

SENATE BILL NO. 374

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CIERPIOT.

1505S.01H

KRISTINA MARTIN, Secretary

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Section A. Section 393.1030, RSMo, is repealed and one
2 new section enacted in lieu thereof, to be known as section
3 393.1030, to read as follows:

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

8 (1) No less than two percent for calendar years 2011
9 through 2013;

10 (2) No less than five percent for calendar years 2014
11 through 2017;

12 (3) No less than ten percent for calendar years 2018
13 through 2020; and

14 (4) No less than fifteen percent in each calendar year
15 beginning in 2021.

16 At least two percent of each portfolio requirement shall be
17 derived from solar energy. The portfolio requirements shall

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

18 apply to all power sold to Missouri consumers whether such
19 power is self-generated or purchased from another source in
20 or outside of this state. A utility may comply with the
21 standard in whole or in part by purchasing RECs. Each
22 kilowatt-hour of eligible energy generated in Missouri shall
23 count as 1.25 kilowatt-hours for purposes of compliance.

24 **2. (1) Energy meeting the criteria of the renewable**
25 **energy portfolio requirements set forth in subsection 1 of**
26 **this section that is generated from renewable energy**
27 **resources and contracted for by an accelerated renewable**
28 **buyer shall:**

29 **(a) Have all associated renewable energy certificates**
30 **retired by the accelerated renewable buyer, or on their**
31 **behalf, and the certificates shall not be used to meet the**
32 **electric utility's portfolio requirements pursuant to**
33 **subsection 1 of this section;**

34 **(b) Be excluded from the total electric utility's**
35 **sales used to determine the portfolio requirements pursuant**
36 **to subsection 1 of this section; and**

37 **(c) Be used to offset all or a portion of its electric**
38 **load for purposes of determining compliance with the**
39 **portfolio requirements pursuant to subsection 1 of this**
40 **section.**

41 **(2) The accelerated renewable buyer shall be exempt**
42 **from any renewable energy standard compliance costs as may**
43 **be established by the utility and approved by the**
44 **commission, based on the amount of renewable energy**
45 **certificates obtained pursuant to this subsection in**
46 **proportion to the accelerated renewable buyer's total**
47 **electric energy consumption, on an annual basis.**

48 **(3) An "accelerated renewable buyer" means a customer**
49 **of an electric utility, with an aggregate load over ten**

50 megawatts in the prior calendar year, that enters into a
51 contract or contracts to obtain:

52 (a) Renewable energy certificates from renewable
53 energy resources as defined in section 393.1025; or

54 (b) Energy and renewable energy certificates from
55 solar or wind generation resources located within the
56 Southwest Power Pool region and initially placed in
57 commercial operation after January 1, 2020, including any
58 contract with a utility for such generation resources that
59 does not allocate to or recover from any other customer of
60 the utility the cost of such resources.

61 (4) Each electric utility shall certify, and verify as
62 necessary, to the commission that the accelerated renewable
63 buyer has satisfied the exemption requirements of this
64 subsection for each year, or an accelerated renewable buyer
65 may choose to certify satisfaction of this exemption by
66 reporting to the commission individually. The commission
67 may promulgate such rules and regulations as may be
68 necessary to implement the provisions of this subsection.
69 Nothing in this section shall be construed as imposing or
70 authorizing the imposition of any reporting, regulatory, or
71 financial burden on an accelerated renewable buyer.

72 3. The commission, in consultation with the department
73 and within one year of November 4, 2008, shall select a
74 program for tracking and verifying the trading of renewable
75 energy credits. An unused credit may exist for up to three
76 years from the date of its creation. A credit may be used
77 only once to comply with sections 393.1020 to 393.1030 and
78 may not also be used to satisfy any similar nonfederal
79 requirement. An electric utility may not use a credit
80 derived from a green pricing program. Certificates from net-
81 metered sources shall initially be owned by the customer-

82 generator. The commission, except where the department is
83 specified, shall make whatever rules are necessary to
84 enforce the renewable energy standard. Such rules shall
85 include:

86 (1) A maximum average retail rate increase of one
87 percent determined by estimating and comparing the electric
88 utility's cost of compliance with least-cost renewable
89 generation and the cost of continuing to generate or
90 purchase electricity from entirely nonrenewable sources,
91 taking into proper account future environmental regulatory
92 risk including the risk of greenhouse gas regulation.
93 Notwithstanding the foregoing, until June 30, 2020, if the
94 maximum average retail rate increase would be less than or
95 equal to one percent if an electric utility's investment in
96 solar-related projects initiated, owned or operated by the
97 electric utility is ignored for purposes of calculating the
98 increase, then additional solar rebates shall be paid and
99 included in rates in an amount up to the amount that would
100 produce a retail rate increase equal to the difference
101 between a one percent retail rate increase and the retail
102 rate increase calculated when ignoring an electric utility's
103 investment in solar-related projects initiated, owned, or
104 operated by the electric utility. Notwithstanding any
105 provision to the contrary in this section, even if the
106 payment of additional solar rebates will produce a maximum
107 average retail rate increase of greater than one percent
108 when an electric utility's investment in solar-related
109 projects initiated, owned or operated by the electric
110 utility are included in the calculation, the additional
111 solar rebate costs shall be included in the prudently
112 incurred costs to be recovered as contemplated by
113 subdivision (4) of this subsection;

114 (2) Penalties of at least twice the average market
115 value of renewable energy credits for the compliance period
116 for failure to meet the targets of subsection 1 of this
117 section. An electric utility will be excused if it proves
118 to the commission that failure was due to events beyond its
119 reasonable control that could not have been reasonably
120 mitigated, or that the maximum average retail rate increase
121 has been reached. Penalties shall not be recovered from
122 customers. Amounts forfeited under this section shall be
123 remitted to the department to purchase renewable energy
124 credits needed for compliance. Any excess forfeited
125 revenues shall be used by the division of energy solely for
126 renewable energy and energy efficiency projects;

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

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

135 [3.] 4. As provided for in this section, except for
136 those electrical corporations that qualify for an exemption
137 under section 393.1050, each electric utility shall make
138 available to its retail customers a solar rebate for new or
139 expanded solar electric systems sited on customers'
140 premises, up to a maximum of twenty-five kilowatts per
141 system, measured in direct current that were confirmed by
142 the electric utility to have become operational in
143 compliance with the provisions of section 386.890. The
144 solar rebates shall be two dollars per watt for systems
145 becoming operational on or before June 30, 2014; one dollar

146 and fifty cents per watt for systems becoming operational
147 between July 1, 2014, and June 30, 2015; one dollar per watt
148 for systems becoming operational between July 1, 2015, and
149 June 30, 2016; fifty cents per watt for systems becoming
150 operational between July 1, 2016, and June 30, 2017; fifty
151 cents per watt for systems becoming operational between July
152 1, 2017, and June 30, 2019; twenty-five cents per watt for
153 systems becoming operational between July 1, 2019, and June
154 30, 2020; and zero cents per watt for systems becoming
155 operational after June 30, 2020. An electric utility may,
156 through its tariffs, require applications for rebates to be
157 submitted up to one hundred eighty-two days prior to the
158 June thirtieth operational date. Nothing in this section
159 shall prevent an electrical corporation from offering
160 rebates after July 1, 2020, through an approved tariff. If
161 the electric utility determines the maximum average retail
162 rate increase provided for in subdivision (1) of subsection
163 [2] 3 of this section will be reached in any calendar year,
164 the electric utility shall be entitled to cease paying
165 rebates to the extent necessary to avoid exceeding the
166 maximum average retail rate increase if the electrical
167 corporation files with the commission to suspend its rebate
168 tariff for the remainder of that calendar year at least
169 sixty days prior to the change taking effect. The filing
170 with the commission to suspend the electrical corporation's
171 rebate tariff shall include the calculation reflecting that
172 the maximum average retail rate increase will be reached and
173 supporting documentation reflecting that the maximum average
174 retail rate increase will be reached. The commission shall
175 rule on the suspension filing within sixty days of the date
176 it is filed. If the commission determines that the maximum
177 average retail rate increase will be reached, the commission

178 shall approve the tariff suspension. The electric utility
179 shall continue to process and pay applicable solar rebates
180 until a final commission ruling; however, if the continued
181 payment causes the electric utility to pay rebates that
182 cause it to exceed the maximum average retail rate increase,
183 the expenditures shall be considered prudently incurred
184 costs as contemplated by subdivision (4) of subsection [2] 3
185 of this section and shall be recoverable as such by the
186 electric utility. As a condition of receiving a rebate,
187 customers shall transfer to the electric utility all right,
188 title, and interest in and to the renewable energy credits
189 associated with the new or expanded solar electric system
190 that qualified the customer for the solar rebate for a
191 period of ten years from the date the electric utility
192 confirmed that the solar electric system was installed and
193 operational.

194 [4.] 5. The department shall, in consultation with the
195 commission, establish by rule a certification process for
196 electricity generated from renewable resources and used to
197 fulfill the requirements of subsection 1 of this section.
198 Certification criteria for renewable energy generation shall
199 be determined by factors that include fuel type, technology,
200 and the environmental impacts of the generating facility.
201 Renewable energy facilities shall not cause undue adverse
202 air, water, or land use impacts, including impacts
203 associated with the gathering of generation feedstocks. If
204 any amount of fossil fuel is used with renewable energy
205 resources, only the portion of electrical output
206 attributable to renewable energy resources shall be used to
207 fulfill the portfolio requirements.

208 [5.] 6. In carrying out the provisions of this
209 section, the commission and the department shall include

210 methane generated from the anaerobic digestion of farm
211 animal waste and thermal depolymerization or pyrolysis for
212 converting waste material to energy as renewable energy
213 resources for purposes of this section.

214 [6.] 7. The commission shall have the authority to
215 promulgate rules for the implementation of this section, but
216 only to the extent such rules are consistent with, and do
217 not delay the implementation of, the provisions of this
218 section. Any rule or portion of a rule, as that term is
219 defined in section 536.010, that is created under the
220 authority delegated in this section shall become effective
221 only if it complies with and is subject to all of the
222 provisions of chapter 536 and, if applicable, section
223 536.028. This section and chapter 536 are nonseverable and
224 if any of the powers vested with the general assembly
225 pursuant to chapter 536 to review, to delay the effective
226 date, or to disapprove and annul a rule are subsequently
227 held unconstitutional, then the grant of rulemaking
228 authority and any rule proposed or adopted after August 28,
229 2013, shall be invalid and void.

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