

## Chapter PSC 137

### ENERGY EFFICIENCY AND RENEWABLE RESOURCE PROGRAMS

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**PSC 137.01 Definitions.** The definitions specified in s. 196.374 (1), Stats., apply to this chapter. In addition, in this chapter:

(1) “Attribution” means each of the following:

(a) The amount of energy savings or renewable resource energy production that a program participant would have achieved even in the absence of the energy efficiency or renewable resource program.

(b) The amount of energy savings or renewable resource energy production that is directly attributable to the influence of the energy efficiency or renewable resource program but is not included in the program.

(2) “Commission” means the public service commission.

(3) “Division administrator” means the administrator of the division of gas and energy in the public service commission, or a designee.

(4) “kW” means kilowatt.

(5) “kWH” means kilowatt-hour.

(6) “Municipal utility” has the meaning provided in s. 16.957 (1) (q), Stats.

(7) “Net cost-effectiveness” means the extent to which an energy efficiency program or a renewable resource program is cost-effective, after being adjusted for attribution.

(8) “Program administrator” means a person who contracts with the energy utilities to develop and administer the statewide programs under s. 196.374 (2) (a) 1., Stats.

(9) “Retail electric cooperative” has the meaning provided in s. 16.957 (1) (t), Stats.

(10) “Statewide programs” means the energy efficiency and renewable energy programs specified in s. 196.374 (2) (a) 1., Stats.

(11) “Working day” has the meaning provided in s. 227.01 (14), Stats.

**History:** CR 06-139: cr. Register July 2007 No. 619, eff. 8-1-07.

**PSC 137.02 Program administrator solicitation and public notice.** (1) **COMPETITIVE SOLICITATION.** Energy utilities soliciting proposals for a program administrator under s. 196.374 (2) (a) 1., Stats., shall ensure that all solicitations are conducted in a manner that is fair and promotes competition.

(2) **PUBLIC NOTICE.** (a) Energy utilities shall provide reasonable public notice of all solicitations of program administrator proposals under s. 196.374 (2) (a) 1., Stats. The energy utilities may provide this notice through the print, broadcast, or telecommunications media, including the internet. The notice

period the energy utilities select is subject to the commission’s prior approval.

(b) The notice shall include the purpose of the solicitation, selection criteria, application procedures, and all applicable solicitation deadlines that an applicant is required to meet, or shall contain instructions for obtaining this information.

(3) **APPLICATION REQUIREMENTS.** Anyone applying to be a program administrator shall submit the application to the energy utilities or the commission, as directed in the notice provided under this section. Applications that are incomplete, filed late, or not executed by an individual with the authority to act on the applicant’s behalf shall be rejected.

**History:** CR 06-139: cr. Register July 2007 No. 619, eff. 8-1-07.

**PSC 137.03 Program administrator selection.** (1) **ROLE OF THE PROGRAM ADMINISTRATOR.** The program administrator shall oversee a portfolio of energy efficiency and renewable resource statewide programs, in which other market providers and contractors implement measures with end-use customers.

(2) **SELECTION CRITERIA.** Prior to the solicitation of a program administrator under s. 196.374 (2) (a) 1., Stats., the energy utilities shall submit their proposed criteria for evaluating proposals and selecting a program administrator to the commission. These criteria shall evaluate the following:

(a) The qualifications and financial soundness of a proposed program administrator and any proposed administrative subcontractor.

(b) The previous performance of a proposed program administrator and any proposed administrative subcontractor.

(c) The technical feasibility and quality of the proposed work plan, including the feasibility of proposed goals, performance measures, and environmental and economic benefits identified as objectives in the proposal.

(d) Compliance with each of the policies and goals the commission identifies for the statewide energy efficiency program.

(e) Other factors the commission considers relevant.

(3) **APPROVED, MODIFIED, OR REJECTED SELECTION CRITERIA.** The energy utilities’ proposed selection criteria are subject to the commission’s prior approval. The commission may modify or reject the proposed selection criteria within 20 working days after it receives them. If the commission does so, it shall explain its reasons in writing. The energy utilities may propose a new criterion to replace any modified or rejected criterion. If the commission does not modify or reject any of the proposed selection criteria within 20 working days after receiving them, they are deemed approved.

(4) NOTICE TO COMMISSION WHEN PROGRAM ADMINISTRATOR IS SELECTED. The energy utilities shall notify the commission in writing of their selection of a program administrator. The energy utilities may negotiate a combination of proposals from various administrators, if they determine that such a combination would better meet the objectives of the statewide program.

(5) COMMISSION APPROVAL OF PROGRAM ADMINISTRATOR. The commission shall, in writing and within 40 working days after it receives the energy utilities' notice under sub. (4), approve or reject for cause a program administrator whom the energy utilities selected.

(6) RIGHT TO PROTEST. If the energy utilities dispute the commission's rejection of a selected program administrator under sub. (5), they may protest to the commission. The energy utilities shall serve such a protest in writing on the division administrator within 20 working days after they receive notice of the commission's rejection. The division administrator may settle and resolve any protest brought under this subsection. If the protest cannot be resolved by mutual agreement, the division administrator shall issue a written decision to the energy utilities.

(7) APPEAL. The energy utilities may, within 20 working days after the division administrator issues a decision under sub. (6), appeal the decision to the commission by alleging facts that show a violation of a particular statute or provision of this chapter.

(8) CONTRACT STATUS. The energy utilities may not sign a contract with a proposed program administrator during the 40 working days when the commission can review the energy utilities' proposed selection under sub. (5) or while a protest or appeal is pending under sub. (6) or (7). The commission may void any contract for the selection of a program administrator that is signed during these periods.

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**PSC 137.04 Collective statewide program contracts.** (1) NOTICE TO COMMISSION AND CONTRACT REQUIREMENTS. (a) The energy utilities shall notify the commission in writing of their intent to sign a collective contract for statewide programs with a program administrator and shall submit a copy of the proposed contract to the commission for its approval.

(b) The contract shall include the following:

1. A requirement that the statewide programs shall comply with the policies and goals issued by the commission.
2. A requirement that the statewide programs shall comply with s. PSC 137.05.
3. Performance indicators and minimum performance standards.
4. Any other provision the commission may require.

(2) COMMISSION APPROVAL OF CONTRACT. (a) The commission shall, in writing and within 40 working days after receiving the energy utilities' notice under sub. (1), approve, approve with modifications, or reject a proposed contract.

(b) Upon receiving notice from the commission that it has approved a statewide program contract, the energy utilities shall sign the contract with a program administrator.

(c) Upon receiving notice from the commission that it has approved with modifications a statewide program contract, the energy utilities may sign a modified contract with a program administrator.

(3) RIGHT TO PROTEST. If the energy utilities dispute the commission's modification or rejection of a proposed contract under sub. (2) they may protest to the commission. The energy utilities shall serve such a protest in writing on the division administrator within 10 working days of the receipt of the commission's rejection or modification of a proposed contract. The division administrator may settle and resolve any protest brought under this subsection. If the protest is not resolved by mutual agreement, the division administrator shall issue a written decision to the energy utilities.

(4) APPEAL. The energy utilities may, within 20 working days after the division administrator issues a decision under sub. (3), appeal the decision to the commission by alleging facts that show a violation of a particular statute or provision of this chapter.

(5) CONTRACT STATUS. The energy utilities may not sign a contract for statewide programs while the commission is reviewing the energy utilities' proposed contract under sub. (2) or while a protest or appeal is pending under sub. (3) or (4). The commission may void any contract for statewide programs that the energy utilities sign during these periods.

History: CR 06-139: cr. Register July 2007 No. 619, eff. 8-1-07.

**PSC 137.05 Minimum requirements of statewide energy efficiency and renewable energy programs.**

(1) PROGRAMS FOR ALL CUSTOMERS. The statewide programs shall address the energy efficiency and renewable resource needs of all customers of participating energy utilities, municipal utilities, and retail electric cooperatives, except for the energy efficiency needs of those customers served by a utility-administered program under s. PSC 137.07 or a large energy customer self-directed program under s. PSC 137.09.

(2) RENEWABLE RESOURCE PROGRAMS FOR LARGE CUSTOMERS. The statewide programs shall use a portion of the utility revenues collected from each large energy customer, including large energy customers who are participating in a self-directed energy efficiency program under s. PSC 137.09 and large commercial, industrial, institutional, or agricultural customers as defined in s. PSC 137.07 (1), to provide renewable resource programs to these customers.

(3) ENVIRONMENTAL BENEFITS. The statewide programs shall deliver programs that result in environmental benefits, as identified by the commission, either on-site or at the generation level.

(4) PROGRAMS FOR LOCAL UNITS OF GOVERNMENT AND AGRICULTURAL PRODUCERS. (a) The statewide programs shall allocate at least 10 percent of the moneys collected under s. 196.374 (3) (b) 2., Stats., to programs to increase the energy efficiency of local units of government and agricultural producers. These programs are required to pass a portfolio level test of net cost-effectiveness, as determined by the commission.

(b) If the commission determines that the energy utilities cannot spend the full amount of moneys under par. (a) on cost-effective programs to serve local units of government and agricultural producers in any program year, the energy utilities shall allocate these unspent funds to programs to serve commercial, institutional, and industrial customers in the following program year.

(5) PROMOTING MARKETS. The statewide programs shall include initiatives and strategies that address the needs of individuals or businesses facing the most significant barriers, as determined by the commission, to creating or participating in markets for energy efficiency and renewable resource products and services.

**(6) ENVIRONMENTAL AND ECONOMIC IMPACTS OF ENERGY USE.** The statewide programs shall initiate and fund research and development projects, at the direction of the commission, that support sound public policy and provide information to policymakers, program administrators, utilities, and the public about the environmental and economic impacts of energy generation, delivery, and use.

**(7) EFFECTIVE PROGRAM DELIVERY.** The statewide programs shall initiate and fund market research projects that support and enhance the effective delivery of statewide programs. These projects shall be coordinated with the commission and with the independent third-party evaluator who contracts with the commission, as provided in sub. (12), to avoid any conflicts of interest. A statewide program administrator may not conduct any market research related to establishing quantitative baseline data or related to studying the availability of energy efficiency savings if the research is used to measure program impacts.

**(8) GRANT AND BENEFIT OPPORTUNITIES.** The statewide programs shall provide an equivalent opportunity for all eligible customers to participate. Statewide programs shall provide each customer class, on an annual basis, the opportunity to receive grants and benefits in an amount equal to that recovered from the customer class. If a customer is participating in a self-directed program under s. PSC 137.09, that customer's participation in the statewide programs shall be limited to the amount of revenues that the customer contributes to them through s. 196.374 (3) (b) 2., Stats. Statewide programs shall coordinate with utility-administered, voluntary utility energy efficiency and renewable resource programs, ordered programs, and large energy customer self-directed programs to avoid duplication of effort and of program offerings in overlapping territories.

**(9) DATA COLLECTION.** The program administrator shall, using the commission's database tracking and reporting system, collect and record for each program, by customer class:

- (a) KW, kWh, and therm savings.
- (b) Performance metrics.
- (c) Non-energy benefits.
- (d) All administrative and program delivery costs.
- (e) Any other information the commission requests.

**(10) DATA TO COMMISSION AND INDEPENDENT EVALUATOR.** The program administrator shall provide all information and data collected through statewide programs to the commission and the independent third-party evaluator upon request.

**(11) PRIORITIES.** The program administrator shall assign priority status to implementing programs that reduce growth in electric and natural gas demand and usage, facilitate energy efficiency and renewable resource market development, help market providers achieve higher levels of energy efficiency, promote energy reliability and adequacy, avoid adverse environmental impacts from the use of energy, and promote rural economic development.

**(12) COST-EFFECTIVENESS.** The program administrator shall deliver energy efficiency and renewable resource programs that pass a portfolio level test of net cost-effectiveness, as determined by the commission. The program administrator shall screen each energy efficiency and renewable resource program for net cost-effectiveness at least once a year. An independent third party, contracted by the commission, shall conduct all market assessment and evaluation activities necessary to measure the impact and cost-effectiveness of all statewide programs. The commission's administration of the evaluation contract shall be paid by funds from the statewide energy efficiency

and renewable resource programs, at a level determined by the commission.

**(13) PERFORMANCE GOALS AND REPORTING.** The commission shall, in consultation with the program administrator, establish annual and multi-year performance goals for the statewide programs. These goals shall be consistent with commission goals, priorities, and measurable targets under s. 196.374 (3) (b) 1., Stats. The program administrator shall provide monthly activity reports and semiannual performance results to the commission.

**History:** CR 06-139: cr. Register July 2007 No. 619, eff. 8-1-07.

**PSC 137.06 Procedures to receive contributions from municipal utilities and retail electric cooperatives.**

**(1) INVOICE FORMS.** The energy utilities shall design invoice forms for municipal utilities and retail electric cooperatives that elect to contribute the fees they charge under s. 196.374 (7) (a) and (b) 2., Stats., to statewide programs. The participating municipal utilities and retail electric cooperatives shall use these forms to send in their collections.

**(2) PROCEDURES FOR FEE CONTRIBUTIONS TO STATEWIDE PROGRAMS.** (a) At the end of each quarter, each participating municipal utility and retail electric cooperative shall inform the energy utilities of the dollar amount of fees it has collected for energy efficiency programs in the previous quarter. Participating municipal utilities and retail electric cooperatives shall deliver this information to the energy utilities within 15 working days after the quarter concludes.

(b) The energy utilities shall verify the amount collected by each participating municipal utility or retail electric cooperative.

(c) When the energy utilities have received the information specified in par. (a), they shall produce an invoice for each participating municipal utility or retail electric cooperative and deliver the invoice to the municipal utility or retail electric cooperative.

(d) Within 30 working days after it receives the invoice, the participating municipal utility or retail electric cooperative shall send a check to the address specified by the energy utilities for deposit in the fund for statewide programs.

(e) The energy utilities shall take reasonable steps to ensure that participating municipal utilities and retail electric cooperatives remit payments completely and on a timely basis.

**(3) REPORTS.** The energy utilities shall record the payment of each municipal utility or retail electric cooperative and create reports that include each municipal utility's and retail electric cooperative's cumulative contributions for the fiscal year.

**History:** CR 06-139: cr. Register July 2007 No. 619, eff. 8-1-07.

**PSC 137.07 Utility-administered programs for large commercial, industrial, institutional, or agricultural customers.**

**(1) DEFINITION.** In this section, "large commercial, industrial, institutional, or agricultural customer" has the same meaning as "large energy customer" under s. 196.374 (1) (em), Stats., unless the commission specifies a different definition by order.

**(2) FUNDING ENERGY EFFICIENCY PROGRAMS FOR LARGE COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, OR AGRICULTURAL CUSTOMERS.** The funding available in any year for all the energy efficiency programs the commission has authorized an energy utility to offer to its large commercial, industrial, institutional, or agricultural customers under s. 196.374 (2) (b) 1., Stats., shall equal the revenues collected from the energy utility's customers who are eligible for the utility-administered programs, less the funds set aside under s. PSC 137.05 (2) for

statewide renewable resource programs. The commission shall determine the annual funding level available for these programs and inform energy utilities in writing at least 9 months prior to the beginning of the statewide program year.

**(3) ENERGY EFFICIENCY PROGRAMS FOR LARGE COMMERCIAL, INDUSTRIAL, INSTITUTIONAL, OR AGRICULTURAL CUSTOMERS.** (a) An energy utility requesting to administer or fund one or more energy efficiency programs for large commercial, industrial, institutional, or agricultural customers in its service territory under this section may file a request with the commission at any time. The commission shall consider requests it receives at least 6 months before the start of the statewide energy efficiency and renewable resource program year for implementation in that program year.

(b) Each request to administer or fund an energy efficiency program under this section shall include:

1. A description of the program that includes the target market, eligible measures, delivery strategy, marketing and communications strategy, incentive strategy and potential market effects.

2. A plan prepared jointly with the program administrator that describes how statewide and utility-administered programs will be coordinated with large energy customer self-directed programs, ordered programs, and voluntary utility programs offered during the same period.

3. A description of the program's consistency with the commission's most recent study of available energy efficiency savings.

4. Annual and multi-year performance targets that are consistent with commission goals, policies, and priorities.

5. A program time frame that is consistent with the statewide program year.

6. A portfolio and program level cost-effectiveness analysis that is consistent with par. (c) 5.

7. An administrative and program delivery budget for the first year of operation.

8. Any other information the commission requests.

(c) Each utility-administered program under this section shall:

1. Be limited to offering energy efficiency programs to large commercial, industrial, institutional, or agricultural customers in the energy utility's service territory. If a customer is participating in a self-directed program under s. PSC 137.09, that customer's participation in any utility-administered program under this section shall be limited to the amount of revenues that the customer contributes to the utility-administered program through s. 196.374 (3) (b) 2., Stats.

2. Provide an equivalent opportunity for all eligible customers to participate. Utility-administered programs shall coordinate with statewide programs and with large energy customer self-directed programs to avoid duplication of effort and of program offerings in overlapping territories.

3. Be evaluated by an independent third party. The commission shall contract with the independent third-party evaluator, unless it determines that it is reasonable to allow the energy utility to contract with the evaluator. In that case the commission shall oversee the contracting process and approve the energy utility's selection of the independent third-party evaluator. The energy utility shall pay for the evaluation of the program, as determined by the commission, from retained utility revenues that the energy utility would otherwise have expended on statewide energy efficiency programs.

4. Be designed in a manner that prevents the energy utility or any of its affiliates from selling or installing energy efficiency processes, equipment, or appliances.

5. Pass a portfolio level test of net cost-effectiveness, as determined by the commission. The energy utility shall screen for net cost-effectiveness at least once a year.

6. Result in environmental benefits, as identified by the commission, either on site or at the generation level.

(d) The energy utility shall:

1. Assign priority status to implementing programs that reduce growth in electric and natural gas demand and usage, facilitate energy efficiency market development, assist market providers in achieving higher levels of energy efficiency, promote energy reliability and adequacy, avoid adverse environmental impacts from the use of energy, and promote rural economic development.

2. Establish annual and multi-year performance goals that are consistent with the program goals, priorities, and measurable targets established under s. 196.374 (3) (b) 1., Stats. At a minimum, the energy utility shall provide quarterly activity reports and semiannual performance reports to the commission.

3. Using the commission's database tracking and reporting system, collect and record for each program, by customer class:

a. KW, kWh, and therm savings.

b. Performance metrics.

c. Non-energy benefits.

d. All administrative and program delivery costs.

e. Any other information the commission requests.

4. Provide all information and data the energy utility collects for its utility-administered programs to the commission and the independent third-party evaluator upon request.

(e) The commission shall consider all of the following when deciding whether to approve a program proposed under par. (a):

1. Whether the program is in the public interest.

2. Whether the program meets the minimum requirements of par. (c).

3. Whether the program includes appropriate energy efficiency measures.

4. Whether the proposed budget is within the level of funds available.

5. The likelihood the program will achieve its goals.

6. The level of coordination with statewide programs under s. PSC 137.05, voluntary utility programs under s. PSC 137.08, large energy customer self-directed programs under s. PSC 137.09, and ordered programs and the potential for disrupting the overall ability of energy efficiency efforts in the state to meet the goals, priorities, and measurable targets established under s. 196.374 (3) (b) 1., Stats.

**(4) APPROVAL, DENIAL OR MODIFICATION OF REQUESTS FOR UTILITY-ADMINISTERED PROGRAMS.** An energy utility may only administer or fund a program under this section with the commission's prior approval. The commission shall issue its decision to approve, deny, or modify an energy utility's proposal to administer or fund a program under this section in writing, within 40 working days after receiving the proposal. If the commission denies or modifies a proposed utility-administered program it shall explain its reasons. The energy utility may revise and resubmit a proposed program that the commission has denied.

**(5) MODIFYING OR DISCONTINUING A UTILITY-ADMINISTERED PROGRAM OR AN ORDERED PROGRAM.** (a) An energy utility may request the commission to authorize the modifica-

tion or discontinuation of a program it administers or funds under this section at any time. No energy utility may modify or discontinue such a program without the commission's prior approval.

(b) Requests for discontinuation of an ordered program shall be made as part of a proceeding the commission conducts under 196.374 (3) (b) 1., Stats.

**(6) RETURN OF FUNDS.** The commission may require that the energy utility deliver any unspent funds of an energy efficiency program approved under this section to the energy utilities, to fund the statewide programs.

**History:** CR 06-139: cr. Register July 2007 No. 619, eff. 8-1-07.

**PSC 137.08 Voluntary utility energy efficiency or renewable resource programs.** **(1) DEFINITION.** In this section, "voluntary program" means an energy efficiency or renewable resource program that an energy utility voluntarily proposes for commission approval under s. 196.374 (2) (b) 2., Stats.

**(2) REQUEST TO ADMINISTER OR FUND A VOLUNTARY PROGRAM.** An energy utility may file a request with the commission at any time to administer or fund one or more voluntary programs in its service territory. The commission shall consider requests that it receives at least 6 months before the start of the statewide energy efficiency and renewable resource program year for implementation in that program year.

**(3) REQUIRED INFORMATION.** An energy utility requesting to administer one or more voluntary programs in its service territory shall provide the information specified in s. PSC 137.07 (3) (b) 1., 4., 6., 7., and 8., plus the following information:

(a) A proposed reporting schedule.

(b) A description of the energy utility's proposed database tracking and reporting system.

(c) A description of how the energy utility will coordinate its voluntary program with statewide programs under s. PSC 137.05, utility-administered programs under s. PSC 137.07, and ordered programs.

(d) An evaluation, measurement, and verification plan.

**(4) PRIOR APPROVAL OF VOLUNTARY PROGRAMS.** (a) An energy utility may only administer or fund a voluntary program with the commission's prior approval.

(b) The commission shall consider each of the following factors when deciding whether to approve a voluntary program:

1. Whether the program is in the public interest.
2. The likelihood the program will achieve its goals.
3. The inclusion of appropriate energy efficiency or renewable resource measures.
4. The adequacy of the budget.
5. The balance of services available to customer segments.
6. The cost-effectiveness of the program.
7. The adequacy of the energy utility's evaluation, measurement, and verification plan.

8. The level of coordination with statewide programs under s. PSC 137.05, utility-administered programs under s. PSC 137.07, and ordered programs and the potential for disrupting the overall ability of energy efficiency or renewable resource efforts in the state to meet the goals, priorities, and measurable targets established under s. 196.374 (3) (b) 1., Stats.

(c) The commission shall issue its decision to approve, deny, or modify a proposed voluntary program under this section in writing, within 40 working days after receiving the proposal. If the commission denies or modifies a proposed voluntary program it shall explain its reasons. The energy utility may revise

and resubmit a proposed voluntary program that the commission has denied.

**(5) MODIFYING OR DISCONTINUING A VOLUNTARY PROGRAM.** An energy utility may request the commission to authorize the modification or discontinuation of a voluntary program at any time. No energy utility may modify or discontinue a voluntary program without the commission's prior approval.

**History:** CR 06-139: cr. Register July 2007 No. 619, eff. 8-1-07.

**PSC 137.09 Large energy customer self-directed energy efficiency programs.** **(1) FUNDING PROGRAMS FOR LARGE ENERGY CUSTOMERS.** The maximum amount of utility funding available in any one year for a large energy customer self-directed program is the energy utility revenues that would have been collected from the large energy customer under s. 196.374 (5) (b), Stats., less the funds set aside under s. PSC 137.05 (2) for statewide renewable resource programs. The commission shall determine the annual funding level for each large energy customer. Upon receipt of this information, each energy utility with one or more large energy customers shall notify these customers of the funds available for self-directed programs.

**(2) PROGRAM REQUIREMENTS.** (a) A large energy customer seeking approval of a self-administered and self-funded energy efficiency program under 196.374 (2) (c), Stats., may file a request with the commission at any time. The commission shall consider requests it receives at least 6 months before the start of the statewide energy efficiency and renewable resource program year for implementation in that program year.

(b) Each request for a large energy customer self-directed energy efficiency program under this section shall include:

1. An explanation of the program, including descriptions of targeted buildings, equipment and operations; of eligible energy efficiency measures; and of expected energy savings, itemized by technology.

2. Performance targets that are consistent with commission goals, policies and priorities.

3. A program time frame that is consistent with the statewide program year.

4. A program level cost-effectiveness analysis, consistent with par. (c) 3.

5. An administrative and program delivery budget for each year of operation.

6. A tracking and reporting system, as specified by the commission.

7. A measurement and verification plan.

8. Any other information the commission requests.

(c) Large energy customer self-directed programs under this subsection shall:

1. Reduce the on-site use of electricity or natural gas. To determine whether the program reduces energy or gas use, the large energy customer shall compare the facility's energy use with standard replacement technology under standard operating conditions, before improvements to existing facility or expansion, against the proposed facility efficiency improvements. The large energy customer's measurement and verification process is subject to the commission's approval.

2. Include measures that are environmentally sound, as determined by the commission.

3. Pass a program level test of cost-effectiveness, as determined by the commission.

4. Use retained utility revenues that would otherwise be collected for statewide energy efficiency programs from the

customer to pay some or all of the incremental cost difference between standard efficiency replacement equipment or processes and the premium efficiency replacement equipment or processes that the large energy customer proposes to install. The program may also use retained utility revenues to purchase energy efficiency-related education, training, and facilitation services from statewide or utility-administered programs.

5. Be evaluated by an independent third party. The commission shall contract with the independent third party evaluator, unless it determines that it is reasonable to allow the large energy customer to contract with an evaluator. In that case, the commission shall oversee the contracting process and approve the large energy customer's selection of the independent third-party evaluator. The large energy customer shall pay the evaluation costs out of energy utility revenues that the large energy customer retains and sets aside for that purpose.

(d) The large energy customer with a self-directed program shall:

1. Retain energy utility revenues, for at least one year, to finance projects the large energy customer initiates and completely installs within the period for which utility revenues are retained.

2. Establish performance goals, as approved by the commission. At a minimum, the large energy customer shall provide quarterly activity reports and annual performance results, using a reporting format approved by the commission. The large energy customer shall also provide all performance-related information and data to the commission that it requests.

**(3) PRIOR APPROVAL OF REQUESTS FOR LARGE ENERGY CUSTOMER SELF-DIRECTED PROGRAMS.** (a) A large energy cus-

tomers may only administer and fund a self-directed program under this section with the commission's prior approval. The commission shall issue its decision to approve, deny, or modify a large energy customer's proposal to administer and fund a self-directed program under this section in writing, within 40 working days after receiving the proposal.

(b) The commission shall consider each of the following standards when deciding whether to approve a large energy customer's self-directed program:

1. The standards specified in s. [PSC 137.08 \(4\) \(b\) 1. to 4., 6., and 7.](#)

2. The minimum requirements specified in sub. [\(2\) \(c\).](#)

(c) If the commission denies or modifies a large energy customer's proposed self-directed program it shall explain its reasons in writing. The large energy customer may revise and re-submit a proposed program the commission has modified or denied.

**(4) MODIFYING OR DISCONTINUING A LARGE ENERGY CUSTOMER SELF-DIRECTED PROGRAM.** A large energy customer may request the commission to authorize the modification or discontinuation of an energy efficiency program implemented under this section at any time. No large energy customer may modify or discontinue a self-directed program without the commission's prior approval.

**(5) RETURN OF FUNDS.** The commission may require that the large energy customer deliver any unspent funds to the energy utilities, to fund the statewide programs.

**History:** CR 06-139: cr. Register July 2007 No. 619, eff. 8-1-07.