

SECOND REGULAR SESSION

SENATE BILL NO. 871

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

Read 1st time February 13, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6034S.011

AN ACT

To repeal section 386.890, RSMo, and to enact in lieu thereof one new section relating to net excess energy.

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Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows: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;

(e) Is intended primarily to offset part or all of the customer-generator's

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

20 own electrical energy requirements;

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

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

29 (4) "Department", the department of natural resources;

30 (5) **"Minimum bill", all charges on a customer's bill that are not**
31 **calculated on a kilowatt-hour basis, including but not limited to a**
32 **service charge, customer charge, meter charge, facilities charge,**
33 **demand charge, billed demand charge, or any other charges billed to**
34 **customers for services, including special facilities, late fees, and taxes;**

35 (6) **"Net excess energy", the amount of energy expressed in**
36 **kilowatt hours delivered by a customer-generator to a supplier that**
37 **exceeds the amount of energy delivered by the supplier to the**
38 **customer-generator over a single billing period;**

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

44 [(6)] (8) "Renewable energy resources", electrical energy produced from
45 wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels,
46 fuel cells using hydrogen produced by one of the above-named electrical energy
47 sources, and other sources of energy that become available after August 28, 2007,
48 and are certified as renewable by the department;

49 [(7)] (9) "Retail electric supplier" or "supplier", any municipal utility,
50 electrical corporation regulated under this chapter, or rural electric cooperative
51 under chapter 394 that provides retail electric service in this state.

52 3. A retail electric supplier shall:

53 (1) Make net metering available to customer-generators on a first-come,
54 first-served basis until the total rated generating capacity of net metering
55 systems equals five percent of the utility's single-hour peak load during the

56 previous year, after which the commission for a public utility or the governing
57 body for other electric utilities may increase the total rated generating capacity
58 of net metering systems to an amount above five percent. However, in a given
59 calendar year, no retail electric supplier shall be required to approve any
60 application for interconnection if the total rated generating capacity of all
61 applications for interconnection already approved to date by said supplier in said
62 calendar year equals or exceeds one percent of said supplier's single-hour peak
63 load for the previous calendar year;

64 (2) Offer to the customer-generator a tariff or contract that is identical in
65 electrical energy rates, rate structure, and monthly charges to the contract or
66 tariff that the customer would be assigned if the customer were not an eligible
67 customer-generator but shall not charge the customer-generator any additional
68 standby, capacity, interconnection, or other fee or charge that would not
69 otherwise be charged if the customer were not an eligible customer-generator; and

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

73 4. A customer-generator's facility shall be equipped with sufficient
74 metering equipment that can measure the net amount of electrical energy
75 produced or consumed by the customer-generator. If the customer-generator's
76 existing meter equipment does not meet these requirements or if it is necessary
77 for the electric supplier to install additional distribution equipment to
78 accommodate the customer-generator's facility, the customer-generator shall
79 reimburse the retail electric supplier for the costs to purchase and install the
80 necessary additional equipment. At the request of the customer-generator, such
81 costs may be initially paid for by the retail electric supplier, and any amount up
82 to the total costs and a reasonable interest charge may be recovered from the
83 customer-generator over the course of up to twelve billing cycles. Any subsequent
84 meter testing, maintenance or meter equipment change necessitated by the
85 customer-generator shall be paid for by the customer-generator.

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

88 (1) For a customer-generator, a retail electric supplier shall measure the
89 net electrical energy produced or consumed during the billing period in
90 accordance with normal metering practices for customers in the same rate class,
91 either by employing a single, bidirectional meter that measures the amount of

92 electrical energy produced and consumed, or by employing multiple meters that
93 separately measure the customer-generator's consumption and production of
94 electricity;

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

99 (3) If the electricity generated by the customer-generator exceeds the
100 electricity supplied by the supplier during a billing period, the
101 customer-generator shall be billed for the appropriate [customer charges]
102 **minimum bill** for that billing period in accordance with subsection 3 of this
103 section and [shall be credited an amount at least equal to the avoided fuel cost
104 of the excess kilowatt-hours generated during the billing period, with this credit
105 applied to the following billing period] **all net excess energy shall be carried**
106 **forward from month-to-month and credited at a ratio of one-to-one**
107 **against the customer-generator's energy consumption in subsequent**
108 **months;**

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

113 (5) For any rural electric cooperative under chapter 394, or municipal
114 utility, upon agreement of the wholesale generator supplying electric energy to
115 the retail electric supplier, at the option of the retail electric supplier, the credit
116 to the customer-generator may be provided by the wholesale generator.] **Net**
117 **excess energy may be accumulated over multiple billing periods except**
118 **any accumulated net excess energy remaining in a customer-generator's**
119 **account shall expire, without compensation, as of the earlier of the end**
120 **of the March billing period of a twelve month billing period or when**
121 **the customer-generator discontinues service or terminates net**
122 **metering.**

123 6. (1) Each qualified electric energy generation unit used by a
124 customer-generator shall meet all applicable safety, performance, interconnection,
125 and reliability standards established by any local code authorities, the National
126 Electrical Code, the National Electrical Safety Code, the Institute of Electrical
127 and Electronics Engineers, and Underwriters Laboratories for distributed

128 generation. No supplier shall impose any fee, charge, or other requirement not
129 specifically authorized by this section or the rules promulgated under subsection
130 9 of this section unless the fee, charge, or other requirement would apply to
131 similarly situated customers who are not customer-generators, except that a retail
132 electric supplier may require that a customer-generator's system contain a switch,
133 circuit breaker, fuse, or other easily accessible device or feature located in
134 immediate proximity to the customer-generator's metering equipment that would
135 allow a utility worker the ability to manually and instantly disconnect the unit
136 from the utility's electric distribution system;

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

143 (3) For customer-generator systems of greater than ten kilowatts, the
144 commission for public utilities and the governing body for other utilities shall, by
145 rule or equivalent formal action by each respective governing body:

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

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

151 7. (1) Applications by a customer-generator for interconnection of a
152 qualified electric energy generation unit meeting the requirements of subdivision
153 (3) of subsection 2 of this section to the distribution system shall be accompanied
154 by the plan for the customer-generator's electrical generating system, including
155 but not limited to a wiring diagram and specifications for the generating unit,
156 and shall be reviewed and responded to by the retail electric supplier within
157 thirty days of receipt for systems ten kilowatts or less and within ninety days of
158 receipt for all other systems. Prior to the interconnection of the qualified
159 generation unit to the supplier's system, the customer-generator will furnish the
160 retail electric supplier a certification from a qualified professional electrician or
161 engineer that the installation meets the requirements of subdivision (1) of
162 subsection 6 of this section. If the application for interconnection is approved by
163 the retail electric supplier and the customer-generator does not complete the

164 interconnection within one year after receipt of notice of the approval, the
165 approval shall expire and the customer-generator shall be responsible for filing
166 a new application.

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

170 8. Each commission-regulated supplier shall submit an annual net
171 metering report to the commission, and all other nonregulated suppliers shall
172 submit the same report to their respective governing body and make said report
173 available to a consumer of the supplier upon request, including the following
174 information for the previous calendar year:

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

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

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

180 9. The commission shall, within nine months of January 1, 2008,
181 promulgate initial rules necessary for the administration of this section for public
182 utilities, which shall include regulations ensuring that simple contracts will be
183 used for interconnection and net metering. For systems of ten kilowatts or less,
184 the application process shall use an all-in-one document that includes a simple
185 interconnection request, simple procedures, and a brief set of terms and
186 conditions. Any rule or portion of a rule, as that term is defined in section
187 536.010, that is created under the authority delegated in this section shall
188 become effective only if it complies with and is subject to all of the provisions of
189 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
190 nonseverable and if any of the powers vested with the general assembly under
191 chapter 536 to review, to delay the effective date, or to disapprove and annul a
192 rule are subsequently held unconstitutional, then the grant of rulemaking
193 authority and any rule proposed or adopted after August 28, 2007, shall be
194 invalid and void.

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

200 terms and conditions.

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

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

209 13. The sale of qualified electric generation units to any
210 customer-generator shall be subject to the provisions of sections 407.700 to
211 407.720. The attorney general shall have the authority to promulgate in
212 accordance with the provisions of chapter 536 rules regarding mandatory
213 disclosures of information by sellers of qualified electric generation units. Any
214 interested person who believes that the seller of any electric generation unit is
215 misrepresenting the safety or performance standards of any such systems, or who
216 believes that any electric generation unit poses a danger to any property or
217 person, may report the same to the attorney general, who shall be authorized to
218 investigate such claims and take any necessary and appropriate actions.

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

221 15. No consumer shall connect or operate an electric generation unit in
222 parallel phase and synchronization with any retail electric supplier without
223 written approval by said supplier that all of the requirements under subdivision
224 (1) of subsection 7 of this section have been met. For a consumer who violates
225 this provision, a supplier may immediately and without notice disconnect the
226 electric facilities of said consumer and terminate said consumer's electric service.

227 16. The manufacturer of any electric generation unit used by a
228 customer-generator may be held liable for any damages to property or person
229 caused by a defect in the electric generation unit of a customer-generator.

230 17. The seller, installer, or manufacturer of any electric generation unit
231 who knowingly misrepresents the safety aspects of an electric generation unit
232 may be held liable for any damages to property or person caused by the electric
233 generation unit of a customer-generator.