

Clearinghouse Rule 06-112

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Revisions to Renewable Resource Credits Rule

1-AC-221

NOTICE OF HEARING

Hearing Date:	Monday, December 4, 2006, 9:00 a.m.
Hearing Location:	Public Service Commission, 610 North Whitney Way, Madison, WI

Comments Due: Wednesday, December 13, 2006– 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: Tuesday, December 12, 2006– Noon	

The Public Service Commission of Wisconsin proposes an order to repeal ch. PSC 118.02(5), (9), and (10), 118.03(2) and (3)(a), 118.04(1) and (2)(a) to (d), and 118.05(4); to renumber and amend PSC 118.05(6); to amend PSC 118 (title), 118.01, 118.02(7), 118.04(2)(e) and (3), 118.05(1), (2) (intro.) and (3), and 118.06(1) and (4)(a); to repeal and recreate PSC 118.02(13) and 118.06(2); and to create PSC 118.04(2)(g) and 118.07; relating to a renewable resource credit tracking program.

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

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

2005 Wis. Act 141 (Act 141) modified Wisconsin's renewable portfolio standard (RPS), which prescribes minimum levels of electric energy that public utilities and electric cooperatives must produce from renewable resources for delivery to their customers. The new law sets a specific minimum level for each electric provider, using a baseline of the provider's average renewable energy production for the years 2001, 2002, and 2003:

<u>Years</u>	<u>RPS Requirement</u>
2006 through 2009	Not less than the 2001-2003 baseline percentage
2010 through 2014	Baseline plus 2 percent
After 2014	Baseline plus 6 percent

Previously, state law had specified a gradually increasing RPS that started with 0.5 percent of retail sales in 2001 and would have risen to 2.2 percent by 2011. Act 141 also changes what is defined as a “renewable facility.” Prior law excluded most of the energy from pre-1998 hydroelectric facilities in the state. Act 141 includes all existing renewable generation for the years 2001-2003 to establish the baseline renewable percentage for each electric provider.

If an electric provider delivers more renewable energy to its customers than its RPS requirement from a “new” renewable facility that is placed in service after December 31, 2003, Act 141 allows the electric provider to create renewable resource credits (RRCs) that can be sold or saved for up to four years for future use. RRCs were also created under prior law, but Act 141 specifies that these old RRCs will expire on December 31, 2011. The proposed rules incorporate these changes in state law and establish an RRC tracking program, which can be either statewide or a multi-state, regional program. The proposed rules also identify the responsibilities of the program administrator, who must establish and operate a system that creates an account for each renewable generation facility, each electric provider, and any wholesale supplier that acts as an aggregator for its members or customers. In addition, the tracking system will record the amount of electricity each renewable facility in the area produces, will issue a certificate for every RRC, and will track RRCs from their creation until an electric provider uses them to meet its RPS or otherwise retires them. The proposed rules give the program administrator authority to audit the records of participating renewable generators and to perform any other function the Public Service Commission may designate.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

The rule will have no effect on small business.

TEXT OF PROPOSED RULE

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

FISCAL ESTIMATE

A completed Fiscal Estimate form is included as Attachment B. There is also no financial impact on the private sector.

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 rule changes in the Amnicon Falls Hearing Room at the Public

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Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on Monday, December 4, 2006, at 9:00 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 remain open for written comments from the public until December 13, 2006. All written comments must include a reference on the filing to docket 1-AC-221. File by one mode only.

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

If filing by mail, courier, or hand delivery: Address your comments 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-221, and the number of pages (limited to 25 pages for fax comments).

CONTACT PERSON

Questions regarding this matter should be directed to Paul Helgeson at (608) 266-3905. Media questions should be directed to Linda Barth, Director of 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 (800) 251-8345, if calling from outside Wisconsin (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 Paul Helgeson, as indicated in the previous paragraph, as soon as possible.

Dated at Madison, Wisconsin October 12, 2006

By the Commission.

/s/ Sandra J. Paske

Sandra J. Paske
Secretary to the Commission

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TEXT OF PROPOSED RULE

1 SECTION 1. Chapter PSC 118 (title) is amended to read:

2 **CHAPTER PSC 118**
3 **RENEWABLE RESOURCE CREDIT TRACKING PROGRAM**

4 SECTION 2. PSC 118.01 is amended to read:

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

7 SECTION 3. PSC 118.02 (5) is repealed.

8 SECTION 4. PSC 118.02 (7) is amended to read:

9 PSC 118.02 (7) "Program administrator" means the person ~~responsible for carrying~~ who
10 carries out the administrative responsibilities related to the renewable resource credit ~~trading~~
11 tracking program.

12 SECTION 5. PSC 118.02 (9) and (10) are repealed.

13 SECTION 6. PSC 118.02 (13) is repealed and recreated to read:

14 PSC 118.02 (13) "RRC tracking program" means a program that tracks the selling,
15 transferring, purchasing, and retiring of RRCs created on or after January 1, 2004.

16 SECTION 7. PSC 118.03 (2) and (3) (a) are repealed.

17 SECTION 8. PSC 118.04 (1) and (2) (a) to (d) are repealed.

18 SECTION 9. PSC 118.04 (2) (e) is amended to read:

19 PSC 118.04 (2) (e) Renewable energy that would meet the definition of an RRC under s.
20 ~~PSC 118.02(10)~~ 196.378(1)(i), Stats., except that it consists of less than one MWh, shall
21 constitute a fraction of an RRC. A fractional RRC may not be smaller than 0.01 MWh.

1 SECTION 10. PSC 118.04 (2) (g) is created to read:

2 PSC 118.04 (2) (g) 1. An RRC created before January 1, 2004, may be sold or used to
3 meet an electric provider's minimum percentage requirement under s. 196.378 (2) (a), Stats. The
4 RRCs described in this subdivision may only be used until December 31, 2011, as provided in s.
5 196.378 (3) (c), Stats.

6 2. An RRC created on or after January 1, 2004, but produced by a renewable facility that
7 was placed into service before January 1, 2004, may be sold or used to meet an electric
8 provider's minimum percentage requirement under s. 196.378 (2) (a), Stats., only if the RRC
9 constituted an incremental increase in output from the renewable facility due to capacity
10 improvements that were made on or after January 1, 2004, as provided in s. 196.378 (3) (a) 2.,
11 Stats. If the renewable facility was originally constructed prior to January 1, 2004, but is entirely
12 replaced with a new and more efficient facility, all of the output from the new facility constitutes
13 an incremental increase and can be used to create RRCs. The RRCs described in this subdivision
14 may only be used through the fourth year after their creation, as provided in s. 196.378 (3) (c),
15 Stats.

16 3. An RRC created on or after January 1, 2004, that is produced by a renewable facility
17 placed into service on or after January 1, 2004, may be sold or used to meet an electric provider's
18 minimum percentage requirement under s. 196.378 (2) (a), Stats. The RRCs described in this
19 subdivision may only be used through the fourth year after their creation, as provided in s.
20 196.378 (3) (c), Stats.

21 SECTION 11. PSC 118.04 (3) is amended to read:

1 PSC 118.04 (3) When an RRC is credited to an electric provider's account ~~under sub.~~
2 ~~(2)~~, the account owner may sell or transfer the RRC to another electric provider. Any person
3 selling or transferring an RRC shall report the sale or transfer to the program administrator
4 within 10 days of the transaction. The program administrator shall then credit the RRC account
5 of the new owner and debit the RRC account of the prior owner. An RRC may continue to be
6 sold or traded only if each seller or transferor reports the transaction to the program administrator
7 within 10 days of its consummation.

8 SECTION 12. Section PSC 118.05 (1), (2) (intro.) and (3) are amended to read:

9 PSC 118.05 (1) (a) An electric provider may only use the energy of a certified renewable
10 facility for creation of an RRC. The commission shall certify renewable facilities or it may
11 delegate this responsibility to the program administrator.

12 (b) The program administrator may not award an RRC before the date that ~~the~~
13 ~~commission certifies~~ a renewable facility is certified, but the program administrator may award
14 an RRC for energy that a certified renewable facility produced subsequent to the date ~~the~~
15 ~~commission received the~~ it delivered its request for certification.

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

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

22 SECTION 13. Section PSC 118.05 (4) is repealed.

1 SECTION 14. Section PSC 118.05 (6) is renumbered PSC 118.06 (5) and is amended to
2 read:

3 PSC 118.06 (5) The program administrator may not ~~create~~ award RRCs for energy
4 produced by a decertified renewable facility.

5 SECTION 15. Section PSC 118.06 (1) is amended to read:

6 PSC 118.06 (1) The commission shall, using a competitive process, contract with a
7 program administrator who may operate either a statewide or a regional RRC tracking program.

8 SECTION 16. Section PSC 118.06 (2) is repealed and recreated to read:

9 PSC 118.06 (2) The program administrator shall:

10 (a) Create an account for each electric provider.

11 (b) Create an account for each certified renewable facility that participates in the tracking
12 program and record the amount of metered MWh sold at retail that is reported for the facility.

13 (c) Register each renewable facility the commission has certified, including the
14 following data about the facility:

15 1. Its electric provider's account number.

16 2. Its location, owner, technology, date placed in service, and rated capacity.

17 3. Its expected annual energy production.

18 4. Information about the facility's meter that allows the program administrator to verify
19 its accuracy.

20 5. Any additional data the commission considers necessary for proper operation of the
21 tracking program.

22 (d) Establish and maintain a system for tracking RRCs that does all of the following:

1 1. Issues a unique electronic certificate for each MWh of renewable energy produced by
2 a certified renewable facility that is located in the area covered by the tracking system, that is
3 owned by a participating electric provider, or that is under contract to deliver electric energy to a
4 participating electric provider. The certificate shall identify which certified renewable facility
5 produced the MWh, when it was produced, and any other characteristics the commission
6 considers necessary.

7 2. Records RRC ownership and each transfer between account holders.

8 3. Retires each RRC that meets any of the following:

9 a. An electric provider uses to meet all or part of its minimum percentage requirement
10 under s. 196.378 (2) (a), Stats.

11 b. Becomes four years old.

12 c. An electric provider chooses to retire for any other reason.

13 (e) Audit registered renewable facilities, as needed, to verify the accuracy of metered
14 production data.

15 (f) Track and report each electric provider's compliance with the minimum percentage
16 requirement under s. 196.378 (2) (a), Stats.

17 (g) Perform any other function the commission may designate.

18 SECTION 17. Section PSC 118.06 (4) (a) is amended to read:

19 PSC 118.06 (4) (a) Annually, the program administrator shall report to the commission
20 the costs incurred in operating the RRC ~~trading~~ tracking program and recommend an assessment
21 of these costs to electric providers and other tracking system participants that hold RRC
22 accounts. ~~The program administrator shall base part of this proposed assessment of costs on the~~

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1 ~~number of each electric provider's RRC transactions, the size of these transactions, or~~
2 ~~both. These factors shall determine how a majority of the costs are assessed.~~

3 SECTION 18. Section PSC 118.07 is created to read:

4 PSC 118.07 **Aggregation and allocation by wholesale suppliers.** If a wholesale
5 supplier aggregates the minimum percentage requirements of its members or customers under s.
6 196.378(2)(a), Stats., or allocates RRCs among its members or customers, it shall do so in a
7 manner that is acceptable to the members or customers.

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

10 (End)

**Attachment B
2005 Session**

LRB or Bill No./Adm. Rule No.
**Ch. PSC 118 – 1-AC-
221**

Amendment No. if Applicable

ORIGINAL UPDATED

FISCAL ESTIMATE

DOA-2048 N(R10/96)

CORRECTED SUPPLEMENTAL

Subject

Amend PSC Rule - Revision to Renewable Resource Tracking Program

Fiscal Effect

State: No State Fiscal Effect

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

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

- | | |
|--|---|
| <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"/> Create New Appropriation | |

Decrease Costs

Local: No local government costs

- | | |
|--|--|
| 1. <input type="checkbox"/> Increase Costs | <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 2. <input type="checkbox"/> Decrease Costs | <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |

- | | |
|---|--|
| 3. <input type="checkbox"/> Increase Revenues | <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |
| 4. <input type="checkbox"/> Decrease 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 |
| <input type="checkbox"/> Counties | <input type="checkbox"/> Others _____ | |
| <input type="checkbox"/> School Districts | <input type="checkbox"/> WTCS Districts | |

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.155 (1) (g)

Assumptions Used in Arriving at Fiscal Estimate

The proposed rule changes allow for the establishment of a regional renewable credit tracking system and other changes required by WI Act 141 laws of 2005. There are no additional costs to state or local government as a result of these changes.

Long-Range Fiscal Implications

NONE

Agency/Prepared by: (Name & Phone No.)

Gordon Grant 267-9086

Authorized Signature/Telephone No.

Gordon Grant

Date

9/7/2006