

FIRST REGULAR SESSION

[PERFECTED]

SENATE BILL NO. 275

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR TRENT.

1161S.01P

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 393.1030, RSMo, and to enact in lieu thereof two new sections relating to utilities.

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

Section A. Section 393.1030, RSMo, is repealed and two
2 new sections enacted in lieu thereof, to be known as sections
3 144.058 and 393.1030, to read as follows:

**144.058. In addition to other exemptions granted under
2 this chapter, there is hereby specifically exempted from the
3 provisions of and the computation of the tax levied,
4 assessed, or payable under this chapter and the local sales
5 tax law as defined in section 32.085, electrical energy and
6 gas, whether natural, artificial, or propane; water, coal,
7 and energy sources; chemicals, machinery, equipment, parts,
8 and material used or consumed in connection with or to
9 facilitate the generation, transmission, distribution, sale,
10 or furnishing of electricity for light, heat, or power; and
11 any conduits, ducts, or other devices, materials, apparatus,
12 or property for containing, holding, or carrying conductors
13 used or to be used for the transmission of electricity for
14 light, heat, or power service to consumers. The provisions
15 of this section shall be in addition to any other sales or
16 use tax exemption provided by law. Any public utility, as
17 such term is defined in section 386.020, that realizes any**

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

18 savings as a result of the sales tax exemption provided in
19 this section shall provide the public service commission
20 information on the amount of savings realized in such public
21 utility's next general rate proceeding and shall include a
22 statement that such savings will be passed through to the
23 public utility's rate determined in the public utility's
24 next general rate proceeding.

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
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) This subsection applies to electric utilities
25 with more than two hundred fifty thousand but less than one
26 million retail customers in Missouri as of the end of
27 calendar year 2022.

28 (2) Energy meeting the criteria of the renewable
29 energy portfolio requirements set forth in subsection 1 of
30 this section that is generated from renewable energy
31 resources and contracted for by an accelerated renewable
32 buyer shall:

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

38 (b) Be excluded from the total electric utility's
39 sales used to determine the portfolio requirements pursuant
40 to subsection 1 of this section; and

41 (c) Be used to offset all or a portion of its electric
42 load for purposes of determining compliance with the
43 portfolio requirements pursuant to subsection 1 of this
44 section.

45 (3) The accelerated renewable buyer shall be exempt
46 from any renewable energy standard compliance costs as may
47 be established by the utility and approved by the
48 commission, based on the amount of renewable energy
49 certificates retired pursuant to this subsection in
50 proportion to the accelerated renewable buyer's total
51 electric energy consumption, on an annual basis.

52 (4) An "accelerated renewable buyer" means a customer
53 of an electric utility, with an aggregate load over eighty
54 average megawatts, that enters into a contract or contracts
55 to obtain:

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

58 (b) Energy and renewable energy certificates from
59 solar or wind generation resources located within the
60 Southwest Power Pool or Midcontinent Independent System
61 Operator regions and initially placed in commercial
62 operation after January 1, 2020, including any contract with
63 the electric utility for such generation resources that does
64 not allocate to or recover from any other customer of the
65 utility the cost of such resources.

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

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

88 specified, shall make whatever rules are necessary to
89 enforce the renewable energy standard. Such rules shall
90 include:

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

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

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

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

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

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

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

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

213 [5.] 6. In carrying out the provisions of this
214 section, the commission and the department shall include

215 methane generated from the anaerobic digestion of farm
216 animal waste and thermal depolymerization or pyrolysis for
217 converting waste material to energy as renewable energy
218 resources for purposes of this section.

219 [6.] 7. The commission shall have the authority to
220 promulgate rules for the implementation of this section, but
221 only to the extent such rules are consistent with, and do
222 not delay the implementation of, the provisions of this
223 section. Any rule or portion of a rule, as that term is
224 defined in section 536.010, that is created under the
225 authority delegated in this section shall become effective
226 only if it complies with and is subject to all of the
227 provisions of chapter 536 and, if applicable, section
228 536.028. This section and chapter 536 are nonseverable and
229 if any of the powers vested with the general assembly
230 pursuant to chapter 536 to review, to delay the effective
231 date, or to disapprove and annul a rule are subsequently
232 held unconstitutional, then the grant of rulemaking
233 authority and any rule proposed or adopted after August 28,
234 2013, shall be invalid and void.

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