

SECOND REGULAR SESSION

SENATE BILL NO. 1065

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR O'LAUGHLIN.

Read 1st time February 27, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5688S.011

AN ACT

To repeal section 386.890, RSMo, and to enact in lieu thereof one new section relating to net metering.

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

Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows:

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

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

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

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

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

(a) Is powered by a renewable energy resource;

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

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

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

(e) Is intended [primarily to offset part or all] **and designed not to**

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

20 **exceed one hundred percent** of the customer-generator's own electrical energy
21 requirements;

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

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

30 (4) "Department", the department of [economic development] **natural**
31 **resources**;

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

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

42 (7) "Retail electric supplier" or "supplier", any [municipal] **municipally**
43 **owned electric utility operating under chapter 91**, electrical corporation
44 regulated **by the commission** under this chapter, or rural electric cooperative
45 **operating** under chapter 394 that provides retail electric service in this state. **An**
46 **electrical corporation that operates under a cooperative business plan**
47 **as described in subsection 2 of section 393.110 shall be deemed to be a**
48 **rural electric cooperative for purposes of this section.**

49 3. A retail electric supplier shall:

50 (1) Make net metering available to customer-generators on a first-come,
51 first-served basis until the total rated generating capacity of net metering
52 systems equals five percent of the [utility's] **retail electric supplier's**
53 single-hour peak load during the previous year, after which the commission for
54 [a public utility] **an electrical corporation** or the **respective** governing body
55 [for] **of other [electric utilities] retail electric suppliers** may increase the total

56 rated generating capacity of net metering systems to an amount above five
57 percent. However, in a given calendar year, no retail electric supplier shall be
58 required to approve any application for interconnection if the total rated
59 generating capacity of all applications for interconnection already approved to
60 date by said supplier in said calendar year equals or exceeds one percent of said
61 supplier's single-hour peak load for the previous calendar year;

62 (2) Offer **net metering** to the customer-generator **pursuant to a**
63 **commission-approved tariff of an electrical corporation**, or contract
64 **approved by the respective governing body of a rural electric**
65 **cooperative or a municipally owned electric utility, at rates that [is] are**
66 identical in electrical energy rates, rate structure, and monthly charges to the
67 contract or tariff that the customer would be assigned if the customer were not
68 an eligible customer-generator [but shall not charge the customer-generator any
69 additional standby, capacity, interconnection, or other fee or charge that would
70 not otherwise be charged if the customer were not an eligible
71 customer-generator], **or in the alternative, with energy and demand rates,**
72 **rate structure, and recurring monthly charges that are reasonably**
73 **calculated to prevent unfair subsidization by recovering that portion**
74 **of the retail electric supplier's fixed and demand costs attributable to**
75 **connecting the eligible customer-generator's eligible electric energy**
76 **generating unit to the retail electric supplier's distribution system; and**

77 (3) Disclose annually the availability of the net metering program to each
78 of its customers **or members** with the method and manner of disclosure being
79 at the discretion of the **retail electric** supplier.

80 4. A customer-generator's facility shall be equipped with sufficient
81 metering equipment that can measure the net amount of electrical energy
82 produced or consumed by the customer-generator. If the customer-generator's
83 existing meter equipment does not meet these requirements or if it is necessary
84 for the **retail** electric supplier to install additional distribution equipment to
85 accommodate the customer-generator's facility, the customer-generator shall
86 reimburse the retail electric supplier for the costs to purchase and install the
87 necessary additional equipment, **including necessary electric distribution**
88 **system upgrades**. At the request of the customer-generator, such costs may be
89 initially paid for by the retail electric supplier, and any amount up to the total
90 costs and a reasonable interest charge may be recovered from the
91 customer-generator over the course of up to twelve billing cycles. Any subsequent

92 meter testing, maintenance or meter equipment change necessitated by the
93 customer-generator shall be paid for by the customer-generator.

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

96 (1) For a customer-generator, a retail electric supplier shall measure the
97 net electrical energy produced or consumed during the billing period in
98 accordance with normal metering practices for customers in the same rate class,
99 either by employing a single, bidirectional meter that measures the amount of
100 electrical energy produced and consumed, or by employing multiple meters that
101 separately measure the customer-generator's consumption and production of
102 electricity;

103 (2) If the electricity supplied by the supplier exceeds the electricity
104 generated by the customer-generator during a billing period, the
105 customer-generator shall be billed for the net electricity supplied by the supplier
106 in accordance with normal practices for customers in the same rate class;

107 (3) If the electricity generated by the customer-generator exceeds the
108 electricity supplied by the supplier during a billing period, the
109 customer-generator shall be billed for the appropriate customer **and demand**
110 charges for that billing period in accordance with subsection 3 of this section and
111 shall be credited an amount at least equal to the avoided fuel cost of the excess
112 kilowatt-hours generated during the billing period, with this credit applied to the
113 following billing period;

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

118 (5) For any rural electric cooperative under chapter 394, or [municipal]
119 **any municipally owned electric** utility, upon agreement of the wholesale
120 generator supplying electric energy to the retail electric supplier, at the option
121 of the retail electric supplier, the credit to the customer-generator may be
122 provided by the wholesale generator.

123 6. (1) Each qualified electric energy generation unit used by a
124 customer-generator shall meet **and be installed, maintained, and repaired**
125 **consistent with** all applicable safety, performance, interconnection, and
126 reliability standards established by any local code authorities, the National
127 Electrical Code, the National Electrical Safety Code, the Institute of Electrical

128 and Electronics Engineers, and Underwriters Laboratories for distributed
129 generation. **All qualified electric energy generation units utilizing**
130 **battery backup shall be installed to operate completely isolated from**
131 **the retail electric supplier's system, including all neutral connections**
132 **and grounding points, during times of backup operation. Unless**
133 **allowed under subdivision (2) of subsection 3 of this section,** no supplier
134 shall impose any fee, charge, or other requirement not specifically authorized by
135 this section or the rules promulgated under subsection 9 of this section unless the
136 fee, charge, or other requirement would apply to similarly situated customers who
137 are not customer-generators, except that a retail electric supplier may require
138 that a customer-generator's system contain **adequate surge protection and**
139 a switch, circuit breaker, fuse, or other easily accessible device or feature located
140 in immediate proximity to the customer-generator's metering equipment that
141 would allow a utility worker **and emergency response personnel** the ability
142 to manually and instantly disconnect the unit from the utility's electric
143 distribution system.

144 (2) For systems of ten kilowatts or less, a customer-generator whose
145 system meets the standards and rules under subdivision (1) of this subsection
146 shall not be required to install additional controls, perform or pay for additional
147 tests or distribution equipment, or purchase additional liability insurance beyond
148 what is required under subdivision (1) of this subsection and subsection 4 of this
149 section.

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

154 (a) Set forth safety, performance, and reliability standards and
155 requirements; and

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

159 7. (1) Applications by a customer-generator for interconnection of a
160 qualified electric energy generation unit meeting the requirements of subdivision
161 (3) of subsection 2 of this section to the distribution system shall be accompanied
162 by the plan for the customer-generator's electrical generating system, including
163 but not limited to a wiring diagram and specifications for the generating unit,

164 and shall be reviewed and responded to by the retail electric supplier, **unless**
165 **mutually agreed to**, within thirty days of receipt for systems ten kilowatts or
166 less and within ninety days of receipt for all other systems. Prior to the
167 interconnection of the qualified generation unit to the supplier's system, the
168 customer-generator will furnish the retail electric supplier a certification from a
169 [qualified] professional electrician or engineer **deemed qualified by the retail**
170 **electric supplier** that the installation meets the requirements of subdivision (1)
171 of subsection 6 of this section. **In the event the professional electrician or**
172 **engineer is not licensed, the retail electric supplier may require a bond**
173 **or other form of surety to insure the safe installation and operation of**
174 **the qualified electric energy generation unit.** If the application for
175 interconnection is approved by the retail electric supplier and the
176 customer-generator does not complete the interconnection within one year after
177 receipt of notice of the approval, the approval shall expire and the
178 customer-generator shall be responsible for filing a new application.

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

182 8. Each [commission-regulated supplier] **electrical corporation** shall
183 submit an annual net metering report to the commission, and all other
184 [nonregulated] **retail electric** suppliers shall submit the same report to their
185 respective governing body and make said report available to a consumer of the
186 supplier upon request, including the following information for the previous
187 calendar year:

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

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

191 (3) The total estimated net kilowatt-hours received from
192 customer-generators.

193 9. The commission shall, within nine months of January 1, 2008,
194 promulgate initial rules necessary for the administration of this section for
195 [public utilities] **electrical corporations**, which shall include regulations
196 ensuring that simple contracts will be used for interconnection and net
197 metering. For systems of ten kilowatts or less, the application process shall use
198 an all-in-one document that includes a simple interconnection request, simple
199 procedures, and a brief set of terms and conditions. Any rule or portion of a rule,

200 as that term is defined in section 536.010, that is created under the authority
201 delegated in this section shall become effective only if it complies with and is
202 subject to all of the provisions of chapter 536 and, if applicable, section
203 536.028. This section and chapter 536 are nonseverable and if any of the powers
204 vested with the general assembly under chapter 536 to review, to delay the
205 effective date, or to disapprove and annul a rule are subsequently held
206 unconstitutional, then the grant of rulemaking authority and any rule proposed
207 or adopted after August 28, 2007, shall be invalid and void.

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

214 11. For any cause of action relating to any damages to property or person
215 caused by the **qualified electric energy** generation unit of a
216 customer-generator or the interconnection thereof, the retail electric supplier
217 shall have no liability absent clear and convincing evidence of fault on the part
218 of the supplier.

219 12. The estimated generating capacity of all net metering systems
220 operating under the provisions of this section shall count towards the respective
221 retail electric supplier's accomplishment of any renewable energy portfolio target
222 or mandate adopted by the Missouri general assembly **and for purposes of**
223 **compliance with any applicable federal law.**

224 13. The sale of qualified electric **energy** generation units to any
225 customer-generator shall be subject to the provisions of [sections 407.700 to
226 407.720] **chapter 407**. The attorney general shall have the authority to
227 promulgate in accordance with the provisions of chapter 536 rules regarding
228 mandatory disclosures of information by sellers of qualified electric **energy**
229 generation units. Any interested person who believes that the seller of any
230 **qualified electric energy** generation unit is misrepresenting the **cost savings,**
231 **investment payback period,** safety or performance standards of any such
232 systems, or who believes that any electric **energy** generation unit poses a danger
233 to any property or person, may report the same to the attorney general, who shall
234 be authorized to investigate such claims and take any necessary and appropriate
235 actions. **All cost savings or investment payback period calculations**

236 **made by sellers of qualified electric generation units shall be based**
237 **upon the then-existing electric service rates and avoided cost of the**
238 **potential or existing customer-generator's retail electric supplier, and**
239 **if projections for future rate increases are included in the calculation,**
240 **such projections shall be based on that retail electric supplier's then-**
241 **existing rates and the actual percentage increase in rates averaged**
242 **over the previous ten-year period. Misrepresentation of a retail**
243 **electric supplier's current or projected rates shall constitute an**
244 **unlawful practice under section 407.020 and the violator shall be**
245 **subject to all penalties, remedies, and procedures provided in sections**
246 **407.010 to 407.130, with such remedies being cumulative. Any person**
247 **who suffers a loss or harm as a result of such unlawful practice may**
248 **recover actual and punitive damages, reasonable attorney's fees, court**
249 **costs, and any other remedies provided by law.**

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

252 15. No consumer shall connect or operate [an] a **qualified** electric
253 **energy** generation unit in parallel phase and synchronization with any retail
254 electric supplier without written approval by said supplier that all of the
255 requirements under subdivision (1) of subsection 7 of this section have been
256 met. For a consumer who violates this provision, a supplier may immediately and
257 without notice disconnect the electric facilities of said consumer and terminate
258 said consumer's electric service.

259 16. The manufacturer of any **qualified** electric **energy** generation unit
260 used by a customer-generator may be held liable for any damages to property or
261 person caused by a defect in the **qualified** electric **energy** generation unit of a
262 customer-generator.

263 17. The seller, installer, or manufacturer of any **qualified** electric
264 **energy** generation unit who knowingly misrepresents the safety aspects of an
265 electric **energy** generation unit may be held liable **and may recover actual**
266 **and punitive damages, reasonable attorney's fees, court costs, and seek**
267 **any other remedies provided by law** for any damages to property or person
268 caused by the **qualified** electric **energy** generation unit of a customer-generator.