

FIRST REGULAR SESSION

SENATE BILL NO. 420

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAGER.

Read 1st time February 27, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1850S.03I

AN ACT

To repeal sections 386.890 and 393.1030, RSMo, and to enact in lieu thereof two new sections relating to renewable energy.

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

Section A. Sections 386.890 and 393.1030, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 386.890 and
3 393.1030, 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", and it reflects the policy of the state to
3 **promote customer ownership of small electric generating systems**
4 **powered by renewable energy resources and designed primarily to**
5 **satisfy the customer-generator's demand for electricity; to recognize the**
6 **benefits distributed generation may offer; to ensure that financial**
7 **incentives for retail electric suppliers are aligned with promoting**
8 **renewable resources and aiding customers in the development of**
9 **renewable resources; and to allow retail electric suppliers to fully and**
10 **timely recover all reasonable and prudent costs, including any foregone**
11 **revenues resulting from complying with the requirements of this**
12 **section.**

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

14 (1) "Avoided [fuel] cost", [the current average cost of fuel for the entity
15 generating electricity, as defined by the governing body with jurisdiction over any
16 municipal electric utility, rural electric cooperative as provided in chapter 394,
17 or electrical corporation as provided in this chapter] **for an electrical**
18 **corporation, the weighted average nontime of use avoided costs,**

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

19 **expressed in cents per kilowatt-hour, provided to the commission under**
20 **4 CSR 240-3.155(4)(A) in effect for the calendar year at issue;**

21 (2) **"Calculated kilowatt-hours of electricity", the annual kilowatt-**
22 **hours calculated using the default values in the United States**
23 **Department of Energy's National Renewable Energy Laboratory's**
24 **PVWatts calculator for the latitude and longitude where the electrical**
25 **corporation's primary load center is located, or such successor**
26 **calculator, if any, developed by the United States Department of**
27 **Energy;**

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

29 [(3)] (4) "Customer-generator", the owner or operator of a qualified
30 electric energy generation unit which:

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

32 (b) Has an electrical generating system with a capacity of not more than
33 [one] **two** hundred kilowatts;

34 (c) Is located on a premises owned[, operated,] **or** leased, or otherwise
35 controlled by the customer-generator;

36 (d) Is interconnected and operates in parallel phase and synchronization
37 with a retail electric supplier and has been approved by said retail electric
38 supplier;

39 (e) Is [intended primarily] **designed** to offset [part or all] **not more**
40 **than one hundred percent** of the customer-generator's own electrical energy
41 requirements;

42 (f) Meets all applicable safety, performance, interconnection, and
43 reliability standards established by the National Electrical Code, the National
44 Electrical Safety Code, the Institute of Electrical and Electronics Engineers,
45 Underwriters Laboratories, the Federal Energy Regulatory Commission, and any
46 local governing authorities; and

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

50 [(4)] (5) "Department", the department of natural resources;

51 [(5)] (6) **"Foregone revenues", a sum determined by multiplying**
52 **the actual kilowatt-hours, when metered, or the calculated kilowatt-**
53 **hours of electricity, when not metered, produced by customer-**
54 **generators within the electrical corporation's service territory for each**

55 of the electrical corporation's rate classes since the end of the effective
56 date of new base rates established in a general rate proceeding by the
57 difference between the electrical corporation's applicable class average
58 retail rate for each respective rate class and the electrical corporation's
59 avoided costs for each respective rate class;

60 (7) "Minimum bill", all charges on a customer's bill that are not
61 calculated on a kilowatt-hour basis, such as a service charge, customer
62 charge, meter charge, facilities charge, demand charge, billed demand
63 charge, or any other charges billed to customers for services, including
64 special facilities, late fees, taxes, etc.;

65 (8) "Net excess energy", the amount of energy, expressed in
66 kilowatt-hours, delivered by a customer-generator to a retail electric
67 supplier that exceeds the amount of energy delivered by the retail
68 electric supplier to the customer-generator over a single billing period;

69 (9) "Net metering", using metering equipment sufficient to measure the
70 difference between the electrical energy supplied to a customer-generator by a
71 retail electric supplier and the electrical energy supplied by the
72 customer-generator to the retail electric supplier over the applicable billing
73 period;

74 [(6)] (10) "Net metering costs", shall include, but are not limited
75 to, all costs incurred by the electrical corporation associated with this
76 section including labor and associated benefits associated with
77 administering net metering, the electrical corporation's foregone
78 revenues and sums paid for solar rebates;

79 (11) "Renewable energy resources", electrical energy produced from wind,
80 solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel
81 cells using hydrogen produced by one of the above-named electrical energy
82 sources, and other sources of energy that become available after August 28, 2007,
83 and are certified as renewable by the department;

84 [(7)] (12) "Retail electric supplier" or "supplier", any municipal utility,
85 electrical corporation regulated under this chapter, or rural electric cooperative
86 under chapter 394 that provides retail electric service in this state.

87 3. A retail electric supplier shall:

88 (1) Make net metering available to customer-generators on a first-come,
89 first-served basis until the total rated generating capacity of net metering
90 systems equals five percent of the [utility's] **supplier's** single-hour peak load

91 during the previous year, after which the commission for [a public utility] **an**
92 **electrical corporation regulated under this chapter** or the governing body
93 for [other] **another retail** electric [utilities] **supplier** may increase the total
94 rated generating capacity of net metering systems to an amount above five
95 percent. However, in a given calendar year, no retail electric supplier shall be
96 required to approve any application for interconnection if the total rated
97 generating capacity of all applications for interconnection already approved to
98 date by said supplier in said calendar year equals or exceeds one percent of said
99 supplier's single-hour peak load for the previous calendar year;

100 (2) Offer to the customer-generator a tariff or contract that is identical in
101 electrical energy rates, rate structure, and monthly charges to the contract or
102 tariff that the customer would be assigned if the customer were not an eligible
103 customer-generator [but]. **An electrical corporation regulated under this**
104 **chapter may charge a one hundred dollar application fee. A retail**
105 **electric supplier** shall not charge the customer-generator any additional
106 standby, capacity, interconnection, or other fee or charge that would not
107 otherwise be charged if the customer were not an eligible customer-generator; and

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

111 4. A customer-generator's facility shall be equipped with sufficient
112 metering equipment that can measure the net amount of electrical energy
113 produced or consumed by the customer-generator. If the customer-generator's
114 existing meter equipment does not meet these requirements or if it is necessary
115 for the electric supplier to install additional distribution equipment to
116 accommodate the customer-generator's facility, the customer-generator shall
117 reimburse the retail electric supplier for the costs to purchase and install the
118 necessary additional equipment. **For systems of ten kilowatts or less, this**
119 **reimbursement shall be limited to the installed cost of the meter.** At the
120 request of the customer-generator, such costs may be initially paid for by the
121 retail electric supplier, and any amount up to the total costs and a reasonable
122 interest charge may be recovered from the customer-generator over the course of
123 up to twelve billing cycles. Any subsequent meter testing, maintenance or meter
124 equipment change necessitated by the customer-generator shall be paid for by the
125 customer-generator.

126 5. Consistent with the provisions in this section, the net electrical energy

127 measurement shall be calculated in the following manner:

128 (1) For a customer-generator, a retail electric supplier shall measure the
129 net electrical energy produced or consumed during the billing period in
130 accordance with normal metering practices for customers in the same rate class,
131 either by employing a single, bidirectional meter that measures the amount of
132 electrical energy produced and consumed, or by employing multiple meters that
133 separately measure the customer-generator's consumption and production of
134 electricity;

135 (2) If the electricity supplied by the supplier exceeds the electricity
136 [generated by] **received from** the customer-generator during a billing period,
137 the customer-generator shall be billed for the net electricity supplied by the
138 supplier in accordance with normal practices for customers in the same rate class;

139 (3) If the electricity [generated by] **received from** the
140 customer-generator exceeds the electricity supplied by the supplier during a
141 billing period, the customer-generator shall be billed for the appropriate
142 [customer charges] **minimum bill** for that billing period in accordance with
143 subsection 3 of this section and [shall be credited an amount at least equal to the
144 avoided fuel cost of the excess kilowatt-hours generated during the billing period,
145 with this credit applied to the following billing period] **all net excess energy**
146 **shall be carried forward from month-to-month and credited at a ratio**
147 **of one-to-one against the customer-generator's energy consumption in**
148 **subsequent months;**

149 (4) [Any credits granted by this subsection shall expire without any
150 compensation at the earlier of either twelve months after their issuance or when
151 the customer-generator disconnects service or terminates the net metering
152 relationship with the supplier] **Net excess energy may be accumulated over**
153 **multiple billing periods except any accumulated net excess energy**
154 **remaining in a customer-generator's account shall expire, without**
155 **compensation, as of the earlier of the end of the March billing period**
156 **of a twelve month billing period or when the customer-generator**
157 **discontinues service or terminates net metering;**

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

162 6. (1) Each qualified electric energy generation unit used by a

163 customer-generator shall meet all applicable safety, performance, interconnection,
164 and reliability standards established by any local code authorities, the National
165 Electrical Code, the National Electrical Safety Code, the Institute of Electrical
166 and Electronics Engineers, and Underwriters Laboratories for distributed
167 generation. No supplier shall impose any fee, charge, or other requirement not
168 specifically authorized by this section or [the], **for customer-generators**
169 **served by an electrical corporation regulated under this chapter,**
170 **authorized by** rules promulgated [under subsection 9 of this section] **by the**
171 **commission** unless the fee, charge, or other requirement would apply to
172 similarly situated customers who are not customer-generators, except that a retail
173 electric supplier may require that a customer-generator's system contain a switch,
174 circuit breaker, fuse, or other easily accessible device or feature located in
175 immediate proximity to the customer-generator's metering equipment that would
176 allow a utility worker the ability to manually and instantly disconnect the unit
177 from the [utility's] **supplier's** electric distribution system;

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

184 (3) For customer-generator systems of greater than ten kilowatts, the
185 commission for [public utilities] **electrical corporations** and the governing
186 body for other [utilities] **retail electric suppliers** shall, by rule or equivalent
187 formal action by each respective governing body:

188 (a) Set forth safety, performance, and reliability standards and
189 requirements; and

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

193 7. (1) Applications by a customer-generator for interconnection of a
194 qualified electric energy generation unit meeting the requirements of subdivision
195 (3) of subsection 2 of this section to the distribution system shall be accompanied
196 by the plan for the customer-generator's electrical generating system, including
197 but not limited to a wiring diagram and specifications for the generating unit,
198 and shall be reviewed and responded to by the retail electric supplier within

199 [thirty] **forty-five** days of receipt for systems [ten] **twenty-six** kilowatts or less
200 and within ninety days of receipt for all other systems. Prior to the
201 interconnection of the qualified generation unit to the supplier's system, the
202 customer-generator will furnish the retail electric supplier a certification from a
203 qualified professional electrician or engineer that the installation meets the
204 requirements of subdivision (1) of subsection 6 of this section. If the application
205 for interconnection is approved by the retail electric supplier and the
206 customer-generator does not complete the interconnection within one year after
207 receipt of notice of the approval, the approval shall expire [and the
208 customer-generator shall be responsible for filing a new application]. **For**
209 **systems of ten kilowatts or less, the application process shall use an all-**
210 **in-one document that includes a simple interconnection request, simple**
211 **procedures, and a brief set of terms and conditions;**

212 (2) [Upon the change in ownership] **If the customer-generator** of a
213 qualified electric energy generation unit **changes**, the new customer-generator
214 shall be responsible for filing **with the supplier** a new application under
215 subdivision (1) of this subsection. **If a new application is not timely filed,**
216 **the supplier may terminate the net metering arrangement or disconnect**
217 **the qualified electrical energy generation unit from the supplier's**
218 **system.**

219 8. Each [commission-regulated supplier] **electrical corporation**
220 **regulated under this chapter** shall submit an annual net metering report to
221 the commission, and all other nonregulated suppliers shall submit the same
222 report to their respective governing body and make said report available to [a]
223 **any** consumer of the supplier upon request, including the following information
224 for the previous calendar year:

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

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

228 (3) The total estimated net kilowatt-hours received from
229 customer-generators.

230 9. [The commission shall, within nine months of January 1, 2008,
231 promulgate initial rules necessary for the administration of this section for public
232 utilities, which shall include regulations ensuring that simple contracts will be
233 used for interconnection and net metering. For systems of ten kilowatts or less,
234 the application process shall use an all-in-one document that includes a simple

235 interconnection request, simple procedures, and a brief set of terms and
236 conditions. Any rule or portion of a rule, as that term is defined in section
237 536.010, that is created under the authority delegated in this section shall
238 become effective only if it complies with and is subject to all of the provisions of
239 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
240 nonseverable and if any of the powers vested with the general assembly under
241 chapter 536 to review, to delay the effective date, or to disapprove and annul a
242 rule are subsequently held unconstitutional, then the grant of rulemaking
243 authority and any rule proposed or adopted after August 28, 2007, shall be
244 invalid and void.

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

251 11.] **10.** For any cause of action relating to any damages to property or
252 person caused by the generation unit of a customer-generator or the
253 interconnection thereof, the retail electric supplier shall have no liability absent
254 clear and convincing evidence of fault on the part of the supplier.

255 [12.] **11.** The estimated generating capacity of all net metering systems
256 operating under the provisions of this section shall count [towards] **toward** the
257 respective retail electric supplier's [accomplishment] **satisfaction** of any
258 renewable energy portfolio target or mandate adopted by the Missouri general
259 assembly.

260 [13.] **12.** The sale of qualified electric generation units to any
261 customer-generator shall be subject to the provisions of sections 407.700 to
262 407.720. The attorney general shall have the authority to promulgate in
263 accordance with the provisions of chapter 536 rules regarding mandatory
264 disclosures of information by sellers of qualified electric generation units. Any
265 [interested] person who believes that the seller of any electric generation unit is
266 misrepresenting the safety or performance standards of [any] such [systems]
267 **unit**, or who believes that any electric generation unit poses a danger to any
268 property or person, may report the same to the attorney general, who shall be
269 authorized to investigate such claims and take any necessary and appropriate
270 actions.

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

273 15.] **13. An electrical corporation shall be entitled to recover all**
274 **prudently incurred net metering costs using a tracking**
275 **mechanism. Under the tracking mechanism the electrical corporation's**
276 **net metering costs will be deferred on the electrical corporation's books**
277 **and accumulated in a regulatory asset. The balance in the regulatory**
278 **asset shall be included in the determination of the electrical**
279 **corporation's revenue requirement in the electrical corporation's next**
280 **general rate proceeding through an amortization over a period of three**
281 **years without any offset, reduction, or adjustment based upon**
282 **consideration of any other factor or otherwise, with the unamortized**
283 **balance to be included in the electrical corporation's rate base. The**
284 **electrical corporation may also transfer to the regulatory asset**
285 **provided for above any sums paid by the electrical corporation for**
286 **solar rebates that are included in a different regulatory asset that**
287 **existed on the effective date of this section. The commission shall**
288 **retain its authority to review the net metering costs for prudence in the**
289 **electrical corporation's next general rate proceeding.**

290 14. No consumer shall connect or operate an electric generation unit in
291 parallel phase and synchronization with any retail electric supplier without
292 written approval by said supplier that all of the requirements under subdivision
293 (1) of subsection 7 of this section have been met. For a consumer who violates
294 this provision, a supplier may immediately and without notice disconnect the
295 electric facilities of said consumer and terminate said consumer's electric service.

296 [16. The manufacturer of any electric generation unit used by a
297 customer-generator may be held liable for any damages to property or person
298 caused by a defect in the electric generation unit of a customer-generator.

299 17. The seller, installer, or manufacturer of any electric generation unit
300 who knowingly misrepresents the safety aspects of an electric generation unit
301 may be held liable for any damages to property or person caused by the electric
302 generation unit of a customer-generator.]

393.1030. 1. The commission shall, in consultation with the department,
2 prescribe by rule a portfolio requirement for all electric utilities to generate or
3 purchase electricity generated from renewable energy resources. Such portfolio
4 requirement shall provide that electricity from renewable energy resources shall

5 constitute the following portions of each electric utility's sales:

- 6 (1) No less than two percent for calendar years 2011 through 2013;
- 7 (2) No less than five percent for calendar years 2014 through 2017;
- 8 (3) No less than ten percent for calendar years 2018 through 2020; and
- 9 (4) No less than fifteen percent in each calendar year beginning in 2021.

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

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

- 27 (1) A maximum average retail rate increase of one percent determined by
28 estimating and comparing the electric utility's cost of compliance with least-cost
29 renewable generation and the cost of continuing to generate or purchase
30 electricity from entirely nonrenewable sources, taking into proper account future
31 environmental regulatory risk including the risk of greenhouse gas
32 regulation. **Notwithstanding the foregoing, until June 30, 2018, if the**
33 **maximum average retail rate increase would be less than or equal to**
34 **one percent if an electric utility's investment in solar-related projects**
35 **initiated, owned or operated by the electric utility is ignored for**
36 **purposes of calculating the increase, then additional solar rebates may**
37 **be paid and included in rates in an amount up to the amount that**
38 **would produce a retail rate increase equal to the difference between a**
39 **one percent retail rate increase and the retail rate increase calculated**
40 **when ignoring an electric utility's investment in solar-related projects**

41 **initiated, owned, or operated by the electric utility. Notwithstanding**
42 **anything to the contrary in this section, even if the payment of**
43 **additional solar rebates will produce a maximum average retail rate**
44 **increase of greater than one percent when an electric utility's**
45 **investment in solar-related projects initiated, owned or operated by the**
46 **electric utility are included in the calculation, the additional solar**
47 **rebate costs shall be included in the prudently incurred costs to be**
48 **recovered as contemplated by subdivision (4) of this subsection;**

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

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

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

65 3. **Except for those electric utilities that qualify for an exemption**
66 **under subsection 3 of section 393.1050, for calendar years 2013 through**
67 **2017, each electric utility shall make available to its retail customers a**
68 **[standard] solar rebate [offer of at least two dollars per installed watt] for new**
69 **or expanded solar electric systems sited on customers' premises, up to a**
70 **maximum of twenty-five kilowatts per system, measured in direct current**
71 **that [become operational after 2009] were confirmed by the electric utility**
72 **to have become operational in compliance with the provisions of**
73 **section 386.890. The solar rebates shall be two dollars per watt for**
74 **systems becoming operational on or before June 30, 2014; one dollar**
75 **and fifty cents per watt for systems becoming operational between July**
76 **1, 2014, and June 30, 2015; one dollar per watt for systems becoming**

77 operational between July 1, 2015, and June 30, 2016; fifty cents per watt
78 for systems becoming operational between July 1, 2016, and June 30,
79 2017; fifty cents per watt for systems becoming operational between
80 July 1, 2017, and June 30, 2018; and zero cents per watt for systems
81 becoming operational after June 30, 2018. If the electric utility
82 determines the maximum average retail rate increase provided for in
83 subdivision (1) of subsection 2 of this section will be reached in any
84 calendar year, the electric utility will be entitled to cease paying
85 rebates to the extent necessary to avoid exceeding the maximum
86 average retail rate increase if the electrical corporation files with the
87 commission to suspend its rebate tariff for the remainder of that
88 calendar year at least sixty days prior to the change taking effect. The
89 filing will include the calculation reflecting that the maximum average
90 retail rate increase will be reached and supporting documentation. The
91 commission shall rule on the suspension filing within sixty days of the
92 date it is filed and if the commission determines that the maximum
93 average retail rate increase will be reached the commission will
94 approve the tariff suspension. The electric utility will continue to
95 process and pay applicable solar rebates until a final commission
96 ruling, however, if the continued payment causes the electric utility to
97 pay rebates that cause it to exceed the maximum average retail rate
98 increase, the expenditures shall be considered prudently incurred costs
99 as contemplated by subdivision (4) of subsection 2 of this section and
100 shall be recoverable as such by the electric utility. As a condition of
101 receiving a rebate, customers shall transfer to the electric utility all
102 right, title, and interest in and to the renewable energy credits
103 associated with the new or expanded solar electric system that
104 qualified the customer for the solar rebate for a period of ten years
105 from the date the electric utility confirmed that the solar electric
106 system was installed and operational.

107 4. The department shall, in consultation with the commission, establish
108 by rule a certification process for electricity generated from renewable resources
109 and used to fulfill the requirements of subsection 1 of this section. Certification
110 criteria for renewable energy generation shall be determined by factors that
111 include fuel type, technology, and the environmental impacts of the generating
112 facility. Renewable energy facilities shall not cause undue adverse air, water, or
113 land use impacts, including impacts associated with the gathering of generation

114 feedstocks. If any amount of fossil fuel is used with renewable energy resources,
115 only the portion of electrical output attributable to renewable energy resources
116 shall be used to fulfill the portfolio requirements.

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

121 **6. The commission shall have the authority to promulgate rules**
122 **for the implementation of section 393.1025 and this section, as**
123 **amended, but only to the extent such rules are consistent with, and do**
124 **not delay the implementation of, the provisions of this section, as**
125 **amended. Any rule or portion of a rule, as that term is defined in**
126 **section 536.010 that is created under the authority delegated in this**
127 **section shall become effective only if it complies with and is subject to**
128 **all of the provisions of chapter 536, and, if applicable, section**
129 **536.028. This section and chapter 536 are nonseverable and if any of**
130 **the powers vested with the general assembly pursuant to chapter 536**
131 **to review, to delay the effective date, or to disapprove and annul a rule**
132 **are subsequently held unconstitutional, then the grant of rulemaking**
133 **authority and any rule proposed or adopted after August 28, 2013, shall**
134 **be invalid and void.**

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