

WISCONSIN LEGISLATIVE COUNCIL STAFF



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CLEARINGHOUSE REPORT TO AGENCY

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-065

AN ORDER to create chapter PSC 117, relating to the use of renewable resource credits.

Submitted by PUBLIC SERVICE COMMISSION

03-31-00 RECEIVED BY LEGISLATIVE COUNCIL.

04-28-00 REPORT SENT TO AGENCY.

RS:JES:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES  NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES  NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES  NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached YES  NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES  NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES  NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES  NO

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## CLEARINGHOUSE RULE 00-065

### Comments

**[NOTE:** All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

#### I. Statutory Authority

a. Under s. PSC 117.07 (3), the commission must determine the annual fee, if any, that it assesses electric providers for the purpose of funding the commission's renewable resource credit (RRC) program administrator. No statute expressly confers the power to the commission to establish this fee. The implied authority for the commission to establish and assess electric providers for the fee is not apparent.

In addition, if the commission concludes after review that it does have the authority to assess this fee, on what basis does the commission apply the fee to a nonexempt electric provider, as determined under s. PSC 117.01 (4), that chooses to comply with s. 196.378 (2) (a), Stats., directly without the use of any renewable resource credits from another electric provider and, thus, without receiving any services from the administrator?

b. The rule appears to allow electricity to be used in a renewable resource credit that is not authorized under s. 196.378, Stats. To be eligible for this use, the electricity must be supplied by a renewable facility owned, operated or under a wholesale purchase contract with an electric utility or retail electric cooperative in Wisconsin and sold by the utility or cooperative to its retail customers or members. See s. 196.378 (1) (g), (n) and (o), (2) (a) (intro.) and (3), Stats. The definition of "renewable resource credit" in s. PSC 117.02 (9) refers to the requirements set forth in ch. PSC 117 but not s. 196.378, Stats. Neither s. PSC 117.04 (1) nor 117.06 (2) explicitly refers to these requirements. If the commission intends to include these requirements

under s. PSC 117.06 (2) (c), the preferred rule drafting style is to include the requirements in the text of the rule.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. PSC 117.01, the word "a" should be replaced by the word "an" before the acronym "RRC." (The entire rule should be reviewed for the use of the correct article before this acronym.)

b. Section PSC 117.02 (10) refers to the creation, sale, transfer, purchase and retirement of a renewable resource credit. Subsection (11) refers to creating, trading, tracking and submitting RRCs. Section PSC 117.05 (5) refers to the award, transfer and retirement of credits. The terminology used in connection with the RRC trading program should be made consistent.

c. Section PSC 117.02 (3) defines "designated representative" to be "the person authorized by the owner or operator of a renewable resource to register that resource with the program administrator . . . ." Given the use of the term "designated representative" in s. PSC 117.06 (2) (intro.) and (3), "renewable facility" and "facility" should be substituted for "renewable resource" and "resource," respectively, in the definition of "designated representative."

d. The phrase "meets the requirements set forth in this chapter" in the definition of "renewable resource credit" in s. PSC 117.02 (9) is vague. Can the commission specify which requirements must be met for a megawatt-hour of renewable energy to become a renewable resource credit? Also, the use of "otherwise" in this definition is at best unnecessary and at worst confusing to a reader.

e. Section PSC 117.04 describes how a "facility" may create RRCs for use in the RRC trading program. First, neither the statutes nor the rule define the term "facility." It appears that when the commission intends to refer to a facility, it should make use of the defined statutory terms "renewable facility" throughout the rule. Next, in sub. (2), it is not clear why a renewable facility that is used to qualify for an electric provider exemption under s. 196.378 (2) (e), Stats., may not provide excess RRCs for use in the RRC trading program. The commission should provide an explanation for this provision in its analysis.

f. Under s. PSC 117.05 (2) (b) 2., the owner of a participating renewable facility must identify all electric providers to which energy was sold and the amount sold to each electric provider. Does the commission want the owner to not only identify this information but also to provide it to either the commission or its program administrator?

g. Section PSC 117.05 (2) (c) provides that the program administrator must credit a renewable facility's RRC account with the number of RRCs created. This leads the reader to the conclusion that a renewable facility, on its own, may participate in the RRC trading program. However, s. 196.378 (3) (a) describes the RRC trading program in terms of transfers of RRCs between electric providers. The rule provision should be clarified.

h. The commission should review the procedures for the mandatory retirement of renewable resource credits after five years under s. PSC 117.05 (4) to ensure that the procedures work under all circumstances. For example, as drafted, a renewable resource credit created in January of a year could be used in the month of March five years later even though it is more than five years old because it will not be retired in the annual retirement process until after April 1 under s. PSC 117.06 (4) (b).

i. Under s. PSC 117.07 (1) (a), the program administrator must identify the number of renewable resource credits necessary for each participating electric provider to comply with the minimum percentage requirements of s. 196.378 (2) (a), Stats. Should the program administrator identify these numbers on an annual or biennial basis, given that the requirements in s. 196.378 (2) (a), Stats., change every two years and that the total retail electric sales are calculated on the basis of an average amount of a provider's sales in this state during the prior three years under s. 196.378 (2) (b) 1., Stats.? Also, will the program administrator be responsible for applying s. 196.378 (2) (b) 2. to 4., Stats., to participating electric providers?

j. In the third sentence in s. PSC 117.07 (3), "non-electric" should be "non-exempt electric."

k. The fiscal estimate notes that the commission has not yet decided who will fulfill the role of program administrator. This of course should be determined prior to the promulgation of the rule.

To: John Stolzenberg

From: David Austin  
Senator Robson's office

Date: March 5, 2001

Re: Renewable Resource Credit Program (CR 00-065)

Attached please find the rule package submitted to the Legislature for review.

I think the Commission has dealt adequately with all of your comments with the exception of comment 1.a. (However, if you want to dig through your original report and compare it to the revised rule, that would be great.)

My concern with comment 1.a. is this. The rule now says [in PSC 118.06(4)(b)] that the authority for imposing on utilities the cost of administering the program is found in section 196.85(1) and (1m)(a) of the statutes.

Section 196.85 allows the Commission to bill *public* utilities for services, including accounting services, provided to those utilities. Paragraph (1m) allows the Commission to bill *private* utilities and coops for expenses incurred in connection with the preparation of the strategic energy assessment.

The strategic energy assessment, required by section 196.941, stats., includes reporting on protection of the environment and diversification of energy sources. Section 196.941(2)(a)10, stats.

The Commission's argument in favor of assessing utilities for the cost of administering the renewable resource credit program seems to rest on its need to report on the diversification of energy sources.

This seems like a pretty tenuous basis for assessing the costs of the renewable resource credit program.

What are your thoughts on the Commission's rationale?

Thanks.



# Public Service Commission of Wisconsin

Ave M. Bie, Chairperson  
Joseph P. Mettner, Commissioner  
John H. Farrow, Commissioner

610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

November 22, 2000

The Honorable Fred Risser, President  
The State Senate  
1 East Main Street, Room 201  
Madison, WI 53703



The Honorable Scott Jensen, Speaker  
The State Assembly  
State Capitol, Room 125W  
Madison, WI 53703

Re: Rules and Procedures for Implementing a Renewable Portfolio  
Standard Pursuant to 1999 Wisconsin Act 9

1-AC-192

Dear Senator Risser and Representative Jensen:

→ At its open meeting on November 21, 2000, the Commission approved the proposed rules, in final draft form, to create Wis. Admin. Code, ch. PSC 118 relating to the use of renewable resource credits.

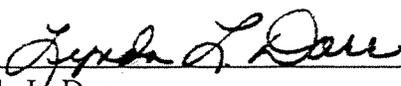
The Commission submits notice, pursuant to s. 227.19(2), Stats., that the proposed rules are in final draft form.

Section 227.19(2), Stats. also requires that such notice be accompanied by a report in the form specified under s. 227.19(3), Stats. Enclosed is the Commission's report as required in s. 227.19(3), Stats., including a copy of the proposed rules in final draft form.

If you have any questions or concerns, please contact Mr. David A. Ludwig, Assistant General Counsel, at (608) 266-5621.

Dated at Madison, Wisconsin, November 22, 2000

By the Commission:

  
Lynda L. Dorr  
Secretary to the Commission

LLD:CAS:ljv:L:\rulemaking\1-AC-192\submittal to legislature

Enclosures

cc: Records Management, PSC



# Public Service Commission of Wisconsin

Ave M. Bie, Chairperson  
Joseph P. Mettner, Commissioner  
John H. Farrow, Commissioner

610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

November 22, 2000

Mr. Gary Poulson, Deputy Revisor  
Revisor of Statutes Bureau  
131 West Wilson Street, Room 800  
Madison, WI 53703-3233



Re: Rules and Procedures for Implementing a Renewable Portfolio  
Standard Pursuant to 1999 Wisconsin Act 9

1-AC-192

Dear Mr. Poulson:

On November 22, 2000, the Commission submitted proposed rules, in final draft form, to the presiding officers of each house of the legislature. The Legislative Clearinghouse number for the proposed rules is 00-065. These proposed rules create Wis. Admin. Code ch. PSC 118, relating to the use of renewable resource credits.

Enclosed pursuant to s. 227.19(2), Stats., is a copy of the submittal letter to the presiding officers of each house of the Legislature.

If you have any questions or concerns, please contact Mr. David. A. Ludwig, Assistant General Counsel, at (608) 266-5621.

Dated at Madison, Wisconsin, November 22, 2000

By the Commission:

Lynda L. Dorr  
Secretary to the Commission

CAS:ljv:Lrulemaking\1-AC-192\notice of submittal to legislature

Enclosures

cc: Records Management, PSC

# REPORT TO THE LEGISLATURE

Legislative Clearinghouse Rule 00-065

In the Matter of Rules and Procedures for Implementing a  
Renewable Portfolio Standard Pursuant to 1999 Wisconsin Act 9

1-AC-192

Public Service Commission of Wisconsin

November 2000

## PROPOSED RULE

Attached to this Legislative Report, as Attachment A, is a copy of the proposed rule of the Public Service Commission of Wisconsin (Commission), in final draft form, to create ch. PSC 118, Wis. Adm. Code. The Commission has prepared this proposed rule in the form specified in s. 227.14(1), Stats., including plain language analysis. The proposed rule does not require any new or revised forms. Also included with this report, as Attachment B, is the Commission's fiscal estimate for this proposed rule.

## ANALYSIS

Pursuant to s. 227.19(3), Stats., the Commission provides the following analysis of its proposed rule:

### 1. *Need for rule*

1999 Wisconsin Act 9 created, in s. 196.376(2), Stats., a renewable portfolio standard, requiring electric providers to meet certain minimum percentages of their retail sales with renewable resources. 1999 Wisconsin Act 9 also created s. 196.378(3), which requires the Commission to promulgate rules that establish the requirements for the use of renewable resource credits.

### 2. *Wisconsin RPS Collaborative*

On April 18, 2000, the Commission issued an order awarding Renew Wisconsin intervenor compensation to establish a collaborative process to investigate a variety of renewable credit trading system models, to compare the likely outcome from each model, and to assist the Commission in the drafting of rules for the creation and operation of a renewable credit trading program in Wisconsin. Renew Wisconsin secured an Internet address (<http://www.egroup.com/group/rps-wisconsin>) where the collaborative work products were posted and archived. There are 46 registered individuals participating in the Wisconsin RPS collaborative representing Wisconsin utilities, RENEW, Wisconsin's Environmental Decade, power producers, and policy/advocacy groups. Several face-to-face meetings were also held.

The collaborative recommended revisions based on its investigation of renewable trading credit models and a review of both the original draft rules and the Legislative Council Rules Clearinghouse *Report to the Agency*. After about two months of work, the collaborative produced a revised, redline, draft of the rules. This redline draft is part of the hearing record and a copy is provided as attachment C. The collaborative draft includes the following primary revisions made from the original draft: 1) renewable resource credits are created by electric providers instead of renewable facilities; 2) renewable resource credits may only be created by an electric provider that has exceeded its minimum renewable requirements, 3) renewable resource credits can be sold to non-utility entities, and 4) fee assessment for participation in the program would be by the program administrator instead of the Commission.

### 2. *Public Hearings, Modifications to Proposed Rule Due to Comments Received*

Pursuant to the Commission's Notice of Hearing issued on June 23, 2000, and published in the July 15, 2000 Wisconsin Administrative Register, the Commission held a public hearing on the proposed rules in Madison on July 26, 2000. A copy of the Notice of Hearing is provided as attachment D. All participants in the hearing were represented on the Wisconsin RPS Collaborative. The foundation of all the comments made at the public hearing is the Wisconsin RPS Collaborative draft of the rules. The following modifications were made as a result of the testimony filed at the public hearing:

A. Generation of credits from excludable renewable energy

The original draft rules in s. PSC 118.03, Wis. Adm. Code did not address the ability of an electric provider to use excludable renewable energy to create RRCs. Wisconsin Public Service Corporation requested clarification that excludable renewable energy of up to 0.1 percent of an electric retail provider's total retail electric sales can be used to create credits in 2001 and 2002. This is the difference between the maximum percent of excludable renewable energy that can be included in the electric provider's total renewable energy and the minimum percent of retail sales electric providers are required to meet in 2001 and 2002. The Commission agrees and has created s. PSC 118.03(3)(a) to clarify that an electric provider may use excludable renewable energy to create an RRC, except that any excludable renewable energy exceeding 0.6 percent of the electric provider's retail electric sales is not eligible to create an RRC.

B. Creation of credits through electric power transactions

Dairyland Power Cooperative requested a clarification of how renewable credits are created through purchase power transactions that occur between electric providers. The Commission agreed and created s. PSC 118.03(1)(c)2, Wis. Adm. Code, to allow an electric provider to use, in the creation of an RRC, the energy from a renewable facility that is supplied or allocated to it under an executed wholesale contract to the electric provider. The Commission has also added a sentence to s. PSC 118.04(1) to clarify the allocation of renewable energy of an electric provider that sells electric energy to a wholesale customer under a filed embedded cost contract.

C. Fractional RRCs

The original rules in s. PSC 118.02(10) define a "renewable resource credit" to mean "one MWh of renewable energy from a certified renewable facility..." and ch. PSC 118 does not recognize the ability to create, sell, transfer, purchase and retire fractional RRCs. Dairyland Power Cooperative expressed concern that the inability to create, sell, transfer, purchase, and retire fractional RRCs effectively precludes small utilities from creating RRCs or purchasing RRCs to help them meet the Renewable Portfolio Standard requirements of s. 196.378, Wis. Stats. The Commission agreed and created s. PSC 118.04(2)(d) to allow fractions of RRCs.

D. Joint selling of RRCs by two or more providers

Dairyland Power Cooperative requested that the rules allow two or more electric providers to jointly purchase or sell RRCs. The Commission agreed and created s. PSC 118.04(e) to allow electric providers to jointly purchase or sell an RRC.

E. Timing of award of RRCs

The original rules in s. PSC 118.05(1)(a) did not allow the award of an RRC until after certification of the renewable facility. Dairyland Power Cooperative requested clarification that, although RRCs may not be awarded before a renewable facility is certified, an RRC may be awarded for energy that a certified renewable facility produced subsequent to the date the Commission received the request for certification. The Commission agreed and expanded s. PSC 118.05(1)(a) to allow RRCs to be created from the time a request for certification of a renewable facility is received by the Commission.

3. *Persons Appearing at Hearing*

The following persons appeared or registered for or against the proposed rule at the Commission's public hearing:

In Support:

None

As Interest May Appear

Dairyland Power Cooperative  
by  
Jeffrey L. Landsman  
25 West Main Street, Suite 801  
Madison, WI 53703

Foley and Lardner  
by  
James Tynion  
777 East Wisconsin Avenue  
Milwaukee, WI 53202

Municipal Electric Utilities of Wisconsin  
by  
Richard Heinemann  
One South Pinckney Street  
Madison, WI 53705

Northern States Power Company  
by  
David Donovan  
1414 West Hamilton Avenue

PO Box 8  
Eau Claire, WI 54702-0008

Renew Wisconsin  
by  
Michael Vickerman  
222 South Hamilton Street  
Madison, WI 53703

Unicom/Com Ed  
by  
Michael Bright  
123 East Doty Street, Suite 205  
Madison, WI 53703

Wisconsin Power and Light Company  
by  
Ritchie Sturgeon  
222 West Washington Avenue  
Madison, WI 53701

Wisconsin Public Power, Inc.  
by  
Scott Barnhart  
1425 Corporate Center Drive  
Sun Prairie, WI 53590

Wisconsin Public Service Corporation  
by  
Neal Siikarla  
700 North Adams Street  
Green Bay, WI 54301

In Opposition

None

4. *Legislative Council Rules Clearinghouse Report 00-065*

Appendix E is a copy of the Legislative Council Rules Clearinghouse *Report to Agency*. The Rules Clearinghouse recommended numerous changes to the Commission's original rule draft, and posed some questions for Commission consideration. The Commission has considered all the questions of the Rules Clearinghouse and modified its proposed rules where appropriate. In addition, the Commission has incorporated all the rule changes recommended by the Rules Clearinghouse, with the following exceptions:

A. Participation of Exempt Electric Providers in the Renewable Trading Credits Program

The Rules Clearinghouse recommended (item 5.e) that the Commission consider allowing a renewable facility used by an electric provider to qualify for an exemption under s. 196.378 (2) (e), Stats., to create RRCs. The Commission revised s. PSC 118.03 (2) to allow, in the case of a renewable facility that serves both an exempt and a non-exempt electric provider, the non-exempt electric provider to use the portion of a renewable facility that serves it to create RRCs. The exemption to s. 196.378 (2) (a) is based on peak summer **demand** being met with renewable resources, while the minimum percent requirement, which is the foundation for the creations of RRCs, is based on renewable **energy** sold at retail. Because the requirement for exemption is based on peak summer demand, there are not excess MWhs produced by a facility that is used to qualify for an exemption. Renewable facilities serving an exempt electric provider that are not used to qualify for the exemption would be eligible for use by the exempt electric provider to create RRCs.

B. Renewable Resource Credit Program Administrator

The Rules Clearinghouse recommended (item 5.i) that the Commission specify the frequency of the identification by the program administrator of the number of RRCs necessary for each participating provider to comply with the minimum percentage requirements of s. 196.378 (2) (a), Stats. The Rules Clearinghouse also recommendation that the Commission consider this identification be done on a biennial basis. Commission staff revised s. PSC 118.07 to require the identification of the amount of renewable energy each participating electric provider must sell to its retail customers to comply with the minimum percentage requirements of s. 196.378 (2) (a) on an annual basis. The minimum percentage requirements to be met by electric providers only changes every two years. However, each electric provider's average retail electric sales for the prior three years, which is the basis for determining the amount of renewable energy each provider must sell to its customers at retail, changes every year. While this three-year average is not likely to change significantly from year to year in the short term, the annual fluctuations could be substantial if retail competition becomes a reality.

The Rules Clearinghouse also recommended adding to the program administrator's duties the application of s. 196.378 (2) (b) 2. to 4., Stats. to participating electric providers. The Commission added a reference to s. 196.378 (2) (b), Stats., to s. PSC 118.06 (2) (a), which deals with the identification by the program administrator of the amount of renewable energy each participating electric provider must sell to its retail customers. Incorporation of this reference requires that the program administrator insure the requirements of s. 196.378 (2) (b) 2. to 4., Stats. are applied to participating electric providers before renewable resource credits are awarded.

5. *Final Regulatory Flexibility Analysis*

The rules would apply to any electric provider who wishes to create renewable resource credits. These electric providers are public utilities as defined in s. 196.01(5). The proposed rules do not affect small businesses as defined in s. 227.114, Stats.

L:\rulemaking\1-AC-192\report to the legislature

**PROPOSED ORDER OF THE STATE OF WISCONSIN  
PUBLIC SERVICE COMMISSION ADOPTING RULES**

The Public Service Commission of Wisconsin proposes an order to create ch. PSC 118, relating to the use of renewable resource credits.

**Analysis Prepared by the Public Service Commission of Wisconsin**

Statutory authority: ss. 196.02(1) and (3), 196.378(3) and 227.11, Stats.  
Statute interpreted: s. 196.378, Stats.

1999 Wis. Act 9 created a renewable portfolio standard, requiring electric providers to meet certain minimum percentages of their retail sales with renewable resources. The minimum percentage gradually increases, as follows:

Year 2001:	0.5 percent of total retail electric sales.
Year 2003:	0.85 percent of total retail electric sales.
Year 2005:	1.2 percent of total retail electric sales.
Year 2007:	1.55 percent of total retail electric sales.
Year 2009:	1.9 percent of total retail electric sales.
Year 2011:	2.2 percent of total retail electric sales.

In lieu of providing renewable energy to its customers, an electric provider can purchase a renewable resource credit. Under the newly created statutes, the Commission must “promulgate rules that establish requirements for the use of a renewable resource credit, including the amount of a renewable resource credit.” The proposed rules address the requirements and procedures for the use of renewable resource credits.

The proposed rules establish a renewable resource credits trading program and describe the minimum criteria for renewable energy facilities to be eligible for production of credits in the trading program. The proposed rules also describe the duties of a program administrator, who supervises and implements the trading program. The program administrator is required to create a trading account for participating electric providers and other owners of renewable resource



(11) "Retail customer" means a customer of an electric provider that resides in Wisconsin and purchases electricity at retail.

(12) "RRC account" means the account that the program administrator maintains in order to track the creation, sale, transfer, purchase, and retirement of an RRC by a program participant.

(13) "RRC trading program" means the process of creating, selling, transferring, purchasing, and retiring RRCs.

**PSC 118.03 Facilities eligible for creating renewable resource credits.** (1) An electric provider may create an RRC only if the renewable facility that is the source of the electric provider's renewable energy meets all of the following requirements:

(a) The energy output of the renewable facility is physically metered and the accuracy of the metering is subject to verification by the program administrator.

(b) The renewable facility registers with, and is certified by, the commission under s. PSC 118.05.

(c) 1. The renewable facility is owned or operated by the electric provider, which sells the renewable energy to its retail customers or members; or

2. The renewable facility supplies or allocates its energy under an executed wholesale purchase contract to the electric provider, which sells the renewable energy to its retail customers or members.

(2) Any portion of a renewable facility serving an exempt electric provider in any compliance period, is not eligible to create RRCs during that compliance period.

(3) (a) An electric provider may use the excludable renewable energy of a renewable facility that complies with sub. (1) to create an RRC, except that any excludable renewable energy exceeding 0.6% of the electric provider's retail electric sales is not eligible to create an RRC.

(b) A biomass co-fired facility may only use the renewable portion of its energy production, based on the relative energy content of the fuels, to create RRCs in the applicable reporting period.

**PSC 118.04 Creation and transfer of renewable resource credits.** (1) The program administrator shall administer a trading program for RRCs.

(2) (a) Beginning on January 1, 2001, an RRC is created only when an electric provider exceeds its minimum percentage requirement under s. 196.378(2)(a), Stats. If an electric provider selling electric energy at wholesale has an obligation to meet the electricity needs of the wholesale customer's firm native load, until the electric provider has a wholesale purchase tariff approved by FERC after the effective date of these rules, the percent of the electric provider's energy that is produced by a certified renewable facility shall be allocated to the wholesale customer and is not eligible to meet the electric provider's minimum percentage requirement.

(b) An electric provider may meet all or part of its minimum percentage requirement by purchasing RRCs. An electric provider may use renewable energy purchased at wholesale to create RRCs in the same manner as renewable energy that the electric provider generates itself. Energy metered for the purpose of creating an RRC may not be used to meet an electric provider's minimum percentage requirement under s. 196.378 (2) (a), Stats., other than through the retirement of its associated RRC.

(c) By February 15 of each year, every electric provider that participates in the RRC trading program by creating an RRC shall report to the program administrator the amount of renewable energy it generated or purchased, and sold at retail, from each certified renewable facility during the preceding year.

(d) Within 10 days after receiving a report from an electric provider under par. (c), the program administrator shall record the amount of metered MWh sold at retail that is reported for each certified renewable facility. The program administrator shall, after an electric provider has met its annual minimum percentage requirement, credit the electric provider's RRC account with the number of RRCs created.

(e) Renewable energy that would meet the definition of an RRC under s. PSC 118.02(10), except that it consists of less than one MWh, shall constitute a fraction of an RRC. A fractional RRC may not be smaller than 0.01 MWh.

(f) Two or more electric providers may jointly purchase or sell an RRC.

(3) When an RRC is credited to an electric provider's account under sub. (2), the account owner may sell or transfer the RRC to another electric provider. Any person selling or transferring an RRC shall report the sale or transfer to the program administrator within 10 days of the transaction. The program administrator shall then credit the RRC account of the new owner and debit the RRC account of the prior owner. An RRC may continue to be sold or traded

only if each seller or transferor reports the transaction to the program administrator within 10 days of its consummation.

(4) When an electric provider uses an RRC to comply with the minimum percentage requirements of s. 196.378 (2) (a), Stats., the program administrator shall retire the RRC.

(5) Subject to commission approval, the program administrator may establish any procedure necessary to ensure that the creation, sale, transfer, purchase and retirement of RRCs are accurately recorded.

**PSC 118.05 Certification of renewable facilities.** (1) (a) An electric provider may only use the energy of a certified renewable facility for creation of an RRC.

(b) The program administrator may not award an RRC before the date that the commission certifies a renewable facility, but the program administrator may award an RRC for energy that a certified renewable facility produced subsequent to the date the commission received the request for certification.

(2) To obtain commission certification, the electric provider generating or purchasing energy from a renewable facility, or a designated representative, shall provide the following registration information in a format approved by the commission:

(a) The renewable facility's location, owner, technology, date placed in service, and rated capacity.

(b) Information that demonstrates the renewable facility meets the resource eligibility criteria under s. PSC 118.03.

(c) Any other information the commission determines to be necessary.

(3) The commission shall inform both the program administrator and the electric provider, or its designated representative, whether it has certified a renewable facility for which it has received an application under sub. (2).

(4) The program administrator shall create an RRC account for each owner of an RRC.

(5) The commission may make on-site visits to any certified unit of a renewable facility to determine its compliance with this chapter and with s. 196.378, Stats., and may decertify any unit that it finds not to be in compliance.

(6) The program administrator may not create RRCs for energy produced by a decertified renewable facility.

**PSC 118.06 Renewable resource credit program administrator.** (1) The commission shall, using a competitive process, contract with a program administrator.

(2) The program administrator shall:

(a) Identify annually the amount of renewable energy each participating electric provider must sell to its retail customers to comply with the minimum percentage requirements of s. 196.378 (2) (a) and (b), Stats.

(b) Create an RRC account to track RRCs for each participating electric provider and other owner of RRCs.

(c) Credit RRCs to RRC accounts under s. PSC 118.04 (2).

(d) Retire RRCs under s. PSC 118.04(4).

(e) Maintain program information on an internet website for traders and the public in general.

(f) Audit certified renewable facilities, when necessary, to verify the accuracy of metered production data.

(g) Perform any other function designated by the commission.

(3) The program administrator may create an exchange procedure for purchasing and selling RRCs.

(4) (a) Annually, the program administrator shall report to the commission the costs incurred in operating the RRC trading program and recommend an assessment of these costs to electric providers that hold RRC accounts. The program administrator shall base part of this proposed assessment of costs on the number of each electric provider's RRC transactions, the size of these transactions, or both. These factors shall determine how a majority of the costs are assessed.

(b) The commission shall review the cost allocation that the program administrator proposes under par. (a) and approve or modify this allocation. The commission shall assess these costs to each electric provider, pursuant to s. 196.85(1) and (1m)(a), Stats.

**EFFECTIVE DATE:** This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22(2) (intro.), Stats.

Dated at Madison, Wisconsin, November 22, 2000

By the Commission:

Lynda L. Dorr  
Lynda L. Dorr  
Secretary to the Commission

L:\Rulemaking\1-ac-192\11-21-00 renewable resource credit draft rules clean version.doc

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

**FISCAL ESTIMATE**  
DOA-2048 N(R10/96)

**Subject**  
Renewable Resource Credit Program Rules

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget     Yes     No

Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Decrease Costs

Local:  No local government costs

1.  Increase Costs  
     Permissive       Mandatory  
2.  Decrease Costs  
     Permissive       Mandatory

3.  Increase Revenues  
     Permissive       Mandatory  
4.  Decrease Revenues  
     Permissive       Mandatory

5. Types of Local Governmental Units Affected:  
 Towns       Villages       Cities  
 Counties       Others \_\_\_\_\_  
 School Districts       WTCS Districts

**Fund Sources Affected**

GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Ch. 20 Appropriations**

20.155(l)(g)

**Assumptions Used in Arriving at Fiscal Estimate**

1999 Wis. Act 9 created a renewable portfolio standard requiring electric providers to meet certain minimum percentages of their retail sales with renewable resources. An electric provider may purchase or sell renewable resource credits following the rules developed for the program and by adhering to the determinations of the Commission on what is an allowable renewable resource credit (RRCs).

The rules provide for the program to be managed by a program administrator. The program administrator selected by competitive bid would establish an e-commerce site for trading and tracking the buying and selling of RRC credits. There would not be a cost to the state for the program administrator's work. The assumption is that the PSC would establish a four to five year contractual relationship with an administrator. The administrator would recover their initial startup investment and the cost of processing and tracking fees by charging buyers and sellers a nominal transaction fee. The PSC has not determined what that fee would be, but has discussed the general costs of this effort with two potential bidders who provide similar services to other states. It appears from these discussions that the initial work to set up the e-commerce web site and develop the software to track the transactions would cost approximately \$150,000. Annual program costs could be in the neighborhood of \$50,000 per year to run the program. However, the minimum percentage for 2001 and 2002 of 0.5 percent of total retail electric sales will probably mean that transactions to buy credits will be minimal because most of the Wisconsin utilities can meet this initial percentage.

There are other possibilities that are under consideration for the program to pay for the cost. One such possibility is that some, or all of the initial start up costs of the program would be paid from the public benefits program. A second is that the annual cost of such a program could be negated by using in-house staff to track the buying and selling of RRC's. The latter consideration would require the PSC to pay an on-going software rental charge to the vendor who develops the software. Estimates of this fee appear to be approximately \$50,000 per year depending on the system configuration. Payment of the up-front costs using the public benefits fund may or may not be an option. Department of Administration staff are reviewing this issue to determine if it is a viable option considering the state statutes adopted for the public benefits program.

**Long-Range Fiscal Implications**

Agency/Prepared by: (Name & Phone No.)  
PSC/Gordon Grant 267-9086

Authorized Signature/Telephone No.

*Gordon Grant*

Date  
11/01/00

DATE MAILED

JUN 23 2000

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Rules and Procedures for Implementing a Renewable Portfolio  
Standard Pursuant to 1999 Wisconsin Act 9

1-AC-192

NOTICE OF HEARING

Hearing Date:	Wednesday, July 26, 2000 – 9:30 a.m.
Hearing Location:	Public Service Commission, 610 North Whitney Way, Madison, WI (Amnicon Falls Hearing Room – 1 <sup>st</sup> Floor)

This docket proposes to create a new chapter of rules pursuant to provisions of 1999 Wis. Act 9, in order to establish a renewable resource credits (RRC) trading program. The renewable resource requirement legislation, s. 196.378, Stats., requires electric energy providers to meet increasing percentages of their retail energy sales with renewable resources. An RRC program must be established, allowing electric providers that supply more retail renewable energy than the minimum statutory requirements to sell credits to other providers, or to bank credits for future use. Rules promulgated as a result of this docket will perform several functions basic to the creation of an RRC program, as specified in s. 196.378 (3), Stats.

Summary and Analysis of Rules

Statutory authority: ss. 196.02(1) and (3), 196.378(3), and 227.22, Stats.  
Statute interpreted: s. 196.378, Stats.

1999 Wis. Act 9 created a renewable portfolio standard, requiring electric providers to meet certain minimum percentages of their retail sales with renewable resources. These minimum percentages gradually increase over time. In lieu of providing renewable energy to its customers, an electric provider can obtain an RRC. The proposed rules address the requirements and procedures for creation and use of RRCs.

The proposed rules require a program administrator to implement and supervise an RRC trading program for participants. Beginning on January 1, 2001, RRCs for use in the trading program may be created by the energy output of a renewable facility. The energy output must be physically metered and sold at retail and the program administrator must verify the accuracy of

Docket 1-AC-192

the metering. The renewable facility must also register with, and be certified by, the Commission.

The program administrator will create an RRC account to track RRCs for each program participant. The program administrator will also credit RRCs to RRC accounts. When an RRC is credited to an account, the account owner may sell or transfer the RRC to any person. An RRC may continue to be sold or traded as long as each buyer or transferee reports the transaction to the program administrator within 10 days of its consummation. The program administrator retires the RRCs upon their use to satisfy the electric providers minimum renewable energy requirement. If an RRC is not used within five years of its creation, the program administrator will retire it.

The rules require that a renewable facility creating RRCs be certified by the Commission. To accomplish this, the owner of a renewable facility, or its designated representative, must provide registration information to the Commission. This information includes the renewable facility's location, owner, and technology; date placed in service; and rated capacity. Information that demonstrates that the renewable facility meets the resource eligibility criteria must also be provided.

#### **Fiscal Estimate**

It has not been determined how the program administrator will be created. A collaborative report to the Commission will be part of the rulemaking process. The report will address this issue, among others, and make a recommendation to the Commission for action. Until the report is received and action is taken by the Commission, it would be speculative to provide cost data. A new fiscal note will be developed after the Commission has acted on the collaborative report.

#### **Initial Regulatory Flexibility Analysis**

The proposed rules would apply to electric public utilities and retail electric cooperatives. The proposed rules do not affect small businesses as defined in s. 227.114, Stats.

#### **Environmental Analysis**

This is a Type III action under s. PSC 4.10(3), Wis. Adm. Code. No unusual circumstances suggesting the likelihood of significant environmental consequences have come to the Commission's attention. Neither an environmental impact statement under s. 1.11, Wis. Stats., nor an environmental assessment is required.

**NOTICE IS GIVEN** that a hearing will be held beginning on Wednesday, July 26, 2000, at 9:30 a.m. in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, and continuing at times to be set by the presiding

Docket 1-AC-192

Administrative Law Judge. This building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the case coordinator listed below.

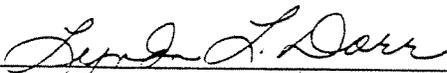
The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the case coordinator listed below.

Questions from the media should be directed to Jeff Butson, Public Affairs Director, at (608) 267-0912.

Questions or requests for a free copy of the proposed rules regarding this matter should be directed to case coordinator Carol A. Stemrich at (608) 266-8174.

Dated at Madison, Wisconsin, June 22, 2000

By the Commission:



Lynda L. Dorr  
Secretary to the Commission

LLD:CAS:lvy:ag:\notice\pending\1-AC-192 NOH.doc



# Public Service Commission of Wisconsin

Ave M. Bie, Chairperson  
Joseph P. Mettner, Commissioner  
Robert M. Garvin, Commissioner

610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

The Honorable Douglas LaFollette, Secretary of State  
Office of the Secretary of State  
30 West Mifflin Street, 10<sup>th</sup> Floor  
Madison, WI 53703

Mr. Gary Poulson, Deputy Revisor  
Revisor of Statutes Bureau  
131 West Wilson Street, Room 800  
Madison, WI 53703-3233

Re: Rules and Procedures for Implementing a Renewable Portfolio  
Standard Pursuant to 1999 Wisconsin Act 9

1-AC-192

Dear Secretary LaFollette and Mr. Poulson:

At its open meeting on April 3, 2001, the Public Service Commission adopted an emergency rule relating to the creation of a renewable resource credit trading program. Pursuant to s. 227.20, Stats., an agency is required to file a certified copy of each rule it adopts with the offices of the Secretary of State and the Revisor of Statutes.

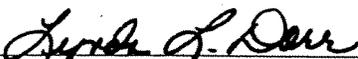
Enclosed for filing are certified copies of the *Order of the Public Service Commission Adopting Emergency Rules*, which creates ch. PSC 118, Wis. Adm. Code. Mr. Poulson's filing also includes an additional uncertified copy of the rules.

Section 227.24(3), requires a state agency to mail a copy to each member of the Legislature when it files a rule. Accordingly, a copy of this letter and of the Commission's order is being sent to each legislator.

If you have any questions or concerns, please contact Mr. David A. Ludwig, Assistant General Counsel, at (608) 266-5621.

Dated at Madison, Wisconsin, April 3, 2001

By the Commission:

  
Lynda L. Dorr  
Secretary to the Commission

LLD:DAL:ljv:Lrulemaking\1-AC-192\notice of emerg rule submit to legis 3-01.doc

Enclosures

cc: Records Management, PSC  
State Senators  
State Representatives



# Public Service Commission of Wisconsin

Ave M. Bie, Chairperson  
Joseph P. Mettner, Commissioner  
Robert M. Garvin, Commissioner

610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

The Honorable Judith Robson, Co-Chairman  
Joint Committee for Review of Administrative Rules  
The State Senate  
State Capitol, Room 15S  
Madison, WI 53703

The Honorable Glenn Grothman, Co-chairman  
Joint Committee for Review of Administrative Rules  
The State Assembly  
State Capitol, Room 15N  
Madison, WI 53703

Re: Rules and Procedures for Implementing a Renewable Portfolio  
Standard Pursuant to 1999 Wisconsin Act 9

1-AC-192

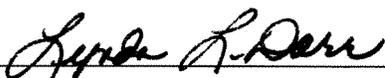
Dear Senator Robson and Representative Grothman:

At its open meeting on April 3, 2001, the Public Service Commission adopted an emergency rule relating to the creation of a renewable resource credit trading program. Enclosed please find copies of a certificate, the *Order of the Public Service Commission Adopting Emergency Rules*, which creates ch. PSC 118, Wis. Adm. Code, and a fiscal estimate regarding this emergency rule.

If you have any questions or concerns, please contact Mr. David A. Ludwig, Assistant General Counsel, at (608) 266-5621.

Dated at Madison, Wisconsin, April 3, 2001

By the Commission:

  
\_\_\_\_\_  
Lynda L. Dorr  
Secretary to the Commission

LLD:DAL:ljv:Lrulemaking\1-AC-192\notice of emergency rule submittal to JCRAR.doc

Enclosures

cc: Records Management, PSC  
Mr. Jay Risch, Office of the Governor  
Secretary George Lightbourn, Department of Administration

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Rules and Procedures for Implementing a Renewable Portfolio  
Standard Pursuant to 1999 Wisconsin Act 9

1-AC-192

**ORDER OF THE PUBLIC SERVICE COMMISSION  
ADOPTING EMERGENCY RULES**

The Public Service Commission of Wisconsin adopts an emergency rule to create PSC 118, Wis. Admin. Code, relating to the use of renewable resource credits.

**Analysis Prepared by the Public Service Commission of Wisconsin**

Statutory authority: ss. 196.02(3), 196.378(3), and 227.11, Stats.

Statute interpreted: s. 196.378, Stats.

1999 Wis. Act 9 created a renewable portfolio standard, requiring electric providers to meet certain minimum percentages of their retail sales with renewable resources. The minimum percentage gradually increases as follows:

Year 2001:	0.5 percent of total retail electric sales.
Year 2003:	0.85 percent of total retail electric sales.
Year 2005:	1.2 percent of total retail electric sales.
Year 2007:	1.55 percent of total retail electric sales.
Year 2009:	1.9 percent of total retail electric sales.
Year 2011:	2.2 percent of total retail electric sales.

In lieu of providing renewable energy to its customers, an electric provider can purchase a renewable resource credit. Under s. 196.378(3)(a), Stats., the Commission must “promulgate rules that establish requirements for the use of a renewable resource credit, including the amount of a renewable resource credit.” This rule addresses the requirements and procedures for the use

Docket 1-AC-192

of renewable resource credits, during the interim period before the date when an identical permanent rule takes effect (the likely effective date of this permanent rule is May 1, 2001, depending on its actual date of publication in the Wisconsin Administrative Register).

This rule establishes a renewable resource credits trading program and describes the minimum criteria for renewable facilities to be eligible for creation of credits in the trading program. The rule also describes the duties of a program administrator, who supervises and implements the trading program. The program administrator is required to create a trading account for participating electric providers and to award renewable resource credits to the account of an electric provider of energy, from a certified renewable facility, that exceeds its minimum requirement. The program administrator must retire renewable resource credits upon their use to satisfy an electric provider's minimum renewable energy requirement.

#### **Fiscal Estimate**

A fiscal estimate is attached to this order.

#### **Statement of Emergency**

1999 Wis. Act 9, Section 9141(2zt)(a) allows the Commission to promulgate an emergency rule creating an RRC trading program without making a finding of emergency.

#### **Environmental Analysis**

This is a Type III action under s. PSC 4.10(3), Wis. Adm. Code. No unusual circumstances suggesting the likelihood of significant environmental consequences have come to

Docket 1-AC-192

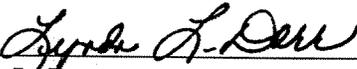
the Commission's attention. Neither an environmental impact statement under s. 1.11, Stats., nor an environmental assessment is required.

### Order of Adoption

Pursuant to ss. 196.02(3), 196.378(3), and 227.11, Stats., the Commission creates ch. PSC 118, Wis. Admin. Code. The attached emergency rule takes effect upon publication.

Dated at Madison, Wisconsin, April 3, 2001

By the Commission:

  
\_\_\_\_\_  
Lynda J. Dorr  
Secretary to the Commission

LLD:CAS:ljv:G\Order\pending\1-AC-192 Emergency Rules

Attachments

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

**FISCAL ESTIMATE**  
DOA-2048 N(R10/96)

**Subject**  
Renewable Resource Credit Program Rules (Emergency Rules)

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget     Yes     No

- Increase Existing Appropriation       Increase Existing Revenues
- Decrease Existing Appropriation       Decrease Existing Revenues
- Create New Appropriation

Decrease Costs

Local:  No local government costs

- 1.  Increase Costs
  - Permissive     Mandatory
- 2.  Decrease Costs
  - Permissive     Mandatory

- 3.  Increase Revenues
  - Permissive     Mandatory
- 4.  Decrease Revenues
  - Permissive     Mandatory

5. Types of Local Governmental Units Affected:
- Towns       Villages       Cities
  - Counties     Others \_\_\_\_\_
  - School Districts     WTCS Districts

**Fund Sources Affected**

GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Ch. 20 Appropriations**

20.155(l)(g)

**Assumptions Used in Arriving at Fiscal Estimate**

1999 Wis. Act 9 created a renewable portfolio standard requiring electric providers to meet certain minimum percentages of their retail sales with renewable resources. An electric provider may purchase or sell renewable resource credits following the rules developed for the program and by adhering to the determinations of the Commission on what is an allowable renewable resource credit (RRCs).

The rules provide for the program to be managed by a program administrator. The program administrator selected by competitive bid would establish an e-commerce site for trading and tracking the buying and selling of RRC credits. There would not be a cost to the state for the program administrator's work. The assumption is that the PSC would establish a four to five year contractual relationship with an administrator. The administrator would recover their initial startup investment and the cost of processing and tracking fees by charging buyers and sellers a nominal transaction fee. The PSC has not determined what that fee would be, but has discussed the general costs of this effort with two potential bidders who provide similar services to other states. It appears from these discussions that the initial work to set up the e-commerce web site and develop the software to track the transactions would cost approximately \$150,000. Annual program costs could be in the neighborhood of \$50,000 per year to run the program. However, the minimum percentage for 2001 and 2002 of 0.5 percent of total retail electric sales will probably mean that transactions to buy credits will be minimal because most of the Wisconsin utilities can meet this initial percentage.

There are other possibilities that are under consideration for the program to pay for the cost. One such possibility is that some, or all of the initial start up costs of the program would be paid from the public benefits program. A second is that the annual cost of such a program could be negated by using in-house staff to track the buying and selling of RRC's. The latter consideration would require the PSC to pay an on-going software rental charge to the vendor who develops the software. Estimates of this fee appear to be approximately \$50,000 per year depending on the system configuration. Payment of the up-front costs using the public benefits fund may or may not be an option. Department of Administration staff are reviewing this issue to determine if it is a viable option considering the state statutes adopted for the public benefits program.

**Long-Range Fiscal Implications**

Agency/Prepared by: (Name & Phone No.)  
PSC/Gordon Grant 267-9086

Authorized Signature/Telephone No.



Date  
03/19/01

**SECTION 1.** PSC 118 is created to read:

**CHAPTER PSC 118  
RENEWABLE RESOURCE CREDIT TRADING PROGRAM**

**PSC 118.01 Scope.** This chapter applies to each electric provider that creates an RRC or uses an RRC to meet the requirements of s. 196.378(2)(a), Stats.

**PSC 118.02 Definitions.** The definitions specified in s. 196.378, Stats., apply to this chapter. In addition, in this chapter:

- (1) "Certified renewable facility" means an electric generating facility that the commission certifies has met the definition of a renewable facility.
- (2) "Compliance period" means a calendar year, beginning January 1, during which an electric provider is required to deliver renewable energy under s. 196.378(2)(a), Stats.
- (3) "Commission" means the public service commission.
- (4) "Designated representative" means the person authorized by the electric provider to register a renewable facility with the program administrator, or to purchase or sell RRCs.
- (5) "Exempt electric provider" means an electric provider that has met the exemption requirements of s. 196.378(2)(e), Stats.
- (6) "MWh" means megawatt-hour.
- (7) "Program administrator" means the person responsible for carrying out the administrative responsibilities related to the renewable resource credit trading program.
- (8) "RRC" means a renewable resource credit.
- (9) "Renewable energy" means energy that is supplied by a renewable facility.
- (10) "Renewable resource credit" means one MWh of renewable energy from a certified renewable facility that is physically metered and meets the requirements of ss. PSC 118.03 and 118.04.
- (11) "Retail customer" means a customer of an electric provider that resides in Wisconsin and purchases electricity at retail.

(12) "RRC account" means the account that the program administrator maintains in order to track the creation, sale, transfer, purchase, and retirement of an RRC by a program participant.

(13) "RRC trading program" means the process of creating, selling, transferring, purchasing, and retiring RRCs.

**PSC 118.03 Facilities eligible for creating renewable resource credits.** (1) An electric provider may create an RRC only if the renewable facility that is the source of the electric provider's renewable energy meets all of the following requirements:

(a) The energy output of the renewable facility is physically metered and the accuracy of the metering is subject to verification by the program administrator.

(b) The renewable facility registers with, and is certified by, the commission under s. PSC 118.05.

(c) 1. The renewable facility is owned or operated by the electric provider, which sells the renewable energy to its retail customers or members; or

2. The renewable facility supplies or allocates its energy under an executed wholesale purchase contract to the electric provider, which sells the renewable energy to its retail customers or members.

(2) Any portion of a renewable facility serving an exempt electric provider in any compliance period, is not eligible to create RRCs during that compliance period.

(3) (a) An electric provider may use the excludable renewable energy of a renewable facility that complies with sub. (1) to create an RRC, except that any excludable renewable energy exceeding 0.6% of the electric provider's retail electric sales is not eligible to create an RRC.

(b) A biomass co-fired facility may only use the renewable portion of its energy production, based on the relative energy content of the fuels, to create RRCs in the applicable reporting period.

**PSC 118.04 Creation and transfer of renewable resource credits.** (1) The program administrator shall administer a trading program for RRCs.

(2) (a) Beginning on January 1, 2001, an RRC is created only when an electric provider exceeds its minimum percentage requirement under s. 196.378(2)(a), Stats. If an electric provider selling electric energy at wholesale has an obligation to meet the electricity needs of the

wholesale customer's firm native load, until the electric provider has a wholesale purchase tariff approved by FERC after the effective date of these rules, the percent of the electric provider's energy that is produced by a certified renewable facility shall be allocated to the wholesale customer and is not eligible to meet the electric provider's minimum percentage requirement.

(b) An electric provider may meet all or part of its minimum percentage requirement by purchasing RRCs. An electric provider may use renewable energy purchased at wholesale to create RRCs in the same manner as renewable energy that the electric provider generates itself. Energy metered for the purpose of creating an RRC may not be used to meet an electric provider's minimum percentage requirement under s. 196.378 (2) (a), Stats., other than through the retirement of its associated RRC.

(c) By February 15 of each year, every electric provider that participates in the RRC trading program by creating an RRC shall report to the program administrator the amount of renewable energy it generated or purchased, and sold at retail, from each certified renewable facility during the preceding year.

(d) Within 10 days after receiving a report from an electric provider under par. (c), the program administrator shall record the amount of metered MWh sold at retail that is reported for each certified renewable facility. The program administrator shall, after an electric provider has met its annual minimum percentage requirement, credit the electric provider's RRC account with the number of RRCs created.

(e) Renewable energy that would meet the definition of an RRC under s. PSC 118.02(10), except that it consists of less than one MWh, shall constitute a fraction of an RRC. A fractional RRC may not be smaller than 0.01 MWh.

(f) Two or more electric providers may jointly purchase or sell an RRC.

(3) When an RRC is credited to an electric provider's account under sub. (2), the account owner may sell or transfer the RRC to another electric provider. Any person selling or transferring an RRC shall report the sale or transfer to the program administrator within 10 days of the transaction. The program administrator shall then credit the RRC account of the new owner and debit the RRC account of the prior owner. An RRC may continue to be sold or traded only if each seller or transferor reports the transaction to the program administrator within 10 days of its consummation.

(4) When an electric provider uses an RRC to comply with the minimum percentage requirements of s. 196.378 (2) (a), Stats., the program administrator shall retire the RRC.

(5) Subject to commission approval, the program administrator may establish any procedure necessary to ensure that the creation, sale, transfer, purchase and retirement of RRCs are accurately recorded.

**PSC 118.05 Certification of renewable facilities.** (1) (a) An electric provider may only use the energy of a certified renewable facility for creation of an RRC.

(b) The program administrator may not award an RRC before the date that the commission certifies a renewable facility, but the program administrator may award an RRC for energy that a certified renewable facility produced subsequent to the date the commission received the request for certification.

(2) To obtain commission certification, the electric provider generating or purchasing energy from a renewable facility, or a designated representative, shall provide the following registration information in a format approved by the commission:

(a) The renewable facility's location, owner, technology, date placed in service, and rated capacity.

(b) Information that demonstrates the renewable facility meets the resource eligibility criteria under s. PSC 118.03.

(c) Any other information the commission determines to be necessary.

(3) The commission shall inform both the program administrator and the electric provider, or its designated representative, whether it has certified a renewable facility for which it has received an application under sub. (2).

(4) The program administrator shall create an RRC account for each owner of an RRC.

(5) The commission may make on-site visits to any certified unit of a renewable facility to determine its compliance with this chapter and with s. 196.378, Stats., and may decertify any unit that it finds not to be in compliance.

(6) The program administrator may not create RRCs for energy produced by a decertified renewable facility.

**PSC 118.06 Renewable resource credit program administrator.** (1) The commission shall, using a competitive process, contract with a program administrator.

(2) The program administrator shall:

(a) Identify annually the amount of renewable energy each participating electric provider must sell to its retail customers to comply with the minimum percentage requirements of s. 196.378 (2) (a) and (b), Stats.

(b) Create an RRC account to track RRCs for each participating electric provider and other owner of RRCs.

(c) Credit RRCs to RRC accounts under s. PSC 118.04 (2).

(d) Retire RRCs under s. PSC 118.04(4).

(e) Maintain program information on an internet website for traders and the public in general.

(f) Audit certified renewable facilities, when necessary, to verify the accuracy of metered production data.

(g) Perform any other function designated by the commission.

(3) The program administrator may create an exchange procedure for purchasing and selling RRCs.

(4) (a) Annually, the program administrator shall report to the commission the costs incurred in operating the RRC trading program and recommend an assessment of these costs to electric providers that hold RRC accounts. The program administrator shall base part of this proposed assessment of costs on the number of each electric provider's RRC transactions, the size of these transactions, or both. These factors shall determine how a majority of the costs are assessed.

(b) The commission shall review the cost allocation that the program administrator proposes under par. (a) and approve or modify this allocation. The commission shall assess these costs to each electric provider, pursuant to s. 196.85(1) and (1m)(a), Stats.

**EFFECTIVE DATE:** This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register, as provided in s. 227.22(2) (intro.), Stats.

(End)