

SECOND REGULAR SESSION

HOUSE BILL NO. 2807

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HURLBERT.

6531H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 393.1025, 393.1030, and 393.1050, RSMo, and to enact in lieu thereof three new sections relating to renewable energy.

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

Section A. Sections 393.1025, 393.1030, and 393.1050, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 393.1025, 393.1030, and 393.1050, to read as follows: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;
- (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, photovoltaic cells and panels, **nuclear power sources**, 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 renewable by rule by the department.

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.

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

(1) No less than two percent for calendar years 2011 through 2013;

(2) No less than five percent for calendar years 2014 through 2017;

(3) No less than ten percent for calendar years 2018 through 2020; ~~and~~

(4) No less than fifteen percent ~~[in each]~~ for calendar ~~[year beginning in]~~ years 2021 through 2025; and

(5) No less than seven and one-half percent in each calendar year beginning in 2026.

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

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

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

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

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

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

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

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

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

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

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

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

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

64 3. The commission, in consultation with the department and within one year of
65 November 4, 2008, shall select a program for tracking and verifying the trading of renewable
66 energy credits. An unused credit may exist for up to three years from the date of its creation.
67 A credit may be used only once to comply with sections 393.1020 to 393.1030 and may not
68 also be used to satisfy any similar nonfederal requirement. An electric utility may not use a
69 credit derived from a green pricing program. Certificates from net-metered sources shall
70 initially be owned by the customer-generator. The commission, except where the department
71 is specified, shall make whatever rules are necessary to enforce the renewable energy
72 standard. Such rules shall include:

73 (1) A maximum average retail rate increase of one percent determined by estimating
74 and comparing the electric utility's cost of compliance with least-cost renewable generation

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

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

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

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

104 4. As provided for in this section, except for those electrical corporations that qualify
105 for an exemption under section 393.1050, each electric utility shall make available to its retail
106 customers a solar rebate for new or expanded solar electric systems sited on customers'
107 premises, up to a maximum of twenty-five kilowatts per system, measured in direct current
108 that were confirmed by the electric utility to have become operational in compliance with the
109 provisions of section 386.890. The solar rebates shall be two dollars per watt for systems
110 becoming operational on or before June 30, 2014; one dollar and fifty cents per watt for
111 systems becoming operational between July 1, 2014, and June 30, 2015; one dollar per watt

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

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

148 resources, only the portion of electrical output attributable to renewable energy resources
149 shall be used to fulfill the portfolio requirements.

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

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

393.1050. Notwithstanding any other provision of law, any electrical corporation as
2 defined by subdivision (15) of section 386.020 which, by January 20, 2009, achieves an
3 amount of eligible renewable energy technology nameplate capacity equal to or greater than
4 fifteen percent of such corporation's total owned fossil-fired generating capacity, shall be
5 exempt thereafter from a requirement to pay any installation subsidy, fee, or rebate to its
6 customers that install their own solar electric energy system and shall be exempt from
7 meeting any mandated solar renewable energy standard requirements. **Beginning August 28,**
8 **2026, any electrical corporation which achieves an amount of eligible renewable energy**
9 **technology nameplate capacity equal to or greater than seven and one-half percent shall**
10 **be exempt thereafter from such requirements.** Any disputes or denial of exemptions under
11 this section may be reviewable by the circuit court of Cole County as prescribed by law.

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