

SENATE BILL NO. 838

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

4751S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 393.1025, 393.1030, and 393.1050, RSMo, and to enact in lieu thereof three new sections relating to the renewable energy standard.

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

Section A. Sections 393.1025, 393.1030, and 393.1050, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 393.1025, 393.1030, and 393.1050, to read as follows:

393.1025. As used in sections 393.1020 to 393.1030, the following terms mean:

(1) "Commission", the public service commission;

(2) "Department", the department of economic development;

(3) "Electric utility", any electrical corporation as defined by section 386.020;

(4) "Renewable energy credit" or "REC", a tradeable certificate of proof that one megawatt-hour of electricity has been generated from renewable energy sources; and

(5) "Renewable energy resources", electric energy produced from wind, solar thermal sources, photovoltaic cells and panels, **nuclear power sources**, dedicated crops grown for energy production, cellulosic agricultural residues, plant residues, methane from landfills, from agricultural operations, or from wastewater treatment,

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

17 thermal depolymerization or pyrolysis for converting waste
18 material to energy, clean and untreated wood such as
19 pallets, hydropower (not including pumped storage) that does
20 not require a new diversion or impoundment of water and that
21 has a nameplate rating of ten megawatts or less, fuel cells
22 using hydrogen produced by one of the above-named renewable
23 energy sources, and other sources of energy not including
24 nuclear that become available after November 4, 2008, and
25 are certified as renewable by rule by the department.

393.1030. 1. The commission shall, in consultation
2 with the department, prescribe by rule a portfolio
3 requirement for all electric utilities to generate or
4 purchase electricity generated from renewable energy
5 resources. Such portfolio requirement shall provide that
6 electricity from renewable energy resources shall constitute
7 the following portions of each electric utility's sales:

8 (1) No less than two percent for calendar years 2011
9 through 2013;

10 (2) No less than five percent for calendar years 2014
11 through 2017;

12 (3) No less than ten percent for calendar years 2018
13 through 2020; and

14 (4) No less than **[fifteen] seven and one-half** percent
15 in each calendar year beginning in 2021.

16 At least two percent of each portfolio requirement shall be
17 derived from solar energy. The portfolio requirements shall
18 apply to all power sold to Missouri consumers whether such
19 power is self-generated or purchased from another source in
20 or outside of this state. A utility may comply with the
21 standard in whole or in part by purchasing RECs. Each

22 kilowatt-hour of eligible energy generated in Missouri shall
23 count as 1.25 kilowatt-hours for purposes of compliance.

24 2. (1) This subsection applies to electric utilities
25 with more than two hundred fifty thousand but less than one
26 million retail customers in Missouri as of the end of the
27 calendar year 2024.

28 (2) Energy meeting the criteria of the renewable
29 energy portfolio requirements set forth in subsection 1 of
30 this section that is generated from renewable energy
31 resources and contracted for by an accelerated renewable
32 buyer shall:

33 (a) Have all associated renewable energy certificates
34 retired by the accelerated renewable buyer, or on their
35 behalf, and the certificates shall not be used to meet the
36 electric utility's portfolio requirements pursuant to
37 subsection 1 of this section;

38 (b) Be excluded from the total electric utility's
39 sales used to determine the portfolio requirements pursuant
40 to subsection 1 of this section; and

41 (c) Be used to offset all or a portion of its electric
42 load for purposes of determining compliance with the
43 portfolio requirements pursuant to subsection 1 of this
44 section.

45 (3) The accelerated renewable buyer shall be exempt
46 from any renewable energy standard compliance costs as may
47 be established by the utility and approved by the
48 commission, based on the amount of renewable energy
49 certificates retired pursuant to this subsection in
50 proportion to the accelerated renewable buyer's total
51 electric energy consumption, on an annual basis.

52 (4) An "accelerated renewable buyer" means a customer
53 of an electric utility, with an aggregate load over eighty

average megawatts, that enters into a contract or contracts to obtain:

(a) Renewable energy certificates from renewable energy resources as defined in section 393.1025; or

(b) Energy and renewable energy certificates from solar or wind generation resources located within the Southwest Power Pool region and initially placed in commercial operation after January 1, 2020, including any contract with the electric utility for such generation resources that does not allocate to or recover from any other customer of the utility the cost of such resources.

(5) Each electric utility shall certify, and verify as necessary, to the commission that the accelerated renewable buyer has satisfied the exemption requirements of this subsection for each year, or an accelerated renewable buyer may choose to certify satisfaction of this exemption by reporting to the commission individually.

(6) The commission may promulgate such rules and regulations as may be necessary to implement the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2025, shall be invalid and void.

85 (7) Nothing in this section shall be construed as
86 imposing or authorizing the imposition of any reporting,
87 regulatory, or financial burden on an accelerated renewable
88 buyer.

89 3. The commission, in consultation with the department
90 and within one year of November 4, 2008, shall select a
91 program for tracking and verifying the trading of renewable
92 energy credits. An unused credit may exist for up to three
93 years from the date of its creation. A credit may be used
94 only once to comply with sections 393.1020 to 393.1030 and
95 may not also be used to satisfy any similar nonfederal
96 requirement. An electric utility may not use a credit
97 derived from a green pricing program. Certificates from net-
98 metered sources shall initially be owned by the customer-
99 generator. The commission, except where the department is
100 specified, shall make whatever rules are necessary to
101 enforce the renewable energy standard. Such rules shall
102 include:

103 (1) A maximum average retail rate increase of one
104 percent determined by estimating and comparing the electric
105 utility's cost of compliance with least-cost renewable
106 generation and the cost of continuing to generate or
107 purchase electricity from entirely nonrenewable sources,
108 taking into proper account future environmental regulatory
109 risk including the risk of greenhouse gas regulation.
110 Notwithstanding the foregoing, until June 30, 2020, if the
111 maximum average retail rate increase would be less than or
112 equal to one percent if an electric utility's investment in
113 solar-related projects initiated, owned or operated by the
114 electric utility is ignored for purposes of calculating the
115 increase, then additional solar rebates shall be paid and
116 included in rates in an amount up to the amount that would

117 produce a retail rate increase equal to the difference
118 between a one percent retail rate increase and the retail
119 rate increase calculated when ignoring an electric utility's
120 investment in solar-related projects initiated, owned, or
121 operated by the electric utility. Notwithstanding any
122 provision to the contrary in this section, even if the
123 payment of additional solar rebates will produce a maximum
124 average retail rate increase of greater than one percent
125 when an electric utility's investment in solar-related
126 projects initiated, owned or operated by the electric
127 utility are included in the calculation, the additional
128 solar rebate costs shall be included in the prudently
129 incurred costs to be recovered as contemplated by
130 subdivision (4) of this subsection;

131 (2) Penalties of at least twice the average market
132 value of renewable energy credits for the compliance period
133 for failure to meet the targets of subsection 1 of this
134 section. An electric utility will be excused if it proves
135 to the commission that failure was due to events beyond its
136 reasonable control that could not have been reasonably
137 mitigated, or that the maximum average retail rate increase
138 has been reached. Penalties shall not be recovered from
139 customers. Amounts forfeited under this section shall be
140 remitted to the department to purchase renewable energy
141 credits needed for compliance. Any excess forfeited
142 revenues shall be used by the division of energy solely for
143 renewable energy and energy efficiency projects;

144 (3) Provisions for an annual report to be filed by
145 each electric utility in a format sufficient to document its
146 progress in meeting the targets;

147 (4) Provision for recovery outside the context of a
148 regular rate case of prudently incurred costs and the pass-

149 through of benefits to customers of any savings achieved by
150 an electrical corporation in meeting the requirements of
151 this section.

152 4. As provided for in this section, except for those
153 electrical corporations that qualify for an exemption under
154 section 393.1050, each electric utility shall make available
155 to its retail customers a solar rebate for new or expanded
156 solar electric systems sited on customers' premises, up to a
157 maximum of twenty-five kilowatts per system, measured in
158 direct current that were confirmed by the electric utility
159 to have become operational in compliance with the provisions
160 of section 386.890. The solar rebates shall be two dollars
161 per watt for systems becoming operational on or before June
162 30, 2014; one dollar and fifty cents per watt for systems
163 becoming operational between July 1, 2014, and June 30,
164 2015; one dollar per watt for systems becoming operational
165 between July 1, 2015, and June 30, 2016; fifty cents per
166 watt for systems becoming operational between July 1, 2016,
167 and June 30, 2017; fifty cents per watt for systems becoming
168 operational between July 1, 2017, and June 30, 2019; twenty-
169 five cents per watt for systems becoming operational between
170 July 1, 2019, and June 30, 2020; and zero cents per watt for
171 systems becoming operational after June 30, 2020. An
172 electric utility may, through its tariffs, require
173 applications for rebates to be submitted up to one hundred
174 eighty-two days prior to the June thirtieth operational
175 date. Nothing in this section shall prevent an electrical
176 corporation from offering rebates after July 1, 2020,
177 through an approved tariff. If the electric utility
178 determines the maximum average retail rate increase provided
179 for in subdivision (1) of subsection 3 of this section will
180 be reached in any calendar year, the electric utility shall

be entitled to cease paying rebates to the extent necessary to avoid exceeding the maximum average retail rate increase if the electrical corporation files with the commission to suspend its rebate tariff for the remainder of that calendar year at least sixty days prior to the change taking effect. The filing with the commission to suspend the electrical corporation's rebate tariff shall include the calculation reflecting that the maximum average retail rate increase will be reached and supporting documentation reflecting that the maximum average retail rate increase will be reached. The commission shall rule on the suspension filing within sixty days of the date it is filed. If the commission determines that the maximum average retail rate increase will be reached, the commission shall approve the tariff suspension. The electric utility shall continue to process and pay applicable solar rebates until a final commission ruling; however, if the continued payment causes the electric utility to pay rebates that cause it to exceed the maximum average retail rate increase, the expenditures shall be considered prudently incurred costs as contemplated by subdivision (4) of subsection 3 of this section and shall be recoverable as such by the electric utility. As a condition of receiving a rebate, customers shall transfer to the electric utility all right, title, and interest in and to the renewable energy credits associated with the new or expanded solar electric system that qualified the customer for the solar rebate for a period of ten years from the date the electric utility confirmed that the solar electric system was installed and operational.

5. The department shall, in consultation with the commission, establish by rule a certification process for electricity generated from renewable resources and used to

fulfill the requirements of subsection 1 of this section. Certification criteria for renewable energy generation shall be determined by factors that include fuel type, technology, and the environmental impacts of the generating facility. Renewable energy facilities shall not cause undue adverse air, water, or land use impacts, including impacts associated with the gathering of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources, only the portion of electrical output attributable to renewable energy resources shall be used to fulfill the portfolio requirements.

6. In carrying out the provisions of this section, the commission and the department shall include methane generated from the anaerobic digestion of farm animal waste and thermal depolymerization or pyrolysis for converting waste material to energy as renewable energy resources for purposes of this section.

7. The commission shall have the authority to promulgate rules for the implementation of this section, but only to the extent such rules are consistent with, and do not delay the implementation of, the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking

244 authority and any rule proposed or adopted after August 28,
245 2013, shall be invalid and void.

393.1050. Notwithstanding any other provision of law,
2 any electrical corporation as defined by subdivision (15) of
3 section 386.020 which, by January 20, 2009, achieves an
4 amount of eligible renewable energy technology nameplate
5 capacity equal to or greater than ~~[fifteen]~~ **seven and one-**
6 **half** percent of such corporation's total owned fossil-fired
7 generating capacity, shall be exempt thereafter from a
8 requirement to pay any installation subsidy, fee, or rebate
9 to its customers that install their own solar electric
10 energy system and shall be exempt from meeting any mandated
11 solar renewable energy standard requirements. Any disputes
12 or denial of exemptions under this section may be reviewable
13 by the circuit court of Cole County as prescribed by law.

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