

FIRST REGULAR SESSION

HOUSE BILL NO. 709

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KNIGHT.

1560H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows: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
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 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 municipally owned electric utility
38 operating under chapter 91, electrical corporation regulated by the commission under this
39 chapter, or rural electric cooperative operating under chapter 394 that provides retail electric
40 service in this state. An electrical corporation that operates under a cooperative business plan
41 as described in subsection 2 of section 393.110 shall be deemed to be a rural electric
42 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 retail electric supplier's single-hour peak load during the previous year, after which the
47 commission for an electrical corporation or the respective governing body of other retail
48 electric suppliers may increase the total rated generating capacity of net metering systems to
49 an amount above five percent. However, in a given calendar year, no retail electric supplier
50 shall be required to approve any application for interconnection if the total rated generating
51 capacity of all applications for interconnection already approved to date by said supplier in
52 said calendar year equals or exceeds one percent of said supplier's single-hour peak load for
53 the previous calendar year;

54 (2) Offer **net metering** to the customer-generator **pursuant to a commission**
55 **approved tariff of an electrical corporation** or contract **approved by the respective**
56 **governing body of a rural electric cooperative or a municipally owned electric utility at**
57 **rates** that [is] are identical in electrical energy rates, rate structure, and monthly charges to
58 the contract or tariff that the customer would be assigned if the customer were not an eligible
59 customer-generator [~~but shall not charge the customer generator any additional standby,~~
60 ~~capacity, interconnection, or other fee or charge that would not otherwise be charged if the~~
61 ~~customer were not an eligible customer generator~~]. **In the alternative, with energy and**
62 **demand rates, rate structure, and recurring monthly charges that are reasonably**
63 **calculated to recover that portion of the retail electric supplier's fixed and demand costs**
64 **that are not eliminated as a result of the operation of the eligible customer-generator's**
65 **eligible electric energy generating unit; and**

66 (3) Disclose annually the availability of the net metering program to each of its
67 customers **or members** with the method and manner of disclosure being at the discretion of
68 the **retail electric** supplier.

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

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

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

89 (2) If the electricity supplied by the supplier exceeds the electricity generated by the
90 customer-generator during a billing period, the customer-generator shall be billed for the net

91 electricity supplied by the supplier in accordance with normal practices for customers in the
92 same rate class;

93 (3) If the electricity generated by the customer-generator exceeds the electricity
94 supplied by the supplier during a billing period, the customer-generator shall be billed for the
95 appropriate customer **and demand** charges for that billing period in accordance with
96 subsection 3 of this section and shall be credited an amount at least equal to the avoided fuel
97 cost of the excess kilowatt-hours generated during the billing period, with this credit applied
98 to the following billing period;

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

102 (5) For any rural electric cooperative under chapter 394, or any municipally owned
103 utility, upon agreement of the wholesale generator supplying electric energy to the retail
104 electric supplier, at the option of the retail electric supplier, the credit to the customer-
105 generator may be provided by the wholesale generator.

106 6. (1) Each qualified electric energy generation unit used by a customer-generator
107 shall meet **and be installed, maintained, and repaired in accordance with** all applicable
108 safety, performance, interconnection, and reliability standards established by any local code
109 authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of
110 Electrical and Electronics Engineers, and Underwriters Laboratories for distributed
111 generation. **All qualified electric energy generation units utilizing battery backup**
112 **shall be installed to operate completely isolated from the retail electric supplier's system**
113 **including, but not limited to, all neutral connections and grounding points, during times**
114 **of backup operation. Unless allowed under subdivision (2) of subsection 3 of this**
115 **section,** no supplier shall impose any fee, charge, or other requirement not specifically
116 authorized by this section or the rules promulgated under subsection 9 of this section unless
117 the fee, charge, or other requirement would apply to similarly situated customers who are not
118 customer-generators, except that a retail electric supplier may require that a customer-
119 generator's system contain **adequate surge protection and** a switch, circuit breaker, fuse, or
120 other easily accessible device or feature located in immediate proximity to the customer-
121 generator's metering equipment that would allow a utility worker **or emergency response**
122 **personnel** the ability to manually and instantly disconnect the unit from the utility's electric
123 distribution system.

124 (2) For systems of ten kilowatts or less, a customer-generator whose system meets the
125 standards and rules under subdivision (1) of this subsection shall not be required to install
126 additional controls, perform or pay for additional tests or distribution equipment, or purchase

127 additional liability insurance beyond what is required under subdivision (1) of this subsection
128 and subsection 4 of this section.

129 (3) For customer-generator systems of greater than ten kilowatts, the commission for
130 electrical corporations and the respective governing body for other retail electric suppliers
131 shall, by rule or equivalent formal action by each respective governing body:

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

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

136 7. (1) Applications by a customer-generator for interconnection of a qualified electric
137 energy generation unit meeting the requirements of subdivision (3) of subsection 2 of this
138 section to the distribution system shall be accompanied by the plan for the customer-
139 generator's electrical generating system, including but not limited to a wiring diagram and
140 specifications for the generating unit, and shall be reviewed and responded to by the retail
141 electric supplier, **unless mutually agreed to**, within thirty days of receipt for systems ten
142 kilowatts or less and within ninety days of receipt for all other systems. Prior to the
143 interconnection of the qualified generation unit to the supplier's system, the customer-
144 generator will furnish the retail electric supplier a certification from a ~~qualified~~ professional
145 electrician or engineer **deemed qualified by the retail electric supplier** that the installation
146 meets the requirements of subdivision (1) of subsection 6 of this section. **In the event the**
147 **professional electrician or engineer is not licensed, the retail electric supplier may**
148 **require a bond or other form of surety to insure the safe installation and operation of**
149 **the qualified electric energy generation unit.** If the application for interconnection is
150 approved by the retail electric supplier and the customer-generator does not complete the
151 interconnection within one year after receipt of notice of the approval, the approval shall
152 expire and the customer-generator shall be responsible for filing a new application.

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

156 8. Each electrical corporation shall submit an annual net metering report to the
157 commission, and all other retail electric suppliers shall submit the same report to their
158 respective governing body and make said report available to a consumer of the supplier upon
159 request, including the following information for the previous calendar year:

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

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

162 and

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

164 9. The commission shall, within nine months of January 1, 2008, promulgate initial
165 rules necessary for the administration of this section for electrical corporations, which shall
166 include regulations ensuring that simple contracts will be used for interconnection and net
167 metering. For systems of ten kilowatts or less, the application process shall use an all-in-one
168 document that includes a simple interconnection request, simple procedures, and a brief set of
169 terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010,
170 that is created under the authority delegated in this section shall become effective only if it
171 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
172 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with
173 the general assembly under chapter 536 to review, to delay the effective date, or to disapprove
174 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
175 authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

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

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

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

189 13. The sale of qualified electric energy generation units to any customer-generator
190 shall be subject to the provisions of sections 407.010 to 407.145 and sections 407.700 to
191 407.720. The attorney general shall have the authority to promulgate in accordance with the
192 provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of
193 qualified electric energy generation units. Any interested person who believes that the seller
194 of any qualified electric energy generation unit is misrepresenting the safety or performance
195 standards of any such systems, or who believes that any electric energy generation unit poses
196 a danger to any property or person, may report the same to the attorney general, who shall be
197 authorized to investigate such claims and take any necessary and appropriate actions.

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

200 15. No consumer shall connect or operate a qualified electric energy generation unit
201 in parallel phase and synchronization with any retail electric supplier without written
202 approval by said supplier that all of the requirements under subdivision (1) of subsection 7 of
203 this section have been met. For a consumer who violates this provision, a supplier may
204 immediately and without notice disconnect the electric facilities of said consumer and
205 terminate said consumer's electric service.

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

209 17. The seller, installer, or manufacturer of any qualified electric energy generation
210 unit who knowingly misrepresents the safety aspects of a qualified electric generation unit
211 may be held liable for any damages to property or person caused by the qualified electric
212 energy generation unit of a customer-generator.

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