

FIRST REGULAR SESSION

HOUSE BILL NO. 370

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BANDERMAN.

0752H.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Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows: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", **an individual person, corporation, limited liability company, or other organization that is** 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 **nameplate** capacity of not more than one hundred kilowatts **and is located at the premises where the electrical energy is consumed by the customer-generator;**

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

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

20 (e) Is intended **and sized** primarily to offset part or all of the customer-generator's
21 own electrical energy requirements;

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

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

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

30 (5) "Net metering", ~~[using metering equipment sufficient to measure]~~ **a billing option**
31 **that measures the [difference between the electrical energy] amount of the electricity in**
32 **kilowatt hours supplied by a retail electric supplier** to a customer-generator ~~[by a retail~~
33 ~~electric supplier and the electrical energy supplied]~~ **and separately measures the amount of**
34 **electricity in kilowatt hours generated** by the customer-generator **and fed back** to the retail
35 electric supplier ~~[over the applicable billing period];~~

36 (6) "Renewable energy resources", electrical energy produced from wind, solar
37 thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using
38 hydrogen produced by one of the above-named electrical energy sources, and other sources of
39 energy that become available after August 28, 2007, and are certified as renewable by the
40 department;

41 (7) "Retail electric supplier" or "supplier", any municipally owned electric utility
42 operating under chapter 91, electrical corporation regulated by the commission under this
43 chapter, or rural electric cooperative operating under chapter 394 that provides retail electric
44 service in this state. An electrical corporation that operates under a cooperative business plan
45 as described in subsection 2 of section 393.110 shall be deemed to be a rural electric
46 cooperative for purposes of this section.

47 3. A retail electric supplier shall:

48 (1) Make net metering available to customer-generators on a first-come, first-served
49 basis until the total rated generating capacity of net metering systems equals five percent of
50 the retail electric supplier's single-hour peak load during the previous year, after which the
51 commission for an electrical corporation or the respective governing body of other retail
52 electric suppliers may increase the total rated generating capacity of net metering systems to
53 an amount above five percent. However, in a given calendar year, no retail electric supplier
54 shall be required to approve any application for interconnection if the total rated generating

55 capacity of all applications for interconnection already approved to date by said supplier in
56 said calendar year equals or exceeds one percent of said supplier's single-hour peak load for
57 the previous calendar year;

58 (2) Offer **net metering** to the customer-generator **pursuant to a commission-**
59 **approved tariff of an electrical corporation** or contract **approved by the respective**
60 **governing body of other retail electric suppliers under one of the following options:**

61 (a) **At rates** that ~~[is]~~ **are** identical in electrical energy rates, rate structure, and
62 monthly charges to the contract or tariff that the customer would be assigned if the customer
63 were not an eligible customer-generator ~~[but shall not charge the customer-generator any~~
64 ~~additional standby, capacity, interconnection, or other fee or charge that would not otherwise~~
65 ~~be charged if the customer were not an eligible customer-generator]~~; **or**

66 (b) **With energy and demand rates, rate structure, and recurring monthly**
67 **charges that are reasonably calculated to recover that portion of the retail electric**
68 **supplier's fixed and demand costs that are not eliminated as a result of the operation of**
69 **the eligible customer-generator's eligible electric energy generating unit;** and

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

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

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

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

91 employing multiple meters that separately measure the customer-generator's consumption and
92 production of electricity;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

168 9. The commission shall, within nine months of January 1, 2008, promulgate initial
169 rules necessary for the administration of this section for electrical corporations, which shall
170 include regulations ensuring that simple contracts will be used for interconnection and net
171 metering. For systems of ten kilowatts or less, the application process shall use an all-in-one
172 document that includes a simple interconnection request, simple procedures, and a brief set of
173 terms and conditions. Any rule or portion of a rule, as that term is defined in section 536.010,
174 that is created under the authority delegated in this section shall become effective only if it
175 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
176 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with
177 the general assembly under chapter 536 to review, to delay the effective date, or to disapprove
178 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
179 authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

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

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

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

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

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

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

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

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

217 **18. Any person, not a retail electric supplier, who sells a qualified electric energy**
218 **generation unit or who provides a net metering service to a customer-generator under**
219 **this section shall:**

220 **(1) Provide a prospective or existing customer-generator a minimum of five**
221 **business days to evaluate a proposal to construct a qualified electric generation unit to**
222 **provide all or part of the prospective or existing customer-generator's needs for electric**
223 **energy within a single retail electric supplier's allocated service territory. The proposal**
224 **to the prospective or existing customer-generator shall include:**

225 **(a) A description of the qualified electric generation unit and its placement on**
226 **the customer-generator's premises consistent with the requirements of this section;**

227 **(b) A description of the nameplate generating capacity and expected monthly**
228 **and annual output of the qualified electric generation unit in kilowatt hours;**

229 **(c) The estimated annual degradation to the qualified electric generation unit;**

230 **(d) An estimated timeline for the installation of the qualified electric generation**
231 **unit;**

232 **(e) The total cost of the qualified electric generation unit;**

233 **(f) The amounts due at signing for and the completion of the installation;**

234 **(g) The payment schedule;**

235 **(h) The payback period;**

236 **(i) The forecasted savings monthly and annual bill savings provided by the**
237 **proposed qualified electric generation unit in dollars based on the retail electric**
238 **supplier's rate structure to be obtained directly from the retail electric supplier;**

239 (j) A description of any warranties and the length of any warranties;

240 (k) Notice that the prospective or existing customer-generator may file a
241 complaint with the attorney general; and

242 (l) Certify that the placement of any solar panels will be appropriate to provide
243 the maximum yield of energy to the customer-generator and will provide the output as
244 stated in the proposal;

245 (2) Perform an energy efficiency audit on the potential or existing customer-
246 generator's premises to be served by the proposed qualified electric generation unit as
247 part of the proposal to sell a qualified electric generation unit or provide net-metering
248 service under this section;

249 (3) Inform the prospective or existing customer-generator of the available energy
250 efficiency measures to address the results of the audit as part of the proposal to sell a
251 qualified electric generation unit to a customer-generator under this section; and

252 (4) Demonstrate to the proposed or existing customer-generator that the person,
253 not a retail electric supplier, who sells a qualified electric generation unit or who
254 provides net-metering services to a customer-generator holds:

255 (a) All required permits to install, construct, or operate a qualified electric
256 generation unit in the state, and if the governing county, municipality, or local authority
257 does not require an electrical inspection, an executed certification that no electrical
258 inspection or permit is required; and

259 (b) A bond or other acceptable financial security to ensure proper maintenance
260 of the qualified electric generation unit and decommissioning of the qualified electric
261 generation unit.

262 19. Any violation of this section may be enforced under the powers of the office
263 of the attorney general under the Missouri merchandising practices act, sections 407.010
264 to 407.130, and under sections 570.140 to 570.145 including, without limitation, all
265 enforcement powers.

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