

## 2009 DRAFTING REQUEST

### Bill

Received: **05/31/2009**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jeffrey Plale (608) 266-7505**

By/Representing: **Kevin Brady**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - energy**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Plale@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Allowing an electric provider to create renewable resource credits based on the electric provider's use of certain renewable resources

---

### Instructions:

See attached

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	mkunkel 05/31/2009	bkraft 06/02/2009	rschluet 06/03/2009	_____	sbasford 06/03/2009		
/1	mkunkel 06/17/2009	bkraft 06/17/2009	rschluet 06/17/2009	_____	sbasford 06/17/2009		
/2	mkunkel 07/13/2009	bkraft 07/20/2009	rschluet 07/20/2009	_____	mbarman 07/20/2009	cduerst 08/10/2009	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For: *none*

<END>

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/1	mkunkel 06/17/2009	bkraft 06/17/2009	rschluet 06/17/2009	_____	sbasford 06/17/2009		
/2	mkunkel 07/13/2009	bkraft 07/20/2009	rschluet 07/20/2009	_____	mbarman 07/20/2009		

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FE Sent For:

12 bjk 7/20

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/?							
/P1	mkunkel 05/31/2009	bkraft 06/02/2009	rschluet 06/03/2009	_____	sbasford 06/03/2009		

FE Sent For:

1 bjk 6/17

*[Handwritten signature]*  
6/19

*[Handwritten signature]*  
<END>  
6/19

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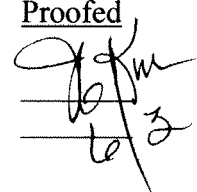
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**Instructions:**

See attached

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	mkunkel	Pl bjk 6/2					

FE Sent For:

<END>

**Kunkel, Mark**

---

**From:** ray@FederalRelations.com  
**Sent:** Wednesday, May 27, 2009 10:09 AM  
**To:** Kunkel, Mark  
**Cc:** Brady, Kevin  
**Subject:** RE: RPS Language for Solar Light Pipe  
**Attachments:** Direct Solar Light Pipe Technology - Cost Effective Renewable Energy.pdf

Mark:

Thanks for the note, and for your insight and advice.

Allowing an electric provider to create a credit based on the electric provider's use of direct-use renewable energy resources listed below, and use those credits to meet the requirements of (2) (a) 2 makes sense to me. I guess you would amend current law by creating 196.378 (3) (a) 2 to give the PSC the authority to promulgate rules that allow an electric provider to do that and by modifying (1) i to read "Renewable resource credit" means a credit calculated in accordance with rules promulgated under sub. (3) (a) 1., 2. and 3?.

To answer your second question, allowing an electric provider to sell the credit to other electric providers would be consistent with (3) (a) 1.

To answer your third question, the electric provider should be allowed a credit equal to 100% of the displaced amount.

To answer your fourth question, I see no reason to make ineligible any customer-sited direct-use renewable energy applications, as long as the electricity displaced can be measured and verified.

To answer your fifth question, solar light pipe technology harvests solar energy and directs that energy to the inside of a building. When the solar energy (direct solar) satisfies the lighting requirements below, the light fixtures that are integrated with the light pipe technology automatically turn off, and the electricity displaced is automatically metered in real time. I have attached a document that illustrates this process and describes the technology in more detail. Please feel free to call me with any clarifying questions.

Ray  
202-783-3333

---

**From:** Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]  
**Sent:** Tuesday, May 26, 2009 5:32 PM  
**To:** ray@federalrelations.com  
**Cc:** Brady, Kevin  
**Subject:** FW: RPS Language for Solar Light Pipe

Ray:

I'm the drafting attorney for the request below.

Instead of using the language you submitted below, I think I would allow an electric provider to create a credit based on the electric provider's use of the resources you describe. The electric provider could use the credit when it determines whether it has complied with the renewable resource requirements in s. 196.378 (2) (a) 2. Note that s. 196.378 (2) (a) 2. requires an electric provider's renewable energy percentage (REP) to be at certain levels in certain years. The REP is defined as a percentage based on: 1) the total amount of renewable energy that the electric provider sells to customers; and 2) renewable resource credits created or purchased by the

05/27/2009



electric provider. Because you want to allow an electric provider to receive a credit for energy that it does not sell to customers, I think I should specify that it would be allowed to create a credit, similar to the renewable resource credits under current law.

If I allow an electric provider to create a credit as described above, should I also allow the electric provider to sell the credit to other electric providers?

As for the amount of the credit, if an electric provider uses a resource you describe below, and such use displaces the electric provider's use of conventional resources, how much of a credit should the electric provider be allowed to created? Should the electric provider be allowed a credit equal to 100% of the displaced amount, or some other specified portion, or should the PSC be allowed to decide the portion when it promulgates rules?

Also, I'm not familiar with the term "solar pipe technology." Can you elaborate on what that means?

Finally, regarding solar energy, you specify that customer-sited direct solar applications are eligible. However, you don't mention customer-sited applications with respect to geothermal energy, biogas, or biomass. Should customer-sited applications for those types of resources also be eligible?

Mark D. Kunkel  
Senior Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131

---

**From:** Brady, Kevin  
**Sent:** Tuesday, May 05, 2009 3:27 PM  
**To:** Kunkel, Mark  
**Subject:** FW: RPS Language for Solar Light Pipe

Mark,

Senator Plale would like you draft up legislation, patterned on the following language, to revise Section 196.378. If you have any questions please feel free to contact me or Ray Bucheger, Ray's phone number is below.

Thanks,

Kevin Brady

---

**From:** ray@federalrelations.com [mailto:ray@federalrelations.com]  
**Sent:** Tuesday, April 28, 2009 4:43 AM  
**To:** Brady, Kevin  
**Subject:** RPS Language for Solar Light Pipe

Kevin:

As you know, I have been working with the PSC to develop language that would allow direct solar renewable energy applications such as solar light pipe technology to be used to meet Wisconsin's RPS obligations. Here is what we came up with. Do you have time to chat about this today?

Ray  
202-783-3333

## Renewable Portfolio Standard Renewable Non-electricity Resources

05/27/2009

**(DRAFT)**

This draft incorporates renewable resources that displace the use of conventional resources but do not produce electricity into the Renewable Portfolio Standard.

*SECTION 1. 196.378 (3) (d) of the statutes is created to read:*

*196.378 (3) (d) 1. The commission shall promulgate rules that establish procedures and standards by which an electric provider can use any of the following resources in a capacity other than the creation of electricity to comply with sub. (2) (a) 2:*

- a. Solar energy (including customer-sited direct solar applications such as solar water heating and solar light pipe technology).*
- b. Geothermal energy.*
- c. Biogas.*
- d. Biomass.*

*2. An electric provider may use a resource described in subd. 1 to comply with sub. (2) (a) 2. if it can demonstrate all of the following:*

- a. Use of the resource displaces the electric provider's use of conventional resources.*
- b. Use of the resource meets the commission's requirements for verification and measurement, as established under subd. 1.*

**Ray Bucheger**  
**FBB Federal Relations**  
**1120 G Street, NW Suite 1020 Washington, DC 20005**  
**tel: 202-783-3333 cell: 202-236-5101**  
**fax: 202-783-4422**  
**[ray@federalrelations.com](mailto:ray@federalrelations.com)**



# Apollo™ Light Pipe

## First Law of Thermodynamics

*Energy can neither be created nor destroyed, it can only be converted to heat, vibration and work.*

## Holistic Energy Management System

Orion Energy Systems developed and integrated programmable logic controls that match supply and demand throughout the day to deliver optimal energy utilization with user-defined setpoint optionally.

## Maximum Light Harvest Collector

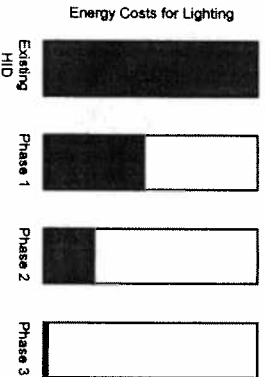
Proprietary collector dome is designed specifically to intercept the low sun angles associated with seasonal change, early morning, and late afternoon angles of incidence. Our proprietary molding process ensures a water-clear finish with minimal surface tension flaws.

## Minimal Conversion Loss

Delivers best results when demand on the energy grid is greatest. Harvests sunlight and delivers usable light energy almost five times more efficient than a photovoltaic system.

## Base & Peak Energy Load Reduction

With complete integration of the Orion Power Technology platforms and controls, lighting energy consumption can be reduced to near zero.



- Phase 1 – Switch from HID to Orion HIF fixtures
- Phase 2 – Incorporate Orion controls
- Phase 3 – Install Apollo Light Pipes

## Orion Virtual Power Plant

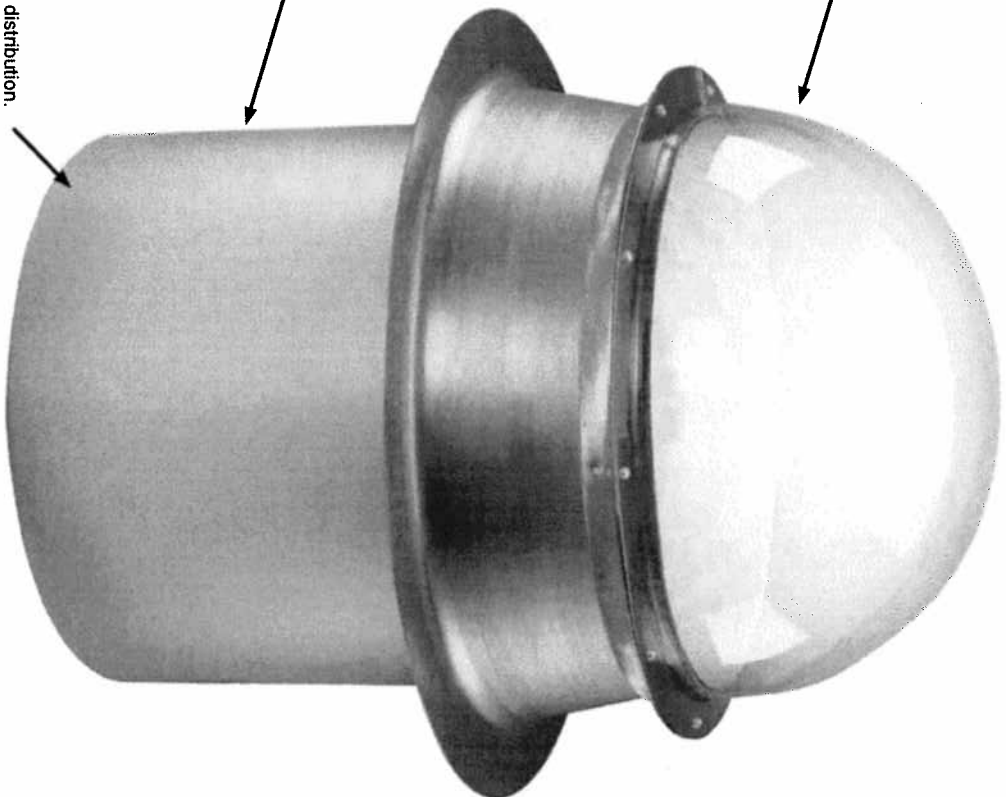
Control, measure and verify all phases using the Orion Virtual Power Plant for the maximum in energy and cost savings. It also provides verifiable accountability for innovative financing plans and carbon emissions trading.

**Glazing Quality Acrylic Collector Dome**  
 Patent-pending process to manufacture an acrylic dome with the highest possible transmission rating.

**Seamless Flashing**  
 One-piece .080 spun aluminum roof flashing ensures a waterproof installation. All components are made of construction grade materials. No galvanic corrosion or rusting is possible.

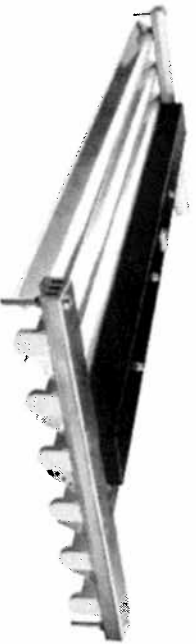
**Light Pipe Reflector Tube**  
 Large diameter aperture made of highly polished material provides over 98% total reflectivity.

**Proprietary Diffuser**  
 Delivers maximum zonal cavity light distribution.



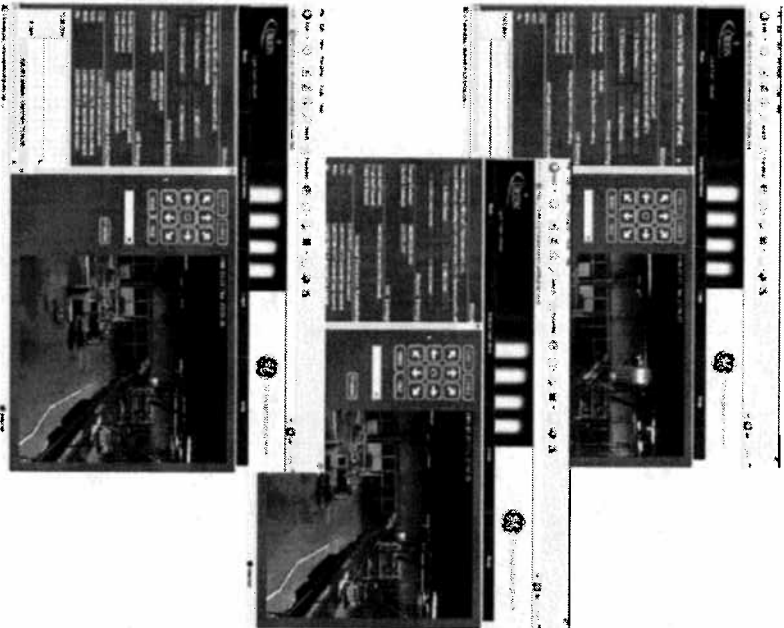
Patents Pending

## Phase I Base Load Reduction



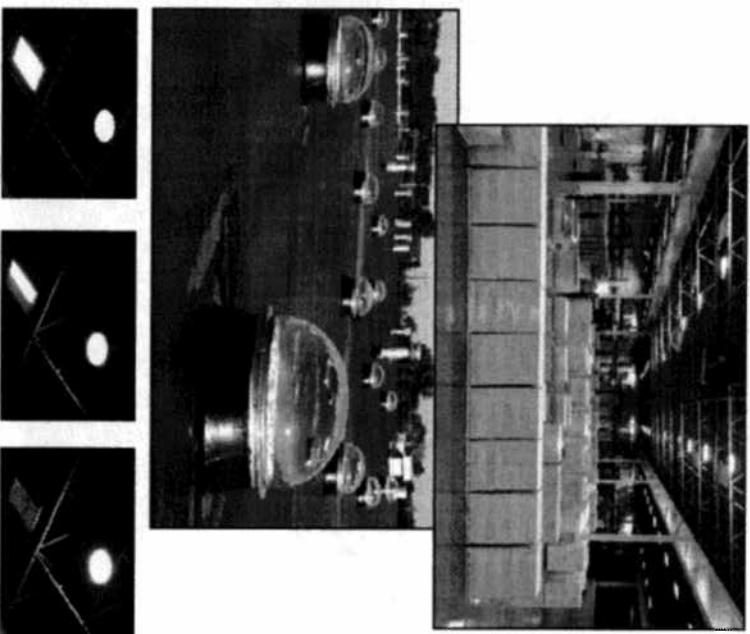
**Measurable and Verifiable**  
The base load energy reduction project starts with a circuit test to show the improved light quality and verify energy savings for your facility. The ultimate validation is the fact that over 75 of the Fortune 500 are using Orion technology to deliver millions of dollars in annual savings without compromise.

## Phase II Peak Demand Response



**Wireless Peak Load Shedding**  
You can't manage what you can't measure. The price of peak power is becoming more expensive as utilities reach their reserve margin. This measurement and verification system will allow you to understand your energy use in real time and be responsive to your peak load demands.

## Phase III Off The Grid



**Direct Renewable**  
We will work with your local roofer and introduce you to direct renewable technology. There is no conversion loss because you are leveraging the natural light from the sun. We will integrate the light pipe into the Orion High Performance Lighting system in order to provide maximum peak load savings.





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# Obama Asks Moms to Return to School

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## biogas

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On Off

### Biogas Digester

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Anaerobic Digester Covers, Mixing & Heating Systems from Envirex.  
www.water.siemens.com/digesters

Main Entry: **bio-gas**   
Pronunciation: \ˈbī-ō-ˌgas\  
Function: *noun*  
Date: 1971

: a mixture of methane and carbon dioxide produced by the bacterial decomposition of organic wastes and used as a fuel

Learn more about "biogas" and related topics at [Britannica.com](#)

See a map of "biogas" in the [Visual Thesaurus](#)

Ads by Google

### Landfill Gas Recovery

Gas Extraction/Compression Systems Air & Gas Systems, Inc - Houston TX  
www.airandgas.net

### GK Recycling Systems

Recycling systems for C&D, MSW, E-Scrap, W2E and more.  
www.generalkinematics.com

### Biogas-Technology

planning and turnkey construction more than 1500 equipped plants  
www.uts-biogas.com

### Pronunciation Symbols

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#### MLA Style

"biogas." Merriam-Webster Online Dictionary. 2009.  
Merriam-Webster Online. 31 May 2009  
<<http://www.merriam-webster.com/dictionary/biogas>>

#### APA Style

biogas. (2009). In *Merriam-Webster Online Dictionary*.  
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### Education Update

## Obama Asks Moms to Return to School

Get Your Degree Using Government Grants and Scholarships



President Obama recently approved an increase in Federal Pell Grants to cover up to \$5,500 for each year of a college education. The grants will allow up to 7 million people to return to school for a college degree.

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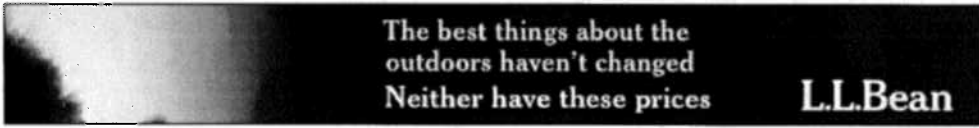
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### biomass

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On Off

#### Biomass

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Improve Performance of your **Biomass** Power Plant.  
www.honeywell.com/ps

Main Entry: **bio·mass**   
Pronunciation: \bī-ō-,mas\  
Function: *noun*  
Date: 1934

- 1 : the amount of living matter (as in a unit area or volume of habitat)
- 2 : plant materials and animal waste used especially as a source of fuel

Learn more about "biomass" and related topics at [Britannica.com](#)  
See a map of "biomass" in the [Visual Thesaurus](#)

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How **Biomass** Is Made?  
Step-By-Step Methods + Advice Only During **Biomass** World 2009  
www.futureenergyevents.com/biomass

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en.feng-yu.com

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#### Pronunciation Symbols

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Lbjk

O-note

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

IN 5-31

Bn Fri Jones

SA X-ref

Inserts

gen.

1 AN ACT ...; relating to: creation of renewable resource credits by electric  
2 providers and granting rule-making authority.

---

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3 SECTION 1. 196.378 (1) (i) of the statutes is amended to read:  
4 196.378 (1) (i) "Renewable resource credit" means a credit calculated in  
5 accordance with rules promulgated under sub. (3) (a) 1., 1m., and 2.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141.

6 SECTION 2. 196.378 (3) (a) 1. of the statutes is amended to read:  
7 196.378 (3) (a) 1. Subject to subd. 2., an electric provider that provides total  
8 renewable energy to its retail electric customers or members in excess of the  
9 percentages specified in sub. (2) (a) 2., or that satisfies the requirements specified in  
10 rules promulgated under subd. 1m., may, in the applicable year, create a renewable

1 resource credit and sell to any other electric provider the renewable resource credit  
 2 or a portion of the renewable resource credit at any negotiated price. An electric  
 3 provider that creates or purchases a renewable resource credit or portion may use  
 4 the credit or portion in a subsequent year, as provided under par. (c), to establish  
 5 compliance with sub. (2) (a) 2. The commission shall promulgate rules that establish  
 6 requirements for the creation and use of a renewable resource credit created on or  
 7 after January 1, 2004, including calculating the amount of a renewable resource  
 8 credit, and for the tracking of renewable resource credits by a regional renewable  
 9 resource credit tracking system. The rules shall specify the manner for aggregating  
 10 or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141.

11 SECTION 3. 196.378 (3) (a) 1m. of the statutes is created to read:

12 196.378 (3) (a) 1m. <sup>Δ</sup>The commission shall promulgate rules that allow an  
 13 electric provider to create a renewable resource credit based on use in a year by the  
 14 electric provider, or a customer or member of the electric provider, of solar energy,  
 15 including technology that harvests and directs solar energy for use as lighting inside  
 16 a building, geothermal energy, biomass, or biogas, but only if the use displaces the  
 17 electric provider's, customer's, or member's use of electricity that is derived from  
 18 conventional resources, and only if the displacement is verifiable and measurable,  
 19 as determined by the commission. The rules shall allow an electric provider to create  
 20 a renewable resource credit based on <sup>percent</sup> 100% of the amount of the displacement.

21 (END)

INSEAT  
2-20

D-note



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2962/P1dn

MDK:.....

l b j k

Date

Sen. Plale:

Please note the following about this draft:

1. The instructions refer to customer-sited applications of the specified resources. Therefore, I allowed an electric provider to create a credit based on a customer's or member's use of the resources. (I referred to a member, in addition to customer, because some electric providers are cooperatives, rather than utilities.) However, note there is no requirement for an electric provider to have any involvement with a customer's or member's use of the resource. Is that okay, or should the draft be revised to require some sort of involvement by an electric provider with respect to the customer's or member's use?

2. I did not refer to solar pipe technology because I don't think that the meaning of that term is commonly understood. Instead, I referred to solar energy, including technology that harvests and directs solar energy for use as lighting inside a building. Is that okay, or is additional elaboration necessary? For example, is it possible to interpret my language as allowing use of something as simple as a window?

3. The bill requires the PSC to promulgate rules. In addition, you could impose a deadline on the PSC's submission of proposed rules to legislative council staff. Let me know if you want to include such a requirement.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.wisconsin.gov

INSEPT  
A

the process

2009-2010 DRAFTING INSERT  
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LRB-2962/P1ins  
MDK:.....

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1  
2  
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**INSERT 2-20:**

**SECTION 1.** 196.378 (3) (c) of the statutes is amended to read:

196.378 (3) (c) A renewable resource credit created under s. 196.378 (3) (a), 2003 stats., may not be used after December 31, 2011. A renewable resource credit created under par. (a) ~~1 or 2~~ as affected by 2005 Wisconsin Act 141, may not be used after the 4th year after the year in which the credit is created, except the commission may promulgate rules specifying a different period of time if the commission determines that such period is necessary for consistency with any regional renewable resource credit trading program that applies in this state.

History: 1999 a. 9; 2001 a. 30; 2005 a. 141.

→ Please SAY 5AY This is for D-note. Thanks. Km

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**INSERT A:**

I amended s. 196.378 (3) (c) to clarify that credits created under the bill have the same 4-year "lifespan" as credits created under 2005 Wisconsin Act 141. Is that okay? Note that under current law the PSC may promulgate rules changing the 4-year period.

No line #'s for D-note. It's confusing. Km

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2962/P1dn  
MDK:bjk:rs

June 2, 2009

Sen. Plale:

Please note the following about this draft:

1. The instructions refer to customer-sited applications of the specified resources. Therefore, I allowed an electric provider to create a credit based on a customer's or member's use of the resources. (I referred to a member, in addition to customer, because some electric providers are cooperatives, rather than utilities.) However, note there is no requirement for an electric provider to have any involvement with a customer's or member's use of the resource. Is that okay, or should the draft be revised to require some sort of involvement by an electric provider with respect to the customer's or member's use?
2. I did not refer to solar pipe technology because I don't think that the meaning of that term is commonly understood. Instead, I referred to solar energy, including technology that harvests and directs solar energy for use as lighting inside a building. Is that okay, or is additional elaboration necessary? For example, is it possible to interpret my language as allowing use of something as simple as a window?
3. I amended s. 196.378 (3) (c) to clarify that credits created under the bill have the same 4-year "lifespan" as credits created under 2005 Wisconsin Act 141. Is that okay? Note that under current law the PSC may promulgate rules changing the 4-year period.
4. The bill requires the PSC to promulgate rules. In addition, you could impose a deadline on the PSC's submission of proposed rules to legislative council staff. Let me know if you want to include such a requirement.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.wisconsin.gov](mailto:mark.kunkel@legis.wisconsin.gov)

**Kunkel, Mark**

---

**From:** Brady, Kevin  
**Sent:** Thursday, June 11, 2009 5:22 PM  
**To:** Kunkel, Mark  
**Cc:** 'ray@federalrelations.com'; 'Kevin Crawford'  
**Subject:** FW: RPS Language for Solar Light Pipe  
**Attachments:** 6-11 LP Draft with edits.pdf

Mark,

Please see the attached changes for LRB 2962.

Thank you,  
Kevin Brady

---

**From:** ray@FederalRelations.com [mailto:ray@FederalRelations.com]  
**Sent:** Thursday, June 11, 2009 5:20 PM  
**To:** Brady, Kevin  
**Subject:** RE: RPS Language for Solar Light Pipe

Kevin:

Attached are the modifications we would like to make to the language that was drafted.

Thanks for your work on this.

Ray

---

**From:** Brady, Kevin [mailto:Kevin.Brady@legis.wisconsin.gov]  
**Sent:** Friday, June 05, 2009 4:43 PM  
**To:** ray@FederalRelations.com  
**Subject:** RE: RPS Language for Solar Light Pipe

Ray,

Do you want me to forward this onto Mark?

Sorry for any confusion.

Kevin

---

**From:** ray@FederalRelations.com [mailto:ray@FederalRelations.com]  
**Sent:** Thursday, June 04, 2009 8:07 AM  
**To:** Brady, Kevin  
**Cc:** 'Kevin Crawford'; 'Mike Potts'  
**Subject:** RE: RPS Language for Solar Light Pipe

Kevin:

06/11/2009

This is a pretty good start. For organization's sake, I will address the points that Mark made in his cover letter:

1. The draft should not be revised to require some sort of involvement by an electric provider with respect to the customer or member's use;
2. The language should say solar light pipe. The language that Mark drafted absolutely opens the door to windows and skylights, which is not the intent. Perhaps page 2 line 16 could say: "including solar water heating and direct solar applications such as solar light pipe technology"
3. This is fine;
4. We would prefer there to be a deadline.

Let me know if you have any questions.

Thanks

Ray  
202-236-5101

---

**From:** Brady, Kevin [mailto:Kevin.Brady@legis.wisconsin.gov]  
**Sent:** Wednesday, June 03, 2009 10:33 AM  
**To:** ray@FederalRelations.com  
**Cc:** Kevin Crawford; Mike Potts  
**Subject:** RE: RPS Language for Solar Light Pipe

Ray, Kevin and Mike,

Attached is a first draft of LRB 2962. Let me know what you think and I can work with Mark Kunkel on making any necessary changes.

Thank you,  
Kevin Brady

---

**From:** ray@FederalRelations.com [mailto:ray@FederalRelations.com]  
**Sent:** Wednesday, May 27, 2009 9:38 AM  
**To:** Brady, Kevin  
**Cc:** 'Kevin Crawford'; 'Mike Potts'  
**Subject:** RE: RPS Language for Solar Light Pipe

Kevin:

Since your boss is the one that will be introducing this, I would like to know if you have any thoughts on how I answered any of Mark's Qs, before I send the email to Mark.

Ray

Mark:

Thanks for the note, and for your insight and advice.

Allowing an electric provider to create a credit based on the electric provider's use of direct-use renewable energy resources listed below, and use those credits to meet the requirements of (2) (a) 2 makes sense to me. I guess you would amend current law by creating 196.378 (3) (a) 2 to give the PSC the authority to promulgate rules that allow an electric provider to do that and by modifying (1) i to read "Renewable resource credit" means a credit calculated in accordance with rules promulgated under sub. (3) (a) 1., 2. and 3?.

06/11/2009

To answer your second question, allowing an electric provider to sell the credit to other electric providers would be consistent with (3) (a) 1.

To answer your third question, the electric provider be allowed a credit equal to 100% of the displaced amount.

To answer your fourth question, I see no reason to make ineligible any customer-sited direct-use renewable energy applications, as long as the electricity displaced can be measured and verified.

To answer your fourth question, solar light pipe technology harvests solar energy and directs that energy to the inside of a building. When the solar energy (direct solar) satisfies the lighting requirements below, the light fixtures that are integrated with the light pipe technology automatically turn off, and the electricity displaced is automatically metered in real time. I have attached a document that illustrates this process and describes the technology in more detail. Please feel free to call me with any clarifying questions.

Ray  
202-783-3333

---

**From:** Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]  
**Sent:** Tuesday, May 26, 2009 5:32 PM  
**To:** ray@federalrelations.com  
**Cc:** Brady, Kevin  
**Subject:** FW: RPS Language for Solar Light Pipe

Ray:

I'm the drafting attorney for the request below.

Instead of using the language you submitted below, I think I would allow an electric provider to create a credit based on the electric provider's use of the resources you describe. The electric provider could use the credit when it determines whether it has complied with the renewable resource requirements in s. 196.378 (2) (a) 2. Note that s. 196.378 (2) (a) 2. requires an electric provider's renewable energy percentage (REP) to be at certain levels in certain years. The REP is defined as a percentage based on: 1) the total amount of renewable energy that the electric provider sells to customers; and 2) renewable resource credits created or purchased by the electric provider. Because you want to allow an electric provider to receive a credit for energy that it does not sell to customers, I think I should specify that it would be allowed to create a credit, similar to the renewable resource credits under current law.

If I allow an electric provider to create a credit as described above, should I also allow the electric provider to sell the credit to other electric providers?

As for the amount of the credit, if an electric provider uses a resource you describe below, and such use displaces the electric provider's use of conventional resources, how much of a credit should the electric provider be allowed to created? Should the electric provider be allowed a credit equal to 100% of the displaced amount, or some other specified portion, or should the PSC be allowed to decide the portion when it promulgates rules?

Also, I'm not familiar with the term "solar pipe technology." Can you elaborate on what that means?

Finally, regarding solar energy, you specify that customer-sited direct solar applications are eligible. However, you don't mention customer-sited applications with respect to geothermal energy, biogas, or biomass. Should customer-sited applications for those types of resources also be eligible?

Mark D. Kunkel  
Senior Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131

---

**From:** Brady, Kevin  
**Sent:** Tuesday, May 05, 2009 3:27 PM  
**To:** Kunkel, Mark  
**Subject:** FW: RPS Language for Solar Light Pipe

Mark,

Senator Plale would like you draft up legislation, patterned on the following language, to revise Section 196.378. If you have any questions please feel free to contact me or Ray Bucheger, Ray's phone number is below.

Thanks,

Kevin Brady

---

**From:** ray@federalrelations.com [mailto:ray@federalrelations.com]  
**Sent:** Tuesday, April 28, 2009 4:43 AM  
**To:** Brady, Kevin  
**Subject:** RPS Language for Solar Light Pipe

Kevin:

As you know, I have been working with the PSC to develop language that would allow direct solar renewable energy applications such as solar light pipe technology to be used to meet Wisconsin's RPS obligations. Here is what we came up with. Do you have time to chat about this today?

Ray  
202-783-3333

## **Renewable Portfolio Standard Renewable Non-electricity Resources**

**(DRAFT)**

This draft incorporates renewable resources that displace the use of conventional resources but do not produce electricity into the Renewable Portfolio Standard.

*SECTION 1. 196.378 (3) (d) of the statutes is created to read:*

*196.378 (3) (d) 1. The commission shall promulgate rules that establish procedures and standards by which an electric provider can use any of the following resources in a capacity other than the creation of electricity to comply with sub. (2) (a) 2:*

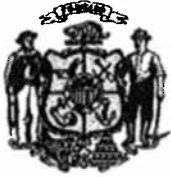
- a. Solar energy (including customer-sited direct solar applications such as solar water heating and solar light pipe technology).*
- b. Geothermal energy.*
- c. Biogas.*
- d. Biomass.*

*2. An electric provider may use a resource described in subd. 1 to comply with sub. (2) (a) 2. if it can demonstrate all of the following:*

- a. Use of the resource displaces the electric provider's use of conventional resources.*
- b. Use of the resource meets the commission's requirements for verification and measurement, as established under subd. 1.*

**Ray Bucheger**  
**FBB Federal Relations**  
**1120 G Street, NW Suite 1020 Washington, DC 20005**  
**tel: 202-783-3333 cell: 202-236-5101**  
**fax: 202-783-4422**  
**[ray@federalrelations.com](mailto:ray@federalrelations.com)**





State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-2962/P1

MDK:bjk:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT *to amend* 196.378 (1) (i), 196.378 (3) (a) 1. and 196.378 (3) (c); and *to*  
2 *create* 196.378 (3) (a) 1m. of the statutes; **relating to:** creation of renewable  
3 resource credits by electric providers and granting rule-making authority.

---

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a later version.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

4 SECTION 1. 196.378 (1) (i) of the statutes is amended to read:

5 196.378 (1) (i) "Renewable resource credit" means a credit calculated in  
6 accordance with rules promulgated under sub. (3) (a) 1., 1m. and 2.

7 SECTION 2. 196.378 (3) (a) 1. of the statutes is amended to read:

8 196.378 (3) (a) 1. Subject to subd. 2., an electric provider that provides total  
9 renewable energy to its retail electric customers or members in excess of the  
10 percentages specified in sub. (2) (a) 2., or that satisfies the requirements specified in

1 rules promulgated under subd. 1m. may, in the applicable year, create a renewable  
2 resource credit and sell to any other electric provider the renewable resource credit  
3 or a portion of the renewable resource credit at any negotiated price. An electric  
4 provider that creates or purchases a renewable resource credit or portion may use  
5 the credit or portion in a subsequent year, as provided under par. (c), to establish  
6 compliance with sub. (2) (a) 2. The commission shall promulgate rules that establish  
7 requirements for the creation and use of a renewable resource credit created on or  
8 after January 1, 2004, including calculating the amount of a renewable resource  
9 credit, and for the tracking of renewable resource credits by a regional renewable  
10 resource credit tracking system. The rules shall specify the manner for aggregating  
11 or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

12 SECTION 3. 196.378 (3) (a) 1m. of the statutes is created to read:

13 196.378 (3) (a) 1m. The commission shall promulgate rules that allow an  
14 electric provider to create a renewable resource credit based on use in a year by the  
15 electric provider, or a customer or member of the electric provider, of solar energy,  
16 including <sup>Solar water heating and direct solar applications such as solar light pipe technology</sup> ~~technology that harvests and directs solar energy for use as lighting inside~~  
17 ~~a building~~, geothermal energy, biomass, or biogas, but only if the use displaces the  
18 electric provider's, customer's, or member's use of electricity that is derived from  
19 conventional resources, and only if the displacement is verifiable and measurable,  
20 as determined by the commission. The rules shall allow an electric provider to create  
21 a renewable resource credit based on 100 percent of the amount of the displacement.

22 SECTION 4. 196.378 (3) (c) of the statutes is amended to read:

23 196.378 (3) (c) A renewable resource credit created under s. 196.378 (3) (a),  
24 2003 stats., may not be used after December 31, 2011. A renewable resource credit  
25 created under par. (a) 1., 1m. or 2., ~~as affected by 2005 Wisconsin Act 141,~~ may not

insert deadline for  
PSC to promulgate rules

1 be used after the 4th year after the year in which the credit is created, except the  
2 commission may promulgate rules specifying a different period of time if the  
3 commission determines that such period is necessary for consistency with any  
4 regional renewable resource credit trading program that applies in this state.

5 (END)



O-NOTE

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**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

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INSERT A

1 AN ACT to amend 196.378 (1) (i), 196.378 (3) (a) 1. and 196.378 (3) (c); and to  
2 create 196.378 (3) (a) 1m. of the statutes; relating to: creation of renewable  
3 resource credits by electric providers and granting rule-making authority.

*Analysis by the Legislative Reference Bureau*

~~This is a preliminary draft. An analysis will be provided in a later version.~~

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

4 SECTION 1. 196.378 (1) (i) of the statutes is amended to read:  
5 196.378 (1) (i) "Renewable resource credit" means a credit calculated in  
6 accordance with rules promulgated under sub. (3) (a) 1., 1m., and 2.

7 SECTION 2. 196.378 (3) (a) 1. of the statutes is amended to read:  
8 196.378 (3) (a) 1. Subject to subd. 2., an electric provider that provides total  
9 renewable energy to its retail electric customers or members in excess of the  
10 percentages specified in sub. (2) (a) 2., or that satisfies the requirements specified in

INSEPT 2-16

1 rules promulgated under subd. 1m., may, in the applicable year, create a renewable  
 2 resource credit and sell to any other electric provider the renewable resource credit  
 3 or a portion of the renewable resource credit at any negotiated price. An electric  
 4 provider that creates or purchases a renewable resource credit or portion may use  
 5 the credit or portion in a subsequent year, as provided under par. (c), to establish  
 6 compliance with sub. (2) (a) 2. The commission shall promulgate rules that establish  
 7 requirements for the creation and use of a renewable resource credit created on or  
 8 after January 1, 2004, including calculating the amount of a renewable resource  
 9 credit, and for the tracking of renewable resource credits by a regional renewable  
 10 resource credit tracking system. The rules shall specify the manner for aggregating  
 11 or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

**SECTION 3.** 196.378 (3) (a) 1m. of the statutes is created to read:

12  
 13 196.378 (3) (a) 1m. The commission shall promulgate rules that allow an  
 14 electric provider to create a renewable resource credit based on use in a year by the  
 15 electric provider, or a customer or member of the electric provider, of solar energy,  
 16 including technology <sup>semi colon</sup> ~~that harvests and directs solar energy for use as lighting inside~~  
 17 ~~a building,~~ geothermal energy, biomass, or biogas, but only if the use displaces the  
 18 electric provider's, customer's, or member's use of electricity that is derived from  
 19 conventional resources, and only if the displacement is verifiable and measurable,  
 20 as determined by the commission. The rules shall allow an electric provider to create  
 21 a renewable resource credit based on 100 percent of the amount of the displacement.

**SECTION 4.** 196.378 (3) (c) of the statutes is amended to read:

22  
 23 196.378 (3) (c) A renewable resource credit created under s. 196.378 (3) (a),  
 24 2003 stats., may not be used after December 31, 2011. A renewable resource credit  
 25 created under par. (a) 1., 1m., or 2., ~~as affected by 2005 Wisconsin Act 141,~~ may not

1 be used after the 4th year after the year in which the credit is created, except the  
2 commission may promulgate rules specifying a different period of time if the  
3 commission determines that such period is necessary for consistency with any  
4 regional renewable resource credit trading program that applies in this state.

5

(END)

↑  
INSEAT 3-4

D-note

1

**INSERT A:**

Under current law, an electric utility or retail electric cooperative (electric provider) is subject to certain requirements for ensuring that, in a given year, a specified percentage of the electricity that the electric provider sells to retail customers or members is derived from renewable resources. Such requirements are commonly referred to as renewable portfolio standards (RPSs). Current law also allows an electric provider to create a credit based on the amount of electricity derived from renewable resources that the electric provider provides to its customers or members in a year and that exceeds the RPS for that year. Subject to certain restrictions, an electric provider that creates a credit may use the credit in a subsequent year to help comply with an RPS, or sell the credit to another electric provider to help the buyer comply with an RPS.

This bill allows an electric provider to create an additional credit that the electric provider can use or sell like the credit allowed under current law. The bill requires the Public Service Commission (PSC) to promulgate rules that allow an electric provider to create a credit based on the electric provider's use in a year of the following resources: solar energy, including solar water heating and direct solar applications such as solar light pipe technology, geothermal energy, biomass, and biogas. However, the electric provider's use of the foregoing resources is eligible for a credit only if both of the following are satisfied: 1) the use displaces the electric provider's use of electricity that is derived from coal, oil, nuclear power or natural gas, except for natural gas used in a fuel cell; and 2) the displacement is verifiable and measurable, as determined by the PSC. In addition, the PSC's rules must also allow an electric provider to create a credit based on a customer's or member's use of resources that satisfies the foregoing requirements.

2

**INSERT 2-16:**

3

<sup>NO</sup> solar water heating and direct solar applications such as solar light pipe

4

**INSERT 3-4:**

5

**SECTION 1. Nonstatutory provisions.**

6

(1) The public service commission shall submit in proposed form the rules

7

required under section 196.378 (3) (a) 1m. of the statutes, as created by this act, to

8

the legislative council staff under section 227.15 (1) of the statutes no later than the

9

first day of the 7th month beginning after the effective date of this subsection.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2962/1dn

MDK:.....

Lbjk

*Date*

Sen. Plale:

This bill makes the changes you requested. Note that the deadline for the rules is expressed as a deadline for the PSC to submit proposed rules to legislative council staff. The deadline in this bill is approximately 6 months. Is that okay, or do you want to impose a different deadline?

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.wisconsin.gov](mailto:mark.kunkel@legis.wisconsin.gov)



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2962/1dn  
MDK:bjk:rs

June 17, 2009

Sen. Plale:

This bill makes the changes you requested. Note that the deadline for the rules is expressed as a deadline for the PSC to submit proposed rules to legislative council staff. The deadline in this bill is approximately 6 months. Is that okay, or do you want to impose a different deadline?

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.wisconsin.gov](mailto:mark.kunkel@legis.wisconsin.gov)

**Kunkel, Mark**

---

**From:** Brady, Kevin  
**Sent:** Friday, July 10, 2009 1:57 PM  
**To:** Kunkel, Mark  
**Cc:** 'Kevin Crawford'; 'ray@federalrelations.com'; 'Mike Potts'; Peters, Steven  
**Subject:** FW: Light Pipe legislation

Mark,

Let's go ahead and strike "in a subsequent year."

Kevin Brady

---

**From:** ray@FederalRelations.com [mailto:ray@FederalRelations.com]  
**Sent:** Thursday, July 09, 2009 11:24 AM  
**To:** Brady, Kevin  
**Cc:** 'Kevin Crawford'; 'Mike Potts'  
**Subject:** FW: Light Pipe legislation

Kevin:

Given Mark's analysis, I see no harm in striking "in a subsequent year".

Ray

---

**From:** Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]  
**Sent:** Thursday, July 09, 2009 12:16 PM  
**To:** ray@FederalRelations.com; Brady, Kevin  
**Cc:** Peters, Steven; Mike Potts; Kevin Crawford  
**Subject:** RE: Light Pipe legislation

See below.

---

**From:** ray@FederalRelations.com [mailto:ray@FederalRelations.com]  
**Sent:** Thursday, July 09, 2009 11:05 AM  
**To:** Kunkel, Mark; Brady, Kevin  
**Cc:** Peters, Steven; ray@federalrelations.com; 'Mike Potts'; 'Kevin Crawford'  
**Subject:** RE: Light Pipe legislation

Mark:

Thanks for your input. Currently, credits are only created when a utility generates renewable electricity in excess of their obligation, which would mean that by definition, that utility could not use these types of credits in the year they are created, correct?

**Answer:** *Is it possible for a utility to know in a given year that it will exceed the percentage, and then create a credit that it can sell to someone else in that year? I don't know, and maybe this isn't logically possible, given that the totals necessary to calculate a percentage won't be known until the end of the year. If it isn't logically possible, then deleting "in a subsequent year" won't affect the credits under current law, and my question below is not well founded. Sorry about that!*

07/13/2009

Or is there a different type of credit in addition to the type I just described, and the new type of credits created by this legislation?

**Answer: there are no additional credits.**

Ray

---

**From:** Kunkel, Mark [mailto:Mark.Kunkel@legis.wisconsin.gov]  
**Sent:** Thursday, July 09, 2009 12:00 PM  
**To:** Brady, Kevin  
**Cc:** Peters, Steven; ray@federalrelations.com; Mike Potts; Kevin Crawford  
**Subject:** RE: Light Pipe legislation

Sorry about the delay on this.

I think Ray makes a good point, and striking "in a subsequent year" will achieve your intent. Of course, that will allow all credits to be used in the same year they are created or purchased, not just the new type of credits created in the bill. Is that okay? If so, I can redraft and get this to you soon.

-- Mark

---

**From:** Brady, Kevin  
**Sent:** Wednesday, July 08, 2009 4:56 PM  
**To:** Kunkel, Mark  
**Cc:** Peters, Steven; 'ray@federalrelations.com'; 'Mike Potts'; 'Kevin Crawford'  
**Subject:** FW: Light Pipe legislation

Mark,

I wanted to follow-up with you on the Light Pipe Legislation and see if you were able to address Ray's questions from below.

Kevin Brady

---

**From:** Brady, Kevin  
**Sent:** Wednesday, June 24, 2009 9:23 AM  
**To:** Kunkel, Mark  
**Cc:** Peters, Steven; 'Mike Potts'; 'Kevin Crawford'; 'ray@federalrelations.com'  
**Subject:** FW: Light Pipe legislation

Mark,

Can you address Ray's questions?

Thanks,

Kevin Brady  
Sen. Plale

---

**From:** ray@FederalRelations.com [mailto:ray@FederalRelations.com]  
**Sent:** Friday, June 19, 2009 2:29 PM

07/13/2009

**To:** Brady, Kevin; Peters, Steven  
**Cc:** 'Mike Potts'; 'Kevin Crawford'  
**Subject:** RE: Light Pipe legislation

Kevin and Steve:

Thanks again for your work on this. I have read, re-read, and then read again the draft language, and I have a concern that I am hoping we can address (or dismiss if I am wrong). Sorry not to catch this the first time around.

Under current law, renewable resource credits are only created when a utility generates renewable electricity in excess of their RPS obligations. If and when this happens, that utility has two options:

1. Sell the credit to another utility to use during that year;
2. Bank the credit and use it to meet its RPS obligations in the subsequent year (a utility cannot use a credit to meet its RPS obligations in the year the credit was created because, by definition, the credit is only created after the RPS obligations are met).

Because the language that gives a utility the authority to create a credit using solar light pipe technology is embedded in 196.378 (3) (a) 1, which states "An electric provider that creates or purchases a renewable resource credit or portion may use the credit or portion in a subsequent year... to establish compliance with sub. (2) (a) 2", I am worried that this means that all the credits that utilities create with light pipe technology in the first year the light pipe is eligible cannot be applied until year two (and credits created in year two cannot be used until year three, and so on). In other words, I am worried that there will always be a lag.

If this is the case, is there a way to make it clear that a utility can use the credits derived from the light pipe to **1)** establish compliance with sub. (2) (a) 2 in the year the credit was created; **2)** establish compliance with sub. (2) (a) 2 in a subsequent year; or **3)** sell the credit to any other electric provider at any negotiated price? Perhaps this could be as simple as to strike the phrase "in a subsequent year" from 196.378 (3) (a) 1?

Ray

-----Original Message-----

From: Brady, Kevin [mailto:Kevin.Brady@legis.wisconsin.gov]  
 Sent: Wednesday, June 17, 2009 4:18 PM  
 To: ray@federalrelations.com  
 Cc: Mike Potts; Peters, Steven  
 Subject: RE: Light Pipe legislation

Ray,

Attached is the updated LRB draft we received on the light pipe language. Let me know if you have any questions or comments.

Kevin

-----Original Message-----

From: ray@federalrelations.com [mailto:ray@federalrelations.com]  
 Sent: Wednesday, June 17, 2009 9:09 AM  
 To: Brady, Kevin  
 Subject: Light Pipe legislation

Kevin:

I hope you are doing well. I'm wondering if there are any updates on the light pipe language being developed by the LRB?

07/13/2009

Ray  
202-236-5101



2

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SUR

### 2009 BILL

Insert

6A

-regen.

1 AN ACT *to amend* 196.378 (1) (i), 196.378 (3) (a) 1. and 196.378 (3) (c); and *to*  
2 *create* 196.378 (3) (a) 1m. of the statutes; **relating to:** creation of renewable  
3 resource credits by electric providers and granting rule-making authority.

#### ***Analysis by the Legislative Reference Bureau***

Under current law, an electric utility or retail electric cooperative (electric provider) is subject to certain requirements for ensuring that, in a given year, a specified percentage of the electricity that the electric provider sells to retail customers or members is derived from renewable resources. Such requirements are commonly referred to as renewable portfolio standards (RPSs). Current law also allows an electric provider to create a credit based on the amount of electricity derived from renewable resources that the electric provider provides to its customers or members in a year and that exceeds the RPS for that year. Subject to certain restrictions, an electric provider that creates a credit may use the credit in a subsequent year to help comply with an RPS, or sell the credit to another electric provider to help the buyer comply with an RPS.

This bill allows an electric provider to create an additional credit that the electric provider can use or sell like the credit allowed under current law. The bill requires the Public Service Commission (PSC) to promulgate rules that allow an electric provider to create a credit based on the electric provider's use in a year of the following resources: solar energy, including solar water heating and direct solar applications such as solar light pipe technology; geothermal energy; biomass or biogas. However, the electric provider's use of the foregoing resources is eligible for

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a credit only if both of the following are satisfied: 1) the use displaces the electric provider's use of electricity that is derived from coal, oil, nuclear power or natural gas, except for natural gas used in a fuel cell; and 2) the displacement is verifiable and measurable, as determined by the PSC. In addition, the PSC's rules must also allow an electric provider to create a credit based on a customer's or member's use of resources that satisfies the foregoing requirements.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 196.378 (1) (i) of the statutes is amended to read:

2           196.378 (1) (i) "Renewable resource credit" means a credit calculated in  
3 accordance with rules promulgated under sub. (3) (a) 1., 1m., and 2.

4           **SECTION 2.** 196.378 (3) (a) 1. of the statutes is amended to read:

5           196.378 (3) (a) 1. Subject to subd. 2., an electric provider that provides total  
6 renewable energy to its retail electric customers or members in excess of the  
7 percentages specified in sub. (2) (a) 2., or that satisfies the requirements specified in

8 rules promulgated under subd. 1m., may, in the applicable year, create a renewable  
9 resource credit and sell to any other electric provider the renewable resource credit  
10 or a portion of the renewable resource credit at any negotiated price. An electric  
11 provider that creates or purchases a renewable resource credit or portion may use

12 the credit or portion ~~in a subsequent year~~, as provided under par. (c), to establish  
13 compliance with sub. (2) (a) 2. The commission shall promulgate rules that establish

14 requirements for the creation and use of a renewable resource credit created on or  
15 after January 1, 2004, including calculating the amount of a renewable resource  
16 credit, and for the tracking of renewable resource credits by a regional renewable  
17 resource credit tracking system. The rules shall specify the manner for aggregating  
18 or allocating credits under this subdivision or sub. (2) (b) 4. or 5.

19           **SECTION 3.** 196.378 (3) (a) 1m. of the statutes is created to read:





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¶ The bill also eliminates a requirement under current law that a credit must be used in a year subsequent to the year in which the credit is created or purchased. As a result, under the bill, a credit may be used in the same year that it is created or purchased, or in a subsequent year.

**Duerst, Christina**

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**From:** Brady, Kevin  
**Sent:** Monday, August 10, 2009 11:17 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-2962/2 Topic: Allowing an electric provider to create renewable resource credits based on the electric provider's use of certain renewable resources

Please Jacket LRB 09-2962/2 for the SENATE.