

# Chapter 480-103 WAC

## COMMUNITY SOLAR COMPANIES

WAC

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## PART I

### GENERAL PROVISIONS

**WAC 480-103-001 Purpose and application.** (1) **Purpose.** The purpose of these rules is to administer and enforce the provisions of chapter 80.28 RCW that govern community solar companies. The rules establish general requirements and specific regulations for registration, consumer protection, records, and reporting for such companies.

(2) **Application.** The rules in this chapter apply to any community solar company, any administrator acting on behalf of a community solar company, and where specified, any investor-owned utility operating a community solar project that is subject to the jurisdiction of the commission under RCW 80.04.010 or chapter 80.28 RCW. These rules also include requirements for customers, project participants, and applicants.

(3) **Nonexclusivity.** These rules do not relieve any community solar company from any of its duties and obligations

under the laws of the state of Washington. The commission retains the authority to impose additional or different requirements on any community solar company in appropriate circumstances, consistent with the requirements of applicable law.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-001, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-002 Definitions.** (1) "Administrator" means a person or entity that organizes and administers a community solar project on behalf of a community solar company. The administrator may be responsible for applying for the renewable energy system incentive on behalf of the system's owners and for performing other administrative tasks including, but not limited to:

- (a) Receiving renewable energy incentive payments;
  - (b) Allocating and paying appropriate amounts of such payments to owners; and
  - (c) Communicating with WSU and the commission about any changes in program participants.
- (2) "Applicant" means any person, corporation, partnership, government agency, or other entity that applies for service from a community solar company.

(3) "Business day" means a day when the commission's offices are open as provided in WAC 480-07-120.

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

(5) "Customer" means any person, corporation, partnership, government agency, or other entity that has applied for, or is currently receiving, utility service within the state of Washington.

(6) "Community solar company" means a person, firm, or corporation, other than an electric utility or community solar cooperative, that owns a community solar project within the state of Washington and provides community solar project services to project participants.

(7) "Community solar project" means a solar energy system within the state of Washington that has a direct current nameplate generating capacity (i.e., maximum rated output) that is no larger than one thousand kilowatts.

(8) "Community solar project services" means the provision of electricity generated by a community solar project, or the provision of the financial benefits associated with electricity generated by a community solar project, to multiple project participants, and may include other services associated with the use of the community solar project such as system monitoring and maintenance, warranty provisions, performance guarantees, and customer service.

(9) "Deposit" means any moneys provided to the community solar company as an advance toward a purchase of an interest in a community solar project or moneys provided to

the company as a guarantee of future payments due to the company.

(10) "Electric utility" means a consumer-owned utility or investor-owned utility as those terms are defined in RCW 19.280.020.

(11) "Private consumer information" means the name, street address, email address, telephone number, and any other personally identifying information of a customer, project participant, or applicant, as well as information related to the quantity, technical configuration, type, destination, and amount of use of service or products the customer, project participant, or applicant obtains or requests from a community solar company.

(12) "Project participant" means a customer who enters into a lease, power purchase agreement, loan, or other financial agreement with a community solar company to obtain a beneficial interest in, other than direct ownership of, a community solar project.

(13) "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.

(14) "WSU" means the Washington State University energy program.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-002, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-007 Administrators.** A community solar company may contract with or otherwise retain one or more administrators to perform tasks on the company's behalf that are subject to the rules under this chapter. If an administrator engages in conduct that violates any federal, state, or local law or regulation, or any commission order while acting on behalf of the community solar company, the company is subject to commission enforcement actions as if the company itself engaged in that conduct. The community solar company is responsible for maintaining measures designed to prevent and detect an administrator's violation of statutes or rules within the commission's authority to enforce. Upon commission request, a community solar company must make available records regarding the tasks an administrator performs on the company's behalf. Such records must fully enable the commission to audit, investigate, and determine the company's compliance with applicable law.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-007, filed 10/2/18, effective 11/2/18.]

## PART II

### REPORTING AND REGISTRATION REQUIREMENTS, REGULATORY AND REGISTRATION FEES

**WAC 480-103-010 Registration and regulatory fees.** Community solar companies must pay the following fees:

Initial registration: \$450

Renewal registration: \$350

Amended registration: \$150

Regulatory fee: See WAC 480-103-030(2), minimum \$20

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[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-010, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-020 Registration as a community solar company.** No person may engage in business as a community solar company in Washington without having registered with the commission. Engaging in business as a community solar company includes advertising, soliciting, offering, providing, or entering into an agreement to provide community solar project services.

(1) **Applications.** Community solar companies must submit applications to the commission for the following purposes:

(a) To initially register as a community solar company prior to engaging in business;

(b) To annually renew the company's registration as a community solar company; or

(c) To amend the company's existing registration to reflect any material change to the company's registered operations.

(2) **Application forms.** Community solar companies must submit the appropriate application on the form furnished by the commission and must include all information, documentation, and support the commission requires in the form or the form's instructions. The commission may refuse to accept an incomplete application. The commission's acceptance of an application does not indicate the commission's approval of the application, nor is the commission precluded from finding that the information the company provides in the application is insufficient.

(3) **Initial registration.** A community solar company must provide the following in its application for initial registration:

(a) The company's name and address;

(b) The name and address of the company's registered agent, if any;

(c) The name and address of all administrators the company currently has contracted with or retained to perform tasks on its behalf;

(d) The name, address, and title of each officer or director of the company;

(e) The company's most current balance sheet;

(f) The company's latest annual report, if any;

(g) A description of the services the company offers or intends to offer, including financing models;

(h) A description of the technical administrative competency of the principal personnel that the company will use to provide the proposed services;

(i) Evidence of adequate financial resources to provide the proposed services;

(j) Disclosure of any pending litigation against the company;

(k) The company's active electrical license or registration number issued by the Washington department of labor and industries, if applicable;

(l) Acknowledgment of the company's responsibilities under WAC 480-103-135;

(m) Evidence of an escrow or trust account where the company will hold deposits collected from customers, project participants, or applicants;

(10/2/18)

(n) Evidence of the resolution of any outstanding complaints against the company on file with the commission; and

(o) The initial registration fee specified in WAC 480-103-010.

(4) **Renewal registration.** Each community solar company must file an application to renew its registration by May 1st of each year after the calendar year in which the commission initially registered the company. The company must provide the following in its application to renew its registration:

- (a) The company's name and address;
- (b) The name and address of the company's registered agent, if any;
- (c) The name and address of all administrators the company currently has contracted with or retained to perform tasks on its behalf;
- (d) Any update to the name, address, and title of each officer or director of the company;
- (e) The company's most current balance sheet;
- (f) Any update to the description of the services the community solar company offers or intends to offer, including financing models, a description of the technical administrative competency of the personnel the company will use to provide the updated services, and evidence of adequate financial resources to provide the updated services;
- (g) Disclosure of any pending litigation against the company;
- (h) Any update to the company's active electrical license or registration number issued by the Washington department of labor and industries, if applicable;
- (i) Acknowledgment of the company's responsibilities under WAC 480-103-135;
- (j) Evidence of an escrow or trust account where the company will hold deposits collected from customers, project participants, or applicants;
- (k) The registration renewal fee required by WAC 480-103-010; and
- (l) The company's annual report and regulatory fee as required under WAC 480-103-030.

(5) **Amended registration.** A registered community solar company must immediately notify the commission of any material changes to the company's business operations including, but not necessarily limited to, changes to the company's name, services it provides, ownership, or business structure. The company must file an application to amend its existing registration to reflect any such changes.

(6) **Additional information.** The commission may require a community solar company to provide information in addition to the information specified in this rule if necessary to determine whether the company and its proposed or actual operations comply with applicable law and are consistent with the public interest.

(7) **Commission action.** The commission will take one of the following actions within thirty days of receiving a complete application:

- (a) Grant the application by letter or order, with or without a hearing;
- (b) Issue a notice of hearing to resolve issues of fact or law; or
- (c) Deny the application. The commission will not deny an application without a hearing. The commission may deny an application on the following nonexclusive grounds:

- (i) Failure to meet the requirements of this rule;
- (ii) Failure to provide sufficient protection for deposits the company collects from customers, program participants, or applicants;
- (iii) Lack of adequate financial resources to provide service;
- (iv) Lack of adequate technical administrative competency to provide service; or
- (v) Violations of applicable federal or state law as provided in WAC 480-103-040.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-020, filed 10/2/18, effective 11/2/18.]

#### **WAC 480-103-030 Annual reports and payment of regulatory fees. (1) Annual reports.**

(a) *Community solar companies.* Each community solar company must file a report on or before May 1st each year on the community solar company's operations within the state of Washington for the prior calendar year. The company must submit the annual report on the form furnished by the commission and must include all information, documentation, and support the commission requires in the form or the form's instructions. The report must include:

- (i) A statement under oath of the community solar company's gross operating revenue from intrastate operations during the prior calendar year; and
- (ii) A list identifying all of the company's community solar projects and related programs and services within the state of Washington.

(b) *Investor-owned utilities.* On or before May 1st each year, each investor-owned utility operating a community solar project must file a list identifying all of the utility's community solar projects and related programs and services within the state of Washington.

(2) **Regulatory fee.** On or before May 1st each year, each community solar company must pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross intrastate operating revenue the company generated during the previous calendar year, plus two-tenths of one percent of any such gross intrastate operating revenue in excess of fifty thousand dollars. The minimum regulatory fee a community solar company must pay is twenty dollars.

(3) **Enforcement.** The commission will enforce a community solar company's obligations under this rule, including assessment of penalties, as authorized in WAC 480-07-917.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-030, filed 10/2/18, effective 11/2/18.]

#### **WAC 480-103-040 Suspension and cancellation of a registration. (1) Voluntary cancellation.**

A community solar company may petition the commission to cancel the company's registration. The company must notify its project participants of its intent to file any such petition no less than fifteen days in advance of making the filing and when making the filing with the commission. The commission may grant the petition without a hearing.

(2) **Suspension.** The commission may suspend a community solar company's registration for cause. The commis-

sion will lift the suspension if the company remedies the cause within the time the commission allows. Cause for suspension includes, but is not limited to:

(a) Failure to provide information the commission needs to perform its regulatory functions including, but not limited to, failure to respond to complaints the commission has received and referred to the company for resolution;

(b) Failure to maintain an adequate escrow or trust account where deposits collected from project participants are or will be held;

(c) Violation of commission rules or orders or violations of the laws or regulations of a state or the United States as found by a court or governmental agency.

(3) **Involuntary cancellation.** The commission may cancel a community solar company's registration for cause. The commission need not suspend a company's registration prior to canceling it. Cause for cancellation includes, but is not limited to:

(a) Failure to file an annual report or pay required regulatory fees;

(b) Failure to correct the conditions leading to any suspension within the time defined in the letter or order of suspension;

(c) Failure to provide information as required by the commission or submitting false, misleading, incomplete, or inaccurate information;

(d) Failure to maintain an adequate escrow or trust account where deposits collected from project participants are or will be held;

(e) Failure to resolve complaints by any interested party, or upon the commission's own motion, after notice and opportunity for hearing; or

(f) Violation of commission rules or orders or violations of the laws or regulations of a state or the United States as found by a court or governmental agency.

(4) **Notice to company.** The commission will issue a notice of its intent to suspend or cancel a community solar company's registration. The notice will provide the company with an opportunity to respond to the commission's proposed action including, but not limited to, requesting a hearing. The commission will conduct an adjudicative proceeding in response to such a request only if the company raises genuine issues of material fact or law that require resolution through an evidentiary proceeding.

(5) **Notice to project participants.** A community solar company must notify its project participants of any pending commission action to suspend or cancel the company's registration within five days of the company receiving notice of such action from the commission.

(6) **Effect of suspension or cancellation.** A community solar company may not engage in business as a community solar company if its registration is suspended or canceled including, but not limited to, collecting any incentive payments described under chapter 82.16 RCW. Suspension or cancellation, however, will not relieve a community solar company of its contractual obligations to its program participants.

(7) **Reregistration.** A community solar company whose registration has been canceled may apply for a new registration under WAC 480-103-020 if the company has corrected the causes of cancellation.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-040, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-050 Disconnection of service.** An electric utility is not liable for incentive payments to a community solar company's project participants if the utility has disconnected utility service to the company due to the company's violation of a customer service agreement, such as nonpayment of the company's utility bill, or the company's violation of the interconnection agreement between the company and the utility.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-050, filed 10/2/18, effective 11/2/18.]

### PART III

## CONSUMER RULES

**WAC 480-103-100 Information to customers, project participants, and applicants.** (1) **Transparent administration.** A community solar company must administer its community solar projects in a transparent manner that allows for fair and nondiscriminatory opportunities for customers, project participants, and applicants to participate.

(2) **Cost recovery and notice.** A community solar company may establish a reasonable fee to cover the costs it incurs to organize and administer its community solar projects. Prior to a customer making the commitment to participate in the project, the company must give clear and conspicuous notice to the customer of the portion of the incentive payment that the company will use for this purpose.

(3) **Service changes.** A community solar company must promptly notify all affected project participants of any substantial change to the community solar project service the company provides. The community solar company must bear all costs in connection with making changes to its own equipment.

(4) **Information on rates, terms, and conditions.** A community solar company must make information regarding its rates, rules, and regulations available at each of its listed business offices and on its web site.

(5) **Information a company must maintain.** A community solar company must maintain and update annually through June 30, 2030, the following information for each community solar project it operates or administers:

(a) Ownership information;

(b) Contact information for any administrator of the community solar project;

(c) Contact information for persons who will respond to technical management questions;

(d) Business address;

(e) Email address at which the company will receive communications from the commission; and

(f) Project design details including, but not limited to, project location, output capacity, equipment list, and interconnection information, and participation information, including rates, fees, terms, and conditions.

(6) **Toll-free number and email address.** The community solar company must have a toll-free telephone number

that can accept calls during business hours and an email address to receive inquiries relating to services and rates, to accept and process orders, to explain charges on customer bills, to adjust charges made in error, and to respond to customer and project participant inquiries and complaints. Callers to the telephone number must be able to leave a detailed message in the event that a person does not answer. The company must return all unanswered calls and respond to all emails within one business day.

(7) **Commission publication.** A community solar company must provide each customer or potential project participant with a printed or electronic copy of the commission publication, *Consumer Guide to Community Solar in Washington State* at the time the company solicits participation in its community solar project. The company can obtain the publication from the commission's web site or by contacting the commission, and the company is responsible for making the requisite copies. The commission prescribes the language contained in the publication, and the company may not change that language.

(8) **Disclosure to applicants.** A community solar company must provide to each applicant relevant rate information and a disclosure form that explains the rights and responsibilities of a project participant. The disclosure form must include all material terms and conditions of participation in the company's community solar project including, but not limited to, the following:

(a) The company's regular business hours, mailing address, email address, web site, and toll-free telephone number;

(b) Information about any administrator of the community solar project;

(c) Contact information for questions and complaints;

(d) All financial rights and obligations of a project participant related to the project;

(e) The company's processes for establishing credit, making deposits, and handling delinquent accounts and cancellation;

(f) The company's dispute resolution process and the commission's complaint procedures the project participant may use if the company's process does not resolve the dispute;

(g) The company's billing and payment procedures;

(h) All recurring and nonrecurring charges;

(i) The terms under which the project's share of any incentive payment will be calculated by WSU over the life of the project;

(j) Current project production projections and the methodology used to develop the projections;

(k) Any compensation the company will pay to the participant in the event of project underperformance;

(l) The disposition of the renewable energy credits;

(m) Terms governing the portability or transferability of the project participant's interest in the project, including any potential costs associated with such a transfer; and

(n) Any other material terms and conditions of the services the company provides.

(9) **Annual notice to project participants.** At least once each year, a community solar company must directly advise each of its project participants how to obtain:

(a) A copy of the information, forms, and disclosures described in this section;

(b) The participant's current production projection information;

(c) The current total value of the participant's share of the project;

(d) A copy of the commission's community solar rules under this chapter; and

(e) A copy of the company's current rates, terms, and conditions for the project.

(10) **Copies to the commission.** The community solar company must provide the commission with current copies of all of the company's disclosure forms, pamphlets, brochures, and bill inserts prior to delivering such materials to customers, project participants, or applicants.

(11) **Unique materials.** A community solar company may not use the name, bills, marketing materials, or consumer education materials of another community solar company.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-100, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-105 Services and charges. (1) Services and charges limited.** A community solar company may offer and provide only the community solar project services the commission has registered the company to provide and may provide a project participant only the services the participant has agreed in writing to receive at the rates or charges the participant has agreed to pay.

(2) **No new charges without consent.** A community solar company may not charge a project participant any rate or fee for a new service or service option or impose a new or additional rate or fee for an existing service or service option without the participant's prior consent.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-105, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-110 Community solar company personnel. (1) General standards.** Each community solar company must develop standards and qualifications for the persons it uses to perform the tasks required to administer and operate its community solar projects and provide its project services. A company may not hire, engage, or otherwise use a person to perform such tasks who fails to meet its standards.

(2) **Door-to-door activity personnel.** A community solar company may not permit a person to conduct door-to-door activities on its behalf until it has obtained and reviewed the person's criminal history record.

(a) A company must complete a criminal background check for every person that will conduct door-to-door activities on its behalf;

(b) The company must keep evidence that it has completed a criminal background check for every person the company uses for door-to-door activities for as long as that person performs such activities and for seven years thereafter;

(c) No company may use a person for door-to-door activities who has been convicted of any crime involving theft, burglary, assault, sexual misconduct, identity theft, fraud, or

false statements, within five years of the date the company intends to use that person; and

(d) When a community solar company contracts with an independent contractor or vendor to perform door-to-door activities, the company must document that the contractor or vendor has performed criminal background investigations on its personnel in accordance with the requirements in this rule. A company may satisfy this obligation by obtaining from the independent contractor or vendor a written statement affirming that the contractor or vendor performed the requisite criminal background checks and that all personnel who will be performing door-to-door activities on behalf of the company satisfy the requirements in this section. The company must periodically audit whether the independent contractor or vendor has completed the background checks in accordance with this section.

**(3) Requirements for personnel engaged in door-to-door activities or public events.**

(a) *Training.* A community solar company must establish requirements and training for its employees and persons conducting door-to-door activities or appearing at public events on behalf of the company and must retain documentation of the completion of training as required under WAC 480-103-150.

(b) *Identification.* A community solar company must issue identification badges to be worn and prominently displayed by persons conducting door-to-door activities or appearing at public events on behalf of the company. The badge must:

- (i) Accurately identify the community solar company, its trade name, and its logo;
- (ii) Display the person's photograph;
- (iii) Display the person's full name; and
- (iv) Display a customer service phone number for the community solar company.

(c) *Disclosures on initial contact.* Upon first contact with a customer, a person conducting door-to-door activities or appearing at a public event on behalf of a community solar company must:

- (i) Identify the community solar company the person represents; and
- (ii) State that the person is not working for the customer's local utility or any other community solar company.

(d) *Branding.* When conducting door-to-door activities or appearing at public events on behalf of a community solar company, a person may not display branding elements, such as a logo, that suggests a relationship that does not exist between that person and any utility, government agency, or other community solar company.

(4) **No requirement to choose a company.** A community solar company or a person conducting door-to-door activities or appearing at a public event on behalf of a community solar company may not say or suggest to a customer that the customer is required to choose a community solar company.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-110, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-115 Application for participation in a community solar project.** (1) **No subscription without consent.** No community solar company may subscribe any person to a community solar energy generation system without that person's prior written consent.

(2) **Identification of application form.** Application forms to participate in a community solar project must be clearly identified as a contract for such participation.

(3) **Permissible applicant information requirements.** If applicable, a community solar company may require the following information from an applicant:

(a) The applicant's name, street address, email address, telephone number, and any alternative contact telephone number;

(b) Proof of identification; provided that the community solar company must allow the applicant to choose one form of identification from a list provided by the company of at least five sources of identification, which must include an option for a current driver's license or other state-issued photographic identification card; and

(c) Additional information the community solar company reasonably needs to provide or bill for service.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-115, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-120 Deposits.** (1) **Escrow or trust account.** Community solar companies that collect deposits from customers, project participants, or applicants must maintain an escrow or trust account where the company will hold the deposits it collects.

(2) **Interest on deposits.** Community solar companies that collect deposits from customers, project participants, or applicants must pay interest on those deposits from the date the company collects the deposit to the date the company refunds or applies the deposit directly to the customer, project participant, or applicant's account. For each calendar year, the company will pay interest at the rate for the one-year Treasury Constant Maturity calculated by the U.S. Treasury, as published in the *Federal Reserve's Statistical Release H.15* on January 15th of that year, or if January 15th is not a business day, the rate posted on the following business day.

(3) **Refund of deposits.** A community solar company must refund deposits plus interest, less any amounts due from the project participant, when:

(a) The participant's deposits plus interest are not applied toward the participant's account or portion of the community solar project; and

(b) The participant terminates his or her participation in the community solar project; or

(c) The company terminates the participant's participation; or

(d) The community solar project ceases operation.

(4) **Manner of refund.** A community solar company must refund any deposits plus interest in the manner indicated by the project participant at the time of deposit, or as modified by the project participant on a later date, using one of the following methods:

(a) A check issued and mailed to the project participant no later than fifteen days following termination of the partic-

ipant's participation in the project or termination of the project; or

(b) Another form of payment mutually agreed upon by the company and the participant.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-120, filed 10/2/18, effective 11/2/18.]

#### **WAC 480-103-125 Transfer of project participation.**

A community solar company must allow project participants to sell or otherwise transfer a portion or all of their interest in a community solar project, subject to the following conditions:

(1) Neither the portion transferred nor any portion retained by the project participant is smaller than the minimum participation size specified in the contract between the participant and the company;

(2) If the transfer is to one or more persons, those individuals must meet the company's participation requirements;

(3) The company may require the program participant to obtain company approval of any transfer to another person, which may not be unreasonably withheld; and

(4) If a program participant is unable or elects not to transfer the participant's interest to another person, the company must allow a transfer back to the company.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-125, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-130 Disclosure of private consumer information.** (1) **Consent required.** A community solar company may not disclose private consumer information to its affiliates, subsidiaries, or any other third party for the purposes of marketing services or product offerings to a customer, project participant, or applicant who does not already subscribe to that service or product without the person's prior written or electronic consent. The community solar company must obtain such consent for each instance of disclosure of the customer, project participant, or applicant's private consumer information.

(2) **Documentation of consent.** The community solar company must retain documentation of each consent for disclosure of private consumer information, which must include the following information:

(a) Confirmation of consent for the disclosure of private consumer information;

(b) The date of the consent and a list of the affiliates, subsidiaries, or third parties to which the customer, project participant, or applicant authorized disclosure of private consumer information; and

(c) Confirmation that the name, service address, and account number, if applicable, exactly match the community solar company's record for the customer, project participant, or applicant who provided the consent.

(3) **Inapplicability.** This section does not prevent a community solar company from undertaking any of the following:

(a) Disclosing the essential terms and conditions of special contracts as provided in WAC 480-80-143;

(b) Distributing any marketing information in a project participant's billing package; or

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(c) Collecting and releasing information in aggregate form related to services and products that customers, project participants, or applicants obtain or request as long as the aggregated information does not enable any specific customer, project participant, or applicant to be identified.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-130, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-135 Complaints and disputes.** (1) **Complaints to the company.** A community solar company must establish procedures for resolving complaints it receives from a customer, project participant, or applicant. At a minimum, the company must take the following actions when it receives such a complaint:

(a) Acknowledge the company's receipt of the complaint;

(b) Upon request, identify the company representative the complainant can contact concerning the complaint;

(c) Investigate the complaint promptly as required by the particular case;

(d) Report the results of the investigation to the complainant;

(e) Take corrective action, if warranted, as soon as practicable under the circumstances;

(f) Inform the complainant of the right to escalate the complaint to a supervisor at the company if the complainant is dissatisfied with the results, decision, or any corrective action the company has taken; and

(g) Inform the complainant, if still dissatisfied after speaking with a supervisor, of the commission's address and toll-free telephone number and of the complainant's right to file a complaint with the commission.

(2) **Complaints to the commission.** Customers, project participants, or applicants should attempt to resolve their disputes with a community solar company prior to filing a complaint with the commission. Customers, project participants, applicants, or their representatives may file the following types of complaints:

(a) *Informal complaints.* A person may make an informal complaint against the company as provided in WAC 480-07-910. The commission will investigate all such complaints and will work with the company and the complainant to resolve the dispute. As part of that investigation, the company must:

(i) Conduct its own investigation of the complaint and report the results to the commission within five business days or by a date the commission specifies;

(ii) Keep the commission informed of progress the company and the complainant have made toward resolving the complaint; and

(iii) Respond to any commission request for additional information within five business days of the request or by a date the commission specifies.

(b) *Formal complaints.* A person may file a formal complaint against the company as provided in WAC 480-07-370. Upon receipt of a formal complaint, the commission will determine the appropriate action to take including, but not limited to, whether to initiate an adjudication to resolve the dispute.

(3) **Records of complaints.** Each community solar company must keep a record of all complaints it receives, either directly or upon referral from the commission, for at least seven years and, upon request, make those records readily available for commission review. The records for each complaint must contain:

- (a) The complainant's name and address;
- (b) The date and nature of the complaint;
- (c) Any and all actions the company took in response to the complaint;
- (d) The final disposition of the complaint; and
- (e) All company documents regarding the complaint.

(4) **Actions pending complaint resolution.** The community solar company may not terminate a project participant's contract while the participant is pursuing any remedy or appeal provided by commission rule or while engaged in the dispute resolution process required by this section. Pending resolution of any complaint, moneys not in dispute must be paid when due, and the company must correct any conditions posing a danger to health, safety, or property. The company must inform the complainant of these requirements when referring the complainant to a company supervisor or to the commission.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-135, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-140 Electronic information.** (1) **Consent required.** A community solar company may provide in electronic form, rather than paper, information a statute, rule, or commission order requires the company to provide to a customer, project participant, or applicant, only with the prior written or electronic consent of the customer, project participant, or applicant. The electronic communication providing the information must provide a link to that information or otherwise sufficiently advise the customer, project participant, or applicant of how to access the information electronically.

(2) **Format of electronic communications.** All information a community solar company provides in electronic form must meet the requirements for format and any other requirements specified in this chapter.

(3) **Obtaining and documenting consent.** The community solar company must obtain the consent required in this section directly from the customer, project participant, or applicant for each service the company provides to the customer, project participant, or applicant. The company also must comply with the following requirements:

(a) **Content.** At a minimum, the consent must include the following:

- (i) The name, address, and account number, if applicable, that exactly matches the community solar company record for such person or account;
- (ii) The customer, project participant, or applicant's affirmative decision to receive electronic information;
- (iii) Confirmation of the customer, program participant, or applicant's understanding that the community solar company will provide, upon request but subject to the limitations in this section, a paper copy of any document the company sends electronically at no additional charge;

(iv) Confirmation of the customer, project participant, or applicant's understanding that the person may opt out of receiving information electronically at any time and revert to receiving paper documents through the mail at no additional charge;

(v) Confirmation of the customer, project participant, or applicant's understanding that it is that person's responsibility to notify the community solar company of any change to the person's email or other electronic address; and

(vi) Confirmation of the customer, program participant, or applicant's understanding that, in addition to the paperless account statements, the person may receive all notices regarding service in electronic form including, but not limited to, notices of the community solar company's intent to increase rates and make changes in service.

(b) **Consent disclosures.** All consent disclosures must be prominent on the community solar company's written or electronic form, web page, or other electronic format and must be clearly distinguishable from any other content in the document, screen, or web page.

(i) Only information specified in this section may be combined with the consent disclosures, including community solar company contact information.

(ii) The consent disclosures must not have consent boxes or spaces prefilled. The customer, project participant, or applicant must personally check each box or space to give the person's consent to receive electronic communication regarding one or more services.

(c) **Options.** The consent disclosures on the document, screen, or web page may provide for a single consent for all communications related to a specific service or may offer separate, individual opportunities to consent to the following aspects of a service:

- (i) Paperless billing;
- (ii) Automatic payments including, but not limited to, one-time payments; or
- (iii) Payment plans.

(d) **Records.** The community solar company must retain a record of each customer, project participant, or applicant's consent to receive electronic communications for each service the company provides.

(e) **Availability.** The community solar company must make its records of the customer, program participant, or applicant's consent available to that person and to the commission upon request and at no charge.

(4) **Documents requiring paper delivery.** A community solar company must deliver paper copies of the following documents to project participants no less than fifteen days in advance of the noticed event:

(a) Notices of termination or suspension of any community solar project in which the participant has an interest or of community solar project services the participant receives; and

(b) Notices of the company's involuntary termination of a participant's interest in a community solar project.

(5) **Limit on changes to information format.**

(a) A community solar company is not obligated to provide both paper documents and electronic information to a customer, project participant, or applicant on a continuous basis.

(b) A community solar company may limit a customer, project participant, or applicant who has consented to electronic communications to three requests for paper documents in a twelve-month period.

(c) A community solar company may require that a customer, project participant, or applicant who requests an electronic statement also receive all statement inserts electronically.

(d) If a customer, project participant, or applicant is unable to properly receive, view, or understand electronic information the community solar company provides, the company may refuse to provide that information in electronic form to that person.

**(6) Undeliverable electronic information.**

(a) If the community solar company receives a message or otherwise becomes aware that any electronic information it has sent to a customer, project participant, or applicant is undeliverable or did not reach the intended recipient, the company must take one or both of the following actions by the end of the next business day to ascertain and resolve the issue:

(i) Resend the electronic information to the electronic address the customer, program participant, or applicant provided to the company; or

(ii) Contact the customer, project participant, or applicant by telephone.

(b) If any electronic information remains undeliverable after the community solar company takes one or both of the actions required in (a) of this subsection, the company must send the information by mail to the customer, project participant, or applicant. In the mailing, the company must explain that the company is unable to deliver information to the electronic address in its records and that the company will only send paper copies of future information to the customer, project participant, or applicant until the person provides the company with a functioning electronic address.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-140, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-145 Meter tests. (1) Testing frequency.** A community solar company must test and report to project participants the accuracy of each of its community solar project's meters every twelve months.

(2) **Dispute resolution.** If a project participant disputes any meter test result, the company or the customer may file a complaint with the commission.

(a) When the commission has notified the company that the commission has received a complaint regarding a meter test result, the company may not alter the meter in any manner unless authorized by the commission. The commission may consider any alteration to the meter in violation of this requirement as support for the complaint.

(b) The commission may require the company to perform an additional meter test and report the test results to the commission within ten business days.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-145, filed 10/2/18, effective 11/2/18.]

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## PART IV

### RECORDS AND REPORTING RULES

**WAC 480-103-150 Retention and preservation of records and reports.** Community solar companies receiving incentive payments must maintain and preserve, for a period of seven years, suitable records as may be necessary to determine the amount of incentive the company applied for and received. Such records must be open for examination at any time upon notice by the utility that made the payment and by the commission. The commission otherwise adopts the standards in the publication, *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies*, published by the National Association of Regulatory Utility Commissioners, as the standards for records retention for community solar companies as described in WAC 480-103-999.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-150, filed 10/2/18, effective 11/2/18.]

**WAC 480-103-155 Reports of accidents. (1) Initial notification.** Each community solar company must notify the commission orally or by email of any accident that results in death or serious injury to any person occurring in connection with a company's community solar project or through contact with its facilities no later than the second business day following the company's discovery of the accident.

(2) **Follow-up report.** The community solar company must submit a follow-up written report of the accident to the commission within fifteen business days of the initial notification. The report must include, at a minimum:

(a) The time and place of the accident;

(b) A brief description of how the accident occurred;

(c) Whether the accident resulted in a fatality;

(d) The name and address of the persons injured; and

(e) A brief description of the company's response to the accident including, but not limited to, any medical treatment that was provided to the injured persons.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-155, filed 10/2/18, effective 11/2/18.]

## PART V

### ADOPTION BY REFERENCE

**WAC 480-103-999 Adoption by reference.** In this chapter, the commission adopts by reference the regulations and standards in *Regulations to Govern the Preservation of Records of Electric, Gas, and Water Companies*, published by the National Association of Regulatory Utility Commissioners (NARUC) as the standards for records retention for community solar companies unless otherwise specified in these rules. The commission adopts the version of this document in effect in 2007. This is a copyrighted publication, and copies are available from NARUC in Washington, D.C., or at the NARUC publications store online at <http://www.naruc.org/store>. The publication is also available for inspection at the commission's offices.

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[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 18-20-098 (Docket UE-171033, General Order R-595), § 480-103-999, filed 10/2/18, effective 11/2/18.]