

SECOND REGULAR SESSION

SENATE BILL NO. 572

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SILVEY.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5128S.01I

AN ACT

To repeal sections 386.266 and 386.390, RSMo, and to enact in lieu thereof seven new sections relating to public utilities.

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

Section A. Sections 386.266 and 386.390, RSMo, are repealed and seven
2 new sections enacted in lieu thereof, to be known as sections 386.266, 386.390,
3 393.1275, 393.1400, 393.1640, 393.1650, and 393.1655, to read as follows:

386.266. 1. Subject to the requirements of this section, any electrical
2 corporation may make an application to the commission to approve rate schedules
3 authorizing an interim energy charge, or periodic rate adjustments outside of
4 general rate proceedings to reflect increases and decreases in its prudently
5 incurred fuel and purchased-power costs, including transportation, **and all**
6 **transmission charges and revenues paid to or received from any**
7 **transmission service provider.** The commission may, in accordance with
8 existing law, include in such rate schedules features designed to provide the
9 electrical corporation with incentives to improve the efficiency and
10 cost-effectiveness of its fuel and purchased-power procurement
11 activities. **Notwithstanding any other provision of this section, an**
12 **electrical corporation may file to amend any such rate schedule that**
13 **had been approved by the commission prior to August 28, 2018, to**
14 **include its transmission charges and revenues paid to or received from**
15 **any transmission service provider, without the necessity of filing a**
16 **general rate proceeding, to the extent the amount of such charges and**
17 **revenues is not already reflected in base rates.**

18 2. Subject to the requirements of this section, any electrical, gas, or water

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

19 corporation may make an application to the commission to approve rate schedules
20 authorizing periodic rate adjustments outside of general rate proceedings to
21 reflect increases and decreases in its prudently incurred costs, whether capital
22 or expense, to comply with any federal, state, or local environmental law,
23 regulation, or rule. Any rate adjustment made under such rate schedules shall
24 not exceed an annual amount equal to two and one-half percent of the electrical,
25 gas, or water corporation's Missouri gross jurisdictional revenues, excluding gross
26 receipts tax, sales tax and other similar pass-through taxes not included in
27 tariffed rates, for regulated services as established in the utility's most recent
28 general rate case or complaint proceeding. In addition to the rate adjustment, the
29 electrical, gas, or water corporation shall be permitted to collect any applicable
30 gross receipts tax, sales tax, or other similar pass-through taxes, and such taxes
31 shall not be counted against the two and one-half percent rate adjustment
32 cap. Any costs not recovered as a result of the annual two and one-half percent
33 limitation on rate adjustments may be deferred, at a carrying cost each month
34 equal to the utilities net of tax cost of capital, for recovery in a subsequent year
35 or in the corporation's next general rate case or complaint proceeding.

36 3. Subject to the requirements of this section, any gas corporation may
37 make an application to the commission to approve rate schedules authorizing
38 periodic rate adjustments outside of general rate proceedings to reflect the nongas
39 revenue effects of increases or decreases in residential and commercial customer
40 usage due to variations in either weather, conservation, or both.

41 4. The commission shall have the power to approve, modify, or reject
42 adjustment mechanisms submitted under subsections 1 to 3 of this section only
43 after providing the opportunity for a full hearing in a general rate proceeding,
44 including a general rate proceeding initiated by complaint. The commission may
45 approve such rate schedules after considering all relevant factors which may
46 affect the costs or overall rates and charges of the corporation, provided that it
47 finds that the adjustment mechanism set forth in the schedules:

48 (1) Is reasonably designed to provide the utility with a sufficient
49 opportunity to earn a fair return on equity;

50 (2) Includes provisions for an annual true-up which shall accurately and
51 appropriately remedy any over- or under-collections, including interest at the
52 utility's short-term borrowing rate, through subsequent rate adjustments or
53 refunds;

54 (3) In the case of an adjustment mechanism submitted under subsections

55 1 and 2 of this section, includes provisions requiring that the utility file a general
56 rate case with the effective date of new rates to be no later than four years after
57 the effective date of the commission order implementing the adjustment
58 mechanism. However, with respect to each mechanism, the four-year period shall
59 not include any periods in which the utility is prohibited from collecting any
60 charges under the adjustment mechanism, or any period for which charges
61 collected under the adjustment mechanism must be fully refunded. In the event
62 a court determines that the adjustment mechanism is unlawful and all moneys
63 collected thereunder are fully refunded, the utility shall be relieved of any
64 obligation under that adjustment mechanism to file a rate case;

65 (4) In the case of an adjustment mechanism submitted under subsection
66 1 or 2 of this section, includes provisions for prudence reviews of the costs subject
67 to the adjustment mechanism no less frequently than at eighteen-month
68 intervals, and shall require refund of any imprudently incurred costs plus
69 interest at the utility's short-term borrowing rate.

70 5. Once such an adjustment mechanism is approved by the commission
71 under this section, it shall remain in effect until such time as the commission
72 authorizes the modification, extension, or discontinuance of the mechanism in a
73 general rate case or complaint proceeding.

74 6. Any amounts charged under any adjustment mechanism approved by
75 the commission under this section shall be separately disclosed on each customer
76 bill.

77 7. The commission may take into account any change in business risk to
78 the corporation resulting from implementation of the adjustment mechanism in
79 setting the corporation's allowed return in any rate proceeding, in addition to any
80 other changes in business risk experienced by the corporation.

81 8. In the event the commission lawfully approves an incentive- or
82 performance-based plan, such plan shall be binding on the commission for the
83 entire term of the plan. This subsection shall not be construed to authorize or
84 prohibit any incentive- or performance-based plan.

85 9. Prior to August 28, 2005, the commission shall have the authority to
86 promulgate rules under the provisions of chapter 536 as it deems necessary, to
87 govern the structure, content and operation of such rate adjustments, and the
88 procedure for the submission, frequency, examination, hearing and approval of
89 such rate adjustments. Such rules shall be promulgated no later than one
90 hundred fifty days after the initiation of such rulemaking proceeding. Any

91 electrical, gas, or water corporation may apply for any adjustment mechanism
92 under this section whether or not the commission has promulgated any such
93 rules.

94 10. Nothing contained in this section shall be construed as affecting any
95 existing adjustment mechanism, rate schedule, tariff, incentive plan, or other
96 ratemaking mechanism currently approved and in effect.

97 11. Each of the provisions of this section is severable. In the event any
98 provision or subsection of this section is deemed unlawful, all remaining
99 provisions shall remain in effect.

100 12. The provisions of this section shall take effect on January 1, 2006, and
101 the commission shall have previously promulgated rules to implement the
102 application process for any rate adjustment mechanism under this section prior
103 to the commission issuing an order for any rate adjustment.

104 13. The public service commission shall appoint a task force, consisting
105 of all interested parties, to study and make recommendations on the cost recovery
106 and implementation of conservation and weatherization programs for electrical
107 and gas corporations.

386.390. 1. Complaint may be made by the commission of its own motion,
2 or by the public counsel or any corporation or person, chamber of commerce,
3 board of trade, or any civic, commercial, mercantile, traffic, agricultural or
4 manufacturing association or organization, or any body politic or municipal
5 corporation, by petition or complaint in writing, setting forth any act or thing
6 done or omitted to be done by any corporation, person or public utility[, including
7 any rule, regulation or charge heretofore established or fixed by or for any
8 corporation, person or public utility,] in violation, or claimed to be in violation,
9 of any provision of law **subject to the commission's authority**, [or] of any
10 rule **promulgated by the commission**, or **of any utility tariff or order** or
11 decision of the commission; provided, that no complaint shall be entertained by
12 the commission, except upon its own motion, as to the reasonableness of any rates
13 or charges of any gas, electrical, water, sewer, or telephone corporation, unless
14 the same be signed by the public counsel or the mayor or the president or
15 chairman of the board of aldermen or a majority of the council, commission or
16 other legislative body of any city, town, village or county, within which the
17 alleged violation occurred, or not less than twenty-five consumers or purchasers,
18 or prospective consumers or purchasers, of such gas, electricity, water, sewer or
19 telephone service.

20 2. All matters upon which complaint may be founded may be joined in one
21 hearing, and no motion shall be entertained against a complaint for misjoinder
22 of causes of action or grievances or misjoinder or nonjoinder of parties; and in any
23 review by the courts of orders or decisions of the commission the same rule shall
24 apply with regard to the joinder of causes and parties as herein provided.

25 3. The commission shall not be required to dismiss any complaint because
26 of the absence of direct damage to the complainant. Upon the filing of a
27 complaint, the commission shall cause a copy thereof to be served upon the public
28 utility, corporation or person complained of.

29 4. Service in all hearings, investigations and proceedings pending before
30 the commission may be made upon any person upon whom summons may be
31 served in accordance with the provisions of the code of civil procedure of this
32 state, and may be made personally or by mailing in a sealed envelope with
33 postage prepaid.

34 5. The commission shall fix the time when and the place where a hearing
35 will be had upon the complaint and shall serve notice thereof, not less than ten
36 days before the time set for such hearing, unless the commission shall find that
37 the public necessity requires that such hearing be held at an earlier date.

**393.1275. 1. For purposes of this section, the following terms
2 shall mean:**

3 **(1) "Commission", the public service commission;**

4 **(2) "Electrical corporation", the same as defined in section
5 386.020, but shall not include an electrical corporation as described in
6 subsection 2 of section 393.110;**

7 **(3) "Rate base cutoff date", the date rate base additions are
8 accounted for in a general rate proceeding. In the absence of a
9 commission order that specifies the rate base cutoff date, such date as
10 reflected in any jointly proposed procedural schedule submitted by the
11 parties in the applicable general rate proceeding, or as otherwise
12 agreed to by such parties, shall be used.**

13 **2. On and after the date an electrical corporation files a notice
14 under subsection 4 of this section, the electrical corporation shall defer
15 to a regulatory asset or liability account any difference in the
16 prudently incurred uncapitalized state and local property taxes
17 actually incurred, and those used to determine the electrical
18 corporation's revenue requirement in its most recently completed**

19 general rate proceeding. Such taxes used to determine the electrical
20 corporation's revenue requirement in its last general rate proceeding
21 shall be the amount of such taxes recorded on the electrical
22 corporation's books for the twelve months ending on the rate base
23 cutoff date in the electrical corporation's most recently completed
24 general rate proceeding unless a different amount was used to set such
25 revenue requirement as determined by the commission in its order
26 resolving such proceeding or through a commission order approving a
27 settlement respecting such taxes. The regulatory asset or liability
28 account balances shall be included in the retail revenue requirement
29 used to set rates through an amortization over a reasonable period in
30 such corporation's subsequent general rate proceedings, without any
31 offset, reduction, or adjustment based on consideration of any other
32 factor. The commission shall also adjust the rate base used to establish
33 the retail revenue requirement of such corporation to reflect the
34 unamortized regulatory asset or liability account balances in such
35 general rate proceedings.

36 3. On and after the effective date of rates in an electrical
37 corporation's next general rate proceeding concluding after the
38 effective date of this section, an electrical corporation that has filed a
39 notice under subsection 4 of this section shall defer to a regulatory
40 asset or liability account any difference in the prudently incurred
41 operations and maintenance expense actually incurred to protect the
42 reliability and security of systems, software, equipment, and facilities
43 connected to or controlling the electric system against physical or
44 cyber-security threats, including but not limited to generating stations,
45 substations, and control centers, and the operations and maintenance
46 expense for such protection used to determine the electrical
47 corporation's revenue requirement in its most recently completed
48 general rate proceeding. The regulatory asset or liability account
49 balances shall be included in the retail revenue requirement used to set
50 rates through an amortization over a reasonable period in such
51 corporation's subsequent general rate proceedings, without any offset,
52 reduction, or adjustment based on consideration of any other
53 factor. The commission shall also adjust the rate base used to establish
54 the retail revenue requirement of such corporation to reflect the
55 unamortized regulatory asset or liability account balances in such

56 **general rate proceedings.**

57 **4. This section shall only apply to an electrical corporation that**
58 **has filed a notice with the commission of the electrical corporation's**
59 **election to make the deferrals for which this section provides.**

393.1400. 1. For purposes of this section, the following terms
2 **shall mean:**

3 **(1) "Commission", the public service commission;**

4 **(2) "Electrical corporation", the same as defined in section**
5 **386.020, but shall not include an electrical corporation as described in**
6 **subsection 2 of section 393.110;**

7 **(3) "Qualifying electric plant", all rate base additions, except rate**
8 **base additions for new coal-fired generating units, new nuclear**
9 **generating units, or rate base additions that increase revenues by**
10 **allowing service to new customer premises;**

11 **(4) "Rate base cutoff date", the date rate base additions are**
12 **accounted for in a general rate proceeding. In the absence of a**
13 **commission order that specifies the rate base cutoff date, such date as**
14 **reflected in any jointly proposed procedural schedule submitted by the**
15 **parties in the applicable general rate proceeding, or as otherwise**
16 **agreed to by such parties, shall be used;**

17 **(5) "Weighted average cost of capital", the return on rate base**
18 **used to determine the revenue requirement in the electrical**
19 **corporation's most recently completed general rate proceeding;**
20 **provided, that in the absence of a commission determination of the**
21 **return on rate base within the three-year period prior to the effective**
22 **date of this section, the weighted average cost of capital shall be**
23 **determined using the electrical corporation's actual capital structure**
24 **as of December 31, 2017, excluding short-term debt, the electrical**
25 **corporation's actual cost of long-term debt and preferred stock as of**
26 **December 31, 2017, and a cost of common equity of nine and one-half**
27 **percent.**

28 **2. (1) Notwithstanding any other provision of chapter 393 to the**
29 **contrary, electrical corporations shall defer to a regulatory asset all**
30 **depreciation expense and return associated with all qualifying electric**
31 **plant recorded to plant-in-service on the utility's books on or after the**
32 **effective date of this section. In each general rate proceeding**
33 **concluded after the effective date of this section, the balance of the**

34 regulatory asset as of the rate base cutoff date shall be included in the
35 electrical corporation's rate base without any offset, reduction, or
36 adjustment based upon consideration of any other factor, other than as
37 provided for in subdivision (2) of this subsection, with the regulatory
38 asset balance arising from deferrals associated with qualifying electric
39 plant placed in service after the rate base cutoff date to be included in
40 rate base in the next general rate proceeding. The expiration of this
41 section shall not affect the continued inclusion in rate base and
42 amortization of regulatory asset balances that arose under this section
43 prior to such expiration.

44 (2) The regulatory asset balances arising under this section shall
45 be adjusted to reflect any prudence disallowances ordered by the
46 commission. The provisions of this section shall not be construed to
47 affect existing law respecting the burdens of production and persuasion
48 in general rate proceedings for rate base additions.

49 (3) Parts of regulatory asset balances created under this section
50 that are not yet being recovered through rates shall include carrying
51 costs at the electrical corporation's weighted average cost of capital,
52 plus applicable federal, state, and local income or excise
53 taxes. Regulatory asset balances arising under this section and
54 included in rate base shall be recovered in rates through a twenty-year
55 amortization beginning on the date new rates reflecting such
56 amortization take effect.

57 3. (1) Depreciation expense deferred under this section shall
58 account for all qualifying electric plant placed into service less
59 retirements of plant replaced by such qualifying electric plant;

60 (2) Return deferred under this section shall be determined using
61 the weighted average cost of capital applied to the change in plant-
62 related rate base caused by the qualifying electric plant, plus
63 applicable federal, state, and local income or excise taxes. In
64 determining the return deferred, the electrical corporation shall
65 account for changes in all plant-related accumulated deferred income
66 taxes and changes in accumulated depreciation, excluding retirements.

67 4. Beginning February 28, 2019, and by each February twenty-
68 eighth thereafter, electrical corporations that defer depreciation
69 expense and return authorized under this section shall submit to the
70 commission a five-year capital investment plan setting forth the general

71 categories of capital expenditures the electrical corporation will pursue
72 in furtherance of replacing, modernizing, and securing its
73 infrastructure. The plan shall also include a specific capital investment
74 plan for the first year of the five-year plan consistent with the level of
75 specificity used for annual capital budgeting purposes. Project specific
76 information shall not be included for the five-year period covered by
77 the plan. Within thirty days of the filing of any capital investment plan
78 or annual update to an existing plan, the electrical corporation shall
79 host a public stakeholder meeting to answer questions and receive
80 feedback about the plan. After feedback is received, the electrical
81 corporation shall file a notice with the commission of any modifications
82 to the capital investment plan it has accepted. Changes to the plan, its
83 implementation, or the level of investments made shall not constitute
84 evidence of imprudence of the investments made under such plan. The
85 submission of a capital investment plan under this section shall not
86 affect in any way the commission's authority with respect to the grant
87 or denial of a certificate of convenience and necessity under section
88 393.170.

89 5. This section shall only apply to any electrical corporation that
90 has filed a notice with the commission of the electrical corporation's
91 election to make the deferrals for which this section provides.

92 6. This section shall expire on December 31, 2028, except that the
93 amortization of the regulatory asset balances arising under this section
94 shall continue to be reflected in the electrical corporation's rates and
95 remaining regulatory asset balances shall be included in the electrical
96 corporation's rate base.

393.1640. 1. Subject to the limitations provided for in subsection
2 2 of this section, and upon proper application by an eligible customer
3 prior to public announcement of a growth project, a new or existing
4 account meeting the following criteria shall be considered for
5 qualification for the discount set forth in this subsection if:

6 (1) The customer adds incremental load, net of any offsetting
7 load reductions due to the termination of other accounts of the
8 customer or an affiliate or the customer within twelve months prior to
9 the commencement of service to the new load, with average monthly
10 demand that is reasonably projected to be at least five hundred
11 kilowatts with a load factor of at least fifty-five percent within two

12 years after the date the application is submitted; and

13 (2) The customer receives local, regional, or state economic
14 development incentives in conjunction with the incremental load.

15 The discount shall be a percentage applied to all base rate components
16 of the bill. The percentage shall be fixed for each year of service under
17 the discount for a period of up to five years. The average of the annual
18 discount percentages shall equal forty percent and shall not be less
19 than thirty percent nor more than fifty percent in any year. The
20 discount shall be applied to such incremental load from the date when
21 the meter has been permanently set until the date that such
22 incremental load no longer meets the criteria required to qualify for
23 the discount, as determined under the provisions of subsection 2 of this
24 section. An eligible customer shall also receive a ten percent discount
25 of all base rate components of the bill applied to such incremental load
26 for one year after the initial discount period ends if the electrical
27 corporation determines that the customer is taking service from an
28 under-utilized circuit. In no event shall a customer receive a discount
29 under this subsection after the date this section expires. The electrical
30 corporation may include in its tariff additional or alternative terms
31 and conditions to a customer's utilization of the discount, subject to
32 approval of such terms and conditions by the commission. The
33 customer, on forms supplied by the electrical corporation, shall apply
34 for the discount provided for by this subsection at least ninety days
35 prior to the date the customer requests that the incremental demand
36 receive the discounts provided for by this subsection. If the
37 incremental demand is not separately metered, the electrical
38 corporation's determination of the incremental demand shall control.

39 2. In each general rate proceeding concluded after the effective
40 date of this section, the reduced level of revenues arising from the
41 application of discounted rates provided for by subsection 1 of this
42 section shall be allocated to all the electrical corporation's customer
43 classes, including the classes with customers that qualify for discounts
44 under this section. This increase shall be implemented through the
45 application of a uniform percentage adjustment to the revenue
46 requirement responsibility of all customer classes. To qualify for the
47 discounted rates provided for in this section, if incremental load is
48 separately metered, customers shall meet the applicable criteria within

49 twenty-four months after the date the meter is permanently set based
50 on metering data for calendar months thirteen through twenty-four and
51 annually thereafter. If such data indicates that the customer did not
52 meet the criteria for any applicable twelve-month period, it shall
53 thereafter no longer qualify for the discounted rate. The provisions of
54 this section do not supersede or limit the ability of an electrical
55 corporation to continue to utilize economic development or retention
56 tariffs previously approved by the commission that are in effect on the
57 effective date of this section. If, however, a customer is receiving any
58 economic development or retention-related discounts as of the date it
59 would otherwise qualify for a discount provided for by this section, the
60 customer shall agree to relinquish the prior discount concurrently with
61 the date it begins to receive a discount under this section; otherwise,
62 the customer shall not be eligible to receive any discount under this
63 section. Customer demand existing at the time the customer begins to
64 receive discounted rates under this section shall not constitute
65 incremental demand. The discounted rates provided for by this section
66 apply only to base rate components, with the charges or credits arising
67 from any rate adjustment mechanism authorized by law to be applied
68 to customers qualifying for discounted rates under this section in the
69 same manner as such rate adjustments would apply in the absence of
70 this section.

71 3. For purposes of this section, "electrical corporation" shall
72 mean the same as defined in section 386.020, but shall not include an
73 electrical corporation as described in subsection 2 of section 393.110.

74 4. This section shall expire on December 31, 2028, except to the
75 extent expressly provided.

393.1650. 1. For purposes of this section, the following terms
2 shall mean:

3 (1) "Commission", the Missouri public service commission
4 established under section 386.040;

5 (2) "Electrical corporation", a corporation with more than one
6 million Missouri retail electric customers in the year in which this
7 section becomes effective and that otherwise meets the definition of
8 "electrical corporation" in section 386.020.

9 2. Electrical corporations shall develop a qualification process
10 and make such process open to all contractors seeking to provide

11 construction and construction-related services for projects on the
12 electrical corporation's distribution system. Contractors shall have the
13 opportunity to register on the electrical corporation's vendor
14 registration site and be evaluated for bid opportunities. Under the
15 qualification process, electrical corporations may specify eligibility
16 requirements typically accepted by the industry, including but not
17 limited to, experience, performance criteria, safety policies, and
18 insurance requirements to be met by any contractor seeking to
19 participate in competitive bidding to provide construction and
20 construction-related services for distribution system projects, and the
21 electrical corporation shall not weight any contractor favorably or
22 unfavorably due to affiliation with a labor organization or union,
23 except if the work is being performed pursuant to a union-only project
24 labor agreement which requires that participating contractors use
25 union represented labor. Contractors that meet the eligibility
26 requirements set by electrical corporations shall be eligible to
27 participate in the competitive bidding process for providing
28 construction and construction-related services for distribution system
29 projects, and the contractor making the lowest and best bid shall be
30 awarded such contract.

31 3. Within thirty days after the effective date of this section,
32 electrical corporations shall file a verified statement with the
33 commission confirming that they have established a qualification
34 process for the competitive bidding of construction and construction-
35 related services for distribution system projects, and that such process
36 conforms with the requirements of this section. The commission shall
37 have the authority to verify the statement to ensure compliance with
38 this section. Whenever the electrical corporation files a general rate
39 proceeding, it shall submit concurrently with its submission of the rate
40 schedules that initiate such general rate proceeding a verified
41 statement confirming that it is using the qualification process for the
42 competitive bidding of construction and construction-related services
43 for distribution system projects required by this section for no less
44 than ten percent of the combined external installation expenditures
45 made by the electrical corporation's operating units in Missouri for
46 construction and construction-related services for distribution system
47 projects, and that such process conforms with the requirements set

48 forth in this section to ensure compliance with this subsection.

49 4. Nothing in this section shall be construed as requiring any
50 electrical corporation to use a qualified contractor or competitive
51 bidding process in the case of an emergency project, or to terminate
52 any existing contract with a contractor prior to its expiration, provided
53 that the use of any pre-existing contract for construction or
54 construction-related services for distribution system projects shall not
55 qualify as fulfilling the ten percent requirement set forth in subsection
56 3 of this section. For contractors not qualifying through the
57 competitive bid process, the electrical corporation, upon request from
58 the contractor, shall provide information from the process in which the
59 contractor can be informed as to how to be better positioned to qualify
60 for such bid opportunities in the future.

61 5. By December 31, 2020, and annually thereafter, the commission
62 shall submit a report to the general assembly on the effects of this
63 section, including electrical corporation compliance, potential
64 legislative action regarding this section, the costs of constructing
65 distribution system projects prior to the implementation of this section
66 compared to after the implementation of this section, and any other
67 information regarding the processes established under this section that
68 the commission deems necessary.

393.1655. 1. This section applies to electrical corporations that
2 have elected to exercise any option under section 393.1275 or 393.1400
3 and that have more than two hundred thousand Missouri retail
4 customers in the year in which this section becomes effective.

5 2. Notwithstanding any other provision of law and except as
6 otherwise provided for by this section, an electrical corporation's base
7 rates shall be maintained starting on the date new base rates were
8 established in the electrical corporation's last general rate proceeding
9 concluded prior to the date the electrical corporation gave notice
10 under either subsection 4 of section 393.1275 or subsection 5 of section
11 393.1400 and ending on the third anniversary of that date, unless a
12 force majeure event as determined by the commission occurs. For
13 purposes of this subsection, a "force majeure event" is an event or
14 circumstance that occurs as a result of a weather event, an act of God,
15 war or terrorism, or other uncontrollable event as determined by the
16 commission that causes a reduction in revenues, an increase in the cost

17 of providing electrical service, or some combination thereof, and the
18 event has an associated fiscal impact on the electrical corporation's
19 operations equal to three percent or greater of the total revenue
20 requirement established in the electrical corporation's last general rate
21 proceeding concluded prior to the date the electrical corporation gave
22 a notice under either subsection 4 of section 393.1275 or subsection 5
23 of section 393.1400. Any force majeure event shall be subject to
24 commission review and approval, and shall not preclude the
25 commission from reviewing the prudence of any revenue reductions or
26 costs incurred during any proceeding to set rates.

27 3. If the difference between (a) the electrical corporation's
28 average base rate for all its customers, as set in any general rate
29 proceeding concluding prior to the fifth anniversary of the date
30 referenced in subsection 2 of this section, and (b) the electrical
31 corporation's average base rate for all its customers as set in the
32 electrical corporation's most recent general rate proceeding concluded
33 prior to the date the electrical corporation gave notice under either
34 subsection 4 of section 393.1275 or subsection 5 of section 393.1400,
35 reflects a compound annual growth rate of more than three percent, the
36 electrical corporation shall establish a regulatory liability in the
37 amounts specified in subsection 4 of this section. The regulatory
38 liability shall be amortized over a reasonable period as determined by
39 the commission. A separate regulatory liability is required for each
40 general rate proceeding covered by this subsection for which the three
41 percent threshold provided by this subsection is exceeded.

42 4. A regulatory liability provided in subsection 3 of this section
43 shall be twenty-five million dollars for an electrical corporation with
44 more than one million Missouri retail customers in the year in which
45 this section becomes effective and six million dollars for an electrical
46 corporation with more than two hundred thousand but not more than
47 one million Missouri retail customers in the year in which this section
48 becomes effective.

49 5. If the difference between (a) the electrical corporation's
50 average base rate for all its customers, as set in any general rate
51 proceeding concluding prior to the fifth anniversary of the date
52 referenced in subsection 2 of this section, and (b) the electrical
53 corporation's average base rate for all its customers, as set in the

54 electrical corporation's most recent general rate proceeding concluded
55 prior to the date the electrical corporation gave notice under either
56 subsection 4 of section 393.1275 or subsection 5 of section 393.1400,
57 reflects a compound annual growth rate of more than three and three-
58 quarters percent, the electrical corporation shall, in addition to
59 establishing the regulatory liability as specified in subsections 3 and
60 4 of this section, starting with the effective date of its revised base
61 rates that exceed the three and three-quarters percent threshold
62 provided for in this subsection, cease further deferrals under sections
63 393.1275 and 393.1400, with prior deferrals to be treated as provided in
64 such sections.

65 **6. If the difference between (a) the electrical corporation's class**
66 **average base rate for its large power service rate class as set in any**
67 **general rate proceeding concluding prior to the fifth anniversary of the**
68 **date referenced in subsection 2 of this section, and (b) the electrical**
69 **corporation's class average base rate for its large power service rate**
70 **class, as set in the electrical corporation's most recent general rate**
71 **proceeding concluded prior to the date the electrical corporation gave**
72 **notice under either subsection 4 of section 393.1275 or subsection 5 of**
73 **section 393.1400, reflects a compound annual growth rate of more than**
74 **two percent, the class average base rate for the electrical corporation's**
75 **large power service class shall increase by an amount so that the**
76 **increase shall equal a compound annual growth rate of two percent**
77 **over such period, with the reduced revenues arising from limiting the**
78 **large power service class average base rate increase to two percent to**
79 **be allocated to all the electrical corporation's other customer classes**
80 **through the application of a uniform percentage adjustment to the**
81 **revenue requirement responsibility of all the other customer classes.**

82 **7. For purposes of this section, the following terms shall mean:**

83 **(1) "Average base rate", a rate calculated by dividing the total**
84 **retail revenue requirement for all the electrical corporation's rate**
85 **classes by the total sales volumes stated in kilowatt-hours for all such**
86 **rate classes used to set rates in the applicable general rate proceeding,**
87 **exclusive of gross receipts tax, sales tax and other similar pass-through**
88 **taxes;**

89 **(2) "Class average base rate", a rate calculated by dividing the**
90 **retail revenue requirement from the applicable general rate proceeding**

91 that is allocated to the electrical corporation's large power service rate
92 class in that general rate proceeding, by the total sales volumes stated
93 in kilowatt-hours for that class used to set rates in that general rate
94 proceeding, exclusive of gross receipts tax, sales tax, and other similar
95 pass-through taxes;

96 (3) "Large power service rate class", the rate class of each
97 corporation that requires the highest minimum monthly billing demand
98 of all of the electrical corporation's rate classes in order to qualify as
99 a member of such rate class, and that applies to qualifying customers
100 only if they utilize the electrical corporation's distribution system.

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