

SECOND REGULAR SESSION

# HOUSE BILL NO. 1795

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BERRY (Sponsor) AND MCNEIL (Co-sponsor).

5552H.021

D. ADAM CRUMBLISS, Chief Clerk

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### 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.

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*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Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows: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 supplied electricity by an electric utility that has as an electric generating system with a capacity of not more than one megawatt;**

(d) 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.

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

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

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

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

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

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

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

38            (7) "Retail electric supplier" or "supplier", any municipal utility, electrical corporation  
39 regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail  
40 electric service in this state.

41            3. A retail electric supplier shall:

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

51            (2) Offer to the customer-generator a tariff or contract that is identical in electrical  
52 energy rates, rate structure, and monthly charges to the contract or tariff that the customer would  
53 be assigned if the customer were not an eligible customer-generator but shall not charge the

54 customer-generator any additional standby, capacity, interconnection, or other fee or charge that  
55 would not otherwise be charged if the customer were not an eligible customer-generator; and

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

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

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

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

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

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

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

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

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

105 (2) For systems of ten kilowatts or less, a customer-generator whose system meets the  
106 standards and rules under subdivision (1) of this subsection shall not be required to install  
107 additional controls, perform or pay for additional tests or distribution equipment, or purchase  
108 additional liability insurance beyond what is required under subdivision (1) of this subsection  
109 and subsection 4 of this section[;] .

110 (3) For customer-generator systems of greater than ten kilowatts, the commission for  
111 public utilities and the governing body for other utilities shall, by rule or equivalent formal action  
112 by each respective governing body:

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

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

117 7. (1) Applications by a customer-generator for interconnection of a qualified electric  
118 energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section  
119 to the distribution system shall be accompanied by the plan for the customer-generator's electrical  
120 generating system, including but not limited to a wiring diagram and specifications for the  
121 generating unit, and shall be reviewed and responded to by the retail electric supplier within  
122 thirty days of receipt for systems ten kilowatts or less and within ninety days of receipt for all  
123 other systems. Prior to the interconnection of the qualified generation unit to the supplier's  
124 system, the customer-generator will furnish the retail electric supplier a certification from a

125 qualified professional electrician or engineer that the installation meets the requirements of  
126 subdivision (1) of subsection 6 of this section. If the application for interconnection is approved  
127 by the retail electric supplier and the customer-generator does not complete the interconnection  
128 within one year after receipt of notice of the approval, the approval shall expire and the  
129 customer-generator shall be responsible for filing a new application.

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

133 8. Each commission-regulated supplier shall submit an annual net metering report to the  
134 commission, and all other nonregulated suppliers shall submit the same report to their respective  
135 governing body and make said report available to a consumer of the supplier upon request,  
136 including the following information for the previous calendar year:

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

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

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

140 **9. The commission shall define net metering as a demand-side program and develop**  
141 **cost-recovery measures which allow public utilities to recover reasonable costs related to**  
142 **net metering.**

143 **10.** The commission shall, within nine months of January 1, 2008, promulgate initial  
144 rules necessary for the administration of this section for public utilities, which shall include  
145 regulations ensuring that simple contracts will be used for interconnection and net metering. For  
146 systems of ten kilowatts or less, the application process shall use an all-in-one document that  
147 includes a simple interconnection request, simple procedures, and a brief set of terms and  
148 conditions. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
149 created under the authority delegated in this section shall become effective only if it complies  
150 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.  
151 This section and chapter 536 are nonseverable and if any of the powers vested with the general  
152 assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a  
153 rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
154 proposed or adopted after August 28, 2007, shall be invalid and void.

155 [10.] **11.** The governing body of a rural electric cooperative or municipal utility shall,  
156 within nine months of January 1, 2008, adopt policies establishing a simple contract to be used  
157 for interconnection and net metering. For systems of ten kilowatts or less, the application  
158 process shall use an all-in-one document that includes a simple interconnection request, simple  
159 procedures, and a brief set of terms and conditions.

160 [11.] **12.** For any cause of action relating to any damages to property or person caused  
161 by the generation unit of a customer-generator or the interconnection thereof, the retail electric  
162 supplier shall have no liability absent clear and convincing evidence of fault on the part of the  
163 supplier.

164 [12.] **13.** The estimated generating capacity of all net metering systems operating under  
165 the provisions of this section shall count towards the respective retail electric supplier's  
166 accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri  
167 general assembly.

168 [13.] **14.** The sale of qualified electric generation units to any customer-generator shall  
169 be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the  
170 authority to promulgate in accordance with the provisions of chapter 536 rules regarding  
171 mandatory disclosures of information by sellers of qualified electric generation units.

172 Any interested person who believes that the seller of any electric generation unit is  
173 misrepresenting the safety or performance standards of any such systems, or who believes that  
174 any electric generation unit poses a danger to any property or person, may report the same to the  
175 attorney general, who shall be authorized to investigate such claims and take any necessary and  
176 appropriate actions.

177 [14.] **15.** Any costs incurred under this [act] **section** by a retail electric supplier shall be  
178 recoverable in that utility's rate structure.

179 [15.] **16.** No consumer shall connect or operate an electric generation unit in parallel  
180 phase and synchronization with any retail electric supplier without written approval by said  
181 supplier that all of the requirements under subdivision (1) of subsection 7 of this section have  
182 been met. For a consumer who violates this provision, a supplier may immediately and without  
183 notice disconnect the electric facilities of said consumer and terminate said consumer's electric  
184 service.

185 [16.] **17.** The manufacturer of any electric generation unit used by a customer-generator  
186 may be held liable for any damages to property or person caused by a defect in the electric  
187 generation unit of a customer-generator.

188 [17.] **18.** The seller, installer, or manufacturer of any electric generation unit who  
189 knowingly misrepresents the safety aspects of an electric generation unit may be held liable for  
190 any damages to property or person caused by the electric generation unit of a customer-generator.

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