

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 340

99TH GENERAL ASSEMBLY

1019H.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 386.890, RSMo, and to enact in lieu thereof two new sections relating to the regulation of utilities.

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

Section A. Section 386.890, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 386.890 and 620.3150, to read as follows: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 of the customer-generator's own electrical
19 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, electric corporation
37 regulated under this chapter, or rural electric cooperative under chapter 394 that provides retail
38 electric service in this state.

39 3. A retail electric supplier shall:

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

50 (2) Offer to the customer-generator a **net metering** tariff or contract that is identical in
51 electrical energy rates, rate structure, and monthly charges to the contract or tariff that the
52 customer would be assigned if the customer were not an eligible customer-generator, **except that**
53 **the supplier may charge an owner or operator who becomes an eligible customer-generator**

54 **after August 28, 2017, a recurring monthly grid usage fee in addition to and in an amount**
55 **not to exceed seventy-five percent of the supplier's recurring monthly fixed customer or**
56 **service availability charge applicable to all customers, but otherwise shall not charge the**
57 **customer-generator any additional standby, capacity, interconnection, or other fee or charge that**
58 **would not otherwise be charged if the customer were not an eligible customer-generator;**
59 **provided, however, that no customer-generator receiving service under a net metering**
60 **tariff under this section as of August 28, 2017, shall be charged an additional monthly grid**
61 **usage fee. A retail electric supplier that has its rates and other charges associated with**
62 **delivery of electricity set by a governing body that is elected by its customers or citizens**
63 **shall not be subject to the provisions of this subdivision if such retail electric supplier or**
64 **the state completes a cost of service study and charges customer-generators no more in**
65 **non-energy fees than its fixed costs per customer as determined by said study; and**

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

68 4. A customer-generator's facility shall be equipped with sufficient metering equipment
69 that can measure the net amount of electrical energy produced or consumed by the
70 customer-generator. If the customer-generator's existing meter equipment does not meet these
71 requirements or if it is necessary for the **retail** electric supplier to install additional distribution
72 equipment to accommodate the customer-generator's facility, the customer-generator shall
73 reimburse the retail electric supplier for the costs to purchase and install the necessary additional
74 equipment. At the request of the customer-generator, such costs may be initially paid for by the
75 retail electric supplier, and any amount up to the total costs and a reasonable interest charge may
76 be recovered from the customer-generator over the course of up to twelve billing cycles. Any
77 subsequent meter testing, maintenance or meter equipment change necessitated by the
78 customer-generator 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 charges for that billing period in accordance with subsection 3 of this section and shall
94 be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours
95 generated during the billing period, with this credit applied to **the customer-generator's own**
96 **monthly grid usage fee and any remainder applied to** the following 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, upon
101 agreement of the wholesale generator supplying electric energy to the retail electric supplier, at
102 the option of the retail electric supplier, the credit to the customer-generator may be provided by
103 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. No supplier
109 shall impose any fee, charge, or other requirement not specifically authorized by this section or
110 the rules promulgated under subsection 9 of this section unless the fee, charge, or other
111 requirement would apply to similarly situated customers who are not customer-generators, except
112 that a retail electric supplier may require that a customer-generator's system contain a switch,
113 circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity
114 to the customer-generator's metering equipment that would allow a utility worker **and**
115 **emergency response personnel** the ability to manually and instantly disconnect the unit from
116 the utility's electric distribution system. **A retail electric supplier may require that a**
117 **customer-generator's system, that was installed and operational before August 28, 2017,**
118 **contain adequate surge protection provided that the retail electric supplier compensates**
119 **the customer-generator for the costs associated with the adequate surge protection. A**
120 **retail electric supplier may require that a customer-generator's system that was installed**
121 **and operational after August 28, 2017, contain adequate surge protection to be installed**
122 **at the customer-generator's expense;**

123 (2) For systems of ten kilowatts or less, a customer-generator whose system meets the
124 standards and rules under subdivision (1) of this subsection shall not be required to install

125 additional controls, perform or pay for additional tests or distribution equipment, or purchase
126 additional liability insurance beyond what is required under subdivision (1) of this subsection
127 and subsection 4 of this section;

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

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

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

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

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

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

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

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

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

158 9. The commission shall, within nine months of January 1, 2008, promulgate initial rules
159 necessary for the administration of this section for ~~[public utilities]~~ **electrical corporations**,
160 which shall include regulations ensuring that simple contracts will be used for interconnection

161 and net metering. For systems of ten kilowatts or less, the application process shall use an
162 all-in-one document that includes a simple interconnection request, simple procedures, and a
163 brief set of terms and conditions. Any rule or portion of a rule, as that term is defined in section
164 536.010, that is created under the authority delegated in this section shall become effective only
165 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
166 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
167 general assembly under chapter 536 to review, to delay the effective date, or to disapprove and
168 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
169 any rule proposed or adopted after August 28, 2007, shall be invalid and void.

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

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

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

183 13. The sale of qualified electric **energy** generation units to any customer-generator shall
184 be subject to the **applicable** provisions of [~~sections 407.700 to 407.720~~] **chapter 407.** The
185 attorney general shall have the authority to promulgate in accordance with the provisions of
186 chapter 536 rules regarding mandatory disclosures of information by sellers of qualified electric
187 **energy** generation units. Any interested person who believes that the seller of any **qualified**
188 electric **energy** generation unit is misrepresenting the **cost savings, payback period,** safety or
189 performance standards of any such systems, or who believes that any **qualified electric energy**
190 generation unit poses a danger to any property or person, may report the same to the attorney
191 general, who shall be authorized to investigate such claims and take any necessary and
192 appropriate actions.

193 14. Any costs incurred under this act by a retail electric supplier shall be recoverable in
194 that [~~utility's~~] **supplier's** rate structure.

195 15. No consumer shall connect or operate [~~an~~] a **qualified electric energy** generation
196 unit in parallel phase and synchronization with any retail electric supplier without written

197 approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of this
198 section have been met. For a consumer who violates this provision, a supplier may immediately
199 and without notice disconnect the electric facilities of said consumer and terminate said
200 consumer's electric service.

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

204 17. The seller, installer, or manufacturer of any **qualified** electric **energy** generation unit
205 who knowingly misrepresents the safety aspects of [æ] a **qualified** electric **energy** generation
206 unit may be held liable for any damages to property or person caused by the **qualified** electric
207 **energy** generation unit of a customer-generator.

**620.3150. 1. The comprehensive state energy plan developed by the division of
2 energy shall be reviewed by the division by January 1, 2019, and biennially thereafter, and
3 updated if necessary, in accordance with the provisions of this section.**

4 2. The state's comprehensive state energy plan shall be reviewed to ensure that it:

5 (1) Is consistent with Article I, Section 2 of the Missouri Constitution;

**6 (2) Encourages private investment in distributed energy solutions that will help
7 customers better manage their energy bills and reduce fuel costs while ensuring fairness
8 to all customers;**

**9 (3) Animates energy markets through strategies to attract private capital
10 investments;**

11 (4) Supports transportation alternatives;

**12 (5) Creates an uncumbersome regulatory environment that allows the state's energy
13 utilities to chart a vibrant changing future by operating with greater efficiency, consumer
14 flexibility, and reliability, and that supports pricing that is predictable and sustainable;**

**15 (6) Supports public and private efforts to foster a supply of energy to consumers
16 that is abundant, reliable, and cost efficient; and**

**17 (7) Monitors areas of potential growth or development, including forecasts of five
18 and ten years for energy demand and supply, infrastructure demands, and identification
19 of additional costs, risks, benefits, uncertainties, and market potential of energy supply
20 resource alternatives.**

**21 3. The division of energy, either directly or through contracting with a Missouri-
22 based nonprofit whose staff and organization have the capacity and capability to
23 adequately meet the aforementioned goals, shall use a diverse stakeholder system through
24 both online engagement and several in-person meetings throughout the state to conduct the
25 review.**

26 **4. A report shall be issued by the division of energy, along with the review required**
27 **under this section, that shall suggest policy changes for the state that:**
28 **(1) Provide improved reliability of the energy systems within the state;**
29 **(2) Insulate customers from volatility in market prices;**
30 **(3) Reduce the overall cost of energy in the state;**
31 **(4) Reasonably addresses public health and environmental impacts; and**
32 **(5) Identify and analyze emerging trends in supply, price, demand, and technology,**
33 **as well as energy policies and programs, and their impact on achieving the state's**
34 **comprehensive state energy plan.**

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