

SENATE BILL NO. 1208

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (21).

5509S.011

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Section A. Section 386.890, RSMo, is repealed and one new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", **an individual person,**
14 **corporation, limited liability company, or other**
15 **organization that is** the owner or operator of a qualified
16 electric energy generation unit which:

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

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

18 (b) Has an electrical generating system with a
19 **nameplate** capacity of not more than one hundred kilowatts
20 **and is located at the premises where the electrical energy**
21 **is consumed by the customer-generator;**

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

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

27 (e) Is intended **and sized** primarily to offset part or
28 all of the customer-generator's own electrical energy
29 requirements;

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

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

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

41 (5) "Net metering", [using metering equipment
42 sufficient to measure the difference between the electrical
43 energy supplied to a customer-generator by a retail electric
44 supplier and the electrical energy supplied by the customer-
45 generator to the retail electric supplier over the
46 applicable billing period] **a billing option that measures**
47 **the amount of electricity as measured in kilowatt hours**
48 **supplied by a retail electric supplier to a customer-**
49 **generator and separately measuring the amount of the**

50 **electricity as measured in kilowatt hours generated by the**
51 **customer-generator and fed back to the retail electric**
52 **supplier;**

53 (6) "Renewable energy resources", electrical energy
54 produced from wind, solar thermal sources, hydroelectric
55 sources, photovoltaic cells and panels, fuel cells using
56 hydrogen produced by one of the above-named electrical
57 energy sources, and other sources of energy that become
58 available after August 28, 2007, and are certified as
59 renewable by the department;

60 (7) "Retail electric supplier" or "supplier", any
61 municipally owned electric utility operating under chapter
62 91, electrical corporation regulated by the commission under
63 this chapter, or rural electric cooperative operating under
64 chapter 394 that provides retail electric service in this
65 state. An electrical corporation that operates under a
66 cooperative business plan as described in subsection 2 of
67 section 393.110 shall be deemed to be a rural electric
68 cooperative for purposes of this section.

69 3. A retail electric supplier shall:

70 (1) Make net metering available to customer-generators
71 on a first-come, first-served basis until the total rated
72 generating capacity of net metering systems equals five
73 percent of the retail electric supplier's single-hour peak
74 load during the previous year, after which the commission
75 for an electrical corporation or the respective governing
76 body of other retail electric suppliers may increase the
77 total rated generating capacity of net metering systems to
78 an amount above five percent. However, in a given calendar
79 year, no retail electric supplier shall be required to
80 approve any application for interconnection if the total
81 rated generating capacity of all applications for

82 interconnection already approved to date by said supplier in
83 said calendar year equals or exceeds one percent of said
84 supplier's single-hour peak load for the previous calendar
85 year;

86 (2) Offer **net metering** to the customer-generator
87 **pursuant to a commission approved tariff of an electrical**
88 **corporation or contract approved by the respective governing**
89 **body of other retail electric suppliers, under one of the**
90 **following options:**

91 (a) **At rates** that [is] are identical in electrical
92 energy rates, rate structure, and monthly charges to the
93 contract or tariff that the customer would be assigned if
94 the customer were not an eligible customer-generator [but
95 shall not charge the customer-generator any additional
96 standby, capacity, interconnection, or other fee or charge
97 that would not otherwise be charged if the customer were not
98 an eligible customer-generator]; or

99 (b) **With energy and demand rates, rate structure, and**
100 **recurring monthly charges that are reasonably calculated to**
101 **recover that portion of the retail electric supplier's fixed**
102 **and demand costs that are not eliminated as a result of the**
103 **operation of the customer-generator's qualified electric**
104 **energy generating unit; and**

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

109 4. A customer-generator's facility shall be equipped
110 with sufficient metering equipment that can measure the net
111 amount of electrical energy produced or consumed by the
112 customer-generator. If the customer-generator's existing
113 meter equipment does not meet these requirements or if it is

114 necessary for the retail electric supplier to install
115 additional distribution equipment to accommodate the
116 customer-generator's facility, the customer-generator shall
117 reimburse the retail electric supplier for the costs to
118 purchase and install the necessary additional equipment
119 **including, but not limited to, necessary electric**
120 **distribution system upgrades.** At the request of the
121 customer-generator, such costs may be initially paid for by
122 the retail electric supplier, and any amount up to the total
123 costs and a reasonable interest charge may be recovered from
124 the customer-generator over the course of up to twelve
125 billing cycles. Any subsequent meter testing, maintenance
126 or meter equipment change necessitated by the customer-
127 generator shall be paid for by the customer-generator.

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

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

140 (2) If the electricity supplied by the supplier
141 exceeds the electricity generated by the customer-generator
142 during a billing period, the customer-generator shall be
143 billed for the net electricity supplied by the **retail**
144 **electric** supplier in accordance with normal practices for
145 customers in the same rate class;

146 (3) If the electricity generated by the customer-
147 generator exceeds the electricity supplied by the supplier
148 during a billing period, the customer-generator shall be
149 billed for the appropriate customer **and demand** charges for
150 that billing period in accordance with subsection 3 of this
151 section and shall be credited an amount at least equal to
152 the avoided fuel cost of the excess kilowatt-hours generated
153 during the billing period, with this credit applied to the
154 following billing period;

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

160 (5) For any rural electric cooperative under chapter
161 394, or any municipally owned utility, upon agreement of the
162 wholesale generator supplying electric energy to the retail
163 electric supplier, at the option of the retail electric
164 supplier, the credit to the customer-generator may be
165 provided by the wholesale generator.

166 6. (1) Each qualified electric energy generation unit
167 used by a customer-generator shall meet **and be installed,**
168 **maintained, and repaired in accordance with** all applicable
169 safety, performance, interconnection, and reliability
170 standards established by any local code authorities, the
171 National Electrical Code, the National Electrical Safety
172 Code, the Institute of Electrical and Electronics Engineers,
173 and Underwriters Laboratories for distributed generation.
174 **All qualified electric energy generation units utilizing**
175 **battery backup shall be installed to operate completely**
176 **isolated from the retail electric supplier's system**
177 **including, but not limited to, all neutral connections and**

178 **grounding points, during times of backup operation. Unless**
179 **allowed under subdivision (2) of subsection 3 of this**
180 **section,** no **retail electric** supplier shall impose any fee,
181 charge, or other requirement not specifically authorized by
182 this section or the rules promulgated under subsection 9 of
183 this section unless the fee, charge, or other requirement
184 would apply to similarly situated customers who are not
185 customer-generators, except that a retail electric supplier
186 may require that a customer-generator's system contain
187 **adequate surge protection and** a switch, circuit breaker,
188 fuse, or other easily accessible device or feature located
189 in immediate proximity to the customer-generator's metering
190 equipment that would allow a utility worker **or emergency**
191 **response personnel** the ability to manually and instantly
192 disconnect the unit from the utility's electric distribution
193 system.

194 (2) For systems of ten kilowatts or less, a customer-
195 generator whose system meets the standards and rules under
196 subdivision (1) of this subsection shall not be required to
197 install additional controls, perform or pay for additional
198 tests or distribution equipment, or purchase additional
199 liability insurance beyond what is required under
200 subdivision (1) of this subsection and subsection 4 of this
201 section.

202 (3) For customer-generator systems of greater than ten
203 kilowatts, the commission for electrical corporations and
204 the respective governing body for other retail electric
205 suppliers shall, by rule or equivalent formal action by each
206 respective governing body:

207 (a) Set forth safety, performance, and reliability
208 standards and requirements; and

209 (b) Establish the qualifications for exemption from a
210 requirement to install additional controls, perform or pay
211 for additional tests or distribution equipment, or purchase
212 additional liability insurance.

213 7. (1) Applications by a customer-generator for
214 interconnection of a qualified electric energy generation
215 unit meeting the requirements of subdivision (3) of
216 subsection 2 of this section to the distribution system
217 shall be accompanied by the plan for the customer-
218 generator's electrical generating system, including but not
219 limited to a wiring diagram and specifications for the
220 generating unit, and shall be reviewed and responded to by
221 the retail electric supplier, **unless mutually agreed to,**
222 within thirty days of receipt for systems ten kilowatts or
223 less and within ninety days of receipt for all other
224 systems. Prior to the interconnection of the qualified
225 generation unit to the **retail electric** supplier's system,
226 the customer-generator will furnish the retail electric
227 supplier a certification from a [qualified] professional
228 electrician or engineer **deemed qualified by the retail**
229 **electric supplier** that the installation meets the
230 requirements of subdivision (1) of subsection 6 of this
231 section. **In the event the professional electrician or**
232 **engineer is not licensed, the retail electric supplier may**
233 **require a bond or other form of financial security to ensure**
234 **the safe installation and operation of the qualified**
235 **electric energy generation unit.** If the application for
236 interconnection is approved by the retail electric supplier
237 and the customer-generator does not complete the
238 interconnection within one year after receipt of notice of
239 the approval, the approval shall expire and the customer-
240 generator shall be responsible for filing a new application.

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

245 8. Each electrical corporation shall submit an annual
246 net metering report to the commission, and all other retail
247 electric suppliers shall submit the same report to their
248 respective governing body and make said report available to
249 a consumer of the supplier upon request, including the
250 following information for the previous calendar year:

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

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

254 (3) The total estimated net kilowatt-hours received
255 from customer-generators.

256 9. The commission shall, within nine months of January
257 1, 2008, promulgate initial rules necessary for the
258 administration of this section for electrical corporations,
259 which shall include regulations ensuring that simple
260 contracts will be used for interconnection and net
261 metering. For systems of ten kilowatts or less, the
262 application process shall use an all-in-one document that
263 includes a simple interconnection request, simple
264 procedures, and a brief set of terms and conditions. Any
265 rule or portion of a rule, as that term is defined in
266 section 536.010, that is created under the authority
267 delegated in this section shall become effective only if it
268 complies with and is subject to all of the provisions of
269 chapter 536 and, if applicable, section 536.028. This
270 section and chapter 536 are nonseverable and if any of the
271 powers vested with the general assembly under chapter 536 to
272 review, to delay the effective date, or to disapprove and

273 annul a rule are subsequently held unconstitutional, then
274 the grant of rulemaking authority and any rule proposed or
275 adopted after August 28, 2007, shall be invalid and void.

276 10. The governing body of a rural electric cooperative
277 or municipal utility shall, within nine months of January 1,
278 2008, adopt policies establishing a simple contract to be
279 used for interconnection and net metering. For systems of
280 ten kilowatts or less, the application process shall use an
281 all-in-one document that includes a simple interconnection
282 request, simple procedures, and a brief set of terms and
283 conditions.

284 11. For any cause of action relating to any damages to
285 property or person caused by the qualified electric energy
286 generation unit of a customer-generator or the
287 interconnection thereof, the retail electric supplier shall
288 have no liability absent clear and convincing evidence of
289 fault on the part of the supplier.

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

297 13. The sale of qualified electric energy generation
298 units to any customer-generator shall be subject to the
299 provisions of sections 407.010 to 407.145 and sections
300 407.700 to 407.720. The attorney general shall have the
301 authority to promulgate in accordance with the provisions of
302 chapter 536 rules regarding mandatory disclosures of
303 information by sellers of qualified electric energy
304 generation units. Any interested person who believes that

305 the seller of any qualified electric energy generation unit
306 is misrepresenting the safety or performance standards of
307 any such systems, or who believes that any electric energy
308 generation unit poses a danger to any property or person,
309 may report the same to the attorney general, who shall be
310 authorized to investigate such claims and take any necessary
311 and appropriate actions.

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

315 15. No consumer shall connect or operate a qualified
316 electric energy generation unit in parallel phase and
317 synchronization with any retail electric supplier without
318 written approval by said supplier that all of the
319 requirements under subdivision (1) of subsection 7 of this
320 section have been met. For a consumer who violates this
321 provision, a supplier may immediately and without notice
322 disconnect the electric facilities of said consumer and
323 terminate said consumer's electric service.

324 16. The manufacturer of any qualified electric energy
325 generation unit used by a customer-generator may be held
326 liable for any damages to property or person caused by a
327 defect in the qualified electric energy generation unit of a
328 customer-generator.

329 17. The seller, installer, or manufacturer of any
330 qualified electric energy generation unit who knowingly
331 misrepresents the safety aspects of a qualified electric
332 generation unit may be held liable for any damages to
333 property or person caused by the qualified electric energy
334 generation unit of a customer-generator.

335 18. **Any person, not a retail electric supplier, who**
336 **sells a qualified electric energy generation unit or who**

337 provides a net metering service to a customer-generator
338 under this section shall:

339 (1) Provide a prospective or existing customer-
340 generator a minimum of five business days to evaluate a
341 proposal to construct a qualified electric generation unit
342 to provide all or part of the prospective or existing
343 customer-generator's needs for electric energy within a
344 single retail electric supplier's allocated service
345 territory. The proposal to the prospective or existing
346 customer-generator shall include:

347 (a) A description of the qualified electric generation
348 unit and its placement on the customer-generator's premises
349 consistent with the requirements of this section;

350 (b) A description of the nameplate generating capacity
351 and expected monthly and annual output of the qualified
352 electric generation unit in kilowatt hours;

353 (c) The estimated annual degradation to the qualified
354 electric generation unit;

355 (d) An estimated timeline for the installation of the
356 qualified electric generation unit;

357 (e) The total cost of the qualified electric
358 generation unit;

359 (f) The amounts due at signing for and the completion
360 of the installation;

361 (g) The payment schedule;

362 (h) The payback period;

363 (i) The forecasted savings monthly and annual bill
364 savings provided by the proposed qualified electric
365 generation unit in dollars based on the retail electric
366 supplier's rate structure to be obtained directly from the
367 retail electric supplier;

368 (j) A description of any warranties and the length of
369 any warranties;

370 (k) Notice that the prospective or existing customer-
371 generator may file a complaint with the attorney general; and

372 (l) Certify that the placement of any solar panels
373 will be appropriate to provide the maximum yield of energy
374 to the customer-generator and will provide the output as
375 stated in the proposal;

376 (2) Perform an energy efficiency audit on the
377 potential or existing customer-generator's premises to be
378 served by the proposed qualified electric generation unit as
379 part of the proposal to sell a qualified electric generation
380 unit or provide net-metering service under this section;

381 (3) Inform the prospective or existing customer-
382 generator of the available energy efficiency measures to
383 address the results of the audit as part of the proposal to
384 sell a qualified electric generation unit to a customer-
385 generator under this section; and

386 (4) Demonstrate to the proposed or existing customer-
387 generator that the person, not a retail electric supplier,
388 who sells a qualified electric generation unit or who
389 provides net-metering services to a customer-generator holds:

390 (a) All required permits to install, construct, or
391 operate a qualified electric generation unit in the state,
392 and, if the governing county, municipality, or local
393 authority does not require an electrical inspection, an
394 executed certification that no electrical inspection or
395 permit is required; and

396 (b) A bond or other acceptable financial security to
397 ensure proper maintenance of the qualified electric
398 generation unit and decommissioning of the qualified
399 electric generation unit.

400 19. Provisions of this section shall be enforced by
401 the attorney general under the Missouri merchandising
402 practices act, sections 407.010 to 407.130, and 570.140 to
403 570.145, including, without limitation, all enforcement
404 powers.

✓