

SECOND REGULAR SESSION

HOUSE BILL NO. 1864

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PLANK.

4498H.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 net metering.

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Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows: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 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
22 of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy
23 Regulatory Commission, and any local governing authorities; and

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

27 (4) "Department", the department of 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
33 thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using
34 hydrogen produced by one of the above-named electrical energy sources, and other sources of
35 energy that become available after August 28, 2007, and are certified as renewable by the
36 department;

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

43 3. A retail electric supplier shall:

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

54 (2) Offer to the customer-generator a tariff or contract that is identical in electrical
55 energy rates, rate structure, and monthly charges to the contract or tariff that the customer
56 would be assigned if the customer were not an eligible customer-generator but shall not
57 charge the customer-generator any additional standby, capacity, interconnection, or other fee
58 or charge that would not otherwise be charged if the customer were not an eligible customer-
59 generator; and

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

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

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

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

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

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

91 (4) Any **remaining** credits granted by this subsection shall ~~[expire without any~~
92 ~~compensation at the earlier of either twelve months after their issuance]~~ **be refunded to the**
93 **customer-generator at the end of each calendar year** or when the customer-generator
94 disconnects service or terminates the net metering relationship with the supplier;

95 (5) For any rural electric cooperative under chapter 394, or any municipally owned
96 utility, upon agreement of the wholesale generator supplying electric energy to the retail
97 electric supplier, at the option of the retail electric supplier, the credit to the customer-
98 generator may be provided by the wholesale generator.

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

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

116 (3) For customer-generator systems of greater than ten kilowatts, the commission for
117 electrical corporations and the respective governing body for other retail electric suppliers
118 shall, by rule or equivalent formal action by each respective governing body:

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

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

123 7. (1) Applications by a customer-generator for interconnection of a qualified electric
124 energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this
125 section to the distribution system shall be accompanied by the plan for the customer-
126 generator's electrical generating system, including but not limited to a wiring diagram and
127 specifications for the generating unit, and shall be reviewed and responded to by the retail

128 electric supplier within thirty days of receipt for systems ten kilowatts or less and within
129 ninety days of receipt for all other systems. Prior to the interconnection of the qualified
130 generation unit to the supplier's system, the customer-generator will furnish the retail electric
131 supplier a certification from a qualified professional electrician or engineer that the
132 installation meets the requirements of subdivision (1) of subsection 6 of this section. If the
133 application for interconnection is approved by the retail electric supplier and the customer-
134 generator does not complete the interconnection within one year after receipt of notice of the
135 approval, the approval shall expire and the customer-generator shall be responsible for filing a
136 new application.

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

140 8. Each electrical corporation shall submit an annual net metering report to the
141 commission, and all other retail electric suppliers shall submit the same report to their
142 respective governing body and make said report available to a consumer of the supplier upon
143 request, including the following information for the previous calendar year:

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

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

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

148 9. The commission shall, within nine months of January 1, 2008, promulgate initial
149 rules necessary for the administration of this section for electrical corporations, which shall
150 include regulations ensuring that simple contracts will be used for interconnection and net
151 metering. For systems of ten kilowatts or less, the application process shall use an all-in-one
152 document that includes a simple interconnection request, simple procedures, and a brief set of
153 terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010,
154 that is created under the authority delegated in this section shall become effective only if it
155 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
156 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with
157 the general assembly under chapter 536 to review, to delay the effective date, or to disapprove
158 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
159 authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

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

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

169 12. The estimated generating capacity of all net metering systems operating under the
170 provisions of this section shall count towards the respective retail electric supplier's
171 accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri
172 general assembly.

173 13. The sale of qualified electric energy generation units to any customer-generator
174 shall be subject to the provisions of sections 407.010 to 407.145 and sections 407.700 to
175 407.720. The attorney general shall have the authority to promulgate in accordance with the
176 provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of
177 qualified electric energy generation units. Any interested person who believes that the seller
178 of any qualified electric energy generation unit is misrepresenting the safety or performance
179 standards of any such systems, or who believes that any electric energy generation unit poses
180 a danger to any property or person, may report the same to the attorney general, who shall be
181 authorized to investigate such claims and take any necessary and appropriate actions.

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

184 15. No consumer shall connect or operate a qualified electric energy generation unit
185 in parallel phase and synchronization with any retail electric supplier without written
186 approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of
187 this section have been met. For a consumer who violates this provision, a supplier may
188 immediately and without notice disconnect the electric facilities of said consumer and
189 terminate said consumer's electric service.

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

193 17. The seller, installer, or manufacturer of any qualified electric energy generation
194 unit who knowingly misrepresents the safety aspects of a qualified electric generation unit
195 may be held liable for any damages to property or person caused by the qualified electric
196 energy generation unit of a customer-generator.

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