

2011 DRAFTING REQUEST

Bill

Received: 04/13/2011

Received By: **mkunkel**

Wanted: As time permits

Companion to LRB:

For: **John Klenke (608) 266- 0485**

By/Representing: **Matt Henkel**

May Contact:

Drafter: **mkunkel**

Subject: **Public Util. - energy**

Addl. Drafters:

Extra Copies: **TKK**

Submit via email: **YES**

Requester's email: **Rep.Klenke@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Hydroelectric renewable resources

Instructions:

Prepare companion bill to LRB-1579/2

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>
/?	mkunkel 04/13/2011	jdyer 04/13/2011		_____			
/1			mduchek 04/13/2011	_____	sbasford 04/13/2011		
/2	mkunkel 04/13/2011	jdyer 04/13/2011	mduchek 04/13/2011	_____	mbarman 04/13/2011		
/3	mkunkel	jdyer	phenry	_____	sbasford		

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	04/14/2011	04/15/2011	04/15/2011	_____	04/15/2011		
/4	mkunkel	jdyer	mduchek	_____	ggodwin	ggodwin	
	04/15/2011	04/15/2011	04/15/2011	_____	04/15/2011	04/18/2011	
	mkunkel	kfollett		_____			
	04/27/2011	04/27/2011		_____			
/5	sbasford		mduchek	_____	cduerst	sbasford	
	04/27/2011		04/27/2011	_____	04/27/2011	04/27/2011	

FE Sent For: **NONE**

<END>

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*PA: Pl. use jacket
"15"*

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/3	mkunkel	jdyer <i>15 kif 4/27</i>	pherry <i>[Signature]</i>	_____	sbasford		

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/1		<i>1/2 4/13 JLD</i>	mduchek 04/13/2011	_____	sbasford 04/13/2011		

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/?	mkunkel	1 4/13 jld	1 4/13	_____	_____	_____	_____

FE Sent For:

<END>

- 1903

Kunkel, Mark

From: Henkel, Matt
Sent: Tuesday, April 12, 2011 6:31 PM
To: Kunkel, Mark
Subject: companion to LRB 1579/2

Hi Mark,

Could you get Rep. Klenke a companion bill to Sen. Lasee's LRB 1579/2 re: hydro power?

Thanks,

-Matt

Matt Henkel
Office of Representative John Klenke
Room 21-North, State Capitol
608-266-0485



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1579/2

MDK:jld:rs

0-NOTE

2011 BILL

Keep ↑

SOON

IN 4-13

-1903/1

RM NOT RUN

X

Regen

1 AN ACT *to amend* 196.378 (1) (h) 1m. and 196.378 (2) (b) 1m.; and *to create*
2 196.378 (1) (dm), 196.378 (1) (m) and 196.378 (2) (b) 1o. of the statutes; **relating**
3 **to:** eligibility of hydroelectric resources under the renewable portfolio
4 standard.

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. These requirements are commonly collectively referred to as the renewable portfolio standard (RPS). "Renewable resource" is defined to include certain resources, including a resource deriving electricity from hydroelectric power that has a capacity of less than 60 megawatts. An electric provider may count toward compliance with the RPS electricity purchased by the electric provider that is generated from such a hydroelectric resource. Subject to certain requirements, an electric provider can also count electricity generated from such a hydroelectric resource that the electric provider owns or operates.

Effective December 31, 2015, this bill allows, under certain circumstances, an electric provider to count toward compliance with the RPS electricity derived by a hydroelectric facility with a capacity of 60 megawatts or more, which the bill defines as a "large hydroelectric facility." The bill allows an electric provider to count electricity derived from a large hydroelectric facility only if the facility was initially

BILL

1 a. The average of the amounts of hydroelectric power generated by small
2 hydroelectric facilities owned or operated by the electric provider for 2001, 2002, and
3 2003, adjusted to reflect the permanent removal from service of any of those facilities
4 and adjusted to reflect any capacity increases from improvements made to those
5 facilities on or after January 1, 2004.

6 b. The amount of hydroelectric power generated in the reporting year by small
7 hydroelectric facilities owned or operated by the electric provider that are initially
8 placed in service on or after January 1, 2004.

9 **SECTION 5.** 196.378 (2) (b) 1o. of the statutes is created to read:

10 196.378 (2) (b) 1o. An electric provider may count electricity derived from large
11 hydroelectric facilities toward satisfying the requirements of par. (a) 2. only if all of
12 the following are satisfied:

13 a. The facility was initially placed in service on or after December 31, 2010.

14 b. If the facility is located in Manitoba, Canada, the province of Manitoba has
15 informed the commission in writing that the interim licenses under which the Lake
16 Winnipeg Regulation Project and the Churchill River Diversion Project were
17 operating on the effective date of this subd. 1o. b. [LRB inserts date], have been
18 replaced by final licenses that are in effect under Canadian law.

19 **SECTION 6. Effective date.**

20 (1) This act takes effect on December 31, 2015.

21

(END)

D-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1903/1dn

MDK: :i:...

date

jld

Rep. Klenke:

This is a companion bill to LRB-1579/2. ✓

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

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

LRB-1903/1dn
MDK:jld:md

April 13, 2011

Rep. Klenke:

This is a companion bill to LRB-1579/2.

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



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1903/10

MDK:jld:md

(2)

O-note

Today

2011 BILL

RM has been put

4

Regen

1 AN ACT *to amend* 196.378 (1) (h) 1m. and 196.378 (2) (b) 1m.; and *to create*
2 196.378 (1) (dm), 196.378 (1) (m) and 196.378 (2) (b) 1o. of the statutes; **relating**
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BILL

* placed in service ~~on~~ or after December 31, 2010. In addition, for a large hydroelectric facility located in Manitoba, Canada, the electricity may be counted toward compliance only if the Province of Manitoba informs the Public Service Commission in writing that final licenses which are in effect under Canadian law have replaced interim licenses for two specified hydroelectric projects located in the province. The bill does ~~not~~ change the requirements under current law relating to electricity derived from a hydroelectric facility with a capacity of less than 60 megawatts, except that the bill defines such a facility as a “small hydroelectric facility.”

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

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

2 196.378 (1) (dm) “Large hydroelectric facility” means an electric generating
3 facility with a capacity of 60 megawatts or more that derives electricity from
4 hydroelectric power.

5 **SECTION 2.** 196.378 (1) (h) 1m. of the statutes is amended to read:

6 196.378 (1) (h) 1m. A resource ~~with a capacity of less than 60 megawatts~~ that
7 derives electricity from hydroelectric power.

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

9 196.378 (1) (m) “Small hydroelectric facility” means an electric generating
10 facility with a capacity of less than 60 megawatts that derives electricity from
11 hydroelectric power.

12 **SECTION 4.** 196.378 (2) (b) 1m. of the statutes is amended to read:

13 196.378 (2) (b) 1m. The amount of electricity derived from small hydroelectric
14 ~~renewable resources~~ facilities that an electric provider may count toward satisfying
15 the requirements of par. (a) 2. shall be all electricity provided by ~~hydroelectric power~~
16 such facilities that the electric provider purchased in the reporting year plus all of
17 the following:

BILL

1 a. The average of the amounts of hydroelectric power generated by small
2 hydroelectric facilities owned or operated by the electric provider for 2001, 2002, and
3 2003, adjusted to reflect the permanent removal from service of any of those facilities
4 and adjusted to reflect any capacity increases from improvements made to those
5 facilities on or after January 1, 2004.

6 b. The amount of hydroelectric power generated in the reporting year by small
7 hydroelectric facilities owned or operated by the electric provider that are initially
8 placed in service on or after January 1, 2004.

9 **SECTION 5.** 196.378 (2) (b) 1o. of the statutes is created to read:

10 196.378 (2) (b) 1o. An electric provider may count electricity derived from large
11 hydroelectric facilities toward satisfying the requirements of par. (a) 2. only if all of
12 the following are satisfied:

13 a. The facility was initially placed in service on or after December 31, 2010.

14 b. If the facility is located in Manitoba, Canada, the province of Manitoba has
15 informed the commission in writing that the interim licenses under which the Lake
16 Winnipeg Regulation Project and the Churchill River Diversion Project were
17 operating on the effective date of this subd. 1o. b. [LRB inserts date], have been
18 replaced by final licenses that are in effect under Canadian law.

19 **SECTION 6. Effective date.**

20 (1) This act takes effect on December 31, 2015.

21

(END)

d-note
↓

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

LRB-1903/2dn

MDK: ↑:...

JLd

date

Rep. Klenke: ✓

This version corrects a typo in the analysis. ✓

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

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

LRB-1903/2dn
MDK:jld:md

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

Kunkel, Mark

From: Henkel, Matt
Sent: Thursday, April 14, 2011 3:37 PM
To: Kunkel, Mark
Cc: Kruse, Jon
Subject: RE: LRB 1579

Mark, I thought we were done but could you make one more change to the drafts LRB 1903/2 and LRB 1579/4?

The change needs to be made to the last part regarding the final licenses remaining in effect.

The draft ran the sentence together instead of making it clear that two separate actions must occur.

1. Commission informed that final license were obtained and...
2. the final licenses remain in effect

This should help ensure proper final licensing and that everything is done properly on the front end so as not to risk a court overturning the final licenses.

SECTION 5. 196.378 (2) (b) 1o. of the statutes is created to read:

196.378 (2) (b) 1o. An electric provider may count electricity derived from large hydroelectric facilities toward satisfying the requirements of par. (a) 2. only if all of the following are satisfied:

- a. The facility was initially placed in service on or after December 31, 2010.*
- b. If the facility is located in Manitoba, Canada, the province of Manitoba has informed the commission in writing that the interim licenses under which the Lake Winnipeg Regulation Project and the Churchill River Diversion Project were operating on the effective date of this subd. 1o. b. [LRB inserts date], have been replaced by final licenses, and the final licenses are in effect under Canadian law.*

Could you send both our offices updated drafts as soon as you can?

-Matt

Matt Henkel
Office of Representative John Klenke
Room 21-North, State Capitol
608-266-0485

From: Kunkel, Mark
Sent: Thursday, April 14, 2011 2:07 PM
To: Henkel, Matt
Subject: RE: LRB 1579

Yes, they are the same.

From: Henkel, Matt
Sent: Thursday, April 14, 2011 11:54 AM

To: Kunkel, Mark
Subject: LRB 1579

Hi Mark, does the last draft you sent me - LRB 1903/2 reflect Senator Lasee's LRB 1579/4? I just want to make sure both drafts are the same.

Thanks,

-Matt

Matt Henkel
Office of Representative John Klenke
Room 21-North, State Capitol
608-266-0485



2011 BILL

67
Friday
4-15
noon

PM too
been
RUN

✓ Regen

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BILL

and only if those final licenses remain in effect ✓

placed in service on or after December 31, 2010. In addition, for a large hydroelectric facility located in Manitoba, Canada, the electricity may be counted toward compliance only if the Province of Manitoba informs the Public Service Commission in writing that final licenses ~~which are in effect under Canadian law~~ have replaced interim licenses for two specified hydroelectric projects located in the province. The bill does not change the requirements under current law relating to electricity derived from a hydroelectric facility with a capacity of less than 60 megawatts, except that the bill defines such a facility as a "small hydroelectric facility."

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 17 operating on the effective date of this subd. 1o. b. [LRB inserts date], have been
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21 ✓ (END)

INSERT 3-9

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1903/3ins
MDK:.....

1
2
3
4
5
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9
10
11

INSERT 3-9:

196.378 (2) (b) 1o. An electric provider may count electricity derived from a large hydroelectric facility toward satisfying the requirements of par. (a) 2. only if the facility was initially placed in service on or after December 31, 2010, and, if the facility is located in Manitoba, Canada, all of the following are satisfied:

- a. The province of Manitoba has informed the commission in writing that the interim licenses under which the Lake Winnipeg Regulation Project and the Churchill River Diversion Project were operating on the effective date of this subd. 1o. a. [LRB inserts date], have been replaced by final licenses under Canadian law.
- b. The final licenses specified in subd. 1o. a. remain in effect under Canadian law.

(end ins)

Kunkel, Mark

From: Henkel, Matt
Sent: Friday, April 15, 2011 10:52 AM
To: Kunkel, Mark
Subject: RE: Hydr Cap Bill

Good catch. Yes add a "that" and say "and **THAT** the final licenses are in effect under Canadian law."

-Matt

Matt Henkel
Office of Representative John Klenke
Room 21-North, State Capitol
608-266-0485

From: Kunkel, Mark
Sent: Friday, April 15, 2011 10:31 AM
To: Henkel, Matt
Cc: Kruse, Jon
Subject: RE: Hydr Cap Bill

Do you want the notification from the province to say the following 2 things: 1) that interim license are replaced by final license and 2) that the final licenses are in effect? If so, I would revise your language to add a "that" and say "and **that** the final licenses are in effect under Canadian law."

-- Mark

From: Henkel, Matt
Sent: Friday, April 15, 2011 10:21 AM
To: Kunkel, Mark
Cc: Kruse, Jon
Subject: Hydr Cap Bill

Mark, could you make one more change?

SECTION 5. 196.378 (2) (b) 1o. of the statutes is created to read:

196.378 **(2)** (b) 1o. An electric provider may count electricity derived from large hydroelectric facilities toward satisfying the requirements of par. (a) 2. only if all of the following are satisfied:

- a. The facility was initially placed in service on or after December 31, 2010.
- b. If the facility is located in Manitoba, Canada, the province of Manitoba has informed the commission in writing that the interim licenses under which the Lake Winnipeg Regulation Project and the Churchill River Diversion Project were operating on the effective date of this subd. 1o. b. [LRB inserts date], have been replaced by final licenses, and the final licenses are in effect under Canadian law.

Thanks,

-Matt

Matt Henkel
Office of Representative John Klenke
Room 21-North, State Capitol
608-266-0485



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1903/3
MDK:jld:ph

4

2011 BILL

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made

Regen

1 AN ACT *to amend* 196.378 (1) (h) 1m. and 196.378 (2) (b) 1m.; and *to create*
2 196.378 (1) (dm), 196.378 (1) (m) and 196.378 (2) (b) 1o. of the statutes; **relating**
3 **to:** eligibility of hydroelectric resources under the renewable portfolio
4 standard.

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. These requirements are commonly collectively referred to as the renewable portfolio standard (RPS). "Renewable resource" is defined to include certain resources, including a resource deriving electricity from hydroelectric power that has a capacity of less than 60 megawatts. An electric provider may count toward compliance with the RPS electricity purchased by the electric provider that is generated from such a hydroelectric resource. Subject to certain requirements, an electric provider can also count electricity generated from such a hydroelectric resource that the electric provider owns or operates.

Effective December 31, 2015, this bill allows, under certain circumstances, an electric provider to count toward compliance with the RPS electricity derived by a hydroelectric facility with a capacity of 60 megawatts or more, which the bill defines as a "large hydroelectric facility." The bill allows an electric provider to count electricity derived from a large hydroelectric facility only if the facility was initially

BILL

placed in service on or after December 31, 2010. In addition, for a large hydroelectric facility located in Manitoba, Canada, the electricity may be counted toward compliance only if the Province of Manitoba informs the Public Service Commission in writing that final licenses have replaced interim licenses for two specified hydroelectric projects located in the province and ~~and~~ those final licenses ~~remain~~ in effect. The bill does not change the requirements under current law relating to electricity derived from a hydroelectric facility with a capacity of less than 60 megawatts, except that the bill defines such a facility as a "small hydroelectric facility."

are

Under Canadian Law

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

Handwritten scribbles and a circled "2)" on the right margin.

1 SECTION 1. 196.378 (1) (dm) of the statutes is created to read:

2 196.378 (1) (dm) "Large hydroelectric facility" means an electric generating
3 facility with a capacity of 60 megawatts or more that derives electricity from
4 hydroelectric power.

5 SECTION 2. 196.378 (1) (h) 1m. of the statutes is amended to read:

6 196.378 (1) (h) 1m. A resource ~~with a capacity of less than 60 megawatts~~ that
7 derives electricity from hydroelectric power.

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

9 196.378 (1) (m) "Small hydroelectric facility" means an electric generating
10 facility with a capacity of less than 60 megawatts that derives electricity from
11 hydroelectric power.

12 SECTION 4. 196.378 (2) (b) 1m. of the statutes is amended to read:

13 196.378 (2) (b) 1m. The amount of electricity derived from small hydroelectric
14 ~~renewable resources facilities~~ that an electric provider may count toward satisfying
15 the requirements of par. (a) 2. shall be all electricity provided by hydroelectric power
16 such facilities that the electric provider purchased in the reporting year plus all of
17 the following:

BILL

1 a. The average of the amounts of hydroelectric power generated by small
2 hydroelectric facilities owned or operated by the electric provider for 2001, 2002, and
3 2003, adjusted to reflect the permanent removal from service of any of those facilities
4 and adjusted to reflect any capacity increases from improvements made to those
5 facilities on or after January 1, 2004.

6 b. The amount of hydroelectric power generated in the reporting year by small
7 hydroelectric facilities owned or operated by the electric provider that are initially
8 placed in service on or after January 1, 2004.

9 **SECTION 5.** 196.378 (2) (b) 1o. of the statutes is created to read:

10 196.378 (2) (b) 1o. An electric provider may count electricity derived from a

11 large hydroelectric facility toward satisfying the requirements of par. (a) 2. only if the

12 facility was initially placed in service on or after December 31, 2010, if the

13 facility is located in Manitoba, Canada, ~~and the following are satisfied~~ NO

14 ~~(a)~~ The province of Manitoba has informed the commission in writing that the

15 interim licenses under which the Lake Winnipeg Regulation Project and the

16 Churchill River Diversion Project were operating on the effective date of this subd.

17 1o. ~~a~~ ^b.... [LRB inserts date], have been replaced by final licenses under Canadian law

18 ~~and that those~~ final licenses ~~are~~ ^{and that those} in effect under Canadian

19 law.

20 **SECTION 6. Effective date.**

21 (1) This act takes effect on December 31, 2015.

22 (END)

(9) b. all of

(11)
(12)
(13)
(14)
(16)
(17)
(18)

9 a. The

NO
A

NO
FF

Following are satisfied:

Godwin, Gigi

From: Henkel, Matt
Sent: Monday, April 18, 2011 2:03 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-1903/4 Topic: Hydroelectric renewable resources

Please Jacket LRB 11-1903/4 for the ASSEMBLY.



State of Wisconsin
2011 - 2012 LEGISLATURE

LPS: note →
from
-1597/7



LRB-1579/7
MDK:jld:md

-1903/5 ↓

R M N U T
A U N

2011 BILL

Regen

1 AN ACT *to amend* 196.378 (1) (h) 1m. and 196.378 (2) (b) 1m.; and *to create*
2 196.378 (1) (dm), 196.378 (1) (m) and 196.378 (2) (b) 1o. of the statutes; **relating**
3 **to:** eligibility of hydroelectric resources under the renewable portfolio
4 standard.

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. These requirements are commonly collectively referred to as the renewable portfolio standard (RPS). "Renewable resource" is defined to include certain resources, including a resource deriving electricity from hydroelectric power that has a capacity of less than 60 megawatts. An electric provider may count toward compliance with the RPS electricity purchased by the electric provider that is generated from such a hydroelectric resource. Subject to certain requirements, an electric provider can also count electricity generated from such a hydroelectric resource that the electric provider owns or operates.

Effective December 31, 2015, this bill allows, under certain circumstances, an electric provider to count toward compliance with the RPS electricity derived by a hydroelectric facility with a capacity of 60 megawatts or more, which the bill defines as a "large hydroelectric facility." The bill allows an electric provider to count electricity derived from a large hydroelectric facility only if the facility was initially

BILL

placed in service on or after December 31, 2010. In addition, for a large hydroelectric facility located in Manitoba, Canada, the electricity may be counted toward compliance only if the following are satisfied: 1) the Province of Manitoba informs the Public Service Commission in writing that final licenses have replaced interim licenses for two specified hydroelectric projects located in the province; and 2) those final licenses are in effect under Canadian law. The bill does not change the requirements under current law relating to electricity derived from a hydroelectric facility with a capacity of less than 60 megawatts, except that the bill defines such a facility as a “small hydroelectric facility.”

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

1 **SECTION 1.** 196.378 (1) (dm) [✓] of the statutes is created to read:

2 196.378 (1) (dm) “Large hydroelectric facility” means an electric generating
3 facility with a capacity of 60 megawatts or more that derives electricity from
4 hydroelectric power.

5 **SECTION 2.** 196.378 (1) (h) 1m. [✓] of the statutes is amended to read:

6 196.378 (1) (h) 1m. A resource ~~with a capacity of less than 60 megawatts~~ that
7 derives electricity from hydroelectric power.

8 **SECTION 3.** 196.378 (1) (m) [✓] of the statutes is created to read:

9 196.378 (1) (m) “Small hydroelectric facility” means an electric generating
10 facility with a capacity of less than 60 megawatts that derives electricity from
11 hydroelectric power.

12 **SECTION 4.** 196.378 (2) (b) 1m. [✓] of the statutes is amended to read:

13 196.378 (2) (b) 1m. The amount of electricity derived from small hydroelectric
14 ~~renewable resources facilities~~ that an electric provider may count toward satisfying
15 the requirements of par. (a) 2. shall be all electricity provided by ~~hydroelectric power~~
16 such facilities that the electric provider purchased in the reporting year plus all of
17 the following:

