

FIRST REGULAR SESSION

HOUSE BILL NO. 747

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES POLLOCK (Sponsor), DENISON, WALLINGFORD, HOUGH, DUGGER, WYATT, FRANZ, BURLISON, SCHOELLER, RUZICKA, SCHAD, CRAWFORD, DAVIS, REIBOLDT, WHITE, COLONA, WEBB, TALBOY AND WELLS (Co-sponsors).

1691L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 393.1030 and 393.1045, RSMo, and to enact in lieu thereof two new sections relating to renewable energy portfolio requirements for electric utilities.

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

Section A. Sections 393.1030 and 393.1045, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 393.1030 and 393.1045, to read as follows:

393.1030. 1. The commission shall, in consultation with the department, prescribe by rule a portfolio requirement for all electric utilities to generate or purchase electricity generated from renewable energy resources **or purchase RECs**. Such portfolio requirement shall provide that electricity from renewable energy resources **or electricity evidenced by the electric utility's RECs, or a combination thereof**, shall [constitute] **equal** the following [portions] **percentages** of each electric utility's **electricity sales to its Missouri consumers**:

- (1) No less than two percent for calendar years 2011 through 2013;
- (2) No less than five percent for calendar years 2014 through 2017;
- (3) No less than ten percent for calendar years 2018 through 2020; and
- (4) No less than fifteen percent in each calendar year beginning in 2021.

At least two percent of each portfolio requirement shall be derived from solar energy **or solar renewable energy credits**. The portfolio requirements shall apply **only** to [all] power sold **by the electric utilities** to Missouri consumers whether such power is self-generated or purchased from another source in or outside of this state. [A] **An electric** utility may comply with the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 standard in whole or in part by purchasing RECs **without purchasing or delivering to Missouri**
17 **consumers the associated energy**. Each kilowatt-hour of eligible energy generated in Missouri
18 shall count as 1.25 kilowatt-hours for purposes of compliance.

19 **2. Between 2011 to 2013, all energy or RECs used to meet the portfolio requirement**
20 **shall be derived from generation located in the continental United States. Between 2014**
21 **to 2020, all energy or RECs used to meet the portfolio requirement shall be derived from**
22 **generation located within the territory of the regional transmission organizations serving**
23 **electric utilities in the state of Missouri. After 2020, all energy or RECs used to meet the**
24 **portfolio requirement shall be derived from generation located in the state of Missouri or**
25 **any contiguous state. Any unused RECs purchased or generated by an electric utility from**
26 **generating sources that were eligible under this section at the time of generation may be**
27 **used for compliance in any year for up to three years from the date of its creation,**
28 **notwithstanding any provision to the contrary in this section.**

29 **3.** The commission, in consultation with the department and within one year of
30 November 4, 2008, shall select a program for tracking and verifying the trading of [renewable
31 energy credits] **RECs**. An unused [credit] **REC** may exist for up to three years from the date of
32 its creation. A [credit] **REC** may be used only once to comply with sections 393.1020 to
33 393.1030 and may not also be used to satisfy any similar nonfederal requirement. An electric
34 utility may not use a [credit] **REC** derived from a green pricing program. [Certificates] **RECs**
35 from **Missouri** net-metered sources shall initially be owned by the customer-generator. The
36 commission, except where the department is specified, shall make whatever rules are necessary
37 to enforce the renewable energy standard. Such rules shall include:

38 (1) [A maximum average retail rate increase of one percent determined by estimating and
39 comparing the electric utility's cost of compliance with least-cost renewable generation and the
40 cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking
41 into proper account future environmental regulatory risk including the risk of greenhouse gas
42 regulation;

43 (2)] Penalties of at least twice the average market value of [renewable energy credits]
44 **RECs** for the compliance period for failure to meet the targets of subsection 1 **of this section**.
45 An electric utility [will] **shall be excused from such penalties** if it proves to the commission that
46 **its** failure was due to events beyond its reasonable control that could not have been reasonably
47 mitigated, or that [the maximum average retail rate increase has been reached] **its net cost to**
48 **comply with the targets is in excess of the one percent REC cost cap specified in section**
49 **393.1045**. Penalties shall not be recovered from customers. [Amounts forfeited] **Penalties**
50 under this section shall be remitted to the department to purchase [renewable energy credits]
51 **RECs** needed for compliance. Any excess [forfeited] revenues **from such penalties** shall be

52 used by the department's energy center solely for renewable energy and energy efficiency
53 projects;

54 [(3)] (2) Provisions for an annual report to be filed by each electric utility in a format
55 sufficient to document its progress in meeting the targets;

56 [(4)] (3) Provision for recovery outside the context of a regular rate case of prudently
57 incurred costs and the pass-through of benefits to customers of any savings achieved by an
58 electrical corporation in meeting the requirements of this section.

59 [3.] 4. Each electric utility shall make available to its retail customers a standard rebate
60 offer of at least two dollars per installed watt for new or expanded solar electric systems sited
61 on **its** customers' premises, up to a maximum of twenty-five kilowatts per [system] **customer**,
62 that become operational after 2009.

63 [4.] 5. The department shall, in consultation with the commission, establish by rule a
64 certification process for electricity generated from renewable resources and used to fulfill the
65 requirements of subsection 1 of this section. Certification criteria for renewable energy
66 generation shall be determined by factors that include fuel type, technology, and the
67 environmental impacts of the generating facility. Renewable energy facilities shall not cause
68 undue adverse air, water, or land use impacts, including impacts associated with the gathering
69 of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources,
70 only the portion of electrical output attributable to renewable energy resources shall be used to
71 fulfill the portfolio requirements.

72 [5.] 6. In carrying out the provisions of this section, the commission and the department
73 shall include methane generated from the anaerobic digestion of farm animal waste and thermal
74 depolymerization or pyrolysis for converting waste material to energy as renewable energy
75 resources for purposes of this section.

76 **7. In the event the United States Congress or any agency of the United States**
77 **government enacts by statute or rule any provision or regulatory scheme that establishes**
78 **requirements for electric utilities to generate or purchase electricity generated from**
79 **renewable or clean energy resources, such federal requirements shall supercede and take**
80 **precedence over the requirements as set forth in this section and shall accordingly be**
81 **deemed to preempt the provisions of this section and any portfolio requirement rules**
82 **prescribed by the commission under subsection 1 of this section.**

393.1045. [Any renewable mandate required by law shall not raise the retail rates
2 charged to the customers of electric retail suppliers by an average of more than one percent in
3 any year, and all the costs associated with any such renewable mandate shall be recoverable in
4 the retail rates charged by the electric supplier. Solar rebates shall be included in the one percent
5 rate cap provided for in this section.] **1. Notwithstanding other provisions of this chapter, an**

6 electric utility shall not incur annual net costs to comply with the renewable energy
7 mandates set forth in section 393.1030 in excess of one percent of the annual revenue
8 requirement established by the commission in its most recent general rate proceeding.

9 **2. An electric utility's annual net costs to comply with such renewable mandates**
10 **shall be determined as follows:**

11 **(1) The following costs shall be added:**

12 **(a) Annual costs associated with owning, operating, and maintaining renewable**
13 **energy resources used for compliance with section 393.1030;**

14 **(b) Annual costs of purchased RECs;**

15 **(c) Annual cost of solar rebates;**

16 **(d) Annual renewable energy purchases utilized for compliance with section**
17 **393.1030;**

18 **(e) Annual administrative and general costs related to compliance with section**
19 **393.1030; and**

20 **(f) Additional costs incurred to integrate a renewable energy resource due to its**
21 **intermittent operating characteristics;**

22 **(2) The annual value of any renewable energy purchased or produced by the**
23 **electric utility's renewable energy resources used for compliance with section 393.1030**
24 **shall be subtracted from the sum of paragraphs (a) to (f) of subdivision (1) of this**
25 **subsection.**

26 **3. The annual value of any renewable energy purchased or produced by the electric**
27 **utility's renewable energy resources used for compliance with section 393.1030 shall for**
28 **each hour of the annual period be calculated by multiplying the energy produced from**
29 **such resources in that hour by the actual wholesale price of energy in the electric utility's**
30 **service territory as reflected by the regional transmission organization's real-time hourly**
31 **energy market prices within which the electric utility operates for that hour and totaling**
32 **those products for the entire annual period.**

33 **4. All reasonable and prudent costs of complying with such renewable mandates**
34 **shall be recoverable in the retail rates charged by the electric utility.**