

SECOND REGULAR SESSION

[PERFECTED]

# SENATE BILL NO. 820

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURLISON.

3741S.01P

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 386.890 and 442.404, RSMo, and to enact in lieu thereof three new sections relating to renewable energy, with an effective date for a certain section.

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

Section A. Sections 386.890 and 442.404, RSMo, are  
2 repealed and three new sections enacted in lieu thereof, to be  
3 known as sections 386.885, 386.890, and 442.404, to read as  
4 follows:

**386.885. 1. There is hereby established the "Task  
2 Force on Distributed Energy Resources and Net Metering",  
3 which shall be composed of the following members:**

4 (1) Two members of the senate, with one appointed by  
5 the president pro tempore of the senate and one appointed by  
6 the minority floor leader of the senate;

7 (2) Two members of the house of representatives, with  
8 one appointed by the speaker of the house of representatives  
9 and one appointed by the minority floor leader of the house  
10 of representatives;

11 (3) The director of the division of energy, or his or  
12 her designee, to serve as a member and to provide technical  
13 assistance to the task force;

14 (4) The chair of the public service commission, or his  
15 or her designee, to serve as a member and to provide  
16 technical assistance;

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17           (5) The director of the office of public counsel, or  
18 his or her designee, to serve as a member and to provide  
19 technical assistance;

20           (6) A representative from each of the three segments  
21 of the retail electric energy industry appointed by the  
22 president pro tempore of the senate from the respective  
23 nominees submitted by the statewide associations of the  
24 investor-owned electric utilities, rural electric  
25 cooperatives, and municipally-owned electric utilities;

26           (7) One representative of the retail distributed  
27 energy resources industry appointed by the chair of the  
28 public service commission;

29           (8) One representative from an organization that  
30 advocates for policy supporting renewable energy development  
31 appointed by the chair of the public service commission; and

32           (9) One representative from an organization that  
33 advocates for the interests of low-income utility customers  
34 appointed by the chair of the public service commission.

35           2. The task force shall conduct public hearings and  
36 research, and shall compile a report for delivery to the  
37 general assembly by no later than December 31, 2022. Such  
38 report shall include information on the following:

39           (1) A distributed energy resources study, which shall  
40 include a value of solar study along with the practical and  
41 economic benefits, challenges, and drawbacks of increased  
42 distributed energy generation in the state;

43           (2) Potential legislation regarding community solar as  
44 operated by non-utility entities and the fair and equitable  
45 setting of rates between distributed generation and non-  
46 distributed generation consumers; and

47           (3) Potential legislation, including but not limited  
48 to changes to the Net Metering and Easy Connection Act, if  
49 any, that would promote the overall public interest.

50           3. The task force shall meet within thirty days after  
51 its creation and shall organize by selecting a chairperson  
52 and vice chairperson, one of whom shall be a member of the  
53 senate and the other a member of the house of  
54 representatives. Thereafter, the task force may meet as  
55 often as necessary in order to accomplish the tasks assigned  
56 to it. A majority of the task force shall constitute a  
57 quorum, and a majority vote of such quorum shall be required  
58 for any action.

59           4. The staff of house research and senate research  
60 shall provide necessary clerical, research, fiscal, and  
61 legal services to the task force, as the task force may  
62 request.

63           5. The division of energy shall oversee the  
64 distributed energy resources study to be selected and  
65 conducted by an independent and objective expert with input  
66 from the members of the task force. The cost of such study  
67 shall be paid for through funds available from federal and  
68 state grants applied for by the division of energy. The  
69 division of energy shall establish procedures for the  
70 submission and non-public disclosure of confidential and  
71 propriety information.

72           6. The members of the task force shall serve without  
73 compensation, but any actual and necessary expenses incurred  
74 in the performance of the task force's official duties by  
75 the task force, its members, and any staff assigned to the  
76 task force shall be paid from the joint contingent fund.

77           7. This section shall expire on June 30, 2023, or at  
78 the conclusion of the task force's work, whichever is sooner.

386.890. 1. This section shall be known and may be  
2 cited as the "Net Metering and Easy Connection Act".

3 2. As used in this section, the following terms shall  
4 mean:

5 (1) "Avoided fuel cost", the current average cost of  
6 fuel for the entity generating electricity, as defined by  
7 the governing body with jurisdiction over any municipal  
8 electric utility, rural electric cooperative as provided in  
9 chapter 394, or electrical corporation as provided in this  
10 chapter;

11 (2) "Commission", the public service commission of the  
12 state of Missouri;

13 (3) "Customer-generator", the owner or operator of a  
14 qualified electric energy generation unit which:

15 (a) Is powered by a renewable energy resource;

16 (b) Has an electrical generating system with a  
17 capacity of not more than one hundred kilowatts;

18 (c) Is located on a premises owned, operated, leased,  
19 or otherwise controlled by the customer-generator;

20 (d) Is interconnected and operates in parallel phase  
21 and synchronization with a retail electric supplier and has  
22 been approved by said retail electric supplier;

23 (e) Is intended primarily to offset part or all of the  
24 customer-generator's own electrical energy requirements;

25 (f) Meets all applicable safety, performance,  
26 interconnection, and reliability standards established by  
27 the National Electrical Code, the National Electrical Safety  
28 Code, the Institute of Electrical and Electronics Engineers,  
29 Underwriters Laboratories, the Federal Energy Regulatory  
30 Commission, and any local governing authorities; and

31 (g) Contains a mechanism that automatically disables  
32 the unit and interrupts the flow of electricity back onto

33 the supplier's electricity lines in the event that service  
34 to the customer-generator is interrupted;

35 (4) "Department", the department of [economic  
36 development] **natural resources**;

37 (5) "Net metering", using metering equipment  
38 sufficient to measure the difference between the electrical  
39 energy supplied to a customer-generator by a retail electric  
40 supplier and the electrical energy supplied by the customer-  
41 generator to the retail electric supplier over the  
42 applicable billing period;

43 (6) "Renewable energy resources", electrical energy  
44 produced from wind, solar thermal sources, hydroelectric  
45 sources, photovoltaic cells and panels, fuel cells using  
46 hydrogen produced by one of the above-named electrical  
47 energy sources, and other sources of energy that become  
48 available after August 28, 2007, and are certified as  
49 renewable by the department;

50 (7) "Retail electric supplier" or "supplier", any  
51 [municipal] **municipally owned electric utility operating**  
52 **under chapter 91**, electrical corporation regulated **by the**  
53 **commission** under this chapter, or rural electric cooperative  
54 **operating** under chapter 394 that provides retail electric  
55 service in this state. **An electrical corporation that**  
56 **operates under a cooperative business plan as described in**  
57 **subsection 2 of section 393.110 shall be deemed to be a**  
58 **rural electric cooperative for purposes of this section.**

59 3. A retail electric supplier shall:

60 (1) Make net metering available to customer-generators  
61 on a first-come, first-served basis until the total rated  
62 generating capacity of net metering systems equals five  
63 percent of the [utility's] **retail electric supplier's** single-  
64 hour peak load during the previous year, after which the

65 commission for [a public utility] **an electrical corporation**  
66 or the **respective** governing body [for] of other [electric  
67 utilities] **retail electric suppliers** may increase the total  
68 rated generating capacity of net metering systems to an  
69 amount above five percent. However, in a given calendar  
70 year, no retail electric supplier shall be required to  
71 approve any application for interconnection if the total  
72 rated generating capacity of all applications for  
73 interconnection already approved to date by said supplier in  
74 said calendar year equals or exceeds one percent of said  
75 supplier's single-hour peak load for the previous calendar  
76 year;

77 (2) Offer to the customer-generator a tariff or  
78 contract that is identical in electrical energy rates, rate  
79 structure, and monthly charges to the contract or tariff  
80 that the customer would be assigned if the customer were not  
81 an eligible customer-generator but shall not charge the  
82 customer-generator any additional standby, capacity,  
83 interconnection, or other fee or charge that would not  
84 otherwise be charged if the customer were not an eligible  
85 customer-generator; and

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

90 4. A customer-generator's facility shall be equipped  
91 with sufficient metering equipment that can measure the net  
92 amount of electrical energy produced or consumed by the  
93 customer-generator. If the customer-generator's existing  
94 meter equipment does not meet these requirements or if it is  
95 necessary for the **retail** electric supplier to install  
96 additional distribution equipment to accommodate the

97 customer-generator's facility, the customer-generator shall  
98 reimburse the retail electric supplier for the costs to  
99 purchase and install the necessary additional equipment. At  
100 the request of the customer-generator, such costs may be  
101 initially paid for by the retail electric supplier, and any  
102 amount up to the total costs and a reasonable interest  
103 charge may be recovered from the customer-generator over the  
104 course of up to twelve billing cycles. Any subsequent meter  
105 testing, maintenance or meter equipment change necessitated  
106 by the customer-generator shall be paid for by the customer-  
107 generator.

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

111 (1) For a customer-generator, a retail electric  
112 supplier shall measure the net electrical energy produced or  
113 consumed during the billing period in accordance with normal  
114 metering practices for customers in the same rate class,  
115 either by employing a single, bidirectional meter that  
116 measures the amount of electrical energy produced and  
117 consumed, or by employing multiple meters that separately  
118 measure the customer-generator's consumption and production  
119 of electricity;

120 (2) If the electricity supplied by the supplier  
121 exceeds the electricity generated by the customer-generator  
122 during a billing period, the customer-generator shall be  
123 billed for the net electricity supplied by the supplier in  
124 accordance with normal practices for customers in the same  
125 rate class;

126 (3) If the electricity generated by the customer-  
127 generator exceeds the electricity supplied by the supplier  
128 during a billing period, the customer-generator shall be

129 billed for the appropriate customer charges for that billing  
130 period in accordance with subsection 3 of this section and  
131 shall be credited an amount at least equal to the avoided  
132 fuel cost of the excess kilowatt-hours generated during the  
133 billing period, with this credit applied to the following  
134 billing period;

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

140 (5) For any rural electric cooperative under chapter  
141 394, or **[municipal] any municipally owned** utility, upon  
142 agreement of the wholesale generator supplying electric  
143 energy to the retail electric supplier, at the option of the  
144 retail electric supplier, the credit to the customer-  
145 generator may be provided by the wholesale generator.

146 6. (1) Each qualified electric energy generation unit  
147 used by a customer-generator shall meet all applicable  
148 safety, performance, interconnection, and reliability  
149 standards established by any local code authorities, the  
150 National Electrical Code, the National Electrical Safety  
151 Code, the Institute of Electrical and Electronics Engineers,  
152 and Underwriters Laboratories for distributed generation.  
153 No supplier shall impose any fee, charge, or other  
154 requirement not specifically authorized by this section or  
155 the rules promulgated under subsection 9 of this section  
156 unless the fee, charge, or other requirement would apply to  
157 similarly situated customers who are not customer-  
158 generators, except that a retail electric supplier may  
159 require that a customer-generator's system contain a switch,  
160 circuit breaker, fuse, or other easily accessible device or



161 feature located in immediate proximity to the customer-  
162 generator's metering equipment that would allow a utility  
163 worker the ability to manually and instantly disconnect the  
164 unit from the utility's electric distribution system.

165 (2) For systems of ten kilowatts or less, a customer-  
166 generator whose system meets the standards and rules under  
167 subdivision (1) of this subsection shall not be required to  
168 install additional controls, perform or pay for additional  
169 tests or distribution equipment, or purchase additional  
170 liability insurance beyond what is required under  
171 subdivision (1) of this subsection and subsection 4 of this  
172 section.

173 (3) For customer-generator systems of greater than ten  
174 kilowatts, the commission for **[public utilities] electrical**  
175 **corporations** and the **respective** governing body for other  
176 **[utilities] retail electric suppliers** shall, by rule or  
177 equivalent formal action by each respective governing body:

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

180 (b) Establish the qualifications for exemption from a  
181 requirement to install additional controls, perform or pay  
182 for additional tests or distribution equipment, or purchase  
183 additional liability insurance.

184 7. (1) Applications by a customer-generator for  
185 interconnection of a qualified electric energy generation  
186 unit meeting the requirements of subdivision (3) of  
187 subsection 2 of this section to the distribution system  
188 shall be accompanied by the plan for the customer-  
189 generator's electrical generating system, including but not  
190 limited to a wiring diagram and specifications for the  
191 generating unit, and shall be reviewed and responded to by  
192 the retail electric supplier within thirty days of receipt

193 for systems ten kilowatts or less and within ninety days of  
194 receipt for all other systems. Prior to the interconnection  
195 of the qualified generation unit to the supplier's system,  
196 the customer-generator will furnish the retail electric  
197 supplier a certification from a qualified professional  
198 electrician or engineer that the installation meets the  
199 requirements of subdivision (1) of subsection 6 of this  
200 section. If the application for interconnection is approved  
201 by the retail electric supplier and the customer-generator  
202 does not complete the interconnection within one year after  
203 receipt of notice of the approval, the approval shall expire  
204 and the customer-generator shall be responsible for filing a  
205 new application.

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

210 8. Each [commission-regulated supplier] **electrical**  
211 **corporation** shall submit an annual net metering report to  
212 the commission, and all other [nonregulated] **retail electric**  
213 suppliers shall submit the same report to their respective  
214 governing body and make said report available to a consumer  
215 of the supplier upon request, including the following  
216 information for the previous calendar year:

- 217 (1) The total number of customer-generator facilities;  
218 (2) The total estimated generating capacity of its net-  
219 metered customer-generators; and  
220 (3) The total estimated net kilowatt-hours received  
221 from customer-generators.

222 9. The commission shall, within nine months of January  
223 1, 2008, promulgate initial rules necessary for the  
224 administration of this section for [public utilities]

225 **electrical corporations**, which shall include regulations  
226 ensuring that simple contracts will be used for  
227 interconnection and net metering. For systems of ten  
228 kilowatts or less, the application process shall use an all-  
229 in-one document that includes a simple interconnection  
230 request, simple procedures, and a brief set of terms and  
231 conditions. Any rule or portion of a rule, as that term is  
232 defined in section 536.010, that is created under the  
233 authority delegated in this section shall become effective  
234 only if it complies with and is subject to all of the  
235 provisions of chapter 536 and, if applicable, section  
236 536.028. This section and chapter 536 are nonseverable and  
237 if any of the powers vested with the general assembly under  
238 chapter 536 to review, to delay the effective date, or to  
239 disapprove and annul a rule are subsequently held  
240 unconstitutional, then the grant of rulemaking authority and  
241 any rule proposed or adopted after August 28, 2007, shall be  
242 invalid and void.

243 10. The governing body of a rural electric cooperative  
244 or municipal utility shall, within nine months of January 1,  
245 2008, adopt policies establishing a simple contract to be  
246 used for interconnection and net metering. For systems of  
247 ten kilowatts or less, the application process shall use an  
248 all-in-one document that includes a simple interconnection  
249 request, simple procedures, and a brief set of terms and  
250 conditions.

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

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

262           13. The sale of qualified electric **energy** generation  
263 units to any customer-generator shall be subject to the  
264 provisions of sections **407.010 to 407.145 and sections**  
265 **407.700 to 407.720**. The attorney general shall have the  
266 authority to promulgate in accordance with the provisions of  
267 chapter 536 rules regarding mandatory disclosures of  
268 information by sellers of qualified electric **energy**  
269 generation units. Any interested person who believes that  
270 the seller of any **qualified** electric **energy** generation unit  
271 is misrepresenting the safety or performance standards of  
272 any such systems, or who believes that any electric **energy**  
273 generation unit poses a danger to any property or person,  
274 may report the same to the attorney general, who shall be  
275 authorized to investigate such claims and take any necessary  
276 and appropriate actions.

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

280           15. No consumer shall connect or operate **[an] a**  
281 **qualified** electric **energy** generation unit in parallel phase  
282 and synchronization with any retail electric supplier  
283 without written approval by said supplier that all of the  
284 requirements under subdivision (1) of subsection 7 of this  
285 section have been met. For a consumer who violates this  
286 provision, a supplier may immediately and without notice  
287 disconnect the electric facilities of said consumer and  
288 terminate said consumer's electric service.

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

294           17. The seller, installer, or manufacturer of any  
295 **qualified** electric **energy** generation unit who knowingly  
296 misrepresents the safety aspects of **[an] a qualified**  
297 electric generation unit may be held liable for any damages  
298 to property or person caused by the **qualified** electric  
299 **energy** generation unit of a customer-generator.

          442.404. 1. As used in this section, the following  
2 terms shall mean:

3           (1) "Homeowners' association", a nonprofit corporation  
4 or unincorporated association of homeowners created under a  
5 declaration to own and operate portions of a planned  
6 community or other residential subdivision that has the  
7 power under the declaration to assess association members to  
8 pay the costs and expenses incurred in the performance of  
9 the association's obligations under the declaration or  
10 tenants-in-common with respect to the ownership of common  
11 ground or amenities of a planned community or other  
12 residential subdivision. This term shall not include a  
13 condominium unit owners' association as defined and provided  
14 for in subdivision (3) of section 448.1-103 or a residential  
15 cooperative;

16           (2) "Political signs", any fixed, ground-mounted  
17 display in support of or in opposition to a person seeking  
18 elected office or a ballot measure excluding any materials  
19 that may be attached;

20           (3) "**Solar panel or solar collector**", a device used to  
21 **collect and convert solar energy into electricity or thermal**

22 **energy, including but not limited to photovoltaic cells or**  
23 **panels, or solar thermal systems.**

24 2. (1) No deed restrictions, covenants, or similar  
25 binding agreements running with the land shall prohibit or  
26 have the effect of prohibiting the display of political  
27 signs.

28 [3.] (2) A homeowners' association has the authority  
29 to adopt reasonable rules, subject to any applicable  
30 statutes or ordinances, regarding the time, size, place,  
31 number, and manner of display of political signs.

32 [4.] (3) A homeowners' association may remove a  
33 political sign without liability if such sign is placed  
34 within the common ground, threatens the public health or  
35 safety, violates an applicable statute or ordinance, is  
36 accompanied by sound or music, or if any other materials are  
37 attached to the political sign. Subject to the foregoing, a  
38 homeowners' association shall not remove a political sign  
39 from the property of a homeowner or impose any fine or  
40 penalty upon the homeowner unless it has given such  
41 homeowner three days after providing written notice to the  
42 homeowner, which notice shall specifically identify the rule  
43 and the nature of the violation.

44 3. (1) **No deed restrictions, covenants, or similar**  
45 **binding agreements running with the land shall limit or**  
46 **prohibit, or have the effect of limiting or prohibiting, the**  
47 **installation of solar panels or solar collectors on the**  
48 **rooftop of any property or structure.**

49 (2) **A homeowners' association may adopt reasonable**  
50 **rules, subject to any applicable statutes or ordinances,**  
51 **regarding the placement of solar panels or solar collectors**  
52 **to the extent that those rules do not prevent the**  
53 **installation of the device, impair the functioning of the**

54 device, restrict the use of the device, or adversely affect  
55 the cost or efficiency of the device.

56 (3) The provisions of this subsection shall apply only  
57 with regard to rooftops that are owned, controlled, and  
58 maintained by the owner of the individual property or  
59 structure.

Section B. The repeal and reenactment of section  
2 442.404 of section A of this act shall be effective on  
3 January 1, 2023.

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