

PUBLIC SERVICE COMMISSION OF WISCONSIN

In the Matter of the Proposed Revisions to ch. 118, Renewable Resource
Credit Tracking Program

1-AC-252

Clearinghouse Rule No. 20-083

The statement of scope for this rule, SS 012-19, was approved by the Governor on December 20, 2018, published in Register No. 757A3 on January 14, 2019, and approved by the Commission on April 29, 2021. This rule was approved by the Governor on May 13, 2021.

ORDER ADOPTING PROPOSED RULES

This is an Order of the Public Service Commission of Wisconsin proposing to create PSC 118.02 (5g) (dm), relating to allowing an electric provider, or customer or member of an electric provider, to create a renewable resource credit for heat that is a byproduct of a manufacturing process and is used to provide thermal energy for another purpose.

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

A. Text of Rule

The proposed rule text is provided in Appendix A to this Order.

B. Statute Interpreted

This rule interprets Wisconsin Stat. § 196.378.

C. Statutory Authority and Explanation of Authority

This rulemaking is authorized under Wisconsin Stat. §§ 196.02 (1) and (3), 196.378 (3) (a) 1m., and 227.11 (2). Wisconsin Stat. § 196.378 (3) (a) 1m. authorizes the Commission to promulgate a variety of rules concerning renewable energy credits. Wisconsin Stat. § 196.02 (1) authorizes the Commission to do all things necessary and convenient to its jurisdiction. Wisconsin Stat. § 196.02 (3) grants the Commission specific authority to promulgate rules. Wisconsin Stat. § 227.11 (2) authorizes agencies to promulgate administrative rules.

D. Related Statutes or Rules

There are no other related statutes or rules.

E. Plain Language Analysis

The rulemaking amends Wisconsin Admin. Code ch. PSC 118 to align with 2017 Wisconsin Act 53, which promulgated Wisconsin Stat. § 196.378 (1) (h) 1. k. and amended Wisconsin Stat. § 196.378 (3) (a) 1m. Wisconsin Stat. § 196.378 (1) (h) 1. k added heat that is a byproduct of a manufacturing process to the definition of a renewable resource, and Wisconsin Stat. § 196.378 (3) (a) 1m. requires the Public Service Commission to promulgate rules that allow an electric provider or customer or member of an electric provider to create a renewable resource credit for heat that is a byproduct of a manufacturing process or heat that is a byproduct of a manufacturing process and is used to provide thermal energy for another purpose.

This rule revision conforms to statutory changes made by 2017 Wisconsin Act 53 by adding the definition “heat that is a byproduct of a manufacturing process” to Wisconsin Admin Code. ch. 118 and creating Wisconsin Admin. Code PSC § 118.02 (5g) (dm).

F. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations

There is not currently a federal renewable portfolio standard (RPS) program.

G. Comparison with Similar Rules in Adjacent States

The Commission is not aware of any surrounding states that allow heat that is a byproduct of a manufacturing process under definitions of resources for rules related to a state Renewable Portfolio Standard. Additionally, none of the neighboring states (Michigan, Minnesota, Illinois, and Iowa) have Renewable Portfolio Standards rules similar to the statutory changes allowed by 2017 Wisconsin Act 53.

H. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen

Wisconsin Admin. Code ch. PSC 118 governs the creation and tracking of renewable resource credits, and this rule revision aligns Wisconsin Admin. Code ch. PSC 118 with the applicable state statute. The proposed rule revises ch. PSC 118 to allow an electric provider or customer or member of an electric provider to create a renewable resource credit for heat that is a byproduct of a manufacturing process or heat that is a byproduct of a manufacturing process and is used to provide thermal energy for another purpose. There was not a need to evaluate factual data and analytical methods as a means to identify regulatory approaches. Rather, experienced department staff reviewed the existing rules to identify necessary changes and developed the preliminary drafts of the proposed rules.

I. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report

Electric utilities are not considered “small businesses” under Wisconsin Stat. § 227.114 (1). As such, this rule will not affect small businesses. However, the Commission’s fiscal estimate and economic impact analysis also determined that the proposed rules will not have an economic impact on small businesses. The Commission sought input from all electric utilities, Citizens’ Utility Board of Wisconsin, Wisconsin Industrial Energy Group, and RENEW Wisconsin.

J. Effect on Small Business (initial regulatory flexibility analysis)

This rule will not affect small businesses. The Wisconsin Stat. § 227.114 (1) definition of “small business” states that to be considered a small business, the business must not be dominant in its field. Since electric utilities are monopolies in their service territories, they are dominant in their fields and are not small businesses.

K. Agency Contact Person

Questions regarding this matter should be directed to the docket coordinator, Tyler Meulemans at (608) 266-3587 or Tyler.Meulemans@wisconsin.gov. Small business questions should be directed to

Tara Pray at (608) 266-7165 or Tara.Pray@wisconsin.gov. Media questions should be directed to Communications Director Jerel Ballard at (608) 266-9600.

L. Place Where Comments are to be Submitted and Deadline for Submission

A hearing notice, announcing a preliminary public hearing on the statement of scope, was published on the Commission's website on May 16, 2019 and in the Wisconsin Administrative Register on May 28, 2019. An in-person hearing was held on June 5, 2019. The Commission accepted comments by regular mail, online, and at the public hearing. The public comment period for online and mailed comments ended on June 4, 2019. The public had the opportunity to make oral comments at the hearing.

A hearing notice, announcing the public hearing and public comment period, was published on the Commission's website on December 4, 2020 and in the Wisconsin Administrative Register on December 14, 2020. A virtual public hearing was held on January 25, 2021. The Commission accepted comments by regular mail, online, and at the public hearing. The public comment period ended on January 28, 2021.

Dated at Madison, Wisconsin the 29th day of April, 2021.

By the Commission:

A handwritten signature in cursive script that reads "Steffany Powell Coker".

Steffany Powell Coker
Secretary to the Commission

SPC:MRD;jlt:DL: 01799767

Appendix A

TEXT OF PROPOSED RULE

Section 1. PSC 118.02 (5g) (dm) is created to read:

PSC 118.02 (5g) (dm) An installation that recovers heat that is a byproduct of a manufacturing process.

Section 2. Effective Date. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
