

FIRST REGULAR SESSION

SENATE BILL NO. 246

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KRAUS.

Read 1st time January 4, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1086S.011

AN ACT

To repeal section 386.890, RSMo, and to enact in lieu thereof one new section relating to net metering, with a penalty provision.

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

Section A. Section 386.890, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 386.890, to read as follows:

386.890. 1. This section shall be known and may be cited as the "Net
2 Metering and Easy Connection Act".

3 2. As used in this section, the following terms shall mean:

4 (1) "Avoided fuel cost", the current average cost of fuel for the entity
5 generating electricity, as defined by the governing body with jurisdiction over any
6 municipal electric utility, rural electric cooperative as provided in chapter 394,
7 or electrical corporation as provided in this chapter;

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

9 (3) "Customer-generator", the owner or operator of a qualified electric
10 energy generation unit which:

11 (a) Is powered by a renewable energy resource;

12 (b) Has an electrical generating system with a capacity of not more than
13 one hundred kilowatts;

14 (c) Is located on a premises owned, operated, leased, or otherwise
15 controlled by the customer-generator;

16 (d) Is interconnected and operates in parallel phase and synchronization
17 with a retail electric supplier and has been approved by said retail electric
18 supplier;

19 (e) Is intended [primarily to offset part or all] **and designed not to**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 **exceed one hundred percent** of the customer-generator's own electrical energy
21 requirements;

22 (f) Meets all applicable safety, performance, interconnection, and
23 reliability standards established by the National Electrical Code, the National
24 Electrical Safety Code, the Institute of Electrical and Electronics Engineers,
25 Underwriters Laboratories, the Federal Energy Regulatory Commission, and any
26 local governing authorities; and

27 (g) Contains a mechanism that automatically disables the unit and
28 interrupts the flow of electricity back onto the supplier's electricity lines in the
29 event that service to the customer-generator is interrupted;

30 (4) "Department", the department of [natural resources] **economic**
31 **development**;

32 (5) "Net metering", using metering equipment sufficient to measure the
33 difference between the electrical energy supplied to a customer-generator by a
34 retail electric supplier and the electrical energy supplied by the
35 customer-generator to the retail electric supplier over the applicable billing
36 period;

37 (6) "Renewable energy resources", electrical energy produced from wind,
38 solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel
39 cells using hydrogen produced by one of the above-named electrical energy
40 sources, and other sources of energy that become available after August 28, 2007,
41 and are certified as renewable by the department;

42 (7) "Retail electric supplier" or "supplier", any [municipal utility,]
43 electrical corporation regulated under this chapter **that provides retail**
44 **electric service in this state**, [or] rural electric cooperative **operating** under
45 chapter 394 that provides retail electric service in this state **and that serves**
46 **twenty thousand or more connected meters, or any municipal utility**
47 **operating under chapter 91 that provides retail electric service in this**
48 **state and serves twenty thousand or more connected meters. An**
49 **electrical corporation that is regulated by the commission under**
50 **subsection 2 of section 393.110 shall be deemed to be a rural electric**
51 **cooperative for purposes of this section. Nothing in this section shall**
52 **preclude the governing body of a rural electric cooperative or**
53 **municipal utility that serves less than twenty thousand meters from**
54 **offering and providing net metering on a voluntary basis under rates,**
55 **terms, and conditions that the governing body deems to be just and**

56 **reasonable.**

57 3. A retail electric supplier shall:

58 (1) Make net metering available to customer-generators on a first-come,
59 first-served basis until the total rated generating capacity of net metering
60 systems equals five percent of the [utility's] **supplier's** single-hour peak load
61 during the previous year, after which the commission for [a public utility] **an**
62 **electric corporation** or the **respective** governing body [for] **of** other [electric
63 utilities] **suppliers** may increase the total rated generating capacity of net
64 metering systems to an amount above five percent. However, in a given calendar
65 year, no retail electric supplier shall be required to approve any application for
66 interconnection if the total rated generating capacity of all applications for
67 interconnection already approved to date by said supplier in said calendar year
68 equals or exceeds one percent of said supplier's single-hour peak load for the
69 previous calendar year;

70 (2) Offer **net metering** to the customer-generator **under a commission-**
71 **approved tariff if an electrical corporation, or under a contract approved**
72 **by the respective governing body of a supplier, at rates that [is] are**
73 identical in electrical energy rates, rate structure, and monthly charges to the
74 contract or tariff that the customer would be assigned if the customer were not
75 an eligible customer-generator [but shall not charge the customer-generator any
76 additional standby, capacity, interconnection, or other fee or charge that would
77 not otherwise be charged if the customer were not an] **or under a rate**
78 **structure and with rates, fees, and charges that are reasonably**
79 **calculated to prevent unfair subsidization by recovering that portion**
80 **of the supplier's fixed costs plus the demand charges attributable to,**
81 **and necessary for, connecting the eligible generating unit to the**
82 **supplier's system and otherwise providing electric service to the** eligible
83 customer-generator; and

84 (3) Disclose annually the availability of the net metering program to each
85 of its customers with the method and manner of disclosure being at the discretion
86 of the supplier.

87 4. A customer-generator's facility shall be equipped with sufficient
88 metering equipment that can measure the net amount of electrical energy
89 produced or consumed by the customer-generator. If the customer-generator's
90 existing meter equipment does not meet these requirements or if it is necessary
91 for the electric supplier to install additional distribution equipment to

92 accommodate the customer-generator's facility, the customer-generator shall
93 reimburse the retail electric supplier for the costs to purchase and install the
94 necessary additional equipment. At the request of the customer-generator, such
95 costs may be initially paid for by the retail electric supplier, and any amount up
96 to the total costs and a reasonable interest charge may be recovered from the
97 customer-generator over the course of up to twelve billing cycles. Any subsequent
98 meter testing, maintenance or meter equipment change necessitated by the
99 customer-generator shall be paid for by the customer-generator. **The**
100 **commission for electrical corporations and the respective governing**
101 **body for other suppliers may require that the customer-generator**
102 **obtain and maintain a reasonable amount of liability insurance**
103 **coverage or other equivalent for the installation and operation of the**
104 **qualified electric energy generation unit.**

105 5. Consistent with the provisions in this section, the net electrical energy
106 measurement shall be calculated in the following manner:

107 (1) For a customer-generator, a retail electric supplier shall measure the
108 net electrical energy produced or consumed during the billing period in
109 accordance with normal metering practices for customers in the same rate class,
110 either by employing a single, bidirectional meter that measures the amount of
111 electrical energy produced and consumed, or by employing multiple meters that
112 separately measure the customer-generator's consumption and production of
113 electricity;

114 (2) If the electricity supplied by the supplier exceeds the electricity
115 generated by the customer-generator during a billing period, the
116 customer-generator shall be billed for the net electricity supplied by the supplier
117 in accordance with normal practices for customers in the same rate class;

118 (3) If the electricity generated by the customer-generator exceeds the
119 electricity supplied by the supplier during a billing period, the
120 customer-generator shall be billed for the appropriate customer charges for that
121 billing period in accordance with subsection 3 of this section and shall be credited
122 an amount at least equal to the avoided fuel cost of the excess kilowatt-hours
123 generated during the billing period, with this credit applied to the following
124 billing period;

125 (4) Any credits granted by this subsection shall expire without any
126 compensation at the earlier of either twelve months after their issuance or when
127 the customer-generator disconnects service or terminates the net metering

128 relationship with the supplier;

129 (5) For any rural electric cooperative under chapter 394, or municipal
130 utility, upon agreement of the wholesale generator supplying electric energy to
131 the retail electric supplier, at the option of the retail electric supplier, the credit
132 to the customer-generator may be provided by the wholesale generator.

133 6. (1) Each qualified electric energy generation unit used by a
134 customer-generator shall meet, **and be installed, maintained, and repaired**
135 **consistent with**, all applicable safety, performance, interconnection, and
136 reliability standards established by any local code authorities, the National
137 Electrical Code, the National Electrical Safety Code, the Institute of Electrical
138 and Electronics Engineers, and Underwriters Laboratories for distributed
139 generation. **All qualified electric energy generation units utilizing**
140 **battery backup shall be installed to operate completely isolated from**
141 **the supplier's system, including all neutral connections and grounding**
142 **points, during times of backup operation. Unless allowed under**
143 **subdivision (2) of subsection 3 of this section or subsection 4 of this**
144 **section**, no supplier shall impose any fee, charge, or other requirement not
145 specifically authorized by this section or the rules promulgated under subsection
146 9 of this section unless the fee, charge, or other requirement would apply to
147 similarly situated customers who are not customer-generators, except that a retail
148 electric supplier may require that a customer-generator's system contain
149 **adequate surge protection and** a switch, circuit breaker, fuse, or other easily
150 accessible device or feature located in immediate proximity to the
151 customer-generator's metering equipment that would allow a utility worker **and**
152 **emergency response personnel** the ability to manually and instantly
153 disconnect the unit from the utility's electric distribution system;

154 (2) For systems of ten kilowatts or less, a customer-generator whose
155 system meets the standards and rules under subdivision (1) of this subsection
156 shall not be required to install additional controls, perform or pay for additional
157 tests or distribution equipment, or purchase additional liability insurance beyond
158 what is required under subdivision (1) of this subsection and subsection 4 of this
159 section;

160 (3) For customer-generator systems of greater than ten kilowatts, the
161 commission for [public utilities] **electrical corporations** and the governing
162 body for other [utilities] **suppliers** shall, by rule or equivalent formal action by
163 each respective governing body:

164 (a) Set forth safety, performance, and reliability standards and
165 requirements; and

166 (b) Establish the qualifications for exemption from a requirement to
167 install additional controls, perform or pay for additional tests or distribution
168 equipment, or purchase additional liability insurance.

169 7. (1) Applications by a customer-generator for interconnection of a
170 qualified electric energy generation unit meeting the requirements of subdivision
171 (3) of subsection 2 of this section to the distribution system shall be accompanied
172 by the plan for the customer-generator's electrical generating system, including
173 but not limited to a wiring diagram and specifications for the generating unit,
174 and shall be reviewed and responded to by the retail electric supplier, **unless**
175 **mutually agreed to**, within thirty days of receipt for systems ten kilowatts or
176 less and within ninety days of receipt for all other systems. Prior to the
177 interconnection of the qualified **electric energy** generation unit to the supplier's
178 system, the customer-generator will furnish the retail electric supplier a
179 certification from a [qualified] professional electrician or engineer **deemed**
180 **qualified by the supplier** that the installation meets the requirements of
181 subdivision (1) of subsection 6 of this section. **In the event the professional**
182 **electrician or engineer is not licensed, the retail electric supplier may**
183 **require a bond or other form of surety to ensure the safe installation**
184 **and operation of the qualified electric energy generation unit.** If the
185 application for interconnection is approved by the retail electric supplier and the
186 customer-generator does not complete the interconnection within one year after
187 receipt of notice of the approval, the approval shall expire and the
188 customer-generator shall be responsible for filing a new application.

189 (2) Upon the change in ownership of a qualified electric energy generation
190 unit, the new customer-generator shall be responsible for filing a new application
191 under subdivision (1) of this subsection.

192 8. Each [commission-regulated supplier] **electrical corporation** shall
193 submit an annual net metering report to the commission, and all other
194 [nonregulated] suppliers shall submit the same report to their respective
195 governing body and make said report available to a consumer of the supplier upon
196 request, including the following information for the previous calendar year:

197 (1) The total number of customer-generator facilities;

198 (2) The total estimated generating capacity of its net-metered
199 customer-generators; and

200 (3) The total estimated net kilowatt-hours received from
201 customer-generators.

202 9. The commission shall, within nine months of January 1, 2008,
203 promulgate initial rules necessary for the administration of this section for
204 **[public utilities] electrical corporations**, which shall include regulations
205 ensuring that simple contracts will be used for interconnection and net
206 metering. For systems of ten kilowatts or less, the application process shall use
207 an all-in-one document that includes a simple interconnection request, simple
208 procedures, and a brief set of terms and conditions. Any rule or portion of a rule,
209 as that term is defined in section 536.010, that is created under the authority
210 delegated in this section shall become effective only if it complies with and is
211 subject to all of the provisions of chapter 536 and, if applicable, section
212 536.028. This section and chapter 536 are nonseverable and if any of the powers
213 vested with the general assembly under chapter 536 to review, to delay the
214 effective date, or to disapprove and annul a rule are subsequently held
215 unconstitutional, then the grant of rulemaking authority and any rule proposed
216 or adopted after August 28, 2007, shall be invalid and void.

217 10. The governing body of a rural electric cooperative or municipal utility
218 shall, within nine months of January 1, 2008, adopt policies establishing a simple
219 contract to be used for interconnection and net metering. For systems of ten
220 kilowatts or less, the application process shall use an all-in-one document that
221 includes a simple interconnection request, simple procedures, and a brief set of
222 terms and conditions.

223 11. For any cause of action relating to any damages to property or person
224 caused by the **qualified electric energy** generation unit of a
225 customer-generator or the interconnection thereof, the retail electric supplier
226 shall have no liability absent clear and convincing evidence of fault on the part
227 of the supplier.

228 12. The estimated generating capacity of all net metering systems
229 operating under the provisions of this section shall count towards the respective
230 retail electric supplier's accomplishment of any renewable energy portfolio target
231 or mandate adopted by the Missouri general assembly **or applicable federal**
232 **law**.

233 13. The sale of qualified electric **energy** generation units to any
234 customer-generator shall be subject to the provisions of sections 407.700 to
235 407.720. The attorney general shall have the authority to promulgate in

236 accordance with the provisions of chapter 536 rules regarding mandatory
237 disclosures of information by sellers of qualified electric **energy** generation
238 units. Any interested person who believes that the seller of any **qualified** electric
239 **energy** generation unit is misrepresenting the **cost savings, payback period,**
240 safety, or performance standards of any such systems, or who believes that any
241 **qualified** electric **energy** generation unit poses a danger to any property or
242 person, may report the same to the attorney general, who shall be authorized to
243 investigate such claims and take any necessary and appropriate actions. **All cost**
244 **savings or system payback period calculations made by sellers of**
245 **qualified electric energy generation units and given to potential or**
246 **existing customer-generators shall be based upon the then-existing**
247 **electric service rates of the potential or existing customer-generator's**
248 **retail electric supplier, and if projections for rate increases are**
249 **included in the calculation, such projections shall be based on that**
250 **retail electric supplier's then-existing rates and the actual percentage**
251 **increase in rates averaged over the previous ten year**
252 **period. Misrepresentation of a retail electric supplier's current or**
253 **projected rates shall constitute an unlawful practice under section**
254 **407.020 and the violator shall be subject to all penalties, remedies, and**
255 **procedures provided in sections 407.010 to 407.130, with such remedies**
256 **being cumulative. Any person that suffers a loss or harm as a result of**
257 **such unlawful practice may recover actual and punitive damages,**
258 **reasonable attorney's fees, court costs, and any other remedies**
259 **provided by law. A person commits the offense of misrepresentation of**
260 **electric rates if such person knowingly and willfully engages in any act**
261 **or practice prohibited or declared unlawful by this**
262 **subsection. Misrepresentation of electric rates is a class B**
263 **misdemeanor.**

264 14. Any costs incurred under this act by a retail electric supplier shall be
265 recoverable in that utility's rate structure.

266 15. No consumer shall connect or operate [an] a **qualified** electric
267 **energy** generation unit in parallel phase and synchronization with any retail
268 electric supplier without written approval by said supplier that all of the
269 requirements under subdivision (1) of subsection 7 of this section have been
270 met. For a consumer who violates this provision, a supplier may immediately and
271 without notice disconnect the electric facilities of said consumer and terminate

272 said consumer's electric service.

273 16. The manufacturer of any **qualified** electric **energy** generation unit
274 used by a customer-generator may be held liable for any damages to property or
275 person caused by a defect in the **qualified** electric **energy** generation unit of a
276 customer-generator.

277 17. The seller, installer, or manufacturer of any **qualified** electric
278 **energy** generation unit who knowingly misrepresents the safety aspects of [an]
279 **a qualified** electric **energy** generation unit may be held liable, **and recover**
280 **actual and punitive damages, reasonable attorney's fees, court costs,**
281 **and any other remedies provided by law,** for any damages to property or
282 person caused by the **qualified** electric **energy** generation unit of a
283 customer-generator.

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Bill

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