

SECOND REGULAR SESSION

SENATE BILL NO. 801

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

Read 1st time January 29, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

5724S.011

AN ACT

To repeal section 393.1030, RSMo, and to enact in lieu thereof one new section relating to the renewable energy standard.

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

Section A. Section 393.1030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.1030, to read as follows:

393.1030. 1. The commission shall, in consultation with the department, prescribe by rule a portfolio requirement for all electric utilities to generate or purchase electricity generated from renewable energy resources. Such portfolio requirement shall provide that electricity from renewable energy resources shall constitute the following portions of each electric utility's sales:

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

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

2. The commission, in consultation with the department and within one year of November 4, 2008, shall select a program for tracking and verifying the trading of renewable energy credits. An unused credit may exist for up to three 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 regulation. **In**
32 **making the calculation, the commission may only use those costs for**
33 **capital projects after they have been placed into service and those**
34 **expenses that have been incurred and paid.** Notwithstanding the foregoing,
35 until June 30, 2020, if the maximum average retail rate increase would be less
36 than or equal to one percent if an electric utility's investment in solar-related
37 projects initiated, owned or operated by the electric utility is ignored for purposes
38 of calculating the increase, then additional solar rebates shall be paid and
39 included in rates in an amount up to the amount that would produce a retail rate
40 increase equal to the difference between a one percent retail rate increase and the
41 retail rate increase calculated when ignoring an electric utility's investment in
42 solar-related projects initiated, owned, or operated by the electric
43 utility. Notwithstanding any provision to the contrary in this section, even if the
44 payment of additional solar rebates will produce a maximum average retail rate
45 increase of greater than one percent when an electric utility's investment in
46 solar-related projects initiated, owned or operated by the electric utility are
47 included in the calculation, the additional solar rebate costs shall be included in
48 the prudently incurred costs to be recovered as contemplated by subdivision (4)
49 of this subsection;

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

57 department to purchase renewable energy credits needed for compliance. Any
58 excess forfeited revenues shall be used by the department's energy center solely
59 for renewable energy and energy efficiency projects;

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

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

66 3. As provided for in this section, except for those electrical corporations
67 that qualify for an exemption under section 393.1050, each electric utility shall
68 make available to its retail customers a solar rebate for new or expanded solar
69 electric systems sited on customers' premises, up to a maximum of twenty-five
70 kilowatts per system, measured in direct current that were confirmed by the
71 electric utility to have become operational in compliance with the provisions of
72 section 386.890. The solar rebates shall be two dollars per watt for systems
73 becoming operational on or before June 30, 2014; one dollar and fifty cents per
74 watt for systems becoming operational between July 1, 2014, and June 30, 2015;
75 one dollar per watt for systems becoming operational between July 1, 2015, and
76 June 30, 2016; fifty cents per watt for systems becoming operational between July
77 1, 2016, and June 30, 2017; fifty cents per watt for systems becoming operational
78 between July 1, 2017, and June 30, 2019; twenty-five cents per watt for systems
79 becoming operational between July 1, 2019, and June 30, 2020; and zero cents per
80 watt for systems becoming operational after June 30, 2020. An electric utility
81 may, through its tariffs, require applications for rebates to be submitted up to one
82 hundred eighty-two days prior to the June thirtieth operational date. Nothing in
83 this section shall prevent an electrical corporation from offering rebates after July
84 1, 2020, through an approved tariff. If the electric utility determines the
85 maximum average retail rate increase provided for in subdivision (1) of subsection
86 2 of this section will be reached in any calendar year, the electric utility shall be
87 entitled to cease paying rebates to the extent necessary to avoid exceeding the
88 maximum average retail rate increase if the electrical corporation files with the
89 commission to suspend its rebate tariff for the remainder of that calendar year
90 at least sixty days prior to the change taking effect. The filing with the
91 commission to suspend the electrical corporation's rebate tariff shall include the
92 calculation reflecting that the maximum average retail rate increase will be

93 reached and supporting documentation reflecting that the maximum average
94 retail rate increase will be reached. The commission shall rule on the suspension
95 filing within sixty days of the date it is filed. If the commission determines that
96 the maximum average retail rate increase will be reached, the commission shall
97 approve the tariff suspension. The electric utility shall continue to process and
98 pay applicable solar rebates until a final commission ruling; however, if the
99 continued payment causes the electric utility to pay rebates that cause it to
100 exceed the maximum average retail rate increase, the expenditures shall be
101 considered prudently incurred costs as contemplated by subdivision (4) of
102 subsection 2 of this section and shall be recoverable as such by the electric utility.
103 As a condition of receiving a rebate, customers shall transfer to the electric utility
104 all right, title, and interest in and to the renewable energy credits associated with
105 the new or expanded solar electric system that qualified the customer for the
106 solar rebate for a period of ten years from the date the electric utility confirmed
107 that the solar electric system was installed and operational.

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

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

122 6. The commission shall have the authority to promulgate rules for the
123 implementation of this section, but only to the extent such rules are consistent
124 with, and do not delay the implementation of, the provisions of this section. Any
125 rule or portion of a rule, as that term is defined in section 536.010, that is created
126 under the authority delegated in this section shall become effective only if it
127 complies with and is subject to all of the provisions of chapter 536 and, if
128 applicable, section 536.028. This section and chapter 536 are nonseverable and

129 if any of the powers vested with the general assembly pursuant to chapter 536 to
130 review, to delay the effective date, or to disapprove and annul a rule are
131 subsequently held unconstitutional, then the grant of rulemaking authority and
132 any rule proposed or adopted after August 28, 2013, shall be invalid and void.

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Unofficial

Bill

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