

FIRST REGULAR SESSION

HOUSE BILL NO. 539

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KNIGHT.

1380H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 386.890, RSMo, and to enact in lieu thereof one new section relating to the net metering and easy connection act.

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

Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows:

386.890. 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 fuel cost", the current average cost of fuel for the entity generating electricity, as defined by the governing body with jurisdiction over any municipal electric utility, rural electric cooperative as provided in chapter 394, or electrical corporation as provided in this chapter;

(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;

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

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 (e) Is intended ~~[primarily to offset part or all]~~ **and designed not to exceed one hundred**
19 **percent** of the customer-generator's own electrical energy requirements;

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

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

27 (4) "Department", the department of ~~[economic development]~~ **natural resources**;

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

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

36 (7) "Retail electric supplier" or "supplier", any ~~[municipal]~~ **municipally owned electric**
37 **utility operating under chapter 91**, electrical corporation regulated **by the commission** under
38 this chapter, or rural electric cooperative **operating** under chapter 394 that provides retail electric
39 service in this state. **An electrical corporation that operates under a cooperative business**
40 **plan as described in subsection 2 of section 393.110 shall be deemed to be a rural electric**
41 **cooperative for purposes of this section.**

42 3. A retail electric supplier shall:

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

53 (2) Offer **net metering** to the customer-generator **pursuant to a commission-approved**
54 **tariff of an electrical corporation or contract approved by the respective governing body of**
55 **a rural electric cooperative or a municipally owned electric utility at rates that [is] are**
56 identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that
57 the customer would be assigned if the customer were not an eligible customer-generator [~~but~~
58 ~~shall not charge the customer-generator any additional standby, capacity, interconnection, or~~
59 ~~other fee or charge that would not otherwise be charged if the customer were not an~~]. **In the**
60 **alternative, with energy and demand rates, rate structure, and recurring monthly charges**
61 **that are reasonably calculated to recover that portion of the retail electric supplier's fixed**
62 **and demand costs that are not eliminated as a result of the operation of the eligible**
63 ~~[customer-generator]~~ **customer-generator's eligible electric energy generating unit; and**

64 (3) Disclose annually the availability of the net metering program to each of its
65 customers **or members** with the method and manner of disclosure being at the discretion of the
66 **retail electric** supplier.

67 4. A customer-generator's facility shall be equipped with sufficient metering equipment
68 that can measure the net amount of electrical energy produced or consumed by the
69 customer-generator. If the customer-generator's existing meter equipment does not meet these
70 requirements or if it is necessary for the **retail** electric supplier to install additional distribution
71 equipment to accommodate the customer-generator's facility, the customer-generator shall
72 reimburse the retail electric supplier for the costs to purchase and install the necessary additional
73 equipment **including, but not limited to, necessary electric distribution system upgrades.**
74 At the request of the customer-generator, such costs may be initially paid for by the retail electric
75 supplier, and any amount up to the total costs and a reasonable interest charge may be recovered
76 from the customer-generator over the course of up to twelve billing cycles. Any subsequent
77 meter testing, maintenance or meter equipment change necessitated by the customer-generator
78 shall be paid for by the customer-generator.

79 5. Consistent with the provisions in this section, the net electrical energy measurement
80 shall be calculated in the following manner:

81 (1) For a customer-generator, a retail electric supplier shall measure the net electrical
82 energy produced or consumed during the billing period in accordance with normal metering
83 practices for customers in the same rate class, either by employing a single, bidirectional meter
84 that measures the amount of electrical energy produced and consumed, or by employing multiple
85 meters that separately measure the customer-generator's consumption and production of
86 electricity;

87 (2) If the electricity supplied by the supplier exceeds the electricity generated by the
88 customer-generator during a billing period, the customer-generator shall be billed for the net

89 electricity supplied by the supplier in accordance with normal practices for customers in the same
90 rate class;

91 (3) If the electricity generated by the customer-generator exceeds the electricity supplied
92 by the supplier during a billing period, the customer-generator shall be billed for the appropriate
93 customer **and demand** charges for that billing period in accordance with subsection 3 of this
94 section and shall be credited an amount at least equal to the avoided fuel cost of the excess
95 kilowatt-hours generated during the billing period, with this credit applied to the following
96 billing period;

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

100 (5) For any rural electric cooperative under chapter 394, or ~~[municipal utility]~~ **any**
101 **municipally owned electric utility**, upon agreement of the wholesale generator supplying
102 electric energy to the retail electric supplier, at the option of the retail electric supplier, the credit
103 to the customer-generator may be provided by the wholesale generator.

104 6. (1) Each qualified electric energy generation unit used by a customer-generator shall
105 **meet and be installed, maintained, and repaired consistent with** all applicable safety,
106 performance, interconnection, and reliability standards established by any local code authorities,
107 the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and
108 Electronics Engineers, and Underwriters Laboratories for distributed generation. **All qualified**
109 **electric energy generation units utilizing battery backup shall be installed to operate**
110 **completely isolated from the retail electric supplier's system including, but not limited to,**
111 **all neutral connections and grounding points, during times of backup operation. Unless**
112 **allowed under subdivision (2) of subsection 3 of this section,** no supplier shall impose any fee,
113 charge, or other requirement not specifically authorized by this section or the rules promulgated
114 under subsection 9 of this section unless the fee, charge, or other requirement would apply to
115 similarly situated customers who are not customer-generators, except that a retail electric
116 supplier may require that a customer-generator's system contain **adequate surge protection and**
117 a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate
118 proximity to the customer-generator's metering equipment that would allow a utility worker **or**
119 **emergency response personnel** the ability to manually and instantly disconnect the unit from
120 the utility's electric distribution system.

121 (2) For systems of ten kilowatts or less, a customer-generator whose system meets the
122 standards and rules under subdivision (1) of this subsection shall not be required to install
123 additional controls, perform or pay for additional tests or distribution equipment, or purchase

124 additional liability insurance beyond what is required under subdivision (1) of this subsection
125 and subsection 4 of this section.

126 (3) For customer-generator systems of greater than ten kilowatts, the commission for
127 ~~[public utilities]~~ **electrical corporations** and the governing body for other ~~[utilities]~~ **retail**
128 **electric suppliers** shall, by rule or equivalent formal action by each respective governing body:

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

130 (b) Establish the qualifications for exemption from a requirement to install additional
131 controls, perform or pay for additional tests or distribution equipment, or purchase additional
132 liability insurance.

133 7. (1) Applications by a customer-generator for interconnection of a qualified electric
134 energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section
135 to the distribution system shall be accompanied by the plan for the customer-generator's electrical
136 generating system, including but not limited to a wiring diagram and specifications for the
137 generating unit, and shall be reviewed and responded to by the retail electric supplier, **unless**
138 **mutually agreed to**, within thirty days of receipt for systems ten kilowatts or less and within
139 ninety days of receipt for all other systems. Prior to the interconnection of the qualified
140 generation unit to the supplier's system, the customer-generator will furnish the retail electric
141 supplier a certification from a ~~[qualified]~~ professional electrician or engineer **deemed qualified**
142 **by the retail electric supplier** that the installation meets the requirements of subdivision (1) of
143 subsection 6 of this section. **In the event the professional electrician or engineer is not**
144 **licensed, the retail electric supplier may require a bond or other form of surety to insure**
145 **the safe installation and operation of the qualified electric energy generation unit.** If the
146 application for interconnection is approved by the retail electric supplier and the
147 customer-generator does not complete the interconnection within one year after receipt of notice
148 of the approval, the approval shall expire and the customer-generator shall be responsible for
149 filing a new application.

150 (2) Upon the change in ownership of a qualified electric energy generation unit, the new
151 customer-generator shall be responsible for filing a new application under subdivision (1) of this
152 subsection.

153 8. Each ~~[commission-regulated supplier]~~ **electrical corporation** shall submit an annual
154 net metering report to the commission, and all other ~~[non-regulated]~~ **retail electric** suppliers shall
155 submit the same report to their respective governing body and make said report available to a
156 consumer of the supplier upon request, including the following information for the previous
157 calendar year:

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

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

- 160 (3) The total estimated net kilowatt-hours received from customer-generators.
- 161 9. The commission shall, within nine months of January 1, 2008, promulgate initial rules
162 necessary for the administration of this section for ~~[public utilities]~~ **electrical corporations**,
163 which shall include regulations ensuring that simple contracts will be used for interconnection
164 and net metering. For systems of ten kilowatts or less, the application process shall use an
165 all-in-one document that includes a simple interconnection request, simple procedures, and a
166 brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section
167 536.010, that is created under the authority delegated in this section shall become effective only
168 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
169 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
170 general assembly under chapter 536 to review, to delay the effective date, or to disapprove and
171 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
172 any rule proposed or adopted after August 28, 2007, shall be invalid and void.
- 173 10. The governing body of a rural electric cooperative or municipal utility shall, within
174 nine months of January 1, 2008, adopt policies establishing a simple contract to be used for
175 interconnection and net metering. For systems of ten kilowatts or less, the application process
176 shall use an all-in-one document that includes a simple interconnection request, simple
177 procedures, and a brief set of terms and conditions.
- 178 11. For any cause of action relating to any damages to property or person caused by the
179 **qualified electric energy** generation unit of a customer-generator or the interconnection thereof,
180 the retail electric supplier shall have no liability absent clear and convincing evidence of fault
181 on the part of the supplier.
- 182 12. The estimated generating capacity of all net metering systems operating under the
183 provisions of this section shall count towards the respective retail electric supplier's
184 accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri
185 general assembly **and for purposes of compliance with any applicable federal law**.
- 186 13. The sale of qualified electric **energy** generation units to any customer-generator shall
187 be subject to the provisions of ~~[sections 407.700 to 407.720]~~ **chapter 407**. The attorney general
188 shall have the authority to promulgate in accordance with the provisions of chapter 536 rules
189 regarding mandatory disclosures of information by sellers of qualified electric **energy** generation
190 units. Any interested person who believes that the seller of any **qualified electric energy**
191 generation unit is misrepresenting the **cost savings, investment payback period**, safety, or
192 performance standards of any such systems, or who believes that any **qualified electric energy**
193 generation unit poses a danger to any property or person, may report the same to the attorney
194 general, who shall be authorized to investigate such claims and take any necessary and
195 appropriate actions. **All cost savings or investment payback period calculations made by**

196 **sellers of qualified electric energy generation units shall be based upon the then-existing**
197 **electric service rates and avoided cost of the potential or existing customer-generator's**
198 **retail electric supplier, and if projections for future rate increases are included in the**
199 **calculation, such projections shall be based on that retail electric supplier's then-existing**
200 **rates and the actual percentage increase in rates averaged over the previous ten-year**
201 **period. Misrepresentation of a retail electric supplier's current or projected rates shall**
202 **constitute an unlawful practice under section 407.020 and the violator shall be subject to**
203 **all penalties, remedies, and procedures provided in sections 407.010 to 407.130, with such**
204 **remedies being cumulative. Any person who suffers a loss or harm as a result of such**
205 **unlawful practice may recover actual and punitive damages, reasonable attorney's fees,**
206 **court costs, and any other remedies provided by law.**

207 14. Any costs incurred under this act by a retail electric supplier shall be recoverable in
208 that utility's rate structure.

209 15. No consumer shall connect or operate ~~an~~ **a qualified electric energy** generation
210 unit in parallel phase and synchronization with any retail electric supplier without written
211 approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this
212 section have been met. For a consumer who violates this provision, a supplier may immediately
213 and without notice disconnect the electric facilities of said consumer and terminate said
214 consumer's electric service.

215 16. The manufacturer of any **qualified electric energy** generation unit used by a
216 customer-generator may be held liable for any damages to property or person caused by a defect
217 in the **qualified electric energy** generation unit of a customer-generator.

218 17. The seller, installer, or manufacturer of any **qualified electric energy** generation unit
219 who knowingly misrepresents the safety aspects of an electric **energy** generation unit may be
220 held liable **and may recover actual and punitive damages, reasonable attorney's fees, court**
221 **costs, and seek any other remedies provided by law** for any damages to property or person
222 caused by the **qualified electric energy** generation unit of a customer-generator.

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