

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 396
97TH GENERAL ASSEMBLY

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, April 4, 2013, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1078S.07C

AN ACT

To repeal sections 386.890 and 393.1030, RSMo, and to enact in lieu thereof three new sections relating to renewable energy.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 386.890 and 393.1030, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 386.890, 393.1030,
3 and 394.320, to read as follows:

386.890. 1. This section shall be known and may be cited as the
2 **"Electrical Corporation Net Metering and Easy Connection Act"**, and it
3 **reflects the policy of the state to promote customer ownership of small**
4 **electric generating systems powered by renewable energy resources**
5 **and designed primarily to satisfy the customer-generator's demand for**
6 **electricity; to recognize the benefits distributed generation may offer;**
7 **to ensure that financial incentives for electrical corporations are**
8 **aligned with promoting renewable resources and aiding customers in**
9 **the development of renewable resources; and to allow electrical**
10 **corporations to fully and timely recover all reasonable and prudent**
11 **costs, including any foregone revenues resulting from complying with**
12 **the requirements of this section.**

13 2. As used in this section, the following terms shall mean:

14 (1) "Avoided [fuel] cost", [the current average cost of fuel for the entity
15 generating electricity, as defined by the governing body with jurisdiction over any
16 municipal electric utility, rural electric cooperative as provided in chapter 394,
17 or electrical corporation as provided in this chapter] **for an electrical**
18 **corporation, the weighted average nontime of use avoided costs,**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 **expressed in cents per kilowatt-hour, provided to the commission under**
20 **4 CSR 240-3.155(4)(A) in effect for the calendar year at issue;**

21 (2) **"Calculated kilowatt-hours of electricity", the annual kilowatt-**
22 **hours calculated using the default values in the United States**
23 **Department of Energy's National Renewable Energy Laboratory's**
24 **PVWatts calculator for the latitude and longitude where the electrical**
25 **corporation's primary load center is located, or such successor**
26 **calculator, if any, developed by the United States Department of**
27 **Energy;**

28 (3) **"Commission", the public service commission of the state of Missouri;**

29 [(3)] (4) **"Customer-generator", the owner or [operator] lessee of a**
30 **qualified electric energy generation unit which:**

31 (a) **Is powered by a renewable energy resource;**

32 (b) **Has an electrical generating system with a capacity of not more than**
33 **[one] two hundred kilowatts;**

34 (c) **Is located on a premises owned[, operated,] or leased, or otherwise**
35 **controlled by the customer-generator;**

36 (d) **Is interconnected on the load side of the customer-generator's**
37 **meter;**

38 (e) **Is interconnected and operates in parallel phase and synchronization**
39 **with [a retail electric supplier] an electrical corporation and has been**
40 **approved by said [retail electric supplier] electrical corporation;**

41 [(e)] (f) **Is [intended primarily] designed to offset [part or all] not**
42 **more than one hundred percent of the customer-generator's own annual**
43 **electrical energy requirements;**

44 [(f)] (g) **Meets all applicable safety, performance, interconnection, and**
45 **reliability standards established by the National Electrical Code, the National**
46 **Electrical Safety Code, the Institute of Electrical and Electronics Engineers,**
47 **Underwriters Laboratories, the Federal Energy Regulatory Commission, and any**
48 **local governing authorities; and**

49 [(g)] (h) **Contains a mechanism that automatically disables the unit and**
50 **interrupts the flow of electricity back onto the [supplier's] electrical**
51 **corporation's electricity lines in the event that service to the**
52 **customer-generator is interrupted;**

53 [(4)] (5) **"Department", the department of natural resources;**

54 [(5)] (6) **"Electrical corporation" includes every corporation,**

55 **company, association, joint stock company or association, partnership**
56 **and person, their lessees, trustees or receivers appointed by any court**
57 **whatsoever, other than a railroad, light rail or street railroad**
58 **corporation generating electricity solely for railroad, light rail or street**
59 **railroad purposes or for the use of its tenants and not for sale to others,**
60 **owning, operating, controlling or managing any electric plant except**
61 **where electricity is generated or distributed by the producer solely on**
62 **or through private property for railroad, light rail or street railroad**
63 **purposes or for its own use or the use of its tenants and not for sale to**
64 **others;**

65 **(7) "Foregone revenues", a sum determined by multiplying the**
66 **actual kilowatt-hours, when metered, or the calculated kilowatt-hours**
67 **of electricity, when not metered, produced by customer-generators**
68 **within the electrical corporation's service territory for each of the**
69 **electrical corporation's rate classes since the end of the last surcharge**
70 **adjustment period or the effective date of new base rates established**
71 **in a general rate proceeding, whichever occurred most recently, by the**
72 **difference between the electrical corporation's applicable class average**
73 **retail rate for each respective rate class and the electrical corporation's**
74 **avoided costs for each respective rate class;**

75 **(8) "Minimum bill", all charges on a customer's bill that are not**
76 **calculated on a kilowatt-hour basis, such as a service charge, customer**
77 **charge, meter charge, facilities charge, demand charge, billed demand**
78 **charge, or any other charges billed to customers for services, including**
79 **special facilities, late fees, taxes, etc.;**

80 **(9) "Net excess energy", the amount of energy, expressed in**
81 **kilowatt-hours, delivered by a customer-generator to an electrical**
82 **corporation that exceeds the amount of energy delivered by the**
83 **corporation to the customer-generator over a single billing period;**

84 **(10) "Net metering", using metering equipment sufficient to measure the**
85 **difference between the electrical energy supplied to a customer-generator by [a**
86 **retail electric supplier] an electrical corporation and the electrical energy**
87 **supplied by the customer-generator to the [retail electric supplier] electrical**
88 **corporation over the applicable billing period;**

89 **[(6)] (11) "Net metering costs", shall include, but are not limited**
90 **to, all costs incurred by the electrical corporation associated with this**
91 **section including labor and associated benefits associated with**

92 **administering net metering, the electrical corporation's foregone**
93 **revenues and sums paid for solar rebates;**

94 (12) "Renewable energy resources", electrical energy produced from wind,
95 solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel
96 cells using hydrogen produced by one of the above-named electrical energy
97 sources, and other sources of energy that become available after August 28, 2007,
98 and are certified as renewable by the department[;

99 (7) "Retail electric supplier" or "supplier", any municipal utility, electrical
100 corporation regulated under this chapter, or rural electric cooperative under
101 chapter 394 that provides retail electric service in this state].

102 3. [A retail electric supplier] **An electrical corporation** shall:

103 (1) Make net metering available to customer-generators on a first-come,
104 first-served basis until the total rated generating capacity of net metering
105 systems equals five percent of the [utility's] **electrical corporation's**
106 single-hour peak load during the previous year, after which the commission for
107 [a public utility or the governing body for other electric utilities] **an electrical**
108 **corporation regulated under this chapter** may increase the total rated
109 generating capacity of net metering systems to an amount above five
110 percent. However, in a given calendar year, no [retail electric supplier]
111 **electrical corporation** shall be required to approve any application for
112 interconnection if the total rated generating capacity of all applications for
113 interconnection already approved to date by said [supplier] **electrical**
114 **corporation** in said calendar year equals or exceeds one percent of said
115 [supplier's] **corporation's** single-hour peak load for the previous calendar year;

116 (2) Offer to the customer-generator a tariff or contract that is identical in
117 electrical energy rates, rate structure, and monthly charges to the contract or
118 tariff that the customer would be assigned if the customer were not an eligible
119 customer-generator [but]. **An electrical corporation may charge up to a**
120 **one hundred dollar application fee. An electrical corporation** shall not
121 charge the customer-generator any additional standby, capacity, interconnection,
122 or other fee or charge that would not otherwise be charged if the customer were
123 not an eligible customer-generator; and

124 (3) Disclose annually the availability of the net metering program to each
125 of its customers with the method and manner of disclosure being at the discretion
126 of the [supplier] **electrical corporation.**

127 4. A customer-generator's facility shall be equipped with sufficient

128 metering equipment that can measure the net amount of electrical energy
129 produced or consumed by the customer-generator. If the customer-generator's
130 existing meter equipment does not meet these requirements or if it is necessary
131 for the [electric supplier] **electrical corporation** to install additional
132 distribution equipment to accommodate the customer-generator's facility, the
133 customer-generator shall reimburse the [retail electric supplier] **electrical**
134 **corporation** for the costs to purchase and install the necessary additional
135 equipment. **For systems of ten kilowatts or less, this reimbursement**
136 **shall be limited to the installed cost of the meter.** At the request of the
137 customer-generator, such costs may be initially paid for by the [retail electric
138 supplier] **electrical corporation**, and any amount up to the total costs and a
139 reasonable interest charge may be recovered from the customer-generator over the
140 course of up to twelve billing cycles. Any subsequent meter testing, maintenance
141 or meter equipment change necessitated by the customer-generator shall be paid
142 for by the customer-generator.

143 5. Consistent with the provisions in this section, the net electrical energy
144 measurement shall be calculated in the following manner:

145 (1) For a customer-generator, [a retail electric supplier] **an electrical**
146 **corporation** shall measure the net electrical energy produced or consumed
147 during the billing period in accordance with normal metering practices for
148 customers in the same rate class, either by employing a single, bidirectional
149 meter that measures the amount of electrical energy produced and consumed, or
150 by employing multiple meters that separately measure the customer-generator's
151 consumption and production of electricity;

152 (2) If the electricity supplied by the [supplier] **electrical corporation**
153 exceeds the electricity [generated by] **received from** the customer-generator
154 during a billing period, the customer-generator shall be billed for the net
155 electricity supplied by the [supplier] **electrical corporation** in accordance with
156 normal practices for customers in the same rate class;

157 (3) If the electricity [generated by] **received from** the
158 customer-generator exceeds the electricity supplied by the [supplier] **electrical**
159 **corporation** during a billing period, the customer-generator shall be billed for
160 the appropriate [customer charges] **minimum bill** for that billing period in
161 accordance with subsection 3 of this section and [shall be credited an amount at
162 least equal to the avoided fuel cost of the excess kilowatt-hours generated during
163 the billing period, with this credit applied to the following billing period] **all net**

164 **excess energy shall be carried forward from month-to-month and**
165 **credited at a ratio of one-to-one against the customer-generator's**
166 **energy consumption in subsequent months;**

167 (4) [Any credits granted by this subsection shall expire without any
168 compensation at the earlier of either twelve months after their issuance or when
169 the customer-generator disconnects service or terminates the net metering
170 relationship with the supplier;

171 (5) For any rural electric cooperative under chapter 394, or municipal
172 utility, upon agreement of the wholesale generator supplying electric energy to
173 the retail electric supplier, at the option of the retail electric supplier, the credit
174 to the customer-generator may be provided by the wholesale generator] **Net**
175 **excess energy may be accumulated over multiple billing periods except**
176 **any accumulated net excess energy remaining in a customer-generator's**
177 **account shall expire, without compensation, as of the earlier of the end**
178 **of the March billing period of a twelve month billing period or when**
179 **the customer-generator discontinues service or terminates net**
180 **metering.**

181 6. (1) Each qualified electric energy generation unit used by a
182 customer-generator shall meet all applicable safety, performance, interconnection,
183 and reliability standards established by any local code authorities, the National
184 Electrical Code, the National Electrical Safety Code, the Institute of Electrical
185 and Electronics Engineers, and Underwriters Laboratories for distributed
186 generation. No [supplier] **electrical corporation** shall impose any fee, charge,
187 or other requirement not specifically authorized by this section or
188 [the] **authorized by** rules promulgated [under subsection 9 of this section] **by**
189 **the commission** unless the fee, charge, or other requirement would apply to
190 similarly situated customers who are not customer-generators, except that [a
191 retail electric supplier] **an electrical corporation** may require that a
192 customer-generator's system contain a switch, circuit breaker, fuse, or other
193 easily accessible device or feature located in immediate proximity to the
194 customer-generator's metering equipment that would allow a utility worker the
195 ability to manually and instantly disconnect the unit from the [utility's]
196 **electrical corporation's** electric distribution system;

197 (2) For systems of ten kilowatts or less, a customer-generator whose
198 system meets the standards and rules under subdivision (1) of this subsection
199 shall not be required to install additional controls, perform or pay for additional

200 tests or distribution equipment, or purchase additional liability insurance beyond
201 what is required under subdivision (1) of this subsection and subsection 4 of this
202 section;

203 (3) For customer-generator systems of greater than ten kilowatts, the
204 commission for [public utilities and the governing body for other utilities]
205 **electrical corporations** shall, by rule [or equivalent formal action by each
206 respective governing body]:

207 (a) Set forth safety, performance, and reliability standards and
208 requirements; and

209 (b) Establish the qualifications for exemption from a requirement to
210 install additional controls, perform or pay for additional tests or distribution
211 equipment, or purchase additional liability insurance.

212 7. (1) Applications by a customer-generator for interconnection of a
213 qualified electric energy generation unit meeting the requirements of subdivision
214 (3) of subsection 2 of this section to the distribution system shall be accompanied
215 by the plan for the customer-generator's electrical generating system, including
216 but not limited to a wiring diagram and specifications for the generating unit,
217 and shall be reviewed and responded to by the [retail electric supplier]
218 **electrical corporation** within [thirty] **forty-five** days of receipt for systems
219 [ten] **twenty-six** kilowatts or less and within ninety days of receipt for all other
220 systems. Prior to the interconnection of the qualified generation unit to the
221 [supplier's] **electrical corporation** system, the customer-generator will furnish
222 the [retail electric supplier] **electrical corporation** a certification from a
223 qualified professional electrician or engineer that the installation meets the
224 requirements of subdivision (1) of subsection 6 of this section. If the application
225 for interconnection is approved by the [retail electric supplier] **electrical**
226 **corporation** and the customer-generator does not complete the interconnection
227 within one year after receipt of notice of the approval, the approval shall expire
228 [and the customer-generator shall be responsible for filing a new
229 application]. **For systems of ten kilowatts or less, the application process**
230 **shall use an all-in-one document that includes a simple interconnection**
231 **request, simple procedures, and a brief set of terms and conditions.**

232 (2) [Upon the change in ownership] **If the customer-generator** of a
233 qualified electric energy generation unit **changes**, the new customer-generator
234 shall be responsible for filing **with the electrical corporation** a new
235 application under subdivision (1) of this subsection. **If a new application is**

236 **not timely filed, the electrical corporation may terminate the net**
237 **metering arrangement or disconnect the qualified electrical energy**
238 **generation unit from the electrical corporation's system.**

239 8. Each [commission-regulated supplier] **electrical corporation** shall
240 submit an annual net metering report to the commission, [and all other
241 nonregulated suppliers shall submit the same report to their respective governing
242 body] and make said report available to [a] **any** consumer of the [supplier]
243 **electrical corporation** upon request, including the following information for
244 the previous calendar year:

245 (1) The total number of customer-generator facilities;

246 (2) The total estimated generating capacity of its net-metered
247 customer-generators; and

248 (3) The total estimated net kilowatt-hours received from
249 customer-generators.

250 9. [The commission shall, within nine months of January 1, 2008,
251 promulgate initial rules necessary for the administration of this section for public
252 utilities, which shall include regulations ensuring that simple contracts will be
253 used for interconnection and net metering. For systems of ten kilowatts or less,
254 the application process shall use an all-in-one document that includes a simple
255 interconnection request, simple procedures, and a brief set of terms and
256 conditions. Any rule or portion of a rule, as that term is defined in section
257 536.010, that is created under the authority delegated in this section shall
258 become effective only if it complies with and is subject to all of the provisions of
259 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
260 nonseverable and if any of the powers vested with the general assembly under
261 chapter 536 to review, to delay the effective date, or to disapprove and annul a
262 rule are subsequently held unconstitutional, then the grant of rulemaking
263 authority and any rule proposed or adopted after August 28, 2007, shall be
264 invalid and void.

265 10. The governing body of a rural electric cooperative or municipal utility
266 shall, within nine months of January 1, 2008, adopt policies establishing a simple
267 contract to be used for interconnection and net metering. For systems of ten
268 kilowatts or less, the application process shall use an all-in-one document that
269 includes a simple interconnection request, simple procedures, and a brief set of
270 terms and conditions.

271 11.] For any cause of action relating to any damages to property or person

272 caused by the generation unit of a customer-generator or the interconnection
273 thereof, the [retail electric supplier] **electrical corporation** shall have no
274 liability absent clear and convincing evidence of fault on the part of the [supplier]
275 **electrical corporation**.

276 [12.] **10.** The estimated generating capacity of all net metering systems
277 operating under the provisions of this section shall count [towards] **toward** the
278 respective [retail electric supplier's accomplishment] **electrical corporation's**
279 **satisfaction** of any renewable energy portfolio target or mandate adopted by the
280 Missouri general assembly.

281 [13.] **11.** The sale of qualified electric generation units to any
282 customer-generator shall be subject to the provisions of sections 407.700 to
283 407.720. The attorney general shall have the authority to promulgate in
284 accordance with the provisions of chapter 536 rules regarding mandatory
285 disclosures of information by sellers of qualified electric generation units. Any
286 [interested] person who believes that the seller of any electric generation unit is
287 misrepresenting the safety or performance standards of [any] such [systems]
288 **unit**, or who believes that any electric generation unit poses a danger to any
289 property or person, may report the same to the attorney general, who shall be
290 authorized to investigate such claims and take any necessary and appropriate
291 actions.

292 [14. Any costs incurred under this act by a retail electric supplier shall
293 be recoverable in that utility's rate structure.

294 15.] **12. An electrical corporation shall be entitled to recover all**
295 **prudently incurred net metering costs using a tracking**
296 **mechanism. Under the tracking mechanism the electrical corporation's**
297 **net metering costs will be deferred on the electrical corporation's books**
298 **and accumulated in a regulatory asset. The balance in the regulatory**
299 **asset shall be included in the determination of the electrical**
300 **corporation's revenue requirement in the electrical corporation's next**
301 **general rate proceeding through an amortization over a period of three**
302 **years without any offset, reduction, or adjustment based upon**
303 **consideration of any other factor or otherwise, with the unamortized**
304 **balance to be included in the electrical corporation's rate base. The**
305 **electrical corporation may also transfer to the regulatory asset**
306 **provided for above any sums paid by the electrical corporation for**
307 **solar rebates that are included in a different regulatory asset that**

308 **existed on the effective date of this section. The commission shall**
309 **retain its authority to review the net metering costs for prudence in the**
310 **electrical corporation's next general rate proceeding.**

311 **13.** No consumer shall connect or operate an electric generation unit in
312 parallel phase and synchronization with any [retail electric supplier] **electrical**
313 **corporation** without written approval by said [supplier] **electrical**
314 **corporation** that all of the requirements under subdivision (1) of subsection 7
315 of this section have been met. For a consumer who violates this provision, [a
316 supplier] **an electrical corporation** may immediately and without notice
317 disconnect the electric facilities of said consumer and terminate said consumer's
318 electric service.

319 [16.] **14.** The manufacturer of any electric generation unit used by a
320 customer-generator may be held liable for any damages to property or person
321 caused by a defect in the electric generation unit of a customer-generator.

322 [17.] **15.** The seller, installer, or manufacturer of any electric generation
323 unit who knowingly misrepresents the safety aspects of an electric generation
324 unit may be held liable for any damages to property or person caused by the
325 electric generation unit of a customer-generator.

393.1030. 1. The commission shall, in consultation with the department,
2 prescribe by rule a portfolio requirement for all electric utilities to generate or
3 purchase electricity generated from renewable energy resources. Such portfolio
4 requirement shall provide that electricity from renewable energy resources shall
5 constitute the following portions of each electric utility's sales:

- 6 (1) No less than two percent for calendar years 2011 through 2013;
- 7 (2) No less than five percent for calendar years 2014 through 2017;
- 8 (3) No less than ten percent for calendar years 2018 through 2020; and
- 9 (4) No less than fifteen percent in each calendar year beginning in 2021.

10 At least two percent of each portfolio requirement shall be derived from solar
11 energy. The portfolio requirements shall apply to all power sold to Missouri
12 consumers whether such power is self-generated or purchased from another
13 source in or outside of this state. A utility may comply with the standard in
14 whole or in part by purchasing RECs. Each kilowatt-hour of eligible energy
15 generated in Missouri shall count as 1.25 kilowatt-hours for purposes of
16 compliance.

17 2. The commission, in consultation with the department and within one
18 year of November 4, 2008, shall select a program for tracking and verifying the

19 trading of renewable energy credits. An unused credit may exist for up to three
20 years from the date of its creation. A credit may be used only once to comply with
21 sections 393.1020 to 393.1030 and may not also be used to satisfy any similar
22 nonfederal requirement. An electric utility may not use a credit derived from a
23 green pricing program. Certificates from net-metered sources shall initially be
24 owned by the customer-generator. The commission, except where the department
25 is specified, shall make whatever rules are necessary to enforce the renewable
26 energy standard. Such rules shall include:

27 (1) A maximum average retail rate increase of one percent determined by
28 estimating and comparing the electric utility's cost of compliance with least-cost
29 renewable generation and the cost of continuing to generate or purchase
30 electricity from entirely nonrenewable sources, taking into proper account future
31 environmental regulatory risk including the risk of greenhouse gas
32 regulation. **Notwithstanding the foregoing, until June 30, 2018, if the**
33 **maximum average retail rate increase would be less than or equal to**
34 **one percent if an electric utility's investment in solar-related projects**
35 **initiated, owned or operated by the electric utility is ignored for**
36 **purposes of calculating the increase, then additional solar rebates shall**
37 **be paid and included in rates in an amount up to the amount that**
38 **would produce a retail rate increase equal to the difference between a**
39 **one percent retail rate increase and the retail rate increase calculated**
40 **when ignoring an electric utility's investment in solar-related projects**
41 **initiated, owned, or operated by the electric utility. Notwithstanding**
42 **anything to the contrary in this section, even if the payment of**
43 **additional solar rebates will produce a maximum average retail rate**
44 **increase of greater than one percent when an electric utility's**
45 **investment in solar-related projects initiated, owned or operated by the**
46 **electric utility are included in the calculation, the additional solar**
47 **rebate costs shall be included in the prudently incurred costs to be**
48 **recovered as contemplated by subdivision (4) of this subsection;**

49 (2) Penalties of at least twice the average market value of renewable
50 energy credits for the compliance period for failure to meet the targets of
51 subsection 1 of this section. An electric utility will be excused if it proves to
52 the commission that failure was due to events beyond its reasonable control that
53 could not have been reasonably mitigated, or that the maximum average retail
54 rate increase has been reached. Penalties shall not be recovered from

55 customers. Amounts forfeited under this section shall be remitted to the
56 department to purchase renewable energy credits needed for compliance. Any
57 excess forfeited revenues shall be used by the department's energy center solely
58 for renewable energy and energy efficiency projects;

59 (3) Provisions for an annual report to be filed by each electric utility in
60 a format sufficient to document its progress in meeting the targets;

61 (4) Provision for recovery outside the context of a regular rate case of
62 prudently incurred costs and the pass-through of benefits to customers of any
63 savings achieved by an electrical corporation in meeting the requirements of this
64 section.

65 **3. As provided for in this section, except for those electrical**
66 **corporations that qualify for an exemption under section 393.1050, each**
67 electric utility shall make available to its retail customers a [standard] solar
68 rebate [offer of at least two dollars per installed watt] for new or expanded solar
69 electric systems sited on customers' premises, up to a maximum of twenty-five
70 kilowatts per system, **measured in direct current** that [become operational
71 after 2009] **were confirmed by the electric utility to have become**
72 **operational in compliance with the provisions of section 386.890. The**
73 **solar rebates shall be two dollars per watt for systems becoming**
74 **operational on or before June 30, 2014; one dollar and fifty cents per**
75 **watt for systems becoming operational between July 1, 2014, and June**
76 **30, 2015; one dollar per watt for systems becoming operational between**
77 **July 1, 2015, and June 30, 2016; fifty cents per watt for systems**
78 **becoming operational between July 1, 2016, and June 30, 2017; fifty**
79 **cents per watt for systems becoming operational between July 1, 2017,**
80 **and June 30, 2018; and zero cents per watt for systems becoming**
81 **operational after June 30, 2018. An electric utility may, through its**
82 **tariffs, require applications for rebates to be submitted up to one**
83 **hundred eighty-two days prior to the June 30 operational date. If the**
84 **electric utility determines the maximum average retail rate increase**
85 **provided for in subdivision (1) of subsection 2 of this section will be**
86 **reached in any calendar year, the electric utility will be entitled to**
87 **cease paying rebates to the extent necessary to avoid exceeding the**
88 **maximum average retail rate increase if the electrical corporation files**
89 **with the commission to suspend its rebate tariff for the remainder of**
90 **that calendar year at least sixty days prior to the change taking**

91 **effect. The filing will include the calculation reflecting that the**
92 **maximum average retail rate increase will be reached and supporting**
93 **documentation. The commission shall rule on the suspension filing**
94 **within sixty days of the date it is filed and if the commission**
95 **determines that the maximum average retail rate increase will be**
96 **reached the commission will approve the tariff suspension. The electric**
97 **utility will continue to process and pay applicable solar rebates until**
98 **a final commission ruling, however, if the continued payment causes**
99 **the electric utility to pay rebates that cause it to exceed the maximum**
100 **average retail rate increase, the expenditures shall be considered**
101 **prudently incurred costs as contemplated by subdivision (4) of**
102 **subsection 2 of this section and shall be recoverable as such by the**
103 **electric utility. As a condition of receiving a rebate, customers shall**
104 **transfer to the electric utility all right, title, and interest in and to the**
105 **renewable energy credits associated with the new or expanded solar**
106 **electric system that qualified the customer for the solar rebate for a**
107 **period of ten years from the date the electric utility confirmed that the**
108 **solar electric system was installed and operational.**

109 4. The department shall, in consultation with the commission, establish
110 by rule a certification process for electricity generated from renewable resources
111 and used to fulfill the requirements of subsection 1 of this section. Certification
112 criteria for renewable energy generation shall be determined by factors that
113 include fuel type, technology, and the environmental impacts of the generating
114 facility. Renewable energy facilities shall not cause undue adverse air, water, or
115 land use impacts, including impacts associated with the gathering of generation
116 feedstocks. If any amount of fossil fuel is used with renewable energy resources,
117 only the portion of electrical output attributable to renewable energy resources
118 shall be used to fulfill the portfolio requirements.

119 5. In carrying out the provisions of this section, the commission and the
120 department shall include methane generated from the anaerobic digestion of farm
121 animal waste and thermal depolymerization or pyrolysis for converting waste
122 material to energy as renewable energy resources for purposes of this section.

123 **6. The commission shall have the authority to promulgate rules**
124 **for the implementation of this section, as amended, but only to the**
125 **extent such rules are consistent with, and do not delay the**
126 **implementation of, the provisions of this section, as amended. Any rule**

127 or portion of a rule, as that term is defined in section 536.010 that is
128 created under the authority delegated in this section shall become
129 effective only if it complies with and is subject to all of the provisions
130 of chapter 536, and, if applicable, section 536.028. This section and
131 chapter 536 are nonseverable and if any of the powers vested with the
132 general assembly pursuant to chapter 536 to review, to delay the
133 effective date, or to disapprove and annul a rule are subsequently held
134 unconstitutional, then the grant of rulemaking authority and any rule
135 proposed or adopted after August 28, 2013, shall be invalid and void.

394.320. 1. This section shall be known and may be cited as the
2 "Net Metering and Easy Connection Act".

3 2. As used in this section, the following terms shall mean:

4 (1) "Avoided fuel cost", the current average cost of fuel for the
5 entity generating electricity, as defined by the governing body with
6 jurisdiction over any municipal electric utility or rural electric
7 cooperative as provided in chapter 394;

8 (2) "Customer-generator", the owner or operator of a qualified
9 electric energy generation unit which:

10 (a) Is powered by a renewable energy resource;

11 (b) Has an electrical generating system with a capacity of not
12 more than one hundred kilowatts;

13 (c) Is located on a premises owned, operated, leased, or
14 otherwise controlled by the customer-generator;

15 (d) Is interconnected and operates in parallel phase and
16 synchronization with a retail electric supplier and has been approved
17 by said retail electric supplier;

18 (e) Is intended primarily to offset part or all of the
19 customer-generator's own electrical energy requirements;

20 (f) Meets all applicable safety, performance, interconnection, and
21 reliability standards established by the National Electrical Code, the
22 National Electrical Safety Code, the Institute of Electrical and
23 Electronics Engineers, Underwriters Laboratories, the Federal Energy
24 Regulatory Commission, and any local governing authorities; and

25 (g) Contains a mechanism that automatically disables the unit
26 and interrupts the flow of electricity back onto the supplier's
27 electricity lines in the event that service to the customer-generator is
28 interrupted;

29 (3) "Department", the department of natural resources;

30 (4) "Net metering", using metering equipment sufficient to
31 measure the difference between the electrical energy supplied to a
32 customer-generator by a retail electric supplier and the electrical
33 energy supplied by the customer-generator to the retail electric
34 supplier over the applicable billing period;

35 (5) "Renewable energy resources", electrical energy produced
36 from wind, solar thermal sources, hydroelectric sources, photovoltaic
37 cells and panels, fuel cells using hydrogen produced by one of the
38 above-named electrical energy sources, and other sources of energy
39 that become available after August 28, 2007, and are certified as
40 renewable by the department;

41 (6) "Retail electric supplier" or "supplier", any municipal utility
42 or rural electric cooperative under chapter 394 that provides retail
43 electric service in this state.

44 3. A retail electric supplier shall:

45 (1) Make net metering available to customer-generators on a
46 first-come, first-served basis until the total rated generating capacity
47 of net metering systems equals five percent of the utility's single-hour
48 peak load during the previous year, after which the governing body of
49 the supplier may increase the total rated generating capacity of net
50 metering systems to an amount above five percent. However, in a given
51 calendar year, no retail electric supplier shall be required to approve
52 any application for interconnection if the total rated generating
53 capacity of all applications for interconnection already approved to
54 date by said supplier in said calendar year equals or exceeds one
55 percent of said supplier's single-hour peak load for the previous
56 calendar year;

57 (2) Offer to the customer-generator a tariff or contract that is
58 identical in electrical energy rates, rate structure, and monthly charges
59 to the contract or tariff that the customer would be assigned if the
60 customer were not an eligible customer-generator but shall not charge
61 the customer-generator any additional standby, capacity,
62 interconnection, or other fee or charge that would not otherwise be
63 charged if the customer were not an eligible customer-generator; and

64 (3) Disclose annually the availability of the net metering
65 program to each of its customers with the method and manner of

66 disclosure being at the discretion of the supplier.

67 4. A customer-generator's facility shall be equipped with
68 sufficient metering equipment that can measure the net amount of
69 electrical energy produced or consumed by the customer-generator. If
70 the customer-generator's existing meter equipment does not meet these
71 requirements or if it is necessary for the electric supplier to install
72 additional distribution equipment to accommodate the
73 customer-generator's facility, the customer-generator shall reimburse
74 the retail electric supplier for the costs to purchase and install the
75 necessary additional equipment. At the request of the
76 customer-generator, such costs may be initially paid for by the retail
77 electric supplier, and any amount up to the total costs and a reasonable
78 interest charge may be recovered from the customer-generator over the
79 course of up to twelve billing cycles. Any subsequent meter testing,
80 maintenance or meter equipment change necessitated by the
81 customer-generator shall be paid for by the customer-generator.

82 5. Consistent with the provisions in this section, the net
83 electrical energy measurement shall be calculated in the following
84 manner:

85 (1) For a customer-generator, a retail electric supplier shall
86 measure the net electrical energy produced or consumed during the
87 billing period in accordance with normal metering practices for
88 customers in the same rate class, either by employing a single,
89 bidirectional meter that measures the amount of electrical energy
90 produced and consumed, or by employing multiple meters that
91 separately measure the customer-generator's consumption and
92 production of electricity;

93 (2) If the electricity supplied by the supplier exceeds the
94 electricity generated by the customer-generator during a billing period,
95 the customer-generator shall be billed for the net electricity supplied
96 by the supplier in accordance with normal practices for customers in
97 the same rate class;

98 (3) If the electricity generated by the customer-generator
99 exceeds the electricity supplied by the supplier during a billing period,
100 the customer-generator shall be billed for the appropriate customer
101 charges for that billing period in accordance with subsection 3 of this
102 section and shall be credited an amount at least equal to the avoided

103 fuel cost of the excess kilowatt-hours generated during the billing
104 period, with this credit applied to the following billing period;

105 (4) Any credits granted by this subsection shall expire without
106 any compensation at the earlier of either twelve months after their
107 issuance or when the customer-generator disconnects service or
108 terminates the net metering relationship with the supplier;

109 (5) Upon agreement of the wholesale generator supplying electric
110 energy to the retail electric supplier, at the option of the retail electric
111 supplier, the credit to the customer-generator may be provided by the
112 wholesale generator.

113 6. (1) Each qualified electric energy generation unit used by a
114 customer-generator shall meet all applicable safety, performance,
115 interconnection, and reliability standards established by any local code
116 authorities, the National Electrical Code, the National Electrical Safety
117 Code, the Institute of Electrical and Electronics Engineers, and
118 Underwriters Laboratories for distributed generation. No supplier
119 shall impose any fee, charge, or other requirement not specifically
120 authorized by this section unless the fee, charge, or other requirement
121 would apply to similarly situated customers who are not
122 customer-generators, except that a retail electric supplier may require
123 that a customer-generator's system contain a switch, circuit breaker,
124 fuse, or other easily accessible device or feature located in immediate
125 proximity to the customer-generator's metering equipment that would
126 allow a utility worker the ability to manually and instantly disconnect
127 the unit from the utility's electric distribution system;

128 (2) For systems of ten kilowatts or less, a customer-generator
129 whose system meets the standards and rules under subdivision (1) of
130 this subsection shall not be required to install additional controls,
131 perform or pay for additional tests or distribution equipment, or
132 purchase additional liability insurance beyond what is required under
133 subdivision (1) of this subsection and subsection 4 of this section;

134 (3) For customer-generator systems of greater than ten kilowatts,
135 the governing body of each respective retail electric supplier shall, by
136 rule or equivalent formal action:

137 (a) Set forth safety, performance, and reliability standards and
138 requirements; and

139 (b) Establish the qualifications for exemption from a

140 requirement to install additional controls, perform or pay for
141 additional tests or distribution equipment, or purchase additional
142 liability insurance.

143 7. (1) Applications by a customer-generator for interconnection
144 of a qualified electric energy generation unit meeting the requirements
145 of subdivision (3) of subsection 2 of this section to the distribution
146 system shall be accompanied by the plan for the customer-generator's
147 electrical generating system, including but not limited to a wiring
148 diagram and specifications for the generating unit, and shall be
149 reviewed and responded to by the retail electric supplier within thirty
150 days of receipt for systems ten kilowatts or less and within ninety days
151 of receipt for all other systems. Prior to the interconnection of the
152 qualified generation unit to the supplier's system, the
153 customer-generator will furnish the retail electric supplier a
154 certification from a qualified professional electrician or engineer that
155 the installation meets the requirements of subdivision (1) of subsection
156 6 of this section. If the application for interconnection is approved by
157 the retail electric supplier and the customer-generator does not
158 complete the interconnection within one year after receipt of notice of
159 the approval, the approval shall expire and the customer-generator
160 shall be responsible for filing a new application.

161 (2) Upon the change in ownership of a qualified electric energy
162 generation unit, the new customer-generator shall be responsible for
163 filing a new application under subdivision (1) of this subsection.

164 8. Each retail electric supplier shall submit an annual net
165 metering report to their respective governing body and make said
166 report available to any consumer of the supplier upon request,
167 including the following information for the previous calendar year:

168 (1) The total number of customer-generator facilities;

169 (2) The total estimated generating capacity of its net-metered
170 customer-generators; and

171 (3) The total estimated net kilowatt-hours received from
172 customer-generators.

173 9. The governing body of each respective retail electric supplier
174 shall, by September 1, 2008, adopt policies establishing a simple
175 contract to be used for interconnection and net metering. For systems
176 of ten kilowatts or less, the application process shall use an all-in-one

177 document that includes a simple interconnection request, simple
178 procedures, and a brief set of terms and conditions.

179 10. For any cause of action relating to any damages to property
180 or person caused by the generation unit of a customer-generator or the
181 interconnection thereof, the retail electric supplier shall have no
182 liability absent clear and convincing evidence of fault on the part of the
183 supplier.

184 11. The sale of qualified electric generation units to any
185 customer-generator shall be subject to the provisions of sections
186 407.700 to 407.720. The attorney general shall have the authority to
187 promulgate in accordance with the provisions of chapter 536 rules
188 regarding mandatory disclosures of information by sellers of qualified
189 electric generation units. Any interested person who believes that the
190 seller of any electric generation unit is misrepresenting the safety or
191 performance standards of any such systems, or who believes that any
192 electric generation unit poses a danger to any property or person, may
193 report the same to the attorney general, who shall be authorized to
194 investigate such claims and take any necessary and appropriate
195 actions.

196 12. No consumer shall connect or operate an electric generation
197 unit in parallel phase and synchronization with any retail electric
198 supplier without written approval by said supplier that all of the
199 requirements under subdivision (1) of subsection 7 of this section have
200 been met. For a consumer who violates this provision, a supplier may
201 immediately and without notice disconnect the electric facilities of said
202 consumer and terminate said consumer's electric service.

203 13. The manufacturer of any electric generation unit used by a
204 customer-generator may be held liable for any damages to property or
205 person caused by a defect in the electric generation unit of a
206 customer-generator.

207 14. The seller, installer, or manufacturer of any electric
208 generation unit who knowingly misrepresents the safety aspects of an
209 electric generation unit may be held liable for any damages to property
210 or person caused by the electric generation unit of a
211 customer-generator.