

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 820
101ST GENERAL ASSEMBLY

3741H.03C

DANA RADEMAN MILLER, Chief Clerk

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Section A. Sections 386.890 and 442.404, RSMo, are repealed and three new sections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

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

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

5 **(2) Two members of the house of representatives, with one appointed by the
6 speaker of the house of representatives and one appointed by the minority floor leader
7 of the house of representatives;**

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

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

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

14 **(6) A representative from each of the three segments of the retail electric energy
15 industry appointed by the president pro tempore of the senate from the respective
16 nominees submitted by the statewide associations of the investor-owned electric utilities,
17 rural electric cooperatives, and municipally-owned electric utilities;**

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 **(7) One representative of the retail distributed energy resources industry**
19 **appointed by the chair of the public service commission;**

20 **(8) One representative from an organization that advocates for policy**
21 **supporting renewable energy development appointed by the chair of the public**
22 **service commission; and**

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

25 **2. The task force shall conduct public hearings and research, and shall compile a**
26 **report for delivery to the general assembly by no later than December 31, 2023. Such**
27 **report shall include information on the following:**

28 **(1) A distributed energy resources study, which shall include a value of solar**
29 **study along with the practical and economic benefits, challenges, and drawbacks of**
30 **increased distributed energy generation in the state;**

31 **(2) Potential legislation regarding community solar as operated by non-utility**
32 **entities and the fair and equitable setting of rates between distributed generation and**
33 **non-distributed generation consumers; and**

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

36 **3. The task force shall meet within thirty days after its creation and shall**
37 **organize by selecting a chairperson and vice chairperson, one of whom shall be a**
38 **member of the senate and the other a member of the house of representatives.**
39 **Thereafter, the task force may meet as often as necessary in order to accomplish the**
40 **tasks assigned to it. A majority of the task force shall constitute a quorum, and a**
41 **majority vote of such quorum shall be required for any action.**

42 **4. The staff of house research and senate research shall provide necessary**
43 **clerical, research, fiscal, and legal services to the task force, as the task force may**
44 **request.**

45 **5. The division of energy shall oversee the distributed energy resources study to**
46 **be selected and conducted by an independent and objective expert with input from the**
47 **members of the task force. The cost of such study shall be paid for through funds**
48 **available from federal and state grants applied for by the division of energy. The**
49 **division of energy shall establish procedures for the submission and non-public**
50 **disclosure of confidential and propriety information.**

51 **6. The members of the task force shall serve without compensation, but any**
52 **actual and necessary expenses incurred in the performance of the task force's official**
53 **duties by the task force, its members, and any staff assigned to the task force shall be**
54 **paid from the joint contingent fund.**

55 **7. This section shall expire on December 31, 2023, or at the conclusion of the task**
56 **force's work, whichever is sooner.**

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

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

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

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

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

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

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

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

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

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 ~~economic development~~ **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 ~~[municipal]~~ **municipally owned**
38 **electric utility operating under chapter 91**, electrical corporation regulated **by the**
39 **commission** under this chapter, or rural electric cooperative **operating** under chapter 394 that
40 provides retail electric service in this state. **An electrical corporation that operates under a**
41 **cooperative business plan as described in subsection 2 of section 393.110 shall be deemed**
42 **to be a rural electric 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 ~~[utility's]~~ **retail electric supplier's** single-hour peak load during the previous year, after
47 which the commission for ~~[a public utility]~~ **an electrical corporation** or the **respective**
48 governing body ~~[for]~~ of other ~~[electric utilities]~~ **retail electric suppliers** may increase the
49 total rated generating capacity of net metering systems to an amount above five percent.
50 However, in a given calendar year, no retail electric supplier shall be required to approve any
51 application for interconnection if the total rated generating capacity of all applications for
52 interconnection already approved to date by said supplier in said calendar year equals or
53 exceeds one percent of said supplier's single-hour peak load for 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 of the excess
89 kilowatt-hours generated during the billing period, with this credit applied to the following
90 billing period;

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

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

98 6. (1) Each qualified electric energy generation unit used by a customer-generator
99 shall meet all applicable safety, performance, interconnection, and reliability standards
100 established by any local code authorities, the National Electrical Code, the National Electrical
101 Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters
102 Laboratories for distributed generation. No supplier shall impose any fee, charge, or other
103 requirement not specifically authorized by this section or the rules promulgated under
104 subsection 9 of this section unless the fee, charge, or other requirement would apply to
105 similarly situated customers who are not customer-generators, except that a retail electric
106 supplier may require that a customer-generator's system contain a switch, circuit breaker,
107 fuse, or other easily accessible device or feature located in immediate proximity to the

108 customer-generator's metering equipment that would allow a utility worker the ability to
109 manually and instantly disconnect the unit from the utility's electric distribution system.

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

115 (3) For customer-generator systems of greater than ten kilowatts, the commission for
116 ~~[public utilities]~~ **electrical corporations** and the **respective** governing body for other
117 ~~[utilities]~~ **retail electric suppliers** shall, by rule or equivalent formal action by each
118 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 ~~[commission-regulated supplier]~~ **electrical corporation** shall submit an
141 annual net metering report to the commission, and all other ~~[nonregulated]~~ **retail electric**
142 suppliers shall submit the same report to their respective governing body and make said report
143 available to a consumer of the supplier upon request, including the following information for
144 the previous calendar year:

- 145 (1) The total number of customer-generator facilities;
146 (2) The total estimated generating capacity of its net-metered customer-generators;
147 and
148 (3) The total estimated net kilowatt-hours received from customer-generators.
- 149 9. The commission shall, within nine months of January 1, 2008, promulgate initial
150 rules necessary for the administration of this section for ~~[public utilities]~~ **electrical**
151 **corporations**, which shall include regulations ensuring that simple contracts will be used for
152 interconnection and net metering. For systems of ten kilowatts or less, the application process
153 shall use an all-in-one document that includes a simple interconnection request, simple
154 procedures, and a brief set of terms and conditions. Any rule or portion of a rule, as that term
155 is defined in section 536.010, that is created under the authority delegated in this section shall
156 become effective only if it complies with and is subject to all of the provisions of chapter 536
157 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
158 of the powers vested with the general assembly under chapter 536 to review, to delay the
159 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
160 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007,
161 shall be invalid and void.
- 162 10. The governing body of a rural electric cooperative or municipal utility shall,
163 within nine months of January 1, 2008, adopt policies establishing a simple contract to be
164 used for interconnection and net metering. For systems of ten kilowatts or less, the
165 application process shall use an all-in-one document that includes a simple interconnection
166 request, simple procedures, and a brief set of terms and conditions.
- 167 11. For any cause of action relating to any damages to property or person caused by
168 the **qualified electric energy** generation unit of a customer-generator or the interconnection
169 thereof, the retail electric supplier shall have no liability absent clear and convincing evidence
170 of fault on the part of the supplier.
- 171 12. The estimated generating capacity of all net metering systems operating under the
172 provisions of this section shall count towards the respective retail electric supplier's
173 accomplishment of any renewable energy portfolio target or mandate adopted by the Missouri
174 general assembly.
- 175 13. The sale of qualified electric **energy** generation units to any customer-generator
176 shall be subject to the provisions of sections **407.010 to 407.145 and sections 407.700 to**
177 **407.720**. The attorney general shall have the authority to promulgate in accordance with the
178 provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of
179 qualified electric **energy** generation units. Any interested person who believes that the seller
180 of any **qualified electric energy** generation unit is misrepresenting the safety or performance
181 standards of any such systems, or who believes that any electric **energy** generation unit poses

182 a danger to any property or person, may report the same to the attorney general, who shall be
183 authorized to investigate such claims and take any necessary and appropriate actions.

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

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

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

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

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

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

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

13 (3) **"Solar panel or solar collector", a device used to collect and convert solar**
14 **energy into electricity or thermal energy, including but not limited to photovoltaic cells**
15 **or panels, or solar thermal systems.**

16 2. (1) No deed restrictions, covenants, or similar binding agreements running with
17 the land shall prohibit or have the effect of prohibiting the display of political signs.

18 ~~[3-]~~ (2) A homeowners' association has the authority to adopt reasonable rules,
19 subject to any applicable statutes or ordinances, regarding the time, size, place, number, and
20 manner of display of political signs.

21 [4.] (3) A homeowners' association may remove a political sign without liability if
22 such sign is placed within the common ground, threatens the public health or safety, violates
23 an applicable statute or ordinance, is accompanied by sound or music, or if any other
24 materials are attached to the political sign. Subject to the foregoing, a homeowners'
25 association shall not remove a political sign from the property of a homeowner or impose any
26 fine or penalty upon the homeowner unless it has given such homeowner three days after
27 providing written notice to the homeowner, which notice shall specifically identify the rule
28 and the nature of the violation.

29 **3. (1) No deed restrictions, covenants, or similar binding agreements running**
30 **with the land shall limit or prohibit, or have the effect of limiting or prohibiting, the**
31 **installation of solar panels or solar collectors on the rooftop of any property or**
32 **structure.**

33 **(2) A homeowners' association may adopt reasonable rules, subject to any**
34 **applicable statutes or ordinances, regarding the placement of solar panels or solar**
35 **collectors to the extent that those rules do not prevent the installation of the device,**
36 **impair the functioning of the device, restrict the use of the device, or adversely affect the**
37 **cost or efficiency of the device.**

38 **(3) The provisions of this subsection shall apply only with regard to rooftops that**
39 **are owned, controlled, and maintained by the owner of the individual property or**
40 **structure.**

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

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