

SENATE BILL NO. 1090

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ESLINGER.

4128S.01H

KRISTINA MARTIN, 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Section A. Section 386.890, RSMo, is repealed and one new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 of the
24 customer-generator's own electrical energy requirements;

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

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

35 (4) "Department", the department of natural resources;

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

42 (6) "Renewable energy resources", electrical energy
43 produced from wind, solar thermal sources, hydroelectric
44 sources, photovoltaic cells and panels, fuel cells using
45 hydrogen produced by one of the above-named electrical
46 energy sources, and other sources of energy that become
47 available after August 28, 2007, and are certified as
48 renewable by the department;

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

58 3. A retail electric supplier shall:

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

75 (2) Offer **net metering** to the customer-generator
76 **pursuant to a commission approved tariff of an electrical**
77 **corporation** or contract **approved by the respective governing**
78 **body of a rural electric cooperative or a municipally owned**
79 **electric utility at rates** that [is] **are** identical in
80 electrical energy rates, rate structure, and monthly charges

81 to the contract or tariff that the customer would be
82 assigned if the customer were not an eligible customer-
83 generator [but shall not charge the customer-generator any
84 additional standby, capacity, interconnection, or other fee
85 or charge that would not otherwise be charged if the
86 customer were not an eligible customer-generator]. **In the**
87 **alternative, with energy and demand rates, rate structure,**
88 **and recurring monthly charges that are reasonably calculated**
89 **to recover that portion of the retail electric supplier's**
90 **fixed and demand costs that are not eliminated as a result**
91 **of the operation of the eligible customer-generator's**
92 **eligible electric energy generating unit; and**

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

97 4. A customer-generator's facility shall be equipped
98 with sufficient metering equipment that can measure the net
99 amount of electrical energy produced or consumed by the
100 customer-generator. If the customer-generator's existing
101 meter equipment does not meet these requirements or if it is
102 necessary for the retail electric supplier to install
103 additional distribution equipment to accommodate the
104 customer-generator's facility, the customer-generator shall
105 reimburse the retail electric supplier for the costs to
106 purchase and install the necessary additional equipment
107 **including, but not limited to, necessary electric**
108 **distribution system upgrades.** At the request of the
109 customer-generator, such costs may be initially paid for by
110 the retail electric supplier, and any amount up to the total
111 costs and a reasonable interest charge may be recovered from
112 the customer-generator over the course of up to twelve

113 billing cycles. Any subsequent meter testing, maintenance
114 or meter equipment change necessitated by the customer-
115 generator shall be paid for by the customer-generator.

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

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

128 (2) If the electricity supplied by the supplier
129 exceeds the electricity generated by the customer-generator
130 during a billing period, the customer-generator shall be
131 billed for the net electricity supplied by the supplier in
132 accordance with normal practices for customers in the same
133 rate class;

134 (3) If the electricity generated by the customer-
135 generator exceeds the electricity supplied by the supplier
136 during a billing period, the customer-generator shall be
137 billed for the appropriate customer **and demand** charges for
138 that billing period in accordance with subsection 3 of this
139 section and shall be credited an amount at least equal to
140 the avoided fuel cost of the excess kilowatt-hours generated
141 during the billing period, with this credit applied to the
142 following billing period;

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

145 twelve months after their issuance or when the customer-
146 generator disconnects service or terminates the net metering
147 relationship with the supplier;

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

154 6. (1) Each qualified electric energy generation unit
155 used by a customer-generator shall meet **and be installed,**
156 **maintained, and repaired in accordance with** all applicable
157 safety, performance, interconnection, and reliability
158 standards established by any local code authorities, the
159 National Electrical Code, the National Electrical Safety
160 Code, the Institute of Electrical and Electronics Engineers,
161 and Underwriters Laboratories for distributed generation.
162 **All qualified electric energy generation units utilizing**
163 **battery backup shall be installed to operate completely**
164 **isolated from the retail electric supplier's system**
165 **including, but not limited to, all neutral connections and**
166 **grounding points, during times of backup operation. Unless**
167 **allowed under subdivision (2) of subsection 3 of this**
168 **section,** no supplier shall impose any fee, charge, or other
169 requirement not specifically authorized by this section or
170 the rules promulgated under subsection 9 of this section
171 unless the fee, charge, or other requirement would apply to
172 similarly situated customers who are not customer-
173 generators, except that a retail electric supplier may
174 require that a customer-generator's system contain **adequate**
175 **surge protection and** a switch, circuit breaker, fuse, or
176 other easily accessible device or feature located in

177 immediate proximity to the customer-generator's metering
178 equipment that would allow a utility worker **or emergency**
179 **response personnel** the ability to manually and instantly
180 disconnect the unit from the utility's electric distribution
181 system.

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

190 (3) For customer-generator systems of greater than ten
191 kilowatts, the commission for electrical corporations and
192 the respective governing body for other retail electric
193 suppliers shall, by rule or equivalent formal action by each
194 respective governing body:

195 (a) Set forth safety, performance, and reliability
196 standards and requirements; and

197 (b) Establish the qualifications for exemption from a
198 requirement to install additional controls, perform or pay
199 for additional tests or distribution equipment, or purchase
200 additional liability insurance.

201 7. (1) Applications by a customer-generator for
202 interconnection of a qualified electric energy generation
203 unit meeting the requirements of subdivision (3) of
204 subsection 2 of this section to the distribution system
205 shall be accompanied by the plan for the customer-
206 generator's electrical generating system, including but not
207 limited to a wiring diagram and specifications for the
208 generating unit, and shall be reviewed and responded to by

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

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

233 8. Each electrical corporation shall submit an annual
234 net metering report to the commission, and all other retail
235 electric suppliers shall submit the same report to their
236 respective governing body and make said report available to
237 a consumer of the supplier upon request, including the
238 following information for the previous calendar year:

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

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

242 (3) The total estimated net kilowatt-hours received
243 from customer-generators.

244 9. The commission shall, within nine months of January
245 1, 2008, promulgate initial rules necessary for the
246 administration of this section for electrical corporations,
247 which shall include regulations ensuring that simple
248 contracts will be used for interconnection and net
249 metering. For systems of ten kilowatts or less, the
250 application process shall use an all-in-one document that
251 includes a simple interconnection request, simple
252 procedures, and a brief set of terms and conditions. Any
253 rule or portion of a rule, as that term is defined in
254 section 536.010, that is created under the authority
255 delegated in this section shall become effective only if it
256 complies with and is subject to all of the provisions of
257 chapter 536 and, if applicable, section 536.028. This
258 section and chapter 536 are nonseverable and if any of the
259 powers vested with the general assembly under chapter 536 to
260 review, to delay the effective date, or to disapprove and
261 annul a rule are subsequently held unconstitutional, then
262 the grant of rulemaking authority and any rule proposed or
263 adopted after August 28, 2007, shall be invalid and void.

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

272 11. For any cause of action relating to any damages to
273 property or person caused by the qualified electric energy
274 generation unit of a customer-generator or the
275 interconnection thereof, the retail electric supplier shall
276 have no liability absent clear and convincing evidence of
277 fault on the part of the supplier.

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

285 13. The sale of qualified electric energy generation
286 units to any customer-generator shall be subject to the
287 provisions of sections 407.010 to 407.145 and sections
288 407.700 to 407.720. The attorney general shall have the
289 authority to promulgate in accordance with the provisions of
290 chapter 536 rules regarding mandatory disclosures of
291 information by sellers of qualified electric energy
292 generation units. Any interested person who believes that
293 the seller of any qualified electric energy generation unit
294 is misrepresenting the safety or performance standards of
295 any such systems, or who believes that any electric energy
296 generation unit poses a danger to any property or person,
297 may report the same to the attorney general, who shall be
298 authorized to investigate such claims and take any necessary
299 and appropriate actions.

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

303 15. No consumer shall connect or operate a qualified
304 electric energy generation unit in parallel phase and
305 synchronization with any retail electric supplier without
306 written approval by said supplier that all of the
307 requirements under subdivision (1) of subsection 7 of this
308 section have been met. For a consumer who violates this
309 provision, a supplier may immediately and without notice
310 disconnect the electric facilities of said consumer and
311 terminate said consumer's electric service.

312 16. The manufacturer of any qualified electric energy
313 generation unit used by a customer-generator may be held
314 liable for any damages to property or person caused by a
315 defect in the qualified electric energy generation unit of a
316 customer-generator.

317 17. The seller, installer, or manufacturer of any
318 qualified electric energy generation unit who knowingly
319 misrepresents the safety aspects of a qualified electric
320 generation unit may be held liable for any damages to
321 property or person caused by the qualified electric energy
322 generation unit of a customer-generator.

✓