

FIRST REGULAR SESSION

HOUSE BILL NO. 1388

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE APPELBAUM.

2578H.011

DANA RADEMAN MILLER, 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Section A. Sections 393.1025 and 393.1030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 393.1025 and 393.1030, to read as follows: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;
- (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 renewable by rule by the department]~~ ; **energy storage, but not including pumped storage; and fuel cells using**

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 **hydrogen or hydrogen as a gaseous fuel, if hydrogen is produced by one of the renewable**
18 **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 generated
3 from renewable energy resources. Such portfolio requirement shall provide that electricity from
4 renewable energy resources shall constitute the following portions of each electric utility's sales:

5 (1) No less than ~~[two]~~ **fifteen** percent ~~[for calendar years 2011 through 2013]~~ **before**
6 **December 31, 2021;**

7 (2) No less than ~~[five]~~ **twenty** percent ~~[for calendar years 2014 through 2017]~~ **before**
8 **December 31, 2026;**

9 (3) No less than ~~[ten]~~ **forty** percent ~~[for calendar years 2018 through 2020]~~ **before**
10 **December 31, 2031; [and]**

11 (4) No less than ~~[fifteen]~~ **sixty** percent ~~[in each calendar year beginning in 2021]~~ **before**
12 **December 31, 2041;**

13 **(5) No less than eighty percent before December 31, 2051; and**

14 **(6) No less than one hundred percent before December 31, 2056.**

15

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

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

30 (1) A maximum average retail rate increase of one percent determined by estimating and
31 comparing the electric utility's cost of compliance with least-cost renewable generation and the
32 cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking
33 into proper account future environmental regulatory risk including the risk of greenhouse gas
34 regulation. Notwithstanding the foregoing, until June 30, 2020, if the maximum average retail

35 rate increase would be less than or equal to one percent if an electric utility's investment in
36 solar-related projects initiated, owned or operated by the electric utility is ignored for purposes
37 of calculating the increase, then additional solar rebates shall be paid and included in rates in an
38 amount up to the amount that would produce a retail rate increase equal to the difference between
39 a one percent retail rate increase and the retail rate increase calculated when ignoring an electric
40 utility's investment in solar-related projects initiated, owned, or operated by the electric utility.
41 Notwithstanding any provision to the contrary in this section, even if the payment of additional
42 solar rebates will produce a maximum average retail rate increase of greater than one percent
43 when an electric utility's investment in solar-related projects initiated, owned or operated by the
44 electric utility are included in the calculation, the additional solar rebate costs shall be included
45 in the prudently incurred costs to be recovered as contemplated by subdivision (4) of this
46 subsection;

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

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

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

60 3. As provided for in this section, except for those electrical corporations that qualify for
61 an exemption under section 393.1050, each electric utility shall make available to its retail
62 customers a solar rebate for new or expanded solar electric systems sited on customers' premises,
63 up to a maximum of twenty-five kilowatts per system, measured in direct current that were
64 confirmed by the electric utility to have become operational in compliance with the provisions
65 of section 386.890. The solar rebates shall be two dollars per watt for systems becoming
66 operational on or before June 30, 2014; one dollar and fifty cents per watt for systems becoming
67 operational between July 1, 2014, and June 30, 2015; one dollar per watt for systems becoming
68 operational between July 1, 2015, and June 30, 2016; fifty cents per watt for systems becoming
69 operational between July 1, 2016, and June 30, 2017; fifty cents per watt for systems becoming
70 operational between July 1, 2017, and June 30, 2019; twenty-five cents per watt for systems

71 becoming operational between July 1, 2019, and June 30, 2020; and zero cents per watt for
72 systems becoming operational after June 30, 2020. An electric utility may, through its tariffs,
73 require applications for rebates to be submitted up to one hundred eighty-two days prior to the
74 June thirtieth operational date. Nothing in this section shall prevent an electrical corporation
75 from offering rebates after July 1, 2020, through an approved tariff. If the electric utility
76 determines the maximum average retail rate increase provided for in subdivision (1) of
77 subsection 2 of this section will be reached in any calendar year, the electric utility shall be
78 entitled to cease paying rebates to the extent necessary to avoid exceeding the maximum average
79 retail rate increase if the electrical corporation files with the commission to suspend its rebate
80 tariff for the remainder of that calendar year at least sixty days prior to the change taking effect.
81 The filing with the commission to suspend the electrical corporation's rebate tariff shall include
82 the calculation reflecting that the maximum average retail rate increase will be reached and
83 supporting documentation reflecting that the maximum average retail rate increase will be
84 reached. The commission shall rule on the suspension filing within sixty days of the date it is
85 filed. If the commission determines that the maximum average retail rate increase will be
86 reached, the commission shall approve the tariff suspension. The electric utility shall continue
87 to process and pay applicable solar rebates until a final commission ruling; however, if the
88 continued payment causes the electric utility to pay rebates that cause it to exceed the maximum
89 average retail rate increase, the expenditures shall be considered prudently incurred costs as
90 contemplated by subdivision (4) of subsection 2 of this section and shall be recoverable as such
91 by the electric utility. As a condition of receiving a rebate, customers shall transfer to the electric
92 utility all right, title, and interest in and to the renewable energy credits associated with the new
93 or expanded solar electric system that qualified the customer for the solar rebate for a period of
94 ten years from the date the electric utility confirmed that the solar electric system was installed
95 and operational.

96 4. The department shall, in consultation with the commission, establish by rule a
97 certification process for electricity generated from renewable resources and used to fulfill the
98 requirements of subsection 1 of this section. Certification criteria for renewable energy
99 generation shall be determined by factors that include fuel type, technology, and the
100 environmental impacts of the generating facility. Renewable energy facilities shall not cause
101 undue adverse air, water, or land use impacts, including impacts associated with the gathering
102 of generation feedstocks. If any amount of fossil fuel is used with renewable energy resources,
103 only the portion of electrical output attributable to renewable energy resources shall be used to
104 fulfill the portfolio requirements.

105 5. In carrying out the provisions of this section, the commission and the department shall
106 include methane generated from the anaerobic digestion of farm animal waste and thermal

107 depolymerization or pyrolysis for converting waste material to energy as renewable energy
108 resources for purposes of this section.

109 6. The commission shall have the authority to promulgate rules for the implementation
110 of this section, but only to the extent such rules are consistent with, and do not delay the
111 implementation of, the provisions of this section. Any rule or portion of a rule, as that term is
112 defined in section 536.010, that is created under the authority delegated in this section shall
113 become effective only if it complies with and is subject to all of the provisions of chapter 536
114 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
115 the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
116 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
117 grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be
118 invalid and void.

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