

ANALYSIS AND TEXT OF PROPOSED RULES

The Public Service Commission of Wisconsin proposes an order to repeal 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 chapter PSC 118 (title), 118.01, 118.02 (7), (10), and (11), 118.03 (3) (b), 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), 118.07, and 118.08; 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 define an RRC as a MWh produced by a certified renewable facility that is physically metered, that an electric provider delivers to a retail customer, that exceeds the electric provider's minimum RPS requirement, and that is properly

1 PSC 118.02 (10) “Renewable resource credit” means one MWh of renewable energy
2 from a certified renewable facility that is physically metered with the net generation measured at
3 the certified renewable facility’s bus bar, that is delivered to a retail customer with the retail sale
4 measured at the customer’s meter, that ignores the transmission and distribution losses between
5 the bus bar and the customer’s meter, that exceeds the minimum percentage requirement
6 specified in s. 196.378 (2) (a), Stats., and that meets the requirements of ss. PSC 118.03 and
7 118.04.

8 (11) “Retail customer” means a customer ~~of an electric provider that resides in~~
9 ~~Wisconsin and purchases electricity at retail~~ receives retail electricity in Wisconsin.

10 **SECTION 7.** PSC 118.02 (13) is repealed and recreated to read:

11 PSC 118.02 (13) “RRC tracking program” means a program that tracks the selling,
12 transferring, purchasing, and retiring of RRCs.

13 **SECTION 8.** PSC 118.03 (2) and (3) (a) are repealed.

14 **SECTION 9.** PSC 118.03 (3) (b) is amended to read:

15 PSC 118.03 (3) (b) ~~A biomass co-fired facility~~ An electric provider may only use the
16 renewable portion of ~~its~~ a biomass co-fired facility’s energy production, based on the relative
17 energy content of the fuels, to create RRCs in the applicable reporting period.

18 **SECTION 10.** PSC 118.04 (1) and (2) (a) to (d) are repealed.

19 **SECTION 11.** PSC 118.04 (2) (g) is created to read:

20 PSC 118.04 (2) (g) 1. An RRC created before January 1, 2004, may be sold or used to
21 meet an electric provider’s minimum percentage requirement under s. 196.378 (2) (a), Stats. The
22 RRCs described in this subdivision may not be used after December 31, 2011, as provided in s.
23 196.378 (3) (c), Stats.

1 2. An RRC created on or after January 1, 2004, but produced by a renewable facility that
2 was placed into service before January 1, 2004, may only be sold or used to meet an electric
3 provider's minimum percentage requirement under s. 196.378 (2) (a), Stats., if the RRC
4 constituted an incremental increase in output from the renewable facility due to capacity
5 improvements that were made on or after January 1, 2004, as provided in s. 196.378 (3) (a) 2.,
6 Stats. The RRCs described in this subdivision may not be used after the fourth year after the
7 year in which the credit is created, as provided in s. 196.378 (3) (c), Stats.

8 **EXAMPLE:** If the renewable facility was originally constructed prior to January
9 1, 2004, but is entirely replaced with a new and more efficient facility, all of the
10 output from the new facility constitutes an incremental increase and can be used
11 to create RRCs.
12

13 3. An RRC created on or after January 1, 2004, that is produced by a renewable facility
14 placed into service on or after January 1, 2004, may be sold or used to meet an electric provider's
15 minimum percentage requirement under s. 196.378(2)(a), Stats. The RRCs described in this
16 subdivision may not be used after the fourth year after the year in which the credit is created, as
17 provided in s. 196.378 (3) (c), Stats.

18 **SECTION 12.** PSC 118.04 (3) is amended to read:

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

26 **SECTION 13.** Section PSC 118.05 (1), (2) (intro.) and (3) are amended to read:

1 PSC 118.05 (1) (a) An electric provider may only use the energy of a certified renewable
2 facility for creation of an RRC. The commission shall certify renewable facilities or delegate
3 this responsibility to the program administrator. Any electric provider or owner of a renewable
4 facility that is adversely affected by the program administrator's decision to certify or not certify
5 may protest to the commission. Such a protest shall be served in writing on the division
6 administrator within 10 working days after the adversely affected person has received notice of
7 the program administrator's decision. The division administrator may settle and resolve protests
8 brought under this paragraph. If the protest cannot be resolved by mutual agreement, the
9 division administrator shall issue a written decision. Any person adversely affected by the
10 division administrator's written decision may, within 20 working days after its issuance, appeal
11 the decision to the commission by alleging facts that show a violation of a particular statute or
12 provision of this chapter.

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

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

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

23 **SECTION 14.** Section PSC 118.05 (4) is repealed.

1 **SECTION 15.** 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~~ issue RRCs for energy
4 produced by a decertified renewable facility.

5 **SECTION 16.** 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 shall operate either a statewide or a regional RRC tracking program.

8 **SECTION 17.** 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.
- 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 deems 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 measured at
2 the bus bar of a certified renewable facility that is located in the area covered by the tracking
3 system, that is owned by a participating electric provider, or that is under contract to deliver
4 electric energy to a participating electric provider. The certificate shall identify which certified
5 renewable facility produced the MWh, when it was produced, and any other characteristics the
6 commission finds necessary.

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

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

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

11 b. The RRC becomes four years old.

12 c. An electric provider chooses to retire the RRC 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 18.** 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~~

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

3 **SECTION 19.** Section PSC 118.07 is created to read:

4 **PSC 118.07 Aggregation and allocation by wholesale suppliers.** If a wholesale
5 supplier aggregates and allocates RRCs among its members or customers, it shall do so in a
6 manner approved by the affected members or customers.

7 **SECTION 20.** Section PSC 118.08 is created to read:

8 **PSC 118.08 Double-counting prohibited.** An electric provider that sells or conveys a
9 MWh of renewable energy or an RRC at wholesale may not use that MWh or RRC to meet its
10 minimum percentage requirement under s. 196.378 (2) (a), Stats.

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

13 (End)

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Commission Docket 1-AC-221
Clearinghouse Rule 06-112

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