

FIRST REGULAR SESSION

HOUSE BILL NO. 340

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZWATER (49).

1019H.011

D. ADAM CRUMBLISS, 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, with a penalty provision.

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Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows: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 [~~natural resources~~] **economic development**;

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 utility,~~] electrical corporation
37 regulated under this chapter **that provides retail electric service in this state**, [~~or~~] rural electric
38 cooperative **operating** under chapter 394 that provides retail electric service in this state **and**
39 **that serves twenty thousand or more connected meters, or any municipal utility that**
40 **provides retail electric service in this state and serves twenty thousand or more connected**
41 **meters. An electrical corporation that is regulated by the commission pursuant to section**
42 **393.110 shall be deemed to be a rural electric cooperative for purposes of this section.**
43 **Nothing in this section shall preclude the governing body of a rural electric cooperative or**
44 **municipal utility that serves less than twenty thousand meters from offering and providing**
45 **net metering on a voluntary basis under rates, terms, and conditions that the governing**
46 **body deems to be just and reasonable, the provisions of this section notwithstanding.**

47 3. A retail electric supplier shall:

48 (1) Make net metering available to customer-generators on a first-come, first-served
49 basis until the total rated generating capacity of net metering systems equals five percent of the
50 [~~utility~~] **supplier's** single-hour peak load during the previous year, after which the commission
51 for an [~~public utility~~] **electrical corporation** or the **respective** governing body [~~for~~] **of** other
52 [~~electric utilities~~] **suppliers** may increase the total rated generating capacity of net metering
53 systems to an amount above five percent. However, in a given calendar year, no retail electric

54 supplier shall be required to approve any application for interconnection if the total rated
55 generating capacity of all applications for interconnection already approved to date by said
56 supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak
57 load for the previous calendar year;

58 (2) Offer **net metering** to the customer-generator **pursuant to a commission-approved**
59 **tariff if an electrical corporation, or pursuant to a contract approved by the respective**
60 **governing body of another supplier, at rates** that [is] **are** identical in electrical energy rates,
61 rate structure, and monthly charges to the contract or tariff that the customer would be assigned
62 if the customer were not an eligible customer-generator [~~but shall not charge the~~
63 ~~customer-generator any additional standby, capacity, interconnection, or other fee or charge that~~
64 ~~would not otherwise be charged if the customer were not an~~], **or in the alternative, under a**
65 **rate structure and with rates, fees, and charges that are reasonably calculated to prevent**
66 **unfair subsidization by recovering that portion of the supplier's fixed cost plus the demand**
67 **charges attributable to and necessary for connecting the eligible generating unit to the**
68 **supplier's system and otherwise providing electric service to the** eligible customer-generator;
69 and

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

72 4. A customer-generator's facility shall be equipped with sufficient metering equipment
73 that can measure the net amount of electrical energy produced or consumed by the
74 customer-generator. If the customer-generator's existing meter equipment does not meet these
75 requirements or if it is necessary for the **retail** electric supplier to install additional distribution
76 equipment to accommodate the customer-generator's facility, the customer-generator shall
77 reimburse the retail electric supplier for the costs to purchase and install the necessary additional
78 equipment. At the request of the customer-generator, such costs may be initially paid for by the
79 retail electric supplier, and any amount up to the total costs and a reasonable interest charge may
80 be recovered from the customer-generator over the course of up to twelve billing cycles. Any
81 subsequent meter testing, maintenance or meter equipment change necessitated by the
82 customer-generator shall be paid for by the customer-generator. **The commission for electrical**
83 **corporations, and the respective governing body for other suppliers, may require that the**
84 **customer-generator obtain and maintain a reasonable amount of liability insurance**
85 **coverage or other equivalent respecting the installation and operation of the qualified**
86 **electric energy generation unit.**

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

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

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

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

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

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

111 6. (1) Each qualified electric energy generation unit used by a customer-generator shall
112 meet, **and be installed, maintained, and repaired consistent with**, all applicable safety,
113 performance, interconnection, and reliability standards established by any local code authorities,
114 the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and
115 Electronics Engineers, and Underwriters Laboratories for distributed generation. **All qualified**
116 **electric energy generation units utilizing battery backup shall be installed to operate**
117 **completely isolated from the supplier's system, including all neutral connections and**
118 **grounding points, during times of backup operation. Unless allowed under subdivision (2)**
119 **of subsection 3 and subsection 4 of this section**, no supplier shall impose any fee, charge, or
120 other requirement not specifically authorized by this section or the rules promulgated under
121 subsection 9 of this section unless the fee, charge, or other requirement would apply to similarly
122 situated customers who are not customer-generators, except that a retail electric supplier may
123 require that a customer-generator's system contain **adequate surge protection and** a switch,
124 circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity

125 to the customer-generator's metering equipment that would allow a utility worker **and**
126 **emergency response personnel** the ability to manually and instantly disconnect the unit from
127 the utility's electric distribution system;

128 (2) For systems of ten kilowatts or less, a customer-generator whose system meets the
129 standards and rules under subdivision (1) of this subsection shall not be required to install
130 additional controls, perform or pay for additional tests or distribution equipment, or purchase
131 additional liability insurance beyond what is required under subdivision (1) of this subsection
132 and subsection 4 of this section;

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

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

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

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

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

159 8. Each ~~[commission-regulated supplier]~~ **electrical corporation** shall submit an annual
160 net metering report to the commission, and all other ~~[nonregulated]~~ suppliers shall submit the

161 same report to their respective governing body and make said report available to a consumer of
162 the supplier upon request, including the following information for the previous calendar year:

- 163 (1) The total number of customer-generator facilities;
- 164 (2) The total estimated generating capacity of its net-metered customer-generators; and
- 165 (3) The total estimated net kilowatt-hours received from customer-generators.

166 9. The commission shall, within nine months of January 1, 2008, promulgate initial rules
167 necessary for the administration of this section for ~~[public utilities]~~ **electrical corporations**,
168 which shall include regulations ensuring that simple contracts will be used for interconnection
169 and net metering. For systems of ten kilowatts or less, the application process shall use an
170 all-in-one document that includes a simple interconnection request, simple procedures, and a
171 brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section
172 536.010, that is created under the authority delegated in this section shall become effective only
173 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
174 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
175 general assembly under chapter 536 to review, to delay the effective date, or to disapprove and
176 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
177 any rule proposed or adopted after August 28, 2007, shall be invalid and void.

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

183 11. For any cause of action relating to any damages to property or person caused by the
184 **qualified electric energy** generation unit of a customer-generator or the interconnection thereof,
185 the retail electric supplier shall have no liability absent clear and convincing evidence of fault
186 on the part of the supplier.

187 12. The estimated generating capacity of all net metering systems operating under the
188 provisions of this section shall count towards the respective retail electric supplier's
189 accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri
190 general assembly **and for purposes of compliance with any applicable federal law**.

191 13. The sale of qualified electric **energy** generation units to any customer-generator shall
192 be subject to the provisions of sections 407.700 to 407.720. The attorney general shall have the
193 authority to promulgate in accordance with the provisions of chapter 536 rules regarding
194 mandatory disclosures of information by sellers of qualified electric **energy** generation units.
195 Any interested person who believes that the seller of any **qualified electric energy** generation
196 unit is misrepresenting the **cost savings, payback period**, safety or performance standards of

197 any such systems, or who believes that any **qualified** electric **energy** generation unit poses a
198 danger to any property or person, may report the same to the attorney general, who shall be
199 authorized to investigate such claims and take any necessary and appropriate actions. **All cost**
200 **savings or system payback period calculations made by sellers of qualified generating units**
201 **and given to potential or existing customer-generators shall be based upon the then-**
202 **existing electric service rates of the potential or existing customer-generator's retail electric**
203 **supplier, and if projections for rate increases are included in the calculation, such**
204 **projections shall be based on that retail electric supplier's then-existing rates and the**
205 **actual percentage increase in rates averaged over the previous ten-year period.**
206 **Misrepresentation of a retail electric supplier's current or projected rates shall constitute**
207 **an unlawful practice under section 407.020 and the violator shall be subject to all penalties,**
208 **remedies, and procedures provided in sections 407.010 to 407.130, these remedies being**
209 **cumulative, and any person that suffers a loss or harm as a result of such unlawful practice**
210 **may recover actual and punitive damages, reasonable attorney's fees, court costs, and any**
211 **other remedies provided by law. Any person who willfully and knowingly engages in any**
212 **act or practice prohibited or declared unlawful by this subsection shall be guilty of a class**
213 **B misdemeanor.**

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

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

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

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

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