

Clearinghouse Rule 08-070

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Revisions to Rules on Electric Rate Changes Due to the Cost of Fuel

1-AC-224

NOTICE OF HEARING

Hearing Date:	Monday, August 4, 2008, 9:30 a.m.
Hearing Location:	Public Service Commission, 610 North Whitney Way, Madison, WI

Comments Due: Wednesday, August 6, 2008 - 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
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The Wisconsin Public Service Commission proposes an order to repeal and recreate ch. PSC 116, relating to a fuel cost rate adjustment process for electric utility service.

PLAIN LANGUAGE ANALYSIS

The plain language analysis is set forth as Attachment A. A copy of this entire notice may be accessed from the electronic regulatory filing portion of the Commission's website (psc.wi.gov).

TEXT OF PROPOSED RULE

The text of the proposed rule is set forth as Attachment B. A copy of this entire notice may be accessed from the electronic regulatory filing portion of the Commission's website (psc.wi.gov).

INITIAL REGULATORY FLEXIBILITY ANALYSIS

The rule will have no effect on small business.

FISCAL ESTIMATE

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

NOTICE OF HEARING

NOTICE IS GIVEN that pursuant to s. 227.16 (1), Stats., the Commission will hold a public hearing on these proposed rule changes in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on Monday, August 4, 2008. 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 Wednesday, August 6, 2008. All written comments must include a reference on the filing to docket 1-AC-224. 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-224, and the number of pages (limited to 25 pages for fax comments).

At the hearing or in written comments, persons are encouraged to address the following:

1. Please quantify the risk associated with the current chapter PSC 116 and the risk associated with the proposed chapter PSC 116.
2. Please describe how the proposed rule achieves or undermines the four goals of these rules as set by the Commission:
 - Insulate electric utilities from the high-risk created by volatile fuel costs.
 - Create incentives for good fuel management practices.
 - Promote rate stability.
 - Minimize the administrative burden to the Commission.

CONTACT PERSON

Questions regarding this matter should be directed to James Wagner, Docket Coordinator, (608) 267-9768, James.Wagner@psc.stat.wi.us; or Michael Ritsema, (608) 267-9296, Michael.Ritsema@psc.state.wi.us. Media questions should be directed to Tim Le Monds, 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 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 James Wagner or Michael Ritsema, as indicated in the previous paragraph, as soon as possible.

Dated at Madison, Wisconsin July 3, 2008

By the Commission.

/s/ Sandra J. Paske

Sandra J. Paske
Secretary to the Commission

PLAIN LANGUAGE ANALYSIS

Statutory authority: ss. 196.02 (1), and (3), 196.03 (1), 196.06, 196.20, 196.37; 196.395; and 227.11, Stats.

Statute interpreted: s. 196.20 (4), Stats.

A. Explanation of Agency Authority

The Commission may promulgate a rule with respect to a fuel cost rate adjustment process for electric utility service under ss. 196.02 (1) and (3), 196.03 (1), 196.06, 196.20, 196.37, 196.395, and 227.11, Stats. For general rulemaking authority, statutes grant the Commission, “the jurisdiction to supervise and regulate every public utility in this state and to do all things necessary and convenient to its jurisdiction.” s. 196.02 (1), Stats. This includes the power to, “adopt reasonable rules to govern its proceedings and to regulate the mode and manner of all inspections, tests, audits, investigations and hearings.” s. 196.02 (3), Stats. Also the Commission “may promulgate rules interpreting the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute. s. 227.11 (2) (a), Stats.

Chapter 196, Stats., confers upon the Commission exclusive authority to establish just and reasonable rates for public utility service. *Waukesha Gas & Electric Co. v. Railroad Commission of Wisconsin*, 181 Wis. 281, 287, 194 N.W. 846 (1923). The Commission enforces a utility’s duty to “furnish reasonably adequate service and facilities” at just and reasonable rates. s. 196.03 (1), Stats. A utility may only increase its rates, “by order of the commission, after an investigation and opportunity for hearing.” s. 196.20 (2m), Stats. If the Commission, “finds rates, . . . to be unjust, unreasonable, insufficient . . . or unlawful, the commission shall determine and order reasonable rates . . . to be imposed, observed and followed in the future.” s. 196.37 (1), Stats.

In addition to the Commission’s broad ratemaking powers, s. 196.20 (4) (c), Stats., states, “[i]f an increase in fuel costs is of an extraordinary or emergency nature, the commission, after a hearing limited in scope to the question of the increase in fuel costs, may grant a rate increase to an electric public utility.” s. 196.20 (4) (c), Stats. This subsection diminishes none of the Commission’s other powers to investigate and change rates. Therefore with respect to a fuel cost rate adjustment process for electric utility service the Commission has discretion to establish any necessary and convenient process that must include a hearing before rates may increase.

B. Related Statutes or Rules

Section 196.20 (4) (a) 2., Stats., relates to the proposed rule because under s. PSC 116.01 (12), “utility” means an “electric public utility” as defined in s. 196.20 (4) (a) 2., Stats. Section 196.192 (2) (a), Stats., related to the proposed rule because under s. PSC 116.02 (1) (d), a payment made in conjunction with retail customer tariffs under s. 196.192 (2) (a), Stats., for voluntary curtailable load is an item that contributes to fuel cost.

Chapter PSC 117 relates to the proposed rule because “opportunity sale,” as defined under s. PSC 117.03 (14), is included in the calculation of “energy market sale” under s. PSC 116.02 (1) (c). Also “planning reserve margin,” as defined under s. PSC 117.03 (16), is included in the calculation of “energy market purchase” under s. PSC 116.02 (2) (a).

C. Objective of the Rule

The Commission sets the rates a Wisconsin electric public utility may charge customers. During periodic rate case proceedings the Commission finds reasonable forecasts of the utility’s revenues and costs and establishes rates designed to give a utility the opportunity to recover its costs plus a reasonable rate of return on equity. Except for the cost of fuel used to generate electricity, significant differences between forecasted and actual costs rarely occur. Significant discrepancies between the predicted and actual fuel cost occur because of the volatile nature of this cost. These shifts in fuel cost may cause rates to become unjust and unreasonable, requiring a rate change.

As early as the 1920s many state utility commissions, including Wisconsin’s, allowed a utility to place in its tariff a formula under which rates adjusted automatically according to changes in fuel cost. More than 25 years ago the Wisconsin Legislature prohibited large investor-owned electric utilities from using this automatic adjustment clause by enacting s. 196.20 (4), Stats. Intended to add public scrutiny to the process while recognizing the need for a quick response, this section authorized the Commission to order a rate increase caused by “an increase in fuel costs . . . of an extraordinary or emergency nature, . . . after a hearing limited in scope to the question of the increase in fuel costs.” s. 196.20(4)(c), Stats.

Chapter PSC 116 implements s. 196.20 (4), Stats. Originally promulgated in 1985, the current rule reflects an update in 2002 designed to streamline the fuel cost rate adjustment process and reduce the number of such proceedings. However, once promulgated the rule update met with changed circumstances its design did not address. These circumstances included the following factors that further increase fuel cost volatility: (1) the implementation of Midwest Independent Transmission System Operator–Day 2 Market, (2) increased demand on some fuels, increased transportation costs of some fuels, and (3) the effects of severe weather on the availability of some fuels. This increased volatility has significantly augmented a utility’s risk of an unreasonable loss when costs go up and a customer’s risk of paying unreasonable rates when costs go down. This situation prompted the Commission to seek a redesign of the fuel cost rate adjustment process that resulted in this Proposed Rule.

D. Analysis of the Proposed Revisions

The Proposed Rule establishes a process by which the rates for the state's large investor-owned electric utilities may be changed to reflect changes in the cost of fuel. The process requires a utility to submit to the Commission an annual fuel cost plan that forecasts, for a one year period, the cost of specified fuel items. These fuel costs include the cost of materials that are converted to electrical energy, as well as items and programs that offset the cost of, or provide less expensive alternatives to, those materials. The Commission reviews each utility's fuel cost plan, and, after a hearing, establishes rates that recognize the cost in the plan.

During the course of the year to which the plan applies, the rule allows a utility to defer discrepancies between the fuel cost forecasted in rates and the actual cost. The rule provides for the Commission to reconcile the difference between the forecasted and the actual, reasonable and prudently incurred fuel cost on an annual basis. After a hearing, the Commission approves a reasonable adjustment to rates to implement this reconciliation. Also during a plan year, the Commission may adjust rates to avoid a reconciliation that causes a material change in rates. However, no utility may obtain a mid-year increase in rates under this provision more than once during a plan year.

E. Comparison with Existing or Proposed Federal Regulations

No comparable federal regulations exist. The proposed rule does not conflict with, overlap, or duplicate other rules or federal regulations.

F. Comparison with Similar Rules in Adjacent States.

Illinois, Iowa, and Minnesota allow rate regulated utilities to adjust rates based on a formula specified in that state's administrative code and published on the utility's approved tariff. Rates adjusted in this manner do not require a Commission order or hearing. As part of electric restructuring in Illinois, the largest electricity providers opted out of this method of cost recovery.

Michigan allows a utility to escrow discrepancies between the fuel cost forecasted in rates and the actual cost. The Michigan Public Service Commission reconciles the difference between the forecasted and the actual fuel cost on an annual basis and, after a hearing, approves an adjustment to rates to implement this reconciliation. The proposed rule is modeled after the Michigan process.

TEXT OF RULE

SECTION 1. Chapter PSC 116 is repealed and recreated to read:

Chapter PSC 116

Fuel Cost

PSC 116.01	Definitions.
PSC 116.02	Fuel cost.
PSC 116.03	Fuel cost plan.
PSC 116.04	Deferral accounting.
PSC 116.05	Reporting.
PSC 116.06	Deferred account balance calculation.
PSC 116.07	Reconciliation.
PSC 116.08	Mid-year rate adjustment.

PSC 116.01 Definitions. In this chapter:

- (1) “Annual fuel cost” means actual fuel cost over a plan year.
- (2) “Annual native system requirement” means the native system requirement over a plan year.
- (3) “Average annual fuel cost” means the annual fuel cost divided by the annual native system requirement.
- (4) “Capacity” means the continuous load-carrying ability of electric generation expressed in megawatts.
- (5) “Commission” means the public service commission.
- (6) “Energy” means the amount of electric generation over a period of time, expressed in megawatthours.

(7) “Excess revenues” means revenues in the plan year that provides a utility with a greater return on common equity than authorized by the commission.

(8) “Fuel” means all of the following used to generate electricity:

(a) Coal.

(b) Natural gas.

(c) Nuclear fuel.

(d) Oil.

(e) Any other type of material converted to electric energy, such as biomass.

(9) “Native system requirement” means the actual energy sold to customers, energy used by the utility, and line loss, the loss of energy in the operation of an electric system primarily attributable to its transformation to waste heat in electric conductors and apparatus. “Native system requirement” does not include energy market sales.

(10) “Plan year” means the 12 month period identified in a fuel cost plan.

(11) “Transmission organization” means a transmission organization as defined in 18 CFR 39.1 (2006) and used by a utility to serve Wisconsin retail customers.

(12) “Utility” means an “electric public utility” as defined in s. 196.20(4) (a) 2., Stats.

PSC 116.02 Fuel Cost. (1) For any month or longer period of time, a utility shall calculate fuel cost as the sum of the cost for all of the following during the time period, less all revenues resulting from a sale of any of the following by the utility during the time period:

(a) Fuel.

(b) Energy market purchase.

(c) Energy market sale, an “opportunity sale” as defined in s. PSC 117.03 (14), whether it is an in-state or out-of-state sale. The revenue from an energy market sale includes marginal energy prices, transmission loss, congestion and any other revenue resulting from the sale.

(d) Voluntary curtailable load program, any payment made to a retail customer under a tariff authorized under s. 196.192 (2) (a), Stats.

(e) Direct load control program, an event-based payment to customers program under which a utility pays a firm customer to reduce its demand when system constraints threaten reliable service. The cost of a direct load control program does not include any associated equipment cost or standard monthly credit.

(f) Any tools to manage fuel cost price risk implemented under a risk management plan approved by the commission and included in the fuel cost plan.

(g) Renewable resource credits.

(2)(a) A utility shall calculate the cost of an energy market purchase as the sum of the cost for all of the following for the purchase of energy or capacity, or both, used to supply electricity to a customer served by the utility:

1. Marginal energy price.
2. Associated transmission service.
3. Transmission loss and congestion.

(b) The cost of an energy market purchase does not include the cost of capacity or associated transmission service purchased to satisfy a utility’s “planning reserve margin,” as defined in s. PSC 117.03 (16).

(3)(a) If a utility uses a transmission organization to transact an energy market purchase, the utility shall calculate the cost of associated transmission service for that purchase as the sum of the cost of all of the following:

1. Financial transmission rights or similar related instruments transacted under a risk management plan approved by the commission.
2. Ancillary services included in a fuel cost plan.
3. Uplift items included in a fuel cost plan, including day-ahead revenue sufficiency guarantee payments, day-ahead revenue sufficiency distribution amounts, real-time revenue sufficiency guarantee payments, real-time revenue sufficiency distribution amounts, real-time revenue neutrality amounts, and real-time miscellaneous amounts.

(b) The cost of associated transmission service does not include charges for network transmission service.

PSC 116.03 Fuel cost plan. (1) Annually, a utility shall file a proposed fuel cost plan as part of an application for a general rate case proceeding or, if the utility does not file a general rate case, the utility shall file a proposed fuel cost plan as part of a proceeding limited in scope to fuel cost. A utility shall file a proposed fuel cost plan no more than 360 days or less than 90 days before the beginning of the plan year.

(2) A utility shall include in a proposed fuel cost plan the following information for the plan year:

- (a) A forecast of the average annual fuel cost.
- (b) A forecast of the annual fuel cost by fuel.

- 1 (c) A forecast of the annual native system requirement.
- 2 (d) Detailed input of the economic dispatch model used to forecast fuel cost.
- 3 (e) Detailed output of the economic dispatch model used to forecast fuel cost.
- 4 (f) All inputs and allocators used to calculate the forecast of the annual average fuel cost and the
- 5 forecast of the annual native system requirement.
- 6 (g) Associated transmission service purchased or sold.
- 7 (h) Any other information requested by the commission.

8 **(3)** After hearing the commission shall approve a fuel cost plan, with any modifications or
9 conditions the commission considers appropriate. The commission shall establish a utility's
10 rates in accordance with the approved fuel cost plan, subject to reconciliation under
11 s. PSC 116.07.

12 **(4)** Approval of a fuel cost plan by the commission is not a determination that the fuel cost plan
13 is reasonable or prudent for reconciliation purposes under s. PSC 116.07.

14
15 **PSC 116.04 Deferral accounting.** Subject to reconciliation under s. PSC 116.07, a utility shall
16 apply deferral accounting to all of its actual fuel cost for items in an approved fuel cost plan and
17 to all amounts collected or credited under ss. PSC 116.07 and PSC 116.08.

18
19 **PSC 116.05 Reporting. (1)** For each month a utility shall file a report with the commission that
20 includes the actual cost for items in an approved fuel cost plan, native system requirement, and
21 the use of items in the approved fuel cost plan by item and energy source. The monthly report
22 shall also include the average monthly figure for each category for the plan year to date.

(2) A utility shall file the report no later than the last working day of the month immediately following the month for which the data is being reported. Upon written request, the commission may grant a utility an extension of up to 30 days for the filing of a monthly report.

PSC 116.06 Deferred account balance calculation. (1) Debit. A deferred account balance debit shall be calculated using the following formula:

If $AAFC \geq (AAFCF \times (1 + FCT))$

Then $DABD = WJR \times [AAFC - (AAFCF \times (1 + FCT))]$

Where $DABD$ = Deferred account balance debit.

WJR = Wisconsin jurisdictional share of the annual native system

requirement.

$AAFC$ = Average annual fuel cost.

$AAFCF$ = Forecast of the average annual fuel cost in the approved fuel cost

plan.

FCT = Fuel cost tolerance.

(2) Credit. A deferred account balance credit shall be calculated using the following formula:

If $AAFC < (AAFCF \times (1 - FCT))$

Then $DABC = WJR \times [(AAFCF \times (1 - FCT)) - AAFC]$

Where $DABC$ = Deferred account balance credit.

WJR = Wisconsin jurisdictional share of the annual native system

requirement.

$AAFC$ = Average annual fuel cost.

AAFCF = Forecast of the average annual fuel cost in the approved fuel cost plan.

FCT = Fuel cost tolerance.

(3) A utility's fuel cost tolerance shall be set at two percent, unless the commission sets a different percentage when approving a fuel cost plan under s. PSC 116.03(3).

PSC 116.07 Reconciliation. (1) Annually, but no later than 90 days after the end of the plan year, a utility shall file an application for the reconciliation of actual cost for items in an approved fuel cost plan for the plan year. The commission shall commence a proceeding to consider the application and shall conclude the proceeding no later than 240 days after the end of the plan year.

(2) Relative to the applicable plan year, the commission may audit and review any relevant information, including all of the following:

(a) The utility's fuel cost.

(a) Deferred account balances.

(c) The utility's deferred account balance debit or deferred account balance credit as of the end of the plan year.

(d) Any excess revenues.

(3) (a) If after hearing the commission finds the utility demonstrated that the deferred account balance debit is accurate and includes only prudently-expended fuel costs, the commission shall authorize the utility to recover in rates the amount of the deferred account balance debit, less any

1 amount already collected from customers under s. PSC 116.08, and less any utility excess
2 revenues.

3 (b) If the amount already collected from customers under s. PSC 116.08 is greater than the
4 deferred account balance debit found in par. (a) less any excess revenues, the commission shall
5 order the utility to credit the difference to customers.

6 (c) If after opportunity for hearing the commission finds a deferred account balance credit, the
7 commission shall order the utility to credit to customers the amount of the deferred account
8 balance credit, less any amount already credited to customers under s. PSC 116.08.

9 **(4)** For any amount under sub. (3), the commission shall do all of the following:

10 (a) Establish a date upon which collection may begin or credit shall begin, and a date upon which
11 the collection or credit shall terminate.

12 (b) Calculate the rate of collection or credit using the current fuel cost plan.

13 (c) Calculate and apply interest to the amount starting on the first day of the plan year in which
14 collection or credit occurs until the termination date established in par. (a), by applying the
15 utility's authorized short term debt rate to the outstanding amount, on a monthly basis.

16 **(5)** Based on the expiration termination date established in sub. (4) (a), any amount
17 over-collected or under-credited shall be charged to the appropriate deferred account.

18
19 **PSC 116.08 Mid-year rate adjustment. (1)** The commission may commence a proceeding to
20 adjust rates for a utility during a plan year if all of the following apply:

21 (a) During the plan year the average annual fuel cost is projected to differ materially from the
22 forecast of the average annual fuel cost used in an approved fuel cost plan.

(b) The difference is due to extraordinary circumstances.

(c) The projected absolute value, at current rates, of the difference between these amounts at the end of the plan year likely will be of sufficient magnitude to cause a material change to rates.

(2) After a hearing, the commission may authorize a utility to adjust rates in a manner designed to avoid a difference of such magnitude.

(3) The commission may not adjust an approved fuel cost plan in an order under sub. (2).

(4) A utility may not obtain an increase in rates under sub. (2) more than once during a plan year.

SECTION 2. INITIAL APPLICABILITY. This rule first applies to a utility's application for a general rate case proceeding or, if the utility does not file a general rate case, a utility submission to the commission of a proposed fuel cost plan as part of a proceeding limited in scope to fuel cost, filed on the effective date of this rule.

SECTION 3. EFFECTIVE DATE: This rule takes effect on the later of January 1, 2009, or the first day of the first month following publication in the Wisconsin administrative register, as provided in s. 227.22 (2) (intro.), Stats.

(End)

Attachment C 2007 Session		
<div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> CORRECTED </div> <div> UPDATED <input type="checkbox"/> SUPPLEMENTAL </div> </div>	LRB or Bill No./Adm. Rule No. Ch. PSC 116 – 1-AC-224 Amendment No. if Applicable	
FISCAL ESTIMATE DOA-2048 N(R10/96)		
Subject Amend PSC Rule - Revision to Fuel 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 Existing Appropriation <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Create New 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"/> Decrease Costs	
Local: <input checked="" type="checkbox"/> 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 <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 The proposed rule changes the fuel cost rate adjustment process for electric public utilities. 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 6/25/2008