

SECOND REGULAR SESSION

HOUSE BILL NO. 2222

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KORMAN.

6109H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 393.1025 and 393.1030, RSMo, and to enact in lieu thereof four new sections relating to electrical energy.

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

Section A. Sections 393.1025 and 393.1030, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 393.1025, 393.1030, 393.1130, and 620.3080, to read as follows: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 natural resources;

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

(4) **"Processed solid biomass engineered fiber fuel", any fuel derived from raw biomass feedstock produced in this state that is changed from its original form by pyrolysis or other thermal or thermochemical conversion in a manufacturing process resulting in a solid fuel product with a heat value of at least eight thousand four hundred British Thermal Units per pound on an as-received basis;**

(5) "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)~~ (6) "Renewable energy resources", electric energy produced from wind, solar thermal sources, photovoltaic cells and panels, dedicated crops grown for energy production, cellulosic agricultural residues, plant residues, **processed solid biomass engineered fiber fuel**, methane from landfills, from agricultural operations, or from wastewater treatment, thermal depolymerization or pyrolysis for converting waste material to energy, clean and untreated wood

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.

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

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

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

9

10 At least two percent of each portfolio requirement shall be derived from solar energy. The
11 portfolio requirements shall apply to all power sold to Missouri consumers whether such power
12 is self-generated or purchased from another source in or outside of this state. A utility may
13 comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of eligible
14 energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of compliance.
15 **Each kilowatt-hour of eligible energy generated from processed solid biomass engineered**
16 **fiber fuel shall count as 1.50 kilowatt-hours for purposes of compliance.**

17 2. The commission, in consultation with the department and within one year of
18 November 4, 2008, shall select a program for tracking and verifying the trading of renewable
19 energy credits. An unused credit may exist for up to three years from the date of its creation.
20 A credit may be used only once to comply with sections 393.1020 to 393.1030 and may not also
21 be used to satisfy any similar nonfederal requirement. An electric utility may not use a credit
22 derived from a green pricing program. Certificates from net-metered sources shall initially be
23 owned by the customer-generator. The commission, except where the department is specified,
24 shall make whatever rules are necessary to enforce the renewable energy standard. Such rules
25 shall include:

- 26 (1) A maximum average retail rate increase of one percent determined by estimating and
27 comparing the electric utility's cost of compliance with least-cost renewable generation and the
28 cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking
29 into proper account future environmental regulatory risk including the risk of greenhouse gas
30 regulation. Notwithstanding the foregoing, until June 30, 2020, if the maximum average retail
31 rate increase would be less than or equal to one percent if an electric utility's investment in solar-

32 related projects initiated, owned or operated by the electric utility is ignored for purposes of
33 calculating the increase, then additional solar rebates shall be paid and included in rates in an
34 amount up to the amount that would produce a retail rate increase equal to the difference between
35 a one percent retail rate increase and the retail rate increase calculated when ignoring an electric
36 utility's investment in solar-related projects initiated, owned, or operated by the electric utility.
37 Notwithstanding any provision to the contrary in this section, even if the payment of additional
38 solar rebates will produce a maximum average retail rate increase of greater than one percent
39 when an electric utility's investment in solar-related projects initiated, owned or operated by the
40 electric utility are included in the calculation, the additional solar rebate costs shall be included
41 in the prudently incurred costs to be recovered as contemplated by subdivision (4) of this
42 subsection;

43 (2) Penalties of at least twice the average market value of renewable energy credits for
44 the compliance period for failure to meet the targets of subsection 1 of this section. An electric
45 utility will be excused if it proves to the commission that failure was due to events beyond its
46 reasonable control that could not have been reasonably mitigated, or that the maximum average
47 retail rate increase has been reached. Penalties shall not be recovered from customers. Amounts
48 forfeited under this section shall be remitted to the department to purchase renewable energy
49 credits needed for compliance. Any excess forfeited revenues shall be used by the department's
50 energy center solely for renewable energy and energy efficiency projects;

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

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

56 3. As provided for in this section, except for those electrical corporations that qualify for
57 an exemption under section 393.1050, each electric utility shall make available to its retail
58 customers a solar rebate for new or expanded solar electric systems sited on customers' premises,
59 up to a maximum of twenty-five kilowatts per system, measured in direct current that were
60 confirmed by the electric utility to have become operational in compliance with the provisions
61 of section 386.890. The solar rebates shall be two dollars per watt for systems becoming
62 operational on or before June 30, 2014; one dollar and fifty cents per watt for systems becoming
63 operational between July 1, 2014, and June 30, 2015; one dollar per watt for systems becoming
64 operational between July 1, 2015, and June 30, 2016; fifty cents per watt for systems becoming
65 operational between July 1, 2016, and June 30, 2017; fifty cents per watt for systems becoming
66 operational between July 1, 2017, and June 30, 2019; twenty-five cents per watt for systems
67 becoming operational between July 1, 2019, and June 30, 2020; and zero cents per watt for

68 systems becoming operational after June 30, 2020. An electric utility may, through its tariffs,
69 require applications for rebates to be submitted up to one hundred eighty-two days prior to the
70 June thirtieth operational date. Nothing in this section shall prevent an electrical corporation
71 from offering rebates after July 1, 2020, through an approved tariff. If the electric utility
72 determines the maximum average retail rate increase provided for in subdivision (1) of
73 subsection 2 of this section will be reached in any calendar year, the electric utility shall be
74 entitled to cease paying rebates to the extent necessary to avoid exceeding the maximum average
75 retail rate increase if the electrical corporation files with the commission to suspend its rebate
76 tariff for the remainder of that calendar year at least sixty days prior to the change taking effect.
77 The filing with the commission to suspend the electrical corporation's rebate tariff shall include
78 the calculation reflecting that the maximum average retail rate increase will be reached and
79 supporting documentation reflecting that the maximum average retail rate increase will be
80 reached. The commission shall rule on the suspension filing within sixty days of the date it is
81 filed. If the commission determines that the maximum average retail rate increase will be
82 reached, the commission shall approve the tariff suspension. The electric utility shall continue
83 to process and pay applicable solar rebates until a final commission ruling; however, if the
84 continued payment causes the electric utility to pay rebates that cause it to exceed the maximum
85 average retail rate increase, the expenditures shall be considered prudently incurred costs as
86 contemplated by subdivision (4) of subsection 2 of this section and shall be recoverable as such
87 by the electric utility. As a condition of receiving a rebate, customers shall transfer to the electric
88 utility all right, title, and interest in and to the renewable energy credits associated with the new
89 or expanded solar electric system that qualified the customer for the solar rebate for a period of
90 ten years from the date the electric utility confirmed that the solar electric system was installed
91 and operational.

92 4. The department shall, in consultation with the commission, establish by rule a
93 certification process for electricity generated from renewable resources and used to fulfill the
94 requirements of subsection 1 of this section. Certification criteria for renewable energy
95 generation shall be determined by factors that include fuel type, technology, and the
96 environmental impacts of the generating facility. Renewable energy facilities shall not cause
97 undue adverse air, water, or land use impacts, including impacts associated with the gathering
98 of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources,
99 only the portion of electrical output attributable to renewable energy resources shall be used to
100 fulfill the portfolio requirements.

101 5. In carrying out the provisions of this section, the commission and the department shall
102 include methane generated from the anaerobic digestion of farm animal waste and thermal

103 depolymerization or pyrolysis for converting waste material to energy as renewable energy
104 resources for purposes of this section.

105 6. The commission shall have the authority to promulgate rules for the implementation
106 of this section, but only to the extent such rules are consistent with, and do not delay the
107 implementation of, the provisions of this section. Any rule or portion of a rule, as that term is
108 defined in section 536.010, that is created under the authority delegated in this section shall
109 become effective only if it complies with and is subject to all of the provisions of chapter 536
110 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
111 the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
112 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
113 grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be
114 invalid and void.

**393.1130. 1. This section shall be known and may be cited as “The Nuclear Energy
2 Standard”.**

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

4 (1) “Commission”, the public service commission;

**5 (2) “Small modular nuclear reactor”, a nuclear reactor based on fission that is
6 approved under federal and state laws and regulations to be constructed in this state and
7 produces less than three hundred megawatts of clean electrical energy;**

**8 (3) “Utility”, any electrical corporation, as defined under section 386.020, but this
9 term shall not include any electrical corporation as described under subsection 2 of section
10 393.110.**

**11 3. Upon the fulfillment of subsection 4 of this section, the commission shall
12 prescribe by rule that all utilities in this state produce electricity using small modular
13 nuclear reactors such that two percent of each utility’s total electricity retail sales are made
14 based on electricity generated by such reactors. The commission shall have discretion with
15 regard to the time for requiring compliance with the nuclear energy standard, but in no
16 case shall it require full compliance less than three years from the fulfillment of the
17 conditions for the effective date of this section. The commission may promulgate such rules
18 or regulations as are necessary to administer the provisions of this section. Any rule or
19 portion of a rule, as that term is defined in section 536.010, that is created under the
20 authority delegated in this section shall become effective only if it complies with and is
21 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This
22 section and chapter 536 are nonseverable, and if any of the powers vested with the general
23 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
24 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking**

25 authority and any rule proposed or adopted after the effective date of this section shall be
26 invalid and void.

27 4. This section shall become effective only if a production facility for small modular
28 nuclear reactors has been built in this state and is operational. A facility shall be classified
29 as operational if such facility has produced no fewer than three small modular nuclear
30 reactors in accordance with all federal and state laws and regulations and such reactors
31 are legally available for sale or use. If the commission determines that a production facility
32 is properly operational in accordance with this section, then it shall comply with the
33 requirements of subsection 3 of this section. The commission shall notify the revisor of
34 statutes when a facility has been built and becomes operational.

35 5. Notwithstanding subsection 3 of this section to the contrary, a utility may petition
36 the commission to satisfy the two percent generation requirement from renewable or
37 hydroelectric sources, or with the purchase of renewable energy credits, as defined in
38 section 393.1025. The commission may grant such a petition upon a finding of undue
39 hardship for compliance or due to a lack of increase in demand for energy generation by
40 the utility.

620.3080. 1. As used in this section, the following terms shall mean:

2 (1) "Job creation, worker training, and infrastructure development programs", the
3 Missouri works program established under sections 620.2000 to 620.2020, the Missouri
4 business use incentives for large-scale development act established under sections 100.700
5 to 100.850, the Missouri works training program established under sections 620.800 to
6 620.809, and the real property tax increment allocation redevelopment act established
7 under sections 99.800 to 99.865;

8 (2) "Small modular nuclear reactor production facility" or "SMR production
9 facility", a facility, approved under federal and state laws and regulations to be
10 constructed, that produces nuclear reactors based on fission that each produce less than
11 three hundred megawatts of clean electrical energy.

12 2. Notwithstanding any other provision of law to the contrary, no benefits
13 authorized under job creation, worker training, and infrastructure development programs
14 for an SMR production facility shall be considered in determining compliance with
15 applicable limitations on the aggregate amount of benefits that may be awarded annually
16 or cumulatively under subdivision (3) of subsection 10 of section 99.845, subsection 5 of
17 section 100.850, subsection 7 of section 620.809, and subsection 7 of section 620.2020. No
18 SMR production facility shall be authorized for state benefits under job creation, worker
19 training, and infrastructure development programs that exceed, in the aggregate, one
20 hundred fifty million dollars annually under all such programs.

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