

SENATE BILL NO. 369

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRATTIN.

1428S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 386.890 and 442.404, RSMo, and to enact in lieu thereof two new sections relating to solar energy systems.

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

Section A. Sections 386.890 and 442.404, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 386.890 and 442.404, 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
12 the state of Missouri;

13 [(3)] (2) "Customer-generator", the owner or operator
14 of a qualified electric energy generation unit which:

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

16 (b) Has an electrical generating system with a
17 capacity of not more than one [hundred] **thousand** kilowatts;

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

18 (c) Is located on a premises owned, operated, leased,
19 or otherwise controlled by the customer-generator **or utility**
20 **service territory through virtual net metering;**

21 (d) Is interconnected and operates in parallel phase
22 and synchronization with a retail electric supplier and has
23 been approved by said retail electric supplier **or public**
24 **service commission regulation;**

25 (e) Is intended primarily to offset part or all of the
26 customer-generator's [own] **current or future** electrical
27 energy requirements;

28 (f) Meets [all applicable safety, performance,
29 interconnection, and reliability standards established by
30 the National Electrical Code, the National Electrical Safety
31 Code, the Institute of Electrical and Electronics Engineers,
32 Underwriters Laboratories, the Federal Energy Regulatory
33 Commission, and any local governing authorities] **the**
34 **requirements of the uniformed solar permit and inspection**
35 **form promulgated by the commission;** 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)] (3) "Department", the department of natural
41 resources;

42 [(5)] (4) "Net metering", using metering equipment
43 sufficient to measure the difference between the electrical
44 energy supplied to a customer-generator by a retail electric
45 supplier and the electrical energy supplied by the customer-
46 generator to the retail electric supplier over the
47 applicable billing period;

48 [(6)] (5) "Renewable energy resources", electrical
49 energy produced from wind, solar thermal sources,

50 hydroelectric sources, photovoltaic cells and panels, fuel
51 cells using hydrogen produced by one of the above-named
52 electrical energy sources, and other sources of energy that
53 become available after August 28, 2007, and are certified as
54 renewable by the department;

55 (6) **"Retail electric rate", the tariff that the**
56 **customer would be assigned if the customer were not an**
57 **eligible customer-generator;**

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

67 3. A retail electric supplier shall:

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

82 percent of said supplier's single-hour peak load for the
83 previous calendar year;

84 (2) Offer to the customer-generator **the retail**
85 **electric rate that is** a tariff or contract that is identical
86 in electrical energy rates, rate structure, and monthly
87 charges to the contract or tariff that the customer would be
88 assigned if the customer were not an eligible customer-
89 generator but shall not charge the customer-generator any
90 additional standby, capacity, interconnection, or other fee
91 or charge that would not otherwise be charged if the
92 customer were not an eligible customer-generator; and

93 (3) Disclose annually the availability of the net
94 metering program to each of its customers with the method
95 and manner of disclosure being at the discretion of the
96 **[supplier] commission.**

97 4. A customer-generator's facility shall be equipped
98 with sufficient metering equipment that can measure the net
99 amount of electrical energy produced or consumed by the
100 customer-generator. If the customer-generator's existing
101 meter equipment does not meet these requirements or if it is
102 necessary for the retail electric supplier to install
103 additional distribution equipment to accommodate the
104 customer-generator's facility, the customer-generator shall
105 reimburse the retail electric supplier for the costs to
106 purchase and install the necessary additional equipment
107 **approved by the commission.** At the request of the customer-
108 generator, such costs may be initially paid for by the
109 retail electric supplier, and any amount up to the total
110 costs and a reasonable interest charge may be recovered from
111 the customer-generator over the course of up to twelve
112 billing cycles. Any subsequent meter testing, maintenance

113 or meter equipment change necessitated by the customer-
114 generator shall be paid for by the customer-generator.

115 5. Consistent with the provisions in this section, the
116 net electrical energy measurement shall be calculated in the
117 following manner:

118 (1) For a customer-generator, a retail electric
119 supplier shall measure the net electrical energy produced or
120 consumed during the billing period in accordance with normal
121 metering practices for customers in the same rate class,
122 either by employing a single, bidirectional meter that
123 measures the amount of electrical energy produced and
124 consumed[, or by employing multiple meters that separately
125 measure the customer-generator's consumption and production
126 of electricity];

127 (2) If the electricity supplied by the supplier
128 exceeds the electricity generated by the customer-generator
129 during a billing period, the customer-generator shall be
130 billed for the net electricity supplied by the supplier in
131 accordance with normal practices for customers in the same
132 rate class;

133 (3) If the electricity generated by the customer-
134 generator exceeds the electricity supplied by the supplier
135 during a billing period, the customer-generator shall be
136 billed for the appropriate customer charges for that billing
137 period in accordance with subsection 3 of this section and
138 shall be credited an amount at least equal to the [avoided
139 fuel] **retail electric** cost of the excess kilowatt-hours
140 generated during the billing period, with this credit
141 applied [to the following billing period] **anytime during the**
142 **following twelve-month period;**

143 (4) Any credits granted by this subsection shall
144 expire without any compensation at the earlier of either

145 twelve months after their issuance or when the customer-
146 generator disconnects service or terminates the net metering
147 relationship with the supplier[;

148 (5) For any rural electric cooperative under chapter
149 394, or any municipally owned utility, upon agreement of the
150 wholesale generator supplying electric energy to the retail
151 electric supplier, at the option of the retail electric
152 supplier, the credit to the customer-generator may be
153 provided by the wholesale generator].

154 6. (1) Each qualified electric energy generation unit
155 [used by a customer-generator shall meet all applicable
156 safety, performance, interconnection, and reliability
157 standards established by any local code authorities, the
158 National Electrical Code, the National Electrical Safety
159 Code, the Institute of Electrical and Electronics Engineers,
160 and Underwriters Laboratories for distributed generation.
161 No supplier shall impose any fee, charge, or other
162 requirement not specifically authorized by this section or
163 the rules promulgated under subsection 9 of this section
164 unless the fee, charge, or other requirement would apply to
165 similarly situated customers who are not customer-
166 generators, except that a retail electric supplier may
167 require that a customer-generator's system contain a switch,
168 circuit breaker, fuse, or other easily accessible device or
169 feature located in immediate proximity to the customer-
170 generator's metering equipment that would allow a utility
171 worker the ability to manually and instantly disconnect the
172 unit from the utility's electric distribution system] **shall**
173 **meet the requirements of the uniformed solar permit and**
174 **inspection form promulgated by the commission.**

175 (2) For systems of [ten] **one hundred** kilowatts or
176 less, a customer-generator whose system meets the standards

177 and rules under subdivision (1) of this subsection shall not
178 be required to install additional controls, perform or pay
179 for additional tests or distribution equipment, or purchase
180 additional liability insurance beyond what is required under
181 subdivision (1) of this subsection and subsection 4 of this
182 section.

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

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

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

194 7. (1) Applications by a customer-generator for
195 interconnection of a qualified electric energy generation
196 unit **[meeting the requirements of subdivision (3) of**
197 **subsection 2 of this section to the distribution system**
198 **shall be accompanied by the plan for the customer-**
199 **generator's electrical generating system, including but not**
200 **limited to a wiring diagram and specifications for the**
201 **generating unit, and shall be reviewed and responded to by**
202 **the retail electric supplier within thirty days of receipt**
203 **for systems ten kilowatts or less and within ninety days of**
204 **receipt for all other systems] shall meet commission**
205 **standards and shall be reviewed and responded to by the**
206 **electric supplier within thirty days or the application**
207 **shall be considered approved.** Prior to the interconnection
208 of the qualified generation unit to the supplier's system,

209 the customer-generator will furnish the retail electric
210 supplier a certification from a qualified professional
211 electrician or engineer that the installation meets the
212 requirements of subdivision (1) of subsection 6 of this
213 section. If the application for interconnection is approved
214 by the retail electric supplier and the customer-generator
215 does not complete the interconnection within one year after
216 receipt of notice of the approval, the approval shall expire
217 and the customer-generator shall be responsible for filing a
218 new application.

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

223 8. Each electrical corporation shall submit an annual
224 net metering report to the commission, and all other retail
225 electric suppliers shall submit the same report to their
226 respective governing body and make said report available to
227 a consumer of the supplier upon request, including the
228 following information for the previous calendar year:

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

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

232 (3) The total estimated net kilowatt-hours received
233 from customer-generators.

234 9. The commission shall, within **[nine]** **six** months of
235 January 1, **[2008]** **2026**, promulgate initial rules necessary
236 for the administration of this section for electrical
237 corporations, which shall include regulations ensuring that
238 simple contracts will be used for interconnection and net
239 metering. For systems of **[ten]** **one hundred** kilowatts or
240 less, the application process shall use an all-in-one

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

254 10. [The governing body of a rural electric
255 cooperative or municipal utility shall, within nine months
256 of January 1, 2008, adopt policies establishing a simple
257 contract to be used for interconnection and net metering.
258 For systems of ten kilowatts or less, the application
259 process shall use an all-in-one document that includes a
260 simple interconnection request, simple procedures, and a
261 brief set of terms and conditions.] **Before January 1, 2026,**
262 **the public service commission shall create and implement a**
263 **uniformed solar permit and inspection form and automated**
264 **permitting and inspection software for solar energy**
265 **devices. Municipalities, cities, homeowner's associations,**
266 **regulated utilities, unregulated utilities, rural electric**
267 **cooperatives, or other permitting and inspection authorities**
268 **shall utilize such software and collect fees from applicants**
269 **for solar energy device permits. The fees shall be**
270 **forwarded to the public service commission.**

271 11. For any cause of action relating to any damages to
272 property or person caused by the qualified electric energy

273 generation unit of a customer-generator or the
274 interconnection thereof, the retail electric supplier shall
275 have no liability absent clear and convincing evidence of
276 fault on the part of the supplier.

277 12. The estimated generating capacity of all net
278 metering systems operating under the provisions of this
279 section shall count towards the respective retail electric
280 supplier's accomplishment of any renewable energy portfolio
281 target or mandate adopted by the Missouri general assembly.

282 13. The sale of qualified electric energy generation
283 units to any customer-generator shall be subject to the
284 provisions of sections 407.010 to 407.145 and sections
285 407.700 to 407.720. The attorney general shall have the
286 authority to promulgate in accordance with the provisions of
287 chapter 536 rules regarding mandatory disclosures of
288 information by sellers of qualified electric energy
289 generation units. Any interested person who believes that
290 the seller of any qualified electric energy generation unit
291 is misrepresenting the safety or performance standards of
292 any such systems, or who believes that any electric energy
293 generation unit poses a danger to any property or person,
294 may report the same to the attorney general, who shall be
295 authorized to investigate such claims and take any necessary
296 and appropriate actions.

297 14. Any costs incurred under this act by a retail
298 electric supplier shall be recoverable in that utility's
299 rate structure.

300 15. No consumer shall connect or operate a qualified
301 electric energy generation unit in parallel phase and
302 synchronization with any retail electric supplier without
303 written approval by said supplier that all of the
304 requirements under subdivision (1) of subsection 7 of this

305 section have been met. For a consumer who violates this
306 provision, a supplier may immediately and without notice
307 disconnect the electric facilities of said consumer and
308 terminate said consumer's electric service.

309 16. The manufacturer of any qualified electric energy
310 generation unit used by a customer-generator may be held
311 liable for any damages to property or person caused by a
312 defect in the qualified electric energy generation unit of a
313 customer-generator.

314 17. The seller, installer, or manufacturer of any
315 qualified electric energy generation unit who knowingly
316 misrepresents the safety aspects of a qualified electric
317 generation unit may be held liable for any damages to
318 property or person caused by the qualified electric energy
319 generation unit of a customer-generator.

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

3 (1) "Homeowners' association", a nonprofit corporation
4 or unincorporated association of homeowners created under a
5 declaration to own and operate portions of a planned
6 community or other residential subdivision that has the
7 power under the declaration to assess association members to
8 pay the costs and expenses incurred in the performance of
9 the association's obligations under the declaration or
10 tenants-in-common with respect to the ownership of common
11 ground or amenities of a planned community or other
12 residential subdivision. This term shall not include a
13 condominium unit owners' association as defined and provided
14 for in subdivision (3) of section 448.1-103 or a residential
15 cooperative;

16 (2) "Political signs", any fixed, ground-mounted
17 display in support of or in opposition to a person seeking

18 elected office or a ballot measure excluding any materials
19 that may be attached;

20 (3) **"Reasonable rules", rules that do not include the**
21 **aesthetics for the solar panel or solar collector or**
22 **placement. No "reasonable rule" shall specifically prohibit**
23 **street-facing solar panels or solar collectors;**

24 (4) "Solar panel or solar collector", a device used to
25 collect and convert solar energy into electricity or thermal
26 energy, including but not limited to photovoltaic cells or
27 panels, or solar thermal systems.

28 2. (1) No deed restrictions, covenants, or similar
29 binding agreements running with the land shall prohibit or
30 have the effect of prohibiting the display of political
31 signs.

32 (2) A homeowners' association has the authority to
33 adopt reasonable rules, subject to any applicable statutes
34 or ordinances, regarding the time, size, place, number, and
35 manner of display of political signs.

36 (3) A homeowners' association may remove a political
37 sign without liability if such sign is placed within the
38 common ground, threatens the public health or safety,
39 violates an applicable statute or ordinance, is accompanied
40 by sound or music, or if any other materials are attached to
41 the political sign. Subject to the foregoing, a homeowners'
42 association shall not remove a political sign from the
43 property of a homeowner or impose any fine or penalty upon
44 the homeowner unless it has given such homeowner three days
45 after providing written notice to the homeowner, which
46 notice shall specifically identify the rule and the nature
47 of the violation.

48 (4) **A homeowner's association shall deny or request**
49 **resubmission of any applications for solar panels or solar**

50 collectors within thirty days of receipt or the application
51 shall be considered approved.

52 (5) A homeowner's association shall not require an
53 application for solar panels or solar collectors to pass
54 review or be approved by any committee or board designed to
55 address architectural or aesthetic qualities or conditions.

56 3. (1) No deed restrictions, covenants, or similar
57 binding agreements running with the land shall limit or
58 prohibit, or have the effect of limiting or prohibiting, the
59 installation of solar panels or solar collectors on the
60 rooftop of any property or structure.

61 (2) A homeowners' association may adopt reasonable
62 rules, subject to any applicable statutes or ordinances,
63 regarding the placement of solar panels or solar collectors
64 to the extent that those rules do not prevent the
65 installation of the device, impair the functioning of the
66 device, restrict the use of the device, or adversely affect
67 the cost or efficiency of the device.

68 (3) The provisions of this subsection shall apply only
69 with regard to rooftops that are owned, controlled, and
70 maintained by the owner of the individual property or
71 structure.

72 4. (1) No deed restrictions, covenants, or similar
73 binding agreements running with the land shall prohibit or
74 have the effect of prohibiting the display of sale signs on
75 the property of a homeowner or property owner including, but
76 not limited to, any yard on the property, or nearby street
77 corners.

78 (2) A homeowners' association has the authority to
79 adopt reasonable rules, subject to any applicable statutes
80 or ordinances, regarding the time, size, place, number, and
81 manner of display of sale signs.

82 (3) A homeowners' association may remove a sale sign
83 without liability if such sign is placed within the common
84 ground, threatens the public health or safety, violates an
85 applicable statute or ordinance, is accompanied by sound or
86 music, or if any other materials are attached to the sale
87 sign. Subject to the foregoing, a homeowners' association
88 shall not remove a sale sign from the property of a
89 homeowner or property owner or impose any fine or penalty
90 upon the homeowner or property owner unless it has given
91 such homeowner or property owner three business days after
92 the homeowner or property owner receives written notice from
93 the homeowners' association, which notice shall specifically
94 identify the rule and the nature of the alleged violation.

95 5. (1) No deed restrictions, covenants, or similar
96 binding agreements running with the land shall prohibit or
97 have the effect of prohibiting ownership or pasturing of up
98 to six chickens on a lot that is two-tenths of an acre or
99 larger, including prohibitions against a single chicken coop
100 designed to accommodate up to six chickens.

101 (2) A homeowners' association may adopt reasonable
102 rules, subject to applicable statutes or ordinances,
103 regarding ownership or pasturing of chickens, including a
104 prohibition or restriction on ownership or pasturing of
105 roosters.

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