

SENATE BILL NO. 178

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

1135S.01H

ADRIANE D. CROUSE, Secretary

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Section A. Section 386.890, RSMo, is repealed and one new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

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

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

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

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

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

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

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

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

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

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

23 (e) Is intended [primarily to offset part or all] **and**
24 **designed not to exceed one hundred percent** of the customer-
25 generator's own electrical energy requirements;

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

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

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

38 (5) "Net metering", using metering equipment
39 sufficient to measure the difference between the electrical
40 energy supplied to a customer-generator by a retail electric
41 supplier and the electrical energy supplied by the customer-
42 generator to the retail electric supplier over the
43 applicable billing period;

44 (6) "Renewable energy resources", electrical energy
45 produced from wind, solar thermal sources, hydroelectric
46 sources, photovoltaic cells and panels, fuel cells using
47 hydrogen produced by one of the above-named electrical
48 energy sources, and other sources of energy that become

49 available after August 28, 2007, and are certified as
50 renewable by the department;

51 (7) "Retail electric supplier" or "supplier", any
52 [municipal] **municipally owned electric utility operating**
53 **under chapter 91**, electrical corporation regulated **by the**
54 **commission** under this chapter, or rural electric cooperative
55 **operating** under chapter 394 that provides retail electric
56 service in this state. **An electrical corporation that**
57 **operates under a cooperative business plan as described in**
58 **subsection 2 of section 393.110 shall be deemed to be a**
59 **rural electric cooperative for purposes of this section.**

60 3. A retail electric supplier shall:

61 (1) Make net metering available to customer-generators
62 on a first-come, first-served basis until the total rated
63 generating capacity of net metering systems equals five
64 percent of the [utility's] **retail electric supplier's** single-
65 hour peak load during the previous year, after which the
66 commission for [a public utility] **an electrical corporation**
67 or the **respective** governing body [for] **of** other [electric
68 utilities] **retail electric suppliers** may increase the total
69 rated generating capacity of net metering systems to an
70 amount above five percent. However, in a given calendar
71 year, no retail electric supplier shall be required to
72 approve any application for interconnection if the total
73 rated generating capacity of all applications for
74 interconnection already approved to date by said supplier in
75 said calendar year equals or exceeds one percent of said
76 supplier's single-hour peak load for the previous calendar
77 year;

78 (2) Offer **net metering** to the customer-generator
79 **pursuant to a commission-approved tariff of an electrical**
80 **corporation, or contract approved by the respective**

81 **governing body of a rural electric cooperative or a**
82 **municipally owned electric utility, at rates** that [is] are
83 identical in electrical energy rates, rate structure, and
84 monthly charges to the contract or tariff that the customer
85 would be assigned if the customer were not an eligible
86 customer-generator [but shall not charge the customer-
87 generator any additional standby, capacity, interconnection,
88 or other fee or charge that would not otherwise be charged
89 if the customer were not an eligible customer-generator], **or**
90 **in the alternative, with energy and demand rates, rate**
91 **structure, and recurring monthly charges that are reasonably**
92 **calculated to prevent unfair subsidization by recovering**
93 **that portion of the retail electric supplier's fixed and**
94 **demand costs attributable to connecting the eligible**
95 **customer-generator's eligible electric energy generating**
96 **unit to the retail electric supplier's distribution system;**
97 and

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

102 4. A customer-generator's facility shall be equipped
103 with sufficient metering equipment that can measure the net
104 amount of electrical energy produced or consumed by the
105 customer-generator. If the customer-generator's existing
106 meter equipment does not meet these requirements or if it is
107 necessary for the **retail** electric supplier to install
108 additional distribution equipment to accommodate the
109 customer-generator's facility, the customer-generator shall
110 reimburse the retail electric supplier for the costs to
111 purchase and install the necessary additional equipment,
112 **including necessary electric distribution system upgrades.**

113 At the request of the customer-generator, such costs may be
114 initially paid for by the retail electric supplier, and any
115 amount up to the total costs and a reasonable interest
116 charge may be recovered from the customer-generator over the
117 course of up to twelve billing cycles. Any subsequent meter
118 testing, maintenance or meter equipment change necessitated
119 by the customer-generator shall be paid for by the customer-
120 generator.

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

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

133 (2) If the electricity supplied by the supplier
134 exceeds the electricity generated by the customer-generator
135 during a billing period, the customer-generator shall be
136 billed for the net electricity supplied by the supplier in
137 accordance with normal practices for customers in the same
138 rate class;

139 (3) If the electricity generated by the customer-
140 generator exceeds the electricity supplied by the supplier
141 during a billing period, the customer-generator shall be
142 billed for the appropriate customer **and demand** charges for
143 that billing period in accordance with subsection 3 of this
144 section and shall be credited an amount at least equal to

145 the avoided fuel cost of the excess kilowatt-hours generated
146 during the billing period, with this credit applied to the
147 following billing period;

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

153 (5) For any rural electric cooperative under chapter
154 394, or [municipal] **any municipally owned electric** utility,
155 upon agreement of the wholesale generator supplying electric
156 energy to the retail electric supplier, at the option of the
157 retail electric supplier, the credit to the customer-
158 generator may be provided by the wholesale generator.

159 6. (1) Each qualified electric energy generation unit
160 used by a customer-generator shall meet **and be installed,**
161 **maintained, and repaired consistent with** all applicable
162 safety, performance, interconnection, and reliability
163 standards established by any local code authorities, the
164 National Electrical Code, the National Electrical Safety
165 Code, the Institute of Electrical and Electronics Engineers,
166 and Underwriters Laboratories for distributed generation.
167 **All qualified electric energy generation units utilizing**
168 **battery backup shall be installed to operate completely**
169 **isolated from the retail electric supplier's system,**
170 **including all neutral connections and grounding points,**
171 **during times of backup operation. Unless allowed under**
172 **subdivision (2) of subsection 3 of this section,** no supplier
173 shall impose any fee, charge, or other requirement not
174 specifically authorized by this section or the rules
175 promulgated under subsection 9 of this section unless the
176 fee, charge, or other requirement would apply to similarly

177 situated customers who are not customer-generators, except
178 that a retail electric supplier may require that a customer-
179 generator's system contain **adequate surge protection and** a
180 switch, circuit breaker, fuse, or other easily accessible
181 device or feature located in immediate proximity to the
182 customer-generator's metering equipment that would allow a
183 utility worker **and emergency response personnel** the ability
184 to manually and instantly disconnect the unit from the
185 utility's electric distribution system.

186 (2) For systems of ten kilowatts or less, a customer-
187 generator whose system meets the standards and rules under
188 subdivision (1) of this subsection shall not be required to
189 install additional controls, perform or pay for additional
190 tests or distribution equipment, or purchase additional
191 liability insurance beyond what is required under
192 subdivision (1) of this subsection and subsection 4 of this
193 section.

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

199 (a) Set forth safety, performance, and reliability
200 standards and requirements; and

201 (b) Establish the qualifications for exemption from a
202 requirement to install additional controls, perform or pay
203 for additional tests or distribution equipment, or purchase
204 additional liability insurance.

205 7. (1) Applications by a customer-generator for
206 interconnection of a qualified electric energy generation
207 unit meeting the requirements of subdivision (3) of
208 subsection 2 of this section to the distribution system

209 shall be accompanied by the plan for the customer-
210 generator's electrical generating system, including but not
211 limited to a wiring diagram and specifications for the
212 generating unit, and shall be reviewed and responded to by
213 the retail electric supplier, **unless mutually agreed to,**
214 within thirty days of receipt for systems ten kilowatts or
215 less and within ninety days of receipt for all other
216 systems. Prior to the interconnection of the qualified
217 generation unit to the supplier's system, the customer-
218 generator will furnish the retail electric supplier a
219 certification from a [qualified] professional electrician or
220 engineer **deemed qualified by the retail electric supplier**
221 that the installation meets the requirements of subdivision
222 (1) of subsection 6 of this section. **In the event the**
223 **professional electrician or engineer is not licensed, the**
224 **retail electric supplier may require a bond or other form of**
225 **surety to insure the safe installation and operation of the**
226 **qualified electric energy generation unit.** If the
227 application for interconnection is approved by the retail
228 electric supplier and the customer-generator does not
229 complete the interconnection within one year after receipt
230 of notice of the approval, the approval shall expire and the
231 customer-generator shall be responsible for filing a new
232 application.

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

237 8. Each [commission-regulated supplier] **electrical**
238 **corporation** shall submit an annual net metering report to
239 the commission, and all other [nonregulated] **retail electric**
240 suppliers shall submit the same report to their respective

241 governing body and make said report available to a consumer
242 of the supplier upon request, including the following
243 information for the previous calendar year:

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

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

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

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

270 10. The governing body of a rural electric cooperative
271 or municipal utility shall, within nine months of January 1,
272 2008, adopt policies establishing a simple contract to be

273 used for interconnection and net metering. For systems of
274 ten kilowatts or less, the application process shall use an
275 all-in-one document that includes a simple interconnection
276 request, simple procedures, and a brief set of terms and
277 conditions.

278 11. For any cause of action relating to any damages to
279 property or person caused by the **qualified electric energy**
280 generation unit of a customer-generator or the
281 interconnection thereof, the retail electric supplier shall
282 have no liability absent clear and convincing evidence of
283 fault on the part of the supplier.

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

291 13. The sale of qualified electric **energy** generation
292 units to any customer-generator shall be subject to the
293 provisions of [sections 407.700 to 407.720] **chapter 407.**
294 The attorney general shall have the authority to promulgate
295 in accordance with the provisions of chapter 536 rules
296 regarding mandatory disclosures of information by sellers of
297 qualified electric **energy** generation units. Any interested
298 person who believes that the seller of any **qualified**
299 electric **energy** generation unit is misrepresenting the **cost**
300 **savings, investment payback period,** safety or performance
301 standards of any such systems, or who believes that any
302 electric **energy** generation unit poses a danger to any
303 property or person, may report the same to the attorney
304 general, who shall be authorized to investigate such claims

305 and take any necessary and appropriate actions. **All cost**
306 **savings or investment payback period calculations made by**
307 **sellers of qualified electric generation units shall be**
308 **based upon the then-existing electric service rates and**
309 **avoided cost of the potential or existing customer-**
310 **generator's retail electric supplier, and if projections for**
311 **future rate increases are included in the calculation, such**
312 **projections shall be based on that retail electric**
313 **supplier's then-existing rates and the actual percentage**
314 **increase in rates averaged over the previous ten-year**
315 **period. Misrepresentation of a retail electric supplier's**
316 **current or projected rates shall constitute an unlawful**
317 **practice under section 407.020 and the violator shall be**
318 **subject to all penalties, remedies, and procedures provided**
319 **in sections 407.010 to 407.130, with such remedies being**
320 **cumulative. Any person who suffers a loss or harm as a**
321 **result of such unlawful practice may recover actual and**
322 **punitive damages, reasonable attorney's fees, court costs,**
323 **and any other remedies provided by law.**

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

327 15. No consumer shall connect or operate [an] a
328 **qualified** electric **energy** generation unit in parallel phase
329 and synchronization with any retail electric supplier
330 without written approval by said supplier that all of the
331 requirements under subdivision (1) of subsection 7 of this
332 section have been met. For a consumer who violates this
333 provision, a supplier may immediately and without notice
334 disconnect the electric facilities of said consumer and
335 terminate said consumer's electric service.

336 16. The manufacturer of any **qualified** electric **energy**
337 generation unit used by a customer-generator may be held
338 liable for any damages to property or person caused by a
339 defect in the **qualified** electric **energy** generation unit of a
340 customer-generator.

341 17. The seller, installer, or manufacturer of any
342 **qualified** electric **energy** generation unit who knowingly
343 misrepresents the safety aspects of an electric **energy**
344 generation unit may be held liable **and may recover actual**
345 **and punitive damages, reasonable attorney's fees, court**
346 **costs, and seek any other remedies provided by law** for any
347 damages to property or person caused by the **qualified**
348 electric **energy** generation unit of a customer-generator.

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