

SECOND REGULAR SESSION

HOUSE BILL NO. 2578

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BANDERMAN.

5605H.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Section A. Sections 393.1025 and 393.1030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 393.1025 and 393.1030, to read as follows: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) "Alternative energy resources", electric energy produced from wind, solar thermal sources, photovoltaic cells and panels, dedicated crops grown for energy production, cellulosic agricultural residues, plant residues, methane from landfills, from agricultural operations, from wastewater treatment, termal depolymerization or pyrolysis for concerting waster material to energy, clean and untreated wood such as pallets, hydropower, including pumped storage, fuel cells using hydrogen produced by one of the above-named renewable energy sources, nuclear energy, and other sources of energy that become available after November 4, 2008;

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

[~~(2)~~] (3) "Department", the department of economic development;

[~~(3)~~] (4) "Electric utility", any electrical corporation as defined by section 386.020;

and

[~~(4)~~] (5) "Renewable energy credit" or "REC", a tradeable certificate of proof that one megawatt-hour of electricity has been generated from renewable energy sources[; and

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.

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

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] alternative** energy resources. Such portfolio requirement shall
4 provide that electricity from **[renewable] alternative** energy resources shall constitute the
5 following portions of each electric utility's sales:

- 6 (1) No less than two percent for calendar years 2011 through 2013;
7 (2) No less than five percent for calendar years 2014 through 2017;
8 (3) No less than ten percent for calendar years 2018 through 2020; and
9 (4) No less than fifteen percent in each calendar year beginning in 2021.

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

17 2. (1) This subsection applies to electric utilities with more than two hundred fifty
18 thousand but less than one million retail customers in Missouri as of the end of the calendar
19 year 2024.

20 (2) Energy meeting the criteria of the renewable energy portfolio requirements set
21 forth in subsection 1 of this section that is generated from **[renewable] alternative** energy
22 resources and contracted for by an accelerated renewable buyer shall:

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

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

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

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

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

38 (a) Renewable energy certificates from ~~[renewable]~~ **alternative** energy resources as
39 defined in section 393.1025; or

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

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

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

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

61 3. The commission, in consultation with the department and within one year of
62 November 4, 2008, shall select a program for tracking and verifying the trading of renewable
63 energy credits. An unused credit may exist for up to three years from the date of its creation.
64 A credit may be used only once to comply with sections 393.1020 to 393.1030 and may not

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

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

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

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

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

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

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

147 6. In carrying out the provisions of this section, the commission and the department
148 shall include methane generated from the anaerobic digestion of farm animal waste and
149 thermal depolymerization or pyrolysis for converting waste material to energy as ~~[renewable]~~
150 **alternative** energy resources for purposes of this section.

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

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