

# SENATE BILL NO. 855

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR O'LAUGHLIN.

4252S.01H

KRISTINA MARTIN, Secretary

## AN ACT

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

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Section A. Section 386.890, RSMo, is repealed and one new  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

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

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

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

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

13 (3) "Customer-generator", **an individual person,**  
14 **corporation, limited liability company, or other**  
15 **organization that is** the owner or operator of a qualified  
16 electric energy generation unit which:

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

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

18 (b) Has an electrical generating system with a  
19 **nameplate** capacity of not more than one hundred kilowatts  
20 **and is located at the premises where the electrical energy**  
21 **is consumed by the customer-generator;**

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

24 (d) Is interconnected and operates in parallel phase  
25 and synchronization with a retail electric supplier and has  
26 been approved by said retail electric supplier;

27 (e) Is intended **and sized** primarily to offset part or  
28 all of the customer-generator's own electrical energy  
29 requirements;

30 (f) Meets all applicable safety, performance,  
31 interconnection, and reliability standards established by  
32 the National Electrical Code, the National Electrical Safety  
33 Code, the Institute of Electrical and Electronics Engineers,  
34 Underwriters Laboratories, the Federal Energy Regulatory  
35 Commission, and any local governing authorities; and

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

40 (4) "Department", the department of natural resources;

41 (5) "Net metering", [using metering equipment  
42 sufficient to measure the difference between the electrical  
43 energy supplied to a customer-generator by a retail electric  
44 supplier and the electrical energy supplied by the customer-  
45 generator to the retail electric supplier over the  
46 applicable billing period] **a billing option that measures**  
47 **the amount of electricity as measured in kilowatt hours**  
48 **supplied by a retail electric supplier to a customer-**  
49 **generator and separately measuring the amount of the**

50 **electricity as measured in kilowatt hours generated by the**  
51 **customer-generator and fed back to the retail electric**  
52 **supplier;**

53 (6) "Renewable energy resources", electrical energy  
54 produced from wind, solar thermal sources, hydroelectric  
55 sources, photovoltaic cells and panels, fuel cells using  
56 hydrogen produced by one of the above-named electrical  
57 energy sources, and other sources of energy that become  
58 available after August 28, 2007, and are certified as  
59 renewable by the department;

60 (7) "Retail electric supplier" or "supplier", any  
61 municipally owned electric utility operating under chapter  
62 91, electrical corporation regulated by the commission under  
63 this chapter, or rural electric cooperative operating under  
64 chapter 394 that provides retail electric service in this  
65 state. An electrical corporation that operates under a  
66 cooperative business plan as described in subsection 2 of  
67 section 393.110 shall be deemed to be a rural electric  
68 cooperative for purposes of this section.

69 3. A retail electric supplier shall:

70 (1) Make net metering available to customer-generators  
71 on a first-come, first-served basis until the total rated  
72 generating capacity of net metering systems equals five  
73 percent of the retail electric supplier's single-hour peak  
74 load during the previous year, after which the commission  
75 for an electrical corporation or the respective governing  
76 body of other retail electric suppliers may increase the  
77 total rated generating capacity of net metering systems to  
78 an amount above five percent. However, in a given calendar  
79 year, no retail electric supplier shall be required to  
80 approve any application for interconnection if the total  
81 rated generating capacity of all applications for

82 interconnection already approved to date by said supplier in  
83 said calendar year equals or exceeds one percent of said  
84 supplier's single-hour peak load for the previous calendar  
85 year;

86 (2) Offer **net metering** to the customer-generator  
87 **pursuant to a commission approved tariff of an electrical**  
88 **corporation or contract approved by the respective governing**  
89 **body of other retail electric suppliers, under one of the**  
90 **following options:**

91 (a) **At rates** that [is] are identical in electrical  
92 energy rates, rate structure, and monthly charges to the  
93 contract or tariff that the customer would be assigned if  
94 the customer were not an eligible customer-generator [but  
95 shall not charge the customer-generator any additional  
96 standby, capacity, interconnection, or other fee or charge  
97 that would not otherwise be charged if the customer were not  
98 an eligible customer-generator]; or

99 (b) **With energy and demand rates, rate structure, and**  
100 **recurring monthly charges that are reasonably calculated to**  
101 **recover that portion of the retail electric supplier's fixed**  
102 **and demand costs that are not eliminated as a result of the**  
103 **operation of the customer-generator's qualified electric**  
104 **energy generating unit; and**

105 (3) Disclose annually the availability of the net  
106 metering program to each of its customers **or members** with  
107 the method and manner of disclosure being at the discretion  
108 of the **retail electric** supplier.

109 4. A customer-generator's facility shall be equipped  
110 with sufficient metering equipment that can measure the net  
111 amount of electrical energy produced or consumed by the  
112 customer-generator. If the customer-generator's existing  
113 meter equipment does not meet these requirements or if it is

114 necessary for the retail electric supplier to install  
115 additional distribution equipment to accommodate the  
116 customer-generator's facility, the customer-generator shall  
117 reimburse the retail electric supplier for the costs to  
118 purchase and install the necessary additional equipment  
119 **including, but not limited to, necessary electric**  
120 **distribution system upgrades.** At the request of the  
121 customer-generator, such costs may be initially paid for by  
122 the retail electric supplier, and any amount up to the total  
123 costs and a reasonable interest charge may be recovered from  
124 the customer-generator over the course of up to twelve  
125 billing cycles. Any subsequent meter testing, maintenance  
126 or meter equipment change necessitated by the customer-  
127 generator shall be paid for by the customer-generator.

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

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

140 (2) If the electricity supplied by the supplier  
141 exceeds the electricity generated by the customer-generator  
142 during a billing period, the customer-generator shall be  
143 billed for the net electricity supplied by the **retail**  
144 **electric** supplier in accordance with normal practices for  
145 customers in the same rate class;

146           (3) If the electricity generated by the customer-  
147 generator exceeds the electricity supplied by the supplier  
148 during a billing period, the customer-generator shall be  
149 billed for the appropriate customer **and demand** charges for  
150 that billing period in accordance with subsection 3 of this  
151 section and shall be credited an amount at least equal to  
152 the avoided fuel cost of the excess kilowatt-hours generated  
153 during the billing period, with this credit applied to the  
154 following billing period;

155           (4) Any credits granted by this subsection shall  
156 expire without any compensation at the earlier of either  
157 twelve months after their issuance or when the customer-  
158 generator disconnects service or terminates the net metering  
159 relationship with the supplier;

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

166           6. (1) Each qualified electric energy generation unit  
167 used by a customer-generator shall meet **and be installed,**  
168 **maintained, and repaired in accordance with** all applicable  
169 safety, performance, interconnection, and reliability  
170 standards established by any local code authorities, the  
171 National Electrical Code, the National Electrical Safety  
172 Code, the Institute of Electrical and Electronics Engineers,  
173 and Underwriters Laboratories for distributed generation.  
174 **All qualified electric energy generation units utilizing**  
175 **battery backup shall be installed to operate completely**  
176 **isolated from the retail electric supplier's system**  
177 **including, but not limited to, all neutral connections and**

178 **grounding points, during times of backup operation. Unless**  
179 **allowed under subdivision (2) of subsection 3 of this**  
180 **section,** no **retail electric** supplier shall impose any fee,  
181 charge, or other requirement not specifically authorized by  
182 this section or the rules promulgated under subsection 9 of  
183 this section unless the fee, charge, or other requirement  
184 would apply to similarly situated customers who are not  
185 customer-generators, except that a retail electric supplier  
186 may require that a customer-generator's system contain  
187 **adequate surge protection and** a switch, circuit breaker,  
188 fuse, or other easily accessible device or feature located  
189 in immediate proximity to the customer-generator's metering  
190 equipment that would allow a utility worker **or emergency**  
191 **response personnel** the ability to manually and instantly  
192 disconnect the unit from the utility's electric distribution  
193 system.

194 (2) For systems of ten kilowatts or less, a customer-  
195 generator whose system meets the standards and rules under  
196 subdivision (1) of this subsection shall not be required to  
197 install additional controls, perform or pay for additional  
198 tests or distribution equipment, or purchase additional  
199 liability insurance beyond what is required under  
200 subdivision (1) of this subsection and subsection 4 of this  
201 section.

202 (3) For customer-generator systems of greater than ten  
203 kilowatts, the commission for electrical corporations and  
204 the respective governing body for other retail electric  
205 suppliers shall, by rule or equivalent formal action by each  
206 respective governing body:

207 (a) Set forth safety, performance, and reliability  
208 standards and requirements; and

209 (b) Establish the qualifications for exemption from a  
210 requirement to install additional controls, perform or pay  
211 for additional tests or distribution equipment, or purchase  
212 additional liability insurance.

213 7. (1) Applications by a customer-generator for  
214 interconnection of a qualified electric energy generation  
215 unit meeting the requirements of subdivision (3) of  
216 subsection 2 of this section to the distribution system  
217 shall be accompanied by the plan for the customer-  
218 generator's electrical generating system, including but not  
219 limited to a wiring diagram and specifications for the  
220 generating unit, and shall be reviewed and responded to by  
221 the retail electric supplier, **unless mutually agreed to,**  
222 within thirty days of receipt for systems ten kilowatts or  
223 less and within ninety days of receipt for all other  
224 systems. Prior to the interconnection of the qualified  
225 generation unit to the **retail electric** supplier's system,  
226 the customer-generator will furnish the retail electric  
227 supplier a certification from a [qualified] professional  
228 electrician or engineer **deemed qualified by the retail**  
229 **electric supplier** that the installation meets the  
230 requirements of subdivision (1) of subsection 6 of this  
231 section. **In the event the professional electrician or**  
232 **engineer is not licensed, the retail electric supplier may**  
233 **require a bond or other form of financial security to ensure**  
234 **the safe installation and operation of the qualified**  
235 **electric energy generation unit.** If the application for  
236 interconnection is approved by the retail electric supplier  
237 and the customer-generator does not complete the  
238 interconnection within one year after receipt of notice of  
239 the approval, the approval shall expire and the customer-  
240 generator shall be responsible for filing a new application.



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

245           8. Each electrical corporation shall submit an annual  
246 net metering report to the commission, and all other retail  
247 electric suppliers shall submit the same report to their  
248 respective governing body and make said report available to  
249 a consumer of the supplier upon request, including the  
250 following information for the previous calendar year:

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

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

254           (3) The total estimated net kilowatt-hours received  
255 from customer-generators.

256           9. The commission shall, within nine months of January  
257 1, 2008, promulgate initial rules necessary for the  
258 administration of this section for electrical corporations,  
259 which shall include regulations ensuring that simple  
260 contracts will be used for interconnection and net  
261 metering. For systems of ten kilowatts or less, the  
262 application process shall use an all-in-one document that  
263 includes a simple interconnection request, simple  
264 procedures, and a brief set of terms and conditions. Any  
265 rule or portion of a rule, as that term is defined in  
266 section 536.010, that is created under the authority  
267 delegated in this section shall become effective only if it  
268 complies with and is subject to all of the provisions of  
269 chapter 536 and, if applicable, section 536.028. This  
270 section and chapter 536 are nonseverable and if any of the  
271 powers vested with the general assembly under chapter 536 to  
272 review, to delay the effective date, or to disapprove and

273 annul a rule are subsequently held unconstitutional, then  
274 the grant of rulemaking authority and any rule proposed or  
275 adopted after August 28, 2007, shall be invalid and void.

276 10. The governing body of a rural electric cooperative  
277 or municipal utility shall, within nine months of January 1,  
278 2008, adopt policies establishing a simple contract to be  
279 used for interconnection and net metering. For systems of  
280 ten kilowatts or less, the application process shall use an  
281 all-in-one document that includes a simple interconnection  
282 request, simple procedures, and a brief set of terms and  
283 conditions.

284 11. For any cause of action relating to any damages to  
285 property or person caused by the qualified electric energy  
286 generation unit of a customer-generator or the  
287 interconnection thereof, the retail electric supplier shall  
288 have no liability absent clear and convincing evidence of  
289 fault on the part of the supplier.

290 12. The estimated generating capacity of all net  
291 metering systems operating under the provisions of this  
292 section shall count towards the respective retail electric  
293 supplier's accomplishment of any renewable energy portfolio  
294 target or mandate adopted by the Missouri general assembly  
295 **and for purposes of compliance with any applicable federal**  
296 **law.**

297 13. The sale of qualified electric energy generation  
298 units to any customer-generator shall be subject to the  
299 provisions of sections 407.010 to 407.145 and sections  
300 407.700 to 407.720. The attorney general shall have the  
301 authority to promulgate in accordance with the provisions of  
302 chapter 536 rules regarding mandatory disclosures of  
303 information by sellers of qualified electric energy  
304 generation units. Any interested person who believes that

305 the seller of any qualified electric energy generation unit  
306 is misrepresenting the safety or performance standards of  
307 any such systems, or who believes that any electric energy  
308 generation unit poses a danger to any property or person,  
309 may report the same to the attorney general, who shall be  
310 authorized to investigate such claims and take any necessary  
311 and appropriate actions.

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

315 15. No consumer shall connect or operate a qualified  
316 electric energy generation unit in parallel phase and  
317 synchronization with any retail electric supplier without  
318 written approval by said supplier that all of the  
319 requirements under subdivision (1) of subsection 7 of this  
320 section have been met. For a consumer who violates this  
321 provision, a supplier may immediately and without notice  
322 disconnect the electric facilities of said consumer and  
323 terminate said consumer's electric service.

324 16. The manufacturer of any qualified electric energy  
325 generation unit used by a customer-generator may be held  
326 liable for any damages to property or person caused by a  
327 defect in the qualified electric energy generation unit of a  
328 customer-generator.

329 17. The seller, installer, or manufacturer of any  
330 qualified electric energy generation unit who knowingly  
331 misrepresents the safety aspects of a qualified electric  
332 generation unit may be held liable for any damages to  
333 property or person caused by the qualified electric energy  
334 generation unit of a customer-generator.

335 18. **Any person, not a retail electric supplier, who**  
336 **sells a qualified electric energy generation unit or who**

337 provides a net metering service to a customer-generator  
338 under this section shall:

339 (1) Provide a prospective or existing customer-  
340 generator a minimum of five business days to evaluate a  
341 proposal to construct a qualified electric generation unit  
342 to provide all or part of the prospective or existing  
343 customer-generator's needs for electric energy within a  
344 single retail electric supplier's allocated service  
345 territory. The proposal to the prospective or existing  
346 customer-generator shall include:

347 (a) A description of the qualified electric generation  
348 unit and its placement on the customer-generator's premises  
349 consistent with the requirements of this section;

350 (b) A description of the nameplate generating capacity  
351 and expected monthly and annual output of the qualified  
352 electric generation unit in kilowatt hours;

353 (c) The estimated annual degradation to the qualified  
354 electric generation unit;

355 (d) An estimated timeline for the installation of the  
356 qualified electric generation unit;

357 (e) The total cost of the qualified electric  
358 generation unit;

359 (f) The amounts due at signing for and the completion  
360 of the installation;

361 (g) The payment schedule;

362 (h) The payback period;

363 (i) The forecasted savings monthly and annual bill  
364 savings provided by the proposed qualified electric  
365 generation unit in dollars based on the retail electric  
366 supplier's rate structure to be obtained directly from the  
367 retail electric supplier;

368 (j) A description of any warranties and the length of  
369 any warranties;

370 (k) Notice that the prospective or existing customer-  
371 generator may file a complaint with the attorney general; and

372 (1) Certify that the placement of any solar panels  
373 will be appropriate to provide the maximum yield of energy  
374 to the customer-generator and will provide the output as  
375 stated in the proposal;

376 (2) Perform an energy efficiency audit on the  
377 potential or existing customer-generator's premises to be  
378 served by the proposed qualified electric generation unit as  
379 part of the proposal to sell a qualified electric generation  
380 unit or provide net-metering service under this section;

381 (3) Inform the prospective or existing customer-  
382 generator of the available energy efficiency measures to  
383 address the results of the audit as part of the proposal to  
384 sell a qualified electric generation unit to a customer-  
385 generator under this section; and

386 (4) Demonstrate to the proposed or existing customer-  
387 generator that the person, not a retail electric supplier,  
388 who sells a qualified electric generation unit or who  
389 provides net-metering services to a customer-generator holds:

390 (a) All required permits to install, construct, or  
391 operate a qualified electric generation unit in the state,  
392 and, if the governing county, municipality, or local  
393 authority does not require an electrical inspection, an  
394 executed certification that no electrical inspection or  
395 permit is required; and

396 (b) A bond or other acceptable financial security to  
397 ensure proper maintenance of the qualified electric  
398 generation unit and decommissioning of the qualified  
399 electric generation unit.

400           19. Provisions of this section shall be enforced by  
401 the attorney general under the Missouri merchandising  
402 practices act, sections 407.010 to 407.130, and 570.140 to  
403 570.145, including without limitation all enforcement powers.

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