

FIRST REGULAR SESSION

# SENATE BILL NO. 396

97TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS HOLSMAN AND CHAPPELLE-NADAL.

Read 1st time February 27, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To repeal sections 386.890, 393.1030, and 393.1050, RSMo, and to enact in lieu thereof two new sections relating to renewable energy.

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

Section A. Sections 386.890, 393.1030, and 393.1050, RSMo, are repealed  
2 and two new sections enacted in lieu thereof, to be known as sections 386.890 and  
3 393.1030, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net  
2 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 entity  
5 generating electricity, as defined by the governing body with jurisdiction over any  
6 municipal electric utility, rural electric cooperative as provided in chapter 394,  
7 or electrical corporation as provided in this chapter] **for an electrical**  
8 **corporation, the weighted average nontime of use avoided costs,**  
9 **expressed in cents per kilowatt-hour, provided to the commission under**  
10 **4 CSR 240-3.155(4)(A) in effect for the calendar year at issue;**

11 (2) "Calculated kilowatt-hours of electricity", **the annual kilowatt-**  
12 **hours calculated using the default values in the United States**  
13 **Department of Energy's National Renewable Energy Laboratory's**  
14 **PVWatts calculator for the latitude and longitude where the electrical**  
15 **corporation's primary load center is located, or such successor**  
16 **calculator, if any, developed by the United States Department of**  
17 **Energy;**

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

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

19            [(3)] (4) "Customer-generator", the owner or [operator] lessee of a  
20 qualified electric energy generation unit which:

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

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

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

26            (d) Is interconnected and operates in parallel phase and synchronization  
27 with a retail electric supplier and has been approved by said retail electric  
28 supplier;

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

32            (f) Meets all applicable safety, performance, interconnection, and  
33 reliability standards established by the National Electrical Code, the National  
34 Electrical Safety Code, the Institute of Electrical and Electronics Engineers,  
35 Underwriters Laboratories, the Federal Energy Regulatory Commission, and any  
36 local governing authorities; and

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

40            [(4)] (5) "Department", the department of natural resources;

41            [(5)] (6) "**Foregone revenues**", a sum **determined by multiplying**  
42 **the actual kilowatt-hours, when metered, or the calculated kilowatt-**  
43 **hours of electricity, when not metered, produced by customer-**  
44 **generators within the electrical corporation's service territory for each**  
45 **of the electrical corporation's rate classes since the end of the last**  
46 **surcharge adjustment period or the effective date of new base rates**  
47 **established in a general rate proceeding, whichever occurred most**  
48 **recently, by the difference between the electrical corporation's**  
49 **applicable class average retail rate for each respective rate class and**  
50 **the electrical corporation's avoided costs for each respective rate class;**

51            (7) "Minimum bill", all charges on a customer's bill that are not  
52 calculated on a kilowatt-hour basis, such as a service charge, customer  
53 charge, meter charge, facilities charge, demand charge, billed demand  
54 charge, or any other charges billed to customers for services, including

55 **special facilities, late fees, taxes, etc.;**

56 **(8) "Net excess energy", the amount of energy, expressed in**  
57 **kilowatt-hours, delivered by a customer-generator to a retail electric**  
58 **supplier that exceeds the amount of energy delivered by the retail**  
59 **electric supplier to the customer-generator over a single billing period;**

60 **(9) "Net metering", using metering equipment sufficient to measure the**  
61 **difference between the electrical energy supplied to a customer-generator by a**  
62 **retail electric supplier and the electrical energy supplied by the**  
63 **customer-generator to the retail electric supplier over the applicable billing**  
64 **period;**

65 **[(6)] (10) "Net metering costs", shall include, but are not limited**  
66 **to, all costs incurred by the electrical corporation associated with this**  
67 **section including labor and associated benefits associated with**  
68 **administering net metering, the electrical corporation's foregone**  
69 **revenues and sums paid for solar rebates;**

70 **(11) "Renewable energy resources", electrical energy produced from wind,**  
71 **solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel**  
72 **cells using hydrogen produced by one of the above-named electrical energy**  
73 **sources, and other sources of energy that become available after August 28, 2007,**  
74 **and are certified as renewable by the department;**

75 **[(7)] (12) "Retail electric supplier" or "supplier", any municipal utility,**  
76 **electrical corporation regulated under this chapter, or rural electric cooperative**  
77 **under chapter 394 that provides retail electric service in this state.**

78 3. A retail electric supplier shall:

79 (1) Make net metering available to customer-generators on a first-come,  
80 first-served basis until the total rated generating capacity of net metering  
81 systems equals five percent of the [utility's] **supplier's** single-hour peak load  
82 during the previous year, after which the commission for [a public utility] **an**  
83 **electrical corporation regulated under this chapter** or the governing body  
84 for [other] **another retail electric [utilities] supplier** may increase the total  
85 rated generating capacity of net metering systems to an amount above five  
86 percent. However, in a given calendar year, no retail electric supplier shall be  
87 required to approve any application for interconnection if the total rated  
88 generating capacity of all applications for interconnection already approved to  
89 date by said supplier in said calendar year equals or exceeds one percent of said  
90 supplier's single-hour peak load for the previous calendar year;

91 (2) Offer to the customer-generator a tariff or contract that is identical in  
92 electrical energy rates, rate structure, and monthly charges to the contract or  
93 tariff that the customer would be assigned if the customer were not an eligible  
94 customer-generator[ but]. **An electrical corporation regulated under this**  
95 **chapter may charge a one hundred dollar application fee. A retail**  
96 **electric supplier** shall not charge the customer-generator any additional  
97 standby, capacity, interconnection, or other fee or charge that would not  
98 otherwise be charged if the customer were not an eligible customer-generator; and

99 (3) Disclose annually the availability of the net metering program to each  
100 of its customers with the method and manner of disclosure being at the discretion  
101 of the supplier.

102 4. A customer-generator's facility shall be equipped with sufficient  
103 metering equipment that can measure the net amount of electrical energy  
104 produced or consumed by the customer-generator. If the customer-generator's  
105 existing meter equipment does not meet these requirements or if it is necessary  
106 for the electric supplier to install additional distribution equipment to  
107 accommodate the customer-generator's facility, the customer-generator shall  
108 reimburse the retail electric supplier for the costs to purchase and install the  
109 necessary additional equipment. **For systems of ten kilowatts or less, this**  
110 **reimbursement shall be limited to the installed cost of the meter.** At the  
111 request of the customer-generator, such costs may be initially paid for by the  
112 retail electric supplier, and any amount up to the total costs and a reasonable  
113 interest charge may be recovered from the customer-generator over the course of  
114 up to twelve billing cycles. Any subsequent meter testing, maintenance or meter  
115 equipment change necessitated by the customer-generator shall be paid for by the  
116 customer-generator.

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

119 (1) For a customer-generator, a retail electric supplier shall measure the  
120 net electrical energy produced or consumed during the billing period in  
121 accordance with normal metering practices for customers in the same rate class,  
122 either by employing a single, bidirectional meter that measures the amount of  
123 electrical energy produced and consumed, or by employing multiple meters that  
124 separately measure the customer-generator's consumption and production of  
125 electricity;

126 (2) If the electricity supplied by the supplier exceeds the electricity

127 [generated by] **received from** the customer-generator during a billing period,  
128 the customer-generator shall be billed for the net electricity supplied by the  
129 supplier in accordance with normal practices for customers in the same rate class;

130 (3) If the electricity [generated by] **received from** the customer-generator  
131 exceeds the electricity supplied by the supplier during a billing period, the  
132 customer-generator shall be billed for the appropriate [customer charges]  
133 **minimum bill** for that billing period in accordance with subsection 3 of this  
134 section and [shall be credited an amount at least equal to the avoided fuel cost  
135 of the excess kilowatt-hours generated during the billing period, with this credit  
136 applied to the following billing period] **all net excess energy shall be carried**  
137 **forward from month-to-month and credited at a ratio of one-to-one**  
138 **against the customer-generator's energy consumption in subsequent**  
139 **months;**

140 (4) [Any credits granted by this subsection shall expire without any  
141 compensation at the earlier of either twelve months after their issuance or when  
142 the customer-generator disconnects service or terminates the net metering  
143 relationship with the supplier] **Net excess energy may be accumulated over**  
144 **multiple billing periods except any accumulated net excess energy**  
145 **remaining in a customer-generator's account shall expire, without**  
146 **compensation, as of the earlier of the end of the March billing period**  
147 **of a twelve month billing period or when the customer-generator**  
148 **discontinues service or terminates net metering;**

149 (5) For any rural electric cooperative under chapter 394, or municipal  
150 utility, upon agreement of the wholesale generator supplying electric energy to  
151 the retail electric supplier, at the option of the retail electric supplier, the credit  
152 to the customer-generator may be provided by the wholesale generator.

153 6. (1) Each qualified electric energy generation unit used by a  
154 customer-generator shall meet all applicable safety, performance, interconnection,  
155 and reliability standards established by any local code authorities, the National  
156 Electrical Code, the National Electrical Safety Code, the Institute of Electrical  
157 and Electronics Engineers, and Underwriters Laboratories for distributed  
158 generation. No supplier shall impose any fee, charge, or other requirement not  
159 specifically authorized by this section or [the], **for customer-generators**  
160 **served by an electrical corporation regulated under this chapter,**  
161 **authorized by** rules promulgated [under subsection 9 of this section] **by the**  
162 **commission** unless the fee, charge, or other requirement would apply to

163 similarly situated customers who are not customer-generators, except that a retail  
164 electric supplier may require that a customer-generator's system contain a switch,  
165 circuit breaker, fuse, or other easily accessible device or feature located in  
166 immediate proximity to the customer-generator's metering equipment that would  
167 allow a utility worker the ability to manually and instantly disconnect the unit  
168 from the [utility's] **supplier's** electric distribution system;

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

175 (3) For customer-generator systems of greater than ten kilowatts, the  
176 commission for [public utilities] **electrical corporations** and the governing  
177 body for other [utilities] **retail electric suppliers** shall, by rule or equivalent  
178 formal action by each respective governing body:

179 (a) Set forth safety, performance, and reliability standards and  
180 requirements; and

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

184 7. (1) Applications by a customer-generator for interconnection of a  
185 qualified electric energy generation unit meeting the requirements of subdivision  
186 (3) of subsection 2 of this section to the distribution system shall be accompanied  
187 by the plan for the customer-generator's electrical generating system, including  
188 but not limited to a wiring diagram and specifications for the generating unit,  
189 and shall be reviewed and responded to by the retail electric supplier within  
190 [thirty] **forty-five** days of receipt for systems [ten] **twenty-six** kilowatts or less  
191 and within ninety days of receipt for all other systems. Prior to the  
192 interconnection of the qualified generation unit to the supplier's system, the  
193 customer-generator will furnish the retail electric supplier a certification from a  
194 qualified professional electrician or engineer that the installation meets the  
195 requirements of subdivision (1) of subsection 6 of this section. If the application  
196 for interconnection is approved by the retail electric supplier and the  
197 customer-generator does not complete the interconnection within one year after  
198 receipt of notice of the approval, the approval shall expire [and the

199 customer-generator shall be responsible for filing a new application]. **For**  
200 **systems of ten kilowatts or less, the application process shall use an all-**  
201 **in-one document that includes a simple interconnection request, simple**  
202 **procedures, and a brief set of terms and conditions.**

203 (2) [Upon the change in ownership] **If the customer-generator** of a  
204 qualified electric energy generation unit **changes**, the new customer-generator  
205 shall be responsible for filing **with the supplier** a new application under  
206 subdivision (1) of this subsection. **If a new application is not timely filed,**  
207 **the supplier may terminate the net metering arrangement or disconnect**  
208 **the qualified electrical energy generation unit from the supplier's**  
209 **system.**

210 8. Each [commission-regulated supplier] **electrical corporation**  
211 **regulated under this chapter** shall submit an annual net metering report to  
212 the commission, and all other nonregulated suppliers shall submit the same  
213 report to their respective governing body and make said report available to [a]  
214 **any** consumer of the supplier upon request, including the following information  
215 for the previous calendar year:

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

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

219 (3) The total estimated net kilowatt-hours received from  
220 customer-generators.

221 9. [The commission shall, within nine months of January 1, 2008,  
222 promulgate initial rules necessary for the administration of this section for public  
223 utilities, which shall include regulations ensuring that simple contracts will be  
224 used for interconnection and net metering. For systems of ten kilowatts or less,  
225 the application process shall use an all-in-one document that includes a simple  
226 interconnection request, simple procedures, and a brief set of terms and  
227 conditions. Any rule or portion of a rule, as that term is defined in section  
228 536.010, that is created under the authority delegated in this section shall  
229 become effective only if it complies with and is subject to all of the provisions of  
230 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are  
231 nonseverable and if any of the powers vested with the general assembly under  
232 chapter 536 to review, to delay the effective date, or to disapprove and annul a  
233 rule are subsequently held unconstitutional, then the grant of rulemaking  
234 authority and any rule proposed or adopted after August 28, 2007, shall be

235 invalid and void.

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

242           11.] For any cause of action relating to any damages to property or person  
243 caused by the generation unit of a customer-generator or the interconnection  
244 thereof, the retail electric supplier shall have no liability absent clear and  
245 convincing evidence of fault on the part of the supplier.

246           [12.] **10.** The estimated generating capacity of all net metering systems  
247 operating under the provisions of this section shall count [towards] **toward** the  
248 respective retail electric supplier's [accomplishment] **satisfaction** of any  
249 renewable energy portfolio target or mandate adopted by the Missouri general  
250 assembly.

251           [13.] **11.** The sale of qualified electric generation units to any  
252 customer-generator shall be subject to the provisions of sections 407.700 to  
253 407.720. The attorney general shall have the authority to promulgate in  
254 accordance with the provisions of chapter 536 rules regarding mandatory  
255 disclosures of information by sellers of qualified electric generation units. Any  
256 [interested] person who believes that the seller of any electric generation unit is  
257 misrepresenting the safety or performance standards of [any] such [systems]  
258 **unit**, or who believes that any electric generation unit poses a danger to any  
259 property or person, may report the same to the attorney general, who shall be  
260 authorized to investigate such claims and take any necessary and appropriate  
261 actions.

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

264           15.] **12. An electrical corporation shall be entitled to recover all**  
265 **prudently incurred net metering costs using a tracking**  
266 **mechanism. Under the tracking mechanism the electrical corporation's**  
267 **net metering costs will be deferred on the electrical corporation's books**  
268 **and accumulated in a regulatory asset. The balance in the regulatory**  
269 **asset shall be included in the determination of the electrical**  
270 **corporation's revenue requirement in the electrical corporation's next**



271 **general rate proceeding through an amortization over a period of three**  
272 **years without any offset, reduction, or adjustment based upon**  
273 **consideration of any other factor or otherwise, with the unamortized**  
274 **balance to be included in the electrical corporation's rate base. The**  
275 **electrical corporation may also transfer to the regulatory asset**  
276 **provided for above any sums paid by the electrical corporation for**  
277 **solar rebates that are included in a different regulatory asset that**  
278 **existed on the effective date of this section. The commission shall**  
279 **retain its authority to review the net metering costs for prudence in the**  
280 **electrical corporation's next general rate proceeding.**

281       **13.** No consumer shall connect or operate an electric generation unit in  
282 parallel phase and synchronization with any retail electric supplier without  
283 written approval by said supplier that all of the requirements under subdivision  
284 (1) of subsection 7 of this section have been met. For a consumer who violates  
285 this provision, a supplier may immediately and without notice disconnect the  
286 electric facilities of said consumer and terminate said consumer's electric service.

287       **[16.** The manufacturer of any electric generation unit used by a  
288 customer-generator may be held liable for any damages to property or person  
289 caused by a defect in the electric generation unit of a customer-generator.

290       **17.** The seller, installer, or manufacturer of any electric generation unit  
291 who knowingly misrepresents the safety aspects of an electric generation unit  
292 may be held liable for any damages to property or person caused by the electric  
293 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. **For calendar years 2013 through 2017**, each electric utility shall  
66 make available to its retail customers a [standard] **solar** rebate [offer of at least  
67 two dollars per installed watt] for new or expanded solar electric systems sited  
68 on customers' premises, up to a maximum of twenty-five kilowatts per system,  
69 **measured in direct current** that [become operational after 2009] **were**  
70 **confirmed by the electric utility to have become operational in**  
71 **compliance with the provisions of section 386.890**. The solar rebates  
72 **shall be two dollars per watt for systems becoming operational on or**  
73 **before June 30, 2014; one dollar and fifty cents per watt for systems**  
74 **becoming operational between July 1, 2014, and June 30, 2015; one**  
75 **dollar per watt for systems becoming operational between July 1, 2015,**  
76 **and June 30, 2016; fifty cents per watt for systems becoming**  
77 **operational between July 1, 2016, and June 30, 2017; fifty cents per watt**  
78 **for systems becoming operational between July 1, 2017, and June 30,**  
79 **2018; and zero cents per watt for systems becoming operational after**  
80 **June 30, 2018**. If the electric utility determines the maximum average  
81 retail rate increase provided for in subdivision (1) of subsection 2 of  
82 this section will be reached in any calendar year, the electric utility  
83 will be entitled to cease paying rebates to the extent necessary to avoid  
84 exceeding the maximum average retail rate increase if the electrical  
85 corporation files with the commission to suspend its rebate tariff for

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

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

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

119 6. The commission shall have the authority to promulgate rules  
120 for the implementation of this section, as amended, but only to the  
121 extent such rules are consistent with, and do not delay the

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

[393.1050. Notwithstanding any other provision of law, any  
2 electrical corporation as defined by subdivision 15 of section  
3 386.020 which, by January 20, 2009, achieves an amount of eligible  
4 renewable energy technology nameplate capacity equal to or  
5 greater than fifteen percent of such corporation's total owned  
6 fossil-fired generating capacity, shall be exempt thereafter from a  
7 requirement to pay any installation subsidy, fee, or rebate to its  
8 customers that install their own solar electric energy system and  
9 shall be exempt from meeting any mandated solar renewable  
10 energy standard requirements. Any disputes or denial of  
11 exemptions under this section may be reviewable by the circuit  
12 court of Cole County as prescribed by law.]

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