

FIRST REGULAR SESSION

HOUSE BILL NO. 196

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REMOLE.

0111H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 386, RSMo, by adding thereto one new section relating to rights of utility customers, with penalty provisions.

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

Section A. Chapter 386, RSMo, is amended by adding thereto one new section, to be known as section 386.820, to read as follows:

386.820. 1. For purposes of this section, the following terms mean:

(1) "Advanced meter", a meter or metering device system that is owned or leased by a utility or its agent and that meets one or more of the following requirements:

(a) Measures, records, or sends a customer's utility usage or other data by use of radio waves or broadband over power lines;

(b) Allows for two-way communication between the meter and the utility or its agent; or

(c) Allows for a utility or its agent to control a customer's thermostat, appliance, or service;

(2) "Hub meter", an advanced meter that generates stronger radio waves as a result of the meter serving as a hub for other advanced meters it communicates with in a given area;

(3) "Traditional meter", an analog or similar meter that is unable to transmit usage information and is only intended to be read by an individual through a visual display. A traditional meter is not designed to be and is not capable of transmitting usage data by using radio waves or broadband over power lines, allowing two-way communication between the meter and the utility or its agent, or allowing a utility or its agent to control

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 a customer's thermostat, appliance, or service. A traditional meter does not include an
19 advanced meter that has certain functionality turned off or deactivated;

20 (4) "Utility", any entity regulated by the commission under chapter 386 or 393.

21 2. A utility customer may choose between the placement or use of a traditional
22 meter or an advanced meter regardless of the utility that provides service to that customer.

23 3. A utility shall not:

24 (1) Make the provision of any portion of utility service to a customer contingent
25 upon the customer's receiving service through any meter or similar device other than a
26 traditional meter;

27 (2) Except as otherwise provided in this section, impose any fee or disincentive on
28 a customer for opting out of or not accepting the installation of an advanced meter or hub
29 meter or use of advanced meter function; or

30 (3) Install an advanced meter or upgrade the functionality of the advanced meter
31 after the effective date of this section unless the customer has been properly notified and
32 has not opted out of the installation or new functionality. If a customer has not opted out
33 of the installation, an on-site utility worker or his or her agent shall not install an advanced
34 meter or upgrade the functionality of the advanced meter if the customer has posted a sign
35 on the current meter forbidding installation of an advanced meter or orally informs the
36 worker at the time of installation not to install the advanced meter or additional
37 functionality.

38 4. A utility shall notify a customer in writing of the utility's intention to install an
39 advanced meter at the customer's address or to upgrade the functionality of a previously
40 installed advanced meter. The notice shall be sent by first-class mail and shall be separate
41 from any billing mailing. The utility shall keep a copy of each mailed notice on file for
42 review by the customer or the commission.

43 5. Each notice described under subsection 4 of this section shall:

44 (1) Include the customer's name, service address, and anticipated date of
45 installation;

46 (2) State the utility's desire to install an advanced meter at the customer's address,
47 as well as the functionality of the advanced meter, its method of communication, and
48 frequency of data communication;

49 (3) If the advanced meter the customer would be receiving is a hub meter, explain
50 how a hub meter differs from other meters;

51 (4) State the customer's ability to choose a traditional meter or non-hub meter and
52 the customer's rights under this section;

53 **(5) Clearly explain the process for a customer to opt out of installation of an**
54 **advanced meter or hub meter or the use of an advanced meter function; and**

55 **(6) Include the type of information that could be collected by the advanced meter**
56 **and to whom such information could be distributed. If a customer opts to receive an**
57 **advanced meter, he or she shall have the right to specify that any information collected by**
58 **the advanced meter not be distributed or used for advertising or marketing purposes or**
59 **shared with any law enforcement agency without a valid warrant.**

60 **6. The commission shall promulgate opt-out procedures that shall be composed of**
61 **simple, easy-to-understand steps that an average customer can easily understand and that**
62 **do not place any undue burden on the customer. After being notified that they can opt out,**
63 **customers shall be provided with at least forty-five days to communicate with the utility**
64 **their desire to opt out, with a clear deadline listed on the notice. Opt-out procedures shall**
65 **be free of charge other than the cost of regular mailing. An opt-out procedure or process**
66 **shall be narrow in construction so as to inform the utility of the customer's intentions and**
67 **not be made contingent upon or contain language that would require the customer's giving**
68 **up any rights or making any other ancillary agreements. A customer who does not opt out**
69 **when first notified does not give up any rights regarding having an advanced meter**
70 **removed in the future.**

71 **7. Within thirty days after receiving a customer's request that an advanced meter**
72 **be removed from the customer's residence or business, unless emergency conditions**
73 **prevent the utility from doing so, a utility shall remove the advanced meter and replace it**
74 **with a traditional meter that is not an advanced meter. If emergency conditions prevent**
75 **the utility from meeting the thirty-day deadline, the utility shall remove the advanced**
76 **meter and replace it with a traditional meter that is not an advanced meter immediately**
77 **after such emergency conditions end. Limited to actual costs, a utility may charge a one-**
78 **time all-inclusive fee, not to exceed one hundred dollars, to remove the advanced meter and**
79 **to provide and install a traditional meter. However, a utility shall not charge a fee if the**
80 **utility installed the advanced meter in violation of the notice requirements in this section**
81 **or before the effective date of this section. A utility shall not charge a monthly fee for using**
82 **a traditional meter unless the customer is offered the opportunity, but is unwilling, to read**
83 **and report the customer's usage under subsection 8 of this section. Any fee for using a**
84 **traditional meter shall not exceed five dollars per month.**

85 **8. (1) A utility shall allow each customer to read and report that customer's service**
86 **usage if the customer reports reasonably accurate usage on a regular basis. A utility shall**
87 **provide a customer with a pre-addressed envelope and form upon request or permit a**
88 **customer to report meter readings on a secure website, by telephone, or by other**

89 reasonable means. At least once every twelve months, the utility shall obtain an actual
90 meter reading of a customer's energy usage to verify the accuracy of readings reported
91 under this section. Notwithstanding this subsection, a representative of a utility may
92 manually read a customer's meter on a regular basis as otherwise permitted by law and
93 correct a reading as necessary. If a customer fails to report usage or the utility does not
94 receive a customer's service usage on time, the utility may manually read a customer's
95 meter or charge that customer based on an estimate of prior energy use in a manner
96 approved by the commission. A customer who reports inaccurate information may be
97 assessed a fine, not to exceed one hundred dollars, under rules promulgated by the
98 commission and may be subject to any other penalties provided by law.

99 (2) For purposes of this subsection, the following terms mean:

100 (a) "Inaccurate information", the under-reporting of meter data. Inaccurate
101 information does not mean minor differences in readings by less than five percent to
102 account for variations based on the time of day that the meter is read and similar factors;

103 (b) "Regular basis", once per billing cycle.

104 9. (1) A customer's energy use data and internet user information are private and
105 confidential and shall not be sold, rented, or shared by a utility or its agents except as
106 provided in this subsection and as provided by competent court order or law.

107 (2) A utility or any of its agents may report any customer data, including energy
108 use data and internet user information, to the commission.

109 (3) A utility may report data relating to electric or compressed natural gas vehicle
110 fueling to the department of revenue. Such information shall be used by the department
111 of revenue strictly for taxation purposes, shall not be shared with law enforcement without
112 a warrant, and is not subject to disclosure under chapter 610, except for aggregate data
113 used for research purposes in a nonidentifying manner.

114 10. A utility shall ensure that any data from an advanced meter communicated by
115 networking technology is encrypted. A utility shall not communicate by networking
116 technology meter use data that include a residential customer's name, social security
117 number, address, or other identifying information, except for an independent and unique
118 customer identification number that is assigned by the utility. The customer identification
119 number shall be assigned in a manner that includes safeguards to prevent a device not
120 owned by the utility from associating the number with a particular customer or address.

121 11. A utility shall not post a customer's energy use data or bill on the internet,
122 except over a secured transfer protocol or similar secured connection that uses one or more
123 security measures, such as a customer-selected password, to ensure that only the customer
124 can access the information.

125 **12. A utility shall not wirelessly or otherwise remotely shut off service to a customer**
126 **unless the following requirements are met:**

127 **(1) At least forty-eight hours before shutoff, a utility representative verifies that the**
128 **property to which the service is to be shut off is the correct address and follows all other**
129 **shutoff procedures required by law; and**

130 **(2) The utility has a security program intended to prevent unintentional shutoff**
131 **that is approved by the commission.**

132 **13. The commission shall promulgate rules to implement the provisions of this**
133 **section. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
134 **created under the authority delegated in this section shall become effective only if it**
135 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
136 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
137 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
138 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
139 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2017,**
140 **shall be invalid and void.**

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