

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 340
99TH GENERAL ASSEMBLY

1019H.03C

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.

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Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows: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 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 eligible customer-generator a recurring monthly grid usage fee**

54 **in addition to and in an amount not to exceed seventy-five percent of the supplier's**
55 **recurring monthly fixed customer or service availability charge applicable to all customers,**
56 but **otherwise** shall not charge the customer-generator any additional standby, capacity,
57 interconnection, or other fee or charge that would not otherwise be charged if the customer were
58 not an eligible customer-generator; and

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

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

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

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

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

87 (3) If the electricity generated by the customer-generator exceeds the electricity supplied
88 by the supplier during a billing period, the customer-generator shall be billed for the appropriate
89 customer charges for that billing period in accordance with subsection 3 of this section and shall

90 be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours
91 generated during the billing period, with this credit applied to the following billing period;

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

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

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

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

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

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

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

124 7. (1) Applications by a customer-generator for interconnection of a qualified electric
125 energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this section

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

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

140 8. Each ~~[commission-regulated supplier]~~ **electrical corporation** shall submit an annual
141 net metering report to the commission, and all other ~~[nonregulated]~~ suppliers shall submit the
142 same report to their respective governing body and make said report available to a consumer of
143 the supplier upon 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; and
146 (3) The total estimated net kilowatt-hours received from customer-generators.

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

159 10. The governing body of a rural electric cooperative or municipal utility shall, within
160 nine months of January 1, 2008, adopt policies establishing a simple contract to be used for
161 interconnection and net metering. For systems of ten kilowatts or less, the application process

162 shall use an all-in-one document that includes a simple interconnection request, simple
163 procedures, and a brief set of terms and conditions.

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

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

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

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

184 15. No consumer shall connect or operate [~~an~~] **a qualified** electric **energy** generation
185 unit 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 this
187 section have been met. For a consumer who violates this provision, a supplier may immediately
188 and without notice disconnect the electric facilities of said consumer and terminate said
189 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 defect
192 in the **qualified** electric **energy** generation unit of a customer-generator.

193 17. The seller, installer, or manufacturer of any **qualified** electric **energy** generation unit
194 who knowingly misrepresents the safety aspects of [~~an~~] **a qualified** electric **energy** generation
195 unit 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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