC's;

(d) Increase and/or reduce the per unit incremental resource savings for conservation measures, relative to the NWPCC's data for savings per unit;

(e) Increase and/or reduce forecasted program costs;

(f) Increase or decrease retail sales growth rates; and

(g) Increase or decrease avoided distribution capacity cost savings.

(6) Utility analysis option.

(a) The NWPCC's analytical methodology for establishing the conservation resource potential and conservation targets for the Northwest power system is outlined in procedures (a)(i) through (xv) of this subsection. A utility that chooses this option will document that it established a ten-year potential using an analytical methodology consistent with these NWPCC procedures (a)(i) through (xv) of this subsection:

(i) Analyze a broad range of energy efficiency measures considered technically feasible;

(ii) Perform a life-cycle cost analysis of measures or programs, including the incremental savings and incremental costs of measures and replacement measures where resources or measures have different measure lifetimes;

(iii) Set avoided costs equal to a forecast of regional market prices, which represents the cost of the next increment of available and reliable power supply available to the utility for the life of the energy efficiency measures to which it is compared;

(iv) Calculate the value of the energy saved based on when it is saved. In performing this calculation, use time differentiated avoided costs to conduct the analysis that determines the financial value of energy saved through conservation;

(v) Conduct a total resource cost analysis that assesses all costs and all benefits of conservation measures regardless of who pays the costs or receives the benefits. The NWPCC identifies conservation measures that pass the total resource cost test as economically achievable;

(vi) Identify conservation measures that pass the total resource cost test, by having a benefit/cost ratio of one or greater as economically achievable;

(vii) Include the increase or decrease in annual or periodic operations and maintenance costs due to conservation measures;

(viii) Include deferred capacity expansion benefits for transmission and distribution systems in its cost-effectiveness analysis;

(ix) Include all nonpower benefits that a resource or measure may provide that can be quantified and monetized;

(x) Include an estimate of program administrative costs;

(xi) Discount future costs and benefits at a discount rate based on a weighted, after-tax, cost of capital for utilities and their customers for the measure lifetime;

(xii) Include estimates of the achievable customer conservation penetration rates for retrofit measures and for lost-opportunity (long-lived) measures. The NWPCC's twenty-year achievable penetration rates, for use when a utility assesses its twenty-year potential, are eighty-five percent for retrofit measures and sixty-five percent for lost opportunity measures achieved through a mix of utility programs and local, state and federal codes and standards. The NWPCC's ten-year achievable penetration rates, for use when a utility assesses its ten-year potential, are sixty-four percent for nonlost opportunity measures and twenty-three percent for lost-opportunity measures; the weighted average of the two is a forty-six percent ten-year achievable penetration rate;

(xiii) Include a ten percent bonus for conservation measures as defined in 16 U.S.C. § 839a of the Pacific Northwest Electric Power Planning and Conservation Act;

(xiv) Analyze the results of multiple scenarios. This includes testing scenarios that accelerate the rate of conservation acquisition in the earlier years; and

(xv) Analyze the costs of estimated future environmental externalities in the multiple scenarios that estimate costs and risks.

(b) In addition to the requirements in subsection (6) of this section, the utility may document any variable listed in subsection (5) of this section to indicate that its conservation resource assessment methodology is consistent with the NWPCC's but results in unique conservation resource assessment outcomes.

194-37-080 Documentation of conservation savings.

(1) The utility shall document:

(a) That it achieved its biennial conservation target;

(b) The total savings in customer efficiency measures; and

(c) If included in the target, the savings in the production and distribution sectors.

(2) A conservation measure or program counts towards a utility biennial target if it meets the following criteria:

(a) The conservation has a measure life of at least two years, or, if the measure life is less than two years the utility can verify that it has acquired the conservation for the entire biennium;

(b) It meets the definitions of conservation and cost effective as contained in WAC 194-37-040; and

(c) The NWPCC includes the measure or program in its power plan, or the measure or program is not identified by the NWPCC but it meets the definition of cost effective in RCW 19.285.030.

(3) The utility shall count the total first year savings of a conservation measure in the year during which either the measure was installed or the utility paid for it.

(4) Each utility may count towards its biennial conservation targets the proportionate share of savings resulting in its service territory from the following conservation efforts during the one biennium in which either the measure or program was placed in service or the utility paid for the measure:

(a) End-use savings from region-wide conservation projects that are centrally funded by BPA and for which the utility shared in the funding through its BPA rates.

(b) Savings from regional market transformation efforts if the NWPCC includes the program

measures in its most recently published *Power Plan's* conservation resource potential or, as a newly emerging technology, the measure has yet to be included in the NWPCC's resource potential. Each utility will report a proportion of savings from these programs using established distribution methods, based on each utility's relative share of funding the regional market transformation effort through both direct funding and indirect funding through their BPA rates.

(c) Savings from improved federal minimum energy efficiency standards or Washington state building energy code improvements or improved state appliance codes and standards in the biennium in which they become effective, as proportionate to the utility's service territory. After that biennium, a utility may no longer include savings from those specific codes and/or standards in its next ten-year potential.

(5) Utilities may count savings from more stringent local building and/or local equipment codes and standards, including utility new service or connection standards, towards meeting their biennial conservation target in the biennium in which they become effective and in each biennium the local standards continue to be enforced and achieve incremental savings above minimum state energy codes or minimum federal energy standards.

(6) A utility cannot count the loss of load due to curtailments or matters outside of the utility's control (such as a facility shut-down) as achievement towards its conservation targets. However, such losses of load may change the level of current and future targets to the extent that they reduce the conservation potential available to the utility.

(7) The energy savings from an increase in distribution efficiencies are described, documented and counted under WAC 194-37-090. The energy savings from an increase in production efficiencies are described, documented and counted under WAC 194-37-100.

(8) Conservation savings from utility programs beginning in 2010 for measures for which the NWPCC and the regional technical forum have established per unit energy savings values will be based on the per unit savings set by the NWPCC's regional technical forum "planning, tracking and reporting system," unless the utility documents its variations in electricity saving estimates from the regional technical forum.

(9) Conservation savings from utility programs beginning in 2010 for custom measures shall be developed pursuant to the NWPCC's custom requirements available through the regional technical forum's "planning, tracking and reporting system" or through a similar analytical framework.

(10) A utility may count towards the utility's biennial end-use conservation target, twelve individual months' worth of conservation during the first twelve months of a high efficiency cogeneration facility's operations in its service territory. The high efficiency cogeneration facility shall be owned and used by a retail electric consumer to meet that consumer's heat and power needs. Only that output used by that customer to meet its own needs can count toward the utility's conservation target.

In order to count this in its conservation target, the utility shall prepare the following documentation, certified by a registered professional engineer licensed by the Washington department of licensing:

(a) That the cogeneration system has a useful thermal energy output of no less than thirty-three percent of the total energy output; and

(b) An analysis that indicates the reduction in annual electricity consumption due to high efficiency cogeneration. This reduction is calculated as the net facility's annual electrical energy production times the ratio of the fuel chargeable to power heat rate of the cogeneration facility divided by the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine.

(11) A utility may document shortfalls in meeting its biennial conservation target due to lack of customer participation. Documentation of such shortfalls shall include a demonstration that:

(a) A broad array of marketing and program options were provided to customers throughout the biennium; and

(b) The utility offered throughout the biennium to pay customers an incentive in an amount equal to the utility's full avoided cost over the lifetime of measures, up to one hundred percent of the incremental cost of measures. Any such shortfall cannot be automatically deducted from the utility's conservation potential assessment for the subsequent biennium.

194-37-090 Additional documentation of efficiency from distribution system loss reduction improvements, including peak demand management and voltage regulation.

(1) To the extent a utility can document a distribution system upgrade or management practice results in lower line losses and/or transformation losses, the avoided energy supply requirement to serve customers may be included in the utility's assessment of its ten-year resource potential and may count as conservation achievement towards the utility's biennial target.

(2) A utility that counts distribution system improvements in meeting its obligations under RCW 19.285.040 shall document these savings on either a component-performance basis or a system-analysis basis and shall indicate these savings distinctly from end-use and production efficiency savings.

(a) Component-performance basis. A utility that implements the component-performance basis for documenting distribution system improvements shall identify the components of the distribution system that were replaced, and the savings from replacement. For components that are not included in the list of measures approved by the regional technical forum and listed on the planning, tracking and reporting web site, the calculation shall be prepared under the direction of, and carry the stamp of a registered professional electrical engineer licensed by the Washington department of licensing.

(b) System-analysis basis. A utility that implements the system analysis basis for documenting conservation savings from distribution system improvements shall provide the following:

(i) For distribution system upgrades, the utility will prepare a distribution flow analysis to compare the annual energy losses of the system being replaced or upgraded to the final system as installed.

(ii) For conservation voltage regulation, the utility will prepare a distribution flow analysis to compare the annual energy losses of the system before and after the implementation of a voltage regulation program. The difference in annual kilowatt-hour requirement at the utility point(s) of receipt (for distribution utilities) or net energy for load for generating utilities may be counted as conservation savings.

(iii) For peak demand management, the utility will prepare a distribution flow analysis to compare the annual energy losses of the system before and after implementation of the peak demand management program. The change in net energy losses may be counted as conservation savings. Any net reduction in energy sales (economic curtailment) shall not be included in conservation savings.

(iv) The distribution flow analysis conducted for (b)(i), (ii), or (iii) of this subsection shall be prepared under the direction of, and carry the stamp of a registered professional electrical engineer licensed by the Washington department of licensing.

194-37-100 Additional documentation of improved efficiency from production facilities.

(1) A utility will measure production efficiency improvements as the fraction of fuel savings achieved by the utility. The percentage reduction in fuel use per kilowatt-hour will be applied to the annual generation to determine the amount that is to be reported as conservation.

(2) A utility that includes production efficiency improvements in its annual report pursuant to RCW 19.285.070 shall document the electricity savings for each generating unit with the following information certified by a registered professional engineer licensed by the Washington state department of licensing:

(a) The first twelve-month electricity savings that the utility is counting towards its biennial target;

(b) A description of the efficiency improvements made to the generating unit;

(c) Annual fuel use for three preceding years, in quantity units and million British thermal units;

(d) Annual electrical output for three preceding years, in kilowatt-hours;

(e) The amount of capital investment and/or annual operating expenditure associated with the efficiency improvements;

(f) The cost-effectiveness analysis prepared by the utility in planning the efficiency improvement(s);

(g) Any post-retrofit analysis prepared by the utility in evaluating the performance and/or cost-effectiveness of the efficiency improvement(s);

(h) A simple calculation showing the fuel use per kilowatt-hour before the efficiency improvement, the fuel use per kilowatt-hour after the efficiency improvement, and the amount of energy conservation being reported as the product of the percentage improvement in fuel use per kilowatt-hour and the number of kilowatt-hours generated; and

(i) If efficiency improvements are installed at the same time as pollution control equipment that may itself affect efficiency, the utility may provide documentation of the effect of the efficiency improvements alone on the fuel consumption per kilowatt-hour of the production facility. In this situation, the utility shall provide a description of the changes made, the capital cost expended for both efficiency changes and pollution control equipment, and an analysis of the impact of each on the fuel use per kilowatt-hour of the production facility.

(3) Improvements that are included in the list of measures approved by the regional technical forum and listed on the planning, tracking and reporting web site need not carry the certification of a professional engineer and may instead use the savings deemed by the regional technical forum.

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

194-37-110 Renewable resource energy reporting.

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

(1) Universal renewable energy reporting requirements. The renewable resource energy report shall include the following information:

(a) The utility's annual load for the two years preceding each renewable energy target year and the average load for those two years.

(b) The amount of megawatt-hours needed to meet the utility's annual renewable energy targets identified in RCW 19.285.040. These annual targets are established as a percentage of the utility's average retail load for the two years prior to the renewable energy target year: Three percent of each year 2012 through 2015; nine percent of each year 2016 through 2019; and fifteen percent for year 2020 and each year thereafter.

(c) The names of the eligible renewable resource facilities and/or the vintage (year in which associated power was generated) of renewable energy credits by generator that the utility owns

or with which the utility has a contract dated no later than January 1 of the target year; and the estimated annual quantity (megawatt-hours) of eligible renewable resources or RECs that will be produced, or has been produced, through these resources or contracts to meet its annual targets.

(i) A utility may count any purchases of:

(A) Electricity from BPA that are generated by eligible renewable resources, for which no RECs have been created or, if RECs have been created, for which the RECs have been or will be retired by BPA on behalf of the utility; or

(B) RECs from the BPA generated by eligible renewable resources to meet all or any portion of its annual eligible renewable resource targets.

To document the annual amount of power supplied by BPA from eligible renewable resources, the utility may rely on BPA's determination of the portion of its power supply provided by eligible renewable resources during a calendar year for which no RECs have been created, or, if RECs have been created, that the RECs have been or will be retired by BPA on behalf of the utility.

(ii) The list of resources will identify any resource that both commenced operations after December 31, 2005, and meets the apprenticeship construction practice standards as adopted by the council per WAC 194-37-120(1), thereby earning a 1.2 multiplier credit on its electricity output.

(iii) The list of resources will identify any resource that meets the definition of distributed generation and that the utility owns or contracts for the associated REC, thereby earning a 2.0 multiplier credit on the electricity output.

(d) A utility that does not meet the renewable energy requirements in RCW 19.285.040(2), the financial requirements in RCW 19.285.050, or the financial requirements in RCW 19.285.040 (2)(d) shall include the following information in its June 1 report of each year beginning in 2014:

(i) The quantity of eligible renewable resources acquired by December 31 of the target year;

(ii) The quantity of RECs acquired from the target year, the year prior or the year subsequent to the target year; or

(iii) The combination of (d)(i) and (ii) of this subsection.

(e) The most recent final audit report(s), if any, that evaluate(s) the utility's compliance with chapter 19.285 RCW and the information reported per this chapter.

(2) Renewable energy target reporting.

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

(i) Demonstration that it acquired:

(A) By January 1 of the target year, megawatt-hours of eligible renewable resources and that those megawatt-hours were actually generated by December 31 of the target year.

(B) By January 1 of the target year, RECs produced during the target year, the year prior or the year subsequent to the target year; or

(C) Any combination of (a)(i)(A) and (B) of this subsection, in amounts sufficient to meet the percent of load target for the calendar year two years prior. Utilities may report shortfalls in expected generation from resources documented in (a)(i)(A) of this subsection and production of RECs documented in (a)(i)(B) of this subsection and may document that the shortfalls were offset by additional purchases of RECs or eligible renewable resources.

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

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

(3) Resource cost reporting.

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

(a) Its annual revenue requirement for the target year;

(b) The annual levelized delivered cost of its eligible renewable resource(s) reported separately for each resource;

(c) The annual levelized delivered cost of its substitute resources and the eligible renewable resource with which it is being compared;

(d) The total cost of renewable energy credits to be applied in the reporting year;

(e) The percentage of its annual revenue requirement invested in the incremental cost of eligible renewable resources and the cost of RECs; and

(f) The most current information required by WAC 194-37-160 used for this financial demonstration.

(4) Nonload growing utility reporting.

Each year that a utility does not meet the renewable energy target requirements in RCW 19.285.040 (2)(a), but meets the financial requirements in RCW 19.285.040 (2)(d), the utility

shall report to the department each June 1 its:

(a) Annual revenue requirement for the target year;

(b) Weather-adjusted load for each of the three years immediately prior to the target year;

(c) Delivered cost of its eligible renewable resource(s), RECs or a combination of both for the target year to be applied to the one percent of annual revenue requirement, reported separately for each resource;

(d) Quantity of megawatt-hours for each target year for which the utility:

(i) Commenced or renewed ownership of nonrenewable resources after December 7, 2006; or

(ii) Made electricity purchases from nonrenewable energy resources, incremental to its annual electricity purchases made or contracted for prior to December 7, 2006. Sources of power for daily spot market purchases are not counted; and

(e) List of RECs that the utility acquired, in addition to any RECs purchased in (c) of this subsection, to offset nonrenewable purchases listed in (d) of this subsection.

(5) Reporting of uncontrollable events.

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

194-37-120 Documentation of renewable energy achievement.

Each utility shall provide the auditor access to contracts indicating purchases of or documentation indicating ownership of RECs and/or megawatt-hours from eligible renewable/ resources equal to or exceeding the annual percentage standard for the target year. The megawatt-hours from owned eligible renewable resources count towards the percentage annual renewable energy target as long as the associated nonpower attributes, or RECs, if any have been created, are not owned by a separate entity or have not been used in an optional pricing program. A utility's power purchase contract, for eligible renewable resources, provides documentation for this section if the contract specifies that the nonpower attributes, or RECs if any have been created, associated with the power from the eligible renewable resources have been acquired by the utility.

(1) Each utility that claims a 1.2 multiplier credit for the electricity output from an eligible renewable resource per RCW 19.285.040 (2)(h)(i) shall provide a copy of written documentation from the council that the facility met the apprenticeship labor standard of fifteen percent of the total labor hours used in its construction.

(2) A utility may provide a copy of documentation from the BPA indicating a quantity of power that BPA sold to the utility for the target year that was supplied by an eligible renewable resource.

(3) Each utility that claims a 2.0 multiplier credit for the electricity output from an eligible renewable resource per RCW 19.285.040 (2)(b) shall provide documentation that the REC applied in that year, associated with the distributed generation resource, is owned by the utility.

194-37-130 Documentation of incremental hydropower.

(1) Utilities may count toward their annual renewable resource targets incremental power acquired from qualified incremental hydropower efficiency improvements made at the following facilities since 1999:

(a) Hydropower facilities in the Pacific Northwest owned by a qualifying utility where the new generation does not result in new water diversions or impoundments.

(b) Hydroelectric generation facilities in irrigation pipes and canals located in the Pacific Northwest, where the additional generation does not result in new water diversions or impoundments.

(2) The utility shall calculate renewable resource power from incremental hydropower as the increase in annual megawatt-hours of generation attributable to the qualified incremental hydropower efficiency improvements under average water generation.

(3) The increase in annual megawatt-hours of generation attributable to the qualified incremental hydropower efficiency improvements shall be documented by engineering studies or with before and after generation data. The documentation shall clearly explain:

(a) Where the facility is located;

(b) When the improvements were made;

(c) How the amount of generation in "average water generation" was calculated;

(d) What other factors may have caused an increase in electricity production and how the amount "attributable to the qualified improvements" was extracted from the total increase;

(e) How and why the "qualified improvements" increased hydropower production; and

(f) How the utility came to acquire the incremental output associated with the qualified improvements.

194-37-140 Documentation of renewable resource financial path for no-load growth utilities.

For each year that a utility meets the renewable energy financial cost cap, associated with no load growth, identified in RCW 19.285.040 (2)(d), the utility must document the following by January 1:

(1) That it used a consistent methodology from year to year to weather-adjust its retail load;

(2) That its weather-adjusted load for the most recent prior year is lower than the third year prior;

(3) That it invested at least one-percent of its total annual revenue requirement in each target year on eligible renewable resources, RECs, or a combination of both;

(4) That it executed contracts, dated no later than January 1 of the target year, for power purchases of sufficient eligible renewable resources and/or RECs;

(5) The quantity of megawatt-hours for each target year for which the utility:

(a) Commenced or renewed ownership of nonrenewable resources after December 7, 2006; or

(b) Made electricity purchases from nonrenewable energy resources, incremental to its annual electricity purchases made or contracted for before December 7, 2006.

Sources of power for daily spot market purchases are not included in this calculation;

(6) The RECs the utility acquired, in addition to any RECs acquired for subsection (3) of this section, to offset nonrenewable power purchases listed in subsection (5) of this section; and

(7) Annual revenue requirement for the target year.

194-37-150 Financial documentation of annual revenue requirement.

(1) For purposes of the report filed pursuant to RCW 19.285.070, a utility shall document its annual revenue requirement.

(2) A utility that uses a different basis for the determination of its annual revenue requirement for purposes of calculating what it expects to recover or actually recovers through retail electricity sales in the state of Washington in that year may use that number in the calculation of the cost cap and must provide documentation to support this alternative approach.

194-37-160 Documentation of financial cost cap — Current information and timeline.

By January 1 of the first target year that a utility fulfills its renewable energy requirements under RCW 19.285.050, the utility shall select one of the following methodologies for documenting the incremental cost of all eligible renewable resources acquired thereafter by that

utility:

(1) Annual update methodology. In each year that a utility fulfills its renewable energy requirements by complying with the cost cap identified in RCW 19.285.050 it must document its calculations no later than January 1 of the target year. The utility will use the most current information available to the utility within twelve months prior to the initial documentation of the cost cap pursuant to WAC 194-37-170 through 194-37-190. The utility will update this documentation in its June 1 report submitted pursuant to RCW 19.285.070. These annual updates of costs, based on the most current information available, apply to both the eligible renewable resource and the substitute resource.

(2) Permanent one-time methodology. For each new investment in an eligible renewable resource, a utility shall perform a one-time calculation of the levelized incremental cost pursuant to WAC 194-37-170 through 194-37-190. The levelized incremental cost shall be a single annual value expressed in real, constant-year dollars. The levelized incremental cost for each eligible renewable resource project or purchase, calculated through this one-time analysis in the year of acquisition, shall be allowed to inflate utilizing the Producer Price Index over the life of the eligible renewable resource after the initial calculation. The utility will include a determination of incremental cost for each new investment in an eligible renewable resource and inflation-adjusted incremental costs for previous eligible renewable resource investments in its June 1 report submitted pursuant to RCW 19.285.070, beginning in the year the utility complies with the cost cap identified in RCW 19.285.050.

194-37-170 Documentation for financial path — Levelization of costs.

(1) Each utility must document its calculation of the levelized annual incremental cost of eligible renewable resources. Utilities are encouraged, but not obligated, to use the following methodology:

Step 1: Calculate the net present value of the cost of the utility's eligible renewable resource and substitute resource over an equivalent contract length or facility life.

Step 2: Calculate equal nominal values over the appropriate contract length or facility life that have a net present value equal to those calculated in Step 1, using the same discount rate.

Step 3: Calculate the annual difference between the levelized delivered cost for the eligible renewable resource and the substitute resource to determine the levelized incremental cost of the eligible renewable resource.

A utility that uses the annual update methodology must document the basis for any change to the levelization methodology used in a prior June 1 report to levelize the costs of an eligible renewable resource and its associated substitute resource.

(2) Regardless of the methodology chosen to levelize costs, utilities must document the basis for their chosen method for levelizing costs.

(3) Utilities must document the basis for the discount rate used in its levelized cost calculations.

(4) Utilities must document how the discount rate used to perform the levelized cost calculations is consistent with the inflationary assumptions incorporated into the delivered cost projections for the eligible renewable resource and substitute resource.

(5) Utilities must document how the method and assumptions used to levelize delivered costs for the eligible renewable resource are consistent with those used to levelize the delivered cost of the associated substitute resource.

194-37-180 Documentation of financial path — Delivered cost.

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

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

Operating Expenses	
Accounts 500-557:	Production Expense
Account 565:	Wholesale Wheeling Expense
Accounts 920-935:	Administrative and General Expense
Account 408.1:	Taxes Other than Federal Income Taxes
Capital Expenses	
Accounts 403-407:	Depreciation and Amortization Expense
Accounts 427-431:	Interest-Related Expenses

(3) A utility may include actual costs in order to equitably compare the costs of eligible renewable resources and substitute resources. This may include the actual costs of transmission, firming, shaping, integration, and project specific development costs.

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

194-37-190 Documentation of financial path — Substitute resource and resource equivalence.

(1) In support of its annual filings to the department under RCW 19.285.070, utilities must document the type, availability, and cost of the reasonably available substitute resource used to calculate the incremental cost of an eligible renewable resource.

(a) In documenting the incremental cost under RCW 19.285.050 (1)(b), a utility is encouraged to identify substitute resources using its integrated resource planning process, if one is available. If a utility elects to choose a substitute resource from a different source other than its most recently published integrated resource plan, it must document the basis for this decision. Documentation of the cost of a substitute resource may include, but is not limited to, formal offers for the sale of electricity, or published cost projections from reputable third-party sources.

(b) In its selection of a substitute resource, the utility shall develop documentation demonstrating that the substitute resource satisfies the requirements set forth in RCW 19.285.050. The requirements are:

(i) Equivalence between the eligible renewable resource and the substitute resource by demonstrating the equivalence in the amount of energy produced by each resource;

(ii) Equivalence between the eligible renewable resource and the substitute resource by demonstrating the same contract length or facility life of each resource;

(iii) The substitute resource is reasonably available to the utility; and

(iv) The substitute resource does not qualify as an eligible renewable resource.

(c) Only supply-side substitute resources shall be used by utilities in the calculation of the incremental cost of eligible renewable resources.

(d) When the renewable requirements under RCW 19.285.040(2) result in a utility having resources in excess of its load, the utility may use that excess resource as the substitute resource if the substitute resource requirements of (b) of this subsection are otherwise satisfied. The utility will document the resale revenues, net of transaction costs, received through the sale

of excess resources or the purchase price for the sale of the excess facility sold as a result of the requirement to acquire eligible renewable resources. A utility that uses a value other than the documented resale revenue in the determination of the levelized delivered cost of the substitute resource, such as a forecast of projected market prices, must provide documentation to support this alternative approach.

(e) A utility may use foregone power purchases from BPA, plus any billing credit obtained for reducing its purchases from BPA, as the basis for the cost of the substitute resource if:

(i) The substitute resource requirements of (b) of this subsection are otherwise satisfied;

(ii) It is entitled under its BPA power sales contract to have the BPA meet its net power requirements for the expected life of an eligible renewable resource or eligible renewable resource purchase; and

(iii) As a result of meeting the renewable requirements under RCW 19.285.040(2), it foregoes part of its BPA entitlement in order to obtain that eligible renewable resource.

(2) For an eligible renewable resource acquired prior to the passage of chapter 19.285 RCW, November 7, 2006, a utility must support the selection of the related substitute resource used in the determination of the incremental cost under RCW 19.285.050 with documentation that was available at the time of the utility's decision to acquire the eligible renewable resource. If no such documentation is available, the incremental cost of an eligible renewable resource acquired prior to the passage of chapter 19.285 RCW will be assumed equal to zero.

194-37-200 Financial documentation path using renewable energy credits.

A utility may elect to invest in RECs to meet any portion of, or the entirety of, each annual renewable resource target in RCW 19.285.040(2) or19.285.050 (1). If the cost of the RECs and the incremental cost of acquired renewable resources, as documented according to WAC 194-37-150 through 194-37-190, for any one year meets or exceeds four percent of the utility's annual revenue requirement, the utility shall document that the utility achieved the four percent cost cap alternative compliance path in RCW 19.285.050(1). The documentation must include copies of its WREGIS RECs, copies of purchase contracts, and its annual revenue requirement.

194-37-210 Selection of a renewable energy credit tracking system.

Pursuant to RCW 19.285.030(17), the department selects WREGIS as the renewable energy credit tracking system. If WREGIS proves to be unworkable and if there are alternative tracking systems, the department may reopen these rules and solicit, through an open process, proposals from other tracking systems to allow it to verify renewable energy credits for compliance with chapter 19.285 RCW

Chapter 19.285 RCW

Energy independence act

19.285.010 Intent.

This chapter concerns requirements for new energy resources. This chapter requires large utilities to obtain fifteen percent of their electricity from new renewable resources such as solar and wind by 2020 and undertake cost-effective energy conservation.

[2007 c 1 § 1 (Initiative Measure No. 937, approved November 7, 2006).]

19.285.020 Declaration of policy.

Increasing energy conservation and the use of appropriately sited renewable energy facilities builds on the strong foundation of low-cost renewable hydroelectric generation in Washington state and will promote energy independence in the state and the Pacific Northwest region. Making the most of our plentiful local resources will stabilize electricity prices for Washington residents, provide economic benefits for Washington counties and farmers, create high-quality jobs in Washington, provide opportunities for training apprentice workers in the renewable energy field, protect clean air and water, and position Washington state as a national leader in clean energy technologies.

19.285.030 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(3) "Commission" means the Washington state utilities and transportation commission.

(4) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(5) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(6) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(7) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(8) "Department" means the department of commerce or its successor.

(9) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(10) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than fresh water that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services; or

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments.

(11) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(12) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(13) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(14) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(15) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(16) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(17) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water, the certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

(18) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and (i) biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include (i) wood pieces that have been treated

with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) black liquor by-product from paper production; (iii) wood from old growth forests; or (iv) municipal solid waste.

(19) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(20) "Year" means the twelve-month period commencing January 1st and ending December 31st.

19.285.040 Energy conservation and renewable energy targets.

(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.

(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period.

(b) Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation potential for the subsequent ten-year period.

(c) In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs. High-efficiency cogeneration is the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output. The reduction in load due to high-efficiency cogeneration shall be: (i) Calculated as the ratio of the fuel chargeable to power heat rate of the cogeneration facility compared to the heat rate on a new and clean basis of a best-commercially available technology combined-cycle natural gas-fired combustion turbine; and (ii) counted towards meeting the biennial conservation target in the same manner as other conservation savings.

(d) The commission may determine if a conservation program implemented by an investor-owned utility is cost-effective based on the commission's policies and practice.

(e) The commission may rely on its standard practice for review and approval of investor-owned utility conservation targets.

(2)(a) Each qualifying utility shall use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

(i) At least three percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;

(ii) At least nine percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and

(iii) At least fifteen percent of its load by January 1, 2020, and each year thereafter.

(b) A qualifying utility may count distributed generation at double the facility's electrical output if the utility: (i) Owns or has contracted for the distributed generation and the associated renewable energy credits; or (ii) has contracted to purchase the associated renewable energy credits.

(c) In meeting the annual targets in (a) of this subsection, a qualifying utility shall calculate its annual load based on the average of the utility's load for the previous two years.

(d) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period; (ii) after December 7, 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (iii) the utility invested at least one percent of its total annual retail revenue

requirement that year on eligible renewable resources, renewable energy credits, or a combination of both.

(e) The requirements of this section may be met for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year. Each renewable energy credit may be used only once to meet the requirements of this section.

(f) In complying with the targets established in (a) of this subsection, a qualifying utility may not count:

(i) Eligible renewable resources or distributed generation where the associated renewable energy credits are owned by a separate entity; or

(ii) Eligible renewable resources or renewable energy credits obtained for and used in an optional pricing program such as the program established in RCW 19.29A.090.

(g) Where fossil and combustible renewable resources are cofired in one generating unit located in the Pacific Northwest where the cofiring commenced after March 31, 1999, the unit shall be considered to produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources.

(h)(i) A qualifying utility that acquires an eligible renewable resource or renewable energy credit may count that acquisition at one and two-tenths times its base value:

(A) Where the eligible renewable resource comes from a facility that commenced operation after December 31, 2005; and

(B) Where the developer of the facility used apprenticeship programs approved by the council during facility construction.

(ii) The council shall establish minimum levels of labor hours to be met through apprenticeship programs to qualify for this extra credit.

(i) A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the renewable energy target. Such events include weather-related damage, mechanical failure, strikes, lockouts, and actions of a governmental authority that adversely affect the generation, transmission, or distribution of an eligible renewable resource under contract to a qualifying utility.

(3) Utilities that become qualifying utilities after December 31, 2006, shall meet the requirements in this section on a time frame comparable in length to that provided for qualifying utilities as of December 7, 2006.

19.285.050 Resource costs.

(1)(a) A qualifying utility shall be considered in compliance with an annual target created in RCW 19.285.040(2) for a given year if the utility invested four percent of its total annual retail revenue requirement on the incremental costs of eligible renewable resources, the cost of renewable energy credits, or a combination of both, but a utility may elect to invest more than this amount.

(b) The incremental cost of an eligible renewable resource is calculated as the difference between the levelized delivered cost of the eligible renewable resource, regardless of ownership, compared to the levelized delivered cost of an equivalent amount of reasonably available substitute resources that do not qualify as eligible renewable resources, where the resources being compared have the same contract length or facility life.

(2) An investor-owned utility is entitled to recover all prudently incurred costs associated with compliance with this chapter. The commission shall address cost recovery issues of qualifying utilities that are investor-owned utilities that serve both in Washington and in other states in complying with this chapter.

19.285.060 Accountability and enforcement — Energy independence act special account.

(1) Except as provided in subsection (2) of this section, a qualifying utility that fails to comply with the energy conservation or renewable energy targets established in RCW 19.285.040 shall pay an administrative penalty to the state of Washington in the amount of fifty dollars for each megawatt-hour of shortfall. Beginning in 2007, this penalty shall be adjusted annually according to the rate of change of the inflation indicator, gross domestic product-implicit price deflator, as published by the bureau of economic analysis of the United States department of commerce or its successor.

(2) A qualifying utility that does not meet an annual renewable energy target established in RCW 19.285.040(2) is exempt from the administrative penalty in subsection (1) of this section for that year if the commission for investor-owned utilities or the auditor for all other qualifying utilities determines that the utility complied with RCW 19.285.040(2) (d) or (i) or 19.285.050(1).

(3) A qualifying utility must notify its retail electric customers in published form within three months of incurring a penalty regarding the size of the penalty and the reason it was incurred.

(4) The commission shall determine if an investor-owned utility may recover the cost of this administrative penalty in electric rates, and may consider providing positive incentives for an investor-owned utility to exceed the targets established in RCW 19.285.040.

(5) Administrative penalties collected under this chapter shall be deposited into the energy independence act special account which is hereby created. All receipts from administrative penalties collected under this chapter must be deposited into the account. Expenditures from the account may be used only for the purchase of renewable energy credits or for energy conservation projects at public facilities, local government facilities, community colleges, or state universities. The state shall own and retire any renewable energy credits purchased using moneys from the account. Only the director of general administration or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(6) For a qualifying utility that is an investor-owned utility, the commission shall determine compliance with the provisions of this chapter and assess penalties for noncompliance as provided in subsection (1) of this section.

(7) For qualifying utilities that are not investor-owned utilities, the auditor is responsible for auditing compliance with this chapter and rules adopted under this chapter that apply to those utilities and the attorney general is responsible for enforcing that compliance.

19.285.070 Reporting and public disclosure.

(1) On or before June 1, 2012, and annually thereafter, each qualifying utility shall report to the department on its progress in the preceding year in meeting the targets established in RCW 19.285.040, including expected electricity savings from the biennial conservation target, expenditures on conservation, actual electricity savings results, the utility's annual load for the prior two years, the amount of megawatt-hours needed to meet the annual renewable energy target, the amount of megawatt-hours of each type of eligible renewable resource acquired, the type and amount of renewable energy credits acquired, and the percent of its total annual retail revenue requirement invested in the incremental cost of eligible renewable resources and the cost of renewable energy credits. For each year that a qualifying utility elects to demonstrate alternative compliance under RCW 19.285.040(2) (d) or (i) or 19.285.050(1), it must include in its annual report relevant data to demonstrate that it met the criteria in that section. A qualifying utility may submit its report to the department in conjunction with its annual obligations in chapter 19.29A RCW.

(2) A qualifying utility that is an investor-owned utility shall also report all information required in subsection (1) of this section to the commission, and all other qualifying utilities shall also make all information required in subsection (1) of this section available to the auditor.

(3) A qualifying utility shall also make reports required in this section available to its customers.

Michael Little
SCL Initiative 937 Conservation Target ATT 2
October 17, 2011
Version #1

19.285.080 Rule making.

(1) The commission may adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.

(2) The department shall adopt rules concerning only process, timelines, and documentation to ensure the proper implementation of this chapter as it applies to qualifying utilities that are not investor-owned utilities. Those rules include, but are not limited to, rules associated with a qualifying utility's development of conservation targets under RCW 19.285.040(1); a qualifying utility's decision to pursue alternative compliance in RCW 19.285.040(2) (d) or (i) or19.285.050 (1); and the format and content of reports required in RCW 19.285.070. Nothing in this subsection may be construed to restrict the rate-making authority of the commission or a qualifying utility as otherwise provided by law.

(3) The commission and department may coordinate in developing rules related to process, timelines, and documentation that are necessary for implementation of this chapter.

(4) Pursuant to the administrative procedure act, chapter 34.05 RCW, rules needed for the implementation of this chapter must be adopted by December 31, 2007. These rules may be revised as needed to carry out the intent and purposes of this chapter.

19.285.900 Construction — 2007 c 1 (Initiative Measure No. 937).

The provisions of this chapter are to be liberally construed to effectuate the intent, policies, and purposes of this chapter.

19.285.901 Severability — 2007 c 1 (Initiative Measure No. 937).

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

19.285.902 Short title — 2007 c 1 (Initiative Measure No. 937).

This chapter may be known and cited as the energy independence act.

19.285.903 Captions not law — 2007 c 1 (Initiative Measure No. 937).

Captions used in this chapter are not any part of the law

Michael Little
SCL Initiative 937 Conservation Target FISC
December 6, 2011
Version #2

Form revised: July 12, 2011

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
City Light	Glenn Atwood 4-3740	Calvin Chow 4-4652

Legislation Title: A RESOLUTION relating to the City Light Department; acknowledging and approving City Light's adoption of a biennial energy conservation target for 2012-2013 and ten-year conservation potential associated with Initiative 937.

Summary of the Legislation: To comply with Initiative 937, City Light must establish and make publicly available a biennial acquisition target for cost-effective conservation and ten-year conservation potential. This Resolution establishes a 24.01 aMW conservation target for 2012-2013 and a ten-year conservation potential of 120.01 aMW.

Background: Initiative 937 was passed by Washington state voters in November 2006 to establish renewable and energy efficiency targets for electric utilities serving more than 25,000 retail customers. In complying with RCW 19.285.040, each qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible. RCW 19.285.040 (1)(a) states: "By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019. At least every two years thereafter, the qualifying utility shall review and update this assessment for the subsequent ten-year period." And, 19.285.040 (1)(b) states: "Beginning January 2010, each qualifying utility shall establish and make publicly available a biennial acquisition target for cost-effective conservation consistent with its identification of achievable opportunities in (a) of this subsection, and meet that target during the subsequent two-year period. At a minimum, each biennial target must be no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective conservation."

City Light will use the "Utility Analysis Option" outlined in WAC 194-37-070 to establish both its conservation target for 2012-2013 and its ten-year conservation potential. City Light has hired Global Energy Partners to complete an energy conservation potential assessment (CPA) that is consistent with the NWPCC methodology used for their Sixth Power Plan. This CPA has identified a total of 24.01 aMW being achievable within the City Light service territory for 2012-2013 and a total conservation potential of 120.02 aMW for the ten-year period. City Light will be updating the 2011 CPA in order to establish its 2014-2015 biennial target and its ten year potential.

City Light anticipates meeting or exceeding the I-937 driven biennial acquisition targets. City Light's proposed 2012 budget will provide the resources necessary to meet the target and it is

c) Does this legislation affect any departments besides the originating department?
No

d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?
No. City Light is required to set the conservation targets as outlined in RCW 19.285.040.

e) Is a public hearing required for this legislation?
Yes. Consistent with WAC 194-37-070 section (3) (d) the qualifying utility will hold a noticed public meeting, which provides an opportunity for public comment, regarding its assessment of conservation potential. Our intent is to use the presentation to the City Council on December 7, 2011 as the venue for making the conservation target public. We will work with the City Clerk's Office to make this happen.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?
No.

g) Does this legislation affect a piece of property?
No.

h) Other Issues:

List attachments to the fiscal note below:

City of Seattle
Office of the Mayor

December 13, 2011

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Resolution to establish the 2012-2013 biennial energy conservation target and ten-year conservation potential for Seattle City Light. This Resolution is a required step for implementing Initiative 937 and is guided by RCW 19.285 and WAC 194-37. This action furthers the City's goal to increase energy efficiency, promote green jobs and reduce greenhouse gas emissions. Investments in cost-effective energy conservation make our homes more comfortable, our businesses more efficient, and our industries more competitive.

Ballot Initiative 937 (the Energy Independence Act), which was passed by Washington state voters on November 7, 2006, requires qualifying electric utilities serving more than 25,000 retail customers to obtain new renewable resources and undertake cost-effective energy conservation. A key component of the attached legislation is the adoption of a 2012-2013 biennial energy conservation target and ten-year conservation potential for Seattle City Light. The conservation targets are to be adopted by the utility's governing board in a public meeting that allows public comment regarding City Light's assessment of its conservation potential.

This Resolution will solidify our commitment to promoting energy efficiency as a priority energy resource and assist in combating climate change. Thank you for your consideration of this legislation. Should you have any questions, please contact Glenn Atwood at 684-3740.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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