

SECOND REGULAR SESSION

HOUSE BILL NO. 2729

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE APPELBAUM.

4432H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 393.1025 and 393.1030, RSMo, and to enact in lieu thereof two new sections relating to renewable energy resources.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 393.1025 and 393.1030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 393.1025 and 393.1030, to read as follows:

393.1025. As used in sections 393.1020 to 393.1030, the following terms mean:

(1) "Commission", the public service commission;

(2) "Department", the department of ~~economic development~~ commerce and insurance;

(3) "Electric utility", any electrical corporation as defined by section 386.020;

(4) "Renewable energy credit" or "REC", a tradeable certificate of proof that one megawatt-hour of electricity has been generated from renewable energy sources; and

(5) "Renewable energy resources", electric energy produced from wind, solar thermal sources, ~~or photovoltaic cells and panels~~, ~~dedicated crops grown for energy production, cellulosic agricultural residues, plant residues, methane from landfills, from agricultural operations, or from wastewater treatment, thermal depolymerization or pyrolysis for converting waste material to energy, clean and untreated wood such as pallets, hydropower (not including pumped storage) that does not require a new diversion or impoundment of water and that has a nameplate rating of ten megawatts or less, fuel cells using hydrogen produced by one of the above-named renewable energy sources, and other sources of energy not including nuclear that become available after November 4, 2008, and are certified as~~

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.

17 ~~renewable by rule by the department~~ ; energy storage, but not including pumped storage;
18 and fuel cells using hydrogen or hydrogen as a gaseous fuel, if hydrogen is produced by
19 one of the renewable energy sources in this subdivision.

393.1030. 1. The commission shall, in consultation with the department, prescribe by
2 rule a portfolio requirement for all electric utilities to generate or purchase electricity
3 generated from renewable energy resources. Such portfolio requirement shall provide that
4 electricity from renewable energy resources shall constitute the following portions of each
5 electric utility's sales:

6 (1) No less than [two] fifteen percent [for calendar years 2011 through 2013] before
7 December 31, 2026;

8 (2) No less than [five] twenty percent [for calendar years 2014 through 2017] before
9 December 31, 2031;

10 (3) No less than [ten] forty percent [for calendar years 2018 through 2020] before
11 December 31, 2036; and

12 (4) No less than [fifteen] sixty percent [in each calendar year beginning in 2021]
13 before December 31, 2046;

14 (5) No less than eighty percent before December 31, 2056; and

15 (6) No less than one hundred percent before December 31, 2061.

16

17 At least two percent of each portfolio requirement shall be derived from solar energy. The
18 portfolio requirements shall apply to all power sold to Missouri consumers whether such
19 power is self-generated or purchased from another source in or outside of this state. A utility
20 may comply with the standard in whole or in part by purchasing RECs. Each kilowatt-hour of
21 eligible energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of
22 compliance.

23 2. (1) This subsection applies to electric utilities with more than two hundred fifty
24 thousand but less than one million retail customers in Missouri as of the end of the calendar
25 year 2024.

26 (2) Energy meeting the criteria of the renewable energy portfolio requirements set
27 forth in subsection 1 of this section that is generated from renewable energy resources and
28 contracted for by an accelerated renewable buyer shall:

29 (a) Have all associated renewable energy certificates retired by the accelerated
30 renewable buyer, or on their behalf, and the certificates shall not be used to meet the electric
31 utility's portfolio requirements pursuant to subsection 1 of this section;

32 (b) Be excluded from the total electric utility's sales used to determine the portfolio
33 requirements pursuant to subsection 1 of this section; and

34 (c) Be used to offset all or a portion of its electric load for purposes of determining
35 compliance with the portfolio requirements pursuant to subsection 1 of this section.

36 (3) The accelerated renewable buyer shall be exempt from any renewable energy
37 standard compliance costs as may be established by the utility and approved by the
38 commission, based on the amount of renewable energy certificates retired pursuant to this
39 subsection in proportion to the accelerated renewable buyer's total electric energy
40 consumption, on an annual basis.

41 (4) An "accelerated renewable buyer" means a customer of an electric utility, with an
42 aggregate load over eighty average megawatts, that enters into a contract or contracts to
43 obtain:

44 (a) Renewable energy certificates from renewable energy resources as defined in
45 section 393.1025; or

46 (b) Energy and renewable energy certificates from solar or wind generation resources
47 located within the Southwest Power Pool region and initially placed in commercial operation
48 after January 1, 2020, including any contract with the electric utility for such generation
49 resources that does not allocate to or recover from any other customer of the utility the cost of
50 such resources.

51 (5) Each electric utility shall certify, and verify as necessary, to the commission that
52 the accelerated renewable buyer has satisfied the exemption requirements of this subsection
53 for each year, or an accelerated renewable buyer may choose to certify satisfaction of this
54 exemption by reporting to the commission individually.

55 (6) The commission may promulgate such rules and regulations as may be necessary
56 to implement the provisions of this subsection. Any rule or portion of a rule, as that term is
57 defined in section 536.010, that is created under the authority delegated in this section shall
58 become effective only if it complies with and is subject to all of the provisions of chapter 536
59 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any
60 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
61 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
62 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2025,
63 shall be invalid and void.

64 (7) Nothing in this section shall be construed as imposing or authorizing the
65 imposition of any reporting, regulatory, or financial burden on an accelerated renewable
66 buyer.

67 3. The commission, in consultation with the department and within one year of
68 November 4, 2008, shall select a program for tracking and verifying the trading of renewable
69 energy credits. An unused credit may exist for up to three years from the date of its creation.

70 A credit may be used only once to comply with sections 393.1020 to 393.1030 and may not

71 also be used to satisfy any similar nonfederal requirement. An electric utility may not use a
72 credit derived from a green pricing program. Certificates from net-metered sources shall
73 initially be owned by the customer-generator. The commission, except where the department
74 is specified, shall make whatever rules are necessary to enforce the renewable energy
75 standard. Such rules shall include:

76 (1) A maximum average retail rate increase of one percent determined by estimating
77 and comparing the electric utility's cost of compliance with least-cost renewable generation
78 and the cost of continuing to generate or purchase electricity from entirely nonrenewable
79 sources, taking into proper account future environmental regulatory risk including the risk of
80 greenhouse gas regulation. Notwithstanding the foregoing, until June 30, 2020, if the
81 maximum average retail rate increase would be less than or equal to one percent if an electric
82 utility's investment in solar-related projects initiated, owned or operated by the electric utility
83 is ignored for purposes of calculating the increase, then additional solar rebates shall be paid
84 and included in rates in an amount up to the amount that would produce a retail rate increase
85 equal to the difference between a one percent retail rate increase and the retail rate increase
86 calculated when ignoring an electric utility's investment in solar-related projects initiated,
87 owned, or operated by the electric utility. Notwithstanding any provision to the contrary in
88 this section, even if the payment of additional solar rebates will produce a maximum average
89 retail rate increase of greater than one percent when an electric utility's investment in solar-
90 related projects initiated, owned or operated by the electric utility are included in the
91 calculation, the additional solar rebate costs shall be included in the prudently incurred costs
92 to be recovered as contemplated by subdivision (4) of this subsection;

93 (2) Penalties of at least twice the average market value of renewable energy credits
94 for the compliance period for failure to meet the targets of subsection 1 of this section. An
95 electric utility will be excused if it proves to the commission that failure was due to events
96 beyond its reasonable control that could not have been reasonably mitigated, or that the
97 maximum average retail rate increase has been reached. Penalties shall not be recovered from
98 customers. Amounts forfeited under this section shall be remitted to the department to
99 purchase renewable energy credits needed for compliance. Any excess forfeited revenues
100 shall be used by the division of energy solely for renewable energy and energy efficiency
101 projects;

102 (3) Provisions for an annual report to be filed by each electric utility in a format
103 sufficient to document its progress in meeting the targets;

104 (4) Provision for recovery outside the context of a regular rate case of prudently
105 incurred costs and the pass-through of benefits to customers of any savings achieved by an
106 electrical corporation in meeting the requirements of this section.

107 4. As provided for in this section, except for those electrical corporations that qualify
108 for an exemption under section 393.1050, each electric utility shall make available to its retail
109 customers a solar rebate for new or expanded solar electric systems sited on customers'
110 premises, up to a maximum of twenty-five kilowatts per system, measured in direct current
111 that were confirmed by the electric utility to have become operational in compliance with the
112 provisions of section 386.890. The solar rebates shall be two dollars per watt for systems
113 becoming operational on or before June 30, 2014; one dollar and fifty cents per watt for
114 systems becoming operational between July 1, 2014, and June 30, 2015; one dollar per watt
115 for systems becoming operational between July 1, 2015, and June 30, 2016; fifty cents per
116 watt for systems becoming operational between July 1, 2016, and June 30, 2017; fifty cents
117 per watt for systems becoming operational between July 1, 2017, and June 30, 2019; twenty-
118 five cents per watt for systems becoming operational between July 1, 2019, and June 30,
119 2020; and zero cents per watt for systems becoming operational after June 30, 2020. An
120 electric utility may, through its tariffs, require applications for rebates to be submitted up to
121 one hundred eighty-two days prior to the June thirtieth operational date. Nothing in this
122 section shall prevent an electrical corporation from offering rebates after July 1, 2020,
123 through an approved tariff. If the electric utility determines the maximum average retail rate
124 increase provided for in subdivision (1) of subsection 3 of this section will be reached in any
125 calendar year, the electric utility shall be entitled to cease paying rebates to the extent
126 necessary to avoid exceeding the maximum average retail rate increase if the electrical
127 corporation files with the commission to suspend its rebate tariff for the remainder of that
128 calendar year at least sixty days prior to the change taking effect. The filing with the
129 commission to suspend the electrical corporation's rebate tariff shall include the calculation
130 reflecting that the maximum average retail rate increase will be reached and supporting
131 documentation reflecting that the maximum average retail rate increase will be reached. The
132 commission shall rule on the suspension filing within sixty days of the date it is filed. If the
133 commission determines that the maximum average retail rate increase will be reached, the
134 commission shall approve the tariff suspension. The electric utility shall continue to process
135 and pay applicable solar rebates until a final commission ruling; however, if the continued
136 payment causes the electric utility to pay rebates that cause it to exceed the maximum average
137 retail rate increase, the expenditures shall be considered prudently incurred costs as
138 contemplated by subdivision (4) of subsection 3 of this section and shall be recoverable as
139 such by the electric utility. As a condition of receiving a rebate, customers shall transfer to
140 the electric utility all right, title, and interest in and to the renewable energy credits associated
141 with the new or expanded solar electric system that qualified the customer for the solar rebate
142 for a period of ten years from the date the electric utility confirmed that the solar electric
143 system was installed and operational.

144 5. The department shall, in consultation with the commission, establish by rule a
145 certification process for electricity generated from renewable resources and used to fulfill the
146 requirements of subsection 1 of this section. Certification criteria for renewable energy
147 generation shall be determined by factors that include fuel type, technology, and the
148 environmental impacts of the generating facility. Renewable energy facilities shall not cause
149 undue adverse air, water, or land use impacts, including impacts associated with the gathering
150 of generation feedstocks. If any amount of fossil fuel is used with renewable energy
151 resources, only the portion of electrical output attributable to renewable energy resources
152 shall be used to fulfill the portfolio requirements.

153 6. In carrying out the provisions of this section, the commission and the department
154 shall include methane generated from the anaerobic digestion of farm animal waste and
155 thermal depolymerization or pyrolysis for converting waste material to energy as renewable
156 energy resources for purposes of this section.

157 7. The commission shall have the authority to promulgate rules for the
158 implementation of this section, but only to the extent such rules are consistent with, and
159 do not delay the implementation of, the provisions of this section. Any rule or portion of a
160 rule, as that term is defined in section 536.010, that is created under the authority delegated in
161 this section shall become effective only if it complies with and is subject to all of the
162 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536
163 are nonseverable and if any of the powers vested with the general assembly pursuant to
164 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
165 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
166 proposed or adopted after August 28, 2013, shall be invalid and void.

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