

SENATE BILL NO. 763

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

4287S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 386.890, RSMo, and to enact in lieu thereof two new sections 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Section A. Section 386.890, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 386.885 and 386.890, to read as follows:

386.885. 1. There is hereby established the "Task Force on Distributed Energy Resources and Net Metering", which shall be composed of the following members:

(1) Three members of the senate, with two appointed by the president pro tempore of the senate and one appointed by the minority floor leader of the senate;

(2) Three members of the house of representatives, with two appointed by the speaker of the house of representatives and one appointed by the minority floor leader of the house of representatives;

(3) The director of the division of energy, or his or her designee, to serve as a member and to provide technical assistance to the task force;

(4) The chairman of the public service commission, or his or her designee, to serve as a member and to provide technical assistance;

(5) A representative from each of the three segments of the retail electric energy industry appointed by the

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

19 president pro tempore of the senate from the respective
20 nominees submitted by the statewide associations of the
21 investor-owned electric utilities, rural electric
22 cooperatives, and municipally-owned electric utilities;

23 (6) Two representatives of the retail distributed
24 energy resources industry appointed by the chairman of the
25 public service commission; and

26 (7) One representative each of retail residential and
27 commercial electric consumers appointed by the president pro
28 tempore of the senate.

29 2. The task force shall conduct public hearings and
30 research, and shall compile a report for delivery to the
31 general assembly by no later than December 31, 2022. Such
32 report shall include information on the following:

33 (1) A distributed energy resources study, which shall
34 include a value of solar study along with the practical and
35 economic benefits, challenges, and drawbacks of increased
36 distributed energy generation in the state;

37 (2) The fair and equitable setting of rates between
38 distributed generation and non-distributed generation
39 consumers; and

40 (3) Potential legislation, including but not limited
41 to changes to the Net Metering and Easy Connection Act, if
42 any, that would promote the overall public interest.

43 3. The task force shall meet within thirty days after
44 its creation and shall organize by selecting a chairperson
45 and vice chairperson, one of whom shall be a member of the
46 senate and the other a member of the house of
47 representatives. Thereafter, the task force may meet as
48 often as necessary in order to accomplish the tasks assigned
49 to it. A majority of the task force shall constitute a

50 quorum, and a majority vote of such quorum shall be required
51 for any action.

52 4. The staff of house research and senate research
53 shall provide necessary clerical, research, fiscal, and
54 legal services to the task force, as the task force may
55 request.

56 5. The division of energy shall oversee the
57 distributed energy resources study to be selected and
58 conducted by an independent and objective expert with input
59 from the members of the task force. The cost of such study
60 shall be paid for through funds available from federal and
61 state grants applied for by the division of energy. The
62 division of energy shall establish procedures for the
63 submission and non-public disclosure of confidential and
64 propriety information.

65 6. The members of the task force shall serve without
66 compensation, but any actual and necessary expenses incurred
67 in the performance of the task force's official duties by
68 the task force, its members, and any staff assigned to the
69 task force shall be paid from the joint contingent fund.

70 7. This section shall expire on December 31, 2022.

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;

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 to the customer-generator a tariff or
79 contract that is identical in electrical energy rates, rate
80 structure, and monthly charges to the contract or tariff
81 that the customer would be assigned if the customer were not
82 an eligible customer-generator but shall not charge the
83 customer-generator any additional standby, capacity,
84 interconnection, or other fee or charge that would not
85 otherwise be charged if the customer were not an eligible
86 customer-generator; and

87 (3) Disclose annually the availability of the net
88 metering program to each of its customers with the method
89 and manner of disclosure being at the discretion of the
90 supplier.

91 4. A customer-generator's facility shall be equipped
92 with sufficient metering equipment that can measure the net
93 amount of electrical energy produced or consumed by the
94 customer-generator. If the customer-generator's existing
95 meter equipment does not meet these requirements or if it is
96 necessary for the **retail** electric supplier to install
97 additional distribution equipment to accommodate the
98 customer-generator's facility, the customer-generator shall
99 reimburse the retail electric supplier for the costs to
100 purchase and install the necessary additional equipment. At
101 the request of the customer-generator, such costs may be
102 initially paid for by the retail electric supplier, and any
103 amount up to the total costs and a reasonable interest
104 charge may be recovered from the customer-generator over the
105 course of up to twelve billing cycles. Any subsequent meter

106 testing, maintenance or meter equipment change necessitated
107 by the customer-generator shall be paid for by the customer-
108 generator.

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

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

121 (2) If the electricity supplied by the supplier
122 exceeds the electricity generated by the customer-generator
123 during a billing period, the customer-generator shall be
124 billed for the net electricity supplied by the supplier in
125 accordance with normal practices for customers in the same
126 rate class;

127 (3) If the electricity generated by the customer-
128 generator exceeds the electricity supplied by the supplier
129 during a billing period, the customer-generator shall be
130 billed for the appropriate customer charges for that billing
131 period in accordance with subsection 3 of this section and
132 shall be credited an amount at least equal to the avoided
133 fuel cost of the excess kilowatt-hours generated during the
134 billing period, with this credit applied to the following
135 billing period;

136 (4) Any credits granted by this subsection shall
137 expire without any compensation at the earlier of either

138 twelve months after their issuance or when the customer-
139 generator disconnects service or terminates the net metering
140 relationship with the supplier;

141 (5) For any rural electric cooperative under chapter
142 394, or [municipal] **any municipally owned** utility, upon
143 agreement of the wholesale generator supplying electric
144 energy to the retail electric supplier, at the option of the
145 retail electric supplier, the credit to the customer-
146 generator may be provided by the wholesale generator.

147 6. (1) Each qualified electric energy generation unit
148 used by a customer-generator shall meet all applicable
149 safety, performance, interconnection, and reliability
150 standards established by any local code authorities, the
151 National Electrical Code, the National Electrical Safety
152 Code, the Institute of Electrical and Electronics Engineers,
153 and Underwriters Laboratories for distributed generation.
154 No supplier shall impose any fee, charge, or other
155 requirement not specifically authorized by this section or
156 the rules promulgated under subsection 9 of this section
157 unless the fee, charge, or other requirement would apply to
158 similarly situated customers who are not customer-
159 generators, except that a retail electric supplier may
160 require that a customer-generator's system contain a switch,
161 circuit breaker, fuse, or other easily accessible device or
162 feature located in immediate proximity to the customer-
163 generator's metering equipment that would allow a utility
164 worker the ability to manually and instantly disconnect the
165 unit from the utility's electric distribution system.

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

170 tests or distribution equipment, or purchase additional
171 liability insurance beyond what is required under
172 subdivision (1) of this subsection and subsection 4 of this
173 section.

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

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

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

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

202 by the retail electric supplier and the customer-generator
203 does not complete the interconnection within one year after
204 receipt of notice of the approval, the approval shall expire
205 and the customer-generator shall be responsible for filing a
206 new application.

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

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

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

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

221 (3) The total estimated net kilowatt-hours received
222 from customer-generators.

223 9. The commission shall, within nine months of January
224 1, 2008, promulgate initial rules necessary for the
225 administration of this section for [public utilities]
226 **electrical corporations**, which shall include regulations
227 ensuring that simple contracts will be used for
228 interconnection and net metering. For systems of ten
229 kilowatts or less, the application process shall use an all-
230 in-one document that includes a simple interconnection
231 request, simple procedures, and a brief set of terms and
232 conditions. Any rule or portion of a rule, as that term is
233 defined in section 536.010, that is created under the

234 authority delegated in this section shall become effective
235 only if it complies with and is subject to all of the
236 provisions of chapter 536 and, if applicable, section
237 536.028. This section and chapter 536 are nonseverable and
238 if any of the powers vested with the general assembly under
239 chapter 536 to review, to delay the effective date, or to
240 disapprove and annul a rule are subsequently held
241 unconstitutional, then the grant of rulemaking authority and
242 any rule proposed or adopted after August 28, 2007, shall be
243 invalid and void.

244 10. The governing body of a rural electric cooperative
245 or municipal utility shall, within nine months of January 1,
246 2008, adopt policies establishing a simple contract to be
247 used for interconnection and net metering. For systems of
248 ten kilowatts or less, the application process shall use an
249 all-in-one document that includes a simple interconnection
250 request, simple procedures, and a brief set of terms and
251 conditions.

252 11. For any cause of action relating to any damages to
253 property or person caused by the **qualified electric energy**
254 generation unit of a customer-generator or the
255 interconnection thereof, the retail electric supplier shall
256 have no liability absent clear and convincing evidence of
257 fault on the part of the supplier.

258 12. The estimated generating capacity of all net
259 metering systems operating under the provisions of this
260 section shall count towards the respective retail electric
261 supplier's accomplishment of any renewable energy portfolio
262 target or mandate adopted by the Missouri general assembly.

263 13. The sale of qualified electric **energy** generation
264 units to any customer-generator shall be subject to the
265 provisions of sections **407.010 to 407.145 and sections**

266 407.700 to 407.720. The attorney general shall have the
267 authority to promulgate in accordance with the provisions of
268 chapter 536 rules regarding mandatory disclosures of
269 information by sellers of qualified electric **energy**
270 generation units. Any interested person who believes that
271 the seller of any **qualified** electric **energy** generation unit
272 is misrepresenting the safety or performance standards of
273 any such systems, or who believes that any electric **energy**
274 generation unit poses a danger to any property or person,
275 may report the same to the attorney general, who shall be
276 authorized to investigate such claims and take any necessary
277 and appropriate actions.

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

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

290 16. The manufacturer of any **qualified** electric **energy**
291 generation unit used by a customer-generator may be held
292 liable for any damages to property or person caused by a
293 defect in the **qualified** electric **energy** generation unit of a
294 customer-generator.

295 17. The seller, installer, or manufacturer of any
296 **qualified** electric **energy** generation unit who knowingly
297 misrepresents the safety aspects of [an] a **qualified**

298 electric generation unit may be held liable for any damages
299 to property or person caused by the **qualified** electric
300 **energy** generation unit of a customer-generator.

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