

FIRST REGULAR SESSION

HOUSE BILL NO. 439

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KIDD.

1010H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 386, RSMo, by adding thereto two new sections relating to utilities.

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

Section A. Chapter 386, RSMo, is amended by adding thereto two new sections, to be known as sections 386.1000 and 386.1002, to read as follows:

386.1000. Sections 386.1000 through 386.1002 shall be known as the "Missouri Energy Freedom Act". These sections reflect the critical role that abundant, affordable, reliable, and secure supplies of energy have in advancing the economy of the state and the security, health, and welfare of its citizens. The right of citizens to directly invest in renewable energy sources to meet their own energy needs while also connecting to the electric grid shall not be limited more than is necessary to protect the safety and security of the electric grid.

386.1002. 1. For purposes of this section, the following terms shall mean:

(1) "Commission", the public service commission of the state of Missouri;

(2) "Contract customer", a person, corporation, or legal entity, including affiliates and subsidiaries, who executes or will execute a renewable energy contract with a renewable energy facility owner;

(3) "Renewable energy contract", a contract under this section between a renewable energy facility owner and a contract customer that provides for the delivery of electricity to a contract customer by one of the following means:

(a) From one renewable energy facility to a contract customer's single metered delivery location;

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.

11 (b) From multiple renewable energy facilities to a contract customer's single
12 metered delivery location;

13 (c) From one or more renewable energy facilities to a single contract customer's
14 multiple metered delivery locations; or

15 (d) From one or more renewable energy facilities to a single contract customer for
16 distribution to multiple retail electric supplier customers' metered delivery locations;

17 (4) "Renewable energy facility", a facility for the production of electrical energy
18 that utilizes a renewable energy resource as defined in subdivision (5) of section 393.1025
19 and does not include an electric generating facility whose costs have been included in a
20 retail electric supplier's rates as a facility providing electric service to the retail electric
21 supplier's system;

22 (5) "Retail electric supplier", the same meaning as set forth in subdivision (7) of
23 subsection 2 of section 386.890.

24 2. A renewable energy contract shall provide for the pricing and duration of the
25 contract for the electricity to be sold from the renewable energy facility, as determined
26 through negotiation between the renewable energy facility's owner and the contract
27 customer.

28 3. To be eligible for entering a renewable energy contract under this section, a
29 contract customer shall meet a minimum annual peak demand of one megawatt; provided
30 that, a single contract customer may aggregate multiple metered delivery locations to
31 satisfy the minimum megawatt limit.

32 4. Electricity generated by a renewable energy facility and delivered to a contract
33 customer under a renewable energy contract shall not be included in a net metering
34 program under section 386.890.

35 5. Following the promulgation of rules and regulations necessary to implement this
36 section under subsection 16, a contract customer may request use of the transmission or
37 distribution system of a retail electric supplier to deliver power pursuant to a renewable
38 energy contract. Within ninety days after receiving a request from a contract customer
39 pursuant to this subsection, and subject to reasonable credit requirements:

40 (1) A retail electric supplier regulated by the commission shall approve the use of
41 its transmission or distribution system to deliver power pursuant to a renewable energy
42 contract and file for commission approval of service under the applicable service tariff as
43 provided for in subsection 10; or

44 (2) A retail electric supplier not regulated by the commission shall approve the use
45 of its transmission or distribution system to deliver power pursuant to a renewable energy

46 contract and request from its governing body approval of service under the applicable
47 service tariff as provided for in subsection 10.

48 **6. Following approval given under subsection 5 and upon receipt of a renewable**
49 **energy contract, the retail electric supplier shall:**

50 **(1) Contract with the renewable energy facility's owner to purchase electricity for**
51 **resale to the contract customer or contract customers; and**

52 **(2) Sell such electricity to the contract customer according to the duration and**
53 **pricing terms in the renewable energy contract, plus any additional costs the retail electric**
54 **supplier is authorized to recover under subsection 10.**

55 **7. The contract customer shall be responsible for any federal jurisdictional**
56 **incremental costs required by the transmission organization of which the retail electric**
57 **supplier is a member for delivery of the electricity from the renewable energy facility to**
58 **the transmission system.**

59 **8. The retail electric supplier shall not be held responsible for costs related to**
60 **customer default.**

61 **9. The right to any environmental attribute associated with a renewable energy**
62 **facility shall remain the property of the renewable energy facility's owner, except to the**
63 **extent that a renewable energy contract provides otherwise.**

64 **10. Within sixty days of publication of rules and regulations necessary to effectuate**
65 **the provisions of this section under subsection 16, a retail electric supplier shall file for**
66 **approval by the commission or the governing body for other electric utilities a tariff to**
67 **provide service subject to this section. A retail electric supplier shall charge a contract**
68 **customer for all metered electric service delivered to the contract customer pursuant to a**
69 **renewable energy contract as well as any required supplemental energy service, and the**
70 **tariff shall include rates as determined by the commission or the governing body for a**
71 **retail electric supplier for the recovery of:**

72 **(1) Cost-based administrative service;**

73 **(2) Cost-based distribution service;**

74 **(3) Cost-based transmission service;**

75 **(4) Cost-based monthly generation capacity service; and**

76 **(5) Cost-based energy service for any kilowatt-hours of electricity contracted for**
77 **delivery but not delivered from the renewable energy facility.**

78 **11. A retail electric supplier may propose an alternative tariff in addition to the**
79 **requirement in subsection 10. The commission or governing body may approve an**
80 **alternative tariff upon finding that the alternative tariff:**

81 **(1) Complies with the requirements of this section;**

82 **(2) Has stated operational or administrative benefits to both a retail energy supplier**
83 **and a contract customer when compared to the requirement in subsection 10; and**

84 **(3) Will not result in higher service cost to a contract customer when compared to**
85 **the requirement in subsection 10.**

86 **12. When the total rated generating capacity contracted for pursuant to renewable**
87 **energy contracts exceeds three percent of a retail electric supplier's single-hour peak load,**
88 **the retail electric supplier shall file a report with the commission or governing body for the**
89 **retail electric supplier describing the impact of renewable energy facilities pursuant to**
90 **renewable energy contracts in its service territory. The commission or governing body for**
91 **the retail electric supplier shall then conduct an evaluation of any potential cost shifts**
92 **between rate classes resulting from renewable energy contracts pursuant to this section.**
93 **Following such evaluation the commission or governing body shall structure the charges**
94 **in the tariff in such a way as to prevent the shifting of cost from contract customers to**
95 **nonparticipating customers of the retail electric supplier.**

96 **13. A contract customer shall be served under the tariff approved by the**
97 **commission or governing body pursuant to this section for the duration of the executed**
98 **renewable energy contract. Repeal or amendment of this section shall not abrogate the**
99 **rights and obligations of the contract customer and retail electric supplier under an**
100 **executed renewable energy contract.**

101 **14. An owner of a renewable energy facility is not a public utility as defined by**
102 **subdivision (43) of section 386.020, notwithstanding the owner's participation in a**
103 **renewable energy contract or the fact that the owner's renewable energy facility supplies**
104 **power delivered pursuant to a renewable energy contract.**

105 **15. Nothing in this section shall prohibit an owner of a renewable energy facility**
106 **from providing power directly to a contract customer pursuant to a renewable energy**
107 **contract, provided that the power is supplied by a renewable energy facility located**
108 **entirely on the customer's premises. A retail electric supplier shall not be entitled to**
109 **recover any costs relating to energy delivered pursuant to renewable energy contracts**
110 **described in this subsection. A retail electric supplier shall not be required to compensate**
111 **a customer for any excess energy provided to the grid resulting from a renewable energy**
112 **contract described in this subsection, notwithstanding section 386.890 or any other section**
113 **of law.**

114 **16. The commission or the governing body for other electric utilities shall**
115 **promulgate any rules and regulations necessary to effectuate the provisions of this section**
116 **within one year of the effective date of this section. Any rule or portion of a rule, as that**
117 **term is defined in section 536.010, that is created under the authority delegated in this**

118 **section shall become effective only if it complies with and is subject to all of the provisions**
119 **of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are**
120 **nonseverable, and if any of the powers vested with the general assembly pursuant to**
121 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
122 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
123 **proposed or adopted after August 28, 2017, shall be invalid and void.**

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