

FIRST REGULAR SESSION

HOUSE BILL NO. 940

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KNIGHT.

2218H.01I

JOSEPH ENGLER, 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Section A. Section 386.890, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 386.890, to read as follows: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 the difference~~
31 ~~between the electrical energy supplied to a customer generator by a retail electric supplier and~~
32 ~~the electrical energy supplied by the customer generator to the retail electric supplier over the~~
33 ~~applicable billing period]~~ **a billing option that measures the amount of electricity as**
34 **measured in kilowatt-hours supplied by a retail electric supplier to a customer-**
35 **generator and separately measuring the amount of the electricity as measured in**
36 **kilowatt-hours generated by the customer-generator and fed back to the retail electric**
37 **supplier;**

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

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

49 3. A retail electric supplier shall:

50 (1) Make net metering available to customer-generators on a first-come, first-served
51 basis until the total rated generating capacity of net metering systems equals five percent of
52 the retail electric supplier's single-hour peak load during the previous year, after which the
53 commission for an electrical corporation or the respective governing body of other retail
54 electric suppliers may increase the total rated generating capacity of net metering systems to

55 an amount above five percent. However, in a given calendar year, no retail electric supplier
56 shall be required to approve any application for interconnection if the total rated generating
57 capacity of all applications for interconnection already approved to date by said supplier in
58 said calendar year equals or exceeds one percent of said supplier's single-hour peak load for
59 the previous calendar year;

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

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

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

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

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

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

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

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

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

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

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

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

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

128 **response personnel** the ability to manually and instantly disconnect the unit from the utility's
129 electric distribution system.

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

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

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

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

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

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

163 8. Each electrical corporation shall submit an annual net metering report to the
164 commission, and all other retail electric suppliers shall submit the same report to their

165 respective governing body and make said report available to a consumer of the supplier upon
166 request, including the following information for the previous calendar year:

- 167 (1) The total number of customer-generator facilities;
168 (2) The total estimated generating capacity of its net-metered customer-generators;
169 and
170 (3) The total estimated net kilowatt-hours received from customer-generators.

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

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

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

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

196 13. The sale of qualified electric energy generation units to any customer-generator
197 shall be subject to the provisions of sections 407.010 to 407.145 and sections 407.700 to
198 407.720. The attorney general shall have the authority to promulgate in accordance with the
199 provisions of chapter 536 rules regarding mandatory disclosures of information by sellers of
200 qualified electric energy generation units. Any interested person who believes that the seller
201 of any qualified electric energy generation unit is misrepresenting the safety or performance

standards of any such systems, or who believes that any electric energy generation unit poses a danger to any property or person, may report the same to the attorney general, who shall be authorized to investigate such claims and take any necessary and appropriate actions.

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

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

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

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

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

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

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

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

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

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

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

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

(g) The payment schedule;

(h) The payback period;

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

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

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

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

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

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

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

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

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

19. Provisions of this section shall be enforced by the attorney general under the Missouri merchandising practices act, sections 407.010 to 407.130, and sections 570.140 to 570.145 including, but not limited to, all enforcement powers.

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