

# HOUSE BILL NO. 1611

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE COLEMAN (97).

3451H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To amend chapter 386, RSMo, by adding thereto one new section relating to rights of utility customers.

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

Section A. Chapter 386, RSMo, is amended by adding thereto one new section, to be known as section 386.820, to read as follows:

**386.820. 1. For purposes of this section, the following terms mean:**

**(1) "Advanced meter", a meter or metering device system that is owned or leased by a utility or its agent and that meets one or more of the following requirements:**

**(a) Measures, records, or sends a customer's utility usage or other data by use of radio waves or broadband over power lines;**

**(b) Allows for two-way communication between the meter and the utility or its agent; or**

**(c) Allows for a utility or its agent to control a customer's thermostat, appliance, or service;**

**(2) "Hub meter", an advanced meter that generates stronger radio waves as a result of the meter serving as a hub for other advanced meters it communicates with in a given area;**

**(3) "Traditional meter", an analog or similar meter that is unable to transmit usage information and is only intended to be read by an individual through a visual display. A traditional meter is not designed to be and is not capable of transmitting usage data by using radio waves or broadband over power lines, allowing two-way communication between the meter and the utility or its agents, or allowing a utility or its agents to control**

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.

18 a customer's thermostat, appliance, or service. A traditional meter does not include an  
19 advanced meter that has certain functionality turned off or deactivated;

20 (4) "Utility", any entity regulated by the commission under chapter 386 or 393.

21 2. A utility customer may choose between the placement or use of a traditional  
22 meter or an advanced meter regardless of the utility that provides service to that customer.

23 3. A utility shall not do any of the following:

24 (1) Make the provision of any portion of utility service to a customer contingent  
25 upon the customer's receiving service through any meter or similar device other than a  
26 traditional meter;

27 (2) Except as otherwise provided in this section, impose any fee or disincentive on  
28 a customer for opting out of or not accepting the installation of an advanced meter or hub  
29 meter or use of advanced meter function;

30 (3) Install an advanced meter or upgrade the functionality of the advanced meter  
31 after the effective date of this section unless the customer has been properly notified and  
32 has not opted out of the installation or new functionality. If a customer has not opted out  
33 of the installation, an on-site utility worker or his or her agent shall nevertheless not install  
34 an advanced meter or upgrade the functionality of the advanced meter if the customer has  
35 posted a sign on the current meter forbidding installation of an advanced meter or the  
36 customer orally informs the worker at the time of installation not to install the advanced  
37 meter or additional functionality.

38 4. A utility shall notify a customer in writing of the utility's intention to install an  
39 advanced meter at the customer's address or to upgrade the functionality of a previously  
40 installed advanced meter. The notice shall be sent by first-class mail and shall be separate  
41 from any billing mailing. The utility shall keep a copy of each mailed notice on file for  
42 review by the customer or the commission.

43 5. Each notice described in subsection 4 of this section shall do all of the following:

44 (1) Include the customer's name, service address, and anticipated date of  
45 installation;

46 (2) State the utility's desire to install an advanced meter at the customer's address,  
47 as well as the functionality of the advanced meter, its method of communication, and  
48 frequency of data communication;

49 (3) If the advanced meter the customer would be receiving is a hub meter, explain  
50 how a hub meter differs from other meters;

51 (4) State the customer's ability to choose a traditional meter or nonhub meter and  
52 the customer's rights under this section; and

53           **(5) Clearly explain the process for a customer to opt out of installation of an**  
54 **advanced meter or hub meter or the use of an advanced meter function.**

55           **6. The commission shall promulgate opt-out procedures that shall be composed of**  
56 **simple, easy-to-understand steps that an average customer can easily understand and that**  
57 **do not place any undue burden on the customer. After being notified that they can opt out,**  
58 **customers shall be provided with at least forty-five days to communicate with the utility**  
59 **their desire to opt out, with a clear deadline listed on the notice. Opt-out procedures shall**  
60 **be free of charge other than the cost of regular mailing. An opt-out procedure or process**  
61 **shall be narrow in construction so as to inform the utility of the customer's intentions and**  
62 **not be made contingent upon or contain language that would require the customer's giving**  
63 **up any rights or making any other ancillary agreements. A customer that does not opt out**  
64 **when first notified does not give up any rights regarding having an advanced meter**  
65 **removed in the future.**

66           **7. Within thirty days after receiving a customer's request that an advanced meter**  
67 **be removed from the customer's residence or business, a utility shall remove the advanced**  
68 **meter and replace it with a traditional meter. Limited to actual costs, a utility may charge**  
69 **a one-time all-inclusive fee, not to exceed one hundred twenty-five dollars, to remove the**  
70 **advanced meter and to provide and install a traditional meter. However, a utility shall not**  
71 **charge a fee if the utility installed the advanced meter in violation of the notice**  
72 **requirements in this section or before the effective date of this section. A utility shall not**  
73 **charge a monthly fee for using a traditional meter unless the customer is offered the**  
74 **opportunity, but is unwilling, to read and report the customer's usage under subsection 8**  
75 **of this section. Any fee for using a traditional meter shall not exceed five dollars per**  
76 **month.**

77           **8. (1) A utility shall allow each customer to read and report that customer's service**  
78 **usage if the customer reports reasonably accurate usage on a regular basis. A utility shall**  
79 **provide a customer with a pre-addressed envelope and form upon request or permit a**  
80 **customer to report meter readings on a secure website, by telephone, or by other**  
81 **reasonable means. At least once every twelve months, the utility shall obtain an actual**  
82 **meter reading of a customer's energy usage to verify the accuracy of readings reported**  
83 **under this section. Notwithstanding this subsection, a representative of a utility may**  
84 **manually read a customer's meter on a regular basis as otherwise permitted by law and**  
85 **correct a reading as necessary. If a customer fails to report usage or the utility does not**  
86 **receive a customer's service usage on time, the utility may manually read a customer's**  
87 **meter or charge that customer based on an estimate of prior energy use in a manner**  
88 **approved by the commission. A customer that intentionally reports inaccurate information**

89 may be assessed a reasonable penalty under rules promulgated by the commission and may  
90 be subject to any other penalties provided by law.

91 (2) For purposes of this subsection, the following terms mean:

92 (a) "Inaccurate information", the intentional under-reporting of meter data in an  
93 effort to not pay for services. Inaccurate information does not mean minor differences in  
94 readings by less than five percent to account for variations based on the time of day that  
95 the meter is read and similar factors;

96 (b) "Regular basis", once per billing cycle.

97 9. Subject to subsection 2 of this section, the commission shall not approve a utility  
98 tariff that alters rates for customers that do not use an advanced meter. The commission  
99 shall consider the ability to self-read meters as a part of any proceeding and shall fully  
100 recognize and value that customers have a legitimate interest in controlling third-party  
101 equipment placed onto their property that is not inherently necessary as a condition to  
102 receiving service.

103 10. A customer's energy use data and internet user information are private and  
104 confidential and shall not be sold, rented, or shared by a utility or its agents except as  
105 provided by competent court order or law. A utility may report data relating to electric  
106 or compressed natural gas vehicle fueling to the department of revenue. That information  
107 shall be used by the state strictly for taxation purposes, shall not be shared with law  
108 enforcement without a warrant, and is not subject to disclosure under chapter 610, except  
109 for aggregate data used for research purposes in a nonidentifying manner.

110 11. A utility shall ensure that any data from an advanced meter communicated by  
111 networking technology is sufficiently encrypted so that the data cannot be intercepted by  
112 a device other than a device used by the utility. A utility shall not communicate by  
113 networking technology meter use data that include a residential customer's name, Social  
114 Security number, address, or other identifying information except for an independent and  
115 unique customer identification number that is assigned by the utility. The customer  
116 identification number shall be assigned in a manner that includes safeguards to prevent  
117 a device not owned by the utility from associating the number with a particular customer  
118 or address.

119 12. A utility shall not post a customer's energy use data or bill on the internet,  
120 except over a secured transfer protocol or similar secured connection that uses one or more  
121 additional security measures, such as a customer-selected password, to ensure that only the  
122 customer can access the information.

123 13. A utility shall not wirelessly or otherwise remotely shut off service to a customer  
124 unless both of the following requirements are met:

125           **(1) At least forty-eight hours before shutoff, a utility representative visits the**  
126 **property to which the service is to be shut off, verifies that it is the correct address, and**  
127 **follows all other shutoff procedures required by law; and**

128           **(2) The utility has a commission-approved, comprehensive security program that**  
129 **reasonably ensures that a customer's service will be shut off only through authorized**  
130 **access to the utility's computer system, that is open to inspection and audit by the**  
131 **commission, and that is designed to prevent unintentional shutoff due to network hacking**  
132 **or terrorism.**

133           **14. The commission shall promulgate rules to implement the provisions of this**  
134 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
135 **created under the authority delegated in this section shall become effective only if it**  
136 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
137 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
138 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
139 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
140 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2020,**  
141 **shall be invalid and void.**

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