

FIRST REGULAR SESSION

HOUSE BILL NO. 325

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE APPELBAUM.

0455H.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Section A. Sections 393.1025 and 393.1030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 393.1025 and 393.1030, to read as follows: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]~~ **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, 2023;**

8 (2) No less than ~~[five]~~ **twenty** percent ~~[for calendar years 2014 through 2017]~~ **before**
9 **December 31, 2028;**

10 (3) No less than ~~[ten]~~ **forty** percent ~~[for calendar years 2018 through 2020]~~ **before**
11 **December 31, 2033;** and

12 (4) No less than ~~[fifteen]~~ **sixty** percent ~~[in each calendar year beginning in 2021]~~
13 **before December 31, 2043;**

14 **(5) No less than eighty percent before December 31, 2053; and**

15 **(6) No less than one hundred percent before December 31, 2058.**

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

32 (1) A maximum average retail rate increase of one percent determined by estimating
33 and comparing the electric utility's cost of compliance with least-cost renewable generation
34 and the cost of continuing to generate or purchase electricity from entirely nonrenewable

35 sources, taking into proper account future environmental regulatory risk including the risk of
36 greenhouse gas regulation. Notwithstanding the foregoing, until June 30, 2020, if the
37 maximum average retail rate increase would be less than or equal to one percent if an electric
38 utility's investment in solar-related projects initiated, owned or operated by the electric utility
39 is ignored for purposes of calculating the increase, then additional solar rebates shall be paid
40 and included in rates in an amount up to the amount that would produce a retail rate increase
41 equal to the difference between a one percent retail rate increase and the retail rate increase
42 calculated when ignoring an electric utility's investment in solar-related projects initiated,
43 owned, or operated by the electric utility. Notwithstanding any provision to the contrary in
44 this section, even if the payment of additional solar rebates will produce a maximum average
45 retail rate increase of greater than one percent when an electric utility's investment in solar-
46 related projects initiated, owned or operated by the electric utility are included in the
47 calculation, the additional solar rebate costs shall be included in the prudently incurred costs
48 to be recovered as contemplated by subdivision (4) of this subsection;

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

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

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

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

72 watt for systems becoming operational between July 1, 2016, and June 30, 2017; fifty cents
73 per watt for systems becoming operational between July 1, 2017, and June 30, 2019; twenty-
74 five cents per watt for systems becoming operational between July 1, 2019, and June 30,
75 2020; and zero cents per watt for systems becoming operational after June 30, 2020. An
76 electric utility may, through its tariffs, require applications for rebates to be submitted up to
77 one hundred eighty-two days prior to the June thirtieth operational date. Nothing in this
78 section shall prevent an electrical corporation from offering rebates after July 1, 2020,
79 through an approved tariff. If the electric utility determines the maximum average retail rate
80 increase provided for in subdivision (1) of subsection 2 of this section will be reached in any
81 calendar year, the electric utility shall be entitled to cease paying rebates to the extent
82 necessary to avoid exceeding the maximum average retail rate increase if the electrical
83 corporation files with the commission to suspend its rebate tariff for the remainder of that
84 calendar year at least sixty days prior to the change taking effect. The filing with the
85 commission to suspend the electrical corporation's rebate tariff shall include the calculation
86 reflecting that the maximum average retail rate increase will be reached and supporting
87 documentation reflecting that the maximum average retail rate increase will be reached. The
88 commission shall rule on the suspension filing within sixty days of the date it is filed. If the
89 commission determines that the maximum average retail rate increase will be reached, the
90 commission shall approve the tariff suspension. The electric utility shall continue to process
91 and pay applicable solar rebates until a final commission ruling; however, if the continued
92 payment causes the electric utility to pay rebates that cause it to exceed the maximum average
93 retail rate increase, the expenditures shall be considered prudently incurred costs as
94 contemplated by subdivision (4) of subsection 2 of this section and shall be recoverable as
95 such by the electric utility. As a condition of receiving a rebate, customers shall transfer to
96 the electric utility all right, title, and interest in and to the renewable energy credits associated
97 with the new or expanded solar electric system that qualified the customer for the solar rebate
98 for a period of ten years from the date the electric utility confirmed that the solar electric
99 system was installed and operational.

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

109 5. In carrying out the provisions of this section, the commission and the department
110 shall include methane generated from the anaerobic digestion of farm animal waste and
111 thermal depolymerization or pyrolysis for converting waste material to energy as renewable
112 energy resources for purposes of this section.

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

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