

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 869**  
**94TH GENERAL ASSEMBLY**

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Reported from the Special Committee on Energy and Environment April 12, 2007 with recommendation that House Committee Substitute for House Bill No. 869 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1981L.03C

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**AN ACT**

To repeal section 386.887, RSMo, and to enact in lieu thereof one new section relating to electric energy.

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

Section A. Section 386.887, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.900, to read as follows:

**386.900. 1. This section shall be known and may be cited as the "Net Metering and Easy Connection Act".**

**2. As used in this section, the following terms shall mean:**

**(1) "Avoided cost", the average cost of fuel for the entity generating electricity for a retail electric supplier for a given billing period;**

**(2) "Commission", the public service commission of the state of Missouri;**

**(3) "Customer-generator", the owner or operator of a qualified electric energy generation unit which:**

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

**(b) Has an electrical generating system with a capacity of not more than one hundred kilowatts;**

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

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.

14 (d) Is interconnected and operates in parallel phase and synchronization with a  
15 retail electric supplier and has been approved by such retail electric supplier;

16 (e) Is intended primarily to offset part or all of the customer-generator's own  
17 electrical energy requirements;

18 (f) Meets all applicable safety, performance, interconnection, and reliability  
19 standards established by the National Electrical Code, the Institute of Electrical and  
20 Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory  
21 Commission, and any local governing authorities; and

22 (g) Contains a mechanism that automatically disables the unit and interrupts the  
23 flow of electricity back into the supplier's electricity lines in the event that service to the  
24 customer-generator is interrupted;

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

26 (5) "Net metering", using metering equipment sufficient to measure the difference  
27 between the electricity supplied to a customer-generator by a retail electric supplier and  
28 the electricity supplied by the customer-generator to the retail electric supplier over the  
29 applicable billing period;

30 (6) "Renewable energy resources", energy produced from wind, solar thermal  
31 sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen  
32 produced by one of the above-named renewable energy sources, and other sources of  
33 energy that become available after August 28, 2007, and are certified as renewable by the  
34 department;

35 (7) "Retail electric supplier" or "supplier", any municipal utility, chapter 386,  
36 RSMo, electrical corporation, or chapter 394, RSMo, rural electric cooperative that  
37 provides retail electric service in this state.

38 3. A retail electric supplier shall:

39 (1) Make net metering available to customer-generators on a first-come, first-served  
40 basis until the total rated generating capacity of net metering systems equals five percent  
41 of the utility's single-hour peak load during the previous year, after which the commission  
42 for a public utility or the governing body for other electric utilities may increase the total  
43 rated generating capacity of net metering systems to an amount above five percent.  
44 However, in a given calendar year, no retail electric supplier shall be required to approve  
45 any application for interconnection if the total rated generating capacity of all applications  
46 for interconnection already approved to date by such supplier in such calendar year equals  
47 or exceeds one percent of such supplier's single-hour peak load for the previous calendar  
48 year;

49           **(2) Offer to the customer-generator a tariff or contract that is identical in energy**  
50 **rates, rate structure, and monthly charges to the contract or tariff that the customer would**  
51 **be assigned if the customer were not an eligible customer-generator but shall not charge**  
52 **the customer-generator any additional standby, capacity, interconnection, or other fee or**  
53 **charge that would not otherwise be charged if the customer were not an eligible customer-**  
54 **generator;**

55           **(3) Disclose annually the availability of the net metering program to each of its**  
56 **customers with the method of disclosure being at the discretion of the supplier.**

57           **4. A customer-generator's facility shall be equipped with sufficient metering**  
58 **equipment that can measure the net amount of energy produced or consumed by the**  
59 **customer-generator. If the customer-generator's existing meter equipment does not meet**  
60 **these requirements, the customer-generator shall reimburse the retail electric supplier for**  
61 **the costs to purchase and install the necessary additional equipment. At the request of the**  
62 **customer-generator, such costs may be initially paid for by the retail electric supplier, and**  
63 **any amount up to the total costs and reasonable interest charge may be recovered from the**  
64 **customer-generator over the course of up to twelve billing cycles. Any subsequent meter**  
65 **testing, maintenance, or meter equipment change necessitated by the customer-generator**  
66 **shall be paid for by the customer-generator.**

67           **5. Consistent with the provisions in this section, the net energy measurement shall**  
68 **be calculated in the following manner:**

69           **(1) For a customer-generator, a retail electric supplier shall measure the net**  
70 **electricity produced or consumed during the billing period in accordance with normal**  
71 **metering practices for customers in the same rate class either by employing a single, bi-**  
72 **directional meter that measures the amount of electricity produced and consumed, or by**  
73 **employing multiple meters that separately measure the customer-generator's consumption**  
74 **and production of electricity;**

75           **(2) If the electricity supplied by the supplier exceeds the electricity generated by the**  
76 **customer-generator during the billing period, the customer-generator shall be billed for**  
77 **the net electricity supplied by the supplier in accordance with normal practices for**  
78 **customers in the same rate class;**

79           **(3) If the electricity generated by the customer-generator exceeds the electricity**  
80 **supplied by the supplier during the billing period, the customer-generator shall be billed**  
81 **for the appropriate customer charges for that billing period in accordance with subsection**  
82 **3 of this section and shall be credited an amount at least equal to the avoided cost of the**  
83 **excess kilowatt-hours generated during the billing period, with this credit applied to the**  
84 **following billing period;**

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

88           **(5) For any chapter 394, RSMo, rural electric cooperative or municipal utility, upon**  
89 **agreement of the wholesale generator supplying electric energy to the retail electric**  
90 **supplier, at the option of the retail electric supplier, the credit to the customer-generator**  
91 **may be provided by the wholesale generator.**

92           **6. (1) Each qualified electric energy generation unit used by a customer-generator**  
93 **shall meet all applicable safety, performance, interconnection, and reliability standards**  
94 **established by any local code authorities, the National Electrical Code, the Institute of**  
95 **Electrical and Electronics Engineers, and Underwriters Laboratories for distributed**  
96 **generation. No supplier shall impose any fee, charge, or other requirement not specifically**  
97 **authorized by this section or the rules promulgated under subsection 9 of this section**  
98 **unless the fee, charge, or other requirement would apply to similarly situated customers**  
99 **who are not customer-generators, except that a retail electric supplier may require that a**  
100 **customer-generator's system contain a switch, circuit breaker, fuse, or other easily**  
101 **accessible device or feature located in immediate proximity to the customer-generator's**  
102 **metering equipment that would allow a utility worker the ability to manually and instantly**  
103 **disconnect the unit from the utility's electric distribution system.**

104           **(2) For systems of ten kilowatts or less, a customer-generator whose system meets**  
105 **the standards and rules under subdivision (1) of this subsection shall not be required to**  
106 **install additional controls, perform or pay for additional tests, or purchase additional**  
107 **liability insurance.**

108           **(3) For customer-generator systems of greater than ten kilowatts, the commission**  
109 **for public utilities and the governing body for other utilities shall:**

110           **(a) Set forth safety, performance, and reliability standards and requirements; and**

111           **(b) Establish the qualifications for exemption from a requirement to install**  
112 **additional controls, perform or pay for additional tests, or purchase additional liability**  
113 **insurance.**

114           **7. Applications by a customer-generator for interconnection to the distribution**  
115 **system shall be accompanied by the plan for the customer-generator's electrical generating**  
116 **system, including but not limited to a wiring diagram and specifications for the generating**  
117 **unit and shall be reviewed and responded to by the retail electric supplier within thirty**  
118 **days of receipt thereof. Prior to the interconnection of the qualified generation unit to the**  
119 **supplier's system, the customer-generator shall furnish the retail electric supplier a**  
120 **certification from a qualified professional electrician or engineer that the installation meets**

121 the requirements of subdivision (1) of subsection 6 of this section. If the application for  
122 interconnection is approved by the retail electric supplier and the customer-generator does  
123 not complete the interconnection within one year after receipt of notice of the approval, the  
124 approval shall expire and the customer-generator shall be responsible for filing a new  
125 application.

126 8. Each commission regulated supplier shall submit an annual net metering report  
127 to the commission, and all other nonregulated suppliers shall submit the same report to  
128 their respective governing body and make such report available to a consumer of the  
129 supplier upon request, including the following information for the previous calendar year:

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

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

132 and

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

134 9. The commission shall, within nine months of the effective date of this section,  
135 promulgate rules necessary for the administration of this section for public utilities, which  
136 shall include regulations ensuring that simple contracts will be used for interconnection  
137 and net metering. For systems of ten kilowatts or less, the application process shall use an  
138 all-in-one document that includes a simplified interconnection request, simplified  
139 procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that  
140 term is defined in section 536.010, RSMo, that is created under the authority delegated in  
141 this section shall become effective only if it complies with and is subject to all of the  
142 provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section  
143 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general  
144 assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove  
145 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
146 authority and any rule proposed or adopted after August 28, 2007, shall be invalid and  
147 void.

148 10. The governing body of a rural electric cooperative or municipal utility shall,  
149 within nine months of August 28, 2007, adopt policies establishing a simple contract to be  
150 used for interconnection and net metering. For systems of ten kilowatts or less, the  
151 application process shall use an all-in-one document that includes a simple interconnection  
152 request, simple procedures, and a brief set of terms and conditions.

153 11. For any cause of action relating to any damages to property or person caused  
154 by the generation unit of a customer-generator or the interconnection thereof, the retail  
155 electric supplier shall have no liability absent clear and convincing evidence of fault on the  
156 part of the supplier.

157           **12. The estimated generating capacity of all net metering systems operating under**  
158 **the provisions of this section shall count toward the respective retail electric supplier's**  
159 **accomplishment of any renewable energy portfolio target or mandate adopted by the**  
160 **Missouri general assembly.**

161           **13. The sale of qualified electric generation units to any customer-generator shall**  
162 **be subject to the provisions of sections 407.700 to 407.720, RSMo. The attorney general**  
163 **shall have the authority to promulgate in accordance with the provisions of chapter 536,**  
164 **RSMo, rules regarding mandatory disclosures of information by sellers of qualified electric**  
165 **generation units. Any interested person who believes that the seller of any electric**  
166 **generation unit is misrepresenting the safety or performance standards of any such**  
167 **systems, or who believes that any electric generation unit poses a danger to any property**  
168 **or person, may report the same to the attorney general, who shall be authorized to**  
169 **investigate such claims and take any necessary and appropriate actions.**

170           **14. Any costs incurred under this section by a chapter 386, RSMo, electrical**  
171 **corporation shall be recoverable in that utility's rate structure as approved by the**  
172 **commission.**

173           **15. No consumer shall connect or operate an electric generation unit in parallel**  
174 **phase and synchronization with any retail electric supplier without prior approval by such**  
175 **supplier. For a consumer who violates this provision, a supplier may immediately and**  
176 **without notice disconnect the electric facilities of such consumer and terminate such**  
177 **consumer's electric service.**

178           **16. The manufacturer of any electric generation unit used by a customer-generator**  
179 **may be held liable for any damages to property or person caused by a defect in the electric**  
180 **generation unit of a customer-generator.**

181           **17. The seller, installer, or manufacturer of any electric generation unit who**  
182 **knowingly misrepresents the safety of an electric generation unit may be held liable for any**  
183 **damages to property or person caused by the electric generation unit of a customer-**  
184 **generator.**

                  [386.887. 1. This section shall be known and may be cited as the  
2           "Consumer Clean Energy Act".

3                   2. As used in this section, the following terms mean:

4                   (1) "Commission", the public service commission of the state of  
5           Missouri;

6                   (2) "Customer-generator", a consumer of electric energy who purchases  
7           electric energy from a retail electric energy supplier and is the owner of a  
8           qualified net metering unit;

9                   (3) "Local distribution system", facilities for the distribution of electric  
10           energy to the ultimate consumer thereof;

11 (4) "Net energy metering", a measurement of the difference between the  
12 electric energy supplied to a customer-generator by a retail electric supplier and  
13 the electric energy generated by a customer-generator that is delivered to a local  
14 distribution system at the same point of interconnection;

15 (5) "Qualified net metering unit", an electric generation unit which:

16 (a) Is owned by a customer-generator;

17 (b) Is a hydrogen fuel cell or is powered by sun, wind or biomass;

18 (c) Has an electrical generating system with a capacity of not more than  
19 one hundred kilowatts;

20 (d) Is located on the premises that are owned, operated, leased or  
21 otherwise controlled by the customer-generator;

22 (e) Is interconnected and operates in parallel and in synchronization with  
23 a retail electric supplier; and

24 (f) Is intended primarily to offset part or all of the customer-generator's  
25 own electrical requirements;

26 (6) "Retail electric supplier" or "supplier", any person that sells electric  
27 energy to the ultimate consumer thereof;

28 (7) "Value of electric energy", the total resulting from the application of  
29 the appropriate rates, which may be time of use rates at the option of the supplier,  
30 to the quantity of electric energy produced from qualified net metering units or  
31 to the quantity of electric energy sold to customer-generators.

32 3. By August 28, 2003, each retail electric supplier shall adopt rates,  
33 charges, conditions and contract terms for the purchase from and the sale of  
34 electric energy to customer-generators. The commission, in consultation with the  
35 department and retail electric suppliers, shall develop a simple contract for such  
36 transactions and make it available to eligible customer-generators and retail  
37 electric suppliers. Upon agreement of the wholesale generator supplying electric  
38 energy to the retail electric supplier, at the option of the retail electric supplier,  
39 the purchase from the customer-generator may be by the wholesale generator.  
40 Any time of use or other rates charged for electric energy sold to  
41 customer-generators shall be the same as those made available to any other  
42 customers with the same net electric energy usage pattern including minimum  
43 bills and service availability charges. Rates for electric energy generated by the  
44 customer- generator from a qualified net generating unit and sold to the retail  
45 electric supplier or its wholesale generator shall be the avoided cost (time of use  
46 or nontime of use) of the generation used by the retail electric supplier to serve  
47 its other customers. Whenever a customer- generator with a qualified net  
48 generating unit uses any energy generation method entitled to eligibility under a  
49 minimum renewable energy generation requirement, the total amount of energy  
50 generated by that method shall be treated as generated by the generator providing  
51 electric energy to the retail electric supplier for purposes of such requirement.  
52 The wholesale generator, at the option of the retail electric supplier, shall receive  
53 credit for emissions avoided by the wholesale generator because of electric

54 energy purchased by the wholesale generator or the retail electric supplier from  
55 a qualified net metering unit. If the supplier is required to file tariffs with the  
56 commission, the commission shall review the reasonableness of the charges  
57 provided in such tariffs.

58 4. Each retail electric supplier shall calculate the net energy measurement  
59 for a customer-generator in the following manner:

60 (1) The retail electric supplier shall individually measure both the electric  
61 energy produced and the electric energy consumed by the customer-generator  
62 during each billing period using an electric metering capable of such function,  
63 either by a single meter capable of registering the flow of electricity in two  
64 directions or by using multiple meters;

65 (2) If the value of the electric energy supplied by the retail electric  
66 supplier exceeds the value of the electric energy delivered by the  
67 customer-generator to the retail electric supplier during a billing period, then the  
68 customer-generator shall be billed for the net value of the electric energy supplied  
69 by the retail electric supplier in accordance with the rates, terms and conditions  
70 established by the retail electric supplier for customer-generators; and

71 (3) If the value of the electric energy generated by the customer-generator  
72 exceeds the value of the electric energy supplied by the retail electric supplier,  
73 then the customer-generator:

74 (a) Shall be billed for the appropriate customer charges for that billing  
75 period; and

76 (b) Shall be credited for the excess value of the electric energy generated  
77 and supplied to the retail electric supplier during the billing period, with this  
78 credit appearing on the bill for the following billing period.

79 5. A retail electric supplier shall not be required to provide net metering  
80 service with respect to additional customer-generators after the date during any  
81 calendar year on which the total generating capacity of all customer-generators  
82 with qualified net metering units served by that retail electric supplier is equal to  
83 or in excess of the lesser of ten thousand kilowatts or one-tenth of one percent of  
84 the capacity necessary to meet the company's aggregate customer peak demand  
85 for the preceding calendar year.

86 6. Each retail electric supplier shall maintain and make available to the  
87 public records of the total generating capacity of customer-generators of the  
88 supplier that are using net metering, the type of generating systems and energy  
89 source used by the electric generating systems which customer-generators use.  
90 Each such retail electric supplier shall notify the commission when the total  
91 generating capacity of such customer-generators is equal to or in excess of the  
92 lesser of ten thousand kilowatts or one-tenth of one percent of the capacity  
93 necessary to meet the company's aggregate customer peak demand for the  
94 preceding calendar year.

95 7. Each qualified net metering unit used by a customer-generator shall  
96 meet all applicable safety, performance, synchronization, interconnection and



97 reliability standards established by the commission, the National Electrical Safety  
98 Code, National Electrical Code, the Institute of Electrical, Electronics Engineers,  
99 and Underwriters Laboratories. Each qualified net metering unit used by a  
100 customer- generator shall also meet all reasonable standards and requirements  
101 established by the retail electric supplier to enhance employee, consumer and  
102 public safety and the reliability of electric service to the customer-generator and  
103 other consumers receiving electric service from the retail electric supplier. Each  
104 qualified net metering unit used by a customer-generator shall also comply with  
105 all applicable local building, electrical and safety codes. The customer-generator  
106 shall obtain liability insurance coverage in amounts and coverage as set by the  
107 commission by rule applicable to all qualified net metering units.

108 8. The cost of meeting the standards of subsection 7 of this section and  
109 any cost to install additional controls, to install additional metering, to perform  
110 or pay for additional tests or analysis of the effect of the operation of the qualified  
111 net metering unit on the local distribution system shall be paid by the  
112 customer-generator.

113 9. Applications by a customer-generator for interconnection to the  
114 distribution system shall include a copy of the plans and specifications for the  
115 qualified net metering unit for review and acceptance by the retail electric  
116 supplier. Prior to connection of the qualified net metering unit to the distribution  
117 system, the customer-generator will furnish the retail electric supplier a  
118 certification from a qualified professional electrician or engineer that the  
119 installation meets the requirements of subsection 7 of this section. Such  
120 applications shall be reviewed and responded to by the retail electric supplier  
121 within ninety days. If the application for interconnection is approved by the retail  
122 electric supplier, the retail electric supplier shall complete the interconnection  
123 within fifteen days if electric service already exists to the premises, unless a later  
124 date is mutually agreeable to both the customer-generator and the retail electric  
125 supplier.

126 10. The sale of qualified net metering units shall be subject to the  
127 provisions of sections 407.700 to 407.720, RSMo. The attorney general shall  
128 have the authority to promulgate in accordance with the provisions of chapter  
129 536, RSMo, rules regarding mandatory disclosures of information by sellers of  
130 qualified net metering units. Such rules shall as a minimum require disclosure  
131 or the standards of subsection 7 of this section and potential liability of the owner  
132 or operator of a qualified net metering unit to third persons for personal injury or  
133 property damage as a result of negligent operation of a qualified net metering  
134 unit. Any rule or portion of a rule, as that term is defined in section 536.010,  
135 RSMo, that is created under the authority delegated in this section shall become  
136 effective only if it complies with and is subject to all of the provisions of chapter  
137 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter  
138 536, RSMo, are nonseverable and if any of the powers vested with the general  
139 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date

140 or to disapprove and annul a rule are subsequently held unconstitutional, then the  
141 grant of rulemaking authority and any rule proposed or adopted after August 28,  
142 2002, shall be invalid and void.]

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