

Clearinghouse Rule 10-147

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Revisions to ch. PSC 118 Regarding Renewable Resource
Credits

1-AC-234

NOTICE OF HEARING

Hearing Date:	9:30 a.m. to 11:30 a.m., Tuesday, February 15, 2011
Hearing Location:	Public Service Commission, 610 North Whitney Way, Madison, WI

Comments Due: March 1, 2011 – Noon	Address Comments To: Sandra J. Paske, Secretary to the Commission Public Service Commission P.O. Box 7854 Madison, WI 53707-7854 FAX (608) 266-3957
FAX Due: February 28, 2010 – Noon	

The Public Service Commission of Wisconsin proposes an order to repeal PSC 118.06 (2) (d) 3. b.; to renumber and amend PSC 118.02 (1) and (10), and 118.03 (b); to amend PSC 118.02 (2), (4) and (6), 118.03 (1) (intro.) and (a), 118.04 (2) (e) and (g) 2. and (5), 118.05 (1), 118.06 (1), (2) (b) and (c) (intro.) and (5); to create PSC 118.02 (1), (1g), (3m), (5), (5g), (5r), (6m), (7m), (10) (a) and (b), (14), (15) and (16), 118.025, 118.03 (2) and (4), 118.04 (1) and (2) (g) 4., 118.055, 118.06 (1) (a) and (b) and (2) (cm), (d) 1m. and (em), 118.09 and 118.10, relating to renewable resource credits.

**ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

The analysis is set forth as Attachment A.

TEXT OF PROPOSED RULE

The text of the proposed rule is set forth as Attachment B.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

The proposed rule will have no negative impact on small businesses, as defined in s. 227.11 (1), Stats. The proposed rule may have a beneficial impact for small businesses in either of two ways.

- 1) The proposed rule establishes new ways for Wisconsin electric providers to create renewable resource credits (RRCs), in addition to all of the existing ways in the current rule. RRCs can be used to comply with Wisconsin's Renewable Portfolio Standards (RPS) mandate. By giving electric providers new options for creating RRCs, but not requiring the use of those options, the costs of complying with the RPS mandate may decrease. Electric providers are authorized to recover their RPS compliance costs in the rates they charge customers and members. Thus, if an electric provider's RPS compliance costs are reduced, their customers or members (including small businesses) may indirectly benefit through reduced electric rates.
- 2) The proposed rule also makes it possible for a small business (or any other customer or member of an electric provider) to benefit more directly, if the business is using a qualifying technology or resource to produce non-electric energy. In such circumstances, the proposed rule allows the electric provider to create RRCs based on energy produced by the small business, but only with the permission of the small business. A small business could request compensation from the electric provider in exchange for granting permission to create those RRCs.

This rulemaking will affect electric generating utilities (EGUs). Because of Wisconsin's Renewable Portfolio Standards mandate, renewable resources must account for a certain percentage of an EGU's electricity generation. This proposed rule expands the types of renewable resources that may be used to create RRCs, thus making it easier for an EGU to meet the RPS requirements.

FISCAL ESTIMATE

Fiscal information is included as Attachment C.

NOTICE OF HEARING

NOTICE IS GIVEN that pursuant to s. 227.16(2)(b), Stats., the commission will hold a public hearing on these proposed rules in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on **Tuesday, February 15, 2011, from 9:30 a.m. to 11:30 a.m.** This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

WRITTEN COMMENTS

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until **March 1, 2011**, at noon (**February 28, 2011**, at noon, if filed by fax). All written comments must include a reference on the filing to docket 1-AC-234. File by one mode only.

Industry: File comments using the Electronic Regulatory Filing system. This may be accessed from the commission's website, www.psc.wi.gov.

Members of the Public:

If filing electronically: Use the Public Comments system or the Electronic Regulatory Filing system. Both of these may be accessed from the commission's website, www.psc.wi.gov.

If filing by mail, courier, or hand delivery: Address as shown in the box on page 1.

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet **MUST** state "Official Filing," the docket number 1-AC-234, and the number of pages (limited to 25 pages for fax comments).

CONTACT PERSONS

Questions regarding this matter, including small business questions, should be directed to Docket Coordinator Preston Schutt at (608) 266-1462 or preston.schutt@wisconsin.gov. Media questions should be directed to Teresa Weidemann-Smith, Communications Specialist, Governmental and Public Affairs, at (608) 266-9600. Hearing- or speech-impaired individuals may also use the commission's TTY number; if calling from Wisconsin, use (800) 251-8345; if calling from outside Wisconsin, use (608) 267-1479.

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 get this document in a different format should contact the Docket Coordinator, as indicated in the previous paragraph, as soon as possible.

Docket 1-AC-234

Dated at Madison, Wisconsin, December 16, 2010

By the Commission,

/s/ Sandra J. Paske

Sandra J. Paske
Secretary to the Commission

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**ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

A. Statutory Authority and Explanation of Authority

This rule is authorized under ss. 196.02 (1) and (3), 196.378 (3) (a) 1., and 196.378 (3) (a) 1m., and 227.11, Stats.

Section 227.11, Stats., authorizes agencies to promulgate administrative rules. Section 196.02 (1), Stats., authorizes the commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3), Stats., grants the commission specific authority to promulgate rules. Section 196.378 (3) (a) 1., Stats., grants the commission specific authority to promulgate rules that establish requirements for the creation and use of a renewable resource credit on or after January 1, 2004. Section 196.378 (3) (a) 1m., Stats., grants the commission specific authority to promulgate rules that allow an electric provider to create a renewable resource credit based on use in a year by the electric provider, or a customer or member of the electric provider.

B. Statutes Interpreted

This rule interprets ss. 196.378 (1) (h) 1. h. to j. and (i) and (3) (a) 1. and 1m. and (c), Stats. These statutes deal with the creation, sale, calculation and tracking of renewable resource credits, and specify the manner for aggregating or allocating renewable resource credits.

C. Related Statutes or Rules

Section 196.374, Stats., defines the term “renewable resource,” and deals with energy efficiency and renewable resource programs. Section 196.377, Stats., deals with the promotion of renewable energy sources. Section 196.378, Stats., provides definitions for certain renewable resources that are included in this rule.

D. Brief Summary of Rule

2009 Wisconsin Act 406 establishes statewide criteria for the creation of renewable resource credits (RRCs) by electric providers, and the inclusion of certain resources that generate electric power from certain fuel, synthetic gas, or densified fuel pellets in the renewable portfolio standard.

This rule creates definitions for biogas, displaced conventional electricity, non-electric facility, pyrolysis, solar light pipe, solar water heater and synthetic gas, and refines existing definitions to prevent ambiguity. This rule also describes when certain RRCs are considered created and used, and which facilities are eligible for creating RRCs, even in instances where the RRC is created from a renewable resource not produced on site.

Under this rule, an RRC may be created by the displacement of conventional electricity caused by the use of a non-electric facility under certain circumstances. For example, a building with solar light pipes, i.e., a non-electric facility as defined by this rule, displaces conventional electricity and this displacement creates an RRC that can be used by the electric provider or by a customer or member of the electric provider. This rule provides greater detail describing when and how this can be done.

Displaced conventional electricity is calculated by taking the annual average mix of resources used to generate electricity in the entire area served by the Midwest Independent Transmission System Operator. Alternatively, displaced conventional electricity may be calculated by establishing a different percentage for a specific type of non-electric facility if its seasonal or diurnal operating characteristics justify a percentage that differs from the annual average percentage. Electric providers or users of a non-electric facility must determine the net amount of electricity displaced by using methodologies outlined under proposed Wis. Admin. Code § 118.09 (3) (a).

Lastly, this rule provides a procedure for the certification and registration of renewable and non-electric facilities that can issue an RRC; a means of tracking RRCs that have been created, retired or expired; and permits the aggregation and allocation of RRCs by wholesale suppliers.

E. Comparison with Existing or Proposed Federal Regulations

No federal renewable portfolio standard (RPS) exists at this time. Several legislative proposals to establish a federal “renewable electricity standard” have been submitted within the last year. Two have been referred to the Committee on Energy and Natural Resources and the third has been placed on the Senate Legislative Calendar under General Orders (Calendar No. 576).

Two of the three federal legislative proposals establish a minimum annual percentage of the base quantity of electricity that an electric utility sells to electric consumers; one proposal calls for a minimum of 15% by 2021 and the other calls for a minimum of 25% by 2025. The third proposal does not specify a minimum annual percentage to be achieved. The proposed federal regulations include many of the same kinds of renewable resources as does this rule, e.g., biogas, biomass, solar, and wind.

Two of the proposed federal regulations address the issuance of renewable energy credits (RECs), direct the U.S. Secretary of Energy (Secretary) to establish a means to administer RECs and promulgate regulations regarding the measurement and verification of electricity savings. Under these proposals, the Secretary may delegate REC-tracking to a national, state or local entity. One REC is worth one kilowatt hour under the proposed regulations.

F. Comparison with Similar Rules in Adjacent States

Like Wisconsin, Illinois, Michigan and Minnesota have adopted renewable portfolio standard (RPS) mandates. Iowa, however, has not adopted an RPS mandate.

ILLINOIS

Illinois has promulgated rules addressing compliance with and reporting requirements for its RPS. In Illinois, investor-owned utilities (IOUs) that sell outside their service territories to comply with the RPS¹ and alternative retail electric suppliers (ARES) are required to comply with the RPS. Municipal and cooperative utilities are exempt from the RPS. The Illinois RPS requires that renewable resources provide 25% of the overall standard retail electric sales by 2024-2025.

For IOUs, wind power must provide a minimum of 75% of the renewable energy and the remaining 25% may come from other eligible renewable resources. ARES must obtain a minimum of 60% of their renewable energy from wind power; the remaining 40% may come from other eligible renewable resources. IOUs and ARES may procure their renewable energy either through energy bundled with renewable energy credits or through the purchase of tradable renewable energy credits on their own. Utilities must retire credits that they use for compliance.

Through 2011, utilities must procure the renewable resources in Illinois. If it is not cost-effective to procure in-state eligible resources, utilities may procure these resources from adjoining states. Utilities may, as a last resort, procure resources from other regions of the country if resources from adjoining states are not cost-effective. After 2011, equal preference is given to in-state resources and adjoining states. IOUs and ARES must submit an annual compliance report by September 1 of each year.

IOWA

Iowa adopted its alternate energy production (AEP) requirements prior to widespread use of energy-based RPSs in other states. Iowa's AEP differs from an RPS in that the AEP is capacity-based and relates to specific AEP facilities, either owned or contracted by utilities, rather than being an energy-based portfolio requirement. At this time, only two Iowa utilities – Interstate Power and Light Company (IPL) and MidAmerican Energy Company (MidAmerican) – are required by the AEP statutes to own or purchase their share of alternate energy from AEP production facilities or small hydro facilities for a combined total of 105 megawatts. IPL currently fulfills its entire obligation with wind, while MidAmerican fulfills its obligation with wind and a small amount of biogas capacity.

¹ Also referred to as ARES in these situations.

MICHIGAN

Michigan has an RPS, and while it has not promulgated any rules or issued any technical guidance document outlining the implementation of its mandates, it has begun the process of developing a system to address compliance and REC tracking. The state's renewable energy certification system, MIRECS², was developed by APX, Inc., which also developed the Midwest Renewable Energy Tracking System (M-RETS) used by Wisconsin. MIRECS will track all relevant information about renewable energy produced and delivered in Michigan. APX, Inc., designed MIRECS so that it would integrate with M-RETS and the North American Renewables Registry to provide for import and export of certificates across renewable energy markets. Additionally, the Michigan Public Service Commission (MPSC) has hired an auditor who will be responsible for performing inspections of renewable energy facilities to ensure compliance.

Under Michigan's RPS, IOUs, rural electric cooperatives, municipal utilities and retail suppliers must have 10% of their electricity come from eligible renewable resources by 2015. As the state's two largest IOUs, Detroit Edison Company (DTC) and Consumers Energy (Consumers) have additional obligations beyond those of other utilities. DTC must procure 300 megawatts of new renewable resources by 2013 and 600 megawatts of new renewable resources by 2015. Consumers must procure 200 megawatts of new renewable resources by 2013 and 500 megawatts of new renewable resources by 2015.

Utilities may achieve compliance with the RPS by purchasing RECs. Up to 50% of the RPS may be met with RECs produced by utility-owned facilities. A REC has a three-year lifetime from the end of the month it was generated. The MPSC requires utilities to submit affidavits and a renewable energy plan to verify compliance on a biennial basis.

MINNESOTA

Minnesota has not promulgated any rules or issued any technical guidance document outlining the implementation of its RPS mandates; however, the Minnesota Public Utilities Commission (PUC) has an open docket to address implementation issues that have not been fully addressed in previous dockets or that are due to changes in national, state or M-RETS policies and protocols. Only renewable energy credits (RECs) recorded and tracked by M-RETS may be used for compliance with the RPS. Xcel Energy, public utilities providing electric service, generation and transmission cooperative electric associations, municipal power agencies and power districts operating in the state are subject to the RPS mandates.

Under Minnesota's RPS, the standard for Xcel Energy requires that eligible renewable electricity account for 30% of total retail electricity sales, including sales to retail customers of a distribution utility to which Xcel Energy provides wholesale service, in Minnesota by 2020. Xcel must procure a minimum of 24% of its eligible renewable electricity from wind, solar may contribute up to 1%, and the remaining 5% may be generated from other eligible technologies to meet the 2020 standard. Other utilities must obtain 25% of their electricity from eligible

² MIRECS stands for "Michigan Renewable Energy Certification System."

renewable electricity by 2020 to meet the RPS, and are not subject to requirements that specify percentages for particular types of renewable resources.

Presently, Minnesota places the burden on its utilities to carry out the RPS mandates. Utilities must report when they retire their RECs and submit a biennial report to the PUC that provides information on retail sales, REC retirements and REC trading activities.

G. Effect on Small Business

This rulemaking will not negatively affect small businesses. It may benefit small businesses that own or sell the technologies that this rulemaking makes eligible for renewable resource credits or allow small business who use renewable resources to create RRCs that can then be sold to electric providers.

H. Comments

Comments on this rule may be submitted as outlined in the Notice of Hearing.

I. Accommodation

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 receive this document in a different format should contact the Docket Coordinator, as indicated in the following paragraph, as soon as possible.

J. Agency Contacts

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TEXT OF DRAFT RULES

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SECTION 1. PSC 118.02 (1) is renumbered 118.02 (1r) and amended to read:

PSC 118.02 (1r) “Certified renewable facility” means an electric generating facility that the commission certifies ~~has met the definition of a renewable facility~~ under s. PSC 118.05.

SECTION 2. PSC 118.02 (1) and (1g) are created to read:

118.02 (1) “Biogas” means a gas created by the anaerobic digestion or fermentation of biomass, food processing waste or discarded food.

(1g) “Certified non-electric facility” means a non-electric facility that the commission certifies under s. PSC 118.055.

SECTION 3. PSC 118.02 (2) is amended to read:

PSC 118.02 (2) “Compliance period” means a calendar year, beginning January 1, during which an electric provider is required to ~~deliver~~ achieve a renewable energy percentage under s. 196.378 (2) (a), Stats.

SECTION 4. PSC 118.02 (3m) is created to read:

PSC 118.02 (3m) “Densified fuel pellets” means pellets made from waste material that does not include garbage, as defined in s. 289.01 (9), Stats., and that contains no more than 30 percent fixed carbon.

1 **SECTION 5.** PSC 118.02 (4) is amended to read:

2 PSC 118.02 (4) “Designated representative” means the person authorized by the electric
3 provider to register a renewable facility or non-electric facility with the program administrator,
4 or to purchase or sell RRCs.

5

6 **SECTION 6.** PSC 118.02 (5), (5g) and (5r) are created to read:

7 PSC 118.02 (5) “Displaced conventional electricity” means electricity derived from
8 conventional resources that an electric provider or a customer or member of the electric provider
9 would have used except that the person used instead a certified non-electric facility that meets
10 the requirements of ss. PSC 118.03 and 118.04.

11 (5g) “Division administrator” means the administrator of the commission’s gas and
12 energy division.

13 (5r) “Geothermal heating and cooling installation” means a ground source heat pump.

14

15 **SECTION 7.** PSC 118.02 (6) is amended to read:

16 PSC 118.02 (6) “MWh” means megawatt-hour of electricity.

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18 **SECTION 8.** PSC 118.02 (6m) and (7m) are created to read:

19 PSC 118.02 (6m) “Non-electric facility” means any of the following when used by an
20 electric provider or by a customer or member of the electric provider:

21 (a) A solar water heater.

22 (b) A solar light pipe.

1 (c) A geothermal heating and cooling installation.

2 (d) An installation generating thermal output from biomass, biogas, synthetic gas,
3 densified fuel pellets, or fuel produced by pyrolysis.

4 (e) Any other installation specified by the commission.

5 (7m) "Pyrolysis" means an industrial process that heats organic or waste material under
6 pressure in an oxygen-starved environment to break the material down into gases, liquid and
7 solid residues.

8
9 **SECTION 9.** PSC 118.02 (10) is renumbered 118.02 (10) (intro.), and amended to read:

10 PSC 118.02 (10) (intro.) "Renewable resource credit" means ~~one MWh of renewable~~
11 ~~energy from a certified renewable facility that is physically metered with the net generation~~
12 ~~measured at the certified renewable facility's bus bar, that is delivered to a retail customer with~~
13 ~~the retail sale measured at the customer's meter, that ignores the transmission and distribution~~
14 ~~losses between the bus bar and the customer's meter, that exceeds the minimum percentage~~
15 ~~requirement specified in s. 196.378 (2) (a), Stats., and that meets the requirements of ss. PSC~~
16 ~~118.03 and 118.04, either of the following:~~

17

18 **SECTION 10.** PSC 118.02 (10) (a) and (b) are created to read:

19 PSC 118.02 (10) (a) One MWh of renewable energy from a certified renewable facility
20 that meets each of the following requirements:

21 1. It is physically metered with the net generation measured at the certified renewable
22 facility's bus bar.

1 2. It is delivered to a retail customer with the retail sale measured at the customer's
2 meter.

3 3. It ignores the transmission and distribution losses between the bus bar and the
4 customer's meter.

5 4. It exceeds the minimum percentage requirement specified in s. 196.378 (2) (a), Stats.

6 5. It meets the requirements of ss. PSC 118.03 and 118.04.

7 (b) One MWh of displaced conventional electricity, as calculated under s. PSC 118.09.

8

9 **SECTION 11.** PSC 118.02 (14) to (16) are created to read:

10 PSC 118.02 (14) "Solar light pipe" means a device that concentrates and transmits
11 sunlight through a roof to an interior space, employing highly-reflective material inside the
12 device to focus and direct the maximum available sunlight to the interior space.

13 (15) "Solar water heater" means a device that concentrates and collects solar radiation to
14 heat water for domestic use, pool heating, space heating, or ventilation air heating.

15 (16) "Synthetic gas" means gas created by the plasma gasification of waste.

16

17 **SECTION 12.** PSC 118.025 is created to read:

18 **PSC 118.025 Renewable resource designation.** Biogas is a renewable resource under
19 s. 196.378 (1) (h) 2., Stats.

20

21

22

1 **SECTION 13.** PSC 118.03 (1) (intro.) and (a) are amended to read:

2 PSC 118.03 (1) (intro.) An electric provider may create an RRC for renewable energy
3 only if the renewable facility that is the source of the electric provider's renewable energy meets
4 all of the following requirements:

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

7

8 **SECTION 14.** PSC 118.03 (2) is created to read:

9 PSC 118.03 (2) An electric provider may create an RRC for conventional electricity
10 displaced by the use of a non-electric facility only if the non-electric facility meets all of the
11 following requirements:

12 (a) The non-electric facility registers with, and is certified by, the commission under s.
13 PSC 118.055.

14 (b) The non-electric facility was placed in service on or after June 3, 2010.

15 (c) The non-electric facility will replace or reduce the use of an electric device used at
16 the same location for the same purpose as the non-electric facility.

17 (d) Any other condition established by the commission.

18

19 **SECTION 15.** PSC 118.03 (3) (b) is renumbered PSC 118.03 (3) and is amended to read:

20 PSC 118.03 (3) An electric provider may only use the renewable portion of a biomass
21 ~~co-fired facility's energy production~~ the production from a facility using both a renewable and

1 conventional fuel, based on the relative energy content of the fuels, to create RRCs in the
2 applicable reporting period.

3

4 **SECTION 16.** PSC 118.03 (4) is created to read:

5 PSC 118.03 (4) (a) An electric provider may create RRCs for a facility that has
6 contracted with a producer of biogas, gas from pyrolysis, or synthetic gas for ownership of the
7 gas and that has sufficient contracts to deliver the gas to the facility, according to the resulting
8 number of MWh that the facility generates or the amount of conventional electricity that the
9 facility displaces.

10 (b) An electric provider may create an RRC for a facility that satisfies par. (a) if the
11 electric provider demonstrates all of the following:

12 1. The gas producer meters the amount of gas delivered, using metering devices that
13 comply with ss. PSC 134.27 and 134.28.

14 2. The gas producer measures the heat content of the gas at least monthly.

15 3. The facility complies with sub. (1) or (2).

16

17 **SECTION 17.** PSC 118.04 (1) is created to read:

18 PSC 118.04 (1) For purposes of determining how long an RRC is eligible to be used to
19 meet an electric provider's minimum percentage requirement under s. 196.378 (2) (a), Stats.:

20 (a) An RRC under s. PSC 118.02 (10) (a) is created when the renewable facility
21 generates the renewable energy.

1 (b) An RRC under s. PSC 118.02 (10) (b) is created on December 31 of the year in
2 which the use of the certified non-electric facility displaces conventional electricity.

3 (c) An RRC is used in the compliance period for which it is retired, regardless of the date
4 on which the RRC is retired in the RRC tracking program.

5
6 **SECTION 18.** PSC 118.04 (2) (e) and (g) 2. are amended to read:

7 PSC 118.04 (2) (e) Renewable energy or displaced conventional electricity that would
8 meet the definition of an RRC under s. PSC 118.02 (10), except that it consists of less than one
9 MWh, shall constitute a fraction of an RRC. A fractional RRC may not be smaller than 0.01
10 MWh.

11 (g) 2. ~~An RRC created~~ Renewable energy generated on or after January 1, 2004, but
12 produced by a renewable facility that was placed into service before January 1, 2004, may only
13 ~~be sold or used to meet an electric provider's minimum percentage requirement under s. 196.378~~
14 ~~(2) (a), Stats., if the RRC~~ used to create an RRC if the renewable energy constituted an
15 incremental increase in output from the renewable facility due to capacity improvements that
16 were made on or after January 1, 2004, as provided in s. 196.378 (3) (a) 2., Stats. The RRCs
17 described in this subdivision may not be used after the fourth year after the year in which the
18 credit is created, as provided in s. 196.378 (3) (c), Stats. If the renewable facility was originally
19 constructed prior to January 1, 2004, but is entirely replaced with a new and more efficient
20 facility, all of the output from the new facility constitutes an incremental increase and can be
21 used to create RRCs.

1 ~~EXAMPLE: If the renewable facility was originally constructed prior to January 1, 2004,~~
2 ~~but is entirely replaced with a new and more efficient facility, all of the output from the new~~
3 ~~facility constitutes an incremental increase and can be used to create RRCs.~~

4
5 **SECTION 19.** PSC 118.04 (2) (g) 4. is created to read:

6 PSC 118.04 (2) (g) 4. An RRC created for displaced conventional electricity may be sold
7 or used to meet an electric provider's minimum percentage requirement under s. 196.378 (2) (a),
8 Stats. The RRCs described in this subdivision may not be used after the fourth year after the
9 year in which the credit is created, as provided in s. 196.378 (3) (c), Stats.

10
11 **SECTION 20.** PSC 118.04 (5) is amended to read:

12 PSC 118.04 (5) Subject to commission approval, the program administrator may
13 establish any procedure necessary to ~~ensure that~~ accurately record the creation, sale, transfer,
14 purchase and retirement of RRCs ~~are accurately recorded.~~

15
16 **SECTION 21.** PSC 118.05 (1) is amended to read:

17 PSC 118.05 (1) (a) ~~An~~ Except as provided in s. PSC 118.055, an electric provider may
18 only use the energy of a certified renewable facility for creation of an RRC. The commission
19 shall certify renewable facilities or delegate this responsibility to the program administrator.
20 Any electric provider or owner of a renewable facility ~~that is~~ adversely affected by the ~~program~~
21 ~~administrator's~~ decision to certify or not certify may protest to the commission. Such a protest
22 shall be served in writing on the division administrator within 10 working days after ~~the~~

1 ~~adversely affected person has received notice of the program administrator's~~ service of the
2 decision. The division administrator may settle and resolve protests brought under this
3 paragraph. If the protest cannot be resolved by mutual agreement, the division administrator
4 shall issue a written decision. Any person adversely affected by the division administrator's
5 written decision may, within 20 working days after its issuance, appeal the decision to the
6 commission by alleging facts that show a violation of a particular statute or provision of this
7 chapter.

8 (b) The program administrator may not issue an RRC under s. PSC 118.03 (1) before the
9 date that a renewable facility is certified, but the program administrator may issue an RRC for
10 energy that a certified renewable facility produced subsequent to the date it delivered its request
11 for certification.

12

13 **SECTION 22.** PSC 118.055 is created to read:

14 **PSC 118.055 Certification of non-electric facilities.** (1) (a) An electric provider may
15 create an RRC under s. PSC 118.03 (2) based on the use of a certified non-electric facility by the
16 electric provider, or by a customer or member of the electric provider, to the extent that the use
17 displaces conventional electricity. The commission shall certify non-electric facilities or
18 delegate this responsibility to the program administrator. Any electric provider or owner of a
19 non-electric facility adversely affected by the decision to certify or not certify may protest to the
20 commission. Such a protest shall be served in writing on the division administrator within 10
21 working days after service of the decision. The division administrator may settle and resolve
22 protests brought under this paragraph. If the protest cannot be resolved by mutual agreement, the

1 division administrator shall issue a written decision. Any person adversely affected by the
2 division administrator's written decision may, within 20 working days after its issuance, appeal
3 the decision to the commission by alleging facts that show a violation of a particular statute or
4 provision of this chapter.

5 (b) The program administrator may not issue an RRC for conventional electricity
6 displaced by use of a non-electric facility before the date that the facility is certified, but the
7 program administrator may issue an RRC for displaced conventional electricity subsequent to the
8 date that a certified non-electric facility delivers its request for certification.

9 (2) To obtain certification of a non-electric facility, the electric provider, or a designated
10 representative, shall provide the following information to the commission in a format approved
11 by the commission:

12 (a) The non-electric facility's location, owner, technology, and date placed in service.

13 (b) Information that demonstrates the non-electric facility meets the eligibility criteria
14 under s. PSC 118.03.

15 (c) The estimated annual amount of displaced conventional electricity and information
16 supporting this estimate.

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

18 (e) The electric provider's affirmation that it has verified all of the information in pars.
19 (a) to (d).

20 (f) If the electric provider does not own the non-electric facility, a statement signed by
21 the facility owner that affirms the information in pars. (a) to (d) and permits the electric provider
22 to create RRCs from the facility.

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

4 (4) The commission may make on-site visits to any certified unit of a non-electric
5 facility to determine its compliance with this chapter and with s. 196.378, Stats., may request
6 copies of all supporting documentation used to comply with this section, and may decertify any
7 unit that it finds not to be in compliance.

8 (5) Nothing in these rules obligates the owner of a non-electric facility to permit the
9 electric provider to create RRCs from the facility.

10

11 **SECTION 23.** PSC 118.06 (1) is amended to read:

12 PSC 118.06 (1) The commission shall, ~~using a competitive process, contract with a~~
13 ~~program administrator who shall operate either a statewide or a regional RRC tracking program.~~
14 do one of the following:

15

16 **SECTION 24.** PSC 118.06 (1) (a) and (b) are created to read:

17 PSC 118.06 (1) (a) Using a competitive process, contract with a program administrator
18 who shall operate either a statewide or a regional RRC tracking program.

19 (b) Participate in a regional organization that contracts with a program administrator who shall
20 operate a statewide or regional RRC tracking program.

21

22

1 **SECTION 25.** PSC 118.06 (2) (b) and (c) (intro.) are amended to read:

2 PSC 118.06 (2) (b) Create an account for each certified renewable facility or certified
3 non-electric facility that participates in the tracking program and requests a separate account.

4 (c) (intro.) ~~Register~~ Upon request, register each renewable facility the commission has
5 certified, including the following data about the facility:

6
7 **SECTION 26.** PSC 118.06 (2) (cm) and (d) 1m. are created to read:

8 PSC 118.06 (2) (cm) Upon request, register each non-electric facility the commission
9 has certified, including the following data about the facility:

- 10 1. Its electric provider's account number.
- 11 2. Its location, owner, technology, and date placed in service.
- 12 3. Its estimated annual amount of displaced conventional electricity.
- 13 4. Any additional data the commission deems necessary for proper operation of the
14 tracking program.

15 (d) 1m. Issues a unique electronic certificate for each MWh of conventional electricity
16 displaced by a certified non-electric facility that complies with ss. PSC 118.03 and 118.04, as
17 calculated under s. PSC 118.09. The certificate shall identify which non-electric facility
18 displaced the MWh, when the facility operated, and any other characteristics the commission
19 finds necessary.

20

21 **SECTION 27.** PSC 118.06 (2) (d) 3. b. is repealed.

22

1 **SECTION 28.** PSC 118.06 (2) (em) is created to read:

2 PSC 118.06 (2) (em) Audit registered non-electric facilities, as needed, to verify the
3 amount of displaced conventional electricity.

4
5 **SECTION 29.** PSC 118.06 (5) is amended to read:

6 PSC 118.06 (5) The program administrator may not issue RRCs for energy produced by
7 a decertified renewable facility or for conventional electricity displaced by the operation of a
8 decertified non-electric facility.

9
10 **SECTION 30.** PSC 118.09 and 118.10 are created to read:

11 **PSC 118.09 Calculation of displaced conventional electricity.** (1) For each calendar
12 year, the division administrator shall, by order, determine the percentage of electricity from
13 conventional resources for the entire state. The division administrator shall base this
14 determination on the annual average mix of resources used to generate electricity in the entire
15 area served by the Midwest Independent Transmission System Operator. The division
16 administrator may, by order, also establish a different percentage for a specific type of non-
17 electric facility if its seasonal or diurnal operating characteristics justify a percentage that differs
18 from the annual average percentage.

19 (2) The division administrator may, by order, establish a displacement formula for any
20 type of non-electric facility. The division administrator shall base any such formula on a
21 calculation of the minimum amount of displaced electricity that would be expected in a typical
22 calendar year under realistic operating conditions.

1 (3) For each calendar year, the electric provider or the user of a non-electric facility shall
2 determine the net amount of electricity displaced by the non-electric facility, using either of the
3 following methods:

4 (a) 1. The determination may be based upon site-specific measurements and calculations
5 of:

6 a. The amount of electricity used by the non-electric facility.

7 b. The amount of electricity that would have been used for the same purposes by the
8 electric device that was replaced by the non-electric facility or that was used less due to the use
9 of the non-electric facility.

10 2. The net amount of electricity displaced by the non-electric facility in a calendar year is
11 equal to the amount in subd. 1. b. minus the amount in subd. 1. a. If this value is less than zero,
12 the electric provider may not create any RRCs for the non-electric facility for that calendar year.

13 (b) The determination may be based upon a current displacement formula established
14 under sub. (2) and any site-specific variables necessary to calculate the formula.

15 (4) The amount of conventional electricity displaced by a non-electric facility in a
16 calendar year is equal to the net amount of displaced electricity determined under sub. (3),
17 multiplied by the applicable percentage of displaced electricity in that calendar year that is from
18 conventional resources as determined under sub. (1).

19 (5) The electric provider or the user of a non-electric facility shall maintain
20 documentation of all information used in the determination made under sub. (3).

21 (6) Determinations under sub. (3) are subject to the commission's review and
22 verification.

1 **PSC 118.10 Individual consideration.** The commission may consider exceptional or
2 unusual situations and may, by order, apply different requirements to an individual facility than
3 those provided in this chapter.

4

5 **SECTION 31. EFFECTIVE DATE.** This rule takes effect on the first day of the first month
6 following publication in the Wisconsin administrative register, as provided in s. 227.22 (2),
7 Stats.

8

(End)

9

10

		2009-2010 Session	
		LRB or Bill No./Adm. Rule No.	
<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED		PSC 118	
FISCAL ESTIMATE DOA-2048 N(R10/96)		Amendment No. if Applicable	
Subject Revision to Renewable Resource Credit Trading Program Rule			
Fiscal Effect			
State: <input checked="" type="checkbox"/> No State Fiscal Effect			
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.		<input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues			
<input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues		<input type="checkbox"/> Decrease Costs	
<input type="checkbox"/> Create New Appropriation			
Local: <input checked="" type="checkbox"/> No local government costs			
1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities	
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input checked="" type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Ch. 20 Appropriations 20.155 (1) (g)	
Assumptions Used in Arriving at Fiscal Estimate			
<u>State Fiscal Effects</u> There are no estimated state fiscal effects from the proposed changes to the Renewable Resource Credit Trading Program rule (PSC 118). The proposed changes to PSC 118 mainly implement changes to state statute enacted under 2009 Wisconsin Act 406. The proposed rule revises the definition of a renewable resource credit to allow electric providers to use additional credits to meet minimum renewable percentage requirements under 196.378 (2) (a). The proposed rule allows electric providers to create renewable resource credits from the electric providers' use and/or their customers' or members' use of solar energy, geothermal energy, biomass, biogas, synthetic gas created by the plasma gasification of waste, densified fuel pellets, and fuel produced by pyrolysis of organic or waste material, if these sources displace electricity from conventional energy sources, as per Act 406. The revised rule specifies how these new sources will be certified by the Commission, how credits from these sources will be calculated, and that displacement of conventional energy by these sources could be verified through an audit. Verification of displacement through a potential audit is consistent with the verification processes in existing rule for existing renewable sources. In addition to revisions relating to Act 406, revisions to PSC 118 allow the Commission to collaborate with other states to purchase, as a group, program administrator services for tracking renewable resource credits. The proposed rule provides the Commission the option to either contract for a program administrator through a standard competitive procurement, or to access program administration services through participation in a regional renewable energy tracking system group, such as Midwest Renewable Energy Tracking System, Inc. Additional revisions to PSC 118 clarify existing code language where ambiguity or unintended consequences in the original language have been identified.			

The revised rule is not anticipated to have a state fiscal effect because revisions to PSC 118 are not anticipated to change state staff workload or program administrator costs. State staff workload does not change due to the revised rule because the rule does not add program requirements above those established under Act 406. Program administrator costs are not anticipated to change because the new option of accessing program administration services through participation in a regional group is not anticipated to decrease program costs. The complexity needed in a contract to administer either a statewide renewable resource credit trading program or a regional program is unlikely to reduce any one state's share of administration costs under a group. The rule also allows the Commission to procure for administrative services through a competitive procurement; so if costs for administrative services under the group are more costly than those anticipated through a standard procurement, the Commission has the option to use the standard procurement and avoid additional costs. Therefore, the revised rule is not anticipated to have a state fiscal effect.

Local Fiscal Effects

There are no estimated local fiscal effects from the proposed changes to PSC 118. Local governments can be electric providers and are subject to the rule, but the rule does not establish new requirements; it only provides direction to operators on how to comply with current state statutes. Therefore, the revised rule is not estimated to have a local fiscal effect.

Fiscal Effect for Electric Providers and Small Businesses

There is no estimated fiscal effect for electric providers. Electric providers are already subject to the state statutes the proposed rule implements. The rule does not add requirements; it only provides direction to operators on how to comply with current state statutes. Small Businesses are also unlikely to experience a fiscal effect under this rule as it is consistent with state statutes. The rule does not change the opportunities provided under Act 406 for small businesses to sell renewable resource credits to utilities. Therefore, the revised rule is not estimated to have a fiscal effect to electric providers or small businesses.

Long-Range Fiscal Implications

Costs to administer a renewable resource credit trading program could be reduced in the long term, under this rule, because it includes an option allowing the Commission to contract for administrative services through a regional renewable resource credit trading program group. If the regional group can implement a regional renewable resource credit trading program that is more streamlined than the current Wisconsin system, and if the Commission can pool its contracting resources with other states in the group, then it is possible that, by contracting through the group for a more streamlined program, administrative service costs will decrease.

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Anne Olson 267-9086	Anne Olson 267-9086	12/3/2010