

FIRST REGULAR SESSION

SENATE BILL NO. 459

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

Read 1st time February 23, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2076S.011

AN ACT

To amend chapter 386, RSMo, by adding thereto two new sections relating to energy.

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

Section A. Chapter 386, RSMo, is amended by adding thereto two new sections, to be known as sections 386.1000 and 386.1002, to read as follows:

386.1000. Sections 386.1000 to 386.1002 shall be known as the "Missouri Energy Freedom Act". These sections reflect the critical role that abundant, affordable, reliable, and secure supplies of energy have in advancing the economy of the state and the security, health, and welfare of its citizens. The right of citizens to directly invest in renewable energy sources to meet their own energy needs while also connecting to the electric grid shall not be limited more than is necessary to protect the safety and security of the electric grid.

386.1002. 1. For purposes of this section, the following terms shall mean:

(1) "Commission", the public service commission of the state of Missouri;

(2) "Contract customer", a person, corporation, or legal entity, including affiliates and subsidiaries, who executes or will execute a renewable energy contract with a renewable energy facility owner;

(3) "Renewable energy contract", a contract under this section between a renewable energy facility owner and a contract customer that provides for the delivery of electricity to a contract customer by one of the following means:

(a) From one renewable energy facility to a contract customer's single metered delivery location;

(b) From multiple renewable energy facilities to a contract

15 customer's single metered delivery location;

16 (c) From one or more renewable energy facilities to a single
17 contract customer's multiple metered delivery locations; or

18 (d) From one or more renewable energy facilities to a single
19 contract customer for distribution to multiple retail electric supplier
20 customers' metered delivery locations;

21 (4) "Renewable energy facility", a facility for the production of
22 electrical energy that utilizes a renewable energy resource as defined
23 in subdivision (5) of section 393.1025 and does not include an electric
24 generating facility whose costs have been included in a retail electric
25 supplier's rates as a facility providing electric service to the retail
26 electric supplier's system;

27 (5) "Retail electric supplier", the same as defined in subdivision
28 (7) of subsection 2 of section 386.890.

29 2. A renewable energy contract shall provide for the pricing and
30 duration of the contract for electricity to be sold from the renewable
31 energy facility, as determined through negotiation between the
32 renewable energy facility's owner and the contract customer.

33 3. To be eligible for entering a renewable energy contract under
34 this section, a contract customer shall meet a minimum annual peak
35 demand of one megawatt; provided that, a single contract customer may
36 aggregate multiple metered delivery locations to satisfy the minimum
37 megawatt limit.

38 4. Electricity generated by a renewable energy facility and
39 delivered to a contract customer under a renewable energy contract
40 shall not be included in a net metering program under section 386.890.

41 5. Following the promulgation of rules and regulations necessary
42 to implement this section under subsection 16 of this section, a contract
43 customer may request use of the transmission or distribution system of
44 a retail electric supplier to deliver power under a renewable energy
45 contract. Within ninety days after receiving a request from a contract
46 customer under this subsection, and subject to reasonable credit
47 requirements:

48 (1) A retail electric supplier regulated by the commission shall
49 approve the use of its transmission or distribution system to deliver
50 power under a renewable energy contract and file for commission
51 approval of service under the applicable service tariff as provided for

52 in subsection 10 of this section; or

53 (2) A retail electric supplier not regulated by the commission
54 shall approve the use of its transmission or distribution system to
55 deliver power under a renewable energy contract and request from its
56 governing body approval of service under the applicable service tariff
57 as provided for in subsection 10 of this section.

58 6. Following approval given under subsection 5 of this section
59 and upon receipt of a renewable energy contract, the retail electric
60 supplier shall:

61 (1) Contract with the renewable energy facility's owner to
62 purchase electricity for resale to the contract customer or contract
63 customers; and

64 (2) Sell such electricity to the contract customer according to the
65 duration and pricing terms in the renewable energy contract, plus any
66 additional costs the retail electric supplier is authorized to recover
67 under subsection 10 of this section.

68 7. The contract customer shall be responsible for any federal
69 jurisdictional incremental costs required by the regional transmission
70 organization of which the retail electric supplier is a member for
71 delivery of the electricity from the renewable energy facility to the
72 transmission system.

73 8. The retail electric supplier shall not be held responsible for
74 costs related to customer default.

75 9. The right to any environmental attribute associated with a
76 renewable energy facility shall remain the property of the renewable
77 energy facility's owner, except to the extent that a renewable energy
78 contract provides otherwise.

79 10. Within sixty days of publication of rules and regulations
80 necessary to effectuate the provisions of this section under subsection
81 16 of this section, a retail electric supplier shall file for approval by the
82 commission or the governing body for other electric utilities a tariff to
83 provide service subject to this section. A retail electric supplier shall
84 charge a contract customer for all metered electric service delivered to
85 the contract customer under a renewable energy contract as well as
86 any required supplemental energy service, and the tariff shall include
87 rates as determined by the commission or the governing body for a
88 retail electric supplier for the recovery of:

89 (1) Cost-based administrative service;
90 (2) Cost-based distribution service;
91 (3) Cost-based transmission service;
92 (4) Cost-based monthly generation capacity service; and
93 (5) Cost-based energy service for any kilowatt-hours of
94 electricity contracted for delivery but not delivered from the renewable
95 energy facility.

96 11. A retail electric supplier may propose an alternative tariff in
97 addition to the requirement in subsection 10 of this section. The
98 commission or governing body may approve an alternative tariff upon
99 finding that the alternative tariff:

100 (1) Complies with the requirements of this section;
101 (2) Has stated operational or administrative benefits to both a
102 retail energy supplier and a contract customer when compared to the
103 requirement in subsection 10 of this section; and
104 (3) Will not result in higher service cost to a contract customer
105 when compared to the requirement in subsection 10 of this section.

106 12. When the total rated generating capacity contracted for
107 under renewable energy contracts exceeds three percent of a retail
108 electric supplier's single-hour peak load, the retail electric supplier
109 shall file a report with the commission or governing body for the retail
110 electric supplier describing the impact of renewable energy facilities
111 under renewable energy contracts in its service territory. The
112 commission or governing body for the retail electric supplier shall then
113 conduct an evaluation of any potential cost shifts between rate classes
114 resulting from renewable energy contracts. Following such evaluation
115 the commission or governing body shall structure the charges in the
116 tariff in such a way as to prevent the shifting of cost from contract
117 customers to nonparticipating customers of the retail electric supplier.

118 13. A contract customer shall be served under the tariff approved
119 by the commission or governing body under this section for the
120 duration of the executed renewable energy contract. Repeal or
121 amendment of this section shall not abrogate the rights and obligations
122 of the contract customer and retail electric supplier under an executed
123 renewable energy contract.

124 14. An owner of a renewable energy facility is not a public utility
125 as defined by subdivision (43) of section 386.020, notwithstanding the

126 owner's participation in a renewable energy contract or the fact that
127 the owner's renewable energy facility supplies power delivered under
128 a renewable energy contract.

129 15. Nothing in this section shall prohibit an owner of a
130 renewable energy facility from providing power directly to a contract
131 customer under a renewable energy contract, provided that the power
132 is supplied by a renewable energy facility located entirely on the
133 customer's premises. A retail electric supplier shall not be entitled to
134 recover any costs relating to energy delivered under renewable energy
135 contracts described in this subsection. A retail electric supplier shall
136 not be required to compensate a customer for any excess energy
137 provided to the grid resulting from a renewable energy contract
138 described in this subsection, notwithstanding section 386.890 or any
139 other section of law.

140 16. The commission shall promulgate any rules and regulations
141 necessary to effectuate the provisions of this section within one year
142 of the effective date of this section. Any rule or portion of a rule, as
143 that term is defined in section 536.010, that is created under the
144 authority delegated in this section shall become effective only if it
145 complies with and is subject to all of the provisions of chapter 536 and,
146 if applicable, section 536.028. This section and chapter 536 are
147 nonseverable, and if any of the powers vested with the general
148 assembly pursuant to chapter 536 to review, to delay the effective date,
149 or to disapprove and annul a rule are subsequently held
150 unconstitutional, then the grant of rulemaking authority and any rule
151 proposed or adopted after August 28, 2017, shall be invalid and void.

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